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Chair

Mr. Laurie Hawn

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● (0905)

[*English*]

The Chair (Mr. Laurie Hawn (Edmonton Centre, CPC)): I would like to call this meeting to order.

Ladies and gentlemen, welcome to meeting 25 of the special Legislative Committee on Bill C-30. We're getting close to the end here, and I appreciate your good work up to this point. Let's keep the same spirit going with this one.

I will have to ask the media to take their leave, if they don't mind.

To kick off, I'll just remind members that we are now at the stood clauses. The committee agreed earlier to stand a number of clauses, many of them substantive. So I would suggest that in taking up the stood clauses we consider the substantive clauses first, and once they're decided, then return to clause 2, the preamble, and clause 3, the interpretation clause.

Is that agreed?

Some hon. members: Agreed.

The Chair: The stood clauses, just to refresh your memory, are clauses 2, 3, 4, 4.1, 5, 5.1, 10, 10.1, 14, 22, 24, and 34.

We will be starting at clause 4. That is referred to by NDP-10, on page 15.

Mr. Cullen, how do you wish to proceed on that one?

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): This is one of those carry-overs, so it's consequential. We won't be moving it.

The Chair: Thank you.

So amendment NDP-10 will not be moved.

As I see no other amendments on clause 4, is there debate on clause 4?

(On clause 4)

Mr. David McGuinty (Ottawa South, Lib.): Thank you, Mr. Chair.

We are opposed to this clause because it would allow the minister to establish a national advisory committee to study greenhouse gases and CAC regulations. It's also not needed—and I think the officials can support this—because the minister can regulate greenhouse gases and CACs as toxics using the existing advisory committee provisions linked to subsection 93.(1).

Since the committee has already decided, I believe, to delete the government's proposal for parallel greenhouse gases and air pollutant systems in clause 18, with the passage of amendment L-21.1, this amendment is frankly no longer relevant and no longer needed. I think it would make Bill C-30 incoherent if it were to go through.

Thank you, Mr. Chair.

The Chair: Thank you.

Mr. Warawa first, and then I'll get some comment from the officials after that.

Mr. Mark Warawa (Langley, CPC): Well, Chair, that's what I was going to ask for, comment from the officials. It's my understanding that this would use the current committee, and I just want to clarify with the officials if that's correct.

I don't think Mr. McGuinty is correct in his assumptions.

The Chair: Mr. Moffet, would you care to comment?

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

Mr. McGuinty is correct in the sense that this provision is no longer needed. This doesn't actually establish a new committee. What we were trying to do was ensure that the national advisory committee, which is a federal-provincial-aboriginal committee that advises on all decisions under CEPA, would also advise on decisions made under the clean air part; hence the reference to subsection 103.09(2).

Now that there's no subsection103.09(2) we don't need this amendment. This committee would continue to provide advice on regulations made under section 93, which would be the primary regulatory authority as the bill is now constructed.

● (0910)

Mr. Mark Warawa: Just for clarification then—

Mr. John Moffet: We don't need it.

Mr. Mark Warawa: —we don't need it, but the committee already exists.

The Chair: Any further debate?

Mr. Mark Warawa: On what you're suggesting.... Bear with me, Chair.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: From our reading and what we heard from the officials just a moment ago, this clause references something that doesn't exist. Aside from differences of opinion over things....

The Chair: That's what we're trying to anticipate right now.

Mr. Nathan Cullen: I appreciate that the parliamentary secretary needs to do some consultation, but it goes nowhere.

The Chair: We just need to do it in the appropriate fashion.

Mr. Mark Warawa: For clarification, to the department officials, are you suggesting that clause 4 is no longer needed? That's what I thought I heard you say.

Mr. John Moffet: That's correct. It refers to a clause that no longer exists, so this clause of Bill C-30 is no longer needed.

Mr. Mark Warawa: Thank you.

(Clause 4 negatived)

The Chair: We'll now go to new clause 4.1, which is referred to by amendment BQ-4 on page 16.

Monsieur Bigras.

[*Translation*]

Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ): Mr. Chairman, I will not be moving the amendment because we already carried the Liberals' amendment yesterday or the day before. This amendment is therefore no longer justified.

[*English*]

The Chair: BQ-4 on new clause 4.1 is not moved.

We'll move on to clause 5, which starts with NDP-11 on page 18.

Mr. Cullen.

Mr. Nathan Cullen: Thank you, Chair.

This is the equivalency section for members as we catch up. We won't be moving our particular section, but if you seek it there may be some agreement to have different wording placed in the act that meets some of the needs and addresses the concerns we had with respect to the difference between equivalency of regulation and equivalency of effect.

I might turn it over to some of the government members to propose some language.

The Chair: Mr. Warawa, are you prepared to address that?

Mr. Mark Warawa: Thank you. I appreciate this opportunity.

We definitely want to provide clarification on equivalency, so we've provided an amendment. I'll read it into the record here.

The Chair: I appreciate what's going on, but I didn't realize this was a government amendment. There are three amendments ahead of this. We may get through them very quickly here.

Mr. Cullen, are you moving NDP-11?

Mr. Nathan Cullen: No. Do we have new language on the table?

The Chair: We will, but we have a couple of steps to go through first.

Mr. Nathan Cullen: Okay. I will not move NDP-11.

The Chair: There is a new amendment coming with the wording we talked about.

Next is NDP-12.

Mr. Nathan Cullen: Give me just a moment on that one.

● (0915)

The Chair: We will take a few minutes while we're waiting for copies. There needs to be a bit of chat across the floor here.

● (0915)

(Pause)

● (0920)

The Chair: Are we ready to roll? Hearing no nays, I'll call us back in session. We are back on amendment NDP-12.

Mr. Cullen.

Mr. Nathan Cullen: I didn't move amendment NDP-12, in order to allow the government to move its—

The Chair: You didn't move amendment NDP-11 in order to do that, but amendment NDP-12 is the next one.

Mr. Nathan Cullen: It's the same.

The Chair: Okay, NDP-12 is not moved.

We have two more to get to before we get to that.

Mr. Nathan Cullen: I see, it won't be called till later.

The Chair: It's coming right up.

On amendment L-18, Mr. McGuinty.

Mr. David McGuinty: Again, Mr. Chair, this is basically to make sure we're jibing with the amendments we put into clause 18, so it's more of a technical amendment.

I was just going to ask if there's a line conflict between this one and the amendment put forward by....

The Chair: There was, but amendment L-18 could be put only if amendments NDP-11 and NDP-12 were negatived. Amendments NDP-11 and NDP-12 were not moved, so there is no conflict.

Mr. David McGuinty: Then is it possible to stand this one, Mr. Chair, until after we hear from the government and have more of a merits-based debate about the equivalency provisions?

The Chair: Okay, we will stand amendment L-18.

(Amendment allowed to stand)

The Chair: Amendment BQ-5 is next in the batting order.

Mr. Bigras.

[*Translation*]

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

I will stand amendment BQ-5 until we have discussed the government's amendment.

[*English*]

The Chair: We are being requested to stand amendment BQ-5 until the government amendment. Is that agreed?

(Amendment allowed to stand)

● (0925)

The Chair: Now we are at government amendments G-4 and G-5. You won't have amendments G-4 and G-5 on there. Amendment G-4 is the bigger one that talks about replacing lines 4 to 5. Amendment G-5 is the smaller one that talks about adding something after line 9.

Mr. Warawa, the floor is yours. Could you read it slowly to help out the interpreters, please?

Mr. Mark Warawa: Thank you, Chair.

I'll begin with amendment G-4: that Bill C-30, in clause 5, be amended by replacing lines 4 to 5 on page 4 with the following:

> (a) provisions, the effects of which will demonstrably provide an equivalent or superior level of protection of the environment and human health based on, amongst other factors, the quantifiable effects of the regulation and the effective enforcement and compliance of the federal regulation;

That's amendment G-4.

The Chair: Do you have that? Is there debate on amendment G-4?

Mr. Cullen had his hand up first.

Mr. Nathan Cullen: Thank you, Chair.

The language that we began with has been changed somewhat, but not, we believe, in the spirit and general substance of what we're trying to accomplish with this equivalency. We appreciate that the government moved it. We hope there is support around the committee table to place this one in and have something that the provinces and the federal government can understand when they enter into agreements or when they make subsequential pollution laws to keep pollution below certain levels. We think this equivalency can work for us.

The Chair: Okay. Mr. McGuinty.

Mr. David McGuinty: We appreciate what the government is trying to do here, Mr. Chair. In layman's language, what we're trying to do here is to make sure that equivalency of effect is clarified, as opposed to equivalency of regulation—I think this is what this is trying to do—and to make sure that not only is it clarified, but that provinces, through something like equivalency of effect, cannot beg off or beg out of their obligations, which would otherwise apply to them under regulation.

I have a couple of concerns about this. I just want to hear from the officials. The first thing that jumps out is that when I see language like “will demonstrably provide”, I see judicial review written all over this. I'm not sure how this would be seen. The second concern is when we talk about the quantifiable effects of the regulation, I don't know what that means at all. I'm wondering if the officials who would be responsible for enforcing this can help us to understand.

The Chair: Mr. Moffet.

Mr. John Moffet: Mr. Chair, perhaps I could just start at the beginning and explain the initial rationale for the amendment to Bill C-30, in clause 5. It is indeed as all three members who have spoken have emphasized.

To make explicit the desire that the test for equivalency be an effects-based test, CEPA, since 1988, has had an equivalency agreement authority in it. Since 1988, the federal government has only entered into one equivalency agreement with provinces and territories. We believe the rationale for that is at least twofold.

One reason is that, quite frankly, there has not been a lot of overlap and duplication, and therefore not a lot of need for equivalency yet. However, once we enter into the realm of air regulation and greenhouse gas regulation, we are certain to be into a world of potential overlap and duplication. So we see that dynamic changing.

The second reason we have not had a lot of interest in equivalency agreements—and this is told to us by the provinces—is that they perceive, or at least some of them perceive, the test that is in CEPA now to be a form-based test. In other words, they read the test to mean that they need a regulation where we have a regulation. Of course, in the world of air pollution, most provinces don't regulate air pollution by means of regulation. They have statutory authority to issue permits, licences, certificates of approval, into which they impose conditions on air emissions. So if you don't have a regulation and the test says you need a regulation, then no matter how stringent your rules are, you can't qualify. It's our view that the existing test doesn't actually require provincial regulations. Nonetheless, that's the perception. So what we tried to do in Bill C-30 is clarify that we're looking for equivalent outcomes or equivalent effects. That's what Bill C-30 does.

I read the government's amendment, as Mr. McGuinty and Mr. Cullen are also reading it, as an attempt to clarify what we mean by “effects” and an attempt to clarify that we're looking for equal or better for the environment or human health. So I think we're all on the same page in terms of the objective.

Mr. McGuinty asked about some of the wording here. In the wording in Bill C-30, in proposed section 10, the test is that "the Ministers and the government agree" that there are provisions, "the effects of which are equivalent". So whereas this says "the effects of which will demonstrably provide", "demonstrably provide" is a legal term of art that establishes a much higher test than "the Ministers... agree". As Mr. McGuinty has suggested, that would make any decision to enter into an equivalency agreement much more open to judicial review, and once being judicially reviewed, a judge would have more rights to dig into the rationale for the agreement. If the legal test is one of essentially ministerial discretion, the courts tend to pay a good deal of respect and give the minister a good deal of leeway.

Once you start establishing a test like "demonstrably provide", and "quantifiable effects", then you're inviting a court to dig into the rationale for the agreement. So yes, I think it's our view that this would open an agreement to more judicial review. It's clearly up to you to decide whether that's what you want or not.

You also asked, Mr. McGuinty, about the test of "quantifiable effects". I think there's a little vagueness here, because it's not clear on what—the quantifiable effects of the regulation on what? Is it on the regulatee, or on the ultimate objective, the environment or health? So that is something that is vague at the moment.

● (0930)

Frankly, I'm not sure what the final clause means. On what we're getting at here, when we have policies on how we will look at equivalency, we want to know the likelihood that a rule will be complied with, not just that you have it on the books.

The example I've given many people is that some time ago—as anybody knows who has driven in the United States—the U.S. passed a law that the speed limit would be 55 miles an hour on all highways. Some of the northwestern states are major thoroughfares for truckers, and at least one of them said, "Fine, you're telling me I need to have 55 miles an hour on my highway. I'll do that, but the fine will be $10." So they meet the test, they have the law, but they're not going to enforce it.

We would want to know that the province not only has a law on the books, but will enforce it. I'm not sure this test puts that criterion into law effectively. At any rate, in the department to date we've chosen to leave that as something we will look at as a matter of policy, rather than trying to codify it.

I believe that's the intention here—to get at that issue of likelihood of compliance. If it is, there may be a way to clarify that.

The Chair: Monsieur Bigras.

[*Translation*]

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

It is good of Mr. Moffet that he give us a little bit of the history of equivalency, because that is at the very heart of the debate today. The reality is that the provisions of the Canadian Environmental Protection Act, as they are presently drafted, have not convinced the majority of provinces to sign equivalency agreements. Perhaps I am mistaken — you did not mention this —, but to date, Alberta is the only one to have signed an equivalency agreement with the federal government. What is fundamental in this, is that you must take into account systems that are sometimes, and even very often, different in the provinces. Without being a brake, this is a reality that prevents the enforcement of the provisions of the Canadian Environmental Protection Act that provide for regulatory equivalency. These differences between systems make it difficult to establish equivalency agreements.

When we read the changes with regard to equivalency outlined in Bill C-30, at the outset we wondered if we were on the right track. This allows, precisely, for not enforcing rules that would be directly imposed and copied in a province. This will not necessarily deliver the results you might expect under the Canadian Environmental Protection Act. At the same time, we are aware of the fact that environmental groups want to see results and there was perhaps some fuzziness with regard to these simple effects related to equivalency. This is why we believe that even more benchmarks should be established. This was not our original position, but we wound up rallying to the idea that it is indeed necessary to better define this equivalency based upon the effects, taking into account the results, and that these results should also be quantifiable. In our view, tying the equivalency of effects to the fact that they must be quantifiable is a step in the right direction and gives us more flexibility. It is also a way of ensuring that equivalency will not apply without some guarantee of concrete results on the part of the provinces. I believe that this is the spirit of the amendment brought forward by the government and, it is to my mind a good compromise between the two schools of thought.

● (0935)

[*English*]

The Chair: Mr. Cullen.

Mr. Nathan Cullen: When we look at what exists right now on the books in CEPA, as Mr. Bigras has pointed out, subsection 10(3) says: "subject to subsections (4), (5) and (6), where the Minister and a government agree in writing that there are in force by or under the laws applicable". The language that exists right now on equivalency in CEPA, as has been said, is not that strong.

On Mr. McGuinty's question about quantifiable effect, when we're talking about greenhouse gas emissions and air pollutants, we think that can pass a pretty clear test—the quantifiable effect of the government trying to lower greenhouse gas emissions across an industrial sector. A province can understand the quantifiable effect of so many tonnes of greenhouse gas emission reductions, quantify that back, and try to meet an equivalent law or regulation at the provincial level.

We think the language goes a long way toward actually tightening up what's available for provinces and the federal government to agree upon, which is the thing we're trying to get done. We've seen provinces go ahead with their own so-called Kyoto or climate change plans, and the question is how they dovetail into what the federal government might be trying to do. It's an important question, because we do not need to be duplicating efforts. We don't have enough effort as it is. We definitely don't need to be running over top of each other.

We're comfortable with the language. It may not yet be perfect, but it's definitely an evolution from what we have right now. We think it deserves support and we should call the vote.

The Chair: Mr. Godfrey, do you wish to comment?

Hon. John Godfrey (Don Valley West, Lib.): Sure. I have a question for Mr. Moffet.

The challenge is to be able to measure these effects in a way we can all agree about. If we simply refer to the idea that in the opinion of the ministers it's equivalent or superior, how the heck do you prove that? In other words, it seems like a fairly open door to any kind of negotiation at all.

We need to have some test or quantifiable way of seeing how these effects really are equivalent, and that we're not just trying to buy peace in the valley by signing some deal with folks.

Is there a way we can reduce that apparent element of subjectivity by the ministers so there's some kind of reassurance that what we're trying to get at here, this quantifiable business...? Is there alternative wording that takes us to that place but doesn't leave it entirely to the ministers—something that overcomes your own objections, so to speak?

● (0940)

Mr. John Moffet: I want to try to be careful. I'm not posing objections. I'm trying to identify implications of the language that may be positive or negative, depending on your view. I'm not taking a position on this.

I commented on three phrases. One is “demonstrably provide”. That is a different legal test. So there's that issue.

