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Chair

Mr. Leon Benoit

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● (1535)

[*English*]

The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)): Good afternoon, everyone.

Welcome to our guests.

Mr. Hénault, Mr. McCauley, and Ms. MacKenzie, thank you for being here again.

We're here today to continue our clause-by-clause of Bill C-20. When we left off we were about to start dealing with a new clause 26.1, which is amendment NDP-15. It is a new clause.

First of all, Mr. Cullen, do you want to move that motion?

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): I do. Would you like me to speak to it?

The Chair: Go ahead and speak to it.

Mr. Nathan Cullen: On proposed clause 26.1, I wouldn't mind hearing from our officials here today. What the government is telling us is that these liabilities are listed already. Is that correct?

Mr. Dave McCauley (Director, Uranium and Radioactive Waste Division, Electricity Resources Branch, Department of Natural Resources): Yes, that's correct.

Mr. Nathan Cullen: Can our witnesses tell us what the current pool of liabilities are listed for in terms of value in this year's report?

Maybe while the witnesses are finding that, Chair, for committee members, the reason the listing of total liabilities is critical is because we're talking about insurance. We're talking about what the liability limit should be. If the liabilities are $100,000 or if they're $100 million or $1 billion, that obviously affects how much insurance the government may want the private groups to carry, but also what kinds of payments the government may be on the hook for if the insurance is not sufficient. In trying to have some public disclosure of the liabilities, what we are seeking to do is match the liabilities to the insurance regime, essentially. That is where the intent of this comes from.

Mr. McCauley, are you ready with this year's listing?

The Chair: Mr. McCauley, do you have a response to his question?

Mr. Dave McCauley: Yes. Currently the liability or the exposure of the federal government under the Nuclear Liability Act is reported in the *Public Accounts of Canada* , in table 11.5, under “Guarantees by the Government”. It is reported every year. The most recent version we have represents the guarantees by the government as of March 31, 2009, and, under “Insurance programs of the Government”, “Insurance against accidents at nuclear installations under the Nuclear Liability Act”, it indicates an authorized limit of $1,050,000,000.

Mr. Nathan Cullen: What I want to understand from our officials today is what exactly that encapsulates. Is it saying, in that $1 billion-plus figure, that all of the assets the Government of Canada owns with respect to nuclear installations come out to about $1 billion?

Mr. Dave McCauley: Mr. Hénault can correct me if I am wrong. No, what that represents is the $75 million liability limit set against 14 nuclear installations that are covered by the legislation, so the expectation is that if the federal government were considered to be liable for the first full $75 million, the total liability, considering there are 14 installations designated, would be $1,050,000,000.

Mr. Nathan Cullen: Let me understand this again. The companies, as it stands right now, have to carry $75 million per installation, or as a company. Once you add up that times 14, essentially.... Am I still correct so far?

Mr. Dave McCauley: That's correct.

Mr. Nathan Cullen: What is left over in liabilities for the government is plus another $1 billion.

Mr. Dave McCauley: No. If, for example, the liability were entirely covered by the government by reinsurance, for example, if one could anticipate that there was a loss that the insurers would not cover and therefore it fell to the government to provide total coverage, then that would be the full exposure of the government at the $75 million level. For example, if there were a reason that the insurance policy that is in place would not cover the damage and the federal reinsurance were implicated, then this assumes that reinsurance on each and every plant that is currently designated under the legislation. This is a very unlikely situation, so they are saying that the total exposure would be $1,050,000,000.

Mr. Nathan Cullen: I guess I'm trying to drill down here. I'm specifically asking, what does that $1 billion value? Does it value the damages that might be sought by others? Does it value the actual physical plants and what they're worth?

Mr. Dave McCauley: No. What it values is damage that would not be covered by insurance. It doesn't value the plant, but it values a type of damage that's covered by the legislation but would not be covered by insurers under the policy and therefore would fall to the federal government.

Mr. Nathan Cullen: Can you give me an example of that? I'm trying to find out what this covers exactly.

Mr. Dave McCauley: A nuclear incident, for example, that was associated with terrorism, I suppose, would be one.

Mr. Nathan Cullen: Here's what I'm trying to understand: the government has said that outside of the insurance regime we have right now, the liabilities that exist for the taxpayers in the unlikely event, etc., will be a little over $1 billion—to pay for exactly what?

