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Wednesday, November 24, 2010

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Chair

Mr. James Bezan

Standing Committee on Environment and Sustainable Development

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• (1535)

[English]

The Chair (Mr. James Bezan (Selkirk—Interlake, CPC)): The rules under Standing Order 115(5) are as follows:

Notwithstanding Standing Orders 108(1)(a) and 113(5), the Chair of a standing, special, legislative or joint committee shall suspend the meeting when the bells are sounded to call in the Members to a recorded division, unless there is unanimous consent of the members of the committee to continue to sit.

I have rules that I must follow. The vote is in half an hour, so bells are ringing. We are off the Hill, so we do have to go to vote.

Do I have unanimous consent to continue?

Some hon. members: No.

The Chair: I don't have unanimous consent. We're suspended until after the votes.

• (1535)

_____ (Pause) _____

• (1630)

The Chair: Okay, we're back in order. We have about an hour left.

We have a motion from Mr. Warawa.

Can you read it into the record and move it?

Mr. Mark Warawa (Langley, CPC): Mr. Chair, I move:

That, pursuant to Standing Order 97.1(1), and after concluding hearings, the Committee recommends that the House of Commons do not proceed further with Bill C-469, An Act to establish a Canadian Bill of Rights, because the Bill:

will enable any resident of Canada to challenge any regulatory standard, at any time, thereby trumping the existing regulatory process, creating regulatory and investment unpredictability;

will encroach on areas of provincial environmental jurisdiction;

does not allow for the balance of the Social, Economic and Environmental pillars of Sustainable Development;

overlaps with aspects of existing Federal legislation and policies which give rise to redundancy or conflict;

removes numerous safeguards which ensure that environmental rights do not overwhelm government capacity and judicial resources.

The Chair: Okay. You can speak to it.

Mr. Mark Warawa: Thank you.

We had testimony, primarily at the beginning, from those who helped the NDP write this bill—which we questioned: to what extent did they help Ms. Duncan write the bill, and what was that motive?

Chair, we were surprised to hear from everyone but the NGOs that this was a bad bill, a dangerous bill. It would create uncertainty

throughout industry and could retroactively remove all existing permits.

We heard that it could jeopardize the existence of Hydro-Québec and its operations. We heard from shipping. We heard from the Canadian Chamber of Commerce. We heard from legal experts. The common theme, other than from the NGOs that we heard, was that the bill was not redeemable and should not go forward.

Some of the legal input we heard from the witnesses is incorporated into the motion. Actually, most of what we heard is incorporated in it. So it's relevant and I think the motion is very appropriate.

We also heard, Chair, that Ontario and Quebec already have legislation for an environmental bill of rights. Their legislation does have some restrictions so that there is what people in Quebec and people in Ontario believe to be a balanced approach for an environmental bill of rights.

The concern with the coalition bill now...and I call it a coalition bill, Chair, because unfortunately, every member of the coalition supports this bill—shockingly, even the Bloc members.

The Chair: Mr. Scarpaleggia.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): On a point of order, I just don't think it's helpful to use that language.

The Chair: Monsieur Bigras, were you raising your hand on that point of order?

• (1635)

[Translation]

Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ): I do not believe that we are here to impugn the motives of the member. We would appreciate however if he could speak to the motion, which is the first item we have two discuss. This should be done in a civilized manner. I believe that the parliamentary secretary should make his points respectfully, without impugning anyone's motives.

[English]

The Chair: I'll just say that we do try to keep things here such that we're not attacking people's integrity. There have been rules Speaker that we do not want to demean people's reputations. It's all right to make a partisan comment, but I don't appreciate anything that would shed a negative light on anybody's integrity.

Mr. Mark Warawa: Thank you, Chair.

If any member of the coalition feels that their integrity has been attacked, I apologize for that. There was no intent at all. I admire each of the members across the way. I think they're dedicated politicians expressing the position of each of the governments within the coalition.

But I'm very concerned that they have—

The Chair: Ms. Murray has a point of order.

Ms. Joyce Murray (Vancouver Quadra, Lib.): On a point of order—

Mr. Mark Warawa: I'm speaking to the point of order, Chair.

The Chair: No, you're—

Mr. Mark Warawa: I'm speaking to the point of order, Chair. That's what's on the table.

The Chair: You sounded like you were going back to your debate.

Mr. Mark Warawa: No, I'm speaking to the point of order.

The Chair: Finish your point of order, and then I'll bring on Ms. Murray.

Mr. Mark Warawa: Thank you, Chair.

Again, I do not want to cut down any of my colleagues across the way. I'm very concerned...and that's why I've used the word "coalition", which is what I believe it is. Not to individually demean anybody here, but it's a coalition that's voted—all the opposition members have voted—in favour of Bill C-469 and have defended the text of Bill C-469, which includes a text that could very seriously jeopardize Quebec's hydroelectric. It could jeopardize the oil sands.

So I think the term "coalition" is deserved in that it's not derogatory, it's a fact, and it raises a lot of concerns not only on this side of the table, Chair, but also with Canadians.

The Chair: We'll go to Ms. Murray on that point of order, and then Ms. Duncan and Mr. Woodworth.

