



G-33

G-33

ISSN 1180-5218

**Legislative Assembly
of Ontario**
First Session, 39th Parliament

**Assemblée législative
de l'Ontario**
Première session, 39^e législature

Official Report of Debates (Hansard)

Monday 10 August 2009

Journal des débats (Hansard)

Lundi 10 août 2009

**Standing Committee on
General Government**

Mining Amendment Act, 2009

Far North Act, 2009

**Comité permanent des
affaires gouvernementales**

Loi de 2009 modifiant
la Loi sur les mines

Loi de 2009 sur le Grand Nord

Chair: David Orazietti
Clerk: Trevor Day

Président : David Orazietti
Greffier : Trevor Day

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



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

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

Monday 10 August 2009

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Lundi 10 août 2009

The committee met at 0902 in the Sunset Suites in Sioux Lookout.

ELECTION OF ACTING CHAIR

The Clerk of the Committee (Mr. Trevor Day): Honourable members, it's my duty to call upon you to elect an Acting Chair. Any nominations? Ms. Mitchell?

Mrs. Carol Mitchell: I would move that Ms. Jeffrey be nominated.

Mr. Gilles Bisson: I would second that.

The Clerk of the Committee (Mr. Trevor Day): Ms. Jeffrey, do you accept the nomination?

Mrs. Linda Jeffrey: Yes.

The Clerk of the Committee (Mr. Trevor Day): Any further nominations? There being no further nominations, I declare nominations closed. Ms. Jeffrey, would you please take the chair as Acting Chair?

Mr. Gilles Bisson: May you live up to the expectations that we have raised and placed upon your shoulder.

The Acting Chair (Mrs. Linda Jeffrey): Yes, it's a huge responsibility.

MINING AMENDMENT ACT, 2009

LOI DE 2009 MODIFIANT
LA LOI SUR LES MINES

FAR NORTH ACT, 2009

LOI DE 2009 SUR LE GRAND NORD

Consideration of Bill 173, An Act to amend the Mining Act / Projet de loi 173, Loi modifiant la Loi sur les mines, and Bill 191, An Act with respect to land use planning and protection in the Far North / Projet de loi 191, Loi relative à l'aménagement et à la protection du Grand Nord.

The Acting Chair (Mrs. Linda Jeffrey): Good morning, committee. We've just learned that our first delegation, the Friends of Nishnawbe Aski Nation, has cancelled.

PORCUPINE PROSPECTORS
AND DEVELOPERS ASSOCIATION

The Acting Chair (Mrs. Linda Jeffrey): Our second delegation, the Porcupine Prospectors and Developers

Association, is here. I think we're going to proceed with them unless there's any other business.

Seeing none, could we get Kristan Straub, president—
Interjection.

The Acting Chair (Mrs. Linda Jeffrey): I presume you are the speaker for Porcupine Prospectors and Developers Association and you're not Kristan.

Mr. Bill MacRae: Yes.

The Acting Chair (Mrs. Linda Jeffrey): Good morning. Could you identify yourself for Hansard?

Mr. Bill MacRae: Yes, I'm Bill MacRae. I'm the vice-president and past president of the Porcupine Prospectors and Developers Association.

The Acting Chair (Mrs. Linda Jeffrey): Just before you begin, just so I can go through my preamble, you'll have 15 minutes for your presentation. I'll warn you if you get close to the end; I'll give you a one-minute warning if you go over. There'll be five minutes for questioning. Okay? Welcome.

Mr. Bill MacRae: Good morning, Madam Chairman and committee members. I am Bill MacRae, vice-president and past president of the Porcupine Prospectors and Developers Association. Thank you for providing me with the opportunity to be present here today and speak with you.

The PPDA is a regional association of prospectors, explorationists and mining industry members that can trace our beginnings back to 1939 and probably earlier. Our main function is to advise and consult with Ontario ministries and departments on any issue that affects the progression from prospecting to mine development and closure. We generally maintain a membership of 120 individuals and 15 corporate members. We have been by far the most active regional association in Ontario and are responsible for the establishment and structure of what is now the Ontario Prospectors Association.

There have been many statements of the age of the Mining Act in Ontario. The act was first put in place in 1873 and revised or rewritten on a regular basis—with the last in 1990, where the act was modernized to reflect the values of the time with changes to protect surface rights holders and switching to a monetary system for maintaining title to crown land mining rights.

The present mining industry is governed by the Mining Act and is now heavily impacted by the Endangered Species Act, the boreal initiative and now the Far North Act and the Mining Act modernization. We operate with

permits and guidance from the Ministry of Labour, Ministry of the Environment, Public Lands Act, Forest Fires Prevention Act, the Endangered Species Act, the parks act and many others.

The PPDA position on Bill 173 and Bill 191: Both acts have been written and put in place far too quickly, with many contentious issues not adequately dealt with. To this point, Bill 191 is so poorly written that it has to be withdrawn and rewritten to be clearer, and appropriate funding put in place to move forward on a reasonable timeline.

The minister's statements on Bill 173 emphasize that the new act is a balanced approach. Does this mean that the present act is unbalanced? Public opinion is that the Mining Act is being rewritten to placate special interest groups such as cottagers and surface rights holders in southern Ontario. In recent legal rulings, the Ontario government has been charged with the responsibility of being the lead in negotiations with First Nations. This act is pushing that obligation down to individuals and the mining industry.

Specific issues with Bill 173 that have been identified by our membership are free entry restrictions and security of title; indiscriminate withdrawal of mining rights; far too much is being shoved into regulations; exploration permits; the power of search and seizure exceeds necessity; downloading of the responsibility of consultation with First Nation communities; payment in lieu of assessment to maintain mining rights; and prospector awareness programs. I will now discuss selected issues in more detail.

Concerning free entry and security of title: Free entry has been a long-standing right of the individual or company that holds the mining rights to a claim. If the crown allows an individual to stake a claim, there has to be an inherent right to be able to explore said claim. Compensation to surface rights holders has been in place since the 1908 Mining Act, and restrictions on what land can be staked, such as orchards or improved areas. Upon acquiring the mining rights, if a company cannot then explore the property, it is like renting an apartment but having to get permission from the other tenants to move in. Who, then, is in control of the mining rights? Certainly not the crown, if small, vocal groups can force the crown to remove mining rights for their own personal interests.

The uncertainty of obtaining the right to explore and mine if a mineral deposit is discovered leaves a company in the position of being unable to raise exploration monies on the public market because there's no security of title. New requirements such as the exploration permit and the ensuing delays to process the permit will create a restriction on how quickly an individual or company can react to a very dynamic industry that needs to be able to change and adapt programs almost daily as new information is acquired. This ability to react is what is expected from investors and if hampered will limit the funds available.

The next issue is native consultation. There have been many issues that our members have experienced with

consultation. We find that the native communities do not have the capacity to deal with the present amount of requests for consultation. What will happen when we are mandated to consult?

The KI/Platinex court decision clearly mandated that the crown has the responsibility to take the lead in negotiations between mining companies and First Nations. Now they want to download that responsibility onto individuals and companies. Every individual or company that anticipates negotiating with a First Nation community has to start with a blank slate because all previous agreements are not public information and no guidelines are available.

0910

Another issue is, what level of exploration triggers consultation? I have been told that First Nation communities want to be consulted prior to staking and have the right to block a company from acquiring mining rights in their area—i.e., have a list of acceptable companies to deal with.

Bill 173 is very vague on the issue of dispute resolutions that are sure to arise from consultation. There are no guidelines for the establishment of timelines for resolutions or how the individual in the enviable position can accomplish the mediation in a timely manner. Experiences with the mining commissioner indicate that some issues could take years to resolve.

We would concur with other associations that Bill 173 will only confuse and create adverse situations between industry and First Nation communities, which is contrary to the intent of the bill. Not enough thought or consultation has been put into this issue to come to an amicable solution.

Bills 173 and 191 have been put in place long before they are ready. This was clearly done for political posturing and has nothing to do with full consultation with all parties impacted by such legislation. These bills could be in place for 20 years or more. Is the government willing to be seen as someone who would rather do something quickly or would it rather be recognized as doing the best effort possible?

In conclusion, the parks act is in place to protect parks, the environmental act is to protect the environment and the Endangered Species Act protects endangered species. Why does Bill 173 penalize the mining industry and place roadblocks in the search for and development of new mines, a wealth generator for the province of Ontario? The future of Ontario, if this legislation is enacted, is that the rocks do not stop at provincial boundaries, and if this bill is not changed, the grass will be greener across the border and exploration funds will flow to other jurisdictions.

Thank you. I'd now be pleased to answer any questions.

The Acting Chair (Mrs. Linda Jeffrey): Thank you, Mr. MacRae. Our first questioner is Mr. Hillier.

Mr. Randy Hillier: Thank you very much for coming today. Listen, we've heard a lot of discussion at the earlier committee hearings as well. Just give me briefly

your views on what these two bills will do to mining and mining exploration. What do you see happening to the mining community if these two bills pass in their present form?

Mr. Bill MacRae: Past experience has shown that when acts or legislation change within a jurisdiction, such as in BC or Manitoba, exploration funds quickly flow to other places where it is far more favourable.

Mr. Randy Hillier: But we see in this act that we've got a lot of new amendments, especially to powers of inspection, search and seizure, the additional regulatory framework. Do you see that causing hardship for the mining industry?

Mr. Bill MacRae: Yes. The industry is very flexible and dynamic. It will go where it gets the best value for its dollar—

Mr. Randy Hillier: Where it's wanted, I guess.

Mr. Bill MacRae: —and right now with this, Quebec looks a lot better than Ontario.

Mr. Randy Hillier: Right. Thank you.

The Acting Chair (Mrs. Linda Jeffrey): Mr. Ouellette.

Mr. Jerry J. Ouellette: Thank you for your presentation. I notice in the recent paper here in Sioux Lookout that the Ginoogaming First Nation community just signed an MOU with a gold company, so obviously there is some movement forward with some of the First Nations communities, as you've expressed. What do you think the impact of the legislation coming forward would be, with the removal of 225,000 square kilometres of land from the north, on the southern area? Would there be an increase or a decrease in the pressures or activity in the southern part of the community?

