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Wednesday 16 September 2009

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Mercredi 16 septembre 2009

**Standing Committee on
General Government**

Mining Amendment Act, 2009

**Comité permanent des
affaires gouvernementales**

Loi de 2009 modifiant
la Loi sur les mines

Chair: David Oraziotti
Clerk: Trevor Day

Président : David Oraziotti
Greffier : Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 16 September 2009

Mercredi 16 septembre 2009

The committee met at 1603 in room 228.

ELECTION OF VICE-CHAIR

The Chair (Mr. David Oraziotti): Good afternoon, everyone. Welcome back to the Standing Committee on General Government consideration of Bill 173, an Act to amend the Mining Act.

We have a couple of items that we need to take care of: first of all, the election of a Vice-Chair. Mrs. Mitchell, could you speak to that?

Mrs. Carol Mitchell: Yes, I would be very pleased to move that Helena Jaczek's name go forward. She doesn't have the opportunity to be here right now, but I have spoken to her and she's quite interested in becoming the Vice-Chair, if supported by the committee.

The Chair (Mr. David Oraziotti): Any other nominations? Okay, we'll accept her name in absentia. All in favour? Carried.

SUBCOMMITTEE MEMBERSHIP

The Chair (Mr. David Oraziotti): The next item is the makeup of the subcommittee. Mr. Mauro.

Mr. Bill Mauro: I move that Ms. Broten replace Mrs. Mitchell as the government member of the subcommittee on committee business.

The Chair (Mr. David Oraziotti): Any debate? All in favour? Carried.

COMMITTEE BUSINESS

The Chair (Mr. David Oraziotti): The last item: According to the subcommittee report with respect to the time allotted for clause-by-clause of this bill, we would wrap up today at 6 o'clock. If that doesn't happen, we need committee discussion to perhaps move forward, giving more time for this bill, or move to Bill 191, which is what the original subcommittee report says. The original subcommittee report indicates that the time would end today, and then next week we would move to Bill 191. We may or may not need to have that discussion later on, but I just put that on the table for everyone's consideration today.

Thank you. I think those are all the items.

MINING AMENDMENT ACT, 2009

LOI DE 2009 MODIFIANT

LA LOI SUR LES MINES

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

The Chair (Mr. David Oraziotti): We can continue with NDP motion number 8, which was on the floor. However—

Mr. Randy Hillier: Our NDP member is not here.

The Chair (Mr. David Oraziotti): I don't see Mr. Bisson here.

Mr. Randy Hillier: I guess I would like to speak to it.

The Chair (Mr. David Oraziotti): Would you like to speak to it?

Mr. Randy Hillier: Sure.

The Chair (Mr. David Oraziotti): Okay.

Mr. Randy Hillier: We did speak to this at length on Monday. Of course, the discussion centred around the grandfathering of existing licence holders. I'm just wondering if the government had time to contemplate and reflect on that grandfathering clause that we discussed on Monday.

Mr. Gilles Bisson: Thank you for asking that question. That's exactly what I wanted to know.

Juste au cas qu'ils n'avaient pas compris l'anglais, je vais parler en français, parce que nos amis sont ici aujourd'hui.

Comme on l'avait mentionné l'autre jour, il y a beaucoup de monde qui, depuis des années, font leur vie dans ce domaine comme prospecteurs. J'imagine avoir le bon mot, oui? Je pense que demander à ce monde-là d'aller se requalifier et d'avoir une licence de requalification est un peu difficile. Donc, on va vous demander, êtes-vous capables de regarder la possibilité de faire un amendement à l'acte qui donnerait la chance à ce monde-là d'être acceptés comme prospecteurs sans falloir aller à travers le programme et seulement l'appliquer pour les nouveaux?

Interjection.

Mr. Gilles Bisson: You could listen to the interpreter. Then you'd know what I was saying.

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

Mr. Michael A. Brown: We've given the amendment careful consideration over these last two days, and we're ready to vote.

Mr. Gilles Bisson: Then if you're ready to vote, I take it what you're saying is that, no, in fact you're not prepared to do grandfathering. Am I correct in my understanding?

Mr. Michael A. Brown: Yes.

Mr. Gilles Bisson: Well—

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

Mr. Gilles Bisson: Yes, I know. But when he says “yes,” I thought that I had to put my hand back up. Okay. I'm just having fun with you, Chair.

Listen, I don't want to get in a two-hour debate this afternoon over grandfathering. You can well appreciate that there are many people who have been making their living at the profession of prospecting. They know what they're doing. They've found mines; they've done the stuff that needs to be done; they're responsible operators. I think of people like Dave Meunier and Don McKinnon and a whole bunch of others, people who have been at this for a long time. And I don't think our request to grandfather them, so that they don't have to go through this, is an onerous one.

The government will still get, at the end of the day, what it wants, which is probably not a bad idea: training, in order to provide new prospects with the information they have to have as far as what is required of them when it comes to the job that they're going to be doing when it comes to prospecting, so they clearly understand their role—not so much their role, but their responsibility vis-à-vis the law. I support that; I don't have a program with the concept.

My only point is that if somebody has been making their living at this for 10, 20, 30 years, it's a bit hard to say, “You're going to have to go back out and re-qualify.” Number one, people will see that as a bit of an affront. They will say, “Do you mean to say that I don't know what I'm doing and I haven't known what I was doing for 20 years?” And number two, the answer from the government, or the ministry, would be, “Oh, no, we know you know what you're doing, but we want to make sure that you're up to speed with what it is that you have to do when it comes to the requirements of the act.” Well, they do this on a daily basis, so it's really an affront.

I would urge the government to reconsider and support some sort of a grandfathering amendment, and we'd be prepared to work with you towards that end.

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

Mr. Randy Hillier: I really can't understand why there is such obstinacy on the government side about reasonable and sensible propositions and suggestions here. We're not asking for something that is totally radical or totally unknown in this land. These are things that are sensible, reasonable and that are applied whenever new legislation comes forth that affects previous conditions and opportunities of employment.

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This unwillingness on the government side to entertain any thoughts or suggestions other than what their own

amendments are, I find it strictly an atrocious type of response. The purpose of this committee is indeed to look at every clause and every amendment to those clauses that we've heard people come to committees and talk about. We do have an obligation to those people, who travelled many hours and days and at great expense to come to this committee throughout the province and express their concerns. They have an expectation that there was some value in that travel, some value in the taking up of their time. For the government just to turn a blind eye and a deaf ear to all those people, that is not what people are expecting of their elected representatives.

This is a reasonable request—grandfathering existing prospecting licences. What more can be said?