Ms. Joyce Murray: Given the chair's request for respectful language, my view is that Mr. Warawa was out of order in continuing to use the word "coalition". I'd just like to suggest he use the words "the majority of the members of this committee" instead.

The Chair: I'll let you guys speak to this.

Ms. Duncan, you had your hand up on this point of order.

Ms. Linda Duncan (Edmonton—Strathcona, NDP): I've almost forgotten what I was going to say.

One thing that troubles me, Mr. Chair, is that I don't think it's fair also to impugn things on the witnesses who appeared. A couple of the witnesses were asked if they had helped to draft my bill—

The Chair: You're on a different point.

Ms. Linda Duncan: It was his argument in response, and I just wanted to clarify that we should also not be impugning witnesses or suggesting things that they didn't have the chance to clarify or they have clarified and it's contrary.

The thing I also want to clarify is that it's my understanding that it's the custom of the place where we practise our art of law-making that when the bills go to committee, and even are even passed at

second reading, in many cases they're passed in principle, and many of the members who allow the bill to go to committee may have suggestions for changes they want to make.

So I think it's improper to impugn that there is complete support or to have no anticipation that they may want to improve the bill.

The Chair: Mr. Woodworth.

Mr. Stephen Woodworth (Kitchener Centre, CPC): Thank you, Mr. Chair.

First of all, I don't think anyone, including Mr. Warawa, would like to impugn anyone else's motives.

Second, I recognize that the use of the term "coalition" has, in this minority Parliament, taken on a certain partisan colour. I mean, ordinarily the word coalition—

[*Translation*]

Mr. Bernard Bigras: A point of order.

[*English*]

The Chair: We're still speaking to this point of order.

Mr. Bernard Bigras: It's not a point of order.

Mr. Stephen Woodworth: It's to the point of order not about an accusation that Mr. Warawa was out of order because he's used the word "coalition" and has impugned the motives of the others. What I'm trying to say is that, ordinarily, coalition simply means a group of people who come together to support the same cause.

Of course, in this Parliament, because of the events in the House, that has taken on a more partisan meaning involving the Bloc, the Liberals, and the NDP voting together to pursue certain shared goals. Indeed there are times when occasionally an opposition party has voted with the government, and I hear shouts from across the way from people who lose votes talking about a Conservative such-and-such coalition.

So it's clearly a partisan term. In a way, it would be nice if we lived in a world where every time a partisan term was used, we could raise a point of order. But whatever we think of partisan terms, I don't think it's necessarily the proper subject for a ruling on a point of order.

Quite frankly, if it were the case that we were going to outlaw partisan terms, just in relation to this debate I'd be objecting, because lots of other times when partisan remarks have been made I've been the target. We should have an even application of these rules.

So whatever we think of partisan terms, I don't think it's a matter of a point of order.

• (1640)

The Chair: I'm getting ready to make my ruling.

Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: I withdraw my point of order, Mr. Chair, if we can just move on to something else.

The Chair: Okay. I'll make my ruling, and it's going to be twofold.

First I'd read from chapter 3, O'Brien and Bosc, page 99, as follows:

As Speaker Milliken noted in 2003:

Speakers discourage members of Parliament from using names in speeches if they are speaking ill of some other person because, with parliamentary privilege applying to what they say, anything that is damaging to the reputation or to the individual, ... is then liable to be published with the cover of parliamentary privilege and the person is unable to bring any action in respect of those claims.

We don't want to name individuals, so if Mr. Warawa was naming a particular member, then it would be out of order.

However, it says on page 93, under "Importance of Freedom of Speech", the following:

Freedom of speech permits Members to speak freely in the Chamber during a sitting or in committees during meetings while enjoying complete immunity from prosecution or civil liability for any comment they might make. This freedom is essential for the effective working of the House. Under it, Members are able to make statements or allegations about outside bodies or persons, which they may hesitate to make without the protection of privilege. Though this is often criticized, the freedom to make allegations which the Member genuinely believes at the time to be true, or at least worthy of investigation, is fundamental. The House of Commons could not work effectively unless its Members are able to speak and criticize without having to account to any outside body. There would be no freedom of speech if everything had to be proven true before it were uttered. In a ruling on a question of privilege in 1984, Speaker Bosley affirmed that "the privilege of a Member of Parliament when speaking in the House or in a committee is absolute, and that it would be very difficult to find that any statement made under the cloak of parliamentary privilege constituted a violation of that privilege."

So based on that ruling, I'm going to allow Mr. Warawa to continue, as long as he is respectful in his comments and not naming individual members and demeaning an individual member's reputation. But he does have the freedom and the right to speak, and I believe the word "coalition" is in order.

Mr. Mark Warawa: Thank you, Chair.

Again, I am not attempting to impugn anyone's reputation. As I said before, I respect each of my colleagues across the way. I just don't agree with them together supporting a very bad bill, a bill that would hurt Canada, a bill that would hurt Canada retroactively.

We heard from the witnesses that every existing facility, facilities like Hydro-Québec, an action could be taken against them—facilities that are permitted, after billions have been invested into facilities, after years and years.... I believe in the testimony the figure of about 14 years was used in terms of actually seeing a facility built.

