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# Standing Committee on Public Safety and National Security

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**Tuesday, November 21, 2006**

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**Chair**

**Mr. Garry Breitkreuz**

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Tuesday, November 21, 2006

•(0910)

[English]

**The Chair (Mr. Garry Breitkreuz (Yorkton—Melville, CPC)):** I call this meeting to order.

This is meeting number 21, and we are here to go through Bill C-12, An Act to provide for emergency management and to amend and repeal certain Acts. We are doing the clause-by-clause consideration today.

I'd like to welcome the witnesses from the department to the committee. We have Suki Wong, the director for critical infrastructure policy; Peter Hill, the director general for emergency management policy; and Jacques Talbot and Richard Mungall, counsels for the justice department.

For those of you who may be new to the committee and going through clause-by-clause for the first time, we usually have witnesses from the department here to give us advice. They answer any questions we may have about the bill regarding the implications of any of the amendments.

Of course, the legislative clerk is here to answer any questions on procedure, and the research staff will also assist us in our deliberations.

During the clause-by-clause, the committee considers the clauses of the bill, as well as any proposed amendments, in the order they appear in the bill. An amendment is not before the committee until it has been moved by a member of the committee.

We can ask questions and discuss them. The committee will then vote on each amendment, on each clause, and finally on the title and the bill as a whole. Then we present the report to the House.

In today's case, we have three amendments, which have been translated and distributed. Since clause 1 is the short title of the bill, it is automatically postponed to the end of the discussion, according to Standing Order 75(1).

There are no amendments on clause 2. Does clause 2 carry?

(Clause 2 agreed to)

[Translation]

**Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ):** Am I to understand, Mr. Chairman, that our witnesses will remain here while we study the bill clause-by-clause? I don't know if that is the usual procedure. In this case, that would not be a problem, because there are not many amendments and we agree on the thrust of the bill, except for a few things we would like to add. I find it unusual

that we call witnesses and force them to listen to our discussions, which can sometimes be at a different level than what we usually talk about.

[English]

**The Chair:** At all the committees I've sat on, we've had the officials present to advise us on the discussion and the amendments. That was the usual procedure.

Unless you can tell me otherwise, I think it is usual.

[Translation]

**Mr. Serge Ménard:** Oh, so if I understand, these are not witnesses, but people who are here to help us. Is that right? Perfect.

[English]

**The Chair:** Yes, they are the officials from the department. They are listed as witnesses on the agenda, but I don't think we can proceed without them.

We're going to go to clause 3. We have some amendments from the Liberals.

(On clause 3—*Ministerial responsibilities—general*)

**Mr. Mark Holland (Ajax—Pickering, Lib.):** That is correct, Mr. Chairman.

The amendment is pretty straightforward. It's looking to amend clause 3 by replacing line 9 on page 2...it's basically to add "municipalities and other entities" in emergency management. This is further to some of the delegations we heard, including FCM, to ensure that municipalities are heard from directly in the consultation process and that they are included at the table. This doesn't suggest that they're part of the decision-making, but they have indicated a desire to be consulted directly. Given the role they play as first responders, this is pretty critical.

**The Chair:** You've heard the amendment and the arguments for it. Is there any other discussion in regard to this?

Monsieur Ménard.

[Translation]

**Mr. Serge Ménard:** We are completely opposed to this amendment, and I am convinced that any government in Quebec would also oppose this amendment.

Personally, I will begin my intervention by saying that this shows, yet again, that there are two nations within Canada and as soon as an important issue arises—and there is no doubt that crisis management is such an important issue—the natural reaction is that each nation would love the crisis to be managed by the government over which it has the most control, the bigger government. In the case of Quebec, that would be the national government of Quebec. In the rest of Canada, I understand perfectly that it would be the federal government.

Of course, you know what our fundamental views are of the current Constitution. As long as we are part of that Constitution—and we will only be able to remove ourselves from it through democratic and peaceful means—I believe that we must remember that the distribution of jurisdictions does not mean that the most significant jurisdictions should belong to the central government, and that the provinces should only deal with regional issues or other ones. On the contrary, there are some very big issues which fall under provincial jurisdiction, not because the provinces are regional governments, but because the drafters of the Constitution decided that some very important issues should fall under the jurisdiction of Quebec in particular.

Municipalities fall under provincial jurisdiction. Municipalities are creatures of the provinces and they may appear or disappear according to the wishes of the various provincial legislatures. So, when the federal government deals with municipalities, it must go through the provinces.

Again, I understand perfectly—and this is one of the reasons why I am convinced that my basic opinions are correct—that we would operate much better in a true confederation rather than in the current federation. I've noticed that the natural trend in English Canada, when there is a crisis, when something important arises, is to turn towards the federal government for direction. In fact, this seems to have been a strong trend within a certain political party—namely the Liberal Party—rather than with the other parties. Indeed, this is a mark of the Liberals. As well, I am not surprised that the Liberals want to amend this section in the manner they are proposing. They feel that when there is a crisis or when an important issue arises, the federal government must step in. On the contrary, the Conservatives, perhaps because their roots lie in outline areas, usually tend to think that provincial governments are not simply regional governments and they don't mind when the provinces play a major role even if it involves issues as important as this one.

When I read the bill, I felt that its drafters were perfectly aware of these trends and that they wanted to respect the current Constitution as much as possible. That is why they did not include municipalities. Further, as far as crisis management is concerned, and contrary to what people may think, intervention is a bottom-up approach. That is the most effective principle.

In Quebec, we have a provincial counterpart to this legislation, namely the Civil Protection Act. It is recognized today—and I realize this in the course of our discussions—as a model within Canada. Quebec has fully exercised its powers, whereas I've noticed that other provinces have not wanted to step up to the plate to that extent.