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

Mr. Michael A. Brown: Let me be clear: This program is a cornerstone of a modernized mining regime in Ontario to ensure that prospectors are aware of their obligations, in prospecting, in consulting with aboriginal communities. The proposed prospector's awareness program is an educational tool only. It is not a training program or a certification requirement for a prospector's licence. The intent of the program is to make licence holders aware of the new provisions of the act, such as aboriginal engagement, exploration planning and permitting activities on crown and private land. It is not—I repeat—it is not intended to test a prospector on how to stake a mining claim.

The ministry will work with stakeholders to ensure that there will be appropriate accommodations in place for anyone who needs to take the awareness program to obtain a prospector's licence.

The Chair (Mr. David Orazietti): Mr. Bisson, do you have further comment?

Mr. Gilles Bisson: We'll have a chance to talk about this a little bit more in the next amendment, as you're well aware. Just for the record, the parliamentary assistant is saying that this will not be a requirement to the licence, but it's clear in the way this act is written in section 8 that you can't get a licence unless you complete the prospector's awareness program. Therefore, it has to be a requirement to the licence.

My argument is simply this: I support wholeheartedly the approach of the government to create a process by which people who go into the prospecting field understand what their obligations are. I think that's a good idea and I think it's long overdue. I agree that's a good step towards a modernization of the act. I don't have an argument with you. All I'm saying is that we need to find some way to grandfather in those people who have been in.

We've done that for electricians when we did electrical certification, years ago. It was a time when people were able to work in many trades—electrical, sheet metal, welding and others—where licences were not required, and apprenticeships didn't have to be served. When an apprenticeship program was created back in the

1960s or the 1970s, I worked with guys who were grandfathered in the trade. The people who were journeymen to me when I was apprenticing as a young apprentice in the 1970s were people who had been in the trade in the 1950s and 1960s who had never gone to school but had learnt the job as a result of working in the electrical field for a number of years. They were quite knowledgeable. I never ran across any of these fellows that I worked with who were grandfathered who were not qualified to hold that licence.

The government of the day decided—I think rightfully so—that you had to have a mechanism to recognize the contribution and the experience gained by workers prior to the certification being needed. So we grandfathered.

We've done that in almost every case where we've gone and recognized a new trade or added a requirement when it comes to what is required of people as far as their responsibilities for work. It's not earth-shattering for us to ask for grandfathering; we've done it. You've been here longer than I have. I've only been here since 1990. You were here, what, in 1985 I guess, when you first came, Mr. Brown?

Mr. Michael A. Brown: In 1987.

Mr. Gilles Bisson: In 1987. So you came during the accord. You've seen these examples as well, where we've grandfathered people in various trades.

I support what the government is trying to do. I want to vote in favour of the prospectors' awareness program, but I find myself in the difficulty of having to vote against because we're saying we're not going to grandfather those people who have found the gold mines and diamond mines and nickel mines that have been producing in this province for years. I think that's a bit preposterous, so I ask you again—we'll get a chance to vote on this. We'll see if you change your mind—I doubt it—and if not, we'll be into the next amendment.

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

Mr. Randy Hillier: Well, I think it's just hypocrisy here that the government is looking—

Mr. Michael A. Brown: Careful.

Mr. Randy Hillier: Well, no. Listen, it's a contradiction that the government is looking for latitude with putting in place all the requirements by regulation and then not providing any latitude whatsoever in accommodating those people who make their living doing this.

It is called a licence, and a licence, by definition, permits you to do what otherwise is illegal or not allowed to be done. That's what a licence is. If it was just an awareness program, that's all it would be: people taking an awareness program. You're calling for a licence, with the awareness program as part of that licensing. We don't know what else is going to be in there, and neither do you, I am sure.

Let's give some latitude so that there can be proper discretion and reasonableness applied, and have a grandfather clause for those people who are presently involved in exploration. It's such a simple, sensible request. I

cannot believe that the government is opposed to such a reasonable request.

The Chair (Mr. David Oraziotti): Any further comment on the motion? Seeing none, all those in favour?

Mr. Gilles Bisson: Recorded vote.

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

Mr. Randy Hillier: Recorded vote and a 20-minute recess, please.

The Chair (Mr. David Oraziotti): Okay, a 20-minute recess.

The committee recessed from 1617 to 1637.

The Chair (Mr. David Oraziotti): We'll call the committee to order. We have a request for a recorded vote. NDP motion number 8.

Ayes

Bisson, Hillier.

Nays

Brown, Kular, Mangat, Mitchell.

The Chair (Mr. David Oraziotti): The motion is lost. NDP motion number 9. Mr. Bisson.

Mr. Gilles Bisson: I move that subsections 21(6) and (7) of the Mining Act, as set out in subsection 8(2) of the bill, be struck out and the following substituted:

“Lifetime renewal by minister

“(6) The minister shall renew without fee the licence of a person who has held a licence for 10 years, and the licence shall remain in good standing during the lifetime of the licensee.”

This is in keeping with the amendment we had prior to this. The government is continuing—I believe this is a practice that existed in the old act, that the minister could renew, if I remember correctly. I'm just looking for some clarification from the parliamentary assistant. Under the current act, the minister had this particular authority already. Am I correct? That's what I thought. And the 25 years—to the parliamentary assistant—was also in the current act, right?

Mr. Michael A. Brown: Twenty-five.

Mr. Gilles Bisson: Yes; I just want to remember. There are two parts of this amendment that I was trying to get at. One was that the requirement be moved from 25 to 10 years, and the reason for that is fairly apparent. There is no need to get into a big debate about that. It just seemed a more reasonable way to do it, but also, it was in keeping with trying to have some provision for grandfathering. And again, just having a chat with Mr. Hillier—both of us served electrical apprenticeships and became qualified electricians. We were just having a bit of fun talking about the fact that we went to the same college together, but that's a whole other story. The point is that we have gone through this process of grandfathering and a whole bunch of other experiences in the profession and trades across Ontario, and all I'm trying to

get out of this particular amendment is the ability to grandfather the experience of people into the licence so that they don't have to go through the training all over again, or the awareness program, I should say.

The Chair (Mr. David Oraziotti): Mr. Hillier.

Mr. Randy Hillier: Of course, it's not surprising, I concur with the third party's motion once again. I don't know if there's anything further to say. We've already talked about the need for this style of substantial amendment in the previous amendment. We heard the government's view last time.