During those 14 years there were consultations, involving meeting with first nations, meeting with scientists, meeting with ENGOS, meeting with other governments, and then making their proposals. After years and years of having it be critiqued, then there was the cost to actually construct the facilities. And to see all of that being jeopardized....

Again, Mr. Chair, without any attempt to impugn anybody, I am baffled by how members of the Bloc...not the individuals I see across the way, whom I respect. It's the position; they are a part of the Bloc Québécois, and how they would support a piece of legislation that could attack the very foundation of Quebec....

I'm so glad that we have the member beside me—

• (1645)

The Chair: Point of order, Mr. Bigras.

[*Translation*]

Mr. Bernard Bigras: Mr. Chair, I believe that the parliamentary secretary should stick to the point and avoid naming opposition members. As a matter of fact, I wonder why he is impugning the motives of opposition members since we have not even had the opportunity to put our motions on the floor. The only thing he knows is the result of the vote on second reading. Could you ask him to stick to the content of his motion?

Mr. Chair, is the parliamentary secretary wants to play this kind of game, we could raise points of order each time we feel our rights are being trampled. You are the protector of our rights and we rely on you to make sure they are respected. It is your responsibility.

[*English*]

The Chair: Right, but in the process, I also have to respect his right to freedom of speech. I will censor if I feel that he crosses that line.

Mr. Warawa, I ask that you be respectful in your comments. Continue on.

Mr. Mark Warawa: Thank you, Chair.

I will make every attempt to be respectful.

I expect the Bloc to be supporting this because of the way they have voted and spoken to this point. Now, if I am getting indications from my colleagues across the way—which, again, I respect—and they are hinting that they are going to be opposing this, then good on them. But to this point that hasn't happened. I hope that wisdom will prevail, that they will stand up for Quebec, and that they will vote against this.

We are going to have a vote very soon on this motion. The right thing to do is to kill the bill. Who said that? Well, every speaker, every witness that came to this committee, including the Canadian hydroelectricity association.... They were asked if the bill should be amended. They had recommendations, but they were asked if the bill should be killed or should be amended.

Mr. Chair, the blues will show that it was you who asked that question. I think it's a relevant question. Just at the end of their testimony, that's what you asked them: do you want to see this bill amended or do you want to see it killed?

The Chair: It was "set aside".

Mr. Mark Warawa: Yes, "set aside"—and set aside is what my motion is doing.

So those were your words—should the bill be set aside or amended—and they said, well, preferably it should be set aside. That was the ideal.

Why is that? Because every witness, other than the NGOs, said—

The Chair: Yes.

Ms. Linda Duncan: I'm fine with letting him go on and on, Mr. Chair, but on a point of order, the member is misrepresenting the testimony. It's one thing to say, and that's fine, some witnesses suggested they wouldn't accept the bill unless there were substantial changes, and even then they wouldn't. But it is completely misrepresenting the testimony we heard to say that all of the witnesses asked us to kill the bill.

I don't really understand the point where Mr. Warawa is going. If he's almost finished, maybe we can actually discuss his motion.

The Chair: Mr. Bigras.

[*Translation*]

Mr. Bernard Bigras: Mr. Chair, I fully agree with Mrs. Duncan. That is not what the Canadian Hydroelectric Association told us in committee. On the contrary, they said that there should be some restrictions.

Mr. Steven Blaney (Lévis—Bellechasse, CPC): Mr. Chair, that is not the point of order.

Mr. Bernard Bigras: Start by putting your name on the list...

Mr. Steven Blaney: You are interrupting and...

[*English*]

The Chair: Order!

[*Translation*]

Mr. Bernard Bigras: It is not up to you to rule on the point of order. It is up to the chairperson.

[*English*]

The Chair: Order!

I think we are into debate here over what the witnesses' testimony was. We never had the Canadian hydroelectric association here; we had the Canadian Electrical Association here.

Or no, was it...?

Mr. Mark Warawa: It was the Canadian Hydropower Association.

The Chair: Yes.

At any rate, we're on debate, and everybody can have their chance to debate those facts.

I have Mr. Blaney and then Mr. Woodworth.

It had better be on a point of order.

[*Translation*]

Mr. Steven Blaney: Absolutely.

Thank you for giving me the floor, Mr. Chair.

I sit next to my colleague and I can hardly hear him because the people on the other side keep interrupting him. I believe that the points raised are not points of order but rather matters of debate relating to our interpretation of the witnesses testimony.

I want to underline, Mr. Chair, that it is quite appropriate for the parliamentary secretary, after having heard all the witnesses, to summarize his interpretation of their testimony in the context of the important motion he has tabled this afternoon.

Thank you very much.

• (1650)

[*English*]

The Chair: Mr. Woodworth is next, and then Mr. Bigras.

Mr. Stephen Woodworth: Thank you.

My comments are similar to those of Mr. Blaney. I wasn't here for the evidence that was referred to, although I've seen the written submissions the witnesses made.

However, it seems to me that in the course of a committee hearing, when we hear voluminous evidence from multiple witnesses, there will inevitably be some differences in recall and note-taking about what was said or not said. I think the members opposite are perfectly entitled, when their turn comes to speak, to try to refute the recollection—or, as Mr. Blaney says, the interpretation—of evidence that Mr. Warawa is proposing.

