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Chair

Mr. Laurie Hawn

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● (1740)

[*English*]

The Chair (Mr. Laurie Hawn (Edmonton Centre, CPC)): *Bonjour, tout le monde*, and welcome to meeting 20 of the Legislative Committee on Bill C- 30. Thank you all for coming.

We have a lot of work ahead of us in the next few days, so we'll try to waste as little time as possible. However, don't gobble your food, because it's bad for your digestion. We're pleased to be able to feed you so well.

Welcome to the folks from the department.

The first thing we will do is table the third report from the subcommittee, which we held on Friday. It details the schedule that we've laid out for this week.

Starting today, with some breaks for voting and so on, we will meet from 5:30 to 9:30. And we'll come back to that. Tomorrow we'll meet from 9 to 11 and from 3:30 to 5:30. Now, the end times with all of these are flexible, so if we're on a roll and we keep rolling, that's good. On Wednesday we'll meet from 12 noon until 2 p.m.—there'll be lunch—and from 3:30 to 9:30. And on Thursday, March 29, we'll meet from 9 to 11 and, if necessary, from 11 to 1 o'clock. We have to report back to the House at noon on Friday, so if possible, we would like not to keep our staff up all night doing the report.

[*Translation*]

Mr. Bigras, apparently there is something happening in Quebec this evening. I've received a request from the Bloc that we adjourn at 9 p.m., if committee members have no objections.

Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ): We had planned to sit until 9:30 p.m. I don't know if it's possible to finish up 30 minutes earlier. In any case, I think we'll all be very tired by 9 p.m. Could the committee possibly give its consent? That way, we'd be able to tune in to the results of the Quebec elections.

[*English*]

The Chair: Mr. Cullen, let's not take too long debating this.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): I think we all might have a heightened interest in what happens in Quebec this evening. In the interest of cooperation, sure, we'll see what happens.

The Chair: Does anybody have a problem with that? Okay, we'll plan to knock off tonight at 9 o'clock.

I'd like to move that the third report be concurred in. Perhaps somebody could move that. It's moved by Mr. Godfrey. Perhaps somebody could second that. Mr. Cullen.

(Motion agreed to)

The Chair: Okay, we're good to go.

We're now at the stage where we can get started. I'd like to take a minute to ensure that everybody has the documents they need.

You should have an amendments binder. You should have the package of 34 Liberal amendments, starting with amendment L-1. This whole package was distributed last Tuesday. You should have received amendment NDP-15.3 that was distributed last Tuesday. There's an additional package of six Liberal amendments, starting with amendment L-2.1, which was distributed last Friday.

Earlier today the clerk received two new NDP amendments, amendments NDP-12.1 and NDP-38, which have just been distributed.

And there is the agenda for today's meeting, which has been updated to show all amendments received to date and all decisions taken to date.

The clerk has extra copies of all of those things, if you discover as we go along that you don't have what you need.

Are there any questions before we begin?

Mr. Cullen.

Mr. Nathan Cullen: As we've discovered, many of the implications of certain amendments have effect further on, so I have a comment on process as we go through, that within reason—and I think that's important—there be given some time for members to confer on implications, particularly if something new or a friendly amendment comes forward. Sometimes we'll need a little time to huddle and make sure we're voting for the thing we want to vote for.

The Chair: Absolutely. The analysts and the legislative clerks and so on have done a good job of giving me a cheat sheet, so we'll be able to guide that—

Mr. Nathan Cullen: You might want to share that, Mr. Chair. You wouldn't want to share that cheat sheet, would you?

The Chair: No, because then I wouldn't look smarter than you, which I'm not.

Mr. Nathan Cullen: We wouldn't want that.

The Chair: Anyway, we're going to be methodical about this. Because there are a lot of interrelationships between clauses, we're going to make sure we're not dealing with something that's affected by something else down the road. We will be methodical and we'll make sure everybody has the information they need.

The first one we are going to hear is the new Liberal amendment, L-2.1 that's been distributed but not yet moved. Before we do that, I want to share something with you.

Part 1 of Bill C-30 deals with amendments to the Canadian Environmental Protection Act. This amendment proposes a new clause outside of CEPA, proposing a series of public hearings to ascertain the views of Canadians on the appointment process for the Commissioner of the Environment and Sustainable Development.

Bill C-30 was referred to committee before second reading, which means that there is more latitude in the amending process. The requirement that amendments must fall within the scope of the bill does not apply to bills referred before second reading. However, other rules of admissibility continue to apply. Every amendment, for example, must be relevant to the subject matter of the bill, and this rule is expressed on page 654 of Marleau-Montpetit.

It's not clear to me how this amendment relates to the subject matter of the bill before us. I just say that before we kick off. I would appreciate the honourable member addressing this point during his remarks on the amendment, and then I'll hear from other members on this before giving a decision on the admissibility of the amendment.

With that short preamble, I will turn it over to, I'm assuming, Mr. McGuinty to propose amendment L-2.1.

Mr. David McGuinty (Ottawa South, Lib.): Thank you very much, Mr. Chair, and thank you for your patience with this amendment L-2.1.

It replaces amendment L-2, which did have financial and expenditure implications for the government, and we heard in your ruling, which we thank you for, in the last meeting that royal recommendation does not attach to this bill in its present form. Therefore we replaced amendment L-2 with L-2.1 because it explicitly avoids new expenditures.

I'm interested to hear the question that you put to the table right now, Mr. Chair, with respect to the relevancy of this amendment, and I'd like to speak to that pretty directly in very short order to explain why this is so incredibly important for the future of the country as we seek to both, using the government's language, clean up our air and reduce our greenhouse gases.

This is not a strange matter to almost every member of this committee, Mr. Chair. We have been seized with this in the environment committee, for those of us who sit there, and this is an issue that's been debated quite openly. The amendment has inspired itself in terms of the role and purpose of the Commissioner for the Environment and Sustainable Development, using standard agent of Parliament language—for example, the Commissioner of Official Languages, the Ethics Commissioner—and you see that in proposed section 72.15, as written in the amendment.

We have, however, added a few additional features when we speak about the purpose of the commissioner being to monitor and report on the state and integrity of the environment of Canada under proposed section 72.15. It states:

> to monitor and report on the progress of federal institutions towards sustainable development through the integration of social, economic and environmental concerns, including

And you will see, of course, proposed paragraphs (a), (b), (c), (d), (e), (f), (g). Two new ones are (h) and (i), which speak explicitly to the reduction of greenhouse gas emissions in the country and also speak explicitly to the avoidance of climate change—something that I believe is inherent, if not explicit, in Bill C-30 as it is presently drafted. It's not only related to Bill C-30, Mr. Chair, but it's also desperately needed if we're going to enhance the environmental accountability in Canada for this and any subsequent government that might be forthcoming.

There are also some other standard agent of Parliament powers, starting in proposed section 72.19, that again flow from offices like that of the Ethics Commissioner. However, in proposed section 72.20—again very much, I believe, on point with Bill C-30 and its purpose—proposed paragraph 72.20(2)(a) is new, and it asks the commissioner to report on the sustainable development obligations of any federal institution that has not yet complied, not having been in compliance "in a timely and effective manner". Again, that was inspired from the essential purpose of Bill C-30.

Finally, under proposed section 72.21, Mr. Chair, which is all new, it speaks very explicitly to air quality and greenhouse gas reduction issues, again as stated in the central purpose of Bill C-30, which is to strengthen Canada's regulatory, institutional, and legal framework to deal with both clean air and greenhouse gas reduction.

It calls, for example, on the commissioner, starting in 2013 and every two years after that until 2051, to prepare a report that includes —it's important I think to single them out, Mr. Chair, for a second:

> (a) an analysis of Canada's progress in implementing the Climate Change Plans;
>
> (b) an analysis of Canada's progress in meeting its international commitments and obligations with respect to climate change and greenhouse gases;

That might be international commitments that we presently hold and international commitments that could be negotiated and entered into in the future.

● (1745)

Finally, proposed paragraph 72.21(1)(d) calls for:

> an analysis of the progress of the Minister of the Environment in establishing a reliable methodology for estimating and auditing annual anthropogenic greenhouse gas emissions for Canada as a whole and for each economic sector and large industrial emitter;

This speaks to some of the challenges we heard from our witnesses, Mr. Chair, about the need for Canada to get a robust set of data on greenhouse gases on a national basis, on a sector basis, and for that matter, even from a large industrial emitter basis.

I believe this would not only be a positive contribution to the strengthening of environmental accountability in Canada, but it would also, I think, greatly supplement the objectives of Bill C-30 that the government has put forward in intent and in words as Bill C-30 is presently drafted.

Those are my thoughts, Mr. Chair, as I present this amendment and formally move it.

Thank you.

● (1750)

The Chair: Thank you.

We'll have a little bit of discussion on that. Mr. Cullen is first.

Mr. Nathan Cullen: Thank you, Mr. Chair. I'd be curious to have an elaboration from you or from the clerk's table as to why this may be inadmissible, or you rule it as such.

The purpose of creating this committee, when we suggested it back in November, was for this very purpose. This is a bit of a convergence of two interests. This issue of an independent environment commissioner came forward as a result of Madame Gélinas' leaving the office prior to Christmas. In the environment committee, we looked in some detail at whether she needed to be independent.

The place to make that change was unknown to us as committee members. Members of Parliament from all parties have expressed interest in this idea of at least considering it and looking at the implications, because what happened this past year in terms of accountability for this country when it came to the environment was distressing to many of us.

We had a champion for the environment in Madame Gélinas, and then, like that, she was gone and replaced by somebody else of, I'm sure, excellent quality, but someone unknown to us and unknown certainly in the field of the environment.

This opportunity that we created through Bill C-30, and that all the parties agreed to, was the exchange of ideas. This seems like an idea that has merit. I remember when Mr. McGuinty moved this concept at the environment committee; we suggested he bring it here, to this table, where we can effect a bill.

The heart of the work that Madame Gélinas and others before her have done is around the accountability of Canada's actions and decisions when it comes to legislation with the environment. How is it that the Canadian people are able to know that what the government claims is going on has actually happened? We can all fondly remember—at least those of us in opposition at the time—the environment commissioner's reports on the government's actions, because she pointed out things.