Mr. Bill MacRae: There probably would be more pressures in southern Ontario. But the way the government has gone about withdrawing that land has made it so that security of title is not there; therefore, no investment will be made when you can't have security of title. So investment will move elsewhere, whether it's to other provinces or other countries.

Mr. Jerry J. Ouellette: So your comment is about the impact, because of cottagers and surface rights owners—will actually increase the pressure in those areas; that it's potentially hoping to clarify some of that problem.

Mr. Bill MacRae: Yes.

Mr. Jerry J. Ouellette: Okay, thank you.

The Acting Chair (Mrs. Linda Jeffrey): Mr. Bisson.

Mr. Gilles Bisson: A lot has been said, especially at our Toronto hearings, in regard to the request to have the mining rights coupled with the property rights. I'd like you to elaborate a bit on that. I take it what you're saying is, "No, don't do it." If not, how do you maintain assuredness on the part of the property owners that there is some degree of responsibility when it comes to exploration?

Mr. Bill MacRae: At present, there are adequate procedures and policies in place to protect the surface rights owners. In the act, there are provisions for restitution for damages or anything like that. I think you're really

getting to a point where if the mining rights are taken away, without regard for whether the mineral potential or anything else is of any value, then you're removing that value from the people of Ontario. It's something that can't be recovered. Not everybody in southern Ontario wants to block the mining. I would imagine that most people would be very welcoming to it if they found a monetary value in what they could do. A mining operation is really insignificant in size; it is not a huge blight on a landscape. It's pretty small when you look at most operations.

Mr. Gilles Bisson: In regard to first of all, the first step, the native consultation, and number two, IBAs or revenue-sharing—whatever form it must take—what currently is in the act doesn't seem to have the support of hardly anybody, either the developers or the First Nations, in its current form. The first question is, do you agree with the concept from the PDAC, that there has to be some form of consultation and in the end the First Nations have to have some sort of remuneration for activity?

Mr. Bill MacRae: Yes, but there's already movement in place for revenue-sharing, but revenue-sharing out of mineral taxes—

Mr. Gilles Bisson: Yes, not new revenue—

Mr. Bill MacRae: —not from the—

Mr. Gilles Bisson: The money the individual companies—

Interjection.

Mr. Gilles Bisson: Yes, I understand that.

Mr. Bill MacRae: And I think that is the way to go—and clear guidelines.

Mr. Gilles Bisson: So has your chapter done any work in order to look at how you can make this happen without throwing the baby out with the bathwater for both parties? And what would that be?

Mr. Bill MacRae: That's a long one.

Mr. Gilles Bisson: Exactly. I'll go to the cottage and talk to you.

Mr. Bill MacRae: Because it's so new, we haven't sat down and gone through it, like we have in the past. The revision in 1990, the land acquisition and mineral rights acquisition, was written by a committee in Timmins. I chaired that committee. We always are willing to—

The Acting Chair (Mrs. Linda Jeffrey): Excuse me, Mr. MacRae, can I ask you to wrap it up? You have about 30 seconds to answer the question, okay?

Mr. Bill MacRae: Okay. We've always been willing to participate and be involved, because if you're not involved you have no right to criticize it.

Mr. Gilles Bisson: Thank you.

The Acting Chair (Mrs. Linda Jeffrey): Thank you, Mr. MacRae.

From the government side, Mr. Brown?

Mr. Michael A. Brown: Thank you, Mr. MacRae, for making the journey here to Sioux Lookout.

Obviously, it's necessary that we get this right. That's why on the one bill we're out here right now, talking about the mining act. We're out here at second reading

for that, but we're also out here at first reading in regard to the far north bill, which of course means that there are going to be at least two opportunities to change that bill. We've obviously gone through a huge consultation on the mining act.

0920

You make some good points here, and I think they're the points that all of us, as legislators, are wrestling with: how to get this correct. I'm wondering if you have specific amendments that you would like us to make to clarify your position with regard to free entry and security of title, for example.

Mr. Bill MacRae: I could provide you with them—but the one point is, your extensive consultation didn't happen. This was a very short consultation. The last time, it took three years from initial introduction to when we were able to get the bill in place. So the time frame for public consultation is very short on this bill.

What happened in Timmins was, we got the briefing paper one hour before the workshop started, so we had no time to review or even think about what was in the document.

If we have the time to make recommendations and amendments, yes, we will put a committee together to do that.

Mr. Michael A. Brown: That's very good. We appreciate the good advice we get from the prospectors, because obviously they're a great generator of wealth in the north, particularly in northern Ontario.

With regard to the aboriginal consultations, as you probably know, there is some concern—from some aboriginal communities, anyway—that a prospector would need to get permission to even stake. Your position, obviously, is not that.

Mr. Bill MacRae: They want the right to not only consult on staking, but also to be able to refuse you the right to stake. I've been told this by chiefs and some of the local tribal councils in Timmins. They want the right to select who operates on their traditional lands. That becomes non-competitive, and it just does not work in an industry such as this. You have to have that competition and the competitive nature of things to be able to raise money and to work. If you don't raise the money, you don't do the exploration; no mines are found.

The Acting Chair (Mrs. Linda Jeffrey): Thank you very much, Mr. MacRae, for being here today.

CAT LAKE FIRST NATION
SLATE FALLS FIRST NATION

The Acting Chair (Mrs. Linda Jeffrey): Our next delegation is the Boreal Prospectors Association. Is Mr. Gordon here? No? All right. I understand Mr. Gordon isn't here, but we have two other delegations that are going to join forces and appear before us: the Cat Lake First Nation and Slate Falls Nation. Could they come forward? These are our sixth and seventh presenters on your list, if you're following along.

Mrs. Carol Mitchell: Are they together?

The Acting Chair (Mrs. Linda Jeffrey): Yes.

Interjection.

The Acting Chair (Mrs. Linda Jeffrey): I think we're going to try to find some flexibility. I don't think either of them can fill the full delegation, so we'll try to accommodate.

Good morning, gentlemen. Are you ready to go?

Mr. Steve Winsor: Yes, we are.

The Acting Chair (Mrs. Linda Jeffrey): If you could identify yourself for Hansard before you speak. I'm going to try to find some flexibility, because I understand that you don't think you're going to be able to fill the whole time. I don't think I'm going to need to give you a warning, but when you get to the end we'll try and divide up the time equally. So welcome.

Mr. Steve Winsor: The reason is that it is a joint initiative between Cat Lake and Slate Falls First Nations. The Slate Falls representative, Gordon Carpenter, couldn't make it today for health reasons. So I have Wilfred Wesley here, who is the Cat Lake community liaison, and I am Steve Winsor, the project manager for the land use planning project.

The Acting Chair (Mrs. Linda Jeffrey): Welcome.

Mr. Steve Winsor: Thank you very much.

Mr. Gilles Bisson: Chair, I'm just wondering what spot they're filling.

The Acting Chair (Mrs. Linda Jeffrey): They're jumping ahead of the Boreal Prospectors right now because they're not here yet.

Mr. Gilles Bisson: So it's Cat Lake; right?

The Acting Chair (Mrs. Linda Jeffrey): Yes.

Mr. Gilles Bisson: That's what I thought.

The Acting Chair (Mrs. Linda Jeffrey): This is Cat Lake First Nation and Slate Falls First Nation.

Mr. Gilles Bisson: Thank you.

Mr. Jerry J. Ouellette: Is that a 30-minute presentation?

The Acting Chair (Mrs. Linda Jeffrey): I don't think they're going to fill the 15 minutes at this point, so we're going to provide some flexibility to make sure there's enough time for questioning between the two groups. Welcome.

Mr. Steve Winsor: Thank you. We were told Friday to come and do a presentation here about our land use planning initiative and give a little update on sort of where we are with our planning process, and speak a little bit on Bill 191 and the far north legislation and how the communities feel, if supportive or not.

We'll just start off a little bit by giving an outline of where we are and what we do. The green area on the map here is the far north. As you know, Pikangikum and the Whitefeather Forest is located in the black boundary, which is west of the Cat Lake and Slate Falls First Nations land use planning area. To the east we have Mishkeegogamang and Eabametoong. They also have a land use planning initiative that's occurring simultaneously within the northwest region.

Here is a blow-up of the Cat Lake and Slate Falls First Nations land use planning area. We have Cat Lake in the centre of the planning area, which has, I've been told,

approximately 600 or 700 membership. Slate Falls is located to the south; there's approximately 200 membership in the community. The planning area itself is 1.5 million hectares in size. It has several existing interests, from tourism to mineral interests, as well as the established Pipestone River Provincial Park within the planning area.

Adjacent First Nation communities, moving from the north to the east, would be Pikangikum, McDowell Lake First Nation, North Spirit Lake First Nation, North Caribou Lake First Nation as well as Mishkeegogamang First Nation.

Wilfred is going to discuss a little bit about our process and expectations and outline a little bit of our strategic action plan, a little history that sort of helped us get to this point so far. So if you're comfortable, Wilfred, the slide is yours.

Mr. Wilfred Wesley: I hope I can be clear here. What we do in this land use planning, things like expectations, because a little over a year ago—we've been looking at this planning idea for quite a while, but it was an announcement from the Premier of Ontario that they're going to do this for a couple of years and make sure the First Nations land use planning goes forward before anything really gets seriously looked at; they want to give it time for the First Nations land use plan to go forward, making a partnership type of relation going forward with the north. He didn't want to step over the line without us, thinking they can plan.

Now, we're doing this land use planning as fast as we can get step-by-step procedures to get to where we are going. There are a lot of scenarios coming our way to—even with the Premier's announcement, there are still a lot of scenarios to it. I think it should be a lot easier than it is because we're doing what he wanted to do. As far as the funding goes, it's very hard to make this thing go forward. I think it should be a lot easier than that since it's a political commitment from the leader of Ontario.

0930

On our First Nations side, if we do commit to something, we mean it. We don't just say things just to get ourselves put in the door. So we expect this thing to materialize because we want to work with, like we said, a true partnership with Ontario going into a wild, untouchable area. This is the last frontier for the resources of Ontario, and we've got to do it very carefully together. You can't just go there alone and do it. You're not familiar with what's up there. We know what's up there. So I expect we, in the First Nations, to be part of the whole development process going to the north because we know the area. If I wanted to do something in Toronto, I wouldn't be trying to do something over there, because I don't know anything about that city, but up there, I know everything. We don't want to be excluded from any kind of process that's going to go into Bill 191, the Far North Act.

