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Monday 19 October 2009

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Lundi 19 octobre 2009

**Standing Committee on
General Government**

Far North Act, 2009

**Comité permanent des
affaires gouvernementales**

Loi de 2009 sur le Grand Nord

Chair: David Oraziotti
Clerk: Trevor Day

Président : David Oraziotti
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Monday 19 October 2009

Lundi 19 octobre 2009

The committee met at 1401 in room 151.

**FAR NORTH ACT, 2009
LOI DE 2009 SUR LE GRAND NORD**

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

The Vice-Chair (Ms. Helena Jaczek): Ladies and gentlemen, welcome to the Standing Committee on General Government. We're here for clause-by-clause consideration of Bill 191, An Act with respect to land use planning and protection in the Far North.

There are no amendments to section 1. Is there any debate? Monsieur Bisson.

Mr. Gilles Bisson: I just wanted, for the record, just to very quickly put down that, clearly, there isn't a buy-in on the part of First Nations on this legislation.

I know the parliamentary assistant and others would have had the same conversations that I've had with various tribal organizations and First Nations communities. Generally, they support the intent of what the bill is trying to do, and this is really the frustrating part for First Nations, that organizations such as NAN, Mushkegowuk Tribal Council, Attawapiskat First Nation and others are, in general, in favour of having some sort of a planning regime, but it has to be a planning regime that they themselves have a say about how it is to be developed, what it's to look like and how it's to function.

They feel that this bill, at this point, does not deal with those concerns. They've asked me to convey to this committee that they're unhappy with the government's decision to go forward without their agreement. They feel that's regrettable because, given time, I think we probably—I agree with them—could get a better product. Just for the record, there are a number of amendments that I would have normally tabled that I'm not tabling at the request of First Nations, as they're saying they're not buying into this particular process at this point.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Orazietti.

Mr. David Orazietti: For the record, we received the NDP amendments on Friday and are going through those, and have gone through them, and we have a response. But I think it's fairly clear that our commitment on the government's side to continue to work with First Nations

and consult them to ensure that they are a very active part of the process has been made clear. The bill went out for hearings prior and will go out for hearings again following second reading. I think the government's commitment is one that we do this in partnership with First Nations.

First Nations, as you know, have a number of agreements with the province to date for land use planning and development. The committee was out and did hear many of the concerns and the issues that were raised by First Nations, and will continue, through the next round of hearings that will take place, to engage First Nations and ensure that their views are incorporated into any bill that would go forward and be passed before the Ontario Legislature. I think we're continuing to do that, and I think Mr. Bisson recognized that over the last number of years there have been efforts made and continue to be efforts made by the government to engage First Nations in a way that they have not been in the past, as part of active land use planning.

We know there's more to do. We recognize that and we want to hear your constructive comments as we shape this legislation going forward, from everyone and from all members in the Legislature, quite frankly. I look forward to the discussion around the amendments that have been put forward, and there are a number of government amendments as well. Again, we'll be back out for hearings and for further consultation, which, as I think everyone knows, it's not always the case that there are a series of consultations between each reading of the bill in the Legislature. That's not normally the way the process unfolds, as many members know, and I think we're certainly making the extra effort with respect to this bill to ensure that we get this right. We'll leave it at that.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Hillier.

Mr. Randy Hillier: I'd like to speak to this as well. Like the member from the third party, I want to be on record as opposing this.

I think it's clear to everybody who attended the committee hearings that there was significant opposition to Bill 191. The members of the First Nations went so far as to say that they would not recognize the authority of Bill 191. It's nice to hear the government side talking now about engaging the First Nations, but they weren't engaged even at the start of this bill. That was evident as well, through the discussions at the committee, that none of them were consulted with the introduction of this bill.

It's also clear that the whole concept has got significant difficulties. Making amendments to a flawed concept doesn't change the flawed concept. It may make it a little bit less bad, or a little bit less worse, but the concept is still disagreeable.

We've heard everybody—prospectors, developers, communities, First Nations; everybody was opposed to Bill 191 during our committee hearings, other than some people who represent some environmental groups or some environmental zealots. That's not the way legislation ought to be crafted, to benefit one group at the expense of others.

It's interesting to see that even in the *National Post* on Saturday, one of the columnists—well, I'll read one sentence: "Every now and then a province falls into the hands of blundering politicians so inept that their government ends up deserving of the title 'Canada's Worst Government.'" He of course was talking about Bill 191 and this present government.

I would like to see this committee withdraw from deliberations, withdraw from clause-by-clause on Bill 191, actually begin to engage in honest discussions with the residents of the north, and come back to the House with a document, with a piece of legislation, that actually represents the interests and the concerns and takes them into consideration, in a new bill about the far north.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. Gilles Bisson: I appreciate the comments from the parliamentary assistant. Yes, it's true, the government has sent this bill into committee at first reading, which happens from time to time when we're trying to canvass a little bit more broadly than normal, and I give the government some credit for that.

But after having heard all of the depositions that we've heard—and I thought Chapleau was particularly poignant, when the assembly of the NAN conference showed up in large numbers, and there were chiefs there from almost every community in NAN territory who said very clearly to this government, "Do not go forward." They couldn't have been any more clear.

Again, I just want, for the record, to be clear: The First Nations want a land use planning process. That's not the issue here. They dearly want a land use planning process because none exists now. We've had to go through the experience of, for example, the Victor diamond mine; we see Platinex up at KI; we see Musselwhite. We've seen different projects go forward where there has not been a land use planning process and we've seen how bad that could be, as far as what we saw with Platinex and KI.

On the other hand, we've seen what happened with De Beers, where they started up the Victor diamond mine but the only reason that project went forward was because De Beers said at the beginning, "We're not going forward unless there's a ratification from the community." So even De Beers—you know?

Let's put this in context. De Beers in Canada has a good history but in South Africa certainly was not known as a corporation that had a stellar reputation when it came

to the treatment of human rights. But it's understood that if you're going to come to do business in Canada and you're going to try to establish a mine where there is no land use planning process, in a territory that has virtually no development, you can't go forward unless you get a local buy-in.

By God, if De Beers gets it, what's wrong with us? De Beers understands that you have to have a buy-in from the local communities. Why are we, as a Legislature, not recognizing that we need to do the same?

1410

I give the government some credit. I don't want to say that you guys are doing this all wrong, because that wouldn't be fair. In fairness, you tried to draft a bill that you thought, with the best advice that you sought through your bureaucracy, your parliamentary assistant and your ministers—you have come together with a bill that you thought would be satisfactory to First Nations. It is clear it is not.

I support Mr. Hillier's position that what this committee should do is charge the ministry to go back, sit down with First Nations and have a discussion about how the land use planning process is going to work in the far north. There is going to be one; we all accept that; we think that's a great idea; give the government some credit for trying to do it, but this doesn't cut it.

For us to sit here today and the parliamentary assistant to tell us, "Don't worry. This is only first reading. We'll get it right by second reading"—I've seen that picture before, and so have First Nations, and that's why they're asking us to put a hold on this.

Just the last point I would make: I hear your comments, Parliamentary Assistant, in regard to this government having tried to consult with First Nations and deal with First Nations in a different way. I'll give you some credit for saying those things, but I look at the reality of what exists in those communities. They're still the most impoverished communities in Ontario. They still have policing that doesn't work. They still have social services that don't work. They still have 20 people in a house. They can't even build schools in most of those communities that are abandoned because of mould, diesel spills and everything, and you've got a federal government that, quite frankly, doesn't give two hoots. If the federal government doesn't give two hoots, I think the province should.

On that basis, I just think we should go back to the drawing board.

The Acting Chair (Ms. Helena Jaczek): Further debate?

Mr. David Oraziotti: I hear your comments and I appreciate the input that you have to offer today as a member who represents a riding in northern Ontario and has seen some of those things first-hand. You're right; I'm not going to comment on the federal government's responsibility to First Nations. Those indicators and things that you've just referenced, I think we all know, are not a very positive story when it comes to First Nations communities, and more needs to be done.

When we came to government, we were spending \$3 million on First Nation education programs in Ontario. Today, we're spending \$28 million on those types of programs. Regardless of what the federal government does, we know that First Nations are Ontario residents as well, and we're going to continue to do everything we can to support them.

I need to hear more substance around what specifically the challenges are in the bill with the land use planning, because I think you're right: First Nations do want a land use plan in place. It's going to create certainty for both First Nations and for industry. So, to say, "Let's just scrap the bill and let's not have a process," or, "Let's not move forward"—I think we all know that we need a process. We need legislation in place that helps define and set some parameters both for the industry, exploration, mining, forestry and also so that First Nations can themselves be engaged in land use planning, as they are the ones who live in this region of the province predominantly.

I think we need to get a process in place. We need legislation passed in this regard, and I think the engagement that has taken place to date has been positive. It's obviously a work in progress where we will continue to engage First Nations.

Some of the references to committees and discussions with the province going forward on developing their land use planning are things that aren't going to happen overnight. We know it's going to take some time for effective community land use planning to take place in many of these communities, and it will continue to be a dialogue, regardless of who the government is in the province of Ontario, with First Nations. But we believe that this is a process that needs to be started.

Down the road, at some point, some other government may have the opportunity to engage First Nations in the way they see fit, but I think we all understand that the First Nations in the province of Ontario, especially in the far north, have a huge interest in the development and planning of their own communities and, to date, I don't think they have really been partners in that process.

You've referenced a couple of examples where industry will be present in these communities or will seek to open mines, geological exploration or whatever it might be, and it's done with perhaps some challenges where they could otherwise be avoided if legislation were in place and there were more adequate land use planning. I think we all know that NAN and the chiefs of northern Ontario and those signatories to 5 and 9 want to ensure that they have a say in their land use planning.

So, respectfully, I hear your comments, but I think the bill has a fair bit of substance to it. I know that there are some issues that we need to continue to talk about, and that's the other reason why we're going to continue to go out for hearings following second reading of the bill. I think we need to deal with the amendments that are in front of us and continue to keep the lines of communication open with our First Nations partners, so that we can continue to shape the land use planning that will take

place in northern Ontario in the interests of everyone in the province and, in particular, in the interests of the First Nations who predominantly live in the far north.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Hillier.

Mr. Randy Hillier: I'll just add this: We're in clause-by-clause right now, and one of the key stakeholders in this whole discussion refuses to put in any amendments because they believe this bill is so flawed. They're not engaging the government or the opposition or anyone with amendments because this bill is so bad. To go through a clause-by-clause process when the key stakeholders are not participants in it is not going to improve the bill in any fashion. That is why I would like to table a motion that this committee suspend deliberations and suspend clause-by-clause reading until there are those honest further discussions with the First Nations as well as other northern residents and we engage them in those honest discussions so that a bill that represents the interests of the people of the north can be tabled and so that we will have the residents participating in this democracy instead of being excluded.

So I would like to put that on the record: a motion to suspend deliberations and clause-by-clause reading until the government does further discussions.

The Vice-Chair (Ms. Helena Jaczek): We do have a motion on the floor at the present time. Are you asking that we actually adjourn the committee?

Mr. Randy Hillier: Yes. My motion would be that this committee adjourn and ask the government to withdraw this bill, Bill 191, pending further honest discussions with northern residents.

Mr. Gilles Bisson: Can I be helpful? It's not so much that the committee adjourn, because there's other business this committee can deal with; it would be that this particular bill be put on hold until such time as there is a discussion with First Nations and there is agreement as to what this bill should look like.

The Vice-Chair (Ms. Helena Jaczek): Are we asking for the debate on section 1 to be adjourned?

Mr. Gilles Bisson: We are doing that, and I second the motion.

Mr. David Oraziotti: The government is not going to support a motion for the adjournment of the committee or to put this bill aside to deal with that. Quite frankly, if the member has amendments that he would like to bring forward after having discussions with the First Nations, I'm happy to see those. I don't know if any of your amendments reflect those discussions that you believe need to be incorporated with respect to the views of First Nations. We have consulted with First Nations; we're confident that we've done that. Our amendments that are put forward do reflect discussions that have taken place with the First Nations, and they're incorporated into the bill. We'd like to proceed, so we won't be supporting the motion.

The Vice-Chair (Ms. Helena Jaczek): I understand that there's no debate on a motion to adjourn debate.

Mr. Gilles Bisson: On section 1—I will move to the actual motion—the government says that they've had

discussions with First Nations, and that if we have amendments to give in order to strengthen the bill, we should bring them forward. The reality is, and you know as well as I do, that the First Nations are still trying to come to terms with this whole issue.

They have been living on the land for over 2,000 years, and they managed to do fairly well until we showed up. We've had an impact on them for the last hundred-plus years, and we're saying, "Well, absolutely, at this time in September, October, November 2009, you're going to put a land use planning process in place."

It doesn't work that way, and you know as well I do that there is a whole different set of realities when it comes to how First Nations deal with and come to terms with policy when it comes to affecting First Nations. Tribal councils themselves do not speak for individual First Nations communities. First Nations are autonomous to themselves—and yes, they work with each other through their tribal councils. But there needs to be a process of being able to go back into the First Nations, driven by First Nations themselves, so that they're able to say, "Here's the product that we want in the end."

I would move that we do adjournment of this section.

The Vice-Chair (Ms. Helena Jaczek): Is it the pleasure of the committee that the motion for adjournment of the debate—

Mr. Gilles Bisson: Recorded vote.

The Vice-Chair (Ms. Helena Jaczek): A recorded vote, Mr. Clerk.

Mr. Gilles Bisson: And I request 20 minutes—

The Vice-Chair (Ms. Helena Jaczek): So it's a 20-minute recess. That means that we will return at 2:40.

The committee recessed from 1420 to 1440.

The Vice-Chair (Ms. Helena Jaczek): Ladies and gentlemen, we are resuming with a recorded vote on a motion by Monsieur Bisson to adjourn debate on section 1.

Ayes

Bisson, Hillier, Ouellette.

Nays

Jeffrey, Kular, Mangat, Moridi, Orazietti.

The Vice-Chair (Ms. Helena Jaczek): The motion is lost.

Resuming debate on section 1: Further debate on section 1?

Shall section 1 carry? All those in favour, please raise your hand. All those opposed? That motion is carried.

Moving to section 2, we have PC amendment 0.1. Mr. Ouellette?

Mr. Jerry J. Ouellette: I move that the definition of "far north" in section 2 of the bill be struck out and the following substituted:

"'far north' means the portion of Ontario that lies north of the land consisting of,

"(a) Woodland Caribou Provincial Park,

"(b) the following management units designated under section 7 of the Crown Forest Sustainability Act, 1994, as of May 1, 2009: Red Lake Forest, Trout Lake Forest, Lac Seul Forest and Caribou Forest,

"(c) Wabakimi Provincial Park, and

"(d) the following management units designated under section 7 of the Crown Forest Sustainability Act, 1994, as of May 1, 2009: Ogoki Forest, Kenogami Forest, Hearst Forest, Gordon Cosens Forest and Cochrane-Moose River; ('Grand Nord')"

The Vice-Chair (Ms. Helena Jaczek): Would you like to make a few comments, Mr. Ouellette?

Mr. Jerry J. Ouellette: This is just essentially designed to give some clear definition as to what exactly the far north is. There is a lot of concern being expressed by groups and organizations out there about where it is and how we define exactly where it is. The intent is to give some very specific boundary lines so that people get a clear understanding of where those areas are.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Orazietti.

Mr. David Orazietti: I appreciate the amendment. Although I understand what is being requested, within the bill currently the geographic area is outlined. As well, the more specific aspects or more detailed boundaries will be identified in regulation and that's consistent with the Lake Simcoe Protection Act, 2008. That would be a recent example of where the more specific boundaries were determined by regulation as opposed to in the bill.

I understand where you're coming from. I think the concern might be around the government changing those boundaries. I think the boundaries are fairly clear within the legislation at present and further detail would be added with regard to the regulations that will be put forward in the bill.

I guess I can add, for the interest of members, a map of the far north boundary is currently on the Ministry of Natural Resources' website for anyone to review.

So I think it's clear in the bill and further specifics will be identified within the regulation.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Bisson.

Mr. Gilles Bisson: Just to my colleague Mr. Ouellette: So you're replacing, under definitions in section 2, "far north." As I read it, the only difference is in clause (d) it says "Grand Nord." So explain to me. I just want to follow your logic here.

Mr. Jerry J. Ouellette: The parliamentary assistant just stated that there would be more clear and specified definitions under regulation. The difficulty is, under regulation, we have no ability to discuss that here; it's done at a different level. Whereas, once it is defined in the legislation, we have it very clearly laid out.