● (0915)

Quebec traditionally had, and this will not change as long as it is a member of the current Constitution, always jealously guarded its areas of jurisdiction. So Quebec has exercised its powers, and since it has done so, I don't see why the federal government should try to involve itself in issues affecting municipalities, because it must always go through the provinces.

I therefore acknowledge the wisdom of the drafters of this bill. I think they thought long and hard about what they were doing. In fact, it seems they did a fairly good job, except for two small amendments which I would like to propose to the rest of the bill.

I therefore strongly object to the amendment proposed by our honourable colleagues who are members of the opposition, as are we.

[*English*]

**The Chair:** Thank you.

Is there anything further? I think the Bloc has made its position clear on this.

Mr. Hawn.

**Mr. Laurie Hawn (Edmonton Centre, CPC):** Thank you, Mr. Chair.

We—

**The Chair:** I'm sorry.

Mr. Comartin, you are actually next on my list. I should have been paying attention here.

● (0920)

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** Thank you, Mr. Chair.

Mr. Chair, I'm inclined to support this amendment, not because I see this as any major shift in the constitutional practices or the constitutional history of our country, but simply as a reflection of reality.

We heard—and I think most of us knew this already—that in these circumstances, when we're dealing with these types of emergencies, the first responders come from the municipal level. I think all this amendment does is recognize that practical reality.

We're not proposing to change the Constitution with this amendment; it doesn't do that. It simply says we're going to coordinate emergency response activities at all levels of government. I don't think that takes any authority away from the provinces. They will still have their constitutional framework in which the municipalities are offshoots of provinces and have their direct responsibility to the provincial level of government, not to the federal level of government.

I hear Mr. Ménard's argument, but I think it really misses the main point. I think the mover of this motion has no intention of changing the power relationships in this country but is simply addressing the question of how do we best coordinate the response. It seems to me that unless we recognize the very crucial role, the absolutely crucial role, that the municipal or regional levels of government play, we're not really doing our job. As a result, I will support the motion.

**The Chair:** Okay. Next I'll recognize Mr. Lee and then Mr. Hawn. Then as chair I will ask if the officials have any comments on this. Then, Mr. Holland, if you have any further comments....

Mr. Lee, please.

**Mr. Derek Lee (Scarborough—Rouge River, Lib.):** I have a question for the officials on this, but I also want to say that my colleague's angst, which is recognizable through this amendment, might be exacerbated perhaps by the knowledge that the existing wording of the section refers to other entities, which would include transportation authorities, hospitals, tourist venues and sites, hydro-electric-generating authorities, and police forces, clearly already under the jurisdiction of the provinces. The wording of the section is pretty soft wording. It involves coordination in cooperation with.

I want to ask officials to advise us whether or not there were, and if there are, in existence some examples they can give us of direct relationships between this particular ministry and other entities, municipal or otherwise, including municipal police forces, power-generating authorities, transportation authorities, and any funding mechanism that would move federal money directly to any of these bodies in the existing policy.

**The Chair:** Who would be prepared to take that?

Mr. Hill, please.

**Mr. Peter Hill (Acting Director General, Emergency Management Policy, Public Safety and Emergency Preparedness Canada (PSEPC)):** Thank you very much.

Indeed, the department has a range of relationships with various entities. Primarily, our relationships are through the provinces and territories, according to the established emergency management system in the country, and are based on the jurisdictional roles and responsibilities. We deal with first responders through their national associations, in collaboration with provinces and territories.

When it comes to various projects, such as critical infrastructure or protection, we're developing relationships with private sector organizations for the purposes of sharing information. I hope that answers your question.

**Mr. Derek Lee:** And is there a federal financial contribution or assistance to any of these entities with respect to emergency management plans or emergency preparedness?

**The Chair:** I'm not sure if that has anything directly to do with this bill, but if anybody wants to take a run at that....

**Mr. Derek Lee:** If I could clarify, it's for the sole purpose of establishing that there is already a relationship between the federal government and these entities.

**Mr. Peter Hill:** I'd be happy to answer that question.

In terms of the provision of financial assistance, the department is responsible for managing a number of programs. One you are all

familiar with is the disaster financial assistance arrangements. The federal government, through that program and managed by Public Safety, provides funding to support provinces and territories to assist their recovery activities following the events of an emergency or a natural disaster. That funding is directly to the provinces and territories, but of course that funding is used by provinces and territories in support of municipalities.

We also provide provinces and territories with financial assistance through the joint emergency preparedness program. That's designed to enhance their emergency management capacity at the local level. It includes training, for example. It includes the funds to purchase equipment, radios; it includes funds for exercises, things of that nature.

Those are the two primary programs we have in support of provinces and territories.

• (0925)

**Mr. Derek Lee:** Thank you.

**The Chair:** Thank you.

Mr. Hawn, please.

**Mr. Laurie Hawn:** I would just like to say that we oppose the amendment, but not for the reason that we think there's a *croque-mitaine* hiding in the wording, as some do. I just want to say that this is intended to be an umbrella act; it's not intended to get into the nuts and bolts of how things are done.

Spending three days in Quebec this past week reminded me of how much I love Quebec and like it being part of my country. I own a piece of Quebec, just as Mr. Ménard can own a piece of Alberta, if he chooses to exercise that.

Again, it's intended to be an umbrella document; it's not intended to single out any or get in the way of any cooperation. This is a cooperative effort between the federal-provincial governments and the municipalities, all first responders. That's all this is intended to do. We kind of like the wording the way it is.

**The Chair:** I said I'd give an opportunity to the officials.

Mr. Mungall, please.

**Mr. Richard Mungall (Counsel, Department of Justice):** Thank you, sir.

I'll just point out that the bill in other sections contains concepts and language that encompasses municipalities. For example, in paragraph 4(1)(f) we use the concept of "local authorities"; in paragraph 6(2)(a) we also use the concept of "local authorities". For the information of the committee, if we inject a new term, "municipalities".... Typically speaking, the rule of interpretation is that when a different word is used in a piece of legislation, it must mean something different. Therefore, there may be some interpretative difficulties with such an amendment.

