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**Official Report  
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(Hansard)**

**Monday 28 September 2009**

**Journal  
des débats  
(Hansard)**

**Lundi 28 septembre 2009**

**Standing Committee on  
General Government**

Mining Amendment Act, 2009

**Comité permanent des  
affaires gouvernementales**

Loi de 2009 modifiant  
la Loi sur les mines

Chair: David Oraziotti  
Clerk: Trevor Day

Président : David Oraziotti  
Greffier : Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES**

Monday 28 September 2009

Lundi 28 septembre 2009

*The committee met at 1405 in room 151.*

**MINING AMENDMENT ACT, 2009**

**LOI DE 2009 MODIFIANT  
LA LOI SUR LES MINES**

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

**The Chair (Mr. David Oraziotti):** Good afternoon, everyone. I call the committee to order. We left off at Conservative motion 9.4. We had a recess that took us past time and a recorded vote was called for. So, we'll begin with that.

**Ayes**

Bisson, Hillier.

**Nays**

Brown, Jaczek, Kular, Mangat.

**The Chair (Mr. David Oraziotti):** The motion is lost.

There were a number of additional motions that were added today. You have those in your package. Government motion 9.4.1. Mr. Brown.

**Mr. Michael A. Brown:** I move that subsection 29(2) of the Mining Act, as set out in section 12 of the bill, be struck out and the following substituted:

“Where claim staked without consent

“(2) If a staked claim includes a small area of land described in subsection (1) and the consent of the minister was not obtained prior to the staking in respect of the area, the minister, if he or she is satisfied that the failure to obtain prior consent was inadvertent, may subsequently provide his or her consent and the claim as recorded shall be deemed to include those lands.”

**The Chair (Mr. David Oraziotti):** Thank you. Any further comments you'd like to add to that, Mr. Brown?

**Mr. Michael A. Brown:** This is to clarify what I was suggesting the last time we so productively met: that this was just a way of correcting an inadvertent mistake. I think this clarifies that, and I thank my friends across the floor for providing some initiative for us to include this.

**The Chair (Mr. David Oraziotti):** Mr. Bisson?

**Mr. Gilles Bisson:** Just for the record, I'm glad that the government brought forward this motion because in fact it will clarify what the intent of that particular section is for. It's to deal with inadvertent activity on the part of a prospector, and it wouldn't allow a backdoor to be able to bring a claim into the registry. So I will be supporting this amendment.

**The Chair (Mr. David Oraziotti):** Any further comment?

**Mr. Randy Hillier:** I'll have to say, usually I feel all this discussion and debate that goes on here is of little value. I'm glad to see that all that lengthy discussion on Conservative motion 9.4 has finally borne some fruit with the government deciding to introduce a similar motion. Of course, it's not as clear-cut as Conservative motion 9.4, but it is certainly far better than what was there before, and I will be supporting it.

**The Chair (Mr. David Oraziotti):** Seeing no further comment, all those in favour? Carried.

We'll move to our next motion, Conservative motion 9.5. Mr. Hillier.

**Mr. Randy Hillier:** I move that subsection 29(3) of the Mining Act, as set out in section 12 of the bill, be struck out and the following substituted:

“Land transferred or vested

“(3) Despite any other provision of any act or regulation, no mining claim shall be staked or recorded upon any land transferred to or vested in any public or private party without the written consent of that party.”

And I'll just speak to that.

**The Chair (Mr. David Oraziotti):** Go ahead.

**Mr. Randy Hillier:** If you look at subsection 29(3), the heading is “Land not open for prospecting without consent of commission.” It says, “No mining claim shall be staked or recorded upon any land transferred to or vested in the Ontario Northland Transportation Commission without the consent of the commission.”

The Conservative motion that we're proposing grants that same legal protection that is afforded to the Ontario Northland Transportation Commission to all others. Right now, under this bill, Bill 173, Ontario Northland has a special privileged status and position under the act. Nobody can explore or stake on their property without their consent. It's what we would expect. But that concept and that principle ought not to be applicable only to Ontario Northland. Of course, it should be applicable to every owner of property. Here, we're setting up a

condition that we struck down in common law over 800 years ago. Neither prince nor pauper is above or beneath the law. Here we're saying, yes, Ontario Northland has got and will have a special privilege that will be enjoyed by no others except themselves. This motion 9.5 extends it so that the same concept and principles of law are applicable to all owners of property.

**The Chair (Mr. David Oraziotti):** Thank you. Mr. Bisson, go ahead.

**Mr. Gilles Bisson:** I wouldn't mind, either from the parliamentary assistant or counsel from the ministry, understanding why even that subsection (3) is needed, because under 29(1)(e) it talks about no railway lands. It says "on any land that is railway land," you can't stake a claim. So why are we naming the commission specifically when there's already a general statement that you can't stake a claim on lands that are used for a railway? I'm just curious.

**The Chair (Mr. David Oraziotti):** Mr. Brown?

**Mr. Michael A. Brown:** This amendment just repeats what is in the present act. What we're trying to do here is to ensure that the Ontario Northland Transportation Commission is treated—Mr. Hillier is right; it's treated differently than any other landowner. I'll make a couple of points, though, first. One—

**The Chair (Mr. David Oraziotti):** Mr. Brown, can you just lower the microphone, please, so we can pick you up better? Thanks.

**Mr. Michael A. Brown:** Sure. One of those, of course, is that in southern Ontario, the right to stake has been taken back, has been withdrawn, so there is no conflict between the private landowner's surface rights and the mining rights that may go with the property, because the rights have been withdrawn unless that landowner specifically asks the minister to do something about that. In northern Ontario, it's the reverse situation, where a landowner or owner of the surface rights may ask the minister to withdraw the mining rights.

So we are just treating the ONTC, which has been around for about 100 years—I'm not exactly sure—in a way that seems to make sense for a crown corporation.

**The Chair (Mr. David Oraziotti):** Mr. Bisson?

**Mr. Gilles Bisson:** I don't argue the point. I think there's good reason why you want to make sure nobody stakes a claim on a railway bed. I don't have a problem with that. But it doesn't answer my question. It's a bit of a moot point, but isn't the Ontario Northland already protected under clause 29(1)(e)? I just want to understand. Maybe counsel can answer.

As counsel makes her way up, I'd just remind committee that section 29(1) says, "No mining claim shall be staked or recorded except with the consent of the minister." It goes on to spell out which ones are the ones that you can't stake; (e) says, "on any land that is railway land," and it goes on to talk about switching grounds and rights of way and all that kind of stuff. Ontario Northland is a railway company, so would they not be covered by (e)?

**Ms. Catherine Wyatt:** It's Catherine Wyatt.

**The Chair (Mr. David Oraziotti):** Thank you.

*Interjection.*

**Mr. Gilles Bisson:** You have a different issue; I realize that.

**The Chair (Mr. David Oraziotti):** Let's try to just get through one question at a time. Go ahead.

**Mr. Gilles Bisson:** Thank you, Chair.

**Ms. Catherine Wyatt:** The lands would be presumably railway lands.

*Interruption.*

**Mr. Gilles Bisson:** That is making a lot of noise, whatever that is. There's something making a huge noise; I can't hear. Try again, please.

**Ms. Catherine Wyatt:** Yes, the ONTC lands, they're with railway lands. It's not reflecting any kind of change. This is the way it was set up in the act to begin with, and we just carried that over, frankly, from the way it was in the existing act.

**Mr. Gilles Bisson:** So that (3) was in the original act and you're just leaving it there?

**Ms. Catherine Wyatt:** If you look at the original act—

**Mr. Gilles Bisson:** I don't have it, unfortunately.

**Ms. Catherine Wyatt:** Okay. In 29, it had that no mining claim could be staked out or recorded upon any land vested in the Ontario Northland Transportation Commission without the consent of the commissioner. So we just really carried it over.

**Mr. Gilles Bisson:** Moved it over. But they would be covered under (e), though, right? I really don't care, but I just want to understand. They would be covered.

**Ms. Catherine Wyatt:** Yes, I would think so. It just changes who gives the consent—

**Mr. Gilles Bisson:** Okay. I'm not going to make a big deal about it. It just seems to me it's more language in a bill than you need. Sometimes the best bills are the ones with the least amount of words.

**Mr. Randy Hillier:** To Mr. Bisson's comments, in the first part of the bill, it talks about where there are railway lands. Now, Ontario Northland owns more land than just railway lands, so they are protected from their rail beds being staked in the first part, but this broadens out their legal protection on all lands owned by Ontario Northland, not just those rail beds that he referred to.

It's also a requirement, from the way I see it, because in all that first part of restricted lands, somebody can indeed stake those lands inadvertently and still get permission. That's the motion that we just passed, 9.4.1. So if somebody stakes land on Ontario Northland property inadvertently, they can still apply to the minister to have that claim validated. However, this next section says, "No mining claim shall be staked or recorded upon any land transferred to or vested in the Ontario Northland...." So I'm not sure which is which. Maybe the PA or someone from the ministry could explain, now that 9.4.1 has been adopted, if somebody stakes a claim inadvertently, who has the authority to make that claim valid or not: Ontario Northland or the minister? I'm confused. I'm sure many others are also confused about that.

**Mr. Michael A. Brown:** I'm going to ask for a little help. I would suggest, though, that in any event, there may be a way to—when we're talking about an inadvertent staking, we're not talking about the entire area that's staked being recorded. What we're talking about is an inadvertent part of that; at least that's my understanding. In the example I gave the other day, when we were talking about an airport, I believe, where the stake happened to be a couple of metres more than it should have been and it was just a mistake, then the minister could recognize the claim. But the claim wouldn't be the airport; it would have been the area outside of the airport. It maybe would include the—well, I'd better get some legal help on this, but the intent is just to fix an inadvertent mistake. In the case of ONTC, you've got me. I'm not exactly sure, so I'd better defer to legal counsel here.

**Mr. Randy Hillier:** Well, let me just—that's right. Under the existing act, if somebody stakes a claim on property that is restricted, that claim is invalidated and they have to go out and restake their claim and get it validated on property that is open for mining. Under Bill 173, and now with the way amendment 9.4.1 is, the person may inadvertently make a claim on restricted lands, and the claim on those restricted lands can be adopted and approved by the minister—and now we add another wrinkle to it—unless it's on Ontario Northland's property. Then we're just bedevilled, I guess. I'd like to have some clarification.

**Ms. Catherine Wyatt:** Could you just say which question—

**Mr. Randy Hillier:** Who has the authority to determine if that claim is valid or not: the minister or Ontario Northland?

**Ms. Catherine Wyatt:** It's actually an interesting question you raise when we look at this. What—

**Mr. Randy Hillier:** Again, the legislation is supposed to provide clarity to those who are engaged in the activity.

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**Ms. Catherine Wyatt:** Subsection 29(2), which we were just talking about, refers back to subsection (1). That would allow the minister to give consent to small portions of land inadvertently staked that are listed in 29(1), and yes, that does include railway lands. When we get to 29(3), dealing with the ONTC, that gives the ONTC the right to—

**The Chair (Mr. David Oraziotti):** Ms. Wyatt, a little bit louder if you could. Thank you.

**Ms. Catherine Wyatt:** That gives the ONTC the right to consent. So there's an interesting question there as to whether the ONTC could consent, the minister could consent or neither of them could consent. There's no specific allowance for the ONTC to do it. There is a specific provision for the minister to do it with respect to railway lands generally. So it's unclear, just off the top of my head, which one of those would prevail.

**The Chair (Mr. David Oraziotti):** Mr. Brown?

**Mr. Michael A. Brown:** I would suggest, though, that a minister of the crown that the ONTC, at least at the moment, is responsible to under the legislation—this could be worked out. I don't think this is one of the great issues of our time.

**The Chair (Mr. David Oraziotti):** Mr. Bisson?

**Mr. Gilles Bisson:** I think Mr. Hillier raises basically the same point I was raising in the amendment we just did. I really believe that the government didn't do this by purpose; it's just one of the things that happens when you draft legislation. You never really get it right. That's what committee hearings are all about, and that's why we're at clause-by-clause.

I think the issue is, and I agree with Mr. Hillier, that if we're trying to provide clarity, that particular section may never be used—I'll agree with the parliamentary assistant—but it might. And if there's ambiguity—that's the way it struck me, and that's why I was asking earlier, "Well, isn't it covered under the previous section?" It struck me as a bit of a back door to who, at the end of the day, actually has authority.

I would suggest that we take a few seconds just to draft a very quick little amendment to make sure that, at the end of the day, it's the minister who has the authority to do the work that needs to be done. I don't think it would be all that hard to fix, and you still get what you want.

**Mr. Michael A. Brown:** May I suggest we stand down this particular amendment while we do that, and move on?

**Mr. Gilles Bisson:** That's a good idea.

**Mr. Randy Hillier:** Again, I just want to add, before we stand that down—that is just one interesting element that we've proposed here—that this is what happens when we create legislation that creates benefits and privileges to certain classes or groups or individuals. We are always going to run into these problems if one property owner is granted special privileges that others are not.

