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# **Standing Committee on Aboriginal Affairs and Northern Development**

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**EVIDENCE**

**Tuesday, March 24, 2015**

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**Chair**

**Mr. Blake Richards**



## Standing Committee on Aboriginal Affairs and Northern Development

Tuesday, March 24, 2015

•(0835)

[English]

**The Chair (Mr. Blake Richards (Wild Rose, CPC)):** I call the meeting to order.

Welcome to meeting number 34 of the Standing Committee on Aboriginal Affairs and Northern Development.

[Translation]

Today we welcome the Honourable Bernard Valcourt, Minister of Aboriginal Affairs and Northern Development.

[English]

We have the minister with us this morning for approximately one hour. We welcome the minister as well as his officials.

With the minister, we have Stephen Van Dine, assistant deputy minister of northern affairs; Tara Shannon, director of resource policy and programs directorate for northern affairs; and Tom Isaac, senior counsel, negotiations and northern affairs, and federal interlocutor.

Welcome to all of you this morning.

Minister, you have indicated that you have slightly more than 10 minutes for your opening remarks. We'll certainly indulge you in that. I turn the floor over to you now, followed by questions from the members.

**Hon. Bernard Valcourt (Minister of Aboriginal Affairs and Northern Development):** Thank you, Mr. Chair. I will try to stick to the 10 minutes as much as possible.

I want to first congratulate you, Mr. Chair, on your new role in this committee.

Just to remind members, one of the first things our Conservative government did after coming into power in 2006 was to put in place a comprehensive northern strategy. We have been delivering on that strategy ever since.

Bill S-6, the Yukon and Nunavut regulatory improvement act, is just the latest example. This is about improving and enhancing social, economic, and environmental procedures in Yukon, and the water licensing procedures in Nunavut. The bill is the last and final legislative step of our government's regulatory improvement agenda in the north. Many of you will already be familiar with our government's efforts to modernize and strengthen regulatory systems in the north.

[Translation]

As you may remember, the first of these legislative initiatives was the Northern Jobs and Growth Act, which received royal assent in June 2013. The second was the Northwest Territories Devolution Act, which received royal assent a year ago tomorrow, on March 25.

The regulatory changes proposed in bill S-6 would build on this progress and ensure that development assessment legislation in the Yukon and Nunavut will remain strong and more effective and in keeping with the spirit and intent of the land claim agreements—which I remind members will remain the law of the land in these regions.

Allow me to take a moment to briefly describe the evolution of the development assessment legislation in Yukon, which has been the subject of most of the debate as this bill has moved through Parliament.

[English]

When negotiating the Yukon Umbrella Final Agreement, signed in 1993 by the Government of Canada, the Yukon government, and Yukon first nations, a whole chapter—chapter 12—was dedicated to the establishment of a development assessment process. This chapter outlines the objectives of this process, describes how the government should bring about legislation consistent with the chapter, and sets out the parameters of what should be contained in this legislation.

This legislation, called the Yukon Environmental and Socio-economic Assessment Act, YESAA, was developed in accordance with the agreement and was passed into law in 2003. The agreement also called for a five-year review of the act, and that was provided by paragraph 12.19.3 of the umbrella agreement. That started in 2008.

The review itself was extensive and examined all aspects of the Yukon development assessment process, from YESAA and its regulations to implementation, assessment, and the decision-making process, as well as process documents such as rules, guidelines, and forms. It was completed in March 2012. At the end of the review the parties jointly agreed to 72 out of 76 recommendations, many of which could be addressed through administrative changes. A few, however, required legislative amendments, which are included in Bill S-6.

In December 2012, following the completion of the five-year review, the passage of amendments to CEAA—the Canadian Environmental Assessment Act, 2012, and our government's announcement of the action plan to improve northern regulatory regimes in Nunavut and the Northwest Territories, we contemplated further changes to YESAA to ensure consistency across regimes, including

[*Translation*]

legislated “beginning to end” timelines.