Mr. Gilles Bisson: How is this different than what's in there now? All I see that's different are the words "Grand Nord." I look at your new definition of "far north" and unless I'm looking at the wrong section of the bill, it reads exactly as what's in the bill now.

Mr. Jerry J. Ouellette: Hang on.

Mr. Gilles Bisson: Except it says (a), (b), (c) and (d) rather than (i), (ii), (iii) and (iv).

Mr. Jerry J. Ouellette: Yes.

The Vice-Chair (Ms. Helena Jaczek): I think legislative counsel would like to jump in here.

Mr. Gilles Bisson: We're under "Definitions," aren't we?

Mr. Michael Wood: Yes. Michael Wood, legislative counsel. I can answer that question in part. Mr. Bisson, you're correct that the substance of clause (a) of the definition is repeated in the motion. What is not in the motion is clause (b). That removes the ability to make regulations to more specifically define the area, so you are tied exactly to that area. You don't have the ability, by regulation, to depart from it in any way whatsoever.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Bisson.

Mr. Gilles Bisson: Again, I must be looking at the wrong section of the bill—" (b) the following management units designated under section 7 ... " is the same as subclause (ii) under "far north." It says the same thing. The language is no different.

Mr. Michael Wood: There is a clause (b) to the definition of "far north" in section 2 of the bill, which is missing from the motion.

Mr. Gilles Bisson: Oh, you're pulling (b) out. That's what it is.

Mr. Michael Wood: That is correct.

Mr. Gilles Bisson: Got it. I was looking at the amendment. Okay.

The Vice-Chair (Ms. Helena Jaczek): Further debate on PC motion 0.1?

Mr. Gilles Bisson: So the effectiveness would be to set it in legislation and not in regulation?

The Vice-Chair (Ms. Helena Jaczek): Further debate? Shall PC—

Mr. Gilles Bisson: I'd like to think about this just for a second, if somebody wants to talk.

The Vice-Chair (Ms. Helena Jaczek): Any further comments?

Mr. David Oraziotti: I think we made our comments. They'll be more specifically delineated in regulation or in the bill. We're satisfied with the wording, so we won't be supporting the amendment.

The Vice-Chair (Ms. Helena Jaczek): Shall PC motion—

Mr. Gilles Bisson: Whoa, whoa, whoa. You're just a little bit too quick. We're going to get the previous Chair in here pretty quickly if you continue that. That was a compliment, by the way, to our former Chair.

Mr. David Oraziotti: I think the Chair is doing a fantastic job, Mr. Bisson.

Mr. Gilles Bisson: No, you're doing a great job. No, she's doing all right. I'm just having fun with her.

Effectively, what could happen under the current definition, if I understand it correctly, is that cabinet could decide, in order to expand the area that is covered by the far north planning act—other than just gazetting the public, that's the only way that we would know. So why would you want to do that, Mr. Parliamentary

Assistant? Why would you want to give cabinet the ability to expand the area under this bill rather than keep it in legislation?

Mr. David Oraziotti: With respect to the amendment that has been put forward, we're satisfied that the definition or the outline of the boundary for the far north is incorporated in the bill and that further specifics of the boundaries will be identified in regulation.

I think the concern, and correct me if I'm wrong, is around the boundary perhaps being changed or not being specified to the level of what's being proposed in the amendment. But I think that it's addressed in the bill. The boundaries of the far north are fairly clear in the bill, and further, through regulation, specifics of the boundaries can be identified. I think the concern around the government moving or adjusting those boundaries to either make the area larger or smaller is really a moot point.

I'm satisfied with the way it's written in the bill and the government is as well, so we're not going to be supporting the amendment.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. Jerry J. Ouellette: Just so people understand, in clause (b), the area, if any, that is set out in regulations made under this act—as opposition members, we have zero input, as do the current sitting members, unless a PA is invited in, on the regulations, and that is done exclusively beyond them.

The only thing that we're trying to do, when we're dealing with this issue, is to have some clarity as to where it's going to be, particularly with the 225,000-hectare section as not being defined. Those parameters and boundaries may change, and it makes it very difficult for the opposition to know exactly where it is. All I was trying to do was say, "That's where it is. Now we know, and that part won't change."

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Bisson.

Mr. Gilles Bisson: Again, what could happen under this clause (b) would be, in the future, a cabinet could say, "Here's an area we've protected. Maybe there's something there. Let's unprotect it." That could happen, in the way that I read this, and/or you could come at it the other way, where a future cabinet could decide to expand the area covered by the act.

From both the environmental community and from the First Nations community, and from just, I think, the Ontario public generally, do we really want that, or is it better to have clarity at the beginning? We know what areas we're talking about—it's the areas described in the bill—and there's no changing of the areas that could be protected under the act.

Who knows what a future cabinet will do? It might be a moot point. You might be right; maybe no cabinet will ever do anything. On the other hand, a cabinet may decide to do something.

1450

The Vice-Chair (Ms. Helena Jaczek): Further debate? Further comments on PC motion 0.1? Shall PC motion 0.1 carry? Thank you. That motion—

Mr. David Orazietti: All those opposed?

The Vice-Chair (Ms. Helena Jaczek): Oh, all those opposed?

Interjections.

The Vice-Chair (Ms. Helena Jaczek): All those in favour of PC motion 0.1, please raise your hand. All those opposed?

Interjection.

The Vice-Chair (Ms. Helena Jaczek): We need to hear both sides, Mr. Bisson.

That motion is lost.

Government motion 1. Mr. Orazietti?

Mr. David Orazietti: Mrs. Jeffrey's going to read the government motion.

The Vice-Chair (Ms. Helena Jaczek): Mrs. Jeffrey?

Mrs. Linda Jeffrey: I move that the definition of "protected area" in section 2 of the bill be amended by striking out "clause 8(8)(b)" and substituting "clause 8(8)(c)".

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. David Orazietti: This is no more than a house-keeping item. There are a number of them in the bill that reflect technical amendment changes to reflect the correct sections and numbers in the bill. It's a technical amendment.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. Gilles Bisson: No, it makes one heck of a difference. Your argument is you meant to say (c), but what you wrote is (b). That's the long and the short of the story.

Mr. David Orazietti: Correct.

Mr. Gilles Bisson: Okay.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Those in favour of government amendment 1? Those opposed? That's carried.

Moving to NDP amendment 1.1.

Mr. Gilles Bisson: I move that section 2 of the bill be amended by adding the following definition:

"'Commission' means the far north land use planning commission established under section 6.1;"

This is fairly straightforward because if you take a look at section 6.1 a little bit further on, we define in there how the planning commission is to be constituted, and it comes back to the point that I was trying to make earlier on. First Nations really feel that the way this bill is going, they're really not going to have any real control about what happens in their traditional territories. What we're attempting to do here is at the very least try to put some substance to the authority that First Nations would have when it comes to their actual ability to do land use planning.

We'll be dealing with this later on in section 6 of the bill, but this is just the definition part of "commission."

The Vice-Chair (Ms. Helena Jaczek): Any further comments or further debate? Yes, Mr. Orazietti.

Mr. David Orazietti: I certainly understand the proposed amendment here that the member has put forward.

I think there are some fundamental challenges in it, and they are in unilaterally imposing a body through legislation that we propose that First Nations would be part of—

Mr. Gilles Bisson: I didn't hear the last part, sorry.

Mr. David Orazietti: That we would create unilaterally a commission that we would require the First Nations to be a part of. Although the intent of the motion is positive in nature, I think it's something that we can't support because we have proposed in the bill a process that goes forward where there's engagement with First Nations as opposed to the establishment of a commission. We can't support that.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. Gilles Bisson: Obviously, I'm going to have to lose the amendment, but it's pretty straightforward. It basically says that the First Nations—when you end up at the end of 6.1, if we adopt what's in 6.1 after the definitions section, yes, it would clearly establish who is on that commission, and clearly we're saying it's members of the First Nations and representatives of the government of Ontario. They would then have the responsibility for much of what would be in this act. It's to give First Nations the comfort that they're seeking when it comes to being able to have a say on what happens on their traditional territories.

I'd ask for a recorded vote.

The Vice-Chair (Ms. Helena Jaczek): Is there any further comment on NDP motion 1.1?

Ayes

Bisson, Ouellette.

Nays

Jeffrey, Kular, Mangat, Moridi, Orazietti.

The Vice-Chair (Ms. Helena Jaczek): The motion is lost.

Those in favour of section 2, as amended? Please raise your hands, those in favour of section 2, as amended. Those opposed?

Section 2, as amended, is carried.

We have no amendments in section 3, section 4, section 5. Shall sections 3 through 5 be carried? Those sections are carried.

Mr. Gilles Bisson: We could have a discussion. Next time; I'll let you get away with it this time.

The Vice-Chair (Ms. Helena Jaczek): Moving on to section 6, government motion 2. Mr. Orazietti?

Mr. David Orazietti: Ms. Jeffrey's going to be reading that one. Thank you.

The Vice-Chair (Ms. Helena Jaczek): Mrs. Jeffrey.

Mrs. Linda Jeffrey: I move that paragraph 2 of section 6 of the bill be amended by adding "designated in community based land use plans" at the end.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Any further debate on government motion 2?

All those in favour? Those opposed? That motion is carried.

NDP motion 2.0.1.

Mr. Gilles Bisson: It's withdrawn.

The Vice-Chair (Ms. Helena Jaczek): It's withdrawn?

Moving to PC motion 2.1.

Mr. Jerry J. Ouellette: I move that paragraph 4 of section 6 of the bill be amended by adding "and other residents of Ontario" at the end.

The Vice-Chair (Ms. Helena Jaczek): Some comments, Mr. Ouellette?

Mr. Jerry J. Ouellette: Yes, this is just trying to be inclusive. We heard very clearly that there were a number of organizations that made presentations that wanted to be part of the entire process, including the Metis organizations that presented as well as non-status First Nation communities.

What this allows for is, by adding "and other residents of Ontario," it ensures that other groups that wish to participate are given the particular opportunity to do so.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Orazietti?

Mr. David Orazietti: Thank you, Madam Chair. The amendment, as it's written, causes us some concern, and I understand where the member is going, around both—it's the "and other residents of Ontario" portion.

We all recognize that, predominantly, certainly, in the far north, First Nations communities and First Nations individuals live in this part of our province. If there is a benefit that could result, or would result perhaps, from development or community land use planning in First Nations communities, I think it has the effect of benefiting all Ontarians, frankly, for that matter.

But I guess I would have a concern where, for instance, First Nations wanted to perhaps engage in a development and there was not perhaps a direct—I mean, my view is, obviously, if First Nations are improving their quality of life and there are land use plans being developed, that's good for everyone in Ontario and that's good for our province.

I guess my concern is that when you add this phrase, that that has to really benefit everyone in Ontario or the First Nations aren't really permitted to move forward with their development—that would cause me some concern. I don't know that—I could speculate, but I suspect that the First Nations communities would have some concerns around that as well.

If we have a development that they want to move forward with that doesn't necessarily have a direct benefit for the rest of Ontario, are we saying that First Nations can't move forward with those plans? Are we saying that First Nations can't proceed with what they want to do with their own community land use planning within their own communities?

To get back to the premise and the intent of the legislation, which we have heard much about here today

in terms of consideration for and engagement of First Nations in the far north, I think this amendment, to some extent, reduces unnecessarily the benefit that could be arrived at in First Nations communities directly.

1500

Although I understand where the member's coming from, I think the reality is that the bill and the intent of the bill, and the community land use planning that will result to benefit First Nations, is really a benefit to all Ontarians and does, in the spirit of the legislation, really benefit Ontario as a whole. So we're not going to be supporting this amendment.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Monsieur Bisson.

Mr. Gilles Bisson: Oh, my God, I'm on the same side. Listen, with respect to my colleague Mr. Ouellette, I understand what you're trying to do here, and it, on the surface, sounds like a pretty innocuous thing. But from the perspective of First Nations reading the legislation, they would see that as a diminishment of their role, and I would have a hard time trying to support that on the basis of the perception that it would somehow or other lower their participation.

The other thing, as I read this, is that it's "enabling sustainable economic development that benefits the First Nations" and you're adding, "and other residents of Ontario." Well, sometimes those two things may be in conflict, and who, at the end, are we talking about? Some 99% of the people living in this territory are First Nations. There are places like Moosonee and Attawapiskat and other places where non-natives live, but even in Moosonee they're a minority, where there's the largest congregation of non-native people up in the area. So I understand what you're trying to do and I find myself a bit at odds because I'd like to support you as a colleague in opposition, but I cannot support this.

The Vice-Chair (Ms. Helena Jaczek): Comments? Mr. Ouellette.

Mr. Jerry J. Ouellette: Further to that, when you're reading that section very specifically, "enabling sustainable economic development that benefits the First Nations," for example, if hydro development were to take place in the far north and the lines were to come south, they would be benefiting people south of there, whether it's in Timmins, Cochrane or other communities. They would be a beneficiary from that aspect as well. We just want to make sure that all those who are involved in any economic development opportunities are included in the process. So, yes, the First Nations, as clearly laid out, are going to have a substantial impact on what takes place in the act; however, there will be other communities that may be benefiting from that as well that will be completely excluded from having a say and participating in any of that, even though they will be the ones, in the end, who may be receiving the economic benefit.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. Gilles Bisson: Again, with all due respect, that's not the way it would be interpreted by First Nations.

Mr. Jerry J. Ouellette: I would move to amend my motion to state, then: I move that paragraph 4 of section 6 of the bill be amended by adding “and other residents of the far north.”

The Vice-Chair (Ms. Helena Jaczek): So to clarify, it will be striking out “Ontario” and replacing that with “other residents of the far north.”

Mr. Jerry J. Ouellette: Correct.

The Vice-Chair (Ms. Helena Jaczek): Debate on the amendment?

Mr. Jerry J. Ouellette: As the member mentioned, the individuals from Moosonee who are not First Nations communities would not benefit; however, they now have the ability to participate in any benefits or any programs that may take place in that area.

The Vice-Chair (Ms. Helena Jaczek): Debate on the amendment to the amendment?

Mr. Gilles Bisson: It’s an interesting amendment to the amendment. I want to hear what the parliamentary assistant has to say.

The Vice-Chair (Ms. Helena Jaczek): Mr. Orazietti?

Mr. David Orazietti: I appreciate the timeliness of that most recent change in the amendment, although I think, to be consistent with the objectives in the legislation, we’re really talking about the First Nations communities that we have all said here today we are concerned about making a priority in land use planning. We know of the challenges that we have had over the last number of years, or decades for that matter, in coming together with our First Nation partners in the far north and having them play a role and, frankly, lead far north planning. Although I understand the nature of the change in the amendment, to be consistent with the objectives in the bill, we’re going to be rejecting the amendment.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. Gilles Bisson: I think, Mr. Ouellette, that amendment I can support, because everybody’s clear that what you’re trying to do in this legislation is to give First Nations—not just First Nations, but to create a land use planning process for the far north where none exists now. The reality is that 99% of people who live in the far north are First Nations, but there are others—

Mr. Jerry J. Ouellette: For now.

Mr. Gilles Bisson: For now; at this point, I’m dealing with today. But there are many non-natives who are living in places all over the far north in communities such as Moosonee, Attawapiskat and others. Why shouldn’t they have an ability to participate in the process that’s going to affect the territory they live in?

I know what Mr. Ouellette is doing. He’s not saying we’re going to give control to the non-natives, and I want you to put that on the record. If it is still the question where First Nations have some control, I don’t have a problem supporting that amendment.

The Vice-Chair (Ms. Helena Jaczek): Further debate on the amendment to the amendment?

Mr. David Orazietti: Just to add a little further, the purpose statement of the bill recognizes that the view of

everyone in Ontario is important, but I think we’re going to diminish the significance that we’re attempting to place on the role that First Nations are going to play in this process if we do that. I don’t think I can add anything further. I appreciate the amendment, but we can’t support it.

The Vice-Chair (Ms. Helena Jaczek): Further debate on the amendment to the amendment?

Mr. Gilles Bisson: I’m having a bit of a problem following the logic in that one, Mr. Parliamentary Assistant, because section 6 says, “The following are objectives for land use planning in the far north,” and it spells out all of them. I’m not going to read them all, but the fourth one says that one of the objectives is “enabling sustainable economic development that benefits the First Nations and other residents of the far north.” It doesn’t change the mechanism by which land use planning happens; it just states the obvious, that if you’re going to build a mine in Attawapiskat, there are other people who are going to benefit. That’s all it really says. It doesn’t diminish the bill. I see this as a bit of a message to non-natives living in the far north that you, too, are part of the territory, and you will benefit from economic development. I think it’s a reasonable amendment the way it has been rewritten.

