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Chair

Mr. Mervin Tweed

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Standing Committee on Transport, Infrastructure and Communities

Wednesday, June 6, 2007

• (1530)

[English]

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

Welcome to the Standing Committee on Transport, Infrastructure and Communities, meeting number 56. Our orders of the day, pursuant to the order of reference of Tuesday, November 7, 2006, are Bill C-6, an Act to amend the Aeronautics Act and to make consequential amendments to other acts.

Joining us again today, from the Department of Transport, are Mr. Franz Reinhardt, Susan Stanfield, Merlin Preuss, Jacques Laplante, and Alex Weatherston.

Welcome, again.

(On clause 12)

The Chair: As we adjourned the last meeting, we were dealing with a government amendment, and I'm advised that it is in front of you again. I hope everyone has had a chance to look at it. We're going to refer to it as the new G-3, which is G-3.1. We had a certain amount of debate around this particular amendment, and I'll open the floor up again for debate, unless the committee is ready to proceed.

I'll open the floor.

Mr. Julian.

Mr. Peter Julian (Burnaby—New Westminster, NDP): I just wanted to see what the changes were in G-3.1 from the old G-3—not the variation from the original one. There's been a variation since Monday, am I not correct?

The Chair: Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you, Mr. Chair.

The variation from Monday is actually in reflection of some of the comments you made, Mr. Julian, in an attempt to find a compromise position that might find a settlement to this particular clause. I would ask the department to identify the specific changes.

The Chair: I just want to clarify. We are talking about G-3.1?

Mr. Franz Reinhardt (Director, Regulatory Services, Civil Aviation, Department of Transport): That's correct.

The Chair: That is the new G-3, and you're going to advise the committee—

Mr. Franz Reinhardt: There was an amendment made to that G-3.1. It's coming.

The Chair: There's another amendment to what I have in front of me?

Mr. Franz Reinhardt: What happened is that at the end of the meeting last week there was discussion and a question that followed from Mr. Julian. We've slightly amended the proposed subsection (4) to reflect those concerns. We believe that we have captured the—

The Chair: I'm just going to stop you there. I guess I am a little confused again. I have a G-3.1 in front of me, and I have a G-3 revised motion. Are we talking about the same thing here?

Mr. Franz Reinhardt: I would have to say yes.

• (1535)

The Chair: If I'm looking at this correctly, I'm thinking that G-3.1 and your revised G-3 are the same, but this does create some confusion for the committee.

Mr. Jean.

Mr. Brian Jean: Perhaps I could speak to it very quickly, Mr. Chair. The changes made, first of all, were from “may” to “shall”, and it was only in English, not in the French text. This change obviously came about originally as a result of two union groups—specifically, ALPA and ACPA—in relation to their concerns and also those of Mr. Julian, who wanted to have some expansion of whistleblower protection unless, of course, the action disclosed is not in good faith or is wilful or intentional. That's where these changes come into play.

Again, Mr. Chair, I apologize on behalf of the government for the lateness of this. The reality is that we are, as Mr. Julian said, trying to find a compromise to some things that were raised by the other parties, which we thought would be just as effective or more effective. Of course, we've only had two days to make the changes and get translation as well.

Mr. Franz Reinhardt: For greater clarity, Mr. Chair, the paper that was distributed, which reads G-3 revised motion, should be the latest and last one on G-3.

Mr. Brian Jean: It actually shows, Mr. Chair, if I may—and excuse me—what was crossed out in relation to how it was changed and also the underline of “shall” instead of “may”, which was in the English text beforehand. And of course there are all the underlines in proposed subsection (4), specifically “to any person” and “provided that the information has first been disclosed in good faith”, etc.

The Chair: To clarify, in your information packages there is a document titled G-3.1. Now we have the document that Mr. Reinhardt referred to as G-3 revised motion. In reality we are talking about G-3.1, but we're substituting the text from the G-3 revised motion. It's more a technical and numbering issue. The final one that was referred to by Mr. Reinhardt will go into the books as G-3.1, if there's agreement. It's a technical thing.

[Translation]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): That's the one that will be—

The Chair: Yes.

[English]

This is the amendment we're talking about. If the committee agrees, that's how we'll deal with it.

Mr. Laframboise.

[Translation]

Mr. Mario Laframboise: Mr. Reinhardt, an employee who would like to provide information to anyone whatever will be protected, provided he has already provided it in the context of the safety management system process.

Mr. Franz Reinhardt: That's correct.

Mr. Mario Laframboise: Is that the objective?

Mr. Franz Reinhardt: Yes.

[English]

Mr. Peter Julian: I just want to ask Ms. Stanfield if there are any other provisions in the bill that would mitigate or diminish the wording. The wording here is a significant improvement, but I want to make sure there are no other clauses to which these amendments would be subjected.

Mrs. Susan Stanfield (Legal Counsel, Department of Transport): Honestly, this is the first I've considered that, so I can't really give you a definitive answer. I would have to take some time to study the bill.

Mr. Peter Julian: Then I'll ask Mr. Reinhardt and Mr. Preuss.

Mr. Franz Reinhardt: We have reviewed that piece of legislation many times. This amendment was made to take care of the concern you had last week. It's not being overwritten by anything else. What you see is what is there. If someone reports through the internal system in good faith, then that person will still be protected if he or she reports to anybody else later on.

Mr. Merlin Preuss (Director General, Civil Aviation, Department of Transport): There's another way to look at that, Mr. Julian. The concept you find in this amendment is not found elsewhere. It shouldn't create a conflict between what was there before and this one, because it's addressing the individual employee in this context.

• (1540)

Mr. Peter Julian: Thank you.

The Chair: Is there any further comment?

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

The Chair: Next is amendment NDP-7.2. It is on page 36.1 in your program.

Mr. Julian.

Mr. Peter Julian: Mr. Chair, you're moving a little too quickly for me there.

The Chair: We didn't move NDP-7 or NDP-7.1. At that time Mr. Julian expressed an interest in trying to work those two motions into an individual motion, which is now NDP-7.2.

Mr. Peter Julian: This is in relation to the amendments we previously considered on Monday. In clause 12, rather than amending the section that was amended, it would add a new subsection: (1.01) Despite subsection (1), the Minister of Transport shall not designate a commercial air service, an aerodrome, an air navigation service or a manufacturer of aeronautical products relating to commercial air services to exercise or perform any of the powers, duties and functions set out in subsection (2).

Through the legislation drafter, we have this recommendation for the wording. It would create a new subsection that further defines what could be qualified or not as a designated organization.

[Translation]

The Chair: Mr. Laframboise.

Mr. Mario Laframboise: My question is for Mr. Reinhardt.

At first glance, Mr. Julian's proposal does not pose a problem, because I don't see how a commercial airline, an airport, an air navigation service—NAV Canada—a builder or manufacturer would become a designated organization.

Could you enlighten me on that subject?

Mr. Franz Reinhardt: The other day, I talked to you about the spraying of farmers', cultivators' lands by aircraft. This is a commercial air service. It is not passenger transport; it's a commercial air service under part 702. So we would like to designate that kind of thing.

Mr. Mario Laframboise: Is the association as such an air service?

Mr. Franz Reinhardt: The association represents operators, but they do not work for nothing. As these are people who are paid, it's therefore considered commercial.

Mr. Mario Laframboise: All right.

Mr. Franz Reinhardt: However, we definitely do not intend to designate NAV Canada.

Few people are aware that there are small air navigation companies like Serco, at Portage La Prairie Airport or in places of that kind. There may be a few. They are not very numerous, but they may be very good candidates for this kind of thing.

As regards aircraft manufacturers, as you know, there is quite a large population of aircraft and aircraft parts manufacturers, like Bombardier, in Canada.

Mr. Mario Laframboise: However, you may be considering going—

Mr. Franz Reinhardt: No, for the moment, that has not been considered.

Mr. Mario Laframboise: I find it hard to say that a building would become a designated organization for clients.

Mr. Franz Reinhardt: No, that is not our intent.

As I told you, it was mainly the services we discussed last week, such as the aircraft spraying service. There may be commercial geodetic services, which do monitoring, find mines, and so on. Once again, that is a commercial operation, since people pay for services that are quite self-sufficient and people can conduct good monitoring of their own activities. That is why I hesitate to keep the word “commercial” there.

However, we don't intend to designate NAV Canada. But other air navigation services might perhaps fit the bill.

• (1545)

Mr. Mario Laframboise: Other than NAV Canada.

Mr. Franz Reinhardt: Other than NAV Canada, yes.

The Chair: Mr. Bélanger.

Hon. Mauril Bélanger (Ottawa—Vanier, Lib.): The amendment introduced by Mr. Julian refers to “an air navigation service or a manufacturer of aeronautical products”. Are “aeronautical products” defined in the act? Otherwise, what does that term encompass?

[English]

Mr. Franz Reinhardt: Aeronautical products are defined as any aircraft engine, aircraft propeller, or aircraft appliance, or part of the component parts of any of those things, including any computer system and software.

[Translation]

Hon. Mauril Bélanger: They are products related to an aircraft.

[English]

The Chair: Mr. Jean.

Mr. Brian Jean: I'm wondering, Mr. Chair, if I could hear from the department.

Basically I understand this NDP-7.2 amendment to actually counter all the ability to designate an organization to do exactly what you'd want it to do. So in essence, clause 12, by adding this, nullifies it completely. Is that fair to say?

Mr. Franz Reinhardt: Yes. Most of the potential associations that we could designate or type of activities we could designate—

Mr. Brian Jean: So in fact it nullifies exactly what you're trying to do with this legislation?

Mr. Franz Reinhardt: Yes.

Mr. Brian Jean: Do you have any further comments in relation to an aerodrome and an air navigation service? I'd like to hear about each of these.

Mr. Franz Reinhardt: On aerodromes, as you know, there are about 7,000 aerodromes—probably 600 airports and 2,000 registered aerodromes—in Canada. There are lots of private aerodromes of some commercial nature, but they are self-sufficient and could easily be designated. There doesn't seem to be any danger there. It's very low risk.

As you know, we fettered those provisions last week by giving full control to the minister on the review of the regulations. We believe that after having done this it's no longer necessary to remove those things.