There is also the ability to give policy direction to the assessment board, to create cost recovery regulations and to delegate certain powers of the federal Minister of Aboriginal Affairs and Northern Development to a Yukon minister, as well as the possibility of allowing projects seeking renewal or an amendment to be exempt from a subsequent assessment if, in the opinion of a decision body for the project, there is no significant change to the original project.

While these amendments were not discussed as part of the five-year review, my department did consult with Yukon first nations on them throughout 2013 and 2014. Critics of the bill have argued that the consultation process and the amendments are inconsistent with the spirit and intent of the agreement.

I want to be very clear that all of the amendments in bill S-6 keep in mind the objectives of chapter 12 of the agreement, which includes the concepts of timeliness, avoiding duplication and providing certainty.

Not only are these changes consistent with the spirit and intent of the agreement but paragraph 12.19.4 of the agreement also states that:

Nothing in this chapter shall be construed to prevent government from acting to improve or enhance socio-economic or environmental procedures in the Yukon in the absence of any approved detailed design of the development assessment process.

The fact of the matter is that Yukon first nations were consulted at every stage in the development of this bill from 2008 onwards.

● (0840)

[*English*]

While we know that not everyone agreed completely with each amendment, it does not mean that the consultation was inadequate. It is our view that we met our duty to consult and that this does not require consent, for if the umbrella agreement required consent, it would say so.

More importantly, this bill not only continues to protect the interests of Yukon first nations as set out in the umbrella agreement, it provides for greater protection of those rights. For example, clause 9 of the bill specifically amends the legislation to ensure that the Yukon Environmental and Socio-economic Assessment Board takes into account the interests of first nations, including Yukon first nations without settled land claims, in conducting its review.

Another important fact, which we must all keep in mind, is that the Yukon Environmental and Socio-economic Assessment Act doesn't only impact Yukon first nations; it impacts all Yukoners. This legislation requires every project, including municipal projects that are not exempt under YESAA's regulations, to go through a full

environmental assessment before it receives the green light to proceed or be renewed, regardless of whether or not any changes to the original project were made. This may include everything from culverts and hydro poles to a winter road or a subdivision, or larger projects like a placer mining project or a copper ore mine.

The Standing Senate Committee on Energy, the Environment and Natural Resources completed a review of this legislation last fall, and at the end of their review they endorsed the bill unanimously. They correctly recognized, I submit, that the passage of this bill will improve and enhance the development process in the Yukon, help foster economic development in the region, and create jobs, growth, and long-term prosperity in an increasingly global marketplace. Once passed, it will ensure that Yukon and Nunavut remain competitive and attractive places in which to live, work, and invest for years to come.

Mr. Chair and members, I urge this committee to do the same and vote this bill into law.

Thank you.

**The Chair:** Thank you, Mr. Minister.

First on our list for questioning today, we have Ms. Ashton.

**Ms. Niki Ashton (Churchill, NDP):** Thank you very much. Thank you, Mr. Minister, for joining us today.

My first question concerns the opposition we're hearing from Yukon first nations. It's been made clear that they are opposed to the amendments made by Bill S-6 to YESAA because, in their own words, they say that they undermine their aboriginal rights, titles, and interests.

I'd like to quote the Grand Chief Ruth Massie, who said, “This whole process attacks the integrity of our constitutionally protected agreements and Yukon First Nations will stand by their agreements even if it means going to court, they give us no choice. We did not sign our agreements to implement them in the courts but we will protect them.”

Mr. Minister, how is it that you are prepared to push forward a bill that does not have the consent of Yukon first nations? Passing the bill violates their final agreement. Why is this government willing to pass legislation that undermines a constitutionally protected agreement, and send Canada into litigation against first nations?

● (0845)

**Hon. Bernard Valcourt:** From the get-go, I will tell you that if Bill S-6 did what you allege, or what Chief Ruth Massie alleges, it would not be before the House, because it is important that we abide by the law of the land in the area in question, and this does.