Mr. Watson will remember that the previous government's commitment of $5 billion to fight climate change, which Canadians would say is important, had actually resulted in a little over $1 billion being spent. This current government is now making announcements, but in such a heightened political atmosphere, who are we to trust, and how can we trust that the thing will actually happen?

Over the last 14 years, Canadians can be forgiven for being a bit skeptical of government announcements. The Commissioner of the Environment's place was verifiable.

The last think I would like to say is this. Committee members who are also on the environment committee will remember that Ms. Fraser had some reservations about this concept.

We also spoke to other countries that have invoked a very different type of environment commissioner, one who is able to do a bit more of the casting forward as well as the pure, traditional auditing practices. This is a change in audit practice for Canada when it comes to the commissioner's role; it subtly alters what it is she's doing.

I think some in the Auditor General's office have concerns with that, because they are just accustomed to a different system, but when you talk to New Zealand in particular, and some European nations, this is absolutely standard practice, and it has been to great effect for MPs, both those within government and those sitting on opposition benches.

So there's a switch, a positive change. We're glad the Liberal members took up both the NDP suggestion of moving it here to Bill C-30 and the concept of moving good ideas through the Bill C-30 process to improve that accountability loop.

All of these amendments we're seeking to do, I would suggest to all those sitting around the table, aren't worth much if we don't have the confidence that they will actually happen. A big problem with environmental legislation and environmental policy in this country is that the thing just hasn't happened. The promises have been made; laws like CEPA were drafted, but we heard from witness after witness that it's the actual carrying out: it's the will of the civil service, it's the will of the politicians to actually follow through to the letter of the law. That's what's been lacking in Canada, and desperately so. It's not announcements and not grandiose statements about the environment; it's actually doing the thing.

We think this amendment, in this process, could be quite advantageous because it will ensure some accountability, but it will also put the fear into those carrying out the legislation that someone will be looking at the policies and analyzing how they match up to Canada's commitments. No one will craft a policy that the Commissioner of the Environment will walk out three months later and totally debunk. That just wouldn't be intelligent politics.

● (1755)

For those reasons, and as I said at the very beginning, I am curious about the ruling as to why this remains out of order. It's of some curiosity for some other amendments we're moving later on.

The Chair: Monsieur Bigras.

[*Translation*]

Mr. Bernard Bigras: Thank you very much, Mr. Chairman.

My comments about this amendment will be even briefer than my colleagues because I'm not sure that at the rate we're going, we'll manage to get through the entire amendment binder.

First of all, we have to remember the discussions that have taken place thus far about the position of Commissioner of the Environment. Obviously, we've had discussions, but not within the framework of our study of Bill C-30. I mention C-30, because I wouldn't want us to bring into the mix the debates that took place in the confines of the environment and sustainable development committee. I want you to recall the debates that took place in the Legislative Committee on Bill C-30. There is not one single member here in this committee who raised at any time the issue of the independence of the Commissioner of the Environment. Yes, the environment committee did hold some discussions following the unfortunate events that unfolded.

We were among those who called for more independence for the Commissioner of the Environment. We believed that the Commissioner should be as independent as possible. The question I have today is this: is Bill C-30 the best vehicle for initiating a discussion on the future powers of a Commissioner of the Environment? I have my doubts about that. Of course, a private member's bill could always be introduced to endow the Commissioner of the Environment with additional powers and we could call in all of the stakeholders who were consulted to discuss the matter. That wouldn't be a problem. We could discuss it and more than likely, I would vote in favour of the amendment. The issue I have today is that we're attempting to use Bill C-30 to modify the duties of the Commissioner of the Environment whereas this is not the place to do that. Moreover, we're certainly going to discuss this matter in the future. Clearly, the Parliament of Canada Act needs to be amended, but Bill C-30 is not the way to accomplish that.

This amendment, which I would qualify as a run-on amendment, is akin to pulling a rabbit out of a hat, when in fact we haven't yet discussed this matter, debated it in a parliamentary committee or heard from witnesses.

In that respect, Mr. Chairman, I respect your assessment of amendment L-2.1.

[*English*]

The Chair: *Merci, monsieur Bigras.*

I'll just point out that I have not made a ruling yet, but I will after I hear from Mr. Warawa, if that's okay.

Mr. Mark Warawa (Langley, CPC): Thank you, Mr. Chair.

I appreciate the comments made around the table. I tend to lean in the direction of the comments made by Mr. Bigras. The Office of the Commissioner of the Environment is a very important office to keep the government accountable on environmental issues. At present the commissioner is under the Office of the Auditor General. We at the Standing Committee on Environment and Sustainable Development dealt with a motion of how we should be dealing with that office—should that office of the commissioner be separate from the Auditor General? That is the direction that the committee is recommending.

For us to be dealing with that office in Bill C-30, I believe, will slow down Bill C-30. We need to move forward on Bill C-30. I don't believe it's the best place. I believe it should be dealt with separately from Bill C-30. I think it will be dealt with in an efficient and effective way. We're not opposed to considering a separate independent Office of the Commissioner of the Environment, but we are opposed to slowing down the processing in clause-by-clause of Bill C-30. I would hope that it would be considered not relevant and necessary to Bill C-30.

The Chair: Thank you very much.

I have listened and I agree, I think, that the environment commissioner is probably a good idea. I agree, frankly, with Monsieur Bigras and Mr. Warawa that we're here to rewrite Bill C-30; we're not here to use the process with this committee to modify other processes. I agree that it will slow down considerably what we're doing here with respect to modifying Bill C-30, with respect to taking something back to the House on Friday to say, here's the bill.

As to what oversight there is in the bill, the Commissioner of the Environment and Sustainable Development is probably a good idea, and I think that will probably happen, but I don't think it's relevant to actually rewriting Bill C-30. For that reason, my ruling on this is that it would be out of order due to lack of relevance to Bill C-30 specifically.

I stand to be challenged or disagreed with, and as always, I never take it personally.

Shall we move on? Thank you for your understanding.

(On clause 2)

● (1800)

The Chair: Clauses 2 and 3 propose changes to the preamble and interpretation provisions of CEPA, and these changes are borne out in substantive clauses later in part 1 of the bill. I would suggest standing clauses 2 and 3 until the committee has decided on the substance of part 1. If we decide stuff in clauses 2 and 3, it may be undoing things we do later on.

Is there agreement to do so? I think everybody has thought about this a little bit beforehand.

(Clauses 2 and 3 allowed to stand)

(On clause 4)

The Chair: In clause 4, there's an amendment from the NDP, NDP-10, which is on page 15 of your binder. I'll point out that amendment NDP-10 is consequential to NDP-20, so I'll turn it over to Mr. Cullen to see if he has a suggestion in that regard.

Mr. Nathan Cullen: Thank you, Chair.

You're right, I think this is going to be one of the many consequential amendments that we'll be moving as we go through this. We'd like to stand this until we get through NDP-20 and then bring us back to consideration of this. It hinges upon that.

(Clause 4 allowed to stand)

The Chair: Okay, thank you for that.

The next item is a new proposed section, 4.1, which is addressed by amendment BQ-4 on page 16, so would you all turn your hymn books to that page.

Mr. Cullen.

Mr. Nathan Cullen: Maybe it's a point of clarification with this, and this is probably more of how these things function under law, so I don't know if this is necessarily for Mr. Bigras or the chair.

On the creation of these independent bodies, is there more explicitness needed in an amendment to an act to create such an independent body? With “this Act”, is “this Act” Bill C-30 in and of itself enough, or is an amendment to the CEPA or some other parliamentary act necessary to make that happen? Is this enough? I'm very curious about the idea, but I'm still not totally understanding the mechanism.

The Chair: Perhaps we could turn to Mr. Bigras, who can explain his amendment.

[*Translation*]

Mr. Bernard Bigras: As far as amendment BQ-4 is concerned, I don't have a problem with it as such, but of course, it will depend on discussions that will take place a little later. Right now, it's hard to decide on the issue of an independent body that would negotiate with the province for the purpose of issuing a notice if, among other things, the territorial approach advocated by the Bloc is not adopted.

Therefore, I propose that amendment BQ-4 be allowed to stand.

[*English*]

The Chair: Do we have agreement to stand that one?

Go ahead, Mr. Cullen.

Mr. Nathan Cullen: I'm fine with our standing this, but we're going to come back to the debate. It just feels like we've got through this; we're looking at it right now. Obviously this is in order, but on the question of creating this independent body and as we go into the BQ-6 amendment and the questions around territoriality and jurisdiction, I'm curious if this wording in and of itself is enough to create this independent body—and if it is creating a new body, is it the act of Bill C-30 itself that does it, or is this going to have to refer back to some other act of Parliament in order to make the body exist? Can you simply move it this way?

I don't know if other committee members have any experience with this. This is some new territory for us.

● (1805)

The Chair: It's proposing a new section in CEPA, I think, in effect.

Mr. Nathan Cullen: Do you mean the body would be created through the Canadian Environmental Protection Act?

The Chair: I'm sorry, I think Mr. Moffet has some advice on this.

Mr. John Moffet (Acting Director General, Legislation and Regulatory Affairs, Environmental Stewardship Branch, Department of the Environment): Thanks, Mr. Chair.

It's our reading that this provision does not create a new body—I'm reading the English—but this amendment would designate a body to do these functions. I think Mr. Cullen's questions were about creating a new body; it would be our advice that this provision does not provide the authority to create a body; it would provide the authority to designate. So you would find a body that exists and you would designate it, saying that's the body that has these powers.

Mr. Nathan Cullen: Okay. This is interesting.

The Chair: Correct me if I'm wrong, but I think we have stood this, so we can come back to it.

Mr. Jean, you're next on the list.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): I'm just curious. I need some clarification, Mr. Chair.

We talked about an amendment brought forward by the Liberals, which quite frankly wasn't particularly that bad an amendment. However, it was found that it needed a royal recommendation. Then we had another one brought forward that required relevancy. What I'm looking for is confirmation. I'm not particularly saying this is a bad idea either, but where are we drawing the line on royal recommendation? Does it have to be a direct or indirect expenditure?

As for relevancy, this particular one is saying we're going to have a new body established by this. What does that have to do with Bill C-30 if it's outside Bill C-30?

I just want to make sure I have clarification from the chair as to what a royal recommendation is. Is it a direct or indirect expenditure, and what is the relevancy, for instance, in this particular case, which has nothing to do with Bill C-30 at all and has to do with CEPA?

