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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)): I will call the meeting to order.

We're continuing with our consideration of Bill C-469. When we were at this last Monday we were on clause 6, Liberal amendment number 1, which is on page 9 of your amendment packages. The Conservatives were speaking to it.

As you know, we have our time allocation of eight minutes per party per clause, amendment, or subamendment. When we left there were four minutes and twenty seconds left for the Conservatives.

It's my understanding, Mr. Woodworth, that you're on for four minutes and twenty seconds.

(On clause 6—*Purpose*)

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

I just want to be sure whether I'm speaking—

The Chair: You're speaking to Liberal amendment number 1, which is the new subclause (2), in clause 6.

Mr. Stephen Woodworth: Correct. Somehow I thought we had passed that. I thought I recalled Mr. Scarpaleggia speaking on that and responding to some of what I had to say.

The Chair: No.

Mr. Stephen Woodworth: That's not the case.

In any event, then, would it be in order for me to make some comments regarding clause 6 proper in the course of discussing the amendment?

The Chair: Yes.

Mr. Stephen Woodworth: I can speak about clause 6 in the course of discussing—

The Chair: No. You can speak to the amendment: subclause (2) to clause 6.

Do you have anything you wish to say to that?

Mr. Stephen Woodworth: With respect only to the amendment?

The Chair: Only to the amendment. We're speaking to the amendment.

Mr. Stephen Woodworth: The difficulty I'm having is that it's a little difficult to speak to the amendment without referring to clause 6.

The Chair: You can refer to the entire clause 6, but make sure your comments are directed towards the new subclause (2).

I'll start the clock now.

Mr. Stephen Woodworth: I'll recap what I said last time about there being something problematic in referring to inconsistencies rather than conflicts. An inconsistency can mean something other than a conflict. In my experience, it hasn't been the case that statutes refer to inconsistencies, but rather to conflicts, where one prevails and one does not.

Secondly, this amendment talks about the provisions of international conventions in force in Canada. Although I stand to be corrected on this, it's my general expectation that even though one might say that an international statute that has been ratified by Canada is in force in Canada, if there hasn't been any legislative implementation of it, it won't be something that could conflict with Bill C-469. If that's the case, one has to wonder where one would find the inconsistency or the conflict if there hasn't been any implementation of an international convention in Canada.

Beyond that, the part that's supposed to be added doesn't fit, in a grammatical or drafting sense, with the part it's intending to modify. Clause 6 simply says that the purpose of the Canadian Environmental Bill of Rights is to do certain things. There is no subclause 6(1). I suppose one would have to make the existing clause 6 a subclause 6(1) in order to add this subclause 6(2). If one were to do that, it's still uncertain whether subclause 6(2) would overcome anything in subclause 6(1). That is to say, if 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" and it happened that subclause 6(2) came into operation as a result of a conflict or an inconsistency between the act and an international convention, it's not clear that simply adding a subclause 6(2) would override anything that would be in subclause 6(1), which would outline the purposes of the act.

If one wanted subclause 6(1) to be read subject to subclause 6(2), then I suppose one might say that in subclause 6(1). One might say that subject to subclause 6(2), the purpose of the Canadian Environmental Bill of Rights is to do certain things. In the absence of that, it's not clear to me that either of those subclauses would have any control over the other.

There are other things that I might say in relation to the main provision, but I'll forego those for the moment. When I talk about this amendment, I have in mind the Marine Liability Act, which contains a statutory implementation to discern how liability will attach to international shippers.

● (1535)

The Chair: Your time has expired, Mr. Woodworth.

A point of order, Ms. Duncan.

Ms. Linda Duncan (Edmonton—Strathcona, NDP): Mr. Chair, I'm trying to recall where we were last Monday. Did Mr. Woodworth table an amendment to the Liberal-1 amendment to change "complement" to "conflict", or did he just vaguely talk about it?

The Chair: He just talked about it.

Ms. Linda Duncan: So we're simply talking about the Liberal-1 amendment.

Thanks.

The Chair: We're talking about the Liberal amendment. It's Liberal-1 to clause 6.

The Conservative time has all been used.

Mr. Scarpaleggia.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): I do recall discussing being quite open to the point Mr. Woodworth raised about the word "conflict" being more appropriate than "inconsistency".

I don't know how we'd go about this, but I'd certainly be in favour of changing "inconsistency" to "conflict".

Do we need a motion?

The Chair: To an amendment.

Mr. Francis Scarpaleggia: It's a friendly amendment, I guess.

The Chair: But it can't be from you. This is your party's amendment.

Mr. Francis Scarpaleggia: I understand. That's why I'm turning to you, Chair.

The Chair: I have Ms. Duncan on the speakers list, so I could turn it over to her. She's indicated that she would—

Mr. Francis Scarpaleggia: Sure.

The second point I'd like to raise is that I fail to see where the confusion arises with respect to the second half of the amendment, which talks about inconsistencies or conflicts "between the provisions of this Act and the provisions of any international convention in force in Canada".

I'm not a lawyer, but it seems clear to me, at least the way I read it, that if we've ratified an international convention and brought in a legislative instrument to enforce it in Canada, then this amendment here relates to the fact that there's a law in Canada that brings the convention into force. That's my understanding. I don't know if our lawyers or drafting clerk would like to add to that.

I don't have a legal background, and I honestly don't understand Mr. Woodworth's point about it not being correct to label this amendment subclause 6(2) when there's no subclause 6(1), and that if it's subclause 6(2) but not part of subclause 6(1), then it won't have the same implications.

I'm sorry, I just don't understand that, so if somebody could clarify it, I'd appreciate it.

● (1540)

The Chair: I'll ask our legal analyst, Ms. Courtney, if she could respond to the question you raised.

Ms. Kristen Courtney (Committee Researcher): I'm not sure about the second question.

As for the first question, it depends on what is meant by "any international convention in force in Canada". Canada is free to sign international conventions, and technically they're binding on us as international law. But if we don't implement them with domestic implementing legislation—

Mr. Francis Scarpaleggia: It's technically in force.

Ms. Kristen Courtney: As domestic law, no.

Mr. Francis Scarpaleggia: If I understand this correctly, the way it's written here would give rise to the broadest interpretation. So if we'd signed a convention but hadn't ratified it and there was no legal instrument in Canada to bring it into force domestically, the fact that there is an international convention out there, whether or not it's enforced in Canada, would still have to be taken into consideration in the interpretation of this act.

Is that correct?

Ms. Kristen Courtney: Sorry, I didn't understand the question.

Mr. Francis Scarpaleggia: Okay. Mr. Woodworth is saying that this amendment seems to be too broad. When it talks about "any international convention in force", Mr. Woodworth is saying, well, it could be in force internationally but not domestically, and therefore he didn't know if this amendment would be relevant if the convention weren't in force domestically.

I'm suggesting that maybe the intent was to keep it broad enough so that a shipping company, for example, who's following the rules of an international convention on shipping could use this clause as a defence if the convention weren't ratified by Canada or there's no enabling legislation for it in Canada.

Ms. Kristen Courtney: Maybe. But I think this relates to what we alluded to at the end of the last day, that an international convention that imposes duties on a party is different from an international convention whose domestic implementing legislation—such as the Marine Liability Act, which we enacted for some international conventions that we signed—affords protection to parties against liability.

So when you're talking about "inconsistency", it's not exactly clear how that will play out. In this case, it's especially not clear how it will play out because we don't yet know what orders can be made as a result of a civil action that someone would bring against a shipper. The Marine Liability Act and the convention it relates to provide for liability only in certain circumstances. Unless we know what kinds of orders can be made pursuant to Bill C-469, then we can't know whether there are any inconsistencies or not.

Mr. Francis Scarpaleggia: But this would only apply if there were an inconsistency.

Ms. Kristen Courtney: Or it would if there were a conflict, whichever.