The interpretation given to this bill by Chief Massie is not in line at all with the articles of the umbrella agreement. On each and every count where it is alleged that this violates the umbrella agreement—and I've met personally with the chief—she could not show me one single concrete example of how Bill S-6 violates the umbrella agreement.

I urge you to look at the umbrella agreement, the provisions of the bill, and you will see that they are perfectly consistent.

**Ms. Niki Ashton:** Thank you, Mr. Minister.

I want to note that it's actually "Grand Chief" Ruth Massie, and she speaks out on behalf of Yukon first nations. We certainly look forward to hearing from her next week, because I think we'd hear a story from her directly that is different from the one we have heard in your response.

Mr. Minister, what has come up time and time again is that yes, a number of the proposals in Bill S-6 emanate from the five-year review of YESAA, but we know that there are four amendments here that were not mentioned in the five-year review. They have come as a surprise to many Yukoners.

Could you expand for the committee upon the source of these four amendments that did not appear in the YESAA five-year review? Who identified these amendments?

**Hon. Bernard Valcourt:** These amendments have been identified by officials, by stakeholders, by the Government of Yukon. They have also been informed by other similar provisions currently existing within the legislative framework of laws that apply in the Yukon and/or other territories in the north.

These further amendments, which were not discussed—you're right—during the five-year review process, were, however, brought forward to the attention of the council of first nations and the first nations. They were consulted on all of these, and at the end of that process we took into account some of the comments we had received and acted accordingly.

That is the source. The idea here is to improve the process so that all Yukoners, including first nations, benefit by way of improvement to the socio-economic status of all Yukoners, and also just to improve the process.

**Ms. Niki Ashton:** Thank you, Mr. Minister.

If one of the meetings you're referring to is the meeting on February 26, we're very concerned to know that Canada arrived at that meeting and provided paper copies of the amendments that were being proposed but refused to provide electronic versions to the first nations that were at this meeting by phone. This clearly stopped those first nations from being able to participate in a meaningful way. I certainly believe that it's simply not right to be able to say that first nations were consulted properly, in doing that.

Given that these four amendments were not agreed upon...and I certainly would like to hear who exactly these stakeholders were.

You pointed out that the Government of the Yukon was one of the parties that perhaps even proposed these amendments—we're not sure. I wonder whether you could clarify who these stakeholders were. I know there has been reference to industry being supportive; however, we've heard from important industry stakeholders who have expressed real interest about the destabilization that this bill will create. So who are these stakeholders? Was it the Government of the Yukon that proposed these amendments in the first place?

Finally, don't you think—given the major opposition to these four amendments, which first nations oppose and a majority of Yukoners

oppose—that it would be best if those amendments were removed and we went back to the table with proper consultation with first nations, rather than trying to ram them through?

● (0850)

**Hon. Bernard Valcourt:** Regarding your first point, about an alleged refusal to provide an electronic copy, you know the rules of the House better than I. At that occasion, it was the bill and the bill cannot be disclosed before it is provided to Parliament in the House of Commons or in the Senate. That's the reason for that.

Concerning the second part of your question, as to what stakeholders, the Government of the Yukon did make a specific proposal for these amendments, and so did our own departmental officials, concerned about ensuring that Yukoners not be left behind in the quest for economic development and improving their status. The government had already proceeded with changes to the Nunavut and Northwest Territories regulatory regimes, and it is important for all northerners, wherever they are in the north, to benefit from the same legislative framework in order to promote investment, bring certainty, and ensure the proper development and protection of the environment in the north. These are the reasons that it is deemed by this government that those amendments are necessary to achieve that purpose.

**The Chair:** Thank you, Ms. Ashton.

Next we have Mr. Leef.

**Mr. Ryan Leef (Yukon, CPC):** Thank you, Mr. Chair.

Thank you, Minister, for appearing today. I'll get right to the questions.

