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Chair

Mr. James Bezan

Standing Committee on Environment and Sustainable Development

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● (1530)

[*English*]

The Chair (Mr. James Bezan (Selkirk—Interlake, CPC)): We'll call this meeting to order.

I see Ms. Duncan with her hand up.

Ms. Duncan.

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Mr. Chair, I've circulated a motion that I wish to put before the committee before we proceed to clause-by-clause. May I read the motion to you?

The Chair: Please read the motion.

Ms. Linda Duncan: I move:

> That the Committee, in conducting its clause by clause review of Bill C-469, An Act to establish a Canadian Environmental Bill of Rights, allocate a maximum of five minutes per recognized political party for debate in relation to consideration of each clause or amendment.

May I speak to my motion?

The Chair: You can speak to the motion, please.

Ms. Linda Duncan: Mr. Chair, I think it's really incumbent upon us as a committee to be moving forward on the agenda of priority matters that we've agreed on, a number of which have been referred to us by the House of Commons. The bill that's currently before was referred to us by the House of Commons, and we have a number of matters referred to us that are languishing.

We have not completed a review of the endangered species act, and we have not begun the review of the Canadian Environmental Assessment Act. A number of other matters will come before us. As I understand it, the commissioner will report on Wednesday. We seem to be bogged down.

I had agreed that my bill would proceed after Mr. Woodworth's bill and we expedited that. I think this is the most efficient and fair way to proceed with the bill.

The Chair: Thank you.

Mr. Warawa.

Mr. Mark Warawa (Langley, CPC): Thank you, Chair.

Quite frankly, I am shocked by the motion. I guess the first question I have for you would be whether or not a motion like this in order, on the grounds that Bill C-469 is Ms. Duncan's own bill, which she introduced in the House and which has now come to committee to be debated. Is it appropriate for her to move a motion to stifle debate?

The Chair: I'll respond to that. On that point, there is a paragraph on page 758 in chapter 16, “The Legislative Process”, in our rule book by O'Brien and Bosc. Under “Length of Speeches”, it says:

> A committee itself may also limit the time it devotes to consideration of a bill by adopting a motion to that effect. Such a motion may be debated and amended. A committee may also adopt the equivalent of a time allocation motion, allotting time for the examination of each clause, or terminating consideration of a bill at a particular time or date. Motions have also been adopted suspending consideration of particular bills until certain conditions have been met.

Mr. Mark Warawa: So the bill is in order?

The Chair: The motion is in order.

Mr. Mark Warawa: Oh, the motion is. Well, thank you, I appreciate that clarification.

So Ms. Duncan's motion is in order, but ethically.... I don't question her motives, but to me it appears to be in the form of a conflict in that on the one hand it's the responsibility of Parliament to debate this bill, Bill C-469, and to hear from witnesses.

And we should have heard from first nations. We've said that. We've now had a deluge of additional briefings and Ms. Duncan unfortunately doesn't want to hear from them, it appears: doesn't want to hear from first nations and doesn't want to hear from witnesses. This deluge of e-mails and briefings we're getting is again reminding Canadians how bad Bill C-469 is.

Chair, the other irony in this, besides the NDP trying to stifle debate and hearing from other Canadians, from other witnesses, is that it's the NDP that stopped SARA, the Species at Risk Act, with the help of opposition members. We had, I believe, a responsibility to do that. My recommendation was that we finish SARA—

Ms. Linda Duncan: On a point of order, Mr. Chair, I tried to be very careful in not talking about what was decided in camera, and I think Mr. Warawa is sliding into a discussion of the details of the agenda, which was done in camera.

Mr. Mark Warawa: I will be very careful not to share anything that was in camera, Chair. I am sharing my own lament, with no details—

The Chair: Mr. Warawa, I would suggest that your lament respect in camera discussions.

Mr. Mark Warawa: Chair, what I would like to clarify is that I lament that we are not finishing SARA. I think we had a moral responsibility to finish that, but we haven't. We've moved on to Bill C-469 and now I think the record will clearly show that we have opposition members repeatedly interrupting as important points are being made.

We have had interruptions using the tactic of points of order and stall tactics, so it's been quite disheartening, and now we have this motion. To say there should be an allocation of "a maximum of five minutes per recognized political party for debate in relation to consideration of each clause or amendment" is just unrealistic.

Ms. Duncan has one member, Chair. One member—so what she is proposing that she would get five minutes. Now, on this side of the table, we have me and my four colleagues. We have five members. So she is suggesting that we would share those five minutes. She is suggesting that the Liberals would share their five minutes and the two Bloc members would share their five minutes, but she would have the sole five minutes, because there is only one person, herself, from the NDP. It seems patently unfair and impractical.

If there were a fairer way of dealing with this—for example, if she wanted to say that we limit it to five minutes per individual—I think that would sell around here in the spirit of fairness, if she wants to move things along, but that may not be realistic either. I look forward to hearing from other members around this table on whether or not five minutes would be adequate.

But in the spirit of fairness—and again, I hope this was not a deliberate attempt by the NDP to stifle healthy debate—I would move an amendment to her motion that the five minutes be "per member" instead of "per recognized political party". That would be my amendment.

● (1535)

The Chair: So we have an amendment on the floor for debate: that we change "per recognized political party" to "per member".

Mr. Warawa, do you want to speak to the amendment?

Mr. Mark Warawa: Thank you, Chair.

I have shared some of our concerns, particularly last meeting's concerns about the development and lens through which that needs to be looked at. I was very concerned that Bill C-469 would change all of the good work of Parliament, both in this House and in the Senate, in passing through—with unanimous support—a definition of sustainable development, a strategy, and an act.

What we saw last Thursday, Chair, shockingly, was the NDP voting against the motion in the House and opposing sustainable development. They were the only party that did that.

But I have to give them credit, in that they are being consistent. They want to change the definition of sustainable development through Bill C-469, but they also voted against sustainable development in the House, so there appears to be a plan by the NDP regarding sustainable development or the extinguishment—

Ms. Linda Duncan: On a point of order, Mr. Chair, the same as the point of order that had to be raised in House.... Mr. Warawa raised this point in the House. He is not delivering what actually was voted on: we did not vote against sustainable development.

The Chair: Mr. Warawa, to that point—

Mr. Mark Warawa: Was that a point of order, Chair?

The Chair: I think it's a point of debate and a recollection of how people represent the facts. It doesn't have anything to do with the Standing Orders, I can tell you that—

Mr. Mark Warawa: Well, can I respond to that point?

The Chair: Yes, you can respond on that point of order.

Mr. Mark Warawa: Thank you, Chair.

This is what was voted on in the House of Commons on December 1, last week, Chair. It was that:

> The House resumed from November 29 consideration of the motion that Bill S-210, An Act to amend the Federal Sustainable Development Act and the Auditor General Act (Involvement of Parliament), be read the third time and passed.

This was the vote:

> The House will now proceed to the taking of the deferred recorded division on the motion at third reading stage of Bill S-210 under private members' business.

Now, Bill S-210 was dealt with in here, I think, in a one-hour meeting. Thanks to Mr. Woodworth and his good work and that of the Senate, it was passed unanimously. Then, when the Federal Sustainable Development Act actually came to a vote, they voted against it. The only nays listed in *Hansard*, Chair, are all of the NDP members. So I'm not quite sure what Ms. Duncan is trying to do in distorting the facts.

The Chair: We are on the facts, but let's get back to the amendment.

Mr. Mark Warawa: Okay.

Chair, that was my concern in speaking to the five minutes for everybody. I think I have a responsibility to bring my points to the attention of members around this table and to make sure I make my points in an efficient way and not speak for long periods of time, but also, when something is important, I should have an opportunity to speak to those around this table.

With Ms. Duncan's motion saying that I should not be able to, that it has to be shared, with five minutes for all of us, is patently unfair. I think the motion speaks for itself. Having the fairness of five minutes would hopefully achieve what she's trying to propose, but in a fair way.

● (1540)

The Chair: On the amendment, I have Mr. Woodworth, Mr. Armstrong, and then Mr. Blaney.

Mr. Stephen Woodworth (Kitchener Centre, CPC): Before I begin, Mr. Chair, may I inquire about something?

I assume that as and when the amendment is disposed of, we'll return to the speakers list—

The Chair: We'll return to the speakers list on the main motion.

Mr. Stephen Woodworth: So I'm not going to try to get into comments that I would have made on the main motion. I'm going simply going to speak to this amendment.