The other thing I wish to point out to the members is that the potential addition of the word “municipalities” after “provinces” indicates that we have created some kind of a class. In the rule of statutory interpretation known as the limited class rule, when you have general words that follow specific words, the general words that follow take on the common meaning that's found in the general words. Therefore, the effect may be—whether it's litigated or not remains to be seen—to colour the interpretation of the term “other entities”, which might conceivably have the effect of excluding things that are not of a governmental nature, as are provinces and municipalities.

Further, the term “local authorities”, as we find in this bill, is also used in provincial emergency management legislation, as are various other terms to describe the things other than municipalities, such as local service boards or rural communities.

So across the country and in all the provinces there are different ways to describe things other than municipalities. I merely point out to the members that there may be some interpretive confusion or difficulties.

Thank you.

**The Chair:** Thank you.

Are there any other comments from the officials?

Ms. Wong.

**Mrs. Suki Wong (Director, Critical Infrastructure Policy, Public Safety and Emergency Preparedness Canada (PSEPC)):** To be brief, not all provinces define municipalities or how they group regional authorities as municipalities. By singling out the word “municipality”, Richard is trying to say it may exclude how other provinces define a group, cities, or regional authorities.

**The Chair:** Fair enough.

Are there any closing comments?

Mr. Holland.

• (0930)

**Mr. Mark Holland:** Thank you, Mr. Chair.

I'm going to read the relevant section here.

I appreciate Ms. Wong's last comment with respect to other municipal entities. Perhaps it could be captured, with the help of those who are appearing as witnesses, by having “municipal entities” or some other word that catches all of them. I think it's pretty clear what is meant by “municipalities”.

But this is what I find to be a concern. This is what clause 3 says:

The Minister is responsible for exercising leadership relating to emergency management in Canada by coordinating, among government institutions and in cooperation with the provinces and other entities, emergency management activities.

I'm adding the word “municipalities”.

As first responders, I can tell you that some of us were at this table as counsellors at a municipal level of government. There is a far greater expectation on municipalities than on anything else. Municipalities are first responders. We ask them to resource and to

be there immediately at the scene of an emergency. There is a uniqueness to the circumstances.

The only thing this amendment does is say the Government of Canada will coordinate and work in cooperation. That's it. For somebody to infer something from that, to me, is a pretty big stretch.

When FCM came before us, they said to simply include them as municipalities to ensure they're at the table. I would have liked to have gone further to make sure we had enshrined a role for them in the consultation process, not the decision-making process. I dropped that in deference to concerns about jurisdiction. This is simply talking about including them in the discussions and treating them as something other than children.

If we're going to exclude the first responders, the people who in my opinion bear some of the largest responsibility—and I know Mr. Mungall is saying they are not going to be excluded, but if you are excluding them from being named in the document entirely, and if I cannot find the word “municipality” anywhere in this, it is a slap in the face to municipalities, period.

I've tried to offer a compromise and hold back, but I can tell you the exclusion of that speaks volumes. It's paternal, and in my opinion it's really missing the boat in terms of how we will have to work with and treat municipalities.

**The Chair:** Thank you.

Is there any further discussion?

Monsieur Ménard.

**Mr. Serge Ménard:** There's no question that the municipalities should be at the federal table to discuss any plans. It is not a slap in the face against them. In Quebec, the municipalities are everywhere in the plan. They're supposed to be organized in the regional municipalities. It's simple.

But that's exactly what we're against. We're against having the municipalities at the federal table. If the federal government wants to organize anything, it should be with the provinces and territories. The municipalities will act toward these things.

I understand your feelings and I understand the feelings of some municipalities outside Quebec. I don't think any municipalities in Quebec will take the fact that they're not there as a slap in the face. They know very well that they should work within the province.

I think this is so basic that if there were to be an amendment like this, we would not support the legislation.

**The Chair:** That's clear.

Mr. Brown, please.

**Mr. Gord Brown (Leeds—Grenville, CPC):** Thank you, Mr. Chair.

I'm sympathetic to the mover of the amendment. As a former municipal counsellor, I fully understand the importance of municipalities.

For example, in my riding, ambulance services are not delivered by the municipality; they're delivered by a service board, because there happen to be separate municipalities. They sub it out to a service board. It's not done directly by the municipality.

It's an example of where this wouldn't fit. Even though I want to support municipal recognition, it doesn't fit in the case of my riding.

• (0935)

**The Chair:** Okay. Thank you.

Mr. Comartin.

**Mr. Joe Comartin:** I have a proposal, Mr. Chair, that perhaps might be acceptable to the committee as a whole.

I just want to say to both the officials and Mr. Brown that I think the argument that we don't call municipalities, municipalities in some of the regions is a bit of a semantic argument. They all belong to the provincial-municipal associations. They belong to the Federation of Canadian Municipalities.

In fact, let me just propose this. If you look at paragraph 4(1)(f), we've used their wording already, which I assume is acceptable to the government and to the officials. If you look at the latter part, where we talk about coordination, this is ministerial responsibility as full governmental responsibility. We use the wording there: "and through the provinces, those of local authorities". If we inserted the same wording after "with the provinces"—I'm proposing this as an amendment to the amendment that's been proposed by Mr. Holland—we would insert "and through the provinces, those of local authorities", and then go on with the balance, "and other entities", to cover the Red Cross and the other emergency care NGOs generally.

It would cover all those, but it would also take care of recognizing and respecting—acknowledging, really—the role the municipalities and the local authorities play as the first responders. It avoids Mr. Holland's concerns I think about a slap at them and being seen at the municipal level....

I'm proposing that. Mr. Holland has indicated that he's prepared to accept that as an amendment and to change his wording to what I'm proposing.

Thank you.