You indicated in your speech the benefit for all Yukoners with YESAA. Indeed, as you noted, there are a number of municipal, community-based, and private land ownership projects that go through the YESAA process. This isn't just about resource development activities. Of course, YESAA is an act designed to protect the socio-economic fabric of the Yukon and the environmental conditions in our territory and to be a strong piece of environmental legislation, but indeed it does promote growth and the economy in the north.

In 2012 the Government of Canada signed a historic resource revenue-sharing agreement with the Yukon and indeed with the other territories. That was widely lauded by Yukon citizens, by the Council of Yukon First Nations, and by individual first nations themselves.

The Yukon government has asked for parity with other environmental legislation that exists across provinces in Canada. At one point, we hailed YESAA as the best environmental regime in the country that supported development: one window, one review process. Then, as CEAA came on board, the Yukon started to slip. There were advantages under the CEAA legislation, which other provinces were realizing, that put Yukon slightly behind the curve.

The premier and the majority Yukon Party government asked for this, and industries asked for it. I have attended PDAC and I have attended the cordillera mining roundup, where I've talked with hundreds of stakeholders about the YESAA review process. Each one of them has talked about this requirement for parity with other national legislation.

With all of that in mind—and I will get to a couple of the points of concern that have been raised with YESAA—72 of 76 recommendations out of that five-year review have been agreed to. Yukon first nations, when we met with them directly, indicated that 98% of the bill was in fact in good form. They were supportive of 98% of the legislation.

Again, I'll talk about the four pieces of concern, but can you talk to us briefly about how important this legislation will be for growth, not just for the Yukon but for the changes that are embedded in this bill for Nunavut as well?

•(0855)

**Hon. Bernard Valcourt:** Absolutely.

When you look at the economic performance of Yukon over the last 10 or 15 years, especially in terms of economic growth, and even in terms of assessing the location for investors' interest, we know that investors who want to invest in development and economic growth need certainty. They need a regime that is conducive to efficiency. When you look at the changes that have been brought south of 60, which you've referred to, we have created a disadvantage for the north, because the same level of certainty did not exist there. That's what the northern regulatory regime reform was all about, to create the level playing field.

This last piece of the strategy for reform accomplishes that. We expect it will result in a better opportunity and more opportunities for Yukoners. This is at the heart of this bill.

**Mr. Ryan Leef:** Thank you, Minister.

I shall ask some quick questions now on the four points of concern.

There has been some assertion that the delegation of authority piece is of concern. In terms of delegation of authority, does this fall in line with our government's strategy, and indeed with what the north has been asking for in terms of northern governance and devolution?

**Hon. Bernard Valcourt:** I would suggest so, absolutely.

This amendment is consistent with other northern legislation, namely the Mackenzie Valley Resource Management Act and the Nunavut Planning and Project Assessment Act, where these provisions exist.

Concerning the issue of delegation of authority, when you look at the dream and the aspirations of those territories, they would like to have province-like status. We have devolved many of the powers. I cannot understand why one would object to Yukoners elected by Yukoners having the delegated authority to make decisions about things that matter to Yukoners.

So there is that aspect of the question. The other one is that this is contemplated even in the Umbrella Final Agreement. I invite the members to look at paragraph 2.11.8, which states clearly in black and white that:

Government may determine...how and by whom any power or authority of Government or a Minister set out in a Settlement Agreement...shall be exercised.

This is what this amendment is doing.

**Mr. Ryan Leef:** The second concern that has been inferred is that any binding policy direction by the federal minister would actually allow the minister to interfere with assessments. Is this true?

**Hon. Bernard Valcourt:** Absolutely not. It is clear in Bill S-6 that in regard to policy direction, any policy direction first would have to be consistent with the land claims agreement and legislation, in this case the Umbrella Final Agreement and the Yukon Environmental and Socio-economic Assessment Act.

