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Chair

Mr. Chris Warkentin

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•(0845)

[English]

The Chair (Mr. Chris Warkentin (Peace River, CPC)): Colleagues, I'm going to call this meeting to order. This is the 60th meeting of the Standing Committee on Aboriginal Affairs and Northern Development. Today we continue clause-by-clause consideration of Bill C-47.

You'll see that we have folks from the department here again. We want to thank the officials for joining us. We appreciate their willingness to answer questions if some arise.

(On clause 2)

The Chair: We are considering clause 2. Right now we'll go back to amendment NDP-23. If people are looking as to where.... We are falling into the itinerary. I don't know if there's somebody that might want to move that one.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): I am moving it.

Mr. Chair, this is again about the scoping of projects. They're recommending that the unnecessary steps be removed from the scoping process. In particular, in providing for the NIRB and the panel to determine the scope of the project before it's assessed, the bill includes several steps that are unnecessary.

This is specifically dealing with some of those unnecessary steps, including unnecessary mandatory scoping prior to review, unnecessary commission reassessments, other than the determination of plan conformity after scoping prior to review, unnecessary NIRB re-screening of activities that have been added by NIRB or the panel as a result of a scoping determination.

The Chair: I'm not seeing anybody looking to speak to that.

Mr. Bevington.

Mr. Dennis Bevington (Western Arctic, NDP): Perhaps I could ask the government witnesses, if you don't mind, if they could give us some indication of whether this would enhance cumulative impact assessments with this amendment, including further worker activity. Would that be something that would also be enhanced? That's what we're maybe getting at here as well.

Ms. Janice Traynor (Environmental Policy Analyst, Environmental Policies and Studies, Northern Affairs, Department of Indian Affairs and Northern Development): The board can include other activities in the current version of the bill as well. Yes, I think that cumulative impact assessments would be important.

Mr. Dennis Bevington: Without this, would further worker activity be permitted in the act for assessment as part of the overall assessment?

Ms. Janice Traynor: Yes, it would.

Mr. Dennis Bevington: Thanks.

The Chair: Thank you. Not seeing any additional speakers to that, we'll vote on amendment NDP-23.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is amendment NDP-24.

Ms. Jean Crowder: Mr. Chair, this is about language consistency, particularly in paragraph (b), where it says:

(b) the project has been resubmitted to the responsible Minister, who has determined, in accordance with the applicable criteria provided in section 94, that the review should be conducted by the Board.

Again, it's about language consistency.

•(0850)

The Chair: Not seeing anybody looking to speak to it, we'll vote on the amendment.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is amendment NDP-25.

If somebody wants to introduce it, I have some comments with regard to it.

Ms. Jean Crowder: I'll introduce it, and I want to speak to it briefly.

This is with regard to a recommendation that business proprietary information be removed as an independent ground for closing an otherwise public hearing.

The rationale for this is that it's not appropriate to empower an environmental review body to close a public hearing in order to protect business proprietary information that is neither confidential, privileged in law, nor harmful to a witness. Those are the pieces that are important, which allows the board to make the determination whether it's confidential, privileged in law, or harmful to the witness.

The public interest outweighs considerations of competitive advantage in this type of proceeding where direct substantial harm to a witness would not be caused by disclosure.

The Chair: Thank you.

If amendment NDP-25 is passed, then so will amendment NDP-30. If it's defeated, amendment NDP-30 would be defeated as well.

Not seeing any additional speakers to that, we'll vote on the amendment.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is amendment NDP-26.

Ms. Jean Crowder: This is an important piece around community knowledge. This amendment is saying that the board must take into account any traditional knowledge or community knowledge provided to it and that it “must make reasonable efforts to take into account any such knowledge that is available to it in documented form”.

The rationale for this amendment is that the documentation of Nunavut, Inuit, traditional, and community knowledge is increasing due to the efforts of universities, government agencies, and Inuit organizations. It is reasonable for the act to require the board to try to inform itself of this knowledge and to take into account, where relevant, whether or not the knowledge is provided by a party on its own initiative. This can be done in a manner that respects the principle of procedural fairness.

Mr. Chair, the whole issue around traditional knowledge is becoming increasingly important when considering development both in the north and other places. There have been some court rulings around the consideration, for example, of oral traditions as being legitimate forms of how knowledge is provided in the development process.

The Chair: Colleagues, if amendment NDP-26 is adopted, so will amendment NDP-31. If defeated, amendment NDP-31 will be defeated as well.

I'm not seeing anybody wanting to speak to this amendment.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is amendment NDP-28.

Ms. Jean Crowder: Amendment NDP-27 was already defeated, right?

The Chair: Amendment NDP-27 was defeated.

We're on amendment NDP-28.

Ms. Jean Crowder: I will move amendment NDP-28.

The Chair: Oh, pardon me, Jean, amendment NDP-27 was not defeated, because it would only have been defeated if amendment NDP-19 had been adopted, and amendment NDP-19 was not adopted. I apologize.