The one thing I really appreciate about this consultation process and what's happening in the Far North Act is how First Nations community people were hired to do

that. It shouldn't be just the Ontario government senior officials doing it very carefully—because it's a serious business when we don't; it's not just something in everyday life if we want to go and open up something that's never been touched. We're not going to make the same mistake that we made in the past. We want to protect what's up there.

We're not against any development; we just want to do it right. We want to be part of economic development. We want to create our own First Nation economic policy for our own survival and our own land use planning. So we look at these things seriously. We're not just going to sit in reserves the way we were told by the federal government. We want to operate in our own territory like everybody else. I believe that we should go in together, into a very serious partnership, because our treaty and aboriginal rights are there. That's a very live document. It's recognized in the Canadian Constitution as part of the treaty implementation process. I think we should do it together very seriously. The treaty document is like a marriage document; sometimes something comes out like a divorce document. We don't want that. The process going north: I want to be there. It's not that we're rejecting anything seriously. We want to be part of every decision made along the way because there are things that are there, things that they don't know, maybe, and we can help. If we put things together, it's going to work better than it was before. Thank you very much.

Mr. Steve Winsor: Okay, so, just to reflect a little on what Wilfred just mentioned: The community is willing to take equal responsibility, both Cat Lake and Slate Falls, working with the Ontario government to make an environmentally sustainable land use plan. We definitely encourage open, ongoing, transparent dialogue throughout the whole process. We're very heavy on community and external consultation just to ensure that everyone is on board with what we're doing and so that any issues that are brought to the table are brought forward early so that we can continue on with our process and address issues as they come forward.

We are striving to reach consensus on decisions relating to the management of resources and lands. The Cat Lake and Slate Falls chief and council will endorse the land use plan, as well as the minister of Ontario will sign. The land use plan development will follow direction as provided through the community-based land use planning framework, which was originally developed in 2000 through the northern boreal initiative, which has now been absorbed into the Far North Act.

Finally, the land use plan will incorporate emerging direction from far north planning. For example, as this Far North Act materializes and the land use strategy for the far north is developed, we want to ensure that our land use plan—remains consistent with emerging direction from the far north to ensure that everything is consistent.

This is a little bit of our strategic action plan. It just outlines how we got started in 2000.

Mr. Wilfred Wesley: Yes, it started way back in 2000. I happened to be with a tribal council organization at the

time Lands for Life was in full swing. We looked at participating a little bit, for Lands for Life, at the time: a round table. Then it kind of wandered off from there to starting to see exactly what would transpire from the Lands for Life process. It didn't look too clear. The First Nations direction was kind of a dark shape for us, where we were going with Lands for Life. So we kind of developed something, the first at that time, a First Nations round table, something to discuss, further north [*inaudible*]. We're now in the Far North Act, so I guess that's just the way the thing is heading.

So we kind of struggled along there for quite a while, kind of fading out every now and then, and then we'd bring it back to the table again as a First Nation. We've got to get serious. Let's go forward, to see if we can make any headway going towards implementing our own land use planning and a partnership with MNR and many of the others; anyway, we want to be part of theirs—environmental people—just to go north and create some opportunities.

So this is where we're at now, this 2008-11 community land use planning. We did a lot of community open houses. We did them in Cat Lake and Slate and Sioux Lookout. We've done a lot of open houses. There's a lot of interest, people coming around, business people. They kind of like the idea, because they have a chance for input on any development processes that are going to be created. They have a little bit of a chance to have a say in it, rather than everything coming down from nowhere and they say, "You have to live with this." At least they're participating a little bit, in any way they can do it. That's a direction we're going for 2014. We hope to be in resource management planning at that time.

So when we look at the whole far north, when I look at the Far North Act, I think it sometimes—it affects me; it should be more like a special piece of legislation to accommodate two parties, rather than just Ontario legislating itself. Sometimes we do things to accommodate the two parties. As an example, when we built a hospital here in Sioux Lookout, there was a four-party agreement, so it became special legislation to accommodate the funding people and people who were going to get served at that thing—a four-party agreement. So the government agreed to make special legislation just to accommodate that process itself. It's almost the same scenario we want to have here, because it's the homeland of a lot of people up there. If you want to legislate that, it has to include these people. They already had an agreement, a treaty agreement, and they lived with that. It's recognized in the Constitution, like I said. That's where they can rise and build and implement their treaties and start their own economic provisions for their territory. A reserve is only a federal government-selected ground for the First Nations to stick around, more like political refugees in their own country.

That's where I'm at. I'm happy to see people here, finally coming to the far north, trying to create something that will work for everybody.

Thank you.

Mr. Steve Winsor: So, really, it started off in 2000, when an interest in forestry was originally started. Then there was an MOU signed between Cat Lake and Slate Falls First Nations with the Ontario government to pursue forest management opportunities as well as other resource-based interests.

As we move forward—we had an eight-year gap in which the communities were trying to build capacity in the communities' understanding of the land use planning, collecting aboriginal traditional knowledge and information about species-at-risk habitat. It was just an ongoing amount of internal information to try to collect to ensure that we have appropriate information available to make sustainable decisions.

In 2008, we adopted the community-based land use planning framework, and the rubber hit the road and we started off with an ambitious three-year planning process. We're at year two right now. We did have community open houses from December 1 to 3 as our first formal kickoff. We invited everyone from the public, environmental groups, government agencies, stakeholders and other First Nations communities.

0940

Our goal is that by 2011 we'll have our final plan completed and we'll be looking at getting environmental assessment coverage for forest management operations as well as a new vision for other interests such as the mineral sector, tourism, wind power, water power—renewable energy.

I won't get into too much detail on our planning team structure. All I really want to point out here is that our planning team structure is composed of Wilfred, the Cat Lake community representative; Gordon, the Slate Falls community representative; myself; and we have a consultant and two MNR far north planners, one in the Sioux Lookout district and one in the northwest region. We have an extensive advisory team, which changes as we go—and that could range from MNR, MNMD, Ontario Parks. We could have NAN, tribal councils and adjacent First Nation communities as advisory groups to feed into the process on an ongoing basis.

What's very crucial here are the arrows at the top where it has the chief and council of both communities and the direct relationship between the chief and council of both communities and the planning team itself. It's very key that Gordon, Wilfred and myself maintain ongoing dialogue ensuring that the chief and council are updated on our land use planning process and that the chief and council can flow concerns, issues and recommendations towards us as we're developing the plan. So if anything here, it's extensive dialogue, it's a community-based plan, it's community-based decisions, and we're doing it at the local level.

I mentioned a little bit of our planning process. It is a three-year planning process. The preparation phase was basically dealing with community consultation, adjacent community meetings, development of the terms of reference, identification of planning area boundaries, and true consensus development with ongoing consultation.

We go into phases two and three. This is where we have the information centres in Cat Lake, Slate Falls and Sioux Lookout. We had our terms of reference finalized, signed off by the minister, and signed off by the chiefs and councils of both communities. We developed a vision, goals, principles and objectives document to help guide our dealings, with protected area planning and identification of potential economic development opportunities.

And we have “Seek funding support”: You’re going to see “Seek funding support” on each one of these stages, and we’ll get to it, where there’s a reason.

Phase three, the current phase: We’re looking at a draft plan come December. We’re really ramping up on extreme amounts of internal community meetings, stakeholder meetings and planning team meetings. We’re looking at anywhere from a three-week to a four-week rotation for these meetings.

In the last three or four months, we’ve been looking at protected area design, trying to identify our protection priorities within the planning area, as well as looking at potential economic development opportunities by reviewing information that MNDM, MNR, tourism communities—everyone—brings forward, to help create different layers so that we can totally have all the information available to make a sustainable decision.

Our final stage will be a final plan, which will be December 2010. At that point, once our plan is approved, we’ll be looking at environmental assessment coverage as well at that time.

We’re going to talk a little bit about the support we’re getting from the governments, from other First Nations and the public. Wilfred and I had a little conversation about this last night, and Wilfred had the burning desire to speak a little bit about this one. I’ll help him out, but you go right ahead, Wilfred.

Mr. Wilfred Wesley: This is what was briefly mentioned in my first thing, the commitments that we share. Actually, we call it political commitments, because he’s the leader of Ontario, so I expect it’s going to go forwards and be implemented, whatever direction he’s directing the government to go, as well as the people in the far north—because the far north tells you where to go for economic development for our First Nations people.

In reality, I guess we don’t quite understand each other yet. But there will come such a time, when we’re dealing with one piece of area—we’re going to have to understand each other now from here on, because this is untouchable area for the First Nations territory. Now we’re going to be legislating it, so they have to understand where they’re going, what they are going to be dealing with and how they’re going to deal with it. It’s not going to be a process like in the past. This is going to be a little bit of a different approach if you’re dealing with somebody’s backyard here—it’s livelihood backyard, and we want to be part of the whole thing. By saying that, you see what we’re doing at the land use planning—trying to be part of the whole process. The planning area you see—it’s not blocking things out, it’s more like laying out

our expectations to work jointly with the Ontario government in different ways—wherever we’ll agree how he works. There’s a lot of things—he’s going to disagree how we work. We have to iron those out to come to a two-party process on the north.

That’s what I would say about the support—to support each other very well. It’s not just one process; it has to be a two-tiered process. I didn’t see much of that in the Far North Act.

One thing I see, there is discretion of the Lieutenant Governor—there’s no discretion of the First Nations in that section of the Far North Act. It should be pretty well mentioned in a law that they are part of the decision-making in their own backyard.

That’s all I’m going to say about this. Thank you.

Mr. Steve Winsor: So we do have strong support. Wherever we go—we talk to private industry, stakeholders, government agencies, adjacent First Nations, the internal community itself—there’s a strong, strong desire and support for a First Nations-led land use planning initiative within the community’s traditional territory.