The Umbrella Final Agreement does not prohibit policy direction and does not require consultation with first nations or consent from them prior to the provision of policy direction to YESAB. It's not there. Quite to the contrary, if you look again at the Umbrella Final Agreement, it provides a blanket authority, in paragraph 12.19.2.15, for development assessment legislation to provide for "any other matter required to implement the development assessment process", and this authority would include policy direction.

•(0900)

**The Chair:** Thank you very much.

We'll now move, for our next round, to Ms. Jones.

**Ms. Yvonne Jones (Labrador, Lib.):** Thank you.

Thank you very much, Minister, for being here this morning.

Obviously the government's interpretation of its responsibility in the bill and the interpretation of Yukon first nations are very different, and obviously they have concerns. The concern, as has been indicated by previous committee members this morning, is around four of the key amendments within the bill.

I really believe that most of this bill is supported by Yukon first nations, but there are four components that are not. They have been persistent in asking the government to work with them and to consult with them in coming to a position that they can all agree upon. Unfortunately, that has not happened. In fact, Mr. Chair, in the meetings that I held with the Yukon chiefs and other delegates from the Yukon, what I was told is that government itself is not really respecting the fact that they are aboriginal governments.

First of all I'd like to start, Minister, by asking you this. Do you recognize that these are aboriginal governments quite different from many first nations authorities that we have in the country and that they have negotiated agreements and provisions that are somewhat more in depth than many other agreements that exist within the federal government right now?

**Hon. Bernard Valcourt:** Absolutely.

**Ms. Yvonne Jones:** Based on that premise, why is it that government is not consulting with them on a government-to-government basis to ensure that the amendments in this legislation, if it goes forward, are going forward with the consensus of all governments? Right now, it's the territory and the federal government, and the Yukon first nations do not feel that their governments have been appropriately consulted or that the changes and amendments within this bill are to their benefit. In fact, they feel that they are eroding their powers.

I'd like to ask you to provide your input on that.

**Hon. Bernard Valcourt:** Well, I can understand that after so many years since the agreement was concluded, they may prefer to spin it in a way that suits them. I don't know what, but some wish....

But the fact of the matter is that we are governed by the umbrella agreement. When you refer to government, I know exactly what you are referring to because of the tempest in the teapot caused by the fact that when I met with the first nations, and they opposed a certain part of the bill, I quoted the umbrella agreement's definition of government.

I can reread the definition of government in the umbrella agreement. It says:

“Government” means Canada or the Yukon, or both, depending upon which government or governments have responsibility, from time to time, for the matter in question.

So when, for example, I refer to paragraph 12.19.2 of the agreement, it says, “Development Assessment Legislation may provide the following”, and at paragraph 12.19.2.15, it says, “any other matter required to implement the development assessment process.”

Now for consultation to be effective, to be adequate, it doesn't mean you have to get consent, and if that is the interpretation that some advocates on that side of the equation advance, well, I regret I cannot agree. This is not the law in Canada.

**Ms. Yvonne Jones:** Minister, I think you would agree that having good strong relations between first nations and the Government of Canada is very important for all Canadians.

Right now we have a situation. This is the third bill that has come forward to the House of Commons. Aboriginal groups in this country had tremendous concerns about both Bill C-47 and Bill C-15 simply because they felt that their rights and powers were being eroded.

Again, we have another bill that is coming forward, the bill we're discussing this morning, and the same accusations are being made by Yukon first nations. They feel a sense of violation of the spirit and intent of the original government-to-government agreements that they have in place. They feel that the amendments here do not defend the language of the treaty that they originally signed. They're expressing huge concerns here, concerns that affect a whole territory.

Minister, why is there persistency on behalf of your government to pass these bills without having proper consensus from first nations' governments? Why is it that you continue to do this and inflame a situation that could really be a consensus-building practice, where governments work together to achieve a stronger language, and therefore, stronger social and environmental benefits in these areas?

