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Chair

Mr. Merv Tweed

Standing Committee on Transport, Infrastructure and Communities

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● (1545)

[*English*]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Good afternoon.

This is the Standing Committee on Transport, Infrastructure and Communities, meeting number 30.

The order of the day, pursuant to the order of reference of Thursday, September 21, 2006, is a study of Bill C-11, an act to amend the Canada Transportation Act and the Railway Safety Act and to make consequential amendments to other acts.

Joining us again are people from the department. We welcome you. I don't think introductions are necessary.

When we left off in the committee the other day, we were dealing with clause 13. Mr. McGuinty had put forward an amendment, which is on page 14. It is amendment L-2.

At that time, Mr. Jean introduced what was proposed to be a subamendment, but the discussion that followed suggested that it was too much of a change from the Liberal amendment and would have to be a stand-alone amendment.

What we're deciding right at this point is that if Mr. McGuinty's motion succeeds, then the motion by Mr. Jean would move off the table, and we would move either to (2.1) or on to the other clauses.

Mr. McGuinty, can you give us just a quick briefing on where you are with amendment L-2? Then I'll ask Mr. Jean or the department to discuss theirs, and then I think we can make a decision.

Mr. David McGuinty (Ottawa South, Lib.): I think I've presented.

The Chair: Have you? Okay.

Mr. David McGuinty: I think I did so the last time around.

The Chair: Ms. Borges, do you want to comment, then, on Mr. Jean's...either one or both of you?

Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): I actually have reservations as well. It appeared we had some compromise that another party was interested in. It simply addressed the need for flexibility, in essence for information only. But I'd be interested to hear what the department has to say about both of them and what the outcome would be.

The Chair: Ms. Borges.

Ms. Helena Borges (Director General, Surface Transportation Policy, Department of Transport): If I was hearing correctly the last time we were here, there was some concern from some of the members about whether we had consulted with the Competition Bureau on this provision. I can assure you that this whole provision was done in very close consultation with the Competition Bureau. In fact, before anything goes before cabinet, the ministers have to agree to it. I can tell you that in having this bill tabled, the Minister of Industry, who is the minister responsible for the Competition Bureau, was around the cabinet table. It was part of the approval of this bill.

What we try to do, to address Mr. McGuinty's concerns, is to provide flexibility in terms of what will be developed as part of the guidelines for the public interest, to make sure we cover everything. It's not our intent to duplicate what is in the Competition Bureau, and it is fully our intent to work with them in developing our guidelines to try to minimize that duplication. I think you read in the submission from the competition commissioner that there will have to be a little bit, but the objective is to minimize it.

Our focus—the Minister of Transport focus—will be on the public interest. The competition commissioner's will continue to be on the competition issues, and she or he will follow the process that they follow today. They will come together in the end with one recommendation to cabinet. So there is no intent to duplicate efforts here.

The Chair: Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): I have reviewed and reread the government's position. I understand the purpose of Mr. McGuinty's proposal.

The criteria that he wants to make public would be different from those set out under the Competition Act. The last time, you seemed to be saying that this would not be possible, because the criteria are basically the same.

Mr. Langlois, would it be possible to propose criteria, as Mr. McGuinty has done, that are completely different from those set out in the Competition Act?

● (1550)

Mr. Alain Langlois (Legal Counsel, Legal Services, Department of Transport): That would be the ideal situation. Now, is it possible to draw a clear line between public interest criteria and criteria related to reduced competition? It would probably be very difficult to draw a clear line between the two.

Our problem with Mr. McGuinty's motion is that the wall would be pretty well impenetrable. It would be impossible to have public interest criteria that would affect criteria or factors already taken into account by the Commissioner of Competition.

In a perfect world, no public interest factor would duplicate what the Commissioner of Competition is doing.

If you read what the Commissioner of Competition has said, you will see that he himself recognizes that, ideally, conflict should be avoided. However, that will not be possible in all cases.

In a perfect world, there would not be any.

Mr. Mario Laframboise: I was inclined to support the government's motion, but to add, after line 1, that the guidelines referred to in sub-section (2) shall be established in cooperation with the Commissioner of Competition.

However, if I were to do that, the Commissioner of Competition would have his hands tied. Since he would have taken part in developing the criteria, he might no longer be able to pass judgment independently, depending on the cases brought to his attention.

Is that the correct interpretation?

Mr. Alain Langlois: The Commissioner of Competition can always take part in establishing guidelines. Whether it says so or not, I don't think that is a major problem. I would be surprised if the minister did not get in touch with the Commissioner of Competition when establishing these factors, in order to avoid duplication.

Indeed, I don't think the Commissioner of Competition's participation in developing the criteria affects his mandate. He will still be the master of his own destiny as regards procedure, which is set out in the Competition Act, and he will render a decision of which he will have to inform the minister, in accordance with the Act.

Mr. Mario Laframboise: Fine, thank you.

My inclination was to support the government's motion and to add that the criteria must be set in cooperation with the Commissioner, which would probably have allowed everyone to discuss these issues. Basically, I would like all the parties to be able to talk to each other. But you are really telling us that you already consult one another. Perhaps that could be added to the government's motion. That is what I was thinking of proposing.

[*English*]

The Chair: All right. I am ready to call the question, then. We will put Mr. McGuinty's motion first, because it was on the agenda first. As I've said, the passage of his motion basically defeats the government's motion.

Mr. McGuinty.

Mr. David McGuinty: I'm sorry; I should have intervened earlier. May I ask a question of the witnesses?

Could I ask the witnesses to turn to page 3 of the brief submitted by Sheridan Scott in the English version—I'm not sure what page it would be in French—under the title “Need for Guidelines”. If you follow me and could bear with me, turn to the bottom paragraph, which commences with “In the bureau's view”. The sentence goes on to read:

> In the Bureau's view, it will be necessary to identify in guidelines clear and transparent public interest criteria that the government wishes to safeguard and which will be used to evaluate specific transactions.

Could you help me to understand how the government's new amendment would address that concern put forward by Sheridan Scott?

I'm drawing a distinction here, as does Sheridan Scott, between, Mr. Chair, “guidelines” and “criteria”, which is why the amendment I put forward speaks to criteria—publicly disclosed, transparent criteria.

Ms. Helena Borges: Okay.

We have looked at the Competition Act. Section 93 spells out not criteria but in fact “factors” that the Competition Bureau takes into account in its assessment. I think the words “criteria” and “factors” are being mixed and interplayed in that way, that they mean one and the same thing.

We are assuming, if you read the rest of it, that this is exactly what she is saying: we should not be duplicating the factors the bureau takes into account; that the public interest ones should be different, to the extent possible, from the competition ones.

That's why we used the word “factors”, and the factors will be spelled out in the guidelines rather than be put them into the legislation. We would like to have the opportunity to consult on those factors because, as you can appreciate, the transportation sector is quite diverse, and we want to make sure that in looking at the various factors we take into account the requirements of the various modes, the various users—even provincial governments, which have a big role in transportation as well—and we'd like to have those consultations before the guidelines are produced and published.

● (1555)

Mr. David McGuinty: For the interest of all members, then, can I draw our collective attention to the wording in proposed subsection 53.1(2.1) as presented by the government, which speaks of including “factors that may be considered to determine”, whereas the amendment I'm putting forward speaks to—

The Chair: Just for clarification, proposed subsection 53.1(2.1) will be considered as a separate one, just so that you know.

Mr. David McGuinty: Thank you.

I think it speaks, Mr. Chair, to the vote we are about to pursue. The amendment I am putting forward is asking that the “guidelines... shall be made public”—there is no difference there—“and shall specify the criteria that are to be applied by the minister in making a decision”.... Is there not a difference here? First of all, this speaks to “may” as opposed to “shall”, and I don't know whether the factors themselves—you're calling them “factors”, and I call them “criteria”—are going to be made public.

Mr. Alain Langlois: The problem, first of all, with using the word "criteria" is that the criterion that will be examined by the minister is the public interest. That's the criterion that's embodied in the act. The criterion that the Commissioner of Competition looks at is the lessening of competition. In determining whether that criterion has been met, factors are looked at. If you apply the same rationale to this proposed bill, the criterion that will have to be examined by the minister is the public interest. In doing so, he will be examining factors, and that's consistent with what's in the Competition Act.

Ms. Helena Borges: I can read what's in the Competition Act for you, if you like. The wording is almost identical.

Mr. Alain Langlois: Just before you do, I wanted to finish.

