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Tuesday 1 May 2007

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Mardi 1er mai 2007

Standing committee on finance and economic affairs

Budget Measures and Interim Appropriation Act, 2007

Comité permanent des finances et des affaires économiques

Loi de 2007 sur les mesures budgétaires et l'affectation anticipée de crédits

Chair: Pat Hoy
Clerk: Douglas Arnott

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

COMITÉ PERMANENT DES FINANCES ET DES AFFAIRES ÉCONOMIQUES

Tuesday 1 May 2007

Mardi 1er mai 2007

The committee met at 1006 in room 151.

BUDGET MEASURES AND INTERIM APPROPRIATION ACT, 2007

LOI DE 2007 SUR LES MESURES BUDGÉTAIRES ET L'AFFECTATION ANTICIPÉE DE CRÉDITS

Consideration of Bill 187, An Act respecting Budget measures, interim appropriations and other matters / Projet de loi 187, Loi concernant les mesures budgétaires, l'affectation anticipée de crédits et d'autres questions.

The Chair (Mr. Pat Hoy): The standing committee on finance and economic affairs will now come to order. We're here for clause-by-clause consideration of Bill 187.

First of all, we would like to deal with the schedules, before we deal with the sections of the bill. Can we have unanimous consent to go ahead with that, discuss the schedules before we go to the section? Agreed? Agreed.

There are no amendments to schedule 1, sections 1 through 3, inclusive. Any debate on sections 1 through 3, inclusive? Hearing none, all in favour? Carried.

Okay. Now we're on section 4, schedule 1, and there is a PC motion, number 1.

Mr. Tim Hudak (Erie–Lincoln): I move that section 19.1 of the Assessment Act, as set out in section 4 of schedule 1 to the bill, be struck out and the following substituted:

"Five per cent cap on increase

"19.1 If, under a general reassessment for a taxation year, the current value of land in the residential property class, the farm property class, the managed forest property class and such other property classes or sub-classes as may be prescribed by the minister has increased by more than 5 per cent since the previous taxation year, the current value is deemed to have been increased by 5 per cent."

The Chair: Comment?

Mr. Hudak: This, as you know, reflects a private member's bill that I brought forward that had support of members of all parties, passed second reading, and is still awaiting a third reading vote. Mr. Tory, the leader of the Ontario PC Party, has said that he will make this part of his policy if elected Premier of the province. I think, though, that it's important to have this as part of the bill. I suspect my colleagues would not want to see the residents in their ridings being hit by skyrocketing property assessments, as has been the reality in Dalton McGuinty's Ontario in the last number of years.

I think members know as well that the averaging mechanism that they bring forward doesn't do anything about skyrocketing assessments. It just means that you get stabbed four times, if you will, as opposed to one giant knife job, as has been the case in Dalton McGuinty's Ontario in the last couple of years.

Interjections.

The Chair: Order.

Mr. Hudak: So I hope I will have some success by members to cap any increases at 5% per year.

The Chair: Thank you. Mr. Arthurs?

Mr. Wayne Arthurs (Pickering–Ajax–Uxbridge): We don't support the amendment we have before us. I think it's clear government's not supportive of the capping mechanisms. The legislation calls for a phase-in period to provide some predictability and take some of the volatility out of the process. This, in effect, would eliminate that phasing in as part of the legislation.

The Chair: Further comment?

Mr. Hudak: I do want to point out the irony here, because one of the first finance bills—I'm sure my colleague the parliamentary assistant is well aware, as are his colleagues to his left—actually eliminated assessment averaging, postponed it indefinitely. So at one point in time, just a few years ago, the Ontario Liberal Party was against assessment averaging. Now they are bringing it back in as part of Bill 187. No doubt taxpayers are probably upset and confused by the shift in the Liberal position in the last number of years. I suspect it's another promise they intend to break after the next election, if they do happen to have the votes to do so.

The last point I'd make too is a point of clarity. Assessment averaging simply means that you would get a four-year shock in your assessment as this goes forward if we go at current rates. Let's say, by example, that you could have, say, a 60% increase in your assessment bill as an average. That would mean a 15% increase per year in Dalton McGuinty's model. Ours would cap that at 5% a year, if passed. Furthermore, that is simply an average I used by example. There have been many others, as all of us have had in our ridings, that have seen their assessments skyrocket by triple figures. And that was probably only over one assessment period, so you could be looking

at people who would have increases of potentially 40% per year under Dalton McGuinty's model. Again, we think that's unfair to homeowners and believe a cap is the best solution to this problem.

The Chair: Further comment? Mr. Prue.

Mr. Michael Prue (Beaches–East York): I find myself in a very awkward position here. I mean, if the government wants to do nothing and the Conservatives are offering a position that is better than nothing, but it's still not really what needs to be done—we need a wholesale change here. Simply putting it off till after the next election is not the answer. I'm not sure that this is the answer, but I guess I would support it anyway, notwithstanding, because it's better than anything I'm seeing coming from the government bench.

Mr. Hudak: Recorded vote.

The Chair: A recorded vote is requested.

Ayes

Arnott, Hudak, Prue.

Nays

Arthurs, Marsales, McNeely, Mitchell.

The Chair: The motion is lost.

Now we'll go to page 2, PC motion. Mr. Hudak.

Mr. Hudak: I move that section 19.1 of the Assessment Act, as set out in section 4 of schedule 1 to the bill, be struck out and the following substituted:

"Prescribed cap on increase

"19.1(1) If, under a general reassessment for a taxation year, the current value of land in the residential property class, the farm property class, the managed forest property class and such other property classes or subclasses as may be prescribed by the minister has increased by more than the prescribed percentage since the previous taxation year, the current value is deemed to have been increased by the prescribed percentage.

"Regulations

"(2) The Lieutenant Governor in Council may, by regulation, prescribe a percentage for the purposes of subsection (1)."

The Chair: Any comments?

Mr. Hudak: Similar to my previous motion, if the government members didn't like the 5% cap, this would give the Lieutenant Governor in Council or cabinet the ability to set a rate lower than 5% or higher than 5% if that's the decision of the cabinet of the day. For example, some states across the border use a lower level of 2% or 3%. The province of Nova Scotia has historically used a 10% cap. I know that they are looking at reducing that cap level. If they were uncomfortable with the 5%, this at least gives flexibility to set a proper cap if we continue to see skyrocketing property assessments in the time ahead.

The Chair: Thank you. Comment, Mr. Arthurs.

Mr. Arthurs: The government still doesn't support effectively the capping provision. Whether that's a matter as prescribed by regulation or whether it's within the legislation in the context of a set number, the end result is the same. We feel the provisions to allow for a phasing in of any increases on the assessment, which may or may not have an impact on one's taxation—they're not directly relatable from the standpoint of the dollar-for-dollar value in any way. But the government does not support the amendment as proposed.

The Chair: Comment? Mr. Prue.

Mr. Prue: I can only say much the same as I said last time, but the government needs to do something. I was listening to the news on my way in this morning, and they were talking about cottage properties. They were talking about seasonal properties and that fact that this year they expect them to go up hugely in value in terms of their assessment and in terms of the actual costs. In my travels around Ontario, there were many, many people worried about losing family properties that had literally been with one family or another for years. I don't know why the government is so reluctant to do anything. I don't know whether this is the solution, but it's better than nothing, and again, I'm forced to vote for it in the absence of any government policy at all.

The Chair: Thank you. Comment?

Mr. Hudak: Recorded vote.

Ayes

Arnott, Hudak, Prue.

Nays

Arthurs, Marsales, Matthews, McNeely, Mitchell.

The Chair: The motion is lost.

Page 3 is another PC motion. Mr. Hudak.

Mr. Hudak: I move that section 19.1 of the Assessment Act, as set out in section 4 of schedule 1 to the bill, be struck out and the following substituted:

"Five per cent cap on increase, continuous ownership

"19.1(1) This section applies with respect to land in the residential property class, the farm property class, the managed forest property class and such other property classes or sub-classes as may be prescribed by the minister but only for the period during which the land is continuously owned by the same person.

"Same

"(2) If, under a general reassessment for a taxation year, the current value of the land has increased by more than 5% since the previous taxation year, the current value is deemed to have been increased by 5%."

The Chair: Comment?

Mr. Hudak: The other aspect—in addition to the 5% cap of the Ontario PC Party, through our leader, John Tory, and also stemming from private member's bill, Bill 75—is to allow the cap on assessment increases to continue as long as home ownership is maintained. Also, our policy allows for transfer to a spouse of the homeowner.

The Chair: Comment?

Mr. Arthurs: The comments would be very much the same. This is a capping amendment that would achieve, in a different fashion, capping for a period of time where the property was in ownership by the government's putting in place a phased-in assessment increase, and any assessment decrease would take effect immediately. We feel that's the appropriate strategy at this point in time.

The Chair: Other comments?

Mr. Hudak: If I could, to the parliamentary assistant: Under the McGuinty regime that's proposed—assessment averaging—if a home is transferred to a relative, for example, what happens to their assessed value if this amendment doesn't pass?

Mr. Arthurs: The assessed value would remain as the assessed value on the four-year cycle, and any tax implications that did occur as a result of that would be phased in during the four-year cycle, irrespective of whether the home ownership was transferred to a family member or to some other party.

Mr. Hudak: And in the case of an improvement to the home, say a garage or an addition to the house that increases the value?

Mr. Arthurs: At such time as the property is reassessed, if that addition, with whatever other change in the marketplace may have occurred, alters the value of the home on the reassessment, then the reassessed value at that point in time would, if there were an increase, be phased in over the four years. If there were a decrease because of market conditions, then any decrease would be effective immediately.

Mr. Hudak: My last question on the government's approach: In the case of a new home, how will you treat a new home that is built in between the assessment years?

Mr. Arthurs: Under the assessment systems, homes are assessed at the time of building, as they're completed. Their assessment comes into effect at that time, and they would be reassessed, then, on the four-year cycle when homes are being reassessed across the province. So it could be that a home is reassessed two years after it's built if in fact it was built mid-cycle.

Mr. Hudak: So if a home were built mid-cycle, let's say in the second year of a four-year cycle, for example, what would their assessed value for tax purposes be in the third year of the cycle?

Mr. Arthurs: There presumably would be no increase from the standpoint of their assessment during that period of time, since there was no measure at the beginning for that four-year cycle, and presumably then, it would be taxed based on the assessment at that point in time for that year. When the first reassessment came into play and any increase that may have occurred at that point in time, that increase would be averaged in, phased in over the four-year period. So if in effect a home were reassessed and had no change in value, then for the ongoing period of time their taxes would be based on that assessment for that four-year period. Similarly, a home built mid-cycle presumably would retain that value until the first reassessment time frame.

Mr. Hudak: Just to make sure I'm clear, if a home were built, for the sake of example, at $200,000 in value, would it maintain that $200,000 value throughout the four-year cycle? Or if it increased to, say, $220,000 in the second year of a cycle, would—

Mr. Arthurs: I'm always going to turn to make sure that the folks we have here correct me if need be. You would only have the value reassessed on the four-year cycle. So even if the value of the property went up in those two years, you wouldn't capture that until you did the reassessment, so for that period of time the home would be valued at $200,000.

Mr. Hudak: Throughout the cycle?

Mr. Arthurs: Through the balance of the cycle if it was mid-cycle.

Mr. Hudak: Thank you, Chair. Thank you to the parliamentary assistant as well.

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The Chair: Any other comments? Hearing none—

Mr. Hudak: Recorded vote.

Ayes

Arnott, Hudak, Prue.

Nays

Arthurs, Marsales, Matthews, McNeely, Mitchell.

The Chair: The motion is lost.

A PC motion on page 4.

Mr. Hudak: I move that subsection 19.1(3) of the Assessment Act, as set out in section 4 of schedule 1 to the bill, be amended by striking out the portion before paragraph 1 and substituting the following:

"Five per cent cap and phasing in of increase

"(3) For 2009 and subsequent taxation years, if the current value of land increases by more than 5% as a result of a general reassessment, the current value of the land shall be deemed to have increased by 5% and that deemed current value shall be reduced according to the following rules."

This is a companion piece to allow rules to be set for how the 5% cap would be implemented. The goal is to protect homeowners from skyrocketing property assessments.

The Chair: Further comment, if any?

Mr. Arthurs: This is another motion by regulation for capping purposes, and I think we've been clear that's a strategy that the government is not in support of.

The Chair: Comment? Hearing none—

Mr. Hudak: Recorded vote.

Ayes

Arnott, Hudak, Prue.

Nays

Arthurs, Marsales, Matthews, McNeely, Mitchell.

The Chair: The motion is lost.

A PC motion on page 5.

Mr. Hudak: I move that subsection 19.1(3) of the Assessment Act, as set out in section 4 of schedule 1 to the bill, be amended by striking out the portion before paragraph 1 and substituting the following:

"Prescribed cap and phasing in of increase

"(3) For 2009 and subsequent taxation years, if the current value of land increases by more than the prescribed percentage as a result of a general reassessment, the current value of the land shall be deemed to have increased by the prescribed percentage and that deemed current value shall be reduced according to the following rules."

It's similar to the last motion, except that this would allow the Lieutenant Governor in Council to prescribe the cap, as opposed to setting it at 5%, to give future cabinets flexibility in how to address this issue.

The Chair: Any comment?

Mr. Prue: Not so much a comment, but was that not defeated earlier? I don't know how this motion would remain correct, given the defeat of the earlier motion. If it's valid, I'll support it, but I'm not sure that it is.

The Chair: It is similar but not identical.

Mr. Prue: Similar but not identical. Thank you.

Mr. Arthurs: The government's position wouldn't change in this respect. It is very similar. It's still a capping-related motion. Whether it be prescribed by legislation, it's not something the government's in support of.

The Chair: Comments, if any?

Mr. Hudak: Recorded vote.

Ayes

Arnott, Hudak, Prue.

Nays

Arthurs, Marsales, Matthews, McNeely, Mitchell.

The Chair: The motion is lost.

Shall schedule 1, section 4, carry? All in favour? Those opposed? Carried.

Schedule 1, section 5: Shall schedule 1, section 5, carry? Those in favour? Opposed? Carried.

We have a new section: schedule 1, section 5.1. This is PC motion 6. As I stated, it is a new section.

Mr. Hudak: And a good section it is, Mr. Chair. It would be a nice addition to the bill.

I move that schedule 1 to the bill be amended by adding the following section after section 5:

"Review by select or standing committee

"57.1(1) No later than March 31, 2008, the Minister of Finance shall table in the assembly a report about the assessment system administered by the assessment corporation and whether the problems identified in the Ombudsman's 2007 report have been addressed and customer service has been improved.

"Same

"(2) When the minister's report is tabled, a select or standing committee of the assembly shall be appointed to review the report, hear the opinions of interested persons and make recommendations to the assembly concerning amendments to this act and other acts governing the assessment corporation and the property assessment process."

The Chair: Comment, if any?

Mr. Hudak: This is an important check and balance to ensure that after the next election, MPAC will have done two things: first, implemented fully the recommendations of the Ombudsman's 2007 report; and secondly, improved their customer service. As you may know, the leader of the Ontario PC Party, John Tory, has said that if this is not the case, if they don't follow those two items, then he would close down MPAC and look for a better model.