My amendment puts that same value as has been granted to Ontario Northland, that same recognition and stature, within law to all owners. I think we should all be able to agree that, whether I own property or the parliamentary assistant owns property, we have the same rights to our property, and that a business owned by us collectively—and Ontario Northland is owned collectively by the people of this province—ought not to enjoy added benefits that we as individuals cannot enjoy. That's really the crux of this, and this is where we run into difficulties in legislation, when we treat a collective ownership in a higher regard than the individuals who own that collective group.

I still believe that what needs to be done is not to grant Ontario Northland any greater or lesser position in law than you and I as individuals.

**The Chair (Mr. David Oraziotti):** The question was, are we going to put this motion aside until we deal with—are we going to read the other motions or come back to this one? We can't deal with this whole section.

We can go to number 10 and then come back to this section once we've dealt with all the amendments in this section and move on. Are we in agreement on that—

**Mr. Randy Hillier:** No, I'm not in agreement. You've asked to stand down on this one part about how to grant the minister authority over Ontario Northland. That's not the intent of this motion. The intent of this motion is indeed to treat people with equal protection of the law.

**The Chair (Mr. David Oraziotti):** What I'm hearing from you, although the suggestion was made and it would seem to be seconded over there, is that you're concerned that this be voted on now or discussed now—

**Mr. Randy Hillier:** Well, I don't want to lose the discussion of the intent of the motion by standing it off. If I have some level of comfort that the government, when we stand down, will look at changing Bill 173 in this respect, with more than just giving ministerial approval—

**The Chair (Mr. David Oraziotti):** Mr. Bisson, do you want to comment on this?

**Mr. Gilles Bisson:** Just to be helpful, what I think we've got now is an agreement on the part of the government to take a look at part of the issue that you raised. We can still talk about the larger issue when we get back. We just move on to the next amendment, and once we've dealt with that, we can come back and continue the discussion. I think it's a reasonable offer on the part of the government. You won't lose your ability to debate your particular issue.

**The Chair (Mr. David Oraziotti):** Are you in agreement, then?

**Mr. Randy Hillier:** Yes.

**The Chair (Mr. David Oraziotti):** Let me just clarify for everyone: Are we going to deal with the next amendment in this section and go on to the section following, or are we going to come back to this as the last amendment in this section?

**Mr. Gilles Bisson:** My suggestion, if the ministry is not ready to get back to us at the end of this next amendment, would be that we not vote on that particular section; we move on to the next and come back later.

**The Chair (Mr. David Oraziotti):** Right. We're in agreement? Okay. Let's set this aside.

NDP motion 10. Mr. Bisson, go ahead.

**Mr. Gilles Bisson:** I move that the following section be added after section 30 of the Mining Act, as set out in section 12 of the bill:

“Aboriginal community request

“30.1(1) An aboriginal community may withdraw from prospecting and exploration any area in which it has an interest by writing to the minister in the prescribed form.

“Claims staked prior to withdrawal

“(2) A claim staked in an area withdrawn under subsection (1) remains valid if it was staked before the withdrawal was made.

“Consent from aboriginal community

“(3) Once a mining claim has been staked, no exploration or mining activity may take place on the claim

without prior consent from the aboriginal communities that are affected.”

I think it speaks for itself. I'm hoping that we have some support here. First Nations who came—let's just back up. What the government is trying to do, supposedly, from what they have said in the intent of this legislation, is to provide a framework by which everybody knows what the rules are. I'm not going to argue that the current Mining Act doesn't work because I've always argued that it does, but clearly we need to be able to strengthen the rules so there's clarity as to what the rules are if I'm going to go do some prospecting and eventually do some exploration and bring a mine into production.

Currently there are, very unfortunately, situations in different parts of the province where First Nations have decided they don't want to have development in that particular area because of aboriginal interest, burial grounds, whatever it might be, and/or they're just not ready, and what ends up happening is a confrontation such as we saw this summer in KI and previously in other places.

Ninety-nine per cent of First Nations want development. I think everybody knows that and has heard that from First Nations. What this amendment does is it just says that it's up to the First Nation to make that decision. If they say that there's an area that is sensitive, it's a burial ground, whatever it might be, they're able to identify it and notify the minister that it needs to be withdrawn. It's a way of making sure that First Nations get the comfort that they need, which allows the clarity to happen to deal with their concerns.

**The Chair (Mr. David Oraziotti):** Thank you. Mr. Brown, go ahead.

1430

**Mr. Michael A. Brown:** I would just suggest the bill already has a provision to allow for the withdrawal of lands with aboriginal cultural significance, and we anticipate that the communities will identify those lands. The bill also includes provisions for consulting aboriginal communities regarding exploration plans and permits on claims to ensure their concerns are considered prior to undertaking exploration activities. The approach is consistent with the direction being provided by the Supreme Court of Canada.

**Mr. Gilles Bisson:** I take it you're referring to section 30?

**Mr. Michael A. Brown:** I'll have to look for the section, but probably.

**Mr. Gilles Bisson:** Section 30 deals with what's identified in the land use plan, which would be part of that—and also on a reserve, which is a whole different issue. This, I think, goes a bit beyond that, because who knows what the land use plan may or may not be? Maybe there won't be any at all, depending on what happens in the legislation that precedes this one after we're done in committee here. So what was clear in the presentations that we had from NAN and Treaty 3, Robertson Superior and others who came before us to present was that that

was one of their concerns. They wanted to make sure that this be made very clear and not in any way have any shadow of a doubt. So I'm just looking for an explanation from the ministry. I take it you're talking about section 30, partly. Right? Because you referred to it has dealt with other sections of the bill—and possibly section 30(14) as well.

Just for members of the committee who are new, trying to make amendments to any legislation at best can sometimes get kind of technical, and it's my belief that you need to take the time to look at this stuff properly so that we don't end up with any errors in the drafting of the bill that will cause us trouble down the road.

I'm trying to buy some time for the parliamentary assistant to—I'm ragging the puck here so that you can find the section that you're looking for.

**The Chair (Mr. David Orzietti):** You're being most helpful, Mr. Bisson.

**Mr. Gilles Bisson:** I am. I'm always a helpful guy.

**Mr. Michael A. Brown:** You're always very helpful. Thank you, Mr. Bisson.

I would draw your attention to page 6 of the bill, section 14:

“Withdrawal of lands

“(1) The minister may, by order signed by him or her, withdraw from prospecting, staking, sale and lease any lands, mining rights or surface rights that are the property of the crown, and the lands, mining rights or surface rights shall remain withdrawn until reopened by the minister.

“Factors to consider

“(2) In making an order under subsection (1), the minister may consider any factors that he or she considers appropriate, including,

“(a) whether the lands, mining rights or surface rights are required for developing or operating public highways, renewable energy projects or power transmission lines or for another use that would benefit the public, whether the order would be consistent with any prescribed land use designation that may be made with respect to the far north and whether the lands meet the prescribed criteria as a site of aboriginal cultural significance; and

“(b) any other factors that may be prescribed.”

**Mr. Gilles Bisson:** I read that, and I agree that the minister can do that. The issue here is our amendment that says the First Nation would have the right. I'm reversing it. I'm saying that once the minister has been notified, my amendment that I'm putting forward would give the ability for the First Nation to say, “We identify this particular part of land as not being able to be staked,” and upon receipt by the minister, then it would be withdrawn. It's not a “the minister may” and the First Nation is left knocking at the door, because it may or may not be in a land use plan. We may not have land use plans for many years to come. So it's a way of dealing with some of the issues that we have today—although I understand what you're saying. You are giving the minister the ability to withdraw lands that are culturally significant to First Nations or others. I understand that.

This just makes the decision of what's to be withdrawn with the First Nation, not necessarily just the minister.

Again, I say 99% of communities want mining. It's no different than Timmins or Sudbury or Red Lake. Those communities want mining because they understand it means jobs and it means prosperity to their communities—same thing for First Nations. But I think what First Nations want is that there's some respect. Nobody is going to do exploration underneath a cemetery in Timmins; they just wouldn't do it. First of all, they wouldn't have the authority under the Municipal Act. This would give First Nations an ability to have more authority about what can happen on their traditional territories.

**Mr. Michael A. Brown:** I would just remind my friend that the staking of a claim on these lands does not allow for any activity until there's a consultation held with the First Nations community. So the staking is quite separate from any activity occurring on the land other than the actual staking. There can be no exploration; there can be no development. As you know, you have to do those things or you cannot keep the claim valid.

You and I both know, because we're from that part of the world that knows something about prospecting, that the last thing you want to be doing is telling the world that you think there's gold in them thar hills, as they say.

**Mr. Gilles Bisson:** Or them thar swamps.

**Mr. Michael A. Brown:** Or them thar swamps, right. By its very nature, it's quite a secretive undertaking where you don't want to tell the world about what you intend to be doing.

I think the First Nations' ability to control what development may be there, possibly—because staking doesn't mean anything is actually going to happen—is in those stages after the staking has occurred. So I think it's in the interest of First Nations communities, although I don't presume to speak for them, to see as much prospecting activity happening, and this would do that. After that, if they do have concerns, then the rest of the stages of bringing the claim to lease are there, if you follow me. I think that is the intent of the legislation.

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

**Mr. Randy Hillier:** I'd like just a little clarification from Mr. Bisson. In the reading of the bill right now, the First Nations communities are offered that protection under subsection 30(g), where it says lands that are “located in the far north, if a community based land use plan has designated the lands for a use inconsistent with mineral exploration and development.” Mr. Bisson, are you suggesting that that not be applied strictly to the far north, but to all First Nations communities throughout the province?

**Mr. Gilles Bisson:** Yes, it would be for First Nations across the province.

**Mr. Randy Hillier:** Across the province. Right now, like I said, under the act, the First Nations in the far north have that level of protection, so extend it.

**Mr. Gilles Bisson:** That's the other issue, exactly.

**Mr. Randy Hillier:** Now, what about in places where—because you’ve got in subsection 3 that once a mining claim has been staked, no other exploration or mining activity may take place on the claim without prior consent from the aboriginal communities that are affected. Where lands are not well identified—I’ll just talk about my area, for example, in Frontenac and North Lanark, where there isn’t a land claim happening right at the moment but there’s a sovereignty claim that affects land. How would that affect—

**Mr. Gilles Bisson:** See, first of all—I guess you could call it kind of the De Beers clause. De Beers decided early on it wasn’t going to do anything unless it had consent from the First Nations community. That move on the part of De Beers allowed them to get the agreement that they needed in order to get that diamond mine up and running. If they had not done that, there would have been protest after protest after blockade. We would still be blockading the winter road to the Attawapiskat community. I really believe that, because the problem is that if you don’t give some clarity as to what the rules are and what’s going to happen at the end, all kinds of conspiracy theorists come out of the woodwork saying there’s not going to be any development.

So what I’m trying to get at in this—and you were right to point out that the way the legislation is written now, if you were to pass the Far North Act and if the First Nations community actually had a control on planning, northern communities in the far north would actually have a say about what happens, but it doesn’t do anything for First Nations communities outside of the far north. So part of what I’m trying to get at here is to say that if you give First Nations a say about whether, first of all, exploration is supposed to take place in their community, it then creates an onus for people to come to an agreement about what that exploration should look like, and, should you find a mine, what are the benefits for the local community. So for a community in your riding or a community in my riding—it might be Attawapiskat or any First Nation in your community—this would basically make clear that the mining proponent has to make a deal with that community.

They don’t have the protection of the Municipal Act, as the cities of Sudbury, Timmins and others have. People living in municipalities have far better protection as far as if they’re going to get benefits because of the Municipal Act and a whole bunch of other things. This would just put First Nations on a more equal footing. Currently there’s absolutely nothing. We’ve seen where companies have gone in, they’ve staked and they’ve tried to do things without the consent of the community, and everybody’s been up in arms. What we’re trying to do is provide some clarity.

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

**Mr. Randy Hillier:** I understand and I agree with the intent here, but we also heard from so many communities that came before the committee where there were not First Nations or aboriginal communities who had well-

defined areas. We saw different communities having overlapping jurisdictions or overlapping claims of usage on properties. I’m just wondering if this is going to improve it or make it worse.

**Mr. Gilles Bisson:** Well, on that particular point it will make it the same. This doesn’t deal with overlapping claims to somebody’s territory. There may be two native communities that are both claiming, “This territory is mine.” “No, it’s mine.” It ain’t gonna deal with that. All this does is make clear that once a First Nation has decided that it doesn’t want mining in a particular part of their territory, it can be removed. Then the mining company knows; it doesn’t have to play around. You wouldn’t have the KIs of this world going on in what we’ve seen, or the Ardochs up in your area. It would make clear where you’re able to stake, and then, if you’ve got the ability to stake, you go out and stake and you do exploration according to the legislation. It’s a much clearer way of doing business.