I agree with Mr. Blaney that it doesn't seem to be a matter where Mr. Warawa should be stopped from speaking just because the members opposite happen to disagree with what he's saying.

The Chair: I have Monsieur Bigras next.

And let's stick to points of order, because we are getting into debate. All of you guys can get on the speakers list to debate these issues. Other than interruptions here, I don't hear a point of order.

Monsieur Bigras.

[*Translation*]

Mr. Bernard Bigras: First of all, Mr. Chair, you should remind the member for Lévis—Bellechasse, who has not been long on this committee, that it is not up to him but to you to rule on the points of order. Had he wanted to have this role, he should have put his name up for chairing the committee but he did not get the support of his own party.

That being said, Mr. Chair, I believe that when one...

[*English*]

The Chair: Make your point of order, and then it will be Mr. Blaney's turn.

Go ahead.

[*Translation*]

Mr. Bernard Bigras: Indeed, I would encourage the parliamentary secretary to read the witnesses' testimony. It is true that some witnesses, such as the Shipping Federation of Canada, said that the bill should be put aside. However, some others, especially those he is quoting, said that they want some restrictions and amendments. Our responsibility as parliamentarians is to amend the bill and not to behave as the government did in the Senate when they decided not to study a bill on climate change and killed it.

[*English*]

The Chair: We're getting way off track here. Let's get back to debate. Anyone who wants to can get their name on the speakers list.

Mr. Blaney, and Mr. Woodworth, we're just into debate. I agree that if it's debate, it should be handled through normal speaking processes.

I'm going to turn it back to Mr. Warawa. I've heard enough on this point of order, unless there are some new ones.

Other than that, I'm going to turn it back to Mr. Warawa.

Mr. Stephen Woodworth: I have a point of order.

The Chair: You have a new point of order, Mr. Woodworth?

Mr. Stephen Woodworth: Mr. Chair, I think we established a few moments ago that we ought to speak respectfully to one another. I heard Mr. Blaney say nothing about the fact that he could determine what's a point of order and what's not. I only heard him make his submissions to the chair. I'm very surprised to hear my colleague across the way make a personal attack against Mr. Blaney, suggesting that somehow Mr. Blaney was taking on, himself, the right to rule on this rather than doing what he did, which was simply to make a submission on the question.

I think my friend across the way, being a fair man, if he thought about it, would apologize for that attack on Mr. Blaney's character and approach.

An hon. member: Hear, hear.

Mr. Bernard Bigras: Never.

An hon. member: Never?

Mr. Bernard Bigras: Never.

Désolé.

The Chair: I'm going to move on—

An hon. member: Okay, thank you.

The Chair: —because I think we're splitting hairs here.

Mr. Warawa, you have the floor.

Mr. Mark Warawa: Thank you, Chair.

I actually want to thank Mr. Bigras, because no matter how he said it, the end result was that I was able to find that quote and was able to read it, and even his invitation to read this into the record. So again, I want to thank him for that interruption.

Of course, we had a one-hour interruption in the House by the Bloc, taking us off track and not working on what we were supposed to be doing. They, through mischief, caused a vote in the House, and now I get to have time to be prepared and share this.

In the testimony—this is recorded in the blues—Mr. Matthew Firth said:

We have members in all provinces, none of the territories but all provinces, including Quebec, hydro workers, health care workers, municipal workers throughout the province of Quebec. I'm not exactly sure how many members in Quebec.

Mr. Ouellet asked a question. Then I raised a point of order and said:

I couldn't quite hear. Did the witness say that he represents people in Hydro-Québec?

To which Mr. Ouellet said:

Yes. Listen well and you will hear.

It's not a point of order because he's not listening.

And the chair said:

I think there's a problem with translation.

Very clearly we heard from Mr. Matthew Firth, with Canadian hydro association, and we heard from Mr. Ouellet, saying that he represents Hydro-Québec.

An hon. member: [*Inaudible—Editor*]

Mr. Mark Warawa: I said:

Did the witness say that he represents people in Hydro-Québec?

Mr. Ouellet said “Yes”.

Now, Chair, we heard from Mr. Jacob Irving, and this was your question to him:

I just want one clarification as chair. In your presentation and in your responses you definitely have reservations about the bill. Would the Canadian Hydropower Association prefer that the bill be set aside or be amended?

Mr. Jacob Irving said:

There is probably opportunity for amendment, but it depends. Ideally one would like to see the amendments come through that deal with all of our issues, and then that's fine. But if those amendments don't come to the fore, then being set aside would have to be the logical choice.

So the concern we heard from the witnesses is this: will the bill be adequately amended or will there be unintended consequences? The concern I've heard is that Bill C-469, entitled the “environmental bill of rights”, in actuality is anything but. It's a Trojan horse that would attack the rights of business, of Canadians. It would attack the rights of the foundation of fairness, of law. It would attack permits. It would attack the confidence within Canadian business and facilities in that everything could be up for an action against them, against appeal. Uncertainty would reign, and that would mean the loss of investment.

So the consequences of this Trojan horse...called Bill C-469. The fact is that every witness, other than the ENGOs, do not support this bill. Their number one recommendation is that it be set aside.