Mr. Arthurs: The government doesn't support the amendment that's proposed. One might question whether it's in order in the context of the bill, but that's somewhat irrelevant, I guess, at this point. I think there are mechanisms and windows of opportunity for the Legislature—through the estimates committee, as an example—to have the opportunity to query the minister in respect to MPAC as it relates to his function, and thus there are mechanisms in place for the Legislature and each of the parties to find means by which queries around this and this time frame could be forwarded.

The Chair: Comment, if any? Hearing none—

Mr. Hudak: Recorded vote.

Ayes

Hudak, Prue.

Nays

Arthurs, Marsales, Matthews, McNeely, Mitchell.

The Chair: The motion is lost.

A PC motion on page 7.

Mr. Hudak: I move that schedule 1 of the bill be amended by adding the following section after section 5:

"5.2 The act is amended by adding the following section:

"Duty of the assessment corporation

"57.2 The assessment corporation shall fully implement the recommendations in the Ombudsman's 2007 report concerning assessment matters."

The Chair: Comment?

Mr. Hudak: This is a follow-up, not as strong as the first motion that was unfortunately defeated. Nonetheless, I will put this out there as a silver medal. We want to make sure that MPAC actually implements all of the recommendations in the Ombudsman's report—again, I stress fully implement the recommendations—and this will ensure that that does take place.

Mr. Arthurs: It's our view that MPAC has undertaken an extensive review under the Ombudsman's report and is working towards a full implementation of all of those matters. I certainly wouldn't want to

unnecessarily tie their hands by legislation, and their capacity to carry out their duties and even enhance their customer service. The government will not be supportive of this particular amendment.

Mr. Prue: It seems to me that although MPAC has carried out all of its requirements, the government has chosen not to cover the ones that were left to you: specifically, reversing the onus. Reversing the onus was the big one, and there are a couple more too. I don't see how this is going to hurt MPAC or the government at all. The Ombudsman has made a report, and the government has committed to following most but not all of them. This would merely require them in law to do what they're supposed to do. I don't know why they wouldn't, but there it is. It would give some leverage to the Legislature if they chose not to do what they are already committed to do. Otherwise, they'll just have pretty free rein. So I'm going to support it. I don't know how it causes any grief at all.

Mr. Hudak: I just want to thank my colleague from Beaches–East York for his support. He's absolutely right: There are a number of recommendations that still have not been fulfilled, including the important reverse onus provision. This will ensure that it is carried out.

The Chair: Comment? Hearing none—

Mr. Hudak: Recorded vote.

Ayes

Hudak, Prue.

Nays

Arthurs, Marsales, Matthews, McNeely, Mitchell.

The Chair: The motion is lost.

Page 8, a PC motion.

Mr. Hudak: I move that schedule 1 to the bill be amended by adding the following section after section 5:

"5.3 The act is amended by adding the following section:

"Reverse onus appeal system

"57.3 If, after December 31, 2008, a person appeals an increase in the assessed value of land, the assessment corporation has the burden of justifying the assessment."

The Chair: Comment?

Mr. Hudak: We were worried that the earlier two amendments would fail, and that did come to pass. At the very least, we would like to rescue from that the reverse onus appeal, which, again, John Tory, the leader of the Ontario PC Party, said would be part of the PC policy. This will, in the words of the Ombudsman, reverse the current system of the homeowner David against the MPAC Goliath. This would put the burden of proof on MPAC as opposed to the individual home or landowner. This model has been successful in Manitoba and recommended by the Ombudsman to be implemented in the province of Ontario.

1030

Mr. Arthurs: The government obviously continues to review all the matters related to the Ombudsman's report that relate directly to us. There are a number of matters that the government has proposed at this point in time in respect to making the system fairer and easier for those who are appealing. Those include:

—making the optional request for reconsideration the mandatory first stage of the appeal process. That's to help with the dialogue and the information-sharing that needs to occur between MPAC and property owners, part of their customer service base;

—reversing the order of the deadline so that the appeal deadline follows the conclusion of the reconsideration process. There was a conflict there, so it eliminates the need for filing protective appeals. It allows things to wrap up in an orderly fashion; and

—working towards establishing some standardized rules for disclosure of information at both those stages, whether it's reconsideration or appeal stages.

So I believe significant headway is being made so that it will be easier for those who are undertaking appeals to get a fair and judicial result as quickly as possible. But the particular motion the government does not support.

Mr. Prue: I already spoke about this, but the other thing that neither MPAC nor the government has moved on is releasing most of the secrecy surrounding the models and the computer models. That was a recommendation as well of the auditor. It seems that the small homeowner, given the government's statement just now, will continue to bear the burden of trying to prove his or her case. This is not any movement that I can see. The government has had it now for some two years. I believe it's about two years since the Ombudsman's report came down and virtually nothing has been done. It seems again that you are bound and determined to defeat even this minor change that's being proposed.

Mr. Hudak: Just to make sure I understand the parliamentary assistant's response, as my colleague from Beaches–East York had indicated, the Ombudsman's report had come out some time ago. I forget the exact number of months. I earlier misspoke and said 2007, I think. I apologize about that, but at least—what has it been, eight, 10 months since the report came out? It's hard to remember the exact date, but nonetheless, a significant amount of time has passed.

Reverse onus has been an item of significant debate in the Legislature and this committee. I wasn't sure if the parliamentary assistant said the government was opposed to reverse onus, supportive of it or abstaining.

Mr. Arthurs: My comments in general were that the government obviously continues to review matters related to its direct jurisdiction as well as ensure that MPAC is undertaking the changes it has indicated it's going to take. There are a number of measures proposed that will make it fair and more expeditious for homeowners in the appeal and reconsideration process. The other matters are still under consideration, but we wouldn't be in a position to support this amendment.

Mr. Hudak: I guess the point I'd make, as does my colleague, is that it has been some time since the Ombudsman had made this recommendation, and the government continues to study it. One would think that study would be memorized by now by the Minister of Finance, but it's certainly taken that long. I think the best way to go about this is to actually amend the bill and therefore force the issue.

The Chair: Further comment? Hearing none—

Mr. Hudak: Recorded vote.

Ayes

Hudak, Prue.

Nays

Arthurs, Marsales, Matthews, McNeely, Mitchell.

The Chair: The motion is lost.

Schedule 1, sections 6 and 7—no amendments. Do we have agreement to deal with that? All in favour? Opposed? Carried.

Shall schedule 1 carry? Carried.

Now we're on schedule 2, page 9 in your packet.

Shall schedule 2, sections 1 and 2 carry? Carried.

A new section: schedule 2, section 2.1, PC motion number 9.

Mr. Hudak: I move that section 2 to the bill be amended by adding the following section after section 2:

"2.1 The act is amended by adding the following section:

"Capital fund for greenbelt communities

"30.1 The authority shall establish a capital fund to support the infrastructure needs in greenbelt communities as part of the ReNew Ontario capital spending program."

The Chair: Comment?

Mr. Hudak: There are a number of communities who have had their growth effectively frozen in the greenbelt. It's particularly impactful on small communities like Grimsby, Lincoln, Pelham, Thorold and Niagara-on-the-Lake in the Niagara Peninsula, to name but some. I think it's important, if this greenbelt is to be of provincial benefit, that the treasury of the province of Ontario contribute handsomely to ensuring these communities continue to be prosperous and vital communities. A capital fund could be established to support infrastructure needs in those greenbelt communities.

Mr. Arthurs: Clearly, the greenbelt will be a legacy that we'll look back on, in a generation or more ahead, and realize the wisdom of enhancing work done by other governments at other points in time to establish areas of greenbelt, in capturing those as well as adding to it significantly.

The government has a number of programs in place that benefit communities throughout Ontario that have different sets of needs, whether it's the OMPF program, the availability of the gas tax, the Move Ontario program or the rural infrastructure program or the ReNew Ontario program, with a $30-billion investment. So we feel there are a number of programs that are in place that are supportive of communities throughout Ontario and that the establishment of a specific capital program for communities that fall within the greenbelt is not a necessary component of our overall financial strategy in support of communities, rural communities and smaller communities in particular. Thus, the government cannot support a specified capital fund for this purpose.

Mr. Hudak: For clarity, I appreciate the parliamentary assistant mentioned a number of funds that were available. We're not creating a new fund; we're simply asking for some of the existing funds under ReNew Ontario to be earmarked for the greenbelt communities, particularly smaller communities like those that I had mentioned earlier on.

Mr. Prue: The actual wording here gives the authority to establish the capital fund, but if the government were to establish it and vote for it and put $1 in it—because they could, and that would meet—I don't know how that's going to do what you're proposing. That's my question to you. Even if it passes and they put $1 in, it's not going to do much.

Mr. Hudak: I appreciate the question. One step at a time. I find I've had some bad luck with my motions so far; I hope this one can get through. One dollar would be a relatively small step, but if we at least establish the program, then I, as well as my other colleagues in the greenbelt area of all three parties, could pressure the finance minister to dedicate appropriate funds to help those greenbelt communities. To be more serious, I am limited in terms of saying how much money can be apportioned through an amendment to a bill, but what we could do at the very least is to earmark a capital fund under ReNew Ontario. I know my colleague and friend Mr. Arthurs, who has the greenbelt in his area as well, would work with me to ensure that fund is handsomely supported.

The Chair: Further comment?

Ayes

Hudak, Prue.

Nays

Arthurs, Matthews, McNeely, Mitchell.

The Chair: The motion is lost.

Schedule 2, sections 3 and 4 together: All in favour? Opposed? Carried.

1040

Shall schedule 2 carry? All in favour? Opposed? Carried.

Schedule 3, sections 1 and 2: Shall schedule 3, sections 1 and 2 carry? All in favour? Opposed? Carried.

Shall schedule 3 carry? All in favour? Opposed? Carried.

Schedule 4, sections 1 through 4—correction. Schedule 4 only has three sections. So shall schedule 4, sections 1 through 3, carry? All in favour? Opposed? Carried.

Shall schedule 4 carry? All in favour? Carried.

Schedule 5, sections 1 through 3: Shall they carry? All in favour? Carried.

Shall schedule 5 carry? All in favour? Carried.

Schedule 6, sections 1 through 9: Shall they carry? All in favour? Carried.

Schedule 6, section 10: A PC motion on page 10.

Mr. Hudak: I move that section 10 of schedule 6 of the bill be amended,

(a) by striking out "July 1, 2010" wherever it appears in the amendments to section 66 of the Corporations Tax Act that are set out in subsections (2) and (6) and substituting "July 1, 2008"; and

(b) by making necessary consequential changes to subsections (1), (3), (4) and (5).

The Chair: Comment?

Mr. Hudak: You may remember the original schedule for the elimination of capital tax in the province of Ontario was for July 2008. Since that point in time, with the new government, there have been, I think, four separate positions by Dalton McGuinty on this issue.

First, the capital tax elimination schedule was to be eliminated altogether. It was viewed as a gift to our corporate friends, if I remember how it was described by Ontario Liberal members in opposition. That was the original position.

Secondly, then, it was to be eliminated. There was a change in tune. It was no longer a gift to our corporate friends, I guess it was a gift to their corporate friends, because the schedule was then to be 2012. Although, as my colleague Mr. McNeely will be remember, it was a vague schedule as to when that would actually take place.

The third provision had a minor acceleration in a 2010 date.

Now, the fourth position in three and a half years by the McGuinty government has it eliminated by July 1, 2010. This is certainly an improvement from the first three positions.

We believe fundamentally that by reducing taxes, particularly the capital tax, we can help to incent investment in the province of Ontario. I know that we're all very concerned about the flight of manufacturing jobs from Dalton McGuinty's Ontario, some 125,000 well-paying manufacturing jobs in the last two years alone.

Nonetheless, I wanted to give this pitch to encourage the government members and all members of the committee to accelerate the capital tax elimination altogether; in fact, restoring it to its original target year of 2008.

The Chair: Further comment?

Mr. Arthurs: Those of us on this side don't share the same institutional memory that my friend across the way has, so we really can't comment very effectively on that. But having said that, we have set out a strategy to eliminate the capital tax, first by policy direction but to firm that up now at this point in legislation, moving it forward to July 1, 2010, to be completely eliminated two years earlier than we originally indicated but also incorporating the legislation to allow those who pay their capital taxes to plan ahead and not have any surprises on a go-forward basis in that respect. We're not supportive of this particular amendment. We stand by the July 1, 2010 date within the legislation.

I note there are a couple of amendments after. It will probably save me making much comment at that point in time if I make a comment now.

Mr. Hudak: Recorded vote, please.

The Chair: A recorded vote is requested.

Ayes

Hudak.

Nays

Arthurs, Marsales, Matthews, McNeely, Mitchell.

The Chair: The motion is lost.

PC motion, page 11. Mr. Hudak.

Mr. Hudak: I move that section 10 of schedule 6 of the bill be amended,

(a) by striking out "July 1, 2010" wherever it appears in the amendments to section 66 of the Corporations Tax Act that are set out in subsections (2) and (6) and substituting "January 1, 2009";

(b) by making necessary consequential changes to subsections (1), (3), (4) and (5).

The Chair: Comment?

Mr. Hudak: I'm an easy-going fellow. I'm willing to compromise with the government members on this and meet you halfway. Well, not quite halfway; I'll meet you a third of the way. Instead of July 1, 2008, I'm looking for a bit of a compromise position here and suggesting January 1, 2009.

The Chair: Further comment? Hearing none—

Mr. Hudak: Recorded vote.

The Chair: A recorded vote is requested.

Ayes

Hudak.

Nays

Arthurs, Marsales, Matthews, McNeely, Mitchell.

The Chair: The motion is lost.

PC motion 12: Mr. Hudak.

Mr. Hudak: I move that section 10 of schedule 6 to the bill be amended,

(a) by striking out "July 1, 2010" wherever it appears in the amendments to section 66 of the Corporations Tax Act that are set out in subsections (2) and (6) and substituting "July 1, 2009";

(b) by making necessary consequential changes to subsections (1), (3), (4) and (5).

The Chair: Comment?

Mr. Hudak: They didn't go for my one third of the way, so I now propose meeting you halfway; that, as opposed to July 1, 2010, or my initial amendment of July 1, 2008, we'll meet right there in the middle: July 1, 2009, to help celebrate Canada's 143rd birthday.

The Chair: Further comment? Hearing none—

Mr. Hudak: Recorded vote.

The Chair: A recorded vote is requested.

Ayes

Hudak.

Nays

Arthurs, Marsales, Matthews, McNeely, Mitchell.

The Chair: The motion is lost.

Shall schedule 6, section 10 carry? All in favour? Opposed? Carried.

Schedule 6, sections 11 and 12: Shall they carry? All in favour? Those opposed? Carried.

Shall schedule 6 carry? All in favour? Opposed? Carried.

Schedule 7, sections 1 through 12 inclusive: Shall they carry? All in favour? Carried.

Schedule 7, section 13: We have a government motion on page 13 of your package.

Mr. Phil McNeely (Ottawa–Orléans): I move that the French version of subsection 13(1) of schedule 7 to the bill be struck and the following substituted:

"(1) La version anglaise du paragraphe 21(1) de la loi est modifiée par substitution de ce qui suit au passage qui précède l'alinéa a) :

"'Restrictions re corporate names

"'(1) A credit union may not be incorporated under this act with a corporate name that,'"

The Chair: Comment, if any? Hearing none, all in favour? Those opposed? Carried.