**The Chair:** You were referring to paragraph 4(1)(f). Are you proposing to change the wording when we get to that clause, or are you proposing a change to what Mr. Holland...? Is this a subamendment to Mr. Holland's amendment?

**Mr. Joe Comartin:** It actually would take out the word in Mr. Holland's amendment. It would take out the word "municipalities" and replace it with "and through the provinces, those of local authorities", the same wording that's in paragraph 4(1)(f). I'm not proposing any changes to paragraph 4(1)(f).

**The Chair:** There's a point of order.

Mr. Holland, you had a comment on that.

**Mr. Mark Holland:** It's not my preference. If it can garner the support of the committee, I would support that. That really does change the amendment. I think we would probably have to defeat this particular amendment, if that's going to be the will of the

committee, and then introduce that as a motion. I think that's probably the direction we would have to go, because it's a major change to it. But I'm amicable to what Mr. Comartin is raising as an alternative.

**The Chair:** I'm just reflecting on what you have there, Mr. Comartin, and I think it's already implied in the original bill. Regarding "with the provinces", does "through the provinces" really add anything?

Mr. MacKenzie.

**Mr. Dave MacKenzie (Oxford, CPC):** I think we understand that Mr. Comartin's attempt here is to include other authorities through the provinces. There's no question that we're adamantly opposed to Mr. Holland's original amendment. I know he speaks of the Federation of Canadian Municipalities, but he forgets what Ontario and Manitoba told us, that they do not want us dealing directly with municipalities.

I think what Mr. Comartin is proposing here is that it takes it through the provinces. We don't go past the provinces and municipalities; the municipalities feed through the provinces, and likewise, the federal government feeds back down. I think from our perspective, that makes it acceptable in that manner. And hopefully it should be acceptable to other bodies out there, including the provinces, where we're not taking away and not stepping in front of them.

**Mr. Joe Comartin:** Mr. Chair, if I...?

You had posed the question to me as to whether there is some significance, and I think there is. We're recognizing that there is a difference between "other entities" and the role the local authorities play. By inserting that into clause 3, we acknowledge that role. This is not in any way to demean the role the Red Cross and other agencies play, but the reality is that the first responders are the local authorities. The Red Cross and the others come in sometimes as equal partners, but usually somewhat after the fact. That's the point I think we're trying to make here. It is to recognize the significant role the local authorities play.

• (0940)

**The Chair:** A question has been posed here.

Mr. Comartin, would you remove from your amendment the term "other entities" then?

**Mr. Joe Comartin:** No.

**The Chair:** Okay.

I think the best way to handle this now, because yours is not a subamendment, is to deal with your amendment first, Mr. Holland. Then, Mr. Comartin, we can deal with yours. We'll simply vote on these two and carry on.

First is Mr. Holland's amendment.

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

**The Chair:** We're now on Mr. Comartin's amendment.

I'll try to make sure I have it right here, Mr. Comartin.

**Mr. Joe Comartin:** Do you want me to do this, Mr. Chair?

I'm proposing, Mr. Chair, that clause 3 be amended by inserting after the word "provinces" on line 9, "and through the provinces, those of local authorities", and then continue on with the balance of the clause as it is in lines 9 and 10.

**The Chair:** So you're adding those words.

Is that clear to everyone?

We're going to vote on Mr. Comartin's amendment.

**Mr. Serge Ménard:** I would like to have the translation. Also, I would like to see it in writing.

**The Chair:** Mr. Comartin, there's a suggestion here that would maybe make more grammatical sense and simplify things. In Mr. Holland's amendment, we could replace the word "municipalities" with "local authorities through the provinces". Then there would be a comma and "other entities".

**Mr. Joe Comartin:** Mr. Chairman, my response to that would be that you then would have two paragraphs using different phraseology. Our officials would tell us it's better to be consistent in your wording.

**The Chair:** I think that's been part of the argument even with Mr. Holland's amendment, yes.

**Mr. Joe Comartin:** You're getting the same intent; I understand that. But it's much better to stay consistent. Some judge somewhere will look at the two different wordings and say there must be some reason they used different wording. They may read something in it that we do not intend to have in it.

**The Chair:** Do the officials have any comments on this amendment? They're the ones who are very familiar with the bill.

We've had the request here. How long would it take us to comply with having this translated into French?

**Mr. Joe Comartin:** Do you want me to read it in French?

**The Chair:** That would be good. Put it on the record.

Mr. Comartin, please.

[Translation]

**Mr. Joe Comartin:** Mr. Chairman, we are proposing inserting the phrase which is found at line 34, paragraph 4(1)(f): "[...] and through the provinces, those of local authorities [...]", at line 9, section 3, after the words "the provinces".

• (0945)

**Mr. Serge Ménard:** So you are proposing adding the words "and through the provinces, those of local authorities". Do you propose that we remove "and other entities, emergency management activities"?

**Mr. Joe Comartin:** The words "in cooperation with the provinces" would remain.

**Mr. Serge Ménard:** So it would read: "[...] and through the provinces, those of local authorities and other entities, emergency management activities."

**Mr. Joe Comartin:** Yes. Lines 9 and 10 would otherwise remain unchanged.

**Mr. Serge Ménard:** I'm not so sure. You are raising the exact issue raised by Mr. Lee and you are giving it even more weight. I

thought, as did Mr. Lee, that "other entities" cannot include municipalities. So I thought, given the wording and the context, that, no, it cannot include municipalities, because other entities fall under federal jurisdiction. Since I still believe that an emergency situation is not the right time to fight a constitutional battle, and since I acknowledge the caution and good faith of the drafters of the bill as regards the respective provincial jurisdictions, I found that...

However, if, on the one hand, you include both phrases in the same section and say "and through the provinces, those of local authorities" and, on the other hand you then add another wording, namely "an other entities, emergency management activities", it seems to me you would be adding something.