● (0905)

**Hon. Bernard Valcourt:** How can I answer this? You say they feel, they feel, they feel. It's not about feeling. This is about facts, and the fact of the matter is that these provisions do exist in other parts of the north, in other territories. The experience, whether under the Mackenzie Valley act, the water board act, or any other, is that those provisions have not eroded or violated the rights of first nations, and nor will these.

If you read the act, look at section 4. It is clear. Nothing in this act can violate or derogate from the umbrella agreement. It's plainly written. It is in the application of the act that they will see the benefit to first nations and to all Yukoners, for that matter.

You say they feel. Yes, they may feel but where is the evidence that the rights of first nations have been affected? I look at the policy directions, for example, that were given. Four policy directions were given by the Liberal government, the previous Liberal government, and all four were for better protection of the rights of first nations.

I cannot see how a policy direction can undermine the rights, given the experience until now. Minister Nault, among others, issued policy directions that were to protect the rights of first nations. That is a tool that is not currently in YESAA. That is what this bill provides to YESAA, the ability for the minister to give a policy direction that will help the assessment process and protect the interests of first nations.

**The Chair:** Okay, thank you. The time on your round has expired, Ms. Jones.

We'll move back to Mr. Leef.

**Mr. Ryan Leef:** Thank you, Mr. Chair.

On that government-to-government question, I should congratulate you and Canada for a government-to-government conclusion of the the Carcross/Tagish First Nation FTA most recently, which brought a significant conclusion to an outstanding issue for them that was clearly negotiated government to government and was clearly beneficial to the Carcross/Tagish First Nation. Of course, we should reflect back on the conclusion of more significant modern treaties under our government than any other past government. That relates to your point that you recognize clearly that first nations not only in Yukon but in Canada do have excellent government-to-government relations, Minister.

We've danced around this topic a little bit, but it is a point of concern for Yukon first nations. You have touched on it a bit. I'd like you to maybe go into just a little bit more depth on how Bill S-6 speaks clearly to the UFA prevailing should any conflict arise. Perhaps you could touch on any additional constitutional agreements that continue to protect the modern treaties of Yukon first nations under any conflicts of Bill S-6.

● (0910)

**Hon. Bernard Valcourt:** You raise a valid point that seems often to be forgotten. The Umbrella Final Agreement is protected by section 35 of the Constitution Act. This is a constitutionally protected document. That's why I say the Umbrella Final Agreement is the law of the land in the Yukon. Furthermore, when you look at each final agreement with these first nations, again, they are protected by the Umbrella Final Agreement. The legislation also says that this is protected. In the act itself, YESAA, if you look at section 4, as I just mentioned, nothing in this bill can derogate from the rights of first nations, or anybody, that are guaranteed under the Umbrella Final Agreement.

I think that the protection is there. I'm trying to find out why a government would try to derogate from these rights. This is enabling legislation. It enables the environmental assessment of projects in the Yukon in full respect of the obligations we owe, that we have, towards first nations. Just as a last point, I make sure before introducing a bill that it is fully in compliance with our legal obligations and the honour of the crown. That's what we owe to first nations in this country, and it has been done for Bill S-6.

**Mr. Ryan Leef:** Thank you, Minister.

The fourth and final point—I think I've touched on the other three areas of concern—is around serious harm and adequacy reviews. I'm just wondering if you can touch on how Bill S-6, or at least the makeup of the YESAB executive committee and the board structure, will allow Yukon first nations to trigger reviews or assessments on their traditional territory and in areas of their jurisdiction and concern when they feel it necessary.

**Hon. Bernard Valcourt:** Here, again, these are not affected by these amendments. These processes and these rights are still all there. When we talk about reviews, if at any time there is a need for a review of provisions of the bill, they can be proceeded with. The government cannot commit to have legislated periodic reviews in the act because our position remains that a review of the legislation can be initiated at any time as appropriate.

**Mr. Ryan Leef:** Yes, fair enough, and that's a good point. I'm sorry. I probably wasn't very clear, but that's a good point you're making in terms of the legislative review process. Parliament can seize itself with reviewing legislation when it's deemed appropriate.