Shall schedule 7, section 13, as amended, carry? All in favour? Those opposed? Carried.

Schedule 7, sections 14 through 86, inclusive: Shall they carry? All in favour? Opposed? Carried.

1050

Schedule 7, section 87, government motion on page 14 in your packet. Mr. Arthurs.

Mr. Arthurs: I move that section 87 of schedule 7 to the bill be amended by adding the following subsection after subsection (1):

"(1.1) Section 157 of the act is amended by adding the following subsections:

"Advance to pay for costs, etc.

"(3.1) A credit union may advance money to an eligible person to pay for the costs, charges and expenses of any proceeding to which the person is made a party by reason of serving or having served in a qualifying capacity, but the person is required to repay the money if either of the conditions described in subsection (5) is not satisfied.

"Advance to pay for costs, etc., derivative action

"(4.1) With the approval of a court, a credit union may advance money to an eligible person to pay for the costs, charges and expenses of a proceeding described in subsection (4) to which the person is made a party by reason of serving or having served in a qualifying capacity, but the person is required to repay the money if either of the conditions described in subsection (5) is not satisfied."

The Chair: Comment?

Mr. Arthurs: These provisions are to provide the capacity for the credit union to support directors within the context of actions that may be taken, so that the money would be advanced to them for that purpose, and if the action were successful, then they would be covering that. If, for any reason, it was unsuccessful, then the director would be liable for those costs at the end of the day.

The Chair: Mr. Hudak?

Mr. Hudak: I am pleased to hear that the government is going forward with this motion. This responds, I think, to the concerns that Mr. Bogach brought forward at committee this past week. Mr. Bogach and Credit Union Central will be pleased with the amendment. They've seen the language?

Mr. Arthurs: Yes, they have. I know they'd be pleased. I didn't know whether they had actually seen the language, but I know they'll be pleased with the outcome.

The Chair: Other comment?

Mr. Hudak: Recorded vote.

The Chair: Recorded vote.

Ayes

Arthurs, Hudak, Prue, Marsales, McNeely, Mitchell.

The Chair: The motion is carried.

Shall schedule 7, section 87, as amended, carry? All in favour? Carried.

Schedule 7, sections 88 through 137: Shall it carry? All in favour? Carried.

Schedule 7, section 138, government motion, page 15 in your packet. Mr. Arthurs.

Mr. Arthurs: I move that section 138 of schedule 7 to the bill be amended by adding the following subsections:

"(3) Section 264 of the act is amended by adding the following subsection:

"Regulations Act

"(2) For greater certainty, the Regulations Act does not apply to a by-law of the corporation.

"(4) Subsection 264 (2) of the act, as enacted by subsection (3), is repealed and the following substituted:

"Legislation Act, 2006

"(2) For greater certainty, Part III (Regulations) of the Legislation Act, 2006 does not apply to a bylaw of the corporation."

The Chair: Comment, if any?

Mr. Arthurs: The government does have a number of technical amendments. This would be one of those. Simply given the scope of the budget bill in the drafting of it, as it's reviewed through debate and by the legal force that's necessary, we find obviously there are tweakings that are required simply for technical purposes. This would be one of these. If there are questions around the technicalities, I hope we have someone here who will be able to assist me with those.

The Chair: Comment, if any? Hearing none, all in favour? Carried.

Shall schedule 7, section 138, as amended, carry? All in favour? Carried.

Shall schedule 7, sections 139 through 155, carry? All in favour? Carried.

Schedule 7, section 156: government motion 16 in your packet.

Mr. McNeely: Schedule 7, subsection 156(1) of the bill (paragraph 309(2)1 of the Credit Unions and Caisses Populaires Act, 1994)

"I move that the French version of subsection 156 (1) of schedule 7 to the bill be struck out and the following substituted:

"(1) La version anglaise de la disposition 1 du paragraphe 309(2) de la Loi est abrogée et remplacée par ce qui suit:

"1. The corporate name of the amalgamated credit union."

The Chair: Comment, if any?

Hearing none, all in favour? Carried.

Shall schedule 7, section 156, as amended, carry? All in favour? Carried.

Shall schedule 7, section 157 carry? All in favour? Carried.

Schedule 7, section 158: government motion 17 in your packet.

Mr. McNeely: Schedule 7, section 158 of the bill (clause 311(1)(b) of the Credit Unions and Caisses Populaires Act, 1994)

"I move that the French version of section 158 of schedule 7 to the bill be struck out and the following substituted:

"158. La version anglaise de l'alinéa 311(1)(b) de la Loi est abrogée et remplacée par ce qui suit:

"(b) change its corporate name; or"

The Chair: Any comment?

Mr. Prue: I'm trying to see how it's any change from what's in section 158. I can't see it. Maybe it's there, but I don't see how it's changed in any way.

The Chair: Legislative counsel can perhaps answer that for you.

Ms. Laura Hopkins: In the bill, section 158, the English version of the text refers to an amendment to be made to the English version of the act. In section 158 of the bill, the French version doesn't refer to an amendment being made only to the English version of the act.

Mr. Prue: So you forgot to put the French in.

Ms. Hopkins: We made too broad an amendment.

Mr. Prue: I don't pretend to understand, but I don't think it's all that important.

Ms. Hopkins: I can tell you a bit if you like, or leave it alone if you prefer.

The Chair: Further comment? Hearing none, all in favour? Carried.

Shall schedule 7, section 158, as amended, carry? All in favour? Carried.

Shall schedule 7, sections 159 through 191 carry? All in favour? Carried.

Schedule 7, section 192 of the bill: government motion 18.

Mr. Arthurs: I move that section 192 of schedule 7 to the bill be struck out and the following substituted:

"Commencement

"192(1) Subject to subsections (2) and (3), this schedule comes into force on the day the Budget Measures and Interim Appropriation Act, 2007 receives royal assent.

"Same

"(2) Sections 1 to 137, subsections 138(1), (2) and (3) and sections 139 to 191 come into force on a day to be named by proclamation of the Lieutenant Governor.

"Same

"(3) Subsection 138(4) comes into force on the later of,

"(a) the day on which subsection 138(3) comes into force; or

"(b) the day on which section 134 of schedule F to the Access to Justice Act, 2006 comes into force."

1100

The Chair: Comment, if any?

Mr. Prue: The original reading of the bill is that it all came into effect on the day it received royal assent, and now, obviously, you want to delay sections 1 to 137 and section 138. Why?

Mr. Arthurs: Again, I'm not sure we have someone who can assist us with the technical part of that. I'm just not sure of the implications of the various pieces.

The Chair: Legislative counsel, then.

Ms. Hopkins: In section 192 of the bill as introduced, subsection (2) specifies that sections 1 through 191 come into force on proclamation. The only change here is to bring into force a technical amendment that we just made to section 138 on the same day as the Legislation Act that it refers to comes into force.

Mr. Prue: And what is that legislation?

Ms. Hopkins: The Legislation Act is an act that was passed in the fall that includes a part governing how regulations are made.

Mr. Prue: But what I don't understand here is, "the day on which section 134 of schedule F to the Access to Justice Act, 2006 comes into force." What is that?

Ms. Hopkins: The Access to Justice Act is the act that created the new Legislation Act. It was an omnibus bill, and this is a technical amendment. I apologize.

Mr. Prue: Okay.

The Chair: Any other comment? Hearing none, all in favour? Carried.

Shall schedule 7, section 192, as amended, carry? All in favour? Carried.

Shall schedule 7, as amended, carry? All in favour? Carried.

Shall schedule 8, sections 1 through 71 carry? All in favour? Carried.

Shall schedule 8 carry? All in favour? Carried.

Shall schedule 9, sections 1 through 3 carry? All in favour? Carried.

Shall schedule 9 carry? All in favour? Carried.

Shall schedule 10, sections 1 to 3 carry? All in favour? Carried.

Shall schedule 10 carry? All in favour? Carried.

Schedule 11, section 1: PC motion on 19 in the packet.

Mr. Hudak: I move that subsection 1(1) of schedule 11 to the bill be struck out.

This is the section that would allow a political party to register if it has candidates in at least two ridings or provides a petition of 1,000 votes. Our critic on this file, Mr. Sterling, the member for Lanark–Carleton, has made the case in the Legislature already, and I suspect at committee as well, that the level of only having candidates in two ridings or a petition of only 1,000 voters is far too low a standard. That minimal level of support does not a political party make, and therefore it's Mr. Sterling's opinion, which I share, that it would be an inappropriate part of Bill 187.

Mr. Arthurs: Striking out this section certainly wouldn't be in accord with the government's intention in respect to modernizing the electoral system. The current provision, without this change, is somewhat outdated and, to my understanding, does not comply currently with the charter; it's my understanding that there was some Supreme Court action in that regard.

It certainly is the government's intention to foster and support political engagement. If that should be the creation of additional political parties with a lower threshold than currently exists, then we feel that would enhance the overall political democratic system. So we're not supportive of striking the section out that provides for the provision of new parties with a lower threshold than currently exists.

Mr. Prue: I remember vaguely about a court decision. Could anyone perhaps tell me about that court decision and whether or not going as low as two parties was required?

Mr. Arthurs: I don't have that information. That's my understanding, but I don't know the details.

Mr. Prue: Can you tell me why two people can make a party? It does seem kind of low. I remember raising this in the Legislature. I thought it was last year

The Chair: Is there anyone in the room who can address Mr. Prue's query about a court case in this regard? You can come forward. Please state your name for the purposes of Hansard and then you can give your answer.

Ms. Liz White: My name is Liz White. I'm the leader of the Animal Alliance Environment Voters Party of Canada. It was founded on the changes of the Supreme Court. I apologize for not having material. I would have brought it today had I known. But as I understand it, the requirements for establishing a political party were struck down by the Supreme Court of Canada in Figueroa versus Canada. The Legislature at the federal level went through a number of iterations of trying to decide how to come to a determination of a threshold that was not an impediment to smaller parties forming. At that time, they decided that it would be one candidate and 250 people who belonged to a political party. As long as you could sign up one candidate, run one candidate in an election, and have 250 people—as opposed to the provincial legislation, which is 1,000 signatures, this is 250 members—you could actually form a political party, provided that you ran one candidate in every election or in a by-election and that you could meet that criterion of 250 people. So that was what the federal Legislature came up with. The debate was to try and limit the barrier as much as possible.

The Chair: Thank you. Further comment?

Mr. Hudak: I appreciate the response. My colleague Mr. Sterling has a disagreement with the interpretation of Figueroa and how it should relate to provincial legislation. Furthermore, I think the PC Party, and I suspect other opposition members in the Legislature, object to the fact that schedule 11 has been inserted into this bill in the first place—in fact, buried in the bill—reminiscent of the extension of municipal councils to four years, where there was no mention when the bill was introduced or debated by the minister and the parliamentary assistant at the time that those provisions were hidden in the bill. This had been, if I recall, a stand-alone bill in the Legislature. We thought that was a much more appropriate way of going about it as opposed to inserting it deep inside an omnibus finance bill.

The Chair: Further comment, if any? Hearing none—

Mr. Hudak: Recorded vote.

Ayes

Hudak.

Nays

Arthurs, Balkissoon, Marsales, McNeely.

The Chair: That's lost.

Shall schedule 11, section 1, carry? All in favour? Opposed? Carried.

Shall schedule 11, section 2, carry? All in favour? Carried.

We have a new section: schedule 11, section 2.1, PC motion 20.

Mr. Hudak: I move that schedule 11 to the bill be amended by adding the following section after section 2:

"2.1 The act is amended by adding the following section:

"Restriction on third party advertising

"22.1(1) Despite any other provision of this act, the aggregate value of political advertising by a person, corporation or trade union shall not exceed the prescribed limit for a general election or the prescribed limit per electoral district.

"Exception

"(2) Subsection (1) does not apply to a registered party or a registered candidate.

"Regulations

"(3) The Lieutenant Governor in Council may, by regulation, prescribe limits for the purposes of subsection (1)."

1110

The Chair: Comment?

Mr. Hudak: Again, I think this is stemming from the position brought forward by my colleague Mr. Sterling, the member for Lanark–Carleton, when schedule 11 in a similar form had been before the Legislature as a stand-alone bill. Basically, this would limit third party advertising to a prescribed limit. It would not apply to general or registered parties. The Lieutenant Governor in Council, of course, will be allowed to set those limits for third party advertising. There are amendments that are based, I understand, on similar provisions in the Canada Elections Act.

The Chair: Further comment?

Mr. Prue: I just have a question here in terms of the restriction. You're saying that a corporation, a union or a person could do third party advertising but they would be limited by what a party would be allowed. So if a party is allowed $5 million for a campaign, a corporation would be allowed $5 million? Is that what you're saying?

Mr. Hudak: To make sure I'm clear—I appreciate the question of my colleague. The intent of this amendment is to give the Lieutenant Governor in Council authority to prescribe a limit on third party advertising whether it's a corporation, a group of corporations, a union or other interested group. By way of example, hypothetically, cabinet—the Lieutenant Governor in Council—could say that advertising would be limited to $1 million or $10 million. It doesn't attach it to the party level of advertising, but it does enable limits on advertising to third parties as set by the Lieutenant Governor in Council.

Mr. Prue: But it says that the amount of money they are setting "shall not exceed the prescribed limit for a general election or the prescribed limit per electoral district." That's what I'm trying to understand here. If the general election allows a party to spend $5 million, they cannot exceed it. I guess they could have under it—

Mr. Hudak: Right.

Mr. Prue: —but they could have right up to the same amount that parties are spending.

Mr. Hudak: I appreciate my colleague's question. It is possible that the cabinet of the day could equate third party advertising to that of political parties. My expectation is that my colleague's intent would be that it would not be at that level. Nonetheless, my colleague is right: That could allow for that. Basically this amendment, if passed, would allow the Lieutenant Governor in Council to limit third party advertising to a prescribed level both in the province as a whole, the general election, or on a per electoral district basis.

The Chair: Any other comment?

Mr. Arthurs: Currently, Bill 218, which was introduced April 25, is before the Legislature. That bill contains amendments to the Election Finances Act and looks at a fairly comprehensive system for regulating third party advertising both in general elections and for by-elections. I would certainly encourage the member opposite to pursue the avenues of third party advertising within the context of Bill 218 while it works its way through the Legislature, currently under debate. We won't be supporting the amendment within the context of a finance bill, but I would certainly encourage him to stand on the matter in the Legislature in respect to third party advertising as it relates to Bill 218.

Mr. Prue: I have a question of the parliamentary assistant, then: If that is the rationale, why was this put in a finance bill? If it's contained and is fleshed out in Bill 218, why was it necessary to put it in this finance bill? Quite frankly, this snuck past me until I saw this amendment.

Mr. Arthurs: The member opposite is proposing an amendment to add a section to the bill, not to amend a section that we already have in existence in the bill.

Mr. Prue: But you have the Election Finances Act in the finance bill.

Mr. Arthurs: Provisions within the overall bill. But I would certainly encourage the member to pursue the matter of third party advertising in the context of a bill that's before the Legislature specifically dealing with that matter.

The Chair: Further comment? Hearing none—

Mr. Hudak: Recorded vote.

The Chair: Recorded vote.

Ayes

Hudak.

Nays

Arthurs, Balkissoon, Marsales, McNeely, Mitchell.

