HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Aboriginal Affairs and Northern Development

AANO • NUMBER 009 • 2nd SESSION • 41st PARLIAMENT

EVIDENCE

Tuesday, December 10, 2013

Chair

Mr. Chris Warkentin

Standing Committee on Aboriginal Affairs and Northern Development

Tuesday, December 10, 2013

● (1105)

[*English*]

The Chair (Mr. Chris Warkentin (Peace River, CPC)): Colleagues, I'm going to call this meeting to order. This is the ninth meeting of the Standing Committee on Aboriginal Affairs and Northern Development. Today we continue our study of Bill C-15.

We have the privilege of having the officials back to answer our questions, most importantly, but to begin with, they will have an opening statement. We'll turn it over to them, and then we'll have some questions.

It looks like we have enough folks in the room to have answers for every question. Thanks so much for being here. We really appreciate it.

Mr. Wayne Walsh (Director, Northwest Territories Devolution Negotiations, Northern Affairs, Department of Indian Affairs and Northern Development): Thank you, Mr. Chairman. I'll keep my comments brief before I pass it over to my colleague Ms. Shannon. I understand that there are a lot of questions from committee members, and we'd like to leave as much time as possible for those questions.

The bill before you is the culmination of what I would describe as many years—if not decades—of work towards the evolution of responsible government, I guess, for lack of better words, in the Northwest Territories.

Devolution is not new. It has taken place over time as territorial governments have evolved and the capacity and the ability to make responsibilities have grown.

We've undertaken many devolution-type initiatives with the Government of the Northwest Territories in the past. We've entered into agreements with respect to provincial-like responsibilities around education, social services, health care, transportation, the administration of justice, etc.

This last step that you'll note is the final significant step of the transfer of administration and control of lands and resources in respect of water. It is the last vestige, I guess, of the provincial-type responsibilities being transferred from the Government of Canada to the Government of the Northwest Territories.

On June 25, all the efforts of the various parties and the negotiations that have been ongoing in this stage, since approximately 2000, culminated in the signing of the final devolution agreement in Inuvik with the Government of the Northwest Territories, the Government of Canada, and our five aboriginal partners: the Inuvialuit Regional Corporation, the Sahtu Secretariat, the Northwest Territory Métis Nation, the Gwich'in Tribal Council, and the Tlicho government.

[*Translation*]

The legislation proposed by the Government of Canada will make it possible to implement the Northwest Territories Lands and Resources Final Devolution Agreement.

[*English*]

In short, the objectives and the principles of the devolution agreement are to provide for the transfer of the legislative powers, administration, and control from Canada to the Government of the Northwest Territories over what we call onshore public lands, inland waters, and non-renewable resources—the onshore, except for some what we call “limited federal lands”. I can get into that peculiarity or exemption through today's discussion.

The overall objective is to give residents greater control over their own destiny and create the proper conditions for economic growth, jobs, and long-term prosperity for the people of the Northwest Territories.

The bill before you is broken down into four parts. The first part is what we are proposing as amendments to the NWT Act. It is the bulk of the implementation legislation required to put devolution in place. Having said that, I will note that there are devolution implications for all parts of the bill. We can get into that as we proceed.

At this point, I will focus on part 1 of the bill. The key elements of part 1 are as follows.

It expands the law-making power of the Legislative Assembly of the Northwest Territories to include onshore public lands, inland waters, and non-renewable natural resources, again with the exception of some limited federal lands.

It confirms that the onshore public lands and inland water rights are under the administration and control of the commissioner of the Northwest Territories.

It repeals or renders inapplicable various federal laws. These repealed federal laws will be mirrored by the NWT legislation to ensure continued management of resources.

The bill also amends federal petroleum resources legislation to provide for unitization of petroleum resources straddling the Inuvialuit settlement region onshore and offshore, which is a unique aspect of the Northwest Territories devolution agreement.

Finally, a key element of part 1 also aims to modernize the NWT Act to reflect current governance structures and practices, replacing outdated terms and clarifying powers and responsibilities of institutions and government, etc.

I will take this opportunity now to quickly walk through part 1.

You will note that the executive powers of the legislative assembly are dealt with in sections 4 to 9.

The legislative powers are outlined in sections 10 to 33.

I'm sorry. To go back to the executive power, it addresses issues such as the appointment of the commissioner. It establishes the executive council and repeals and retains the federal power, etc.

Sections 10 to 33 deal with the legislative powers, and these are a lot of the new powers that are coming in as a result of the devolution agreement.

Sections 34 to 36 deal with the consolidated revenue fund of the Northwest Territories.

Sections 37 to 43 deal with the public accounts of the Northwest Territories.

Sections 44 to 50 deal with the administration of justice.

Sections 51 to 60 deal with public lands and waters.

The amendment provisions of part 1 are outlined in section 61.

Finally at the end of part 1 you'll note all the different transitional provisions that deal with either the repealing or making certain laws inapplicable on territorial lands post-devolution.

So that's a very quick overview. As I mentioned earlier, part 1 deals with the bulk of the implementation of the devolution agreement, but I must emphasize that there are elements to all parts of this bill that deal...that are necessary to implement aspects of the devolution agreement. I will turn it over to my colleague Ms. Shannon at this point.

● (1110)

Ms. Tara Shannon (Director, Resource Policy and Programs Directorate, Northern Affairs, Department of Indian Affairs and Northern Development): Thank you.

As the Minister noted last week in his testimony before the committee, regulatory improvement has long been identified as a precondition for long-term growth in the north and a more stable and attractive investment climate from which all northerners can benefit.

The genesis of the regulatory improvement initiative can be found in a number of reports and recommendations. Going back to 2005, there are recommendations from the Auditor General's report. There is the tripartite group's joint examination project. There is Neil McCrank's report, “Road To Improvement” in 2008. This resulted in the action plan of 2010, which was later expanded in 2012. This committee, I believe, also treated a key component of that action plan, which was C-47. It received royal assent in June of 2013.

I think the committee is probably comfortable with the objectives and principles as they were explained last week during the appearances. I will focus on parts 2 to 4 of the bill in front of us today. I will say that there are shared themes across these parts. It's my intent to provide further detail as the specific elements once I get to the final part of the bill, which is part 4, Mackenzie Valley Resource Management Act.

In general, the proposed amendments achieve three objectives. They introduce beginning-to-end time limits on decision-making, including ministerial decision-making for land and water permits and licenses. They reduce the regulatory burden. And they introduce a suite of enhancements to environmental protections. The proposed amendments do not change the existing environmental assessment or water licensing processes.