The Chair: I will ask Mr. Moffet to try to explain that again. It's not my understanding that it's establishing a new body, but negotiating with the provinces to use something that's already in existence.

Mr. Moffet, is that it?

Mr. Brian Jean: Actually, Mr. Chair, I'm not speaking of the department at all on this; I'm in particular asking you what the standard is to have a royal recommendation passed—is it direct or indirect expenditure?—and the relevancy of the clause. This particular clause, for instance, is the best example, and the first one to come to us since the last one was ruled out of order. It is a clause that doesn't deal with Bill C-30; it deals with CEPA, so what's the relevancy of it?

I don't want to sit here and challenge everything that comes forward if it's a good idea, but at the same time, I want to make sure we're acting within the parameters that we have in the legislation and in Marleau and Montpetit. We have a book with rules and we have to follow those rules, and I think it would help all the committee members to know what those rules are and what particular ones you're going to rule out of order, and why.

The Chair: Just give me a moment. The amendment has not in fact been moved, but your point is taken.

The royal recommendation aspect of it is Marleau and Montpetit, page 711: “Bills which authorize new charges for purposes not anticipated in the Estimates” would be inadmissible. Depending on how you looked at this, you could decide that it does or it doesn't. It talks about designating, not establishing; it doesn't talk about paying for anything, and it has not been moved in any event.

● (1810)

Mr. Brian Jean: I'm not asking to exclude this particular amendment. I'm not asking that at all. I'm just asking what the parameters are that we move in.

I've heard it before, but new charges not anticipated—

The Chair: In the estimates.

Mr. Brian Jean: How would this not require a royal recommendation? It requires a new body, new expenditures of money.

The Chair: Again, I would be guided by Mr. Moffet's words before that it doesn't establish a new body; it designates an independent body that may already exist.

As for the outcome of the negotiations, I don't know how those negotiations would wind up. It commits the Government of Canada to "negotiate—for the purpose of designating an independent body responsible for", etc. Those negotiations may or may not end up designating that body.

Mr. Brian Jean: I think the taxpayers would be pleased to know that the government's not going to spend any money on doing this, but I would suggest that, on the contrary, it would require expenditure to do this. That's why I'm wondering where the line is, because there is no way this body is going to be set up without some sort of expenditure.

The Chair: That would depend on the outcome of those negotiations. All this does—and Monsieur Bigras, you can jump in here because it's your amendment—is commit the government to negotiate.

[*Translation*]

Mr. Bernard Bigras: I asked that this clause be allowed to stand for the time being. I think it's possible to do that and move on. I'd like us to move on to BQ-6, which may settle the matter of BQ-4.

[*English*]

The Chair: Is that acceptable to members, that we stand that one until we get—

Hon. John Godfrey (Don Valley West, Lib.): Like Mr. Jean, I'm a little confused here.

This is not said in any hostile way, but if there is an implication that there is spending, which process happens first? Do you pronounce on its acceptability on the royal recommendation issue, or do you not consider it because you've stood it aside and you don't come back and worry about that until you actually look at it? What's the sequence of events? If it turned out that it needed a royal recommendation, then it would be stood aside forever, so to speak, wouldn't it?

The Chair: The Speaker, of course, always has the option of ruling on something like this too.

The suggestion has been that it be stood because there will be some discussion of amendments BQ-6 and BQ-15 that may wind up being relevant.

[*Translation*]

Mr. Bernard Bigras: I'd also like some clarification as to what is considered an expenditure. I know the Liberals have moved some amendments that could involve expenditures. I'd like some advice as to what is considered to be in the nature of an expenditure and I'd like to know if the amendments that have been moved thus far will be swept under the rug.

I'm concerned because we have introduced several amendments, as have the Liberals. Is there not a danger here that three-quarters of the amendments that have been introduced and debated will be ruled out of order?

[*English*]

The Chair: What I have been going on is the difference in the language here about the Government of Canada being committed to negotiate with the provinces. It doesn't presuppose how those negotiations would finish and whether it would be an expenditure or not. If it's an existing body, there may not be.

Go ahead.

[*Translation*]

Mr. Bernard Bigras: There is nothing telling us who will be responsible for covering the expenses of this independent body. The reference here is to negotiating "with the provinces for the purpose of designating an independent body". For example—and this is just an hypothesis—the provinces could very well pick up the tab. There is nothing to say that the costs would have to be covered by the federal government.

The amended section would read as follows:

> 8.1 Within six months after the day on which this Act comes into force, the Government of Canada shall negotiate with the provinces for the purpose of designating an independent body responsible for—

As I see it, adopting this amendment is not a commitment to incur expenses.

● (1815)

[*English*]

The Chair: Mr. Jean, I'm sorry, Mr. Cullen was first.

Mr. Nathan Cullen: Thanks, Chair.

One question is for you, Mr. Moffet, in terms of the interpretation of this, that it's to designate to an existing body, thereby avoiding any expenditures. I think the fundamental question that's been raised is in terms of why the commissioner amendment failed because it was deemed royal recommendation and this one might not. So that's to Mr. Moffet.

I have one comment to Mr. Jean about this being out of order because it's amending to CEPA. That is how Bill C-30 works. It's one long stretch of amendments primarily to CEPA. So on that as an objection, and maybe I missed his point, there's no problem with that. It's what we're doing all along the way.

So there are those two pieces.

The Chair: Just before we go to Mr. McGuinty, the distinction in my mind was that the Liberal amendment specifically called for the establishment of, and clearly some expenditure. This calls for negotiations with the provinces.

Mr. Nathan Cullen: I just want to be clear with you, then, that because this is designating pre-existing things, your interpretation is that there's a potential for no money to be spent at all.

The Chair: Exactly.

Mr. Nathan Cullen: Okay.

Then on that question to Mr. Moffet, it's actually important to me. Has the department considered which body that might be? I'm trying to think of what organization or group that exists between the feds and the provinces right now might handle that. None pops to mind. You might consider NRTEE, but that's an expenditure, for sure, to get them to do extra work.

The Chair: Mr. McGuinty and then Mr. Jean, and then we're going to eventually—

Mr. David McGuinty: Thanks, Mr. Chair.

On this debate about royal recommendation, this is precisely why I raised it last Thursday, because I knew this was going to cause problems throughout all of these amendments put forward to amend Bill C-30. That's why I put two questions to the parliamentary secretary before I was heckled down, asking for clarification from the government. What constitutes royal recommendation expenditure and what does not? It's not clear to me. It's not clear to committee members right now. We're going to have a series.

As a former trial attorney, I would say that one could argue that this costs money. I could argue that there are probably three or four other amendments in this package of amendments that would cost money. That's why I put two pointed and specific questions to the parliamentary secretary last Thursday to try to solve this problem, Mr. Chair, before we went on this journey. That's why I raised it specifically at the front end of this process last Thursday.

I still don't have an answer. Now, clearly the government itself doesn't have an answer. So I think it would be important to nail this down before we go any further, because if this is going to be an issue that's raised in every second or subsequent or third amendment, we're going to have a problem as to what constitutes royal recommendation and what calls for expenditure and what does not.

The Chair: Mr. Jean.

Mr. Brian Jean: Thank you, Mr. Chair.

I don't know if other members of this committee have had legislative experience, but I was on a legislative committee one year ago, and there was a Liberal chair, and certainly there were members from all parties. How it was explained to us, as far as relevancy goes, not as far as royal recommendation goes, was that you have a ball of legislation and you can make amendments to that legislation, but as soon as you go outside of that ball and put something that's separate and apart as an entity, it has no relevancy to the legislation itself. In this particular case, I think that could be successfully argued, not only royal recommendation but the relevancy of it.

Quite frankly, many of the amendments are the same way. I think we need clarification as to what the chair is going to accept as far as amendments go and the relevancy of them, and whether or not they require royal recommendation, because if it's outside of that legislative ball, which is Bill C-30 and the legislation.... An amendment is an amendment, but a complete change or something outside of that ball is not relevant.

I would ask the chair to make a determination in relation to both of those issues.

The Chair: Your point is taken, and the chair will do that. We're going to break for the vote and that will give the chair a little time to consult with the people who are....

An hon. member: Can we go to vote?

The Chair: Yes, that means we are suspended. Thank you. Good work.

● _____ (Pause) _____

●

● (1850)

The Chair: Let us reconvene. Let's get back to the issue at hand before the break.

Some concerns have been raised regarding the admissibility of amendment BQ-4. You've put the chair in a somewhat difficult position, which I recognize is your job, in the sense that I'm being essentially asked to rule on an amendment that has not yet been moved, and in fact Monsieur Bigras specifically asked that it be stood.

I will say this in an attempt to be helpful. I examined BQ-4, as we had already talked about, and was of the opinion that it was admissible because of the differences that I mentioned. The other ones are very specific; this is very vague. It does not presuppose the outcome of a future negotiation. If Monsieur Bigras wishes to formally move the amendment right now, then I'd be pleased to hear any points of order regarding its admissibility. But my initial impression is that it would be in order.

So does the committee wish to stand BQ-4, or do members wish to have it moved and deal with it now?

● (1855)

[*Translation*]

Mr. Bernard Bigras: I move that this amendment stand.

[*English*]

The Chair: The proposal is to stand BQ-4. Do we have agreement on that? BQ-4 is stood. Thank you.

In reference to trying to make blanket rulings in advance, I'm not in a position to do that. I look at the amendments as they come up. Hopefully I will have an opportunity to look at them ahead of time and I'll have an idea formed in my mind, and it will be based on as much logic and advice as I can muster, and we'll deal with them one by one as this situation comes up.

So moving right along, I call clause 5.

(On clause 5)

The Chair: The first amendment to clause 5 is NDP-11 on page 18. I will point out that there are some line conflicts with NDP-12 on page 19, with L-18 and BQ-5 on page 20. We're going to go slowly because this may get confusing. The net impact of that is that if NDP-11 is adopted, NDP-12, L-18, and BQ-5 cannot be put. You can only amend a line once.

Mr. Cullen, would you like to move your amendment or speak to your amendment?

Mr. Nathan Cullen: Thank you, Chair. I'm contemplating the decision you've just made for us this evening as well. It complicates things slightly. But we'll push on and see where we get.