I do think it's important, though, to reiterate once again the role of committees in a democracy, and I'll put it this way: We held out a carrot to all those people who came to committee with the expectation that their thoughts and ideas would have some influence. I really do think it's atrocious that we've encouraged people to come to all these committee hearings across the province, they spent time and money to get here and none of it is being accepted. There's a tin ear and an "I don't care" type of attitude. These are reasonable amendments. I really have to impress as much as possible on the government side to actually have some care and interest in what all those people did, coming to these committee hearings and working with the third party and the official opposition to provide amendments to make this a better bill and actually improve mining and allow for greater prosperity in mining.

It's a very reasonable amendment. Again, somebody who has had it for 10 years is obviously aware of what they're doing. It's a reasonable amendment; I support it completely.

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

Mr. Michael A. Brown: Currently there is a 25-year requirement. We don't exactly understand any reason to change that now. Current lifetime prospectors will take the program once within two years of the bill passing; then it won't be required again. There is provision for the minister to waive even that requirement. We believe this is totally reasonable and totally consistent with what we've been hearing out there.

I do take some exception to the idea that if we don't agree with you, we didn't listen. I don't think that necessarily follows.

The Chair (Mr. David Oraziotti): Further comment. Mr. Bisson.

Mr. Gilles Bisson: Just a clarification on what the parliamentary assistant said. You're saying that under the act, the minister will have the authority to do what? The minister can waive the requirement for the prospectors' awareness program? Is that what I understood? Can we call the—

The Chair (Mr. David Oraziotti): Yes. Just a second, Mr. Bisson. If you'd like to come forward and have a seat, please. State your name for the purposes of Hansard, and you can provide any information that you feel is appropriate.

Ms. Catherine Wyatt: Hello, it's Catherine Wyatt. I'm counsel with the ministry.

I believe Mr. Bisson is asking about the transitional provision—

The Chair (Mr. David Oraziotti): Please speak into the microphone.

Mr. Gilles Bisson: Maybe I misunderstood what the parliamentary assistant said, so I just want to clarify what I heard, just to explain what I'm asking.

What I thought I heard the parliamentary assistant say is that there is in the bill and there was in the current bill the ability for the minister to issue a licence—that, I understand as being in the old bill—but that you will be able to do that in this new bill without a requirement of the prospectors' awareness program? Did I understand that correctly?

Ms. Catherine Wyatt: In the current act, of course, there are the provisions for issuing, but not the prospectors' awareness program—that's the new part. What the bill has in it is a transition provision that says that every licensee, including a prospector who has become a lifetime prospector before the day this subsection comes into force, will successfully complete the prospectors' awareness program within two years. So we've built in a two-year period for current people who already have a licence to take this program.

Mr. Gilles Bisson: I understand.

Ms. Catherine Wyatt: Then we've provided, in subsection (10), a proposal that the minister, at his or her sole discretion, may waive the requirement in subsections (6), (7) or (9)—and (9) is the transition provision I've just read to you. It also means it can be waived in the instance of someone who's getting a lifetime renewal under subsection (6) or the discretionary lifetime renewal under subsection (7).

Mr. Gilles Bisson: Give me a second just to read that. So (6) is a lifetime renewal by the minister, right?

Ms. Catherine Wyatt: Right.

Mr. Gilles Bisson: And (7) is "renew the licence of a person without fee ... licence remain in good standing during the lifetime...."

Ms. Catherine Wyatt: There are two lifetime renewal provisions in the act now: One is automatic on the 25 years, and the other one was a discretionary one.

Mr. Gilles Bisson: So the minister can grandfather, technically.

Ms. Catherine Wyatt: The minister can waive this requirement.

Mr. Gilles Bisson: Am I understanding that correctly?

Mr. Randy Hillier: The way I'm reading this, subsections (6) and (7) in the original act are repealed and replaced with essentially the same wording; however, it includes the condition that a prospector's awareness program and licence are completed within 60 days before, is that right? "The minister shall renew without fee the licence of a person who has held a licence for 25 years provided that the person successfully completes the prescribed prospector's awareness program within 60 days before the renewal." That's very similar to (6) and (7) in

the original act, except it adds the prospectors' awareness program, is that right?

Ms. Catherine Wyatt: Right.

Mr. Randy Hillier: So after 25 years you can grant a lifetime renewal after they've completed the prospectors' awareness?

Ms. Catherine Wyatt: Right.

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

Mr. Gilles Bisson: Yes. I'm just going to walk through. It is grandfathering, but it isn't, now that I've figured it out. You have the automatic renewal at 25 years, and what you pointed to—what was it again?—

Ms. Catherine Wyatt: Subsection (10).

Mr. Gilles Bisson:—gives the minister the authority to say, for the person who's renewed automatically after 25 years, "Okay, you don't have to do the prospectors' awareness program." Then, under subsection (7), for anybody who currently has a licence and applies for a renewal, the minister can also waive the requirement for the prospectors' awareness program—only for a renewal. That's what (7) is, right?

Ms. Catherine Wyatt: Well, (7) isn't actually a repetition of the existing section, which provides for not just anybody on a renewal but a specific lifetime exemption for certain people. This is a power for the minister to create a new kind of lifetime prospector—not the 25-year folks but anyone, regardless of whether they've put in 25 years or not, can be made a lifetime prospector.

Mr. Gilles Bisson: Oh, I see what you're saying. It's not the regular prospectors' licence; it's a licence that's either a 25-year, and you automatically become a lifetime, or the minister declares you to be a lifetime prospector, and in those cases the minister can waive the need to pass the prospectors' awareness program.

Ms. Catherine Wyatt: Yes.

Mr. Randy Hillier: I'm getting more confused.

Mr. Gilles Bisson: I understand it now, but I'm a little bit lost, because the government is saying in the bill that it's prepared to grandfather those particular classes of individuals. What it does, basically, is give the ability to the minister to, in a way, grandfather certain classes of prospectors. So why wouldn't we go all the way? That would be my question. You've already set the precedent, right?

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

Mr. Randy Hillier: Subsection (7) in the Mining Amendment Act says, "The minister may, at his or her discretion, renew the licence"—so you have to have a licence—"of a person without fee and order that the licence remain in good standing during the lifetime of the licensee."

Mr. Gilles Bisson: It's a lifetime licence.

Mr. Randy Hillier: Yes. You've got to have a licence first, because it's provided that the person successfully completes the prescribed prospectors' awareness program within 60 days before the renewal. That's what the act says. So in order to get that and use that discretion, the

person needs to have a licence now and needs to have completed the prospectors' awareness program. It's not a different type of licence; it's just that the minister, if he or she chooses, can renew the licence for life after those conditions have been met, right?

Ms. Catherine Wyatt: In answer to his question, yes.