I was talking more about how the executive committee and the YESA board itself have guaranteed numbers of Yukon first nation representation, and with that executive committee and the board, they can also in this legislation trigger reviews. For the adequacy review and serious harm piece that they've raised concerns about, they can trigger reviews under this legislation where they deem it necessary. Despite any provision in Bill S-6 that allows serious harm to not be reflected on, reviews can still be triggered under this legislation.

**Hon. Bernard Valcourt:** Yes, absolutely. You see, this is not affected at all. The triggers remain the same. As you know, or may know, after Bill S-6 is passed we have to review the regulations, which again is going to be an undertaking where there will be full consultation with first nations and all stakeholders to ensure that the regulations are in line with the proper implementation of the legislative provisions.

● (0915)

**The Chair:** Thank you.

You have about 15 seconds, Mr. Leef, so maybe we'll move on.

I think we have time at this point for another couple of rounds. We'll have one more round for the official opposition, and one more for the government.

We'll move on to you, Mr. Bevington.

**Mr. Dennis Bevington (Northwest Territories, NDP):** Thanks, Mr. Chair.

Thank you, Mr. Minister, for meeting with us here today and hearing our point of view and our questions on this bill.

One of the things you've said here gives me a lot of trouble. You've said that these territories are the same and you want to have the same legislation for them, that you want to have a cookie-cutter approach to northern development. It's really not appropriate. I think you should revise your thinking on that. These territories are very different. If you went to New Brunswick and said that you wanted to see the same environmental legislation in New Brunswick as in Prince Edward Island and Nova Scotia, I think you'd have a fight on your hands.

That's what you've created here. You thought that somehow the work you did in the Northwest Territories, much of which was opposed by the people there, is a good reason for why you're now going to come down on the Yukon and take a system that's working and denigrate it by these four amendments, denigrate the system that has been in place, that people agreed to, and that people are working under. Now you're going to put in amendments that were not well accepted in the Northwest Territories. The unilateral binding policy direction that you imposed on the Northwest Territories, the Mackenzie Valley Resource Management Act, was not universally accepted there, not by any means.

When you talk about doing this now in the Yukon to match up to the Northwest Territories, I think you're really just.... That is just a specious argument and you should refrain from it. You should recognize the character of these three territories.

Secondly, on the process you talked about for consultation, what you said to us today negates any consultation. When you say that you went to the first nations with a bill and couldn't give them the bill because it was in a form that was already, under federal rules, not allowed for distribution, you've negated the concept of consultation right there. You've already made up your mind. You've created a bill, so how can you go back and consult with people when you've already created a piece of legislation that you're going to put forward? That's another real problem I see with what you've said here today.

Then you bring out this definition of government that's in your agreement that you have here, and you say that because you define government this way, you can say that the first nations are not governments in the Yukon. No, there is a higher authority here and it's called the Constitution. You have to recognize that as well. We have given first nations rights under the Constitution and they must be respected.

On these three points, I think you've negated much of what you came here to try to accomplish in front of us. I think you should go back and take another look at this legislation. It's not supported by the Yukon people because they're happy with what they have. It's working. They're making their way through a very unique arrangement between first nations and public government that is very important to them.

Even the industry recognizes that. I refer you to a letter from Casino Mining. I refer you to a letter to you from the Tourism Industry Association of the Yukon. These are people who are saying, "Look, stop trying to turn back the clock, stop trying to reassert your paternalistic attitude towards the Yukon, and recognize that we've grown past that." That's what they're saying to you.

Why are you doing what you're doing? What's the purpose of this, just to create more trouble, to bring us back to the courts like you've done in the Northwest Territories now with the super-board? We have an injunction. Hopefully that injunction will last past the next election and the new government can throw out your legislation. They can throw out that idea of a super-board and bring back what works in the Northwest Territories.