The Vice-Chair (Ms. Helena Jaczek): Further comment on the amendment to the amendment? If not—

Mr. Gilles Bisson: Well, hang on. I’ve got another one.

The Vice-Chair (Ms. Helena Jaczek): Monsieur Bisson.

Mr. Gilles Bisson: I don’t understand how you can have economic development in the far north and it’s only going to benefit First Nations, because other people live there. I’m just waiting to hear from the parliamentary—

Mr. David Orazietti: I think I made the comment on that, and the comment is that in the purpose statement for the bill, it does reflect that we are concerned that the views of all people in Ontario, in northern Ontario, and particularly the far north, are important, and that’s why you have a section in the bill where that is referenced. But we don’t want to further diminish the fact that the First Nations are, as you’ve indicated, 99% of the population in the far north, that they make up the vast majority of individuals in the far north. That’s not to say that others will not have a role in the decision-making, but again, I think in being consistent with what we’re attempting to do here with the bill, we can’t support the amendment. I’ll leave it at that.

Mr. Gilles Bisson: I hate to make the argument for Mr. Ouellette, but that doesn’t make any sense. All he’s doing in section 4 is saying “enabling sustainable economic development that benefits the First Nations and other residents of the far north.” It doesn’t change how the bill works; it just says one of our objectives is to build an economy in the far north that everybody can benefit by, and we’re being specific for First Nations and whoever else lives there. Anyway, I think it’s odd that you’d vote against it.

The Vice-Chair (Ms. Helena Jaczek): Mr. Ouellette?

Mr. Jerry J. Ouellette: I think Mr. Bisson mentioned earlier on that currently in Moosonee there is a substantial population of individuals who are not First Nations who are locating into those communities. In the event that business and other aspects are willing to invest and relocate, as mentioned by Mr. Bisson, in Attawapiskat, they need some assurance that the economic development that is going to take place is, yes, going to benefit the First Nations, but also the individuals who are willing to invest and to locate in those locations. As we move forward in time—here and now, yes, 99% are there, but who's to say that those populations won't change, in the way Moosonee has changed, years from now? I just want to make sure that is included or given the opportunity to be part of it at a later date.

The Vice-Chair (Ms. Helena Jaczek): Further comment on the amendment to the amendment?

So that everyone is clear what we will be voting on, it's the amended PC motion 2.1 that instead of saying "and other residents of Ontario" will say "and other residents of the far north."

All those in favour of the amendment to the amendment? Those opposed? The amendment to the amendment is lost.

Now we will be voting on the original PC motion 2.1.

Mr. Gilles Bisson: I want a recorded vote on that one.
1510

The Vice-Chair (Ms. Helena Jaczek): We have a recorded vote. Further debate on the original amendment, PC motion 2.1?

Mr. Gilles Bisson: I thought the parliamentary assistant made a fine case.

Ayes

Ouellette.

Nays

Bisson, Jeffrey, Kular, Mangat, Moridi, Orazietti.

The Vice-Chair (Ms. Helena Jaczek): The motion is lost.

All those in favour of section 6, as amended? All those opposed? Section 6, as amended, is carried.

Now we move to a new section, 6.1. NDP motion 2.2, Mr. Bisson.

Mr. Gilles Bisson: I move that the bill be amended by adding the following section:

"Far north land use planning commission

"6.1(1) The Lieutenant Governor in Council shall establish a commission to be known in English as the far north land use planning commission and in French as Commission d'aménagement du Grand Nord.

"Members

"(2) The commission shall be composed of the following in equal numbers:

"1. Members of First Nations.

"2. Representatives of the government of Ontario.

"Powers

"(3) The commission shall have the power,

"(a) to allocate funding of the ministry of the minister for land use planning activities under this act;

"(b) upon request, to provide assistance to First Nations in preparing a land use plan for the purposes of section 8;

"(c) upon request of parties involved in disputes on land use planning issues under section 8, to provide a process for resolving the disputes;

"(d) to make recommendations regarding interim decisions during the preparation of land use plans for the purposes of section 8;

"(e) to coordinate and provide advice on linear developments, major infrastructure and other matters that affect more than one planning area;

"(f) to develop a regional land use strategy as part of the integration of community based land use plans;

"(g) to draw on advice from advisory bodies established under section 16 in making its decisions and recommendations;

"(h) to provide a yearly report to the Lieutenant Governor in Council and First Nations on implementation of this act; and

"(i) to provide input to the minister on the periodic review of this act under section 18.1.

"Publication of report

"(4) Upon receiving the report mentioned in clause (3)(h), the Lieutenant Governor in Council shall make it available to the public for consultation."

The Vice-Chair (Ms. Helena Jaczek): Would you like to make a few comments, Mr. Bisson?

Mr. Gilles Bisson: I'd like to drink something after reading all of that. Well, I kind of know where this is going to go, because the government has already indicated that in the definitions. One of the things that has been made clear to me in discussions I've had with First Nations and also with what I've heard on committee is that First Nations are wanting some framework as to how this land use plan is going to happen and who's going to have authority and who's going to be on those commissions. So what we're trying to do is define what the commission is, what it does, what its mandate is and the composition of it.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. David Orazietti: If it eases the concern of the member, if you look at government motion 15, the establishment of a joint planning team—I think the amendment is positive in intent, but I think it's a bit premature in the sense that it's really calling for imposing this commission with First Nations without really having the discussion of the makeup and what they would be interested in seeing. Although we might get to some framework that is more like a commission perhaps, if you want to call it that, or with respect to our motion 15 where we're looking at the establishment of a joint planning team where we can have the discussions with

First Nations about how to proceed—I think that’s really where we need to have the conversation at this point, rather than imposing a commission where we indicate that the First Nations will be part of what we’re laying out in the legislation without having a more full consultation with them as the discussions continue to take place.

We heard from the Grand Chief of NAN during the hearings on the bill, and they’re adamant that local planning priorities are paramount in any legislation that goes forward. I’m a bit concerned about moving forward with a commission that establishes this in advance of really having those discussions. I think it’s got some merit. I just don’t think we’re there yet. So we can’t support the amendment.

The Vice-Chair (Ms. Helena Jaczek): Mr. Ouellette?

Mr. Jerry J. Ouellette: Mr. Bisson, you’re specifically stating in there “members of First Nations.” It doesn’t really list in equal numbers as to whether they’re appointed, by whom and which members of First Nations. I sometimes find that, quite frankly, bureaucracy has a tendency to select the individuals who may support certain positions when deciding who and how it comes forward. Quite possibly, an amendment that states “elected members of First Nations or appointed by the members of First Nations” would be more specific in giving you the results and ensuring that the individuals representing those communities are the ones that should be there, decided by the communities as opposed to appointed by the government.

The Vice-Chair (Ms. Helena Jaczek): Monsieur Bisson?

Mr. Gilles Bisson: I would see that as a friendly amendment. To both your points, the parliamentary assistant and Mr. Ouellette: You’re right; it’s a stab at trying to do something right, but as I said at the very beginning, we have a problem here because the key stakeholders need to be at the table designing this thing, and they’re not. That’s the issue. I think what you’re trying to do, with some credit, is trying to establish a land use planning process in the far north. I give you credit for trying to do that, but I think you’re missing the point and maybe I’m missing the point here because who we should have at the table are First Nations.

So, just bring it to a vote. I know what’s going to happen on the vote. We’re just trying to make the point here.

The Vice-Chair (Ms. Helena Jaczek): If I could just ask for a clarification, though? Was that a formal amendment that you wish to make?

Mr. Gilles Bisson: Yes, I support that.

The Vice-Chair (Ms. Helena Jaczek): Could we have it exactly the way you would propose it?

Mr. Gilles Bisson: Yes: “Members of First Nations as appointed by their own internal process.” There we go.

The Vice-Chair (Ms. Helena Jaczek): Thank you. Further debate on the amendment to the amendment?

Mr. David Oraziotti: May I make a comment on the proposed amendment to—

Mr. Gilles Bisson: The amendment.

Mr. David Oraziotti:—the amendment, yes. Again, I think it’s back to the same point. Regardless of whether it’s their elected officials, it’s still the suggestion that we’re implying that we’re going to set out who in fact will be part of that. I think that’s the discussion that we need to have so that First Nations can determine who they would like to have as part of any kind of joint planning team, which is what we’re proposing in motion 15.

That is going in the direction where we want to go, and I think that’s what we eventually want to be able to establish, but I think we need to have that conversation with them first. So, with all due respect, we can’t support the amendment or the original amendment.

The Vice-Chair (Ms. Helena Jaczek): Further debate on the amendment to the amendment?

Mr. Gilles Bisson: The last point is exactly what we’re trying to say, that we’re really needing to have a very serious discussion with First Nations and have them in the driver’s seat as we design this legislation because they know best what should be happening on their traditional territories and they should be fully engaged in this process, and I feel that is not being done.

The Vice-Chair (Ms. Helena Jaczek): Further debate on the amendment to the amendment?

Just so we’re clear then, the amendment to NDP motion 2.2 now reads, under subsection (2)1, “Members of First Nations as appointed by their own internal process.” All those in favour of the amendment to the amendment? All those opposed to the amendment to the amendment? That is lost.

Now going to back to the original NDP motion 2.2. Further debate on that amendment?

All those in favour of NDP motion 2.2? All those opposed? That is lost.

Moving to section 7, we have NDP motion 2.3. Monsieur Bisson.

Mr. Gilles Bisson: I move that subsection 7(1) of the bill be amended by adding at the end “within six months of the day on which this subsection comes into force”.

It’s pretty clear and straightforward. We’re just trying to put some timelines on it so that we’re working towards a target.

1520

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Oraziotti.

Mr. David Oraziotti: With respect to the amendment, the expectation here with respect to technical guidelines being established and mapping information policy statements, the timeline, I think, is somewhat unattainable, if you will, within six months. To be reasonable, I’m not interested, and I don’t think the government is interested, quite frankly, in pinning down a specific date on this, although we are obviously as interested as the member is in working as quickly as possible toward the objectives with respect to the amendment. But we can’t support this specific timeline.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

All those in favour of NDP motion 2.3? Those opposed? That amendment is lost.

Moving now to government motion 3. Ms. Jeffrey.

Mrs. Linda Jeffrey: I move that subsection 7(3) of the bill be struck out and the following substituted:

“Participation of First Nations

“(3) The minister shall invite the First Nations having one or more reserves in the far north and one or more First Nations not having a reserve in the far north to work together in contributing to the preparation of the far north land use strategy, including the far north policy statements.”

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Orazietti.

Mr. David Orazietti: I think it’s fairly clear that the amendment and the intent of the amendment is to strengthen the legislation with respect to the involvement of First Nations. We all heard from First Nations the concerns around their role in the far north land use strategy and, as well, with their own community land use plans. With respect to our motion 15 that will be coming forward, this is an opportunity for First Nations to play a role, perhaps a larger role, in land use planning. We want to ensure that that’s clearly identified in the legislation.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Ouellette.

Mr. Jerry J. Ouellette: I’m wondering if the PA would be able to give us some idea more specifically of who these individuals are that you’re referring to.

Mr. David Orazietti: I’m sorry? I didn’t hear the—

Mr. Jerry J. Ouellette: Which individual groups or organizations are you referring to? Can you be a little more specific as to what you’re trying to—

Mr. David Orazietti: My understanding is, really, from a variety of First Nation groups, from NAN and others, that there are concerns around—in their input. I think the member is well aware of the concerns of First Nations in the far north in terms of their role in land use planning and their role in a larger strategy. The effect of this amendment is to help to address those concerns so that the First Nations were going to be certain, through legislation and through an amendment that will strengthen and more clearly identify the role of First Nations within the land use planning. I think that’s where the amendment is coming from. With respect to the member’s question, to be more specific, I think we heard that, quite frankly, through and from many First Nations organizations in the far north.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Ouellette?

Mr. Jerry J. Ouellette: Thank you, Chair. Very specifically, it says, “The minister shall invite the First Nations having one or more reserves in the far north and one or more First Nations not having a reserve in the far north.” Is that a reference to non-status First Nations communities in the north—because those individuals are not on-reserve because they do not live under status

regulation—or is it a reference to First Nations communities below the far-north line?

Mr. David Orazietti: To be clear, it’s a reference to First Nations of Treaty 5 or 9 who have reserves in the far north, or First Nations who have traditional lands in the far north.

Mr. Jerry J. Ouellette: So this does not include First Nations communities that—because quite frankly, “and one or more First Nations not having a reserve in the far north to work together”—that could be, for example, the Mississauga First Nations from Scugog Island, who don’t have a reserve in the far north, but because of this amendment, they would be allowed input into what’s taking place there.

Mr. David Orazietti: I’m going to ask for a more clear, specific response, if you could just bear with us for a second.

Mr. Gilles Bisson: As she’s working her way to the front, I’ll just pose the question now so that maybe we can wrap it into one answer. The way I read this is, any First Nation in the far north has to be part of the process and the minister has the right to appoint one or more First Nations not having reserves in the far north. That’s basically all you’re doing. It responds to First Nations who came before us and said that the tribal councils are important, they’re political organizations, but that they don’t speak for the actual First Nation. The authority lies with the First Nation, therefore all First Nations shall be involved. That’s what I’m reading.

The Vice-Chair (Ms. Helena Jaczek): Could you please give your name?

Ms. Jessica Ginsburg: Jessica Ginsburg, MNR legal counsel.

The term “First Nation” is defined in section 2 of the act as meaning a band having one or more reserves set apart for it in the area of Treaty 5; or the James Bay Treaty, Treaty 9, which was made in 1905 and 1906 with adhesions made in 1929 and 1930—and then with the French translation. Where you see the term “First Nation” appear here, it refers to First Nations as defined, being those with one or more reserves set apart in Treaty 5 or Treaty 9. So where you see “First Nations having one or more reserves in the far north,” those are the Treaty 5 or Treaty 9 First Nations north of the boundary line; and where you see reference to “and one or more First Nations not having a reserve in the far north,” those would be, again, the First Nation as defined as the Treaty 5 or Treaty 9 First Nation not being located in the far north.

Mr. Jerry J. Ouellette: Essentially, what you’re saying is that Grand Chief Stan Beardy is located, although his home reserve is in the north—it is located in Thunder Bay—those individuals who are members of Treaty 9 who are located in Thunder Bay would then be allowed input into it. Is that what you’re saying?

Ms. Jessica Ginsburg: It is still restricted to bands. Because it says “one or more First Nations,” it would be a minimum of one First Nation or band south of that line who would be included.

Mr. Jerry J. Ouellette: Only Treaty 5 and Treaty 9 First Nations communities are referenced, and those non-status ones who have not signed on to the treaty are excluded from this. Correct?

Ms. Jessica Ginsburg: The entire bill defines “First Nation” according to bands having one or more reserves in those treaties.

Mr. Jerry J. Ouellette: So they have to be treaty First Nations.

Ms. Jessica Ginsburg: Every reference to “First Nation” in any of our motions would be according to the definition of “First Nation” in the bill.

Mr. Jerry J. Ouellette: Okay.

The Vice-Chair (Ms. Helena Jaczek): Any further debate—

Mr. Gilles Bisson: I just want to make sure you’re addressing the concern that I heard. The concern was that all First Nations have to be involved. That’s what this does. This forces the minister to say, “All of you communities that are under Treaty 5 and 9, here’s the invite to come and talk to us about land use planning.” That’s what this does, right?

Ms. Jessica Ginsburg: The invitation would be extended to all First Nations having reserves in the far north.

Mr. Gilles Bisson: And what the second reference does, “and one or more First Nations not having a reserve”—that allows, then, the minister to name some other reserve that may have an interest but does not reside within Treaty 9. For example, the Chapleau Cree—yes, Chapleau would actually be close to Robinson-Superior, but they’re part of Treaty 9, so it allows them to participate.

The second, “and one or more First Nations not having a reserve in the far north,” means that the minister has the discretion to invite another First Nation outside of Treaty 5 and Treaty 9 to be part of the process, period.

Ms. Jessica Ginsburg: You’re saying outside of Treaty 5 or Treaty 9?

Mr. Gilles Bisson: Yes.

Ms. Jessica Ginsburg: They would still be within Treaty 5 or Treaty 9; they would simply not be located in the far north.

Mr. Gilles Bisson: Yes, we’re saying the same thing, but in a different way. Okay.

The Vice-Chair (Ms. Helena Jaczek): Any further debate on government motion 3?