Just to answer the question, and I know it's not subject to discussion, I will tell you the reason we use "may" in proposed subsection 53.1(2.1). There are four other acts, as we mentioned two sessions ago, under which the Minister of Finance has the ability to approve a merger or transaction. If you look at these acts or at the Competition Act, the list of factors enumerated in these acts is not exhaustive. The intention of that is not to box in the minister if a factor that nobody had thought of at the moment a transaction is put forward comes up, and the minister can't do anything because the factors are not listed in the list. The "may" is to provide flexibility in terms of what will be put in the guidelines. Obviously the factors will be looked at, but if something comes up that no one has ever thought of because of the nature of the transaction, that factor will be able to be examined. That's the purpose of the "may".

Ms. Helena Borges: I can read to you the opening caption from the Competition Act in section 93. This is how it starts:

> In determining, for the purpose of section 92, whether or not a merger or proposed merger prevents or lessens, or is likely to prevent or lessen, competition substantially, the Tribunal may have regard to the following factors:

So the tribunal "may" have regard to the following factors, and then it has a list of the factors that may be considered as part of the review of the merger. In a way we're trying to replicate the same kind of approach.

The Chair: Is everybody comfortable?

Mr. David McGuinty: I'm having a hard time reconciling what the Competition Act says and what the head of the Competition Bureau is saying. Going back to that paragraph, I can't divine what was in Sheridan Scott's thinking, but—

Ms. Helena Borges: I can't read her mind either, but I can give you what we pulled off from the Competition Act, if that's helpful. I have no problem with doing that.

The Chair: Shall amendment L-2 carry?

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

● (1600)

The Chair: We have a new amendment, which is the one we've been talking about. We are going to label that G-2.1.1. I think, unless anyone else needs more explanation....

Go ahead, Mr. Laframboise.

[*Translation*]

Mr. Mario Laframboise: I would like to move a sub-amendment. I don't want to engage in endless debate on this, but I would like to add, after line 1 in sub-section (2.1), which reads as follows: "The guidelines referred to in sub-section (2)", the words "will be developed in cooperation with the Competition Bureau".

[*English*]

The Chair: Go ahead, Mr. Julian.

[*Translation*]

Mr. Peter Julian (Burnaby—New Westminster, NDP): I think that improves the wording. This addresses the exact problem that is referred to in a letter we received from the Competition Bureau. The two agencies do not work together. So, I intend to support the sub-amendment.

[*English*]

The Chair: Mr. Jean is next.

Mr. Brian Jean: I'm just wondering whether the intention is to have "consultation" or "cooperation". The first time it was read it was "consultation", and the second time it was "cooperation". I'm wondering if it would be better to have it as "consultation", and then the authority would remain, instead of having it as "cooperation". It would be the same wording, but just "...shall be developed in consultation with..." instead of "...in cooperation with...", because it's one department instead of another department. Is that correct? Yes. It would be much better to develop it with the word "consultation" instead of "cooperation".

It may be the same in *français*, but not in English. The translation was different, and I want to make sure that it's "consultation" and not "cooperation".

The Chair: Mr. Laframboise, are you comfortable with that?

[*Translation*]

Mr. Mario Laframboise: Yes, I agree.

[*English*]

The Chair: Does everyone understand, then, where that subamendment will come in? What I have to do is ask whether there is agreement for the subamendment.

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

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

(Clause 13 as amended agreed to)

The Chair: I call clause 30.

There are no written amendments.

Mr. Laframboise.

(On clause 30)

[*Translation*]

Mr. Mario Laframboise: If I understood correctly, the decision is to stand clause 29.

[*English*]

The Chair: Absolutely. What I'm going to do is go through and then go back to the ones we've stood from previous meetings. Is that all right?

Mr. Mario Laframboise: That's okay.

The Chair: Thank you.

(Clauses 30 and 31 agreed to)

The Chair: I call clause 32, on page 20.

Monsieur Laframboise.

(On clause 32)

[*Translation*]

Mr. Mario Laframboise: I would like to come back to clause 31, just to say that we are in favour of it. A little earlier, we raised our hands to indicate that we were opposed, but in actual fact, we support it.

[*English*]

The Chair: Thank you. I was perhaps a little ahead of you there. I'm sorry.

(Clauses 32 to 38 inclusive agreed to)

● (1605)

The Chair: Mr. Bell.

Mr. Don Bell (North Vancouver, Lib.): Mr. Chair, I just wanted to ask a question for clarification, if I may.

Under clause 36—and I voted yes for it—I just wanted to clarify something in my mind. Does the disclosure of an agreement mean the details of the agreement, or just the fact that there is an agreement?

Ms. Helena Borges: It would be the entire agreement, unless there is something that is commercially confidential.

Mr. Don Bell: Thank you.

The Chair: On clause 39, we have an amendment; it's NDP-16, on page 31 in your program.

I want to bring to the committee's attention that the way the amendments are proposed, if the first amendment, NDP-16, carries, then NDP-17 through NDP-21 also carry. If it fails, the same numbers all fail, and we would deal with BQ-8, for the information of the committee.

I'll ask Mr. Julian to propose the amendment, NDP-16, on page 31.

(On clause 39)

Mr. Peter Julian: Thank you, Mr. Chair.

I'm not sure there'll be a lot of controversy around this clause.

Essentially, what we are trying to do is provide, once we go the through transfer of a railway line to governments or to urban transit authorities—we know that's a significant improvement in this bill and that the urban transit authorities have been very clear in calling for it—an added category, which would be community organizations that would like to use the railway line for a linear park, or for purposes of bicycle networks within a community.

It's simply giving another option, once we get past government and urban transit authorities. We know that in many parts of this country we've had community organizations that have wanted to acquire rail lines or that have acquired the railbed itself to create linear parks and to create bicycle paths. It adds an opportunity for those community organizations, after the urban transit authorities, to try to acquire that land.

I don't think it's very controversial.

Mr. Ed Fast (Abbotsford, CPC): It's very controversial.

Mr. Peter Julian: Thank you, Mr. Fast. Okay, this shouldn't be controversial, I'll say instead, because essentially what it does is provide the community with the opportunity to acquire that railbed, and that's very important. That is why we are including it, and I would hope to have the committee's support.

The Chair: Again, just for the information of the committee, we are dealing with NDP-16, -17, -18, -19, -20 and -21, because again, if this passes, they all pass.

Mr. Jean.

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

We've had a rail abandoned in my community, and I understand the concern. But first of all, the problem with this particular provision is that it gives special rights to community groups, in essence, that usually don't have the financial means to buy something like this. It adds another process to a situation when, quite frankly, these infrastructure corridors are for transportation purposes, such as transit.

Today, in the growing metropolitan areas, especially in small communities, these areas should be maintained primarily for that particular purpose, in the government's mind. Giving non-government organizations special rights under this act would, I think, cause quite a bit of difficulty. Frankly, I think these transportation corridors should be left only in the urban transit mode and for urban transit.

● (1610)

The Chair: Mr. Bell.

Mr. Don Bell: I have a few concerns with both NDP-16 and NDP-17.

First, there is the reference to community organizations. What is the definition of a community organization? Can it be two people? Those of us who have been in municipal government know that one or two people can call themselves an association. In fact, one person can. Some municipalities have tried to establish criteria for what a community association is, requiring them to have a certain number of members, to have a public meeting once a year, and to keep a record of minutes, but there are other cases in which groups call themselves whatever it happens to be and come up with a catchy name—"Save the Trail", or whatever it is—and it can be a group.

Second, unless this is subject to municipal approval in some way, you've got a community organization that has no status and is unelected in effect potentially in conflict with, and maybe in some way in preference to, an official community plan that has been determined through a public process.

That's my concern. I think it's flawed. I appreciate the intention, because I've seen community groups such as the one I can think of on Vancouver Island, a community-based group that got involved with the railway to take on the rail line and maintain the rail service. It wasn't for some other use; it was to maintain the rail service, but in this case, I could very clearly see it intruding into an area of jurisdiction of another level of government—that is, the rights of a municipality. They know first-hand what the community plan is. They go through a process of public hearings, and there's input, and it's not just from organizations; community individuals have a chance to have their input at that time.

I really think it's flawed in trying to bring in community organizations, first because it doesn't define them in terms of the hierarchy, and second because of the potential conflict with official municipal or community plans.

The Chair: Mr. Carrier is next.

[*Translation*]

Mr. Robert Carrier (Alfred-Pellan, BQ): I have the same concerns as those expressed by the last two speakers, and I recognize that the railway lines must continue to be used for public transit. That is the primary goal of this bill.

It would be too risky to add a potential, yet undefined, organization, as Mr. Bell just said. We should oppose this amendment in order to save our railway lines, so that they can be used for public transit, which is sorely lacking even today in our large urban centres.

[*English*]

The Chair: Go ahead, Mr. Julian.

[*Translation*]

Mr. Peter Julian: The amendment simply says that if the railway line is not used for transportation purposes, it must be returned to the community. I certainly understand Mr. Bell's point of view and I recognize that with the sub-amendment, the community organization's intervention could be subject to the approval of any affected municipalities.