I would be more satisfied with that and it would be clearer if it simply said "with the provinces and, through the provinces, those of local authorities and other entities."

[English]

**The Chair:** Those are your comments?

[Translation]

**Mr. Serge Ménard:** Under what you are proposing, it is as if we excluded emergency management activities from the responsibilities of provincial governments although I am sure that was not the original intent of the drafters.

I understand just how important this bill is for the federal government. We need legislation enabling the federal government and its institutions to take preventive measures and to deal with emergencies, whether they happen on a military base, in a nuclear reactor, or elsewhere. In fact, in Quebec's legislation, there is a part which deals with municipalities, but there is also another part which deals with every department, and which says that each department must have an emergency plan, in other words, it must prepare an emergency management activity plan.

Perhaps I am overly concerned, but if we add what has been proposed, the sentence becomes ever more complex and even more difficult to understand, whereas it was so simple and clear in its original version, as drafted by the legislative drafters.

[English]

**The Chair:** I wonder if the officials could maybe interject some comments here at this point. Have you had a chance to think about a proposal here?

Mr. Hill, first of all.

**Mr. Peter Hill:** Thank you.

The proposed amendment that we've just been discussing—inserting the words "and through provinces, those of local authorities"—would I think address the issue that we've been discussing. At the same time, we're being very clear about respecting federal, provincial, and territorial jurisdictions. By including "and other entities" as well, we are including specifically a reference to non-governmental organizations and private sector entities. It's consistent with the bill as it's written right now, and it provides a very focused elaboration that we already have in paragraph 4(1)(f). So it seems to me that the proposed amendment that we've just been discussing works well.

● (0950)

**The Chair:** It would fit in and not change the tenor of the bill.

Mr. Hill.

**Mr. Peter Hill:** The proposed additional language—i.e. “through the provinces, those of local authorities”—does not intend to include necessarily going through the provinces and territories to work with other entities, because the amendment makes it clear, then, that the other entities are no longer government entities at any level. I believe the proposed amendment clarifies and respects existing jurisdictional arrangements and provides a further level of detail that is being considered.

**The Chair:** Do any other officials have any comment?

Mr. Mungall.

**Mr. Richard Mungall:** If I can just add to what Mr. Hill said, if I understand it correctly, we don't want the concept of “other entities” to be coloured by the fact that the federal government would have to go through the provinces to support. That's my understanding of the intention here.

**The Chair:** Is the wording clear enough?

**A voice:** No.

**The Chair:** Is a comma enough? No? So there could be a problem in interpretation if we added this.

Ms. Wong, would you like to comment on that?

**Mrs. Suki Wong:** While we understand the importance of the new amendment, adding that in changes the nuance of the provision, so we have to talk more about it. Right now it implies that we may have to go through the provinces to talk to other entities. That's what this new addition would change.

**The Chair:** All right. I can see that. We have a bit of a discrepancy in opinion.

Monsieur Ménard, did I see your hand up? Did you have a response?

[*Translation*]

**Mr. Serge Ménard:** I am even more concerned by Mr. Hill's explanations, precisely because under Quebec's emergency plans, companies producing electricity or building or using dams, for example, must have emergency plans.

I do not think this should be under federal jurisdiction. I want to avoid overlapping regulations, as do, I am convinced, the people who drafted this bill and did so in good faith. I want to avoid situations involving emergency management or precautionary actions where private companies responsible for dams or other types of activities will be subject to two sets of regulations and potentially faced with conflicts between federal and provincial regulations.

Even though I was aware of what Mr. Lee raised earlier, I was willing to live with the drafting of section 3 as it stood. However, if we add Mr. Comartin's proposed wording—and I appreciate his efforts to calm my fears—we will be creating one category that involves the federal government acting through the provinces, and

another category where the federal government does not need to act through the provinces.

● (0955)

[*English*]

**The Chair:** Thank you.

Mr. Lee, and then Mr. Comartin, maybe for the wrap-up comments.

**Mr. Derek Lee:** That shows the difficulties of drafting on the run. We should be careful; we may end up with nothing here.

I support the evolution of the amendment. I think I disagree with the advice offered by Ms. Wong, who seems to have overlooked the existence of a comma prior to the words “and other entities”. I take the view that if the comma is inserted, it gets us to where we wanted to be originally, with a relatively unrestricted other entity relationship, with municipalities clearly being subject to relationships with the province. That would get us to where we want to go.

If the officials are consistent in that...and I'd like to hear from one official who can speak for the department clearly on it. If the insertion of a comma doesn't work to separate “and other entities” from the rest of the words, then we're back to the drawing board. That's my view.

Mr. Chairman, could I get a clear statement, I guess from the drafting counsel, that the insertion of a comma before the words “and other entities” is not sufficient to separate those words, that phrase, from the reference to local authorities?

**The Chair:** Okay.

I hope you understand the question. I think Mr. Lee is suggesting that we put a comma in there, after local authorities, and that this comma may address any concerns Ms. Wong may have.

Mr. Comartin.

**Mr. Joe Comartin:** Mr. Chair, maybe it would be appropriate to take a five-minute break and see if we can come up with some wording to address this.

**The Chair:** Yes, let's take a five-minute coffee break.

●

\_\_\_\_\_ (Pause) \_\_\_\_\_

●

● (1005)

**The Chair:** I call the meeting to order.

Mr. Comartin, could you please explain to us what your final amendment is going to look like before we vote on it?

● (1010)

**Mr. Joe Comartin:** I think we need to hear from the officials, because in the break we discussed potential wording. We want to be very clear about “other entities”. Whether they are the Red Cross or even people in the private sector who provide assistance in times of emergency, we want to be able to deal with them in the broadest way. For instance, we don't want to be mandated to deal with them directly when it's more appropriate to deal with them through the provinces, or, where it is appropriate, directly at the federal level.