Part 2 of the bill respects the Territorial Lands Act. Upon devolution, the scope of this legislation will be limited to federal lands. The proposed amendments to the Territorial Lands Act are focused on enhancing environmental protection through increased and modernized fines and the introduction of an administrative monetary penalty regime, which is a civil penalty regime. The amendments to the Territorial Lands Act will come into force on royal assent; however, the administrative and monetary penalty regime will only be operational once regulations are in place.

Part 3 of the bill, and the second component of the regulatory improvement initiative, is the Northwest Territories Waters Act. It is important to note that this act will be repealed by Canada and mirrored by the Government of the Northwest Territories upon devolution. Large components of this act will then be imported into the Mackenzie Valley Resource Management Act to enable the continued issuance of water licenses on federal lands post-devolution.

The amendments to the Northwest Territories Waters Act would introduce beginning-to-end time limits on water licences: nine months for a board to issue its decision, 45 days for a minister to make a decision, and then a potential extension of an additional 45 days. It's being introduced as some amendments to address regulatory burdens. It would allow the water board to issue life-of-water licences. Currently those licenses are limited to 25 years. It would introduce regulation making authority for cost recovery. With respect to enhanced environmental protections, it would, like the Territorial Lands Act, increase and modernize fines and introduce an administrative monetary penalty regime.

The existing Northwest Territories Water Board would be renamed the Inuvialuit Water Board, reflective of its geographic scope and location, and the membership would be reduced from nine members to five.

This brings me to part 4 of the bill, the Mackenzie Valley Resource Management Act. The Mackenzie Valley Resource Management Act would also introduce beginning-to-end time limits. This would be for both water licenses, as those elements would be imported into the act post-devolution when the waters act is imported, and for environmental assessments: 12 months for an environmental assessment without a hearing, 21 months for an environmental assessment with a hearing, and 24 months for an environmental impact review or a joint panel review.

The bill would also introduce elements such as cost recovery and a regulation making authority for cost recovery. It would enable the Mackenzie Valley Environmental Impact Review Board to establish a public registry. That board currently has a registry but it has no legislative source for that registry so introducing this would give it greater clarity in terms of what it can and cannot post on its site.

● (1115)

With respect to the environmental protections, the MVRMA would also have amendments introduced to it to introduce an administrative monetary penalty scheme. This scheme would see fines for infractions by individuals of up to $25,000, and by organizations of up to $100,000.

It would introduce a development certificate, which would be one place for all terms and conditions that a proponent must follow in order for a project to proceed to be published. These development certificates would be enforceable. That is, an administrative monetary penalty scheme could be applied to an infraction or a failure to meet the terms and conditions of a development certificate.

Like the Territorial Lands Act and the waters act, fines would also be increased for infractions related to land. The fines would be increased from $15,000 to $100,000 for a first offence, and there would be an introduction of a second offence with a maximum fine of $200,000.

For water infractions, the maximum fine would be increased to $250,000 for a first offence, and $500,000 for a second offence.

With respect to reducing the regulatory burden, the amendments to the MVRMA would restructure the land and water boards, consolidating the existing four boards into one, with an eleven-member board.

It's important to note that the existing mandate of the Mackenzie Valley Land and Water Board would not change as a result of these amendments.

There are varying coming-into-force dates for the amendments to the Mackenzie Valley Resource Management Act. The varying dates have been established to allow for orderly transition to a restructured Mackenzie Valley Land and Water Board and the introduction of new concepts such as an administrative monetary penalty and development certificates.

Another element that is being introduced to the act is the regulation-making authority with respect to aboriginal consultation. This is something that responds to comments from industry, aboriginal groups, government, and boards. It would be an opportunity to put in place regulations that would address the procedural requirements of consultation.

I'll leave it there in terms of the scope of the amendments. What I will say is that as a result of the consultations on this part of the bill, we have made a number of accommodations and changes to the bill to respond to comments received. I'd be happy to speak to those during the question period.

Thank you.

The Chair: Thank you very much for your opening statements.

We certainly appreciate you making the time available. I know this is a busy time for all of you, and we do appreciate you coming.

Mr. Bevington, we'll start with you for the first round of questions.

Mr. Dennis Bevington (Western Arctic, NDP): Thank you, Mr. Chair.

Thank you to the witnesses for being here today.

You talked about the key elements in the bill—I'll be speaking a bit to the Mackenzie Valley Resource Management Act—and you said here that the Mackenzie Valley Resource Management Act will remain federal legislation following devolution, but its operation and devolved environment will be reviewed five years after devolution.

Is that part of the bill?

Mr. Wayne Walsh: No, that's part of the commitment that made —

Mr. Dennis Bevington: So it really is not part of this bill at all.

Mr. Wayne Walsh: The commitment in the devolution agreement is for the parties to review the provisions of the Mackenzie Valley Resource Management Act as they're treated in the devolution agreement.

Mr. Dennis Bevington: Could you read out for me what the agreement says, just so we get this straight? You've presented it as a key element of the bill here, but it doesn't exist in the bill. I would also ask you, why would you have presented it in this fashion?

Mr. Wayne Walsh: Section 3.18 of the devolution agreement states quite clearly that:

> No earlier than the fifth anniversary of the Transfer Date, the Parties shall conduct a review of the provisions of this Agreement respecting the Mackenzie Valley Resource Management Act (Canada). As soon as is practicable after such fifth anniversary of the Transfer Date, the Parties shall commence negotiations to develop terms for such review as mutually agreed by the Parties, which terms may include a review by an independent third party mutually agreed to by the Parties. Such review shall be carried out in accordance with the terms agreed to by the Parties.

● (1120)

Mr. Dennis Bevington: So there are no terms for the review yet?

Mr. Wayne Walsh: That's correct.

Mr. Dennis Bevington: And there's nothing in legislation that drives the review?

Mr. Wayne Walsh: That's correct.

Mr. Dennis Bevington: So the review really has not been established in any fashion at all, other than that there is a provision saying no sooner than five years after the imposition of the bill.

Is there a date that says but no later than 10 years?

Mr. Wayne Walsh: The devolution agreement itself is a legally binding document. All parties are bound by it.

What the agreement states is that no sooner than five years—

Mr. Dennis Bevington: It's only no sooner than five years.

Mr. Wayne Walsh: That's correct.

Mr. Dennis Bevington: So the government doesn't have to deal with it sooner than five years, but there's no time in which it has to deal with it.

Mr. Wayne Walsh: The agreement is silent as to the extent beyond the five years.

Mr. Dennis Bevington: That sounds like a really strong review.

Why wasn't it put into the legislation?

Mr. Tom Isaac (Senior Counsel, Negotiations, Northern Affairs and Federal Interlocutor, Department of Justice): There's no requirement to put it into the legislation because it's not a legislative review on its terms. The terms of the review are to be mutually agreed to by the parties.