However, there is also the reverse problem. In some communities, railway lines are not used for urban transit. One example would be Arbutus Corridor, in Vancouver: it is not used for urban transit. There is no transfer. Community groups do not use it. In fact, communities are not authorized to use that railway line. It is used neither for transportation, urban transit, or recreation. That's the problem.

That is a real shortcoming in this bill. That is the reason why we are proposing this amendment. If someone wanted to move a sub-amendment that would allow us to better define it, I would be perfectly in agreement with that.

However, based on the principle that underlies the amendment, the communities, with the approval of municipalities, can acquire the railway line precisely because no one else is using it. If it is not used for public transit, it can be used for something else, and that usage must be in the interest of the communities.

● (1615)

[*English*]

The Chair: Shall the amendment carry?

Go ahead, Mr. Scott.

Hon. Andy Scott (Fredericton, Lib.): I'd like to explore the idea in terms of trying to accomplish what we've agreed in principle we'd like to accomplish, which would be to make certain of these properties available to the community without necessarily making these properties available to communities beyond those that we would wish to do so; we're trying to box it in.

It occurs to me that he's suggesting that...in a case of this falling within a municipality, there would have to be the municipality's approval. That would offer the protection, it seems to me. You wouldn't have to define the community group in that case, because the municipality would make the determination as to whether this was a bona fide group.

Ms. Helena Borges: I think we need to clarify.

What we are suggesting here is that the municipality has the decision-making authority for any of these groups, and in this process what it's outlining is how the offer has to be made. If an interest group has an interest other than transportation, they go to the municipality, but the municipality has to get the offer and the municipality makes the final decision. Having a community organization without any legal power or any legal authority just—

Hon. Andy Scott: I think Mr. Julian is prepared to accept that protection, I understand.

Ms. Helena Borges: Yes, but I think what Mr. Julian is asking us to add in here is yet a fifth level of offer to an entity that is not a legal entity, and we have no idea who they are. It could be, as somebody said, one person, and in the end this entity does not have the financial wherewithal to buy this corridor, right? At the end of the day, these corridors are purchased; the railway is offering it and they may have to sell it at salvage value, but there is a price for this. The municipality could do it on behalf of a community organization or on behalf of a transit entity or on behalf of itself, if it wants to buy it for another transportation purpose, but I wouldn't agree that we can include that kind of wording there. It's legally very problematic for us.

Mr. Don Bell: Mr. Chair, I just wanted to clarify that in the case of a legitimate community group that was recognized by the municipality, the wording in the bill would not preclude the municipality from acting on behalf of, or in partnership with, that group, or from supporting that group. I appreciate the intent, but the weakness in the specific wording in Mr. Julian's approach means you end up with bodies that have no support or definition. This term would allow virtually any group that the municipality was willing to support and for which they would act as the guarantor to make an application. If a group was in conflict with the municipal council's position, they wouldn't have a chance.

Ms. Helena Borges: That's right.

The Chair: Go ahead, Mr. Fast.

Mr. Ed Fast: Thank you, Mr. Chair.

I think we're forgetting something. This is for public transit and public commuter rail. Those of you who were here to hear the witnesses and who have spoken to the members of the rail industry know that they're very upset that we have stated net salvage value. That value, in many cases, would be below market value, and here we have community organizations with no public oversight that have the ability to purchase this for less.

This is cheap land. They could presumably, down the road, spin it out to the private sector for development. It's essentially expropriation by a non-government body. That's what you're doing. It's a door you never want to open unless you're a raving socialist.

The Chair: Go ahead, Mr. Julian.

Mr. Peter Julian: Mr. Chair, I think this begs for much further debate.

The reality, as Mr. Fast knows, is that many municipalities may choose for various reasons not to make that purchase, and community groups—and we've seen this with a whole host of rail bed situations—have actually fundraised actively and locally to make those purchases and acquisitions. We're talking about how it works out there right now, and we've seen case after case in which municipalities, for various reasons, have not chosen to go that route, but community organizations have.

If we add the protection that it is subject to municipal approval, then we are assuring the very legitimate concern Mr. Bell raised, which is a situation in which that community organization is in conflict with the municipality. We don't want that. What we do want, though, is for that to be available to the communities when municipalities can't, won't, or don't make that choice, but do support the idea that a community organization could do the fundraising and make the acquisition.

Now, this is after we've gone through the various hoops that are already situated in Bill C-11. It would mean after the possibility of urban transit has basically been expunged. We're at the point at which the land is there and there is an approval process with the municipalities; the community organizations do the fundraising and acquire that land with the approval of the municipality and in the interest of the community as a whole. I don't see what is so offensive —

● (1620)

Mr. Ed Fast: This will never withstand a court challenge—never.

Mr. Peter Julian: I don't see what is—

Mr. Ed Fast: You're going to be in court on those.

Mr. Peter Julian: —possibly offensive about allowing communities, with the approval of the municipality, to control these key corridors that are often wonderful opportunities for parks or bicycle paths.

We're not talking about something that is radical; we're talking about something that communities are doing right now. You should know that.

Mr. Ed Fast: This is radical.

The Chair: Mr. Storseth.

Mr. Brian Storseth (Westlock—St. Paul, CPC): Thank you.

Mr. Peter Julian: It's not radical.

The Chair: Order, please. Order.

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

We've had extensive discussion on both sides of this issue. Can we call the vote, please?

The Chair: This will be the last point, and then the question will be called.

Mr. David McGuinty: As I understand it, what Ms. Borges just told us is that the impact of this would treat community organizations.... Clarify for me, please. There's a hierarchy of disposal, right? The land must first be offered to the federal government?

Ms. Helena Borges: If it crosses a provincial jurisdiction.

Mr. David McGuinty: And then to a provincial government?

Ms. Helena Borges: Right.

Mr. David McGuinty: And then to a municipal government?

Ms. Helena Borges: We're adding an in-between, an urban transit authority, because there are numerous urban transit authorities, such as the ones that appeared before this committee—

Mr. David McGuinty: Right.

Ms. Helena Borges: —that cross numerous municipalities. They provide transit. It's a point Monsieur Carrier was making, that we want to preserve these for transit and then the municipality.

Mr. David McGuinty: Okay.

This would add community organizations. Would it add community organizations at the bottom of the pecking order, or would it make equal—first in, first out, so to speak, FIFO—as in, first in bidding for it, first out with the property?

Ms. Helena Borges: I think that would—

Mr. David McGuinty: Because my reading of the amendment suggests that it would equalize all orders of government, community organizations, and urban transit authorities as racing in to bid first. I may be misunderstanding this.

Ms. Helena Borges: No, it's after. Reading the motion, it's after the urban transit authority, so it would come before municipalities.

Mr. David McGuinty: Right.

Ms. Helena Borges: So in effect it would be giving them priority over municipalities. I'm reading NDP-16.

Mr. Peter Julian: Mr. Chair, I would just like to answer that question.

If we look at NDP-17, it is addition of a paragraph (e), which would clearly be after the municipal organizations. So it would go to federal government, provincial government, metropolitan area, then urban transit authorities, municipal or district governments through whose territory the railway line passes, and then finally—Mr. McGuinty's question is a very valid one—the last stage would be the head of community organizations.

The Chair: I'm going to ask everybody in this room if they would please turn off their BlackBerrys. Apparently, we're getting a tremendous amount of static. If you have to use them, I would ask that you please go outside.

I really believe we've exhausted this discussion. I would like to move forward, if I may.

I'm calling the question on the amendment, NDP-16.

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

The Chair: The amendment is defeated. Therefore, we'll now exclude NDP-17 through 21.

We will go to the BQ-8 amendment on page 32. Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: Mr. Chairman, as you know, this amendment deals with the same clause. We simply want to clean it up a bit. Lines 27 to 29 currently read as follows:

> shall offer to transfer all of its interests in the railway line to the governments and urban transit authorities

We would like to replace that with the following wording:

> shall offer to transfer all of its interests in the railway line to the governments, transit agencies or similar bodies mentioned in this section for not more than its

When people talk about urban transit, they tend to think of commuter rail systems. However, we want it to be understood that this includes public transit. We believe that saying "transit agencies or similar bodies" instead of "urban transit authorities" would be more realistic. I don't know what you think of this.

● (1625)

Mr. Alain Langlois: Could I ask Committee members to refer to clause 28? It has already been passed, but I am assuming that if this amendment goes through, we will also have to amend this clause. The term "urban transit authority" is defined in section 87 of the Act, as amended by clause 28 of Bill C-11. It provides an explanation of what is covered by the term "urban transit authority". It reads as follows:

> "Urban transit authority" means an entity owned or controlled by the federal government or a provincial, municipal or district government that provides commuter services in a metropolitan area.