The Chair: No, it's specific as to the time limit per member versus per party.

Mr. Stephen Woodworth: Thank you.

I do want to say that I support the amendment that we should be dealing with this on the basis of members rather than parties, but even if the motion were amended in that fashion, I would still oppose the motion. Among other things, I don't think that five minutes is an adequate period of time, but I'll reserve those comments.

I would like first of all to mention that, as I understand the committee structure, although clearly we try to maintain solidarity with our caucus colleagues, we are here as individuals. Although we might try to work out how we're going to do things, it's extremely problematic to sit down and figure out that person A is going to speak to this point, person B to that point, and person C to this point.

In point of fact, we all have different ways of expressing ourselves, and we all have a valuable contribution to bring, in my opinion. It is, in a way, an infringement upon our rights as members that we should be forced by the motion before us, without the amendment, to be speaking as a bloc. In fact, there are those who would say that we shouldn't even always vote as a bloc. To have to speak as a bloc is nearly impossible.

I also want to say that there is some relevance here to what happened in the House regarding Bill S-216. It may be a good illustration of how sometimes parties and people don't apply themselves consistently.

I recall the closing hour of debate on Bill S-216. Quite frankly, the NDP member spent a great deal of time, instead of speaking about Bill S-216, speaking about Bill C-311, and clearly wasn't even adhering to even the smallest modicum of relevance in that debate, but was simply talking, I suppose, to fill time or maybe to hear her voice. I won't speculate as to her motives, but in any event it was to me quite distressing, as the mover of Bill S-216, to hear time being used on that debate to talk about Bill C-311. Of course, then it was necessary for me to respond to those comments on Bill C-311, and it just derailed the whole debate.

In the interest of maintaining our rights and privileges as individual members, I think we should be dealing with this on a per member basis.

The other thing I'd like to say, Mr. Chair, is that it has occurred to me from time to time that sometimes members—and I won't point the finger at just the opposition—think debate is unnecessary because they come to a table like this with their minds made up. Sometimes I'm as guilty as anyone of coming in with my mind made up.

Even if we have our minds made up, Mr. Chair, I think it still behooves us to stop, listen, let others speak, and hear what they have to say. Who knows? Some minor miracle may occur and we might change our mind along the way. If we come at it from the point of view that our minds are made up, well of course, then, even spending 60 seconds a person to let your opponent speak is too much, because we already know what we're going to do and we might as well move right to it.

In any event, I mentioned that even given the current amendment, I would not be able to support this motion. Quite frankly, I find the motion offensive generally. In an effort to try to improve it a little bit, I would like to propose a subamendment to the existing amendment that is on the floor, and that is to lengthen the time to 10 minutes per person.

May I speak to that amendment, Mr. Chair?

● (1545)

The Chair: That would be an amendment to the main motion, not to the subamendment, so it would be—

Mr. Stephen Woodworth: —out of order for now?

The Chair: It's out of order for now. If you want to go back to that down the road, you can.

Mr. Stephen Woodworth: All right. In that case, I'm finished speaking to this amendment, Mr. Chair.

The Chair: Mr. Armstrong, then Mr. Blaney, then Ms. Murray.

Mr. Mark Warawa: Chair, on a point of order, am I hearing from you instruction from the clerk that an amendment cannot be amended? Is that what you are saying?

The Chair: No, no. If he were doing a subamendment on the amendment, I'd allow it, but the thing is that the amendment kicks in after “per”, taking out “recognized political party” and adding in “member” in place of those three words. So what you're doing is going back to the main motion, changing the time limit from five to ten, and for that reason, it's an amendment, not a subamendment.

Is it clear?

Mr. Mark Warawa: Got it. It's clear.

The Chair: Okay.

Mr. Armstrong.

Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC): Thank you, Mr. Chair. On the amendment, I'm very concerned about this motion, and I'm going to speak in favour of the amendment. The reason I'm going to speak in favour of the amendment is that I believe that—

The Chair: We're on the amendment.

Mr. Scott Armstrong: I'm on the amendment.

The Chair: We're not on the time; we're talking about who gets to talk.

Mr. Scott Armstrong: I'm speaking in favour of the amendment because I'm quite concerned about representation of people, particularly on the Atlantic coast. If you look around the table, this committee is very fortunate that we have representation from every single province in this country—with the exception of Prince Edward Island, Newfoundland, and New Brunswick. As the only member on this committee from the entire Atlantic region, to be limited to one minute—that's if I get a minute, after my colleagues finish speaking—on every amendment and every clause, I think that's inherently unfair.

You are disenfranchising a huge part of this country and a part of this country that has a huge concern about this particular bill because of our recent deal between Newfoundland and Nova Scotia, our recently announced project for tidal power, which takes place in my riding. This bill could significantly impact the future of Atlantic Canada. I cannot sit here and support something that will limit Atlantic Canada's voice on this bill, a bill that is inherently strong and will impact, possibly negatively, the whole future of our region.

And as far as I know, Canada is still a democratic country. To give one member of a committee five minutes and to give our entire region one minute on every single clause and every single amendment I think is inherently unfair. Therefore, I'll be supporting this amendment.

The Chair: Mr. Blaney.

[*Translation*]

Mr. Steven Blaney (Lévis—Bellechasse, CPC): Thank you very much, Mr. Chair.

First of all, I must say that I am shocked by the motion on the table. Although the motion has been made by the New Democratic Party, it seems totally undemocratic and totally irresponsible to me, removing as it does the right of members of this committee to speak.

As a Quebecker, I can provide a very specific example. You will remember that, in his testimony at one of the first sessions, William Amos, from the University of Ottawa, raised some major problems with two clauses of Bill C-469. First, he mentioned clause 23, which could expose Hydro-Québec to lawsuits. The same witness also said that clause 16 of the proposed federal bill would allow injunctions to be brought against Hydro-Québec's activities.

Mr. Chair, do you think it makes sense to have no more than a minute to speak to amendments that are so significant and so fundamental that they are shaking the foundations of Canadian environmental law? I see that as quite irresponsible and, frankly, I have to say that members would appear completely ridiculous.

Clearly, I support Mr. Warawa's proposed amendment, not only because it is important for all members to have their say, but also because it is important to study this motion in the context of the time that members will be allowed to give their opinion on other motions to come.

I have some other comments. Some remarks have suggested that members on this side do not trust industry. I have to tell you that nothing could be further from the truth. We have a good deal of trust in industry. We are studying this bill with an open mind.

For example, we could mention the Conseil patronal de l'environnement du Québec, CPEQ. It was founded in 1992 by representatives of the major industrial and business sectors in Quebec. CPEQ's mission is to represent its members' interests on environmental and sustainable development matters…

● (1550)

Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ): A point of order, Mr. Chair.

[*English*]

The Chair: Monsieur Bigras has a point of order.

[*Translation*]

Mr. Steven Blaney: I can come back to this, Mr. Chair.

Mr. Bernard Bigras: Really, Mr. Chair, if we moved to clause-by-clause study, we could perhaps discuss this. But I think that we are significantly moving away from the motion before us. At the moment, we are discussing the time allowed per clause and per motion.

So I would invite the hon. member to go back to the crux of the motion.

[*English*]

The Chair: I have to agree with Monsieur Bigras that you have to speak specifically to the subamendment: it's members versus recognized political parties. You cannot start talking about clauses that haven't been tabled yet or that we haven't discussed yet at committee. You cannot get ahead of yourself and guess what the outcome of those debates are going to be. You have to stick specifically to the subamendment.

[*Translation*]

Mr. Steven Blaney: Thank you, Mr. Chair.

As you know, I did not mention amendments, but a number of clauses in the bill before us, clauses that have consequences…

[*English*]

The Chair: Even with the clauses, we can't debate that right now.

[*Translation*]

Mr. Steven Blaney: I do not want to debate them. The witnesses actually came to tell us that those clauses were extremely damaging and harmful for industry, hence the importance of making sure that all members have a chance to speak. I go back to clauses 16 and 23, which both directly affect Hydro-Québec. I feel that it is extremely important for me not only to be able speak on this bill, but also, above all, to be able to amend it.

That said, I would just like to point out that, at the last several meetings I have attended, dilatory motions and all kinds of underhanded tricks from the coalition parties have been preventing us from expressing our opinions on the real issues. Statements have been made here about Ontario's Environment Commissioner. Witnesses have made statements that we have not been able to debate because we are always dealing with frivolous points of order that prevent us from dealing with the basics of the bill.