So it's the "other entities" section that's the problem. I'm not sure who's going to speak to this. We came up with a number of proposals. I don't know if the officials have come to some consensus, or if Mr. MacKenzie can give us some assistance.

**The Chair:** Mr. Hill, please.

**Mr. Peter Hill:** On reflection, we find that what's being proposed is adding confusion. The proposed language in the bill has been carefully constructed, and we believe that "other entities" covers all of those entities, such as local authorities and private sector NGOs, with whom we need to cooperate. Paragraphs 4(1)(f) and 6(2)(a) provide specific references to local authorities, and we believe that's appropriate.

Thank you.

**The Chair:** Do you have any concluding comments before we vote on this, Mr. Comartin?

**Mr. Joe Comartin:** Yes. In that case, in addition to the amendment I've already proposed, to add "and through the provinces those of local authorities" after "with the provinces", insert after "and" in line 9 the words, "with other entities, if appropriate".

**The Chair:** I find this a bit confusing. Do you have that written down? Put those commas in there as well where they should be. You might want to have a comma after "local authorities".

**Mr. Joe Comartin:** While I'm doing that, why don't we move on to the next amendment, and I'll present this to the clerk in a minute?

**The Chair:** Okay. We'll come back to it.

I don't think we can really move on until we've done this.

Mr. MacKenzie.

**Mr. Dave MacKenzie:** I'd like to reiterate what Mr. Hill just said. In attempting to make Mr. Holland's amendment fit, we would be in a dangerous predicament to try to amend this on the fly and come up with wording we sort of agree with but then on further reflection find there are issues with it.

With all due respect, we should move on. We've dealt with Mr. Holland's amendment, and from the perspective of the government and the officials, we were opposed to that amendment. If we try to now come up with something that will do what Mr. Holland wanted in a back-door way, we'll just end up with a bit of a mess in the legislation.

**The Chair:** Can we get an indication of how supportive people are to getting the proper wording here? Should we continue to wait? How does this committee feel about the direction Mr. Comartin is taking us here? Are we spending a lot of time on clause 3 when maybe some of these other clauses should be discussed as well?

We're not voting on the amendment, but how do you feel about getting the proper wording on this? Could I see a show of hands from those who would like to continue pursuing this?

I think, Mr. Comartin, the indication is that even with the correct wording it might not fly. Should we proceed?

Mr. Holland has a comment.

•(1015)

**Mr. Mark Holland:** Yes. I have no problem with moving on at all. Well, of course, I have a problem with moving on, but I see the votes are on the table, and I don't have a problem with the report on that basis.

I have one question to Mr. MacKenzie. Why are we here? If we don't want to amend the legislation because it's carefully worded and we don't want to make any changes because it's been so carefully worded, then why are we here today?

**Mr. Dave MacKenzie:** I think that's a fair enough question.

We're here because this is the process. You felt there was an amendment that you wanted. I think we've had the opportunity to discuss it around the table.

**Mr. Mark Holland:** I'm only saying my point is this. I don't have any problem with you voting against an amendment that I, Mr. Comartin, or anybody else put forward. It's certainly a prerogative of all committee members.

But there was a suggestion that we have a carefully considered document that can't be amended or that we shouldn't be participating in amendments today. It was said that we shouldn't be making amendments on the fly. Well, then we shouldn't be making amendments today.

If you don't want to make amendments today, and there are other amendments to be considered, then let's adjourn and deal with clause-by-clause on another day, if that's the comment.

If the position is such that the only way we're going to deal with this bill is exactly as it is and it's the only purpose of the committee in being here, then I frankly have better things to do.

**The Chair:** Mr. Lee.

**Mr. Derek Lee:** I think we've invested a lot of time in this attempt to make the bill a little better. If Mr. Comartin is finished, he can put his amendment. If he's not finished, can you do it in a minute?

I have a question that relates to the next clause, which I would have asked on the next clause anyway. I won't waste any time by asking a question about clause 4, if that's okay.

**The Chair:** Mr. Comartin, are we ready to vote on your motion? Are you going to move it, first of all, or should we move on?

**Mr. Joe Comartin:** I don't have the wording, Mr. Chair, because I've been listening to the discussion and I stopped writing.

**Mr. Derek Lee:** Could I take a minute to ask my question and get an answer?

If you're then ready, Mr. Comartin, and if it's okay with the chair, you could put the amendment.

**The Chair:** Okay. Mr. Lee, ask your question.

**Mr. Derek Lee:** In clause 4 and in some other clauses, I see the insertion of hyphens. I haven't seen a lot of this before. When reading it, it gives the appearance of hyphens being treated as huge big commas or higher echelon commas or pauses. I see hyphens in English and not in French or hyphens in French and not in English. I'm not used to seeing them.

Can the drafters indicate if this is a new technique and where it came from? Is the justice department drafting according to Hoyle or what?

**The Chair:** The question has been posed. It's actually on the next clause.

While we're waiting for Mr. Comartin to come up with his wording, Mr. Mungall.

**Mr. Richard Mungall:** Mr. Lee, I'm no longer a legislative counsel, but I can say one of the current techniques used in legislative drafting is the use of what's technically called the em dash. I don't immediately have all the rules respecting its use and so on, but it is a recognized technique now.

**Mr. Derek Lee:** Is the em dash an accentuated comma or something less than a semicolon? What is its purpose? Why don't we use commas?

**Mr. Richard Mungall:** Not being legislative counsel, I would hesitate to necessarily equate it so.

**Mr. Derek Lee:** We're lucky, Mr. Chair, because we have a legislative counsel here. Why don't we ask the legislative counsel?

**Mr. Richard Mungall:** I think it's probably used more in a parenthetical sense, much like the comma but with greater emphasis.

**Mr. Derek Lee:** It's much like the function the committee serves here today, according to Mr. Holland.

But could I ask the legislative clerk this? Do you have a comment? Can you answer my question?