The July 2008 Premier’s announcement was very important. It mentioned things like protection of 50% of the far north, and also Mining Act reform, which deals with improved community consultation efforts as well as withdrawing of culturally significant areas from mining activities—and it stresses no new economic development until community-based land use planning is complete. It talked about revenue benefits sharing. In a nutshell, it strengthens the requirement for meaningful First Nations consultation and engagement. The far north legislation came forward, and it’s a good tool. It’s a tool that we need to ensure that community-based land use planning initiatives are strengthened, supported. It does reinforce community-based plans; it provides a legislative commitment. It supports environmental protection and climate change mitigation, as do the communities themselves, as a part of their goals, visions, principles. It supports local-level planning, local-level decision-making, which influences the communities themselves. So it gives them control over responsibilities for their traditional territory, on where they do and where they do not want to see certain activities included.

But there are some issues. Even though we support the far north legislation, we believe some refining needs to occur to ensure that in the partnership between the communities and the Ontario government, everyone is comfortable and satisfied. There’s one section that we looked at and it comes to the—when it talks about approved community-based plans, it appears in the readings that we have done, in our interpretation, the minister may supersede land use planning boundaries, land use planning designations, within an approved plan. It seems like from the beginning everything has been told and preached as it’s a community-based plan where the communities now have decisions over what happens on their land base. I guess an easy way to explain it within the communities is that, “You’re now in the driver’s seat. You have the ability to say where you want certain things

to occur or not." But there's this caveat, it seems, in the act that mentions that the minister may supersede approved plans if the minister deems that it's in the best interests of Ontario. So that does leave a little bit of uncertainty, and it almost provides a backdoor exit to an approved community-based land use plan.

0950

Is there anything left to say there, Wilfred?

Mr. Wilfred Wesley: I guess, on one of the things that Steve just mentioned, make sure, if there's a back door, that everybody knows where the back door is.

I'm very concerned about this thing too. Like, the Far North Act—consultation was done, but I think it was not satisfactory. It was done too fast, and the people who did the consulting at that time, the First Nations people flying around in our area—it didn't look right, the First Nation to consult the First Nation. I think it should have been the middle-class bureaucrats of the Ontario government who did that bill, the administrative type of people, not the politicians, because they can explain things better. The bureaucrats explain things better because they work in the system. If the people come to Cat Lake a couple of hours and they're gone—it doesn't even sink in yet; they're gone—it's called consultation. I think the senior government officials should be the ones consulting the First Nations—be very careful how, though, with this Far North Act. Because it looked like it's the very least important, the way it's been done. It is a very important thing that we want, what they are doing, and I think we have to do a little better consulting.

The time they came to Cat Lake, I wasn't there; I was over here in Sioux Lookout. I didn't even know when they were coming. They had come and gone by the time—nobody knew what they were really doing. They go to the radio station and that's it; they're gone. It's a back door for them to train First Nations to become—the politicians sneak out the back door before the questions fly. So I think we need to do a little bit more consulting about this far north legislation, because once it's there, it's going to be there. So let's do it right.

I would say about 90% of the people don't really know what it is yet, and it's covering their territory. So I think we have to do it a few more times, to consult people, and we can get more information on how we can make some changes before this thing becomes a law itself.

That's it for me.

Mr. Steve Winsor: We only have one other slide here and we'll be wrapping this up. I know we're going a little overboard. But there's one more thing we want to mention about the far north legislation before we go to the next slide, and that's communities that have no approved community-based plan or aren't interested in pursuing community-based planning. I guess the way we understood it originally is that without community-based plans, there are no economic development opportunities. But as we read in the act, it seems to identify that for communities that do not want to partake in community-based planning, there is an option where the minister "may" work with the communities and, if deemed in the

best interests of Ontario, "may" enter into economic development arrangements without having a community-based plan in place.

The Acting Chair (Mrs. Linda Jeffrey): Mr. Winsor, you have about a minute and a half left. Can you wrap up?

Mr. Steve Winsor: Okay. This is our biggest challenge, at the end here. The biggest problem here is, we've been doing this land use plan now for the last year and a couple of months, working with communities, trying to develop that capacity, that understanding, trying to get that traditional knowledge so that everyone can meaningfully participate and have a say in what the land use planning process will do for those communities, but it seems to be the funding is the issue. As we started this process, our funding proposals were basically a 10% to 20% community contribution. We've been in this process for over a year now. To date, the communities have been covering 80% of the cost. We have funding proposals that have been submitted for a year and two months. There's still no word back. The review process, the approval process, the payment process—it's ridiculous, it's unheard of, and there's no possible way that a community can do a successful land use plan without having appropriate resources, because we're not starting at square one; there's a lot of knowledge-based building having to occur within the communities.

Finally, we have reimbursement-type programs, where they say, "Here's \$100,000 to do caribou survey work that will benefit the province and the communities as a whole," yet funding doesn't come forward until it's over, so how are the communities supposed to gather this crucial information? They have no funding to start out and get things going.

It's a huge issue—a huge issue. Now the communities' land use plan is at risk because of a lack of government funding commitments that we require. We really ask, if something, if anything could happen, it's that the proper channels or avenues be taken to ensure that appropriate levels of funding are brought forward to the communities that are interested in community-based land use planning initiatives. Thank you.

The Acting Chair (Mrs. Linda Jeffrey): Thank you. You've left about three minutes for each party to ask questions, beginning with Mr. Bisson.

Mr. Gilles Bisson: You're pretty clear, because the issue really comes down to the issue of funding. If we believe in community land use plans and we want to make them happen from a public policy perspective, we need to be able to fund that to make it happen. I was going to ask questions on that, but you clarified that at the end.

The other question is, at the end of this process, when you're done, the protection of the land: Do you see it as, "I'm protecting the land here forever and ever," or is it a sort of living document in the sense that if values are found on the land, either mining values or whatever it might be, there's an ability to develop that in a sustainable way?

Mr. Steve Winsor: We're hoping to make as solid of a land use plan as possible, where the amendment process

and having to go back—we're hoping that we can get as much information now to have a clear, concise document. But yes, we're always, always going to be respecting and entertaining community values, if it's cultural sites, whatnot, to ensure that the community's traditional activities and the sacred spiritual sites are protected throughout the planning area. But in the community's perspective, for protection—well, they've been protecting it all along. A part of our protection area priorities discussion has to deal with different levels of protection and what it means. We have some areas identified as permanent protection zones around water quality, around traditional species at risk—some are calving habitat for woodland caribou, for example. So we are trying to make a concrete plan as we go through this and identify various levels of protection zones.

Right now in our land use plan, we're at about a 35% protection zone which can entertain various activities. In some protection zones, there's no development; in other protection zones, we have specific development that can occur; and then we have other zones that are a little more flexible, more general. But we're hoping through this process to have a solid plan that we won't have to go back to a lot and have to change anything, but we do understand that the amendment process is required, because there are things that you may not foresee 10 years down the road.

Mr. Wilfred Wesley: One of the things I like, this question—it is a living document. If something has to be developed in a way, we have to have First Nations and the Ontario government sit down together to make this thing change, not just the government itself, alone, changing it. You have to come down, have a discussion around if it's okay to change it. Two bodies change it. It's a living document, changeable. It would have to go that direction. What I'm saying is that we don't want—like, Ontario itself can change a lot of things in our plan without knowing it. It has to come to us, then we can change it together where we have to change it.

The Acting Chair (Mrs. Linda Jeffrey): On the government side, Mr. Mauro.

Mr. Bill Mauro: Steve and Wilfred, thank you for coming forward today. We appreciate your comments and we appreciate your express support for Bill 191, even though we acknowledge your comments around its requiring some refining. But we appreciate the position that's been taken publicly by Cat Lake and Slate Falls. So thank you for that.

1000

A couple of comments on the funding: We announced \$30 million over four years in the 2008 budget. Have you made application to that fund for that money?

Mr. Steve Winsor: We have made applications to the heritage fund. We have made applications to aboriginal affairs, the MNR, with CORDA. We have 10 proposals out there. It's just extensive.

Mr. Bill Mauro: How about on the \$9.5 million, the relationship fund through aboriginal affairs for community capacity building: Have you accessed any of that?

Mr. Steve Winsor: We have accessed that. They are basically the only funding agency that really came forward.

Mr. Bill Mauro: Okay. Is there any commercial forestry existing north—

Mr. Steve Winsor: No.

Mr. Bill Mauro: —exactly at this point? There was a comment made earlier in your presentation about this gap, an implication perhaps left with people not familiar with what's going on, and that perhaps this is preventing something from occurring. In fact, there has never been any commercial forestry that existed heretofore in the far north, and I think it's important that we get that on the record.

The Pikangikum plan that's been in place and approved since 2006: Did you have any involvement with that? Were you associated with it in any respect?

Mr. Steve Winsor: No, I have not.

Mr. Bill Mauro: Can you talk to me a little bit about that process that obviously has been successful and how you think what we're putting forward as a framework is going to facilitate the same kind of result for First Nation communities on a go-forward basis?

Mr. Steve Winsor: Wilfred and Gordon, before I got hired on here, have been involved in this for a few years and they've dealt with Pikangikum and had several meetings just on boundaries, adjacent community discussions and whatnot. I think the biggest concern, in order to make a land use plan successful, is to streamline funding to ensure that the communities can stay on track with their land use planning initiatives. As we've seen in the past plans—start, stall, various agencies, various donors, various reasons, projects. In order to have a successful land use plan, you must continually stay true, stay online and continually have an internal consultation with your communities to ensure that they're understanding all the government policies and exactly what community-based planning can do for them.

Mr. Bill Mauro: So as an idea—

The Acting Chair (Mrs. Linda Jeffrey): It's going to have to be a really short answer.

Mr. Bill Mauro: —or as a concept, then, I suspect that you favour this legislation in terms of its ability to provide certainty for both First Nations and industry on a go-forward basis?

Mr. Steve Winsor: Exactly.

Mr. Bill Mauro: Okay. Thank you.

Mr. Steve Winsor: Thank you.

The Acting Chair (Mrs. Linda Jeffrey): Mr. Ouellette.

Mr. Jerry J. Ouellette: Thank you for your presentation. A couple of questions regarding the size of the land use planning area: I spent some time on the land there and a number of areas, and I see that down in the bottom southeast corner, some of the land actually goes in areas where I know individuals on the new Osnaburgh reserve have used that land. How did you determine the boundaries for your land use planning area?