Amendment NDP-27 can be put. You can move amendment NDP-27.

Ms. Jean Crowder: Okay.

With amendment NDP-27, again it's the difference between “opinion” and “determined”. Again it's around consistency in language with the Nunavut Land Claims Agreement. I've presented the arguments on this previously.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is amendment NDP-28.

Ms. Jean Crowder: On amendment NDP-28, this is to do with the scoping of the project and the steps that are included. I've already presented the arguments on the scoping, so they're the same arguments.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is amendment NDP-29.

Ms. Jean Crowder: Again it's around the scoping of the project, and I've already presented the arguments on that.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is amendment NDP-32.

• (0855)

Ms. Jean Crowder: Again, it's around ministerial responsibilities and clarity of language.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is amendment NDP-33.

Mr. Dennis Bevington: Mr. Chair, we'll go to page 68.

I move that Bill C-47, in clause 2, be amended by adding after line 8 on page 68 the following:

(2) For greater certainty, subsection (1) does not preclude the granting of a minor variance or a ministerial exemption in respect of a project.

This gives some clarification to the act. Once again, these amendments are all brought forward by northern groups that must deal with this act after it's passed.

I think of the Conservatives' northern policy, its northern strategy of governance, I look at this and say, here are reasonable, careful amendments that have been made by northerners on this particular bill that is going to be used only by northern people. This is a bill for northern people. It's something that has to be accomplished, and here we have the government one time after another refusing to listen to the voice of northerners, who are simply trying to make the bill work better through their perspective. I don't hear the government arguing that these amendments are somehow improper. They're simply refusing to talk about them. I find that to be most distressing.

The government's vaunted northern strategy of governance seems to be, “We will set the rules for governance, and you will follow them”. I find that to be irresponsible and not in the Canadian model. Speaking as a northerner, a person who's lived and worked in the north all my life, I find this attitude to be somewhat strange. I'll make that point now, and I will leave it at that.

Here we have another amendment that is brought forward by experienced northern participants in the environmental assessment land-use planning process, and the government refuses to give any answers as to why it shouldn't accept these amendments. It simply continues to stonewall on this bill.

The Chair: Mr. Rickford.

Mr. Greg Rickford (Kenora, CPC): Thank you, Mr. Chair.

In response, proposed section 134 concerns only terms and conditions that result from an impact assessment decision. It has no impact on implementing land-use plan requirements granting minor variances or ministerial exemptions. For this reason, in fact, the proposed wording is not required and could introduce uncertainty when linked to proposed section 134.

As a northerner myself—and if the member has a problem with that, obviously he should check the boundaries of my riding—I would say to him that this is going to be a piece of legislation that his own territorial government will be mirroring. He should be careful when he's making comments about “a government” when it turns out it is going to be governments doing this.

Thank you, Mr. Chair.

The Chair: Ms. Hughes.

Mrs. Carol Hughes (Algoma—Manitoulin—Kapuskasing, NDP): I just want to indicate that the clarity piece is very important and it's something we did hear about from the members. The last board that was before us indicated the importance of making sure that things were made very clear. I'm just wondering if the department can advise whether it agrees or disagrees that when drafting legislation, where it's a piece of legislation that touches specific cultures, it's important to have language that reflects the will of those communities for clarity.

The Chair: Ms. Hughes, those aren't the types of questions the department will be entertaining at this point. We're looking for technical responses or clarifications to the specific bill. If you have specific amendments that you would like considered or clarified, you can ask questions, but that really isn't a discussion about the broader scheme of building legislation for the north.

We'll move on to Mr. Bevington.

• (0900)

Mrs. Carol Hughes: Excuse me.

The Chair: We'll hear from Mr. Bevington and then we'll go back to Ms. Hughes, if she has additional motions.

Mr. Dennis Bevington: In response to the parliamentary secretary, I think this point has to be well taken, that this bill would not be discussed in Parliament if it dealt with his part of the world. It would be discussed in Queen's Park. That's the point I was trying to deliver here.

As northerners, our laws are being made for us here in this arena. These laws should really be in the hands of northerners. By all Canadian standards, by all understanding of what Canadian citizenship and political rights are, there should be respect for the position of northerners on these laws. The northerners have agreed, the Nunavut people have agreed on moving forward with this legislation, but their point of view should be the predominant point of view that's used to make this legislation work, not the position of the government. That should be the guiding ideology. That is clearly stated in the Conservatives' northern strategy. They want to provide a changing nature of governance for the north, and here they're not doing it. They're not respecting it. I simply wanted to make that point very strongly right now. As a person who represents a territorial reach, one that doesn't have first-class political rights, I will continue to make that point. I continue to—

Mr. Greg Rickford: I have a point of order.

The Chair: Mr. Rickford has a point of order.

Mr. Greg Rickford: Are we debating the philosophical pillars of northern legislation in general, or are we doing clause-by-clause study now?

The Chair: That's not a point of order.

Mr. Greg Rickford: I was seeking clarification, actually.