As it is now, it’s pretty confusing. I’m dealing with some up in the riding just south of me, in Mr. David Ramsay’s riding, where there is some exploration up in the Wahgoshig area. This is an issue. We need to clarify the rules so that at the end, we know what the heck the rules are: Here’s where you can go, here’s where you can’t go, and where you can go, you know what the rules are and you go forward. Where you can’t, you stay away.

**The Chair (Mr. David Oraziotti):** Any further comment? Mr. Hillier?

**Mr. Randy Hillier:** I see value, and again, we have a treaty having that same principle applying not just to the far north, but to others. Again, there’s that basic principle of equality before the law and equal protection of the law.

**The Chair (Mr. David Oraziotti):** Are members prepared to vote on the amendment?

**Mr. Randy Hillier:** I’ll ask for a recorded vote, if there’s no more discussion.

**The Chair (Mr. David Oraziotti):** Okay, a recorded vote is called for.

**Mr. Randy Hillier:** And I’ll ask for a 20-minute recess.

**The Chair (Mr. David Oraziotti):** A 20-minute recess has been called for. The committee is in recess.

*The committee recessed from 1445 to 1505.*

**The Chair (Mr. David Oraziotti):** Okay. Members of the committee, we have in front of us NDP motion number 10. There was a recorded vote called for on this motion.

#### Ayes

Bisson, Hillier.

#### Nays

Brown, Jaczek, Kular, Mangat.

**The Chair (Mr. David Oraziotti):** The motion is lost.

That concludes the amendments in section 12, with the exception of 9.4.1, which we have agreed to set aside for the time being.

We'll move to NDP motion number 11. Mr. Bisson.

**Mr. Gilles Bisson:** I move that section 35 of the Mining Act, as set out in subsection—

**The Chair (Mr. David Oraziotti):** Hang on a second. Sorry, Mr. Bisson, my mistake here.

Section 13: There are no amendments. I have to ask for a vote on section 13. All those in favour of section 13? Opposed? Section 13 is carried.

Section 14: NDP motion number 11. Go ahead, Mr. Bisson.

**Mr. Gilles Bisson:** Okay, 13 was repealed. I get what you're getting at.

I move that section 35 of the Mining Act, as set out in subsection 14(1) of the bill, be amended by adding the following subsection:

“Rock collecting

(1.1) Lands withdrawn under the act remain open, despite the withdrawal, to persons who collect rocks as a hobby.”

This refers to an interesting presentation—I believe it was in Chapleau; I forget what community it was—

**Mr. Michael A. Brown:** It was Thunder Bay.

**Mr. Gilles Bisson:** Was it Thunder Bay?—where a particular individual who's the president, I believe, of the rock collectors' association of Ontario worried that the Mining Act, as written, would preclude rock collectors from being able to collect rocks in places that are specified in this act as being off-limits for exploration; for example, any crown land which has been withdrawn in southern Ontario, mining lands that might be withdrawn as spelled out in the bill. All this does is it clarifies it. In fact, rockhounds, as they're called, would have the ability to go out and collect rocks for the purpose of rock collections.

**The Chair (Mr. David Oraziotti):** Any further comment on this motion?

**Mr. Michael A. Brown:** Yes, it was a very interesting conversation we had. I believe it was one of the few that was an audio presentation, if I remember, and it was a very important addition to what we were talking about. But Bill 173 is not intended, in any way, to inhibit the activities of rockhounds. The ministry has already a very extensive policy on dealing with rockhounds, and we'll be continuing to work away at it. The definition of rockhound, I guess, would be the problem: What's a rockhound and what's a prospector? We're content to leave it at the policy stage, but want to assure those people that are pursuing the hobby that there's no intention within the Mining Act revisions here to do anything that will cause them to do anything differently in the way they proceed.

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

**Mr. Randy Hillier:** Well, the proper name for the rockhound association of Canada was the Central Canadian Federation of Mineralogical Societies, and it was a

fellow by the name of Robert Beckett. We didn't hear him very clearly because it was an audio, but in his presentation he was significantly concerned that those activities that he and his membership engage in would be prevented down the road under Bill 173. What he said was, “Subsection 18(1), if left as stated in the current amendment, would contradict the Ontario mineral collecting policy and place unreasonable restrictions on most of the general public and severely restrict anyone from pursuing hobby mineral collecting or studying practical geology and mineralogy in the field. It would also have a significantly negative impact on mineral natural-resource-based tourism in many areas of the province, such as those in the Bancroft and Haliburton areas, that rely on the millions of dollars in mineral tourism brought to the areas each year.” I've been to Haliburton and Bancroft, and rockhounding is big business up there.

**1510**

I'm a little bit surprised. It's a very reasonable approach that Mr. Beckett took in just identifying and making a definition for that hobby collection of rocks. If we go to 18(1), I'm just very surprised that the government hasn't brought in their own amendment to clearly identify that. I know we're talking here, and I'm in full agreement, that it's not the crown's intention to limit rockhound activities, but it should be identified in there and there should be clarity—because you and I are not going to be sitting in an MNDM office issuing exploration permits down the road. We're not going to be the adjudicators of decisions, and our intentions here today with regard to rock collecting aren't identified anywhere in the bill.

**Mr. Michael A. Brown:** We were pretty much on the same page here. It's about definition. But I will be clear. First, we're talking about a very small amount of private land to which staking rights are being withdrawn, so that's less than 1.4% of the land in southern Ontario. So that's what we're talking about. We would not agree that all of that is suitable for rockhounding. There will be cultural sites, there will be archaeological sites, there will be religious sites on that private land, so a carte blanche kind of “We would permit” is kind of problematic.

On the other hand, we think this is a valuable hobby that should be pursued and should be continued. We think, at least at this point, that we could overdefine this and cause, unintentionally, more problems than we're going to solve here, Mr. Hillier. We have no intention of making rock collecting as a hobby something that we are out to prosecute. This is not the intention of the government, and we do have policies surrounding it. So it works on the rest of the 98.6% of the land that already is private land.

**Mr. Randy Hillier:** I don't think this has anything to do with private or crown land. This group has identified that the way the legislation is written up in 18(1), 19(1) and a few other places, their hobby will be restricted on all lands, and I think that they already recognize they just can't go on private property and collect rocks, that they

would be subject to the trespass act. This is on all other lands, so crown lands. They want to have a level of comfort that they can continue in their hobby. As I said earlier, I'm sure the government is not interested in prosecuting rockhounds for undertaking their activity; however, like I said, you and I and the people in this committee will not be out enforcing this legislation. We're crafting the legislation to give guidance to those who do enforce it so that they understand what it is that we expect them to do. The act does not identify or define what a rock collector is. It says that no person shall prospect on crown lands or stake out or record or apply without a prospector's licence, and we know what all is involved with getting a prospector's licence.

People involved in tourism in the Bancroft area, we're not going to subject them—we ought not to be subjecting them to a prospector's awareness course and getting a licence. It ought to be clear. I think Mr. Bisson has come up with a good, sensible—just adding in there persons who collect rocks as a hobby. As I said, I'm really surprised that the government didn't bring that amendment in themselves after listening to Robert Beckett.

**The Chair (Mr. David Oraziotti):** Mr. Bisson, go ahead.

**Mr. Gilles Bisson:** Again, just to make it clear: I think Mr. Hillier pointed out what I was trying to get at. The amendment says “land withdrawn under the act,” and we're specifically talking about those crown lands that have been withdrawn in southern Ontario. That's the way that this is intended to be written—or lands that may be withdrawn further to the Far North Act, right?

So the concern is that there would be activity going on on some of those lands that somebody may be doing some rockhounding on. Again, as Mr. Hillier pointed out, if I don't want, as a private property owner, somebody to trespass on my property, I have recourse under other legislation to stop them from getting access. What this does is just makes it clear that if we withdraw crown land from any particular prospecting, we still allow those rockhounds to go in and do what they do best. Again, we didn't get into calling them rockhounds, because then we would have to change the definition clause—to your point. That's why we said “anybody who collects rocks as a hobby.” So I see this as an amendment just to make clear that we're not going to stop rockhounds from going in to pick up the odd pebble, odd rock on a shoreline somewhere in southern or northern Ontario that they use for their collection.

**The Chair (Mr. David Oraziotti):** Mr. Brown, further comment? No? Seeing none, NDP motion—any further comments to add on the motion on the floor?

**Mr. Randy Hillier:** Again, we are all legislators here. Our purpose here is to craft up legislation so that the bureaucracy and the courts have a good, clear guideline of what the legislation is there for, and we're leaving this completely open. We're not giving them direction at all.

Listen, I've seen, first-hand, enforcement and application of legislation, and I'll tell you very clearly that the people who are enforcing that legislation do not search

back and look for the parliamentary assistant's intention of what they are enforcing. They look at the legislation that they're enforcing. And the legislation is silent about rockhounds. It's clearly open that somebody involved who wants to go up and collect rocks in Bancroft, there could be a time when somebody from MNDM or whoever else says, “Listen, you can't go out and collect those rocks unless you do a prospector's awareness program and get a prospector's licence, because that's what the legislation says—no prospecting on any lands unless you've got that prospector's licence.” I think we should—that's our role and our responsibility here—provide clarity to the people who are going to be enforcing this legislation.

**The Chair (Mr. David Oraziotti):** Any further comments on NDP motion 11?

**Mr. Randy Hillier:** Recorded vote.

**The Chair (Mr. David Oraziotti):** Recorded vote.

**Mr. Randy Hillier:** A 20-minute recess.

**The Chair (Mr. David Oraziotti):** Okay, 20 minutes has been asked for. We return at 3:40. The committee is in recess.

*The committee recessed from 1520 to 1540.*

**The Chair (Mr. David Oraziotti):** Okay, committee, NDP motion 11 is on the floor. A recorded vote has been called for.

#### Ayes

Bisson, Hillier.

#### Nays

Brown, Jaczek, Kular, Mangat.

**The Chair (Mr. David Oraziotti):** The motion is lost. Mr. Hillier?

**Mr. Randy Hillier:** I'd like to just take a moment of your time and put something on the floor here. We've been at this committee now in clause-by-clause for a while—it's actually, I believe, the fourth day, about 10 hours—and the only member from the Liberal side who seems to have any opinions on any of the amendments to this bill is the parliamentary assistant, Mr. Brown. He's the only one who has said anything on any of the amendments. I'd like to move that Mr. Brown be given the proxy votes for all the other Liberal members of the committee so that we can continue discussing this bill, and they can be freed up to pursue other work that may be more productive. So I'd like to move a motion that Mr. Brown be given the proxy votes for all other votes pertaining to amendments of Bill 173.

**The Chair (Mr. David Oraziotti):** Mr. Hillier, members of the government need to be here to vote. It's a bit of an odd request. I could ask the clerk to follow up on whether or not that's even possible, but it appears to me that the members of the government side are here and are voting on the motions that are before us.

**Mr. Randy Hillier:** Yes. As I said, we've been engaged in the discussion and the debate, but we've only heard from one member of the Liberal side. I think this will just recognize that the other members of the committee can go off and do something productive, that they're not engaged in the discussion of the debate. We would accept Mr. Brown's vote as voting for all members of the committee on the Liberal side.

**The Chair (Mr. David Oraziotti):** I hear your comments. It's up to members of the government side whether they wish to comment on particular motions or not, but the motion that you've got before us is out of order. It's not possible. Members have to be here to vote.

With that, we're going to move on to the NDP motion that's the next item of business, 11.0.1. Go ahead, Mr. Bisson.

**Mr. Randy Hillier:** What standing order is that?

**The Chair (Mr. David Oraziotti):** The clerk has indicated to me that he'll get you the exact standing order for that.

**Mr. Randy Hillier:** Thank you.

**Mr. Gilles Bisson:** Can we just come back to this, then? We can come back to this when you come back with the standing order? Thank you. I think it's a fascinating motion. He's being very efficient.

**The Chair (Mr. David Oraziotti):** Are you asking—

**Mr. Randy Hillier:** Listen, we're all involved with constituency work, and there are lots of things that people need to be involved with. This is putting everybody's time to the most productive use.

**The Chair (Mr. David Oraziotti):** You're asking for a recess? Is that what you're asking for?

**Mr. Gilles Bisson:** No, no. I'm just waiting for the clerk to come back. I'm ready for my amendment, Mr. Chair.

**The Chair (Mr. David Oraziotti):** Go ahead.

**Mr. Gilles Bisson:** I move that subsection 35(2) of the Mining Act, as set out in subsection 14(1) of the bill, be struck out and the following substituted:

"Factors to consider

"(2) In making an order under subsection (1), the minister may consider any factors that he or she considers appropriate, including,

"(a) whether the lands, mining rights or surface rights are required for developing or operating public highways, renewable energy projects or power transmission lines or for another use that would benefit the public;

"(b) whether the order would be consistent with any prescribed land use designation that may be made with respect to the far north;

"(c) whether the lands are considered by aboriginal communities to be sites of aboriginal cultural significance; and

"(d) any other factors that may be prescribed."