The subject of the review, as expressed in the devolution agreement, is the treatment of the MVRMA in the agreement itself. There was no requirement to put that in legislation.

Mr. Dennis Bevington: There really is no agreement on the terms of the review. There's no agreement on the deadline for a review, other than it can't be before five years. This is a very tenuous review, to say the least.

Another question I have is along the same line. You have a provision in the act that certain requirements for the commissioner's powers will be deleted after 10 years. Is there any reason that you chose to subject the Government of the Northwest Territories to a 10-year period of time in which the commissioner will be instructed by written means from the federal minister?

Is there any reason that you picked that 10-year time, other than the fact that the Yukon had it 10 years ago? Do you consider the development of the Yukon and the Northwest Territories to be similar? Do you consider that the Northwest Territories is in the position that the Yukon was 10 years ago? What thought went into this?

Mr. Wayne Walsh: Thank you. There were a lot of questions there.

The modernization exercise that we undertook in the bill was both at the request of the Government of Canada and the Government of the Northwest Territories. We were asked to modernize the bill in a similar fashion as was done in the Yukon at the request of the Government of the Northwest Territories.

Mr. Dennis Bevington: Why did you not include a clause like the Nunavut agreement, where written instructions are to be tabled by the commissioner to the executive council?

Mr. Wayne Walsh: Again, I think the preference of both the Government of Canada and the Government of the Northwest Territories was to follow the modernization exercise that took place in the Yukon.

Mr. Dennis Bevington: You mean that the Government of the Northwest Territories didn't want to hear the written instructions that were going from the Governor in Council to the commissioner of the Northwest Territories?

Mr. Wayne Walsh: In our discussions with the Government of the Northwest Territories, that issue was never raised.

Mr. Dennis Bevington: It was never raised by the Government of the Northwest Territories?

Mr. Wayne Walsh: That's right.

Mr. Dennis Bevington: That seems to be large omission on their part—a very simple thing like that. Certainly we'll have to ask them about that as well.

Also, within the bill, the Governor in Council may direct the commissioner to withhold his assent to a bill that has been introduced in the legislative assembly.

Is that similar in the Yukon?

Mr. Wayne Walsh: Yes, it is.

The Chair: You have about a minute left.

Mr. Dennis Bevington: I want to talk a bit about clause 60 in the bill.

Could you explain that clause in greater detail? It's something that we'll have some questions on afterwards.

● (1125)

Mr. Tom Isaac: I can address that question for the member. Clause 60 of part 1 of the bill deals with the minister's entering into agreement with the provincial government in respect of waters that flow from federal lands to non-federal lands.

Currently the federal Northwest Territories Waters Act has a similar provision that allows for the Minister of AANDC to enter into an agreement with a province for waters in the Northwest Territories. It's not restricted to federal lands. So to reflect the transfer of administration control that's happening with devolution, the provision from the Northwest Territories Waters Act was taken and restricted to situations where waters are flowing from or through federal lands and non-federal lands.

That's what clause 60 is about. It's a restriction of a current power.

The Chair: Thank you very much.

We'll turn to Mr. Clarke now, for the next seven minutes.

Mr. Rob Clarke (Desnethé—Missinippi—Churchill River, CPC): Thank you, Mr. Chair. Thank you to the witnesses for coming in.

Where to start? I have a couple of questions here, first of all in regard to the land claims and how complicated they are, especially with different jurisdictions or provincial territories involved, such as the Athabasca Dene in northern Saskatchewan. How is devolution going to affect the Athabasca Dene first nation land claim? When we see the Akaitcho and the Athabasca not being willing to meet in order to negotiate land claims.... What we've seen in northern Saskatchewan is that the Athabasca Dene do have gravesite markers, and they're so close, right on the border of the Northwest Territories.

I'm just wondering if that has been taken into consideration in devolution file management.

Mr. Wayne Walsh: Aboriginal engagement and consultation throughout the evolution of the devolution agreement was fairly extensive. The Aboriginal Summit participated in the negotiations from the outset until about 2005. Subsequently, after signing the agreement in principle, we undertook a three-phase crown consultation exercise that included consulting with not just the resident aboriginal groups in the Northwest Territories, but also transboundary groups. Both the Athabasca Denesuline and the Manitoba Denesuline were consulted during those phases.

We took great pains to ensure that nothing in the devolution agreement would affect existing rights, asserted rights, or even negotiation processes. I can point to a couple of specific examples of the results of those consultations and engagements throughout our discussions over the course of the last 13 years or so.

Section 2.5 of the agreement speaks to what we call the non-derogation clause. There is nothing in this agreement that abrogates or derogates from existing aboriginal treaty rights.

Section 2.6 is a key one. In fact, we were able to modify this provision as a result of our direct consultation with both the Athabasca and Manitoba Denesuline. Provision 2.6 of the agreement states that:

> This Agreement shall not delay, impair or impede any negotiation processes in progress at the date of signing of this Agreement among Aboriginal peoples having or asserting rights in the Northwest Territories,

So you don't need to be a resident of the Northwest Territories; it's if you are asserting or in a process. That was a key one that we've accommodated.

Again, 2.7 and 2.8 are measures that ensure aboriginal and treaty rights are protected.

But beyond that, we've also included active measures that enable the Government of Canada to take back lands in the case of being able to settle an agreement. So upon conclusion of the land claim or treaty, the Government of Canada has an opportunity to take lands back in order to then transfer them to first nations pursuant to a settlement agreement.

So there are a number of different clauses in there. You may be interested in the take-back-land provision found under 3.38.

● (1130)

Mr. Rob Clarke: The concern I have, that I think the Athabasca Dene first nation communities up north have, is with the Akaitcho not being willing to actually participate in the process. Have you found that problematic?

Mr. Wayne Walsh: I can sympathize with groups that are trying to engage with other aboriginal groups in resolving or coming to consensus over shared areas. Certainly, our focus from the Government of Canada's perspective was to ensure that nothing in this agreement impacted the ability of either Akaitcho Denesuline or Athabasca Denesuline to resolve their issues or conclude an agreement with either the Government of the Northwest Territories or the Government of Canada.

Mr. Rob Clarke: You indicated that 24 aboriginal organizations were invited to participate in technical consultation sessions, and funds were made available to assist them in doing so.

How much money was allocated for the consultation process?

Mr. Wayne Walsh: I would have to get back to the committee with the exact number. It was project-based and so it was dependent on each of the different organizations. It also included in the third phase, the legislative phase, regulation improvement initiatives. I'd be happy to provide the specific number.