The second issue is “quantifiable effects of the regulation”. The main challenge there, in my view, is that it doesn't say on what, whereas the clause starts out saying the effects would provide an equal or superior level of protection in the environment and human health. I think if that's the objective, then you would want to say “the quantifiable effects on the environment and human health of the regulation”. Do you see what I mean? You could interpret it, and you could have a big debate about what the effects are on.

Again, presumably we want to focus on the outcome, as opposed to procedures, reports, or whatever. If you're looking for suggested language to clarify while staying within the intent, I think that would give my colleagues and me some comfort in terms of our ability to interpret this.

The third concern I had was the final clause. I'm not sure I can give you a suggestion there. However, I would like to close with two other points.

First, I think that government has a second amendment. I'm not sure if they're going to move it, but G-6 would say that the agreement shall establish a manner of determining whether the terms and conditions are being fully met. In other words, this would require that each agreement have written into it a customized way of determining, of doing that very measurement. At the moment there is no such obligation on the drafters of the agreement.

In fact, the current agreement does have this, but there's no obligation for us to have that. This would recognize the fact that each agreement is going to be customized and one is going to address pulp and paper effluent, and another is going to address GHG regulations. The way we measure and the kinds of outcomes we're looking at are completely different. This would require that you have that test in the agreement itself.

The second point is that there is an amendment, a further provision—

The Chair: We're getting ahead of ourselves here.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Point of order. That's presupposing there's something that there's not. Why don't we just deal with what we have here in front of us?

The Chair: We need to deal with this amendment. Your comments on the ones that are going to follow it are relevant, but we can't get too far ahead. We're dealing with G-4 right now.

Mr. John Moffet: I'll take your guidance, but it's a package. The whole clause is a package. You can try to put everything in one single subclause. The final clause that is in here is the authority for the minister to draft regulations, or for the Governor in Council to draft regulations respecting the circumstances and conditions under which equivalency agreements can be entered into.

● (0945)

The Chair: Mr. Moffet, I recognize it is a package, but we have to take it a bite at a time. I think everybody is familiar with Bill C-30, and they're going to have to read ahead themselves, or think ahead themselves a little. We have to deal with what we're dealing with right now.

Mr. Godfrey, do you have a comment?

Hon. John Godfrey: Mr. Chair, I sense that we're in the zone and that there are simply some mechanical issues here. I think that if something subsequent might change our thinking or help us out, that would be a good idea. I'm a little concerned about trying to draft in a committee of the whole when we're in quite a close area of agreement here, and it's simply a question of inserting all the right things at the right places.

I think the government has given us some good stuff to work on is what I'm saying here, and I'm not sure we're going to be able to just draft it like that. Maybe we can take a five-minute break and get folks banging heads together or providing their best thoughts.

The Chair: That's a suggestion.

Mr. Cullen, and then Mr. Jean.

Mr. Nathan Cullen: Yes, I get that sense as well, Mr. Godfrey, so what I would suggest is we allow some of our staff to work on this, as we're very near to it, and that we move on to the next piece of the discussion and return with this within 15 minutes of our discussion to clear up the language. That would give us some pace in moving on.

I hesitate, after 45 minutes, to start taking breaks.

The Chair: Yes, I agree. So we're going to agree to stand amendment G-4 and come back to it.

(Amendment allowed to stand)

The Chair: It may be helpful to go on to amendment G-5, which may in fact give you some further thoughts on this.

Mr. Warawa.

Mr. Mark Warawa: Okay, thank you, Chair.

Amendment G-5 would read as follows—and this is adding a new subclause 10(3.1): that Bill C-30, in paragraph 5(1)(b), be amended by adding, after line 9 on page 4, the following:

> (3.1) An agreement shall establish a manner of determining whether the terms and conditions of the agreement are being fully met.

I believe that's self-explanatory.

The Chair: Mr. McGuinty.

Mr. David McGuinty: I certainly could use some help understanding what this means, Mr. Chair. I don't understand what this means; I've no idea what this means. It must refer to something previously that I don't understand, because I have no idea what is meant by "An agreement shall establish a manner of determining whether the terms and conditions of the agreement are being fully met".

The Chair: Mr. Warawa, can you clarify?

Mr. Mark Warawa: To Mr. Moffet, please.

Mr. John Moffet: Amendment G-5? I don't have the numbers of the amendments, so I have misled the committee. I think I called this amendment G-6, whereas this is—

The Chair: You did. It's amendment G-5.

Mr. John Moffet: My apologies. I'm actually not making up amendments on the fly, here.

The Chair: That's okay.

So there's a question from Mr. McGuinty as to what amendment G-5 means.

Mr. John Moffet: As to what it means. I apologize, could you...?

Hon. John Godfrey: Should we just make sure we're on the same —

The Chair: Mr. McGunity, could you repeat your question?

Mr. David McGuinty: Do you have the amendment in front of you, Mr. Moffet?

Mr. John Moffet: I do.

Mr. David McGuinty: It reads, "An agreement shall establish a manner of determining whether the terms and conditions of the agreement are being fully met". I don't know what that means; I haven't got a clue.

Mr. John Moffet: To be completely candid, we're just seeing this language for the first time, as well. It's my assumption that the intention here is to ensure that each agreement would specify a mechanism, presumably including the kinds of things that have to be monitored, the kinds of indicators to be looked for, and which both parties would look at to confirm the agreement is being met on an ongoing basis. So it's not just a matter of whether we are entitled to enter into an agreement, but when we're into it six months, a year, or two years down the road, is there still equivalency—because of course the environment doesn't remain static.

If that's the objective, I think it goes some way to addressing the fact that each agreement will be distinct; each will address the particularity of the province, the particularity of the provincial legal regime, and the particularity of the environmental issue or issues that are subject to the agreement, and speak to the fact that each agreement therefore will have to be customized to a certain extent.

● (0950)

Mr. David McGuinty: Mr. Moffet, I understand that in plain English we're really trying to say any equivalency agreement that is struck should include some method of determining whether or not the terms and the conditions of the agreement are being fully met. Is that what this is trying to do?

It's to make sure that inherent to the actual equivalency agreement or inside the equivalency agreement, one of the points of agreement is that we will have some method or some manner of determining whether or not the terms and conditions of the overall agreement are being met. Is that right?

Mr. John Moffet: It's the way we read it as well.

Mr. David McGuinty: Thank you.

The Chair: Thank you.

[*Translation*]

Mr. Bigras, do you wish to speak?

Mr. Bernard Bigras: From what I understand, an equivalency agreement has been signed with Alberta, but it does not at the moment contain any mechanism for compliance verification. My understanding was that you wanted such a mechanism to be included in equivalency agreements, so as to ensure that the commitments on the part of the provinces, as well as on the part of the federal government be respected. Is that the case?

Furthermore, I would like to know what means the federal government has as its disposal to end an equivalency agreement and based upon what criteria it can do so. In the context of our BQ-6 amendment, we suggested several days ago that the written equivalency notice provided for in subsection (1) be revoked with three months' written notice by an independent organization. This was the organization we wanted to establish.

In the end, it would be the Green Investment Bank of Canada, by virtue of what was passed in the context of the Liberal amendments, which would now be responsible for determining if the agreement is consistent or not, or perhaps even if it should end. Did we not decide to charge this independent organization that we have created with carrying out this evaluation? These conformity mechanisms now come under it, do they not?

[*English*]

Mr. John Moffet: I'm happy to respond to both of those questions.

First of all, I do not want you to walk away thinking there is no basis for measuring equivalency under the current agreement. The point is that there is. The current agreement covers four regulations: pulp and paper effluent regulations, pulp and paper defoamer and wood chip regulations, secondary lead smelter regulations, and vinyl chloride release.

There's an annual report prepared jointly by the federal government and Alberta looking at the performance under the Alberta regulations, and this is being addressed.

The point I was trying to make is that the law, the statute, does not require it. To date you've left it to the good judgment of the officials. This would require us to do the right thing. We have done so, but this would require us to do it if you adopt the amendment. That's the first point.

Your second question was about the basis for terminating the agreement. On the amendments in Bill C-30, not new amendments but the Bill C-30 provision, clause 5 that amends section 10 of CEPA includes subsection 10(8), which states that

> An agreement made under subsection (3) terminates at the time that is specified in the agreement or by either party giving the other at least three months' notice.

If the federal government decides that the province is no longer enforcing its rules or has changed its rules, the federal government could terminate the agreement. In addition, the federal government in an urgent situation could always issue an interim order under CEPA to address an urgent issue.

Finally, under amendment G-5, the agreement would have to establish the manner of determining whether or not the agreement is being met, and it could include the establishment of a dispute resolution mechanism. I again think amendment G-5 would address a number of the concerns committee members have raised this morning.

● (0955)

The Chair: Mr. Godfrey, you're next.

Hon. John Godfrey: No, that's fine, thank you.

The Chair: Mr. Jean.

Mr. Brian Jean: I'm wondering if I could move a friendly amendment to proposed new subsection 10(3.1).

I wonder if Mr. Moffet could—

The Chair: Is this amendment G-5?

Mr. Brian Jean: Yes, sorry, amendment G-5.

It would be as follows: "(3.1)", and then strike out all the rest that follows except for

> A province which wishes to take advantage of equivalency shall provide a report annually to the federal government outlining how equivalency was met, outlining the amount of increase and/or reduction method to reduce in the sector of industry applicable and any other matter considered relevant to the parties to measure the results.

I think we need some sort of reporting. Wouldn't that make more sense than having an agreement to agree?

There are two things I have difficulty with. The first is—

The Chair: Mr. Jean, sorry, that is a brand-new amendment. We would have to deal with amendment G-5, because you've thrown out amendment G-5 and introduced an entirely new amendment.

Mr. Brian Jean: My difficulty, Mr. Chair, with this is that an agreement to agree, first of all, is nothing, in essence. It's an agreement to agree, but I am concerned about the consistency from province to province.

The Chair: I understand that, but procedurally you're not amending amendment G-5—

Mr. Brian Jean: I understand. I'll withdraw my amendment to amend, but I am concerned about that. I think an agreement to agree has many, many problems.

The Chair: I understand. Let's deal with amendment G-5, and if amendment G-5 doesn't work, then you have the option of proposing another amendment.

Mr. Brian Jean: I just want to let the opposition know where we're coming from. We don't want an agreement to agree. We would like some tougher language on that.

The Chair: It almost sounded like we had an agreement to let it be an agreement to agree, but....

Mr. McGuinty.

Mr. David McGuinty: Thanks, Mr. Chair.

I want to thank Mr. Moffet for his explanation. Just to recap, I understood that in the existing equivalency agreement with Alberta, for example, there was discretion vested in the officials to make sure there was compliance, that there was some method of evaluating whether or not the equivalency agreement actually had the effect it was intended to have. Is that right, Mr. Moffet?

But now what we're talking about is trying to close, in a sense, a small loophole, which is to take away the discretion of the officials to decide how they would evaluate, yes or no, whether the same effect is occurring. We want to build into the agreement itself a method of determining whether or not the terms and conditions of the overall agreement are being fully met. Do I understand that correctly?

● (1000)

Mr. John Moffet: Essentially, there is a slight nuance. The current agreement does have such terms in it. We didn't have to have those terms by law. This would require us to include similar terms in all future agreements.

Mr. David McGuinty: I would propose a friendly amendment to amendment G-5 that I think would make it very, very clear. It should simply read: "An agreement shall include a method of determining". Establishing a manner of determining is fine, but simply include a method of determining whether the terms and conditions of the agreement are being fully met.

The Chair: Can we deal with that as a friendly amendment?

Mr. Mark Warawa: Could Mr. McGuinty read that into the record again? "An agreement shall...."

Mr. David McGuinty: "An agreement shall include a method of determining".

Mr. Mark Warawa: Okay, instead of "establish a manner", it would say "include a method" of determining. That would be acceptable.

Mr. David McGuinty: Should we test that on the officials?

The Chair: Mr. Moffet, does that pass your test?

Mr. John Moffet: That's a weighty role you're imposing on me.

The word "manner" is used in a number of places in the act, so that's one we're more familiar with, but I don't think we can identify any serious issues this would raise for us in interpreting or applying the provision.

The Chair: Okay, it's still accepted?

Are we prepared for the question on amendment G-5?

Amendment G-5 now reads that Bill C-30, in clause 5, be amended by adding after line 9 on page 4 the following:

> (3.1) An agreement shall include a method of determining whether the terms and conditions of the agreement are being fully met.

(Amendment as amended agreed to)

The Chair: Now we will go back to amendment G-4.

Do you want your staff to carry on discussions and we'll press on, or do you want a suspension? Are you saying you wish to suspend or to carry on?

Hon. John Godfrey: Could we have two minutes?

The Chair: We will suspend for two minutes.

● (1000)

(Pause)

● (1010)

The Chair: Let's reconvene.

We are on amendment G-4, and I believe Mr. McGuinty may have an intervention.

Mr. David McGuinty: Thanks, Mr. Chair.

We've all had a chance to discuss this, and I'd like to put a friendly amendment forward. It would be important for Mr. Moffet to hear this, and staff as well.

I am working on amendment G-4: "That Bill C-30, in clause 5, be amended by replacing lines 4 to 5 on page 4 with the following...". Does everyone have that?

Going to the third line, which begins with "amongst other factors, the quantifiable effects of the regulation", we would insert, after "regulation", "on the environment and human health".

I'll repeat that. At the third line down, it would read: "amongst other factors, the quantifiable effects of the regulation on the environment and human health" and would continue with "and the effective enforcement".

● (1015)

The Chair: Is this accepted? I'm assuming that after all that discussion there is no further debate. Are we ready for the question on G-4?

Just to be super-clear again, I'll read it one more time. The motion is that Bill C-30, in clause 5, be amended by replacing lines 4 to 5 on page 4 with the following:

> (a) provisions, the effects of which will demonstrably provide an equivalent or superior level of protection of the environment and human health based on, among other factors, the quantifiable effects of the regulation on the environment and human health and the effective enforcement and compliance of the federal regulation; and

(Amendment agreed to)

The Chair: There, that wasn't so tough.

Are we prepared to go back to amendment L-18?

Mr. David McGuinty: Has this been formally moved yet, Mr. Chair? I didn't think so.

The Chair: No, it actually has not.

Mr. David McGuinty: All right. I'd like to move it, then, with a slight amendment.

The Chair: Just move it as you wish it moved.

Mr. David McGuinty: I'll move it as I wish it moved. Thank you very much.

It would read, "made under subsection 93(1), 103.05(2)," and then it would read, "103.07(2)(b), 118(1)". That would correct an improper reference to a particular passage.

The Chair: Did everybody have amendment L-18 in front of them when Mr. McGuinty was reading this?

What the amendment says now is that Bill C-30, in clause 5, be amended by replacing line 19 on page 3 with the following:

> made under subsection 93(1), 103.05(2), 103.07(2)(b), 118(1),

And don't forget the commas.

Est-ce que c'est clair, monsieur Lussier?

[*Translation*]

Mr. Marcel Lussier (Brossard—La Prairie, BQ): Clause 118 is not mentioned in the French version.

[*English*]

The Chair: It's already there in the French line of the text. It just wasn't touched in the amendment.

Is there any debate on this amendment?

Mr. Warawa.

Mr. Mark Warawa: I have a question to Mr. McGuinty, through you. Could he explain what this would accomplish? Then, could I have a response from Mr. Moffet, please?

The Chair: Mr. McGuinty, what would this change? What would this accomplish?

Mr. David McGuinty: It's a reference. It actually corrects the proper references pursuant to changes made under Liberal amendment 21.1.

The Chair: Okay.

Any further discussion or debate?

(Amendment agreed to)

● (1020)

The Chair: Moving on to BQ-5, Monsieur Bigras.

[*Translation*]

Mr. Bernard Bigras: Mr. Chairman, we are withdrawing amendment BQ-5, given our agreement of a few minutes ago with regard to equivalency.

[*English*]

The Chair: Okay, BQ-5 is not moved.

NDP-12.1, Mr. Cullen.

Mr. Nathan Cullen: Thank you, Mr. Chair.

What this goes to is it deletes proposed subsection 10(8). This is around termination. As it reads right now,

> An agreement made under subsection (3) terminates at the time that is specified in the agreement or by either party giving the other at least three months' notice.

It gives an indefinite time to an equivalency agreement. It could allow it to never expire, and there may be instances when an equivalency agreement is not right or it was proven not to be particularly effective.

What sits right now in the Canadian Environmental Protection Act —

The Chair: I'm seeing some confused faces. Does everybody have NDP-12.1? It wasn't part of the original package.

Mr. Nathan Cullen: Yes, but this was handed out a few days ago.