Mr. Steve Winsor: It was largely to do with trap lands. What happened was—Wilfred can speak more about the relationship between Mish, Cat Lake and Slate Falls. There are very close family ties. Would you like to talk a little bit about that, Wilfred, or do you want me to go?

Mr. Wilfred Wesley: When it came around, I was a chief at the time we designed it. There were all these trap lands that—before they were trap lands, they were traditional territory where everybody was living, everybody was born. Ginoogaming came and issued trapline licences. That's the area of what we show here, Cat Lake trap land areas. It was traditional territory on Cat Lake. Cat Lake itself is just a community where we'd meet before, but they originally lived in the area trap lands. So then they squared a little kilometre for each family, and then that's their traditional territory. One of the things, why it's so strong under the trap land—you get involved with other cases in other provinces. The First Nations took some of the challenges in the courts of all their traditional territory and treaty and aboriginal rights. The First Nations never lost their sovereignty over the land; they are part of the land. You can't just treat them like any other people. They are part of the land. Fortunately, they never lost their sovereignty over the land; they belong there. They don't feel at home in the reserve; they feel at home where they were before. So that's what makes it so important that we select the land like that: It was a traditional territory.

Mr. Jerry J. Ouellette: Yes. I know in New Osnaburgh, the First Nation community there was right on—

Mr. Wilfred Wesley: Yes, they're connected to ours.

Mr. Jerry J. Ouellette: Yes, they were using quite a bit of the land at the west end of Lake St. Joseph, where I've been on. I think that it probably comes down there because of the trading post that was established there by Hudson's Bay when it first started.

But how do you decide, between New Osnaburgh and there, which one is going to be your part of that part? Because I know they were moose hunting and caribou hunting in the area that you have shown in your planning area.

Mr. Wilfred Wesley: It's just part of any agreement. When they want to hunt there they let us know, or they come and—sometimes, they go sturgeon fishing inside our planning area. It's all an agreement with a communication with the other First Nations communities.

Mr. Steve Winsor: We have several agreements. The way it is is, Cat Lake and Slate Falls have Osnaburgh trappers on their lines and vice versa as helpers and what-not. So there is a strong community tie.

We met with their land use planning group and their trappers, and basically, the big thing was the traditional activities of trapping. They can continue—there's not an issue with that; it's more just about defining an area. They have areas on their land use plan that are Cat and Slate traplines, and we have some of theirs, but we adjusted boundaries and we came to a mutual agreement that traditional activities for both communities will con-

tinue and we will address economic development and protection priorities on a case-by-case basis as we move forward.

The Acting Chair (Mrs. Linda Jeffrey): Thank you, gentlemen. Your time has expired. We appreciate you being here.

Mr. Steve Winsor: Sorry about that. Thank you very much.

The Acting Chair (Mrs. Linda Jeffrey): No, it was very interesting. Thank you very much for being here.

I'm going to go back to our original agenda. Is somebody here from the Boreal Prospectors Association? No? If you're not here, we're going to move on to the next person.

CONGRESS OF ABORIGINAL PEOPLES

The Acting Chair (Mrs. Linda Jeffrey): Is there somebody here from the Congress of Aboriginal Peoples? Would Chief Kevin Daniels be here? Welcome. As you get yourself settled, if I could give you an idea of how this is going to proceed—

Chief Kevin Daniels: Just one moment, please. I can't hear through this.

The Acting Chair (Mrs. Linda Jeffrey): Okay. Can you hear me now? Great. If I could just give you the preamble. My name is Linda Jeffrey. I'm the Chair. You're going to have 15 minutes. When you get close to the 15 minutes I'll give you a one-minute warning, and after that we'll be able to ask questions. When you're ready to begin, if you could state your name and the organization you speak for. You can begin whenever you're ready.

Chief Kevin Daniels: Good morning. Madam Chair, members of the standing committee and observers, it's an honour to be here today in Sioux Lookout on the traditional territory of the Anishnawbe and Metis peoples. My name is Kevin Daniels. I am the national chief of the Congress of Aboriginal Peoples. The Congress of Aboriginal Peoples is one of the five national aboriginal organizations in Canada. We represent non-status Indians living off the reserve with Metis peoples.

We were founded in 1971 as the Native Council of Canada and were involved in the 1982 constitutional negotiations and in many cases that have been before the Supreme Court of Canada.

I've come here today in support of the Ontario Coalition of Aboriginal People. We do not intend to stand aside when it comes to the rights and interests of our constituencies. These bills before us today will have an impact on our constituency in Ontario. You're already well aware that this is a trigger of the crown's duty to consult. I would like to point out to the committee that the Congress of Aboriginal Peoples has received no capacity funding to be engaged in these issues. It is important that aboriginal peoples have the capacity and resources to participate. The crown has obligations, and these obligations are entrenched in the honour of the crown.

1010

In regards to Bill 173, the Mining Amendment Act, we recognize the importance of mining to the economy of Ontario, and we recognize Bill 173 as an important first step in modernizing the act. But from the onset of this work, it was clear to participants that the crown has obligations to aboriginal peoples and that there are aboriginal rights and interests related to mining development. What is less clear is the recognition that this obligation is greater than consulting with Indian Act reserves.

We are pleased that the old free-entry model has gone, since it was directly responsible for many controversial operations on traditional aboriginal territories. In many ways, it is symbolic of the end of the frontier mentality, which has been responsible for so much harm to aboriginal peoples.

The Congress of Aboriginal Peoples supports an approach to land use planning in the far north that recognizes the interests of all aboriginal peoples. We want to be involved in land use planning processes and have the capacity to be involved. Aboriginal peoples need to be involved in the determination of what “protection” means and the setting of economic and conservation objectives.

I've read through the testimony of several witnesses to this committee. It is truly remarkable to see the lack of understanding of who the aboriginal peoples of Canada are. The term “First Nations” is used over and over by witness after witness with the mistaken view that the term means the same as “aboriginal peoples.” The aboriginal peoples of Canada are described in section 35(2) as the Indian, the Metis and the Inuit peoples.

The bill needs work to be respectful of established aboriginal consultation and accommodation requirements that have been set out by the Supreme Court of Canada. Consultation needs to be done properly. The crown must discharge its duty to consult, and this means being inclusive of all aboriginal interests, including status and non-status Indians and Metis peoples living off the reserves.

We are very concerned about Bill 191, the Far North Act, 2009, and the impact it will have on future generations, and with the lack of consultation or accommodation for aboriginal peoples. We understand that this proposed legislation will put in place the formal process to allow economic development to occur in the far north of Ontario. We are not opposed to economic development, and recognize the benefits it can bring. We also understand the needs of business to have certainty.

Our interests are clear: We want to be fully engaged in any land use planning process. The Metis, status and non-status Indians need to be involved in the development of the far north land use strategy. We also need to be involved in the land use planning exercises.

Everyone at this committee recognizes that most of the problems will arise in the traditional territories of aboriginal peoples. These traditional territories are shared areas among Metis, status Indians on and off reserve, and non-status Indians.

Dispute resolution is the biggest issue connected to the Mining Amendment Act from the aboriginal point of view. The question is, who will fund this process? I think that this should be funded by the proponent. Aboriginal peoples involved in a dispute resolution process need to have access to lawyers. If a tribunal is established under section 170.1, then this tribunal needs to have someone on it who is from our constituency.

Through these committee hearings, I have been surprised at the attacks on Ontario's Endangered Species Act. This is an issue in which the Congress of Aboriginal Peoples has played a major role at the federal level. The federal Species at Risk Act and the Ontario act are vital to the protection of our natural world and fulfilling our obligations under the UN Convention on Biological Diversity. Both the CBD and SARA have specific wording to ensure the inclusion of aboriginal peoples in initiatives. When this committee is speaking about aboriginal peoples of Ontario, it needs to be clear that you are referring to section 35.2 of the Canadian Constitution. The term “First Nations” is a vague term and in federal legislation it refers to Indian Act reserves. So when this committee is speaking about opportunities for First Nations, it needs to be inclusive and say “opportunities for aboriginal peoples.”

Much of how this process will work will be covered in the regulatory process. This raises many questions for us, since it is in the regulations where many difficult decisions will be made that will affect our rights and interests.

As we sit at this committee hearing, mining companies are undertaking exploration of our traditional lands without any consultation. So we are left with the important questions of our involvement in the development of the regulations:

- (1) How will this be done?
- (2) What capacity will we have to be involved?
- (3) Will we have access to independent legal counsel to ensure protection of our consultation, accommodation and free, prior and informed consent?

We know there will be conflict over our traditional lands. I'm not overly optimistic about the future because of the amount of struggle that will need to take place in the courts. We are concerned with the high degree of ministerial discretion in Bill 173. We know from experience that this spells trouble for aboriginal interests. We recognize that mining and mineral exploration can bring employment. It can bring jobs and training, but our elders have warned us about the impacts on the environment.

I want to remind this committee of the words of Chief Seattle, that the earth is our mother. We are part of the earth and it is a part of us. This we know. The earth does not belong to us; we belong to the earth.

Thank you for the time that you have given us here today. So if you have any questions, I'd be happy to answer them.

The Acting Chair (Mrs. Linda Jeffrey): We have about three and a half minutes for each party to ask questions, beginning with Mr. Mauro.

Mr. Bill Mauro: Chief Daniels, thank you very much for your presentation. I wanted to just mention to you: You were speaking a bit to both pieces of legislation, but you spoke a bit about the duty to consult. In Bill 191, at least, I wanted to just read for you—I'm not sure if you had a chance to look at the legislation, but section 3 of the bill is titled "Interpretation," and it reads, "This act shall be interpreted in a manner that is consistent with the recognition and affirmation of existing aboriginal and treaty rights in section 35 of the Constitution Act, 1982, including the duty to consult." I thought it important, if you weren't aware of that, that I mention it to you.

In terms of the consultation, you also spoke about consultation a little bit. There are a number of—first of all, I meant to mention with the last deputant, this is first reading of this legislation. It's quite unusual for legislation to be out for public consultation after first reading, so what we're doing here today—over the course of this week, actually—is quite unusual and, we feel, significant. We think it speaks to the importance and recognition, by our side anyway, that these two pieces of legislation really do prefer and need extensive consultation.