There's problematic language in what Bill C-30 proposed in terms of equivalency. This NDP-11 amendment is trying to move out some of that language. This is highly contingent upon some of the other conversations going on with some of the Bloc and Liberal considerations, but we still think this has merit, because the whole equivalency regime, the way Bill C-30 is designed right now, has presented a number of problems that were brought forward by witnesses. What equivalency measures are brought forward by provincial governments, and how do they then affect the overall situation of the country? If equivalency is read the wrong way, as we believe it is in the language right now, under Bill C-30, it opens up opportunity for provinces to make some initial efforts, but actually falls far short of what our international obligations are holding us to and, in a sense, makes the concept of national targets even more difficult to achieve, because provinces will have various equivalencies that they've then orchestrated with the government that don't as a summation add up to what we actually want to achieve as a country.

So I move that amendment. I'm open to conversations. I think there's room for us to combine some of the better elements of these amendments and proceed.

● (1900)

The Chair: Discussion? Mr. Warawa.

Mr. Mark Warawa: Chair, I would suggest that we stand clause 5 to work on equivalency language that would strengthen the bill.

I would ask that we stand this clause 5.

The Chair: Is there agreement on that?

I think something may become obvious in a couple of these.

(Amendment allowed to stand)

(Clause 5 allowed to stand)

The Chair: Mr. Jean.

Mr. Brian Jean: I was going to ask what the main contention of Mr. Cullen is in relation to this particular clause. I know we've stood it, but I just wonder if we could have a 20-second general discussion as to whether he's opposed to the results-oriented equivalency, or would he like to see more about a process-oriented equivalency?

I read the amendment with interest. It would be good to get his reasoning behind what he opposed.

Mr. Nathan Cullen: This is going to combine with what a number of the other amendments that are—I'm getting feedback here. I actually asked for the volume to be turned up, but I didn't realize what I was asking for.

While there could be some differences between what each province seeks to do and their own measures to meet a national standard, if the equivalency is not held by some objective standard, it will be impossible until much later, after the fact, as we've seen with even the federal programs. If you can't clearly delineate what the policy is as to how many carbon emission reductions you can expect —If a province comes forward with an equivalency that says it will move so many automobiles off the road or that it will make so many of them of a lower emission standard, they have to be able to account for that in the same way as the federal government is accounting for it, so there aren't apples and oranges and so the province next door can't make claims. If you don't have clarity with the accountability, you'll have an inter-jurisdictional mess between provinces, with some of them saying, "We've met our targets", and others saying, "No, you didn't".

We believe if you don't clear up the language—and I know we're going to stand this motion—that will connect back to funding, because we imagine the federal government will use contingency funding through this process. So if province X says, "This is the equivalency we're doing to your plant", the government will say, "Here's a certain amount of money, if you actually meet those targets you're setting". If you don't have the same comparison of the effect, which is at the heart of this debate, then there's no way for Canada to stand on the international stage to say this is what we've done, but more importantly, this is what we're going to do.

Your equivalency agreements are a series of different measures, and none of them are really objective. So we have a caution over the language the Bloc is going to be supporting. I think there have been some potential modifications that we're willing to look at.

That's the root of it. We need to have the same language, if you will, when talking about greenhouse gas emissions from coast to coast to coast.

Mr. Brian Jean: If I may, you're asking for an objective test that is results oriented and that looks at the ultimate results.

Mr. Nathan Cullen: Yes.

Some of this language gets reinterpreted by the lawyers in terms of what the provinces are mandated to do in a results-oriented equivalency. A province saying that it will reduce so many tonnes of carbon and then choosing to buy a bunch of credits in the short term may achieve the result policy-wise, but it may not actually be to the benefit of the country because the structural changes haven't been made. It's usually the structural changes that go first, rather than something where you just buy credits. That's probably a good example of the pitfalls that exist with an equivalency.

We do have some history with this, though, in CEPA and some other places, so it's not as if we have to recast the wheel. We've done this before. Mr. Mills, who has joined us, will know that better than most.

The Chair: I'd like to move on, then, if we could. We've had more discussion on that than procedure would normally allow.

Moving on to new clause 5.1, which is BQ-6 on page 21, it's the GHG territorial approach.

● (1905)

[*Translation*]

Mr. Bernard Bigras: I thought that we stood clause 5 in its entirety.

[*English*]

The Chair: This is a new clause 5.1.

I will point out that you may want to stand this one too, because of the relationship of this one back to BQ-4—again—and BQ-10.

There may be some merit in considering looking at everything that has amendments attached up to clause 18, because everything really starts happening at clause 18. We can go through and, if it's amenable, carry the clauses that have no amendments attached—there aren't too many—and proceed up to clause 18. We'll stand everything other than what we've passed up to clause 18. We could start with clause 18, because that's where the real meat is, and then come back to the other ones, because a lot of these are contingent on what's coming after clause 18.

Go ahead, Mr. Cullen.

Mr. Nathan Cullen: Mr. Chair, just for the sake of the process, are you suggesting this to the committee right now—that we stand them all and go right to clause 18?

The Chair: I'm just throwing that out for consideration, because I think we're going to see this happening—

Mr. Nathan Cullen: Under that consideration, can you give us a minute to consider this? That changes a lot of the objectives and the work that we've done for this evening in expecting more of a process through the clauses in a numerical fashion.

The Chair: I have no problem with that. There are four or five or so that have no amendments attached. We could go ahead procedurally and just pass those.

Why don't we suspend for a maximum of five minutes? The cookies should be here shortly.

● _____ (Pause) _____ ●

● (1910)

The Chair: Could we return to the table?

We have a slightly modified—very slightly modified—suggestion, in the interest of making some progress. With some discussion around the room, I'm going to make a slightly modified suggestion on that, so that we can tick off some of the things we may be able to get done here.

Start with clause 6. Start with clauses that, at least in our analysis, have no consequential implications or line conflicts, or clauses for which we have received no amendments, so we can step through those. I suspect enough discussion may come up on those anyway. We can deal with some of them, tick them off, and work our way towards clause 18, which we probably won't get to today. But we will at least have a number of clauses dealt with, and we can start putting some X's on the wall to say that we've made some progress here.

Is that agreeable? Mr. Cullen.

Mr. Nathan Cullen: Chair, just to clarify, I missed the very first part of what you said, that we're going to deal with territoriality—

The Chair: No.

Mr. Nathan Cullen: We'll just pass over it for now, go through some of the not—and then we're going to turn back.

● (1915)

The Chair: We'll deal with some of the ones where there are no amendments that we've received or no consequential nature or line conflicts.

Monsieur Bigras.

[*Translation*]

Mr. Bernard Bigras: In my view, we're not far off from an amendment that we could move on clause 5 and the question of adopting a territorial approach. Therefore, I have no objections to moving on to clause 6 and then quickly coming back to clause 5 later. As a see it, we would settle a good bit of the various discussions that we have had thus far.

Can you give us your assurance that we will come back to clause 5 immediately after we have dispensed with clause 6?

I'd like five minutes, since we're working on an amendment to clause 5.

[*English*]

The Chair: Okay, so you're not prepared to start with clause 6 until you've had a couple more minutes. Is that what you're saying?

[*Translation*]

Mr. Bernard Bigras: We could in fact move on to clause 6. I suppose you're going to suggest that we move on to amendment BQ-7.

[*English*]

The Chair: No, BQ-7, which is clause 6.

[*Translation*]

Mr. Bernard Bigras: I move that we proceed to amendment BQ-7 while we await the drafting of an amendment to clause 5.

[*English*]

The Chair: So you're happy to start with clause 6, which is BQ-7, and then go back to clause 5.

Is that agreeable around the room, so we can get going on something here?

Some hon. members: Agreed.

The Chair: All right.

(On clause 6)

The Chair: Moving right along, then, the relevant amendment is BQ-7, on page 24.

Monsieur Bigras, I'll ask you to address that.

[*Translation*]

Mr. Bernard Bigras: Amendment BQ-7 proposes the following: That Bill C-30, in Clause 6, be amended by replacing line 12 on page 5 with the following:

> "to pollution prevention and greenhouse gases."

In point of fact, the purpose of the amendment is to add the words "greenhouses gases" after the words "pollution prevention". Thus, the amended clause would read as follows:

> (5) The Ministers may conduct research and studies relating to the effectiveness of mitigation and control technologies and techniques relating to pollution prevention and greenhouse gases".

We're proposed that the words "and greenhouse gases" be tacked on to the end of the clause.

[*English*]

The Chair: Okay, is there debate on that?

Mr. Cullen

[*Translation*]

Mr. Nathan Cullen: Why do we need this amendment? We'd have to know if the minister can do this now or whether we need to add a new responsibility. Perhaps the officials could field that question.

Mr. Bernard Bigras: If the purpose of this particular clause is to have research and studies conducted on the effectiveness of pollution control techniques, I believe that a number of relevant technologies do exist. I also believe that this verification could be done provided we want Bill C-30 to address greenhouse gases as well as different technologies. Therefore, we can arrange it so that the ministers in fact conduct research relating to greenhouse gases and the effectiveness of various techniques.

[*English*]

The Chair: Is there further debate or advice or input from Mr. Moffet?

Mr. John Moffet: In response to Mr. Cullen's question, it's certainly my view that the addition of greenhouse gases is redundant, that the departments have the capacity to research, that the authority that's given in CEPA now to conduct research into pollution prevention gives us plenty of scope to research options for preventing the creation and release of greenhouse gases.

The Chair: Mr. Godfrey.

Hon. John Godfrey: By the same logic, does that same authority allow the effectiveness and mitigation and control technologies and techniques related to pollution prevention? If it's unnecessary to do one, is it unnecessary to do the other?

● (1920)

Mr. John Moffet: Sorry, could you repeat that?

Hon. John Godfrey: I'm sorry. If I understood your argument about the amendment—

The Chair: Mr. Moffet is looking something up.

Mr. Jean.

Mr. Brian Jean: My comments would probably be directed toward Mr. Moffet.

I'm wondering, Mr. Bigras, if I may—I quite frankly see the value of this particular amendment to include greenhouse gases and pollution as separate. That is BQ-7. I don't see the harm in it. I think it's good to deal obviously with both and to include both.

The Chair: Do we have any further debate on that?

Mr. Moffet. We'll take our time.