The Chair: Yes, you should have it, but I'm seeing some confused looks around the table. Is everybody happy?

Sorry, Mr. Cullen.

Mr. Nathan Cullen: Certainly, not at all.

Right now, under CEPA, the section under termination—this is about timelines—it says right now, " An agreement made under subsection (3) terminates five years after the date on which it comes into force or may be terminated earlier by either party...". And this is giving the notice that we've already been through in discussion.

The new part of Bill C-30, which we wish to delete, gives it this open-ended timeline, that it could be never terminated, and we think the way CEPA is originally crafted is stronger because it puts this timeline.

Of course, parties can agree to extend if it's working to mutual benefit, but it just doesn't make sense to us to have an indefinite period of time for termination. CEPA is much stronger the way it was.

The Chair: Mr. Moffet, would you have some comment on that, please?

Mr. John Moffet: Sure.

Two comments. First, I think I explained two of the reasons why the provinces, we understand, have been reluctant to enter into negotiations for equivalency agreements—namely, the lack of significant overlap and concern about the test. Another issue that has arisen is the mandatory five-year timeline in the act. As Mr. Cullen has indicated, some agreements....

The appropriate length of time for an agreement, I think we've concluded, would vary. In some cases, one might want them to be open-ended. In other cases, one might want them to be tied to existing federal-provincial arrangements, such as the Canada-wide standards regime established in 2000.

With a mandatory five-year limit in the statute, there's no way of matching some other regime that has a different time limit. There's also an obligation to renew agreements. One always runs the risk that an agreement might not be renewed, for whatever reason, at the appropriate time. Then there might be legal...I can't think of the right term; there might be an actual absence of regulations if the agreement isn't renewed at the appropriate time.

So the intention in Bill C-30 was absolutely to have a clear timeframe for an agreement, but to recognize also that the timeframe may differ from agreement to agreement, and that therefore the statute shouldn't stipulate the timeframe. That's the rationale for Bill C-30 the way it is now, for removing the five years.

I would also point out, respectfully, a technical problem with the amendment that's put forward. It would remove proposed subsection 10(8) in Bill C-30, but it actually would not reintroduce the mandatory five-year termination. So now, with this amendment, you would have a statute that says absolutely nothing about the termination of agreements.

In the bill as written, if you go back to the beginning of clause 5, you're replacing subsections 10(1) to (9) of the act, including subsection 10(8), which is the five-year termination. So then you wouldn't have anything; the result would be nothing about termination of agreements.

So if you want this, you need to change your amendment.

I've provided you with the rationale for the Bill C-30 provision. I'd be happy to answer any other questions on it.

● (1025)

The Chair: Mr. Jean.

Mr. Brian Jean: Mr. Chair, that was my point in relation to proposed subsection 10(8). I just wanted to make sure we had something at the end of the day.

The Chair: Mr. McGuinty.

Mr. David McGuinty: So as Bill C-30 is presently drafted, Mr. Moffet, there would be no reference to time limitation on an equivalency agreement signed with the province?

Mr. John Moffet: No, sorry; obviously I've misspoken.

The way Bill C-30 is written now, proposed subsection 10(8) says:

> An agreement made under subsection (3) terminates at the time that is specified in the agreement or by either party giving the other at least three months' notice.

Mr. David McGuinty: Is it possible to have an equivalency agreement without a time limit built into it?

Mr. John Moffet: I'm going to seek legal counsel on that....

The preliminary view, I think, is that this does not require a termination date. Conceivably there could be an open-ended agreement.

Mr. David McGuinty: There could be an indefinite agreement, and the parties shall revisit, etc.

So right now, in the construct we have, under both CEPA and Bill C-30, leaving aside Mr. Cullen's amendment for a second, it is possible, conceivably, to have an indefinite agreement?

Mr. John Moffet: No. CEPA imposes a five-year timeline.

Mr. David McGuinty: Right, right.

Mr. John Moffet: In Bill C-30, it's open-ended, a date in the agreement.

Mr. David McGuinty: Right.

That's fine, thanks.

The Chair: Thank you.

Mr. Cullen.

Mr. Nathan Cullen: As a point of clarification, maybe through the clerks, if we remove this proposed subsection about the open-ended timeframe, do we not revert to what exists within CEPA as it is right now? We've eliminated this, but CEPA has within it subsection 10(8).

Mr. John Moffet: No, and that's because of the way Bill C-30 is written. I apologize to members who are trying to follow numerous subclauses, but you have to go back to the beginning of clause 5 in Bill C-30, which replaces all of subsections "10(1) to (9)". That's the first thing you've done: you've gotten rid of them. Then you're replacing them.

Mr. Nathan Cullen: If we take Mr. Jean's comment and someone wishes to choose to move a friendly amendment to replace it with what is originally in CEPA, which has this five-year window, we'd be open to that, because it replaces what we and I think others have concerns with—which is this open-endedness—with what we've been relying on in CEPA, which is a five-year window for agreements.

As it is written right now, yes, an agreement can be written with no termination ever. With the nature of the things we're talking about here, large polluters or air pollutants, five years is a long time; things change—technologies change, requirements, international agreements. A lot can happen in five years with Canada's position and in its relationship with the provinces on what we're trying to get done.

The Chair: Mr. Moffet.

Mr. John Moffet: I may be entering too fully into the spirit of negotiation here, but I want to emphasize to members that provinces have told us that the more the act imposes rules from the outset, the more it appears that big brother is telling them what to do, and that's a deterrent to coming to the table.

An alternative could be to amend subsection 10(8) in Bill C-30 to require that an agreement specify a termination date. Then you wouldn't have a five-year, which might be inappropriate in some cases, but you would have the assurance of some kind of termination date.

The Chair: Mr. Bigras was next, but he's not at the table, so Mr. Cullen, go ahead.

Mr. Nathan Cullen: Just for efficacy's sake and to be clear—because we had some contrary advice that removing this would allow us to revert, but we take the position of the deputy as well—this would read as: "That Bill C-30 in clause 5 would be amended by deleting lines 31 through 34 on page 4, and in their place...", and then there would just be the text originally from CEPA: "An agreement made under subsection (3) terminates after five years...", and we can read that into the record, if we want to move on. We can provide text, but it's the text from the original CEPA agreement. It's at the committee's discretion.

● (1030)

The Chair: It would be considered a new amendment. You could withdraw NDP amendment 12.1—

Mr. Nathan Cullen: Surely. My apologies to the committee, but we were given advice that you can simply move this out and it reverts back. But clearly now, when you remove it, because of what the government did at the very beginning of this section by cancelling all of this, we have to re-introduce the termination clause that was originally in CEPA; and that we're willing to do as a new amendment.

The Chair: The advice then, is—at your call—to withdraw amendment NDP-12.1 and have a new amendment—

Mr. Nathan Cullen: Yes. This is not an attempt to drop a new amendment on the committee; this is just a clarity piece.

The Chair: I understand.

Monsieur Bigras.

[*Translation*]

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

I have here a copy of the Canadian Environmental Protection Act, or CEPA, in which I read the following:

> (7) An agreement... terminates five years after its coming into force or by either party giving the other at least three months' notice.

I would like to know if during the negotiations with the provinces in view of reaching an equivalency agreement, this five-year time frame hindered the negotiation of equivalency agreements.

[*English*]

Mr. John Moffet: The short answer is yes, it has.

A slightly longer answer is that in fact Alberta is the only province to get as far as saying we would like an equivalency agreement. We haven't entered into negotiations with other provinces and then had them fall apart, but other provinces have said, in response to our queries when we've asked why they aren't interested, that among other reasons the five years is a deterrent to their even coming to the table—including your own province.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: There are many reasons why provinces haven't established equivalency agreements with the feds. The fear of this five-year termination point.... Agreements get renegotiated all the time, extensions, if you will. I think what we're trying to establish here is that in the bad cases, when circumstances have changed, you want a trigger at the end that gives the federal government an easy way to say that conditions, technology, international agreements have changed, and we are entering into a new agreement. If the agreement is perfect and fine, and both parties are happy with it, an extension of that agreement for another five years is completely in order.

But I think it might mischaracterize the situation a little bit to say that the reason that there's only one equivalency agreement on this, between Alberta and the feds, and there have been no others, is because the provinces are worried about this five-year window that comes when the agreement might be terminated. If they seek to extend, and parties are happy, they'll extend a perfectly good agreement. I want us to be careful. The original drafters of CEPA, brought in in 1998, envisioned this as a positive step, not as a detriment to people entering into equivalency agreements.

Again, on the issues we're talking about, things change, and it seems foolhardy to have built into our act here something open-ended in terms of the time specified in the agreement, potentially forever. That just doesn't make sense in the world we live in.

The Chair: I think we're obviously bogging down here. Can I suggest, at your option, that if you want to have somebody draft an alternate amendment—

Mr. Nathan Cullen: Provide some text for the committee.

The Chair: And do you want to withdraw 12.1? Do you want to stand 12.1?

Mr. Nathan Cullen: It will look substantially different, so we'll withdraw it and reintroduce another piece.

The Chair: So you're withdrawing 12.1.

Mr. Godfrey.

● (1035)

Hon. John Godfrey: I support the proposed original amendment for a couple of reasons.

First, in the light of what we've just done to tighten up the equivalency agreements, we've just said we're going to have the quantifiable effects of regulation on human health and the environment; so we've already said that we're going to be measuring that, that they're quite high standards. It seems to me you've also got the safety valve that with three months' notice, at any point, if it's not going well, you can end the agreement. If something is working well, why would you not have an open-ended agreement, given those constraints, the ones we've just put in plus the fact that you can get out if it's not working for you? It seems to me a kind of artificial exercise to say every five years we've got to end this thing. Why fix it if it ain't broke would be my view.

I think we would support the original proposal under Bill C-30.

The Chair: We have not had consent to withdraw 12.1 yet, so let me be clear from my seat here. Are you proposing that you would support 12.1—

Hon. John Godfrey: I support the original.

The Chair: What's originally in Bill C-30.

Mr. Cullen has offered to withdraw—

Mr. Nathan Cullen: If I'm getting the sense, and I'm seeing that from the Conservative side as well, that people are unsupportive of putting that five-year condition in, then we'll withdraw it and we can move on to other things.

The Chair: Is it agreed to withdraw 12.1?

Some hon. members: Agreed.

The Chair: Mr. Jean and then Mr. Bigras.

Mr. Brian Jean: I think the key is, from our perspective, and from a drafter's perspective, that there's no difficulty—and I hate to say this at this stage—with a termination date as long as it has the ability to renew if it's not broken, as Mr. Godfrey said, and it has some ability for a termination date. Contractually, it has to have some option for that, and it would make sense that if it's not broken, let's not fix it. If it's not working, there are other mechanisms within Bill C-30 and CEPA to deal with that if it's not working. Certainly I don't think we'd have a problem with the termination date as long as there was the ability to renew it automatically, and indeed a notice period for parties to terminate, which seems to be fair in any contractual agreement, which there is.

The Chair: Mr. Bigras.

[*Translation*]

Mr. Bernard Bigras: I do not want to drag this out, because I find that we are somewhat going around in circles. The content of Bill C-30 is acceptable, in our opinion, unless some other amendment is tabled. I believe that we should be facilitating the establishment of these equivalency agreements. Thanks to the amendments that we have passed, we are providing a good and rigorous framework. Unless there are other amendments, I agree with what is provided for in Bill C-30.

[*English*]

The Chair: Okay. Are we ready for the question on clause 5 as amended?

(Clause 5 as amended agreed to)

The Chair: Thank you.

It's 10:40. Clearly we're not going to be done by 11. We're stealing the environment committee's lunch. It is being added to, and that will be here in due course. If we are going to finish, we perhaps need to pick up the pace a bit. But we want to make sure everything is covered thoroughly and nothing gets left out. So just keep that in mind.

We will move on now to clause 5.1, a new clause. We're at BQ-6.1, which was actually incorporated in clause 18.

Monsieur Bigras.

[*Translation*]

Mr. Bernard Bigras: We are not going to move this amendment. This issue has been resolved through the Liberals' amendment.

[*English*]

The Chair: Okay. That's not moved, so clause 5.1 disappears.

(On clause 10)

The Chair: Moving right along to clause 10, which is referenced by BQ-9 on page 29, there's a suggestion that this has also been dealt with through clause 18. So BQ-9 is not moved.

Is there any further discussion on clause 10?

● (1040)

Hon. John Godfrey: I think it's not necessary, Chair. We've eliminated the parallel systems for air pollutants and GHGs in clause18 as amended by L-21.1.1. Therefore, we don't need this.

I might ask Mr. Moffet whether we need this. Surely we don't. It's a leading question.

Mr. John Moffet: Are you asking whether you need me, or whether you need—

Hon. John Godfrey: It was a rhetorical question. I expect the answer to be no.

Mr. John Moffet: We do not need this clause.

Hon. John Godfrey: Thank you.

Mr. John Moffet: This clause simply extended the authority for pollution prevention planning orders to air pollutants and greenhouse gases, which in the original construction of Bill C-30 would have been taken out of the toxic substances list. Now that they are still toxic substances, we don't need this amendment.

The Chair: Okay.

Mr. Warawa.

Mr. Mark Warawa: Just for clarification, Chair, Canadians need this. I think Mr. Moffet was saying that we don't technically need this, but I believe Canadians still need this.

I just want to clarify that we're dealing with clause 10 and that there will be a 10.1 after this.

The Chair: That's correct.

We still need to deal with clause 10.

(Clause 10 negatived)

The Chair: Moving on to new clause 10.1.... We had some previous amendments. We are now at NDP-15.3, page 30.7.

Mr. Cullen.

Mr. Nathan Cullen: Yes, this is about the principle of substitution. This is obviously a clause we stood earlier, because there were some language concerns around the table.

The principle of substitution, if committee members will recall, is in a sense a higher order of effort on behalf of policy-makers and government. What it does is call upon the government to do a substitution analysis of some of the pollution we're talking about.

The reason I refer to this as a higher order is because the second order is that you start to talk about limits or caps or mitigation—mitigation being the last one—once the pollution is made and once people are sick or once the climate has heated up, depending on which topic you're talking about.

What substitution calls on the government to do is ensure that there is some substitution considered for the pollutant in the first place: are there other industrial applications that can be used?

We've seen the successful use in some U.S. jurisdictions. It is being brought in as one of the principles in Europe under the REACH regulation that you always, as the first order, assess if there is something else that can be used in the industrial application. Therefore the pollution is not made, therefore you don't have to limit it, and therefore there is no mitigation concept. It's the ounce of prevention versus pound of cure concept.

We stood this clause earlier. We allowed some language to be worked on, but we soundly believe in the principle. This is the most cost-effective way to go about doing things, both in the public and private sectors, because you just don't make the pollution in the first place. You don't cause the negative effects, you don't limit production, and you don't have to deal with the health or environmental consequences of pollution being emitted, because you just don't emit it.

It's something—and as a small part, I have a private member's bill, and there are other ones in the House right now—we probably haven't led the field on as a country, and we need to.

I seek perhaps a friendly amendment around the table that could clarify some of the language concerns, and we can move on.

● (1045)

The Chair: I'll just interject at this point and say, if members recall, that I did have some reservations about the relevance of this, but I listened to the debate at the time this was moved, and I am prepared to give the member the benefit.

Mr. Nathan Cullen: You're prepared to what?

The Chair: I'm prepared to give the member the benefit of the doubt in this case.

Mr. Nathan Cullen: Thank you, Chair.

The Chair: We'll go to Mr. Warawa.

Mr. Mark Warawa: Thank you, Chair.

I do have a friendly amendment that I'd like to present to the mover, Mr. Cullen.

I think you've expressed the concern about the relevance of the amendment, so I believe what's being proposed here as a friendly amendment will narrow that scope and make the amendment relevant to the bill.

That friendly amendment is to remove proposed paragraph 68.1(1)(a); (b) would stay, and immediately after (b) it would read, "which have not been identified for the assessment under section 74". Proposed paragraph (c) would read as follows: "substances of concern identified", and then everything after "identified" would be removed and replaced by adding "by the Minister". So proposed paragraph 68.1(1)(c) would read, "substances of concern identified by the Minister". Is that clear?

So (a) would be removed, (b) would stay, and we would be inserting what I just read—"which have not been identified for the assessment under section 74". Then (c) would be modified. Is that clear?

The Chair: Okay, you're going to provide—

Mr. Mark Warawa: Is it not clear?

The Chair: It is, but just for super clarity, I'll re-read that.

Mr. Cullen, this is directed to you.