Mr. Gilles Bisson: Just so we’re clear, because this is an important point: The long and the short of the story, what this means, is that if you are a First Nation residing in Treaty 5 or Treaty 9, you get an invite to the table. That’s what this means, period.

1530

Ms. Jessica Ginsburg: You’re saying that if you are a First Nation in Treaty 5 or Treaty 9 located in the far north—

Mr. Gilles Bisson: Or outside of the far north, as long as you’re Treaty 9.

Ms. Jessica Ginsburg: Well, if you’re not located in the far north, there’s the obligation to invite at least one.

Mr. Gilles Bisson: Yes. We’re agreeing. Don’t make this complicated. I just want to put something on the record really clearly. If I’m Attawapiskat, Fort Albany, Kashechewan, Big Trout Lake, I get an invite. If I’m in Treaty 9, Treaty 5, I’m in the far north, I get invited to the table. That’s what this means.

Ms. Jessica Ginsburg: If you are in Treaty 5 and 9 and you’re in the far north, then you would be part of that first group invited.

Mr. Gilles Bisson: Okay. I just wanted that for the record. Thank you.

The Vice-Chair (Ms. Helena Jaczek): Any further debate on government motion 3?

All those in favour of government motion 3? Those opposed? That is carried.

Now moving to NDP motion 3.1. Mr. Bisson.

Mr. Gilles Bisson: I move that subsection 7(3) of the bill be struck out and the following substituted:

“Participation of First Nations

“(3) The minister shall ensure that the First Nations participate in the preparation of the far north land use strategy and that the council of each of the First Nations pass a resolution approving the strategy.

“Policy objectives

“(3.1) The far north land use strategy shall contain policies that promote the objectives set out in section 6, including,

“(a) an ecological integrity policy which sets out indicators for ecological integrity in the far north;

“(b) policy guidance on the best methods for the sequestration of carbon in the far north;

“(c) a drinking water source protection policy for the far north; and

“(d) an integration policy that ensures that community based land use plans in the far north are consistent with each other.”

It’s fairly straightforward, just giving some definition and some meat to the issue.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. David Oraziotti: Going back to one of the previous amendments with respect to the commission, this is, I suppose, similar in the sense that my friend opposite is suggesting that the council of each First Nation pass a resolution. I think, again, it’s perhaps somewhat presumptuous of us, in legislation, to insist—and it’s beyond, frankly, the power of the minister to compel or insist—that First Nation groups in the far north pass council resolutions. I suppose if we had passed the other motion, this would all have to be done within the next six months, but that wasn’t carried.

We have more than 30 First Nation groups in the far north, and we have the suggestion here through this amendment that we put this in legislation, that the band councils pass resolutions. I understand the intent around the engagement. The member is looking for some assurance that First Nations are on board with where we’re

going in the legislation and looking for that, I suppose, agreement within each First Nation community, but I think that's a step they need to take on their own, without the government saying in legislation that it compels the First Nation groups in the far north to pass resolutions. I certainly don't want to be in a position where I'm explaining to a First Nations community that, "You must pass this resolution."

I know it's well intended with respect to seeking their agreement within the legislation, but I think that's a conclusion they'll have to draw on their own, and we're going to do that, I think, through this setting up of a joint planning committee and a joint planning team where the opportunity will arise. So we can't support the amendment.

The Vice-Chair (Ms. Helena Jaczek): Monsieur Bisson?

Mr. Gilles Bisson: It's consistent with a municipal plan. Under the Municipal Act, a municipality has the obligation in order to have their own land use planning process, and at the end of the day the municipal council has to vote on it. It's not any different. The language is different because it's a different act, but all it basically says is, "The minister shall ensure that the First Nations participate in the preparation of the far north land use strategy," so, number one, that they be in some control of the process by participating. And that each individual First Nation then has to approve that strategy would be no different than what we do with the Municipal Act. So to argue that we don't want to tell First Nations what to do—God, we're telling municipalities to do that in the Municipal Act.

So I hear you. Again, I would feel much better if we had a process by which the First Nations themselves were at the table helping to design this legislation, and at the end there was a buy-in by them and they said, "Yes, we accept this land use planning process." I agree with the parliamentary assistant that if we were to do that, we'd probably make sure that we don't have things that people cannot agree to. But this is an attempt to say (a) First Nations will participate, and (b) they will have a say about that by having to approve the strategy, and the policy objectives then are spelled out, such as making sure that land use plans are consistent with each other.

The Vice-Chair (Ms. Helena Jaczek): Any further debate?

Mr. David Oraziotti: I hear the member's comments, and I hear your point.

If you're in a situation where you have a First Nations group in the far north that says, "We're not interested in passing this"—so you pass this amendment and half pass resolutions and half don't—what happens to the strategy? You proceed in some communities and not others?

I think we're going down the road here where we need to let the First Nation communities have that decision-making, and that's really back to the premise of the bill and the spirit of the legislation, which is to engage First Nations and to allow First Nations that say and that direction within their own communities on the land use planning.

I understand the relationship here that you're making with communities or municipal jurisdictions across the province. I don't know that we want to be on the same page when it comes to our relationships with First Nations and our municipalities in some sense. So I'll leave it at that. We cannot support the amendment.

The Vice-Chair (Ms. Helena Jaczek): Any further debate?

Mr. Gilles Bisson: Not necessarily the Municipal Act but not necessarily the Municipal Act. Okay, got it.

Mr. David Oraziotti: All right.

The Vice-Chair (Ms. Helena Jaczek): Further debate? All those in favour of NDP motion 3.1?

Mr. Gilles Bisson: Recorded vote.

Ayes

Bisson, Ouellette.

Nays

Jeffrey, Kular, Mangat, Moridi, Oraziotti.

The Vice-Chair (Ms. Helena Jaczek): That motion is lost.

Moving on to government motion 4, Ms. Jeffrey.

Mrs. Linda Jeffrey: I move that subsection 7(4) of the bill be amended by striking out "and" at the end of clause (b) and by adding the following clause:

"(b.1) policies relating to,

"(i) amending community based land use plans and the process for making the amendments,

"(ii) categories of land use designations in a planning area and the land uses and activities that are permitted in a category of land use designation, and

"(iii) categories of protected areas and the land uses and activities that are permitted in a category of protected area; and"

The Vice-Chair (Ms. Helena Jaczek): Further comment?

Mr. David Oraziotti: This amendment has the effect of really strengthening the role of First Nations with regard to land use planning. NAN indicated that they want greater input in the strategy in legislation, and this resolution has that effect.

The Vice-Chair (Ms. Helena Jaczek): Any further debate?

Mr. Jerry J. Ouellette: Yes. In section (ii), "categories of land use designations in a planning area and the land uses and activities that are permitted in a category of land use designation," can you give us some examples of how that is to unfold, very specifically? Are you referring to NOTOA, for example, having outpost camps in the far north that are currently there, for the ones that are there? What is that reference to when you're talking about land uses and activities and aspects like that?

Mr. David Oraziotti: We are going to get more specific information for you in a moment here.

The Vice-Chair (Ms. Helena Jaczek): If you could state your name, please.

Ms. Afsana Qureshi: Hi. Afsana Qureshi. I'm with the Ministry of Natural Resources and I'm the policy manager.

The Vice-Chair (Ms. Helena Jaczek): If you could clarify on Mr. Ouellette's question.

Ms. Afsana Qureshi: I think you're asking what these land use designations would look like. Part of our intent here is to have the discussions with First Nations in relation to the policies related to land use designations, so we don't have necessarily a predetermined outcome of what land use designations would look like without that dialogue first.

1540

The Vice-Chair (Ms. Helena Jaczek): Any further questions, Mr. Ouellette?

Mr. Jerry J. Ouellette: Yes. The "categories of land use designations," is very broad as to this legislation. The categories or uses could be unlimited that are designed after the legislation goes through, I believe, is what I'm hearing. Are you referring to the Chapleau crown game preserve or aspects like that? What are you envisioning here?

Ms. Afsana Qureshi: These land use designations would be categories of land use designations that would be available for First Nation communities to use through their community-based land use planning process that's enabled in other sections of the bill.

Mr. Jerry J. Ouellette: Okay.

The Vice-Chair (Ms. Helena Jaczek): Any further debate? No further debate, then, on government motion 4. All those in favour? All those opposed? That is carried.

Moving on to government motion 5, Ms. Jeffrey.

Mrs. Linda Jeffrey: I move that subsection 7(6) of the bill be amended by striking out the portion before paragraph 1 and substituting the following:

"Far north policy statements

"(6) The minister shall prepare policy statements which may relate to the following matters in the far north, submit the statements to the Lieutenant Governor in Council and, with the approval of the Lieutenant Governor in Council, issue the statements:"

The Vice-Chair (Ms. Helena Jaczek): Any further comments?

Mr. David Oraziatti: Just to clarify, I think it makes it fairly clear within the legislation, but what it does is make the far north policy statements a mandatory requirement within the legislation, and it compels the minister and the government to ensure that those statements are made, and it's in the bill.

The Vice-Chair (Ms. Helena Jaczek): Mr. Ouellette?

Mr. Jerry J. Ouellette: The PA is saying that it's making it mandatory, yet the actual legislation says the minister "shall," not the minister "will," and "which may," as opposed to "which will." Why wouldn't they say "will prepare policy statements which will relate to

the following matters," because "shall" leaves it very wide open to the minister's discretion still?

Mr. David Oraziatti: The intent of the amendment is to ensure that this isn't a discretionary process, that they may or may not issue statements. It's to ensure that the minister shall make a statement on far north planning with respect to policy. So the intent of the amendment is to ensure that's not a discretionary process.

The Vice-Chair (Ms. Helena Jaczek): Perhaps legislative counsel could elucidate.

Mr. Michael Wood: Michael Wood, legislative counsel.

All throughout the bill, consistent with Ontario drafting style, when we want to express an obligation, we use the auxiliary verb "shall" and not "will." If you look at other subsections, you see, for instance, subsection 7(4), "The far north land use strategy shall contain all far north policy statements."

If you compare the motion for subsection 7(6) to the version of 7(6) in the bill, you'll see that in 7(6) of the bill it says, "The minister may issue policy statements." That's obviously optional, whereas in the motion before you here there is an obligation: "The minister shall prepare policy statements."

The Vice-Chair (Ms. Helena Jaczek): Are you satisfied, Mr. Ouellette?

Mr. Jerry J. Ouellette: With the explanation, yes, but there's further discussion.

The Vice-Chair (Ms. Helena Jaczek): Okay. Further debate?

Mr. Jerry J. Ouellette: So the intent is to move forward with statements, which is fine and understandable and agreeable. However, there are no timelines as to how often those statements should come out or should not come out. I would think that if the intent is to ensure that statements are going to come out on a regular basis, it should say annually or bi-annually or however, so that way there is some intent to ensure that subsequent ministers have the ability to make that change, to come forward and make a statement, because there isn't anything specifically stating any timelines in there at all.

The Vice-Chair (Ms. Helena Jaczek): Mr. Oraziatti.

Mr. David Oraziatti: Not contained specifically within this amendment. As the member knows, within the bill it's within 10 years, so that's there and obviously there will be further discussion on that as well.

The point of this amendment is to change the discretionary power of the minister—from "may make statements with regard to far north planning" to mandatory.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

All those in favour of government motion 5? Those opposed? That is carried.

Government motion 6.

Mrs. Linda Jeffrey: I move that subsection 7(8) of the bill be struck out and the following substituted:

"Review

"(8) At least every 10 years after issuing a far north policy statement, the minister shall invite the First

Nations having one or more reserves in the far north and one or more First Nations not having a reserve in the far north to work together in reviewing the statement to determine whether it is necessary to amend it.”

The Vice-Chair (Ms. Helena Jaczek): Further comment? Mr. Orazietti.

Mr. David Orazietti: Again, this adds further clarity and strength to the bill in terms of the involvement of First Nations within a certain time frame and to ensure that they're engaged in the process. It parallels the involvement of First Nations in the preparation of the far north land use strategy. That's the purpose of the amendment.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

All those in favour of government motion 6? Those opposed? That is carried.

Any further debate on section 7?

All those in favour of section 7, as amended? All those opposed? That is carried.

Moving on to PC motion 6.1 in relation to new section 7.1.

Mr. Jerry J. Ouellette: I move that the bill be amended by adding the following section:

“Precondition for community based land use plan

“7.1(1) No land use plan shall be prepared under section 8 or approved as a community based land use plan under that section unless the minister has,

“(a) had a comprehensive mapping performed of the far north showing geological formations and current mineral exploration;

“(b) posted a copy of the mapping on the government of Ontario site on the Internet;

“(c) provided an opportunity to the public to provide written comments on the accuracy of the mapping within the time period that the minister specifies;

“(d) taken into account the comments received under clause (c); and

“(e) made an order confirming the mapping.

“Discretion to make order

“(2) Upon complying with clauses (1)(a) to (d), the Lieutenant Governor in Council may make an order under clause (1)(e) confirming the mapping with the changes, if any, from the copy posted under clause (b) that the minister considers appropriate.”

The Vice-Chair (Ms. Helena Jaczek): Any further comment?

Mr. Jerry J. Ouellette: I'm hoping this is fairly clear. It's just designed that we're moving forward with a rather substantial—essentially, a lot of organizations are concerned about how the north is going to take place, or how it's going to unfold, particularly whether it's mapping for geological formation—that mineral exploration will have a large opportunity to ensure that the public can see this before it's moved into the next process. Effectively, that's all it is. It's giving those members of the prospecting and mining communities the opportunity to see this area prior to it changing the dynamics of what's going to take place.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Orazietti.

Mr. David Orazietti: While the member is right—this is a substantial change and it would be a significant change to the legislation as it's intended at this point. The concern is that if we do this, we're going to be holding up First Nation land use planning. Based on the best information to date, communities proceed with their land use plans. To say that First Nation communities can't proceed until all of these steps are completed in a geological, thorough mapping process of the entire far north would really be, in many ways, unfair to First Nations.

There are opportunities—and I think the member knows this—within the legislation and through a joint planning team that we're proposing to set up, and also with further consultations and discussions that will take place to ensure that those areas that First Nations feel are culturally or ecologically significant can be protected, and areas that they want to see development take place on, in partnership with industry or private sector, can go forward.

I think the amendment is one that really would delay unnecessarily the opportunity for First Nations communities to move forward with their land use plans. We can't support it at this time.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Ouellette.

1550

Mr. Jerry J. Ouellette: During the committee hearings we saw two First Nations communities come forward in Sioux Lookout that had overlapping land use plans. The difficulty with not moving forward with this is that once a potential geological site has been determined, the conflict between land use plans may expand, whereas in the event that this is—and those who have worked in that sector realize it's not an exact science; it's very approximate, a lot of this geological mapping. It eliminates a lot of the concerns that may arise later on when you're having land use planning areas that may overlap, as to which area is in conflict.

For example, if another kimberlite site is found prior to that, by moving forward with this it eliminates the conflict area, saying, “We have nothing to worry about there. We can move forward.” However, if there are conflict areas before the land use planning, it may speed up that process because they can eliminate that to be resolved at a later date and move around it.

That's all we're trying to do here. It's actually, in my opinion, benefiting it a lot and moving the process forward a little bit quicker.

The Vice-Chair (Ms. Helena Jaczek): Further comment?

Mr. David Orazietti: To my friend opposite, ideally I think you're right in the sense that where those opportunities exist and where that can be done, we certainly encourage it. I think you're right. There are some definite benefits to avoiding what could be potential difficulties in planning. To put it in the legislation as a fundamental requirement prior to any land use planning for First

Nation communities, we're going to be doing First Nation communities a disservice and it will unnecessarily burden First Nation communities when they could move forward, as the member knows in many of the instances with land use planning.

So, point well taken; I understand where you're coming from. We can't support that because it would compel everyone in the far north to ensure that that's done prior to any land use planning, although where those opportunities exist, we certainly encourage them. I think they are beneficial, and I recognize the member's point. Thank you.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

All those in favour of PC motion 6.1? All those opposed? That is lost.

Moving to section 8, government motion 7. Ms. Jeffrey.

Mrs. Linda Jeffrey: I move that subsections 8(1) and (2) of the bill be amended by adding "initiating the planning process by" after "their interest in" wherever that expression appears.

The Vice-Chair (Ms. Helena Jaczek): Explanation, Mr. Orazietti?