Those are issues that we see, that I see. You've said a lot here today, and I'm just showing you what you've done with what you've said here today.

● (0920)

**The Chair:** Okay. The time has nearly expired—

**Voices:** Oh, oh!

**The Chair:** —unless the minister is very brief.

You have about five seconds.

[*Translation*]

**Hon. Bernard Valcourt:** Back home, we call that a monologue.

[*English*]

**The Chair:** I think that's right.

The last questioner today is Mr. Dreeshen.

**Mr. Earl Dreeshen (Red Deer, CPC):** Thank you very much.

Minister, I certainly appreciate your being here today to set the record straight. As we have just heard in the monologue, there are some criticisms that we do hear. One is of course the criticism coming from both the first nations groups and the opposition members that Bill S-6 could infringe upon the rights of Yukon first nations.

However, I've heard you mention, both in the second reading speech we heard, as well as in the discussion on time allocation, and of course here this morning, that Bill S-6 poses absolutely no threat to first nations' rights. I wonder if you could take a few moments to set the record straight on that.

**Hon. Bernard Valcourt:** Well, I'd like to repeat this. There is absolutely nothing in Bill S-6 that deviates from the Yukon umbrella agreement or that infringes upon aboriginal or treaty rights. Any suggestion that first nations are some how diminished by this legislation is simply—if I can use the word—false.

In fact, protection for these rights can be found in five legally recognized documents, as I alluded to for the member from the Yukon. These are the Canadian Constitution, in section 35; the Yukon umbrella agreement; the Yukon First Nations Land Claims Settlement Act, an act guaranteeing those rights; the Yukon

devolution transfer agreement, also another legislative instrument protecting those rights; and finally, this act itself, Bill S-6 and the Yukon Environmental and Socio-economic Assessment Act.

I would also like to add that several critics have used the argument that although Bill S-6 may not be directly in conflict with the umbrella agreement, it may violate the spirit of the agreement. Well, this too is plainly misleading. I would ask the opposition to turn to the text of the Yukon Environmental and Socio-Economic Assessment Act itself, and to read section 4, which is clear. It states that if —“if”, okay?—there is “an inconsistency or conflict between a final agreement and this Act, the agreement prevails”. I think we have taken all the steps to ensure and guarantee the protection of those rights. I'm satisfied that this does that.

**Mr. Earl Dreeshen:** Again, on the point on the assessment processes and taking a look at that, I know that there have also been some allegations that there could be an overhaul of the way in which the environmental assessments are carried out in the Yukon. My understanding is that the bill doesn't make any changes to the fundamental nature of the assessment process but is there simply to provide clarity, certainty, and predictability to proponents, those being both the Yukon government and of course the Yukon first nations alike.

I wonder if you could expand upon that to the committee as to just how that fits in.

**Hon. Bernard Valcourt:** Again, it's a good point and that's a good question. You're exactly correct that many people have suggested that Bill S-6 will make significant changes that will undermine the assessment process, but this is simply not the case. I mean, read the bill. For example, I would encourage committee members to look at subsection 47(2) of the Yukon Environmental and Socio-economic Assessment Act. This is the portion of the act that lays out which sorts of projects are assessable under the act.

Mr. Chair, we have made absolutely no changes to this portion of YESAA. All we have done is clarify the existing assessable projects, and in doing so, we have actually ensured that YESAA conforms more closely to the umbrella agreement. Again, paragraph 12.4.1.1 of the umbrella agreement explains that projects and significant changes to existing projects will be subject to the development assessment process. So when you hear the accusations that the issue of significant changes.... It is in the umbrella agreement. A lot of people like to say things and to proclaim things, but there is nothing like the facts to focus the mind.

● (0925)

**The Chair:** That concludes our time for questions today.

Thank you, Mr. Minister, for being here with us.

I will suspend the meeting briefly so that we can clear the room and move in camera for some committee business.

The meeting is suspended.

[*Proceedings continue in camera*]





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