The Chair: The motion is lost.

We have a PC motion.

Mr. Hudak: I move that schedule 11 to the bill be amended by adding the following section after section 2:

"2.2 The act is amended by adding the following section:

"'Registration re third party advertising

"'22.2(1) If a person, corporation or trade union engages in political advertising during a general election

and if the aggregate value of the advertising exceeds such limits as may be prescribed, the person, corporation or trade union shall promptly register with the Chief Election Officer as a third party advertiser.

"'Exception

"'(2) Subsection (1) does not apply to a registered party or a registered candidate.

"'Regulations

"'(3) The Lieutenant Governor in Council may, by regulation, prescribe limits for the purposes of subsection (1).'"

The Chair: Comment?

Mr. Hudak: This is a companion amendment, again on the advice of Mr. Sterling, our critic for democratic renewal. Mr. Sterling has put a lot of thought into this process and has suggested these amendments.

This basically says that if a third party engages in political advertising at a cost that exceeds prescribed limits, the third party must register with the Chief Election Officer. It won't apply to a registered party or candidate. Similar amendments are part of the federal elections act.

Mr. Arthurs: Similarly, Bill 218, which is before the Legislature, is dealing specifically with these matters, including the registration of third parties. I would encourage the member to review that and pursue that avenue in that context. The government will not be able to support it in the context of this bill at this time.

The Chair: Other comment?

Mr. Hudak: Recorded vote.

Ayes

Hudak.

Nays

Arthurs, Balkissoon, Marsales, McNeely, Mitchell.

The Chair: The motion is lost.

Shall schedule 11, sections 3 and 4 together, carry? All in favour? Carried.

Shall schedule 11 carry? All in favour? Carried.

Shall schedule 12, sections 1 through 4, carry? All in favour? Carried.

Shall schedule 12 carry? All in favour? Carried.

Shall schedule 13, sections 1 through 5, carry? All in favour? Carried.

Schedule 13, section 6, government motion 22, Mr. Arthurs.

Mr. Arthurs: I move that subsection 6(1) of schedule 13 to the bill be struck out and the following substituted:

"(1) Subsection 168.4(1) of the act is amended by striking out the portion before paragraph 1 and substituting the following:

"'Filing record of site condition

"'(1) An owner of a property may submit for filing in the registry a record of site condition in respect of the property if all of the following criteria are satisfied.'"

The Chair: Comment, if any?

Mr. Arthurs: There are a number of technical amendments. These ones are in regard to environmental protection matters. They are technical in nature. If required, there are some folks here who can provide us with specific commentary.

The Chair: Any other comment? Hearing none, all in favour? Opposed? Carried.

Government motion page 23, Mr. Arthurs.

Mr. Arthurs: I move that paragraph 1 of subsection 168.4(5) of the Environmental Protection Act, as set out in subsection 6(9) of schedule 13 to the bill, be amended by adding at the end "or who filed the record of site condition."

The Chair: Comment? Hearing none, all in favour? Opposed? Carried.

Shall schedule 13, section 6, as amended, carry? All in favour? Opposed? Carried.

Shall schedule 13, section 7, carry? All in favour? Carried.

Schedule 13, section 8, government motion on page 24, Mr. Arthurs.

Mr. Arthurs: I move that subsection 168.7(3) of the Environmental Protection Act, as set out in subsection 8(4) of schedule 13 to the bill, be amended by striking out "from the property for which a record of site condition has been filed" and substituting "from the land or water on, in or under the property for which a record of site condition has been filed."

1120

The Chair: Any comment? Hearing none, all in favour? Opposed? Carried.

Government motion on page 25, Mr. Arthurs.

Mr. Arthurs: I move that subsection 168.7(6.1) of the Environmental Protection Act, as set out in subsection 8(6) of schedule 13 to the bill, be amended by striking out "from a property for which a record of site condition has been filed" in the portion before clause (a) and substituting "from the land or water on, in or under the property for which a record of site condition has been filed."

The Chair: Any comment? Hearing none, all in favour? Opposed? Carried.

Shall schedule 13, section 8, as amended, carry? All in favour? Opposed? Carried.

Schedule 13, section 9: We have a series of government motions. Page 26, Mr. Arthurs.

Mr. Arthurs: I move that subsection 168.7.1(1) of the Environmental Protection Act, as set out in section 9 of schedule 13 to the bill, be amended by striking out "a contaminant moves from the property to another property" and substituting "a contaminant has moved from the land or water on, in or under the property to another property."

The Chair: Any comment? All in favour? Opposed? Carried.

Page 27, Mr. Arthurs.

Mr. Arthurs: I move that subsection 168.7.1(4) of the Environmental Protection Act, as set out in section 9 of schedule 13 to the bill, be amended by striking out "from

a property for which a record of site condition has been filed" and substituting "from the land or water on, in or under the property for which a record of site condition has been filed."

The Chair: Comment? Hearing none, all in favour? Opposed? Carried.

Page 28, Mr. Arthurs.

Mr. Arthurs: I move that subsection 168.7.1(5) of the Environmental Protection Act, as set out in section 9 of schedule 13 to the bill, be amended by striking out "from a property for which a record of site condition has been filed" and substituting "from the land or water on, in or under the property for which a record of site condition has been filed."

The Chair: Comment? Hearing none, all in favour? Opposed? Carried.

Page 29, Mr. Arthurs.

Mr. Arthurs: I move that subsection 168.7.1(6) of the Environmental Protection Act, as set out in section 9 of schedule 13 to the bill, be amended by striking out "the qualified person" in the portion before paragraph 1 and substituting "a qualified person."

The Chair: Comment? Hearing none, all in favour? Opposed? Carried.

Number 30, Mr. Arthurs.

Mr. Arthurs: I move that paragraph 1 of subsection 168.7.1(6) of the Environmental Protection Act, as set out in section 9 of schedule 13 to the bill, be amended by striking out "included an investigation of the existing or permitted land uses" and substituting "included an investigation of the existing and permitted land uses."

The Chair: Comment? All in favour? Opposed? Carried.

Page 31.

Mr. Arthurs: I move that paragraph 2 of subsection 168.7.1(6) of the Environmental Protection Act, as set out in section 9 of schedule 13 to the bill, be amended by striking out "If an investigation described in paragraph 1 has been conducted" at the beginning.

The Chair: Comment? Hearing none, all in favour? Opposed? Carried.

Page 32, Mr. Arthurs.

Mr. Arthurs: I move that subsection 168.7.1(7) of the Environmental Protection Act, as set out in section 9 of schedule 13 to the bill, be amended by striking out "a contaminant that has moved from the property for which a record of site condition has been filed" in the portion before clause (a) and substituting "a contaminant that has moved from the land or water on, in or under the property for which a record of site condition has been filed."

The Chair: Comment? Hearing none, all in favour? Opposed? Carried.

Page 33.

Mr. Arthurs: I move that the English version of clause 168.7.1(7)(a) of the Environmental Protection Act, as set out in section 9 of schedule 13 to the bill, be amended by striking out "no sensitive property use is located or permitted" and substituting "there is no sensitive property use located or permitted".

The Chair: Comment? Hearing none, all in favour? Opposed? Carried.

Mr. Arthurs, page 34.

Mr. Arthurs: I move that clause 168.7.1(7)(b) of the Environmental Protection Act, as set out in section 9 of schedule 13 to the bill, be struck out and the following substituted:

"(b) does not exceed the applicable site condition standard for that contaminant that would have applied to the property if the type of property use specified under paragraph 3 of subsection 168.4(2) in the record of site condition were a sensitive property use, if the record of site condition contains a certification that, as of the date prescribed by the regulations, there is a sensitive property use located or permitted within the vicinity of the property."

The Chair: Comment? Hearing none, all in favour? Opposed? Carried.

Page 35, Mr. Arthurs.

Mr. Arthurs: I move that subsection 168.7.1(9) of the Environmental Protection Act, as set out in section 9 of schedule 13 of the bill, be struck out and the following substituted:

"Reference to site condition standard

"(9) A reference in this section to an applicable site condition standard for a contaminant means the site condition standard that applied to the contaminant as of the certification date set out in the record of site condition or, in the case of a reference in clause (7)(b), means the site condition standard that would have applied to the contaminant as of the certification date set out in the record of site condition."

The Chair: Comment? Hearing none, all in favour? Opposed? Carried.

Shall schedule 13, section 9, as amended, carry? All in favour? Opposed? Carried.

Schedule 13, sections 10 through 12: Shall they carry? All in favour? Opposed? Carried.

Schedule 13, section 13, government motion number 36, Mr. Arthurs.

Mr. Arthurs: I move that clause 176(10)(b) of the Environmental Protection Act, as set out in subsection 13(2) of schedule 13 to the bill, be amended by striking out "an investigation of existing or permitted land uses" and substituting "an investigation of the existing and permitted land uses".

The Chair: Comment? Hearing none, all in favour? Opposed? Carried.

Page 37, Mr. Arthurs.

Mr. Arthurs: I move that clause 176(10)(e.1) of the Environmental Protection Act, as set out in subsection 13(3) of schedule 13 to the bill, be amended by striking out "requiring the payment of fees" at the beginning and substituting "governing the payment of fees".

The Chair: Comment? Hearing none, all in favour? Opposed? Carried.

Page 38, Mr. Arthurs.

Mr. Arthurs: I move that clause 176(10)(m.1) of the Environmental Protection Act, as set out in subsection

13(6) of schedule 13 to the bill, be amended by striking out "that are on, in or under a property with respect to a property for which a record of site condition is to be filed" at the end and substituting "that are on, in or under a property for which a record of site condition is to be filed".

The Chair: Comment? Hearing none, all in favour? Opposed? Carried.

Shall schedule 13, section 13, as amended, carry? All in favour? Opposed? Carried.

Shall schedule 13, section 14, carry? All in favour? Opposed? Carried.

Shall schedule 13, as amended, carry? All in favour? Opposed? Carried.

Shall schedule 14, sections 1 through 4, carry? All in favour? Opposed? Carried.

Shall schedule 14 carry? All in favour? Opposed? Carried.

Shall schedule 15, sections 1 through 4, carry? All in favour? Opposed? Carried.

Shall schedule 15 carry? All in favour? Opposed? Carried.

Schedule 16, sections 1 and 2: Shall they carry? All in favour? Opposed? Carried.

Schedule 16, section 3, government motion, page 39, Mr. Arthurs.

1130

Mr. Arthurs: I move that section 12.1 of the French Language Services Act, as set out in section 3 of schedule 16 to the bill, be amended by adding the following subsection:

"Crown liability

"(7) Despite subsections 5(2) and (4) of the Proceedings Against the Crown Act, subsection (6) does not relieve the crown of any liability to which the crown would otherwise be subject."

The Chair: Comment? Hearing none, all in favour—Mr. Prue?

Mr. Prue: I just want to be sure. This says that people can proceed against the crown and the crown is not relieved of liability. That is, the crown, just like any other person, can be sued or taken to court. That's what this means? Okay.

Mr. Arthurs: This is basically relief for the commissioner from those actions, not the crown.

The Chair: Any other comment? Hearing none, all in favour? Opposed? Carried.

Shall schedule 16, section 3, as amended, carry? All in favour? Opposed? Carried.

Schedule 16, sections 4 and 5: Shall they carry? All in favour? Opposed? Carried.

Shall schedule 16, as amended, carry? All in favour? Opposed? Carried.

New section, schedule 17, section 0.1, PC motion, page 40.

Mr. Hudak: I move that schedule 17 of the bill be amended by adding the following section before section 1:

"0.1 The Income Tax Act is amended by adding the following section:

"No Ontario health premium after 2011

"2.3 Despite subsection 2.2(1), no Ontario health premium is payable by an individual for a taxation year ending after December 31, 2011."

The Chair: Comment?

Mr. Hudak: The official opposition, the Ontario PC Party, have consistently said that the so-called health premium—which we know simply flows into the consolidated revenue fund, not to health care directly—would be eliminated under a PC government over the extent of its mandate. We consistently bring this amendment forward to bills, hoping that the government members will be persuaded by the strength of our arguments. We'll try it again today.

The Chair: Further comment?

Mr. Arthurs: The government is committed to review in 2009 the health premium provision that is a tax, that every cent of those dollars is going into the health care system. It was a necessary condition at that point in time, as we were dealing with a particular fiscal situation, but we're investing some $37.9 billion in the health care sector in this budget. That's an increase of some $8.5 billion, an increase of some $29 billion over the much earlier time frame. We can't support the provision that would eliminate the health tax. It's critically necessary. We continue to invest in health care. But it will be a matter for review by government in 2009 if we're privileged to have that opportunity.

The Chair: Thank you. Mr. Prue?

Mr. Prue: The problem that I have with this is not so much—and perhaps Mr. Hudak can explain this—that you want to get rid of the Ontario health premium because it is an unfair tax, but there's nothing in this motion, nor have I heard any indication, about what you would substitute or where you would get the $2.5 billion; or, in the alternative, do you choose not to spend it? That's what I need to know before I would support this. It's not getting rid of a very bad piece of legislation that introduced it; it's where would the money come from or would it come at all?

The Chair: Further comment?

Mr. Hudak: First and foremost, we believe that seniors and working families in the province of Ontario who are paying higher taxes, higher utility rates, higher user fees and gas up over a buck eight a litre as of this morning deserve a break. We believe in reducing the tax burden to help out those working families and seniors who are liable, for each individual making an income above prescribed levels, for anywhere from $300 to $900. That is a substantial bite out of their pockets. This new tax brought in by Dalton McGuinty brings in some $2.6 billion. That's why we said we'd phase it out over a full John Tory mandate. When you see that revenue has increased by some $22 billion to $23 billion already, and is forecast to be much beyond that in the four years ahead, there is a substantial reason to find savings in spending and through growth and to eliminate the type of slush fund we've seen before the Legislature in the last several weeks, to enable this tax reduction to go forward.

Furthermore, we believe that by reducing taxes on individuals and businesses, we can stimulate the economy and get Ontario out of its anemic growth rate that has us at the bottom of all the provinces. We saw significant growth in Ontario through the late 1990s and into the early 2000s. Historically, Ontario has been a lead province in growth and job creation. That is no longer the case today. We believe that an aggressive tax policy will help turn things around.

The Chair: Any other comment?

Mr. Hudak: Recorded vote.

Ayes

Hudak.

Nays

Arthurs, Balkissoon, Marsales, McNeely, Mitchell.

The Chair: The motion is lost.

Shall schedule 17, sections 1 to 3 carry? Carried.

Schedule 17, section 4: a government motion on page 41.

Mr. Arthurs: I move that subsection 8.6.2(12) of the Income Tax Act, as set out in section 4 of schedule 17 to the bill, be struck out and the following substituted:

"Exception for July 2007 to June 2008:

"(12) Subsection (11) does not apply in either of the following circumstances in respect of an amount that is repayable by an individual in respect to the Ontario child benefit for the 12-month period that commences on July 1, 2007:

"1. If the total amount that is repayable is not more than $25.

"2. If all of the following criteria are satisfied:

"i. The individual is resident in Ontario on July 1, 2007.

"ii. The individual's adjusted income for the 2006 taxation year does not exceed $50,000.

"iii. The provincial minister is satisfied that the obligation to make the repayment resulted solely from an administrative error made during the initial determination, a redetermination or a payment of the Ontario child benefit or during a reassessment of the individual for the 2006 taxation year.