Mr. Rob Clarke: Are we talking about hundreds of thousands of dollars or are we talking—

Mr. Wayne Walsh: It was less than half a million.

Mr. Rob Clarke: It was less than half a million.

We always hear about the duty to consult. Were there a lot of organizations or first nation organizations that just weren't willing to participate?

Mr. Wayne Walsh: As the devolution agreement evolved, the participation of various groups increased. In the earlier stages of the negotiations we had less engagement, but as we got to the finish line there was a great deal of interest and uptake.

Mr. Rob Clarke: If you can, please get back to us with how much funds were allocated for the consultation process, and where they took place. I know that the Athabasca would like to participate in that process, as well, so that they have their issues recognized.

One question I have on the Northwest Territories is in regard to their participation with first nations. Do you know if they were actively engaged with the Dene in Saskatchewan?

Mr. Wayne Walsh: I don't know the answer to that. I know that the premier had very ambitious aboriginal engagement and outreach upon his election. I know that he had travelled throughout the Mackenzie Valley, including the Iqaluit area, but I'm not sure of the level of engagement with transboundary groups.

Mr. Rob Clarke: The whole negotiations process took 25 years and then the regulations was an additional five years. Is that correct?

Mr. Wayne Walsh: I beg your pardon?

Mr. Rob Clarke: The regulation negotiations took five years and the negotiation for the specific bill was 25 years.

Mr. Wayne Walsh: Oh, I see.

Devolution, you could argue, has been on and off since the mid-1980s, in one form or another.

Ms. Tara Shannon: Regulatory improvement discussions have been ongoing since 2010, especially with respect to restructuring of the land and water boards, and transboundary groups would have been involved in that.

The Chair: Thank you.

We'll turn to Ms. Jones now, for the next seven minutes.

Ms. Yvonne Jones (Labrador, Lib.): Thank you very much, and thank you for appearing this morning to respond to our questions on this important bill.

In your opening comments, you talked about consultation on devolution, and about the three phases you had entered into in the spring of 2012, the spring of 2013, and again during draft legislation between August and October of 2013. I've received a letter, which I'm sure other committee members have as well, from the Tlicho First Nations. In the letter, they outline a failure to meet the consultation obligations with the Tlicho agreement.

Could you explain to me whether they were consulted appropriately and whether all the issues they raised were discussed with them?

Mr. Wayne Walsh: Since the beginning, the Tlicho government has been involved in devolution discussions in one form or another, either as a separate party or through their participation in the aboriginal summit. I will note that the Tlicho government is a signatory to the devolution agreement. The reference you make in your letter from the Tlichos, with respect to consultations on the regulatory improvement side of things, I'll pass over to Tara.

● (1135)

Ms. Tara Shannon: As noted in my previous response, there have been consultations on policy intent with respect to the regulatory improvement initiatives since 2010. John Pollard, the minister's chief federal negotiator, held over 50 meetings from 2010 until 2013 on restructuring of the land and water board itself.

The Tlicho were invited and included in that consultation process. They were subsequently invited and included in consultation process on the legislation. I don't have details of dates of meetings with the Tlicho, but we do have that information, if you would like.

Ms. Yvonne Jones: After the 50 consultation sessions that were held by the lead negotiator for the board, you can't tell me if the Tlicho were involved in any of those consultations or participated in any way?

Mrs. Tara Shannon: They were involved in consultations, and they did participate. I just don't have details of the meetings and when they took place between Mr. Pollard and the Tlicho.

Ms. Yvonne Jones: In a letter on October 18 that they wrote to Mr. Pollard, they outlined a number of concerns. I think they submitted a 10-page letter, and in the letter they indicated they were very concerned about how Canada continues to move forward with the amendments without any apparent understanding of—and I'm reading directly from their letter—or respect for the fundamental purpose and promise of the Tlicho Agreement.

In relation to an important decision-making role, they certainly feel they have not been appropriately consulted. They feel their current agreements with the federal government around this issue are not being respected. I'd like to get a response in terms of what your thoughts are around this.

Ms. Tara Shannon: We're aware of the Tlicho's position with respect to the restructuring of the land and water board. However, in our analysis and view, the proposed restructuring is consistent with the land claim agreement, in particular section 22.4.1 of the Tlicho Agreement, which does allow for a larger land and water board applicable to the entire Mackenzie Valley. In such a case, the existing regional panel would no longer exist. Our view is that the proposals in the bill respect existing aboriginal and treaty rights.

Ms. Yvonne Jones: I'm aware of the clause in their agreement. What I don't understand is if the government was doing such extensive consultation with regard to the devolution of the lands agreement, why were you not completely up front in all the consultations that were held to talk about the changes to the Mackenzie Valley Resource Management Act. It seems as if it came later, after the aboriginal governments had signed on to the other piece of the devolution agreement. I don't understand why you would want to do that, why you didn't do all this in full and open consultation at the same time.

Ms. Tara Shannon: As I stated previously on regulatory improvement, we have been consulting on policy intent since 2010. There was the appointment of chief federal negotiator John Pollard who did hold his series of consultations on policy intent. With respect to the action plan for the regulatory improvements, we had subsequent consultations on policy intent with groups, both in December of 2012 and then again in July of 2013. In May of 2013, we shared initial draft language with all aboriginal parties, including the Tlicho. That initial draft included the proposed amendments with respect to restructuring policy direction and time limits. We then followed up with a complete proposal and held technical conversations on that in Yellowknife at the end of September.

I'll turn to my colleague to speak to how they dealt with regulatory improvements during the devolution consultations.

● (1140)

Mr. Wayne Walsh: Certainly the regulatory improvement proposals were actively discussed during our negotiations. They had to be to formulate the parties' opinions as to what different negotiation proposals met the various parties' interest. A number of presentations were made in the negotiations during devolution as to the Government of Canada's intent with respect to the regulatory improvement initiative and board restructuring. Although that was not a subject of negotiations, we did make presentations and made the Government of Canada's views known on that subject.

The Chair: Thank you.

We'll turn to Mr. Hillyer now for the next questions.

Mr. Jim Hillyer (Lethbridge, CPC): Thank you very much.

I just want to follow up a little bit about consultation in general. I hope not to come across as being cynical.

Sometimes it seems that some groups may feel that, if they didn't get what they wanted as a result of the consultation, the consultation wasn't actually there or wasn't sufficient. Do you get that sense, or are there some shortcomings in our duty to consult?

You can speak to this agreement. Are there some shortcomings? Do you feel we've done it as our duty dictates?

Certainly consultation must be more sincere and meaningful than just a token going through the motions, but at the same time I doubt it can mean that we have to have unanimous agreement.

Mr. Wayne Walsh: From the devolution perspective I think the consultation record is quite extensive.