What we're saying is that the friendly amendment starts at proposed paragraph (a), which would be deleted. Proposed paragraph (b) would then read, "known or suspected carcinogens identified by the International Agency for Research on Cancer (IARC); and which have not been identified for the assessment under section 74". And then (c) would read, "substances of concern identified by the Minister".

Mr. Cullen.

Mr. Nathan Cullen: It may not be gold, but it's a decent silver, Chair. We'll take it on this one.

The Chair: Are there any other comments on that one, any other debate?

Mr. McGuinty, do you have a point?

Mr. David McGuinty: Just to make sure, removing proposed paragraph 68.1(1)(a) is a good idea, because if I understand it, we would be asking for the substitution of carbon dioxide, and I don't think there's a substitute yet.

Secondly, I think this would reflect the fact that we've already voted against separate schedules for GHGs and air pollutants. Our fear was that this was creating a new class of substances.

Mr. Moffet might help me understand or confirm that this in fact would not do so.

Mr. John Moffet: The specific question is whether this creates a new list.

Mr. David McGuinty: A new list or a new class of substances.

Mr. John Moffet: It absolutely does create a new list of substances or a new class of substances. It gives the minister authority over a number of substances that have not been identified, have not been categorized as a result of the section 73 categorization, will not be subject to a section 74 screening assessment, and are not on the list of toxic substances, schedule 1 of CEPA. This does identify a number of new substances, and I can explain how.

The International Agency for Research on Cancer has a number of lists. Taken in totality, there are about 414 substances on their list. For most of those substances, the pathway by which they work is not through the air, so most of them are not air pollutants. That's one issue in terms of the relevance to air pollution.

There is a second way in which they create a new list. I need to give you a bit of context on how the categorization process worked.

The categorization process looked at the 23,000 or so substances that were in commercial use in Canada, including most of the substances on the IARC list. In addition, in any event, the Department of Health also looked at the entire IARC list, took the results and identified about 4,000 substances for screening assessments under section 74.

Those substances include a number of IARC substances, and they would be excluded from this as a result of the friendly amendment. But they don't include all IARC substances. The reason for that is that we excluded those IARC substances for which we believe there is no potential for exposure in Canada. Health Canada has done the preliminary exposure analysis, and if there's no potential for exposure, we've determined not to do further assessment on those. We have limited assessment resources, so we're going to focus on those that are used and exposed in Canada. This would require the minister to take some action with respect to that broader list, notwithstanding the fact that we've narrowed it somewhat.

● (1050)

Mr. David McGuinty: It does create another class of substances and list of substances. I've just understood.

Thank you.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: Let's just be clear here, what we're seeking is a substitution analysis. What Mr. Moffet has referred to is the toxicity analysis of the 23,000 chemicals. There was no substitution analysis done at that point. It's not creating a new list of substances; it's saying "of the ones known". We took the friendly amendment from government to narrow the focus, to talk about substitution options.

This is important. We're not looking for some new analysis of toxicity or the airborne quality of one or another. That work has been done on most of these substances, if not all of them. What we're looking for is that substitution analysis. That's the critical point of this whole amendment. It bears relevance. The IARC list is not a comprehensive list that deals with airborne only, but some of them are airborne—hence, relevance—and it allows Canada to get on track with what Europe is doing under REACH, which is trying to find substitutions prior to the use or emittance of.

Let's not mix apples and oranges here.

The Chair: Thank you.

Monsieur Bigras.

[*Translation*]

Mr. Bernard Bigras: Mr. Chairman, I have been a member of Parliament for 10 years, and over the course of this period of time, I have seen that laws are often changed and that deadlines are rarely respected.

My question is a simple one. Is the five year window provided for in amendment NDP-15.3 realistic? Do you believe it will be respected? This is what it says:

> [...] the Minister shall require an assessment of the following substances and an action plan for achieving their substitution [...]

Is it realistic to expect that these two requirements will be fulfilled within a five year window?

[*English*]

Mr. John Moffet: We have no resources to do this at the moment and we have no experience doing this work so far.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: There is much evidence to show that the concept of substitution is one of the highest orders of pollution prevention you can do. The number of substances we're talking about with the government's current friendly amendment is to remove schedule 1 substances, is to look at IRARC, which has, as Mr. Moffet said, 415 on the list, only some of which are airborne, and then it's up to the discretion of the minister as to which other ones come beyond that. We're not talking about going through a substitution analysis of some 23,000 chemicals.

If it's a resource question, we've identified through the literature and our understanding that substitution is one of the better ways to go to prevent pollution in the first place, and my goodness, the excuse of resources simply cannot be applied in this case. We don't have the money to do it, but what we're going to do is go out and spend more money on health care, on fixing people's asthma and respiratory illnesses caused by pollution, which we could have prevented by substituting in the first place. That's the most ridiculous argument I've ever heard.

So let's be clear. We have severely limited the scope of this initial amendment to allow Canada to start to do this in an intelligent way. Clearly the logic bears out that this is a good expenditure of moneys and this is not an extensive list and does not create any new bureaucratic mess for the government. It's the courage of our conviction, folks. Let's just get on with this.

● (1055)

The Chair: Mr. McGuinty.

Mr. David McGuinty: Mr. Chair, given the resourcing questions raised by Mr. Moffet, I take it there are no resources to do this.

I will take it through you then, Mr. Chair. Perhaps I could put a friendly question, of course, to the government MPs and to the parliamentary secretary in particular. Would the government, given that it's supporting this amendment, make the resources available to do this job?

The Chair: Mr. Warawa.

Mr. Mark Warawa: Chair, I can assure the member that this government is committed to cleaning the environment and providing resources to clean the environment, reduce greenhouse gas emissions, and provide a healthy environment for Canadians.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: On that last comment on government willingness and resources, we've just gone through this act and fundamentally reassessed some of the priorities that we believe government should be enacting—the equivalency agreements, the hot zone designation within Canada, retrofit programs, hard caps on emitters.

My goodness, if we believe this is a good thing, and government is saying they believe it's a good thing, then clearly in the opposition ranks we can also see it as a good thing, and not for the want of some potentially less than 400 chemicals and the assessment of looking for substitutions that would be better and that industry could actually apply and not make the pollution in the first place. It just seems incredible that the argument is being posed.

I again encourage committee members to seek some courage on this, to know that substitution is one of the highest orders of pollution prevention we have available to us and that we haven't been doing it to this point. Let's get on with it.

The Chair: Seeing no further debate, we're ready for the question on NDP-15.3, as amended. Is it necessary to reread it? Is everybody happy with that?

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

(On clause 14)

The Chair: We move now to clause 14.

As we're coming up to eleven o'clock, I will suggest to the committee that we suspend for about ten minutes. The food is ready to be brought in. We can have it brought in and take a bit of a break.

We have to thank the environment committee for the food.

Thank you, Mr. Mills.

We will suspend the meeting.

● (1055)

(Pause)

● (1125)

The Chair: Ladies and gentlemen, we'll call the meeting back to order. Continue to graze as you need.

We're going to pick up at clause 14, which had been previously stood. Clause 14 is referenced by NDP-16.1, on page 31.1. So we'll turn it over to Monsieur Cullen.

Mr. Nathan Cullen: Thank you, Chair.

When we changed certain parts of the Clean Air Act as it was, we eliminated some sections that we found problematic. There is one section, though, that we felt could be brought back, because what it did was it allowed the minister to report on the monitoring of substances. This is the connection between health and the environment that many people have spoken about, but this is a practical application. So you'll see in NDP-16.1—this was deleted out of clause 18—that we are, in a sense, reintroducing the one aspect that we thought was positive out of this.

I believe committee members all have NDP-16.1, but I'll read it.

> (3) Subsection 93(1) of the Act is amended by striking out the word "and" at the end of paragraph (*x*) and by adding the following after paragraph (*x*):
>
> (*x.1*) the monitoring of the substance and the reporting to either Minister of the effects on the environment and human health from releases into the air of the substances; and

This is the reporting back to Canadians by the minister of substances that are being released that are known to have effects on human health. This was something that the government suggested in their original act. We thought that one part was actually quite progressive. It got deleted just because of the way the committee went through the process, but we want to introduce it back. This will go into section 93.(1) of CEPA, which is a section of CEPA that has a whole lot of powers that are given to the minister, so it makes sense in the way that it fits.

We look for support from other committee members.

The Chair: Mr. Warawa.

Mr. Mark Warawa: Thank you, Chair.

We will support NDP 16.1. I appreciate the comments made by Mr. Cullen. We indeed do support a healthy environment for the health of Canadians. We've been consistent all along, and that's what Bill C-30 would have provided. It's unfortunate that under clause 18 the Liberals made major changes and changed the focus on the greenhouse gas emissions, which is very important. But when you eliminate addressing air quality, pollutants, air quality indoors and outdoors, it is a concern not only to the government but to Canadians. So we will be supporting this amendment.

The Chair: Mr. Godfrey.

Hon. John Godfrey: We will be supporting it as well.

The Chair: Mr. Jean, you had a comment.

Mr. Brian Jean: I do see Mr. Moffet with his hand up and I would like to hear from the department beforehand.

Before that, Mr. Chair, obviously the NDP has had a reconsideration of the government's bill. Maybe if we had a couple of more days, they would reconsider the other amendments that they've made and see the light of the government's great initiative. Maybe that would be the opportunity.

If you had a little more time to think about it, would that be possible, Mr. Cullen?

● (1130)

The Chair: Let's not get bogged down with obvious answers.

Mr. Brian Jean: He saw the light, Mr. Chair, he saw the light.

The Chair: Mr. Moffet, would you like to make some comments here?

Mr. John Moffet: I appreciate all the members' support for this. This actually goes in the regulatory authority. So it's not authority for the minister to report; it's authority for the minister to require people, subject to regulations, to report. We believe it's very important.

I would request that the members consider one small suggestion, and that is, that this text is taken straight from part 5.1, which was exclusively focused on air and GHGs, and therefore the last words say "releases into the air of the substances". Now that this is in part 5, which are toxic substances more generally, I wonder if members would consider changing it to "into the environment and air", or maybe just "into the environment", because we would like to be able to use this authority more broadly than just for air emissions.

The Chair: It's perhaps a reasonable suggestion, but it needs to come from a member as an amendment.

Hon. John Godfrey: I would so move, if that would be seen as a friendly amendment by Mr. Cullen.

Mr. Nathan Cullen: Very friendly, Chair.

The Chair: Let me see if I have this right, Mr. Godfrey: "effects on the environment and human health from releases into the environment and the air".

Mr. John Moffet: I actually think "and the air" is redundant.

The Chair: Does "the environment" sum it up, Mr. Godfrey?

Hon. John Godfrey: I believe it would.

The Chair: So the amendment would read:

> (x.1) the monitoring of the substance and the reporting to either Minister of the effects on the environment and human health from releases into the environment of the substances; and

(Amendment as amended agreed to)

(Clause 14 as amended agreed to)

(On clause 22)

The Chair: We'll go to clause 22 and amendment L-22.

Mr. McGuinty.

Mr. David McGuinty: Let me just get the appropriate wording, Mr. Chair.

There is a small revision to the numbering, to make sure that it is consistent with changes that have been made. The slight difference should read as follows, in the numbers below, after the word "following:", "subsection 93(1), 103.05(2)", and here we would change "103.07(6)" to "103.07(2)(b)".

Would you like to see text on that, Mr. Jean?

● (1135)

Mr. Brian Jean: I would.

The Chair: Is "or 140(1)" still valid?

Mr. David McGuinty: I think the "140(1)" stays.

The Chair: That's the question. That remains?

Mr. David McGuinty: Yes, it remains.

The Chair: Is there any debate?

Mr. Brian Jean: I would like to see it in writing, Mr. Chair, and I think that's reasonable before we do anything. It refers to at least four sections. I'd like to see what it refers to, unless the Liberal member has a problem with that, of me seeing—

The Chair: You're entitled to see whatever you want to see.

Mr. Brian Jean: Great. Could I see it?

I'll just need a minute, Mr. Chair, to go through the sections it refers to, just to make sure that it's in order.

The Chair: Should I call for a suspension?

Mr. Brian Jean: I don't need you to suspend necessarily, but I certainly need some opportunity to refer through the bill to what changes have been made, because they're amendments to amendments to amendments. So if I could just have a minute....

The Chair: We will suspend briefly.

● (1135)

(Pause)

● (1140)

The Chair: Mr. Jean.

Mr. Brian Jean: I'd like to first hear first from the department in relation to the reference to the carbon budget, and then I'd like a response from Mr. McGuinty in relation to how it is of any positive benefit.

Mr. John Moffet: Well, as I heard the amendment it would refer to regulations made under subsection 93(1), which is the authority to regulate toxic substances, including air pollutants and GHGs; 103.05 (2), which is the authority to establish a carbon budget; and 103.07 (2)(b), which is the requirement to establish air emission standards.

The potential connection between fuel standards and toxic standards is clear, and the connection between fuel standards and air emission standards under 103.07 could be made. I'm not sure about the rationale to link this provision to 103.05(2), which is the authority to establish a carbon budget.

Mr. Brian Jean: That was exactly my worry, Mr. Chair.

I'd like some clarification from the Liberal member as to why that would be necessary, or even relevant.

Hon. John Godfrey: On this advice, I think we would withdraw that reference and reconsider it at report stage.

The Chair: Define the reference to the—

Hon. John Godfrey: We want to make sure we're getting the right one here.

Okay. We just withdraw the reference that is in the original amendment to 103.05(2). We just pull that altogether.

The Chair: So that's a friendly amendment.

Hon. John Godfrey: So we would remain with referencing the two bits: subsections 93(1) and 140(1).

The Chair: So you're deleting both the “103.05” and “103.07”?

Hon. John Godfrey: Yes, that's correct.

Mr. John Moffet: Subsection103.07(6) was the other addition from Mr. McGuinty, and that refers to air emissions standards. That makes sense to me.

Hon. John Godfrey: Sorry. So that's okay.

So we have three that remain and one that goes.

The Chair: You can make another friendly amendment and read what the amended amendment says.

Mr. Brian Jean: I think we've seen the NDP come to the side of the government and put back some good amendments that we had. If there's a little more opportunity for the Liberals, maybe they'll see the light and come across with the original bill.

I mean, with one comment we've already found a couple of errors that make this bill make no sense whatsoever.

The Chair: Mr. McGuinty.

Mr. David McGuinty: I would like to clarify so we can get on with the business we're here to do.

In total, the friendly amendments would read as follows:

subsection 93(1), 103.07(2)(b), or 140(1);

That would be the amendment as moved.

The Chair: And finishing with a semicolon.

Mr. David McGuinty: Thank you. Semicolon.

So we would remove “103.05(2)”, given Mr. Moffet's good advice, and we stand by the changes we made earlier.

The Chair: So that is the new amendment. Does everybody understand that?

Mr. Jean.

● (1145)

Mr. Brian Jean: Could I have the member read it out one more time with the brackets and semicolons?

The Chair: He just loves hearing you say that.

Mr. Brian Jean: I want to make sure we're on the same page. Because I see that you struck off “103.05(2)”, but you have “103.07”...is it paragraph “(2)(b)”?

Mr. David McGuinty: Yes. Could you read it again, Mr. Chair?

The Chair: Okay. As copied by the chair, it says: “subsection 93 (1), 103.07(2)(b) or 140(1);”.

Do we have it bracketed?

Is there any further discussion or debate on amendment L-22?

(Amendment agreed to)

(Clause 22 as amended agreed to)

(On clause 24)

The Chair: We're moving on to clause 24, which is addressed by amendment L-23.

Mr. McGuinty or Mr. Godfrey.

Mr. David McGuinty: Once again, this is a consequential amendment that refers back to changes we've made, Mr. Chair. I'm going to read the actual amendment L-23.

After the word "following": "(d), subsections 103.05(2) and 103.07(2)(b) and paragraphs 209(2)(a), (b)".

The Chair: Is that with or without the brackets?

Mr. David McGuinty: I was lazy there.

The Chair: Is it clear? Do you want me to read it again?

The new amendment L-23 is that Bill C-30, in clause 24, be amended by replacing line 4 on page 27 with the following:

(d), subsections 103.05(2) and 103.07(2)(b) and paragraphs 209(2)(a), (b).

Mr. Jean.

Mr. Brian Jean: I'm going to ask for one more minute to go through it, the same as I did last time. I see a reference to the same clause on the carbon budget that was struck off last time. I only want to make sure we're in order.

The Chair: Okay. We will suspend for one or two minutes.

● (1145)

(Pause)

● (1150)

The Chair: Let's reconvene. We are still at amendment L-23.

Mr. Jean, go ahead.