Mr. Brian Jean: Actually, could you wait for that last comment until Mr. Julian has finished? Perhaps you could direct that to him on his amendment.

You mentioned that the manufacturing sector may not be necessary, but what about the other...? Would an aerodrome be an appropriate designated organization, in your opinion? Could you go through the list on NDP-7.2?

Mr. Franz Reinhardt: Okay. On commercial air services, as I mentioned, there are definitely types of commercial air service that would be an appropriate candidate for designation.

Yes, with respect to aerodromes. With the number of aerodromes we have in Canada, it's very low risk.

On air navigation services other than Nav Canada, there is currently another small air navigation service that could easily be designated.

With respect to manufacturers of aeronautical products, there are all sorts of aeronautical products. They need to meet specific certification criteria and they will still need to meet those criteria. They don't necessarily need to be licensed as manufacturers per se, so I don't think it should be there.

Mr. Brian Jean: If I understand it correctly, they cannot be designated unless they're low risk.

Mr. Franz Reinhardt: Correct.

Mr. Brian Jean: Indeed, some of these categories would fit into low risk and be more efficient to carry out SMS.

Mr. Franz Reinhardt: That's correct. There will also be a safety study with a risk assessment to be reviewed by the minister before making the decision.

Also, all the rules and standards established by those designated organizations will now be required to be reviewed and approved by the minister. There's a fail-safe provision there to ensure the full oversight by the minister.

Mr. Brian Jean: In essence, there are three levels, if I'm hearing you correctly.

Mr. Franz Reinhardt: That's correct.

Mr. Merlin Preuss: You could also add a fourth level where you're dealing with products that would be sold overseas. Anything we would do that would reduce the standard as seen by other nations wouldn't happen. We couldn't allow it to happen. It would have a terrible impact on our economy, which is in the order of \$22 billion to \$23 billion in this area.

• (1550)

The Chair: Mr. Carrier.

[Translation]

Mr. Robert Carrier (Alfred-Pellan, BQ): Good afternoon.

On the list of exemptions mentioned, the one that concerns me the most is commercial air service. If a business is already offering a commercial service, I think there is a possibility of conflict of interest between the designated organization and other businesses for which it might be responsible.

Would it be possible for the designated organization to be an association of airlines which does not have a specific interest in a business?

Mr. Franz Reinhardt: As I mentioned earlier, passenger air transport is definitely not a candidate for designation. We mentioned that, and we moved an amendment to that effect. So there's no danger.

As I mentioned, there are other commercial air services, such as, for example, geodetic monitoring, the search for ore, pipeline monitoring and all kinds of monitoring that are done using small aircraft. That is a commercial service, but there are not any passengers. There is no danger. Only the pilot is there. Those are good candidates. Those that offer an air spraying service are also good candidates.

Of course, if we designate an organization, it should not be... In general, the intent is to designate an association that represents these people. However, we're nevertheless dealing with a commercial air service. These people individually offer a commercial air service because they are paid for the work they do.

Mr. Robert Carrier: But associations of air services could be identified instead as organizations—

Mr. Franz Reinhardt: I understand you very well, Mr. Carrier, but I think that the way it is currently drafted means that we can't do that.

Mr. Robert Carrier: I understand.

Mr. Franz Reinhardt: The wording should be changed. But I'm not sure that's necessary, given all the other protections that have been inserted in the last amendment.

[English]

The Chair: Mr. Julian.

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

The status doesn't nullify essentially the existence of this organization. It does reduce it. We've already accepted that principle through the various amendment processes, first through scheduled air services, then adding fare-paying passengers. This certainly added an additional level of security to ensure that for any designated organization we have the

[Translation]

implementation of the amendment as well, as a result of which that will happen in a few years. So here we're essentially limiting the scope of this clause in the bill.

[English]

It's not nullifying. It is certainly restricting to a greater extent, but that being said, I'm not going to fight and die on this amendment.

The Chair: If there are no other comments, I'll call the question on amendment NDP-7.2.

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

The Chair: We're going to move to amendment NDP-8.3.

When we agreed at the last meeting to move to amendment G-3, it was simply because some felt that was an encompassing amendment, including those numbers, but because we didn't deal with them, we

stood them at the time. The amendment has been moved, and I would ask Mr. Julian if he wants to continue with the debate on it or move to a vote or to withdrawal.

Mr. Peter Julian: Mr. Chair, this is an important amendment. We've already seen—and we've had many witnesses who have testified to this effect—that the element of secrecy is something we have to be concerned about. Witness after witness after witness, from David Jeanes to Greg Holbrook to Justice Moshansky, talked about the issue of ensuring that whistle-blowers are protected—we're starting to deal with that now—but also of ensuring that there was not an excessive level of secrecy around this closure process. Ken Rubin and Richard Balnis spoke very eloquently to this issue.

What we currently have is information that is essentially kept. Either a court can force it out or the minister himself or herself can make it available, and we've seen that has not been to the credit of the process when we talked about rail safety issues. We certainly heard that through Mr. Bell's inquiry into rail safety.

What this amendment is doing is looking to the information being subject to disclosure under an act of Parliament. We know that the Access to Information Act already is limited in its ability to deal with full disclosure. In fact, we would hear from the department of a variety of areas, from commercial reasons to others, where information is not subject to the ATI and not released. What this does is simply provide a small and modest additional level of security to ensure that the information that has to go out to the public is out in the public domain, and for Canadians who are choosing which airline to go on, this is important. It is important to protect their families. It's important to have that safety information out, if it is required in the travelling domain.

I think it is important that we look at making the bill less extreme in that area of secrecy and subject to more than just a long and arduous court process or the minister himself or herself. That's far too limiting a clause, and so this amendment would open that up to a certain extent, although it is fair to say it is far below what Mr. Rubin, who is the dean of access to information, would have certainly liked to see. Certainly it is much more open than it is currently.

● (1555)

The Chair: Monsieur Bélanger.

[Translation]

Hon. Mauril Bélanger: Mr. Chairman, at the last meeting, there was an exchange between Mr. Julian and the departmental people concerning an access to information request for an audit of Air Transat. Mr. Julian said that, according to his information, that request had been denied. Mr. Preuss said that he would check to see whether he was given the information on that subject. Is that exercise complete? If so, can we know the results?

[English]

Mr. Franz Reinhardt: I'll let Mr. Preuss answer.

Mr. Merlin Preuss: I responded to a specific question about an audit, Mr. Bélanger. I asked Mr. Julian to provide me the date of the audit to which he's referring.

My understanding is that if it wasn't disclosed it certainly should be, and it certainly should be brought to this committee. I'm not aware of a gap here somewhere. It's certainly not something that I personally, from an audit perspective, have said, that there's not a report, and no, you can't have it.

Hon. Mauril Bélanger: It seemed to me germane, Mr. Chairman, that if indeed there is a specific case where the information was requested, and we have officials who say it should be available but we have a member of the committee who says it isn't available, that we need to know. I'm sorry that didn't occur between Monday and today.

Could we see our way to getting clarity on that? I think that would go a long way to dealing with this in a number of the amendments that are coming before us.

The Chair: Mr. Reinhardt.

Mr. Franz Reinhardt: As soon as we have the exact date and the details of when the audit occurred and the carrier, we can ask our people in access to information to prepare the package. I remember the last time we left the committee on this. Give us the date and we will—

The Chair: Just for clarity, then, the issue was raised and you said to provide you with the date of the occurrence, and you can research and get back to us.

Mr. Franz Reinhardt: Exactly.

The Chair: Mr. Julian, do you have that?

Mr. Peter Julian: It came within the CUPE presentation to this committee, Mr. Chair.

Hon. Joseph Volpe (Eglinton—Lawrence, Lib.): May I make a comment, Mr. Chair?

The Chair: Yes, Mr. Volpe.

Hon. Joseph Volpe: I recall that exchange. It's contained in the CUPE, or whatever—that's fine—but CUPE didn't ask for that. A member of the committee asked for it. Specifically it was, "Would you just give us the date, and we will do it."

So Mr. Julian, if you don't have the date....

I would love to hold Mr. Reinhardt and Mr. Preuss to their word, but they haven't been given that date. I can't even feel as if these guys are letting us down. I don't think it's fair to them or to us to say, well, it was contained. I don't even know when CUPE appeared before this committee.

The Chair: I agree.

Mr. Julian, if you have a specific date, perhaps you would get that to Mr. Preuss or Mr. Reinhardt and we'll get that answer to you.

• (1600)

Mr. Peter Julian: Certainly.

The Chair: Monsieur Laframboise.

[Translation]

Mr. Mario Laframboise: We set ourselves the objective of doing our research. I would probably be prepared to accept the department's position regarding the confidentiality of the audits. However, I have a problem. I bring to your attention the statement that Mr. Louis Ranger made before us on November 7, 2006. He

said: "TC plans to continue withholding such audits by treating them as confidential, commercial or technical information." I am prepared to accept the department's position, but, if the audits are not made public and are considered confidential documents under the new act, that poses a problem. I want to follow you, but, last time, you told us the audits would be made public. You're removing the names of the audits; I understood that.

Mr. Franz Reinhardt: I don't know the context in which Mr. Ranger made that statement. I would have to know the context. However, I can tell you that, since there has been access to information in the civil aviation world, when we receive an access to information request for audits, those requests are handled directly by the access to information coordinator. We know that there is a body of case law under section 20 according to which we must consult the third party, but the information must be transmitted. When we transmit the audit findings, we also state the corrective measures that the companies have decided to adopt, because we want it to be balanced. If we have 10 findings on a company, it will submit 10 corrective measures to us. We want the person making the access request to have a balanced view of what happened and what the company subsequently did. We transmit both, and the audits are always transmitted. That has always been the policy.

Mr. Mario Laframboise: As I told you, I have your word. However, that appears in no statutory enactment. Couldn't we include that in it?

Mr. Franz Reinhardt: No. According to the Access to Information Act, we tell you what must be made public in response to a request. There have been interpretations by the courts and there is a very clear body of case law on the subject. Unless the information is likely to cause serious commercial harm because property rights are at issue, the information must be made accessible. People are very well protected.