I'm going to try to make this really simple. If you read the current wording of the bill, all I'm really doing here is breaking it up a little bit so it's easier to read, because right now it runs as one big long paragraph under (a). I'm just helping our legislative counsel learn a little lesson on

how you can draft things to make it easier to read for members and the public.

But I am adding something: I'm adding (c). The only thing that's different in this amendment—everything else is basically the same—the only addition is whether the lands are considered by aboriginal communities to be a site of aboriginal cultural significance. Again, that goes back to the point that I made earlier. It makes it clear that it's the First Nation that decides if there is a piece of land that happens to be a burial ground or other culturally significant ground, that it's not a process that they undertake with "the minister may or may not." It's a question that they notify and the minister withdraws.

**The Chair (Mr. David Oraziotti):** Thank you. Mr. Brown, would you care to comment on that?

**Mr. Michael A. Brown:** Yes. The member is correct: The proposed amendment would leave the identification of sites of aboriginal significance totally at the discretion of aboriginal communities instead of establishing the criteria for these sites in regulation. So I would suggest to the member that that's what we really want to do: establish the criteria for these sites in regulation, and the government bill, as drafted, permits that.

**The Chair (Mr. David Oraziotti):** Thank you, Mr. Brown—

**Mr. Gilles Bisson:** Excuse me; I'm just conferring with the clerk. I really apologize. The clerk was giving me an explanation on the previous issue, and I apologize, Mr. Parliamentary Assistant. If you could yet again explain?

**Mr. Michael A. Brown:** What the government seeks to do is to establish criteria for these cultural sites in regulation. So it's the criteria we want to establish, and from that flows what sites will be designated.

**Mr. Gilles Bisson:** Again, I guess I'm coming at it from a different perspective than the government. I just go back to the point that if you give First Nations the ability to decide what's going to happen on their traditional territories, there is going to be an incentive for them to open up territory for staking and for exploration.

I look at the communities within my particular riding—and I imagine it would be the same in most communities across Ontario—and they want to have development. They're not interested in living in poverty, as we have now. The case has been proven by projects such as the Victor mine up in Attawapiskat, the Musselwhite project up in the northwestern part of the province, where First Nations did agree, came to a conclusion that they wanted to have development, and negotiated an impact benefit agreement that benefited the members of those communities.

So I'm confident that at the end, what you're all going to get here is that you're going to build the comfort that's necessary for First Nations to understand that they have a say, and they will then have the incentive to be able to identify those lands that are significant: burial lands and others, as they are in our communities. I don't think that this will do anything but just make clear—in the end, it will, I think, give an incentive for First Nations to

identify those lands that are culturally significant so that they can allow development to go forward.

**Mr. Michael A. Brown:** The government's view is that we will consult with the First Nations, Metis groups and other aboriginal groups in the development of the criteria, but what I don't think any of us would want is an unstructured and undefined site identification proposed. It would lead to great inconsistencies across the board and could lead to even more uncertainty amongst aboriginal communities and stakeholders alike.

**Mr. Gilles Bisson:** Again, I don't want to lengthen the debate, but there have been far too many examples where things have happened on traditional territory without the consent, first of all, let alone sometimes the knowledge, of the First Nation; for example, Peawanuck. Peawanuck had a park that was created in and around it that basically bars the community of Peawanuck from traditional access to those lands. So Polar Bear Provincial Park was created, I believe, under Alan Pope, who was my predecessor back in the 1970s—maybe the late 1970s, early 1980s. When they created that park, it was done without the consent of the First Nation. Where are we today? That community can't even build a winter road out of their community. The only way that they can access their community is to either fly, take the barge or go around the park. They have tried, on a number of occasions, to work with the MNR and the parks people to get permission, to get land use permits to be able to cross the park so they can have a physical connection by winter road to Fort Severn and eventually out to Manitoba, and they can't get it.

So my point is, what happened there was done without their consent; it was done without their knowledge, initially. What we need to do is kind of reverse this thing around so that they're given the authority to decide what's going to happen on their traditional territories.

Listen, 99.9% of the lands that we talk about in the far north are undeveloped territories—99.999%. We've done a fairly good job—and they've done a fairly good job, in the thousands of years that they've been there—to protect it. So my point is that we need to make sure that First Nations understand and have the authority to continue protecting those lands. Development will happen, but they will just set the conditions by which that development is to take place.

**Mr. Michael A. Brown:** Well, that's exactly the point. The point is that the government will consult with First Nations and Metis groups in the development of the criteria to protect those sites. I think we're talking about the same thing, other than that we believe there needs to be criteria to define those sites or what would be a site so it's consistent across the crown lands.

**Mr. Gilles Bisson:** I agree there needs to be criteria. It's a question of who you want to establish the criteria. Should it be the province that decides what the criteria is vis-à-vis traditional lands and culturally significant areas or should it be the First Nations? I guess that's where the difference is. I agree with you, there needs to be some form of criteria, and that's what land use planning will

give you in the end. But if the ultimate decision to start the process and to finalize the process is the crown's, I can tell you, there are 100-plus years of history where we can show examples of where the crown did not properly consult and, as a result, infringed on traditional territories to the detriment of those First Nations communities.

I think what you're trying to do in this bill is the right thing: to set a framework by which there's clarity so that the mining industry, the prospectors and the explorationists understand what the rules are—I fear that we're not going to be there at the end of this legislation, the way it's going—but clearly one of the tenets of that is to make sure that in the far north and other places, the First Nations have a real say about what happens on their territory.

Nobody can go on my land out at Kamiskotia Lake and stake a claim or do exploration without my permission. That's the law of the land. Nobody can walk into the city of Timmins and decide that they're going to explore or do development without the consent of the community. My point is, why would we treat First Nations differently?

**The Chair (Mr. David Oraziotti):** Mr. Hillier, further comment?

**Mr. Randy Hillier:** Under Bill 173, right now you're talking about criteria. But what it says—this is under 14(2)(a)—is, “prescribed land use designation that may be made with respect to the far north and whether the lands meet the prescribed criteria as a site of aboriginal cultural significance.” So when the minister takes these factors into consideration, we're saying again that's only in the far north, because it says “and whether the lands” after “the far north”—and we don't know what the criteria are. I guess I'm going to hear the point that those will be developed through regulations, but there are no criteria established under Bill 173. It just says the minister will take that into consideration. We're not sure what it is.

So I think the third party's amendment provides that clarity, again, of whose criteria it is going to be and that it applies to all First Nations and aboriginal communities, not just the ones in the far north, as the act now states. We have to be very clear that the words reflect the intention. What we're hearing from the government side is not reflected in the words within the act. Unless the government has another amendment to come through, this is a good, sensible, reasonable amendment that adds clarity and consistency—that all First Nations and aboriginal communities would be treated in the same fashion and that their criteria will be used to establish sites of cultural significance.

**The Chair (Mr. David Oraziotti):** Thank you.

**Mr. Gilles Bisson:** Recorded vote.

**The Chair (Mr. David Oraziotti):** Recorded vote.

**Mr. Michael A. Brown:** Just very quickly, Mr. Bisson's amendment here does not speak to criteria at all. What it says is that an aboriginal community can just define the land. That would, in our view, lead to—the inconsistencies from one aboriginal community to another

of what they consider to be cultural significance could obviously be a problem, could obviously create uncertainty, could obviously do all of the things that we don't want to happen.

What we're saying is this act allows us, the government, to consult with First Nations and find criteria that describes these cultural areas of significance. I think the government's approach is far superior to the one that Mr. Bisson is offering, but that's a difference of opinion.

**The Chair (Mr. David Oraziotti):** Anything further?

**Mr. Randy Hillier:** Well, again, of course the act isn't allowing government or allowing—you used the word “allow”—the minister to consult. The minister is always allowed to consult and doesn't need special legislation to do that. What the act says is that he or she will take these factors into consideration. If the land is in the far north and it meets a prescribed criteria that is unknown at the moment, then he can withdraw it. Both the existing legislation and the proposed amendment don't speak to the criteria that we're talking about. Your argument is a little empty. What is the criteria?

**Mr. Michael A. Brown:** That's what we're about to define through consultation.

**Mr. Gilles Bisson:** I'm not going to hold this up because it's pretty clear I'm going to lose the amendment. I don't want to just slow the process down for the sake of doing so, but I just want to say—

**Mr. Michael A. Brown:** Oh?

**Mr. Gilles Bisson:** Listen, I have not been slowing this process down; you guys can say what you want. I've raised amendments. In fact, there's been some movement on the part of the government, on the part of a couple of amendments that you've now redrafted and brought your own. I think it's been a constructive process for all.

But I just want to make the point that it's a difference of point of view about who should be doing the definition. That's really where I think we're at odds here. I agree with you, as I said, that there needs to be some form of criteria about how this happens so it's not just that somebody decides one day that they're going to change the methodology on a whim. But I do believe that the First Nation has to be leading that process because there have been far too many examples in the past where the province has done it, and their best interests were not protected.

**The Chair (Mr. David Oraziotti):** Okay. You had earlier indicated that you wanted a recorded vote on this.

**Mr. Gilles Bisson:** Yes, I did.

**Mr. Randy Hillier:** And we'll take a 20-minute recess.

**The Chair (Mr. David Oraziotti):** A recorded vote has been called for, and a 20-minute recess—back at 4:18. The committee is in recess.

*The committee recessed from 1558 to 1618.*

**The Chair (Mr. David Oraziotti):** Okay, members. The motion before us is NDP motion 11.0.1. A recorded vote has been called for.

## Ayes

Bisson, Hillier.

## Nays

Flynn, Jaczek, Kular.

**The Chair (Mr. David Oraziotti):** The motion is lost. We'll go to Conservative motion number 11.1. Mr. Hillier.

**Mr. Randy Hillier:** Thank you. There is a slight wording change, so I'll read this out with the revised wording.

I move that subsection 35(2) of the Mining Act, as set out in subsection 14(1) of the bill, be amended by adding the following clause:

“(a.1) except when the rights are with respect to mining rights for lands for which there is a private surface rights owner;”

There was some incorrect drafting on that.

**The Chair (Mr. David Oraziotti):** Do you want to read that one more time, just to make it clear for everyone?

**Mr. Randy Hillier:** I move that subsection 35(2) of the Mining Act, as set out in subsection 14(1) of the bill, be amended by adding the following clause:

“(a.1) except when the rights are with respect to mining rights for lands for which there is a private surface rights owner;”

**The Chair (Mr. David Oraziotti):** Okay, I think we're clear on that. If you want to add some explanation to the motion, go ahead.

**Mr. Randy Hillier:** Subsection 14(1): Again, we're talking about withdrawal of lands, and we've gone through a number of these criteria and what can be withdrawn. This clarifies it and respects some of the concerns that were raised during the committee hearings, that private surface rights owners have the ability to determine what actions and activities happen on their lands.

There's one here from—and this is again reaffirming those property rights. OREA was one of the first ones to bring this up in the committee hearings in Toronto, and what OREA said was: “First, OREA notes that the purpose of Bill 173, as set out in section 2, does not mention or affirm the rights of surface rights owners. Therefore, we strongly recommend that section 2 be amended to include wording that recognizes and affirms the rights of surface rights holders, as has been done for aboriginal and treaty rights.”

There's a whole host of areas where we've heard about this through our committees and listening to many people who made deputations to the committee that we need to strengthen the rights of property owners. That's what this amendment speaks to: those withdrawals. I'll also go back to our previous discussions of—was it the last day? I believe it was the last day when I mentioned that the minister still has the authority, under this present Bill 173, to withdraw his withdrawals. That's in section 4

of the same thing—14(4). This withdrawal of mining activity on surface rights owners can, indeed, be withdrawn again. So we need to strengthen this so that private property owners are not left to the whim of whatever minister comes in and whatever policy they may determine at that time.

I'll just read this from subsection 14(4), "Reopening of lands." Section 14, of course, talks about the withdrawal of lands; 14(4) is the reopening of lands: "The minister may, by order signed by him or her, revoke all or part of a withdrawal order made under subsection (1) and reopen for prospecting, staking, sale and lease any of the lands, mining rights or surface rights or parts of them withdrawn under this section."

So are we going to protect those private landowners and respect their property rights, or are we just going to leave it to whatever the minister may decide at any time?

**The Chair (Mr. David Oraziotti):** Any further comment on this motion, 11.1? Mr. Brown.

**Mr. Michael A. Brown:** The proposed subsection is out of place, as withdrawals and reopenings apply only to crown mineral rights, not privately patented lands that include mineral rights. The bill already includes a scheme for withdrawing and reopening crown mineral rights on private lands in northern and southern Ontario. Property owners would determine whether their land could be reopened to staking.