"Exception after June 2008:

"(12.1) Subsection (11) does not apply if the total amount that is repayable by an individual on account of the Ontario child benefit for any 12-month period that commences on July 1, 2008 or on July 1 of a subsequent year is not more than $2."

The Chair: Comment?

Mr. Gilles Bisson (Timmins–James Bay): This is the clawback, isn't it?

Mr. Arthurs: No. This is to avoid a situation where, as I understand it, someone's income may have changed during the year in some fashion that pushes them over a threshold where, having gotten the child tax benefit, it might be clawed back as a result of CRA activity. This is a provision where modest amounts of change in income won't result in someone coming back and saying, "You owe $12 in tax as a result of having had the child tax benefit."

Mr. Bisson: But wasn't the promise made in the last election to give it all back?

Mr. Arthurs: This is a different matter.

Mr. Bisson: I'm just asking you anecdotally through this motion.

The Chair: Further comment?

Mr. Bisson: I had a question.

Mr. Arthurs: The query on the clawback matter: We have stopped the incremental clawback, and this provision, the Ontario child benefit, will benefit many more children with many more dollars—in fact, twice as many dollars: $1.2 billion over the four- or five-year phase-in. Children of both working parents and parents who find themselves in need of assistance will benefit. Children in low-income families will be treated fairly.

Mr. Bisson: So the short answer is, no, this does not maintain your election promise.

Mr. Prue: I'm having some real difficulty understanding what this does. Perhaps the staff could come and explain this. I don't understand "If the total amount that is repayable is not more than $25" and I don't understand why it's gone down to $2 the following year.

Mr. Arthurs: Let's bring forward the experts.

The Chair: If you identify your for the purposes of Hansard, you can then answer the question.

1140

Mr. Michael Waterston: Good morning. I'm Michael Waterston from the Ministry of Finance, legal services branch. The question has been asked as to what this particular amendment is intended to do. Under the current provisions of Bill 187, there's a provision saying that if an individual receives an overpayment of the Ontario child benefit to which the individual is not entitled, the individual must repay that amount back to the Minister of Finance if the amount is in excess of $2.

This particular motion would provide two amendments to that. First of all, it would only require the repayment to be made if the total amount repayable to the minister is more than $25. Secondly, it would also provide that the repayment does not have to be made if the conditions described in paragraph 2 of subsection (12) are met. Those conditions are that the individual is a resident on July 1, 2007; that the individual's adjusted income does not exceed $50,000; and that the obligation to make the repayment arose from an administrative error.

Mr. Prue: So this will help those people who owe the minister money, between $2 and $25. It won't help those who owe more than $25. It won't help—

Mr. Waterston: It will help some individuals who owe more than $25 if the obligation to make the repayment arose from an administrative error that was made by the provincial minister or the Canada Revenue Agency in administering the Ontario child benefit.

Mr. Prue: I take it this is for one taxation year, 2007, because in 2008 it reverts back to $2.

Mr. Waterston: Correct. It only relates to the overpayment of the Ontario child benefit for the period of July 2007 to June 2008.

Mr. Prue: Why is that?

Mr. Waterston: It was intended, I believe, to focus this particular administrative relief on that one-time payment and not to apply to the monthly payments that will start in July 2008 and subsequent years.

Mr. Prue: Is that because you're anticipating a whole run on these? There's going to be a whole bunch of them?

Mr. Waterston: No. I think it's just to take care of the one-time payment that's being made this year through the Canada Revenue Agency.

Mr. Bisson: Does this mean to say that when and if the child tax credit is credited back to people, in fact it will be applicable at the $2 level again? Right?

Mr. Waterston: For monthly payments starting in July 2008 and following, if an individual receives an overpayment to which they're not entitled because their income changes or due to some other matter, they are only required to repay it back to the Ontario minister if it exceeds $2, yes.

Mr. Bisson: Or if they get to keep the clawback. That would change your income as well. Their taxation would be obviously a lot more.

Mr. Waterston: I have no response.

Mr. Bisson: I don't blame you.

Mrs. Carol Mitchell (Huron–Bruce): This specific amendment speaks to the fluctuations in income, does it not, because of the program starting mid-term for the taxation year? Is that what this speaks to? If there's a deviation from what would be the norm of their incomes?

Mr. Waterston: It speaks to fluctuations of income. Because this payment is based on their income for the 2006 taxation year, it's possible that once the tax returns are filed by the individual reporting a particular level of income, when the income tax return is assessed or reassessed by the Canada Revenue Agency, their income could be adjusted through the reassessment. So that's how their income might be changed.

Mrs. Mitchell: That's what this amendment speaks to, is it not?

Mr. Waterston: Yes, it speaks to—

Mrs. Mitchell: It's the adjustments, if there are any, from the previous taxation year, based on what they will receive through the child benefit.

Mr. Waterston: Yes.

Mrs. Mitchell: So this amendment is put in place for ease, for the recipients of the child benefit?

Mr. Waterston: Correct, yes.

The Chair: Further comment? Hearing none, all in favour? Opposed? Carried.

Shall schedule 17 section 4, as amended, carry? All in favour? Opposed? Carried.

Shall schedule 17, sections 5 through 9, carry? All in favour? Opposed? Carried.

Shall schedule 17, as amended, carry? All in favour? Opposed? Carried.

Schedule 18, sections 1 and 2: Shall they carry? All in favour? Opposed? Carried.

Shall schedule 18 carry? All in favour? Opposed? Carried.

Schedule 19, sections 1 through 7: Shall they carry? All in favour? Opposed? Carried.

Shall schedule 19 carry? All in favour? Opposed? Carried.

Schedule 20, sections 1 and 2: Shall they carry? All in favour? Opposed? Carried.

Shall schedule 20 carry? All in favour?

Mr. Hudak: Sorry, Chair, I wondered if I could get a point of debate in before the vote—just trying to get your attention—on schedule 20?

The Chair: Yes.

Mr. Hudak: I just wanted to use this opportunity to convey my concern to my colleagues across the table and to the Attorney General about the need for more justices of the peace. I know this is a province-wide issue, but particularly in Niagara and Hamilton we've had a shortage that has resulted in closure of courtrooms and fees and tickets being thrown out of courts. I believe in 2006 there was a three-quarters-of-a-million-dollar impact on the region of Niagara's budget alone. I know I and colleagues of mine from Niagara have put forward some strong candidates for these positions, well-qualified, judicious individuals who could help with the enforcement of justice and ensure that people who have committed offences don't slip off the hook because of delays. It would also help police to prosecute investigations further.

We decided not to bring forward any particular amendments to schedule 20 of the bill other than to pass on the growing concern from taxpayers, those involved in the justice system, municipal leaders and Niagara and Hamilton MPPs with the lack of JPs in our region.

The Chair: Thank you. Any other comment? Hearing none, we will return.

Shall schedule 20 carry? All in favour? Opposed? Carried.

Shall schedule 21, sections 1 and 2, carry? All in favour? Opposed? Carried.

Shall schedule 21 carry? All in favour? Opposed? Carried.

Shall schedule 22, section 1, carry? All in favour? Opposed? Carried.

Schedule 22, section 2: There's a PC motion on page 42. Mr. Hudak.

Mr. Hudak: I move that part VIII of the Mining Act, as set out in section 2 of schedule 22 to the bill, be struck out and the following substituted:

"Part VIII

"Diamonds

"No royalty for diamonds

"154. The operator of a diamond mine shall not be required to pay a royalty under this act in respect of the net value of the output of the diamond mine."

The Chair: Comment?

Mr. Hudak: I know my colleague the member for Timmins–James Bay had some very strong feelings about this sudden tax change, as do I and members of the PC caucus. We object very strongly to this sneaky and arbitrary move by the government and the finance minister to bring in a new tax after a project was well underway. As I said in the Legislature, Hugo Chavez wouldn't try this type of trick.

Mr. Bisson: He actually did.

Mr. Hudak: In fact, Chavez has recently signed some contracts with mining companies that seem to find him easier to deal with.

Mr. Prue: He paid off the entire debt of the nation.

Mr. Hudak: We have some fans of Chavez here. We won't debate Mr. Chavez to a great extent other than to illustrate the concerns that the official opposition has with this arbitrary and sneaky tax increase.

By way of background, the Chairman and colleagues will probably remember that a number of initiatives were brought forward to enhance mineral development in Ontario: the mining tax rate was cut substantially to the lowest in Canada, if I recall, and investments in Operation Treasure Hunt to improve the geological survey.

We also brought in, under the previous PC government, as part of this package, a remote mining tax to encourage mineral development in remote areas. As part of that, companies would be required to work with First Nations communities in the area, to sign impact benefit agreements to ensure that First Nations who are joining, or if this is on First Nations territory or on crown land close to First Nations, who would benefit from this project in terms of employment; and environmental issues and training issues would be addressed.

In fact, it wasn't too long ago that Premier McGuinty himself went to the site of the De Beers mine just outside of Attawapiskat to announce this project and to announce that the remote mining tax was one of the reasons why this project was brought forward. The Premier at the time, June 19, 2006, said, "An investment in northern communities today is an investment in Ontario's future prosperity," while at the site, as I mentioned.

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The irony is that the Premier at the site had highlighted the tax advantage that had attracted De Beers to invest in the Victor project. In this budget, without notice, without true consultation with stakeholders, the government imposed a new tax, a royalty that substantially increased the taxes on this property. It was a particular sneaky thing to do, given that the project had been under way and several hundred million dollars had been invested.

I worry about the impact on this project, I worry about the impact on First Nations who have signed benefit impact agreements, and I worry about the signal this sends internationally about Ontario's openness to mineral investment. We had under previous reforms brought Ontario to be the most attractive jurisdiction—first in Canada, then North America, then internationally—for mineral investment. We have since slipped down the chart, and I would be very concerned, but, sadly, unsurprised, if this latest arbitrary tax increase did not result in Ontario's rating sinking even further. Not too long ago, Chile had brought in some similar, last-minute tax changes, and Chile plummeted from near the top of the list to well down the list. I do worry that if the government does not rescind this part of the bill, Ontario's future will be the worse for it, because if you're an international investor, how can you trust Dalton McGuinty?

Mr. Bisson: Just a couple of things. First of all, members need to understand that the development of a mine is a very expensive thing. Never mind building the mine; it's finding where the minerals are in order to possibly build the mine. What this measure does as far as changing the royalty system in diamond mining is say to the international investment community that Ontario is capable of changing the tax regime or anything else on a whim that would basically negate any benefit they have from being able to operate in Ontario.

Up until recently—Mr. Hudak is right—a few things have played to our favour. We have amongst the best geology in the world here in Ontario. Gold and other precious metals, along with some of the base metals—and the best geology to find them—are here in Ontario. So that's obviously a plus for us. And we've got the people. The mining industry in Ontario is amongst the best, from the workers on through to management and the people in the exploration industry. We have some of the best people in the world here in Ontario, and that adds to our favour.

But the problem we have is that we saw the exodus of investment in the late 1990s—I should say in the late 1980s, actually—where mining companies were moving investment from Ontario into jurisdictions like Chile and Africa. Why? Because Ontario had become uncompetitive when it came to how one was able to write off investments and how one charged taxes on those investments, as well as some of the permitting issues. Ontario worked quite hard through the Bob Rae government, the former Conservative government, and even at the beginning of this government, the McGuinty government—they understood that Ontario's not an island unto itself. If you want to attract the literally hundreds of millions of dollars that you have to attract to be able to find one mine, you have to compete with those places in Third World countries that have rules such as what we're trying to propose in this bill.

Just to give you a concept: The De Beers mining project cost $120 million just to find the mine, to identify that ore body. It took 20 years. It started with a particular geologist doing some sedimentary work in the Attawapiskat River that indicated there were possibly diamonds there, and it took $120 million—just De Beers, never mind all of the other junior mining companies who invested—to find that particular ore body. If you change the tax act to say that an operating diamond mine is going to be treated differently than anybody else and that you're going to triple the royalties, you're basically

saying to the exploration industry, "Don't go looking for diamonds."

We already have an indication of that, because other exploration companies that are in the diamond business have been saying to us and have been saying publicly that they're going to start looking elsewhere. De Beers itself has a fairly sizable amount of money that they spend every year for exploration. They've already made the decision, and the money's already keyed in for this year, to keep on exploring in Ontario, but if you're De Beers and you're treated this way, you will probably start looking to where there is a friendlier government when it comes to how you have stability when it comes to taxes.

So you need to understand that there are a couple of parts to this, and the reason why I and others are very agitated over this is that we've finally got a boom in mining after a big drought of around 10 or 15 years. For 10 or 15 years of mining, it was a pretty tough go. Gold prices were down. Base metal prices were down. It was really hard to get the investment. Ontario worked very hard to do things to attract them. We finally got them here. The prices have gone up. We're finally seeing a boom in Sudbury, Timmins, Kirkland Lake, Red Lake, and this has the potential of throwing a damper on all of that. So that's the first thing on the exploration side.

The other issue is that of fairness when it comes to taxation. What this bill says is that if you're a gold mine and you open up a mine next to the Victor diamond mine in Attawapiskat, you will pay a royalty of 5%, but if you are Victor, you're going to pay a royalty of 13%. The problem with that is that that's inequitable within the same industry. The costs of developing a gold mine or a diamond mine are basically the same. You've still got to bring hydro in, you've still got to bring winter roads in. This is an isolated mining project that is at least 400 kilometres from any permanent road. Everything has got to be flown in or you've got to build winter roads to bring everything in. Why should we have a tax regime that says, "We're going treat one mine this way but the other one very well next door we're going to treat a different way."

Imagine, if you will, if we had a tax policy that said, "We're going to have taxes charged to GM at a lesser rate than the taxes that we charge to Ford or Chrysler." We wouldn't stand for that for two seconds because we understand that you've got to treat the auto industry the same way. If you want to attract investment, sure, we're going to do things to assist when it comes to training and other things, but when it comes to the tax rate, we're going to treat GM, Honda and the rest of them basically the same so that there is a level playing field, and when we compete to get investment in Ontario, all of those companies are treated the same.

Why would we change that principle in mining and say, "We're going to treat all of mining this way, but we're going to treat diamond mining that way"? It's kind of a ridiculous thing. I would argue that if this is a revenue issue for the government and they're trying to add revenue to the general government of Ontario, this is not the way to do it. You'd be a lot further ahead with a lot fewer problems if you were to just do a 1% increase on royalties across the board. It would be administratively a lot easier to do and at least it would be fair. What this does is undo much of the work we have done before to assist mining.

You're indicating that we only have two minutes till 12. Is that what the issue is? I will continue this after, because there are other aspects that deal with the tax. I would ask, as we recess, that we take this back up at 4 o'clock.

Mr. Hudak: Continue the debate.

Mr. Bisson: Continue the debate at 4. You're saying that we're out of time, or do I still have time?

The Chair: You have two minutes.

Mr. Bisson: Okay. The other part is—and this is a part that is particularly a problem. The way it currently works is that if I open up a mine let's say in Timmins and it costs me $600 million to open up this mine—build a headframe, build a mill, do the development—I'm able to write off the capital investment before I ever start paying my royalty. One of the fears that we have in the way this particular legislation has been written is that there's a possibility that currently if, let's say, I open a mine in Timmins and I'm able to write off my capital, I might be able to do it for the first mine, but I'm probably not going to be able to do it for the second. For example, if De Beers spends a billion dollars of development, putting infrastructure in the Victor project outside of Attawapiskat, they're going to be allowed, as I read it—and I hope I'm right—to write off, as they do now, their investment before they start to pay back royalty to the province, and that's fair.