Mr. Mario Laframboise: You've convinced me. I've examined all that. To sum up, when you conduct an audit, you gather the statements of all those who, under the SMSs, volunteer information. Their names are kept secret. You use that, you conduct an audit, and you transmit the main points of what, in your view, worked and didn't work. Ultimately, from what you're telling us, the audit findings will be available under the Access to Information Act.

Mr. Franz Reinhardt: Absolutely.

Mr. Mario Laframboise: I want to be convinced of that. The problem is that, given Mr. Ranger's statement, my reaction is to want to talk to him in order to be sure I'm not mistaken. There is also Mr. Julian's statement concerning the Air Transat audit. Obviously, you must know whether there was an audit at Air Transat. It's not a small company.

Mr. Franz Reinhardt: There have been a number. The thing is to know which one it is. We were in good faith. Mr. Preuss asked him to tell him the date so that he could give him what he was requesting. The documents have to be put together. The key is to get the date.

[English]

The Chair: I think the chair has asked Mr. Julian to provide that.

Mr. Peter Julian: Yes, but the clerk can as well, Mr. Chair. It was actually one of the documents that was submitted with CUPE.

The Chair: I realize that, but you've raised the issue. I would hope that you would refer to it so that we can—

Mr. Peter Julian: I can, but it's back in my office, so I can't do it until after the meeting.

The Chair: Fine. I appreciate it.

Mr. Peter Julian: This was part of the testimony that was given to every member of the committee. I'm not coming out of left field—surely not right field—on this.

The Chair: Monsieur Bélanger.

Hon. Mauril Bélanger: If I may, Mr. Chairman, I've been sent a note from CUPE, and I suspect this may be the information we're looking for.

I will quote a portion of it: "CUPE filed an Access to Information request for the audit of Air Transat SMS from January 2004. Transport Canada's response is contained in the CUPE book of documents accompanying the May 2, 2007 submission to SCOTIC." The tab they referred to quotes that pages 84 to 104 of this report were exempt due to paragraphs 20(1)(b) and (d), and subsection 19(1).

That's the information I have, and with it I hope we can clear this up. I think it's important that we do.

●(1605)

Mr. Franz Reinhardt: It begs the question, Mr. Bélanger, was it really an audit or was it an expression used by CUPE?

Hon. Mauril Bélanger: I don't know. This is the information I have, and I'm sharing it with the committee.

The Chair: Mr. Bell.

Mr. Don Bell (North Vancouver, Lib.): Thank you. My questions follow along the same line.

I think I understand the answer given to Mr. Laframboise, that such information would be available with the appropriate blackouts in terms of individuals. Is that correct? The substance of an SMS audit would be available?

Mr. Merlin Preuss: No, the total audit would be available. That's an official document of the department. It's available through ATIP, just like the forensic audits that are done. If we do an SMS assessment, once the regulation's in place, that SMS assessment is no different from the audit we did 10 years ago on Canadian Pacific Airlines.

Just to remind the group again, the protections we've put in here are for SMS data provided in the SMS system. They are nothing to do with anything that we would do formally, neither an inspection nor an audit nor an assessment nor a validation nor a report that comes from an incident. It's very tightly controlled to permit individuals to report without fear.

Mr. Don Bell: Let's say an individual reports something under the SMS system and the individual does not believe appropriate action has been taken by the company. They go through the process that

we've said they first of all go through, the SMS, or the in-house system, if you want to call it that. They don't feel appropriate action has been taken. They bring that information to a member of this committee or to Transport Canada directly, or come to the ministry or make it available to somebody.

Mr. Franz Reinhardt: Yes.

Mr. Don Bell: We can then access that information?

Mr. Franz Reinhardt: Correct, and they're fully protected with the proposed amendments that we have now, if they do that.

Mr. Don Bell: Okay.

Mr. Franz Reinhardt: If it doesn't work at the first level, they will still be protected at the second level.

Mr. Don Bell: Okay, but they're not protected if they come here first instead of going through the in-house system?

Mr. Merlin Preuss: There are two levels of protection, I think. The first protection is from whether someone is going to take retribution. So what we did in amendment G-3 is to say that it doesn't matter; as long as you've gone to the SMS, you're going to have the whistle-blower-like protections.

Mr. Don Bell: Okay.

Mr. Merlin Preuss: As far as the information itself is concerned, if they report it to the SMS, this bill is trying to provide some protections for that document. If they take it the next step now and give it to us as an incident report, it's now in our hands and is ATIP-able.

Mr. Don Bell: Okay.

Mr. Merlin Preuss: It comes into the public domain through ATIP just like that.

Mr. Don Bell: And they don't lose their protection if they've gone to the SMS first?

Mr. Merlin Preuss: No, they don't lose their protection, but the information itself comes out.

Mr. Don Bell: The follow-up to that, Mr. Chair, then, is to ask what about an audit that would be ordered by the minister or Transport Canada? I guess I'm relating mentally to the rail issues we were involved in and the audits that were ordered by Jean Lapierre, the minister at the time. He said they would be made public, and they weren't when they were received, and the comment made was that it required a third party to agree.

So if the ministry does an audit, is the Aeronautics Act different from the Railway Safety Act, to this degree?

Mr. Franz Reinhardt: They're all similar, and section 20 of the access to information legislation applies, asking that we consult with the third party, who has the opportunity to say if there are proprietary rights here. If there are proprietary rights, yes, those rights are protected. But if not, the information shall be released, and there is jurisprudence from high-level courts stating it has to be released.

Mr. Don Bell: And what do proprietary rights involve? Is it competitive information?

Mr. Franz Reinhardt: Commercial interests, a special patent the company may have on their products, or things like that.

Mr. Don Bell: But if it's a record of a number of failures to comply—

Mr. Franz Reinhardt: No, that's not protected.

Mr. Don Bell: —the kind of information we had in those railway audits, which would appear to be—

Mr. Franz Reinhardt: This is accountability.

Mr. Don Bell: Accountability.

Mr. Franz Reinhardt: There needs to be accountability, and it would not be protected.

Mr. Don Bell: Thank you.

• (1610)

The Chair: Monsieur Laframboise.

[Translation]

Mr. Mario Laframboise: My question is for Ms. Stanfield.

We've included in the bill provisions designed to guarantee that an inspection service is maintained. We all agreed on that, and there was a government amendment to that effect. Could we add a provision stating: "and the investigation reports will be made public"?

Would including such a provision in the act trouble you?

[English]

Mrs. Susan Stanfield: You're asking me?

That's a policy question, and I will defer to my departmental colleagues.

[Translation]

Mr. Franz Reinhardt: It's not that that would trouble me, Mr. Laframboise, but I know that it would trouble a lot of people at the Department of Justice. That's already permitted under other acts. It would be a precedent. We would not see that kind of thing anywhere else. For that reason, I think it would be redundant. You've previously told me that, when it's redundant, it's strong and therefore better. However, the Department of Justice asks us why provisions should be included in one act when they are already covered by other acts. That topic comes up frequently.

Mr. Mario Laframboise: I would like you to tell me once again about the deputy minister's statement.

In your opinion, what kind of information could be kept?

Mr. Franz Reinhardt: For example, in the context of inquiries into the implementation of the act, if a charge is laid against a given company, until the evidence and its guilt have been established, we do not make that information public. We do not want to cause any harm. People are presumed innocent until proven guilty. So we

protect that kind of information. However, once the decision is rendered or the court has ruled, our file is opened. We can then disclose the information, except for the names of the persons, which are deleted.

Furthermore, as I told you earlier, the information is protected in cases where property rights are at issue. In addition—and this is perhaps what Mr. Ranger meant—we must communicate with the people from the company to give them the opportunity to be heard, to say what they have to say before the information is disclosed. That is a matter of procedural fairness. Whatever the case may be, based on the case law and on what the access to information coordinators do, we normally see that that information is subsequently made public.

[English]

The Chair: Are there no more comments?

Mr. Bell.

Mr. Don Bell: Mr. Chairman, I just want to confirm to the committee that I handed a copy to Mr. Preuss of the memo that was referred to. I spoke to Mr. Thompson from CUPE, and he's agreed that he has no objection to my passing on the memo that was sent to me. If the committee wants a copy of it to be circulated, I'm happy to. We'll have to make a photocopy of what I've given Mr. Preuss.

Hon. Joseph Volpe: It's been read into the record.

Mr. Don Bell: It's been read into the record, more or less, at this point, but I just wanted to confirm that.

The Chair: Mr. Volpe.

Hon. Joseph Volpe: On that same point, since Monsieur Bélanger read the memo into the record and he made references to paragraphs 20(1)(b) and 20(1)(d) and subsection 19(1) of the Access to Information Act, asking in effect what that was, I'm sure Ms. Stanfield will tell us what the issues are in those sections that would cause the department not to reveal those items in an ATIP request.

Mrs. Susan Stanfield: I can tell you what the legislation says.

Hon. Joseph Volpe: That's all we're interested in, thanks.

Mrs. Susan Stanfield: Section 19 of the Access to Information Act deals with personal information.

Hon. Joseph Volpe: Privacy issues.

Mrs. Susan Stanfield: You have to read it in conjunction with the Privacy Act to understand how it all fits together when it comes to personal information, because the Privacy Act protects personal information that the government holds. So access to information is really about a third party requesting information about a person or a company. The Privacy Act is about the government's obligations to protect personal information that it collects while it does its business.

Hon. Joseph Volpe: Is that section 20?

Mrs. Susan Stanfield: It's section 19 of the Access to Information Act that deals with personal information. Is it subsection 19(1) that they referred to?

Hon. Joseph Volpe: Yes.

Mrs. Susan Stanfield: It says, “Subject to subsection (2), the head of a government institution shall refuse to disclose any record requested under this Act that contains personal information as defined in section 3 of the Privacy Act.” And there's a long list of information in section 3 that identifies what personal information is.

Section 20 of the Access to Information Act deals with third party information. Was it paragraphs 20(1)(b) and (c)?

Hon. Joseph Volpe: It's paragraphs 20(1)(b) and (d).

Mrs. Susan Stanfield: Subsection 20(1) says:

Subject to this section, the head of a government institution shall refuse to disclose any record requested under this Act that contains

[...]

(b) financial, commercial, scientific or technical information that is confidential information supplied to a government institution by a third party and is treated consistently in a confidential manner by the third party;

[...]