Mr. John Moffet: I'm not sure I completely follow your question. I may have misspoken. But what I'm trying to suggest is that the amendment that Bill C-30 provides to expand the authority to cover pollution prevention would give us all the authority we need to also look at techniques and technologies for reducing or preventing the creation of greenhouse gases.

Hon. John Godfrey: My question is, without that amendment, does CEPA not have the authority, do the ministers not have the authority to conduct the research for the effect of some mitigation control technology? They don't have that authority now? It's a fairly general authority.

Mr. John Moffet: I think what the amendment does is try to make that authority explicit. We conduct that research now. Let's be candid; we conduct it now. The authority is implicit in many of the provisions in the statute. We're just trying to make it explicit.

Hon. John Godfrey: But once you start making that explicit, then why not make, as the BQ suggests, the reference to climate change explicit as well? It just seems to me, once you're making things explicit, if they have that—

Mr. John Moffet: My concern there would be that you'd be distinguishing research into greenhouse gas emissions as being something different from pollution prevention. The working interpretation that we have, at any rate, is that pollution prevention is broad enough to cover greenhouse gas reduction. If you set them up as two terms, then they're two different things.

The Chair: Monsieur Bigras.

[*Translation*]

Mr. Bernard Bigras: That's precisely the aim of the opposition's recommendations. We also feel that there is a difference between air pollution and greenhouse gases. Basically, with this amendment, we want to emphasize that in recent years, techniques have been developed to reduce greenhouse gas emissions.

Since the Minister and his government intend to fight pollution by adopting Bill C-30, we're simply asking that they also address the problem of greenhouse gases. This would shed light on the effectiveness of techniques that will be developed. Therefore, if it hasn't already been done, why not include this in the act?

[*English*]

Mr. John Moffet: What I'm trying to say is not that the technologies are the same, but that the term "pollution prevention" is broad enough to cover toxic substances, solid waste, greenhouse gases, and energy waste. It's a very broad term that was defined through a process that the federal government and provinces agreed to about a decade ago, precisely so that it would cover all of these issues.

If you distinguish between greenhouse gases and pollution prevention, then you're implying that the reduction of greenhouse gases is not covered under pollution prevention. That's the only point I'm trying to get at here.

● (1925)

The Chair: Mr. Jean.

Mr. Brian Jean: I tend to agree, with respect, with Mr. Bigras.

I would refer everybody to page 2 of the act, the definitions section. We have two things defined: air pollutants and greenhouse gases.

With respect, I'm wondering if Mr. Bigras would consider a friendly amendment whereby we put in the use of those two terms, for consistency in legislation and also for an understanding of where the act is going.

I think Mr. Bigras is right on the mark here, and to put in wording to encompass those two terms, which are already defined in the clause—In essence, the amendment would be to prevent air pollutants and greenhouse gases, which I think would be consistent with what he would say. It would also be consistent with the definition section.

Would you be prepared to take a friendly amendment, Mr. Bigras?

The Chair: Monsieur Bigras.

[*Translation*]

Mr. Bernard Bigras: As I see it, we're trying to amend this bill to address problems such as climate change and greenhouse gases.

I don't see that adding the words “greenhouse gases” poses a problem. At the outset, Mr. Jean admitted that we spent weeks studying carbon storage technologies with a view to addressing the problem of climate change and greenhouse gases.

I believe we're on point by asking that we take a close look at existing technologies. In any event, whether or not one agrees with the different technologies, all we're asking is that the different techniques aimed at reducing greenhouse gas emissions be examined.

[*English*]

The Chair: Mr. Cullen.

Mr. Nathan Cullen: Regarding Mr. Jean's proposal to go back and affect some of the parts of Bill C-30 that deal with definitions, if you'll notice, in the ones from the NDP that we stood before, we made a number of amendments to restore a number of the pollution definitions in CEPA that Bill C-30 actually jeopardized.

We heard from a number of witnesses that when Bill C-30 started to tamper with those definitions, it very much limited the scope of government action. That was not something we were interested in.

So while I would imagine he's trying to make a friendly suggestion here, going back into the definitions portion is a whole new conversation.

My only comment, to follow up with Mr. Bigras, is that I think the intention of his amendment is good. I just want to make sure that what I'm hearing from Mr. Moffet is that this doesn't, in any way that was not intended, start to muddy the waters a bit on what government is meant to do research on.

I don't suspect that was Mr. Bigras' intention. I want to hear from Mr. Moffet if that's what I'm to understand his comment on the amendment was. Was he saying that if you make this type of push through Bill C-30 and amend it in the Canadian Environmental Protection Act, it then somehow restricts or limits government's work and research on other things by defining it suddenly?

The Chair: I'll put that question to Mr. Moffet.

Mr. John Moffet: I think from a very strict legal reading that could be the consequence, and that's what I'm trying to avoid. However, if this amendment were to pass, I don't think it would have significant practical unintended consequences. From an official's perspective, I think we could live with this.

What I want to make clear is that the objective here is to expand the government's authority to research police and prevention techniques and technologies defined as broadly as possible.

● (1930)

The Chair: Mr. Jean, do you have anything else?

Mr. Brian Jean: I was going to say that in the preamble the consistency that I was trying to suggest is, let's be consistent throughout the act. As somebody who has actually practised and litigated probably 100 different types of acts, consistency is the key. We have a definition section, and I'm sure Mr. Cullen may have amendments there, but even in the preamble we talk about air pollutants and greenhouse gases. I refer you to the preamble, clause 2. We talk about it consistently throughout.

Now if the definition clause that Mr. Cullen is bringing forward has some changes on that, then I think we have to look at that differently. Certainly consistency in the act and what Mr. Bigras was originally anticipating to propose I think is very good.

I just think the one thing that should be done is it should be consistent with the definition section. If the definition section changes, then of course, we have to go back to this particular clause and deal with it accordingly. To be blunt, I can't imagine what judge would read it that strictly, but I'm sure there are a couple somewhere in the universe, but it certainly states there are two particular things we want to regulate and it's consistent throughout the act in the regulation of it.

The Chair: Are you ready for the question?

Mr. Mark Warawa: I'd like a little clarification of the amendment.

The Chair: Were you proposing a friendly amendment?

Mr. Brian Jean: I didn't hear an answer to that.

Hon. John Godfrey: My only problem with the friendly amendment is that I don't think it works with the wording. You had, “to prevent pollution and greenhouse gases”. The way the paragraph reads is, “and control technologies and techniques related to pollution prevention and greenhouse gases”.

I don't think your friendly amendment would follow.

The Chair: Mr. Warawa.

Mr. Mark Warawa: Just to clarify, I think the intent of Mr. Jean is that after the word “techniques” it would read “related to air pollution”. You'd put the word “air” before the word pollution. It would be “related to air pollution and greenhouse gas prevention”.

Is that your intent?

Mr. Brian Jean: Is that what you're suggesting would be more appropriate, Mr. Godfrey?

Hon. John Godfrey: I think it was simpler to do what the amendment did, “related to pollution prevention and greenhouse gases”. I understood Mr. Jean was suggesting “to prevent pollution”. Maybe I misunderstood what you said as your friendly amendment.

The Chair: I think we have the correct wording.

Let me cover this. There's a friendly amendment proposed to Mr. Bigras, who does not accept it as a friendly amendment. Are we prepared for the question on the amendment?

Mr. Warawa.

Mr. Mark Warawa: I appreciate the intent of Mr. Bigras, but as the department has shared with us, the wording doesn't make sense as to what's been proposed. If we can get the wording that is satisfactory to Mr. Bigras, it would be helpful for us to move ahead in a logical way. If he's not happy with the friendly amendment as proposed by Mr. Jean, then I would ask that we do—

The purpose of this is to strengthen, and what we're hearing from the department is that it's not strengthening, it's causing confusion. We need to get the wording right before we move ahead. Could we have five minutes to work with Mr. Bigras and, I hope, get a wording that will achieve what he's asking, but also make sense?

The Chair: The other option, of course, is to move a subamendment that could be voted on.

Mr. Mark Warawa: Okay.

Mr. Bigras, would it be okay to meet with you to get wording that would be satisfactory to both of us, as opposed to my moving an amendment, and if that's not accepted, then you—?

I think we want to find some common ground. Could we break for five minutes?

● (1935)

[*Translation*]

Mr. Bernard Bigras: We're going to take a break?

[*English*]

The Chair: We may have to order more cookies, but we're suspended for five minutes.

● (Pause) ●

The Chair: Order, please. Gentlemen, ladies, let's resume.

Monsieur Bigras, what have you and Mr. Warawa discussed?

[*Translation*]

Mr. Bernard Bigras: Mr. Chairman, I get the feeling that we may be slowly getting somewhere. We've agreed on a friendly amendment, one that Mr. Wawara could have moved himself.

We're proposing that the words “air pollutants” be added after the words “pollution prevention”.

The amended clause would now read as follows:

(5) The Ministers may conduct research and studies relating to the effectiveness of mitigation and control technologies and techniques relating to pollution prevention, air pollutants and greenhouse gases.

● (1940)

The Chair: So then, the wording would be: “[...] pollution prevention, air pollutants and greenhouse gases.”

[*English*]

Is that your friendly amendment, Mr. Warawa?

Mr. Mark Warawa: Yes. Again, just to clarify the exact wording, I'd just like to read it out. It would read, “to pollution prevention, or air pollutants and greenhouse gases”.

Is that the agreement?

[*Translation*]

Mr. Bernard Bigras: The wording would be “pollution prevention, air pollutants and greenhouse gases”, not “pollution prevention, air pollutants or greenhouse gases.”

[*English*]

It's not “or”, it's “and”.

The Chair: No, actually, I think the translation probably is. If we add the first part of the sentence, I think it makes more sense: “effectiveness of mitigation and control technologies and techniques related to pollution prevention, air pollutants and greenhouse gases”. Is that correct?

[*Translation*]

Mr. Bernard Bigras: Precisely.

[*English*]

The Chair: Mr. Warawa, is that your understanding?

Mr. Mark Warawa: Yes, but could I just ask Mr. Moffet something, through you, Chair?

I think that clarifies it. Do you see a problem with that?

Mr. John Moffet: I apologize for being difficult, but what is the final word? Is it “and” or “or”?