I was going to ask you, though, in your capacity as chief of the Congress of Aboriginal Peoples: Do you have direct relationships with the individual First Nation communities in Ontario in terms of the consultations, the outreach sessions that are going on beyond the consultation that we're doing here today as we travel around the province? For example, there have been outreach sessions with Mattawa, with Fort Albany, with KI, with Webequie, with Marten Falls. Does your organization tie into them? Do you have any work that you do with them? Are you part of those outreach sessions?

1020

Chief Kevin Daniels: We have a provincial territorial organization here in Ontario known as the Ontario Coalition of Aboriginal People and you'll be hearing from them probably right after me, but we hope to continue to be involved in consulting with other aboriginal groups. Again, resources are a very key component for us to communicate and sit down with the leadership of these particular areas, and I hope we're able to do that, to come to some kind of consensus that we can actually bring back to the table and begin further discussions with this committee. I don't know how long this committee is going to be in existence for us to do that, but again, from what I understand, a lot of the First Nations are not here, are not going to be presenting because they are involved in their own leadership selections and what have you, the elections going on throughout northern Ontario. A lot of the leadership is left out right now from being part of these negotiations, so I think that we really need to ensure that all our aboriginal peoples have the opportunity to come to the table to give views.

Mr. Bill Mauro: Well, just in terms of your question about the length of time, there has been a letter sent to Grand Chief Stan Beardy of NAN advising him of the intention of the minister to work with the House leaders in the Legislature to try and ensure that there is further consultation on Bill 191 after second reading.

Chief Kevin Daniels: That's great. I'm sure they appreciate that.

The Acting Chair (Mrs. Linda Jeffrey): Thank you. Mr. Hillier.

Mr. Randy Hillier: I just wanted to have a little clarification during your presentation. We talk about both Bill 173 and Bill 191 here. They are linked and they're obviously going to become more linked with time. The duty to consult and the development of the land use plans: Are you suggesting that all aboriginals who are not in those areas or not in those communities should also be participating in the development of land use plans?

Chief Kevin Daniels: I think the provincial and national leadership of our off-reserve aboriginal organization should be a part, yes.

Mr. Randy Hillier: So the organization should be party to, for example, the Cat Lake or Slate Falls land use planning development as well?

Chief Kevin Daniels: I think all mining development, no matter where it takes place in Canada, affects all human beings, and as human beings we are being affected by it, so we want to be part of those—

Mr. Randy Hillier: Yes. I'm just wondering how in practical terms we'd actually accomplish something like that when we're looking to develop those community plans, because the people who are there and have had the greatest consequence to the actions that happen in those communities—how that's going to fit.

But I also want to ask you about the Premier's announcement that 50% of the land will be protected. We've heard from different delegations, and of course we don't know exactly which 50% is going to be protected but we know it's an edict now that half of those lands will be protected. But we don't know what is actually underneath those lands, we don't know the value, we don't know what technology is going to come along or what minerals we may find down the road. They may all be lost forever under that protected idea. Also, as we've heard from others, the length of time to develop a community-based plan that we've seen from an earlier presenter today will be at least three years and there was a number of years just in the pre-planning. Do you see that as a significant difficulty or hardship for the people of the north, being deprived of economic development when that amount of time must pass before we can make a decision? I don't know what the amendment process is going to be, how long it will take the minister to approve an amendment to a community-based plan afterwards because, again, there is no uncertainty about this: It does require ministerial approval. What are your comments on just how that's going to affect people of the north for economic development and prosperity?

Chief Kevin Daniels: Like I mentioned in my presentation, we're not against economic development. What we are really concerned about is the environment and the effect it's going to have on the people within the immediate area. Sure; yes, there are different kinds of mining and developments that are good for the environment, and then there are others that will completely

destroy and kill off the future of any aboriginal peoples living in that area. That's what we're concerned about and that's why we want to know exactly what's going to take place in the far north, and we want to be part of whether those developments will or will not go ahead. We want to see first-hand what benefits it will have for the aboriginal people of those northern regions.

The Acting Chair (Mrs. Linda Jeffrey): Thank you. Mr. Bisson.

Mr. Gilles Bisson: I was interested in your comments around the dispute resolutions mechanism. You're right when you say we don't have the capacity in many of our First Nation organizations to be able to do the work that needs to be done to work towards some sort of agreement. But, in your comments, you said that you favour the proponents being responsible to pay, and I just wonder how that squares against what has been the position of most First Nations, which is, it's the crown's duty to consult. If you, all of a sudden, say in a bill from the crown, "Well, we're going to give this to the private sector"—mining company, forest company, whatever—isn't that a delineation of the duty of the crown?

Chief Kevin Daniels: If the proponents are going to actually go in and destroy the earth, then I think they should pay and the crown should equally pay for engaging the aboriginal peoples there in those communities and here in the province of Ontario. I think it's actually a 50-50 chance for both sides to provide the resources to the aboriginal peoples of Ontario for being involved and being engaged in discussions and the type of mining that's going to go on.

Mr. Gilles Bisson: Can I propose a model and get your sense if it works or doesn't work? Let's talk about mining in perspective. The first part is to stake a claim and to get the legal right to be able to do exploration. That's the first point of conflict: Who should be responsible to pay to deal with that conflict? It's my view that the crown should have the responsibility to pay for that and then, if there is a mine to be found, what you do is, at that point, you get into the revenue-sharing issue, which allows the mine to pay either by way of royalties that would normally be paid to the crown—or the room on municipal taxes if they don't exist because there are not any municipality jobs etc. I would much rather see a system where the crown does not abstain or take away from its duty to consult by providing funding to the First Nation organization to deal with disputes, but then have a mechanism to make sure that there is a revenue-sharing at the end. Your comments on that?

Chief Kevin Daniels: Again, as long as it's aboriginal peoples and not First Nations—and I think we could all probably come to some consensus on how that model will be worked out. The doors are open.

Mr. Gilles Bisson: Do you have a lot of knowledge in regards to map staking versus staking?

Chief Kevin Daniels: No, I don't.

Mr. Gilles Bisson: Okay. So I won't go down that road. Thank you.

The Acting Chair (Mrs. Linda Jeffrey): Thank you very much. Chief, thank you for being here today.

Chief Kevin Daniels: Thank you very much.

The Acting Chair (Mrs. Linda Jeffrey): I'm going to do one more call out to the Boreal Prospectors Association. Anybody here from that organization? Mr. David Gordon? Going once, going twice.

1030

ONTARIO COALITION OF ABORIGINAL PEOPLE

The Acting Chair (Mrs. Linda Jeffrey): I'm going to go now to our last delegation of the morning, the Ontario Coalition of Aboriginal People. Their president, I believe, is here.

Good morning, and welcome. Thank you for being here. If you could state your name for Hansard and the organization you speak for. You'll have 15 minutes. I will give you a one-minute warning as you get close to the end. You can start whenever you're ready.

Mr. Brad Maggrah: Okay. I don't think it will take me that long.

First of all, good morning, Madam Chairperson, members of the standing committee and observers. It's a great honour to be here in Sioux Lookout. This is part of my traditional territory.

My name is Brad Maggrah. I'm the president of the Ontario Coalition of Aboriginal People, which represents the rights and interests of the Metis, non-status and status off-reserve.

I'd like to thank the committee for travelling to Sioux Lookout to meet with us. Co-operation must be the cornerstone for partnerships between Ontario and aboriginal peoples. This requires an honourable process and respect for the requirements for consultations, accommodations, justifications and the consent of aboriginal people. Upholding the honour of the crown is always at stake when the crown is dealing with aboriginal people. The duty to consult is with the aboriginal people, not just with the Indian Act reserves. It's very clear there is a requirement for the Ontario government to consult with aboriginal people in regard to these bills.

I read the remarks of Minister Gravelle when the mining act was introduced in April. He stated that the government's proposal reflected the input of all major aboriginal organizations. I want to be on record as stating that no consultations took place with the Ontario Coalition of Aboriginal People.

The Ontario government must open the doors to consultations for Indians on and off-reserve and the Metis to ensure the transparency and legitimacy of this process. We want to be engaged in a mutual and respectful dialogue in Ontario. To date, we have received no funding or support from this province and we have not been involved in the drafting of the legislation and the crown has not respected our interests.

The great Metis leader Harry Daniels referred to our constituency as the forgotten people. We do not intend to be forgotten and we are committed to fight for our interests and rights.

The two bills we are commenting on require legal analysis and comment from our constituency. OCAP does not have the resources or the capacity to engage in such a process. Ontario has made no effort to assist us and has chosen the old ways of doing business with the aboriginal people. Finally, we had no opportunity to receive input from our elders on these proposed pieces of legislation.

The Far North Act, Bill 191, in our view, discriminates against the Metis, non-status and status living off-reserve. In the section "Interpretation and application," it states that "band" and "reserve" have the same meaning as in the Indian Act. It also states that "First Nation" means an Indian Act band. This is not our view of the First Nations, nor was it the view of the Royal Commission on Aboriginal Peoples. It made clear that there are 60 to 80 First Nations in Canada—Cree, Ojibwa, Blackfoot etc. This is very different from the idea of 551 Indian Act bands. This provides a significant role for the Indian Act reserves and land use processes in the far north. There is no reference to Metis, non-status or status off-reserve. This barefaced discrimination against our people will result in more conflict and legal disputes.

The Supreme Court of Canada has asked governments and aboriginal people to settle consultation issues by negotiations. Why does Ontario continue to act as if Metis, status and non-status Indians do not exist? We sat at the Constitution table in 1982 and we have been in the Supreme Court of Canada on several cases, yet Ontario remains blind to us.

OCAP supports the intent of Bill 191 to protect lands in the north but we want to be part of the process in identifying these areas and their management. OCAP supports Bill 191 provisions for both economic development and conservation measures being passed through community initiatives and land use plans consistent with the regional land use strategy. The proposed legislation is silent on our role in developing these plans and strategies.

The bill needs to be referenced to the aboriginal people in Canada, not just the Indian Act reserves. The text needs to clearly set out that we will be provided with resources to be able to continue to engage in this process.

When Premier McGuinty established his far north advisory council, there was no involvement of our constituency. In fact, there is no aboriginal representation on this council. On the website, it states that the council will provide the Nishnawbe Aski Nation with input and advice related to far north planning, but it fell silent on our constituency.