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

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Mr. Gilles Bisson: Would the parliamentary assistant be amenable to an amendment to subsection (10), where you say "the requirement under subsection (6), (7) and (9)," but add into that subsection 7(1), which is, "Any person who is 18 years or older is entitled to obtain a prospector's licence..." You would allow the minister—no, you wouldn't want to, in that case. I withdraw that. No, no. I'm trying to get at the class of licence that already exists, and it's not under subsections (6) or (7), right? A new licence is subsection 7(1). Where is the existing licence?

Ha! You wrote the bill and you've got to look. This is pretty good.

Ms. Catherine Wyatt: It's probably 19. Let me double-check. Actually, 18 is where the licence is required, and 19 tells you more details about it. It's actually section 7 of this bill. That's "any person of 18 years or older" is entitled to obtain a prospector's licence—that's the requirement to obtain the licence—and then you'll find the renewal of the licence in section 8 of this bill, which is subsection 21(1) of the act.

Mr. Gilles Bisson: Okay. I'm not going to get into drafting how it happens, but my point and my question to the parliamentary assistant is, it would appear, as I read the bill, that the minister gives himself or herself the ability to grandfather certain classes of lifetime licences either by the 25-year trigger or the trigger of the minister issuing it. Why wouldn't we expand that same ability to those who currently have licences and have a certain threshold, let's say, 10 years, 15 years or whatever?

Mr. Michael A. Brown: I think the minister will have discretion to make this work. It's not necessarily a grandfathering approach and not necessarily to a class of licence. I think what this does is allow the act to have some flexibility and not be totally arbitrary. I think that is a good thing for legislation, and I think most of us would agree. We are satisfied that the lifetime should be 25 years; it has been and should be. In my profession, it's 40 years, I believe, and maybe 65.

Mr. Gilles Bisson: What profession is that?

Mr. Michael A. Brown: I know it's not directly related—

Interjection.

Mr. Michael A. Brown: Yes, exactly.

Mr. Gilles Bisson: And those are your friends.

Mr. Michael A. Brown: We'll tell you about that one later.

It's different in lots of different professions. You can use lots of analogies out there for how different professions, different occupations, different trades deal with

this. This one, the 25-year requirement, has traditionally been used in Ontario, and we think that's reasonable. There is some discretion here. I think it would mean that any government, not just us, would see this as an opportunity to have some discretion in how we do this if the need arises out there. I think that makes some sense. I think it makes more than some sense; I think it makes a great deal of sense.

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

Mr. Gilles Bisson: I totally agree with you; you're right. I totally agree with you that it's good to have legislation that gives the minister discretion. I'm with you; we're in lockstep on this one. All I'm saying is that as I read that particular section of the bill, it allows the minister to have the discretion to grant a licence without the prospectors' awareness program for two classes of licensees: the licensee who became a lifetime member with the 25-year trigger and the licensee who became a lifetime member by way of section 7, or whatever it is. All I'm saying is, extend it to those people who have been in the business for a number of years and let the minister decide. The minister can do what the minister did at the beginning of this act, where the minister decided to withdraw crown mining rights on private land and did so by the authority in the act. He said, "Okay, it is time that we do this. I'm done."

What it would allow is that the minister could decide in the future, or just after this act is passed, "Do you know what? I'm going to grandfather anybody who is a licensee," or "I won't grandfather them." At least it gives you an opportunity to get it done. So why not include any class of prospector who is currently a prospector for a certain number of years, not just lifetime? Why don't we do that? I think that would be a reasonable approach.

Mr. Michael A. Brown: Obviously we disagree.

Do you want to try it now?

The Chair (Mr. David Oraziotti): Yes. Any more discussion on the amendment?

Mr. Randy Hillier: I still believe, Gilles—those two classes with the ministerial discretion still require the completion of the prospector's awareness program.

Mr. Gilles Bisson: Excuse me, so—

Mr. Randy Hillier: That's under—

The Chair (Mr. David Oraziotti): Just one at a time, folks.

Mr. Gilles Bisson: I'm sorry, Chair—all due respect.

The Chair (Mr. David Oraziotti): No problem. Mr. Hillier, do you want to finish up?

Mr. Randy Hillier: Yes. Subsections 8(6) and (7)—one has a 25-year criteria. That's (6), but it's followed by, "that the person successfully completes the prescribed prospector's awareness program," right?

Mr. Gilles Bisson: But both are lifetime licences.

Mr. Randy Hillier: Yes, but they'll still have to complete that prospector's awareness program before they—

Interjection.

The Chair (Mr. David Oraziotti): Okay, let's turn it over here. Mr. Bisson, go ahead.

Mr. Gilles Bisson: To Mr. Hillier: If you go to subsection 8(10), "The minister in his or her sole discretion may waive the requirement" of "subsection (6), (7) or (9)," which are the lifetime licences. So my argument is, in a way, it's grandfathering. The minister has the ability to grandfather those people who have lifetime licences of either class. All I'm saying is, let's give the minister that ability for anybody who has a prospector's licence, period, over a certain amount of time, because we're already doing it. Why not just take the other step?

Mr. Randy Hillier: Yes.

The Chair (Mr. David Oraziotti): Okay, both points were made, I think. Mr. Brown, do you care to respond to that?

Mr. Michael A. Brown: No.

The Chair (Mr. David Oraziotti): Okay, thank you. Any further comment or discussion?

Mr. Gilles Bisson: I have one question before we—

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

Mr. Gilles Bisson: Just so that I'm clear, the minister will have that ability for all lifetime licences only, right? To the counsel: It's only lifetime licences, right?

Ms. Catherine Wyatt: What subsection (10) does as well is, it includes the transition requirement in subsection (9). So just to be clear about that, it's the two kinds of lifetime. This once-only transition provision could be waived, and that may apply to people other than lifetime.

Mr. Gilles Bisson: Okay, so a—

Ms. Catherine Wyatt: The transition is there to catch people who already have a licence. They're going to have two years to do it, but because they have to renew their licence once every five years anyway, there may be people who have just renewed a licence, and we're filling in some flexibility for those people who would be caught in this transition provision to not necessarily have to do it.

Mr. Gilles Bisson: I'm halfway to where I want to go here. I'm going to argue myself into a corner.

My question is, which type of prospector's licence could not be subject to subsection (10)? A brand new one, right? A brand new prospector. What would be the other?

Ms. Catherine Wyatt: Certainly, after the initial two-year transition period, anybody who is regularly renewing their licence.

Mr. Gilles Bisson: Okay. I'm fine.

The Chair (Mr. David Oraziotti): Any further comments or questions? Okay. NDP motion number 9: All those in favour?

Mr. Gilles Bisson: Recorded vote.