As for subsection (b), municipal plans do not apply to provincial crown land within municipalities. Municipal official plans do not prevent mineral claim staking or exploration activity because it's not considered a land use. If an actual mine were to be developed on private land within a municipality, the land would have to be zoned for that use. Municipal plans are developed using provincial policy statements under the Planning Act. The provincial policy statement requires a planning body to apply all the relevant policies it contained in the statement regarding provincial priorities, which include the protection of mineral resources. The mineral resource policy does not trump any other planning policy. So we will not be supporting the amendment.

**Mr. Randy Hillier:** Let me just clarify here: It says, under subsection 14(1), "The minister may, by order signed by him or her, withdraw from prospecting, staking, sale and lease any lands, mining rights or surface rights that are the property of the crown...." When there is a surface-rights-only owner, the mineral rights are owned by the crown. They shall remain withdrawn until reopened by the minister. Then it lists a whole bunch of things. In it, it also says, in subsection (4): "The minister may, by order signed by him or her, revoke all or part of the withdrawal order made under subsection (1)...." So if I own my piece of property and the crown owns the mineral rights and I'm in southern Ontario, it says that the mineral rights are withdrawn from exploration, and then it says they can be reopened—not with my consent, not with the owner's consent, other than the owner of the mineral rights, which is the crown. So this is the back door to the back door with the government policy here:

telling everybody that they're withdrawing the mining from private lands, but then giving the back door in subsections (1) and (4) that those withdrawals can be withdrawn.

Is it the government's intention to protect private property—the peaceful use and enjoyment of people and their properties—or is it not? Is it the government's position—this appears to be just posturing with all the wiggle and all the weasel that we've got in here. We're telling everybody that they're going to be able to have peaceful use and enjoyment of their property in southern Ontario, but we can change our minds any time we want. That's what the act is saying.

**The Chair (Mr. David Oraziotti):** Thank you, Mr. Hillier. Mr. Bisson?

**Mr. Gilles Bisson:** I'll just add that, technically, Mr. Hillier's right: The crown has withdrawn those lands from staking, no question, but at any time the crown can revert and put them back in. I think that's the point that you're trying to make. If you're taking them out, take them out.

Now, there are two sides to that argument. There are some who would argue that you would want to leave the crown with the authority to do so, and there are those who say no, you should strictly just respect the property owner. There are two sides to that one. I think you make a valid point.

**Mr. Randy Hillier:** Well, we've heard the government's words that they're going to address the concerns of that 1.4% of private landowners in southern Ontario. The government has said that they are going to respect their peaceful use and enjoyment by withdrawing staking and exploration on those private lands where the crown owns the mineral rights.

**Mr. Michael A. Brown:** That's true.

**Mr. Randy Hillier:** And then you've got subsection (4) that says, "Forget everything I said. I'm going to continue to retain ownership and be able to exercise full ownership over those mineral rights." It can't be squared. Either you're going to respect those private landowners and their peaceful use and enjoyment or you're not, and this is saying that you're not.

**Mr. Michael A. Brown:** Mr. Hillier, the government is going to withdraw the staking rights that belong to the crown at present from staking private lands. That's what's going to happen.

**Mr. Randy Hillier:** Then why have subsection (4) in there?

**Mr. Michael A. Brown:** Subsection (4) would permit, within extenuating circumstances, I would guess—I can't even think of one. But there may be the opportunity to—we've had people who wanted to reunite their private lands with the mineral rights. There may be reasons to do that. I shouldn't presume what a private landowner should want to do with his or her own land.

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**Mr. Randy Hillier:** You're missing the point.

**Mr. Michael A. Brown:** I don't think so.

**Mr. Randy Hillier:** Absolutely. This would be all solved if, instead of withdrawing the ability to stake and then leaving that back door open, the government in Bill 173 said, “We are going to reunite the crown mineral rights that are excepted or alienated from surface rights owners.” If the crown did that, there would be no questions. It would be reunifying those conflicting rights back to the proper owner of those mineral and surface rights. Instead of doing the right thing and reunifying those mineral and surface rights, you’re talking about appeasing these people by withdrawing but keeping the door wide open to withdraw that withdrawal.

**Mr. Gilles Bisson:** Can I ask a question of Mr. Hillier? I just want to understand. If you did reunite the crown mining rights with the property landowners who have relinquished those rights some years ago—probably not themselves, probably the previous owners—are you saying that, in fact, then it would take some form of permission? It would allow, then, anybody who has private land to allow staking on their private land.

**Mr. Randy Hillier:** Absolutely.

**Mr. Gilles Bisson:** With permission.

**Mr. Randy Hillier:** Absolutely. It’s the same as how we treat the 98.6% of people with private land now. If, on my piece of property, I own the mineral rights and somebody wants to explore and stake on my property, they’d need my consent. Let’s give the same consideration, the same protection and the same respect of the law to that 1.4% of land that is off limits.

**Mr. Michael A. Brown:** I’m going to ask if legal counsel, Ms. Wyatt, could help us out here.

**The Chair (Mr. David Oraziotti):** Of course.

**Ms. Catherine Wyatt:** I think there’s some confusion here between what is section 35 of the bill and 35.1 of the bill. Section 35 is that general withdrawal power that we’ve been talking about in these recent motions. The part about the reopening that Mr. Hillier’s referring to cross-references back to 35(1), which is one of those general-type withdrawals that can be undone by a reopening.

If you look at section 35.1, that is the provision which deals with the automatic withdrawal of lands from staking in southern Ontario and the withdrawal of lands in northern Ontario on application.

The reopening that you’re concerned about in section 35 does not apply to 35.1, that automatic withdrawal of lands in southern Ontario. They cannot be undone and reopened in that manner.

The way of reopening, as set out in the bill now, is set out in subsection 35.1(8). I believe there may be a motion to amend this, but for the time being in Bill 173, if you look at subsection 35.1(8), you will see that where the mining rights have been withdrawn under subsection (2), which is southern Ontario, or have been withdrawn under subsection (5), which would be the northern Ontario application, then a surface rights owner may apply for an order to open those lands again.

The statute has actually spelled out that the only way to reopen in those cases is by the surface rights owner

asking for it. Perhaps that might clarify some of the confusion.

**Mr. Randy Hillier:** It says right here in 14(1) that these lands will be withdrawn, and then there were factors to consider, and of course it goes on to other things. But this is exactly what I’m speaking about: where the crown owns the mineral rights, and that’s what it stipulates in 14(1). Right?

**Ms. Catherine Wyatt:** Yes.

**Mr. Randy Hillier:** Then it goes on to say that any of those lands that have been withdrawn can be reopened by the minister. It goes on to give further differences between southern Ontario and northern Ontario, but right at the beginning it says that those lands can be withdrawn.

My amendment goes right back to number (1), that we add in a statement there, “except with respect to mining rights for lands for which there is a private surface rights owner.” Then the minister can’t withdraw the withdrawal.

**The Chair (Mr. David Oraziotti):** Any comments?

**Mr. Michael A. Brown:** I’ll just try again here. If you look at subsection (8), it says, “If mining rights have been deemed withdrawn under subsection (2) or have been withdrawn by order under subsection (5), a surface rights owner”—a surface rights owner—“may apply to the minister for an order opening the mining rights for the lands or any part of them....” So the surface rights owner may apply. That’s who can apply, nobody else: the surface rights holder.

**Mr. Randy Hillier:** It says the surface rights owner may also do that, but that doesn’t dismiss number (4).

**Ms. Catherine Wyatt:** Subsection (4), which you’re referring to, refers back, in turn, to a withdrawal that has been made under 35(1). It does not refer to a withdrawal that has been made automatically under 35.1. You can’t sort of cross-read those sections. This would apply to an order that had been made for a withdrawal under 35(1).

If you want to find out what happens to those automatic withdrawals in southern Ontario, you go to 35.1, the following section, and that says what happens when it’s an automatic withdrawal. The way for it to be reopened is only as set out in (8), where the surface rights owner requests it to be reopened. It’s a different kind of withdrawal under a different section of the act.

**Mr. Randy Hillier:** Section 14 applies. It says, “Subsections 35(1), (2), (3) and (4) of the act are repealed and the following substituted....” So right at the beginning it lays things out. It also says that the lands in southern Ontario will be deemed to be withdrawn. There’s nothing in there that says that the first part of 14 doesn’t apply—nowhere.

**The Chair (Mr. David Oraziotti):** Okay, I think we’ve heard the comments from both sides on this issue. Conservative motion 11.1 is on the floor. I don’t see any further comments, so we’ll vote on the motion.

All those in favour of the amendment 11.1—

**Mr. Randy Hillier:** Could I have a recorded vote?

**Ayes**

Bisson, Hillier.

**Nays**

Brown, Flynn, Jaczek, Kular, Mangat.

**The Chair (Mr. David Oraziotti):** The motion has been lost.

Conservative motion 11.2, Mr. Hillier.

**Mr. Randy Hillier:** We're back right into the same one. We'll read it again.

I move that the following subsection be added after subsection 35(4) of the Mining Act, as set out in subsection 14(1) of the bill:

"Same

"(4.0.1) Subsection (4) does not permit the minister to reopen lands for staking, sale or lease,

"(a) if the lands are privately owned;

"(b) if the lands are designated in a municipal official plan for a use that is incompatible with mining."

**The Chair (Mr. David Oraziotti):** Any further comment on that? Mr. Bisson.

**Mr. Gilles Bisson:** Just on the (b) part of the amendment, I had a similar amendment that I believe I put forward. I'm not sure if I have or haven't, but it speaks to that same issue in regard to making sure we respect municipal official plans. That was a whole issue that we heard during the time in committee, and I can support that.

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**The Chair (Mr. David Oraziotti):** Any further comment?

**Mr. Randy Hillier:** Here again, from Maria Harding—she represented the municipality of Shuniah, in the district of Thunder Bay, in her presentation to the committee. She went on to say, "To really protect the environment and private landowners' rights, the act has to be able to address the following issues." And she talks about private land ownership, which is clause (a) of my amendment. In her presentation it says, "Fourthly, the legislation shall ensure that within an organized municipality the land use planning process precedes any mining activity and that a statutory prohibition on prospecting, exploration or mining in areas that are covered by an official plan, which lies within the Planning Act, is subject to a public consultation process with municipal councils and affected landowners."

That's the message that was being heard and that's what this amendment proposes: It "does not permit the minister to reopen lands for staking, sale or lease,

"(a) if the lands are privately owned;

"(b) if the lands are designated in a municipal official plan for a use that is incompatible with mining."

Again—and I don't know how many times I've said it—the purpose of Bill 173, the whole purpose of reopening the Mining Act, was to eliminate the conflicts. We're not there. We haven't done a very good job.

This same member of the municipality went on to say, "Private landowners in northern Ontario should have the same rights as those in other parts of the province. The legislation gives the First Nations the right to say no to prospecting on traditional lands, a right they should have. Why can't these same rights be given to private landowners who do not own mineral rights on their respective lands?"—furthering on with that recognition of equality that ought to be in the legislation.

**Mr. Michael A. Brown:** I think we've dealt with the issue of private lands. But I'll repeat this: Municipal official plans do not apply to prevent mineral claim staking or exploration activity, which are not considered a land use.

**Mr. Randy Hillier:** What was that last part that you said?

**Mr. Michael A. Brown:** Here, I'll do it again: Municipal official plans do not apply to prevent mineral claim staking or exploration activity, which is not considered to be a land use. If an actual mine was to be developed on private land within a municipality, the land would have to be rezoned for that use. So in other words, if you were actually going to or wished to open a mine on private land, then you would have to comply with the official plan and zoning. Municipal plans are developed using the provincial policy statement under the Planning Act. The provincial policy statement requires a planning body to apply all the relevant policies contained in the statement regarding provincial planning priorities, which includes the protection of mineral resources. The mineral resource policy does not trump any other planning policy, so they need to be considered.

I think that answers your question—I hope.

**Mr. Randy Hillier:** This should be so simple for the government side to understand. Really, I find it difficult that we've been debating and discussing these concepts so much, that the Mining Act ought to respect these—we know right from the beginning that this act does not protect municipalities or does not reunify private mineral rights with surface rights owners. So we're trying to strengthen that protection that has been talked about, and we're not getting there. We've seen and heard from so many—municipalities, private landowners, different groups, associations, OREA—and I guess it's just falling on deaf ears.

If we want to prevent conflicts down the road, we ought to be having it clearly identified. You're saying that if somebody opens up a mine, they would have to be in compliance with the official plan, right?

**Mr. Michael A. Brown:** On private land.

**Mr. Randy Hillier:** Okay. So you can go out and explore and do anything you want, and the municipality has no say, under Bill 173 and under the present act. We know that exploration is all acceptable, except for in the far north; that will be dealt with in a different fashion. Exploration won't be allowed unless it fits in with the land use plan. So you're saying that somebody can go to all that expense of doing exploration work, without municipal partnerships participating in decision-making,

but then if they do find something, then they do need to get municipal authority, right?