So I support Mr. Warawa's amendment and I hope that we will be able to amend this motion to make it acceptable to the committee.

[*English*]

The Chair: *Merci.*

I have Ms. Murray, Ms. Duncan, and Monsieur Benoit.

Ms. Murray, you have the floor.

Ms. Joyce Murray (Vancouver Quadra, Lib.): Thank you, Mr. Chair.

I think this notice of motion reflects the point that this is an important bill. There needs to be real discussion to get it right. No member around this table is ignoring the importance of the perspective of the business community, the perspective of the environmental community, or the public. I think we want to get it right so that this is a good piece of public policy. But the reason this motion was required is that this hasn't been the tenor of the debate from the Conservative side, frankly.

I pointed it out in the last meeting. There were five members who were repeating the same points that their colleagues had just made from the same talking papers, again and again and again and again taking up major amounts of time without saying anything very different from each other. There was also a disrespectful tenor to the commentary, which required other members to bring forward points of order for rulings on what were experienced as disrespectful comments.

As Ms. Duncan said, this motion is to reflect that this committee has other points of business it wants to consider. When the Conservative members' use of a plethora of procedural tactics to frustrate getting to clause-by-clause debate failed, thus absorbing hours of this committee's time, then the Conservative members started to have a not-to-the-point discussion on clause 3. Those kinds of tactics are why we need this motion to have a limit to the timed discussion.

On clause 3, for example, and the discussion by Mr. Warawa about the principle of sustainable development, those would have been very appropriate points to make in clauses 11, 12 or 13 on whether the substance of those clauses really adheres to this principle. Or it could have been a discussion about whether that principle should or shouldn't be in there, but in fact the member argued that we need the principle of sustainable development because otherwise this bill is too much about the environment, so in fact he was arguing for that principle being a principle in the bill.

He then went on for another 20 minutes on things that were completely not to the point of whether that principle should be in there or not. He'd already stated we need the principle of sustainable development with the economic, social, and environmental aspects because of his fears of the bill being one-sided. It was absorbing a big chunk of a meeting on something that was misplaced, and it was experienced by members on this side as a deliberate attempt to frustrate progress on this debate. That's why we need to limit the time.

I'm going to argue that five minutes per party may not be appropriate. I think that having a per-person time period is a more appropriate way to go.

But when I hear the word “anti-democratic” with respect to putting on some limits so we can get through the substance of our debate and onto other business and do the best possible job, as opposed to what we've been experiencing with the frustration of the ring around the rosy of “black is white, no, white is black” coming from the Conservative members.... We need a way to move on. I support there being a time limit.

Thank you.

● (1555)

The Chair: I have Ms. Duncan, Mr. Benoit, Mr. Woodworth, and Monsieur Bigras.

Ms. Duncan, you have the floor.

Ms. Linda Duncan: Well, Mr. Chair, I won't be able to say what I really wanted to say, which is that we should call the vote, since nobody else had their hand up, but....

I have observed the workings of this committee, as has everyone else around this table, and as has the public, because these proceedings are occurring in public. We have a lot on our plate. We have a lot of things that various members of the committee are recommending should come before this committee that we don't have a hope now of getting into probably even in 2011. I find that really regrettable.

I have put forward what I thought was a constructive proposal. I'm not averse to other people's proposals, but I am the one who put forward a proposal that seemed amenable to a number of people at the time. I think that if all members of this committee were really sincere that they wanted to move on and expedite the review, they would move on and simply call the vote on the amendment.

I am willing to give up time allotted to me to discuss my own bill in order to move on to other matters. It's very clear that the Conservative members are not going to vote for this bill in the House —it's pretty clear where they stand on this bill—so the objective of dragging out the discussion is simply dragging out the discussion.

I am bending over backwards to try to expedite what I think could be a constructive review of the bill. A number of members have tabled amendments that I think are very constructive, and I look forward to moving on and discussing those.

I'm putting that forward, and if one of the other members who put their hand up wishes to follow on my suggestion, or withdraw their question, I would welcome to that.

The Chair: Mr. Benoit.

Mr. Leon Benoit (Vegreville—Wainwright, CPC): Thank you, Mr. Chair.

I've seen this tactic quite a few times before, particularly on the part of the NDP. By bringing this motion forth and using this kind of tactic, they're eliminating fairness at this committee. That's what has happened in the past.

What shocks me is that we see the Bloc sitting there with two members, and they're not arguing with Ms. Duncan—

The Chair: Mr. Bigras is on the list.

Mr. Leon Benoit: Okay, but so far I haven't heard any objection to this motion. We're dealing with the amendment right now. If this were to be supported by the opposition and pass on a per-member basis, each Bloc member would only be worth half as much on this committee when it comes to debating the issue, each Liberal member only a third as much, and each Conservative member only a sixth as much as the NDP member.

● (1600)

The Chair: There is a point of order.

Ms. Linda Duncan: Are we not debating the subamendment right now?

The Chair: I believe that's what he's getting at.

Ms. Linda Duncan: The subamendment means that every member would have five minutes.

The Chair: Let's talk to the amendment and the benefits of having it be per member versus per political party. I know that's the point you're trying to get at.

Mr. Leon Benoit: Exactly. I'm speaking to the amendment. There is no subamendment on the floor right now; it's the amendment.

The Chair: Mr. Warawa has a point of order.

Mr. Mark Warawa: Chair, we're having repeated interruptions by the NDP. I would ask you to rule if it's appropriate for them to keep on interrupting. We listened quietly as they made their presentations. We've been polite, yet we hear heckling and interruptions. Is that appropriate?

The Chair: I believe that Ms. Duncan has raised a few points of order, and she's definitely free to make those points of order. I will rule on them. I'm not going to censure anyone if they're making legitimate points of order based upon the rules that govern us.

Mr. Benoit, you have the floor.

Mr. Leon Benoit: Thank you, Mr. Chair.

I wonder how members of this committee are going to justify this to their constituents, especially members who really care about the environment. I wonder how they are going to justify to their constituents that they supported a motion that would give the three of them together, in the case of the official opposition, only as much as one NDP member; or in the case of government, one-sixth as much time. To me, this is really repulsive and certainly not democratic. I will support the amendment, but I can't support the motion as amended, because it still limits debate in a way that I see as being unfair.

I assume that this has been debated for three months or more at committee. I understand why people would be getting tired of it. I'm not a member of the committee, but it must have been debated before for this kind of tactic to be used. It must have been going on for some time. I understand the impatience on the part of those who support the bill, but this is supposed to be a democratic place. Let's allow the debate take place and not fetter it with some kind of time allocation that simply isn't fair.

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

Mr. Stephen Woodworth: Thank you, Mr. Chair. I'm somewhat on the horns of a dilemma because, quite frankly, I enjoy and appreciate listening to Ms. Murray's interventions. Whether or not I agree with them, I think she expresses herself clearly, and actually, I find that she and I at least speak the same language.

The problem is that when Ms. Murray says things that I believe are not accurate or are not well placed, I have an option. I can just sit here and take it silently, or I can speak up and try to make the point that she may not be perceiving things at least the way I do, if not, perhaps, correctly. Quite frankly, Mr. Chair, I think it's my duty as a legislator and a conscientious member of Parliament to speak up and see if we can have a dialogue. And who knows? Maybe we can try to achieve some understanding, if not today, then over time.

Just to begin with, to give you an elementary example, I know that it was not deliberate of Ms. Murray to do this, but in point of fact, when speaking to the amendment that is before us, she spent most of her time talking about the main motion before—I think—she finally said that she would support the amendment and that it might be appropriate to do this on a per-member basis rather than a per-party basis. Now, that point she could have made in 60 seconds. The rest was good to hear, but it really didn't have to do with the amendment. It had to do with the main motion.

Now, we all do that, and it's very difficult to discipline ourselves not to mix things up in that way. I'm not trying to be too critical, but I'm saying that this is an example of why we need a little bit of leeway in our discussions.

Regarding Ms. Murray's suggestion that it's somehow inappropriate to talk about a motion limiting debate to five minutes per party as being undemocratic, I'd like to quote from former Speaker Fraser. These are comments he made on April 14, 1987, and I think this quote is germane. I'm honestly not trying to elongate things. He said:

> It is essential to our democratic system that controversial issues should be debated at reasonable length so that every reasonable opportunity shall be available to hear the arguments pro and con and that reasonable delaying tactics should be permissible to enable opponents of a measure to enlist public support for their point of view.