(d) information the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of a third party

• (1615)

Hon. Joseph Volpe: Thank you.

The Chair: Mr. Julian.

Mr. Peter Julian: I just wanted to come back to Ms. Stanfield.

So the amendment that reads “the information is required to be disclosed under an Act of Parliament” currently would refer only to the Access to Information Act.

Mrs. Susan Stanfield: There could be other acts of Parliament that deal with information disclosure, or provisions in other acts.

Mr. Peter Julian: No, but it's with a specific requirement under an act of Parliament. So currently it would be only an access to information request. Am I not correct on that?

Mrs. Susan Stanfield: I can't say with certainty, because I don't know if there may be other information disclosure provisions in other acts. It's mainly access to information.

Mr. Peter Julian: Yes, so I think we can say with certainty that it's limited to information disclosure requirements that are mainly contained within the Access to Information Act.

Mrs. Susan Stanfield: There are other pieces of legislation.

Mr. Peter Julian: So what had come out on Monday was the potential that this would be covered by a whole range of acts. It's not; it's specifically related to information disclosure.

You've raised a whole range of exemptions that exist already. We've had this discussion around even a request through access to information by CUPE on the SMS audit of Air Transat. That information was not forthcoming, as we heard in testimony and received; the pages were blanked out. And we've had other information that basically has not been available. So the access to information, even through that act, is limited as to the amount of information that can be disclosed. There are limitations.

Mrs. Susan Stanfield: Yes.

Mr. Peter Julian: That's my point.

I'll come back to you, Mr. Chair.

Essentially all we're doing is opening a restricted door on another method by which this information could come under fairly restrictive circumstances to the public. My point is that this amendment is needed so that we do have that door. There are very limited possibilities on the information coming out. We can't expect the public to go to court, we can't put it all in the minister's hands, so we need to have a third alternative. That's what the amendment NDP-8.3 endeavours to do, open a third door—even though it's, I'll admit, far short of what many witnesses actually directed us to do or suggested to us that we should be doing.

The Chair: Monsieur Carrier.

[Translation]

Mr. Robert Carrier: According to Mr. Reinhardt's last comment, information accessibility is already provided for in the act, but we have an enactment that states that it is confidential, except in three cases. In those circumstances, if there is an enumeration but no reference is made to the applicable acts, as is the case in the amendment, I think it is difficult for the Access to Information Act to apply.

Mr. Franz Reinhardt: The act from which Ms. Stanfield read some excerpts is the Access to Information Act. Section 20 concerns the test that must be applied before the information is made accessible. It refers to

[English]

trade secrets of a third party, *on parle de proprietary rights—*

[Translation]

Mr. Robert Carrier: Even if another act states that the information is confidential, the Access to Information Act takes precedence?

Mr. Franz Reinhardt: Yes. The Access to Information Act takes precedence over every other Canadian act. However, in the context of one of the amendments, we asked that the cases in which the information is protected be reflected in Schedule II of the Access to Information Act, specifically so that the information is not disclosed.

As I explained at length on Monday—and I thought it was clear at that time—without this protection, companies will not allow people to make internal reports or the information to be used to improve safety. We will completely lose that source of information.

The information that Mr. Julian wants to obtain is already available; nothing has changed. As regards the present situation concerning access to information in the case of audits, nothing has changed either. Here we're talking about internal information in the context of the SMSs only. We are not protecting it; we are losing it.

• (1620)

The Chair: Mr. Laframboise.

Mr. Mario Laframboise: You've convinced me that this situation should apply only to audits. However, when I do research on audits, and I hear statements such as Mr. Ranger's or information such as that provided by Mr. Julian, I have reservations. Some reports are not available. That's what has to be settled.

If you don't do anything else, I'm going to be forced, for lack of anything better, to side with Mr. Julian—pardon me for this comment, Peter—whose amendment states:

(d) the information is required to be disclosed under an Act of Parliament.

Information that must not be disclosed pursuant to a federal act will not be disclosed. That is not what I would have liked. I would have liked a provision to state that audits will be made public and that that is consistent with the Access to Information Act. That would suit me completely. The problem is that I am not convinced. That is why I support Mr. Julian's amendment, even though I would have liked us to arrive at something clearer.

[English]

Mr. Merlin Preuss: The way you described that, I think, speaks to the fact that the ATIP regulations and laws are there. And now that I've had a chance to look at this one from Mr. Thompson, there's nothing we're doing in this bill that impacts on this at all.

Five years ago the same result would have happened to that particular report. Tomorrow the same thing will happen, if you pass these amendments to the bill. It really is not connected to what we're trying to do here. In fact, with respect, what Mr. Julian is proposing would not change what happens here one bit. It doesn't touch this. It's separate. It may be an issue, but it's separate from what the amendments are trying to do.

I understand what you're saying, but what we're saying is that ATIP is already there. If ATIP isn't strong enough, what we're doing here, in my opinion, isn't doing anything.

[Translation]

Mr. Mario Laframboise: I agree with you. For lack of anything better, I must make that decision.

[English]

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

The Chair: Again, with the same group of numbers that we stood the last time, we're at NDP-9, page 45. It was stood at that time.

Mr. Julian, you need to move it.

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

We have within this section exemptions of information that we've just spoken about.

How the proposed legislation reads currently is:

(2) Information disclosed under a process referred to in subsection (1)

—in other words, the SMS process—

may not be used in the taking of any measure, or in any proceedings, against the document holder or the employee who disclosed it for a contravention of this Act or of an instrument made under this Act.

Amendment NDP-9 simply takes out “the document holder”. So it would continue to protect the employee, and we certainly heard some consistency from witnesses about protecting the employee. I think there was broad agreement on that. We have to have some protection for the employee so that in these incidents, which lead to accidents, as Justice Moshansky said so clearly, the person is protected.

I do not believe the document holder should get what is essentially a get-out-of-jail-free card and that the document holder should have that same ability, essentially, to be protected.

What I hope would happen, Mr. Chair, if we adopt this amendment is that the government might then choose to bring back amendments next Monday that revise the status of the document holder. That's fair game. They may choose to do that. But very clearly, we cannot have the get-out-of-jail protection we have for employees extended to the document holders themselves. It doesn't make sense. It certainly puts all of us in a precarious position, as parliamentarians, to give this exemption from their responsibility, because essentially what that means is that if the process is respected, as we've already seen, the measures taken are fairly long and arduous. And we saw with rail safety that that kind of situation isn't in the interests of the Canadian public.

The amendment endeavours to take “the document holder” out. The government could then choose to move another amendment on Monday. I'm sure they would have time over the next few days to do that. But we have to have some protection so that when companies go bad, as they sometimes do—and we've certainly heard testimony to that effect—they don't get a get-out-of-jail-free card.

• (1625)

The Chair: Is there any comment?

Go ahead, Mr. Laframboise.

[Translation]

Mr. Mario Laframboise: I'm in favour of the amendment because it's sole effect is to add, at line 21, the words “ings, against the”. The word “against” is added.

We are talking about amendment NDP-9? I think that's simply an acceptable technicality.

Mr. Peter Julian: We're deleting the words “the document holder”. That's substantial.

Mr. Robert Carrier: The idea is not to protect the company.

[English]

The Chair: Mr. Julian.

[Translation]

Mr. Peter Julian: I'd like to clarify something, Mr. Chairman.

The effect will essentially be to separate the treatment of the employee from that of the document holder. That's nevertheless substantial and important. It is a principle. Concerning the information that they provide in the context of the process, employees are protected, but protecting companies against evidence provided in that process makes no sense. This is a situation where the company may be irresponsible. If it is sheltered—

Mr. Robert Carrier: —from disciplinary measures—

Mr. Peter Julian: —and proceedings instituted against it, that makes no sense.

[English]

The Chair: Mr. Reinhardt, do you have a comment? No?

Mr. Franz Reinhardt: I do have a comment.

I think that in safety culture—we're talking SMS again—if I'm an employee working for a document holder that is governed by an SMS, and I know that reporting internally will result in problems and charges against my employer, I will never report internally. And this is exactly what we're trying to avoid. We're talking about people coming forward with information and bringing them to the employer so they find a common solution and corrective measures under SMS. This is information that Transport doesn't even have.

So Transport doesn't have the information. When we go to review systems, if we see those things, we're not going to use them against either the employee or the employer, and it's not releasable under access to information. This is the safety culture that is required. Otherwise, even if you give protection to the employee, but he knows that his company is not protected for internal reporting, he'll never use it.

We built in enough protection with the whistle-blower one under amendment G-3, you'll see. There is enough protection there. But the employer needs to be protected there as well as the employee in a safety culture.

The Chair: Mr. Julian.

Mr. Peter Julian: I'll quickly remark on this.

We've seen with rail safety how SMS should not be implemented. To allow that get-out-of-jail-free card is a completely wrong-headed attempt to implement SMS. We've gone through the rail safety inquiry. We've seen the problems that occur. For this committee to then say, but that's okay, they get a get-out-of-jail-free card, means essentially that the evidence acquired through SMS can't be used against the companies. If a company is irresponsible, and some of them will be, then that evidence through this clause can't be used against them. We're now faced with Transport Canada, after the fact, after a death or injury that may occur, trying to find evidence through other means to try to prosecute a company, if they can even do so. It absolutely makes no sense.

The government has the opportunity to redraft and resubmit amendments that are certainly more prudent and careful. This committee can allow them to do that by adopting this motion. This amendment will then lead to the government presenting what will be, I believe, a more responsible amendment, separating what the responsibilities are for the companies and what the possible ramifications are for being irresponsible.

The Chair: Mr. Bell.

Mr. Don Bell: I'm sorry, but I need to get this clarified in my mind.

If I understand the import of proposed subsection (2), it's that with the internal process that you've made reference to—the SMS process—if an employee comes forward and brings something to the attention of the company within that process, and if the company acts upon it in an appropriate way, let's say, that's satisfying, the issue is dealt with. So the safety issue has been dealt with.

If the company doesn't deal with it, and if the employee is not aware of the fact that they have other avenues to go to, appeals—if you want to call it—directly to this committee, to Transport Canada, to make the issue public outside of this realm, having first gone through the process that's required.... And then subsequently there is

a problem, an incident that comes to the attention of Transport Canada. You then conduct an investigation and find out there's information that came in through the SMS. Then the thing is, according to this, that information cannot be used to prosecute against the document holder. That's what I'm understanding on this.