**Mr. Michael A. Brown:** On private land, you would require the approval of the—

**Mr. Randy Hillier:** For the mine.

**Mr. Michael A. Brown:** —municipal official plan and zoning. Yes, you would. You're right.

**The Chair (Mr. David Oraziotti):** Okay. Is there any further debate on this matter? Mr. Hillier? Motion 11.2: anything new to add to the discussion on this issue?

**Mr. Randy Hillier:** No.

**The Chair (Mr. David Oraziotti):** Okay. We'll vote on 11.2. All those in favour? All those opposed? The motion is lost.

Next item is 11.3. Mr. Hillier, go ahead.

**Mr. Randy Hillier:** I move that section 14 of the bill be amended by adding the following subsection:

“(3) Subsection 35(5) of the act is repealed.”

Subsection 35(5) of the act now states:

“Working on behalf of crown

“(5) The Lieutenant Governor in Council may direct that the mines and minerals in lands, mining rights or surface rights, or in any part thereof, withdrawn under this section may be worked by or on behalf of the crown.”

Under Bill 173, that clause remains. It says—again, this is just inconsistent with the act, with Bill 173: “in lands ... or in any part thereof, withdrawn under this section may be worked by or on behalf of the crown.” That should be struck out. If your arguments are indeed correct, then there is no need to have subsection (5) in there.

**The Chair (Mr. David Oraziotti):** Mr. Brown, go ahead.

**Mr. Michael A. Brown:** This section is existing in the present legislation, and we are prepared to support your amendment.

**Mr. Randy Hillier:** Oh.

**Mr. Gilles Bisson:** So what are we striking out—35(5)?

**Mr. Randy Hillier:** Subsection 35(5).

**Mr. Gilles Bisson:** That's the northern Ontario one?

**Mr. Randy Hillier:** No.

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**Mr. Gilles Bisson:** What page are we at? Excuse me.

**Mr. Randy Hillier:** It's in the original—

**Mr. Gilles Bisson:** I don't have the original bill with me; that's the problem. I should have brought it with me. So what are they striking out?

*Interjection.*

**Mr. Gilles Bisson:** Yes, okay.

**The Chair (Mr. David Oraziotti):** Any further comments on this motion? Any further comments on 11.3? Seeing none, all those in favour of 11.3? All those opposed? Carried.

Section 14: Shall it carry, as amended? All those in favour? Carried.

Conservative motion 11.4: Mr. Hillier.

**Mr. Randy Hillier:** I move that subsections 35.1(2), (3) and (4) of the Mining Act, as set out in subsection 15(1) of the bill, be struck out and the following substituted:

“Southern Ontario

“(2) For lands where there is a surface rights owner and the mining rights are held by the crown, the mining rights shall be transferred to the owner of the surface rights, and that transfer shall be deemed to have taken place at the time when the lands were originally alienated from the crown.

“Limited extension of rights to minerals under private land

(3) Despite subsection (2), any mining claims, mining leases or licences of occupation with respect to minerals that are owned by the crown under privately owned land that exist on the day this section comes into force shall continue until the end of the fifth year after this section comes into force or until the expiry of those claims or leases, whichever is sooner.

“Same

“(4) No extension shall be granted for any mining claim, mining lease or licence of occupation after the expiry of the period described in subsection (3) unless on the date of expiry a mine is in substantial operation under the mining claim, lease or licence.

“Transfer to the landowner

“(5) If a mining claim, mining lease or licence of occupation reverts to the crown, the minerals shall be transferred to the owner of the surface rights and the transfer shall be deemed to have taken place in fee simple at the time when the lands were originally alienated from the crown.”

It's a lengthy one, but again, let me try to—we'll start with the first: southern Ontario. First off, we're saying to transfer those mineral rights that are held by the crown now on private lands, to put them back into the hands of the surface rights owner.

Subsection (3) is a recognition that there may be mining claims and leases on crown minerals on private property. That's recognizing that those claims are still valid and still legitimate, but that they have a time frame and that they will expire after five years, unless—in subsection (4)—there is a mine in substantial operation. This is just ensuring that business has a safe and certain and predictable business environment.

Finally on subsection (5), if, after that period of time, the occupation or the mining lease reverts to the crown, the minerals at that time will be transferred to the owner of the surface rights and it will be deemed to have taken place when they were originally alienated from the crown.

That, I believe, is what the minister and the government have set out to try to achieve: the peaceful use and enjoyment of private property that the amendment speaks to, and that makes for the allowance if there is already exploration work going on on private lands where the crown owns mineral rights.

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

**Mr. Michael A. Brown:** Just briefly, the bill includes provisions to withdraw crown mineral rights from private lands in order to respect the rights of private property holders that do not own the mineral rights to the land. The government policy direction does not contemplate divesting crown mineral rights to private landowners or forcing claim or lease holders to relinquish their mining lands. So this is not going to be retroactive, I guess, is what that really says.

**Mr. Randy Hillier:** No, we're not talking about retroactive. Again, if you look at the present wording in Bill 173, it talks about existing mining licences and leases in southern Ontario with respect to surface rights owners. It says here that any existing "mining claims, mining leases or licences of occupation for mining rights existing on the day this section comes into force shall not be affected by the deemed withdrawal under that subsection and shall remain open for prospecting, sale or lease." What I'm suggesting here is that we put a time frame for that. Right now, there is no time frame. That can continue on indefinitely under Bill 173—the exploration on private property.

**The Chair (Mr. David Oraziotti):** Any further comments? Mr. Bisson.

**Mr. Gilles Bisson:** I partly support what Mr. Hillier's trying to do, but I need legislative counsel or the lawyers from the ministry here just to understand something. If you actually did that in communities like Timmins and Sudbury where there is a lot of private land to which they don't own the mineral rights—those mineral rights are actually owned by the crown—you could end up in a situation where some property owner somewhere may decide not to allow any development to happen within that community, and I think his amendment deals with an existing—

**Mr. Randy Hillier:** Southern Ontario.

**Mr. Gilles Bisson:** No—

**Mr. Randy Hillier:** It's just dealing with southern Ontario right now.

**Mr. Gilles Bisson:** Okay. Thank you. I withdraw. The technical question, then, is—no, never mind. It's a northern Ontario application.

**The Chair (Mr. David Oraziotti):** Okay. Motion 11.4, any further discussion?

**Mr. Randy Hillier:** I'd like to see the answer. If there is a mining claim on right now, on private land, where the crown owns the mineral rights, they are not part of this withdrawal under the present bill, right?

**Mr. Michael A. Brown:** That's correct.

**Mr. Randy Hillier:** And there is nothing in there to initiate them to be part of the withdrawal. Is that not what the government is looking to do, to withdraw that exploration on private property in southern Ontario?

**Mr. Gilles Bisson:** Only that which is crown.

**Mr. Michael A. Brown:** I'm confused, so we'll maybe ask somebody who—I'm confused by the question.

**Mr. Gilles Bisson:** My understanding, just in fairness to Mr. Hillier, is that it would be that the crown is not

affecting people who currently own private land and own mineral rights. The only way the policy applies is where it's crown land.

**Mr. Randy Hillier:** No, no.

**Mr. Gilles Bisson:** Well, then I don't understand.

**Ms. Catherine Wyatt:** Yes, I'm not sure I understand the question myself. The idea is that where there is a withdrawal in southern Ontario and people own the surface rights but not the mineral rights, and where somebody already has a mining claim or a mining lease in place, they're allowed to continue that tenure.

**Mr. Randy Hillier:** That's right.

**Ms. Catherine Wyatt:** And what I understand your amendment to be doing in subsection (3) is to put a five-year limit on a lease or a claim, and it would just end then, if it hadn't already terminated.

**1700**

**Mr. Randy Hillier:** That's right. If there's not a mine in operation, or substantially in operation, within five years. Because, under Bill 173, if that person keeps that claim open—

**Mr. Michael A. Brown:** Which requires certain steps.

**Mr. Randy Hillier:** Yes, which requires—well, or payments in lieu.

**Mr. Michael A. Brown:** We'll deal with that later.

**Mr. Randy Hillier:** We'll deal with that after. But it will probably pass, I would think, that one.

**Mr. Michael A. Brown:** It's similar to the existing provision in the act, just in case you're wondering.

**Mr. Randy Hillier:** But anyway, let's not get side-tracked too far here. If there is private land where the crown owned mineral rights and somebody has a claim on that land, or a licence, as long as he keeps that licence open and as long as he continues to make payments or do work, that land will never be withdrawn. There's no mechanism in the bill to withdraw that land.

What I'm suggesting here, under the second paragraph, is that there would be an end date for that claim, unless they actually found something and started mining.

**Mr. Michael A. Brown:** Just so I can be clear with this, are you suggesting that after five years, you confiscate—

**Mr. Gilles Bisson:** —your mining rights.

**Mr. Michael A. Brown:** —the mining rights from a legitimate owner? That's what you're talking about. Is that what you want to do?

**Mr. Randy Hillier:** I want the mineral rights to revert back to the surface rights owner, who had them taken away from him in the first place.

**Mr. Michael A. Brown:** No, no.

**Mr. Randy Hillier:** And that's—no, no, listen: If the claim has got potential within five years and if a mine gets developed, then of course you can't. But are we going to allow the claim to remain open indefinitely and not ever provide that surface rights owner with the same protection that we're talking about in Bill 173?

**Mr. Michael A. Brown:** Just to be clear here, the mineral rights owner—

**Mr. Randy Hillier:** —is the crown.

**Mr. Michael A. Brown:** —is the crown. But someone has the mineral rights staked. He or she or the company, or whoever it is, is doing the required work under the Mining Act to keep this open. You want to confiscate that from the person who is doing what he or she or the company is doing today.

**Mr. Gilles Bisson:** No, that's not what I understood.

**Mr. Randy Hillier:** No, it's not—

**Mr. Michael A. Brown:** The crown would confiscate it, then.

**Mr. Randy Hillier:** The crown owns it. The crown can't confiscate from itself, right? The crown owns the mineral rights. It is under licence to an exploration or prospector to do activities. I'm saying if that person has not found something in five years and created a mine, then that claim becomes invalid. It has an end date. It's not a case of confiscation. It's an end date for their permitted licence.

**Ms. Catherine Wyatt:** It would, however, also include mining leases, I understand, which is a 21-year lease, so that would be taken away after five years as well.

**Mr. Randy Hillier:** Unless there was demonstrated activity, a mining—

**Mr. Michael A. Brown:** But they are.

**Mr. Randy Hillier:** No. I've put in here, "unless on the date of expiry a mine is in substantial operation." That's what I'm suggesting. But let's go right back to the very first paragraph of that, where I'm saying that "the mining rights shall be transferred to the owner of the surface rights." Where the crown owns the mineral rights underneath private property, that we transfer that ownership back to the rightful owner and then we have the mechanism in place to recognize and respect legitimate claims that are in place right at the present time.

**The Chair (Mr. David Orazietti):** Mr. Bisson, would you like to add to the discussion?

**Mr. Gilles Bisson:** I don't want to add to the discussion; I'm trying to understand it.

**Mr. Michael A. Brown:** You and me both.

**Mr. Gilles Bisson:** I respect what you're trying to do, but I'm not quite clear that this is going where you want. If I understand your sub (3), what that does—(2) gives you back the mineral rights that are now owned by the crown as a private landowner. Sub (3) says that if you don't do anything with the land for five years, then it reverts to the crown.

**Mr. Randy Hillier:** No.

**Mr. Gilles Bisson:** "Despite subsection (2), any mining claim, mining leases or licences of occupation with respect to minerals that are owned by the crown under privately owned land that exist on the day this section comes into force shall continue until the end of the fifth year after this section comes into force or until the expiry of those claims or leases, whichever is sooner."

**Mr. Randy Hillier:** Sooner, yeah.

**Mr. Gilles Bisson:** So what happens after the fifth year?

**Mr. Randy Hillier:** Then they revert to the private landowner in number (2), for "Lands where there is a surface rights owner and the mining rights are held by the crown."

**Mr. Gilles Bisson:** Okay. Let's say I accept that. Now I get back to sub (2), and I think this is the one that is the real kicker: that if I currently own private land and I own the mineral rights, I have to pay mining land tax, right?

**Mr. Randy Hillier:** No.

**Mr. Gilles Bisson:** I'm looking to my friends at the ministry. So if I'm a private landowner who owns the mineral rights—it's not the crown rights; I own the mineral rights—I pay a mining land tax.

**Ms. Catherine Wyatt:** If they're used for mining purposes.

**Mr. Gilles Bisson:** But there are some who are paying, we heard at committee—

**Ms. Catherine Wyatt:** Yes. There is a small group where, depending on how the original crown patent was obtained, they may be paying mining land tax, yes.