Mr. Francis Scarpaleggia: I don't know. Maybe Ms. Duncan can enlighten us.

The Chair: I have Ms. Duncan on the list. She is right after you.

Mr. Scarpaleggia, you're done?

● (1545)

Mr. Francis Scarpaleggia: Yes, I am.

The Chair: Okay.

Ms. Duncan.

Ms. Linda Duncan: Thanks, Mr. Chair.

I don't profess to be an international law expert either, but I'll do my best.

What I would like to do is offer a friendly amendment. The amendment goes as follows in new subclause 6(2):

> This Act is intended to ensure consistency with Canada's rights and obligations under international law. In the event of any conflict between the provisions of this Act and the provisions of any international law

—I would say "law" rather than "convention", because sometimes they're treaties and sometimes they're another instrument—

> in force in Canada.

The rest would remain the same.

It's my understanding—

The Chair: Just for clarification, you would leave "inconsistency" at the end rather than "conflict"?

Ms. Linda Duncan: No, I'm taking out "inconsistency".

The Chair: Are you at the very end of the paragraph as well?

Ms. Linda Duncan: Oh, sorry. Yes, that's very astute of you: "In the event...to the extent of the".

The Chair: This is fairly substantial.

Ms. Linda Duncan: I'm just basically replacing "inconsistency" with "conflict".

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

Mr. Mark Warawa (Langley, CPC): Mr. Chair, I wanted to confirm that with Ms. Duncan's amendment, or subamendment, there would now be another 32 minutes, possibly—eight times four—of debate to consider that. Is that correct?

The Chair: That is correct.

Mr. Mark Warawa: Thank you.

The Chair: Okay. Just for clarification, here it is again:

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

Is that right?

Ms. Linda Duncan: I think it would say "to the extent of any conflict", or it could be "any alleged conflict". I don't know.

My suggestion is that we're close to it, and we might want to pursue more legal opinion and get back to that, maybe at the next meeting. That is what I'm suggesting. I think—I'm trying to find similar provisions, and I just haven't had a chance to find any—that is a good amendment. I appreciate that being brought forward. I think that should assuage some of the concerns raised by particularly the shipping industry. We certainly went through all of this when we did the amendments to Bill C-16 and endeavoured to bend over backwards to address any of their issues.

On the issue raised by Mr. Woodworth, I don't really see it as a relevant comment. That part of the bill is the purpose, and new subclause 6(2) is simply another stand-alone subclause that clarifies the purpose of the bill. I don't see necessarily that it's intended to clarify what will become subclause 6(1). I think it's a good clarification that has been tabled.

I understand, having talked to the drafters, that the numbers are automatically adjusted. I had asked that question myself to the drafters.

The Chair: We'll make the necessary changes on numbers and lines and everything as we go through. It will just become automatic.

Okay?

Ms. Linda Duncan: That's all I wanted to—

The Chair: That's your point? Okay.

So we're speaking to the subamendment.

I see Mr. Woodworth.

Mr. Stephen Woodworth: Thank you.

The problem I perceive here—and I'll try to make it a little clearer because I alluded to it in my previous comments—is that we now have, clearly, two different purpose clauses. And in a way, I'm grateful that Ms. Duncan has made her amendments, because it really highlighted that fact.

Her amendment would read in subclause (2), "This Act is intended to ensure consistency with Canada's rights and obligations under international law". If we were using the same formula as in the existing clause 6, we would say, "The purpose of the *Canadian Environmental Bill of Rights* is to ensure consistency with Canada's rights and obligations under international law."

Now we have two purpose clauses. It's not at all clear to me that those two purposes are necessarily consistent with each other. In other words, in the new subclause (2), with this subamendment, we are saying that the purpose of this act is to ensure consistency with Canada's rights and obligations under international law, but in what will become subclause (1), we're saying that the purpose of this act is to "safeguard the right of present and future generations...to a healthy and ecologically balanced environment", for example. There are others there, too, but I just picked that as an example.

What does a court do if confronted with an argument that an obligation or a right of Canada has been implemented under an international convention that happens to contradict safeguarding the right of present and future generations of Canadians to a healthy and ecologically balanced environment? Well, the section says that if there's a conflict, the international convention will prevail. To a certain extent, I find that reassuring, because it would at least enable the effect of this Bill C-469 to be somewhat gutted if we can arrange an international convention on the subject, which would, in effect, overrule some of the more outlandish and extreme provisions of Bill C-469.

But it's not at all clear to me that subclause (2) will have the effect of overcoming what will become subclause (1) here, because subclause (1) doesn't say that it's subject to subclause (2).

There are two stand-alone purpose clauses. They may well come into contradiction with one another. There is nothing in the bill that gives a judge any guidance about whether the judge should follow what will be subclause (1) or should follow what would be subclause (2). Personally, I'd like him or her to follow subclause (2) and really gut subclause (1) in such a case, but I have no assurance that's what will happen with this amendment, even with the subamendment.

It's very difficult to discuss these things, Mr. Chair, in isolation. One would almost have to find a concrete example. That's where I was going a moment ago when my time ran out. I do thank my Conservative colleagues for allotting to me their one and a half minutes each on this debate.

I was getting to the Marine Liability Act because it might serve as a concrete example of how this will work. I regret that I'm not as familiar with the Marine Liability Act as I would like to be. As with my colleague, Ms. Duncan, across the way, I just didn't have the time to really sit down and work it through. But my impression, generally speaking, is that the Marine Liability Act would limit in certain circumstances the liability of a shipowner responsible for an incident of pollution in Canadian waters. I may be wrong.

● (1550)

I also want to say—along with my colleagues—I am by no means an internationally trained lawyer, so I don't ask you to accept what I say on that basis. I'm only trying to look at this as a lawyer who has some facility with the interpretation of statutes.

Let's suppose that under the Marine Liability Act, pursuant to an international convention, we are passing a law that limits the liability of shipowners in polluting incidents in Canadian waters. I suppose as long as the Marine Liability Act, as passed pursuant to the international convention, duplicates the provisions of the international convention, this new subclause 6(2) as amended would kick in and would indicate that shipowners are only going to be liable up to the maximum of their liability under the Canadian implementation of the international convention on marine liability.

But subclause 6(1) will say that the purpose of this act 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;

I think those are the two that apply.

So what if a judge decides that the liability limitation in the Marine Liability Act does not adequately safeguard the right of present and future generations of Canadians to a healthy and ecologically balanced environment, and therefore the purposes enumerated in subclause 6(1) are not being met if we are meeting the purpose enumerated in subclause 6(2)? What will a judge do?

In the absence of some qualification of subclause (1) to say that it's subject to subclause (2), it's not at all clear to me that a judge would say that he or she was going to apply subclause (2), rather than disregarding it in favour of subclause (1).

That, to the best of my ability, articulates why I believe it's not sufficient to simply tack on subclause 6(2) with a new purpose, rather than integrating it somehow as a superordinate safeguard that would, in appropriate cases, really gut subclause 6(1).

● (1555)

The Chair: I have Ms. Duncan, and then Mr. Scarpaleggia.

I have you on the amendment, not the subamendment. Do you wish to speak to the subamendment as well?

Mr. Christian Ouellet (Brome—Missisquoi, BQ): Yes.

The Chair: Okay. I'll put you on the list.

There's a point of order from Mr. Warawa.

Mr. Mark Warawa: Chair, I'm sorry for interrupting.

Ms. Duncan made the subamendment motion. She spoke to it for almost four minutes and gave up her time, and then you went to Mr. Woodworth.

Is it the policy that you can then come back to the person who gave up the remainder of their time?

The Chair: Yes, she has four minutes and 25 seconds left.

Mr. Mark Warawa: Okay, so she can come back.

The Chair: Yes.

Mr. Mark Warawa: Thank you.