What's important to note with consultation—and we hear this often, and I'll reiterate today—is that it's not just about consulting, but it's also being in a position to accommodate if the actions the government is proposing may infringe on a potential right. Those consultations need to take place at a stage in your discussion before you make the decisions, so you're able to do that.

From a devolution perspective, as I stated earlier, we've had participation of various aboriginal parties in the negotiations, dating back to 2000, through the Aboriginal Summit. Even after the Aboriginal Summit disbanded, we had aboriginal organizations participate on their own. We now have five of those parties that have signed on to the agreement.

Notwithstanding that, the reason we developed the three-phase consultation approach during the final agreement negotiations was to ensure that all considerations were made by the Government of Canada prior to decisions being made.

The first phase is really important to that. The first phase of consultations in devolution took place while we were actually negotiating, so with any feedback or input or concerns that we received, we were able to then modify our negotiation approach and our position, to ensure that those rights were not infringed. I think a lot of the active measures I've pointed to come as a result of that dialogue.

I think the consultation record on devolution is quite extensive and it's thorough and we feel quite comfortable that nothing in the agreement, and subsequently nothing in the proposed legislation, infringes on those potential aboriginal or treaty rights.

I'll turn it over to Tara. I don't know if she wants to expand on the regulatory improvements.

Ms. Tara Shannon: On the regulatory improvement side of the coin, we also have an extensive record of consultations since 2010.

I would note that as soon as Mr. Pollard was appointed, he actually sent letters to all aboriginal parties to explain clearly Canada's intent. So part of the consultation approach and record is the clarity with respect to what the proposed changes are and were at the time.

As my colleague noted, when you are consulting you do have to take into account any accommodation measures that you can bring to a proposal, and we did do that as a result of the consultations that took place. And in a key area, we've brought accommodations to the bill with respect to the restructuring aspect of the proposal as a direct result of comments received from aboriginal parties through those consultations.

● (1145)

Mr. Jim Hillyer: That's a little bit on the process of the consultations.

But in your opening remarks you said there are a number of amendments made as a result of these consultations and that you would be able to expand upon them. Could you do that, at this time?

Ms. Tara Shannon: Certainly. I did just refer to one, and I would probably highlight this as one of the key accommodations that we made through the process. It is as a result of comments received from aboriginal parties through the consultations.

We included a clause in the bill, which would be a new clause, 56.3, in the Mackenzie Valley Resource Management Act and clause 136 in the bill in front of you on page 105. That is, where the chair of the restructured Mackenzie Valley Land and Water Board establishes a smaller committee to consider an application for development, and where that proposed development is wholly within a geographic settlement area, the chair would then first consider the appointment of the member nominated by the first nation. For example, if we were to take the Gwich'in settlement area, if there was a development wholly within the Gwich'in settlement area, the chair would first consider the appointment of the nominee who was nominated from the Gwich'in first nation to a committee to consider the development.

Another key aspect of the accommodation was the appointment of the chair to the Mackenzie Valley Land and Water Board. The minister would appoint the chair. However, as a result of the consultations, we have included in the bill the requirement that, for the second and subsequent chairs, the minister would confer with the Mackenzie Valley Land and Water Board members.

We also made an amendment to the development certificates component of the bill to allow for a reconsideration process similar to the process that is in the Nunavut Planning and Project Assessment Act, with which I believe this committee is familiar. It comes as a direct result of comments we received through consultations not just with aboriginal parties, but with industry as well. If a term or a condition needed updating, this process would allow for that to take place.

We also changed the order of reference to the objectives of the bill to respond to comments from the aboriginal parties. We had it before that the objective of the land and water board.... We changed the order of considering the optimum benefit and decision making to capture Mackenzie Valley residents first and Canadians subsequently. The order was reversed previously. That was an issue of great interest for those with whom we consulted.

The Chair: Thank you very much.

We'll turn to Mr. Genest-Jourdain, for the next five minutes.

[*Translation*]

Mr. Jonathan Genest-Jourdain (Manicouagan, NDP): Good morning.

Your presentation was on devolution. However, there is one element that you did not bring up during your presentation, and I have not seen it in the bill either. I am referring to the transfer of responsibilities concerning abandoned mine sites. I know that chapter 6 of the agreement deals with precisely this topic. Now, this responsibility will be transferred as of the signing of the agreement. The government of the Northwest Territories and the aboriginal governments will be responsible for cleaning these abandoned mine sites and restoring them to their original state. For this to happen, the government must provide an inventory of all of these sites, including sites that have been released, sites that have been cleaned up, and sites that need to be cleaned up.

So the agreement refers to a definitive inventory, but it also mentions that it is the responsibility of the parties to the agreement—the government and the communities—to prove that other sites discovered after the signing of the agreement would be the responsibility of the government. So, when we talk about the definitive inventory that the government must provide, are we talking about an exhaustive inventory? Does the government need to take all necessary measures to ensure that all sites have been covered?

● (1150)

[*English*]

Mr. Tom Isaac: Chapter 6 of the devolution agreement is the chapter that deals with the responsibility of the governments for existing waste sites. The inventory you spoke of is in schedule 7 to the devolution agreement. In that schedule there's a part that deals with sites requiring remediation, and so those are all of the sites Canada has identified, to date, that require remediation. Those sites are going to be remediated by the Government of Canada. Those sites will not be transferred to the Government of the Northwest Territories, so they are excluded from transfer.

Those are the known sites we've identified as requiring remediation based on federal remediation standards. After devolution, if an operating site becomes an abandoned site that requires remediation, the Government of the Northwest Territories or an aboriginal group, if it's on the aboriginal group's land, can come to Canada and say to Canada that this site is their responsibility.

The criterion for responsibility is essentially when the activity that caused the contamination took place. If that activity took place prior to devolution, then it's Canada's responsibility. If it took place after devolution, or in the case of an aboriginal land, if it took place prior to the land becoming aboriginal land, it's Canada's responsibility. If it took place after becoming aboriginal land, it's the aboriginal government's responsibility.

That is the criterion that would be applied by Canada in saying yes, it's our responsibility, or no, we think it's yours.

If the Government of the Northwest Territories or an aboriginal party disagrees with Canada's view on that, the provisions of the agreement call for an expert panel to be struck. That expert panel would look at the evidence presented by the parties and determine whether or not that waste, or the contamination in question, is contamination that existed prior to devolution, and if so, then it's our responsibility, or prior to the lands becoming settlement lands, and if so, it's our responsibility.

The answer to your question is, to the extent that Canada has knowledge, we have identified those sites that require remediation, and there's a process going forward for new sites that become abandoned that require remediation.