The Chair: It's not a point of order.

Mr. Bevington, you have the floor, but I think you got the point to the intervention.

Mr. Dennis Bevington: I'm just making an intervention on trying to persuade the government to be less dictatorial in their approach to this legislation.

This legislation does not affect you and your communities across the country. It only affects people in Nunavut. The point is that the viewpoint of Nunavut people should be the predominant viewpoint when it comes to these matters of amendments that have been put forward in a decent fashion. If the parliamentary secretary wants to debate these motions, or explain his point of view for not supporting them, I would appreciate that as well. I'm glad that he did this on one out of the last 30 amendments. I appreciate that. I trust that he would continue to do that, to explain to the people of Nunavut why he's rejecting the work that they have put forward to this committee.

The Chair: Ms. Hughes.

Mrs. Carol Hughes: I will continue with my question from a while ago. As Mr. Bevington said, these were amendments that were actually put forward by the witnesses we heard. They're to ensure that the legislation is a document they will be able to work with and not have too many misinterpretations. They did ask for some clearer language. I think that is important when legislation is being drafted. I'm sure that the department is aware of that. It's important when legislation is being drafted that it be in clear language. That would lead to fewer difficulties. We've seen that with the treaties as well.

I just wanted to put that forward. We need to make sure that if there is language where some clarity is needed, those points are considered and duly passed.

Thank you.

The Chair: I don't see any additional speakers to amendment NDP-33.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: We have amendment NDP-34.

Ms. Jean Crowder: This amendment again is around clarity of language and alignment with the Nunavut Land Claims Agreement. In this particular one, it's the phrase, “without restricting the generality”, which is in the Nunavut Land Claims Agreement, section 12.9.2. The suggestion is it should be included in proposed subsections 69(1) and 137(1) of the bill: ...in order to make it clear that the regulatory authorities described in those sections also carry the general implementation duty referred to in subsection 68(1) and 136(1). Among other things, these words will notify any regulator that qualifies as a “department or agency” that it must not only craft terms and conditions so as to implement land use plans and project certificate, it must also exercise its powers to refuse authorizations where necessary in accordance with the same duties.

Again it's about consistency between the NLCA and this piece of legislation.

• (0905)

The Chair: Thank you.

We're voting on amendment NDP-34.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is amendment NDP-35.

Ms. Jean Crowder: The bill currently reads, "of any significant modification". Amendment NDP-35 proposes to leave out the word "significant". This has to do with the commission being able to determine what is significant or not significant. The rationale for this is that it's the strength of the bill that sets out a process for adjusting to changes in project descriptions that happen during assessments in Nunavut where the typical project involves mining exploration or development. Project modifications during assessment are the rule rather than the exception. However, the process in the bill needs to be simplified, strengthened, and made systematic.

There's always a challenge with the word "significant". Who gets to determine what is significant and what is not significant? By leaving out that word, the determination of whether a change is significant is properly left to the authority to decide.

The Chair: We're voting on amendment NDP-35.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Next is amendment NDP-36.

Mr. Dennis Bevington: Mr. Chair. I'm pleased to move amendment NDP-36, that Bill C-47, in clause 2, be amended (a) by replacing line 9 on page 72 with the following:

of any modification to a project that

(b) by replacing lines 14 and 15 on page 72 with the following:

(1.1) On receipt of a notice under subsection (1), the Commission must notify every applicable regulatory authority and assess the modification.

(2) If the Commission determines that the modification is significant, the assessment of the original project is

(c) by adding after line 25 on page 72 the following:

141.1 (1) A regulatory authority that receives a notice respecting a modification to a project must notify the Commission.

(2) The Commission must assess the modification and, if the Commission determines that the modification is significant, an assessment of the modified project must be carried out under this Part as if the Commission had received a project proposal under section 76.

(d) by replacing line 31 on page 72 with the following:

the proponent has made a modifica-

I'm glad to speak to this amendment, because I felt that this was a very important part of the witness presentations that were made to us. This is not a wording change; this is trying to establish a process that will determine significance, and that's very important. If a modification is made to a project, suppose a mining company makes a modification, who's to determine significance? Would it be the commission? Would that be best?

We've seen what the appointments to the commission are going to be. We know that we're appointing people who are generally rounded in skills. They're not mining engineers. They're not experts.

They're not environmental people. They're solid community citizens, people who are respected for their value judgments. That's the type of people you want on a board. You don't have people on a board specifically for the skills that are required to determine significance.

This amendment ensures that significance will be properly outlined and created. This can cut both ways because there will be pressure on board members to establish significance on every minor variation sometimes. I've seen this happen as well. There's a minor variation to a project and the board is under pressure to consider it significant because they don't really understand the nature of the technical issues involved.

This is definitely something that can cut both ways, both for industry and for the environment. This amendment clarifies it and makes a process that will ensure that fairness is most likely to occur. As the wording is in the document now, that is in some doubt.