So we might disagree about how long it takes to make reasonable points, but I don't think I would disagree with Speaker Fraser that it's a democratic thing to give people reasonable time. Conversely, if we think that five minutes per party is not reasonable time, I don't think it's wrong or inappropriate to say that it is an undemocratic measure.

With respect to Ms. Murray's comments that the Conservatives have raised a plethora of procedural tactics, quite frankly, you know, if Ms. Murray wanted to say that the Conservatives have taken too long to explain their point of view, that would be a legitimate thing to say, but I can't think of a single procedural tactic that the Conservatives have raised. We had a motion at the outset to set aside the debate on this whole bill, and that seems like an appropriate time to make such a motion. And then along the way, Mr. Calkins moved a motion that we should hear from more witnesses, but I don't think one can say that these are procedural tactics.

What I would describe as procedural tactics are the continued points of order that have come not just from the NDP member but from other parties as well. I would include the heckling that has gone on from across the table here as a procedural tactic to shut down debate. I would include the procedural tactic of adjourning debate. I have been here two years. I've never seen that done, and I'm sure that the opposition must have a handbook out there on procedural tactics to shut down debate.

So my point of view is completely different from that of Ms. Murray. I think it has been the opposition, not the Conservatives members, who have been adopting tactics.

● (1605)

By the way, when I say that, I realize that I'm guilty of a misstatement, and it's one that I often dislike when it's applied to me. I shouldn't really say “the opposition”. I should say “some members of”. Even if Ms. Murray wanted to say that some members of the Conservative Party have done this or that, that to me would be a more respectful way of putting it than to put everybody together in the same basket, because we are all here as individuals, and some of us, me included, I hope, are genuinely trying to have a debate.

Along the same lines, on Ms. Murray's comments about disrespect, if there is disrespect shown at this table, it certainly is not limited to the Conservative Party. There is plenty of that going around. I have to tell you that from my perspective on this side of the table, it is mainly coming from opposite me, but not from every member opposite me.

I just wanted to make those points in response to what Ms. Murray had to say.

Thank you.

The Chair: We'll go to Mr. Bigras.

[*Translation*]

Mr. Bernard Bigras: Thank you very much, Mr. Chair.

I will not take as much time as my government colleagues, but I can tell you that what we are hearing today is far from helpful.

As Mr. Warawa saw fit to quote from his encyclopedia, let me quote in turn from my dictionary. The definition of “dilatory“ is “describes an action intended to delay the outcome of a trial or the passage of a piece of legislation…“.

That is exactly why we have Ms. Duncan's motion before us today. Mr. Warawa is a gentleman, as, generally, all hon. members are. The problem is that those hon. members are falling in line with their party's petty strategy, as we have seen in recent sessions. This committee of Parliament is becoming less a forum for debate and change and more a partisan tool.

For two sessions—Mr. Benoît was not here to comment on the other sessions—Mr. Warawa has monopolized the time in order to talk about one single clause. if that does not meet the dictionary definition of “dilatory“ that I just quoted, I don't know what does.

In my opinion, each party's time must be limited. We want to work on, and possibly amend, the bill. The way to move the work forward is to limit the time.

In the last two years, the Standing Committee on Environment and Sustainable Development has in fact been noted for its endless study of the matters referred to it. The tar sands study and the Species at Risk Act are examples, and we are now doing the same thing with Bill C-469. And it's not the opposition that has decided to delay our work.

So I think we have to limit the time provided to each political party. That is why we are going to support Ms. Duncan's motion.

● (1610)

[*English*]

The Chair: Thank you.

Go ahead, Mr. Warawa.

Mr. Mark Warawa: I didn't want to interrupt my colleague across the way while he was talking. I appreciate his comments.

In the translation, I heard the oil sands being referred to as “the tar sands”. Is that a term the translators are using or is it a term Mr. Bigras used?

The Chair: That I would not be able to tell you.

Was it tar sands or oil sands?

A voice: [*Inaudible—Editor*]

The Chair: Oil sands.

Mr. Mark Warawa: Oil sands?

The Chair: Okay. So we have no other people speaking to the amendment. We are voting on the amendment to take out “recognized political party” and put in “member” instead. With that, I will call the vote.

(Amendment negatived)

The Chair: That is defeated, so we're back to the main motion.

Mr. Woodworth, you have the floor.

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

The place where I will begin is to mention that there are I think around 28 clauses in this bill, or something in that order, and they are not all equal. Clause 3, for example, is nine lines long, but it is preceded by a rather controversial and dangerous preamble, and it contains five very meaty concepts, some of which have never been seen before in Canadian law. I would find five minutes entirely insufficient to discuss that clause.

Then, when we address clause 2, for example, it actually defines 16 terms. As compared with the nine lines in clause 3, it is 152 lines long and packed full of concepts that in many cases are new to Canadian law. It seems to me beyond belief that we would, at any point, be able to have a discussion of these kinds of important, novel —extraordinarily novel—provisions in the space of 20 minutes and, indeed, to have any give-and-take or back and forth or potential for coming to any conclusions. It would be enormously difficult.

We might compare that with clause 7, which is only two lines long, which of course would probably not even require five minutes of debate.

I guess what I'm trying to say, Mr. Chair, is that a one-size-fits-all approach is inadequate, in the first place, to deal with a bill of this nature. I think we have to take our responsibilities seriously as members of Parliament, and I just can't conceive how some of these matters could be debated in five minutes.

I would like to say a little more about the motion at large, but rather than doing so, I will simply focus on the point I've raised at the outset: that five minutes per party are simply not feasible for discussing matters as important, as weighty, as complicated, and as novel as those contained in this bill. So I would like move an amendment to the motion. I'll put it as succinctly as I can and move that we replace the words “five minutes per recognized political party” with the words “10 minutes per member”.

My comments to this point, I will apply in support of that motion.

● (1615)

The Chair: Okay.

So you've moving an amendment to change it to read “10 minutes per member” versus “five minutes per recognized party”?

Mr. Stephen Woodworth: That is what I was trying to do earlier, but it was ruled out of order as a subamendment.

The Chair: Right. It was, but I'll accept it as an amendment.

Mr. Stephen Woodworth: Thank you.

The Chair: You may speak to that.

Mr. Stephen Woodworth: I won't really say any more about it, in that I've already mentioned the chief reasons.

The Chair: Okay.

There's a point of order by Mr. Bigras.

[*Translation*]

Mr. Bernard Bigras: A point of order, Mr. Chair.

It seems to me that we have already decided that each member will get five minutes. This new amendment tries to give each member ten minutes. We have already decided on the amount of time; this is trying to increase it.

If the hon. member were to propose three minutes per member, I might perhaps be in favour. But here he is proposing more time that the committee has already agreed on.

[*English*]

The Chair: Okay. The amendment is in order. If you wish to move that as a subamendment, you can when you get the floor.

With that, I have—

Mr. Stephen Woodworth: Mr. Chair, I was going to speak to the point of order—

The Chair: Right. But the amendment is in order, because we are changing it. It's a different philosophy.

With that, I have Mr. Blaney, Mr. Warawa, and then Mr. Benoit.

We're talking to the amendment that proposes 10 minutes per member.

[*Translation*]

Mr. Steven Blaney: Mr. Chair, I will show you that I am perfectly capable of making my point in two minutes.

I am astounded to see that my colleagues from the Bloc Québécois are preventing the members of this committee from expressing their opinion on such an important bill.

In fact, it directly affects 280,000 jobs, and 200 companies in Quebec and 26 associations are concerned by the vague nature of some provisions in the bill before us, by the excessive powers given to the courts and by the major legal uncertainly which may well be the result.

Mr. Chair, it is important for us to take the time we need and not to rush through such an important task. Of course I will be supporting Mr. Woodworth's motion, but I am appealing to members' common sense. Earth to the hon. members opposite! This bill has important consequences and this is not the time to be playing administrative games, as you might say.

Rather, it is the time to come to grips with the issue and the time for members to be able to speak on each of the clauses, especially the ones that are devastating and harmful in the extreme, in the words of the Canadian Hydropower Association.

So it is really important for members to show some guts, you might say, and demand to be properly heard on a bill of such significance.

Thank you.

[*English*]

The Chair: Mr. Benoit, and then Mr. Warawa.

Mr. Leon Benoit: Thank you, Mr. Chair.

I support this amendment to the motion, although again I don't know whether I would support the motion as amended. There's still the issue of allocating time, but we'll speak to that later.