Mr. Brian Jean: After reviewing all the clauses again, I do not see the relevance of referring to the carbon budget again. It was put forward last time, and the Liberals removed it. I'm wondering if we could hear from the department first, and then possibly the Liberals would consider removing the irrelevant section again.

The Chair: Mr. Moffet, do you have a comment?

Mr. John Moffet: I would make the same comment again. I don't see the connection to the carbon budget. I see a direct connection to the authority under proposed paragraph 103.07(2)(b), which refers to establishing air emission standards, but here we're talking about researching causes and remedial opportunities for environmental emergencies. I'm not sure I see the connection to the carbon budget per se.

● (1155)

The Chair: Mr. McGuinty or Mr. Godfrey, would you...?

Hon. John Godfrey: The previous one was connected to fuel efficiency, and so on. I suppose that we're.... Because the carbon budget has so many references to large final emitters—big industrial groups—this one seemed to us more pertinent, because these are the same entities that are likely to have accidental releases, and therefore we thought that it connected more directly. We could see the point of the previous deletion, but this one seemed to be more in the same realm because of the possibility of the 700 largest emitters having an accidental release, which might require some more research.

Whether it's a result of there being a carbon budget is a moot point, but it is, we thought, more germane.

Mr. John Moffet: The authority to conduct research under CEPA into environmental emergencies is extremely broad and already applies to all the LFEs or large industrial emitters. What this does is act as a notwithstanding clause. It's saying that despite what you've done under these other provisions, you can still do research, so we have to ask ourselves if there is something we could do under the carbon budget itself that would create an emergency?

Hon. John Godfrey: I think that makes sense. In our desire to be complete....

We will pull that specific reference to the carbon budget, otherwise known as proposed paragraph 103.05(2), and examine it. If something emerges, we'll examine it at report stage.

The Chair: Then are you proposing a friendly amendment?

Hon. John Godfrey: Yes.

The Chair: Should I read the friendly amendment first, before you comment?

Mr. Brian Jean: I do have a comment as well.

The Chair: Go ahead.

Mr. Brian Jean: Oh, I'm sorry, Mr. Chair. I thought you were going to read it first.

I don't want to leave something on the table and eliminate it if there's a practical solution to it, but what was the thought process when the Liberal Party proposed this? Is there any possible connection between emergency solutions and the carbon budget for large final emitters? I just don't see any kind of possible connection of any practical relevance.

The Chair: Go ahead, Mr. Godfrey.

Hon. John Godfrey: It wasn't my wish to take up the time of the committee unnecessarily. The connection exists because the carbon budget does deal specifically with large final emitters, and they're the folks who might well have an accident. We accept that possibility as remote; therefore, not to delay things further, we will remove that section.

The Chair: Then the new amendment with its friendly amendment would be that Bill C-30, in clause 24, be amended by replacing line 4 on page 27 with the following:

(d), 103.07(2)(b), and paragraphs 209(2)(a), (b),

[*Translation*]

Is that clear to all?

[*English*]

(Amendment agreed to)

(Clause 24 as amended agreed to)

(On clause 34)

● (1200)

The Chair: Moving on to clause 34, and we are at L-27, which I don't have a page reference for. I'm pleased to note there aren't many brackets in this one. I don't have a page reference, I'm sorry—L-27, clause 34.

Mr. McGuinty.

Mr. David McGuinty: Once again, this is more of a technical amendment, Mr. Chair, and I'd like to move it with a slight variation.

Just give me one second; I want to make sure I get the numbers absolutely right for Mr. Jean.

The Chair: We'll suspend for a minute or so.

● (1200)

(Pause)

● (1205)

The Chair: Let's reconvene.

For those who would understand this, it's a good thing this is not Panmunjom.

Mr. Cullen.

Mr. Nathan Cullen: Just as the room comes to order, Chair, let me say we're at the very tail end of many hours of meetings. Let's not have any more breaks. Let's just push on and finish this. I think this is what people are expecting us to do. Let's get it right.

The Chair: Mr. Jean's going to be argumentative.

Go ahead, briefly.

Mr. Brian Jean: We found two errors so far in the last two sections. Because we took a break, we were all able to find compromises. Let's get the act right. Let's not just push something through that Canadians don't want. Let's find something that Canadians do want.

An hon. member: Hear, hear.

The Chair: Mr. McGuinty, on amendment L-27.

Mr. David McGuinty: Yes, let me move this amendment then, which I believe is our last technical amendment to correct the bill, Mr. Chair, given the changes that have come before.

After the word “following”, it should now read, “93(1), subsection 103.05(2), subsection 103.07(2)(b), or section 167, 177 or 326”.

The Chair: Is that clear, or shall I reread it? Nobody needs to reread it?

You just like me hearing me say it. That's fine.

It's that Bill C-30, in clause 34, be amended by replacing line 29 on page 29 with the following:

93(1), subsection 103.05(2), subsection 103.07(2)(b), or section 167, 177 or 326

● (1210)

Mr. Brian Jean: Can we hear from the department, please, Mr. Chairman?

The Chair: Mr. Moffet.

Mr. Brian Jean: I'm not catching up. We have two new sections added. I haven't had any opportunity to see it, but it is a technical amendment.

I know we want to move along, Mr. Cullen, but the reality is, let's get it right. It's very important.

Mr. John Moffet: My understanding of the two additional clauses that have been added are that proposed subsection 103.05(2), which is the authority regarding the setting of sectoral carbon budgets for LIEs, and proposed paragraph 103.07(2)(b), which is about the air emissions standards.... Both of these additions make sense to me, given that this authority is intended to be as generally applicable as possible to allow for some forms of administrative discrimination.

I would note, however, that there are at least three other regulatory authorities that have been created by the amendments passed in the last couple of days to which this authority could also be extended, should the members choose. Those include proposed section 94.1, which was the emissions trading regulatory authority in amendment L-20; proposed subsection 103.02(4), which was the authority to set national, sectoral and individual carbon budgets introduced under amendment L-21.1; and proposed subsection 103.02(5), which again was in amendment L-21.1, in regard to regulating the setting of individual carbon deficits.

Should the members choose, this authority could be extended to those, in my view.

Mr. Brian Jean: I don't think I got the last section correctly. I'm sorry; it was my fault. I was writing them too.

Mr. John Moffet: The last one to which I referred was proposed subsection 103.02(5), which is the authority to regulate the way in which individual carbon deficits would be set.

The Chair: Mr. Godfrey.

Hon. John Godfrey: I wonder if I could be allowed to pick up on that and make a friendly amendment, for completeness' sake, that we would add the references Mr. Moffet has just made.

The Chair: So that is being added as a friendly amendment to L-27.

Shall I read it again, or does everybody have all the numbers?

Mr. Brian Jean: I just need another 60 or 70 seconds. I'm sure the other members need the same amount of time to go through it. There are a lot of numbers here.

The Chair: Mr. Moffet, do you have a comment while Mr. Jean is doing that?

Mr. John Moffet: Mr. Chair, for the sake of clarity, if you go back to the Bill C-30 provision, clause 34 starts out by saying, “A regulation made under”.

The authorities that were introduced in some of the Liberal and NDP amendments, to which we just referred, some of them refer to regulations, some of them refer to standards, some of them simply say the minister shall do such and such. My legal colleagues suggest that perhaps this should read “A regulation or instrument”, given that the precise status of some of the authorities that have been introduced in the last couple of days are unclear. It's unclear as to whether they are regulatory authorities or not.

● (1215)

The Chair: If somebody chose to move it, that would be a separate amendment. We could expand the current amendment to include that as another friendly amendment.

Mr. David McGuinty: Mr. Moffet, if we were to withdraw, then, the reference to 103.07(2)(b), would that address your instrument problem?

Mr. John Moffet: Well, 103.02(4) and 103.05(2), the setting of national sectoral and individual carbon budgets, neither of those actually uses the word "regulation". They require the minister to set those. Again, the status of that, in terms of whether that's a regulatory authority, an order, what is it that's not clear in the amendments at the moment, that's the basic point I'm trying to provide.

The Chair: Mr. Jean.

Mr. Brian Jean: I did actually notice that before and I had it written down to bring to the committee's attention, but would it be an idea to actually amend those particular paragraphs to include a regulation, rather than leaving it wide open for an order in council or whatever the case may be? What's the department's position on that? Would it make it more certain and more advantageous to have the act be consistent with that regard?

Mr. John Moffet: I don't think we've taken a position on exactly how that should work. I'm just, at the moment, trying to point out a consistency issue. I don't want to get put into the position of looking as though I support a basic model, which is a fundamental political choice, as opposed to structuring the act in that light.

Mr. Brian Jean: But at this stage, it's wide open. We don't know how it's going to happen, do we? There's no consistency in acts.

Mr. Ares is from the Department of Justice, is that correct? What would be the legal ramifications from a legal perspective in this particular case if this act were to go into place without that consistency in the sections?

Mr. Michel Arès (Legal Counsel, Department of Justice): I'm afraid I can't answer that question right away, because a lot of amendments have been made. For example, with the use of the expression "carbon budget", you need to do an in-depth analysis to see what the status is of the instrument created. That's why Mr. Moffet suggested inserting the word "instrument", which in law is extremely neutral.

Mr. Brian Jean: Oh, okay.

Mr. Michel Arès: I can't say anything more than a neutral term seems to be warranted here, for legal issues. I'm not talking from any other point of view, of course.

The Chair: Let me go back to the Liberals for a second. You were considering a friendly amendment to line 28, adding "regulation or instrument".

Hon. John Godfrey: It would read, "regulation or instrument made under the following".

The Chair: Would it make sense? Because we made a lot of changes, to withdraw this and just propose amendment L-27.1, with all of that changed wording—which I have in my head.

Hon. John Godfrey: Sure. We will withdraw it in the understanding that what we're bringing in now will cover two lines of the—

The Chair: You'll be modifying lines 28 and 29?

Hon. John Godfrey: Lines 28 and 29

Rather than just doing.... What's the best?

The Chair: It would be better if it were rewritten, obviously.

Hon. John Godfrey: Then we'll write it up.

The Chair: So we will have to take a short break while you do that.

Write fast.

● (1220)

(Pause)

● (1230)

The Chair: Okay. A new Liberal amendment, which we will call L-27.1, is being distributed. I'll get Mr. McGuinty to read it.

Sorry, there's a point of order.

● (1235)

[*Translation*]

Mr. Jacques Gourde (Lotbinière—Chutes-de-la-Chaudière, CPC): I would need the French version. I do not understand English well enough. It is important to have both the French and the English versions to be able to understand.

[*English*]

The Chair: I'm sorry, you will have to listen to the translation. Amendments are allowed to be put at the table or during the meeting.

Mr. Brian Jean: Point of order, Mr. Chair. It's not appropriate. Anything distributed to the committee has to be in both official languages.

The Chair: When a member moves a motion from the floor he can do it in the official language of his choice. Mr. McGuinty has provided the text in a case like this, which is perfectly within the normal rules of order. We rely on the translators to provide the other official language, and that has been the custom in the past.

Mr. McGuinty, could you read it fairly slowly, please, so the translators can make sure everybody understands?

Mr. David McGuinty: Yes. This is amendment L-27.1, Mr. Chair. It is a new version. Everyone can follow along, please, with the English version.

I move that Bill C-30, in clause 34, be amended by replacing lines 21 to 35 on page 29 with the following....

Please ignore what is there under clause 34. That is to be removed.

● (1240)

The Chair: Is this portion to be removed?

Mr. David McGuinty: Yes. Clause 34: subsection 330 (3.1) of the act is to be removed and is to be replaced by the following, and it should go on from there to:

> (3.1) A regulation made under subsection 93(1) or section 140, 167, 177 or 326 may be made applicable in only a part or parts of Canada including any province in order to protect the environment, its biological diversity or human health or to achieve national consistency in environmental quality.
>
> (3.2) A regulation or instrument made under subsection 93(1), 94(1), 103.02(4), 103.02(5), or section 167, 177 or 326 may distinguish among persons, works, undertakings or activities according to any factors that, in the opinion of the Governor in Council, will allow for the making of a regulation that provides for satisfactory protection of the environment or human life or health, including

The Chair: Thank you, Mr. McGuinty.

I will need to intervene and point out a line conflict that lines 21 and 22 have already been amended by previous amendments NDP-29 and L-26. So in order to conform, this amendment, instead of saying "by replacing lines 21 to 35", would have to say "by replacing lines 23 to 35", and the amendment would start at the number 326 on line 23.

Mr. David McGuinty: Yes, thank you.

The Chair: Is that...?

Mr. Brian Jean: It's as clear as mud.

The Chair: Very good.

Are we ready for debate on amendment L-27.1?

Mr. Jean.

Mr. Brian Jean: I don't know if the department needs a few minutes to look at the ramifications of this, but I would like an explanation from them as to what, in essence, we're trying to say here.

To start with, I apologize, could you just give me the amendment that has to be taken out as a result of the replacement of the previous lines under the other Liberal amendment?

The Chair: That's right up at the top of the amendment: "That Bill C-30 in clause 34 be amended by replacing lines 23 to 35 with the following". Then go down to the line where it says "section 140, 167, 177". The amendment then would start at "326 may be made applicable", etc.

Mr. Brian Jean: So sections 140, 167, 177 cannot be included within this?

The Chair: No. They have already been amended by a previous amendment, so this amendment starts at the number 326 on line 23.

Mr. Moffet, are you prepared to comment on that?

Mr. John Moffet: Sure.

There are two parts to this, new proposed subsection 330(3.1) and new proposed subsection 330(3.2). The first part, (3.1), reverts word for word to what's in CEPA now in terms of the authority to establish regulations that set different standards within different geographic parts of Canada, based on health and environmental considerations.

The rationale is that, as discussed in previous committees, in order to achieve consistent environmental or health quality across Canada, it may be appropriate to set different emissions standards or other regulations.

As an example, air quality in the Toronto-Windsor corridor is worse than air quality in the Yukon. So it may be appropriate—this doesn't require anything, but it may be appropriate—that an emitter in the Toronto-Windsor corridor be subject to a more stringent emission regulation than the same emitter in the Yukon in order to achieve the same outcome of environmental or health quality.

This amendment wouldn't change that at all; same wording, as I read it.

New proposed subsection 330(3.2) is a slight modification to the provisions in Bill C-30, going beyond the current authority to establish geographically differentiated regulations and allowing the government to differentiate among regulatees on other grounds, including, for example, the age of a facility.

As an example, it may be appropriate—again, not necessary, but may be appropriate—to say in a regulation that a new electricity generating plant shall be subject to standard A, whereas an existing electricity generating plant should be subject to a slightly less rigid standard, and be given *x* number of years to come up to the more stringent standard. That would simply be recognizing the economic reality that some of the investments required to improve air quality may be significant.

Again, there's no requirement to have that type of differentiation; it simply would authorize that type of differentiation. And CEPA does not currently authorize that type of regulation. That didn't cause us a problem when we were regulating, over the past 15 years, emissions of toxic substances. Now that we're entering the world of regulating criteria air contaminants in greenhouse gases, which in many cases involves regulating basic combustion processes, we're talking about affecting major pieces of capital equipment. Again, it may be appropriate to have some differentiation based on things like age or technology.

So that's the rationale for the Bill C-30 provision. The Liberal provision is simply a corrective to make sure that this new authority lines up with the new regulatory provisions that have been created as a result of the amendments passed in the previous couple of days.

That's my explanation of what's going on.

I would beg your indulgence, Mr. Chair, and point out three technical problems, simply drafting problems.

First, I believe the reference to subsection "94(1)" should be "94.1 (1)".

Second, halfway down the page, you refer to "in the opinion of the Governor in Council". Some of the regulatory authority that has been established would be ministerial regulatory authority. Thus, it should say "in the opinion of the Governor in Council or ministers, as the case may be".

Finally, to be consistent with the first line, which says "A regulation or instrument", the fifth-last line should say "For the making of a regulation or instrument".

Those corrections are just for consistency. They wouldn't substantively change anything.

● (1245)

The Chair: Monsieur Bigras.

[*Translation*]

Mr. Bernard Bigras: I would like to go back to proposed paragraph 330(3.1). According to you, if a large emitter is located in a province that has an equivalency agreement, what would happen? Would this large emitter be subject to federal regulations?

[*English*]

Mr. John Moffet: The emitter in the province would not be subject to any federal regulation that is the subject of an equivalency agreement.

Just to be clear, an equivalency agreement doesn't necessarily encompass all federal regulations; it has to specify the regulations. The Alberta equivalency agreement specifies four regulations, not every CEPA regulation. Yes, it exempts. The federal regulation "stands down" is the term; it doesn't apply. The facility would have to comply with the provincial legal regime—whether it's a certificate of approval, a regulation, or what have you—not the federal regulation. This, then, becomes irrelevant for that facility.