Very carefully, people who understand this, who do the work on the ground, the people in Nunavut, the people who understand the nature of environmental assessment from a very practical point of view, have put forward this sophisticated amendment to provide clarity within the act.

I'd really like to understand why the government can't support this particular amendment, because it is certainly something that deserves respect and it deserves a fair answer.

• (0910)

The Chair: Thank you.

Mr. Bevington, I should note that if amendment NDP-36 is adopted, then amendments NDP-37 and NDP-38 will not be able to be put.

(Amendment negated)

The Chair: We are now on amendment NDP-37.

Ms. Jean Crowder: Mr. Chair, in this case, the change is as follows:

(2) On receipt of a notice under subsection (1), or where the Commission, the Board, a federal environmental assessment panel or a joint panel, as the case may be, determines that the proponent has made a significant modification to a project that is under assessment under this Part, the assessment of the original project..."

Here it's where the commission, the board, or a federal environmental assessment panel or a joint panel determines that the proponent... Again, Dennis has made some very good arguments about this, and there are a couple of other points.

There is some concern that there isn't enough incentive to ensure that proponents notify the commission or board of a significant modification; that there is no penalty for a proponent who does not notify the commission or board of a significant modification; and that the commission and board, which are assessing the original proposal, have no way of knowing if the proposal they are assessing has been modified.

Again, it's clarifying roles and responsibilities, which is an important part of what NTI and others have proposed in terms of some of these amendments.

The Chair: We're voting on amendment NDP-37.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: We are on amendment NDP-38.

Ms. Jean Crowder: This is along the same lines. It's the whole issue around when an amendment is significant:

That the current ss. 142(1) and (2), requiring that the Commission or Board give a proponent notice that the proponent has made a significant modification, and giving the proponent 30 days to then notify the Commission of what it has just notified the proponent, be deleted. This convoluted process is not necessary if the proponent gives the Commission notice when there is or may be a significant modification.

I think that's the point. It puts the onus on the proponent to notify the commission if there is or may be...and the commission can then do its work around assessing that.

The Chair: Thank you.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: We are on amendment NDP-40.

Ms. Jean Crowder: This is the judgment versus opinion argument, which we've already presented. I want to point out that judgment and the spelling—

The Chair: That's amendment NDP-39.

Ms. Jean Crowder: Sorry. Did we defeat that?

The Chair: Yes, that has already been defeated.

We're on amendment NDP-40.

Ms. Jean Crowder: Sorry.

I got to talk about judgment versus opinion again, though.

Mr. Greg Rickford: It's called a Trojan Horse.

Ms. Jean Crowder: A Trojan Horse.... Okay.

This is, again, the issue around the ministerial responsibility. The original clause doesn't specifically mention the responsible minister. The rationale for this is that there does not appear to be a valid reason to exempt a minister acting in a regulatory capacity from the duty to provide the information to the commission, board, or other decision-maker in proposed subsection 197(1).

It is impractical and unnecessary for proposed subsection 197(1) to invite debates between other government departments and the commission, a board, or other decision-makers regarding whether the decision-maker requires information. The act should leave it to the decision-maker's judgment when to make requests based on the needed information.

There is also some question about whether this exceeds the restriction on the commission or board, obtaining information from the government that was agreed to in section 10.5.1 of the Nunavut Land Claims Agreement Act. The argument here is that this also renders proposed section 142 meaningless.

• (0915)

The Chair: We're voting on amendment NDP-40.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: We are on amendment NDP-41.

Ms. Jean Crowder: This one is about consistency with the Nunavut Land Claims Agreement. Under the Nunavut Land Claims

Agreement only the courts are authorized to decide whether an activity falls under schedule 12-1.

The Chair: I call the question on amendment NDP-41.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: We're on amendment NDP-42.

Ms. Jean Crowder: Again, this is on issues of consistency.

The Chair: I call the question on amendment NDP-42.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: We're on amendment LIB-2.

Carolyn.

Hon. Carolyn Bennett (St. Paul's, Lib.): Chair, as you know, this is incredibly complex legislation that has taken a decade of negotiation. As we've heard, and as the NDP amendments have tried to fix, there is language that the northerners felt was inconsistent with the Nunavut Land Claims Agreement. There were also concerns from the Nunavut Planning Commission about the lack of funding to properly implement the legislation.

We think that a mandatory five-year review is essential in terms of how this perhaps would have to be tweaked five years from now. Even the Nunavut chamber of mines, and the Prospectors and Developers Association said in their testimony that although they support the legislation, further refinements and adjustments would be necessary.

We feel this approach is consistent with the successful approach in the Yukon Environmental and Socio-economic Assessment Act. They argued that they felt an approach could have mitigated the problems with the Mackenzie Valley Resource Management Act. We are arguing that the requirement for a five-year review is the responsible way for this committee to proceed.

I would like to hear from any member on the other side, other than the parliamentary secretary, on why on earth they wouldn't support this.

The Chair: Mr. Bevington.