I'll have to keep searching for the answer.

Thank you, Mr. Chairman.

**The Chair:** Okay. Are you ready, Mr. Comartin?

Please read it slowly so that we can get every nuance.

**Mr. Joe Comartin:** I have the English, but I haven't finished the French. Do you want me to go ahead with the English?

• (1020)

**The Chair:** Sure. Go ahead with the English.

**Mr. Joe Comartin:** I'll read it in its entirety.

I move that Bill C-12 in clause 3 be amended by replacing lines 9 and 10 on page 2 with the following. The following reads: "inces", which is the latter part of provinces, "and through the provinces, those of local authorities, and with other entities, if appropriate, emergency management activities".

**The Chair:** Monsieur Ménard, is that clear to you? If this amendment is approved, it will be up to our officials to make sure it is exactly the same in French.

(Amendment negated)

(Clause 3 agreed to on division)

(On clause 4—*Responsibilities—Canada*)

**The Chair:** We have two amendments.

Monsieur Ménard, are you prepared to speak to them and move them at this point?

[*Translation*]

**Mr. Serge Ménard:** I will simply say that the amendment says what it has to say and its purpose is obvious. Either you agree or you don't. The scope of the paragraph as worded currently is too general. It's states:

(n) in relation to emergency management, conducting exercises in and providing education and training for government institutions;

We wanted to be clearer that this is an area of federal jurisdiction. We are therefore suggesting that the clause refer to assisting the conducting of exercises within government institutions and insuring that these institutions be provided with education and training for emergency management.

[*English*]

**The Chair:** Thank you.

Are there any other comments on that?

Mr. MacKenzie.

**Mr. Dave MacKenzie:** Our concern is that the definition of government institutions in clause 2 only applies to federal government agencies. Currently, the federal government provides training through the provinces to a variety of other bodies not limited to the federal government. By putting in that section we would eliminate training we currently provide across the country. We think it limits and would be counterproductive to the provinces taking advantage of training facilities that are offered by the federal government.

There are a variety of things across the country that are not only in provinces but need a national scope for training—maybe in the area of nuclear, and a whole raft of things. So by limiting it to just federal government institutions, it takes away the ability of the provinces to utilize resources of the federal government. I don't think that's necessarily the intent.

We shouldn't lose sight of the fact that this act is just an umbrella. It's not intended to take away anybody's responsibilities; it's intended that the federal government will provide services to the provinces as they request them, and through the provinces to other bodies.

• (1025)

**The Chair:** Are there any other comments?

(Amendment negated on division)

**The Chair:** We'll now go to the second amendment from the Bloc.

Monsieur Ménard, please.

[*Translation*]

**Mr. Serge Ménard:** Once again, I think that the wording is clear. In the previous case, the provinces could have been prevented from benefiting from exercises organized by the federal government in areas such as the nuclear sector. In this case, the wording is even more general. We are talking about promoting a common approach to emergency management.

I should point out that I don't really have any objections to the federal government promoting standards and best practices. However, adopting standards or best practices implies mandatory measures. One thing is certain, promoting a common approach to emergency management is paramount to imposing emergency management procedures on the provinces.

Once again, Quebec does not want to force other provinces to do what it is doing. Quebec has created an original system and one that defers from the one developed by the federal government for its own institutions. I believe, given that I propose this, that its way of proceedings was the best one possible. It involves preparation, prevention, response and recovery, PPRR. It is a logical procedure, but it is quite possible that different procedures would be chosen elsewhere.

Maybe I could be convinced otherwise if I were told that it was the federal government's intention to use the procedure that was adopted in Quebec's legislation, however the words being used, that is, "promoting a common approach to emergency management" clearly indicate that the federal government is encroaching on an area that does not fall under its jurisdiction.

I should also point out that some terms are being used that are not quite equivalent in meaning. "Institutions fédérales" is translated by the term "government institutions". From the perspective of the Interpretation Act, in federal legislation, the term "government" refers to the federal government. In French, we refer to the federal government. I have nothing against that, on the contrary.

Ultimately, I have no objection to the federal government creating specific procedures for the nuclear sector. There are nuclear plants throughout Canada, in at least four provinces, and they present a specific threat. However, I do not believe that I am preventing the federal government from developing procedures for those types of emergencies by adding "for government institutions".

If you consider the words "promoting a common approach to emergency management", you realize that they imply a standard emergency management plan throughout Canada. That is what Quebec is opposed to. It wants to manage its emergencies in a way that it considers to be most appropriate. In some cases the federal government has been well ahead of Quebec, but over the past few years, Quebec is well ahead of Canada in some areas. I think this is particularly true in the case of emergency management.

That is why I agree on collaboration to the greatest extent possible between both levels of government when it comes to managing emergencies on the ground. Nevertheless, I believe that the federal government has to respect Quebec's jurisdiction. Adding those words would mean that those procedures fall under federal jurisdiction only.

• (1030)

[English]

**The Chair:** Thank you.

Mr. MacKenzie.

**Mr. Dave MacKenzie:** I think Mr. Ménard's arguments actually illustrate why the proper wording is here now. He's illustrated and told us about Quebec's plan, and we agree with it. What this would

do now is allow the federal government to promote that as a best practice across the country.

It's not intended to limit. It only talks about encouraging and promoting. My understanding is that all of the provinces have been consulted on the act, all of them are in agreement on it, and that there was a federal-provincial agreement in January of 2005 where these issues were addressed and agreed upon by the provinces.

If you look at the wording in the existing act, Mr. Ménard, I think what you see there is the federal government trying to bring the best practices across the country to the table, but not to impose them on anyone. The provinces have retained and continue to retain their own authority to have their own emergency management act and to address those issues. Quebec, for instance, may have experience in some areas that other parts of the country haven't but may be exposed to. We can use the best practices from Quebec and illustrate that and encourage other provinces to adopt those same policies.