That's what the motion is. As I said before, the points that are in the motion are points that are provided by a legal counsel for the witnesses, and were incorporated into it. I believe they got those points right. I believe they are accurate.

Now, some may not disagree. Some may be willing to take a chance and think they can amend Bill C-469 adequately.

● (1655)

Chair, we momentarily will be looking at a lot of amendments. Some of those amendments came in at 2:13 today. In the spirit of fairness, I don't think amendments should be coming moments before this committee starts. How can we properly prepare when we have amendments from the Liberal Party arrive by e-mail at 2:13 today?

Chair, we have....

Is there a point of order?

The Chair: No, I'm just calling the meeting to order. I'm having trouble hearing you.

Mr. Mark Warawa: Chair, we have amendments from the Bloc.

We have, I think.... I have not seen the amendments yet, because I've been busy and have not had access to a—

Some hon. members: Oh, oh!

Mr. Mark Warawa: Let me finish.

They think it's funny to send e-mails out at 2:13 and then laugh at this.

I've had preparation to see the amendments presented by the Bloc and by the—

• (1700)

The Chair: Mr. Warawa, I'm sorry, but just for clarification, you mean the last amendments that were sent out, that just came at 2:13.

Mr. Mark Warawa: That's right.

The Chair: The other members had submitted theirs earlier.

Mr. Mark Warawa: Right. I saw those from the Bloc and NDP members.

The author of the bill, Ms. Duncan...her bill, along with the ENGOs. She has, I believe, 17 amendments.

How can any bill that is that substantially proposed to be amended now...? Will the witnesses we heard have confidence? Will Canadians have confidence, if a bill like this were to go forward?

One of the number one considerations in any regulation, permit, or environmental law is consultation with first nations. Was there any consultation or input from first nations? No. Should there be? Absolutely.

If first nations would be affected by this bill—if it went ahead and passed through the Senate, this bad piece of legislation—without consultation, would it withstand constitutional challenge? What a wrong way, I believe, to begin: to forge ahead without proper consultation.

I'm actually surprised that the NDP would want to forge ahead without proper consultation. But that's what we see before us today.

Chair, is the bill redeemable? Should we be trying to patch up a bad piece of legislation, an American type of “legislation by litigation”, a “kill the Alberta oil sands” bill, or a “shut down Hydro-Québec” bill? No.

This bill, I believe, is a Trojan horse. It's a bad bill. It's not redeemable. What is the solution? Set it aside.

I make my point.

The Chair: Thank you.

We have a lengthy list already.

Nobody ever talks about Manitoba Hydro. I don't know why.

Some hon. members: Oh, oh!

The Chair: Monsieur Ouellet, you have the floor.

[*Translation*]

Mr. Christian Ouellet (Brome—Missisquoi, BQ): Thank you, Mr. Chair.

Is quite unfortunate to see this filibustering reappear just when we stopped studying this bill. We have not had the opportunity to discuss it. Setting it aside without even talking about it seems to me to be quite irresponsible for parliamentarians. I believe our role is to look at the bills that are proposed in a fair and reasonable manner. Were we to just set it aside without having even looked at it, we would not play our role in as parliamentarians. Mr. Warawa could very well move his motion afterwards if we were unable to amend the bill according to his wishes. We should at least try to amend the bill according to our various requirements.

I do not agree with those who claim that all the witnesses said that the bill should be set aside. Some of them did indeed say so, Mr. chair, in line with their own interests, of course. We could easily see that. However, most of the witnesses said that this is a good bill or a bill that should be amended. I believe that is why we are here.

Amendments are being proposed, some of them even by the NDP. It seems to me that we should look at them without trying to delay proceedings or by taking too much time in order to get everybody fed up with this bill. As serious parliamentarians, we should look at the amendments one after the other. If after doing this work seriously, Mr. Warawa still believes that the bill is unacceptable, he would be able to move his motion. So, our first order of business, I believe, should be to try and see if this bill can be amended or not. My answer is yes.

[*English*]

The Chair: Thank you.

Go ahead, Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: I was going to make the same point that I think someone else made, which is that if Mr. Warawa and the government party find certain parts of the bill offensive, or the disagree with them, they can amend the bill. That's all they have to do. Then I suppose they can use their majority in the Senate to kill it before it gets to second reading. That will be their choice.

Second, just because witnesses suggest that we do something doesn't mean we have to jump to do it. That logic could take us to some very strange places.

That's all I really had to say.

• (1705)

The Chair: Go ahead, Mr. Woodworth.

Mr. Stephen Woodworth: Thank you, Mr. Chair.

First I would like to add a little fact regarding the Canadian Hydropower Association. I can only rely on what my assistant told me, but I did specifically ask her to enquire about whether or not Hydro-Québec is a member of the Canadian Hydropower Association, and the answer that came back to me was, yes, Hydro-Québec is a member of the Canadian Hydropower Association.

[*Translation*]

So, when the representatives of the Canadian Hydroelectricity Association speak, they also speak on behalf of Hydro-Québec.