It seems to me that this amendment would at least bring the debate somewhat into line with the way things happen in the House of Commons. Even when time allocation is brought in place in the House of Commons, I believe the normal speaking rotations apply. From my memory and knowledge, that's the case.

The speaking allocations in the House in fact are based on the number of members per party in the House, so they roughly reflect the per member presence in the House. Yet without this amendment, we'd have something quite different here at committee. All of a sudden you would have at committee a situation where each party is treated as equal.

Again on this proposed amendment, I just wonder how the Bloc members or the Liberal members could go back to their constituents and say that they agreed to a motion that would give the three of them the same speaking time as one member of the New Democratic Party, and three in the case of the Liberal Party, especially on an issue as important as an environmental issue. I think they'd have a hard time explaining that to their constituents.

When they're considering whether or not to support this amendment, I think they should really consider that and reflect upon how they may or may not be able to defend their actions here to their constituents. I really think they ought to take some time and think about that.

Certainly, if I were to go to my constituents at election time and say that when it came to this important environmental discussion, I agreed to a motion that gave me maybe one-sixth the speaking time of the NDP member, my constituents would be very unhappy about it. It's something that in good conscience I couldn't support and that in good conscience my constituents would question me on. I really wonder whether I'd be their MP if I were to support this kind of position.

Now the members across are laughing—some of them, not all. I don't want to reflect.... They know that issues dealt with at committee quite often never get back to our constituents, but even if that were the case, I still think they should really reflect on the fairness of this and how they would explain it should it get back to their constituents.

Mr. Chair, I would just say that I support this amendment, but I'd still have the same problem I had with the last amendment. I still don't see how I could support the motion even if it were amended in this fashion. I'll certainly consider it. I'll listen to the debate on this amendment and reach a conclusion after I hear the debate.

● (1620)

The Chair: Mr. Woodworth.

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

As I was contemplating this issue, I realized that some of the comments I would like to make regarding the motion apply to the amendment also. I got a little concerned in thinking about it in that if I didn't put my hand up and make them now, in fact, there might be some procedural tactic employed to shut down debate on the motion later, and I won't get my chance to make these comments.

So because my comments really apply overall to the question of how much time we should spend debating Bill C-469, I'm going to make them now.

I'll mention that I've now sat on this committee for well over two lovely and enjoyable years, and I cannot think of any time in the last two years or so when we have been faced with a motion like this to shut down and limit debate.

Historically, we have had a lot of lengthy debates on this committee. There were many times when I might have wished that I could shut down debate, but it would never have occurred to me to do that, because I do respect the right of members and in fact the duty of members to speak their mind. In fact, I don't think that in the two years that I've sat on this committee I have ever seen a Conservative member move for a limitation of debate.

I think the question has to be asked: why now? Why, after two years of considering a great many important bills, like Bill C-311—not important because I agreed with it, but important because of the consequences it would have inflicted on our country—like the SARA study, and like the oil sands and water study? During the hours and hours we spent debating those things, never once did anybody suggest that we should limit our comments, presumably because we all wanted to have a full and fair debate that the public could listen in on. I think that's the way that we should operate.

So why now would the NDP member want to stop debate on her bill? Is it because she doesn't want people to know how bad this bill really is? Is it because she doesn't want some of the problems that are inherent in this bill to be exposed to the light? We have had literally pages and pages of submissions. We have had hours and hours of testimony. Why would the NDP member want to straitjacket our debate at this time, rather than letting people express themselves?

Even when we don't agree with ideas, and in fact especially when we don't agree with ideas, we should let them be heard and let people decide for themselves. If you don't, if you try to shut down debate, if you try to hide the facts and opinions, you leave yourself open to the accusation that your bill is flawed because it didn't cover all the bases.

I heard someone say that this is an important bill and that's why we should truncate debate. I would say that it's just the opposite: this bill is so important that we owe it to Canadians to have a full hearing and to take the time to understand what the terms in the bill mean, what the implications are, and what the legal aspects are. It's important because there are jobs at stake. There is development at stake.

● (1625)

I've heard people say that this is just about industry, but the reality is that it's not just industry that will suffer as a result of this bill. There are hunters, there are trappers, there are people who want to build houses, and there are people who want to rehabilitate their land. All of these people are going to be affected by what's in this bill and, quite frankly, they won't know what any of it means because I'm willing to bet that most of the people around this table don't know what most of it means.

I will mention one specific issue that bothers me a lot. Every time I look at this bill, I see something new. When we come to discuss clause 3 of the bill, I'm going to point out that it says this bill has to be interpreted in accordance "with existing and emerging principles of environmental law". Well, who around this table knows what "emerging principles of environmental law" means? I venture to suggest that the drafter of the bill doesn't know what "emerging principles of environmental law" means.

I'll reserve the rest of my comments...well, actually, I won't have the time. I won't have the time to talk about my concerns, because if this motion passes unamended, at most I will have five minutes to speak for the whole Conservative Party.

So maybe I should just take a moment and say, for example, that I don't know whether that means principles of law that are emerging today when we pass the bill, or principles of law that are emerging when a matter happens to get to court, whether that's five, or ten, or twenty years from now.

I don't know whether it means principles of law that are emerging in Canada or whether it means principles of law that are emerging in North America, or indeed, whether some Hungarian environmentalist can propose a principle and this bill will need to be interpreted in accordance with that. In fact, I don't know whether it means principles of law that are emerging only in the courts or also academically.

It really behooves us as legislators when we pass laws to pass them with sufficient precision such that everybody knows what we mean. And it doesn't even help, quite frankly, if all of us around this table know what we mean, because you have to be able to read a law and know what it means.

I can guarantee you that no one will know what it means when we say, “emerging principles of environmental law”. At the very best, this is what I would describe as a lawyer's nightmare—or maybe it's an environmental lawyer's dream, because that clause can mean whatever you want it to mean.

There's a line from *Alice in Wonderland* to that effect. I don't know if it was the Red Queen...it might have been Humpty Dumpty who said, “Words mean what I say they do”. The point is that “emerging principles of environmental law” has no meaning and all meaning, and that concerns me.

And as I mentioned a moment ago, every time I put my eye to paper and look at this bill, I see something more like that, which gives me great concern. I have taken a little bit of time to speak about that particular one because if Ms. Duncan's motion passes—in fact, even if it passes with the amendment that I have proposed—there won't be enough time to talk about all of these issues. We would be delinquent, derelict, and shamefully disregarding our duties as legislators.

Thank you very much.

● (1630)

The Chair: Ms. Duncan, you have the floor.

Ms. Linda Duncan: Mr. Chair, I move to suspend for five minutes because I think we might be able to work this out off-line.

The Chair: We have a motion to suspend the meeting. All those in favour? Opposed?

(Motion agreed to)

The Chair: We are suspended.

● (1630)

(Pause)

● (1645)

The Chair: We're back in session.

Ms. Duncan had the floor.

Do you have any final comments, Ms. Duncan?

We're still working on the amendment. I have Mr. Ouellet, Mr. Scarpaleggia, Mr. Blaney, and Mr. Warawa.

Do you have any final comments, Ms. Duncan?

Ms. Linda Duncan: It's my turn?

The Chair: You had the floor when you asked for suspension.

Ms. Linda Duncan: I'm willing to pass, move on, and expedite the vote on the amendment and the motion.

The Chair: We'll move on.

Monsieur Ouellet.

[*Translation*]

Mr. Christian Ouellet (Brome—Missisquoi, BQ): Mr. Chair, when I asked to speak just now, I knew what I was going to speak about. But I have to tell you that, given the way the meeting is going, I frankly no longer have any idea what I want to say. I apologize, but I still have some comments to make.

First of all, Mr. Chair, the amendment that you accepted, is barely in order, in my view. It is the same as the previous one, with the number of minutes changed. Nevertheless, you accepted it.

What I find most ironic is to hear government members telling the committee to speak up more. I personally do everything in my power to limit my remarks, so that we do not waste time and so that the committee ends up accomplishing something. I find the irony hard to believe.

We can always debate for the sake of debate, but I am not used to that. My training did not teach me to debate just for the pleasure of hearing the sound of my own voice. I am not a lawyer, I am an architect and a university professor. As a professor, I know that you have to make your point quickly because, after three minutes, students are not listening any more and no longer understand what you are saying. It has to be the same for other people too.

People have talked about the democratic principle. Personally, I look at what happens in the House of Commons, where not everyone speaks. Every member from every party does not have to be on their feet for ten minutes talking about a bill. Anyway, the ten minutes is to speak to a bill, which is a bigger subject than speaking to a clause for five minutes. It is also the case that the people who speak are the ones chosen to do so. Why would we not do the same thing in committee?