Mr. Dennis Bevington: I echo Ms. Bennett's plea to the other side to show some initiative and explain why this should not be in place. I have another amendment afterward, so if they don't like this one, they can work on that one.

Once again, it's clearly evident that the problem is also with the nature of this legislation. This is federal legislation. Changes to it have to be done in Ottawa. If the Government of Nunavut determines that changes are needed, and it most likely will in a short period of time, the ability to get this on the parliamentary agenda is going to be severely hampered. Without this review, the people who have to deal with the legislation, the people who take care of the work on the ground, the people who want devolution, who want more control over their own affairs are going to be hampered in every way.

Why would we not consider providing to the people of Nunavut an opportunity to ensure they are happy with the legislation? What is wrong with that?

What spirit of Canadian ethics do I not understand from the Conservative side on this? What is driving the Conservative agenda to demand that these types of bills be put in place without any of the thoughtful amendments brought forward by the people of Nunavut, their representatives and professionals in the field?

What is driving the Conservatives' agenda here? Is it to continue a colonial structure in the north? Is that what is behind this, to hold on long enough to make sure their vision of how the north will be run is the one that carries forward, rather than that of the people who live in the area?

By their silence, I think I have to say there's consent on what I am saying here. I have to—

● (0920)

Hon. Carolyn Bennett: I would like to ask for a recorded vote on this.

The Chair: We still have speakers to this.

Ms. Crowder.

Ms. Jean Crowder: On five-year reviews, when the department came before us they said that five years wasn't long enough. If the department doesn't feel that five years is long enough, certainly we could look at seven years or whatever.

The point is that we've seen other pieces of legislation that have come before this committee. Specific claims in particular is one piece of legislation that comes to mind, and there was a review mandated in that piece of legislation. I look forward to the time when we can actually bring that back to the committee, because we've heard on the ground that there are a number of problems with that piece of legislation.

We've heard sufficient witness testimony on Bill C-47, with a number of proposed amendments from a number of different groups. It would seem reasonable if the government is unwilling to entertain any amendments to at least give us an opportunity to re-examine the legislation after it's been implemented to see if there are problems that have been caused because these amendments weren't put forward.

One would suspect that in part the reason the government won't support a five-year review—and I'm presuming they're going to vote against this amendment because they've voted against every other amendment—is that there is an issue of cost. But these reviews are important to allow Parliament to see whether the legislation they've put forward is actually effective, if it's working, or if we've missed the boat on anything. There are other mechanisms to do this, but this seems to be a way to regularize it.

We have a number of other commissions, and although it's not a review, they do report to Parliament regularly. The Cree-Naskapi Commission is one. They come before the committee when the report is tabled. We get a chance to hear how that's going and the kinds of problems they're having or the successes they're having.

It would seem a reasonable thing to do in such a comprehensive, sweeping piece of legislation.

The Chair: Thank you.

Ms. Hughes.

Mrs. Carol Hughes: Quite a few of the witnesses indicated that it was going to be imperative for them to have a review, and the challenges they were going to have.... We kept hearing the government say, "Well, do you agree that this is a piece of legislation where not everybody got what they wanted?" Even the government, when you look at this, knows there are very legitimate issues that have been brought forward, but the government was unwilling to make those changes in the legislation, and I think that could be very problematic.

My colleague spoke about the cost of not doing this five-year review, and why the government may not want to do this five-year review. I think we have to consider the cost that would be involved if it a five-year review wasn't done. What would be the cost of not doing it? I think that would be greater than the cost of doing it.

I wanted to put that forward, and I hope the Conservatives will finally vote for an amendment.

● (0925)

The Chair: Mr. Rickford.

Mr. Greg Rickford: Mr. Chair, there are a number of limitations and drawbacks inherent in conducting a review of the statute after five years.

In Nunavut, in particular, it may well be that within the first five years of the act's operation, only one or two major projects would be the subject of environmental assessment. This would seem to be a very limited sample from which to try to draw any meaningful conclusions. In addition, such reviews often consume more resources, both financial and human, than are saved by marginal improvements resulting from what can turn out to be a very lengthy process.

In respect of Ms. Bennett's specific amendment, the scope for changes is limited because the large majority of the act implements provisions in the Nunavut Lands Claim Agreement, and in the end it must be consistent with the agreement.

It's important to remember that these institutions have been up and running for more than 15 years under the land claim. This process used the 15 years of experience in drafting this bill in making the additions and improvements that it includes.

The Chair: Ms. Bennett.

Hon. Carolyn Bennett: The point of the five-year review is to deal with any of the impediments to progress there may be in enacting this bill. It's a matter of just a checkup as to whether or not this is working, and particularly for northerners, in keeping with their own legislation. I think what the parliamentary secretary has said.... It doesn't mean that we don't need to check in with northerners in five years and see how it's going. That's our job here in the south.

The Chair: Ms. Hughes.

Mrs. Carol Hughes: The government talked about how it should be consistent with the Nunavut Land Claims Agreement. This is exactly what we have been mentioning with respect to our amendments, that these amendments are about consistency, and yet the government votes against them.