Secondly, I have had a look at the amendments of the Bloc québécois. I think that, even if each amendment of the Bloc québécois were to be accepted, this bill would create uncertainty about the implementation of many development projects in Québec affecting fish and the last habitats of migrating birds, those affected by the Kyoto Protocol Implementation Act and those of Hydro-Québec or the government of Québec requiring federal-provincial cooperation. Even if we passed each amendment of the Bloc québécois, all those projects would be threatened by the bill.

[English]

The Chair: Do you have a point of order, Mr. Bigras?

[Translation]

Mr. Bernard Bigras: Can I raise a point of order? My question is for the Chair.

I fail to see how the member can give an opinion on amendments which have not yet been tabled. I want to remind you, Mr. Chair, that those amendments Mr. Woodworth is expressing an opinion on have not yet been tabled. I understand his wish to speak as quickly as possible about the amendments of the Bloc québécois, Mr. Chair, but, if that is what he wants to do, he should vote against the motion of his parliamentary secretary, which would give us the opportunity to discuss them. So far, they have not yet been discussed.

[English]

The Chair: Okay, we are getting into an area that is.... We aren't at the amendments yet; the amendments haven't been made public, but we are in a public meeting. I don't know if....

Mr. Stephen Woodworth: May I speak to this point of order?

The Chair: Okay. Go ahead on the point of order, Mr. Woodworth.

Mr. Stephen Woodworth: Thank you very much.

In the debate to this point,

[Translation]

the members of the Bloc québécois said that it is necessary to

[English]

consider these amendments.

Amendments from the Bloc have been tabled and placed before me, and if they have not been tabled, at least notice has been given. Let me say that: notice has been given.

I have looked at the amendments that the Bloc has proposed, and I felt that in response to the comments in this debate about whether or not amendments can cure these problems, it was appropriate for me to say that having looked at the amendments for which I have received notice, I have concluded that they do not resolve the issues that I've mentioned.

Mr. Bernard Bigras: *Je demanderais....*

The Chair: On the point of order, Mr. Bigras.

An hon. member: He's speaking to the point.

The Chair: You're right, but I'm going to make a ruling on this.

I don't need to hear any more points of order.

Because they are amendments that have not been moved for debate yet, we cannot discuss what has not been put on the table for debate. Notice has been given, but they aren't tabled, so you are out of order to talk to a motion that isn't before us for debate yet.

Amendments that we will be considering shortly are being made to the bill. Right now we're dealing with Mr. Warawa's motion to set it aside, so I'm going to ask you to stay away from the amendments.

As I ruled on Ms. Murray at our last meeting, until they're moved onto the floor by the committee member who is moving those amendments, they're not up for debate.

• (1710)

Mr. Stephen Woodworth: I will respect your ruling, Mr. Chair, and simply make my comments very general then, which is to say that the problems for Quebec and for other provinces from this judicial environmental policy bill cannot, in my opinion, be cured by any amendment. And it is inherent in the bill itself that it will encroach upon and interfere with the developments that the provinces wish to encourage, including those in Quebec and including Hydro-Québec.

That moves me to my next point, which is to say that this bill is so fatally flawed in so many areas that in my view it is beyond redemption by amendment. And the fact that we have already had so many amendments proposed in a way reinforces the point of view that this is a fatally flawed piece of legislation. It will end up being a Frankenstein piece of legislation if all these amendments that may come forward are grafted on.

I want to mention two things I see in illustration of the flaws in this bill. First, I'm going to mention a very specific but highly important flaw, and secondly I'm going to mention some themes that run through the whole bill.

As to a specific flaw, I would draw the members' attention to the definition of "precautionary principle", which is found on page 5, in paragraph 3, of this judicial environmental policy bill. I want to point out that the definition is inconsistent, and I rather think deliberately inconsistent, with all other.... I'm sorry, "all" would be overstating it. It's inconsistent with most other accepted definitions of the precautionary principle.

The one I'm going to hang my hat on is the UN Rio Declaration on Environment and Development, which contains, as principle 15, a comment—

Ms. Linda Duncan: Mr. Chair, is this a point of order? Maybe the member could clarify it.

I'm having a really hard time finding this point in Mr. Warawa's motion.

Mr. Stephen Woodworth: I'm sorry, I thought we were debating whether or not the bill should be set aside at this time.

Ms. Linda Duncan: We're debating Mr. Warawa's motion, right?

The Chair: Essentially—

Mr. Stephen Woodworth: And I was attempting to illustrate the fact that this bill is flawed, and that is why it should be set aside.

Ms. Linda Duncan: We're debating his motion.

The Chair: I'm going to let Mr. Woodworth continue. I don't believe it's a point of order, because I believe that since the intent of the motion is to set aside the bill because there is, in Mr. Warawa's—

Ms. Linda Duncan: It's not on the grounds.

The Chair: There are grounds. He's listed five. Mr. Woodworth is suggesting he has other issues with it.

Mr. Mark Warawa: I have a point of order.

The Chair: Mr. Warawa.

Mr. Mark Warawa: This is a new point of order, Chair.

We have seen continuous, repeated interruptions by the coalition members to stop this side from being able to make our points, which are relevant to the motion.

My question to you, Chair, is whether it's appropriate for the coalition to continue with this tactic of interrupting by point of order.