By the way, no one ever said that each member would have to speak, even for a minute. We just have to pick the best spokesperson, and he or she can speak for five minutes.

So one person from each party would speak for five minutes. We never mentioned dividing up the time. Imagine if we did that in the House. It would mean that, with every member getting one minute to speak, everything would take 368 minutes. It doesn't work like that. I just point out that is no less democratic in the House. Here, each party has five minutes to express their point of view. That is both democratic and fair.

We are pushing very hard so that, hopefully, we can think about democracy in a new way that has nothing to do with British parliamentary tradition. It's always about British parliamentary tradition, it seems to me. Let's drop the democracy argument, let's stop saying that it is undemocratic if each member of the committee does not have a set time to speak. It works like that in the House, let's do the same in committee.

● (1650)

[*English*]

The Chair: Good observation.

Mr. Scarpaleggia.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): I pass.

The Chair: Mr. Blaney.

Mr. Steven Blaney: I will withdraw my comments, Mr. Chair.

The Chair: Finally, Mr. Warawa.

Mr. Mark Warawa: I will withdraw my comments too.

The Chair: We're back to vote on the amendment. It reads: "10 minutes per member". All those in favour of the amendment? All those opposed?

(Amendment negatived)

The Chair: It is defeated, so we're back to the main motion.

I have Mr. Armstrong, Mr. Blaney, Mr. Scarpaleggia, and then Ms. Murray.

Mr. Scott Armstrong: I'm going to pass, Mr. Chair.

The Chair: Mr. Blaney.

[*Translation*]

Mr. Steven Blaney: Mr. Chair, I want to give an example that shows how important it is to look into things closely.

On November 22, Mr. Gord Miller, the Environmental Commissioner of Ontario, appeared before us. Speaking about the Environmental Bill of Rights, he said the following: "Ontario's EBR provides the public with a different but comparable set of legal rights." You can take that to the bank, because it is in writing.

After the commissioner had stated that those rights were similar to the ones provided by the bill we are studying, colleagues from the opposition asked him questions about that. In fact, the commissioner said that he was just making some general comments, because, in reality, things were very different. When it came down to it, he recognized that the federal bill was much less clearly structured than the Ontario charter.

That is why it is important for us to take the time we need to study the bill clause by clause. It is not a question of filibustering.

I would also remind Mr. Ouellet that parliamentary committees are structured so that all members have equal weight in representing their fellow citizens. Yes, there are party lines, but I think it is just as important, extremely important, in fact, for all members to be able to have their say. That does not mean that every member is going to have something to say on every clause, but they must have the right to do so. It may also be the case that two members of the same party may have different concerns.

Thank you.

[*English*]

The Chair: Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: I withdraw.

The Chair: Ms. Murray.

Ms. Joyce Murray: Thank you, Mr. Chair.

I have thought about the various arguments that have been made around the table and the validity of many of them: the validity of the idea of spending more time on the contentious clauses and the validity of each person having an opportunity to express themselves and the concerns of their constituencies. I note that the original motion allows for 90 hours of debate—if each party took its full five minutes for each of the clauses it would be approximately 90 hours of debate—so that would restrict debate to 20 minutes per clause. Clearly some clauses won't warrant that, but some may warrant more.

So I would like to propose an amendment to the motion so that there would be eight minutes per party. Other than that, the motion would be the same.

● (1655)

The Chair: Okay. So we're changing five to eight and the amendment is moved by Ms. Murray.

Mr. Woodworth, you may talk to the amendment, .

Mr. Stephen Woodworth: I think it's a step in the right direction. I don't think it cures the problem, but I appreciate Ms. Murray's effort, and I'm inclined to support it. I will support the amendment but not the motion.

The Chair: Okay. Seeing no other questions, I'll call the question. All those in favour?

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

The Chair: That's carried unanimously, so we're back to the main motion as amended.

I have Mr. Warawa.

Mr. Mark Warawa: I would say to Ms. Duncan, in light of what Ms. Murray has reminded us of, that there is a short period of time and a lot of work to do. We possibly have Monday and Wednesday of next week. Today is almost burned up. Unfortunately, we did not get into clause-by-clause as we had hoped to.

Will Ms. Murray accept a friendly amendment that Bill C-469 be reported back to the House before the Christmas break?

The Chair: Ms. Duncan.

Ms. Linda Duncan: No, Mr. Chair, I will not. I believe the proposal put forward with the amendment by Ms. Murray is a reasonable time period. Because we have wasted three days, unfortunately, I don't think we're going to finish before Christmas. But if we are fair and expeditious we can finish soon after we return from the Christmas break.

Mr. Mark Warawa: In that light, I don't think it's realistic so we will be opposing it...but no more speakers.

The Chair: Okay. I have no other speakers. With that, all those in favour of the motion as amended?

(Motion as amended agreed to [See *Minutes of Proceedings*])

The Chair: We will move on to the next order on the agenda, which is clause-by-clause.

(On clause 3—*Interpretation*)

The Chair: Time limits now apply. We've had substantial debate on clause 3.

Mr. Woodworth is next, representing the Conservatives.

Mr. Stephen Woodworth: Thank you. I'm not representing the Conservatives, Mr. Speaker, I'm representing myself—

The Chair: Nor am I the Speaker.

Mr. Stephen Woodworth: —and I'm a little worried that I may use up all the time that has been allocated to the Conservatives, but I do want to try to express myself about this and hope that my colleagues will forgive me if I do use up the time. Also, I don't remember extensive debate on this clause. I do recall Mr. Warawa speaking to it.

I would like to make a number of points. First of all, and I won't dwell on this because...well, someone said to me that nobody was listening when I spoke earlier anyway, so maybe I should dwell on it, but I'll try not to go on too long on it.

First of all, the preamble to clause 3 states that "[t]his Act must be interpreted consistently with existing and emerging principles of environmental law". I believe that there is no definition in the act of what is meant by "emerging principles". It is quite an ambiguous phrase in that it may mean principles that are emerging as of today or principles that are emerging as of whenever a case hits the courts or is decided. It may mean principles that are emerging in Canadian courts. It may mean principles that are emerging in courts around the world. Or it may mean principles that are emerging in academic circles.

To me, it's very inappropriate. I'll just quickly repeat that from the perspective of a conscientious lawyer, it's a nightmare clause. From the perspective of other lawyers, perhaps, it's a dream clause, because it can mean absolutely anything or almost nothing.

Apart from that, I'd like to comment on the issue of the principle of sustainable development, which I think occupied most of Mr. Warawa's comments previously. I'd like to approach it from a different point of view. I don't wish to simply repeat what Mr. Warawa has said. Rather, I would point out that in clause 3, "the principle of sustainable development" is now a coequal principle, along with four others. I'll speak about the others in a moment.

I wish to draw attention to the fact that with this act, for the very first time since it became a primary or paramount principle of Canadian environmental law, the principle of sustainable development will no longer be primary or paramount in Canadian environmental law. It will simply be one of five. A lawyer will know that this arrangement allows for a judicial officer to pick and choose and weight and unweight between principles. Consequently, I think that wording introduces an amazing shift in Canadian environmental law.

Apart from that, the principle of sustainable development as it is defined in this act is quite different from what we might have seen up to this point. We have to refer back to the act. If you look at the definition of sustainable development in clause 2, it is "development that meets the needs of the present without compromising the ability of future generations to meet their own needs".

Now, this has a very poetic sound to it, but in fact, previously—and I'll give you what came from the World Summit on Sustainable Development in 2002—it was acknowledged that the principle or the concept of sustainable development comprised three pillars: economic development, social development, and environmental protection.

The definition in this bill does not spell that out. Every statute is interpreted as if it means something. This is an important point for those around the table who are not lawyers.

● (1700)

When you have a statute and a judge is trying to figure out what it means, the judge has to try to read meaning into it. So a judge is going to have to try to determine why it is that this definition of sustainable development doesn't refer, for example, to economic development or doesn't specifically refer to social development. It must mean something different. That's the conclusion that might well be reached.

I would like to go back to something I mentioned earlier, lest it be lost. This definition of the principle of sustainable development does not include the qualifier "cost-effective on preventive measures", which has been already adopted in Canadian law. It introduces a new meaning, and it'll be heck to pay to try to figure out what to do with existing measures that refer to that clause. It also does not use the qualifier "serious or irreversible" regarding environmental damages, which is necessary to trigger the precautionary principle. Both of those phrases are accepted globally, and I refer you to the Rio statement on that principle.