The Chair: So you have four minutes and 25 seconds on the subamendment.

Ms. Linda Duncan: Thank you, Mr. Chair. I am using my time to assist our committee.

In the Canada Shipping Act they have the objectives of the act and then they have exclusion. Under exclusion there's a subheading called "Conflicts with foreign rules", and that subsection basically says "Regulations made under this act do not, unless they expressly provide otherwise, apply" to vessels—blah, blah, blah.

The subheading which says "Conflicts with foreign rules", is at the front end of the statute. My understanding from when I worked in legislative drafting is that you put provisions like that at the front of the act because you're saying this is how this act is to be read. The provision is "Conflicts with foreign rules", and it says if there are any conflicts with a foreign rule, then that foreign rule prevails.

It then applies later on. It applies later on if you have a right to bring a legal action or to file a request for investigation or to ask for a rule to be revisited. All of those rights can be exercised, but the government only has to respond within the boundaries of what they've signed on to and ratified in international law. That's my understanding.

With respect to where you might potentially place that, sometimes those kinds of provisions go at the end of the statute simply as clarification of such and such being excluded if there's any conflict with international law. I think that's of lesser concern. We could maybe talk about that.

I still think it's a useful amendment, and it responds to some of the issues raised by some of the witnesses.

The Chair: Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: This is a theoretical question, but, for example, if we struck the first sentence of that amendment and the amendment was simply:

> In the event of any conflict between the provisions of this Act and the provisions of any international convention in force in Canada

—and that can be interpreted, I suppose, broadly or narrowly, whatever.

> the provision of the convention will prevail to the extent of the conflict.

It seems to me that might clarify things.

● (1600)

The Chair: We're speaking on the subamendment right now, though, and I can only deal with one subamendment at a time.

Mr. Francis Scarpaleggia: I'm not making an amendment. It was a theoretical question.

The Chair: It's theoretical. If you want to come back to that after, and somebody else wants to move that we strike the first sentence—

Mr. Francis Scarpaleggia: I'd like to get the opinion of the legal analysts on whether that would clarify a lot of the—

The Chair: Well, we've got lawyers sitting around here.

Would there be any better clarity if we remove that first sentence?

Ms. Kristen Courtney: If you remove the first sentence, which says “This Act is intended to ensure consistency with Canada's rights and obligations”, then I would suggest it probably doesn't belong in the purpose clause.

As Ms. Duncan just said, it might belong better somewhere else, at the end or where you're talking about remedies or orders, or in the civil action provision itself. It's really the first part of that amendment that ties it to the purpose clause.

Mr. Francis Scarpaleggia: Chair, maybe what we need is to put it somewhere else.

The Chair: We can entertain that as we move forward. If you see a place where that should be put, we can put it.

[*Translation*]

Your turn, Mr. Ouellet.

Mr. Christian Ouellet: Thank you, Mr. Chair.

I think the situation gets complicated when we compare the French translation to the original English text. In English, it says:

[*English*]

“In the event of any inconsistency between the provisions of this Act and the provisions”.

[*Translation*]

In French, that doesn't exist, it's not there. The French is very clear; it says: “Les dispositions de toute convention internationale en vigueur au Canada l'emportent sur les dispositions incompatibles de la présente loi.” And you could put “conflictuelles” instead of “incompatibles”.

I wonder if, instead of amending the amendment, we should just…I would translate “inconsistency” with “conflit” in French, but, apart from that, the paragraph is very clear in French. It's the English that is not clear, in my opinion, and that's where the complication arises. We are all talking about the words “In the event of any” that do not appear in the translation. It may also be that the amendment was written in French first and translated into English badly. I don't know, but, Mr. Chair, it seems to me that the situation is clear in French, but not in English. Someone will have to tell us what it is supposed to mean.

There is another thing. We can spend hours on discussions like this. Mr. Chair, there is never one judge in a court like this, there are three or five, because people around one table do not agree and never will. Let us try to do the best we can rather than wanting to settle only for perfection, because I don't think we will ever get there. I think we could be happy with that. We have to keep one thing in mind: our goal here is to protect the environment, not judges and lawyers.

[*English*]

The Chair: We always strive to be perfect.

No, I understand that the French version is more clear, has greater clarity than the English version, so we will have to work this one out with translators and legal services, or the drafter who was used when you put this together.

Mr. Francis Scarpaleggia: It's the same drafter as the bill, I think.

The Chair: It's the same drafter as the bill?

So let's draft it in French first and then translate it into English.

Okay. I have nobody else. I think everybody has spoken to the subamendment. I'll call the question on the subamendment.

An hon. member: Can you read the subamendment?

The Chair: I'll read the subamendment.

> This Act is intended to

—we'll take out “compliment”—

> ensure consistency with Canada's rights and obligations under international law. In the event of any conflict between the provisions of this Act and the provisions of any international law enforced in Canada, the provision of the convention will prevail to the extent of any conflict.

Ms. Joyce Murray (Vancouver Quadra, Lib.): A point of order, Mr. Chair.

How do we reflect the possibility of accepting the subamendment but moving it somewhere else in the bill?

● (1605)

The Chair: We can stand the amendment and tackle this at the end if we find a better place.

Is there agreement to stand this and deal with it later?

Mr. Christian Ouellet: And adapt it.

The Chair: Then we'll get some legal advice over the next few days, before the next meeting.

Do I have consensus to stand clause 6, the amendment, and the subamendment? We'll vote on it.

(Clause 6 allowed to stand)

The Chair: Moving on, we're going to clause 7, then.

Mr. Stephen Woodworth: A point of order. We've stood the amendment. I guess we have to stand the clause itself. Is that what you're saying?

The Chair: That's what I'm saying. We can't deal with the clause until we deal with the question of the subamendment and the amendment. How do you vote on a clause without it being...? That's a matter of order.

Mr. Stephen Woodworth: Okay. I apologize. I'm just new to this committee and—

The Chair: And if you were listening intently, I did call the question based upon standing clause 6, the amendment, and the subamendment.

Mr. Warawa.

Mr. Mark Warawa: On the same point of order, I think you may have just answered my question because you're saying it was back to the main motion, the amended main motion, clause 6, is that correct?

The Chair: We can't deal with the main question until we deal with the amendment and the subamendment.

Mr. Mark Warawa: So had you actually called the vote on the subamendment?

The Chair: I did call the vote. If you were listening intently again, I called the vote on clause 6, the amendment, and the subamendment, to have it stand. And that's what you guys just voted on. That has just carried and—

Mr. Mark Warawa: Chair, on that point of order, I think Mr. Woodworth brings up a good point. You've had a vote on it to stand. I don't think you understand my question, though. Did we actually have a vote on the subamendment or the amendment?

The Chair: No, we did not. We never did ask the question. We stood the entire clause, the amendment, and the subamendment.

I did call right now to see if it was going to carry. There was a request to stand it. We voted on it to be stood, and it stood.

Mr. Mark Warawa: So my question is a procedural one, I guess, through you to the clerk. Can we actually call a vote to stand a clause when that's not the item of debate? If we have not dealt with the motion that's on the table, which is the subamendment—

The Chair: Just to go back for you, we just stood the title, the preamble, the definitions, and clause 2.

Mr. Mark Warawa: Because that was the item that was being debated. But you cannot accept a new motion to stand something, can you, if it's not the motion that's on the table?

The Chair: Okay. I've made a decision here. We've stood the entire clause. I believe I am in order on this. You guys can raise a point of order. If you want to challenge the chair, challenge the chair. I've made a decision.

We can't deal with the main question until we deal with the amendment and the subamendment. So we can't go back to the question where we stood the...and I did specifically say that the entire clause, the amendment, and the subamendment will stand. That's the question I called; that's what you voted on. So we are standing this, and we will come back to it at a later date, hopefully not too far in the future.