The Chair: Mr. Genest-Jourdain.

[Translation]

Mr. Jonathan Genest-Jourdain (Manicouagan, NDP): I would submit that a five-year period would make it possible to identify the social, environmental and ecological impacts of these measures.

We have already seen the negative consequences of natural resources extraction initiatives. After a certain number of years, when people go back to their communities, we will be able to see the ensuing negative impact. We will also see the positive effects if there are any. In any event, I think that the five-year period will make it possible to highlight everything.

I would humbly ask you to consider this in its entirety.

[English]

The Chair: Mr. Bevington.

Mr. Dennis Bevington: When the parliamentary secretary says we may have a lengthy and costly review over no changes, no indication of any problems, because we haven't done enough reviews, that's logically inconsistent. Either there is going to be an extensive review because problems show up, or there is going to be a very quick analysis of what's happening, based on the fact that no problems have shown up.

I think his argument on cost is not quite logical, and he should take another look at that because it doesn't work. Clearly—

The Chair: Ms. Crowder.

Oh, pardon me. Were you finished, Mr. Bevington?

Mr. Dennis Bevington: Yes, thank you, Mr. Chair, and I appreciate the time here.

I feel this opportunity is clearly one that can be determined very quickly in the modern age. If I look at the Mackenzie Valley Resource Management Act, when it was finally put in place, and I'm thinking from 1999 until 2004, which would be a five-year period, it was in need of a review then. I sat on that board. I know that was the case because we did have enough projects. We did have an understanding of the nature of what we were working with at that point, and many very serious concerns were raised at that time.

The Liberal government of the day continually wanted to review how they could make it work better. Within the five-year period of the act being put in place there were plenty of reasons to review it.

So I don't see that there is any harm in this. This is a good idea. This works for the people of the north because, once again, if they do have problems with this legislation and it becomes apparent, they have no guaranteed recourse to get it changed within Parliament. They're relying on the goodwill of the government to bring forward those changes and that, Mr. Chair, is something I would not want to have as assurance for any of the northerners.

• (0930)

The Chair: Ms. Crowder.

Ms. Jean Crowder: We also heard from the commissions and the boards about the challenges with funding. We've seen the foot-dragging, not necessarily just with this government but with past governments, around renegotiating the funding model. A five-year review would give us a formal opportunity to take a look at whether

the funding model has also been implemented since there has been a refusal to amend the legislation to include that funding model.

That was a consistent message we heard from witnesses who get funding, that they're underfunded, and that the act imposes new responsibilities on them that they will not be able to fulfill. A formal five-year review would enable us to consider whether or not these commissions and boards are able to fulfill the responsibilities they're mandated to do under this new piece of legislation.

The Chair: Thank you.

Let's move to a vote on amendment LIB-2.

Hon. Carolyn Bennett: I'd like a roll call.

The Chair: We will do that.

(Amendment negatived: nays 6; yeas 5)

The Chair: We're on amendment NDP-43.

Mr. Dennis Bevington: Mr. Chair, we've had a good debate over the need for a comprehensive review. What this proposes is that rather than trouble the minister, which seems to be one of the issues on the government side, that the minister may be too tied up to do this, this would be undertaken by a committee of the Senate, of the House of Commons, or of both houses of Parliament, as designated or established for that purpose.

What we have here is the requirement on the part of parliamentarians to take a look at this. No government side is involved. It's simply that the people who represent the people here would have an opportunity after five years to ensure that what they have passed here is worthy of continuing in the fashion that it is, or they would put forward a report, including a statement of any changes the committee might recommend.

This is not even as strong as the previous review, but it is a review. I would hope that this would not be something that would be undertaken by the bureaucracy, but by the House. It is our duty as parliamentarians to ensure that the work we're doing is correct.

Once again, I reference the fact that this is legislation that really should be in the hands of the legislative assemblies of the territories. Since it isn't, there's an added responsibility on the part of government to deal with it. Since we have this extra responsibility to the people of the north that the government has so far put forward, and as indicated in its policy documents it wants to change, I think today would be a good time to start changing that attitude toward the north. Agreeing to this amendment would be one small step. I trust that the government would consider this.

• (0935)

The Chair: We're voting on amendment NDP-43.

(Amendment negatived [See *Minutes of Proceedings*])

The Chair: Okay, folks, we have considered the first of 20 clauses. So we now move to the vote on clause 2.

Hon. Carolyn Bennett: Could I suggest that in the future, we don't need "as amended" on this sheet anymore?

The Chair: Ms. Bennett, we're in the midst of a vote.

(Clause 2 agreed to)

(Clauses 3 to 10 inclusive agreed to)

(On clause 11)

The Chair: There are some amendments being proposed.

We're on amendment NDP-44.

Mr. Dennis Bevington: Mr. Chair, I move that Bill C-47, in clause 11, be amended by adding after line 16 on page 129 the following:

(1.1) The Board does not have jurisdiction in respect of any lands that are subject to a withdrawal order made under paragraph 23(a) of the Territorial Lands Act or under any other applicable legislation.