Mr. Dave McCauley: Personal injury that was not bodily injury, for example, psychological trauma: if you had a nuclear incident at a facility and the only damage that was experienced was personal injury, not bodily injury but psychological trauma. And if all the damage, $75 million, was associated with that damage, the federal government would have to pay that amount under the current reinsurance agreement. It's assuming that very unlikely exposure, because it would be likely that you would have other types of damages.

Mr. Nathan Cullen: When I was trying to understand what liabilities the government declares to the Canadian people, what's sitting on the books, part of my assumption was that under the previous Nuclear Liability Act, anything that wouldn't be covered from the insurance held by the providers would be considered a liability that Canada holds. So anything in excess of the $75 million that's covered is something the Canadian people might have to pick up the tab for. No? Is that not a current covered liability?

● (1540)

Mr. Dave McCauley: No, only if Parliament were to appropriate additional funds. Under the current legislation, the limit of the liability is $75 million. There is no provision under the current legislation for moneys beyond that $75 million.

Mr. Nathan Cullen: So what I'm asking about is that Bill C-20 seeks a different regime.

Mr. Dave McCauley: That's correct.

Mr. Nathan Cullen: What new clause 26.1 attempts to do—and this is for the interest of the committee—is it attempts to say that under Bill C-20 the government, every year, must come forward to say, above and beyond the insurance coverage that reactors will have, what liabilities will Canada potentially be on the hook for.

Ms. MacKenzie is saying no.

The Chair: I can see, Ms. MacKenzie, you would like to respond.

Ms. Brenda MacKenzie (Senior Legislative Counsel, Advisory and Development Services Section, Department of Justice): Just as a point of clarification, and my colleagues will correct me if I'm expressing this incorrectly, the total liabilities assumed under the act cannot exceed whatever the liability limit is in the act. There is no liability assumed under the act beyond the liability that is set out in the act. So that means in the act and in new clause 26.1, when we talk about the total liabilities assumed under the act, it cannot exceed, under the existing legislation, $75 million per facility, or whatever the higher limit is under the new legislation.

Mr. Nathan Cullen: At what point and where can the Government of Canada say to the Canadian people every year, adding up all the potential damages and the costs that we may be on the hook for, “These are our current standing liabilities, this is what we may, in the unlikely event of a nuclear accident, be on the hook for”? Where can that appear? Why would it not appear in conjunction with an act like Bill C-20?

I understand the point of the limited liability is that this is all that can be made liable under Bill C-20, but there may be more, and there is an estimation. This whole thing has to be based on the idea that there's about this much needing to be paid out in the event of a nuclear accident, right? That's the whole premise of the bill.

We also would want to know, because we've talked about what damages would be covered under Bill C-20, which ones wouldn't. I think it's a worthwhile exercise for the Canadian people to know, of those that wouldn't be covered, this is what sits on the books right now for liabilities for the Canadian government.

Mr. Dave McCauley: That's what's covered in the public accounts. In fact, I think this is inflated, because this assumes you're going to have those types of damages happen in that year at every nuclear installation to that maximum amount, and it's going to be a type of damage that's not going to be covered by the insurers. So I really think it inflates it. That's what you're getting here. You're getting the total exposure of the federal government under the current laws.

Mr. Nathan Cullen: Where does that number come from? Who gave you that number? Was it an outside adjuster? Was it...?

Mr. Dave McCauley: This number is simply $75 million multiplied by the designated installations covered by the legislation today. Under a revised scheme, one would expect that the number... and we don't produce it. This is produced by, I guess, the Treasury Board.

Under the revised scheme, this would likely be $650 million, times the number of designated installations. So it would be a much larger number.

Mr. Nathan Cullen: We've moved a number of amendments to this bill to help clarify what will and will not happen in the event of a nuclear accident. One of the things we're trying to understand is in terms of cross-border damage, in terms of all the liabilities. The government has claimed that under the study that was done in 2002, the liability regime of $650 million is adequate, having looked at Gentilly and another reactor.

What we're trying to establish here is more transparency in terms of the total liabilities in the event of a nuclear accident and what the government bases those liabilities on.

Do you follow me so far?

Where am I going sideways on this?

Mr. Dave McCauley: No, no, I'm following you.

Mr. Nathan Cullen: Okay.

Mr. Dave McCauley: I think the issue you're probably getting to is the fact that there is absolutely no commitment in the legislation itself—certainly under the existing legislation, and I think this was a criticism of it—for additional funding beyond the $75 million. I think the courts have held that it's ludicrous that the government would not step in should an incident occur where damages exceeded $75 million.