The Chair: It's a comma. What I heard, *en français et en anglais*, was “to pollution prevention, air pollutants and greenhouse gases”.

[*Translation*]

So then, the wording in French would be “[...], prévention de la pollution, aux polluants de l'air et aux gaz à effet de serre.”

[*English*]

In Spanish, I can't help you.

So that is your friendly amendment. Is it accepted, Monsieur Bigras?

[*Translation*]

Mr. Bernard Bigras: Correct.

[*English*]

The Chair: We will vote on the amendment.

Mr. Mark Warawa: Yes, amendment BQ-7, with the friendly amendment.

The Chair: Okay, we'll get into the practice of holding our hands up for a couple of minutes, or long enough that the clerk can make sure he has everybody.

(Amendment agreed to)

(Clause 6 as amended agreed to)

● (1945)

The Chair: That wasn't so tough. Take the rest of the day off...not so fast.

Now, do you want to go back to the new clause 5.1? There's an amendment to what you would have. Of course, the amendment is not moved until it's moved at the committee.

Monsieur Lussier.

[*Translation*]

Mr. Marcel Lussier (Brossard—La Prairie, BQ): Mr. Chairman, I'd like to propose a few minor amendments. I'd like committee members to agree to this friendly amendment.

I'm referring here to amendment BQ-6 which proposes to add clause 5.1

For starters, in line 4 of the French version of subsection 10.1(1), I would like to replace the word "déclarer" with the words "peut déclarer". Accordingly, in line 2 of the English version of the same provision, I'd like to substitute the word "may" for the word "shall".

Moving on to my second proposed amendment, the French version often refers to "l'organisme indépendant". I'd like to replace this with the words "la Banque d'investissement vert du Canada" or, as it is called in English, the "Green Investment Bank of Canada", or GIBC. The expressions "organisme indépendant" appears several times in the bill. We'd like to see this expression which appears in subsections 10.1(1), 10.1(2), 10.1(4), 10.1(5) and 10.1(6) as well as in paragraph 10.1(6)(b) replaced by the expression "Banque d'investissement vert du Canada."

As for paragraph 10.1(1)a), we're proposing a minor change. The amended version would read as follows in French:

> (a) d'une part, des dispositions visant la lutte contre les émissions de gaz a effet de serre qui ont un effet équivalent aux réductions requises par le budget carbone national telles que décrites à l'article 103.02.

The referenced provision would now be 103.02, not 103.071.

Does everyone have a clear understanding of the proposed change? On the back of the sheet, you will find the amended wording and different referenced provision.

Lastly, we are proposing one final change: in paragraph 10.1(6)(a), we're suggesting that the words "on request from the province in respect of which the notice was issued" be deleted and replaced with "on request from either of the parties to the agreement". Consequently, instead of limiting this power to one province, it would be extended to all parties to the agreement.

The Chair: Is that everything?

Thank you.

[*English*]

Mr. Jean.

Mr. Brian Jean: I'm just wondering about the translation. My French is very bad, so I won't try to attempt that, as my translation might be lost.

In proposed paragraph 10.1(6)(a), are you suggesting that, for instance, a municipality could be the body that is considered to be carbon neutral? Could a municipality in fact receive an order from council on application?

● (1950)

[*Translation*]

Mr. Marcel Lussier: No, because previously, the provision said "on request from the province". Now, we're proposing that it read "on request from either of the parties to the agreement". I believe the parties to the agreement are the federal government, the provinces and the territories.

Mr. Bernard Bigras: In section 10.1—

[*English*]

Mr. Brian Jean: I'm just trying to understand, because I don't. Does this mean that under your proposed section 10.1, a municipality, as a government, could apply for an order declaring that the provisions of the act don't apply there?

[*Translation*]

Mr. Marcel Lussier: Are you referring to section 10.1(1)?

The Chair: Yes.

Mr. Marcel Lussier: There is no mention made of municipalities, only of the provinces.

[*English*]

Mr. Brian Jean: No, but then I don't understand your proposed subsection 10.1(6). You're suggesting that in proposed paragraph (6)(a), you would take out the reference to the provinces and substitute instead—

[*Translation*]

Mr. Marcel Lussier: —by the words "either of the parties to the agreement".

The Chair: Go ahead, Mr. Bigras.

Mr. Bernard Bigras: To my mind, it's clear that the provision does not contain a reference to municipalities. Immediately following the reference to the Green Investment Bank of Canada, subsection 10.1(1) notes the following: "determines by notice in writing, on request from a province, that there are in force by or under the laws applicable [...]". Consequently, the reference is to a request from a province. Unless I find out that municipalities are included in this amendment, I really don't see where you're going with this.

[*English*]

The Chair: I'll go to Mr. Cullen in just a second, but my understanding is that by "either of the parties", we mean either the province or the federal government.

An hon. member: Exactly.

The Chair: Is that what you mean?

An hon. member:*Oui*.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: I understand Mr. Jean's confusion. I'm not sure why we'd make that particular change if what we mean is what was said the first time. Perhaps there has been some change.

There are two points I want to raise as we consider these changes. One is that we don't have this translated. Some of these are of some substance, so we might need a bit of time to make sure what we're being asked to vote on is what we understand. If the translation is being done, then that's fine.

The Chair: My understanding is that it's not necessary to translate it when it's changed in committee as we go along.

Mr. Nathan Cullen: I'm sorry, but when what?

The Chair: It could be in either language. It's not required to translate it to move it and vote on it in committee.

Mr. Nathan Cullen: I want to understand that better.

While I have this, there is no green investment bank of Canada. I understand the concept and I understand that negotiations are going on, but this obviously seems contingent upon something in the future that we haven't created yet. There may have to be some changes to this to reference those parts of the act that I think the Liberals were hoping to change with this green investment bank.

I don't want to state the obvious, but the only reason I raise this is that we have some changes we want to make to the green investment bank. If we can't get them, then we're not into it. Voting for this is suddenly contingent upon this new item of debate.

While I appreciate the spirit of what's going on here in terms of people modifying their amendments and trying to seek some common ground, we want to make sure we always understand what we're voting for. At this point, this one gets a little tricky for me to understand it. Once we get through some of those questions, I want to get back to this equivalency conversation, because it's extremely important to us.

The Chair: Perhaps I could ask Monsieur Bigras to address the relationship between this and amendments L-19.1 and L-21.1, because that's where the GIBC comes up, I believe.

● (1955)

[*Translation*]

Mr. Bernard Bigras: There is in fact a connection with the Green Investment Bank of Canada. If a province were to decide to adopt certain measures and if these were equivalent in terms of emission reductions, the province could issue a notice. The latter would be evaluated by the Green Investment Bank of Canada which would then make a ruling. Amendment BQ-6 notes the following:

> (2) The independent body shall publish a notice referred to in subsection (1) before it is issued, or give notice of its availability, in the *Canada Gazette* [...]

Therefore, a province wishing to adopt greenhouse gas emissions reduction measures could submit its plan to the GIBC. The latter would first be required to publish a notice in the *Canada Gazette* and, within 60 days after publishing the notice, it would be required to file comments or a notice of objection with the province. Within this 60-day period, the GIBC would publish a summary of the follow-up given to the comments. In shorts, comments could be filed regarding the notice. A decision could then be made. The written notice under subsection (1) could be revoked upon prior notice given by the GIBC.

The purpose of this approach is to allow a province that has decided to put forward a climate change plan in keeping with the aims of a national body to carry out its plan, provided the anticipated results are deemed equivalent to the ones the national body hopes to attain.

We're talking here about providing some flexibility and the possibility of maximizing every dollar spent on addressing climate change problems. We're proposing a decentralized approach that allows Ottawa to retain some oversight responsibility. Perhaps later we can think about a penalty regime.

Regardless, this approach would allow the provinces to implement their own plan. It's not a question of assuming that every climate change proposal submitted by a province would be acceptable under the national program. Proposed measures would need to be evaluated by this national body, in this case, the GIBC. There would be a consultation process and the notice would be published in the *Canada Gazette*. Comments or notices of objection could be filed, following which a ruling would be made.

[*English*]

The Chair: Mr. Jean.

Mr. Brian Jean: Mr. Chairman, with respect, seeing as the clerk referred me to Marleau and Montpetit, one of my favourite nighttime readings to get a good sleep, a royal recommendation would be required, depending on the definition of the green investment bank. It would certainly according to page 711 which says:

> An appropriation accompanied by a royal recommendation, though it can be reduced, can neither be increased nor redirected without a new recommendation.

It goes on in paragraph 3 to say:

> A royal recommendation not only fixes the allowable charge, but also its objects, purposes, conditions and qualifications. An amendment which either increases the amount of an appropriation, or extends its objects, purposes, conditions and qualifications is inadmissible on the grounds that it infringes on the Crown's financial initiative.

The Chair: Where is that again?

Mr. Brian Jean: It's on page 711, paragraph 3.

Mr. Chair, going on, I cannot see how a green investment bank would not fit in at least three of those qualifications for inadmissibility. Therefore, if a green investment bank, depending on the definition of it, is inadmissible, then this clause is inadmissible.

The Chair: Mr. Godfrey.

Hon. John Godfrey: But the first reference to the green investment bank would be in amendment L-19.1, which simply says that there shall be negotiations with the objective of creating or designating an independent agency to be known as the Green Investment Bank of Canada.

So the objections that Mr. Jean raises are solved by L-19.1, which simply says that there shall be negotiations with the objective of establishing such a thing. So the BQ amendment can't come into force until there is a green investment bank, following a period of consultation, so there is no spending.

● (2000)

The Chair: Mr. Jean.

Mr. Brian Jean: Mr. Chair, with respect, I think paragraph 3 on page 711 needs to be taken into consideration in regard to the green investment bank in the Liberal amendment. I do not think it meets the qualifications of not being inadmissible, because it extends the object.

The Chair: Can I ask my Liberal colleagues if there's another amendment coming that this is contingent upon, or is it just standing alone?

The Bloc one is obviously consequential to that—

Mr. Brian Jean: To amendment L-19.1.

The Chair: Yes.

Well, let me ask Mr. Moffet or somebody down at the other end of the table. In the previous one we talked about the objective of designating an independent agency—I'll go by the word "create" for the moment—to be known as GIBC.

Could the CIBC become the GIBC?