The Chair: Thank you, Mr. Bevington.

I do have a ruling with regard to this amendment.

Amendment NDP-44 is inadmissible as it goes against the principle of the bill by limiting the jurisdiction of the board.

Mr. Dennis Bevington: Is that your ruling?

The Chair: That is my ruling, yes.

We'll go to amendment NDP-45.

Mr. Dennis Bevington: I move that Bill C-47, in clause 11, be amended by adding after line 16 on page 129 the following:

(1.1) The Board does not have jurisdiction in respect of any lands that are within a municipality.

The Chair: I do have a ruling on this one as well. Amendment NDP-45 is inadmissible as it goes against the principle of the bill by limiting the jurisdiction of the board. Again, it's the same rationale.

Next is amendment NDP-46.

Mr. Dennis Bevington: I move that Bill C-47 in clause 11 be amended by replacing line 31 on page 130 with the following:

respect of lands, the environment and Aboriginal

I would like to speak to it.

The Chair: You're welcome to.

Mr. Dennis Bevington: This particular amendment came out of a discussion that was held when the board had informal meetings in Yellowknife. The parliamentary secretary referred to this. He said, "We have given consideration to your requests about the membership on the board, and we have included that we will take into account traditional knowledge when we're appointing the members from particular regions".

Why is this important? It's important because the tradition in the north, and the tradition in the legislation of these boards, is that first nations in their regions have rights of nomination of candidates for these boards. What's happened with this board is there are no rights of nomination.

That's quite different from the Yukon. The surface rights board in the Yukon has a requirement that half the members be aboriginal. What we're seeing here is that the first nations people in the Northwest Territories haven't been given the same level of consideration as the Yukon legislation gave to the aboriginal people in the Yukon.

That's a problem, and I think the first nations correctly identified it as a problem. I'm sure that in the consultation processes much was

heard about this. I would consider it part of our unique development in the Northwest Territories, and a development that's supported by probably the vast majority of the residents in the north, that regional self-governments have authority in their regions.

That has to be expressed through a variety of means. When you're in the Sahtu region, the Sahtu people have a level of authority over land and resources in that region. When you're in the Gwich'in region, the same applies. When you're in the Tlicho region, the same applies.

What we have here is an attempt by the government to offer a morsel to the appointment of these people in the region. They put into the legislation that there's going to be a requirement in respect of land, the environment, "or" aboriginal traditional knowledge.

With this amendment, I have made it mandatory that aboriginal traditional knowledge be part of it, as was suggested by the parliamentary secretary in Yellowknife, when he made a presentation on it to the Gwich'in representative there.

I think this is the only part of this legislation that respects the trend and, might I say, the developing constitutional idea, for the Northwest Territories. It's an important distinction, this one word "or" versus "and".

The Chair: Mr. Bevington—

Mr. Dennis Bevington: No, I haven't finished yet, Mr. Chair. I guess I still have—

● (0940)

The Chair: You do have the floor.

I think you're clear here, and there is a speaking list of your own members who—

Mr. Dennis Bevington: Thank you very much for that. I appreciate that, because I want to make sure that we understand clearly why this one particular word is....

It's not clarification; it actually makes it mandatory that the person representing the Gwich'in region have a good understanding of aboriginal traditional knowledge. How are they going to get that? Most likely it would be through long-term presence in that area, or perhaps by status as a Gwich'in or as a Sahtu resident under the land claims. Those are things that were given in this act but were taken away by the wording.

So saying that's it's in respect of land, the environment, "or" aboriginal traditional knowledge is not good enough. Changing it to "and" aboriginal traditional knowledge ensures that the person being selected for that region will have the qualifications that were asked for and were granted by the government, as indicated by the parliamentary secretary in Yellowknife.

The Chair: Mr. Genest-Jourdain.

[*Translation*]

Mr. Jonathan Genest-Jourdain: According to the wording in French, Aboriginal traditional knowledge seems to be optional. This reduces the value of traditional knowledge. It is important to understand that this gives the minister a huge discretionary power and that it reduces the weight that needs to be attached to knowledge that people have acquired on the ground over thousands of years. It is essential. In this case, we are reducing the added value of the Aboriginal participants.

I think that the people living on those isolated territories would view this poorly. I would submit this to you in its entirety.

[*English*]

The Chair: Thank you.

We're voting on amendment NDP-46.

(Amendment negated)

The Chair: We're on amendment NDP-47.

Mr. Dennis Bevington: Mr. Chair, I move that Bill C-47, in clause 11, be amended by adding after line 8 on page 158 the following:

82.1 Despite any other provision of this Act, the Board may refuse to grant any application for access under this Act.

What this—

The Chair: Mr. Bevington, I'll make a ruling.

Mr. Dennis Bevington: Okay.

The Chair: Amendment NDP-47 is inadmissible as it goes against the principle of the bill by giving the board the power of refusing to grant access. That is power not envisioned within this bill.