The new legislation addresses that by requiring the minister to actually table in Parliament an estimate of the anticipated costs of damage. Parliament can then take whatever action it considers prudent.

● (1545)

Mr. Nathan Cullen: That's where this billion dollars comes from.

Mr. Dave McCauley: No, the billion dollars is the limit, times the installations.

Mr. Nathan Cullen: Yes. Okay.

In the event that...and Bill C-20 does this. As you said, it requires the minister to prepare, or at least to anticipate the need for Parliament to release more funds—yes?—in the event that it exceeds the $650 million covered by private insurers.

Mr. Dave McCauley: It provides a mechanism—

Mr. Nathan Cullen: Yes.

Mr. Dave McCauley: —that requires Parliament to address the issue.

Mr. Nathan Cullen: Exactly.

What we're trying to understand is...and have a mechanism for the government every year to declare, "The total liabilities we would estimate, under a nuclear accident, would be the following: these are the liabilities that we deem are out there right now, every year." Those will shift, depending on how many reactors there are in the country, the nature of those reactors, and their close proximity to....

We need to base that upon some sort of research, some sort of assessment. If you add more onto your house, let's say, your insurance gets adjusted. If the neighbourhood gets more expensive to live in, your insurance gets adjusted. Things change. Insurance regimes change.

Bill C-20 is trying to set up an insurance regime, and will do so for many years. We didn't change the last act for however many years. One has to imagine this thing lasting a while without any major changes. We want to be able to tell the Canadian people that this is the total liability that's out there—every year, as it changes.

Mr. Dave McCauley: I think that's the advantage of the new bill versus the old act. We've built into it the provision that at least every five years the minister has to reassess that limitation. This number will go up every time the minister establishes a new liability limit. There's no prospect of moving the liability limit down. The only provision in the bill is that the number has to move up.

So it will be reassessed. It will be initially $650 million, times the installations, so it will rise considerably. The next time the minister increases the liability limit, it will also increase. It's being kept current.

The Chair: I'll go to Ms. MacKenzie first, and then Mr. Cullen.

Mr. Anderson and Mr. Regan, I know you have questions. I'll get to you, certainly.

Ms. MacKenzie, you wanted to add something.

Ms. Brenda MacKenzie: I just wanted to clarify that we're talking about the amendment proposing new clause 26.1. This amendment only speaks about the liabilities assumed under the act by the government, and that is whatever the liability limit is times the number of installations in the country.

It's just a point of clarification on what new clause 26.1 is about.

The Chair: Thank you.

Mr. Anderson.

Mr. David Anderson (Cypress Hills—Grasslands, CPC): I guess that's along the lines of what I wanted to point out as well, that this number will go up, obviously, when this legislation is approved. But the number is in the public accounts. It can be seen clearly.

So I really think the amendment is redundant. The information is already provided. It's provided clearly.

We won't be supporting the amendment. We just think there's no need for it.

The Chair: Is there any response?

Mr. Regan.

Hon. Geoff Regan (Halifax West, Lib.): Thank you, Mr. Chairman.

If I understand correctly, the present limit of the Government of Canada's liability effectively is $75 million times 14, or $1.05 billion. Under this bill, it would become $650 million times 14, or $9.1 billion, whereas if you had unlimited liability it could be tens or hundreds of billions of dollars, or more. Is that correct?

Mr. Dave McCauley: It would be unlimited. That's correct.

Hon. Geoff Regan: Theoretically, if we had unlimited liability, the Government of Canada could be on the hook for an unlimited amount of money, as opposed to this, which would be a maximum of $9.1 billion in the event that all 14 reactors had accidents.

Thank you.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: With this $1 billion as it sits right now or the $9 billion that gets put forward, is everything underneath the limited liability? This is underneath the limit, the $75 million and then the $650 million. That's already covered under the insurance that the companies are forced to carry, correct?

Mr. Dave McCauley: That's correct.

Mr. Nathan Cullen: The government isn't on the hook for any of it.

Mr. Dave McCauley: Yes, it is, because if there are exposures that the insurers do not cover, as I just indicated, such as personal injury that's not bodily, then the government must pay those amounts.

Mr. Nathan Cullen: Up to a $650 million limit per incident.

Mr. Dave McCauley: Under the new legislation, it would be under $650 million per incident. That's correct.

Mr. Nathan Cullen: Any damages beyond that, we don't estimate.