Mr. David Orazietti: I think this amendment recognizes that we're not interested in imposing the land use planning process in the sense of having communities and First Nation communities bring this forward; in other words, where they would initiate the process and where they are interested in ensuring that this is done so that further development or development of any nature can in fact take place. It's something that the First Nation communities are aware of and are interested in seeing take place, so that this would be at their initiation, and that's the purpose of this amendment within the legislation.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Monsieur Bisson?

Mr. Gilles Bisson: No, I'm just sneezing.

The Vice-Chair (Ms. Helena Jaczek): No? Just sneezing? Any further debate?

If not, all those in favour of government motion 7? Those opposed? That is carried.

PC motion 7.2. Mr. Ouellette.

Mr. Jerry J. Ouellette: I move that subsections 8(1) and (2) of the bill be struck out and the following substituted:

"Community based land use plan

"(1) Subject to section 7.1, if one or more of the following bodies indicate to the minister their interest in preparing terms of reference to guide the designation of an area in the far north as a planning area and the preparation of a land use plan for the purposes of this section, the minister shall work with them to prepare the terms of reference:

"1. First Nations whether or not they have a reserve in the far north.

"2. Associations of persons commonly referred to as non-status Indians and Metis or of persons of the Inuit race, if the government of Ontario or Canada recognizes

the associations as representative of those persons and representative of the interests of residents of the far north.

"3. Associations of other persons if the government of Ontario or Canada recognizes the associations as representative of the interests of residents of the far north."

The Vice-Chair (Ms. Helena Jaczek): Further comment?

Mr. Jerry J. Ouellette: For example, NOTOA has outposts in the far north and a lot of these planning areas, community-based land use plans. We want to ensure that there is some opportunity for organizations such as NOTOA to be included in part of that process, to make sure that if and when the land use moves forward, that during the initial stage of it they have the opportunity to sit down, so long as they are recognized organizations by the province and the federal government. We want to make sure that they are proper representatives.

Also, as I've stated in the past, there are a number of First Nation communities within the far north that are non-status First Nation communities. We want to make sure they're included, as well as the Metis individuals who have indicated that they're looking for the opportunity to have input on what's taking place in the north.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. David Orazietti: A couple of concerns here with respect to the amendment: Overall, it really diminishes the intent of the bill in dealing with First Nations within the far north. I think part of the concern is that by this amendment, any First Nation individual in any part of Ontario could take part in the planning in the far north—other than Treaties 5 and 9. There would be some concerns around who is involved. This really opens it up that anybody is involved in planning in the far north. The reality is that we want to ensure that the First Nation communities that live in the far north play the leading role in planning their communities and in land use planning.

So while I appreciate the intent of the amendment, the government can't support it because it really diminishes or takes away from the intent of the bill, which is to work with the First Nation communities that are in the far north for their planning.

The Vice-Chair (Ms. Helena Jaczek): Further comment?

Mr. Jerry J. Ouellette: I just feel it's necessary that all those individuals who wish to participate in activities that take place in the province of Ontario be given the opportunity. Although predominantly, yes, the First Nations are, as stated earlier on, 99% of the individuals who live in those areas, there are other groups and organizations that participate in activities in those areas, whether it's fly-in fishing camps or fly-in hunting camps, or there are snowmobilers who do their run to James Bay, Hudson Bay, who would go through those areas—those associations, whether they're coming out of Hearst and a number of other areas, have the opportunity to have some say. To me, we have to be inclusive, otherwise the farther

and the tighter we move, the more friction that will appear with organizations.

I think being at the table when it's set up and when it's taking place will have a far greater effect, rather than, "Here's the plan and let's see afterwards."

The Vice-Chair (Ms. Helena Jaczek): Further debate? All those in favour of PC motion 7.2? Those opposed? That is lost.

Moving to government motion 8, Ms. Jeffrey.

Mrs. Linda Jeffrey: I move that section 8 of the bill be amended by adding the following subsection:

"Joint planning team

"(2.1) The First Nations that work with the minister under subsection (1) or (2) and the minister shall,

"(a) create a joint planning team that the parties shall use when preparing the terms of reference, the land use plan mentioned in subsection (5) and any amendments to the terms of reference, the planning area or the plan; and

"(b) include a description of the joint planning team in the terms of reference."

The Vice-Chair (Ms. Helena Jaczek): Comment? Mr. Orazietti.

Mr. David Orazietti: Again, the intent of the amendment is to recognize that the planning that will be done in the far north will be done with First Nations leading the process but in partnership with the province. We know that we currently have eight First Nations that have created joint planning teams and are making significant progress. We know that in fact there are about 25 different First Nations that are already engaged with the province to varying degrees. We want to see this take shape in a way that First Nations can support, but we need to have that discussion first as to how that will unfold, and the opportunity through the joint planning team, we think, is a good one and is one that First Nations are interested in.

The Vice-Chair (Ms. Helena Jaczek): Further comment? Further debate? All those in favour of government motion 8? Those opposed? That is carried.

Moving to PC motion 8.1, Mr. Ouellette.

1600

Mr. Jerry J. Ouellette: I move that clause 8(3)(a) of the bill be struck out and the following substituted:

"(a) the council of each of the First Nations and each of the bodies that works with the minister under subsection (1) have passed a resolution approving the terms of reference;"

The Vice-Chair (Ms. Helena Jaczek): Any explanation?

Mr. Jerry J. Ouellette: Essentially, it follows up on the previous one, whereby we want to make sure that those bodies that work with the minister—there are a number of other organizations, whether it's the Metis or whether it's the non-status First Nation communities—are given the opportunity to work with them.

The Vice-Chair (Ms. Helena Jaczek): I believe that this motion is now out of order because the previous one was defeated.

Therefore, moving on to NDP motion 8.2. Monsieur Bisson.

Mr. Gilles Bisson: I move that clause 8(3)(b) of the bill be struck out and the following substituted:

"(b) the commission and the Lieutenant Governor in Council have approved the terms of reference; and"

Again, it will be voted down, because we've already voted the sections, so I will withdraw this. It's kind of a moot point.

The Vice-Chair (Ms. Helena Jaczek): Thank you. So that is withdrawn.

NDP motion 8.3.

Mr. Gilles Bisson: Again, the commission is not approved in the previous subsection, so I withdraw this one.

The Vice-Chair (Ms. Helena Jaczek): Then we're moving to government motion 9. Ms. Jeffrey.

Mrs. Linda Jeffrey: I move that subsection 8(5) of the bill be amended by striking out "One or more of" at the beginning.

The Vice-Chair (Ms. Helena Jaczek): Mr. Orazietti?

Mr. David Orazietti: Just to be clear, this is a minor technical amendment that clarifies that the First Nations who work on the terms of reference are also the same working on the plan—

The Vice-Chair (Ms. Helena Jaczek): Any further—

Mr. David Orazietti: —so there's continuity through the planning process. I'm sorry. That's all we have to add on that.

The Vice-Chair (Ms. Helena Jaczek): Further debate? No further debate.

All those in favour of government motion 9? Those opposed? That is carried.

PC motion 9.1, Mr. Ouellette.

Mr. Jerry J. Ouellette: I move that subsection 8(5) of the bill be struck out and the following substituted:

"Preparation of plan

"(5) One or more of the bodies that work with the minister under subsection (1) may work with the minister to prepare a land use plan for the planning area."

I believe—

The Vice-Chair (Ms. Helena Jaczek): I believe this is out of order, since the previous motion was lost. So that is withdrawn.

PC motion 9.2.

Mr. Jerry J. Ouellette: I believe that is out of order as well, Madam Chair.

The Vice-Chair (Ms. Helena Jaczek): Thank you. So that's withdrawn.

Moving, then, to NDP motion 9.2.1.

Mr. Gilles Bisson: I move that subsection 8(6) of the bill be struck out and the following substituted:

"Far north land use strategy

"(6) In preparing a land use plan under subsection (5), the First Nations that prepare the plan and the minister shall ensure that the plan is consistent with,

"(a) the far north land use strategy as it exists at the time the plan is prepared; or

“(b) the objectives set out in section 6 if there is no far north land use strategy at the time that the plan is prepared.”

It’s fairly straightforward.

The Vice-Chair (Ms. Helena Jaczek): Would you like to make any further comment on that, Monsieur Bisson?

Mr. Gilles Bisson: Again, it just tries to give some substance to the land use planning process.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. David Oraziotti: I appreciate the amendment. I think, however, it’s already addressed in subsection 8(15) of the bill. Subsection 8(15) of the current bill requires that the minister take into account the objective for land use planning when approving a community-based land use plan. So, to my friend across the room here, the amendment he has put forward is, I believe, already included within the bill in subsection 8(15), and we will not be supporting it.

The Vice-Chair (Ms. Helena Jaczek): Further comment?

Mr. Gilles Bisson: It only proves that I’m clairvoyant.

The Vice-Chair (Ms. Helena Jaczek): Any further debate?

All those in favour of NDP motion 9.2.1? Those opposed? That is lost.

PC motion 9.3, Mr. Ouellette.

Mr. Jerry J. Ouellette: I move that subsection 8(8) of the bill be amended by adding the following clause:

“(c.1) specify the effect that the land uses that are permitted in the area will have on fishing, trapping, hunting, prospecting and commercial timber harvest;”

The Vice-Chair (Ms. Helena Jaczek): Further explanation?

Mr. Jerry J. Ouellette: Effectively, the land use plans can be very broad, although we want to ensure that there are certain things that are included in there so that there is consistency from the various land use plans, so that other organizations like NOTOA understand how they’re going to be affected within the plan.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. David Oraziotti: I understand the intent of the amendment. I guess the concern is that while there are specific areas that have been identified within the amendment—fishing, trapping, hunting—it’s perhaps too prescriptive. In other words, in working with the First Nations, in partnership with them as they each individually develop their community land use plan, they may identify things other than these or in addition to the items that have been mentioned. So, there’s a concern that this is too prescriptive and that it’s somewhat premature in the sense that those plans have yet to be developed in large part with First Nations and in partnership with them.

So those items that are mentioned might very well be included, but each First Nation community is different and has different priorities and different areas in which

they will plan, and we’ll leave it to their discretion, in partnership with them in part, I suppose, to have them identify those particular areas. So we can’t support this particular amendment, Madam Chair.

Mr. Jerry J. Ouellette: I think some aspect of it is that individuals who would be travelling into those areas on a regular basis at this particular time would be hunting, fishing, trapping, forestry and mining individuals, or there would be a component of individuals who would be interested, for example, in the Hudson-James Bay lowland. Birdwatchers, during migration, are very active in the area.

All we’re looking for is to ensure that there’s some understanding of how those areas will be affected, if and when the plan is implemented, and we want to make sure that there’s a full understanding prior, then, to those having a plan come out with no definition or no understanding of somebody from Sault Ste. Marie travelling into the north to find out if they’re going to be able to fish their favourite spot.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. Gilles Bisson: Well, I’ll tell you, it’s an issue. Just for the record, as my good friend the fellow northerner here would know, if you want to upset somebody, just all of a sudden decide that you’re going to protect an area where somebody has been traditionally hunting or fishing, be it First Nations or non-First Nations residents of northern Ontario.

I’m not speaking to your amendment directly, but I can tell you that I—and you had him as minister, I am sure; as a matter of fact, I think I banged at your door when you were the minister. It just drives people absolutely stark raving mad when their family has been hunting or fishing a particular area for years, or even camping, in some cases—just bringing the trailer out in the summer and camping in an area on a particular long weekend is a thing that the family does together on a regular basis—and all of a sudden they drive up with their camper and they find out that the place is closed to camping or they show up with their boat to go fishing and they can’t fish any more. I’ll tell you it drives people just absolutely mad.

I think what Mr. Ouellette is trying to get at is, if there’s going to be some form of restriction, there needs to be a process by which people are informed of what the restriction will be so that they have some input and, number two, that they don’t end up driving up there and finding out that the darned thing has been closed off, after many hours on the road of hauling a trailer or whatever it might be up to the area.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. David Oraziotti: Thank you for the concern around Sault Ste. Marie. That’s fantastic to hear.

To your point, though, with regard to possible changes for individuals—and Mr. Bisson, as well, has just mentioned this—on page 6 of the legislation, subclause 8(7)(b)(ii) provides that the public will be able to provide

written comments on any changes to the plan with respect to existing uses. So that's something that's already in place within the legislation.

Again, the concern is around identifying these specific five activities apart from any other activity that could take place in this area. We think that's too prescriptive. There will be other uses or purposes for which individuals will be in the far north. We're interested in seeing the land use planning in partnership with the First Nations take place and those areas identified. Again, to allay some of the concerns around that, within the bill there is an opportunity for the public to provide written comments with regard to any changes of existing uses in the far north. So I think that addresses and accommodates the issue Mr. Bisson's referenced—and Mr. Ouellette.

1610

The Vice-Chair (Ms. Helena Jaczek): Any further comment or debate? All those in favour of PC motion 9.3? All those opposed? That is lost.

Government motion 10. Ms. Jeffrey.

Mrs. Linda Jeffrey: I move that clauses 8(10)(a) and (b) of the bill be struck out and the following substituted:

“(a) the First Nations that work with the minister under subsections (1) or (2) on preparing the original terms of reference work with the minister to prepare terms of reference to guide the making of the amendment;

“(b) the council of each of the First Nations that work with the minister under subsections (1) or (2) on preparing the original terms of reference has passed a resolution approving the terms of reference to guide the making of the amendment;”.

The Vice-Chair (Ms. Helena Jaczek): Explanation?

Mr. David Oraziotti: Yes. Just to add to that, again, this is a technical amendment that ensures that the same First Nation groups who work on the terms of reference also work on the amendments in the planning area. It ensures a continuity in the process through the legislation.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Monsieur Bisson?

Mr. Gilles Bisson: Yes. I think the answer is obvious, but (c) and (d) remain, right? Under section 10, you're just taking out (a) and (b), but you're leaving (c) and (d) in?

Mr. David Oraziotti: Yes.

The Vice-Chair (Ms. Helena Jaczek): That's correct. Any further debate? All those in favour of government motion 10? Those opposed? That is carried.

Moving on to PC motion 10.1, Mr. Ouellette, I believe this may be out of order.

Mr. Jerry J. Ouellette: Yes.

The Vice-Chair (Ms. Helena Jaczek): Similarly for PC motion 10.2?

Mr. Jerry J. Ouellette: Yes.

The Vice-Chair (Ms. Helena Jaczek): Then we will move on to government motion 11. Ms. Jeffrey.

Mrs. Linda Jeffrey: I move that subsection 8(11) of the bill be struck out and the following substituted:

“Amended terms of reference

“(11) At any time before a land use plan mentioned in subsection (5) is approved as a community based land use plan, the First Nations that worked with the minister under subsection (1) or (2) on preparing the terms of reference may work with the minister to amend the terms of reference as they apply to guide the preparation of the plan.”

The Vice-Chair (Ms. Helena Jaczek): Explanation, Mr. Oraziotti?

Mr. David Oraziotti: Another technical amendment to ensure that the same First Nations who worked on the original terms of reference also work on the amendments, and again, it ensures continuity.

The Vice-Chair (Ms. Helena Jaczek): Further debate? All those in favour of government motion 11? Those opposed? That is carried.

Mr. Ouellette, PC motion 11.1 is again out of order, so we move to government motion 12. Ms. Jeffrey.

Mrs. Linda Jeffrey: I move that clause 8(12)(a) of the bill be struck out and the following substituted:

“(a) the council of each of the First Nations that prepared the original terms of reference with the minister has passed a resolution approving the terms of reference containing the amendment; and”

The Vice-Chair (Ms. Helena Jaczek): Mr. Oraziotti?

Mr. David Oraziotti: Again, a technical amendment to ensure that the First Nations that are working on the terms of reference are working on the amended references, and it ensures that there's continuity in the process.

The Vice-Chair (Ms. Helena Jaczek): Further debate? All those in favour of government motion 12? Those opposed? That is carried.

NDP motion 12.0.1. Mr. Bisson, would this again be out of order?

Mr. Gilles Bisson: Withdrawn. It's not out of order; it's only withdrawn. To be clear, it's not out of order; it's just withdrawn.

The Vice-Chair (Ms. Helena Jaczek): Okay. I'm happy to hear it is withdrawn.

Mr. Ouellette, 12.1?

Mr. Jerry J. Ouellette: It is out of order, I believe.

The Vice-Chair (Ms. Helena Jaczek): Yes, out of order. And NDP motion 12.1.1?

Mr. Gilles Bisson: Withdrawn.

The Vice-Chair (Ms. Helena Jaczek): Thank you. And 12.1.2?

Mr. Gilles Bisson: Withdrawn.