Mr. John Moffet: Well, I don't know whether the CIBC could. Presumably that depends on the CIBC's charter. But L-19.1 is clear that the consultations are about either creating or designating, so the amendment has, I think, been drafted very carefully not to predetermine the nature of the organization. It could be an existing one that's designated. Somebody else could create one that would then be designated. Or the government might choose to create one. The authority to create isn't in here; it's just the authority to consult on possibly creating or designating.

The Chair: My inclination is to go back to what I ruled on the other one, about the fact that it's simply a negotiation. We're not presupposing the outcome of the negotiation. It's not actually creating a body; it's negotiating to discuss identifying or creating, which would be consistent with the last one.

Mr. Cullen. And then I'll come back to you.

Mr. Nathan Cullen: Because this amendment has now become connected with one that's further on, just by language, if Mr. Bigras were open to the concept of potentially naming this green investment bank that we've yet to potentially designate or create, that it would be this or some equivalent body, just to free up our process here—Because within this there are some other questions of equivalency that I'm still concerned with.

It doesn't necessarily tie our vote to this bank, because as I said earlier, we haven't bought into the process entirely yet. It's hard to vote for one that's directly connected to something that's still in play. If we can open the language somehow—I don't know if there are considerations, or maybe it's open enough as it is, that there's this duty to consult about the creation of this thing.

I'm just trying to find a way through, find a way that we can get to some resolution on this.

The Chair: Monsieur Bigras, would you be amenable to that kind of wording that talks about the GIBC or some equivalent body?

[*Translation*]

Mr. Bernard Bigras: In a previous amendment, we proposed that an independent body be created, namely the Green Investment Bank of Canada. Had we felt differently, we would have gone along with the original wording.

● (2005)

[*English*]

The Chair: I mean, to keep it open, would it offend you to go back to the vaguer notion? It could be called the GIBC, or it could be called, ultimately, whatever it wants to be called.

[*Translation*]

Mr. Bernard Bigras: I'd have to think about it.

[*English*]

The Chair: Mr. Jean, you had your hand up.

Mr. Brian Jean: I did. As I read this proposed section again—I don't need to read it in the record for the third time—it does talk about qualifications, and I don't see how amendment L-19.1 isn't a qualifier if there are going to be actual negotiations between the provinces and the federal government.

I don't see how we can have any of these discussions until we formalize what the green development bank is, until it's brought before this committee—which I think is inappropriate, because I think it's part and parcel of something else—and dealt with by way of vote, and it's decided whether or not Mr. Cullen is happy with the green development bank and what it is, or whether Mr. Bigras is happy with it or we're happy with it or Mr. McGuinty's happy with it. But right now, we're talking about a bill that refers to something that has no definition, and we don't even know what it is.

But certainly I would suggest it's inadmissible, based upon Marleau and Montpetit, page 711. I don't see how it can't be.

The Chair: I've already given you my impression on that one, but we're not quite there yet.

Monsieur Bigras and then Mr. Cullen.

[*Translation*]

Mr. Bernard Bigras: I understand, Mr. Chairman, but in the original version, the expression "independent body" wasn't defined either. Now we've given it a name, and I don't see how that makes the amendment any less admissible. Maybe Mr. Jean doesn't like the name. But it's only a name.

[*English*]

Mr. Brian Jean: Mr. Chair, with respect, I'm not suggesting that the government has a problem with this mechanism, but we don't know what the mechanism is. We don't have any definition or parameters to understand what it is. So we're asking to vote on something that doesn't have any parameters to define what it is. It talks about a mechanism, which, in my mind, means it's going to do something. I would like to know what the members of the other parties think it's going to do before we decide on whether or not it's even appropriate to decide. And I think we should stand it down, at the very least, to get on to what the green development mechanism is going to be about.

The Chair: I will go back again, Mr. Jean, to the ruling that I made on the other one about negotiating without presupposing the outcome of the negotiation. I see this as being the same or very similar.

Monsieur Bigras.

[*Translation*]

Mr. Bernard Bigras: Could we take a five-minute break to take stock of the situation? Perhaps we could come back with a motion.

[*English*]

The Chair: Mr. Cullen had his hand up before that.

Did you want to comment before we break?

[*Translation*]

Mr. Nathan Cullen: I agree. That's also what I would recommend.

[*English*]

The Chair: Okay, *cinq minutes*.

● _____ (Pause) _____

●

● (2010)

The Chair: Monsieur Bigras.

[*Translation*]

Mr. Bernard Bigras: I understand Mr. Jean's concerns, in that the Green Investment Bank of Canada is not defined as such and that this creates a dilemma of sorts. Therefore, I ask that BQ-6 stand until such time as we have discussed other amendments. Shall we move on to the next amendment?

● (2015)

[*English*]

The Chair: Thank you.

(Amendment allowed to stand)

The Chair: We started successfully with clause 6, so I'd like to keep moving on to the things we can tick off and put in the done box.

(Clause 7 agreed to)

(On clause 8)

The Chair: There is one amendment to clause 8, which is BQ-8 on page 25.

Monsieur Bigras, or Monsieur Lussier.

[*Translation*]

Mr. Bernard Bigras: I move that Bill C-30, in Clause 8, be amended by replacing lines 31 to 33 on page 5 with the following:

"air pollution or global warming;"

What we're saying is that while substances as well as fuels can certainly contribute significantly to air pollution, consideration should also be given in both cases to global warming.

[*English*]

The Chair: Mr. Warawa.

Mr. Mark Warawa: To Mr. Moffet or any of the officials, could you comment on that, please?

Mr. John Moffet: I'd like to bring two points to your attention.

First, the working interpretation of the departments is that "air pollution" is broad enough to cover the effects on climate of both air pollutants like smog, etc., and greenhouse gas. So like the previous one, I would ask you to think about whether this is potentially redundant.

Second, certainly the departments are focusing their work on more than global warming. We're focusing on the effects of climate change, of which global warming is just one of the potential concerns.

The Chair: Mr. Jean.

Mr. Brian Jean: After going to Reykjavik several years ago, I'm wondering whether "climate change" would be better terminology than "global warming", because obviously climate change is in our north. I know it's a result of global warming—but that's just my two cents' worth.

Just to make the terminology consistent, I think "climate change" is more consistent than "global warming". I don't know how that transfers into French, but certainly climate change is a terminology used consistently.

The Chair: Mr. Cullen, you had a hand up.

Mr. Nathan Cullen: Yes, thank you, Chair.

I refer back to it. It's one of these amendments of which I'm trying to understand the benefit versus the water-muddying potential. The intention seems clear, but in terms of process for this committee, is this something we want to be involved in? You almost want to cast back through the bill to find places where it says "air pollution".

As it is right now, we find it acceptable to start including "global warming". It seems to open up how this air pollution is different from something else. It's not, from what I'm hearing from Mr. Moffet —We might end up voting for this, but I would caution against continually adding in terms—particularly if there's no need to—if it's clear as it is.

Maybe Monsieur Bigras can clarify—this is meant with all good intention—what addition this brings to the bill, to give me greater understanding.

● (2020)

The Chair: I'll go to Mr. McGuinty. He had his hand up.

Mr. David McGuinty: I have a question, Mr. Chair, for Mr. Moffet. Can you help us understand why, in the first instance, Bill C-30 has replacement wording for paragraph 46(1)(g) of CEPA? What was the import of doing so?

If you follow me, paragraph 46(1)(g) of the existing CEPA talks about "substances or fuels that may contribute significantly to air pollution". Bill C-30 then strips away "substances", talks about "fuels", but then adds again "substances" and then adds the word "activities". What is this trying to catch? Do you know?

Mr. John Moffet: We made these changes for very technical legal reasons, to correlate to some existing statutory language in the existing act. I'll ask our counsel, Michel Ares, to explain.

Mr. David McGuinty: Monsieur Ares, could you please answer? When I first read this—and in fact, every time I read it—including the amendment put forward by the Bloc, I was wondering why the notion of activities was added here. Are we missing something here? Is there a new power your department is seeking, or is there something that's not caught with this long list of information gathering under section 46 of CEPA itself?

Mr. Michel Ares (Counsel, Department of Justice Canada): Mr. McGuinty, Mr. Chair, I will let Mr. Moffet talk to that issue of activities and why it was added. I can explain why proposed paragraphs (g) and (g.1) have been added.

As John Moffet explained, these are for very technical reasons. Since substances and activities needed to be added there from a policy point of view, we wanted fuels to keep in line with the regime that is set up for them in division 5 of part 7, which has its own tests, which are totally different from what you find in part 5 or the proposed part 5.1.

Proposed paragraph (g.1) follows exactly the kind of tests that you find in part 5 or in the proposed part 5.1. In other words, these sections were rejigged that way to make sure we're not creating any different tests from what already exists. It's a question of consistency throughout the act.

John, would you like to speak to that?

Mr. John Moffet: Maybe I can elaborate. As Monsieur Ares explained, the test for fuels is “contribute significantly to air pollution”. So we have similarly limited the power to gather information about fuels to fuels that may contribute significantly to air pollution. But we didn't want to have that “contribute significantly to” as a qualifier for our authority to gather information about other sources of air pollution. Hence proposed paragraphs (g) and (g.1), the separation of the two.

That's part of your question. The second part is, why did we go to “substances or activities” instead of just sticking to substances?

As you know, the original CEPA, or certainly part 5, was focused on individual substances and the impacts of substances. When you get into air pollution, and more particularly when you get into greenhouse gas, in order to regulate effectively we believe it would be useful to have the authority to understand better the nature of the activities that are under way in Canada that are contributing to air pollution and not have to tie our information-gathering authorities to individual substances that we designate. So for example, this would let us look at and request information from fossil-fuel-fired, electricity-generating activities as opposed to designating the substances that are coming out of the stack and limiting our information-gathering authorities to those substances.

Does that help?

● (2025)

Mr. David McGuinty: It does help. I'm just wondering, does “activities” go as far as embracing what could be described as economic activities? How much information gathering can go on under this expanded definition?

Can you go to an emitter and say you'd like to collect more information on the economics of the operation? Can you go to an emitter and say you'd like more information under this? Under the rubric of activities, could you ask about economic activities, investment activities, or are you talking more in terms of the physical plant and so on?

Mr. John Moffet: Good question.

The limitation is that the activity would have to contribute to air pollution. To be candid, we haven't thought through exactly how we would circumscribe that, except that it would be focused on air pollution.