The Chair (Mr. David Oraziotti): That was the last one—

Mr. Gilles Bisson: Yes, I'm asking you to record this.

The Chair (Mr. David Oraziotti): Recorded vote on this as well; okay. And Mr. Hillier? Okay.

Ayes

Bisson, Hillier.

Nays

Brown, Kular, Mangat, Mauro, Mitchell.

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

All those in favour of section 8? All those in favour? Opposed? Okay, it's carried. Section 8 is carried.

If we can deal with sections 9, 10 and 11, there are no amendments proposed there. Shall sections 9, 10 and 11 carry, as is?

Interjections.

The Chair (Mr. David Oraziotti): Section 11.1 is separate. Shall sections 9, 10 and 11 carry, as is? All those in favour?

1700

Mr. Gilles Bisson: Question?

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

Mr. Gilles Bisson: As I'm going through subsection 9, I understand—"destroyed or lost, the holder may"—yes, okay. Thank you.

The Chair (Mr. David Oraziotti): Okay. Nine, 10 and 11: All those in favour? Opposed? Okay, it's carried; sections 9, 10 and 11.

All right, Conservative motion 9.1. New section, 11.1. Mr. Hillier, go ahead.

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

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

"Prohibitions

"27.1 Despite any other provision in this act,

"(a) no new mining claims shall be permitted on the land where this is a surface rights owner;

"(b) no private lands that were granted in fee simple by the crown shall be confiscated under this act unless the grant specified that the land be used for mining purposes or that the lands would revert to the crown; and

"(c) mining land tax shall not be levied under part XIII on any lands or minerals unless,

"(i) the patent documents for the lands or minerals specify that the lands or minerals will revert to the crown if they are not used for mining purposes,

"(ii) the property is not subject to municipal taxation, or

"(iii) the minerals are owned by a different person than the person who owns the surface rights."

The Chair (Mr. David Oraziotti): Your comment on that?

Mr. Randy Hillier: I think probably most people will see where I'm going with that amendment; we've talked about it many times. This puts the authority back to the surface rights owner instead of under Bill 173 as it is right now, where the minister has discretion to allow mining on properties where there's a surface rights owner

and the crown owns mineral rights. This would put it back into the surface rights owner's authority.

It also reinforces the original and the legislative expectation of the mining tax: that the mining tax is applicable to those properties that are not subject to municipal taxation and that the mining tax is only levied if there is indeed mining on that private property.

As we've heard during those committee hearings of examples where the mining tax has been levied inappropriately, in places where there's no mining activity on that private land and in a municipality, what happens is, the individual is subjected to two taxes on one property or allows those mineral rights to revert back to the crown, if he doesn't want to pay two levels of taxation on the same property. That's what this amendment sets out to do: prevent a single property from being subjected to two levels of taxation and put the ownership or the consent not in the minister's hands but in the surface rights owner's hands as to whether or not there should be mining on that property.

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

Mr. Michael A. Brown: To the first part: The government bill, the bill before us, would automatically withdraw private lands in southern Ontario by application to the minister of surface rights holders in the north, effectively making this proposed amendment unnecessary, in our view. It has already happened.

The second part of the motion—I understand that the motion is also trying to address issues related to the mining land tax. We are proposing to address these issues elsewhere in the bill under section 90, including a possible tax exemption which we believe should address concerns raised by certain property owners regarding this tax.

So I guess what we're saying, Mr. Hillier, is, in the first part of the amendment, our solution is there already. In the second part, we could talk about it when we get to section 90.

Mr. Randy Hillier: Do you have a motion for the mining tax included in the package for section 90? Is that what I—

Mr. Michael A. Brown: It's in the bill, as it stands.

Mr. Randy Hillier: Let me take a look at that, but to the first part, you said that this is unnecessary, but—let's see if I can frame this up properly—at the present time, I understand that this bill would withdraw that potential of staking and exploration on private lands in southern Ontario. However, the ultimate authority to grant exploration or claims on those lands still rests with the minister. The minister, at his discretion, can withdraw the withdrawal on certain lands, right? That's pretty clear. The minister still keeps that discretion. What I'm seeing in this first part of the bill is, the minister would not have that discretion to withdraw his withdrawal.

I'll take a look at section 90. I don't believe I saw anything in 90 that addressed the second part of that amendment.

Mr. Michael A. Brown: Would you like counsel or the ministry to explain that to you?

Mr. Gilles Bisson: I sure would.

Mr. Randy Hillier: Yes.

Ms. Catherine Wyatt: Are we starting with—

The Chair (Mr. David Oraziotti): Just state your name again.

Ms. Catherine Wyatt: Sorry; Catherine Wyatt, counsel for the ministry. Are we starting with the withdrawal part of this?

Mr. Randy Hillier: We can start with the withdrawal. I'm fairly clear on that; I'm not sure if everybody else is. If I'm incorrect in my assertion that the minister can withdraw the withdrawals, then certainly, clarify that.

Ms. Catherine Wyatt: Yes, that does seem to be something we heard. In fact, the withdrawal for southern Ontario is in the act. It's not by a minister's order, and the act says when those lands will be automatically withdrawn. The act provides for one method of having those lands reopened, and that is when the surface rights owner requests the minister to reopen them.

I think if you look at 35.1—I'm not sure which section that is in the bill.

Interjection.

Ms. Catherine Wyatt: Is it? Okay. I'm just getting there. All right, 35.1 is at section 15 of the bill?

Mr. Randy Hillier: Yes, 35.1, and then the exceptions.

Ms. Catherine Wyatt: Well, 35.1, for southern Ontario—the exception is dealing with existing mining claims that are already there. So what it's saying is that this automatic withdrawal in southern Ontario is not going to cut off existing mining claims, and that's what the exception is. I don't think we've come to this yet. We were doing some change-around as to how the reopening was going to work in this situation—

Mr. Randy Hillier: I'm confident—

Ms. Catherine Wyatt: —but the idea being that it's legislated how it can be reopened, and that way is only going to be when the surface rights owner requests it, so it's not that the minister can take this away without amending the act, should it pass.

Mr. Randy Hillier: I'll take a little bit more of a look. When I read through this, I saw a further exception, but I will have to take a look and see.

Ms. Catherine Wyatt: Yes. Because it's broken up into southern and northern Ontario, there's an exception for southern Ontario and an exception for northern Ontario, so there may have been some duplication there.

1710

Mr. Gilles Bisson: May I ask a question, Mr. Chair?

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

Mr. Gilles Bisson: Either to Mr. Hillier or to the counsel: If I understand 27.1(a), that would apply to both northern and southern Ontario, the way it's written?

Mr. Randy Hillier: Yes.