When the bill was drafted, the legislative intent was to find a fairly general term that would possibly cover any public passenger and urban transit organization. That term covers anything that is owned or controlled by a municipal, federal or provincial government. As defined in the bill, the term "urban transit authority" is not limited to regular urban transportation. It is very broad and basically covers everything controlled by a municipal, federal or provincial government.

Mr. Mario Laframboise: I have another problem with your definition. You are limiting this to metropolitan areas.

Now we are seeing public transit extend beyond the area covered by a CMA, or census metropolitan area, which is defined here. That's why we wanted to ensure that public transit agencies would be included.

I agree with you. If our amendment is passed, we will have to amend your definition. Under your definition, what happens to whatever that is outside the boundaries of census metropolitan areas?

Ms. Helena Borges: Mr. Laframboise, some companies that provide public transit services, such as in Montreal, are owned by the municipality. If Montreal wants to acquire a corridor for its public transit company, it can do so. That is already covered. That applies to any other city, such as Gatineau. Gatineau could acquire a corridor for its public transit company.

Mr. Mario Laframboise: Yes, but when it's a public transit agency, such as in Montreal, the city is not the one making the acquisition.

Mr. Robert Carrier: It's the Metropolitan Transit Agency, or MTA.

Mr. Mario Laframboise: The Metropolitan Transit Agency is the one making the acquisition, not the city or the province. It's a non-provincial agency which is managed independently.

You are setting limits. So, I would like our definition to be taken into account. Indeed, when we say "transit agencies or similar bodies", that includes all public transit services managed by governments, municipalities or groups of municipalities. In some cases, they go beyond the boundaries of census metropolitan areas. Once you go beyond the boundaries of a CMA, your definition no longer applies.

I don't want this to be restrictive, because systems are now being developed that sometimes go beyond the boundaries of census metropolitan areas.

Ms. Helena Borges: I don't believe the definition includes any such restriction. It give priority to authorities covering several communities, such as the MTA. However, in a small town which may have two buses, the city owns the bus service company. Even here in Ottawa, OC Transpo is owned by the City of Ottawa. The municipality may acquire the entity, but in large metropolitan communities, it's a little different, because many municipalities are involved in providing the service. In that case, it is difficult for one of the municipalities to acquire a portion of the corridor. However, that in no way restricts the options for small authorities.

● (1630)

Mr. Mario Laframboise: I just want to repeat that the wording we have proposed, which is "transit agencies or similar bodies" is much more realistic than the expression you use in clause 28 of the bill.

M. Alain Langlois: I understand your position on this.

The legislative intent, at the time the bill was drafted, was to allow public transit organizations in large urban communities, such as the Montreal Metropolitan Transit Agency, to receive the offer directly. Urban communities generally have high population densities. In the case of smaller communities not located in an urban or metropolitan environment, the intent, with the definition proposed in clause 28, was to cover that possibility through the municipalities.

Basically, outside of urban environments, a public transit agency cannot directly acquire a railway line. Consequently, as part of the process, a municipality does have the option of purchasing the right-of-way on behalf of the transit agency operating in the area.

Mr. Mario Laframboise: I want to be sure you understand what I'm saying. Under this bill, the MTA will not be able to extend beyond the boundaries of the Montreal CMA if it wants to make acquisitions, because you are limiting this to urban transit authorities that provide transit services in a metropolitan area. Statistics Canada has defined these areas as census metropolitan areas.

The MTA may need to go beyond the boundaries of the Montreal CMA to make its acquisitions. I don't want the bill to propose restrictions in that regard. A number of public transit authorities may want to join together. Your definition limits the MTA to dealings with organizations within the CMA. But the public transit authority may provide service outside the boundaries of the CMA. That is allowed by governments and supported by the Government of Quebec, and municipalities do piggy-back onto the MTA. We want to be sure that the definition is not too restrictive. We believed that it was too restrictive. Ours is broader because it includes all agencies.

[*English*]

The Chair: Mr. Jean.

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

Is it too late to amend clause 28, the "urban transit authority" definition, to be inclusive of what Mr. Laframboise has suggested?

The Chair: I suspect we can only do that with the unanimous support of the committee, having already passed it.

Mr. Brian Jean: I do understand his concerns, and I think they are legitimate. Certainly it should be restricted enough so as not to leave open a field of nightmares, as Mr. Masse has constantly reminded us of the legal obligations. Some sort of amendment to that would certainly be all right from the government's perspective, depending on the other members.

Mr. McGuinty?

Mr. David McGuinty: If I understand Mr. Laframboise, he's suggesting that transit authorities are now running lines outside of census metropolitan areas and that we shouldn't be relying on the Statistics Canada definition of census metropolitan areas, although they change and the boundaries change, and they're updated from time to time by Statistics Canada. If I understand the purpose of the amendment, it's to facilitate the acquisition of vacant lines or disposable lines outside the census metropolitan area, outside the borders of the area, in order to facilitate the running of trains.

[*Translation*]

Did I get that right?

Mr. Mario Laframboise: Yes, that's one of them.

Of course, Mr. Jean's proposal could be an attractive one if we remove the last line of the definition of "urban transit authority" as it appears in clause 28 of the bill, and specifically the words "in a metropolitan area". If we did that, an "urban transit authority " would be an "entity owned or controlled by the federal government or a provincial, municipal or district government that provides commuter services". By removing the words "in a metropolitan area", we would cover all such entities.

● (1635)

Ms. Helena Borges: [*Inaudible—Editor*] a problem. For example, we know that if the MTA belongs to the Province of Quebec, it serves the metropolitan Montreal area and all the surrounding communities. However, based on what you are proposing, that MTA could decide to acquire a corridor in Toronto, if it wanted to. It would be difficult for a railway to offer a public transit company from one metropolitan area a corridor in another place located further away. That would leave us quite exposed, because the railway company would have to offer that corridor to the government, the municipality, the province or the entity providing commuter or public transit services. That would be going a little too far. Metropolitan areas are very large. They cover a wide territory, and that would be a little difficult. It would be tantamount to giving the MTA the power to acquire a corridor here in Gatineau, for example.

[*English*]

Mr. Don Bell: As a suggestion on a way to maybe achieve this, and going back to the definition in clause 28, on that last line, if you were to leave it as it is and just say "in a metropolitan area or other area under their jurisdiction", does that not address the issue you're raising, Ms. Borges?

Ms. Helena Borges: If we just deleted, at the end of the definition, "in a metropolitan area", I think that would work.

Mr. Don Bell: That was what Mr. Laframboise suggested. I thought you raised an objection to that by saying it wasn't within their area of jurisdiction, and in effect they could buy one in another area. So if you substituted "in a metropolitan area" with "in an area under their jurisdiction"....

Ms. Helena Borges: Yes, something like that.

I think Mr. Laframboise is concerned about two things, including the "metropolitan", right?

Mr. Don Bell: Yes, versus the "non-metropolitan area". And your concern is that one government or one authority should not, in effect, be given the ability to acquire something else, like Montreal buying something in Vancouver, for example.

Ms. Helena Borges: Exactly, so we're trying to mesh the two.

Mr. Don Bell: Instead of "in a metropolitan area", if you said "in an area under their jurisdiction", I think that would cover the legal aspect.

Mr. Brian Jean: Just take out "metropolitan" and change it to "in that area". Remember, the "urban transit authority" definition goes to a lot of other sections in the act as well. Just taking out "metropolitan area" and saying "in that area" is pretty straightforward. It's very common-sense. I think our interpreters could come up with that pretty easily.

Ms. Helena Borges: It's just that because this wording comes up several times in the provision, we're going to have to go with the drafters and look at how it applies. In essence, we don't disagree with that, but can we leave this for the end and come back to it if we have time, or maybe work with the drafters? We'll see if that works, but we understand what you're getting at.

The Chair: Mr. Carrier.

[*Translation*]

Mr. Robert Carrier: I would like a clarification. My colleague was discussing his apprehensions with respect to the definition proposed in clause 28, because of the extension of lines outside the metropolitan area. That is the future. Right now, there is a project underway in Montreal which is intended to provide service to people living as far away as Saint-Jérôme. I don't know whether Saint-Jérôme is part of the metropolitan area, because I haven't checked that, but that could be one case. The fact remains that even if it is serving populations located outside the metropolitan areas, the transit authority is still required to serve the metropolitan area. Given that fact, would an urban transit authority in a metropolitan area that wanted to serve a population outside the area be covered under the definition we have now? It seems to me that the term "metropolitan area" is quite significant in terms of our main objectives here. My feeling is that service provided in a metropolitan area would be included in the definition proposed under clause 28.

● (1640)

Mme Helena Borges: I believe it is covered under the definition of "urban transit authority". The owner of the MTA is the province. It's the same thing in Toronto, with GO services, and in Vancouver as well. I believe it's covered both ways —by the offer to the province and the offer to the urban transit authority. That is the intent of this provision.