Next is amendment NDP-48.

• (0945)

Mr. Dennis Bevington: Mr. Chair, I move that Bill C-47, in clause 11, be amended by adding after line 8 on page 158 the following:

82.1 For greater certainty, the Board may specify in an access order made under this Act that access to particular lands or waters must only take place

- (a) by air;
- (b) by means of specified air corridors; and
- (c) during certain specified times of the year.

This was asked for as an amendment by northerners. This is understanding the nature of access in the north. It's a "may" clause, so it doesn't bind the board to any particular action. What it does is it gives it the authority to lay out very specific conditions.

The government has argued that these are in there as well, but this, for greater certainty, outlines it in the bill. This means there will be situations where the only access that will be granted will be in a certain fashion. That means that issues of economics will not prevail over issues of environment, or when it comes to determining the method of access.

That's the nature of this amendment. It's not one that will make or break this, but it's certainly one that was asked for.

The Chair: We're voting on amendment NDP-48.

(Amendment negated)

The Chair: Next is amendment NDP-49.

Mr. Dennis Bevington: Mr. Chair, I move that Bill C-47, in clause 11, be amended by adding after line 17 on page 158 the following:

83.1 Where the Board issues an order following a hearing under this Act, the Board may require any individual, entity, organization or government that was a party to the hearing to provide security in the manner and amount specified by the Board for the purpose of ensuring compliance with the terms of the order.

The Chair: Mr. Bevington, amendment NDP-49 is inadmissible as it goes against the principle of the bill, particularly proposed subsection 71(2) of the Northwest Territories surface rights board act.

We'll consider amendment LIB-3.

Carolyn.

Hon. Carolyn Bennett: Yes, well, the argument's the same.

The Chair: We're voting on amendment LIB-3.

(Amendment negated [See *Minutes of Proceedings*])

(Clause 11 agreed to)

(Clauses 12 to 20 inclusive agreed to)

The Chair: Point of order, Ms. Crowder.

Ms. Jean Crowder: Could we have a two-minute recess before we have the final vote on the bill?

The Chair: We could do that.

Is there consent to suspend the meeting for two minutes?

Mr. Greg Rickford: No.

The Chair: I think there's consent. We will suspend for two minutes.

• (0945) _____ (Pause) _____

• (0950)

The Chair: Colleagues, I call this meeting back to order.

Moving on to the next question, shall the schedule carry?

(Schedule agreed to [See *Minutes of Proceedings*])

(On clause 1—*Short Title*)

The Chair: Amendment NDP-50, I believe, is a motion on the short title.

Mr. Dennis Bevington: Yes. I move that Bill C-47, in clause 1, be amended by replacing lines 4 and 5 on page 1 with the following:

This Act may be cited as the Implementation of Northern Land Claim Agreements Act.

The Chair: I do have a ruling with regard to this. Amendment NDP-50 is inadmissible as the title of the bill can only be amended if amendments have been adopted that would warrant such a change in title. Therefore, it is my ruling that this won't be considered. We will now move to the vote.

Shall the short title carry?

Some hon. members: Agreed.

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill carry?

Some hon. members: Agreed.

The Chair: Shall the chair report the bill to the House?

Some hon. members: Agreed.

The Chair: That shall be done.

Colleagues, we have completed.

Ms. Crowder.

Ms. Jean Crowder: On a point of order, did we get clarification about the spelling mistakes in the bill on “judgment” as to whether they will be corrected on reprint, even though we didn't do an amendment?

The Chair: We did spend a fair bit of time on that, Ms. Crowder, and we saw no evidence of spelling mistakes as it relates to “judgment”, so we have sought significant—

Ms. Jean Crowder: So there's a difference in the spelling and the spelling in the bill...?

The Chair: We spent significant time.... Maybe if your office could forward those—

Ms. Jean Crowder: Okay.

The Chair: We hadn't found those at this table.

Ms. Jean Crowder: Okay.

The Chair: If you want to, we can—

Ms. Jean Crowder: But just as a procedural matter, aside from whether—

The Chair: Right. I don't know that.

Ms. Jean Crowder: Technically, it shouldn't be.... It's not really an amendment, right? Journals can do it, right? I don't care about the discussion here, but can Journals correct it?

The Chair: I assume so. I don't know the answer to that.

Maybe our clerk can tell us.

Ms. Jean Crowder: Okay.

Mr. Philippe Méla (Procedural Clerk): The Law Clerk's office can probably do that if you forward a request. It has to be very minor.

• (0955)

Ms. Jean Crowder: It's just the “e”.

The Chair: Thank you.

Colleagues, that brings this meeting to an end.

We want to thank the departmental officials for being with us today. We appreciate your willingness to join us.

Colleagues, we will adjourn this meeting, but I think the subcommittee may want to have a short discussion about future planning, not a formal subcommittee meeting, but just a discussion about how we'll move forward.

Thanks again. The meeting is adjourned.

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