The Chair: I'm seeing this happening from both sides. I don't think it's any one side of the table that's interrupting on points of order, Mr. Warawa.

From now on, if there's going to be a point of order, make sure it refers to something I can rule on that comes out of O'Brien and Bosc or out of the Standing Orders, otherwise it's just debate, and I'm going to shut it down.

With that, Mr. Woodworth, you have the floor.

Mr. Stephen Woodworth: Thank you.

I will attempt to satisfy Ms. Duncan's curiosity about the relevance of the precautionary principle to Mr. Warawa's motion, because the third and fourth points of his motion refer to the fact that this bill does not allow for the balance of social, economic, and environmental pillars of sustainable development, and that it overlaps with existing aspects of federal legislation and policies, which give rise to redundancy or conflict.

As I proceed, and I can see this will have to be a little more detailed than I was planning, the precautionary principle, and the salient distinction in this act versus most other articulations of the precautionary principle, has to do with the question of cost-effective measures and preventing environmental degradation.

In this fashion, first of all, the precautionary principle spelled out in this act does not allow for an appropriate balance of social, economic, and environmental pillars of sustainable development. Secondly, it creates overlaps with existing federal legislation and policies, which give rise to redundancy or conflict because the precautionary principle is spelled out in other areas of federal legislation.

With that hopefully succinct answer to Ms. Duncan's inquiry, I was about to read from principle 15 of the Rio Declaration on the Environment and Development, which states:

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

This contrasts with the specific provision in the bill before us, which omits the reference to cost-effectiveness, and which talks about action to protect the environment rather than measures to

prevent environmental degradation. Of those two points, the one that disturbs me most is the lack of reference to cost-effective measures, which is symptomatic of this bill's failure to balance the social, economic, and environmental pillars of sustainable development, as mentioned in Mr. Warawa's motion.

Apart from that, however, the Canadian Environmental Protection Act, 1999, also codifies the definition of precautionary principle, which was used in the Rio Declaration, in its preamble, and that act reads:

...where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation;

I'm told that a similar definition exists in the Species at Risk Act, the Federal Sustainable Development Act, and the Pest Control Products Act. So in this bill, which is now before us, we are introducing a different definition of precautionary principle and this, of course, is a comment in support of Mr. Warawa's fourth point, which is that this bill overlaps with aspects of existing federal legislation and policies, which give rise to either redundancy, or, in this case, conflict.

The reason I pick on this particular point is that my research demonstrates that at the Rio meeting when this declaration was adopted, and in the debates around the Canadian Environmental Protection Act, there were parties who were opposed to inserting the qualifier "cost-effective". In fact, the way it was described to me is that this was a bit of a flashpoint. But after serious debate and consideration and the realization that one ought to take into account costs—although we would love to say that we should protect the environment at all costs, even if we have to go back to igloos and dog sleds—we do have to keep in mind costs, and therefore, on sober consideration, almost everywhere else the phrase "cost-effective measures" has been inserted.

I can only assume that the writers of this bill are at least as well informed about these issues as I am, and likely made a deliberate choice to leave that out.

●(1715)

That's a specific concern that I have, but frankly the bill is littered with concerns of this nature or a similar nature. I want to mention three general themes that are objectionable in this bill.

One of them is in fact the one mentioned in the fourth point of Mr. Warawa's motion, about redundancy and conflict. I want to mention some of the evidence we heard the other day.

I do not have edited blues, so I'm going to try to paraphrase what I understand to be the evidence from Mr. Joseph Melaschenko, of Environment Canada legal services, who I believe testified that he thought there was some overlap between the Canadian Bill of Rights and this bill, in that the Canadian Bill of Rights already imposes an obligation on the Minister of Justice to examine the consistency of both government bills and regulations with the Canadian Bill of Rights. If this bill passes with the proposed amendment in it to the Canadian Bill of Rights, that statute will also include the right to a healthy and ecologically balanced environment.

So on that point of a healthy and ecologically balanced environment there will be an overlap, because under clause 26 of this bill the Auditor General will have to examine government bills and regulations for compliance with that requirement of this bill, which is a right to a healthy and ecologically balanced environment, but under the Canadian Bill of Rights, which will now incorporate the same requirement, the Minister of Justice will have to do the same thing.

Mr. Scott Vaughan, at the Auditor General's office, also commented on the responsibilities placed on his office under this bill and expressed concern with it. In my understanding, he commented that although the goal of ensuring regulatory consistency is important, he felt it was the responsibility of the government, not of the Auditor General or, speaking in his own behalf, of the commissioner.

In fact he pointed out that there were already mechanisms designed to ensure consistency and consideration of environmental implications in government policies and programs. For example, regulatory impact assessment statements must accompany every regulatory proposal submitted for government approval, and each statement must include various analyses and justification prior to implementation; also, the strategic environmental assessment of policies, plans, and program proposals. He as well as Mr. Melaschenko also pointed out the role of Justice Canada as the central agency responsible for providing advice on all legal matters.

It may be easy for us to sit around here saying we don't care whether there are two government paid offices doing the same job, but in point of fact this act is littered with redundancies of that nature. I think we have a responsibility to Canadians to not pass legislation that duplicates efforts.