Mr. Mark Warawa: For clarification, Chair, a person can make a motion to stand at any time, and it's a valid, acceptable motion, a motion that is in order?

The Chair: It's not a motion. I just asked if you wanted to stand it, carry it, amend it, or—

Mr. Mark Warawa: Thank you for that clarification.

The Chair: —or carry it on division.

Okay. Let's not split hairs.

(On clause 7—*Binding on Her Majesty*)

The Chair: It reads:

> This Act is binding on Her Majesty in right of Canada.

Does anyone wish to speak to that?

Ms. Duncan.

Ms. Linda Duncan: Mr. Chairman, perhaps I should explain my proposed amendment, my tabled amendment.

The Chair: Is there one tabled?

An hon. member: We don't have an amendment.

Ms. Linda Duncan: Oh, we don't have an amendment?

The Chair: No.

On clause 8 we have an amendment.

Ms. Linda Duncan: Oh, we're on clause 7?

The Chair: Yes, we're on clause 7.

Ms. Linda Duncan: Do I have a clause 7...?

An hon. member: No, there's nothing.

Ms. Linda Duncan: No. Okay, sorry. I'm way ahead.

The Chair: Does anybody else want to talk to the Queen?

Okay. We'll line that up for you, Mr. Woodworth. I'll put the call into Buckingham Palace.

There you go, Mr. Woodworth. You have the floor.

Mr. Stephen Woodworth: All I really want to say is that the act is sufficiently flawed, in my opinion, that even though I don't find anything exceptional in this paragraph, I'm not going to support it, just as I won't support any other clauses in the bill. I don't want my failure to support this clause to be seen as completely arbitrary; it's just because the bill is so flawed generally that likely I'll be voting against every provision.

● (1610)

The Chair: Okay.

Mr. Calkins, on the CPC time.

Mr. Blaine Calkins (Wetaskiwin, CPC): It's just a question with regard to this. "This Act is binding on Her Majesty in right of Canada." This is the typical line that we would see in most legislation. Is that right?

The Chair: That's correct.

Mr. Blaine Calkins: Okay.

Given the fact that our sovereign has been the sovereign for the last 50-plus years, and the next sovereign won't be a "her", to the best of my knowledge—we don't know which "him" it might be—I'm just wondering about the ramifications of this. Do we even need this legislation? If we pass legislation in Parliament, it's given royal assent. What's the point of a clause like this? What does this actually do? Can you answer that for me?

The Chair: We have a question here that I'll direct to our analyst.

Ms. Courtney.

Mr. Blaine Calkins: Is it absolutely necessary to even have this clause?

Ms. Kristen Courtney: I'm not really sure. It's common. That's all I can say about that.

I can look into that more, if you like.

The Chair: Okay. I've got someone willing to answer.

Ms. Duncan.

Ms. Linda Duncan: I didn't plan on speaking to this, but I will add my experience.

When I was the chief of enforcement, there was a lot of disagreement within the Department of Justice on whether or not you could bring an environmental action against the Government of Canada or the crown, Her Majesty in right of Canada. They then determined that yes, indeed you can, and they made the decision that they would make it clear in all environmental law thereafter that those laws are binding on Her Majesty in right of Canada, and that's why it's precisely stated. It simply means that you can bring an action and the Government of Canada is bound by the provisions of that statute.

The Chair: I suspect that because all legislation indicates "Her Majesty"—

Mr. Blaine Calkins: I'm not trying to filibuster, Mr. Plamondon, and I'd be interested in seeing how the Bloc Québécois is going to vote on "Her Majesty in right of Canada".

But the question that I have, I guess, Linda....

Is it okay if I talk through you, Chair, to Linda?

The Chair: Yes.

Mr. Blaine Calkins: If this act is binding on "Her Majesty in right of Canada", God forbid, the day is going to come where we will have a new sovereign and it won't be Her Majesty. Are we going to have to go back and amend every bill? Is this how silly this gets?

I'm just asking. I'm not going to draw it out any longer than this.

The Chair: Do you wish to respond?

Ms. Duncan, and then Mr. Woodworth.

Ms. Linda Duncan: Sure, Mr. Chair.

It's simply drafted consistent with all other federal environmental statutes.

If I can cite the Canadian Environmental Protection Act of 1999, section 5 says:

> This Act is binding on Her Majesty in right of Canada or a province.

You'll find that clause in every statute.

The Chair: Okay.

Mr. Woodworth, with your legal knowledge.

Mr. Stephen Woodworth: Thank you.

I don't want to make too much of it, but I think the idea here, by this clause, is to allow people to sue the government, because otherwise the government has immunity; there's crown immunity. So unless Parliament specifically allows people to sue the government, they cannot sue the government. And this bill really is all about people suing, so I think that's why the clause is here.

The Chair: Okay.

Mr. Blaney.

[*Translation*]

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

I was listening intently. I thought that section was in every bill, but I am told that that is not so. Mr. Woodworth tells us that it allows civil suits against the government. Can someone clear that up for me?

[*English*]

The Chair: I don't know if it's in all bills, but it's in the majority of bills. I would also suspect that if we had a change in sovereign, and it went from our sovereign Queen Elizabeth to a king, whoever that might be, the House of Commons and the Senate would quite quickly move motions to amend all legislation to reflect the change of Her Majesty to His Majesty. But in the meantime, those are good questions and it's an interesting debate.

I don't see any other hands.

Mr. Warawa.

Mr. Mark Warawa: Could we have a recorded vote?

(Clause 7 agreed to: yeas 6; nays 5)

● (1615)

Mr. Louis Plamondon (Bas-Richelieu—Nicolet—Bécancour, BQ): Mr. Chair, maybe it's an insult to the Queen? No? I hope not.

Mr. Stephen Woodworth: Mr. Chair, we simply don't want the Queen to be sued.

The Chair: We can never talk ill of our sovereign in this place, whether it's in the House or at committee. I want to make sure that we measure our words carefully. I think those were good questions we had.

(On clause 8—*Scope of application*)

The Chair: We're at clause 8, NDP amendment-4, which is that Bill C-469 in clause 8 be amended by replacing line 23 on page 7 with the following:

> related to federal land, aboriginal land or a federal work or

Then it goes back into the bill.

Ms. Duncan, you have the floor.

Ms. Linda Duncan: I will explain why I've brought forward this amendment. It was brought to my attention after the tabling of my bill that in the Canadian Environmental Protection Act, 1999, they chose to change the definition of "federal land". This change to the definition of "federal land" is what I'm proposing to bring forward, so that it's consistent.

The definition is separate. We haven't dealt with the definitions yet because we wait until we go through the substantive provisions. Later, we will get to where I will have changed the definition of "federal land" and added a definition of "aboriginal land". That will define this provision.

We can choose to leave the definition as it is or we can choose to change it. I'm fine either way, but I think it's important to be consistent. Interestingly, the government changed the definition in CEPA, but not in CEAA. I don't know what that's about.

The definition I have put in my Bill C-469 is, I believe, the same one that is in CEAA. Maybe they just haven't caught it, and maybe it will come up when we start reviewing CEAA.

So that is why I've added that in. It's simply a decision that was made by the government of the day that those should be defined separately. Aboriginal people may have said they didn't want to be included under that subhead. Maybe in CEPA there were provisions related to aboriginal land and not to federal land or vice-versa.

But generally speaking, until a first nation under the First Nations Land Management Act actually issues a land code that allows them to exercise a certain measure of environmental regulation in resource development on their land, the only environmental laws that apply to first nations lands are federal laws.

In federal environmental statutes, the reason we talk about federal land and aboriginal land is that provincial laws don't generally apply. It may well be that they made that change when the first nations final agreement started to be signed off. Constitutionally, first nations, as opposed to band councils on reserve, had additional powers. Now, under the First Nations Land Management Act, there is potential for the promulgation of bylaws by a first nation.