Apart from that, there are other principles in this provision that are ill-defined. The idea of intergenerational equity, for example, is found nowhere else in federal law. It is, in a sense, referred to in principle 3 of the Rio declaration, but in an entirely different formulation, which reads, "The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations".

So this doesn't include development. It must mean something different. It must mean not to refer to development—or at least that possibility is out there.

The principle of environmental justice is referred to in American law, but again with a different definition than the one that appears in this bill. The Environmental Protection Agency in the United States states that environmental justice "will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment...".

Now, I will simply conclude by saying in my 45 seconds remaining that this was an incomplete analysis of the problems that exist in this clause. It was much too hurried to really get the points across and a totally inadequate way for a serious and conscientious legislator to try to debate such a far-reaching and important bill.

Thank you.

● (1705)

The Chair: Thank you.

Are there any other comments?

Ms. Duncan.

Ms. Linda Duncan: I don't really want to debate what the member said, and I appreciate his opinion. I would just point out that the Canadian Environmental Protection Act, which has been in place in Canada since about 1984, also references these other principles. I'm a little puzzled as to why the member would want to reference only the sustainable development principle.

Mr. Stephen Woodworth: Point of order—

Ms. Linda Duncan: There is nothing in Canadian—

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

Mr. Stephen Woodworth: Mr. Chair, I try not to raise points of order, but now the member is asking a question of me publicly which I am going to be prevented from answering because I've used up all of my time. In fact, there is an answer for the member, I believe, but I'd have to look for it.

But I think that at the very least it's a little unfair for her to be questioning me, at least by name. It's bad enough that she can disagree with me and that I don't have a right to reply to her disagreement because I'm out of time, but I would ask, Chair, that if this kind of game-playing is going to go on that at least I not be mentioned by name without giving me a right to reply specifically.

Thank you.

The Chair: That is not a point of order, so Ms. Duncan....

But try to be respectful in this situation where the chance for rebuttal has been removed.

Ms. Duncan.

Ms. Linda Duncan: I won't take up my time referencing what is in Canadian law. I'm simply going to call for the vote on this amendment.

The Chair: It's my job to call for the vote and I will if I have no more names on the speakers list.

Seeing none, I'm going to call the question. The response will be that it's carried, it's negated, we stand it, or it's on division.

Mr. Mark Warawa: A recorded vote, Chair.

The Chair: We'll have a recorded vote. Shall clause 3 carry?

(Clause 3 agreed to [See *Minutes of Proceedings*])

(On clause 4—*Aboriginal rights*)

The Chair: I'll read clause 4:

> For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the Constitution Act, 1982.

Are there any speakers?

Mr. Warawa or Mr. Woodworth? Who wants it?

Mr. Warawa.

Mr. Mark Warawa: Thank you, Chair.

I want to thank my colleague, Mr. Woodworth, for not using up his full eight minutes. I thought that was a very good example, Chair.

This clause refers to aboriginal rights. It says:

> For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the Constitution Act, 1982.

Chair, in our discussions over the last few days, what came up was the shock that we had not heard from first nations. This greatly impacts first nations. It impacts agreements with first nations. It possibly affects treaties, because we heard that Bill C-469 would retroactively go after agreements and treaties. So if any resident or entity is felt to be in violation, or if this concerned any Canadian—excuse me, "resident" or "entity"—an action could be launched.

Chair, what clause 4 makes clear is that nothing in the act affects existing aboriginal treaty rights protected under the Constitution Act. Therefore, clause 4 is a common practice in federal statutes.

What it does do is create uncertainty. As I said, it's common in federal statutes that reiterate that Parliament does not intend to narrow, extinguish, or otherwise interfere with constitutionally protected aboriginal rights or treaties. If it's already there and it's dealt with, then this creates uncertainty. It's not needed, because any law that is inconsistent with the constitution is invalid. So the moment that you place this in Bill C-469, it creates uncertainty. It's unnecessary and it shouldn't be there. It should be struck. That would be the appropriate way of dealing with this.

Now, in the interests of time, I could move a motion that it be struck, or we can leave it in place and vote against it. But we do not want to create uncertainty with aboriginal rights so therefore, in the interests of time and given our desire to see this be reported back to the House before the Christmas break, my question for the member, through the chair, is, would she accept that this be struck from her bill, Bill C-469?

● (1710)

The Chair: You can't do that. You'd have to vote against the clause.

Mr. Mark Warawa: Well, as a friendly.... Well, it probably couldn't be a friendly amendment. It would have to be—

The Chair: No. You're making an amendment and I'm going to rule that amendment out of order. You have to vote against the clause if you want to remove it. You'll have to convince the opposition members to support you in your quest to negate the clause, and that happens through a vote against.

Mr. Mark Warawa: I'm not naive, Chair. I think they will be consistent in supporting this and unfortunately not supporting the rights that exist for first nations. I'm quite concerned about the uncertainty this creates.

Chair, the alternative, which I'm sure would be in order, would be to call for witnesses from first nations. But again, that may not be practical, because we would like to see this reported back before the Christmas break. I will cease my comments and look forward to the vote.

Thank you.

The Chair: Okay. I'm going to—

Mr. Mark Warawa: A point of order, Mr. Chair.

The Chair: Is that a point of order on yourself, Mr. Warawa?

Some hon. members: Oh, oh!

Mr. Mark Warawa: No, my time has ended, has it not?

The Chair: There are four minutes left.

Mr. Mark Warawa: Oh, well, then, I can share my time. I would like to do that with any of my members who have questions.

The Chair: I see Mr. Woodworth's hand.

Just for information, we have called the AFN to the committee before. We're done with witnesses. We're studying clause-by-clause and moving on.

Mr. Woodworth.

Mr. Stephen Woodworth: On the point of order that was raised, I don't recall the motion saying that one member speaks for the party.

The Chair: No. You have four minutes left.

Mr. Stephen Woodworth: I don't think it's a case of sharing time; it's a case of time being left, and I'm on the list. So if you don't mind, I'll approach it that way, but I don't think I will take four minutes.

I'm not entirely sure it was clear when Mr. Warawa spoke that this provision does not protect the rights of aboriginals acquired through non-constitutionally arranged items or arrangements with first nations. This bill applies to decisions of government departments—so to any decisions of the Department of Indian and Northern Affairs relating to both reserve lands and first nations individuals. It applies to decisions related to reserve lands, and therefore could apply to decisions of first nations relating to reserve lands under the First Nations Land Management Act, self-governing agreements, or other arrangements.

I want it to be crystal clear, for those who are listening at home at least, that this clause 4 does not protect the rights of aboriginals who are coming out of voluntary agreements or actions by the federal government. It's only those that are the result of a constitutional guarantee.

I might also say, for what it's worth, that technically you don't need clause 4 to protect rights that are constitutionally guaranteed to aboriginals. Although I know it's a common provision in federal statutes, it really isn't necessary. It is not necessary to do the job it tries to do, and it's not adequate to provide complete protection to aboriginals.

Thank you.

The Chair: Thank you.

Mr. Armstrong, you had your hand up. There are two minutes left.

Mr. Scott Armstrong: I'm fine.

● (1715)

The Chair: Good.

Moving along, I have Ms. Duncan and Mr. Scarpaleggia.

Ms. Linda Duncan: Mr. Chair, the members have very accurately pointed out that it is a provision common in Canadian law, and it is of course in the Canadian Environmental Protection Act, which we reviewed just last year, and at no time did the government suggest that it be removed. I believe it should be in there as a protection for first nations constitutional rights.

The Chair: Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: My question is more for information. Is it possible to make amendments to these clauses on the fly?

An hon. member: Sure.

Mr. Francis Scarpaleggia: When one proposes an amendment, does that mean each party has eight minutes to speak to it? Okay. Thanks. That's all I wanted to know.

The Chair: Seeing no other speakers, I will ask if clause 4 shall carry.

An hon. member: A recorded vote, please.

(Clause 4 agreed to [See *Minutes of Proceedings*])

(On clause 5—*Remedies not repealed*)

The Chair: We'll move on to clause 5. It states:Nothing in this Act shall be interpreted so as to repeal, remove or reduce any remedy available to any person under any law in force in Canada.

Are there any comments?

Mr. Blaney.

[*Translation*]

Mr. Steven Blaney: Thank you, Mr. Chair.