This bill needs to be amended to accommodate status and non-status Indians living off-reserve. We are prepared to work with you on the clause-by-clause amendment, but we need the resources to participate.

On Bill 173, we realize that Bill 173 is at its second reading and this is our only opportunity to make comments and advice on these amendments. The crown has a duty to consult and accommodate for aboriginal and treaty rights. Aboriginal and treaty rights do not end at the Indian Act reserve boundaries—and we are talking about aboriginal rights.

We agree with the Ontario Bar Association that the dispute resolution arrangements in section 170.1 of this bill are too vague and controversial. We agree with them that having a ministry of the crown decide on the structure or dispute resolution is unacceptable. The dispute resolution arrangement must be made to reflect the bilateral nature of this relationship and not the 19th-century view of the crown. Any tribunal set up under this dispute resolution regime must be inclusive of our constituency.

Thank you and meegwetch. If there are any questions, feel free to ask.

The Acting Chair (Mrs. Linda Jeffrey): Thank you. We have about four minutes for each party to ask questions. Mr. Ouellette?

Mr. Jerry J. Ouellette: Do you have any amendments prepared for Bill 191 as yet?

Mr. Brad Maggrah: No, we don't. We were left right out of this whole consultation process, so we are just starting to work on them. We don't have the resources to do anything on it, but my main concern here is why, when you're consulting with aboriginal people—there are 356,000 aboriginal people in Ontario; 80% live off-reserve. I don't feel that those people living off-reserve had any consultation at all—and they do have ties to their traditional lands. Even though they might live off-reserve, they do belong to a reserve at some point or somewhere.

Mr. Jerry J. Ouellette: I think the Powley case out of Sault Ste. Marie certainly indicated that, and a lot of support for that position as well. I know the Ministry of Natural Resources changed the moose tag allocation based on the outcome of the Powley case and reduced the number of the tags to ensure that the Metis community was taken care of in a number of different areas.

Mr. Brad Maggrah: When you're talking about allocations of Metis tags, they only do that for the Metis Nation of Ontario. Not all Metis belong to the Metis Nation of Ontario, and that's another thing that's not—

Mr. Jerry J. Ouellette: That was what my question was going to be. There are a number of Metis organizations in the province. Are you familiar and is there an official association between them all, and do you represent them all?

Mr. Brad Maggrah: No, we don't represent them all. To my knowledge, there are only two organizations in Ontario. One's the Metis Nation of Ontario and the other is the Ontario Coalition of Aboriginal People.

Mr. Jerry J. Ouellette: I believe there's another one in the Ottawa district as well.

Mr. Brad Maggrah: It's not a provincial organization; I think it's just—it could be just a town or something.

Mr. Jerry J. Ouellette: On the planning, then, when you're dealing with a lot of the Metis communities—for example, the previous presenter showed us a planning area for a rather large area. Do you believe that the Metis community should be involved in that or, as in the Powley case, do they need to ensure that there is an affiliation with the community?

Mr. Brad Maggrah: No, I would say we would want to be—for instance, my reserve is from Wabigoon Lake. I would expect to be notified of the consultations taken out on that reserve so that I might partake in them and have my views known. The whole point I'm making here is that there are no consultations going on with the people living off-reserve. They don't have any idea what's going on. I would like to make sure that we are part of the process.

Mr. Jerry J. Ouellette: My family has Metis status, so my sisters and my father and my cousins all have their cards; I just haven't sent in my birth certificate. I'm very well aware the community is growing in strength and gaining an understanding of what took place in the Canada Act under section 82 and the implications. This will have a strong indication as well as the potential for outreach to the Metis nation.

Thank you for your presentation. I don't know if Mr. Hillier has any questions, though.

1040

Mr. Brad Maggrah: Just one—we represent the non-status Indians also, besides the Metis. That's the difference between the Metis Nation of Ontario and ourselves. The Metis Nation of Ontario is made specifically; we represent the off-reserve Indians too.

Mr. Jerry J. Ouellette: Thank you.

The Acting Chair (Mrs. Linda Jeffrey): Mr. Bisson.

Mr. Gilles Bisson: One of the things that you're asking for is some form—there are a couple of amendments. One is, under the dispute resolution, you want to have some mechanism in the act that would give standing for an off-reserve First Nations person, either Metis or status or non-status, to be able to intervene in a dispute. I'm just wondering, how would that work? I'm just trying to get my head around it. For example, there's a project up in Pikangikum, and somebody who lives in Thunder Bay or maybe even Timmins has a problem with that particular project: What should be the litmus test in order to allow them to have standing to intervene, just a right as a citizen, or would they have to have some sort of tie to that land?

Mr. Brad Maggrah: I would say they would have to have a tie to that particular territory.

Mr. Gilles Bisson: Okay. Have you given any thought to an amendment that would make that happen?

Mr. Brad Maggrah: No, we don't have any amendment at this time. We don't have the capacity to work on any because, like the previous speaker said, we haven't gotten funded by anybody. We haven't had consultations done with the government to really understand the whole act as it's presented. We read it on the Internet as well as in the handouts we've been given, but we had no consultations taken at all with our constituency.

Mr. Gilles Bisson: And on the issue of consultation, there's nothing in the act currently that gives you any kind of standing as a national organization to be involved in the land use planning. So my question becomes, if you were given that, it would be for each of the individual land use plans. There would be an opportunity for your

organization and such organizations to participate, and then it would be up to you to decide, "I want to or I don't want to; we have an interest or we don't" in that particular land use plan?

Mr. Brad Maggrah: First of all, we're not a national organization; we're a provincial organization. Our national organization was the previous speaker, the Congress of Aboriginal Peoples.

Mr. Gilles Bisson: I was lumping you both in, because you're both asking the same thing: that you be given the opportunity to participate in land use planning. Land use planning is not going to be one big process; it's going to be a whole bunch of smaller ones. The question is, if it's written into the legislation that you have standing, that you have an ability to participate in land use planning, would you have to then have somebody at every table or would you just choose which tables that you're interested in when it comes to land use planning?

Mr. Brad Maggrah: We'd like to have the opportunity to choose the tables we'd be interested in.

Mr. Gilles Bisson: Okay. All right. Thank you.

The Acting Chair (Mrs. Linda Jeffrey): Thank you. From the government side, Mr. Mauro.

Mr. Bill Mauro: Thank you, Madam Chair. Mr. Maggrah, thank you very much for your presentation. We appreciate it.

Actually, the question I had, which I was interested in asking, Mr. Bisson has asked, in terms of how you envision this intervener status for off-reserve or non-status people. So I appreciate your response to that.

I just will mention as well—I'm not sure if you heard earlier—in terms of the consultation piece, this is first reading of this legislation only. It's quite unusual for there to be a consultation after first reading. We will be moving forward with the request that will require the co-operation of the other parties and hopefully there will be a second round of consultation after second reading on Bill 191. This is second reading of Bill 173, so there may be another opportunity for you and your organization to speak to this, going forward.

Thank you very much.

Mr. Brad Maggrah: Thank you.

The Acting Chair (Mrs. Linda Jeffrey): Any other questions? No? Thank you very much for being here today.

Mr. Brad Maggrah: Thank you for inviting me here.

The Acting Chair (Mrs. Linda Jeffrey): Is anybody here from the Boreal Prospectors Association? Is Mr. David Gordon here today? No? Okay.

We have two slots that have not been filled. Is there anybody here who would like to speak to either piece of legislation who hasn't spoken this morning, who isn't a ministry person? We have a fair number of staff.

Interjections.

The Acting Chair (Mrs. Linda Jeffrey): No, no. Is there anybody who would like to speak? This is an opportunity for you to speak if you haven't spoken and you'd like to step forward. I don't see any. Okay, that concludes our deputations.

COMMITTEE BUSINESS

The Acting Chair (Mrs. Linda Jeffrey): Is there any other business? Ms. Mitchell.

Mrs. Carol Mitchell: I wanted to put forward that September 14 be the clause-by-clause date and September 7 be the submission deadline.

Mr. Gilles Bisson: For which bill?

Mrs. Carol Mitchell: For both, just so that we can move the process forward. You've heard the government's discussions on the bills.

The Clerk of the Committee (Mr. Trevor Day): September 14?

Mrs. Carol Mitchell: Correct.

The Acting Chair (Mrs. Linda Jeffrey): Would you just run over that again so everybody can hear it?

Mrs. Carol Mitchell: September 14, clause-by-clause.

The Acting Chair (Mrs. Linda Jeffrey): For both bills.

Mrs. Carol Mitchell: Both. And that September 7 be the deadline for amendments.

The Acting Chair (Mrs. Linda Jeffrey): Mr. Bisson.

Mr. Gilles Bisson: Whoa. The House is returning when? I should know, and I don't.

The Acting Chair (Mrs. Linda Jeffrey): The 14th.

Mrs. Carol Mitchell: That day.

Mr. Gilles Bisson: First of all, to expect deputants to be able to provide us with their feedback when it comes to amendments and us to have the ability to put them together and to present them by the 7th is a pretty short timeline. You have until mid-December to get the legislation passed. I would ask for a bit of co-operation in pushing back the time for clause-by-clause and the amendments so that we have proper time to do the amendments. We're just going to be compiling all of the information that we've got at the end of this week. We've got to sit down with our research departments. We're going to have to get back to some of these deputants. Expecting to have that happen by September 7 I think is a bit ambitious, to say the least. So I would ask for some co-operation in moving clause-by-clause to a reasonable time after the 7th, a week after the House is back at the very earliest.

The Acting Chair (Mrs. Linda Jeffrey): Mr. Ouellette.

Mr. Jerry J. Ouellette: The difficulty I have is that I'm on public accounts at the same time, and that committee is in session then and we won't be back until the following week, which would make it very difficult—I wouldn't be able to be here, because I already have this commitment to be with public accounts at that time.

The Acting Chair (Mrs. Linda Jeffrey): Further discussion? Ms. Mitchell.

Mrs. Carol Mitchell: This is a date that has been raised for months now, right? It began in June, when we talked about these dates. We've been trying to get a date for some time now, and the dates have not changed. These are the dates that were put forward back then.

The Acting Chair (Mrs. Linda Jeffrey): Mr. Bisson.