But there is a real question and a real big question mark: What happens when they go to a second or a third pit? We might put ourselves in the position where you mine the first pit and you find another kimberlite deposit two miles down the road—and we know there are others there because there was indication—you will not be able to write it off because it comes out of the Mining Act. That's a real huge problem because then again we'll be saying to the diamond industry, "Don't come and invest in Ontario because the rules for diamonds are so negative that you're better off to do it in Manitoba, Quebec or elsewhere where they are doing exploration for diamonds now."

There are other things to say, but all I can tell you is that this will cost us money. This will not make us money in the long run. We should talk about that, because I think I'm out of my two minute time now.

The Chair: Yes. I have other speakers who have indicated as well, so we'll resume this following routine proceedings. Until then we are recessed.

The committee recessed from 1200 to 1604.

The Chair: The standing committee on finance and economic affairs will now come to order. When we met prior to the recess, we were speaking to motion 42, and Mr. Bisson had the floor.

Mr. Bisson: Thank you very much, Chair. As I was saying before I was so rudely interrupted by your gavel—

of course you're great, Chair. I'm just having a bit of levity here.

I spoke earlier to this particular amendment and the need for it in regard to the move on the part of the government in this budget bill to take out of the Mining Tax Act royalties that are charged to diamond mining, and what that meant to the diamond mining industry, to mining in general and to northern Ontario.

The first thing I spoke about—I'm not going to repeat it at length, but I just need to touch on it very quickly—was that it sends a very bad message to the investment community. I think most of you understand that making such a move and changing the tax regime on a whim sends a message to the investment community that is counter-productive to attracting new investment in Ontario. As I was saying earlier, exploration is a very expensive business. To find one mine you literally could spend hundreds of millions of dollars by the time one of your claims becomes actually significant enough to do advance exploration. Even then, you can spend hundreds of millions of dollars on advanced exploration projects, such as the De Beers project, and not be guaranteed that you're going to have a mine at all. That's why our tax regime is such in the Mining Tax Act when it comes to how we treat royalties and how we treat taxation in general. It's set up the way that it is because it recognizes that it's a very capital-intensive industry when it comes to exploration and then building. Building a mine such as the De Beers project up in Victor represents literally a billion-plus dollars.

The other thing that I talked about is that in this move to take the royalties out of the Mining Tax Act for diamond mining and put them in a separate act where they will sit on their own, it means to say that you're going to treat industry differently. If you're in the mining industry and you happen to be in gold, copper, zinc, uranium or whatever it might be, you'll be treated differently than in the diamond industry. That, again, is a very bad thing, for a number of reasons. First of all, it's bad because it treats the same industry differently and has the effect of scaring away investment. As I was saying, the analogous comparison is, imagine if we had a tax regime that said, "We're going to tax Ford more than we tax GM." Nobody would stand for that, and rightfully so. We'd call for one tax regime that treats everybody the same. So from a fairness perspective, we need to make sure that this particular initiative is drawn back so that we treat everybody the same.

The other issue—and I'm going to get into it just very quickly—is the whole issue of what it means for the revenues of Ontario. Now, I understand, for the members of the committee, Mr. Mauro especially, who I know is really interested in this—

Interjection.

Mr. Bisson: Thank you. Basically, if it's money that you're trying to get—everybody understands that government needs money to pay for health care, to build roads and do all the things—

Interjection.

Mr. Bisson: I wouldn't want to disrupt this conversation again.

The Chair: Order, please.

Mr. Bisson: It's an important issue, and I just want to make sure that members understand the arguments.

The second part is, if it's money that you're trying to get, understand that this particular initiative will not give you money for at least four or five years. Because of the way the tax regime is set up, you're first allowed to depreciate the value of your investment as far as building a mine, and it's not until after the money you've spent to build your mine is written off that the royalties will actually start to kick in. So your actual regime—if you think you're going to get money next year, give your heads a collective shake, because you probably won't see money coming in the door to the Ministry of Revenue for at least four, maybe five years.

I would say that if you're looking for revenue—and I'm not advocating that you do this, but I would understand it if you did—it would be far easier to say, "We're going to change the royalty regime and increase it by 1% across the board." That means to say that those projects that are already up and running would pay a little bit more; I'm sure you would get some kickback on that. But at least we would understand the logic, because then it's that you're trying to get money now. What you're doing is not going to get you any money this term, probably not until after the next government's term, but three terms from now. So the political fallout is strong for no money coming back. That is one of the points that I don't understand.

But the other thing is—and I'm going to try and attempt to explain this as simply as I can—the taxation regime in mining is, at best, a system that's been set up in order to attract investment in the exploration side, advanced exploration, so that hopefully one day you will end up with a mine. One of the things that the Mining Tax Act says is that if you are lucky enough to spend literally hundreds of millions of dollars in exploration and at the end of the exploration process actually put a mine into production, you're allowed to write off the capital investment of building the mine, and once that money has been accounted for, that's when you start to pay the royalty. What you're doing by taking the diamond mining industry out of the Mining Tax Act and putting it separate is saying, "We're going to treat you differently yet again. If you go out and explore, and let's say you spend $50 million in exploration and then you spend another $60 million in advanced exploration but it doesn't lead to the creation of a mine, you will not be able to write it off."

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Again, you need to understand what this means to the exploration industry. It means that nobody is going to spend money in exploration, especially in diamonds, and it will have a repercussion effect on other minerals, because it means that the only way you're going to be to recoup your investment is if you're lucky enough to build a mine. So you're sending all kinds of messages to the

mining industry that, at the end of the day, are going to be detrimental to the future position of mining.

I've got other things to say, but at this point I just want to hear what the government has to say, if they're prepared to concede some of these points and go back, withdraw this particular proposal and hopefully come back and do something that is a little bit more saleable to the mining industry and to northern Ontario.

The Chair: Further comment?

Mr. Arthurs: I think there are some basic principles on which the government is looking at the royalty regime. The first of those and maybe the most significant at this point—we've looked to other jurisdictions in Canada that have diamond mining activity. The two jurisdictions that are in place now, two jurisdictions that have a royalty regime in place that this parallels, are the Northwest Territories and Nunavut. Looking at this, we've looked to see where there is going to be some consistency in Canada in the system of revenue stream for government as a result of diamond mining.

We understand fully that this is not going to generate a revenue stream in the short term. You know much better than I, Mr. Bisson, that the timing on this is, I believe, into next year, the middle of next year, before De Beers is likely to go into any kind of production and thus, from that point forward to the actual product would be some considerable time.

It's also a phased-in amount of the royalty, so one has to reach certain profit thresholds along the way. It scales up as part of that. So there are some principles and some acknowledgement that this is not a quick, short-term decision around a fast revenue stream for the province.

There will be consultation with De Beers and the overall industry on regulations helping to determine the taxation base on which to work, what the deductions are and how those may be either unique or different or have to be accounted for in the context of doing the business of diamond mining so that, at the end of the day, the appropriate deductions are in place against the operational base to ensure that the profit margin that comes out of that fully allows for the appropriate opportunity for De Beers and others to be able to deduct from their operation their capital costs and operational costs and whatever else is included in all of that. All of those things are part of the considerations on having this particular regime.

You mentioned earlier on, in your points before we broke for lunch, that successive governments have provided various initiatives to the mining industry: The NDP when they were in government, subsequently the Tories, and even our government. So each government I think has made efforts.

Among the things that we have undertaken during our mandate: some $60 million over six years to clean up abandoned mines, not direct to diamond mining but nonetheless funding for those abandoned mines in communities; some $15 million over three years for geological mapping in the far north to encourage exploration in that sense, to make sure the mapping is done; and some $10 million to establish the Centre for Excellence in Mining Innovation at Laurentian University in Sudbury.

We've made some specific initiatives to support the mining industry overall. We, like others, want to continue to see it as an important part of the economic base of the province, and certainly in northern Ontario, an incredibly important one. But I think the principles on which—the royalties are certainly reflective of what's happening in other jurisdictions in Canada and the need to continue with De Beers and others to make sure that the valuation that comes out at the end of the day truly reflects their inputs along the way, as well as the uniqueness, at least unique to Canada, in valuing the diamond commodity, unlike gold and silver, where it's easier to value at the end of the day once you have the products in hand. Diamonds seem to be somewhat more unique in putting a valuation on them, which does result in government having to do different kinds of things in valuing the actual product at the end of the day. It's not traded in the same way as gold and silver are in the marketplace.

Mr. Prue: Just while my colleague is thinking about how he wants to respond to that, we haven't talked about this yet, and I think this needs to be talked about. We've heard about De Beers. We've heard about the investments they've made. We've heard about diamond mining. We've heard about their being hijacked and hoodwinked perhaps. But what we haven't talked about and what you need to hear is about our First Nations. These are very poor communities. Members of the committee who have been there—if you've ever been to some of these northern communities, and I know some of you have, they are amongst the poorest places in Ontario and indeed amongst the poorest places in Canada. There is no hope for the kids. There is no hope for the communities. There are no roads. There are no sewers. There are some septic tanks in places. There's water you can't drink. There are no jobs. Things are extremely expensive. There's no government infrastructure.

If you go from one side of James Bay to the other side, which is in Quebec, you'll see schools, roads, infrastructure and a government that actually goes out there and does some things for its First Canadian peoples. If you come to the Ontario side, I am ashamed to tell you that there is almost nothing.

So along comes a company like De Beers, and for the first time ever, there's some movement in some of these communities. For the first time ever, they have a hope of a job. They have some expectations for the kids. They have a paycheque that's coming in. They have kids who no longer look in despair and try to hide their frustrations in alcohol, drugs and sniffing glue, but kids who want to go out and find a job, kids who know that they can make something of their lives and still stay relatively close to their own community. For the first time, they have hope.

For the first time around Attawapiskat, they have some infrastructure. Even if that infrastructure is a little bit of a distance from Attawapiskat, you know there's another alternative for planes to come in or things to come in on the winter roads or off of Hudson or James

Bay. For the first time, there's something there. They have a chance. For the first time in their lifetime, in their father's lifetime, in their grandparents' lifetime, they have an opportunity for some prosperity. That's what this mine has brought to those communities.

And here we have a government that appears to want to throw it all away. I don't know why you want to throw it all away, because if De Beers continues and if other mining operations, including diamond mines, come into that area and can find the kimberlite and redevelop those, there is an opportunity here for all of these communities to have something they've never had before, and that is some prosperity and some pride, a chance for jobs and education and all the things that go with it. There is even the outside chance that the government might want to put a road in to some of the communities or build a new airstrip or provide some decent housing. Heaven knows, they need it.

This is our obligation. It's not a federal responsibility alone, because of all the treaties that have been signed in Canada, there's one called Treaty No. 9. Treaty No. 9 is over this entire area, and 101 years ago, Ontario was the signatory to Treaty No. 9. It's not just the federal government, it's us. We signed it, and we guaranteed them that they would be consulted, and we guaranteed them that we would work with them and share the resources and share the land. I want to tell you, the First Canadians have been very good and very patient at sharing the land and the prosperity. They merely want to be consulted and they want in on this process.

I know that the Minister of Finance couldn't reveal what he was going to do, because you can't do that when you're the Minister of Finance, but I want to tell you, these communities feel blindsided. We heard from some deputations here and by satellite radio how those communities are reacting to this. I do not want to do anything that is going to actually make it worse than it already is up there.

If you've been there, you know how bad it is. You know it's $20 for a bag of milk. You know you can't buy potatoes. You know you can't provide for your kids unless you go out and get the fish or the meat off the land yourself. This is an opportunity for the first time in those lives to have a chance. Yes, they may have to leave the safe confines of the individual community, be it Attawapiskat, Peawanuck, Martin Falls, Ogoki or any of the other places I've been to, and go up in the bush outside of Attawapiskat to the mine, but it's still their land, it's still what they understand and it's still an opportunity for them to do something.

1620

I'm asking the government, because you have a responsibility under Treaty No. 9, because you have an opportunity here to share with the First Nations, to do it. If you have to lose a few million dollars in years subsequent, then so be it, because it's more important to me and it should be more important to you to make sure that those communities share in the prosperity of Ontario and that those kids have every bit as much chance as kids growing up in Toronto.

I want you to do something. You're not going to make any money off this next year; you've already said that. I want you to think of something else, because if all there is in the end, two, five, 10 years from now, is five or six mines up there and no other work, at least there will be two or five or six mines up there so that First Nations kids will have a chance to learn trades, will have a chance to work, will have a chance to get a paycheque and have some pride and respect in their communities. After all, that is far more important than a few bucks you might get the year after next or the year after that, whenever it does start to come. I'm just saying, this is one of the most horrid things in this budget, and if you can convince the minister to withdraw it, that would be good for literally every single First Nations community in Ontario.

The Chair: Further comment?

Mr. Hudak: I just want to reinforce the comments of my colleagues from Timmins–James Bay and Beaches–East York. As a former Minister of Mines and having had an opportunity to spend some time, including with M. Bisson, in the north, ensuring that there is a positive impact-benefit agreement between a proponent and a First Nation or a group of First Nations is absolutely essential to economic development. Many First Nations will have a lack of trust for the province, for the federal government, for mining companies in general, and because of past injustices, who can blame them? When a company like De Beers reaches out and studiously worked hard to find a positive arrangement with local First Nations that led to a significant number of First Nations individuals and residents of the general area to find employment, to find training opportunities, that's a remarkable accomplishment that should be heralded and should be encouraged. Despite the progress that has been made, now at the last minute the carpet has been pulled out from beneath that agreement and will further rip open the wounds of distrust from the First Nations communities with respect to the government.

I do hope that the government will see fit either not to pass this schedule or to refrain from proclaiming it, if that's possible in the way the act is written. The dangers are significant not just for this project but for future economic development opportunities for First Nations in the far north.

The Chair: Mr. Bisson.

Mr. Bisson: I want to thank both my colleagues for their comments and Mr. Prue for raising what was going to be my next point when I was saying earlier I was going to come back to another point, and that is the whole First Nations part of this. I think Mr. Prue was quite eloquent. A number of you have had the chance to travel to Attawapiskat on committee when we travelled there on our private member's bill dealing with revenue sharing, and you saw first-hand not only in Attawapiskat but in other aboriginal communities in the north the desperate situation when it comes to infrastructure, standard of living and just basically the general condition of those communities. Quite frankly, I think if most

Ontarians were to travel to those communities, they would understand just how desperate the situation is and would wonder why the government is not responding more quickly.

I repeat what Mr. Prue said, and it's very important: Ontario signed Treaty No. 9. When you talk to the First Nations, the Mushkegowuk Cree and also the Oji-Cree further west who are part of Treaty No. 9, they're very clear: They signed Treaty No. 9 with the understanding that they would allow the Europeans to be able to utilize the land, to extract the minerals from the ground, to dam the rivers, to cut the trees, and in exchange they would be able to share in the benefits of those economic activities. One hundred years went by with Treaty 9, and nothing has happened. Nobody has really gone back in an attempt to allow them to share.