● (1630)

Mr. Franz Reinhardt: It cannot be used for enforcement purposes, but it can be used under section 7.1, which is certificate action. Transport Canada can suspend a certificate. It can be a 30-day suspension, 60 days; it can be a year. It can be a cancellation of a certificate under section 7.1 of the act, which states that the minister may suspend if organizations no longer meet the conditions of issuance of their certificate. The minister has full authority. If he needs evidence to go before the tribunal to substantiate the fact that a company is not performing, the minister can do it. The protection is there, and you can still use section 7.1.

Mr. Merlin Preuss: There's another way to close that loop. The specific item reported is not against which enforcement action will be taken. What will happen is that if a company does not respond appropriately, in accordance with the standards and expectations of the SMS, then we will go after the company using clauses like that to gain compliance. If it isn't reported that the company is not doing something that they should be doing, then we're back to where we were yesterday, which is talking about forensic audits to try to catch them.

Here we have the information coming freely to the company, in front of our eyes, where we can watch and then see what they do. If they don't act appropriately, we'll take certificate action. It bumps it all up one level and becomes much more serious for a company if they don't have the systems to deal with systemic problems that show up.

Mr. Don Bell: Would that information be available, then, in the case of a public carrier, such as we're talking about potentially here, that has passenger service, for example? It could end up being a situation where that information would be available to other parties who might have a legal case. I'm thinking of relatives of a passenger who dies, for example.

Mr. Merlin Preuss: It's no different from today, is the answer. If... [Inaudible—Editor]...the report we have to take action in that manner—just the way I've described—that becomes a validation exercise, a type of inspection. That is then reportable and the report is then ATIP-able.

The Chair: Mr. Bélanger.

Hon. Mauril Bélanger: Mr. Chairman, I just want to make sure we're still in the same frame of mind here or of the understanding that I had last week. If this clause is adopted as is, without the amendment, does the clause subtract any company or any operator who has an SMS from any obligation that they have outside of the SMS to report any incident, any occurrence, and to obey whatever regulation there may be?

Mr. Franz Reinhardt: It does not. Under the TSB act and regulations, there are reportable occurrences, including incidents and accidents, and if they don't report them, they can be sanctioned pretty heavily.

Hon. Mauril Bélanger: Does it remove any authority from Transport Canada or the safety board or any other institution that has authority from using that authority, again, outside of the SMS information?

Mr. Franz Reinhardt: It does not.

Hon. Mauril Bélanger: All right. So in effect, this is consistent with, I guess, the creation of a new space, in which we are trying to incite both employees and employers to generate information. It's an addition over and above what currently exists. It does not detract from it.

Mr. Franz Reinhardt: That's correct. In summary, it's the best of both worlds, Mr. Bélanger.

The Chair: Mr. Julian.

Mr. Peter Julian: I'm not sure that's true, Mr. Chair. The reality is that we have over a hundred vacant flight inspector positions—according to the information we've received before this committee—that haven't been filled. So the regulatory ability of Transport Canada has clearly been impacted.

What we have in the text here is very clearly the exclusion of any measure or any proceeding for a document holder. So given the proposed section there, there may be a contradiction between that and section 7.1. Very clearly, there would be, I think, some incoherence around definition, and I think in that whenever there is incoherence, there is a time element involved. We're talking about aviation safety. We can't broker delays while we fiddle around with whether or not a company can be prosecuted for what are dangerous or irresponsible actions.

So very clearly in the text of the law, that information is excluded. There cannot be the taking of any measure in any proceedings. It may not be what the government intended, but that is what is in the bill.

So I would suggest we adopt this amendment. It may allow the government then to get clearer wording around that proposed section, because very clearly, a company that has Transport Canada taking measures against it for information that has come through the system could rest on that section in any legal action against the government. That means delays.

I understand that perhaps the intention of the government is not reflected in that proposed section. The proposed section needs to be redone, and the simplest and most effective way to do that is to remove “the document holders” and allow the government to come back with amendments next week.

• (1635)

The Chair: Monsieur Carrier.

[Translation]

Mr. Robert Carrier: Thank you.

Thank you. Coming back to appreciably the same subject, all the information we are talking about concerns what is contemplated in subsection (1). It concerns information that staff or employees might disclose. Subsection (2) states that no proceedings may be instituted against an aviation document holder.

We are not talking about public disclosure here. Consequently, that remains internal. However, if the Department of Transport can take no measure in response to an information in due form, one may wonder what purpose an information serves. Any utility is ultimately removed.

Mr. Franz Reinhardt: I can answer you, Mr. Carrier. Mr. Julian's error was in not reading the section in full. You must read subsection (2) in full. I'm going to read it in English.

[English]

(2) Information disclosed under a process referred to in subsection (1) may not be used in the taking of any measure, or in any proceedings, against the document holder or the employee who disclosed it for a contravention of this Act or of an instrument

It's only for enforcement purposes. They can still be used, as we mentioned earlier, in paragraph (c) there:

(c) the Minister considers that disclosing the information or making it available is necessary for the purposes of section 7.1.

If we want to take certificate action, it's clear under section 7.1. I can read you section 7.1 too, if you want, but I don't think it's necessary.

[Translation]

Mr. Robert Carrier: I no longer understand.

[English]

The Chair: Mr. Laframboise.

[Translation]

Mr. Mario Laframboise: You are complicating matters. I'm talking from a purely legal point of view. Paragraph 5.392(1)(c) enables the minister, for the purposes of section 7.1, to obtain the information and to use it to cancel the licence and so on. However, subsection 5.392(2) states, and I quote:

(2) Information [...] may not be used [...]

Mr. Franz Reinhardt: I can give you an example, Mr. Laframboise. I think that will simplify matters.

Mr. Mario Laframboise: No I'm talking from a legal point of view. It's a legal problem.

Mr. Franz Reinhardt: Yes.

Mr. Mario Laframboise: I don't want one clause to be used against another.

Mr. Franz Reinhardt: Careful thought was given to this when these clauses were drafted. If people report numerous minor violations, from one to 10 minor violations, but the system and the company are working well, the minister, seeing that, will not use those figures against the company for each of the minor violations. On the other hand, if at some point the minister thinks that the information in the aggregate shows a deficiency in performance or control by the company, he may use section 7.1 and adopt measures, suspend the company's certificate. He may do that, but he undertakes not to adopt measures for each minor violation committed.

Mr. Mario Laframboise: I would have tended to say, for example: “[...] subsection (2) [...] subject to subsection (1)”. I would also have added: “[...] information disclosed under a process referred to in subsection (1) may not be used [...]” I would have had that reaction as a legislative drafter, given my legal training—

•(1640)

Mr. Franz Reinhardt: Mr. Bélanger, I had the same reaction as you.

Mr. Mario Laframboise: It's Mr. Laframboise.

Mr. Franz Reinhardt: I received the same training as you. I spoke with the legislators, and we discussed all that in depth, and they convinced me. Indeed, in English, it states, "for a contravention," and, in French, it states, "relativement à une contravention". That nevertheless enables the minister to adopt administrative measures with respect to certificates.

[English]

The Chair: Are there any other comments?

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

The Chair: We're going to move now to amendment NDP-9.1, and I would point out for the committee that it is very similar to what we dealt with before. But I would ask Mr. Julian to move the motion, and perhaps the committee, rather than repeating the same discussion, can move reasonably quickly on it.

Mr. Julian.

Mr. Peter Julian: Mr. Chair, this is important legislation. You can't rush it, and we're already starting to make errors.

This is the proposed section that deals with "the collection, analysis and use of information derived from a flight data recorder, then any information collected under the process that comes into the Minister's possession...". So it's a different treatment of information, the same situation.

Right now, it's only

available except in the following circumstances:

- (a) a court or other body that has jurisdiction to compel the production or discovery...
- (b) the information is disclosed

—it doesn't say how—

or made available in a form that prevents it from being related to an identifiable person...

It doesn't say how that is going to occur. So for all intents and purposes, we have paragraphs (a) and (c), that

the Minister considers that disclosing the information or making it available is necessary for the purposes of section 7.1.

That's an important clarification we have now that we didn't have on Monday. Section 7.1 restricts it to suspending, cancelling, or refusing to renew a Canadian aviation document, so we have an even tighter restriction than we had when we discussed this issue on Monday.

Essentially we're putting in place the same structure of information that we've seen has done damage to rail safety. Essentially now you have to go through the court system or, in extreme cases, presumably where people have already died, "if the Minister decides to suspend, cancel or refuse to renew a Canadian aviation document", then it could be disclosed.

It is in no way in the interest of the public to restrict that information through the court system. It just does not make sense. And it doesn't pass the nod test. If you talk to Canadians and say this

is important information that is held internally by a company itself, if it's a good company, if the company has a good reputation, people might say that's understandable.

But we've had companies.... And Judge Moshansky and others have testified to this effect. I think the most compelling testimony was from Kirsten Brazier. She talked about the competitive push to diminish safety standards.

And here we're going to put ourselves in a situation where that information is tightly held and not available to the public. Even through a small door of the restrictions around access to information, it makes absolutely no sense. We've worked very carefully up until now, but today I get the sense that the wheels are starting to fall off what was a careful examination of Bill C-6. It is clearly not in the public interest to force individuals to go through the court system for disclosure of information where lives may hang in the balance.

[Translation]

The Chair: Mr. Laframboise.

Mr. Mario Laframboise: I still come back to the same problem, because I don't have a better provision.

You've convinced me that the audits are the only documents that must be made public because you have the opportunity to remove everything that is personal or other similar things. Subsequently, however, when it is seen that entire pages are erased, do not appear and so on, does everyone find that normal? Do you find that normal?

I wonder whether there wouldn't be a way of saying that there will be investigation reports and that that is what will be made public, and that there will indeed be personal information that is not required to be disclosed, and so on. Moreover, you explained to us that, in an investigation report, you remove all the personal information and try just to give the general drift.

That is indeed what you explained to us at the outset?

•(1645)

Mr. Franz Reinhardt: In fact, personal information is protected, but the rest of the information is accessible, Mr. Laframboise. The rest of the information is available. This amendment refers to flight data recorders.