Also, I draw your attention to the fact that there are considerable authorities in the act that are given to the targets of information collection to either argue that the information shouldn't be collected or to argue that the information constitutes confidential business information. We're not proposing to change or weaken those provisions in any way.

Mr. David McGuinty: Thank you.

Thanks, Mr. Chair.

The Chair: Mr. Bigras, I think you had something to add before this all started.

[*Translation*]

Mr. Bernard Bigras: First of all, I want to respond to Mr. Jean's friendly amendment. He's proposing that we substitute “climate change” for “global warming”. We don't have a problem with this friendly amendment. Why? Because fundamentally, we're simply asking that as much information as possible be collected to facility research and a better understanding of the state of the environment. Basically, with this amendment, we're asking that as much information as possible be compiled, on substances as well as on activities, to further our understanding of the state of the environment. That is the gist of our motion and therefore, we're prepared to go along with Mr. Jean's friendly amendment.

[*English*]

Mr. John Moffet: Mr. Chair, may I take the opportunity to reiterate the officials' concern. Our concern is not at all with the objective of trying to maximize the ability to gather information about climate change. Our concern is with the actual impact of these three words, “or climate change”, which would read down or distinguish from “air pollution”.

We've written Bill C-30 with the words “air pollution” throughout, with the intention that those two words include climate change. As soon as you distinguish the two, then you come back to Mr. Cullen's point: you have to go back and add them everywhere or else you have this dichotomy that maybe air pollution doesn't include climate change.

● (2030)

The Chair: Mr. McGuinty.

Mr. David McGuinty: I appreciate that explanation, but isn't that precisely what the government is trying to do here in this bill? Hasn't the government, in Bill C-30, been telling Canadians that we want to distinguish between air pollution and greenhouse gases?

I'm sorry, I'm getting mixed signals. You're saying that the officials are concerned about the bifurcation of air pollution and greenhouse gases. Yet I thought that what we've heard for months and months, in testimony from the government members, in communications, speeches, and the media, is that Bill C-30 is reframing for Canadians the entire question of air pollution and greenhouse gases. Do I have that wrong? The message incoming from the parliamentary secretary, the minister, and the Prime Minister is that we need something new that in fact bifurcates and splits the two, because the government has been saying that there's an air quality component and a greenhouse gas component.

Do I have something wrong here? Are the officials concerned about that entire split?

Mr. John Moffet: No, and I'm not here to replace the parliamentary secretary, but the words we're focusing on are "air pollution", "air pollutants", "climate change", and "greenhouse gases". What we're saying is that for legal purposes, for the purposes of the statute, air pollution includes the effects of air pollutants—smog, acidification of lakes, eutrophication of lakes, and so on—and the effects of greenhouse gas emissions, namely climate change.

So it's a statutory interpretation issue. What I'm saying is that the way the bill was written was to have the term "air pollution" be as broad as possible to encompass all those effects.

Mr. David McGuinty: I really don't want to belabour the point, but I'm looking at the definition of air pollution under the Canadian Environmental Protection Act. Perhaps somebody on the government side could help us understand that, and maybe we could come to a more successful conclusion.

When you look at the definition of air pollution under CEPA as it's presently written, there's not a reference to climate change or greenhouse gases. In fact, the closest thing that comes to the definition of air pollution, in the definitional section, which would substantiate the official's concern, is that:

> "air pollution" means a condition of the air, arising wholly or partly from the presence in the air of any substance, that directly or indirectly—
>
> (e) degrades or alters, or forms part of a process of degradation or alteration of, an ecosystem to an extent that is detrimental to its use by humans, animals or plants.

If climate change and greenhouse gases are inherent in your definition of air pollution, how come they're not here in the entire definition of air pollution under CEPA, and how come they're not amended in Bill C-30?

The Chair: I think you're getting a little argumentative—

Mr. John Moffet: If I could, I'll just explain it. It's our view that they are—

Mr. David McGuinty: Is that argumentative, Mr. Chair? I'm just trying to get clarification.

The Chair: [*Inaudible—Editor*]...discussion.

Mr. Moffet, go ahead.

Mr. John Moffet: To reiterate, it's our view that the adverse impacts of GHG emissions are encompassed in the definition of air pollution in paragraphs (a) through (e).

The Chair: That is the department's position.

We'll have Mr. Cullen, and then we'll perhaps move on.

Mr. Nathan Cullen: I'm going to direct this towards the government benches, and maybe the parliamentary secretary can clarify it.

I've heard—and this is going to mystify Canadians—that air pollution is a broad definition that includes things like air pollutants and greenhouse gases.

To the parliamentary secretary, were there any considerations taken by the government, when drafting Bill C-30, that this opened up the potential to not be able to apply CEPA to counteract any business or anybody emitting greenhouse gas emissions?

It's a good point. There should almost be a "do no harm" policy in the things we're doing with our clauses. When the government put Bill C-30 together, we believe there was some harm done to the effectiveness of CEPA. We'll get back to those. We have stayed a lot of those amendments. We're going to remove them.

Is it the government's position that this amendment by Mr. Bigras does harm to the effectiveness of the government to carry it out under these two very similar but very different definitions: one, air pollution being a broad category; and two, air pollutants being something under that in conjunction with greenhouse gases?

I take Mr. Moffet's position. If you add on "climate change or greenhouse gases", it seems you'd almost have to amend the whole bill. That does more harm than the value of including this amendment. I'm still trying to understand what the value really is.

Did the government consider any of the legal implications of starting to change some of these definitions, which they did, in Bill C-30 ? If they did, what did they consider in terms of Mr. Bigras' amendment?

● (2035)

Mr. Brian Jean: Actually, it was a government member who came forward with the friendly amendment. We think it defines more specifically what we're trying to address with this bill: one is on air pollutants, which deals with people in Toronto, Montreal, and Vancouver; and the other is on climate change, which deals with the people of our north. We want to be sensitive to that and make sure we collect data on both fronts.

Mr. Nathan Cullen: So "air pollutants" and "climate change or greenhouse gases" are two different things for the government in terms of working definitions?

The Chair: Mr. Jean or Mr. Warawa.

Mr. Brian Jean: Well, it's important.

Mr. Mark Warawa: It is important, Mr. Chair.

I appreciate the dialogue and the suggestions for clarification. Again, in asking for a friendly amendment.... If instead of "or" we had "air pollution, including global warming", would that be seen as a friendly amendment? I think it would provide clarity but also provide what the mover is looking for. It would be changing the word "or" to "including".

The Chair: We've already had a friendly amendment that says "air pollution or climate change". That friendly amendment has already been offered and accepted.

[*Translation*]

Mr. Bernard Bigras: I've already agreed to a friendly amendment.

[*English*]

An hon. member: And that was accepted?

[*Translation*]

Mr. Bernard Bigras: In fact, your colleague Mr. Jean has already moved a friendly amendment. That's what we're discussing right now and, unless I'm mistaken, that's the amendment that we must vote on at this time. We'll deal with other friendly amendments later, if need be, but as I see it, we must deal with the one currently on the table.

The Chair: However, you agreed to go along with this friendly amendment.

Mr. Bernard Bigras: I did.

[*English*]

The Chair: Let me read the motion as it stands:

> That Bill C-30, in clause 8, be amended by replacing lines 31 to 33 on page 5 with the following:
>
> air pollution or climate change;
>
> (g.1) substances or activities that may contribute to air pollution or climate change;

That's where it stands right now.

Monsieur Bigras, you're next on the speaking list. Did you want to add anything else? No? Are we prepared to proceed?

Mr. Brian Jean: Thank you, Mr. Chair.

Thank you for the committee's indulgence on this.

I understand a little more of the rationale. My understanding is that air pollution includes greenhouse gases and air pollutants. I'm not particularly satisfied with that—no disrespect to the department. I understand your legal ramifications and other reasons you would put air pollution and greenhouse gases as pollution. But from my perspective, I would agree more with Mr. Bigras on this. I think we need to be certain in relation to climate change.

The Chair: The motion is on the floor as amended with a friendly amendment. Are you ready for the question?

Shall I read the motion again? Okay. It reads as follows:

> That Bill C-30, in clause 8, be amended by replacing lines 31 to 33 on page 5 with the following:

● (2040)

[*Translation*]

> air pollution or global warming;
>
> (g.*1*) substances or activities that may contribute to air pollution or climate change;

[*English*]

I'm sorry, Mr. Moffet, you have a question or input?

Mr. John Moffet: At the risk of going out on a limb, I would like to make a suggestion based on my concern that the term "air pollution" is used throughout the bill, and if you make this amendment, you would then have to, for the purposes of clarifying, make it throughout the bill.

An alternative approach—you're all going to yell at me—would be to go back to the definition of air pollution and clarify that it includes climate change.

The Chair: I would point out that if we do not—

Mr. John Moffet: I understand that. That would simplify everything, because then you don't have to change the term as it appears everywhere. If you change it once, then you have it automatically everywhere.

The Chair: I'll just point out that if the amendment fails, that is the situation we would be in. Okay?

I'm calling the question on amendment BQ-8.

Mr. Brian Jean: I've heard from the department that we're going to have inconsistencies throughout the bill if we adopt this change.

An hon. member: [*Inaudible—Editor*]

The Chair: I pointed out that if the amendment passes, it passes. If it fails, then the wording is as in Bill C-30. So let that be your guide.

(Amendment negatived)

The Chair: Shall clause 8 carry?

Mr. Brian Jean: Mr. Chairman, I want the clerk to take note of the definition section and what Mr. Moffet brought forward, when we deal with the definitions, to include that so we can debate it.

The Chair: Do we want to suspend for a moment, since we seem to be unofficially suspended?

Okay, we are suspended officially for about two minutes.

● _____ (Pause) _____ ●

● (2045)

The Chair: Since we seem to be discussing the Quebec election more than anything else, could we reconvene, please?

(Clause 8 agreed to)

The Chair: It is ten minutes to nine. I know we said we would break at 9 o'clock. I have a feeling the next one will generate some discussion that will probably run well past 9 o'clock. So with your indulgence we will adjourn at this time and reconvene tomorrow at 9 o'clock. I suspect we will need a subcommittee meeting tomorrow after the last meeting to discuss progress.

This meeting is adjourned.