The Chair: Okay.

Mr. Bigras, were you finished?

[*Translation*]

Mr. Bernard Bigras: Yes, thank you.

[*English*]

The Chair: Mr. Jean, go ahead.

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

As much as the last clause that obviously mirrors this and that passed a couple of days ago when the Liberals put it forward, this again troubles me very much. I would like more certainty.

As most people know here, when courts interpret this later on—which I'm certain, based upon the amendments I've seen come forward from the Liberals and the NDP, they will—they will have many challenges. I would like what they mean by "persons" to be on the record for judges who interpret this in the future. Does it mean a person, depending on whether they're a Liberal or 63 years old or 22 years old, can have a different requirement? What is "works"? What is an "undertaking" or "activities"? I understand generally what you're trying to do, but I would like to have more certainty as to what you are suggesting would come forward on this. It just says, "may distinguish".

● (1250)

Mr. David McGuinty: Mr. Chair, all of this wording comes from the government's own drafting, so if the parliamentary secretary has difficulties with the wording that he drafted and his government put forward, maybe he ought to take it up with his parliamentary secretary colleague from the environment and find out why the wording is.... The wording is perfectly clear, and I think it's time to move on.

I'd like to call the question, Mr. Chair, if we could.

The Chair: Mr. Cullen, you need to reword it, though, because of some—

Mr. Nathan Cullen: I'll move a friendly amendment with those changes that were suggested by Mr. Moffet in terms of making it align with the "or ministers, as the case may be", with the connection to the Privy Council in proposed subsection 330(3.2); "regulation or instrument", the piece that was mentioned prior; and I'm trying to recall your third....

The Chair: It's in line 3.

Mr. Nathan Cullen: Yes, it's the rendering of "94.1(1)", and that we call the question.

Mr. David McGuinty: Those friendly amendments are accepted, Mr. Chair.

The Chair: Okay.

Is there any necessary—

Mr. Brian Jean: I can understand how the member is saying it comes from the government's own words—in a separate section that deals with a separate set of factors—but I would like to hear from him what he means by "persons, works, undertakings or activities". If he's not prepared to answer that, I understand why he might not be, but it is a question.

In fact, I would put it to the department: what do they see as this interpretation's meaning?

The Chair: I think it's time to call the question.

Mr. Brian Jean: Can I not hear from the department in relation to that? We heard generally a couple of problems.

We've brought up three clauses so far in the last 20 minutes; every one of them had an error. Every single one of the Liberal amendments had an error. In this particular case, I'm asking for some clarification from the department in relation to their interpretation. I think that's a fair question, Mr. Chair.

The Chair: I am compelled to allow debate to continue.

Mr. Moffet, could you be as brief as possible?

Mr. John Moffet: This amendment uses the same language that the government used in Bill C-30 to refer to "persons, works, undertakings or activities". "Person" is a legal term of art, the addition of which, of course, refers to a human person or a corporate entity. The reference to "works, undertakings or activities" was to ensure that the scope of this authority would be interpreted as broadly as possible, so that regardless of the focus of the regulation under other parts of CEPA, the administrative discrimination authority that would be provided in proposed subsection 330(3.1) could apply to those regulations. The intention is to make this as broad as possible.

Mr. Brian Jean: But you said "discrimination".

Mr. John Moffet: That's the legal term that refers to the power that's being created here—administrative discrimination. Ordinarily, one would regulate like things in a like manner. You need authority to administratively discriminate among like things and you need to stipulate the basis of that authority. That's what we've done here, so you could geographically differentiate as long as you came up with an equivalent health or environmental outcome. You could differentiate on the basis of the age of the technology or the age of the facility, if that is appropriate, to achieve the ultimate environmental objective.

We have a health and environment test here, and what we're doing is specifying the grounds on which regulations could differentiate among regulatees.

Mr. Brian Jean: So in essence, I understand it not to be a consistent application across every province. Each province could be treated, in essence, differently. For each area of each province, depending on the industry or the age of the facility, just about anything could be.... So there's not a regulated standard for everybody across Canada. People would be treated differently, depending on where they are from, and in essence almost any different factor.

Mr. John Moffet: I can't tell you what will happen or would happen. We've never used this authority. Whether we ever will, I have no idea. That will be determined by the government of the day.

This provides the authority to make that discrimination, provided we meet the test of ensuring consistent and common environmental and health outcomes. We can't use it willy-nilly. We would have to use it only if justified for the purpose of achieving a common outcome.

Again, the air quality, the Toronto-Windsor corridor—we're trying to achieve the same quality of air everywhere. If the air quality is worse in one place, it may make sense to have different emissions standards for the people in that area, with the objective of ensuring that the people in that area have the same air quality as the people in the Yukon and northern Saskatchewan. The outcome has to be the same.

● (1255)

Mr. Brian Jean: Okay, I understand.

Thank you very much.

The Chair: No further debate?

Are you ready for the question? We will vote on L-27.1, as amended. All in favour? Opposed?

We have a tie.

In the event of a tie, as previously stated at the beginning and as previously done during this session, I am compelled to vote against the amendment to maintain the status quo. So my vote is no.

(Amendment negatived)

The Chair: Shall clause 34 carry as amended?

Mr. Warawa.

Mr. Mark Warawa: For clarification, you said "as amended".

The Chair: There were previous amendments adopted—L-26....

Mr. Mark Warawa: That's correct. Thank you. I just wanted clarification.

(Clause 34 as amended agreed to)

(On clause 2)

The Chair: Now we're going to go back to clause 2. The first amendment relative to that is amendment NDP-1.

Mr. Cullen, when you're ready.

Mr. Nathan Cullen: We'll not be moving amendment NDP-1, Chair.

The Chair: And NDP-2? The same? Okay.

Are you moving amendment L-3? I recognize what you're doing here, but we need to.... Amendment L-3 is still on the....

Mr. David McGuinty: We are withdrawing L-3 and we are tabling L-3.1.

The Chair: Okay, amendment L-3.1 has just been distributed.

Yes, Mr. Warawa.

Mr. Mark Warawa: Having just received this, I'd ask for a temporary suspension so that we can actually see what this is. Or maybe we should permit the Liberals to present it first and then break.

Mr. David McGuinty: Can we time this break, Mr. Chair, to two minutes? Two minutes is enough time to read—

The Chair: Well, there has been abuse of the breaks on all sides, so let's just try to go through this as quickly as we can.

I'm going to ask you, Mr. McGuinty, to cover L-3.1. The government side would like L-3.1 presented.

Hon. John Godfrey: Mr. Chair, the reason we always delay on the presentation of preamble is to reflect accurately, in describing what we're doing here, the changes that have been made. That's why we're now reverting to the preamble: to try to capture what we've been doing here. What L-3.1 does is pick up on points that the various parties have made, and it attempts to consolidate that in a coherent preamble.

The first item that is added reflects the Liberal proposal on having a national carbon budget.

The second paragraph actually uses the language of the government itself in the original preamble to Bill C-30, recognizing "that air pollutants and greenhouse gases constitute a risk to the environment and its biological diversity and to human health...".

The third paragraph is a direct reference to concerns of the Bloc:

> Whereas the Government of Canada recognizes that air pollution and greenhouse gases are matters within the jurisdiction of both the Government of Canada and governments of the provinces;

The fourth, fifth, and sixth paragraphs reflect the united concern of the three opposition parties—actually, I would say the united concern of all parties—both with the phenomenon of climate change and its risk to humanity and to Canada, while recognizing as well the duty of a country like Canada to take responsibility, given that it is one of the wealthiest countries in the world and that we are experiencing severe effects of climate change already in the Arctic. I think all of us would agree to that.

The sixth paragraph is a specific reference that brings together at least the three opposition parties in their commitment to the United Nations Framework Convention on Climate Change; the Kyoto Protocol, which was ratified by Parliament in a majority vote; and the recognition that when Canada undertakes international obligations, it must do its best to meet them, with reference specifically to the 2008-2012 first Kyoto period and a reiteration of the commitment we made to getting to 6% below 1990 greenhouse gas emission levels.

Then, under subclause (2), the eighth paragraph, which is a particular reference to a concern of the NDP, as reflected earlier in our conversations, it's the principle of substitution, which they have made a particular cause of theirs, I think.

So what you have here, Chair, is an amalgam of various points of view raised around the table. We think it accurately reflects the changes we have actually finished making.

● (1300)

The Chair: Did you want to address point one, Mr. Cullen?

Mr. Nathan Cullen: Thank you, Chair. I'll be brief.

The particular—

Mr. Mark Warawa: On a point of order, Mr. Chair, I think there was a consensus that before we began debate we were going to allow the presenter to present, which has been done, and then at this point we would have a short break so that we could prepare and then come back and have healthy debate.

The Chair: What length of break are you looking at?

Mr. Mark Warawa: Two minutes would be adequate.

The Chair: It will be on the timer. The gavel will sound again in two minutes.

Mr. Brian Jean: Mr. Chair, I thought you already made a ruling in relation to that.

The Chair: There's been abuse on both sides.

Mr. Brian Jean: There has been, Mr. Chair.

The Chair: I'm going to stop it at this point. When we call for a two-minute break, it means a two-minute break.

Mr. Mark Warawa: That would be fine. Thank you, Chair.

● (1300)

(Pause)

● (1305)

The Chair: We will reconvene and debate amendment L-3.1.

Mr. Cullen, you have the floor.

Mr. Nathan Cullen: Thank you, Chair.

Very briefly, first of all, we need to recognize the importance of a preamble and that it's only guidance for governments looking at the act and for Canadians reading it.

This basically says air pollution and greenhouse gases are a risk, Canada recognizes the jurisdictions of provinces and the federal government, and climate change constitutes a serious threat. I'm reading the things we all agreed to, all four parties.

There's a responsibility to act, again with the agreement of all four parties. We are in the UNFCCC, the United Nations Framework Convention on Climate Change, and we are signatories to Kyoto, still with agreement around the table. Lastly, the concept of substitution and the highest order of pollution prevention are in this, which we again agreed to unanimously.

We will be supporting this preamble, and we encourage other members to do so with haste.

The Chair: Mr. Warawa.

Mr. Mark Warawa: Thank you, Chair.

As we debated yesterday, on the preamble for the motor vehicle fuel consumption standards, a preamble needs to be balanced. It needs to describe an ambitious undertaking, and it needs to be possible and realistic. It is to provide clear guidance on what the government should be doing.

I'd like to go through this.

The first whereas is “Whereas the Government of Canada is committed to having a national carbon budget”. Mr. Chair, what's being proposed is a major change in focus from what the original Clean Air Act was proposing, focusing on clean air quality, cleaning up pollution, and reducing greenhouse gas emissions for the health of Canada and the health of the planet.

What's being proposed in this preamble is a carbon tax. The carbon tax gives a very clear direction that there's a national carbon budget, which would require billions of dollars from new taxes on Canadians. We heard a few weeks ago that the Liberal government was....

I hear snoring over there, Mr. Chair.

The Chair: Could I ask everybody to respect the process, please?

Thank you very much.

Mr. Mark Warawa: Chair, this government has made it very clear that we have two choices, two directions in which we can head to clean up the environment, to reduce greenhouse gas emissions—that is, to slow down the economy; or through technology created right here in Canada, we can reduce greenhouse gas emissions, through technologies like carbon capture and storage.

What was being proposed previously by the Liberal Party was carbon taxing, and as I started to say, there was praise from the Liberals to provide a new $100-billion carbon tax on Canadians and industry. Also, their proposal was to have billions of dollars leave Canada to buy carbon credits, hot air credits.

To build the technology, as I said previously, we either slow down the economy, which we're opposed to.... We need to have a healthy balance, a healthy economy and a healthy environment.

What they're proposing is this billions of dollars of tax, and having then, in turn, billions of dollars leaving Canada to buy these hot air credits. In a preamble sharing where the government needs to go in a clear, balanced approach, that does not achieve that. That's not what Canadians want. Having billions of dollars of investment leaving Canada definitely will not help the environment in Canada and it will not help build that technology that's needed. It will not help, ultimately, the issue of climate change.

The second “whereas”:

> Whereas the Government of Canada recognizes that air pollutants and greenhouse gases constitute a risk to the environment and its biological diversity and to human health, and are matters of national and international concern which cannot be contained within geographic boundaries;

I wouldn't have difficulty with that, but what we've seen over this week particularly, the hours and hours that have been spent in removing the issue of how to clean up air pollution to improve air quality, both indoor and outdoor, what we've seen with the changes, the amendments that have come from the Liberal Party, is basically to gut out any mention of air pollution and indoor and outdoor air quality.

The preamble needs to represent what is being proposed in the bill. That is a good preamble, a good part of the preamble, but to have, now, the bill gutted and have the tools to deal with air quality, indoor and outdoor, taken out of Bill C-30, it doesn't seem to be logical. It should be in there, and unfortunately it was taken out.

Next:

> Whereas the Government of Canada recognizes that climate change constitutes one of the most serious threats to humanity and to Canada, and poses major risks not only to the environment and the economy, but above all to the health and safety of all people;

I don't have problems with that. Climate change is an issue that, as the Government of Canada, we need to recognize and we need to work hard to achieve reduced greenhouse gas emissions.

I'd like to skip to the last "whereas" under subclause 2(1):

> Whereas the Government of Canada signed the United Nations Framework Convention on Climate Change which entered into force in 1994, and Parliament ratified in 2002 by majority vote in the House of Commons and the Senate the Kyoto Protocol which entered into force in 2005 and under which Canada must honour its obligation to reduce its average annual greenhouse gas emissions during the period from 2008 to 2012 to six percent below their level in 1990;

● (1310)

Mr. Chair, it's ironic that this L-3.1 comes from the Liberals. In 1994, when this came into force, Canada had a Liberal government. When they had an opportunity to do something to clean up the air they didn't. Greenhouse gas emissions under their leadership increased 35% above those Kyoto targets. So this "whereas" is insinuating that we're starting in a healthy position. Again, a preamble has to be realistic. It has to take us in an ambitious direction but also a realistic direction.

At 35% above target, the Liberals, after failing miserably on cleaning up the environment, are now saying we want the Government of Canada to clean up the mess that we left. We are already working hard.

● (1315)

The Chair: A point of order, Mr. Cullen?

Mr. Nathan Cullen: Thank you, Mr. Chair.

I mean no disrespect to the parliamentary secretary. We have a fixed timeline, I believe, of returning this bill. I can see by the government's actions now that they are choosing to filibuster this process and delay. Specifically, the point of order I raise is that the parliamentary secretary has chosen to go back and rehash debates that this committee has already had, and talk about votes that have already been passed and accepted into this bill. The preamble's purpose is to reflect what's gone on in the bill. The parliamentary secretary would like to debate the veracity of our climate change agreements internationally, the various aspects of this legislation that we've already passed as a committee, some of which was with the government's support as well.

I respectfully submit that we are on the point of a preamble that is to reflect the aspects of the bill, not to continue a debate that has already been finished and voted on. It is not in order to go back and rehash old debates. If the government is choosing to filibuster its own bill, delay it, I would suggest to them that this bill by its own timeline is to be delivered back to the House of Commons today, or tomorrow morning, to finish our committee work. We either finish this committee work now as we go through and you just accept defeat on the things you've lost, and accept the fact that there are things in this bill that you voted for.... That's how this Parliament works when it's in a minority situation. And we should get on with it, finish the preamble, name the bill, and with confidence and pride return it back to the House as a working document from this committee, which has worked hard. The returning back over old debates is unproductive, unnecessary, and in everyone's estimation represents the process of filibustering. It's beyond me why the government would choose to do so.

The Chair: Thank you, Mr. Cullen.

I will point out, however, that it is a matter of debate, and I am compelled to allow debate to continue.

Mr. Brian Jean: On a point of order, I think the filibuster was just happening there. He's filibustering us at this stage. What's that? You could have said that in two words.

The Chair: Mr. Warawa does have the floor. I think we are all aware of the timeframe we're working under. It is a matter of debate, and the chair is compelled to allow debate to continue. I'll give the floor back to Mr. Warawa.

Mr. Mark Warawa: Thank you, Chair, I appreciate that.

As Mr. Cullen knows, I have not spent a lot of time talking. I've listened carefully.

I thank you, Mr. Jean, for very clearly finding some errors to this point.

We've tried to create a bill that will deal with the issues of greenhouse gas emissions and pollution levels in Canada. Members have seen fit to dramatically change Bill C-30 as it was originally presented. But we still have continued in a spirt of being willing to work with all members of this committee, with the ultimate goal to reduce greenhouse gas emissions and improve air quality in Canada.