● (1550)

Mr. Dave McCauley: There's no commitment. There's no requirement. The limit will be $650 million. The only commitment is to table a report estimating the amount of damages.

Mr. Nathan Cullen: I understand where the government is coming from, because this is the regime that has been set up. But again, for a future Parliament that may have to deal with this type of issue in terms of what goes beyond, the estimated value—what's being carried along potentially by the Canadian people in terms of liability—is not reported.

There may be more beyond the $650 million limit we've set. We've established that already, correct? There may be more money paid out under a nuclear accident than $650 million.

Mr. Dave McCauley: Under the legislation, there isn't, but in an incident, one could contemplate the very unlikely situation that it could be in excess of $650 million.

Mr. Nathan Cullen: I'll leave off with this, Chair. Certainly if the $650 million limit was set on a study that only looked at two small reactors as opposed to what the authors recommended, which is to go to larger reactors closer to population centres...the number is rigged. This has been the problem and it's our contention with the bill. If the $650 million limit was based on a study—and that's all we've been told so far, and that's all I know about—whose very author said you have to look elsewhere to get the accurate number, we're dealing in a fictional world.

What we're trying to establish in proposed clause 26.1 is to step outside of that and put all the liabilities we can on the table so that Canadians can understand what we might be on the hook for, as the Magellan author said we should.

The Chair: Ms. MacKenzie.

Ms. Brenda MacKenzie: I'm just verifying again that the amendment being put forward, the proposed clause 26.1, refers to the total liabilities assumed under the act, which is the total liability limit times the number of insured installations, and anything else is not referred to in this proposed amendment.

The Chair: We have bells.

Let's go to the vote on amendment NDP-15.

Mr. Nathan Cullen: Could I have a recorded vote?

The Chair: Okay, we will have a recorded vote.

(Amendment negatived: nays 9; yeas 1)

On clause 30—*Limitation on bringing actions and claims*

The Chair: I had already ruled on amendment NDP-16 the last time with another amendment, so we're on clause 30, on which we have amendment NDP-17.

Mr. Cullen.

Mr. Nathan Cullen: I don't have any direction about what this is about and how long our bells are.

The Chair: They are 30-minute bells. Should we go until 15 minutes?

Should we head over?

Mr. Nathan Cullen: Here's our challenge, Chair. Sometimes the whips have been walking up the aisles very quickly. We've had some votes where there have been the full 30-minute bells and some votes where they were not. I have no idea what the vote is on, frankly, but I also know that the government and the official opposition sometimes have been moving votes quickly and sometimes not.

An hon. member: [*Inaudible—Editor*]

Some hon. members: Oh, oh!

Mr. Nathan Cullen: Yes. So it's a little difficult unless I get some guarantee from the parliamentary secretary that that's not going to happen, but I suspect that guarantee is not forthcoming.

The Chair: Okay. I think there are some who want to go for the vote. I think we have to do that. We will be back after that, so I will suspend the meeting until after the vote.

● _____ (Pause) _____ ●

● (1640)

The Chair: We are resuming our meeting and we are going to NDP-17, which is not on your agenda. That was a clerical error.

Any discussion on NDP-17?

Mr. Cullen.

Mr. Nathan Cullen: Thank you, Chair.

NDP-17 seeks to amend the legislation.

Just in terms of the time allotted in terms of somebody's ability to come back and file for compensation, under C-20 we have a number of limitations. One of them is around the actual liability limit, but it also imposes a ultimate period of 30 years. A number of witnesses who came before us said that the 30-year limit is artificially low and that some cancers that are caused by exposure to nuclear pollution can manifest over a much longer period of time.

There's a corresponding piece of legislation in the U.S. called the Price-Anderson Act that no longer has this limitation period of 30 years, or any such limitation. Where they modify the act in the U.S. is they say it's three years after the moment of first recognized harm. So once the cancer is identified, if cancer is the case, you have three years to report it. That seems reasonable.

But the 30-year limit on discovery often.... Unfortunately, we know as individuals, people in our family often have cancer that goes undiscovered for a number of years. Something happens consequentially and then they go in for a test and they find out they have cancer. But it manifested maybe many years before. That's also true with the types of cancer caused by exposure to nuclear radiation.

The Canadian Environmental Law Association brought this evidence forward to committee, and the committee has also received a number of letters from folks across Canada, some of them in the medical profession.

So that's essentially the amendment, Chair. It seeks to modify C-20 exactly that way. I would be curious as to the committee's opinions about the need to remove that one stipulation within the act.