Mr. Mario Laframboise: I understand that.

Mr. Franz Reinhardt: That's what we talked about in the case of the amendment preceding this one. That won't be available. They will not be compelled to use the flight data recorders. We encourage them to do so. We want more information.

Mr. Mario Laframboise: Yes, I understand.

Mr. Franz Reinhardt: If we don't protect them, they won't use them. As they are not compelled to use them, the minister will never have the information. That is my answer.

Mr. Mario Laframboise: Yes, but Mr. Bell told you that Minister Lapierre had made public ... Exactly what did he make public?

Mr. Franz Reinhardt: What did Mr. Lapierre make public?

Mr. Mario Laframboise: He was forced to make public... It was you, Mr. Bell, who said that?

[English]

Mr. Don Bell: No. Minister Lapierre indicated on the rail safety issue that the audits that were going to be done would be made public when they were received. They weren't made public. The subsequent minister said he didn't release them because of the third party requirement—the agreement of the rail company. That was my concern. They finally did come into our possession.

Mr. Franz Reinhardt: They were finally made public.

Mr. Don Bell: The issue was that if they'd been made public earlier we might have had that information and avoided some of the subsequent incidents—might or might not have.

[Translation]

Mr. Franz Reinhardt: I am not aware of what is going on in the rail sector, but I can tell you that, in principle, documents must be made public.

Mr. Mario Laframboise: Except that, until there is a provision in the act, situations such as this will continue to occur. You're telling me that a provision is already included—

Mr. Franz Reinhardt: You have it in other acts, Mr. Bélanger.

Mr. Mario Laframboise: It's Mr. Laframboise.

Mr. Franz Reinhardt: Mr. Laframboise, pardon me.

[English]

The Chair: We are translating this, and it's a little difficult with two conversations.

[Translation]

Mr. Franz Reinhardt: It's included in other acts, Mr. Laframboise.

Mr. Mario Laframboise: Except that, for the rail sector, other acts theoretically should have provided that this report must be made public. The minister had to request that it be made public.

Mr. Franz Reinhardt: I don't have any comments to make on that, sir.

Mr. Mario Laframboise: It's nevertheless true. You said it wound up being made public. I don't have a problem with the fact that investigation reports are made public in accordance with the Access to Information Act. Why don't we include a provision that investigation reports will be made public in accordance with the Access to Information Act? That would prevent situations such as those that have occurred in the rail sector. If these documents were automatically made public, we wouldn't need such a provision. Mr. Bell said that the investigation report had not been made public, whereas it should have been, in accordance with the Access to Information Act and in protecting certain information. The minister had to intervene.

Why do you refuse to have a provision such as that?

Mr. Franz Reinhardt: Mr. Laframboise, I don't disagree with you on the principle and I have told you why. I told you about the discussions we had with the people from the Department of Justice. They told us that, in view of the fact that such a provision was already in other acts, it would be redundant to put it in this one. That was similar to the discussion we had on the Canada Labour Code, dangerous goods and the Transportation Safety Board.

I'm not telling you I disagree with you on the principle, but I repeat what was confirmed to us from the legal standpoint.

Mr. Mario Laframboise: If we believe what the deputy minister, Mr. Ranger and Mr. Bell told us about the rail sector, sometimes it may occur that investigation reports are not made public, whereas they should be automatically made public.

I'm reaching out to Mr. Jean. We all agree that the investigation report has been edited and that the highlights have been given. In view of what has happened in the rail sector, there should be a clear provision to prevent that from reoccurring. It should also be clear that investigation reports will be made public in the case of air transport as well.

Why don't we introduce a friendly amendment that would suit everyone?

[English]

The Chair: Mr. Bell.

Mr. Don Bell: First of all, my references to rail are to CN and not VIA.

The question I have is on proposed paragraph 5.393(1)(b). I realize it is proposed to be added, but I go back to proposed subsection 5.393(1) and it talks about information from a flight data recorder.

What is the difference between a black box and a flight data recorder? Are they the same thing or are they two different things?

• (1650)

Mr. Franz Reinhardt: Actually, most of the boxes are orange, but they are called black boxes. It's an old media—

Mr. Don Bell: Some contain voice data.

Mr. Franz Reinhardt: There are cockpit voice recorders and those are a continuous...well, they used to be 30-minute loops, but now they're a bit longer. Some are longer.

Flight data recorders...but that's not what we're talking about. Cockpit voice recorders are completely protected under the Canadian Transportation Accident Investigation and Safety Board Act. If there is an accident, it's going to be protected under the CTAISB Act for the purpose of the accident. It's used for accident investigations, the main purpose. If everybody died, they would want to have records of the parameters of how the aircraft was flying, the altitude, the engine parameters, and all that.

However, people were very innovative in aviation and they realized that they could use this before there was an accident and take those parameters and monitor how our engines are performing, both from an economical standpoint and also from a safety standpoint, how our crew members are flying the aircraft, because they may be over-speeding the aircraft or doing things of that nature, so through those parameters they can monitor. They have more or less a readout, a picture, in numbers and IT, so they can see the performance and then correct, improve, or make some changes to their maintenance or their flight crew operations.

So that's what they're doing on their own, and they use this to advance safety. So now we're protecting them.

This is the same as the black box, yes. One part of one of those black boxes, yes.

Mr. Don Bell: So the voice recorder is different. I guess what comes to mind was the recent case I recall where I think the argument was that the family of the pilot who died felt they had the right to hear what happened to that pilot.

Mr. Franz Reinhardt: There was a Supreme Court decision regarding ATC tapes, but with respect to the cockpit voice recording, there's a balancing exercise that a judge can undertake if there is a motion filed for that purpose, and the judge will balance the interest of protecting information against the interest of using it for.... It is in the CTAISB Act, and I have the section here. I can give it to you, if you want.

Mr. Don Bell: This doesn't relate to that. This doesn't involve an accident. This involves just the SMS on a regular basis, the information coming through.

Mr. Franz Reinhardt: Exactly.

Mr. Don Bell: There's no reference here, then. This is the flight data recorder, which is the IT data as opposed to the voice cockpit recorder.

Mr. Franz Reinhardt: It's clear. When you see FDR, it's not the CVR.

The Chair: Mr. Julian.

Mr. Peter Julian: Mr. Chair, I'd like to ask Mrs. Stanfield if she could present us with a legal opinion for next Monday on what aspects of ATI actually are covered and what are excluded by the bill. What we have is a difference of opinion here on the access to information and what is covered within the bill, so if you could present us with an opinion on how the access to information actually applies to Bill C-6, that would be helpful for all members of the committee, I think.

Mr. Franz Reinhardt: Can I...? No? It's up to you.

Mr. Peter Julian: No, she's here, and she has—

Mrs. Susan Stanfield: I need to consult a colleague before I can answer that question.

Mr. Peter Julian: Certainly. Okay.

I'll come back to some of the testimony that we heard, Mr. Chair.

We heard from Kirsten Brazier, and she said:

If we are really concerned about safety and truly want to become the safest country in the world, then we need to start sharing information with a view to discussing and learning from our mistakes. Instead of sanitizing and restricting safety information—such as the service difficulty reports, Transportation Safety Board accident and incident reports, and the CADORS—we need to make this information more accessible in its entirety with industry so we can learn from it.

That was in her testimony on Bill C-6.

And there's Ken Rubin's testimony:

Already, the effect of the SMS system is felt on access because I've already been denied the first SMS report on Air Transat done in 2003. I got documents, which were dated November, from Transport Canada. They said that as of then there were already 200 secret SMS investigation reports that the public will never get to see, however serious some of the infractions may be.

I noticed in the committee that the minister and officials came to you and said there were only 100 files. Where are the hundreds of SMS reports? When are they going to be made public?

Dozens of regulatory audits were stopped in their tracks, which I or any member of the public could have applied for, but no, they're gone because they've now been transferred, in part, to SMS. This is a power play of the worst order.

I could go on and on, Mr. Chair. This is something that witnesses have continuously cited: the issue around secrecy being not in the public interest.

So we'll await a legal opinion, but I think it would be disingenuous to say that the ATI applies to information that's contained throughout this. This is information for which ultimately there have to be doors. There has to be a system of checks and balances, and essentially what we've been doing today, regrettably, is taking away those checks and balances by not addressing some of the worst problems in Bill C-6 as presented.

We fixed a whole host of other sections of less weight and less impact on Canadians' lives. This is why I can't understand why we're not fixing probably what are the greatest concerns that have been raised by witnesses coming before this committee.

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

•(1655)

The Chair: We're going to move to NDP-10, page 48. Again, I would draw the committee's attention to the similarities back to NDP-9.

I would ask Mr. Julian to present.

Mr. Peter Julian: Mr. Chair, this is the second part of the information that is essentially excluded from any possibility of getting out in the public unless the minister is cancelling a certificate, or unless somebody goes to court.

What this amendment serves to do is get back to the principles that were enunciated, which were protecting the employees—the operator's crew—but not protecting the operator, particularly in a situation where the operator has been irresponsible. We have a duty to protect the travelling public. We have a duty to enable our system to function, and simply allowing that information, to exclude “the taking of any measure, or in any proceedings, against the operator”, amounts to a get-out-of-jail-free card.

It would be hard, I think, for the Conservatives to defend this when they say they're against criminals. Here they're simply giving what could be the most irresponsible operators a get-out-of-jail-free card, and that has consequences, Mr. Chair, certainly political consequences, because it is a very difficult situation to defend.

If the government's intention was not to give away a get-out-of-jail-free card, if the government's intention was to protect certain information and allow for that system of checks and balances, then the adoption of this amendment would allow the government to do its homework and come back with the kind of amendment that would clearly differentiate between an employee who is providing information internally and a company that may or may not be acting responsibly.

So adopting this amendment, then, allows the government to do its work, and we can come back on Monday and essentially look at what the government might propose to protect companies. This is extreme. If this bill goes back to the House, it simply will not be accepted by the travelling public. They'll be asking what we were doing here, Mr. Chair. And so I think it is advisable to take out that protection of the operator and put it where there is a fairly significant consensus that the operator's crew—the employees—be protected against reprisals.