The Vice-Chair (Ms. Helena Jaczek): Any further debate on section 8, as amended?

All those in favour of section 8, as amended? Those opposed? That is carried.

Section 9: PC motion 12.2.

Mr. Jerry J. Ouellette: It's out of order, Madam Chair.

The Vice-Chair (Ms. Helena Jaczek): Out of order. And PC motion 12.3?

Mr. Jerry J. Ouellette: Out of order as well.

The Vice-Chair (Ms. Helena Jaczek): Thank you.

NDP motion 12.4.

Mr. Gilles Bisson: I move that clause 11(2)(a) of the bill be struck out and the following substituted:

“(a) the construction is for a First Nation community use and has the support of the First Nations that are affected by the development, as evidenced by resolutions passed by their councils; and”

The Vice-Chair (Ms. Helena Jaczek): Explanation?

Mr. Gilles Bisson: Call it the De Beers clause. Basically, at the end it’s that no development could go forward unless there is a vote by the First Nation in order to allow it—

The Vice-Chair (Ms. Helena Jaczek): Mr. Bisson, apparently we have to pause.

Mr. Gilles Bisson: Pause.

The Vice-Chair (Ms. Helena Jaczek): Unfortunately, Monsieur Bisson, your motion alludes to section 11 and we have got the motions out of order at this point, in an incorrect order. We need to talk about section 9 at this point. Your amendment relates to section 11.

Any debate on section 9?

Seeing none, all those in favour of section 9? Those opposed? That is carried.

Section 10: Any debate on section 10? We have no amendments. That is carried.

Now we move to section 11. We now will be talking about Monsieur Bisson’s NDP motion 12.4.

Mr. Gilles Bisson: Okay. I’d given an explanation previously, so I’m curious to see what the parliamentary assistant has to say.

The Vice-Chair (Ms. Helena Jaczek): Mr. Orazietti?

Mr. David Orazietti: I think the reference is to a broader use. It’s somewhat redundant in that the minister can make an exemption for a community use, so we can’t support the motion. If you want a further explanation, I’d ask legal counsel to come forward and elaborate on that.

Mr. Gilles Bisson: Yes, well, I should elaborate, because now that I read the section and I read the amendment, I have a different explanation. I thought I was on another amendment. I apologize.

Mr. David Orazietti: No problem.

Mr. Gilles Bisson: What subsection 11(2) deals with is electrical transmission. What this was all about is making sure that if a First Nation is building, let’s say, some sort of a power system, as long as there’s a resolution of the council saying, “Go ahead, this is fine,” then they would be allowed to go ahead and do it.

The Vice-Chair (Ms. Helena Jaczek): Any further comment, Mr. Orazietti?

Mr. David Orazietti: I think the reference, though, in clause 11(3)(a) already deals with this to some extent. You’re talking about transmission, so you’re talking about a broader use than just community, in the sense of multiple communities or over a region.

Mr. Gilles Bisson: Could be a region, yes.

Mr. David Orazietti: So this is a bit more specific. To some extent, it’s redundant. And again, the minister can make the exemption for community use already, so you really don’t need the amendment.

Mr. Gilles Bisson: You’re just arguing me down, though. This is not fair.

The Vice-Chair (Ms. Helena Jaczek): Any further debate on NDP motion 12.4?

All those in favour of NDP motion 12.4? Those opposed? That is lost.

Now we move on to government motion 13.

Mrs. Linda Jeffrey: I move that subsection 11(3) of the bill be amended by striking out the portion before clause (a) and substituting the following:

“Exempting order

“(3) Despite subsections (1) and (2), a person may undertake a development described in subsection (1) if,”

The Vice-Chair (Ms. Helena Jaczek): Explanation, Mr. Orazietti?

Mr. David Orazietti: It’s a technical amendment that ensures there’s no ambiguity on the use of the LGIC exemption authority for electrical transmission facilities and lines and associated all-weather roads.

1620

The Vice-Chair (Ms. Helena Jaczek): Any further debate?

All those in favour of government motion 13? Those opposed? That is carried.

PC motion 13.1.

Mr. Jerry J. Ouellette: I move that clause 11(3)(a) of the bill be struck out and the following substituted:

“(a) the minister by order confirms that a community in the area where the development is to take place has determined that the development is predominantly for the benefit of the community; or”

The Vice-Chair (Ms. Helena Jaczek): Mr. Ouellette, any explanation?

Mr. Jerry J. Ouellette: The limitation of the community use unfairly restricts the potential of aboriginal communities to pursue renewable energy opportunities. This should be rectified by amending the paragraph to include projects that provide a community benefit as determined by the community.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. David Orazietti: The reference to community benefit, I suppose, in contrast to community use, which is accommodated—again, I think the government’s position on this is that we recognize that some developments, such as those that are predominantly for community use, will need to take place in the absence of community land use plans, but there is some difference here with what’s being suggested by the member. The suggested amendment would broaden the application of the exemption and could open the doors to large-scale industrial or commercial development in the far north prior to land use planning. We’re prepared to do that in the sense of community use, but I suppose the reference that would be broader than that is that larger industrial or commercial development could take place without the checks and balances, so to speak.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. Jerry J. Ouellette: It still is defined by the community to ensure that they see the benefit there. We want to get economic development going. To me, if the community is defining a benefit in your example about higher-level projects that can be linked into elsewhere or in other communities, that would be advantageous.

Mr. David Oraziotti: Yes, I understand your point and I think we are, in part, on the same page on this. I'm going to ask counsel to come forward just to add a little more clarity to this because there are some nuances with respect to community use and community benefit that I think need to be clarified.

The Vice-Chair (Ms. Helena Jaczek): If you could come forward and again identify yourself, please.

Ms. Afsana Qureshi: My name is Afsana Qureshi. I'm with the Ministry of Natural Resources, and I'm the far north policy manager with the far north branch.

Could you maybe help me understand the question?

Mr. Jerry J. Ouellette: We just want to ensure that a community is the deciding factor by which the benefit actually takes place in that area.

Ms. Afsana Qureshi: What we've provided for in the bill is that developments that are predominantly for community use could move forward with the considerations that are in the bill already. What I understand this motion would bring forward is opening that up to a broader array of development. Part of the thinking was that land use planning in advance of some major developments helps ensure wise use-of-land decisions. Not opening the door to potentially larger-scale development was why we limited it predominantly to community—

Mr. Jerry J. Ouellette: But I thought that was the intent, to bring economic development to the First Nations communities. The Ginoogaming First Nation community just signed a memorandum of understanding with mining companies that would take place in the far north that will give them the potential to develop—I can't remember; it was gold sites, I believe—where they would receive an economic benefit. We just want to make sure that we give the First Nations communities the opportunity to move forward. What you're saying here is that we're going to restrict that until we have a land use plan in place? Is that what you're saying?

Ms. Afsana Qureshi: For major developments, generally yes, as outlined in the bill, until there's a community-based land use plan in place.

Mr. Jerry J. Ouellette: So major developments will not be allowed—if there's another Musselwhite find and there's an agreement with the First Nation communities, they will not be allowed to move forward?

Ms. Afsana Qureshi: Until they have a community—

Mr. Jerry J. Ouellette: A land use plan.

Ms. Afsana Qureshi: Yes.

The Vice-Chair (Ms. Helena Jaczek): Any further questions or comments?

Mr. Jerry J. Ouellette: I find this contrary to the intent of the bill, which was to aid the First Nation communities in—

Mr. Gilles Bisson: Economic development.

Mr. Jerry J. Ouellette: Yes.

The Vice-Chair (Ms. Helena Jaczek): Any comment, Mr. Oraziotti?

Mr. David Oraziotti: Mr. Bisson.

The Vice-Chair (Ms. Helena Jaczek): Monsieur Bisson?

Mr. Gilles Bisson: This speaks to the issue that others have raised in the committee hearings, which is that part of the process of what is being established here will create a whole bunch of uncertainty when it comes to economic development in the far north. You've got 50% of the land that may be—there's approximately 50% of land that we think will be established as being protected at the end of the process. And if you're not in a project now that's grandfathered, you're going to be in a situation of not knowing where that 50% is, number one. So they argue that that's going to add uncertainty, and this just adds to it. I think it's fuel for the fire.

What you would end up with, if your explanation is correct, is you can have a mining development—a mining property—that is discovered in an area that is not yet covered by this bill, and you would not be able to do anything until the bill and the land use planning process is done.

The Vice-Chair (Ms. Helena Jaczek): Mr. Oraziotti?

Mr. David Oraziotti: Thank you. Unless you want to respond to that, I—

Ms. Afsana Qureshi: Just from a technical point of view, you would be permitted to do a certain amount of work up on the claim, up to opening the mine.

Mr. Gilles Bisson: But you would not be able to do the development, right?

Ms. Afsana Qureshi: Up to opening the mine.

Mr. Gilles Bisson: But nobody's going to explore for 10 years. That's what it means. It shuts down the exploration for 10 years if you do that. I wouldn't spend a dime up north.

The Vice-Chair (Ms. Helena Jaczek): Mr. Oraziotti?

Mr. David Oraziotti: That's not the intent. I understand where you're coming from. There are some merits to the amendment, although I think it broadens the use to a greater extent and weakens the position of the minister and cabinet to allow the instances where community use would be allowed. This takes it to, really, another level where you're talking about a larger-scale development where there is the absence of land use planning.

If we're going to be making exemptions to land use planning, we need to be mindful of where and when we do that and how frequently, and the instances in which that takes place. That needs to be kept, I think, for the most part, to a minimum to encourage the land use planning to take place so that you're not simply saying, "Oh, any time you identify a benefit, just throw the land use plan aside and proceed."

While we do want development to take place and while we do want the First Nations to have the opportunities for economic development, I think we need to be cautious around the emphasis and the importance that we're placing on that development in comparison to land

use planning. Land use planning is a priority. We know that we need that to take place, and we know that it helps give certainty to both First Nations and the industry. I would just say that this amendment takes that, really, beyond what the intent of the bill is, to some extent.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Ouellette?

Mr. Jerry J. Ouellette: Very specifically, the clause in there says, “the minister by order determines that the development is predominantly for community use in the area where the development is to take place....” If supplying another First Nations community with—for example, most, I hope, would know that on the Hudson-James Bay coastline, wind power generation is very beneficial, and the opportunity to supply other communities with that would be there. However, we want to make sure that it’s more than just the use; it’s the benefit to the community so that other communities could benefit from it as well. This, essentially, says that “the minister by order determines that the development is predominantly for community use....” We want to make sure that the others can benefit from it as well.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. David Oraziatti: I understand where the member is coming from. I think the approach is going to, to some extent, weaken the discretion around the importance of land use planning in comparison to that exemption or to that being entrenched in the legislation around large-scale development. We want to ensure that land use planning takes place and is a priority, and in the instance where there’s a benefit for community use, there is the ability for the minister and cabinet to move ahead with that.

Again, the government is not prepared to support this particular amendment the way it’s worded.

The Vice-Chair (Ms. Helena Jaczek): Any further debate? All those in favour of PC motion 13.1? Those opposed? That is lost.

NDP motion 13.1.1, Mr. Bisson.

1630

Mr. Gilles Bisson: I move that clause 11(3)(b) of the bill be amended by adding “significant” after “the development is in the”.

Basically what that does is signify that the development has got to be a significant development rather than just saying a development.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. David Oraziatti: With respect to the amendment, the opportunity for cabinet and the minister to determine what is significant—we’re back to square one with that, in respect, anyway. We want to identify that we’re going to add significant development. I think the purpose of that is that the exemption is only going to be used where the development is in the social and economic interests of Ontario to begin with. So obviously, if it is significant, that will be a determining factor in the process regardless.

I think what the member is saying is correct in the sense that that needs to be considered or it needs to be significant, where the exemption is used. I think that’s going to be a determination by the government or cabinet of the day with respect to any decisions pertaining to this legislation. I think it’s already incorporated in the bill with the exemption, so we won’t be supporting the amendment.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. Gilles Bisson: The way it reads now is that it could be a very small project that has very little impact and the cabinet could exempt it, the way it’s reading now. If you add the word “significant,” then it at least puts a threshold by which cabinet can’t just approve because they know somebody or—I’m not saying that you would do that, but you follow where I’m going.

Mr. David Oraziatti: I understand what you’re saying. I think “significant” without any criteria is going to be up for debate anyway and I think you’re back to the decision by the government of the day or the cabinet of the day.

The Vice-Chair (Ms. Helena Jaczek): Further debate? All those in favour of NDP motion 13.1.1? Those opposed? That is lost.

PC motion 13.2.

Mr. Jerry J. Ouellette: I move that subclause 11(4)(c)(ii) of the bill be struck out and the following substituted:

“(ii) a community in the area has determined that the development is predominantly for the benefit of the community;”

Quite frankly, I’m very concerned. We’re going to probably take a recess after this one—20 minutes—and you need to talk, because the only thing that this bill is saying is that that First Nation community is the only one that is going to get any benefit from anything that takes place in any development at all and, quite frankly, I think that’s wrong.

If you want to advance the north or if you want to restrict them to local communities, then that’s what’s going to happen. If the only use is for community use, it’s not for a benefit at all. The minister still has ample control in a number of areas here, but we want to make sure that the communities have a benefit so that they can effectively use or sell off any resources that may be available there.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. David Oraziatti: Again on the point—and I understand where the member’s coming from—that’s in absence of a land use plan. So where there’s not a land use plan in place, it’s for the community use. I would agree with you in the sense that we want to see communities across northern Ontario and the far north benefit, whether it’s through transmission, water power, whatnot, but the land use plan needs to be in place prior to that, being a more broad sense of development. So “within the community” would remove any requirement for land use

planning to be done within that particular community. That's why we didn't support the previous amendment and why we can't support this amendment.

Mr. Jerry J. Ouellette: It doesn't say that. Effectively, it says "for the benefit of the community." That allows them to work with other communities so that they can benefit as well. What you're doing here is you're restricting it to a sole community and keeping them isolated. So if there are opportunities for development or for the movement of goods through various areas, that's limited now because the minister is limited in the ability to look at that sole community for its use and not its benefit.

The difference here, for those who don't understand, is that what is being said is this legislation proposes that that isolated community is the only one that the minister is allowed to see any benefit coming to at all. That community cannot use or build anything that will supplement or supply other communities with resources or support in any way, shape or form. All we're saying here is, give those communities the opportunity to look at the benefit so that the community can benefit and it gives them the opportunity to expand beyond just what they're using there. So if they're going to put up a wind turbine and they need five kilowatts, and they have an opportunity to put up a 20-kilowatt one and supply the next community, it ain't happening because this legislation says, "You can only look at what you're going to use, not what you can supply to anybody else or what the benefit is." We've got to make sure that those opportunities are not restricted. I find that very concerning.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Any further debate? Monsieur Bisson?

Mr. Gilles Bisson: No, I'm just reading it and I'm trying to come up to—if you would just give me a second.

The Vice-Chair (Ms. Helena Jaczek): Any further comments?

Mr. Jerry J. Ouellette: I'll ask for a recess.

The Vice-Chair (Ms. Helena Jaczek): Will the members be ready to vote, or are there any further comments? We have a twenty-minute recess, which means we will reconvene at 4:56.

The committee recessed from 1636 to 1656.

The Vice-Chair (Ms. Helena Jaczek): Members of committee, we are resuming on our vote on PC motion 13.2. It will be a recorded vote.

Ayes

Bisson, Ouellette.

Nays

Jeffrey, Kular, Mangat, Moridi.

The Vice-Chair (Ms. Helena Jaczek): That is lost.

Any further debate on section 11, as amended? Mr. Ouellette.

Mr. Jerry J. Ouellette: Mr. Bisson, go ahead.

Mr. Gilles Bisson: I just wanted for the record—as I read the legislation, a big part of the problem here is that we're basically saying to anybody who wants to invest in mining or other activities in the far north that if you plan on doing any investments, don't bother trying to do so until after a land use plan is done. You know as well as I do that a land use plan under this process might take as much as 10 years. For somebody to put up the amount of money necessary to bring a mine into production or whatever project it might be, you're talking in the millions of dollars. In the case of De Beers, it was almost a billion bucks to build that particular mine. You're going to have a hard time trying to attract investment in these communities for the next 10 years the way the legislation is drafted now.

I think the government should give pause. I realize we're in first reading, but what I heard as I was listening to the parliamentary assistant is that there seems to be an understanding on the part of the government that this is the way business will be done; there's not going to be any development. There are exemptions in the legislation, but try to exempt the mine going into operation somewhere in northern Ontario, in the far north, under this legislation—you're not going to be able to get the exemption.