Mr. Gilles Bisson: Okay. That's what I needed to know. Thank you.

The Chair (Mr. David Oraziotti): Any further comments? Seeing none—

Ms. Catherine Wyatt: There was the question about the tax, wasn't there?

Mr. Randy Hillier: About the mining land tax.

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

Ms. Catherine Wyatt: The lands liable for tax now in the act are set out in section 189 of the act. What we have proposed in section 90 of the bill—it talks about the availability of an exemption from tax in certain situations.

Mr. Randy Hillier: Hold on. Let me just get to—you said 189 of the act?

Ms. Catherine Wyatt: Of the act—is where the tax liability. I'm referring you to that because section 90, of course, refers to the existing act.

Mr. Gilles Bisson: What page are we looking for in the proposed bill?

Ms. Catherine Wyatt: We're looking for section 90 in the proposed bill, which—

Interjection.

Ms. Catherine Wyatt: Quatre-vingt-dix.

So, as you see, it's going to cross-reference back. It's talking about certain situations where lands have been originally patented for mining purposes—

Mr. Randy Hillier: Okay, let me just get to section 90 here. We've got section 189—

Ms. Catherine Wyatt: Right.

Mr. Gilles Bisson: Excuse me, can I ask another question?

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

Mr. Gilles Bisson: Subsection 90(2) is the northern mechanism, right, 90(2)(1.1): "Where lands or mining rights described in clause (1)(a) or (c) are not used for mining purposes...." We're talking about lands in northern Ontario here, right?

Ms. Catherine Wyatt: It's anywhere they're liable for mining tax. It's not—

Mr. Gilles Bisson: Oh, I see. Okay. All right, thank you.

Ms. Catherine Wyatt: It's province-wide.

Mr. Gilles Bisson: Okay.

Mr. Randy Hillier: Why have I lost the section?

Mr. Gilles Bisson: It's page 43. Page 43 is 90(2), and everything's there. "(1) Whether there is evidence satisfactory to the minister that the lands and mining rights currently...." Yes, page 43. So can I ask a question, then, to counsel, as my colleague here is looking up information?

If I understand correctly, what this amendment would do is basically treat all classes of land the same, north versus south, right?

Ms. Catherine Wyatt: It already applies throughout the province, so that's not a change. The tax is the tax.

Mr. Gilles Bisson: Maybe I need to rephrase: Section 27.1, "(a) no new mining claims shall be permitted on any land where there is a surface rights owner."

Ms. Catherine Wyatt: Are we going back to the motion? I'm sorry.

Mr. Gilles Bisson: Yes, back on the motion here. So on the PC motion, 27.1—I'm just giving you a chance to catch up here—clause 27.1(a) means north and south, right? That's how I would read it.

Ms. Catherine Wyatt: It's not my motion, but I understood Mr. Hillier to say it applies throughout the province.

Mr. Gilles Bisson: Okay. So then my question to counsel is, how does this significantly change the application of the tax? This particular regime, under (c)—maybe Mr. Hillier or the counsel can explain to me—there's currently a bit of a convoluted way of applying the mining land tax. We went through this whole conversation the other day and I don't pretend to—well, I can actually give an explanation; I understand it now. How would this actually change it? Mr. Hillier, how would it change it?

Mr. Randy Hillier: To clarify that: For people who have patented lands, no mining tax can be levied against that property unless minerals are being extracted from it, and also if it's not subject to municipal taxation.

Mr. Gilles Bisson: My question, then, to counsel or to Mr. Hillier: How is that different than what we have now, currently? It wouldn't apply to a lot of land, from what I can figure.

The new proposed amendment from Mr. Hillier, at the end of the day, would help that small percentage of land where those mining land taxes are being applied. It would just catch everything, right?

Ms. Catherine Wyatt: I'm afraid we might have to ask Mr. Hillier to explain it. I'm not sure—

Mr. Randy Hillier: Subsection 189, which is dealing with the tax component of this, in the act—

Mr. Gilles Bisson: In the current act? Okay, I've got you.

Mr. Randy Hillier: Okay. Section 90 strikes out “or lessee” in the portion after clause (e). Under this act right now, we're also adding in the following subsections: 90(2)(1.1)—and lists five other clauses. That's on page 43. So we're just making it simplified.

Mr. Gilles Bisson: That's how I'm reading it, and I'm trying to figure if we're missing anything here. That's what I'm asking either you or counsel. I take it as your view, Mr. Hillier, that the amendment as written by the one that you've tabled, 9.1, would simplify the regime from what we have now and would apply to all privately owned land to which there are or are not mining rights associated—the long and the short of it.

Mr. Randy Hillier: If you refer back to page 43, you may apply to the minister for an exemption from that tax. This is saying these properties are—you don't have to apply for an exemption; they are exempted.

Mr. Gilles Bisson: My question to you, then, is: How much property would this benefit? Is that the 1.4% that we always talk about?

Mr. Randy Hillier: Yes.

Mr. Michael A. Brown: No.

Mr. Gilles Bisson: That's why I'm a bit confused. That's why I'm asking the question. So it's all. It would be above the—

Ms. Catherine Wyatt: No, the 1.4% that I think you're referring to is the number that has been used to describe where surface rights are held separately than mining rights throughout the province. That's not necessarily what we're talking about here.

Mr. Randy Hillier: That's the greatest component, is that 1.4% or 1.6%. We've heard that number banded around a little. That's a big component.

Interjection.

Ms. Catherine Wyatt: But, see, the 1.4% applies to people who don't own the mining rights, and if they don't own the mining rights, they're not going to be taxed on them. They're not taxed now, is what I'm trying to say.

Mr. Randy Hillier: I'm suggesting to you that indeed they are taxed now.

Ms. Catherine Wyatt: Not if you don't own the mining rights. Mining land tax only applies if you're the patented owner of the mining rights, from a private person's perspective—

Mr. Randy Hillier: That's right. If you're not extracting the minerals, then the tax would not apply, even if you own the mineral rights.

Ms. Catherine Wyatt: This is what we're trying to amend in section 90. The way the act reads now, and it's very convoluted, as Mr. Bisson can attest to, if your original patent from the crown was for mining purposes—and some of that language appears in your motion, which is interesting—and even if you're not now using those mining rights to extract minerals or for mining purposes, you are subject to a tax.

Mr. Randy Hillier: Maybe I'll try to explain it this way. This motion is essentially the same as what's in Bill 173. Let me read what's in Bill 173: “The registered owner of the lands or mining rights may apply to the minister for an exemption from the tax under this part and the minister may grant an exemption taking into account the following criteria”—and that's whether or not there is mineral content, whether the lands are being used for mining, whether there are rehabilitation concerns etc. What we're seeing here is that the person would not have to apply for an exemption; the minister would not have any choice. If the lands are not being used for mining and if they are in a municipality, then that mining tax doesn't exist for that person—or for that property, I guess would be more appropriate.