(Amendment negated [See Minutes of Proceedings])

• (1700)

The Chair: We now move to page 49 and amendment G-4.

Mr. Jean.

Mr. Brian Jean: This amendment is in response to ACPA and ALPA, who wanted this additional provision added, and, indeed I think it's fairly straightforward. As far as what it does is concerned, I'm not going to read it into the record.

The Chair: Monsieur Laframboise.

[Translation]

Mr. Mario Laframboise: I find it a bit hard to follow you. You said, “a holder of a Canadian aviation document”, whereas we're talking about the proposed subsection 5.393(1), which refers to “an operator of aircraft”. However, the words “a holder of a Canadian aviation document” appear on the previous page, in subsection 5.392 (1).

Mr. Franz Reinhardt: I can verify the exact page, page 16.

[English]

The Chair: Of the bill?

[Translation]

Mr. Franz Reinhardt: That's correct. It does state: “a holder of a Canadian aviation document.” In fact, we are referring to the operator.

Mr. Mario Laframboise: We're talking about subsection 5.393 (1), which begins as follows: “If an operator of aircraft has a management system [...]”

Mr. Franz Reinhardt: That's correct.

[English]

The Chair: Monsieur Bélanger.

[Translation]

Hon. Mauril Bélanger: Subsection 3 is not a paragraph. Subsection 5.392(2) only talks about reporting to the operator. Moreover, subsection 3 states, “a holder of an aviation document”, which naturally includes operators. So I don't believe there is any mutual exclusivity here.

Mr. Mario Laframboise: No, but the fact remains that that subsection states: “The information disclosed [...] may not be used [...]” That therefore means that an operator of aircraft may use it. That is why I am telling you that there is a correlation because we are on the subsection that refers to an operator of aircraft.

Mr. Franz Reinhardt: We're talking about flight data recorders. Subsection 5.393(1) begins as follows in English:

[English]

If an operator of aircraft has a management system with a process for the collection, analysis and use of information derived from a flight data recorder

[Translation]

In French, it states: “utilisateur d'aéronefs”. The legislative drafters saw fit, in defining a holder of an operator's certificate, to use the expression “holder of a Canadian aviation document”. A holder of an operator's certificate cannot use the information gathered in this way against his employees for the purposing of imposing disciplinary measures.

[English]

The Chair: Mr. Julian.

Mr. Peter Julian: Well, Mr. Chair, this is parallel. Because we have two proposed subsections dealing with different types of information, actually the more appropriate amendment would be amendment G-3. Amendment G-4 is actually based on the original amendment G-3, and we've amended the latter and, in fact, gone through two versions of it. With the exception of the final line, it's essentially the original amendment G-3, which we did not adopt.

There may need to be a minor modification, but to be consistent, amendment G-3 is what we should be fitting in there, because we're talking about two different types of information. I think we've all agreed on what the treatment and what the protection of the employee should be in those two subsections.

The Chair: Mr. Reinhardt.

Mr. Franz Reinhardt: There's no person reporting here, Mr. Julian, because it's a FDR. A flight data recording is from IT equipment recording parameters, so there's no person reporting per se. So what we're saying is that when the employer reviews the information and sees that some crew members have not performed up to par, they cannot take disciplinary measures against the individual. And there's no whistle-blower there either, because there's nobody to blow the whistle on anybody—unless the machine is considered the whistle-blower.

So that's the difference.

• (1705)

[Translation]

The Chair: Mr. Laframboise.

Mr. Mario Laframboise: I understand. That is why I did not choose to add subsection (4).

I nevertheless maintain that, at the end of subsection (3), in view of the fact that subsection 5.393(1) states: “If an operator of aircraft has a management system [...]”, he must not disclose personal information and so on. I would have said: “If an operator of aircraft cannot use information gathered in a process [...]”.

You say: “A holder of a Canadian aviation document [...]” If you're telling me that's the same as an operator of aircraft, I'm going to make the correlation. Otherwise, subsection (3) should be as in subsection (1), “an operator of aircraft [...]”.

[English]

Mr. Franz Reinhardt: I think we could. This is the way Justice gave it to us. But I understand your concern, Mr. Laframboise, and it's logical. It's really that the operator of the aircraft referred to in proposed subsection 5.392(1) cannot use it against those people.

Mr. Brian Jean: A friendly amendment?

The Chair: I'm going to ask you to maybe write those words down if that's going to be a friendly amendment. And I'll go to Mr. Bell.

Mr. Don Bell: I was just wanting to understand the difference between proposed subsection (2) and this. I understand that the operator has a safety management system. That's fine. He's using it. But what we have here is a non-human information source. We're not protecting a whistle-blower. We have a mechanical system that oversees something happening. And you have that information, and it's not related to an accident; it's related to operational safety management, the monitoring of the effectiveness of the program.

Mr. Franz Reinhardt: Yes.

Mr. Don Bell: So we're saying in proposed subsection (2) that the information collected under that process in proposed subsection (1), which is the flight data recorder, I'm presuming, "may not be used in the taking of any measure, or in any proceedings, against the operator, the operator's crew members or...persons employed...by the operator for a contravention of this Act".

This is referring to the act. This isn't referring to the employer being able to discipline employees.

Mr. Franz Reinhardt: No. A contravention of the act is the minister not taking action against a person because of a contravention of the act. But the employer is required not to take disciplinary procedures against its own employees there. The employee is protected by proposed subsection (3), which we're putting there.

Mr. Don Bell: Proposed subsection (3). If an operator is charged with flight safety, and they get information on a flight data recorder that employees are not operating in a safe manner, why wouldn't you want them to be able to take disciplinary action against those employees?

Mr. Franz Reinhardt: Mr. Bell, they have collective agreements in which they have conditions by which disciplinary procedures can be taken or not taken according to their collective agreements. And the union wanted this to be reflected.

So here, where it says, "except in accordance with any conditions that are established" in relation to that process, those are the conditions. If in a collective agreement it's clearly spelled out that if an individual does something two or three times that he was trained or recommended or actually asked not to do again, and he does it again, there could be some of what we call just culture discipline in accordance with the conditions. And in their collective agreement, they have that. So there is no danger there.

It's just that to allow people to come forward and use that and accept that it be used, they want to make sure that if they commit an error-based violation or something like that, they are not going to be jumped on by the employer immediately. But the collective agreement applies.

Mr. Don Bell: So this is in effect a protection, then, for the employee.

Mr. Franz Reinhardt: That's correct.

Mr. Don Bell: Okay.

The Chair: Monsieur Laframboise, before I identify Mr. Jean, from your comments—and I think Mr. Reinhardt agreed—a friendly amendment might take out "The holder of a Canadian aviation document" and replace it with "The operator of aircraft". Am I correct in saying that?

● (1710)

Mr. Franz Reinhardt: That is correct.

The Chair: And in French...

[Translation]

Mr. Mario Laframboise: So the words "a holder of a Canadian aviation document" will be replaced by "an operator of aircraft".

[English]

The Chair: "The operator of an aircraft", *oui*.

Are there any other comments? Mr. Jean.

Mr. Brian Jean: I think it's a friendly amendment, Mr. Chair.

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

The Chair: On G-5, page 50.

Mr. Jean.

Mr. Brian Jean: Again, this is an amendment put forward by ALPA and ACPA in relation to making sure the minister would consult with the operator's employees who are affected by the agreement before entering into it. It's fairly straightforward and it was recommended by several witnesses.

The Chair: Is there any comment?

Monsieur Bélanger.

Hon. Mauril Bélanger: Just so I understand, Mr. Chairman, we're not necessarily talking here about operators who have a SMS. They may or may not have SMS. Am I correct?

Mr. Brian Jean: I'm sorry...what? I apologize.

Hon. Mauril Bélanger: Proposed section 5.394—we're now into the flight data analysis agreements section of this vast section of the bill—could involve an operator who has an SMS or operators who don't have SMS. Is that correct?

Mr. Franz Reinhardt: Correct. But most likely at that level, Mr. Bélanger—that type of equipment is so expensive—it's a commercial operator with a SMS.

Hon. Mauril Bélanger: Okay, but it could be....

Mr. Franz Reinhardt: It could be.

Hon. Mauril Bélanger: I have a final question to close the door on the SMS section of this. It's something I had brought up, Mr. Chairman. If you'll allow me a question, I hope not to digress too long.

In one of the discussions I had with our witnesses, there was a wish expressed that flight inspectors periodically sit in when there are meetings between the employer and the employees on the administration of SMS. I don't believe that has been included anywhere. I want to confirm that. I'm not sure it needs to be included in the law, but given that we do have a report stage, perhaps it could happen then. I just want to understand if I'm correct on that.

I want to address that question to Mr. Reinhardt—we've had this discussion—to see if there was a conclusion to that.

Mr. Reinhardt.

Mr. Franz Reinhardt: Yes, I remember that discussion, Mr. Bélanger. We said it would be appropriate to put that in the assessment protocol that Transport Canada has with respect to SMS, to allow inspectors to sit with the employees and the employer as part of the assessment for SMS.

Hon. Mauril Bélanger: Am I hearing a commitment on the part of Transport Canada to include a requirement in its assessment protocol of SMS that periodically our flight inspectors sit in on meetings between the employer and the employees under that SMS umbrella? Is that what I'm hearing?

Mr. Franz Reinhardt: Yes.

Merlin.

Mr. Merlin Preuss: Yes.

Hon. Mauril Bélanger: Thank you.

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

Hon. Mauril Bélanger: Thank you very much for your response.

The Chair: We have NDP-10.1, Mr. Julian, which is page 51 in your program.

Mr. Peter Julian: Well, Mr. Chair, the way the proposed subsection actually reads right now, there is no way of disclosing or making available the information, “except in accordance with the agreement, unless a court or other body that has jurisdiction to compel the production or discovery of information orders its disclosure”. This goes back to what so many witnesses told us, that we have to have some accessibility around information.

The modification from the NDP would have that second paragraph read as, “except in accordance with the agreement or any Act of Parliament or a province”. So an act of Parliament or a provincial act that compels that information to be shared would allow for the disclosure of that information.

• (1715)

The Chair: Mr. Bell.

Mr. Don Bell: Does that mean, then, that—if I'm reading this correctly—a court or a body that has the jurisdiction to compel the production or discovery, ordering its disclosure, would not be able to do so?