So this is my amendment. I'm tabling it to make it consistent with the Canadian Environmental Protection Act. If it's rejected, it's not the end of the world, because it will be consistent with CEAA.

The Chair: Thank you.

We'll go to Mr. Warawa.

Mr. Mark Warawa: Thank you, Chair.

I'm going to make a couple of comments on this amendment that has been presented by the NDP.

As Linda said, she's adding the words "aboriginal land" after "federal land". We heard from the witnesses that there's concern about the uncertainty Bill C-469 creates and the possibility, with that uncertainty, of lost investment and lost jurisdiction. Saying "federal land" was not adequate for the NDP. They now are ensuring that the uncertainty is also expressed in "aboriginal land", which is why this side of the table had expressed concern that we did not hear from aboriginal and first nations witnesses. It is so important to hear from them, and we have yet to hear from them. To add these words adds uncertainty.

By expanding the scope of the application of the bill to aboriginal lands, this amendment increases the concerns, as I said, that we heard from the witnesses.

So I will be voting against it, and I hope all members will too. Thank you.

● (1620)

The Chair: Go ahead, Ms. Murray.

Ms. Joyce Murray: I have a question for Ms. Duncan.

Have you discussed this change in definition with any first nations?

Ms. Linda Duncan: No, I haven't, specifically. I'm simply going on the basis of ensuring that this bill is not inconsistent with other federal statutes, because the intent of this bill is to hold the federal government accountable for enforcing and implementing existing federal statutes. In some laws, federal lands include aboriginal lands, and under some statutes they are defined separately. I have talked to first nations specifically about their opportunities to get access to information to participate in processes and to file litigation, which was one of the main reasons I tabled the bill to begin with.

Contrary to what Mr. Warawa is suggesting, I think this would provide great certainty to first nations that they would have the opportunity, equally, on their lands to file actions requiring the federal government to assert their responsibilities and powers on their lands as well as on any other lands in Canada.

That's basically what I have to say.

The Chair: Is there anything else, Ms. Murray?

Ms. Joyce Murray: I would like Ms. Duncan to address the potential concern that aboriginal lands would be subject to a law that private lands or provincial lands are not subject to.

Ms. Linda Duncan: That's a complicated question. Generally speaking, except for some particular laws, the general view, which is held by the courts, is that provincial environmental laws will not apply to first nations lands unless they accept that they do or there is some strong argument that they should be applied.

That's part of the problem for first nations on reserves. Most of the first nations final agreements are in the Yukon and Northwest Territories and Nunavut. There are starting to be some in British Columbia. They kind of follow separate rules than what happens to reserves, which only have the Indian Act, which is very inadequate. For environmental protection, they have simply whatever federal law exists. In the case of environmental permits and so forth, they don't have them.

This First Nations Land Management Act, and the ability of a first nation to enact its own environmental laws, cannot be asserted unless they actually enact the land code, which is a fairly intensive process. In the meantime, they need the federal laws in place to be applied. And they need to be able to have recourse to the courts to make sure those laws are applied. They are regularly filing those kinds of actions.

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

Mr. Stephen Woodworth: Thank you.

I think Ms. Murray is on the right track.

I just want to clarify my understanding of where we're going with this amendment. It is that in fact aboriginal land will be subject to this bill. Not only that, but if the federal government enters into an agreement with an aboriginal group, giving the aboriginal group the authority to manage the environment within a particular geographic district—as I think we do in some areas in the north—such an agreement will be liable to be set aside under this bill if a judge concludes that the aboriginal group is not fulfilling the obligations to provide a healthy and ecologically balanced environment for Canadians or to act as a trustee for Canadians and for future generations. I think because any agreement between the federal government and aboriginal groups is a federal act and is in fact within the federal jurisdiction, it will be subject to scrutiny under this bill, and if a judge concludes that it somehow represents a breach of the federal government's statutory duty to act as a proper trustee, then that judge will be empowered—and we'll get to this later—to set aside such agreements.

I just think it's important to note in this amendment, as well as elsewhere in the bill, that the aboriginal custodianship of the environment will certainly be subject to scrutiny under this bill and subject to being set aside, if we find a judge who doesn't agree with the conduct of the aboriginal group in relation to the environment.

● (1625)

The Chair: Thank you.

Mr. Ouellet.

[*Translation*]

Mr. Christian Ouellet: Mr. Chair, the opposite of what Mr. Woodworth has just said could also be true, in the sense that we may well find judges who will, in the future, consider the environment much more globally than in the past. I take issue a little with Mr. Woodworth looking at the environment of the future through a rear-view mirror, because the environment will be covered by international law—as we discussed earlier—that will apply to a number of territories and countries. Countries are beginning to come together on international laws.

The same will apply to First Nations. They will want to have legislation in common with the jurisdictions next door to them. If we project this sentence into the future, we will find for sure that First Nations will want to have legislation like that and to be able to enforce it, perhaps strictly to begin with, but then, a little differently. Imagine if companies wanted to develop mines on their land at some time in the future and this legislation did not apply to them. They would have to…They have no other land. First Nations have no clearly defined land.

I would like this legislation to apply to First Nations. I will be voting for this amendment, Mr. Chair.

[*English*]

The Chair: Mr. Blaney.

[*Translation*]

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

As I listened to Mr. Ouellet, I wanted to remind him of the words of Warren Everson, Senior Vice-President, Canadian Chamber of Commerce. I also intend to oppose the amendment for the same reasons. He told us that “the bill before you today seems to us to be a statement of frustration with the current process” rather than a working law. In his words, it is—and I ask Mr. Ouellet to pay attention to this—“a blank cheque” that asks the Federal Court to fill in the blanks. He continues: “Courts have said over and over again in the past that it is not the job of the court to make policy, and you politicians have said many, many times that it is not the prerogative of judges to make law in Parliament's place.”

Clearly, the Canadian Chamber of Commerce is of the opinion that the bill is much too confusing and that it will open the door to an endless litigation process. But our duty is to enact legislation that is clear.

So I am going to agree with Mr. Woodworth when he says that a bill must be clear. That is why I am going to oppose this amendment.

Thank you.

[*English*]

The Chair: Thank you.

Mr. Ouellet.

[*Translation*]

Mr. Christian Ouellet: He is accusing me of saying something I did not say. He does not listen when I am speaking and then he talks about something else. It makes no sense. I am talking about one thing and he is talking about something else.

[*English*]

The Chair: I think we're into debate.

Mr. Woodworth, you have roughly three minutes twenty.

Mr. Stephen Woodworth: Thank you. I hope not to take that generous amount of time.

I do want to respond quickly to Mr. Ouellet. I think a first nations group and the Canadian government and all Canadians would want to see a development like a mine being proceeded with in an environmentally appropriate way. The question here isn't that we all want to see the environment protected; the question is, who decides the manner of the protection? If a first nations group chooses to exploit a mine within their territory or on their land and believes that they're doing so in an environmentally proper way, it's necessary to know that without even having consulted first nations groups, we are in this bill giving a judge of the Superior Court of that jurisdiction the authority to interfere with the decisions of the first nation. That is the effect of this bill, there is no question, and it is expressly so because of the inclusion of aboriginal lands in the definition we're looking at.

Thank you.

● (1630)

The Chair: Ms. Duncan, you have roughly two minutes forty-five left.

Ms. Linda Duncan: I'll be succinct.

My concern is that we're making a mountain out of a molehill. Every statute is read within the context of other statutes. Any statute, federal or provincial, that may have an implication for aboriginal lands is read within the context.... If there's a first nations final agreement, it prevails over all statutes. You don't put all of that again into every statute that you write. If there's any conflict between what this bill might provide or any determination by the court, they make their determination within the context of the first nations final agreement. Plus, under the First Nations Land Management Act, if the first nation decides they want a land code, that code prevails over federal law. Therefore, the federal law would not be applying to that area anyway; the first nation law would. The law is certain. You just have to understand the whole context of all of the law, which would be considered in any case that is brought.