I just say to government, as you're moving to second reading, you've really got to think this one through again and have some kind of a process that allows exploration and development to happen in a way that's consistent with good practices we've already established in the meantime as we work towards a land use plan. To have the legislation written this way wouldn't be accepted in any municipality in this province. Imagine if Sault Ste. Marie, Toronto or Timmins were in a position where no development could happen for 10 years as we developed some sort of land use plan. It would effectively cripple the economic activities in those communities. I think the government really needs to rethink this as they move to second reading.

The Vice-Chair (Ms. Helena Jaczek): Further comment? Mr. Ouellette.

Mr. Jerry J. Ouellette: Just to expand on that, I can recall in Chapleau when Frank Beardy spoke, and I asked him the question about how much time he was looking at, he very specifically mentioned a generation of time in order to get things the way they should be. So 10 years is an extended period of time, but a generation can be a lot longer. We're trying to move forward as best we can to make sure that those communities who are, how shall I say, more aggressive or more willing to move forward at certain times may not be losing out on some of the benefit.

The Vice-Chair (Ms. Helena Jaczek): Any further comment on section 11, as amended? Mr. Oraziotti.

Mr. David Oraziotti: With respect to the motions that were raised by my colleague across the floor here, 13.1 and 13.2, I just want to reference the language that's used in the amendment, that the development is predominantly

“for the benefit of the community.” The member knows, and the reality is, that if we’re going to go down this road of benefit for the community, it’s a pretty low threshold. You could really be talking about just about any type of development that could, in the smallest way, benefit any community. And while that might be fine and well, and it’s something that we want to see happen in these communities, we don’t want a patchwork of development to take place in the absence of land use planning.

That’s really a low threshold, if you will, if we’re going to simply say, “Look, if it benefits a First Nation community in any way, shape or form, you can go ahead and have the exemption, and you don’t need to do any land use planning.”

But I understand the member’s concern. We want to see development in the far north, and we want First Nations to lead that development and play an active role in it and benefit from the jobs and opportunities that will result from that.

In clause 11(3)(b), there’s an opportunity for an exemption where there are larger-scale developments that could take place that are really for the socio-economic benefit of the entire province. That’s referenced in 11(3)(b). That exemption and that mechanism are there within the bill to allow that to go forward. Clause 11(3)(a) is a reference to the minister having the opportunity to exempt developments for community use. Those mechanisms are in the bill, both at the ministerial level and at the level of cabinet, to allow development for community use—a power plant that might supply electricity to a school or what have you.

Simply to say “any type of benefit” is a fairly low threshold. I understand where you’re coming from. We do not want to be curtailing economic development, but at the same time, we want to be encouraging land use planning in the far north so that we don’t end up in a situation where we don’t have adequate land use planning and we simply have development scattered all over the far north, so to speak.

That’s the context in which we want to go forward and it’s the rationale behind why we can’t support those two motions that were put forward, albeit as well-intended as they are.

The Vice-Chair (Ms. Helena Jaczek): Monsieur Bisson?

Mr. Gilles Bisson: The problem is that if I’m an investor and I’m having to make a decision about investing a large sum of money in some project in northern Ontario, and my hook is that I’m going to go and apply under clause 11(3)(b) of the bill, I’m not going to be able to raise the money. Nobody’s going to put money up, saying, “Well, maybe I can apply under clause (b),” which says that “the Lieutenant Governor in Council by order determines that the development is in the social and economic interests of Ontario.” There are going to be all kinds of people from the other side banging on the minister’s door, arguing not to have the investment—environmentalists and others.

Let’s not turn our backs on some of the successes we’ve had in the far north. Musselwhite was developed. We learned a lot through the Musselwhite project. We developed the De Beers mine. We’ve built on the successes of Musselwhite and we’ve made a better process. These mines don’t get built unless they’re permitted, they follow environmental standards and there are impact benefit agreements with the communities. There are a whole bunch of things that go into place in getting these projects online.

It seems to me the stated goal of this legislation is twofold: (1) to assist with development in the far north so that we can have economic activity for the benefit of First Nations and others, and (2) to have a land use planning process by which that’s done. It seems to me that we’re forsaking one to get the other. We’re saying, “We’re going to develop a land use planning process in the far north. It’s going to take us 10 years to get there, and in those 10 years we’re going to limit any development unless it falls under the exemption orders.” I think it’s going to be really, really hard to attract investment in those areas, coupled with what 50% of the land is actually going to be determined to be protected? We don’t know that. You don’t know that. That’s to be determined by the process.

I have a property somewhere, let’s say, by Big Trout Lake that may be high potential for some sort of mineral development, and I don’t know if that’s going to be a protected area or not, and I’m not going to know for 10 years. So why would I invest?

It seems to me that we have to have a mechanism that allows development to continue in a way that’s sustainable and follows good environmental principles, and that there’s a buy-in by First Nations, that they have a say about whether it will go forward or not, and in a parallel, we develop the land use planning process that all of these projects, in the end, will go through, once we’ve actually completed it.

I think trying to do it this way is going to be very problematic for the economic development of the far north.

The Vice-Chair (Ms. Helena Jaczek): Mr. Ouellette?

Mr. Jerry J. Ouellette: Some of the concerns as well are that, for example, Lac Seul First Nation is located in traditional Nishnawbe Aski First Nations communities’ territory, which will fall into someone’s community plan. They’re not signed on with Treaty 9 or Treaty 5.

The difficulty there is if a community sees a benefit that they can use or supply to other communities. I’m sure the member from Timmins–James Bay knows very well that all First Nation communities are very much like southern Ontario municipalities, and they don’t necessarily always get along. In land use planning areas, if somebody else is getting a benefit, it may work to their advantage to move the file forward, or others could try and stop the process from expanding use in their areas. It’s like Heyden using the resources in Sault Ste. Marie without contributing to the tax base.

Anyway, that kind of lays out some of the details about some of the concerns and how, although there may

be a land use planning area, not all the individuals will be signatories who sign on to that community, and only their community can use some of the potential benefits there.

The Vice-Chair (Ms. Helena Jaczek): Mr. Orazietti?

Mr. David Orazietti: The community that you're referencing, Lac Seul, is not captured by the legislation, so this bill doesn't pertain to them.

With respect to your point, again, the concern is around simply setting aside any land use planning and saying the threshold is going to be that for any benefit whatsoever we can go ahead and do that in the absence of land use planning. We need to find a balance in terms of ensuring that there is land use planning that goes forward and ensuring that there is a way, where land use plans have not been fully developed, to allow the minister or cabinet to make those exemptions to allow the development to take place that I know you're interested in seeing and probably all members around the table are interested in seeing, as well as the First Nations.

With respect to section 11, which we're speaking to now, I understand, as opposed to the motions that are on the floor, I'm in support of section 11, as amended.

The Vice-Chair (Ms. Helena Jaczek): Any further debate on section 11, as amended? All those in favour of section 11, as amended? Those opposed? That is carried.

Moving on to government motion 14, Ms. Jeffrey.

Mrs. Linda Jeffrey: I move that subsections 12(2) and (3) of the bill be amended by striking out "Northern Development and Mines" wherever that expression appears and substituting in each case "Northern Development, Mines and Forestry".

The Vice-Chair (Ms. Helena Jaczek): Mr. Orazietti?

Mr. David Orazietti: This is simply to reflect the appropriate name of the ministry. It's a technical amendment; that's it.

The Vice-Chair (Ms. Helena Jaczek): Any further debate? All those in of government motion 14? Those opposed? That is carried.

NDP motion 14.0.1, Mr. Bisson.

Mr. Gilles Bisson: Withdrawn.

The Vice-Chair (Ms. Helena Jaczek): Any further discussion on section 12, as amended? Shall section 12, as amended, carry? Carried, thank you.

Section 13: NDP motion 14.0.2., Mr. Bisson.

Mr. Gilles Bisson: Withdrawn.

The Vice-Chair (Ms. Helena Jaczek): PC motion 14.1, Mr. Ouellette.

Mr. Jerry J. Ouellette: I move that paragraph 1 of subsection 13(2) of the bill be amended by striking out "prospecting".

The Vice-Chair (Ms. Helena Jaczek): Any explanation?

Mr. Jerry J. Ouellette: During the Lands for Life process there were allowances that took place so that in the event of a significant deposit being found, lands would be traded off. It was used in a number of different areas whereby a deposit was found—I can recall a marble deposit—and the Lands for Life territory, and the 225,000 square kilometres in this case, would still be

allowed to be maintained. There were some exemptions to allow it to move to other sections to make sure the size was the same but to allow the marble deposit, in that particular case, to move forward.

What I'm suggesting here is that "prospecting" be removed so that prospectors in those areas can continue on and, in the event that they have mobile boundaries within those areas, they can relocate those so that the prospectors can develop those potential sites that may be available there. That's why I say remove "prospecting".

The Vice-Chair (Ms. Helena Jaczek): Thank you. Further debate?

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Mr. David Orazietti: To be clear, existing claims can proceed, but with respect to prospecting, it's not permitted in any areas—that are not permitted in any areas in Ontario. Prospecting in protected areas is not permitted in Bill 191, so it's a consistent approach with the rest of what's taking place in Ontario, but again, existing claims can continue to proceed. We won't be supporting the proposed amendment which strikes out prospecting. It's not appropriate, if we're going to have that consistent approach with the rest of the province.

The Vice-Chair (Ms. Helena Jaczek): Further debate? No further debate? All those in favour or PC motion 14.1? Those opposed? That is lost.

PC motion 14.2.

Mr. Jerry J. Ouellette: I move that section 13 of the bill be amended by adding the following subsection:

"Exception, infrastructure development

"(2.1) Nothing in subsection(1) or (2) shall prevent a person from doing anything in relation to infrastructure development in a protected area."

The Vice-Chair (Ms. Helena Jaczek): Any explanation, Mr. Ouellette?

Mr. Jerry J. Ouellette: It's been very clearly stated that the 225,000-square-kilometre protected area will have a continuous running district from Manitoba to Quebec. The difficulty is that if you try to put an ice road through, a hydro line through, or any sort of development at all, there will be a large difficulty.

Having been the minister, I know that there were certain aspects when Lands for Life came through; people were not allowed to cross the protected areas to access their fibre in their land-owned areas. So we want to make sure that these individuals have the ability to access those sites and to cross this continuous 225,000 square kilometres, because effectively, if you don't, you're going to create a new province there because you can't get any roads up there; you can't get any infrastructure in there because it's not exempt. I want to make sure that those options are available there.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Orazietti.

Mr. David Orazietti: While I respect the intent of the amendment, I think there's a concern around infrastructure development taking place in protected areas. The reality is, that's consistent with the rest of Ontario and that's why we can't support the amendment as it's being

proposed. It's also consistent with our motions 3 and 4 that were already voted on.

Again, I think we need to have the conversations with the First Nations partners—the joint planning table—and allow the community land use plans to unfold. There are opportunities where the land, as the member has indicated, could be adjusted within their community land use plan for an area that is protected to be developed, should they decide that they would like a different area within that land use plan to be protected. That opportunity will exist within their own planning, but again, to simply allow infrastructure development in areas that are protected is not consistent with what we do in the rest of the province. Those discussions at the local level will take place with First Nations, so we can't support this amendment.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. Jerry J. Ouellette: Very specifically, this is completely different. This is talking about a continuous band running from Manitoba to Quebec. How are you going to cross anything if the Churchill lines are supposed to come down where we can't have any development there? I'm not sure the PA knows what the actual definition of a protected area is by the world's standard. There are only three things it requires, and it'll eliminate that opportunity. You're going to create an area now where—guess what?—you want to put an ice road through; well, it's a protected area. How are we going to put an ice road through a protected area for all the supplies etc.? And the list of opportunities goes on.

What this does is ensure that those opportunities remain there so that we can open up the north or continue to do the things that are there. So if we get hydro lines that potentially want to run from the Hudson-James Bay coastline for wind power development, and bring that energy down to Timmins or any of the northern communities, they won't be able to cross this protected area. We've seen it very clearly where roads were put in by the ministry—and the Ministry of Natural Resources is famous for this. They put in a road that allowed somebody to move in and then they protected the area; then afterwards, they said, "You can't use that road." I fought and fought and fought. It came up at the end of our term. We didn't have the time because the bureaucracy certainly stalled us to make sure that access on that road did not allow those individuals to remove the fibre from their own property.

This is effectively going to do the same thing. From Manitoba to Quebec, how are you going to be able to get anything up there and back if you can't cross it and you can't do anything with it? I have some strong concerns, obviously.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. David Oraziatti: I appreciate the member's perspective and his past experience with the ministry, and I understand. I suppose, back to the point around designating protected areas, those designations have yet to be

determined by community land use planning in partnership with the First Nations. They may determine that certain cultural areas will not have any development in them, but protected areas could have limited infrastructure development for the purposes that you're referring to. I think that needs to take place through the land use planning process.

Mr. Jerry J. Ouellette: But the statement has been very clear that it will be one connecting link from Manitoba to Quebec. How are you going to have any breaks that you're going to allow this to go through, even if it goes through the land use planning area? You won't have any breaks if the statement is clearly made that it will run from Quebec to Manitoba.

Mr. David Oraziatti: That doesn't mean that you can't have the roads that you're referring to within the protected areas. If the community determines that it's in the best use of the community, then that will take place.

Mr. Jerry J. Ouellette: Even in a protected area?

Mr. David Oraziatti: Protected areas can have limited infrastructure development to accommodate the things that you're talking about. In the protected areas, they may determine that. Based on those designations, not all protected areas will have perhaps the same status or ability to be developed. If it's a cultural area, a burial site perhaps, they may say, "No infrastructure development in this particular area." They may have a protected area where they don't want to see any mining or forestry activity, but that's not to say that a road can't be put through that area. I think there will be opportunities for those issues that you're referring to to be addressed through the land use planning process with First Nations.

We're not talking about this hard and fast area of 225,000 square kilometres where there will be absolutely no way to travel through that region or part of the province. That's not the intent. The intent is to capture, on balance, about 50%, which is 225,000 square kilometres, and protect that. Within the protected areas, those designations that would exist through the land use planning could allow limited infrastructure development.

The Vice-Chair (Ms. Helena Jaczek): Mr. Bisson, you have a comment?

Mr. Gilles Bisson: Let's say that area A, this particular area, is designated as "no mining" because they don't think at the time that there will be any potential for mining. Try after the designation to un-designate it if they decide to go forward. Do you follow where I'm going? This is what I think Mr. Ouellette is getting at: Once you protect an area, it's very, very hard politically to basically turn the clock back. You may very well at this point determine, "We don't want a road there. We don't want a mine there. We don't want any forestry activities," because at the time it doesn't seem like a good idea, for whatever reason. Five, 10, 15 years down the road, if a change of decision is made because of some activity that's happening on the land, it's going to be very hard to undo. I guess that's part of the problem with this whole process.

The other thing, just a quick comment on the issue of trying to get access in designated areas: I can tell you, the

community of Peawanuck, and you would know that because I think you were minister at the time—they created Polar Bear Provincial Park under Alan Pope some years ago, under the Tory government. That particular park surrounds the Peawanuck area. They can't build a winter road to get goods in and out of that community because they're not allowed to go through the park. We've tried with successive ministers to get permission. I know Mr. Ouellette agreed with me because I had these conversations with him when he was Minister of Natural Resources, and even David Ramsay agreed when he was Minister of Natural Resources, but neither of those ministers was ever able to get a permit to allow the First Nations to put a winter road through to supply their communities because it would be going through a provincial park. The point is, once designated, it's designated. That's the problem.

The Vice-Chair (Ms. Helena Jaczek): Any further debate?

Mr. David Oraziotti: I understand your point. That's obviously a unique situation. Perhaps it does have some merit. I understand what you're saying. I think it takes us back to the point that you made around geological mapping, that all of this has to be done prior to any development. We're not going to have land use planning take place if we wait until every square kilometre of the far north is mapped at the level that you're suggesting.

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I think the flexibility remains within those land use plans to allow the First Nations to determine the priorities with which they'll proceed. If they're interested in mining because at the time they identify an area as protected and give it some limited protection because they don't want it developed at that particular time—perhaps it's not a spiritual site or a burial site, but they don't want to see it developed—and later learn that there are geological opportunities there, within their own land use plan, they can take that area or those kilometres that they've identified, that parcel of land, and determine that perhaps another area that they had anticipated would be developed within the land use plan be the protected area to allow development to go ahead.