Chair, speaking to the preamble in Bill C-30, the preamble reads as follows:

> Whereas the Government of Canada recognizes that air pollutants and greenhouse gases constitute a risk to the environment and its biological diversity and to human health, and are matters of national and international concern which cannot be contained within geographic boundaries;

Mr. Chair, that's a good preamble. It shares the direction in which Canada needs to go. We need to have a preamble that's realistic, balanced, and clearly takes us in a direction.

The Chair: I'd appreciate it if we could keep the chatter in the rest of the room down, please. Thank you.

Mr. Mark Warawa: Thank you.

We clearly need to have a preamble that's realistic. As I said originally, the national carbon budget takes us in the direction of tax, tax, tax, and sending billions of dollars out of Canada. That's not what Canadians want. They want action here, and that's what they're getting from this government.

They also want realistic targets based on a healthy environment and a healthy economy. The last "whereas" is.... From the science we've heard around this table, what's being proposed is not realistic. It would not be good for the economy. We need to have a balance of both.

Those are my comments. I do not support what's being proposed by the Liberals.

● (1320)

The Chair: Mr. Watson, you're next on the list.

Mr. Jeff Watson (Essex, CPC): Thank you, Mr. Chair.

First let me start for a moment by reminding Mr. Cullen that debate is our privilege as MPs. If perhaps some day he finds himself on the short end of a majority government, he'll be fighting very fiercely for his privilege to debate as much as he would like to or as much as his constituents would like him to be able to debate. I think it's an important point for everyone around the table to understand.

Mr. Chair, the preamble's important, of course, because it establishes what the Government of Canada is committed to or what the Government of Canada does.

I think it's important to be reminded that, as a point of law, the members opposite are the opposition, not the Government of Canada. Our debate on the specifics of each of these preamble statements is in fact very important. They are attempts to put words in the mouth of the Government of Canada.

The Government of Canada, as far as I can tell, is not committed to a national carbon budget. We don't want a carbon tax. The largest tax on corporations is not the proper direction in which to go.

Mr. Chair, I want to start with something else, before I get into the specifics of this.

We've reached a stage here, as we talk about Canada honouring its obligation to meet the Kyoto target and the timeline. When the Liberals were the government, they had the time to act, they had the dollars to act, and they say they had the tools to act. It's clear that they lacked the will to act.

The opposition and the other parties that are not the Government of Canada now want to commit the Government of Canada to what many witnesses before this committee testified is a reckless course of action.

In fact, Buzz Hargrove from the CAW said it would be suicidal to our economy to try to meet the Kyoto target and timeline. I don't think most people would consider Mr. Hargrove to be a card-carrying Conservative member. I think his statement should certainly be reflected on and taken into account on this one.

It's easy to make a commitment from the opposition when you don't have to actually fulfill the commitment. It's what happened with Mr. Dion as Minister of the Environment. He didn't keep the commitment when he was in government, and he says he can't keep it beyond this government. Then the only time he says he can meet it is in fact when we are the Government of Canada. It is weak leadership. It is not leadership.

I'm opposed to opposition attempts to not only foist the carbon tax on us, but to kick the auto industry when it's struggling right now with an extreme auto emissions standard. They've put politics into Bill C-30 rather than practicality.

Real people's lives hang in the balance. The idea of a just transition fund implies the exact opposite. The transition in the near term is in fact unjust, otherwise they wouldn't call it a “just transition fund”. They know real people are going to be hurt.

The Government of Canada respects the balance that needs to be achieved between environmental action and responsible environmental action. It's ambitious, yet realistic, taking into account the need to balance environmental achievement with real economic realities.

When auto jobs go under in the near term, it's tax dollars that support not only public health care in this country but many things. They support underwriting payment for the same environmental programs that we hope to clean up the environment with.

I oppose the opposition's efforts in this to kick the auto industry when it's struggling. Let it be noted that the NDP and the Liberals have turned their backs on the auto industry in Canada. That's the reality.

I oppose opposition efforts to ignore swaths of witness testimony from the CAW, industry, and academics about the dangers of reckless compliance in honouring the Kyoto obligation. They've put politics ahead of witness testimony. They do so at their own peril.

Mr. Chair, while there are measures in the preamble that the government agrees with, there are some very provocative ones that we simply cannot abide by.

I will be opposing this, Mr. Chair.

● (1325)

The Chair: Thank you, Mr. Watson.

Monsieur Gourde.

[*Translation*]

Mr. Jacques Gourde: Thank you very much, Mr. Chairman.

It is a pleasure to take the floor in this committee as it considers Bill C-30. I am replacing one of my colleagues who was unable to be here today.

I must say that with all those changes, I no longer recognize the bill that was introduced by my colleagues at the beginning of your study, and this concerns me greatly. We had a very good bill that aimed at improving air quality and the health of Canadians.

Just thinking that Liberals again want to implement a carbon tax... This would not be very helpful. It would be just one more tax imposed on Canadians. A tax has never improved our environment and even less the air we breathe. What can improve our environment are the combined efforts of all members of this committee and of all Canadians in order to consume less energy, less fuel.

We can reduce our fuel consumption by using more fuel- efficient cars and using public transit as much as possible. When I travel between my riding and Ottawa, I see 90 percent of people riding alone in their cars and all going into the same direction. We could promote car pooling. These are all actions that will bring about changes.

Our first task is to improve air quality and this should be our major concern. We should make use of new sources of energy, especially renewable energy. In Quebec, we have hydro power but we must also develop wind energy and biofuels. Every time we replace 1 percent of the fossil energy we consume by a less polluting renewable energy, we will improve our quality of life and our environment. We will have to get there 1 percent at a time but each step will bring us closer to our goal. I believe all members of this committee have the same goal, that of improving our environment.

This is why, Mr. Chairman, I have a problem with all these amendments. From the beginning, the ultimate goal of Bill C-30 has always been to improve the health of Canadians. In order to achieve this, we need cleaner air. I am very concerned and I would like the cooperation of the members opposite in order to pass our Bill C-30.

Thank you very much.

[*English*]

The Chair: Mr. Manning.

Mr. Fabian Manning (Avalon, CPC): Thank you, Mr. Chair.

I just want to make a few comments on the preamble of Bill C-30, if I could.

Certainly for a rookie here, it's been quite the experience since we began this process some weeks ago. Our main goal as a committee, I think, was to ensure that Canadians had clean air, and in order to address the concerns we have in Canada—and I believe that Canada wants a clean, healthy environment—in order to achieve that goal, we need a strong economy.

I have some concerns with what has transpired over the past couple of weeks, and certainly in the preamble we're talking about at the present time. We can call it what we like; we've had many adjectives used. We have, without a doubt, put forward a carbon tax on industry in this country, and from my point of view that's a backward step. I think we've created a problem here for the advancement of what we all believed was the purpose of our coming together here—to enshrine in legislation the meeting of Kyoto targets when we have several witnesses who have come before us over the past number of weeks who said that in order to meet the Kyoto targets, we have two options: we spend an enormous amount of taxpayers' dollars overseas to buy credits, or we have a situation where we try to pressure industries into meeting those targets here in Canada.

Several of my colleagues and others have mentioned the fact that we could do major damage to many of the industries, whether it's the auto industry, or the oil sands industry in Alberta, or wherever the case may be, Mr. Chair.

To think that we're going to be able to clean up our environment to create good, clean air for Canadians and do it without the proper funding put in place.... In order to have that type of funding we need to have a very strong economy.

I'll go back to a comment Mr. Cullen made a few moments ago that I found interesting. He looked across the floor to us and said "Take your loss, accept your loss." My conclusion of what has happened here over the past number of days now is that it is not us who have lost, it's Canadians who have lost, Mr. Chair.

Without continuing on with the plan that was in place and the right objectives to come forward, to be able to do what Canadians wanted us to do here, which was to create clean air, to put all our efforts into creating clean air, there's no doubt in my mind that once again, it's not us who have lost; it's Canadians who have lost this battle.

Thank you, Mr. Chair.

● (1330)

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

Mr. Nathan Cullen: Yes, very briefly, Mr. Chair.

We've arranged for some refreshments and cake up on the sixth floor, having seen the number of hours we all, the committee and our staff teams, have worked together.

We expected, having started at 9, that 1:30 would have been an appropriate time, but clearly we have more conversations to go on. So with the indulgence of the committee, if folks would like to come up and have five minutes of cake and maybe some refreshments, and then continue on with the speeches, we can finish.

I put that to the committee. We have arranged that. You're most welcome to come and join us and celebrate the work we've all done together on this bill.

The Chair: While I'm sure I appreciate that, it is the will of the committee. Does the committee wish a suspension?

Some hon. members: No.

The Chair: I think we're hearing a no, but with gratitude for the offer.

Mr. Nathan Cullen: Well, we'll make sure we save some. I might even bring some back down if I can wrestle it from them.

The Chair: Okay, we'd appreciate that.

We'll carry on with Mr. Jean.

Mr. Brian Jean: Mr. Chair, I think the reality is that Canadians want us to get work done, not eat cake. As a personal position, I refuse to have cake at funerals, and I would suggest this is pretty close to that.

Some hon. members: Oh, oh.

Mr. Brian Jean: Mr. Chair, I think I am next on the agenda and I'd like some attention here.

The Chair: Mr. Jean has the floor.

Mr. Brian Jean: We have six paragraphs in front of us in this preamble, and I would suggest, Mr. Chair, very simply, it's a political statement. It's not about getting results for Canadians.

What I'm concerned with in this bill is the first paragraph, which simply states that companies can buy their way to pollute, and Canadians have to pay the price, the same as they've paid the price for the last 13 years of inaction, with nothing being done—and I'm ashamed.

The Chair: Monsieur Bigras.

[*Translation*]

Mr. Bernard Bigras: Thank you, Mr. Chairman. I will be very brief because I would like to speed things up. However, I wanted to say a few words in this debate.

The amendment before us is excellent and summarizes what we expect from this bill, the spirit of the bill, which is a recognition that greenhouse gases and air pollution are a hazard for the environment and for biodiversity. This recognition is important.

I came here in 1997. I remember very well that members of the Conservative Party — then the Canadian Alliance — whenever we held those discussions in 1997-1998 on climate change, refused to recognize the negative impact of greenhouse gases. Today, if the government votes against this preamble, it will be clear that there has been during these 10 years no evolution in the position of the party in power. We have been hearing from this committee week after week the same empty speeches that we have been hearing for 10 years in the House of Commons from the party that is now the government. The government should realize that voting against this amendment and this preamble, which would ensure that we implement our commitments under the Kyoto Protocol, would reflect an unacceptable lack of action and respect for an international commitment made by Canada and that was ratified by the House of Commons in a significant vote that we must respect. Therefore, Mr. Chairman, we will support this amendment which reflects the spirit of what we tried to do in Bill C-30, which is to proceed with a real implementation of the Kyoto Protocol and to respect our international commitments. Thank you very much.

● (1335)

The Chair: Thank you, Mr. Bigras.

[*English*]

Mr. Dewar, the floor is yours.

Mr. Paul Dewar (Ottawa Centre, NDP): Actually, you know what? I'll decline, Mr. Chair.

The Chair: Well said.

Mr. Paul Dewar: I thought so.

The Chair: No further debate? Are we ready for the question on L-3.1?

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

The Chair: Still on clause 2, we are down to BQ-1, which is on page 3. With the passage of L-3.1, BQ-1 is overtaken.

BQ-2 is....

A voice: Same thing.

The Chair: So BQ-2 is not moved.

NDP-3, Mr. Dewar.

Mr. Paul Dewar: Chair, we're going to withdraw that.

The Chair: So NDP-3 is not moved.

We'll have a recorded vote on clause 2.

(Clause 2 as amended agreed to: yeas 7; nays 5)

(On clause 3)

The Chair: Clause 3 deals with definitions.

We'll start with NDP-4 on page 7. It's identical to L-4, by the way.

Mr. Paul Dewar: Thank you, Chair.

Simply put, this would restore the definition of air pollution vis-à-vis what is currently in CEPA. It would give a detailed definition of air pollution. It just brings more clarity, if you will, which is the whole purpose of having definitive clauses.

I'll leave it at that, and if people have questions for debate....

● (1340)

The Chair: Is there any debate on NDP-4?

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

The Chair: I assume you will not move L-4.

Next is NDP-5 on page 8.

Mr. Paul Dewar: This brings more clarity to the beginning of this bill. It's important to have clarity in definitions that specify substances, etc., in CEPA.

When we look at what we have in the bill, that's already clear, so I'm going to withdraw it.

The Chair: I'll point out that not moving that leaves a reference to schedule 3.1 in the bill that has not yet been voted on.

Mr. Paul Dewar: Thank you.

The Chair: We'll move on to L-5. It's consequential to L-21

Mr. David McGuinty: This is an amendment that basically permits the minister to add to the list any new air pollutants as identified by scientific discovery or by the scientific community. It's quite self-evident. I move it as such.

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

The Chair: We'll move on to NDP-6.

Mr. Dewar.

Mr. Paul Dewar: I withdraw that, Chair.

The Chair: Next is L-6.

Hon. John Godfrey: I move L-6. Because of the insertion of our material on the carbon budget, this is a necessary definition. Carbon credit means a credit issued pursuant to regulations made under paragraph 94.1(1)(b).

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

The Chair: Next is L-7.

Hon. John Godfrey: This is a similar correction, reflecting our work under subclause 21(1). We defined a carbon credit in L-6. We're now defining a carbon permit.

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

The Chair: Next is L-8.

● (1345)

Mr. David McGuinty: This is again an insertion at the front of the bill. In this case, a precise definition lays out certainty about the concept of carbon price. We're very pleased that this bill will finally put a price on carbon. Canada will join the ranks of most industrialized states that are heading aggressively in this direction. It spells out specific prices from (a) through (d), and gives the minister the flexibility to prescribe a price equal to or greater than $30 per tonne after 2013.

The Chair: Is there any debate?

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

The Chair: We now move to amendment L-9.

Hon. John Godfrey: I'll move that, Chair. Because we now have included in our carbon budget plan the concept of a domestic offset system, we need to put it into the definitions. This refers to the place where the reference is.

The Chair: Okay. Is there any debate?

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

The Chair: Next is amendment NDP-7, on page 10 of our package.

Mr. Paul Dewar: Thank you, Chair.

This is again going back to the reason for having definitive clauses. It's to make sure that we are very specific about the substances listed in Bill C-30 as GHGs and that they appear on the toxics list in CEPA. We heard there were some concerns about this when we had witnesses before the committee, and about making sure we had definitive clauses on it. That's the intent of this motion.

The Chair: Is there any debate?

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

The Chair: Next is amendment L-10.

Mr. David McGuinty: Mr. Chair, I hereby move amendment L-10. It reflects the fact that the bill allows the minister to add air pollutants identified by the scientific community. We want to see Canada move and roll with new scientific knowledge as it comes forward. We are pleased to see it built into this bill, because it was not accurately or adequately reflected in the first draft the government put forward.

The Chair: Is there any debate?

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

The Chair: The next is amendment BQ-3, which appears to have been overtaken by other amendments.

[*Translation*]

Mr. Bernard Bigras: Thank you, Mr. Chairman. So I move amendment BQ-3, which defines greenhouse gas emissions as being the total annual emissions, excluding carbon sinks, the national inventory and the levels of 1990. However, I would like to remove the mention of an independent body from the definition.

[*English*]

The Chair: Your amendment, then, is as printed in our package, with the exception of removing the part of paragraph (b) that talks about the independent body.

Mr. Bernard Bigras: Exactly.

The Chair: Mr. Moffet, do you have a short comment?

Mr. John Moffet: Thank you, Mr. Chair.

This definition defines greenhouse gas emissions very specifically to include total annual national emissions, whereas the bill uses the term greenhouse gas emissions in numerous ways: in ways that could be applied to individual facilities, to sectors, etc. This would create some significant contradictions, in my opinion.

The Chair: Is there any debate?

Monsieur Bigras, do you have a comment on that, or considerations concerning it?

[*Translation*]

Mr. Bernard Bigras: No, I ask for the question.

[*English*]

The Chair: Okay.

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

The Chair: We'll move on to amendment NDP-8.

Mr. Dewar.

● (1350)

Mr. Paul Dewar: I will withdraw that.

The Chair: Amendment NDP-8 is not moved.

Next is amendment NDP-9.

Mr. Paul Dewar: I withdraw it.

The Chair: Amendment NDP-9 is not moved.

Next is amendment L-11.

Hon. John Godfrey: Mr. Chair, this is simply to put in the definitions section "greenhouse gas emissions trading system", which we have established through amendments.

The Chair: Is there any debate?

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

The Chair: Next is amendment L-12.