The second theme—

• (1720)

The Chair: Is there a point of order?

Mr. Gerard Kennedy (Parkdale—High Park, Lib.): It's a question. I'm trying to remember my Beauséjour, but is the member not filibustering the motion? Isn't there a limit to how much he can do that?

The Chair: We don't have any time limits. The committee would have to decide whether there are limits on how long somebody speaks.

Mr. Gerard Kennedy: In other words, there's nothing you can draw from to limit the filibustering of this motion?

Okay.

The Chair: Mr. Woodworth.

Mr. Stephen Woodworth: Mr. Chair, I have a point of order over the comments that were just made. Quite frankly, I thought we were starting out on the right foot when we spoke earlier about respecting members and not impugning their motives.

I want to contain myself a little bit, but to suggest that I am filibustering when I am raising legitimate points of debate impugns my motives, and if there is a point of order that says that a member ought not to impugn motives, then I wish to raise it now in response to the comments of the member opposite.

It's fine for him to say so, if he wants to move a motion that we should cut off debate, but for him to suggest that I'm not raising legitimate points of debate and am simply filibustering is an impugning of my motives, and I believe that is contrary to parliamentary procedure.

• (1725)

The Chair: I'd ask, Mr. Kennedy, that you retract your statement about Mr. Woodworth. We all know that Mr. Woodworth has always done a great deal of research and has taken care in his presentations to committee.

We are in debate mode. I'm not going to censor members, but as I said, we don't want to impugn anyone's reputation. I would ask that you not imply that Mr. Woodworth is doing something that is considered unparliamentary.

Mr. Gerard Kennedy: Mr. Chair, if I may, I'll simply say that I don't want to impugn the motives of the member opposite. I thought it was a fair question to the chair about the provisions for speaking long.

I don't take...and I'm taking this from my experience in the provincial house, that filibustering is allowed, in fact, under many things. You're telling me, too, that speaking to a motion here, there is no time limit, and that's essentially the inquiry that I made.

I want to unreservedly say that I draw no reference to impugning the member's motives or his intentions in speaking. The characterization I made was merely a technical one about what the committee's limits were, and I learned there were none.

The Chair: Mr. Woodworth.

Mr. Stephen Woodworth: I simply do not accept that, unless of course my friend, who I think knows better, does not understand the meaning of the word filibuster.

As I understand the meaning of the word filibuster, it is a reference to someone speaking just for the sake of speaking, to fill in time. I clearly heard him accuse me of doing that. That is not my intention, and this does impugn my motives.

I do not accept his comments, and I ask the chair to rule.

The Chair: Essentially, if Mr. Woodworth had been talking for two hours already, I might agree with you. But he hasn't. He has only had the floor for about ten minutes, and he has been going quite systematically through the motion and presenting testimony.

I would ask that you retract the statement. If you want to talk about time limits and whether or not the committee has a time limit in place, I'd ask that this be the question, and without accusing the member of being in a filibuster.

Mr. Gerard Kennedy: Mr. Chair, I'm in your hands. If you believe it impugns his motives, on those grounds—because on no other grounds would I withdraw—

The Chair: I'm going to side with Mr. Woodworth on this. I would just ask that you withdraw the statement.

Mr. Gerard Kennedy: I will happily stay within parliamentary bounds. I unreservedly withdraw the comment. I appreciate your answer, Chair.

The Chair: Thank you.

And then I'll—

Mr. Gerard Kennedy: We are in your hands, Mr. Chair.

The Chair: We don't have any standing orders or any routine motions limiting debate, but it doesn't prevent committee from adopting one in consideration of any motion or bill.

Ms. Linda Duncan: Mr. Bezan, I have a point of order, which I did not raise previously—until this discussion.

At the very beginning of Mr. Woodworth's comments, he specifically impugned a poor motive on my behalf in defining a particular provision in my bill. I found it very offensive.

Mr. Stephen Woodworth: I'll retract it. I apologize.

Ms. Linda Duncan: Thank you very much.

The Chair: The retraction and apology are accepted.

Moving on, let's resume, Mr. Woodworth.

Mr. Stephen Woodworth: Thank you.

I confess that I was reading between the lines, based on what I know of Ms. Duncan's experience and expertise in this matter. If she indicates that the omission of those words was not intentional, I certainly cannot challenge that, and I apologize to her if, by suggesting it, I offended her; it was not my intent.

I'm sorry, I did not intend it in an offensive way; I simply assumed that in fact it was a conscious decision on your part.

Ms. Linda Duncan: Apology accepted.

Mr. Stephen Woodworth: Thank you.

In any event, the point I was about to move to flows from the first point of Mr. Warawa's motion, and that is that the bill will enable any resident of Canada to challenge any regulatory standard at any time, thereby trumping the existing regulatory process and creating regulatory and investment unpredictability.

In fact, I think it would be a fair characterization to say that almost all, if not all, of the industry representatives—

● (1730)

The Chair: I have to interrupt you, Mr. Woodworth. The bells are ringing. It is our scheduled vote.

With that, it is my duty to adjourn the meeting. We'll continue on at a later date.

Mr. Mark Warawa: On this motion?

The Chair: On this motion. We'll come back on the motion.

We are adjourned.

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