Actually, clause 5 allows citizens to use legal remedies other than the ones provided for in this bill, the Canadian Environmental Protection Act, 1999, for example. Although we have seen that that act has a number of remedies that are extremely harmful, if not devastating, for industry and for entrepreneurs of all kinds.

I have already expressed my concern to committee members about that clause, which, far from removing remedies, provides additional ones and allows anyone in the country to come along and oppose existing bills or acts that have already been approved.

So I have a lot of reservations about that clause.

That is all I have to say.

[*English*]

The Chair: There's still time left.

Mr. Woodworth, you have about six minutes.

Mr. Stephen Woodworth: Thank you. I won't need all of that. I just think this is an appropriate place to mention the recurring problem with this bill of it being duplicative, overlapping and, to some degree, redundant.

Any number of other recourses are available to people to deal with environmental issues. Of course, they're all preserved in this bill. Some of them are quite similar to the remedies in this bill; I'm thinking in particular of the petition process with the Auditor General to initiate investigations, but I'll return to that point later. I just want to say that this just reinforces the problem of this bill creating a number of redundancies and duplicative proceedings and actions.

The Chair: Thank you.

Seeing no other speakers, I will ask if clause 5 shall carry.

● (1720)

Mr. Mark Warawa: A recorded vote, please.

The Chair: We'll have a recorded vote.

(Clause 5 agreed to [See *Minutes of Proceedings*])

(On clause 6—*Purpose*)

The Chair: Clause 5 has carried, so we're going to clause 6 and Liberal amendment number one.

First I'll read the main clause, and then I'll read the amendment.

The clause reads:

> The purpose of the Canadian Environmental Bill of Rights is to
>
> (a) safeguard the right of present and future generations of Canadians to a healthy and ecologically balanced environment;
>
> (b) confirm the Government of Canada's public trust duty to protect the environment under its jurisdiction;
>
> (c) ensure all Canadians have access to
>
> i) one adequate environmental information,
>
> ii) justice in environmental context, and
>
> iii) effective mechanisms for participating in environmental decision-making;
>
> (d) provide adequate legal protection against reprisals for employees who take action for the purpose of protecting the environment; and
>
> (e) enhance the public confidence in the implementation of environmental law.

The amendment proposes adding, after line 18, on page 7, the following:

> This Act is intended to complement Canada's rights and obligations under international law. In the event of any inconsistency between the provisions of this Act and the provisions of any international convention in force in Canada, the provision of the convention will prevail to the extent of the inconsistency.

Now we're talking to the amendment.

Mr. Woodworth.

Actually, we should let the Liberals go first.

Mr. Francis Scarpaleggia: Yes. I won't take up the whole eight minutes.

I just want to say that this deals with a concern raised by the shipping industry when it appeared before us. It's one of those industries that is highly governed by international protocol and norms. They felt somewhat vulnerable to the fact that they could be following international conventions and norms and yet still be a focus of or subject to legal complaints.

I thought it would be appropriate to take that concern into consideration in the bill. That's why I'm proposing this amendment.

The Chair: Speaking to the amendment, Mr. Woodworth.

Mr. Stephen Woodworth: Thank you.

If Mr. Warawa wants to speak on the amendment, I'm quite content to let him speak first.

Mr. Mark Warawa: No.

Mr. Stephen Woodworth: All right. There are two legal issues with this amendment that are going to create problems if it's adopted. It took me a while to put my finger on the problem when I first read it, but I had a conversation with someone and it became clear to me.

It's largely around the word "inconsistency". I have seen this precise wording in a submission from a shipping group, I think, and I'm assuming that's where it was taken from. The difficulty with the word "inconsistency" is that it's not very legally precise. Most often, one would see the word "conflict", as in "if there is a conflict". Something might be somewhat inconsistent but not necessarily in conflict. I don't know how this will play out in the implementation of it, but I think it's a somewhat more vague and imprecise word.

The second problem legally with this provision is that it talks about an inconsistency between this act and the provisions of an international convention in force in Canada. I'm not sure that is the right way to proceed, in that sometimes Canada will ratify an international convention but at least not necessarily implement it in law immediately, if at all.

I would have thought that a better approach would have been to talk about a conflict between the provisions of this act and any other provision of Canadian law flowing from international written obligations or something along that line. To be honest, I haven't tried to figure out how it could be cured, but these are problems that I expect this committee and the House will be leaving to future generations if this amendment is passed.

Thank you.

● (1725)

The Chair: Mr. Warawa.

Mr. Mark Warawa: Thank you, Chair.

I appreciate the input from my colleague. It's nice to have a lawyer here who is passionate about the environment too.

This amendment from the Liberals doesn't address the issue of vagueness we have found throughout Bill C-469. Unfortunately, the clause sets out vaguely defined concepts, such as the "right to a healthy and ecologically balanced environment", which have those uncertain implications.

The amendment does not address the issue of duplication, and the issue of duplication was raised by every witness we heard. The purpose of the proposed bill includes ensuring access to information and effective public participation, goals that have already been supported by existing laws, policies, and programs. What the amendment seeks to—

The Chair: We have a point of order.

Mr. Francis Scarpaleggia: I'm sorry, but Mr. Warawa is proceeding too quickly for me. I'm failing to see how he's addressing the amendment.

However, I'd like to point out that if it's a question of cleaning up some words, of using the word "conflict" instead of "inconsistency"...or as Mr. Woodworth remarked, perhaps we need to tighten it up a bit to take into account that sometimes there's an international agreement that Canada hasn't ratified yet. I'd be willing to entertain those kinds of friendly amendments.

The Chair: Okay.

Mr. Warawa—

Mr. Francis Scarpaleggia: But I do have a question for our analysts.

The Chair: I will rule on that point of order first. Then I'll let you raise another point of order.

But on that point of order, I will ask you, Mr. Warawa, to speak slowly, for consideration of our interpreters.

Mr. Mark Warawa: Am I speaking to the point of order or using my time?

The Chair: I ruled on that point of order.

Mr. Scarpaleggia, do you have a question?

Mr. Francis Scarpaleggia: What I'm trying to figure out...and this is a question to the analysts in reference to Mr. Woodworth's point that sometimes there are international conventions that are not ratified by Canada—

Mr. Mark Warawa: On a point of order—

The Chair: Mr. Warawa.

Mr. Mark Warawa: Mr. Chair, I had time—

The Chair: Your time is paused. He's asking for a point of clarification—

Mr. Mark Warawa: So there is the point of order that we didn't have a chance to speak on and now this is another issue...?

The Chair: It's a different issue.

Mr. Mark Warawa: But still the point...?

The Chair: Yes, the first point of order was based upon the speed that you were speaking at.

Mr. Mark Warawa: I hope so.

The Chair: Okay. We'll come back to you, Mr. Warawa.

Mr. Francis Scarpaleggia: I guess what I'm asking you is this. I'm trying to look at it from the point of view of the shipping industry. Is it possible that sometimes the industry already starts conforming to international norms that are in international agreements that have not been ratified by Canada?

In other words, is it possible that the shipping industry becomes proactive and simply starts abiding by internationally recognized norms whether or not Canada has ratified them? I suppose that's a question for the shipping industry.

The Chair: I'll let our analysts respond.

Kristen.

Ms. Kristen Courtney (Committee Researcher): It's certainly possible. Without putting words into their mouths, I think what the shipping industry had in mind was the Marine Liability Act. There may be other acts as well, but that one specifically provides protection to the shipping industry from being sued, basically, if they've complied with certain obligations.

That was the domestic law that implements the international agreement. So that works a little differently from an industry proactively complying with something that actually affords them protection.

The Chair: Mr. Woodworth, are you speaking to the point of order or to the clarification?

Mr. Stephen Woodworth: Yes, on the point of order that Mr. Scarpaleggia just raised, I think I heard him misstate what I was trying to say. I will confess that I'm not an international law lawyer, but I did not mean to say that this is a problem if the act has not been ratified by Canada. What I meant to say was that this is a problem if an international act has been ratified but not yet implemented in law in Canada. To me, at least, there's a distinction. Whether I'm right or wrong, that's what I was trying to say.

● (1730)

The Chair: Mr. Warawa, do you wish to speak to that point of order?

Mr. Mark Warawa: Well, I would like to, Chair, but we're past our time. It's now 5:30, so I move to adjourn.

The Chair: I have a motion to adjourn. All those in favour?

Some hon. members: Agreed.

The Chair: The meeting is adjourned. We're out of here.

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