Mr. Peter Julian: The way it's worded, sir.... You're right, Mr. Bell. But that's not the intention. I would certainly accept a friendly amendment that would allow for that.

Mr. Don Bell: You're trying to add, in effect, the agreement of any act of Parliament or of a province, are you?

Mr. Peter Julian: Yes, and that was the intention of the amendment. We've occasionally had typos or drafting errors throughout this process. The intention was not to remove the reference to court. It was to add an act of Parliament or of a province.

Mr. Don Bell: This is information.... This is the staff outside the SMS. Now we're talking about the flight data recorder. This isn't with an operator who's in an SMS, is it?

Mr. Peter Julian: No.

Mr. Don Bell: This is outside. Separate from an accident, we're talking about—I'm going up to proposed subsection 5.394(1)—“information derived from a flight data recorder”.

Mr. Franz Reinhardt: This is exactly the same type of information we're talking about. It's the FDR, except that in this case there's an agreement between the minister and the operator, with consultation with the employees, so the information can be downloaded to Transport for the advancement of aviation safety. It's just a different version of the other one, which was internal. But it's exactly the same thing.

That's why they need the protection. Otherwise they will never sign an agreement, if they don't have that protection.

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

The Chair: On amendment NDP-10.2, Mr. Volpe.

Hon. Joseph Volpe: Mr. Chairman, we have gone through five or six proposed amendments that are almost exactly the same as other amendments that have been lost. I asked you on Monday to group some of these, because we keep repeating the argument for each one. I don't mean to show any disrespect to you, Mr. Chair, but we are going through a series of amendments, or proposed amendments, that are really the same as that previous amendment under another subsection. And even the most cursory of readings would suggest they can't possibly be entertained because they would contradict what we have just done.

I've held my tongue for the last 45 minutes, but I think that on this one here, if you're going to entertain a lot of debate, and on others subsequent to this, without making a decision on the request I made of you the other day, we would not be using the time of this committee very efficiently.

The Chair: I have amendment NDP-10.2 to deal with, and then I have a series of them that we have grouped together. Once we deal with this one, we will be able to do that, at the will of the committee.

Mr. Julian.

Mr. Peter Julian: Mr. Chair, I respectfully disagree with Mr. Volpe on this.

Given that we are making decisions that will make a difference regarding to what extent SMS works or becomes the kind of disaster we've seen with rail safety...so working through it, I don't think anyone is taking an inordinate amount of time. The questions are intelligent. The interventions are relatively brief. I would simply disagree with pushing along in that way.

On that basis, then, I will present amendment NDP-10.2.

• (1720)

The Chair: Are there any other comments?

Mr. Julian.

Mr. Peter Julian: This essentially takes the operator out of another section now. We've gone through three proposed sections that provide get-out-of-jail-free cards. How many of those cards are we going to give out to companies that may be irresponsible, given the testimony we've heard? This is simply keeping our responsibility to the Canadian public. We've heard witness after witness testify that getting out of jail free is not good public policy.

So here's a third section now where, if we do not adopt the amendment, we are giving an additional layer of freedom to companies. Most of them will treat it responsibly, but some companies will not. There are the problems we've seen with Air Ontario. The potential for an "Air CN" is increasingly likely if we continue to give these get-out-of-jail-free cards out like candy to companies that may want to cut costs on safety maintenance so they can make a quicker buck.

We've had the warning, particularly from Dax Air—what compelling testimony—that simply doing this makes it increasingly difficult for even good companies to try to match the bottom lines of more irresponsible competitors. So I hope that the committee, having given out two of these cards, will stop giving them out and will adopt this amendment.

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

The Chair: Mr. Jean.

Mr. Brian Jean: I have a point of order. We have a motion that we were supposed to deal with at 5:15.

The Chair: I am moving to that as we speak, Mr. Jean.

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

The Chair: I will go to you, since it is your motion.

Mr. Brian Jean: As you may have noticed, Mr. Chair, I've spoken probably 400 or 500 times less than I usually do in an effort to move this matter along and, on the advice of colleagues, try to deal with as many things as we can. But I would like to deal with the motion we have and ask for a friendly amendment to amend that motion to extend the sitting tonight until it is done, rather than extend the meetings on Wednesday and Thursday by one hour.

The Chair: Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: I'll just ask you one thing. The Bloc québécois' end of session activity takes place this evening. I agree to extend the meetings on the other days, but not this evening. I would like you to respect that.

[*English*]

The Chair: Mr. Julian.

Mr. Peter Julian: At 6:30 tonight we have the Canada-United States Inter-Parliamentary Group meeting. I'm a member of that, and a number of the Conservatives are members too. I understand where Mr. Jean is going, but I disagree with imposing that today. If he wants to get the bill through, we'll be doing that next week. I don't see great difficulty with that, although we'll see what the results of today are. But imposing that today wouldn't just put the Bloc members in a difficult situation; it would put a number of us in a very difficult situation.

The Chair: Mr. Bélanger.

[*Translation*]

Hon. Mauril Bélanger: Mr. Chairman, in all conscience, I cannot support such a motion. You know that we all have commitments; we have to go and vote or do something else.

I am prepared to speak with the Chairman or the subcommittee to determine a time when everyone can meet for an extended period of time. I have no objection to there being additional meetings, whether it be tomorrow or Friday, if we absolutely so wish, or any time next week.

We propose to sit until 6:30 this evening, or even for an indefinite period, until consideration of this bill is completed. I cannot support that. I believe we nevertheless have to show good will on both sides. I also think we have shown that good will in moving consideration of this bill forward.

It will obviously not be debated at the report stage or at third reading before the fall. We could even continue to sit when Parliament has adjourned, because we indeed have the right to do so, ultimately, even though I don't think we need to do so. As soon as we have completed consideration of clause 12—and we're making very good progress—the rest will follow quite quickly. We can even finish on Monday, during the committee's regular meeting times.

So, in all conscience, I cannot support this motion.

● (1725)

[*English*]

The Chair: Mr. Jean.

Mr. Brian Jean: We do have a motion on the floor, Mr. Chair. Nobody has made a friendly amendment, so I would ask that we deal with it on the basis of how it is. Quite frankly, with no disrespect, especially to the Bloc members because they have been very cooperative, they have had notice of this for some period of time and it would mean that we would only be sitting until 6:45 or...anyway, one hour afterwards. Right now, I also have a function that starts at 5:30 that I want to go to as well, but I think for Canadians this is very important.

The Chair: Mr. Volpe.

Hon. Joseph Volpe: I want to offer all due respect to my own colleagues on this side of the House. I've listened for the last hour without saying anything about how important this legislation is, on amendments that I had asked you on Monday to rule on. I think that my fervour and desire to get appropriate legislation in place is as unlimited by time as it is for other members of this committee, so I'm going to ask you once again, as soon as you deal with this motion, to deal with my request. The sooner we vote on this the better, and I'm going to support it.

The Chair: The motion before the committee is that the committee extend its sitting hours by 60 minutes on Mondays and Wednesdays until the completion of Bill C-6 clause-by-clause.

Mr. Don Bell: I understand that doesn't apply to tonight, then, because we have the vote tonight. So we'll be finished when we leave here, in 10 minutes or so for the vote, I presume.

The Chair: Mr. Jean.

Mr. Brian Jean: Today is Wednesday; it would apply to today. For the votes, of course, there is a standing order that takes precedent that, indeed—I think it was passed two weeks ago—we would adjourn for the votes and come back right afterwards for an hour.

Mr. Don Bell: Then we would go to 6:30, because that's your hour, isn't it? On top of the normal time of 5:30. That's the reason I'm asking.

Mr. Brian Jean: It would extend the sitting hours by 60 minutes. I think it would be open to interpretation, but the reality is that at that stage I think it would be clear to everybody where we're going and how we're going to get there.

The Chair: Mr. Julian.

Mr. Peter Julian: I would have the amendment extend the committee's extended sitting hours by 60 minutes on Mondays and Wednesdays, starting next Monday.

The Chair: So that is an amendment.

Mr. Peter Julian: Yes.

The Chair: That the committee extend its sitting hours by 60 minutes on Mondays and Wednesdays starting next Monday, June 11, until the completion of Bill C-6 clause-by-clause.

Mr. Jean.

Mr. Brian Jean: I simply want to make it clear to everybody that I don't read crystal balls, but there is the possibility, of course, that Parliament might not be sitting next Monday and Wednesday. Of course, that is beyond my pay grade for certain, and I think for most people around the table. But I'm certainly not taking that as a friendly amendment, Mr. Julian, although I do appreciate it as such.

The Chair: We have an amendment in front of us, first basically stating that the extension of 60 minutes will start on Monday, June

11, and continue Mondays and Wednesdays until that.... Is the amendment adopted?

(Amendment negated)

The Chair: Now we are dealing with the motion, that the committee extend its sitting hours by 60 minutes on Mondays and Wednesdays until the completion of Bill C-6 clause-by-clause.

Mr. Brian Jean: On a point of order, Mr. Chair, Mr. Zed did—

The Chair: Mr. Zed was indicating his vote as he was walking through here, but I think for the clarification of the record, Mr. Zed, I would ask you, are you supporting the motion?

Hon. Mauril Bélanger: Two of us are against it.

Mr. Paul Zed (Saint John, Lib.): No.

• (1730)

The Chair: I'm going to ask the question again. All those in favour of extending the sitting hours by 60 minutes on Mondays—

A point of order, Mr. Storseth.

Mr. Brian Storseth (Westlock—St. Paul, CPC): I only want to give Mr. Zed the opportunity to actually look at it.

Mr. Paul Zed: I'm clear.

(Motion negated)

The Chair: Mr. Jean, on a point of order.

Mr. Brian Jean: My point of order is that I received a notice of meeting that reflects the time period on Wednesday, June 6, 2007, from 3.30 p.m. to 6.30 p.m. My understanding is that the committee stays until 6.30 p.m.

The Chair: Mr. Julian.

Mr. Peter Julian: Mr. Chair, I move adjournment.

The Chair: There is a motion for adjournment on the floor. It's non-debatable.

(Motion agreed to)

The Chair: The meeting is adjourned.

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