My question would go to all parties: did everybody here consult intensively with first nations in this bill and all bills that we've reviewed? I do my best to talk to as many people as I possibly can, and I have in fact sought their participation here. They just haven't been available. I really think we're making a mountain out of a molehill. The question here simply is this: do we want to go with the definition as revised in CEPA, 1999, or do we want to go with the definition that was in the original CEPA and appears to be in CEAA? These definitions were determined by respective governments, not by me, and they were passed by Parliament. The question is simple. We go with one definition or the other. If we go with the updated CEPA definition, then you would approve my amendment. If you want to go back to the definition in the former CEPA, and what is apparently in CEAA, then you vote against my amendment.

The Chair: Thank you.

I have Mr. Woodworth.

Mr. Stephen Woodworth: Thank you.

Very quickly, I can't believe what I just heard from Ms. Duncan. The whole purpose of a bill of rights is to be a lens by which all other statutes and government actions are to be examined. Clearly, at the very least, if we were simply talking about federal agreements with aboriginal groups, they would definitely be subject to be set aside under the provisions of clauses 16 to 19 of this bill. I think it's even quite arguable that a federal statute, which some judge determined didn't live up to the standard of trusteeship of the environment mandated in this bill, could be likely subject to scrutiny unless it specifically said it was an act that notwithstanding anything contained in this bill.... At the very least, certainly agreements or other non-statutory actions of the federal government relating to aboriginal land would be subject to being set aside under this bill. That's the whole purpose of this bill, to do exactly that, to set aside federal action that doesn't measure up in a judge's eyes.

The Chair: Mr. Blaney, you have less than a minute.

[*Translation*]

Mr. Steven Blaney: Thank you. That will be plenty of time for me, Mr. Chair.

I just want to go back to our role. A number of the witnesses who have appeared before us have told us that the bill is going to be open to a lot of interpretation. But, as legislators, our role is to come up with legislation that is clear. The role of judges is to interpret it.

From Mr. Ouellet's comments, I understood him to say that judges basically need to act like police officers on environmental matters. In my opinion, it is up to lawmakers to make clear law and up to judges to make wise decisions when the law has to be interpreted.

We have clearly seen now that this bill has a lot of flaws and that it is not clear. So, if we pass it, we will be failing in our role as lawmakers.

Thank you.

● (1635)

[*English*]

The Chair: Not seeing any other hands, I'm going to call the question.

Mr. Mark Warawa: A recorded vote.

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

The Chair: We're on to the main clause.

We have Mr. Warawa speaking to the main clause as amended.

Mr. Blaine Calkins: A point of order, Mr. Chair.

How does it read now with the amendment?

The Chair: The way it reads with the amendment is:

> The provisions of this Act apply to all decisions emanating from a federal source or related to federal land, aboriginal land or a federal work or undertaking.

Mr. Warawa, and then Mr. Woodworth.

Mr. Mark Warawa: Mr. Chair, as you've laid out the amended motion, this includes decisions by federal bodies, including the departments, crown corporations, crown agencies, and decisions related to all federal-related industries, such as banks, shipping, and interprovincial railways. It will also apply to decisions that affect federal land, including reserve land.

Bill C-469 is about taking actions, so it's a litigation bill. Any resident or entity in Canada will be able to take legal action against federal lands, shipping, banking, railways, and on and on it goes. That's what we heard from the witnesses. The concerns they raised are now being exposed. The witnesses were correct in their concerns.

The bill would apply to decisions by the federal government on such things as environmental assessments. After substantial environmental assessments, action could be taken if a permit is issued to industry, to first nations. Other decisions—

The Chair: A point of order, Monsieur Ouellet.

[*Translation*]

Mr. Christian Ouellet: I just want to know what he is talking about, because I am lost.

Which amendment is he speaking to?

[*English*]

The Chair: We're not talking about the amendment; we're talking about clause 8 as amended.

[*Translation*]

Mr. Christian Ouellet: Okay.

[*English*]

Ms. Linda Duncan: And that's in order? You can talk to it after it's voted on?

The Chair: We voted on the amendment. We didn't vote on the—

Ms. Linda Duncan: Oh, sorry. Okay.

The Chair: We're back to the main motion.

Mr. Mark Warawa: Chair, what we are voting on is clause 8, which says now, as amended:

> The provisions of this Act apply to all decisions emanating from a federal source

We don't know what that means. The uncertainty of this bill is shocking; we're putting the cart before the horse. We're going to say "all decisions emanating from a federal source" without knowing what that means, or "related to federal land, aboriginal land or federal work or undertaking"—basically anything that actions can be taken by any resident or entity. Chair, it's exactly what we heard from the witnesses.

Just to refresh, what did the witnesses say? Mr. Huffaker, the vice-president of policy and environment for CAPP, said:

> In our view, Bill C-469 is not good policy for Canada. We believe it is fundamentally flawed and we respectfully submit that it cannot be amended into good policy.

This is business. This is CAPP. This is the vice-president for policy and environment saying it should be scrapped.

The Chamber of Commerce said:

> ...the lack of legal clarity will chill any investment consideration.
>
> A fundamental precondition of commercial development, wealth creation, and economic acceleration is that there is a rule of law that can be enforced and counted on so participants know what they have to meet, and that if they meet it they are acceptable. That is what we're asking for. We just want to know reliably what tests we need to meet. In my judgment, this bill fails that test completely.

I can go on and on. There are suggestions that the need for certainty is paramount. Here we go, moving forward on clause 8 as amended, with continued uncertainty.

The bill would also apply to decisions related to private, federally regulated industry. Where harm to the environment is a result of such a decision, a court proceeding may follow. This prospect would increase uncertainty for business interested in engaging in these types of activities.

Chair, what is the definition of federal source? The bill defines federal source as "a department of the Government of Canada", "an agency of the Government of Canada or other body established by or under an Act of Parliament that is ultimately accountable through a minister of the Crown in right of Canada to Parliament", or "a Crown corporation".

Because the bill would apply to decisions emanating from these bodies, the bill would affect industries that are regulated federally and programs that are administered federally. It would also apply to many decisions made by the Minister of Indian Affairs and Northern Development related to reserve lands and first nations individuals. This is why we have huge concerns.

Chair, I'm not going to be making this motion, because we're down this pathway now. And that's why we're recording the votes. I'm shocked that we have the Bloc supporting legislation like this, which is going to be bad for Quebec, bad for our first nations. But we are going down this pathway.

I think I'll leave it at that, Chair, and look for comments from others.

● (1640)

The Chair: Mr. Woodworth, and then Mr. Blaney. There are two minutes left.

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

The very words of this provision say that this act applies to "all decisions emanating from a federal source", and Mr. Warawa picked up on that as being quite uncertain. I just refer to it to buttress what I said earlier about the fact that for sure, agreements between the federal government and an aboriginal group would fall into that category. Quite frankly, a decision emanating from a federal source is likely broad enough to include an act of Parliament, unless that act of Parliament specifically said it was to be free of the influence of this pernicious bill.

Having said that, I had a conversation yesterday with an officer of the University of Waterloo. I asked her if she knew we were studying a bill that meant that if the University of Waterloo received funding to build a new building on their campus and they went through a federal environmental assessment in order to implement that, and spent *x* number of millions of dollars doing that, and complying with federal government regulations, and spent *x* number of years doing that, the project could still be derailed by a lawsuit at the instance of virtually anyone who could apply to a judge to either set aside the building or modify it? She was quite horrified to hear that that would be possible. I think most Canadians would be horrified if they knew what we were studying at this committee.

Thank you.