[*English*]

The Chair: I ask then that we perhaps stand this and have some of the department look at all the consequential amendments that may follow. With agreement, we'll stand clause 39 until the end and ask the department to check into where that change impacts throughout the bill.

(Clause 39 allowed to stand)

(Clauses 40 and 41 agreed to)

(On clause 42)

The Chair: For clause 42, go to page 38 in your program. We have a Bloc amendment, BQ-9.

Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: Are we on clause 42? All right. This amendment replaces lines 21 and 22 on page 26 with the following:

that it plans to dismantle, except for sidings and spurs

[*English*]

The Chair: I'm sorry, Mr. Laframboise, there was no translation. Would you repeat yourself, please?

[*Translation*]

Mr. Mario Laframboise: There is no difference. Pardon me.

[*English*]

The Chair: Moving right along, Mr. Laframboise, will you withdraw that amendment?

Mr. Peter Julian: Mr. Chair, actually the English version is different. It says at lines 21 and 22, "that it plans to dismantle". It would take out "and that are located in metropolitan areas". So the English version is different.

[*Translation*]

Mr. Mario Laframboise: It's to correct the English version. Sorry about that.

[*English*]

The Chair: Mr. Julian.

● (1645)

[*Translation*]

Mr. Peter Julian: If I understand correctly, you are proposing to remove the words "and that are located in metropolitan areas". So, the idea would be to update the list of all the sidings and spurs to be dismantled, and not only those located in metropolitan areas. That makes sense, because it fits with your previous amendment, which was intended to expand the area of coverage.

Mr. Mario Laframboise: You're right. The amendment is intended to remove the words "and that are located in metropolitan areas". The idea is for there to be a list of all sidings and spurs to be dismantled in the entire area, not just those located in metropolitan areas.

You're right. Thank you, Mr. Julian.

Ms. Helena Borges: I just want to explain the difference between a railway line and a siding.

Without a railway line, sidings are of absolutely no use to a public transit company. If we include all sidings in Canada, it will create a lot of administrative problems for railway companies. Here, we want to assign them to public transit companies. That's the reason why we want to limit this provision to sidings located in metropolitan areas. If we broaden the geographical area that's covered, the definition will include a siding located in Northern Ontario, for example, where no one lives. That would create a lot of regulation within the system.

Mr. Mario Laframboise: Yes, but the purpose of this, once again, is to operate a public transit service. The principle is the same one as previously. If we want to go outside metropolitan areas, we will have to ensure that development can go ahead outside the boundaries of CMAs, because that is the point we're at now.

This amendment is consequential on the one we were discussing earlier. I want to allow a public transit association or authority to operate its network. We were talking about the definition earlier. I think we will probably arrive at a compromise where we say that the metropolitan area has to be served, but once we're outside the boundaries of the CMA, we have to allow for the development of sidings or spurs that maybe located outside the CMA.

Ms. Helena Borges: Later on, rather than referring to the geographic area, perhaps we could try to include a specific reference to the actual public transit or commuter service activity. By removing any reference to the geographic area, we would cover all of Canada, and it would be difficult to require...

I think we could make more specific reference to public transit or commuter services, rather than removing the reference to metropolitan areas. The intent is a little different.

Mr. Mario Laframboise: Yes, I understand.

My intention here is not to offer sidings and spurs to just anyone. However, I do want it to be possible for them to be used to expand the public transit system even when they are outside the boundaries of CMAs.

[*English*]

The Chair: Mr. Julian.

[*Translation*]

Mr. Peter Julian: Mr. Chairman, railway companies already have such lists. There is nothing special about this. It's not as though they don't have any idea what's going on within the railway system. They already maintain such lists.

As far as I'm concerned, Mr. Laframboise's amendment makes perfect sense. It goes back to what we were talking about earlier. They already have a register of railways sidings.

An hon. member: They do?

Mr. Peter Julian: Yes, of course they do.

Ms. Helena Borges: Under the current wording of the Act, reference is made only to corridors and main lines. It doesn't talk about sidings.

Mr. Peter Julian: Yes, but in practice, companies already maintain these registers.

Ms. Helena Borges: It's rare. It happens occasionally, but it's rare. At the present time, the Act only requires that they maintain a register of the main lines.

Mr. Peter Julian: That is what they are required to do, but in actual practice, it's different.

[*English*]

The Chair: Mr. Carrier.

[*Translation*]

Mr. Robert Carrier: I would just like to add something to that. If we want the public transit system to be as extensive as possible, we have to be aware of all the available sidings and spurs. That's why we want to remove the words that refer to metropolitan areas. That is perfectly consistent with what we were saying earlier.

If you were to propose that it be linked to public passenger service, it would then be up to railway companies to decide whether these sidings can be used for passenger service. If they believe that to be impossible, they won't put them on the list. So, it would be better to keep the general reference. That way, we will know about all available sidings and spurs. That way, urban transit authorities and provincial governments will be able to decide to use these sidings and spurs if they so desire. In any case, there cannot be that many of them. If there are, it would useful for us to know about them.

● (1650)

Mr. Alain Langlois: I'm going to sit down with the drafters to try and find terminology that reflects what you are seeking to achieve, while at the same time trying not to broaden the scope of the clause. Despite what you think, there are sidings all across the country.

Ms. Helena Borges: Private companies have them.

Mr. Alain Langlois: In principle, if we can find terminology that would allow urban transit authorities to acquire spurs or lines outside metropolitan areas, without imposing on railway companies the huge burden of having to publish all these lists, we will have achieved some balance.

So, I undertake to try and find something that works with the drafters.

[*English*]

The Chair: Am I to understand, then, that we're going to stand this one also until we get clarification?

Mr. Fast.

Mr. Ed Fast: Mr. Chair, could we not just address this by adding the words “or such other area, as the Minister may determine by regulation”? Is that not an option?

Ms. Helena Borges: We don't have regulations for these provisions. They're laid out in the legislation itself.

Mr. Ed Fast: So you don't want extra regulations, generally?

Ms. Helena Borges: We don't want to have to do regulations just to define this concept, so we'd rather try to define it and contain it.

Mr. Ed Fast: Okay, all right.

The Chair: Mr. Jean.

Mr. Brian Jean: I've had consultations with the department. I think it's valid, and they're going to check. If we stand it down, we might be able to reach a compromise. It's a good idea, quite frankly.

(Clause 42 allowed to stand)

(Clauses 43 to 46 inclusive agreed to)

(On clause 47)

The Chair: Clause 47, government amendment number 3, page 40 in your program.

Mr. Jean.

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

I think it's a wonderful idea, and people should just go for it because it's such a good idea.

Actually, what it does, Mr. Chair, is it clarifies the provincial authority. They will have within their authority the limits set out. It's just to be consistent to regulate their authority. It's more or less a housekeeping matter.

The Chair: Are there any comments?

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

(Clause 47 as amended agreed to)

● (1655)

The Chair: We go to new clause 47.1, page 41, amendment G-4.

I want to advise the committee that I do have some reservations on this, but in order for me to express the opinion I would ask Mr. Jean to introduce the clause.

Mr. Brian Jean: It's so introduced, Mr. Chair.

The Chair: I've been advised that new clause 47.1 is inadmissible. The amendment seeks to amend section 160 of the Canada Transportation Act, and the *House of Commons Procedure and Practice* states on page 654:

> An amendment is inadmissible if it amends a statute that is not before the committee or a section of the parent act unless it is specifically being amended by a clause of the bill.

Since section 160 of the Canada Transportation Act is not being amended by Bill C-11, it is inadmissible to propose such an amendment; therefore, it is inadmissible. I do have that in writing. I have it *en français* and in English, and I'm prepared to circulate it.

So new clause 47.1 is denied.

Now we go to amendment L-5, page 42 to 44, a new clause. Again I will advise the committee that I do have some reservations and an opinion, but I do ask Mr. McGuinty to submit the amendment.

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

I'd like to take a few minutes, if I could, just to walk the members through why this is here. We all know that Bill C-11 has been derived significantly from Bill C-44 in the 38th Parliament. We know that Bill C-44 included parts, for example, of Bill C-3, on international bridges and tunnels, which we've already considered and has gone before the Senate. Bill C-44, of course, included many aspects of the bill that we're currently studying here in Bill C-11.

Bill C-44, for example, also included provisions regarding VIA Rail, which we do not see in Bill C-11. It included the provisions that you see before you in amendment L-5.

I'm bringing these before the committee to reflect the concerns of many shippers who are saying—this is their language—that they've been thoroughly neglected by the government in its rush to bring Bill C-11 forward. I'm deeply concerned by this, because I know the members of the committee ought to all have received by e-mail letters written on or around December 4 by groups like the Western Grain Elevator Association, the Canadian Chemical Producers' Association, the Canadian Industrial Transport Association, Forest Products Association of Canada, and the Canadian Fertilizer Institute.