**Mr. Gilles Bisson:** That's right. But there are people who own private land, who own mineral rights and who pay a mining land tax. Wouldn't this have the danger of putting them in a position of having to pay mining land tax on land to which the mineral rights are then reunited? As I've been listening to this debate—

**Mr. Michael A. Brown:** It can't be property tax—

**Mr. Randy Hillier:** No, but let me add some clarification there. If you have the mineral rights—

**Ms. Catherine Wyatt:** In theory, but to be clear, it would only be in that—again, you would have to be going back to the original patent, depending on what it said.

**Mr. Gilles Bisson:** To the original patent, exactly. It wouldn't be every property owner.

**Ms. Catherine Wyatt:** I'd have to double-check that, but the fact that the mining rights have been severed at some point may also make a difference. The fact that they had been severed at one point, even when they're put back together—we'd have to take a look at that.

**Mr. Gilles Bisson:** Mr. Hillier, I'll give you a chance to respond, but what got me going is that the mining rights "shall be transferred to the owner of the surface rights, and that transfer shall be deemed to have taken place at the time when the lands were originally alienated from the crown." So if I have land that would be normally subject to land tax because of the way that the mining rights were severed, I could be paying mining land tax back to 1930, 1920, 1952, if it happens to be that class of land. That's the way I read it.

**Mr. Randy Hillier:** I'll add clarification. The mining tax is not applicable. It's not to be levied unless there are a couple of factors.

**Mr. Gilles Bisson:** That's right.

**Mr. Randy Hillier:** One is that it is actually being extracted; it's being developed. And also, if it is in an organized municipality, and again this amendment deals with southern Ontario, so all our properties are in municipalities here—

**Mr. Michael A. Brown:** No.

**Mr. Randy Hillier:** In southern Ontario?

**Mr. Michael A. Brown:** Some are in unincorporated municipalities—

*Interjection.*

**Mr. Randy Hillier:** Okay. Ninety-nine per cent of the land in southern Ontario is within recognized municipalities. So, land that is in municipalities is not subject to mineral tax unless there is the extraction and development of minerals, right?

**Ms. Catherine Wyatt:** Or clause 189(1)(c), mining rights in, upon or under lands in a municipality where they were patented under a statute “for mining purposes.” So it’s both, outside a municipality and inside, if the original patent was for mining purposes.

**Mr. Gilles Bisson:** That’s in the old bill, the existing one?

**Ms. Catherine Wyatt:** That’s in the existing act.

**Mr. Randy Hillier:** Okay. That’s 189?

**Ms. Catherine Wyatt:** Yes.

**Mr. Randy Hillier:** Let’s get to that page. Oh, we don’t have these—

**Mr. Gilles Bisson:** Section 189. So, that was my point—

**Mr. Randy Hillier:** So that would be a small portion. It would have to be in unorganized territories and where lands were patented out for mining purposes, right? Then they would be subject to the mining tax, and I would say to you that if that’s the case, then they’ve already been paying the tax.

1710

**Mr. Gilles Bisson:** No, because they were—

**Mr. Randy Hillier:** Oh, that’s right. If they had reverted to the crown, then—

**Mr. Gilles Bisson:** That was my point. That’s why I sort of sat back—

**Mr. Randy Hillier:** Then I would be happy to make another amendment afterwards to exclude those properties from being subjected to an unreasonable taxation in those few cases.

**Mr. Gilles Bisson:** The point I make is, the way that this particular amendment is written, I couldn’t support it because what it will end up doing, if passed, is that there are certain lands, under 189—if you reattach the crown mining rights to the private property owner, they could end up paying mining land tax dating back to 1920, depending on when the original mining rights were relinquished. I’m sure that’s not what you want.

**Mr. Randy Hillier:** Let me just take a quick read here at 189.

**Mr. Gilles Bisson:** I’m just helping you out here. I’m trying to maintain property owners’ rights. We don’t want them to go broke.

**The Chair (Mr. David Oraziotti):** Okay, anything else?

**Mr. Randy Hillier:** Yes. I’m just reading through here: If you can give me a couple of minutes to take a peek.

**Mr. Gilles Bisson:** That’s the danger when you read legislation at night, you think of these things.

Just a quick question, to give Mr. Hillier the chance to read: Nobody really has a handle on how much land that would mean, right? Ninety some-odd per cent of private land where a person has surface rights—what’s the percentage of land to which people in southern Ontario own both the mineral and property rights? It would be fairly high, 90-something, I would think, right? In that 90-something per cent of people, farmers and everybody else, there would be a percentage of people who would be caught in this, and as I read it, there would be a whole chunk of them. So lands liable for the tax would be “all lands and mining rights in territory without municipal organization patented under or pursuant to any statute, regulation or law at any time....” That’s a whole whack of land, just in that section alone. Because a lot of those lots were given—the original patent was like 300 years ago in some cases, right? Do you follow where I’m going? It could really get messy.

I just thought I would help both the government and the Conservative caucus in this case.

**The Chair (Mr. David Oraziotti):** Thank you very much.

**Mr. Gilles Bisson:** You’re welcome. I will vote against it on that basis, was my point.

**Mr. Randy Hillier:** Section 189(c) says “all mining rights in, upon or under lands in a municipality patented under or pursuant to any statute, regulation or law at any time in force authorizing the granting of crown lands for mining purposes.” They’re subject to taxation as well.

Do we have any idea how much land would fall under that category? Do we have any idea how many—

**Mr. Gilles Bisson:** It would be a whole chunk of it. Just read the definition. The problem is that because of the way your amendment is written, it says it goes back to the original date to which the mining rights were alienated from the land.

**Mr. Randy Hillier:** They’re deemed to be. You can’t actually historically change what has happened, but we’re now deeming that they’re recognized as having always been there. So may I suggest, Mr. Bisson, if we amend that motion—

**Mr. Gilles Bisson:** Well, I was going to suggest, to move this thing along, that we can put this one aside and come back to it and you can reintroduce an amendment that does what you want.

**Mr. Randy Hillier:** Sure.

**Mr. Gilles Bisson:** I’m just trying to be helpful.

**Mr. Randy Hillier:** I’d be more than pleased to revise that amendment—

**The Chair (Mr. David Oraziotti):** Government side.

**Mr. Michael A. Brown:** Are you withdrawing the amendment?

**Mr. Randy Hillier:** No, we will stand it down and I’ll come back with some slight revision—I’m not sure.

*Interjections.*

**Mr. Randy Hillier:** I can withdraw and reintroduce a revised amendment.

**The Chair (Mr. David Oraziotti):** You can withdraw it.

**Mr. Randy Hillier:** Yes, but we're still accepting amendments.

**The Clerk of the Committee (Mr. Trevor Day):** We are still accepting amendments, so as long as we don't leave this section—

**Mr. Gilles Bisson:** I was going to say, Randy, you don't want to go there.

**The Clerk of the Committee (Mr. Trevor Day):** To return to this section, it would be unanimous consent.

**Mr. Gilles Bisson:** So the conundrum we have now is, it's either the committee as a whole wishes to set this aside—and the committee can decide to do that and come back later and allow you to reintroduce your new amendment—or there's going to be a vote on the amendment. That's kind of where we're at.

**Mr. Randy Hillier:** No, I'll let it stand and then look at bringing in a revision for that exception, should it pass.

**Mr. Gilles Bisson:** Okay, I hear you.

**Mr. Michael A. Brown:** So we're voting?

**Mr. Gilles Bisson:** I think that's what we're doing.

**Mr. Randy Hillier:** We'll vote.

**The Chair (Mr. David Oraziotti):** And then you can reintroduce another one if you're—okay.

*Interjection.*

**The Chair (Mr. David Oraziotti):** Yes, 11.4 is on the floor, a Conservative motion. All those in favour?

**Mr. Randy Hillier:** Recorded vote, please.

**Ayes**

Hillier.

**Nays**

Bisson, Brown, Flynn, Jaczek, Kular, Mangat.

**The Chair (Mr. David Oraziotti):** The motion is lost.

Okay, we're in section 15. Before we go on to government motion number 12, just on that issue, before you propose setting that aside, I wanted to remind members that we have your motion, 9.5, that was set aside in an earlier section, and I was wondering when the committee might want to deal with that.

**Mr. Gilles Bisson:** I think we're waiting for the government to come back with an amendment. That's where we're at with that one. We can probably deal with it on Wednesday, which gives them the chance to come back and think through the amendment so that it does what it is they want in the end, and we can vote on that section.

**The Chair (Mr. David Oraziotti):** Okay, that's fine. I just want to make sure that the committee is clear on who is responsible for bringing back some amendment to this motion.

**Mr. Gilles Bisson:** Good point, Chair.

**The Chair (Mr. David Oraziotti):** Government side, do you understand the request?

**Mr. Gilles Bisson:** Government motion 12.

**The Chair (Mr. David Oraziotti):** Thank you, Mr. Bisson.

**Mr. Gilles Bisson:** I just want to bring the government back to order—Lord, deleterious or what?

**Mr. Michael A. Brown:** I move that section 35.1 of the Mining Act, as set out in subsection 15(1) of the bill, be amended by adding the following subsection:

“Application to open lands

“(4.1) If mining rights have been deemed withdrawn under subsection (2), a surface rights owner may apply to the minister for an order opening the mining rights for the lands or any part of them for prospecting, staking, sale and lease and the minister may issue the order.”

**The Chair (Mr. David Oraziotti):** Any further comments, Mr. Brown?

**Mr. Michael A. Brown:** Yes. Sections pertaining to southern Ontario automatic withdrawal of mining rights are to be effective on royal assent. The bill is drafted with a single subsection, 35.1(8), and includes reopening provisions for both southern Ontario and northern Ontario, and the subsection is to come into effect on proclamation, not royal assent. To ensure that the automatic withdrawal scheme for southern Ontario is fully enabled on royal assent including the reopening authority, subsection 35.1(8) had to be divided into two and a new subsection added to the southern Ontario scheme. A subsequent motion deals with the remaining half of subsection 35.1(8) which would cover the reopening process in northern Ontario.

Why does the bill need different provisions to reopen private lands for staking in northern Ontario and southern Ontario, you ask? I knew you were going to ask that. Given that automatic withdrawals will come into force on royal assent, there needs to be a provision in place to reopen those lands if requested by a landowner. The withdrawal of crown mineral rights in northern Ontario is not automatic and is more complex. A separate section dealing with the reopening of private lands withdrawn from staking in northern Ontario could be introduced at a later time. This is basically housekeeping, when it comes right down to it.

1720

**Mr. Randy Hillier:** Can I make a comment?

**The Chair (Mr. David Oraziotti):** Yes, go ahead, Mr. Hillier.

**Mr. Randy Hillier:** I'm fully supportive of this motion, but we can see the folly of this. Because we refuse to reunite those mineral rights and surface rights, now we have to make clauses to withdraw the staking, and then we have to make further clauses to re-engage staking. If the mineral rights were complete with the surface rights, then there would be no need for any of those clauses. If an individual landowner chose to allow exploration, they would just do it. So I'll be supporting this, but I think it demonstrates the folly of the process that the government has taken in regard to Bill 173.

**Mr. Gilles Bisson:** Just quickly, I'll support the amendment, but it already does that under subsection (8) in the bill. In section 15, subsection 35.1(8), it deals with

the process for the application to put them back in. Your argument is that it would not be consistent with the date of proclamation? That's the technical argument?

**Mr. Michael A. Brown:** It's a timing thing. Yes, it's just technical.

**Mr. Gilles Bisson:** Okay.

**The Chair (Mr. David Oraziotti):** Anything further?

**Mr. Gilles Bisson:** Ready to vote.

**The Chair (Mr. David Oraziotti):** Okay. Government motion 12: All those in favour? Opposed? Carried.

Motion 13: Mr. Brown.

**Mr. Michael A. Brown:** I move that subsection 35.1(8) of the Mining Act, as set out in subsection 15(2) of the bill, be struck out and the following substituted:

"Application to open lands

"(8) If mining rights have been withdrawn by an order under subsection (5), a surface rights owner may apply to the minister for an order opening the mining rights for the lands or any part of them for prospecting, staking, sale and lease and the minister may issue the order."

**Interjection:** We're only on 13.

**Mr. Michael A. Brown:** Did I get one ahead of you?

**Mr. Gilles Bisson:** I don't know what you're—you're way ahead in the bill here.

**Mr. Michael A. Brown:** I know. I just tore right ahead.

**Mr. Gilles Bisson:** That was a sneaky move; he was trying to move ahead.

**Mr. Michael A. Brown:** I was trying very hard.

**Mr. Gilles Bisson:** That was very stealthy.

**Mr. Michael A. Brown:** Okay, we'll try it again.

**The Chair (Mr. David Oraziotti):** Go ahead.

**Mr. Michael A. Brown:** I move that section 35.1 of the Mining Act, as set out in subsection 15(1) of the bill, be amended by adding the following subsections:

"Relief from forfeiture

"(4.2) Subsection (4) does not affect any powers of the recorder or commissioner to grant relief from forfeiture or to make related orders under section 49, or any powers of the minister to revoke, cancel or annul a forfeiture or termination under subsection 185(1).