● (1645)

The Chair: Thank you, Mr. Cullen.

Anything further on NDP-17?

Madame Brunelle.

[*Translation*]

Ms. Paule Brunelle (Trois-Rivières, BQ): I have a question for our witnesses.

On that issue, I think that in the Civil Code of Quebec, it is something like 10 years in the case of bodily injury. That is why I thought 30 years was a long time.

Mr. Cullen gave us the American example, but are there others? What was the basis for stopping at the 30-year mark, when the legislation was drafted?

[*English*]

The Chair: Monsieur Hénault.

[*Translation*]

Mr. Jacques Hénault (Analyst, Nuclear Liability and Emergency Preparedness, Department of Natural Resources): Ultimately, the 30-year mark was chosen because that is the absolute limit that we see in international conventions.

Furthermore, I think that Ontario and British Columbia—I should check that—also have such an absolute limit. But, in most of the other provinces, as you mentioned in Quebec, for instance, the limit is 10 years. In many provinces, the maximum limit is 6 years.

Ms. Paule Brunelle: Okay. Thanks.

[*English*]

The Chair: Mr. Cullen.

Mr. Nathan Cullen: I have a question to our witnesses just in terms of international agreements. I am assuming you mean excluding what the U.S. has brought forward. But the international agreement cites 30 years as a minimum, if you will, for years to look at before a case of harm has been shown.

Mr. Jacques Hénault: I'm not in agreement with that. I believe the limit under the international conventions for the absolute liability for injury or death is 30 years.

Mr. Nathan Cullen: But the U.S. limit is what?

Mr. Jacques Hénault: The U.S. limit, you correctly mentioned, has no provision for an absolute limit in the Price-Anderson Act because it's left to state law.

Mr. Nathan Cullen: So the situation you would have under Bill C-20 as it currently stands is that where a victim of a nuclear accident is given no limit south of the border, a similar person with the exact same case is given a 30-year limit afterwards.

I don't see any reason not to have the unlimited limit, I suppose, at the end of the day, if it can be directly shown as causal, and we have evidence that says particular forms of cancer can show up many years later, especially in young people and especially intergenerationally. It seems that the type of contamination we're talking about is one that can pass through the generations, so we have to be wary of that.

Again, I point to the committee's good judgment, but I think this is a reasonable clause and it's certainly one that our friends in the United States felt was reasonable as well.

The Chair: The question is on amendment NDP-17. We will have a recorded vote.

(Amendment negatived: nays 10; yeas 1)

(Clause 30 agreed to: yeas 10; nays 1)

● (1650)

The Chair: Amendment NDP-18, which would amend clause 34, is not in order. It was declared out of order the last time it was before the committee. It would alter the terms and conditions of a royal recommendation and is therefore out of order.

(Clause 34 agreed to on division)

On clause 37—*Public notice*

The Chair: We have amendment NDP-19.

Mr. Cullen.

Mr. Nathan Cullen: I think it's critical that information gets out quickly and is available to all potential claimants. What we're seeking to do under amendment NDP-19 is to have the circulation go through newspapers to notify people who might be affected by an accident, because as we've seen in the bill already, there are limitations on time as to when folks can actually file. We've seen other cases before where people simply didn't know, and simply didn't know the process. There's also the question of folks having moved in the interim, away from the location, which one could imagine if there were the unfortunate event of a nuclear accident, so the local posting may not be sufficient.

There's other legislation that we have in Canada that requires posting in major newspapers. This is in line with that. Certainly when we're talking about the amounts of money that are involved in this, in the $650 million range, this is not exorbitant, particularly with a government fond of spending money in newspapers and on TV and such. So we move amendment NDP-19.

That was below the belt, I know. I'm sorry.

The Chair: Is there any further discussion?

Mr. Regan.

Hon. Geoff Regan: Mr. Chairman, I have to say, given what's happening in the media, in newspapers, and in forestry in terms of the impact of people not reading newspapers and getting more of their information online or elsewhere, I wonder whether this really makes sense looking forward into the future.

The Chair: Is there anything further?

Go ahead, Mr. Cullen.

Mr. Nathan Cullen: I'm not sure if Mr. Regan is suggesting that we move an amendment to include the Internet or some other forms of dispersal, but this is just more information. I don't suspect all newspapers are going out of business in the next little while. It's just simply more information.