1720

The Chair (Mr. David Oraziotti): Any further debate? Mr. Brown, go ahead.

Mr. Michael A. Brown: I think, to be helpful, we have already indicated that we think the withdrawal of rights on private lands in southern Ontario addresses these issues. As we get farther on in the bill, there might be further opportunity, Mr. Hillier, but we will not support your motion in any event because we believe it has already been addressed through the withdrawal of the

rights to stake in southern Ontario and the ability to apply to the minister to have them withdrawn in northern Ontario. Maybe a further discussion at some other time might help you before we get to the end of this.

Mr. Randy Hillier: I'll get back to the surface rights in the north and south afterwards, but where these lands are not used for mining purposes and there are no existing mining claims, leases, licences or occupation on the lands, the registered owner of the lands or mining rights may apply to the minister for an exemption from the tax. That's where I'm focusing on here. If the lands are not being used for mining, then they ought not to be subject to a mining tax. It's fairly simple.

If it's in an unorganized district where there is no municipal taxation, then this would still allow it to be taxed with the mining tax. That's the intent, I think, of what the government is trying to achieve here. But all I'm saying is, in this motion, it doesn't put the onus on the private landowner to go through the system to apply for an exemption; it is exempted already. If the individual who owns that property in the future undertakes mineral exploration and extraction, then it would be subject to the mining tax.

Going back to the first part, the other reason why this was put in here about the surface rights owners is treating southern property owners and northern property owners in the same fashion; that the same laws would apply to private landowners north and south and that there would be no ability for the crown to reopen or withdraw withdrawals or the onus for the individual owner to have the mining thing withdrawn from the north. It would be included in the bill that the private landowner in the north is as protected as the private landowner in the south.

Mr. Gilles Bisson: I understand clearly—I think I do. But here is the question I have. What we are now doing with what the minister did earlier this spring is to say to anybody in southern Ontario who owns private land to which there are crown mining rights that those mining rights are withdrawn—not private land. If it was private land to which the person owned the mining rights, those mining rights still exist. So my question to the counsel or somebody from the ministry is: What percentage of people who own land privately also own mining rights? There should be a whole bunch of it, right? Do you follow where I'm going?

Ms. Catherine Wyatt: I'm not sure, but generally speaking, when you get title to land, you get everything.

Mr. Gilles Bisson: That's right.

Ms. Catherine Wyatt: You get surface, the mining, the whatever. You get the whole ball of wax.

Mr. Gilles Bisson: But a vast majority of private land owned would have people who own the private land but also own the mineral rights. The issue is, nobody can mine on that land without their permission, because they own both the land and the mining rights.

I understand this amendment to say that those lands would not be subject to a mining land tax. That's what's being asked for in this amendment. In effect, what you're going to end up with is a private-property owner who

owns the mining rights, who says, "I don't want to pay anything for those mining rights."

I assumed what you were trying to do originally was to deal with, first of all—that north and south be treated the same when it comes to private land to which the crown owns the mining rights. That's what I understood you were trying to do originally. And number two, that—well, there was no number two; that was just number one.

What this is going to do is eliminate the mining land tax, right?

Mr. Randy Hillier: On properties that are not being mined.

Mr. Gilles Bisson: Yes, for all private property, but the person will still hold the mining rights.

Mr. Randy Hillier: Sure.

Mr. Gilles Bisson: They would still—

Mr. Randy Hillier: Yes. Let me just—we know that—

Mrs. Carol Mitchell: My hand was up. I am in the rotation, and I'd like to speak.

The Chair (Mr. David Oraziotti): You are. Mr. Bisson is finished.

Mr. Gilles Bisson: I'm done. I figured it out.

The Chair (Mr. David Oraziotti): You've got the floor, Ms. Mitchell. Go ahead.

Mrs. Carol Mitchell: Thank you, Chair. I just want to bring to the committee's attention that it was duly moved by the committee that two days were set aside for clause-by-clause. We now are on clause 9.1. It's almost seven hours that we've been debating, so that's almost an hour per clause. We have, in total, 57. I just want to bring to attention to the fact that, in very short order, we are going to be debating how the rest of the clauses will be dealt with.

It was duly moved by this committee that two days would be adequate time for clause-by-clause. I guess if more time is needed, we really do need to look at a process that's going to facilitate it. We encourage the discussion, but an hour per clause—and I would ask the clerk: I know that the legislative calendar is very heavy, so if this is not dealt with in this manner, what, then, goes on hold? Is there not private members' business that is being contemplated?

The Chair (Mr. David Oraziotti): Okay, thanks for that. Mr. Bisson, do you want to comment on this or are you—

Mr. Gilles Bisson: I sympathize with your argument, to Madam Mitchell. I hear what you're saying. However, two things: One, I didn't vote in favour of this being limited to two days, so don't categorize it that the committee agreed—

Mrs. Carol Mitchell: I didn't say "you."

Mr. Gilles Bisson: I was actually recorded as opposed, okay? I just want to make sure the record shows I've never agreed to that. Two, we're into the substantive parts of the bill, and a lot of the other stuff that's going to flow later, I think, is going to be a little bit easier.

The big stuff is the rights for First Nations to be able to determine what happens on their own traditional

territory, the whole issue of mining rights—and Mr. Hillier, we know, has been at the forefront of this issue for a long time—there was the grandfathering and there might be a couple of others. So, yes, we spent a fair amount of time at the beginning dealing with what are pretty substantive parts of the bill, so don't think that—I'm certainly not trying to be deleterious here. I'm just trying to do my job.

Let's keep in mind that this is a fairly technical bill. Here is somebody from northern Ontario, who has been around the mining industry for a long time, getting into conversations with counsel, and counsel and I are having a bit of a hard time trying to figure out this bill from time to time. It's no disrespect—

Mrs. Carol Mitchell: No.

Mr. Gilles Bisson: No, but I'm saying, no disrespect.

Mrs. Carol Mitchell: You have the ability to be briefed. You have the ability to go through it with legal counsel.

Mr. Gilles Bisson: By my point is, it's a fairly technical bill, and we're just trying to do our jobs here. This particular motion that we have before us—I'm now understanding it to be quite different than what I thought Mr. Hillier wanted at the beginning. It's an extinction of mining land tax on all private lands, and I think that's an interesting debate. I had not looked at that. I thought we were just trying to deal with certain classes of land. But anyway, if we need more time, we'll take more time. That's all.