For sites not on the list, the Government of Canada and the other parties to the agreement have come to an agreement. Basically, Canada topped up the amount of money we were putting into the deal by $2 million a year. The parties to the agreement in consideration of that were happy to not deal with undiscovered sites. That's the way it worked out.

[*Translation*]

Mr. Jonathan Genest-Jourdain: Thank you for your answer, which clears things up a bit.

What we have here is a new measure, a new tactic. There is a similar transfer of responsibilities under the First Nations Land Management Act. And that is where we have a problem, especially given that restoring these sites costs a lot of money. Will there be provisions made to cover these costs? Or, at the very least, will a funding envelope be transferred for the restoration of these sites?

I also have some questions about the burden of proof. The community or the government of the Northwest Territories will need to prove that the need existed prior to the signing of the agreement. What are the costs associated with that? Will it be possible to challenge such a situation before the courts?

[*English*]

Mr. Tom Isaac: Yes, to answer one of your questions.... There's a waste sites management committee that's set up by the agreements. All of the parties to the agreement will have a member participating in this waste sites management committee. Each of the parties was provided $200,000 a year for participation in that committee. The purpose of that committee is to consider remediation that is taking place, and consider other things that might require remediation.

As far as the cost of remediation goes, all of the sites we are aware of that require remediation have been excluded from the transfer, and the cost of that remediation will be borne solely by Canada because those lands are staying federal.

We haven't transferred a liability, and so therefore we haven't transferred any money other than the money that was identified in respect of participation in that committee.

● (1155)

The Chair: Thank you.

We'll turn now to Mr. Strahl for the next five minutes.

Mr. Mark Strahl (Chilliwack—Fraser Canyon, CPC): Thank you.

My apologies for my delay. I was in the House speaking to Bill C-9, the First Nations Elections Act, this morning.

My question stems from the debate that took place on this bill last week. The constant refrain that I heard from the opposition was regarding resource revenues. I'm hoping that perhaps someone at the table can describe what the current pre-devolution regulatory improvement resource revenue system is and what it will become after this bill is implemented. Perhaps, as well, they could talk about what's proposed in Bill C-15 compared to what was taking place in the Yukon territory and therefore what Yukon's reaction was to it. There are a few questions there but I'm hoping you can provide me some answers.

Mr. Wayne Walsh: The devolution agreement speaks to a number of different pots of money or revenue streams, for lack of a better term. The first we talk about is one-time funding. Both the Government of the Northwest Territories and aboriginal parties will receive one-time funding in order to get set up for devolution. It's a pure implementation type of cost. For post-devolution we have what we call ongoing funding. Essentially it's an A-base transfer from the Government of Canada to the Government of the Northwest Territories as well as to the aboriginal parties. That enables those governments to undertake and discharge their responsibilities pursuant to the agreement. That amount for the Government of the Northwest Territories is $67.3 million. It will be added to the Territorial Formula Financing agreement, which then grows as part of the index. The ongoing money for the aboriginal governments is up to $4.6 million and that is distributed based on a formula between the aboriginal parties.

With respect to your question on the resource revenue side, the formula that was agreed to in the devolution agreement calls for the Government of the Northwest Territories to collect all royalties in the Mackenzie Valley. They will then return half of those back to the Government of Canada and they will retain 50%. There is a cap on that 50% and the cap is 5% of their gross expenditure base. The way that works is if the gross expenditure base of the Government of the Northwest Territories was $1 billion the most that the Government of the Northwest Territories could retain through the net fiscal benefit formula would be $50 million. It's important to note that the calculation of the gross expenditure base increases every year so that cap also increases every year. It's an important consideration. The reason why it was determined that way is that it's consistent with the federal-provincial type of approach with equalization given, however, that the Territorial Formula Financing tends to be substantially more generous than equalization in the provinces.

It's important to note that this formula was quite different from what was agreed to in the Yukon. When the Government of the Northwest Territories and the Government of Canada signed the agreement in principle in January 2011, there was a request made by the Government of Yukon to modify the Yukon formula to be consistent with the Government of the Northwest Territories formula. The Prime Minister did agree to that and that amendment was made and the devolution Yukon agreement was amended to reflect the new formula that was in the Northwest Territories.

That's the agreement. Currently under pre-devolution, under the current system, Canada collects and retains all royalties that are accrued in the Northwest Territories.

● (1200)

Mr. Mark Strahl: Okay.

This is a significant improvement from that obviously. Again, I haven't been here for the whole time so that's good for me.

The Chair: Thank you.

We'll turn now to Mr. Bevington for the next five minutes.

Mr. Dennis Bevington: Thanks, Mr. Chair.

I want to go through this MVRMA process a little bit. Bear with me please.

With the devolution agreement, the Government of the Northwest Territories will be taking over responsibility for environment, land, and for making recommendations to the boards. Is that correct? Will they be making recommendations on conditions on the land and conditions with the environment that would have been made previously by the federal government?

Mr. Tom Isaac: Currently, under the MVRMA there's a concept of “responsible minister”. That concept is for those ministers who have jurisdictional authority for approving a particular project that is the subject of an environmental assessment. Those responsible ministers get together and make a decision on the recommendation that's—

Mr. Dennis Bevington: No, I'm talking about those who actually sit on the technical committees, who work with the boards to make the recommendations that go forward to the ministers. Is that not the process that still takes place?

Mr. Tom Isaac: When the assessment itself is being conducted?

Mr. Dennis Bevington: Yes.

So the Government of the Northwest Territories has a much larger role to play in putting forward the recommendations to the boards. Is that correct?

Mr. Tom Isaac: Yes, they should.

Mr. Dennis Bevington: On things like reclamation, on a whole number of issues that would be very important to the people of the north.... Is that correct?

Mr. Tom Isaac: Yes. There are interventions in those assessments.

Mr. Dennis Bevington: And the federal government would have less of a role in that regard. Okay, so we have that established. That's happening.

So now the boards themselves are going to be under the direction of the minister. The federal minister may give written policy directions that are binding on the planning boards, on the review boards. Is that correct? So the federal minister has the ability now, much larger in this act than he had before, to provide binding policy direction to the boards that are dealing with environmental assessments.

Ms. Tara Shannon: The expansion of policy direction under the MVRMA would be with respect to land use planning boards and the Mackenzie Valley Environmental Impact Review Board, yes.

Mr. Dennis Bevington: That's the one that does the environmental assessments, and the land use planning board establishes the conditions for environmental assessment. Is that correct?

Ms. Tara Shannon: Yes. These boards are remaining federal post-devolution—

Mr. Dennis Bevington: So we got that now.

So now the Government of the Northwest Territories, in the end, after the environmental assessment is done, is responsible for the condition of the land once the project's finished. Is that correct?