I'm not sure if everyone has received these letters, Mr. Chair, but they contain very strong endorsements of amendment L-5, and I'd like to table that if I could for one moment.

The Chair: Mr. McGuinty, for the record, I did submit and I believe people received copies of those letters this afternoon by electronic mail, in translation also.

Mr. David McGuinty: Great. Thank you, sir. I appreciate it.

The groups that have also approached us as a committee, the various shipping parties that are interested in these amendments, asked us to take note that the Coalition of Rail Shippers, which represents some 80% of Canadian railway revenues, have come together to develop a common approach to fixing what they call "chronic service shortfalls" that are negatively impacting the Canadian economy in a very serious way. My amendment would hopefully simplify and rationalize the negotiating opportunity between shippers and railways.

Right now, the Canadian Transportation Agency permits final-offer arbitration—FOA, as we call it—as a recourse for shippers who can be held captive, sometimes, by the terms and conditions of what amounts to a monopoly, a monopoly means of transporting goods in some cases. These amendments would enhance final-offer arbitration by allowing groups of shippers with common interests and concerns to bring their grievances to arbitration simultaneously.

I just want to go a little further, if I could, on the background. Last May 5, according to the shippers who have contacted my office, Transport Canada agreed to bring forward amendments to the Canada Transportation Act, to enact such group rights for shippers. That was May 5. Some shippers I have spoken with felt that a promise was made to see these amendments in legislation by the end of June. It's now December. They are frustrated that these elements that were originally proposed in Bill C-44 are not on the agenda and certainly haven't found their way into Bill C-11.

If we examine the letters we all received with respect to these concerns, we see, for example.... I'm quoting the Western Grain Elevator Association: "We applaud and support your efforts to have provisions for group final offer arbitration included into Bill C-11."

As a committee, Mr. Chair, I think we can agree on this modest evolution as a short-term attempt to re-balance the power between shippers and railways. We all agree that our economy depends on an efficient transport system. Enhancing that balance I think could only be a good thing.

I don't know if there's any other information, Mr. Chair, that the government wishes to share or can share with us with respect to these provisions, but they've now been delayed May through December—nine months. This is continuing to wreak havoc in the dispute settlement mechanisms in the business world. I think this is something we ought to address, which is why I put them here for consideration under L-5.

● (1700)

The Chair: Thank you, Mr. McGuinty.

Mr. Jean.

Mr. Brian Jean: Just very quickly, I can assure Mr. McGuinty and other members that I am very aware of shippers. In western Canada, northern Quebec, and other areas in Canada, I have had no end of shippers coming to lobby me for these provisions.

I can assure the member, first of all, that in a speech the minister made earlier this session, I think in October, he said:

> The third component will deal with shipper protection provisions. Consultations are under way with shippers and the railways on potential changes to those provisions. The intent is to table a bill later this fall.

That obviously is now.

First of all, my understanding is that the wording is almost identical to yours, with some difference. It's almost identical to the Bill C-44 provisions. But there's a balance. The balance is between the shippers and the rail. Indeed, I'm suggesting that this isn't admissible on the same basis as you ruled the government amendment inadmissible, and on the basis also that it's another piece of legislation that's coming forward. It has to balance it. We have one side balanced, but not the other side.

Quite frankly, I would suggest that if we adopt this amendment, it's going to prejudice what's happening right now with the department in preparing the FOAs and the ability for them to continue with that. It's coming forward; it's the third part of the bill. If you see that, you know that 169 is consistent with Bill C-44, which is the third part of the provisions and what the minister said is coming forward.

The Chair: Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: My comment is along the same lines, Mr. Chairman. It was my impression that we were not dealing in this bill with the kinds of things the Liberal Party is suggesting in its amendment.

If people want to discuss it and use it to gain political capital, that's fine, but I have a problem with this amendment. If it is out of order, I would like to know when the mover should have been informed of that. Should he have been told when it was tabled or is it proper to tell him that today? My impression was that this amendment was out of order.

I would not like to see people being given false hopes with respect to what they're asking for. That is legitimate and I believe Mr. Jean is right. This will probably be dealt with in a new bill. It was part of a separate section of former Bill C-44. I wouldn't like to see people being given false impressions and false hopes if the amendment is out of order.

My feeling was that it was not in order because this issue is not dealt with in the bill we are currently reviewing. As I have said on several occasions, I like to see the Committee discussing what it's supposed to be discussing and I'm aware that a number of other things could have been added to the bill to resolve a great many other issues. But that is a choice the government made and it will have to live with it.

So, I'm a little bit uncomfortable today. I'm very much in favour of the idea, but the bill under review is not the proper vehicle for resolving that problem. That is my feeling. I would like the law clerk to clarify matters for us.

[*English*]

The Chair: While there's great sympathy from the chair also with Mr. McGuinty's amendment, I am advised that it is inadmissible. The ruling I have states that

> Bill C-11 creates, among other things, a new mediation process for transportation matters. Amendment L-5 proposes a new clause, which would create a separate scheme for multiple shippers within the final-offer arbitration process, and Bill C-11 does not address any issues relating to the final-offer arbitration process.

I would refer you to page 654 of *House of Commons Procedure and Practice*:

> An amendment to a bill that was referred to a committee *after* second reading is out of order if it is beyond the scope and principle of the bill.

Therefore, it is my opinion that the introduction of a new scheme for shippers within the final-offer arbitration process—while I think there is agreement around the table that it is needed—is a new concept that is beyond the scope of Bill C-11 and therefore inadmissible.

I'll entertain one comment from each party, and then we'll move on.

Mr. McGuinty.

● (1705)

Mr. David McGuinty: Thank you, Mr. Chair, and thank you for the ruling.

I sympathize with Monsieur Laframboise,

[*Translation*]

because if we had known from the start that this amendment was out of order, we would have avoided a lot of work. But that's all right. We're learning.

[*English*]

I'd like to go back, though, to comments made by the parliamentary secretary, if I can get his attention for a second.

Mr. Brian Jean: You have it.

Mr. David McGuinty: Thank you, sir.

There is, of course, rampant discussion about elections, and there are all kinds of possibilities in our immediate future. Can you give some indication? A speech in the House by the minister, with all due respect to the minister, who I'm very fond of, doesn't tell us where this sits, in fact, in terms of the government's legislative agenda. We've seen no bill. It's not on the order paper. Bill C-20 was on the order paper; I guess it still is. We haven't seen that.

Can you give us, and perhaps all shippers and all railway companies in the country involved in this important matter, a better understanding of timing? When will this be deposited in the House? When can we expect the minister to address this, if it's the third leg of the stool, having deconstructed Bill C-44? This is a huge issue, as we all know. Can we get some kind of clear indication so that those involved will get some idea of when this will be resolved?

Mr. Brian Jean: First of all, I hope I can quote you in the House sometime on the fondness for the minister, or maybe in my next press release.

The election is going to be up to your party, quite frankly, so as long as you keep us in power, we can move forward that legislation and the shippers can be very happy to have that in the new year. I see it being introduced in the new year.

The Chair: Mr. Julian.

Mr. Peter Julian: That doesn't really answer the question. Are you suggesting, then, that you'd be moving that forward early in February?

Mr. Brian Jean: I can't give you a date. As you can tell, this is the third part of a leg, and the reason it's the third part of a leg is because it is the most important part of the leg to this government. It's very important to shippers, and we have to get it right the first time. We're not just going to sporadically spread it out there to get great public reviews. We're going to do the job right so that shippers and receivers get along and they have some ability to count on what they need to get done and the economy keeps flowing. So I would say it would be in the new year.

The Chair: Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: I just want to be sure we understand one another, because there are two ways of getting bills passed: to divide them up to ensure that they pass, as the Conservatives have done, or to put everything possible in one bill to ensure that they won't be passed, as the Liberals used to do. So, I want to be sure we understand one another.

Our hope is that you will be tabling a bill of limited scope so that we can get it through as quickly as possible.

[*English*]

The Chair: Thank you.

With that, we will now move on to clause 48. There are no written amendments to clause 48.

(Clause 48 agreed to)

(On clause 49)

The Chair: We have amendment NDP-22, on page 45 in your program.

Mr. Julian.

Mr. Peter Julian: Mr. Chair, this is consequential to the amendments that we brought forward on clause 29, which we've stood. I'm not sure how best to deal with it.

The Chair: I'm wondering if you might just give us a little bit of an explanation. I have nothing in my notes to suggest that one impacts another clause.

Mr. Peter Julian: It's related to a regulation that we've put forward in clause 29, so the legislative drafters saw it as a consequential amendment to clause 29.