"Same

"(4.3) Where a recorder or commissioner grants relief from forfeiture under section 49 or where the minister revokes, cancels or annuls a forfeiture or termination under subsection 185(1), the mining rights are no longer deemed withdrawn under subsection (4)."

**The Chair (Mr. David Oraziotti):** Any comments?

**Mr. Gilles Bisson:** I'd like an explanation, if I could.

**Mr. Michael A. Brown:** I thought maybe you would. In southern Ontario, where there is a private surface rights holder, the bill proposes automatic withdrawal of mining rights if a mining claim forfeits. This clarifies that existing provisions in the Mining Act for relief from forfeiture would apply. So what it's doing is just clarifying that the provisions that are now present in the Mining Act for relief from forfeiture would apply.

**The Chair (Mr. David Oraziotti):** Go ahead, Mr. Bisson.

**Mr. Gilles Bisson:** Is that only as in subsection 49(1), where it talks about forfeiture as the result of an administrative error, or in all such conditions?

**Mr. Michael A. Brown:** Sorry?

**Mr. Gilles Bisson:** Section 49(1) talks about, "A recorder may by order relieve an unpatented mining claim that is subject to forfeiture as a result of an administrative error...." Right? That's what the current act talks about. It talks about how if there was an administrative error in registering the claim or registering work that was done on the claim etc., it allows you to make it whole once again. So is it only for those cases or all forfeitures of any type?

**Ms. Catherine Wyatt:** There's a reference to two sections here. One of them is 49, which you've identified as the administrative error provision. But section 185 is a general power for the minister to relieve from forfeiture.

**Mr. Gilles Bisson:** So how does this amendment treat anything different than in the drafted act? Is there something different in the act as drafted than the current act?

**Ms. Catherine Wyatt:** It's just an attempt to make clear that for the existing mining claims and leases that are on these lands, they're going to continue—the people will do work and so on on their claims—and that the existing provisions that are in for claims now elsewhere, where if it forfeits you can apply for relief from forfeiture, would be available to those people.

**Mr. Gilles Bisson:** So that's different from the current act?

**Ms. Catherine Wyatt:** Well, because there isn't this withdrawal in the current act, yes.

**Mr. Gilles Bisson:** Okay, gotcha. I understand it now. Thank you.

**The Chair (Mr. David Oraziotti):** Okay. Government motion 13, all those—oh, go ahead, Mr. Hillier.

**Mr. Randy Hillier:** Just let me see if I can get this squared. For lands in southern Ontario, if the claim is forfeited on lands that have been withdrawn, then they can cancel that forfeiture?

**Ms. Catherine Wyatt:** The person would have available to them this ability to ask for relief from forfeiture.

**Mr. Randy Hillier:** Right. And that, again, is only applicable to 15(1), which is southern Ontario lands.

**Ms. Catherine Wyatt:** It has been added to that because this withdrawal didn't happen before. The act already has these provisions for relief from forfeiture for mining claims, generally speaking, anywhere.

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

**Mr. Randy Hillier:** Can I have a recorded vote?

**Ayes**

Brown, Flynn, Jaczek, Kular, Mangat.

**Nays**

Hillier.

**The Chair (Mr. David Oraziotti):** The motion carries.

Next motion, NDP motion 14. Mr. Bisson, go ahead.

**Mr. Gilles Bisson:** I may not want to do this. I'm going to withdraw it, period. We've had further conversations on that particular amendment and we decided to withdraw it.

**The Chair (Mr. David Oraziotti):** Government motion 15. Mr. Brown, go ahead.

**Mr. Michael A. Brown:** I move that subsection 35.1(8) of the Mining Act, as set out in subsection 15(2) of the bill, be struck out and the following substituted:

“Application to open lands

“(8) If mining rights have been withdrawn by an order under subsection (5), a surface rights owner may apply to the minister for an order opening the mining rights for the lands or any part of them for prospecting, staking, sale and lease and the minister may issue the order.”

This is a follow-up to motion 12, setting out the reopening process for northern Ontario only to be effective on proclamation. So we've done it for southern Ontario; this is how it's done in northern Ontario.

Questions?

**The Chair (Mr. David Oraziotti):** Any further comments or questions?

Seeing none, all those in favour of government motion 15? Opposed? The motion is carried.

Conservative motion 15.1. Mr. Hillier, you're up.

1730

**Mr. Randy Hillier:** I move that subsection 15(2) of the bill be struck out.

**The Chair (Mr. David Oraziotti):** Would you care to elaborate?

**Mr. Randy Hillier:** Let me just get to it. Excuse me for a moment here.

Subsection 15(2) of the bill states that, “Section 35.1 of the act, as enacted by subsection (1), is amended by adding the following subsections,” and those apply to northern Ontario. The intent here is to not have the distinction; that we would treat northern Ontario property owners in the same fashion as southern Ontario property owners, that the lands would be withdrawn and that it not make that distinction between private landowners in southern and northern Ontario. So, repeal that northern Ontario section.

**The Chair (Mr. David Oraziotti):** Mr. Brown, do you want to comment?

**Mr. Michael A. Brown:** Yes. The bill proposes a different scheme for withdrawing crown mineral rights on private land in northern Ontario. It allows some level of discretion to preserve opportunities for mineral development, particularly in areas with good mineral potential. This recognizes the importance of mining to the economy of northern Ontario and the potential of northern Ontario.

**The Chair (Mr. David Oraziotti):** Any further comment on Conservative motion 15.1? All those in favour?

**Mr. Randy Hillier:** I'll have a recorded vote.

**Ayes**

Hillier.

**Nays**

Brown, Flynn, Kular, Mangat.

**The Chair (Mr. David Oraziotti):** The motion is lost. On section 15: Shall section 15, as amended, carry? All those in favour? All those opposed? Section 15 is carried, as amended.

Sections 16 and 17: Seeing no amendments, shall sections 16 and 17 carry? All those in favour? Opposed? Sections 16 and 17 are carried.

NDP notice, section 18. Mr. Bisson, would you like to speak to that?

**Mr. Gilles Bisson:** Yes. Just give me one second here. Where are we at? Excuse me.

**The Chair (Mr. David Oraziotti):** We're at section 18, the NDP notice that has been filed—

**Mr. Michael A. Brown:** He's going to vote against the section.

**Mr. Gilles Bisson:** Yes. We're just going to vote against that section. It's pretty simple.

**The Chair (Mr. David Oraziotti):** Okay. Section 18: There are no other amendments proposed. All those in favour of section 18?

**Mr. Randy Hillier:** Excuse me? Did you say section 18, there's no other amendments?

**Mr. Gilles Bisson:** We're now getting into the 18 sections.

**The Chair (Mr. David Oraziotti):** Right.

**Mr. Gilles Bisson:** All that is is just a notification we're going to vote against the section because it deals with the staking issue.

**The Chair (Mr. David Oraziotti):** Just on 18?

**Mr. Gilles Bisson:** Yeah.

**The Chair (Mr. David Oraziotti):** Mr. Hillier was referring to the next section.

**Mr. Gilles Bisson:** Recorded vote.

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

**Ayes**

Brown, Flynn, Kular, Mangat.

**Nays**

Bisson, Hillier.

**The Chair (Mr. David Oraziotti):** Section 18 is carried.

Conservative motion 15.2. Go ahead, Mr. Hillier.

**Mr. Randy Hillier:** I move that the bill be amended by adding the following section:

“18.1 Section 39 of the act is repealed.”

**Mr. Michael A. Brown:** I believe it’s out of order, Mr. Chair.

**The Chair (Mr. David Oraziotti):** Yes. Mr. Hillier, I’m informed here that your motion 15.2 is out of order because this section of the bill is not open.

**Mr. Randy Hillier:** Pardon?

**The Chair (Mr. David Oraziotti):** This section of the bill is not open, so it’s ruled out of order.

There are no proposed amendments in sections 19, 20, 21, 22 and 23. Shall they carry, as is? All those in favour?

**Mr. Gilles Bisson:** Hang on a sec—whoa, whoa, whoa.

**Mr. Randy Hillier:** Hold on, hold on.

**Mr. Gilles Bisson:** You took the brakes off. You were saying section what?

**The Chair (Mr. David Oraziotti):** Sections 19, 20, 21, 22 and 23. There are no proposed amendments. I assume you’re in agreement with them.

**Mr. Gilles Bisson:** Yes, we are, now that I’ve looked at my amendments. Thank you.

**The Chair (Mr. David Oraziotti):** So those sections are carried.

Section 24: Conservative amendment 15.3. Go ahead, Mr. Hillier.

**Mr. Randy Hillier:** I move that subsections 46.1(1), (2) and (3) of the Mining Act, as set out in section 24 of the bill, be struck out and the following substituted:

“Mining claim where surface rights owner

“46.1(1) If a mining claim is staked on land for which there is a surface rights owner, the licensee shall, within 60 days after making the application to record the mining claim, give confirmation of staking the mining claim to the surface rights owner in the prescribed manner and file proof at the recorder’s office that confirmation of staking the mining claim has been given.

“Claim invalid if no confirmation

“(2) If the licensee does not comply with subsection (1), then the mining claim becomes invalid 60 days after the date the application to record is made, even if the claim was recorded.”

**The Chair (Mr. David Oraziotti):** Any further comments on the proposed motion?

**Mr. Randy Hillier:** It should be fairly clear here: It’s to provide notification, give a reasonable period of time for that notification and, if there is no confirmation, then the claim becomes invalid. If I just go to 46.1, they can “apply to a recorder for an order waiving confirmation” and “a recorder may issue an order waiving confirmation if he or she determines” that that’s not feasible.

Claim invalid for one and two—let me just reread this. Excuse me for a minute.

**The Chair (Mr. David Oraziotti):** Mr. Brown, do you have any response or comments?

**Mr. Michael A. Brown:** I’m trying to understand the reason for this.

**Mr. Randy Hillier:** I’m going to withdraw that.

**The Chair (Mr. David Oraziotti):** The Conservative motion has been withdrawn.

There are no amendments proposed, then, in sections 24, 25 and 26. All those in favour? Okay, carried.

Government motion 16, section 27. Mr. Brown, go ahead.

**Mr. Michael A. Brown:** I move that section 27 of the bill be amended by adding the following subsection:

“(2) Subsection 49(4) of the act is amended by striking out ‘subsection (1) or (3)’ and substituting ‘subsection (1), (2) or (3).’”

This is basically just a housekeeping amendment.

**Mr. Randy Hillier:** Just give me a moment here.

**Mr. Gilles Bisson:** What page is that on in the new book?

**Mr. Randy Hillier:** Page 11 in the new act.

**Mr. Gilles Bisson:** Yes, section 27 in the new act, right? Mr. Brown?

**Mr. Michael A. Brown:** I’m looking; I don’t have it out either.

**Mr. Gilles Bisson:** You’re talking about subsection (2) under section 27?

**Mr. Michael A. Brown:** Yes.

**Mr. Gilles Bisson:** And you’re referring to where it says, “If any part of a claim referred to in subsection (1)” —that’s where you want this amended? I thought maybe I got a little bit—please help.

**The Chair (Mr. David Oraziotti):** Ms. Wyatt, go ahead.

**Ms. Catherine Wyatt:** Yes. It is just a little bit of a technical thing, and it’s hard to read back and forth between the bill and what’s already in there. What we’re proposing to amend here is subsection 49(4), which is the one that says, “An order under subsection (1) or (3) may grant an extension of time.”

**Mr. Gilles Bisson:** So it’s (4)—okay.

**Ms. Catherine Wyatt:** In the existing act. What’s happened is that with the reformatting because of the bill, there are actually three subsections which allow orders to be made here. We just want to make sure we capture all three of those subsections in 49(4).

**Mr. Gilles Bisson:** Okay. So now it says, “An order under subsection (1) or (3),” and what you’re basically adding is (2).

**Ms. Catherine Wyatt:** There’s going to be an order under subsection (2) now, so we want to say “(1), (2) or (3).”

**Mr. Gilles Bisson:** All right, and that’s the (2) that I see here. Okay.

**The Chair (Mr. David Oraziotti):** Any further comments? Government motion 16: All those in favour?

**Mr. Randy Hillier:** I’ll call for a 20-minute recess, please.

**The Chair (Mr. David Oraziotti):** Okay. Given that that will take us past the time allocated for today, the committee is adjourned until Wednesday at 4 o’clock to continue with clause-by-clause, and we’ll be voting on motion 16 then.

*The committee adjourned at 1743.*







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