Along comes the De Beers mining project—and I think this really needs to be said: Ontario has a huge lack of policy when it comes to how the forestry industry, the hydro-electric industry and the mining industry interact with First Nations communities when developing projects in First Nations territories. There really isn't any policy, to be quite blunt. In the beginning of the De Beers Victor project, in dealing with the earlier management crew that was there, along with others whom I've had to deal with, they were at a loss as to what it is that the government wants them to do and what the requirements are and, "How do we make sure that First Nations are properly compensated?" De Beers has had to go out and reinvent this on their own. I want to make something very clear: The process that the De Beers company went through with Attawapiskat First Nation wasn't an easy one for the First Nation to deal with, or De Beers. It took the better part of—what?—seven or eight years to negotiate the first IBA.

I was part of discussions where both De Beers and Attawapiskat First Nation, first under Chief Ignace Gull, then under Chief Theresa Hall and now under Chief Mike Carpenter—to be able to negotiate the first impact-benefit agreement. I'll tell you, it was a tough job for both because (a) De Beers had no idea what the government wanted them to do in that IBA, and (b) the First Nations didn't even know what questions to ask, because what do they know of diamond mining, or any mining, for that fact? So it took a long time, with some investment by Minister Hudak when he was Minister of Mines—and I thank you for that—that allowed money to flow to Attawapiskat so they could put together the expertise that they needed to be able to start figuring out what would be in an IBA. It took seven or eight years to come to it.

Here's the point: seven or eight years of investment on the part of both the community and De Beers mining in order to be able to build that IBA, and De Beers didn't have to do it. De Beers had no obligation under current law to negotiate an IBA with Attawapiskat, with Fort Albany, with Kashechewan, with Marten Falls or with Moose Cree First Nation—none. There's no obligation. I'm not going to make De Beers out to be the wonderful corporate employer, because certainly De Beers has its history, but in Canada, I can tell you that it's a good one. They've actually gone out, for the first time, other than the Musselwhite project that happened in northwestern Ontario, in an attempt to negotiate a deal with First Nations. What we're saying by this tax is, "De Beers, never mind the investment of eight years and the $120 million it cost you to get here; we're just not going to reward you for doing the right thing." The message we're sending mining companies is, "Don't invest any money negotiating IBAs, because the government can change, on a whim, your environmental or your tax laws to affect you negatively."

So I think what we should be trying to do is encourage companies, such as what happened with De Beers—again, I'm not going to be the defender of De Beers, because I'm sure there are skeletons in their closet, as there are skeletons in mine and skeletons in yours, I'm sure. But when it comes to the project at Attawapiskat, it was, at the end, a process that the community bought into and voted in majority to accept the IBA.

Now, for the point of the IBA, you need to understand that there is an impact-benefit agreement that was signed by Attawapiskat and now is being signed by the other First Nations communities that are affected; but first with Attawapiskat because it's the home community of the project. That impact-benefit agreement ties into it opportunities for training, some compensation, and other matters within it. The fact that you're going to be taking extra money out of this project when you finally start to collect this royalty is going to mean less money to the community of Attawapiskat. The IBA will be that much less than what you're charging for the increase in the royalty. I can tell you, I talked to Mike Carpenter, the chief of Attawapiskat First Nation, Stan Louttit and Stan Beardy. They're beside themselves because they're saying, "Here we go again. Government wouldn't stand with us to give us revenue-sharing; all we got is lip service. So we went out and did it on our own, with some help from the previous government. And now here we are: They're going to take away part of what we negotiated."

They're saying to you: "Listen, don't repeat the mistakes of the last century, and the mistakes that could be repeated again in this century." They're telling you very clearly—and this is the First Nations leadership: "Don't do this."

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Understand, you're going to be impacting the ability of the community to benefit economically from that project as a result of this, because what you've done is, you've not only negated some of the gains in the IBA, but you're now also saying to First Nations—and this is the point of Stan Louttit, Grand Chief of Mushkegowuk Tribal Council—that, "The government has said no to us when it comes to revenue-sharing but have gone in and scooped extra money for themselves." I'll tell you, it leaves a very bad taste in the mouth of the leadership and community members in those communities.

You have an opportunity here to do the right thing. I would suggest that what we do is vote down this section

of the bill, we go back and we sit down with First Nations and mining companies to figure out what it is that we can do that's fair, and then come back in the next budget. It's not as if you're going to get any money out of this next year anyway. That would be one of the things that I would ask you to do.

The other point I want to make is that you also have to take into account in regard to the First Nations and De Beers that there was no infrastructure there as far as hydroelectricity coming in by power line; it was all done by generator up to about five years ago. The winter roads are pretty substandard. There is no infrastructure going into those communities or into the project. De Beers, as a result of developing this mine, has made it possible for the First Nations to fund themselves through Five Nations Energy, to bring, for the first time ever in the history of the James Bay, hydroelectrification to those communities of Attawapiskat, Kashechewan and Fort Albany. That's huge. They've never had electricity other than by diesel generator, at a cost of about 60 cents per kilowatt hour, until this project came along. Why? Because they were able to, as First Nations, go to the bank and say, "We want to lever a loan on the basis of the hydro that we will sell to De Beers when the project comes online. It will help us build infrastructure for our communities."

So the spinoffs for communities like Attawapiskat and others are allowing them to do everything from Five Nations Energy developing their own hydroelectric project; we're going to be getting fiber optics in those communities for the first time. Communication now is done by way of microwave relays, which is pretty bad. Try calling Kashechewan in the middle of the afternoon when 10 people are on the phone, and you'll find out just how difficult it is to get somebody to answer a phone in Kash. It's not because they're not there; it's because there's no capacity in the phone system to get in there. So for the first time we're going to have fiber optics. Why? Because the First Nations were able to lever money from the banks because De Beers is a customer at the end.

You need to understand what this means. For the first time, there are people in those communities who are going to be getting jobs—not as many as they would like; I would argue that we always want more. But there's an opportunity for people to get meaningful employment and get out of the welfare trap that has been set up by our federal and provincial governments over the past number of years.

So this is not a plea to help just De Beers save some money on royalties. The fight here is for the First Nations. It's about saying, "Hey, finally they got something." For God's sake, let's not put it at risk and risk not having future projects start up in the De Beers area. You need to understand the geology. The geology is, there is a diamond pipe that has been identified as being able to support the building of a mine. There are other diamond pipes there, and what you're doing is making it difficult to develop future diamond pipes in the area. So please understand what this is all about.

I'd like to hear some responses from the government before I go to the other part.

The Chair: Any comment?

Mr. Arthurs: Certainly I hear the member from Timmins–James Bay. He knows that community much better than I do or ever will. There are some things. The member from Beaches–East York was quite correct when he made the comment early on that he understood that the minister couldn't disclose what his thinking was prior to the budget coming down, and that's an appropriate thing. The surprise, in essence, was one of what people expect in a budgetary process.

We haven't heard—I haven't heard, anyway—that De Beers or the diamond mining industry has any intent to do anything other than, at this point, proceed with their operation. We are being consistent, at this point, with the other jurisdictions that have diamond mining activity ongoing. There was an obvious need, with production pending, to articulate, formalize, the tax or royalty regime that would come into place. I'd suggest it wasn't done on a whim and, in part, that it wasn't a reversal or a change in direction. It was an articulation of an approach at a point in time where production was likely to be occurring in the near future and knowing it will be some time out before that production results in any revenue stream which might come to the province at that point in time.

In my view, and only mine, given the long lead-in time that's going to occur before government, or anyone else presumably, would see any direct benefit—I don't know the nature of the impact of benefits at the community level, apart from the creation of jobs and all the stuff that goes with it, and building an infrastructure. I don't know the structure of those in the context of when they might see direct benefit from those impact agreements. I'm going to assume it's after production is up and running and there's either a direct profit or some revenue stream coming from that operation before those communities would see those benefits that they've negotiated.

I would think there should be opportunities, during the time that the mines go into production and get to the point where they're making a profit and generating a profit, for consultations to go on, to continue to go on with the government—whoever the government of the day might be, because it's going to be some years out—to the benefit of those communities that have ownership. The member for Beaches–East York referenced particularly three items and the like, but it would be my view that those discussions should be ongoing as the production comes into play.

If, in effect, this particular royalty regime at the end of the day results in a higher return for government, then that return in some fashion should benefit all of those who are in the process and certainly not just the general revenues of the province of Ontario.

Mr. Bisson: First of all, the comments made by the president of De Beers Canada here at the Legislature two weeks ago I thought were very clear. You're saying that

you believe that De Beers has said nothing to the contrary, that this particular project is going to go ahead. Yes, they're a little bit pregnant. They've spent almost—what?—$800 million so far, $600 million. What are the numbers? Is $800 million up-to-date? It's about $800 million into the project, so I don't think they're pulling out just yet. But here's the point: The president of De Beers said in front of the Minister of Northern Development and Mines downstairs in the legislative dining room at a reception two weeks ago that "This is the first diamond mining project in Ontario, and quite frankly it will be the last." I have never seen in my 17 years in the Legislature a person from industry come and tell the government that so publicly. God, they didn't even do it to us as New Democrats. I couldn't believe it. They can't believe you've done this.

We would never have been so stupid as to do this, because we understand what the play is. The play is on future investment. It's not going to stop De Beers from bringing this mine into production; they're too far down the track to do that at this point. They will go forward, there's no question. Let's hope that the market is such and production costs are such that they're able to make money and that the royalty increase in some way won't end up curtailing the life of that mine. But I'm telling you, it is putting in play future investment in Ontario, there's no question about that.

The other comment you make is, "Let's not worry. It's all in the regulation and we'll pass it on to future governments to deal with." Don't put off to another government what you can do today. It's our responsibility here as legislators to try to get it right. I'm prepared to concede to the government that if your aim is to get more money from the royalties of mining because we're in a boom—and clearly we're in a boom. Inco, Falconbridge and the rest are making money like they've never made money before. There were some lean years there. We lost about half of our mining producers—about half, Tim?

Mr. Hudak: Yes.

Mr. Bisson: About half of our mining producers went out of business because of low commodity prices through the 1980s and 1990s, and finally we got some good prices and are making some of that back. But if the government is saying, "Listen, we think we should share in that boom," I'm prepared—as is industry, and I'm certain northern residents, including First Nations—to talk about how we can do that. Maybe it's an across-the-board increase on royalties. Maybe there's some sort of mechanism you put in that's tied to the price of the commodity, I don't know, but let's go have those discussions. You can't just single out one industry, because I think in the end that's going to hurt us.

The other thing you need to understand is—you had said earlier that the government looked at other jurisdictions. They looked at NWT and Nunavut. God, they didn't get it right there. Don't you understand? They got it wrong. And we are going to race to the bottom in Ontario because NWT and Nunavut got it wrong? That's like saying, "Somewhere in South America is a banana republic that's doing something so terrible it's scaring out investment and we in Ontario are going to run"—I'm not saying NWT is a banana republic; don't put that in my mouth. But let's say that there is a really bad initiative in South America or Africa. We're going to run and do the same because they've just done a bad thing? We would never do that in Ontario.

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I was reading in one of the economic journals about a week or two ago that there was an attempt on the part of South Africa to do something similar—not as grandiose as what this government is doing—to increase the royalty rates on diamond mining. Finally, even they backed down because they understood that it's all interrelated.

We are in a global village today. It is a global economy. A jurisdiction can't act in isolation from what's happening out in the world. If you make a decision that basically makes it uneconomical or less economical for you to operate a diamond mine or a gold mine or a car plant in your jurisdiction, capital will go elsewhere. That's a really big problem with globalization, but we need to deal with it.

Just because NWT and Nunavut decided to follow the federal standard, don't think that's right. I haven't seen the federal government do a lot of things that impress me as of late. They're responsible for First Nations; God, they got that wrong. They're responsible for Afghanistan; they got that wrong etc. So I just say, let's not look to the federal government as a means to compare ourselves to what we should be doing.

The other thing is—I'm going to come to valuation as a last point—depreciation is an issue that you need to really understand. Because we're taking diamond mining out of the Mining Tax Act and we're putting it over in its own act somewhere else, we're in a situation where, quite frankly, you're going to curtail investment and future developments on that property. If they want to move to a second pit, they may not be able to, because the writeoffs are going to be different than they are for any other type of mining. You will not be able to write off the development of a new pit to the same extent. So we're putting the longevity of the mine at risk by way of taking it out of the Mining Tax Act.

Remember, the reason we have a Mining Tax Act is because we recognized years ago that to build a mine and put it in production is far more expensive than trying to design and build a car plant somewhere in southern Ontario. We basically said, "We will give you some tax advantages because we understand that your industry has to spend a whack of money before you ever get to building a mine."

Taking diamond mining out of that act and putting it out on its own is not going to affect the initial development of a mine when it comes to writeoffs, but it's going to affect continuing investments in that mine for new pits, new mechanisms or new processes that may be built that allow the mine to go on.

I worked in the McIntyre mine—which was Noranda when I was there—which had been in production, at that

time, for about 60 years. The reason it was still there 60 years later was because they were able to take advantage of technologies to mine lower and lower-grade materials and do exploration to find bigger ore bodies. As a result of being able to write off those investments, that mine operated for some 70 years.

If they've got, what, 12 years on the mining life of that pit, what we're virtually saying to the De Beers project is, "Listen, we're not going to let you write off the second pit."

You're saying, "We'll get it right in regulations." God. Listen, I've seen how regulations work around this place. There's no guarantee that in regulations, we're going to guarantee that we're actually able to do writeoffs on future investments, and we may put the life of that mine at risk over the longer term.

Interjection.

Mr. Bisson: Sixteen? Thank you.

The other issue is—and I just want to get in this particular point and hopefully get some response—valuation. There is a debate to be had in regard to how diamonds are valued, but what really astounds me about what the government did, which is aside from this legislation, is that they picked valuation rather than trying to figure out how we can add value for the diamond industry in Ontario. So rather than the government of Ontario saying, "We will put our efforts into making sure that De Beers adds value to diamonds that are taken out of the ground, and we'll develop our own industry here in Ontario to cut and polish diamonds and do whatever else you do to add value"—we didn't focus on that; we focused on how we could value the price of the diamond. To me, it's completely backward.

Again, I'm asking if you're prepared to support this motion or, at the very least, to vote against this section so that we can put this off and have some time to go back and consult with First Nations and with the mining sector in order to come back with something that makes a bit more sense.

The Chair: Further comment?

Mr. Arthurs: I think we have been reasonably clear to this point, listening carefully to what's being said, but we won't be supporting the PC motion before us and changing the bill.

Mr. Bisson: Will you vote against the section?

Mr. Arthurs: No. We'll be supporting the section as presented, based on the discussion to this point.

Mr. Bisson: Tell me when I get down to about a minute.

The Chair: Mr. Hudak.

Mr. Hudak: I just want to get one comment in, because I know that at 5 o' clock, the gavel comes down in the gallows and debate will cease, and we'll have to vote on everything without debating it. The last point that I was going to make, just for the parliamentary assistant and my colleagues opposite—I know that when a budget is done, it's a huge endeavour. It's a complex piece, and it takes a tremendous amount of work, and sometimes the right hand may not always know what the left hand is doing.