Mr. Gilles Bisson: I don't want to start an argument and a fight in front of our friends here, but if you want a fight, I'll give you one. Listen, these are two significant pieces of legislation. By the end of this week, we'll finish hearing from those deputants who want to come before us. It's going to take us a while to pull all these amendments together. The House is returning on the 14th. At the very least, the deadline for the submissions should be a week after the House comes back on the Thursday. That way, it gives us an opportunity to at least sit down with the research and legislative staff to draft the amendments. Asking us to draft amendments by the 7th is a bit overwhelming, and I think if you go down that route, it's going to send one hell of a signal to the deputants that you're not really listening and don't want to hear real, meaningful amendments.

The Acting Chair (Mrs. Linda Jeffrey): Further debate?

Mrs. Carol Mitchell: I just want to reinforce what I said before. These are the same dates that were brought forward in June when this process began. You have heard clearly from the minister; you have heard from the members the discussion about first reading and second reading and the need for further consultation. That has been a clear and concise conversation from the government. We have not changed the dates; the dates were brought forward then. We need to move forward into second reading to allow the process to evolve. That's what we're hearing clearly and that's what we've made a commitment to. These dates are the same as the ones that were put forward two months ago.

The Acting Chair (Mrs. Linda Jeffrey): Mr. Bisson.

Mr. Gilles Bisson: First of all, for those people who are watching and those people listening on the radio, the government will bring Bill 171 back in for clause-by-clause and have passage by sometime in December. It is not pivotal for them to have the amendments by the beginning of September. The difficulty is, it's a fairly complex piece of legislation. There are some meaningful amendments that need to be made to this legislation. It's going to take a fair amount of dialogue for ourselves, and I imagine for the Conservatives as well, with the stakeholders on this legislation to prepare amendments that allow this bill to do what the government wants in the end. Asking us to get this in on September 7 is basically saying that at the end of the day we're not going to really listen to what the public had to say.

I don't understand why it is a difficulty to wait until the week after the House gets back. This bill won't even be scheduled for third reading until sometime in October or November, so you have enough time to do committee. Clause-by-clause is a day or two at the most. I can imagine that we would have no difficulty doing a clause-by-clause at the end of September, beginning of October, and you're still going to get your bill, but at least the opposition is going to have an opportunity to put forward reasoned amendments based on what we've heard. Doing this on the 7th, I think, is a slap in the face to all of those people who have come here to present.

1050

Mrs. Carol Mitchell: Oh, come on, Gilles.

Mr. Gilles Bisson: Well, listen. You're coming here and you're saying that you put this on the table last spring. We told you last spring, "No."

When you go out and consult on a bill like this, you have to have the proper time in order to engage in the drafting of amendments. It's not unreasonable—and it's what we've done in most other cases—to allow the House to go back, give ourselves a bit of time to deal with staff so that we can draft up the amendments and do the consultation, and then you have a decision at clause-by-clause. But to take away the ability for the opposition to prepare those amendments in a way that makes some sense, in consultation with both the assembly staff and with the stakeholders, I think is preposterous. I think it's just more of what we've been hearing around the consultation to this bill. There is no consultation.

The Acting Chair (Mrs. Linda Jeffrey): Mr. Hillier?

Mr. Randy Hillier: I have to agree completely with Gilles. This bill is too important to be rushing forward.

As far as the assertion that these dates have been promoted since June, people have gone to quite significant lengths to be here, to give their thoughts and opinions to this committee so that we can indeed—everybody has talked about making sure that this bill is done right. You can't do things right if you don't allow for adequate time for the people involved to provide that information back to the opposition so that we can propose thoughtful, important, reasonable amendments.

To suggest that on the first day of the House coming back we're going to have this all done is just ridiculous. Let's afford democracy a little bit of time, to be thoughtful and to be sensible and to get good results in it.

The Acting Chair (Mrs. Linda Jeffrey): Further debate? Ms. Mitchell.

Mrs. Carol Mitchell: Just a comment: It's five weeks from now. We clearly have heard, and it has been clearly stated, that this is first reading on Bill 191. You've heard—

Mr. Gilles Bisson: I'm not talking about 191.

Mrs. Carol Mitchell: No, but you're combining the two—

The Acting Chair (Mrs. Linda Jeffrey): Can I ask that one person speak at a time?

Mrs. Carol Mitchell: You're combining the two and doing that with intent to confuse.

This is a process that we feel is allowing for consultation at first reading and will allow for further consultation down the road. We're doing this because of the strength of this legislation coming forward. We know how important it is to the communities. We're out listening at first reading, and there will be an opportunity down the road, but that opportunity will be there if we can continue to move this process forward. That's why I'm putting the dates forward as September 14, with completion for submissions on the 7th.

The Acting Chair (Mrs. Linda Jeffrey): Mr. Bisson?

Mr. Gilles Bisson: Listen, the opposition is not making a peep about amendments on 191. We understand

the process. I've been in this Legislature for 20 years and understand that we're at first reading.

The issue is the Mining Act. We're going to have to reconcile a whole bunch of different positions around the Mining Act that need a fair amount of work; for example, the issue of map staking versus the open staking that we have now. We need to put amendments forward on that. There's an argument on both sides.

The whole issue of the dispute resolution mechanism: From what I've heard up to now, we've got a fair amount of work to figure out how that's going to work so it doesn't bog down the process, and at the same time, give people the right to have a real ability to resolve conflict. We're going to have to deal with the issue of subsurface rights with mining rights.

There are some really significant changes in this act, and to say you're going to have enough time by the end of this process, on September 7, for us in the opposition to go back to the stakeholders and have discussions with them about what amendments we're able to live with in order to get us to where we want to go and then sit down with legislative counsel and have them draft it and then go back and show it to them again to see if they're happy and make the amendments ourselves—you can't do that by the 7th. What you're going to be saying to Ontarians, First Nations, the mining companies and others is that you've made up your mind, you're just going to do what you darn well please, and at the end of the day we're going to have an act that is not going to get us where we want to go.

I say again, we in the New Democratic Party support what you're trying to do in this legislation. The principles are good. We want to give First Nations a real say when it comes to what happens on their traditional territories. We need to provide a regime that, at the end of the day, doesn't scare investment out of the province of Ontario, and we need to have some mechanism in order to make sure that they benefit financially and job-wise when it comes to the activities of mining—all something that I've heard every stakeholder speak to. But what this bill does is not get you there.

So I'm saying, if you really want an act that works—we've been with the Mining Act for how many years now? Over 100 years? We've survived so long, and we've built a pretty prosperous mining industry in northern Ontario. Waiting another couple of weeks is not going to kill prosperity in Ontario. If anything, it'll help us do something right by way of First Nations and by way of the mining industry.

The Acting Chair (Mrs. Linda Jeffrey): Further debate? Mr. Ouellette.

Mr. Jerry J. Ouellette: I would just ask if September 23 or 24 could be a consideration. I'd like to make sure I'm part of the process. The other committee that I'm Vice-Chair of will be back at that time and able to participate in that process.

When the House rose, I don't think we knew at that time, unless I missed something, that we were coming back on the 14th. It wasn't established until later. The

opportunity to be there for clause-by-clause I would very much appreciate because this does have a significant impact, I think. That's what I ask: just consideration for the following week. I don't think we're meeting the 21st and 22nd; that's why I said the 23rd and the 24th.

The Acting Chair (Mrs. Linda Jeffrey): Further debate? Seeing no further debate, the motion's on the floor.

Mr. Gilles Bisson: Recorded vote.

Ayes

Brown, Johnson, Mauro, Mitchell, Sousa.

Nays

Bisson, Hillier, Ouellette.

The Acting Chair (Mrs. Linda Jeffrey): The motion is carried.

Committee, this—

Interjections.

The Acting Chair (Mrs. Linda Jeffrey): Committee, could I have your attention, please? This concludes the delegations for the Standing Committee on General Government. We're adjourned until 9 o'clock tomorrow morning in Thunder Bay.

The committee adjourned at 1056.

CONTENTS

Monday 10 August 2009

Election of Acting Chair	G-875
Mining Amendment Act, 2009 , Bill 173, <i>Mr. Gravelle / Loi de 2009 modifiant la Loi sur les mines</i> , projet de loi 173, <i>M. Gravelle</i>	G-875
Far North Act, 2009 , Bill 191, <i>Mrs. Cansfield / Loi de 2009 sur le Grand Nord</i> , projet de loi 191, <i>Mme Cansfield</i>	G-875
Porcupine Prospectors and Developers Association.....	G-875
Mr. Bill MacRae	
Cat Lake First Nation; Slate Falls First Nation.....	G-878
Mr. Steve Winsor; Mr. Wilfred Wesley	
Congress of Aboriginal Peoples	G-884
Chief Kevin Daniels	
Ontario Coalition of Aboriginal People	G-887
Mr. Brad Maggrah	
Committee business	G-890

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair / Président

Mr. David Orazietti (Sault Ste. Marie L)

Vice-Chair / Vice-Président

Mr. Jim Brownell (Stormont–Dundas–South Glengarry L)

Mr. Robert Bailey (Sarnia–Lambton PC)

Mr. Jim Brownell (Stormont–Dundas–South Glengarry L)

Mrs. Linda Jeffrey (Brampton–Springdale L)

Mr. Kuldip Kular (Bramalea–Gore–Malton L)

Mr. Rosario Marchese (Trinity–Spadina ND)

Mr. Bill Mauro (Thunder Bay–Atikokan L)

 Mrs. Carol Mitchell (Huron–Bruce L)

Mr. David Orazietti (Sault Ste. Marie L)

 Mrs. Joyce Savoline (Burlington PC)

Substitutions / Membres remplaçants

Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)

 Mr. Michael A. Brown (Algoma–Manitoulin L)

Mr. Randy Hillier (Lanark–Frontenac–Lennox and Addington PC)

 Mr. Rick Johnson (Haliburton–Kawartha Lakes–Brock L)

 Mr. Jerry J. Ouellette (Oshawa PC)

Mr. Charles Sousa (Mississauga South / Mississauga-Sud L)

Clerk / Greffier

Mr. Trevor Day

Staff / Personnel

Mr. James Charlton, research officer, Legislative Research Service