The government still uses newspaper advertisements to get the message out, so the government obviously finds that acceptable. It doesn't seem all that extraordinary or out of the realm to post the process in newspapers. If Mr. Regan would like to include other forms of communication, we're absolutely open.

Hon. Geoff Regan: You have an option, I suppose.

Mr. Nathan Cullen: But this is an instruction. That's what's important about it. It says government must seek to widely distribute. We've noted two more forms of distribution. It's just more clarity, more transparency. If the government wants to seek more, there's nothing in our motion that prevents it from doing something online or in other forms. It's just more information about something very important.

The Chair: Go ahead, Mr. Anderson.

Mr. David Anderson: Mr. Chair, I think Mr. Regan has made a good point in saying that there may be some other forms that have become more important.

Actually, the wording in the bill says they shall notify the public "in a manner it considers appropriate". I'm sure that's going to include newspapers and the electronic media, so I think the amendment is basically irrelevant. It could be in there or not; it doesn't really matter. Given the exposure that it's going to be presented with, the tribunal is going to be notifying the public in appropriate ways, I think.

● (1655)

The Chair: Shall NDP-19 carry?

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

(Clause 37 as amended agreed to)

(On clause 38—*Members of Tribunal*)

The Chair: Amendment NDP-20 would amend clause 38. Is there anything on that?

Go ahead, Mr. Cullen.

Mr. Nathan Cullen: The government, of course, still retains the power to assign the tribunal, but the chair, as we've seen through the bill so far, holds a very important place in terms of what's allowed in, what's allowed out, and what's considered appropriate. We've heard that from our witnesses.

There's a slight typo, Chair; it should read, "who shall elect from among themselves a person who shall act as the".

Amendment NDP-20 is essentially saying that once the government assigns the tribunal, the judges, whether current judges or past judges, then select their chair. It makes it one step further removed. The government still gets to choose the people it wishes to have on the tribunal, but the tribunal members then put forward their chair. It allows those final decisions to be one step removed from the government.

The chair, from what I read on C-20, holds extraordinary powers. It's the critical position on the tribunal. This amendment simply allows the tribunal to pick its chair. The government picks the tribunal, of course.

The Chair: Go ahead, Mr. Anderson.

Mr. David Anderson: We will be opposing this amendment. I think the point of this clause is to give the Governor in Council the authority to appoint the chair to the tribunal and then the tribunal as well.

The Chair: Okay.

Go ahead, Mr. Cullen.

Mr. Nathan Cullen: As a last point, I will re-emphasize that the government retains the power to name that tribunal. All we're seeking is to allow the tribunal members, who have been chosen by the government, to select their chair. We deem this to be reasonable. It doesn't take any major powers away from the government, but it recognizes the authority of the tribunal members to choose their chair, who holds an absolutely critical role in this process.

I don't know, Chair, just how to....

Could I just amend it by simply pointing out the "select" versus the "elect"? Is that enough?

The Chair: Does the committee agree to have Mr. Cullen change that term from "select" to "elect"? Is there agreement?

Go ahead, Madame Brunelle.

[*Translation*]

Ms. Paule Brunelle: We would have to see what that does to the French version. What would the French text look like if we said "elect" instead of "select"? It is not clear for me. The French text says, "cinq membres, nommés par le gouverneur en conseil, qui choisissent l'un d'entre eux pour agir à titre de président." Is it five members that are elected by the governor in council? No, the five elect the chair. Is the problem more in the English wording, then?

[*English*]

The Chair: I'm told it is consistent between the English and French translation.

Has the committee agreed to allow Mr. Cullen to change his amendment so that it says "elect" rather than "select"?

Is it agreed?

Mr. David Anderson: Well, that's his amendment.

The Chair: Yes, but he has to get agreement to change that.

Some hon. members: Agreed.

The Chair: Okay, it's agreed.

Shall NDP-20 carry?

(Amendment negatived on division)

(Clause 38 agreed to on division)

● (1700)

The Chair: We go now to NDP-21, which is a new clause after clause 44. It would be a new clause 44.1.

Any discussion on that?

Mr. Cullen.

Mr. Nathan Cullen: I'll explain this briefly, Chair.

Proposed clause 44.1 seeks to have more transparency coming from the tribunal when it seeks the private hearings we've heard about before.