The Chair: Thank you.

Mr. Blaney, you have 15 seconds.

[*Translation*]

Mr. Steven Blaney: You are not leaving me a lot of time, Mr. Chair.

I just wanted to recall the words of the Environment Commissioner of Ontario. He clearly told us that this bill does not contain the benchmarks that the Quebec or Ontario legislation does.

[*English*]

The Chair: You're going to have to save that for another time. Time has expired.

I don't see any other speakers. The Conservatives have used up all their time.

We will have a recorded vote.

(Clause 8 as amended agreed to [See *Minutes of Proceedings*])

(On clause 9—*Right*)

● (1645)

The Chair: We go to Bloc Québécois amendment number 5, which is on clause 9. It adds to the end of subclause 9(1), "to the extent required by federal Acts and regulations."

Speaking to the amendment, the Bloc could request to speak. If not, we'll have Mr. Calkins.

Mr. Blaine Calkins: Thank you, Mr. Chair.

I'm surprised that the Bloc isn't actually speaking to their own amendment. I would have some questions or some concerns about this. It appears that some of the testimony we heard, particularly from the Canadian Hydropower Association and various other witnesses, and the lines of questioning brought on by my colleague, Mr. Blaney, in defence of his own province and in defence of Canada, for that matter, basically spurred the Bloc to make this particular amendment.

It is to amend by basically focusing the bill....

[*Translation*]

Mr. Christian Ouellet: A point of order, Mr. Chair.

[*English*]

The Chair: Mr. Ouellet, a point of order.

[*Translation*]

Mr. Christian Ouellet: We are withdrawing that amendment.

[*English*]

The Chair: Are you withdrawing the amendment?

[*Translation*]

Mr. Christian Ouellet: Yes.

[*English*]

The Chair: We've already started speaking to it. You can't withdraw a motion on a point of order, to start with, unless there's consent.

Is there consent for the Bloc to withdraw this amendment?

Some hon. members: No.

The Chair: I don't have consent, so we're speaking to the amendment.

Mr. Blaine Calkins: I was pleasantly delighted to see this amendment in here, because it reduces the scope and power of the bill, to a certain extent, from how broad it originally was.

To hear that the Bloc actually wants to withdraw this right now actually gives me great concern. I know that my colleague, Mr. Blaney, will probably be speaking to this. I can't speak about the intentions of others on this committee, but it would seem to me to circumscribe the extent to which the law would apply.

We heard from many witnesses that the legislation is overarchingly broad and would have undoubtedly damaging consequences. So "to the extent required by federal Acts and regulations", it would seem to me, on the cover, is a good notion. The problem, Mr. Chairman, is that it doesn't matter. If it looks like a duck and it walks like a duck and it quacks like a duck, we can call it something else, but the reality is that it's probably still a duck.

It appears to be a good amendment on a relatively flawed clause. I have a lot of concerns about clause 9, all three parts of it. Of course, the Liberals have an amendment to add a fourth subclause to this particular clause. I hope they're not going to withdraw their motion either.

Mr. Blaney, did you want to speak to this particular amendment?

The Chair: [*Inaudible—Editor*]

Mr. Blaine Calkins: Mr. Chair, I've studied this, I've looked at it, I've discussed this with my colleagues. It doesn't look as if this is an amendment. While I do applaud the effort to limit it, and I applaud the Bloc Québécois' notion in recognition of federal acts, I don't think it changes the clause substantially enough to allow us to vote in favour of the amendment or the clause in its entirety.

● (1650)

The Chair: Mr. Cole, and then Mr. Ouellet.

[*Translation*]

Mr. Christian Ouellet: Thank you, Mr. Chair.

I think I have the right to withdraw the amendment now. So I propose that it be withdrawn.

[*English*]

The Chair: No, because when we're debating bills, I have the power, and I looked at the Bloc when I was putting this on the floor and nobody was paying attention. I was calling for a speaker; no speakers were coming from the Bloc. Mr. Calkins spoke to it. We are now on this amendment. It's on the floor. I put it on the floor. Now you all have the right to vote against your own amendment and essentially defeat it that way.

If you wish to speak to it, I encourage you to speak to your own amendment or why you wish to have it defeated.

[*Translation*]

Mr. Christian Ouellet: No, I do not want to speak to the amendment. I want to withdraw it. I have nothing to say. I do not want to waste my time, nor other people's.

[*English*]

The Chair: Just give me a minute. Let's suspend for a minute. I want to make sure I'm correct on this.

● _____ (Pause) _____ ●

The Chair: Since you wish to withdraw, it will require unanimous consent because the process has started. I already put this amendment on the floor looking to the Bloc. Nobody was paying attention to the chair, the process started, and we are now in debate. But if there is consent by all members to allow you to withdraw your amendment, I will allow you to do that.

Is there unanimous consent for the Bloc to withdraw this amendment?

I do not have unanimous consent.

So we are debating the amendment.

[*Translation*]

Mr. Christian Ouellet: Mr. Chair, it is a good proposal, but it is redundant. It adds something that is already there. We have realized that it is not necessary. Of course, if we proceed, we will clearly not vote against it because it is not inherently bad. It is just that it adds things that are already in the text.

[*English*]

The Chair: Mr. Blaney.

[*Translation*]

Mr. Steven Blaney: I am surprised to hear the Bloc Québécois equivocating on this amendment.

Mr. Chair, when representatives from the Canadian Hydropower Association came here to comment on the bill, they told us about the extremely damaging and harmful effects it would have, about the encroachment into provincial jurisdiction and about the delays it could cause in completing projects. It could even affect Hydro-Québec projects. They saw the possibility of the bill giving powers to judges to cancel agreements negotiated…

Mr. Christian Ouellet: Mr. Chair, are we talking about the amendment? The amendment suggests adding the words "to the extent required by federal acts and regulations".

Mr. Steven Blaney: Well…

Mr. Christian Ouellet: Well what? Listen, we are only talking about a few words.

[*English*]

The Chair: Thank you for that point of order. I am just going to ask that you be relevant to the amendment.

[*Translation*]

Mr. Steven Blaney: Mr. Chair, it is difficult for me to be more relevant to the amendment. The proposed amendment is a clumsy, lame way of limiting the scope of this bill. The Bloc Québécois seems to be hesitating about its amendment, but witnesses have told us that, in its present form, the bill has no teeth. The people from the Conseil patronal de l'environnement du Québec talked to us about clause 9—how much more relevant can that be, Mr. Chair? I do not have it in my hand, but I will come back to it.

What I want to bring to your attention is that several provisions in the bill encroach on areas of provincial jurisdiction. It puts hydroelectric projects, sustainable development projects and wind projects in Quebec in jeopardy. The proposal does not go far enough in setting limits on this bill. That is why I intend to oppose it.

● (1655)

[*English*]

The Chair: Merci.

Mr. Woodworth.

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

I notice that in the Quebec Charter of Human Rights and Freedoms, section 46.1 recognizes the "right to live in a healthful environment in which biodiversity is preserved, to the extent and according to the standards provided by law".

So it didn't surprise me at all that the Bloc members would want this bill to be circumscribed similarly, consistent with the legislation of Quebec. It does surprise me that they are now suggesting they would like to have it withdrawn.

Quite frankly, I think this proposal goes a very long way to protecting a provincial jurisdiction from what is otherwise going to be a lot of interference under this act. I can't support this proposal, because it doesn't go far enough, but I do respect the Bloc members for at least standing up to this limited extent on behalf of Quebec voters.

Thank you.

The Chair: Ms. Duncan.

Ms. Linda Duncan: Thank you, Mr. Chair.

My understanding of the agreement to withdraw the provision is that had it been included, it would have nullified other provisions in Bill C-469. It would have nullified clause 13 and clause 26. Clause 13 deals with the right to propose any new act, regulation, or instrument; and clause 22 with the power given to an auditor to review any draft regulations in the bill. So it would have nullified the later provisions and it would have been nonsensical to include.