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

1730

Mr. Randy Hillier: I'll go back to clarification on this amendment once again. Just for everybody, approximately 98% of the private lands in this province are joined—they have unified mineral and surface rights.

Interjection.

Mr. Randy Hillier: No. In 98% of the private land in this province—period.

Interjection.

Mr. Randy Hillier: Well, no—

Interjection.

Mr. Gilles Bisson: Sorry about that, Chair.

The Chair (Mr. David Oraziotti): It's not being recorded.

Mr. Randy Hillier: My numbers may be off by fractions, but about 13% of the land mass in this province is private land. The rest is crown-owned. Of that private land, 98 point something of it has mineral and surface rights combined. We're dealing with a small fraction of the land mass. However, those people, that 1.5%, are treated in a very significantly different fashion than the 98%. That's just for clarification. This amendment would treat all private landowners, whether in the south or the north, with equality of rights—all private landowners, north and south—and that their lands would not be taxed if they're not mining that property. It's a fairly well-defined—it simplifies, so that in future, when the staff of MNDM goes to explain the mining tax etc. and what the

differences are between mineral rights and surface rights, there will not be that onerous discussion and it would be fairer.

Mr. Michael A. Brown: Just to be helpful, Mr. Hillier—or maybe not helpful—you refer to landowners in southern Ontario and landowners in northern Ontario. It doesn't have anything to do with the owners; it has to do with where the land is. If the land is in northern Ontario, it is treated in one way; if it's in southern Ontario, it's treated another way. But I can own land in southern Ontario and you can own land in northern Ontario. It's not about who owns it; it's about the land itself.

Mr. Randy Hillier: I would say to the parliamentary assistant: The land doesn't pay the tax. It comes out of a real, live, warm body and his pockets. Your ability to authorize and exercise use and enjoyment of that property can only be exercised by a real, live, warm body, not by the land itself. This is protection of individuals' property, freedoms and rights and applying the law equally. No matter where you live in this province or where your properties are in this province, you are treated equally. Under the present bill, Bill 173, you and your lands are treated differently depending on where those lands are located.

Mr. Michael A. Brown: I disagree. It is about where the land is, not where the person who owns the land is. That's what the bill does, right?

Mr. Randy Hillier: No.

The Chair (Mr. David Oraziotti): Do you want to provide a response, counsel? Go ahead. If you could add some clarity to the situation, that would be helpful.

Ms. Catherine Wyatt: I don't know; we will see. This amendment seems to be convoluting a couple of different concepts. There seems to be this idea of the withdrawal of mining rights from any ability to stake a mining claim, which is one piece, and that only applies where there are crown mining rights, and there is a different treatment proposed for southern and northern Ontario. That's true. Tax has nothing to do with whether you're in northern or southern Ontario, right?

Mr. Randy Hillier: That's right.

Ms. Catherine Wyatt: Okay. So just in case people were getting confused that we're saying there's a different tax treatment depending on whether you're north or south—that's not the case.

Mr. Randy Hillier: Same, yes.

Ms. Catherine Wyatt: If you're an owner of lands—and most of them do include the mineral rights and obviously nobody can mine that without your permission. If somebody is mining it, you're taxed. If you sell the mining rights to somebody else, they're taxed if they're using the mining rights. There is a provision in here, however, for people who own surface and mining rights, aren't using the mining rights for mining purposes and are still being taxed. We're trying to get rid of the tax for those people by offering this exemption, north or south.

I don't know if that helps.

The Chair (Mr. David Oraziotti): Mr. Hillier, does that help?

Mr. Randy Hillier: Fine.

Mr. Gilles Bisson: Can I ask you a question?

The Chair (Mr. David Oraziotti): Counsel, Mr. Bisson has a question.

Mr. Gilles Bisson: So the last point that you made: You're trying to provide that by giving them the ability to apply to have the mining rights removed if they own the private—

Ms. Catherine Wyatt: To get the lands exempted from the tax.

Mr. Gilles Bisson: Yes.

Ms. Catherine Wyatt: Right. And in order to do that, the minister is going to be looking at whether, in fact, the mining rights are being used for mining purposes or not, among other things.

Mr. Gilles Bisson: Let me rephrase it this way: If I own property in northern Ontario, under the act as drafted, I can apply to have the mining rights removed. It's not crown mining rights; they're my mining rights. I own the property and I own the mining rights. Under the proposed bill, I can apply to the minister to have the mining rights removed.

Mr. Randy Hillier: No.

Mr. Gilles Bisson: I thought that's what you were just saying. All right; that's why I asked for clarification. I read the bill and I didn't see that. Okay, got you.

Ms. Catherine Wyatt: No, you can apply to have the lands exempt from mining tax.

Mr. Gilles Bisson: But you would hold the mining rights.

Ms. Catherine Wyatt: Yes, but they're two entirely different things.

Mr. Gilles Bisson: No, I understand. You would not lose your mining rights; you would just apply not to have the tax applied. Later, if you decide to bring the land into production, then you would have to pay a mining land tax. I understand that. Good, thank you. Got it. I thought you said something different.

Mr. Randy Hillier: Just for clarity, this would just remove those lands from taxation first and wouldn't put the onus on the property owner to apply for that exemp-

tion for the mining tax. It would treat all properties in the same fashion, north or south.

The Chair (Mr. David Oraziotti): The motion that's before us is a new section, 11.1. It's numbered as 9.1 in your package, but we're actually voting on the new section, which is all one motion.

Mr. Randy Hillier: Recorded vote.

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

Mr. Randy Hillier: And take a 20-minute recess.

The Chair (Mr. David Oraziotti): Okay, a 20-minute recess will take us to two minutes before 6 o'clock.

The committee recessed from 1738 to 1758.

The Chair (Mr. David Oraziotti): I call the committee back to order. We had a recorded vote called for on adding the new section, 11.1, which is Conservative motion 9.1 in your package.

Ayes

Hillier.

Nays

Brown, Kular, Mangat, Mitchell.

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

The last item of business before committee adjourns today: I understand we have agreement from the committee that next Wednesday we will continue with Bill 173 at our scheduled time, and amendments that are scheduled to be entered for Bill 191 will be at the regularly scheduled time that was agreed on.

Mr. Gilles Bisson: One other question: We can still file amendments on Bill 191 up until the date that we start the clause-by-clause, right?

The Chair (Mr. David Oraziotti): Yes.

Mr. Gilles Bisson: Okay, thanks.

The Chair (Mr. David Oraziotti): Thank you very much, committee members. Committee is adjourned.

The committee adjourned at 1759.

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