There was some discussion from our witnesses talking about the need in some instances to protect some privacy concerns of an individual. This won't name the individual and it won't necessarily name the specifics of the case, but it has to cite something to the public as to the reason they're going in camera, the reason they're going into private consultation. This essentially says it's back to the testimony from witnesses that hearings should be open to the public, and in the case where the tribunal shall hold a hearing in private, it should disclose the reasons why the hearing cannot be held in public.

We've heard interpretation from the witnesses as to the reasons why. Proposed clause 44.1 just makes it absolutely crystal clear for the public as well as to why the tribunal is no longer meeting in public. That's essentially what it's saying. We want as much of this in public as possible. It's in all of our interest. This just asks the tribunal members to state the case.

The Chair: Thank you, Mr. Cullen.

Mr. Anderson.

Mr. David Anderson: Mr. Chair, this is already covered in clause 52. It reads:

> Panel hearings are to be held in public. However, a panel may hold all or part of a hearing in private if it is of the opinion that a person's privacy interest outweighs the principle that hearings be open to the public.

And I would assume that their reasons would be that the person's privacy interests are being protected.

The Chair: Yes, we had a discussion on that.

Mr. David Anderson: So I think that's already there.

The Chair: Mr. Cullen, you've heard Mr. Anderson's comments.

Mr. Nathan Cullen: I understand that it is already in the bill. The only difference is that the tribunal has to disclose to the public the reasons. It doesn't say this in clause 52. It just says the tribunal has the right to do that. All proposed clause 44.1 is saying is that when you do that, it allows the tribunal to do that. It just says state the reasons, whereas in the clause as it stands right now, those reasons aren't stated. The tribunal just makes the decision and they move into private. Proposed clause 44.1 just says you can still do that, but say it's because of concern around privacy violation, or it's concern around something specific, something untoward. We had some questions about moving into private discussions simply in the interest of a business, and that was something that we don't want to see happen for a number of different reasons.

That's all proposed clause 44.1 does. It fits in with the bill. It just says declare the reasons, that's all.

The Chair: Shall clause 44.1 carry?

Madam Brunelle.

[*Translation*]

Ms. Paule Brunelle: I need clarification from Mr. Cullen. Basically, you want the tribunal to always hold public hearings, and if it does not, then it has to justify why. Are you not concerned that that would slow the process down a bit when compensation has to happen quickly or when the situation has to be settled quickly?

[*English*]

Mr. Nathan Cullen: Chair, if I can, this is simply an issue of a statement from the tribunal. It doesn't require any annexing. It doesn't require circulation in a newspaper. It's just that the tribunal makes a public statement, saying in this case or in the following cases we're going private, period. But it's made available to the public the same way the tribunal makes other things available to the public. It doesn't slow the process, it simply justifies that moment of going private, which I think is important because you want as much public as possible when the tribunal makes that choice. You want to make sure that they know they're going to have to tell the public. It's not even imagined in here how; it can simply be the statement the tribunal makes every day: "Tomorrow we're going in private for the following reason," and then that's it. That's the only notification we're asking for. It's not meant to be cumbersome at all.

The Chair: Actually, I should have properly been calling for NDP-21.

Shall NDP-21 carry?

(Amendment negatived: nays 8; yeas 3)

(On clause 48—*Report on the activities of the Tribunal*)

The Chair: We go now to NDP-22. Is there any discussion on NDP-22?

Go ahead, Mr. Cullen.

Mr. Nathan Cullen: All NDP-22 does is amend clause 48 by adding into the earlier part the words, "The tribunal shall submit to the minister a report on its".

As we read it, what it's trying to do is make mandatory the disclosure of all the accounts and spending of the tribunal. The need for this is just to press the issue, if you will, of the accountability of the tribunal in terms of its spending and also of the activities of the tribunal writ large. It removes any possibility of this information just simply not getting out because a minister chooses not to divulge it, because when this clause goes in, it's not up to ministerial discretion as to whether that's made public. It's simply a transparency amendment to the clause.

● (1705)

The Chair: Go ahead, Mr. Allen.

Mr. Mike Allen (Tobique—Mactaquac, CPC): Chair, I have a clarification question. Maybe Mr. Cullen can clarify it. It doesn't really say when. It just says the minister will report. Is that at the conclusion? Is it every year? When is it? It's hard to put that in. I'd like some clarification.

Mr. Nathan Cullen: Chair, the rest of the clause remains the same. At the end of the clause, it says:

> each House of Parliament on any of the first 15 days on which that House is sitting after the Minister receives it

We're not changing the timing or the speed of the reporting. Those stay the same. The only amendment in clause 48 is to give more direction to the tribunal to report to the minister so that the report can be made public.