The Chair: I would ask, then, if the committee is prepared to stand it until we go back to clause 29. I have nothing on my records from the drafters or from counsel to suggest that there's a conflict. I'll look for the direction of the committee.

(Clause 49 allowed to stand)

(Clauses 50 and 51 agreed to)

(On clause 52)

● (1710)

The Chair: We're on page 46, and amendment G-5.

Mr. Jean.

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

Very quickly, it's just to bring consistency between the French and English versions.

The Chair: Mr. Julian.

Mr. Peter Julian: Sorry, Mr. Chairman, but could you allow us a moment?

Could the parliamentary secretary explain how it's inconsistent right now?

Mr. Brian Jean: Maybe we could ask the department to do so. My French is not as good as yours, Mr. Julian.

[*Translation*]

Mr. Alain Langlois: Our legal drafters tell me that the term "modalité" in French does not cover the idea of the time when the payment is to be made. So, in order for the French version to be consistent with the English version, which reads:

[*English*]

"amount specified in the notice in accordance with the particulars" ,

[*Translation*]

the French version has been amended, given that the English term "particulars" is much more inclusive.

[*English*]

The Chair: Mr. McGuinty.

Mr. David McGuinty: Mr. Chairman, if we examine the wording in the lines, I think the lines in the text are the wrong ones.

[*Translation*]

Mr. Mario Laframboise: It's lines 9 and 10 on page 34.

An hon. member: Is it not 10 and 11?

[*English*]

The Chair: On page 34?

[*Translation*]

Mr. Mario Laframboise: It's 9 and 10 in the French version.

M. David McGuinty: In English, it says 9 and 10. Thank you.

[*English*]

The Chair: Shall amendment G-5 carry?

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

The Chair: Still on clause 52, we have amendment G-6, on page 47.

Mr. Jean.

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

Again, my understanding is that this makes the French and English versions consistent with this part and other parts of the act itself, and it also simplifies somewhat the English version.

The Chair: Is there any comment? No?

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

(Clause 52 as amended agreed to)

(Clause 53 agreed to)

● (1715)

The Chair: Is the committee at all interested in doing a group of clauses, or do you want to continue on with one line at a time?

Some hon. members: Agreed.

Some hon. members: No.

The Chair: We'll just keep going then.

(Clauses 54 to 63 inclusive agreed to)

(On clause 64—*Order in council*)

The Chair: On clause 64, referring to page 48, the last amendment of the docket, we have a Bloc amendment, BQ-11.

Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: As regards the date of the coming into force of the bill, this amendment replaces the words "on a day or days to be fixed by order of the Governor in Council" with the words "ninety days after the day on which it receives Royal Assent".

Is that acceptable?

Mr. Alain Langlois: Before answering yes or no to that question, I need to know what the intent of the amendment is.

Mr. Mario Laframboise: Simply to ensure that things do not drag on forever.

Ms. Helena Borges: This motion relates to clause 63 and the Aeronautics Act, which the Committee will be addressing briefly, I believe. In order for the legislation to come into force when it is actually passed, an adjustment has to be made. Rather than saying "ninety days", we can simply stipulate that the Act will come into force when it is passed by Parliament. That would be preferable. That way, we won't have to wait 90 days for it to come into force.

Mr. Mario Laframboise: That is better than saying "on a day or days to be fixed by order of the Governor in Council"?

Mme Helena Borges: Yes.

Mr. Mario Laframboise: We could say: "on the day on which it receives Royal Assent".

Ms. Helena Borges: Yes.

Mr. Mario Laframboise: That's fine with me.

Mr. Alain Langlois: We have to see what the intent is. If you don't want the Act to come into effect before 90 days...

Mr. Mario Laframboise: Non, that's not really the case. Actually, we want things to get moving as quickly as possible.

Mr. Alain Langlois: Well, if the intent to avoid waiting 90 days, why paint oneself into a corner? In principle, if the amendment is withdrawn, the bill will come into force when it receives Royal Assent. It will then have the force of law. That being the case, this is probably the best choice.

Mr. Mario Laframboise: That's great.

[*English*]

The Chair: Monsieur Laframboise, are you comfortable with withdrawing the amendment?

[*Translation*]

Mr. Mario Laframboise: Yes, that's fine.

(The amendment is withdrawn.)

[*English*]

The Chair: Bloc amendment BQ-11 has been withdrawn.

Mr. Jean.

Mr. Brian Jean: We should withdraw the clause—or do you want us to vote on that?

The Chair: We have to vote it down.

The question is on clause 64.

[*Translation*]

Mr. Mario Laframboise: But should we not move an amendment saying "on the day on which it receives Royal Assent"?

Mr. Alain Langlois: Rather than passing that amendment, you can simply decide not to pass the clause. In that case, it will be withdrawn from the bill. That way, the bill will come into force on the day on which it receives Royal Assent.

Mr. Mario Laframboise: So, I am withdrawing my amendment and we are deleting clause 64. That's great.

[*English*]

The Chair: Shall clause 64 carry?

(Clause 64 negatived)

The Chair: We're going to move on the stood clauses. We're going to go back to clause 17.

Mr. Julian.

Mr. Peter Julian: Could I suggest that we go back to the clauses that we stood earlier tonight?

The Chair: I think we've got an order, and that will get us to clause 29, which will be impacted by the amendment you were talking about.

So we would be on clause 17, and an amendment proposed by Mr. Julian. It is NDP-11 on page 17. You'll forgive me, if you will. It seems as though it's been a long time, and maybe Mr. Julian could refresh us. I don't even remember where we were when we stood it.

Mr. Jean, I think you were going to respond, or...?

Mr. Julian.

(On clause 17)

● (1720)

Mr. Peter Julian: Thank you, Mr. Chair.

I proposed the amendment. The reason we stood this amendment was that there was some concern about not having a process for seasonal air services. That was a matter of real concern. It's also clear that the way the amendment is structured right now, it doesn't necessarily deal with the seasonal nature. The reason we stood aside that clause was to find wording that would work, allowing those communities to have a process when seasonal service is being terminated.

I've certainly consulted my colleagues who represent parts of northern Canada, and they said very clearly there needs to be a process for seasonal air services in many communities in the country. We can't simply allow the service to be terminated without that process.

So that's what we were left with.

I don't suggest that the NDP amendment should be passed as it is. It's certainly worth looking to my colleagues to see if we can amend it in such a way that it allows those seasonal services. Perhaps Mr. Jean has something that he's going to pull out of his hat that might be acceptable.

The Chair: Mr. Jean.

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

First of all, I want to be clear. We discussed this for some time, and the department has indicated to me that they have consulted with some municipalities. As well, they have provided to me *en français* and in English some information that could provide assistance, and I would like to provide that to the committee, if I might.

The first thing to take note of is the objective of this clause, which this government is trying to address, and that is to become efficient. In fact, it's not only for the government to become efficient, but for there to be the ability for small Canadian carriers that sometimes have one or two planes, or that are a mom-and-pop shop, to get rid of the unproductive workload. From what I've seen, there seems to be a lot of unproductive workload.

Many of these carriers for seasonal operators—and I know this from first-hand experience—serve a lodge, a camp, or a mine site, and in many cases they are owned by the mine or the lodge or the fishing lodges in the north that I attend, and they have problems with this. In fact, it seems very unproductive. Once you see the handout, I think you will agree with that. I think the department could tell us. They informed me that the municipalities they contacted have no concerns with seasonal operators, and indeed would think, quite frankly, that it's a waste of time to be consulted on that. So I leave it to the department.

The Chair: Ms. Borges.

Ms. Helena Borges: As the table that's going around will demonstrate, the department contacted a couple of municipal entities to ask them whether they had issues and needed to be advised of this. I think the answer we received was that they value the seasonal services, but they are what they are—seasonal services. They are not providing transportation on a scheduled basis for the people in the community. They're a special-purpose operation, usually serving a lodge or a hunting or fishing area, and that is the specific purpose of the operation.

After that season is done, then they take their planes and go elsewhere—south, wherever—and they come back next season. To make them go through the process of advising and putting the notice out is going to put a lot of them out of business.

[*Translation*]

The Chair: Mr. Laframboise.

Mr. Mario Laframboise: I'd like to come back to the question of insurance. I'm interested not only in security, but in the possibility of someone suing a person who uses one of these planes.

You say that as soon as service is discontinued, the operator no longer has any insurance, or vice versa. How does it actually work?

I had the impression that when an operator sends you a notice of discontinuance, you knew that he no longer had insurance. We should at least be able to answer people who call Transport Canada to ask whether the company [*Inaudible—Editor*]. So, how does it work?

Does this mean that a company can discontinue service at any time and that you won't know whether it has insurance or not? Could it leave at any time, so that someone involved in an accident might have no recourse whatsoever? That's what I'm concerned about.