Ms. Tara Shannon: For territorial land, yes.

Mr. Dennis Bevington: So under this act now the minister could make decisions that might not be in the best interests that the Government of the Northwest Territories considers for its land. Is that correct?

Ms. Tara Shannon: The minister would only be making decisions with respect to federal lands. Territorial ministers would be making decisions with respect to territorial lands—

Mr. Dennis Bevington: So if we have a—

The Chair: Mr. Bevington, you have to wait until the question is answered.

Mr. Dennis Bevington: I only have five minutes.

The Chair: I'll extend your time if necessary, but it's important that the witness has the time to answer the question.

Ms. Tara Shannon: I want to clarify about policy direction. It's policy direction, in general. It's not specific to a project and it's not a decision.

Mr. Dennis Bevington: I understand what policy is, madam. I do, actually. But you said it's only on federal lands that the minister.... If there's a project, a new mine that opens up on territorial land, will the minister not make the decisions on the terms and conditions of the environmental assessment?

Ms. Tara Shannon: The responsible ministers would make that decision.

Mr. Dennis Bevington: Who's got the final decision?

Ms. Tara Shannon: Currently, under the MVRMA, the environmental assessment decisions are consensus-based decisions between the territorial minister and the federal minister. That would continue.

Ms. Alison Lobsinger (Manager, Legislation and Policy, Northern Affairs, Aboriginal Affairs and Northern Development Canada, Department of Indian Affairs and Northern Development): Responsible ministers will continue to make decisions as they do now. So it's all ministers with jurisdiction for development—

Mr. Dennis Bevington: So you have two governments that have to agree, on a consensus basis, on the terms and conditions of any development. What if there's a disagreement?

● (1205)

Ms. Alison Lobsinger: Right. They would work it out the way they work it out currently.

Mr. Dennis Bevington: Okay, so the big minister wins, eh? I think that would be safe to say.

Ms. Alison Lobsinger: No.

Mr. Dennis Bevington: The act still falls under the purview of the minister, doesn't it?

Ms. Alison Lobsinger: It would be a consensus decision between the ministers federally and the ministers with the GNWT. They make a consensus—

Mr. Dennis Bevington: So is this how we're going to conduct environmental assessments now? Two governments have to decide on the terms and conditions of environmental assessments? And this is going to be an improvement?

Ms. Tara Shannon: That is how it is done currently. The environmental assessment process itself is not changing post-devolution and post-amendments to this act.

The Chair: Thank you, Mr. Bevington. I think you have your answer and it's been very clear.

Mr. Leef, we'll turn to you now for the next five minutes.

Mr. Ryan Leef (Yukon, CPC): Thank you, Mr. Chair. I'm sure now we'll hear from the member from Western Arctic that he doesn't feel as though he was consulted adequately after that argument.

But we have the opportunity to look at the Yukon experience. Certainly, some of that experience has been put into your thinking and the process of devolution for the Northwest Territories that's occurred for many years now. Can you maybe highlight some of the key aspects of the Yukon devolution agreement that you learned from? And what are some of the significant differences that are deployed in the Northwest Territories devolution agreement that you put in specifically because you learned from the Yukon experience?

Mr. Wayne Walsh: I think the biggest lesson learned is our approach to waste sites. The model that was employed in the Yukon was somewhat different than what we've done in the Northwest Territories.

In the Northwest Territories we've identified those sites that Canada is fully responsible for. Rather than transferring sites and then remediating them, in coordination with the Government of Yukon we've decided to maintain full liability for the sites. We'll clean them up. We'll monitor them, and once that monitoring period is over we'll transfer the clean bill to the Government of Northwest Territories.

I would also say that the biggest consideration as well, beyond waste sites, was our approach to implementation. Part of the lessons learned was that there was not enough focus on implementation, gearing up towards getting ready for devolution in Yukon. Certainly we've put a big emphasis on implementation planning, and now we're in the throes of implementing the agreement, getting ready for the transfer date. Those are things around knowledge retention, corporate memory, and things like that.

Also what's important is the work that needs to happen about the residual organization, what Canada will be doing in the north, post-devolution. Those are some of the lessons learned. That's more specific in terms of our planning as opposed to the devolution.

There were some other unique circumstances, but they had more to do with the nature of the Yukon as opposed to the Northwest Territories. Forestry was already dealt with in Northwest Territories but wasn't dealt with in Yukon—things like that.

Mr. Ryan Leef: Fair enough. And there would be some differences between first nations land claim agreements and whatnot.

In the Yukon, with the environmental assessment and then the approval process, it starts right down at the district level. So you have a district level review of a project. That's taking into account technical reports, largely submitted by territorial employees, whether it's land management, forestry, territorial environment, or fisheries—any basic regulatory or inspection body or technical body that can contribute to a district review of a particular project. That information is assessed by the environmental review. They make a recommendation up to the main board. That's considered by the territorial ministers who are responsible for those respective decisions. Those projects in the territory over the last 10 years have been largely well regarded and well received. Do you envision that being any different in the Northwest Territories now?

Ms. Tara Shannon: No. There are similarities between how we approach the Yukon Environmental and Socio-economic Assessment Act and the MVRMA. Both are federal pieces of legislation. The boards, as you know, are both federal boards funded by Canada, and appointments are made by the minister in both cases.

There are, of course, unique circumstances because of the unique circumstances of each territory, but as a general rule in principle the approach is very similar and the outcomes, we would hope, would be very similar to those of Yukon. The Yukon has performed very well economically, as you know, over the past several years.

● (1210)

Mr. Ryan Leef: I don't recall a time when we've had an instance where the federal minister has inserted himself in a decision that was contrary to the wishes and the determination of the YESAA board and the technical reports and both industry and employees. I think there's a bit of irresponsible fearmongering when it's suggested that the federal minister all of a sudden is going to be the single judge, jury, and executioner of the wants and wishes of the people of the Northwest Territories when it comes to these environmental reviews.

We're looking at the Yukon experience, and you articulated clearly that there doesn't seem to be any difference with how it will roll out in the Northwest Territories. I think most reasonable people accept the fact that the reviews that are undertaken in the Northwest Territories will be those that are best for the Northwest Territories as decided by those people.

Could you maybe just quickly touch on whether there's a transfer of jobs that's going to occur and what impact that might have through the devolution agreement—whether that will enhance opportunities for people in the Northwest Territories—and if there's any additional transfer legislation that will either positively or negatively impact the NWT in that regard?

Mr. Wayne Walsh: Chapter 7 outlines what we call the human resources chapter and that governs the whole transfer of functions from the Government of Canada to the Government of the Northwest Territories with respect to human resources. It was the objective of the two governments and of all the parties to ensure a seamless transition. So we talk about transfer of authorities, but we need to also talk about transfer of knowledge, and what's most important, that knowledge is our employees.