Mr. David Anderson: But it says nothing about when it should be reported to the minister. That is the point I think he's making.

Mr. Nathan Cullen: Neither does clause 48. It doesn't specify. You can't, in the clause—

Mr. David Anderson: Well, actually it would be. It would be because the minister requested it. When the minister requests it, it has to be provided.

The Chair: Go ahead, Mr. Regan.

Hon. Geoff Regan: Under this amendment, the occasion on which to report is not clear to me. What is it that causes the report to be done? The only thing that causes it to be done in the existing clause would be the minister's request for it, so I don't see how this would work.

Mr. Nathan Cullen: I understand that. An amendment to this would simply say it would be semi-annual. Every six months would satisfy the ability to have public accounts, and the minister would then have to report that account.

The Chair: Will the committee agree to Mr. Cullen's amendment to his amendment?

The answer is no.

Mr. Nathan Cullen: Does it require unanimous consent to amend my own amendment? I don't think that's true. I think when it's in my hands as a mover of an amendment....

The Chair: I don't believe it's possible, actually. I'm just trying to be friendly and allow this to move along.

Anyway, shall NDP-22 carry?

(Amendment negatived on division)

(Clause 48 agreed to on division)

(On clause 66—*General*)

The Chair: We come now to amendment NDP-23. Is there any discussion on that?

Go ahead, Mr. Cullen.

Mr. Nathan Cullen: I believe, Chair, this was connected to NDP-16, and since you ruled NDP-16 out of order, NDP-23 becomes irrelevant.

The Chair: So you're not moving it?

Mr. Nathan Cullen: Well....

The Chair: Thank you, Mr. Cullen.

(Clause 66 agreed to on division)

The Chair: On amendment BQ-1, Madame Brunelle, would you like to move that motion? If so, you can just speak to it.

[*Translation*]

Ms. Paule Brunelle: We consider the issue of nuclear liability to be very important. Since the bill gives the government a lot of flexibility in terms of regulations, we think it is preferable, as with other bills of similar importance, that the House and the committee consider the regulations. To our mind, that would be beneficial on a number of levels, including strengthening public confidence, since the process would be open. In the end, what matters is that the regulations go before the House and the committee. That is why we are moving this amendment, to improve transparency.

● (1710)

[*English*]

The Chair: Thank you.

Is there any further discussion on that?

Mr. Regan.

[*Translation*]

Hon. Geoff Regan: Thank you, Mr. Chair.

I do not see why we would give the governor in council the power, in a bill, to make regulations, if we insist that each regulation go before the House and the committee. That is like having another bill. In my view, this is a way of indicating in the clause of a bill that the governor in council would have that power. If the regulation still goes back to the House, it makes no sense, in my opinion.

[*English*]

The Chair: Any further comment?

Mr. Anderson.

Mr. David Anderson: We would support that position that Mr. Regan has taken. This would make it extremely burdensome, very complicated. We have a number of organizations in place to protect nuclear safety in this country, including through this bill and through the CNSC. So we would support Mr. Regan's position on that one.

The Chair: Okay. We will go to the vote on amendment BQ-1.

Shall the Bloc 1 motion carry?

[*Translation*]

Ms. Paule Brunelle: I would like a recorded vote.

[*English*]

The Chair: Okay, you want a recorded division.

(Amendment negatived: nays 8; yeas 3)

The Chair: That fails. There is no new clause 68.1, then.

Shall the short title carry?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Mr. Nathan Cullen: Is there a vote on that? I would like a recorded vote on that.

The Chair: You would like a recorded division.

(Bill C-20 as amended agreed to: yeas 10; nays 1)

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

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Chair: We are finished with this, then. I thank everybody for their cooperation. I thank the witnesses for spending all of this time with us, and I wish you a very merry Christmas.

Mr. Anderson, did you have something?

Mr. David Anderson: Just to reflect your comments, I want to thank the critics for their work on this bill. We've worked together on some things and some things we've disagreed on. I thank the witnesses for their patience over the last three weeks of being here with us. I thank the committee for their working together to get this bill further ahead.

An hon. member: Hear, hear!

The Chair: I concur with that. And thank you all as well.

We're going to have bells soon. They were announced in advance. If anyone would like to come over to room 104 of the Justice Building after the vote, they're certainly welcome. We have some nibblies and drink there. The invitation is open to everyone in the room.

The meeting is adjourned.

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