I think there's the flexibility within that. I mean, I hear your example. It's obviously not a positive example, and there are these anomalies out there, but we need to try to work in an overall view toward development in northern Ontario and the far north in partnership with the First Nations, and I think those opportunities will be there.

The Vice-Chair (Ms. Helena Jaczek): Any further debate?

Mr. Gilles Bisson: Well, that's what Alan Pope said when he created the park, and we still can't use it. Because I've had these conversations with Alan himself, and he was the minister who designated it. Anyway.

The Vice-Chair (Ms. Helena Jaczek): Any further debate? All those in favour of PC motion 14.2? Those opposed? That is lost.

NDP motion 14.2.1, Monsieur Bisson.

Mr. Gilles Bisson: Withdrawn.

The Vice-Chair (Ms. Helena Jaczek): NDP motion 14.2.2.

Mr. Gilles Bisson: I move that subsection 13(4) of the bill be struck out and the following substituted:

“Exception, order

“(4) Subsection (1) or (2) does not apply if,

“(a) the Lieutenant Governor in Council by order determines that the allocation, disposition or use of public land and natural resources in the planning area or the development in the planning area, as the case may be, is in the significant social and economic interests of Ontario and takes into account the objectives set out in section 6; and

“(b) the council of each of the First Nations that worked with the minister under section 8 to prepare the community based land use plan for the planning area has passed a resolution approving the allocation, disposition or use mentioned in clause (a).”

Again, it just gives First Nations the ability to basically have the final say on what happens on their territory.

The Vice-Chair (Ms. Helena Jaczek): Explanation?

Mr. Gilles Bisson: Well, I thought it was pretty clear.

Mr. David Oraziotti: Just to respond, I think we talked about something similar a little earlier on with respect to trying to define or clarify “significant” without any kind of criteria.

I mean, nothing is going to preclude or take away from the fact that there's a constitutional duty to consult with First Nations. What will be significant in terms of the view of cabinet I think will be determined by the government of the day. If they determine that it is, then they'll make the appropriate decision. We don't see a need for this amendment to be included in the bill and we can't support it.

The Vice-Chair (Ms. Helena Jaczek): Any further debate? All those in favour of NDP motion 14.2.2? Those opposed? That's lost.

NDP motion 14.2.3.

Mr. Gilles Bisson: Withdrawn.

The Vice-Chair (Ms. Helena Jaczek): Any further debate on section 13? All those in favour of section 13, as amended?

Interjection.

The Vice-Chair (Ms. Helena Jaczek): To clarify, there were no amendments in section 13, so shall section 13 carry? All those in favour? Those opposed? That is carried.

Section 14 and section 15 have no amendments. Any discussion on those sections? Shall sections 14 and 15 carry? All those in favour? Those opposed? Those sections are carried.

Section 16: NDP motion 14.2.4.

Mr. Gilles Bisson: It's kind of a moot point because the other section was voted down. Withdrawn.

The Vice-Chair (Ms. Helena Jaczek): Withdrawn.

PC motion 14.3.

Mr. Jerry J. Ouellette: I move that section 16 of the bill be amended by adding the following subsection:

“Other representation

“(3) When establishing a body under subsection (1), the minister shall ensure that the body includes representatives of hunting, trapping and angling organizations.”

The Vice-Chair (Ms. Helena Jaczek): Any further explanation, Mr. Ouellette?

Mr. Jerry J. Ouellette: A lot of these organizations are concerned about exactly how these are going to be implemented. If they are part of the process—although only a small representation is necessary—in order to get an understanding of how it’s moving forward and how they can work together in possibly benefiting a lot of these communities when they are doing their land use plans, then it will be a lot easier, as opposed to afterwards making comments and finding out how it’s going to affect them. It’s just a way of minimizing the potential negative impact at the time. I think it will be the most prudent way to do it.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. David Oraziotti: I recognize where the member’s coming from with this amendment. We’re concerned that perhaps we’re going to be singling out specific groups—hunting, trapping and angling organizations—to the exclusion of other groups that might have an interest and involvement, and it would be difficult, I think, to treat them differently within the legislation. While they may be involved, and we certainly encourage them to be involved and hope they are, we want to ensure that anyone in any other organization—we know that there are a number of groups and organizations throughout the province that would want to be part of advisory bodies or to in some capacity advise the minister or the government of the day with respect to these plans, so we don’t want to narrow it down to this focus.

Again, I would assume, going forward, that the organizations that the member has referenced here may very well be included in some advisory capacity, but we can’t support this particular motion.

The Vice-Chair (Ms. Helena Jaczek): Any further debate?

All those in favour of PC motion 14.3? Those opposed? That is lost.

NDP motion 14.4.

Mr. Gilles Bisson: I just realized that it was a different amendment from the other one.

I move that section 16 of the bill be amended by adding the following subsection:

“Far North Science Committee

“(3) In carrying out its functions described in subsection (1), the Far North Science Committee shall,

“(a) review the environmental conditions of the far north and provide advice to the minister with respect to the scientific research that needs to be pursued to support the implementation of the objectives set out in section 6;

“(b) review the far north land use strategy, including the far north policy statements contained in the strategy, before the strategy is completely prepared and provide advice to the minister on the strategy;

“(c) review every amendment to the far north land use strategy, including the far north policy statements contained in the amendment, before the amendment is completely prepared and provide advice to the minister on the amendment;

“(d) upon request, provide advice to the minister or a First Nation working on preparing a land use plan for the purposes of section 8;

“(e) upon request, provide advice to the far north land use planning commission;

“(f) review a land use plan, of which notice is given to the public under clause 8 (7)(b), and provide recommendations to the minister, the far north land use planning commission and the First”—

I withdraw. As I’m reading it, I’m recognizing that it’s going back to the one that was defeated. I apologize. I didn’t see that.

The Vice-Chair (Ms. Helena Jaczek): Thank you, Monsieur Bisson.

We move on to government motion 15.

Mrs. Linda Jeffrey: I move that section 16 of the bill be struck out and the following substituted:

“Advising bodies

“16(1) The minister shall establish one or more bodies to advise the minister on matters relating to this act.

“Joint body

“(2) The minister shall invite the First Nations having one or more reserves in the far north and one or more First Nations not having a reserve in the far north to participate in discussions with the minister with respect to establishing a joint body to,

“(a) advise the minister on the development, implementation and coordination of land use planning in the far north in accordance with this act; and

“(b) perform the other functions to which the minister and the First Nations that participate in the discussions agree.

“Content of discussions

“(3) The discussions shall focus on factors relevant to establishing the joint body, including,

“(a) the criteria that members of the body must meet to be eligible to be appointed to the body;

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“(b) the functions of the body;

“(c) the procedures that the body is required to follow in carrying out its functions, including the frequency of its meetings and the selection of a chair or two or more co-chairs for it; and

“(d) any other matters that the minister and the First Nations that participate in the discussions agree to with respect to establishing the body.

“Establishment of body

“(4) If the First Nations that participate in the discussions and the minister make a joint recommendation to establish the joint body, the minister shall,

“(a) take into account the discussions and establish the joint body in accordance with subsections (5) and (6); and

“(b) ensure that the instrument establishing the body sets out the functions of the body as described in subsection (2).

“Only one joint body

“(5) The minister shall not establish more than one joint body.

“Composition

“(6) The joint body shall be composed of the following in equal numbers:

“1. Members of First Nations.

“2. Representatives of the government of Ontario.”

The Vice-Chair (Ms. Helena Jaczek): Explanation, Mr. Orazietti?

Mr. David Orazietti: I referenced this earlier in our discussions today about creating a joint body or advising bodies that would see the First Nations play a role. I think it speaks to the co-operation and partnership that we want to see going forward in the land use plans that are being developed in the far north. But again, we're at a fairly early stage and want to continue to have further discussions with the First Nations in terms of how this can be most effective. This does give it some formality, I suppose, in the legislation, and that's the intent of the amendment.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Ouellette?

Mr. Jerry J. Ouellette: I would ask, how are the members of the First Nations selected? What is the deciding body which, by the decisions made, chooses which individuals will represent which aspects of the First Nations?

Mr. David Orazietti: I think that's a conversation that we need to have with the First Nations. If they're going to play a role in any of the advisory bodies, the First Nations will determine who best speaks for them and who best represents them on these committees and advisory bodies. I don't think that's something that the government wants to be determining or deciding on behalf of First Nations.

Mr. Jerry J. Ouellette: Then would it not be prudent to include “as selected by the First Nations” in there? Because as it is now, it just says “members of First Nations,” which effectively could mean that they could be appointed by the government.

The Vice-Chair (Ms. Helena Jaczek): Any comment, Mr. Orazietti?

Mr. David Orazietti: If you just give me one minute, as there's a suggestion here to amend the motion.

Clause (3)(a), “the criteria that members of the body must meet to be eligible to be appointed to the body,” references specifically conversations with First Nations in terms of how they would like to determine, or what criteria they would like to see in place in terms of who would be eligible for the body. That discussion hasn't taken place yet. That's part of what's intended by the amendment. It would seek to engage the First Nations and have that discussion and have them play a role in determining the criteria. You're saying that—

Mr. Jerry J. Ouellette: If that's the case, put it in.

Mr. David Orazietti: Well, that is in; that's what I'm saying. Clause (3)(a) does address that: “The criteria that members of the body must meet to be eligible to be appointed to the body.” That's part of the discussion that's going to take place with First Nations.

The Vice-Chair (Ms. Helena Jaczek): Monsieur Bisson?

Mr. Gilles Bisson: Well, (3)(a) says that, but not quite. What it says is that the minister and the representatives of the First Nation shall meet, they shall have a discussion, they shall talk about the composition of the committee, but it doesn't say that at the end it's the First Nations who decide the membership from their side. I think we should allow the First Nations to determine themselves who's going to represent them. The way this reads, you could end up having to have the minister's approval, as this is written.

Mr. Jerry J. Ouellette: Part of it, for those who haven't dealt with a lot of First Nations, is that First Nations refuse to participate in the activity. I can remember when I was the PA for Northern Development and Mines, there was a mining review committee whereby the First Nations refused to sit as part of the committee because if they became a committee member, then they could be perceived in the courts as being equivalent to the individuals who are other representatives as opposed to being, as stated by the federal government, nation to nation.

The point here is that in the event that First Nations refuse to participate in the activity because they do not support or believe in it, then the government has the opportunity to select the individuals that they wish to represent and still continue on with the process as opposed to allowing the First Nations to do it. That's part of the reasons that I hadn't mentioned in the past; I've been exposed to it and seen it happen on a number of different pieces of legislation and committees out there. I'm just concerned that in the event that they decide not to participate, the government will just select individuals to represent them.

Mr. David Orazietti: Back to what is fundamental in the motion is that we're talking about a joint advisory body with equal representation, right? That joint advisory body, in partnership with the First Nations and government, will determine the criteria. The assumption that would follow is that the First Nations would need to agree to the criteria set up equally. They'd have just as much say in terms of who would represent them and the criteria that would be used, so I think that discussion with the joint planning body needs to take place first.

I understand what you're saying; I think it's included in the amendment in the sense that if we don't get agreement from the First Nations on the joint planning body, they could walk away from that to begin with, and you don't even have a joint planning body. If they're interested in being at the table in an equitable partnership of participating in this joint body, then that body that has equal representation, First Nations and government, will

determine the criteria for individuals to be on the advisory bodies. I think it's dealt with in the amendment.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. Gilles Bisson: I hear what you're saying, and to an extent you're doing that, but you're not. What the joint body does under subsection 2(a) is advise the minister, right? This is all a discussion in order to give the minister advice on what the criteria will be and who will be the representative of the First Nations, right? All we're saying is that at the end of the day the First Nations should be in a position of being able to say, "Here are the people that we want to sit on these committees. They are our picks; deal with these people." We should allow them that courtesy. That's why we're trying to get—

Mr. David Oraziotti: You know what? On that point, I would expect that to happen. I would expect that to take place. The concern is that this is just advice, and the First Nations will come forward and say, "These are the people that we have, in good faith, put forward to be part of this committee," and the minister, for whatever reason, decides that they're not interested in doing that. That obviously is not going to sit very well with the First Nations and put at risk, frankly, the whole joint planning process. No one's interested in doing that.

At the end of the day, we're going to need some level of agreement through mutual consent, through this process. I think you've got a process here through this amendment that allows a joint body to go forward, and within that there's a framework that establishes how the criteria would be set out in that joint planning process. If individuals decide to walk away from that process because they feel they're not satisfied with it, then that calls into question the entire body. I think any government and any minister would be ill advised to not respect the decisions of the First Nations when it comes to the intent of this and the intent of putting people forward in good faith to be part of those committees.

Mr. Gilles Bisson: But there's a very long history of ministers not accepting the advice of First Nations in this province. I'm not just pointing at your government; that has been the history, unfortunately, unless it was developed in First Nations. It just seems that if we really believe this is a joint process, we need to give the First Nations the comfort of knowing that at the end of the day they get to pick their people. It just seems to me that's a bit of a no-brainer. In the end, you know what? The First Nation may very well appoint somebody that the minister doesn't want, but so be it. They may not want the minister from the other side, you know what I mean?

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To me, one of the fundamentals is that they be allowed to choose who's going to be at the table. When we went through the discussion on the round tables following the revenue-sharing bill, it was the First Nations who decided who was going to be at that table. I'll tell you, there were some people at the table that ministers probably didn't want, but they were the representatives. It's the same way that people voted you and voted me in to this place to do

the work of the people of our ridings. It may not be somebody's choice but it's the one that was afforded our constituents.

Mr. David Oraziotti: Right.

The Vice-Chair (Ms. Helena Jaczek): Further debate? Mr. Ouellette?

Mr. Jerry J. Ouellette: As I mentioned before, there is a precedent whereby three consultation occurrences then allows the federal government to allow an arbitrator to come in and resolve the issue. So First Nations are very reluctant to get involved and to participate in activities, in the event that it could be, in the eyes of the courts, perceived as being a consultation process or something. Thereby the difficulty comes when they're coming forward and saying, "Look, we don't want to participate, in the event it could be considered a consultation. Who are we going to get?"

A lot of the time, the government may pick individuals, and if they're the wrong individuals—I mean, government always goes with the best advice they have. The difficulty is that you may upset other First Nations communities and it would work to your disadvantage. But if they're the ones who are required to pick those individuals, it's not a choice of the government; the names have been put forward by the First Nations communities to allow them—and I hear what you're saying, that you believe it's in there. "The joint body shall be composed of the following in equal numbers: 1. Members of First Nations"—to simply say "as selected by the First Nations" would certainly resolve a lot of that.

The Vice-Chair (Ms. Helena Jaczek): Further debate?

Mr. David Oraziotti: I fully expect that to happen, that the First Nations are going to determine how and in what format is the best way for them to proceed with criteria within their own groups, where they will see fit, in putting people forward for this particular committee or any advisory bodies. I would expect the government of the day to respect the decisions of the First Nations.

It kind of begs the question, if there's no trust in the process, then you're not going to have a joint body, you're not going to have any advisory planning.

I hear where you're coming from: the sense that First Nations, by agreeing to be part of the process, are perhaps somehow condoning it or giving up some autonomy in some way. I think they also understand that they want government to hear their views and understand where they're coming from when it comes to issues like land use planning. If there's an agreement that there will be equal representation that will engage First Nations, I think they can be satisfied that they're participating in a process that respects their autonomy and their views—and who would be selected within their communities to be part of these advisory bodies.

The position of the government is not to be too prescriptive on this issue. We believe that we have a good relationship with First Nations to allow a joint body or advisory body to go forward, and that the criteria—that topic, that issue that you have raised, which is an

important one—will be part of that process. And because there is a balance on that committee, we expect there to be agreement in whatever format that takes, and that will be something that the First Nations will be supportive of because it will be, in large part, their decision-making in terms of how individuals arrive on those advisory bodies.

That's all I have to add at this point.

The Vice-Chair (Ms. Helena Jaczek): Any further debate? All those in favour of government—

Mr. Gilles Bisson: Recorded vote.

The Vice-Chair (Ms. Helena Jaczek): A recorded vote.

Mr. Gilles Bisson: And I'll have a 20-minute recess.

The Vice-Chair (Ms. Helena Jaczek): The time being 5:44, this committee will resume on Wednesday, October 21, at 4 p.m. At that time, we will be voting on government motion 15. That adjourns this meeting.

The committee adjourned at 1745.

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Mr. Jerry J. Ouellette (Oshawa PC)

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Ms. Afsana Qureshi, far north policy manager,

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Mr. Trevor Day

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Mr. Michael Wood, legislative counsel