We spent a great deal of time negotiating that chapter. As I mentioned before, it governs what constitutes a reasonable job offer from the Government of the Northwest Territories. There are two different competition systems between the Government of Canada and the Government of the Northwest Territories. We have to crunch numbers and do some comparisons. I can tell you from the milestone perspective that six months prior to transfer date—which was October 1—is when the federal employees based in the Northwest Territories were to receive reasonable job offers. I believe in the neighbourhood of 130 received those job offers. They had two months to consider them; December 2 was the deadline. Out of all of those job offers that were made, all but I believe two accepted the job offers of the Government of the Northwest Territories. So we were successful in ensuring a good transfer of knowledge and capacity to the Government of the Northwest Territories.

With respect to the legislation, I think there are something like 32 different acts that are going to be amended or repealed as a result of this package. It would take a long time to go through it today, it's a fairly big endeavour.

The Chair: Thank you.

We'll turn to Mr. Bevington now for the next questions.

Mr. Dennis Bevington: Well, Mr. Chair, I'd advise the member for the Yukon sitting across that he should look at the concerns that people have right now over the environmental assessment on the Giant Mine on which the Environmental Assessment Board has made a number of recommendations, which are now very much subject to ministerial review.

It is an issue of great concern to all the people in the Northwest Territories that we play a significant and important role in decision-making. That's why I'm trying to understand completely how the decision-making process will go ahead under this new act. If it is as you say consensus—I lived in a consensus....

What does consensus mean to you? Does that mean the majority rules? Or does it mean that a decision is held off because there is no consensus?

Ms. Tara Shannon: As is the case currently where there are two regulatory authorities invoked, so territorial minister and federal minister, they come to a consensus. If they have a different approach, they speak to each other, they work through, they come to a consensus. I'm not aware of any times where that's been a challenge to date. Our expectation is that this won't pose a challenge post-devolution either.

● (1215)

Mr. Dennis Bevington: Through the Chair, I refer you to the fact that now the Government of the Northwest Territories is taking on more responsibility for land and for environment. It's going to be the one that determines what the recommendations are to a greater degree than in previous days when the federal government had those powers on the ground.

What we see now is the Government of the Northwest Territories will be the one that determines whether the nature of environmental impact, the recommendations that come out of technical committees, will be more aligned with the Government of the Northwest Territories. My concern is will those recommendations then be subject to the federal concern? We're changing the system here. It's not the same as it was before. There are different powers with different people. I want to understand how that decision-making is going to take place. That to me is an important part of what's going on here because ultimately if the federal government makes decisions that don't fit with recommendations that are coming from our territorial government, it may be that we'll end up on the short end of the stick when it comes to reclamation. There may be situations that could occur where there's not enough remediation money put in place for taking care of development at the end. Those are decisions that the minister may have influence on and I want to know exactly how that relationship is going to work.

Ms. Alison Lobsinger: I think the first point I would want to make is that there are many federal ministers with jurisdiction for developments, not just the Minister of Aboriginal Affairs. There's the Minister of the Environment, and the Minister of Natural Resources Canada, for example. Those ministers are all represented at the table in the decision-making process.

The Government of the Northwest Territories will be taking on a more significant role post-devolution. If you look at chapter 3.17 of the devolution agreement, it sets out various delegations from the Minister of Aboriginal Affairs to the Government of the Northwest Territories with respect to environmental assessment. That includes receipt of environmental assessment reports from the MVRB, participation in the decision, and then distribution of the decision, which is an acknowledgement of the bigger role that the Government of the Northwest Territories will be playing for developments on lands they will be responsible for.

Mr. Dennis Bevington: Are there any provisions in this act such that there needs to be a consensus arrangement between the minister and the Government of the Northwest Territories with regard to the policy directions the minister is applying to these boards?

Ms. Tara Shannon: The minister would be required to consult with the Government of the Northwest Territories and with the boards themselves—and in the case of the Tlicho, with the Tlicho—before issuing policy direction.

Mr. Dennis Bevington: It doesn't say that in the legislation though.

Ms. Tara Shannon: Sorry, I have just been corrected. He does not have to consult with the Government of the Northwest Territories. It's not in the legislation itself. However, it's a matter of good government practice for the minister to consult with his territorial counterpart.

Mr. Dennis Bevington: The law is one thing; practice is another, Mr. Chair. I think the witnesses have to make that separation.

The Chair: Mr. Bevington, you have an answer. I think if you propose an amendment that will be discussed at a different time. There would be other witnesses who would answer.

Mr. Dennis Bevington: Thanks.

The Chair: Thank you.

Ms. Hughes.

Mrs. Carol Hughes (Algoma—Manitoulin—Kapuskasing, NDP): Just briefly, through you, Mr. Chair, regarding the information that was provided with respect to some of the sites that need to be cleaned up, I'm wondering if you could ask the witnesses to table—not right now if there's not enough time—exactly how many sites...and I think you may have mentioned that—

The Chair: Actually you have this.

Mrs. Carol Hughes: Is there a list of what the contaminants are and how much it costs to clean those sites? If there's a schedule to get them done, that would be of interest.

Could you also ask them why the Mackenzie Valley piece was put into the devolution agreement? Because initially they weren't together. What was the reasoning for that? Was it a condition of it having to move forward? Thank you.

● (1220)

The Chair: Thank you.

I think the second question is absolutely one that would be directed to the minister. That was a question that the minister did answer.

In terms of the inventory of sites, schedule 7 actually has a listing of those sites, so you can look at those in schedule 7.

Mrs. Carol Hughes: But there was additional information I was requesting.

The Chair: If you're looking for a list of the contaminants, I'm not sure that one is available. However, it—

Mrs. Carol Hughes: It must be available.

The Chair: —isn't something that would necessarily pertain to this legislation, but I'm certain that if it's available, they'll make it available to us. We'll probably have the officials back. I assume the committee would like to have the officials back when we move to clause-by-clause. So if there is additional information required at that time, I'm certain the officials will be able to answer.

Folks, we want to thank you for being here. We certainly appreciate that this is a very busy time for you as you're moving into the next stages of this legislation. We know you've done a lot of work to get to this point and we congratulate you for that. Thank you for being here.

Committee members, we will now adjourn, and the subcommittee will follow almost immediately.

Oh, pardon me. We do have some committee business. We'll allow our witnesses to go and we'll have everyone hold here.

So I'll simply suspend, and we'll go in camera, deal with that, and then go into subcommittee.

[*Proceedings continue in camera*]