When Premier McGuinty, ministers and other members visited the Victor site on June 19, 2006, the documents released at that point in time by the government, through the Premier, had a number of quotes where the Premier was indicating that the attractiveness of the remote mining tax was one of the reasons that this project has gone forward. One quote from the backgrounder read: "Ontario mining tax rate for new remote mines is 5%, compared to 10% for non-remote mines. Remote mines are defined as mines located more than 30 kilometres from an all-weather road or railway."

Effectively, what this part of the bill does is contradict what the Premier had said at the time. This may not have been known when the budget was constructed and this bill was written, but I think that the last thing that the government needs is another instance where the Premier says one thing and they do another.

The Chair: Further comment.

Mr. Bisson: I'm disappointed that the government is going to support what's currently in the bill, because what's clear is that you're putting at risk future investment not only in the diamond industry but in others too. For the first time in about 15 years, we've seen a boom in the mining industry—Sudbury, Timmins, Red Lake, Kirkland Lake, Attawapiskat—we've seen some very good investments that have basically stirred economic activity in those communities. What you're basically saying is that we're going to put all that at risk, and when the next downturn happens, we're going to have a harder time trying to attract investment in the exploration industry. It's beyond me that you'll do it. I'm extremely disappointed.

The government now has two options: to vote against this section of the bill, and if not, to have the minister go into committee of the whole. Once we get out of this committee, the government could still, if it wishes, by way of its majority, bring this bill back into committee of the whole House in order to withdraw that section. I'm going to hope that the Minister of Finance has the fortitude to do that, because it's what's right not only for De Beers, but quite frankly, what's right for northern Ontario and First Nations.

I just say here and now that if this thing passes, it's going to be bad news for northern Ontario and if I have anything to do with it in a future government, this thing will be withdrawn. There is no money to be made in this. I don't know why you guys are doing it.

The Chair: Further comment?

Mr. Prue: Just on the last point: I really don't know how you expect this to survive a future government, because I don't know anyone else who would do it, and I don't know why you're doing it. So go ahead.

The Chair: Further comment?

Mr. Bisson: How much time do we have before we're down to the gavel?

The Chair: Less than 12 minutes.

Mr. Bisson: Just for people to understand, we're under time allocation, and in 12 minutes, it doesn't

matter what we say: time allocation will force us into the vote.

I'm going to make one last stab at it, for the people that I represent in Attawapiskat, Kashechewan, Fort Albany, Martin Falls, Moose Cree First Nation and Moosonee. Listen, it's the first economic activity that they've seen in the last 100 years, other than the ONR. The last time we saw something like this was when they built the railway.

We've finally got some economic activity happening up there. People are able to get employment. Businesses are able to sell their services. Please, for God's sake, don't put that at risk. It's the first time they've had a chance to share in the dream of Ontario, and this government is putting that at risk. This mine only has about a 12-year life—that's what mining is. Once you start to dig the diamonds out of the ground, one day the pit will end. What you're basically saying by way of this tax measure is that it will be no guarantee that we can do future developments, because of the way that you do depreciation. Number two, it will be hard to invest in Ontario, because who will want to under this tax regime?

On behalf of the people I represent and the people you represent, and the greater community of Ontario around James Bay, we're asking you for once—we finally got a chance to share in the bounty of Ontario—for God's sake, vote against this section. This is a bad, bad section of the bill that is going to have long-standing repercussions for the citizens of that area.

The Chair: Further comment.

Mr. Hudak: Recorded vote.

The Chair: A recorded vote is requested.

Mr. Prue: Is it possible to have a recess for a few minutes?

The Chair: How long? You have up to 20 minutes.

Mr. Prue: Up to 20? How about 10?

Mr. Bisson: How about 20?

The Chair: I hear 10. Mr. Prue, you're asking for a 10-minute recess?

Mr. Prue: Yes.

The Chair: We shall recess for 10 minutes.

The committee recessed from 1650 to 1700.

The Chair: The standing committee on finance and economic affairs will now come to order.

Pursuant to an order from the House, it is now 5 o'clock, and all motions will be deemed to have been passed—

Mr. Hudak: Not passed.

The Chair: Excuse me—deemed to have been read.

The one on the floor is PC motion 42.

Mr. Hudak: Recorded vote.

The Chair: A recorded vote is requested.

Ayes

Hudak, Prue.

Nays

Arthurs, McNeely, Milloy, Mitchell.

The Chair: The motion is lost.

Now we're speaking about, in your package, page 43, an NDP motion. I would have to rule this motion out of order.

Mr. Prue: May I ask why?

The Chair: You vote against this section. You don't move that it be struck; you would vote against the section. So that's out of order.

Shall schedule 22, section 2, carry?

Mr. Prue: Recorded vote.

The Chair: A recorded vote is requested. We'll stack them at the end.

Schedule 22, sections 3 and 4.

Mr. Hudak: Recorded vote.

The Chair: A recorded vote is requested, so it will go to the end.

Schedule 23, section 1: Shall that section carry?

Mr. Hudak: Recorded vote.

The Chair: Recorded vote.

New section, schedule 23, section 1.1: That's page 44. It's a PC motion.

Mr. Hudak: Do I read it?

The Chair: If you wanted it read, I would read it.

Mr. Hudak: Recorded vote.

The Chair: A recorded vote has been requested. It will go to the end.

Shall schedule 23, section 2, carry?

Mr. Hudak: Recorded vote.

The Chair: A recorded vote has been requested. Do you wish all of them to be a recorded vote?

Mr. Hudak: For schedule 22 I would, actually, Chair.

The Chair: Schedule 22? We're on—

Mr. Hudak: Sorry, schedule 23. My mistake.

The Chair: Schedule 23, all of them?

Mr. Hudak: Yes, please.

The Chair: Do we have consent to just put them aside, then, without me reading them and having them set aside? Okay, thank you.

PC motion 45 is out of order. You would vote against this section rather than strike it out.

New section: schedule 24, section 0.1, PC motion 46.

Mr. Hudak: Recorded vote on that.

The Chair: A recorded vote is requested. It will go to the end.

Schedule 24, sections 1 and 2: Shall that carry?

Mr. Hudak: Also a recorded vote.

The Chair: Recorded vote for all of 24. Correct?

Mr. Hudak: Thank you.

The Chair: We have agreement on that.

Schedule 25, sections 1 through 3: All in favour? Opposed? Carried.

Shall schedule 25 carry? All in favour? Carried.

Schedule 26, sections 1 to 3 inclusive: Shall they carry? All in favour? Opposed? Carried.

Shall schedule 26 carry? All in favour? Opposed? Carried.

Schedule 27, sections 1 and 2: Shall they carry? All in favour? Opposed? Carried.

Shall schedule 27 carry? All in favour? Opposed? Carried.

Shall schedule 28, sections 1 and 2, carry? All in favour? Opposed? Carried.

Shall schedule 28 carry? All in favour? Opposed? Carried.

Schedule 29, sections 1 through 4: Shall they carry? All in favour? Opposed? Carried.

Shall schedule 29 carry? All in favour? Opposed? Carried.

Schedule 30, section 1, government motion 47: Shall it carry? All in favour? Opposed? Carried.

Shall schedule 30, section 1, as amended, carry? All in favour? Opposed? Carried.

Schedule 30, section 2, government motion 48: All in favour? Opposed? Carried.

Government motion 49: All in favour? Opposed? Carried.

Shall schedule 30, section 2, as amended, carry? All in favour? Opposed? Carried.

Schedule 30, section 3, government motion 50: All in favour? Opposed? Carried.

Government motion 51: All in favour? Opposed? Carried.

Government motion 52: All in favour? Opposed? Carried.

Government motion 53: All in favour? Opposed? Carried.

Government motion 54: All in favour? Opposed? Carried.

Government motion 55: All in favour? Opposed? Carried.

Shall schedule 30, section 3, as amended, carry? All in favour? Opposed? Carried.

Schedule 30, sections 4 through 8: All in favour? Opposed? Carried.

Shall schedule 30, as amended, carry? All in favour? Opposed? Carried.

Schedule 31, sections 1 through 4: All in favour? Opposed? Carried.

Shall schedule 31 carry? All in favour? Opposed? Carried.

Schedule 32, sections 1 and 2: All in favour? Opposed? Carried.

Shall schedule 32 carry? All in favour? Opposed? Carried.

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Schedule 33, sections 1 and 2: All in favour? Opposed? Carried.

Shall schedule 33 carry? All in favour? Opposed? Carried.

Schedule 34, sections 1 and 2: All in favour? Opposed? Carried.

Shall schedule 34 carry? All in favour? Opposed? Carried.

Schedule 35, sections 1 and 2: All in favour? Opposed? Carried.

Shall schedule 35 carry? All in favour? Opposed? Carried.

Schedule 36, sections 1 through 5: All in favour? Opposed? Carried.

Shall schedule 36 carry? All in favour? Opposed? Carried.

Schedule 37, sections 1 through 12: All in favour? Opposed? Carried.

Shall schedule 37 carry? All in favour? Opposed? Carried.

Schedule 38, sections 1 and 2: All in favour? Opposed? Carried.

Schedule 38, sections 3 through 15: All in favour? Opposed? Carried.

Shall schedule 38 carry? All in favour? Opposed? Carried.

Schedule 39, sections 1 through 3: All in favour? Opposed? Carried.

Now we're at schedule 39, section 4, NDP motion 56 in your packet.

Mr. Prue: Recorded vote.

The Chair: A recorded vote is requested. That will go to the end.

Schedule 39, section 5, NDP motion 57.

Mr. Prue: Recorded vote.

The Chair: A recorded vote is requested. It will go to the end.

Schedule 39, sections 6 and 7: All in favour? Opposed? Carried.

A new section, schedule 39, section 7.1, NDP motion on page 58.

Mr. Prue: Recorded vote.

The Chair: A recorded vote is requested.

Schedule 39, sections 8 and 9: All in favour? Opposed? Carried.

Schedule 40, section 1: All in favour? Opposed? Carried.

Schedule 40, sections 2 through 12: All in favour? Opposed? Carried.

Shall schedule 40 carry? All in favour? Opposed? Carried.

Schedule 41, section 1: All in favour? Opposed? Carried.

Schedule 41, section 2, government motion 59: All in favour?

Mr. Prue: On a recorded vote.

The Chair: A recorded vote is requested. It will go to the end.

We have government motion 60.

Mr. Prue: On a recorded vote.

The Chair: A recorded vote is requested.

Schedule 41, section 3: All in favour? Opposed? Carried.

Schedule 41, sections 4 through 12: All in favour? Opposed? Carried.

We'll do the recorded votes, then the sections of the bill and then the title.

There was a recorded vote requested for this: Shall schedule 22, section 2, carry?

Ayes

Arthurs, McNeely, Milloy, Mitchell.

Nays

Hudak, Prue.

The Chair: Carried.
Schedule 22, sections 3 and 4: All in favour?

Ayes

Arthurs, McNeely, Milloy, Mitchell.

Nays

Hudak, Prue.

The Chair: The motion is carried.
Shall schedule 22 carry?

Ayes

Arthurs, McNeely, Milloy, Mitchell.

Nays

Hudak, Prue.

The Chair: Carried.
Shall schedule 23, section 1, carry?

Ayes

Arthurs, McNeely, Milloy, Mitchell.

Nays

Hudak, Prue.

The Chair: Carried.
A recorded vote was requested for PC motion 44. All in favour?

Ayes

Hudak, Prue.

Nays

Arthurs, McNeely, Milloy, Mitchell.

The Chair: The motion is lost.
Schedule 23, section 2: All in favour?

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Ayes

Arthurs, McNeely, Milloy, Mitchell.

Nays

Hudak, Prue.

The Chair: Carried.
PC motion 45 was out of order, so shall schedule 23 carry?

Ayes

Arthurs, McNeely, Milloy, Mitchell.

Nays

Hudak, Prue.

The Chair: Carried.
New section: schedule 24, section 0.1, PC motion 46. A recorded vote was requested.

Ayes

Hudak, Prue.

Nays

Arthurs, McNeely, Milloy, Mitchell.

The Chair: The motion is lost.
Schedule 24, sections 1 and 2: All in favour?

Ayes

Arthurs, McNeely, Milloy, Mitchell.

Nays

Hudak, Prue.

The Chair: Carried.
Shall schedule 24 carry?

Ayes

Arthurs, McNeely, Milloy, Mitchell.

Nays

Hudak, Prue.

The Chair: Carried.
Schedule 39, section 4, NDP motion 56: A recorded vote was requested.

Ayes

Prue.

Nays

Arthurs, McNeely, Milloy, Mitchell.

The Chair: The motion is lost.
Shall schedule 39, section 4, carry?

Ayes

Arthurs, McNeely, Milloy, Mitchell.

Nays

Prue.

The Chair: Carried.
Schedule 39, section 5, NDP motion number 57: All in favour?

Ayes

Prue.

Nays

Arthurs, McNeely, Milloy, Mitchell.

The Chair: The motion is lost.
Shall schedule 39, section 5, carry?

Ayes

Arthurs, McNeely, Milloy, Mitchell.

Nays

Prue.

The Chair: Carried.
New section: schedule 39, section 7.1, NDP motion 58: A recorded vote was requested.

Ayes

Hudak, Prue.

Nays

Arthurs, McNeely, Milloy, Mitchell.

The Chair: The motion is lost.
Shall schedule 39 carry?

Ayes

Arthurs, McNeely, Milloy, Mitchell.

Nays

Hudak, Prue.

The Chair: Carried.
Schedule 41, section 2, government motion 59: All in favour?

Ayes

Arthurs, McNeely, Milloy, Mitchell, Prue.

The Chair: Those opposed? Carried.
Government motion 60: All in favour?

Ayes

Arthurs, McNeely, Milloy, Mitchell, Prue.

The Chair: Opposed? Carried.
Shall schedule 41, section 2, as amended, carry?

Ayes

Arthurs, McNeely, Milloy, Mitchell, Prue.

The Chair: Opposed? Carried.
Shall schedule 41, as amended, carry?

Ayes

Arthurs, McNeely, Milloy, Mitchell.

The Chair: Opposed? Carried.
Now we're back to the bill itself. We had unanimous consent to put down the first three sections of the bill to do the schedules at the beginning of this morning so that we could go through the work we've been in for some hours now. So we had unanimous consent to stand that down, and we'll vote on it now.
Shall sections 1 through 3 carry? Opposed? Carried.
Shall the title of the bill carry?
Mr. Hudak: Recorded vote.

Ayes

Arthurs, McNeely, Milloy, Mitchell.

Nays

Hudak.

The Chair: Carried.
Shall Bill 187, as amended, carry?
Mr. Hudak: Recorded vote.

Ayes

Arthurs, McNeely, Milloy, Mitchell.

Nays

Hudak, Prue.

The Chair: Carried.
Shall I report the bill, as amended, to the House? All in favour? Opposed? Carried.
We are adjourned.
The committee adjourned at 1729.

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STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

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Mr. Bill Mauro (Thunder Bay–Atikokan L)
Mr. John Milloy (Kitchener Centre / Kitchener-Centre L)

Also taking part / Autres participants et participantes
Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)

Clerk pro tem / Greffier par intérim
Mr. Trevor Day

Staff / Personnel
Ms. Laura Hopkins, legislative counsel,
Ministry of the Attorney General
Mr. Michel Waterston, counsel, legal services branch,
Ministry of Finance