Mr. Alain Langlois: The matter of insurance is connected to the issuance of a certificate of competency. Any person operating an air transportation company in Canada has to obtain a certificate of competency from the Canadian Transportation Agency.

One of the conditions that has to be met before a certificate of competency can be issued is that the operator has to have the required liability insurance. Now if there is no insurance, the Agency has to suspend or cancel the licence. That is an obligation on its part, whether the service is being operated or not.

● (1725)

Mr. Mario Laframboise: When an operator decides to discontinue his operations, the first thing he does in order to save money is to call his insurance company to tell them he doesn't want insurance anymore.

Who then tells Transport Canada? Does the insurance company call Transport Canada to say this operator no longer has insurance, or is it the operator who does that?

Mr. Alain Langlois: In the majority of cases, it's the operator himself who contacts the Transportation Agency to let it know he no longer has insurance and would like his licence to be suspended.

Mr. Mario Laframboise: The Act, as currently worded, requires him to do that, but from now on, he will no longer be forced to do that.

Mr. Alain Langlois: Perhaps I could just explain the context, setting aside for a moment the actual provisions dealing with discontinuance of service. Let's forget about those provisions for a moment. An operator who decides to suspend service is required to call the Transportation Agency to let it know that he is suspending service and that he no longer has insurance, and in 90% of these cases, the licence is suspended or cancelled.

The Transportation Agency carries out spot checks to ensure that all carriers maintain their liability insurance and are fully compliant with regulatory requirements at all times.

Mr. Mario Laframboise: So, that carrier will have to let you know, even though he will no longer have to fill out the form.

Mr. Alain Langlois: Those provisions are separate from the ones that deal with the issuance of a certificate of competency. What we are saying is that a carrier who wants to discontinue service to a given point or between two points must provide 120 days notice of his intention to discontinue service. Just because he decides to discontinue service does not mean that his insurance is no longer valid. That makes a lot of sense, though, because there is absolutely no point in having insurance if you're not operating a service.

But that obligation is completely separate from those associated with the issuance of a licence by the Agency. When a carrier decides to discontinue his service, he has to provide 120 days notice. That is the process proposed here. This gives municipalities an opportunity to present their views. That obligation is completely separate from the obligation with respect to insurance and the obligation to comply with all the conditions associated with the issuance of a licence.

[*English*]

The Chair: Go ahead, Mr. McGuinty.

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

I'm having a hard time connecting the relevance. I understand what Mr. Laframboise is asking about in terms of the process by which insurance is evaluated for licensed carriers. But it was one of your colleagues in the last meeting who said, to questions put by Mr. Julian, if I recall, that if you make this too onerous for small carriers, they will willingly revoke their insurance, which would then make their licence effectively lapse. Is that what I heard her say, that this was a technique used by small carriers, by seasonal carriers, on a regular basis? It's a technique used to basically say that they're no longer governed by your licence provisions because they have no insurance, right?

Ms. Helena Borges: Right.

Mr. David McGuinty: They pull the plug and there's no insurance and no licence.

Ms. Helena Borges: They actually, in fact, cease operations, and they go to the agency and say they're going to stop operating for whatever number of months and they're going to cancel their insurance, because they don't want to be paying it if they're not operating, and so we terminate the service.

I think we would like to offer a compromise here. This provision has caused a lot of discussion, and I think what we would suggest at this point is to just leave it as it is today. We'll deal with the current administrative procedures that are in the act, and the operators will deal with them. We were trying to simplify their lives a bit, but given the concern that members have, I think we would be prepared to just let this provision die and just keep it the way it is in the act today.

The Chair: Mr. Julian.

Mr. Peter Julian: So you're suggesting that proposed subsection 64(3.1) would be deleted. There would be no exemption.

Ms. Helena Borges: Exactly.

Mr. Peter Julian: I would certainly support that. Certainly this is the feedback that I've been getting.

The Chair: Then perhaps we could ask you to withdraw your amendment, Mr. Julian. Then we will ask the committee to make a decision on whether or not to delete proposed subsection 64(3.1).

Mr. Peter Julian: In that context, Mr. Chairman, I withdraw my amendment, with pleasure.

● (1730)

The Chair: Now I need somebody to move an amendment—

Mr. Peter Julian: Why don't we just vote on it?

The Chair: No, we do need an amendment: that in clause 17, on page 13, lines 7 through 12 be deleted.

Mr. Don Bell: I so move.

Mr. Brian Jean: I'm sorry, Mr. Chair, could you repeat what you just said?

The Chair: We're basically deleting proposed subsection 64(3.1), which was suggested by Ms. Borges. Rather than trying to change the rules, we'll have the rules the way they were in the previous package.

Mr. Bell has so moved the amendment.

(Amendment agreed to)

(Clause 17 as amended agreed to)

The Chair: We've had a pretty productive day. I think we'll close it at that.

Mr. Jean.

Mr. Brian Jean: I see that Parliament will probably be finished sometime next week. I'm wondering if the committee, if necessary—if we can't get through this on Tuesday—would consider another meeting.

The Chair: Mr. Hubbard.

Hon. Charles Hubbard (Miramichi, Lib.): Mr. Chair, I suggest that we extend the meeting on Tuesday until we have completed this.

Some hon. members: Agreed.

The Chair: Mr. Julian.

Mr. Peter Julian: Let's take a moment to see if that's actually practical, Mr. Chair.

The Chair: We're talking next Tuesday. We would start at 3:30 and go until....

Mr. David McGuinty: We have a meeting from 5:30 until 7:30 or 8:30 that night.

The Chair: Any other suggestions?

Maybe I could make the suggestion that we say that we will complete it within that two-hour timeframe. But that might be presumptuous of me.

Mr. Peter Julian: I have a critics meeting that goes on for two hours.

Mr. Brian Jean: We could limit the comments on amendments.

The Chair: We could do that.

An hon. member: To four or five seconds.

Mr. Brian Jean: One minute's more reasonable. I'm not draconian, and I'm not a Machiavellian, either.

Mr. Peter Julian: Mr. Chair, I heard the House leader for the Conservatives stand in the House just after three o'clock and say very clearly that we were going all next week. That would mean that we would have meetings on Tuesday and Thursday. He said that we would have pre-budget debate on Thursday.

That being said, that gives us two sessions for three clauses. I don't see this as being difficult.

If the Liberals have a meeting scheduled at 5:30, I don't think we should try to extend that time. I think we have ample time within the two sessions to handle the three clauses that are left.

The Chair: I'm at the will of the committee.

Mr. Jean.

Mr. Brian Jean: I'm asking, Mr. Chair, if we can indeed revisit this issue at 5:30 on Tuesday, before we adjourn, to see whether or not we need another meeting on Wednesday or even after the Liberal meeting.

I'm prepared, all three of us are prepared, to meet at any time next week to get this finished before the Christmas break.

The Chair: Okay, I will see that it's put on the Tuesday agenda that if closure is not completed by 5:30, we will at least have a discussion on when our next meeting will be.

Mr. McGuinty.

Mr. David McGuinty: Can I put another question to the committee, Mr. Chair?

When we convened the minister on the estimates, I put a question to him with respect to his attending on the supplementaries. I assumed, having had his agreement, that he would come back and attend, that this would be handled by either the clerk or by you, since no subcommittee meeting had been convened to deal with it. I think the supplementaries have been deemed approved by the committee; the time has elapsed.

I'm in your hands. I'm a little surprised that we didn't actually have that booked in by the operative date. I just assumed this was going to occur. So I'm in the hands of the committee and you and the clerk as to why that wasn't scheduled.

● (1735)

The Chair: Mr. Jean.

Mr. Brian Jean: Actually, the minister did say he would come on the 29th, but we didn't have a meeting and I understand that the supplementaries have already been done as a result of the Liberal convention. At the same time, I think they were done.

The Chair: My understanding was there was an agreement that the date was changed to December 4. Am I correct in assuming that? They moved it up procedurally in front of the House.

Mr. Brian Jean: The 29th was agreed to. The minister was prepared to come.

Mr. David McGuinty: Sorry, this is the first time I have ever heard that the minister had agreed to come on a specific date, Mr. Chair.

The Chair: Yes, I wasn't aware of it.

Mr. David McGuinty: I don't think our chair was even aware.

November 29...?

Mr. Brian Jean: I thought it was, yes.

Mr. David McGuinty: I don't think our side has ever received notice that the minister intended to appear on supplementaries.

Mr. Brian Jean: That was the meeting that was cancelled as a result of the Liberal convention. I'm sure it was—yes.

Mr. David McGuinty: So going forward, Mr. Chair, is it now up to us to ask the minister to appear again as a matter of courtesy? He's given us his word that he would attend and explain for us.

The Chair: I certainly think we could extend the invitation again.

Mr. David McGuinty: Fine. Thank you.

The Chair: The meeting is adjourned.

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