I understand what you're trying to say here, but I think by doing that we start to limit the ability across the country to.... We take away that sort of freedom of the provinces, or opportunity, at least, to learn and to adopt best practices from one province to another. This act was never intended to take away any authority from the provinces, and I think that's the consistent message in it. It's the umbrella body that across the country.... From a federal perspective, ours is to provide training and commonality.

• (1035)

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

Do any of the officials or anyone else have any comment on this?

**Mrs. Suki Wong:** I simply want to add that we cannot impose standards on any entities in provinces and territories outside of the Government of Canada. When we talk about the adoption of standards, it only applies to federal institutions. I wanted to qualify that section of this provision.

Going back to what Mr. MacKenzie said, it's exactly that. If following the ice storm we found perhaps that Quebec had the best approach to dealing with such emergencies, we would promote that use across Canada. Or if B.C. dealt with forest fires in a way that we thought other provinces would have a means of learning from, we would promote that as well. It would not limit how we work with provinces and territories.

**The Chair:** Thank you for that comment.

Seeing there are no further comments, I'd like to call the question. We're voting on BQ amendment 2.

(Amendment negatived)

Shall clause 4—

**Mr. Derek Lee:** Mr. Chair, I'm sorry to be really picky here, but it has to do with clause 4.

If we look at paragraph 4(1)(d), you will recall that I had mentioned the hyphens and commas earlier. In that one clause—

**The Chair:** Paragraph 4(1)(d) doesn't have any hyphens.

**Mr. Derek Lee:** Paragraph 4(1)(d) *en français*.

**The Chair:** Okay. Sorry, go ahead.

**Mr. Derek Lee:** I'm looking at a hyphen, a comma, and a conjunctive, *le mot "et"*. Why do we need a hyphen, a comma, and a conjunctive word when they hardly exist in the English version?

**The Chair:** Does anybody have a comment on that? I think this was asked previously and no one was prepared at that point.

**Mr. Derek Lee:** In this case, Mr. Chairman, one of them is redundant. Either you get rid of the hyphens or the comma. You don't need a hyphen and a comma. Linguistically it does not fit.

Somebody got real excited about the em dashes or something, couldn't resist the urge, and maybe forgot to take out a comma. Is there any comment on that?

**The Chair:** Mr. Talbot, please.

[Translation]

**Mr. Jacques Talbot (Counsel, Department of Justice):** Thank you.

I would like to clarify that the Department of Justice has begun the review. A drafter wrote this text, which was then revised by specialized editors, and then it was submitted to our jurilinguists. This pertains to the current drafting rules. That does not change the meaning of this provision. If somebody got off track, it would have been intercepted.

[English]

**The Chair:** Mr. Lee.

**Mr. Derek Lee:** Again I'm looking at paragraph 4(1)(r) *en français*. The English version has no hyphens. In the French version, for the purpose of inserting one adjective, the drafter found it necessary to insert two dashes.

Couldn't it be read, "*de faciliter le partage autorisé de l'information*"? Why not do that? Why insert the hyphens? Do you have an answer?

[Translation]

**Mr. Jacques Talbot:** Once again, we have to remember that legislative texts, Canadian legislation, is co-drafted. Every drafter writes some in his own style, and then they are revised. You must not look at them as translations. The French version is not an exact duplicate of the English version. What counts is that the extent is exactly the same, that the meaning of the text is identical. The drafted text is then examined more carefully. In this case, neither our drafters nor our revisers pointed out any particular problem.

[English]

**Mr. Derek Lee:** Okay.

I have to vote on this stuff, Mr. Chairman, and I have to understand why it's being written this way. I have a responsibility to my electors and to the rest of the country when we go through this.

I'm going to let it go. We're not going to spend a lot of time on too many commas and hyphens here, but perhaps I'll have an opportunity to raise it again.

Thank you.

**The Chair:** Yes, I'm sure you will, Mr. Lee.

We are voting on clause 4.

(Clause 4 agreed to)

● (1040)

**The Chair:** I will now ask the committee to consider clauses 5 to 14 together. There are no amendments to any of these. If there are no objections, do clauses 5 to 14 carry?

(Clauses 5 to 14 inclusive agreed to)

**The Chair:** Shall the short title carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the title carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the bill carry?

**Some hon. members:** Agreed.

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

**Some hon. members:** Agreed.

**The Chair:** I think we are done. I will just ask the committee to remain back for a moment here. We have a bit of other business to discuss.

This Thursday, we were supposed to have Shirley Heafey here. I think you all got a copy of her letter. What we have to decide is whether we still want to hear from Mr. Paul Kennedy. He's the current chair of the RCMP Complaints Commission. He was invited originally, you'll remember, to appear with Ms. Heafey. He is still available and is willing to come. He has some items that he wishes to bring forward to the committee. We would hear from Foreign Affairs for one hour and then from him for one hour. Do we want to do that, or do we want him to come after the second report has been released? What is the wish of the committee? Maybe we could have a show of hands. Do we want Mr. Kennedy to come for that second hour, or should we postpone his visit until after the second report on Maher Arar comes down? What is the committee's wish in this respect?

Mr. Lee.

**Mr. Derek Lee:** It's my sense that you might want to have him come after the report, in any event.

**The Chair:** So you're suggesting that we postpone it? Is there no other discussion? Are you all in favour of that? Okay, so we will postpone his visit.

There is just another matter here regarding the border guard study. The Customs Excise Union would like to suggest an additional witness that would appear with them, and that's Edward Leonard, who's a member of the board of CAVEAT. Would you agree that we should have him come on the same date as the union? That would mean that we would have four witnesses. Does the committee have any feelings one way or the other on that?

Clerk, is that enough direction for you to invite Mr. Leonard?

As there is no other business, this meeting stands adjourned. Thank you very much.





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