

tives of the Yukon Indians would certainly want to play a role in that process.

These amendments to the Yukon Quartz Mining Act and the Yukon Placer Mining Act are by and large the result of a court case. Members thought that under Section 23 of the Territorial Lands Act the withdrawal of public lands for public purposes, including land claims, would be clearly understood. In order to designate certain parcels of land in the Yukon for specific public purposes, including the settlement of aboriginal land claims, and to remove the possibility of new third party interests being created in such lands, lands have been withdrawn from disposition under Section 23 of the Territorial Lands Act. In so far as mining is concerned, prohibition orders under Section 98 of the Yukon Placer Mining Act have also been promulgated.

Although the Yukon Quartz Mining Act contains no provision to withdraw lands or to prohibit mining on certain lands, as in the case of the Yukon Placer Mining Act, it has always been the government's position that a withdrawal made under section 23 of the Territorial Lands Act is considered a reservation within the meaning of section 14 of the Yukon Quartz Mining Act. Section 14 provides for exceptions to the general right to acquire mineral rights under the Yukon Quartz Mining Act. That seems to be fairly straightforward. I think everyone following that would understand clearly the process that we have been going under in terms of the basic assumption.

However, the government's position with respect to the applicability of the Territorial Lands Act withdrawal orders to the Yukon Quartz Mining Act was challenged in the courts by Mr. L. B. Halferdahl when he staked 265 mineral claims in an area withdrawn for the settlement of the Kluane Tribal Council claim. We are all familiar with that particular process. Mr. Halferdahl's mineral claims were refused by the Mining Recorder. That was pretty straightforward. We appreciate that those claims would be refused, with the Mining Recorder perhaps not quite clear in terms of which of these acts took precedence.

However, the matter was brought to the Federal Court and on July 12, 1988, a judgment was handed down in favour of Mr. Halferdahl. In his judgment, the Justice based his decision mainly on the fact that because

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subsection 3(3) of the Territorial Lands Act states that: "Nothing in this Act shall be construed as limiting the operation of the Yukon Quartz Mining Act," any withdrawal orders made pursuant to the Territorial Lands Act could not have an effect on the Yukon Quartz Mining Act.

In other words, claim staking under the Yukon Quartz Mining Act cannot be curtailed by orders pursuant to the Territorial Lands Act. Mr. Justice Collier had ordered the Mining Recorder to accept Mr. Halferdahl's claims.

That really caught everyone by surprise. I remember the day the order came down. I think there were a lot of comments around the House of Commons that this surprised everyone and something obviously had to be done.

In order to protect all these various withdrawn areas in Yukon, which I think account for almost 70 per cent of the entire Yukon land mass, from further staking, the Minister of Indian Affairs and Northern Development, the Hon. Pierre Cadieux, announced in the House on February 13, 1990, his intention to bring forward legislation to rectify the problem. This legislation, if eventually passed, would be retroactive to the date of this public announcement.

We have heard that the Council of Yukon Indians has concerns that the retroactivity ought in fact to go even further to protect its interests in terms of very specific claims. Because I know those listening are interested in the situation in Yukon, I want to make it very clear that this proposed legislation that we are debating today at second reading stage would affect only Sections 17 and 98 of the Yukon Placer Mining Act and Section 14 of the Yukon Quartz Mining Act. It is also proposed that the Yukon Placer Mining Act be strengthened to ensure that lands required for the settlement of aboriginal land claims may be considered as lands required for public purpose.

As well, it is proposed that the equivalent of Section 14 of the Yukon Quartz Mining Act be expanded—and I want to emphasize that point—by adding equivalent prohibition provisions to those contained in the amended Section 98 of the Yukon Placer Mining Act. Both of these mining acts are proposed to be further amended in order to validate as at February 13, 1990, all existing withdrawals under the Territorial Lands Act and prohibitions under Section 98 of the Yukon Placer Mining Act,