Hon. John Godfrey: Again, because we have introduced this whole concept of the carbon budget, we need to define what an individual.... We have various ways of speaking of carbon budgets; this defines an individual carbon budget.

The Chair: Is there any debate?

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

The Chair: We go to amendment L-13.

Hon. John Godfrey: Amendment L-13 is the other side of the coin, if you like. It's "individual carbon deficit", which again was referred to in the insertion. Therefore, we need to define what that is. It just lines up with what we've done.

The Chair: Is there any debate?

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

The Chair: Amendment L-14.

Mr. David McGuinty: Here, Mr. Chair, we're helping to clarify what "large industrial emitter" means for the country. It's important for Canadians who are watching to know that approximately 700 large industrial emitters are releasing 65% of Canada's greenhouse gasses. We are pleased to see now that the bill reflects a real strategy to deal with those large industrial emitters. We need, of course, the definition of them at the front of the bill.

The Chair: There's no debate.

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

The Chair: Amendment L-15.

Hon. John Godfrey: Again, we need to now define a "national carbon budget", since we've inserted it in the legislation. That's what this definitional term does.

The Chair: There's no debate.

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

The Chair: Mr. Godfrey, on amendment L-16.

Hon. John Godfrey: We've referred to "a national carbon budget" and have defined it. We've referred to "an individual carbon budget" and have defined it. Now we talk about "a sectoral carbon budget" and we're going to define that.

The Chair: There's no debate.

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

The Chair: Amendment L-17.

Hon. John Godfrey: Amendment L-17 ensures that releases covered by CEPA, under the regulations, include accidents. The government amendment, which we're talking about here, seeks to restrict CEPA regulations to "intentional" releases, so we're strengthening the provision.

The Chair: Mr. Moffet.

Mr. John Moffet: Mr. Chair, I'd like to explain the rationale for the clauses that this amendment would remove or the lines that this amendment would remove.

With the way part 5 of CEPA is currently constructed, the government can regulate products that contain a toxic substance and that then emit a toxic substance. For example, paint contains VOCs and releases VOCs. We cannot, however, regulate products that do not contain a toxic substance but which emit a toxic substance. The example I'll give you is a wood stove, which is a piece of cast iron and doesn't contain a toxic substance. When you put wood in it and you fire it up, it emits particulate matter and all sorts of nasty things that create smog, etc. We can't regulate the design of such products at the moment.

In clause 14, which this committee passed, there are numerous references to the term "product that contains or may release". That is expanding the authority so that we can now regulate, for example, wood stoves under CEPA.

The provision that amendment would delete is simply an effort to define, for clarity, what is meant by "a product that may release". We have other provisions and authorities in CEPA to address inadvertent or accidental releases. We're confident that we can do so and that we're not therefore losing any authority. This is to clarify an expanded authority under CEPA.

● (1355)

The Chair: Thank you, Mr. Moffet.

Are there further comments from Mr. Godfrey?

Hon. John Godfrey: I am so convinced by the eloquence of Mr. Moffet that we will withdraw this.

The Chair: L-17 is withdrawn.

I call the question on clause 3.

(Clause 3 as amended agreed to)

The Chair: Moving on now to the schedule, is there any debate on the schedule?

Mr. Cullen.

Mr. Nathan Cullen: We will not be moving the schedule.

The Chair: NDP-38 is not moved. Thank you.

Let's move to the schedule of Bill C-30 on page 36. Is there any debate?

Go ahead, Mr. Godfrey.

Hon. John Godfrey: We basically are against the schedule, because it doesn't make sense, given the changes we've made to clause 18 of Bill C-30.

The Chair: Is there further debate?

Mr. Moffet, do you have a clarification?

Mr. John Moffet: Can you clarify where we are?

The Chair: We are on page 36 and 37 of Bill C-30. It's the schedule to the bill. It's votable, like a clause. It lists excluded volatile organic compounds, and so on.

Mr. John Moffet: May I explain what this is here for?

The Chair: I don't think it's going to be relevant, as worthwhile as it may be.

Does anybody need an explanation?

The question, then, is shall the schedule carry?

(Schedule negatived)

(On clause 1)

● (1400)

The Chair: Just for your information, there's a reference to the schedule in clause 2, which has now been adopted, but the schedule no longer exists. We'll look at that at report stage.

We are now at clause 1 and amendment L-1, which is back at the beginning of your songbook.

Mr. McGuinty.

Mr. David McGuinty: Thank you, Mr. Chair.

This is an amendment that seeks to rename the short title of the act. Now that we look at the bill in its new form, we think it's important to build on the work of all parliamentarians of this committee and rename it as "Canada's Carbon Budget, Climate Change Action and Air Quality Act".

We think it reflects the desire of all parliamentarians at this table to move aggressively on climate change. We have now built an operable plan into Bill C-30. It's workable, implementable, and understandable. It provides for emissions trading internationally. It has capped the total percentage of international credits. It has ruled out hot air purchases, very much as a result of the government's concern and our concern.

Most importantly, it takes Canada into the 21st century because it starts to speak about carbon as a form of budget. The single greatest threshold we have to cross as a nation-state to deal with climate change is to monetize carbon. It is the single greatest market correction that must be made. Hence, we have introduced the notion of carbon budget into this bill, and hopefully into Canadian society.

Not only does it reflect a carbon budget; it also reflects, as my colleague said a moment ago, sectoral carbon budgets. It reflects individual carbon budgets and treats carbon as a monetized asset. It reflects it for what it is: something with value attached. Until we actually monetize carbon we will continue to treat the atmosphere as a free dumping ground and receptacle for greenhouse gases and other pollutants. Science has taught us most of all that it is the equivalent of playing Russian roulette with the atmosphere, and Canadians don't want us to do that.

So we'd like to see the short name of this act reflect the carbon budget, because it talks about what we can do and not simply what we can't do. It tells us we can deal with the carbon deficit, for example, the way we dealt with the fiscal deficit in this country in the 1990s as a people, when we wrestled to the ground the fiscal trouble we were in and went on to make great strides.

In closing, on moving this amendment I would quote from a document recently published. Here's the quote:

> Let them say that we never settled for second best. That we had the conviction to make the right choices.
>
> Let them say we had the courage, the commitment and the confidence to bring Canada to its rightful place on the world stage

We think renaming this act accordingly would be helpful, because —

The Chair: Sorry. You may not believe this, but we have to suspend until we sort out the translation.

● (1405)

(Pause)

● (1415)

The Chair: You had a point of order, Mr. Warawa.

Mr. Mark Warawa: Mr. Chair, can I suggest that there's not much that can stop Mr. McGuinty from chairing this committee? Maybe this is a sign from the heavens that this committee is totally on the wrong track and we should be reconsidering.

The Chair: I think I'll call that a matter of debate, Mr. Warawa.

Mr. McGuinty, could you continue on or wrap up?

Mr. David McGuinty: I'm going to wrap up, Mr. Chair.

I'd suggest that in naming this new bill, we should go back to some of the language that the government itself tabled in its budget last week. We should talk about

> ...the courage, the commitment and the confidence to bring Canada to its rightful place on the world stage. ... Let them say that we never settled for second best, that we had the conviction to make the right choices.

I think we've made the right choices in this process. I'm hoping the short title will reflect that. I would plead with all members, and particularly the government members, to remember that it's now time for us to talk most of all about what it is that we can do, and not simply what it is that we can't do.

On that note, Mr. Chair, I am in fact going to withdraw this amendment. I think you'll find there is consensus at parts of the table for another short title.

● (1420)

The Chair: Is it agreed to withdraw amendment L-1?

The suggestion is that if you don't want it, vote against it.

Mr. Brian Jean: I think I have the floor next, Mr. Chair.

The Chair: Actually, you don't, Mr. Jean.

Let me go back to you for a second, Mr. McGuinty. You need consent to withdraw.

Mr. David McGuinty: What about a friendly amendment?

The Chair: Are we prepared to yield to hear a friendly amendment from Mr. Jean, in the spirit of cooperation?

Mr. Brian Jean: Was I next in the pecking order?

The Chair: Yes, Mr. Jean. Go ahead with your friendly amendment.

Mr. Brian Jean: It is a friendly amendment, in the spirit of cooperation.

I was listening very carefully to Mr. McGuinty when he was talking about a reflection, to make sure we reflect what is actually in the bill. Notwithstanding that we would continue to oppose it, the friendly amendment that I would propose would more accurately reflect what is in the bill. After “Canada's Carbon”, we would replace the word “Budget” with the word “Tax”, to accurately reflect the changes that have been made by the opposition parties.

An hon. member: That's a very good idea.

The Chair: Is that accepted as a friendly amendment?

Are you proposing that? Are you leaving that in the “friendly” category?

Mr. Brian Jean: I'm just trying to be friendly and cooperative, as the Conservatives have shown in this process.

The Chair: So we are at amendment L-1, which you now want withdrawn. Is that correct?

We need consent to withdraw.

Hon. John Godfrey: We can go one of two ways. I will try to “friendly amend” this back so that it will now read that this is the Clean Air and Climate Change Act as the full short title.

The Chair: So it would say “This Act may be cited as Canada's Clean Air and Climate Change Act.”

Hon. John Godfrey: Yes.

Do you accept that?

The Chair: Yes.

Mr. David McGuinty: I would accept that.

The Chair: You accept that, obviously. Let's go back to the speakers list, if we could.

[*Translation*]

Mr. Bernard Bigras: Is it admissible?

[*English*]

The Chair: It is in order.

Mr. Cullen, you were next on the speakers list.

Mr. Nathan Cullen: Thank you, Mr. Chair.

I won't need to make my comments, as long as Mr. McGuinty's are perhaps as funny as Mr. Jean's. So I'll keep it to the point.

We think the naming of the act is important. It symbolizes the work that was put into the act or the pieces that were taken out. The Clean Air and Climate Change Act, certainly in terms of the New Democrats, is what we intended to bring in to this legislation. It was the intention behind organizing with the other parties to create this legislative committee to find the best ideas, and in fact to have a Clean Air and Climate Change Act. That spirit of cooperation to find the best ideas was the intention from the beginning. We have found committee members from all sides voting for various amendments and proposing various ideas from all sides and all corners of the committee table, and it is something we will be proud to see put back to Parliament, I believe by you, Chair, tomorrow morning.

The naming of the act is fine. It's been in our platform in days past. We're flattered by the lifting of the title, and we will be supporting it.

The Chair: Okay.

Go ahead, Monsieur Bigras.

[*Translation*]

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

We support the friendly amendment, especially since it reflects word for word our own BQ-18 which we were going to move in a few minutes.

It is a type of change that truly reflects what we expect from this Bill C-30. There are two fundamental issues, air quality and climate change. We have done a tremendous job. I believe that with this title that we are going to give to the bill, we will rise above partisan considerations in order to send a strong message to Quebeckers and Canadians.

We, in the opposition, have decided to work constructively in order to improve the bill that was put before us to deal with these two issues: air quality and climate change. Therefore, we will support amendment L-1 as amended.

● (1425)

[*English*]

The Chair: Mr. Warawa, did you have a comment?

Mr. Mark Warawa: Thank you, Mr. Chair.

We would have been happy to support that amendment if Bill C-30 had been left as it was introduced by the government. But in fact now it doesn't do what is being proposed. It's also surprising that the Bloc and NDP members would be supporting a Liberal motion that presented Canada with 35% off target and is now presenting billions of dollars of proposed new taxes to Canada and industry. How could any Canadian support that?

Thank you.

The Chair: We are to the question on L-1, which would now read that Bill C-30, in clause 1, be amended by replacing lines 4 and 5 on page 1 with the following: “This Act may be cited as Canada's Clean Air and Climate Change Act.”

(Amendment agreed to)

The Chair: Now BQ-18, Monsieur Bigras, I gather, is not going to be moved. *C'est correct? Oui.*

(Clause 1 as amended agreed to)

The Chair: Moving on to the long title, which is everything just under “Bill C-30”, shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

The Chair: Shall I report the bill as amended to the House?

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill?

Some hon. members: Agreed.

The Chair: You're going to be really brief, aren't you, Mr. Jean?

Mr. Brian Jean: I am going to be brief, as I always am, Mr. Chair.

I do want to just say this. During the last hour, I noticed four particular errors in the legislation and I pointed those out against the wishes of other opposition committee members saying I was delaying. But I found four errors. Do you know what? For the next 20 minutes I listened to you pass more motions and I found at least six more errors. This piece of legislation is flawed, not only from a constitutional perspective, but also in the parts within it that refer to other parts. It is not a good bill in substance, nor is it a good bill as far as the act is concerned. I would invite Canadians to read it. I would invite the press to read it and to point out the errors and omissions within this, because this is about politics, not cleaning up for Canadians.

We have invested as a government so far, in the short period of time that we have been the government, $3.5 billion directly into the environment; $1.3 billion into transit.

Mr. Chair, I'm going to be very brief, but I think I have this opportunity and I'd like to take it.

I know it's not fair to point out that after seven years during which they did nothing the Liberals are now trying to force something on somebody else that their leader has said cannot be done. Mr. Chair, this is ridiculous, and they're trying to play politics with Canadians. Clean air is what we want to find for Canadians and reducing greenhouse gases is what we want to find for Canadians. This bill will not do it.

● (1430)

The Chair: Mr. Cullen, Mr. Warawa, Mr. McGuinty, and Mr. Bigras.

Mr. Cullen.

Mr. Nathan Cullen: Very briefly, in conjunction with the spirit of my remarks earlier, we have seen amendments come forward from all parties. We have seen ideas and concepts that we have not seen in Canadian politics and in Canadian law before brought forward by all parties. It was the spirit and intention of the creation of this committee to allow the best ideas to come forward and those best ideas to win. It is said that the nature of a good negotiation is if every party at the negotiation gives something up. That is what's happened here. No one has received everything they wanted; everyone has had to make concessions.

I think in the spirit of a minority Parliament, and in the spirit of this particular issue of the environment, one that we have not, as a nation, dealt with properly to this point, we have achieved a great deal together.

I look forward to working with committee members in the future.

The Chair: Mr. Warawa, briefly.

Mr. Mark Warawa: I'll make a quick comment.

I'd like to thank each member of the committee. We each had unique and diverse perspectives, but I truly believe, putting the politics aside, that each of us has a passion for a cleaner environment. We didn't come to consensus, but I look forward to continuing to work with the members of this committee so that we can provide what Canadians want, and that's a cleaner Canada and a cleaner planet.

Thank you.

The Chair: Thank you.

Mr. McGuinty.

Mr. David McGuinty: Picking up on both of those, I'd like to thank you, Chair, for your very well-done job. It was a very difficult job, more than traffic-copping, and you've acquitted yourself with great dignity.

I'd like to thank all of the staff, the clerk, the legal researchers, the drafters, the researchers. I'd like to thank all the support staff who have been with us on this journey since the beginning. It has made it a much more pleasant and a much more productive exercise.

All my colleagues, thank you very much for being as gracious as you've been. To the government MPs, in a very difficult situation, thank you for your grace and your civility.

Thank you.

The Chair: Mr. Bigras.

[*Translation*]

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

When we arrived here in this committee, we made a commitment to work constructively both with the government and all opposition parties in order to ensure that Bill C-30 indeed deals with climate change as well as air quality.

Ultimately, we had four basic objectives: first, integrate Kyoto targets into Bill C-30; secondly, create a system for trading emissions credits; thirdly — and I know this has not been easy to accept for some opposition parties — integrate a territorial approach that will allow provinces to implement their own plan while respecting a number of criteria set by the federal government; fourth, ensure that targets the government was about to set would be hard caps and not intensity-based. I believe this mission is accomplished.

I want to thank all of my colleagues for the open mind with which they met our requests. I believe that with this legal framework we now have in hand all the means required to fulfil our international commitments.

Thank you.

[*English*]

The Chair: Thank you, Mr. Bigras.

I guess the last word goes to me as the chair.

I want to say it's been my first kick at the cat, and it's been a tremendously personal experience. I've appreciated working with the committee members. I appreciate the fact that we were able to keep the high-sticking and the cross-checking to a minimum.

It is an issue of tremendous importance to Canada and to the world. I'm pleased that we can report back to the House on time. I will maintain my impartiality and not pass judgment on what we're reporting back, but I want to thank everybody for the level of civility in a very tough situation.

I especially want to thank the people sitting at the table with me, Chad, Sam, Tim, Joann, and Marc, for making me look a whole lot smarter than I actually am.

We MPs are in the media and in the spotlight, and we get the glory, but it's the support people who make this place work.

With that, thanks. In general, it was a job well done in terms of the process.

The final word is that this meeting is adjourned.

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