It is true it's in the Quebec statute, which I believe was enacted quite some time ago. On reviewing the bills of rights of other jurisdictions, I see they do not include such a limitation.

So the agreement was to withdraw it; otherwise it would have made nonsensical a good part of the bill.

Contrary to what the Conservative members of the committee are alleging, there are many substantive provisions in this bill, including extending the right of access to information, the right to participate, the right to review any existing law or policy, and the right to propose improved laws and policies.

If that amendment had gone through, it would have taken away those rights and opportunities, so the Bloc very graciously agreed to withdraw their amendment.

The Chair: I have Monsieur Ouellet, then Mr. Blaney, and Mr. Woodworth.

[*Translation*]

Mr. Christian Ouellet: Thank you, Mr. Chair.

In the statutes of Quebec, more precisely in subsection 19.1 of the Environment Quality Act, this kind of boundary is established, specifically for land use planning and development. Section 46.1 of the Quebec Charter of Human Rights and Freedoms—and that's what this is about—also establishes the right for everyone. The act to affirm the collective nature of water resources and provide for increased water resource protection does the same.

But we realized that we had our cake and were eating it too, meaning that we had it both ways and that all our precautions were not really necessary. It is not that there was anything bad about it.

● (1700)

[*English*]

The Chair: Mr. Blaney.

[*Translation*]

Mr. Steven Blaney: I agree with Mr. Ouellet. The two sections he quoted are excellent. One is from the Environment Quality Act and it limits the application of the act by considering other existing ones. The other, section 46.1 of the Quebec Charter of Human Rights and Freedoms, to which my colleague Mr. Woodworth referred, reads as follows:

> Every person has a right to live in a healthful environment in which biodiversity is preserved, to the extent and according to the standards provided by law.

The right is circumscribed by the words “to the extent and according to the standards provided by law”.

In terms of the bill before us, the Conseil patronal de l'environnement du Québec was very clear: there are no benchmarks. Quite the opposite, it is a free-for-all. The lack of benchmarks creates a climate of constant uncertainty. Is that what we want for Quebec companies? It creates an climate of constant uncertainty for hydroelectric development. Licences and permits issued to companies and compliance with legitimate acts and regulations become almost secondary. In other words, it does not matter whether you abide by the law or not. Anything can happen anywhere and at any time.

There was an attempt at an amendment that intended to rein that in a little, but there seems to be hesitation now. In its present form, the bill is an obstacle to Hydro-Québec's development and the proposals in the amendments do not go far enough. I hope that members will come to the defence of Hydro-Québec by voting against this bill.

Thank you.

[*English*]

The Chair: I have Mr. Woodworth. You have roughly two minutes left, not even.

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

First of all, Ms. Duncan has grossly overstated the application of this amendment, since it only applies to subclause 9(1). It really only applies to the issue of a right to a healthy and ecologically balanced environment. It does not, for example, affect the obligation in subclause 9(3) of the Government of Canada to be the trustee of Canada’s environment and all that flows from that.

The amendment does help to protect provincial jurisdiction against the problems this act will create, and to that extent, it does a good job. If it only went far enough, I would support it, but it doesn't quite go far enough.

The Chair: Thank you.

We are voting on clause 9, Bloc amendment BQ-5, which is line 27 on page 7. It is a recorded vote.

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

The Chair: The amendment is defeated.

We are going to Liberal amendment L-1.1, which is on clause 9, line 5 on page 8 of the bill, and it reads:

> (4) Every person in Canada has the obligation to protect the environment.

This is a new subclause 9(4) moved by Mr. Kennedy.

Do you wish to speak to it?

Mr. Gerard Kennedy (Parkdale—High Park, Lib.): Thanks, Mr. Chairman.

[*Translation*]

This is a simple and symbolic idea.

[*English*]

Of the countries that have an environmental bill of rights, 80 of the 192 also refer to an obligation for individuals to support the environment and protect it. It is not meant to be enforceable. It is meant to provide a balance in expectation. Just as there is an obligation for government, there is also an obligation for citizens. If there are opinions today regarding its applicability, it could possibly be moved to the preamble, because it is not meant to be legally enforceable.

Essentially, it is just a good idea that we also enjoin individuals along with government. This is not just a contract with the government but also something that individuals themselves can contribute to. I see it as a positive step and in keeping with the spirit of the bill.

● (1705)

The Chair: Mr. Calkins.

Mr. Blaine Calkins: Thank you, Mr. Chair.

I appreciate the opportunity to debate and discuss this. This might appear in various other legislative statutes around the world, but we're not talking about those statutes in other parts of the world; we're talking about this particular statute becoming law here in Canada. I have to tell you, the addition of subclause 9(4) here, as proposed by Mr. Kennedy, does cause me some concern.

My concern primarily is that this puts an individual onus on every Canadian to protect the environment, but it doesn't clearly define what the responsibility of protecting the environment actually is. We have definitions about what a "healthy and ecologically balanced environment" is, but nobody can even agree on that. And it's not so much that there's any specified penalty section or anything like that in this particular statute, but there is the entire section that deals with civil liability. It is my fear that if we put this clause in and this bill does become law at some point in time, every single Canadian who doesn't do something in accordance with what some other Canadian's perceived notion is of a healthy and balanced environment, if anybody does anything contrary to that....

I'll give you an example, Mr. Chairman. I'm a fisherman and I'm a hunter. I have a permit under the Fisheries Act, which is given to the Province of Alberta to manage that particular case. I could go fishing. Somebody who doesn't agree with fishing can say, you know what, this guy's ruining my environment, driving a boat on the lake. If I've got a licence to do so, he can say I'm wrecking his environment. He doesn't want these boats on his little private lake. He has a cottage here. This is what he can do.

I'm a hunter; I have a permit that says I can go hunting. We already talked at length, ad nauseam actually, about the fact that this bill gives judges the right to stop any permit, stop any authorized activity in its tracks. But I'm really concerned. Does "every person in Canada" mean every Canadian citizen? Does it mean every person who happens to be in Canada? Are we talking about residents?

So many parts of this bill talk about that. They talk about who's a resident. This particular clause actually talks about residents. What is the definition of "residency"? Well, we can talk about that. So there's "every person in Canada", there's "residency".... We'll talk about the residency clause that's here. For residency status in Canada, a person can be deemed a resident within one calendar year if she or he holds Canadian citizenship or she or he is deemed a resident due to his or her physical presence in Canada for at least 183 days. Now, does that mean every person who has been in Canada for 183 days, under section 4, or does it just mean every resident in Canada? Does it mean every Canadian citizen in Canada? Does it mean any entity? There are clauses in the bill, Mr. Chair, that actually speak to any entity being able to take action. So this clause is actually inconsistent with some of the other clauses when we specifically look at the civil action clauses, which I believe are in clause 23.... Help me out, colleagues. I've been away for a week.

So it is clause 23; that's where I thought it was.

I have some concerns about this:

> Every person in Canada has the obligation to protect the environment.

It doesn't actually do anything to address how the right to a healthy and ecologically balanced environment is to be balanced with competing interests, such as social and economic goals.

So I would ask you, Mr. Chair.... Every person in Canada has an obligation to protect the environment, but it also says that every Canadian has a right to an ecologically and healthy balanced environment. Well, if someone has a job working for a company that is building an oil sands upgrader, how do you think that person is going to identify their healthy ecologically balanced environment—putting food on the table, being able to heat their home? These are the kinds of questions this bill basically raises and brings to question.

Mr. Chair, I have to recommend to my colleagues that we just can't proceed with this particular clause. It has too many broad connotations in its scope. It puts what I would consider to be an undue onus on every Canadian citizen to protect the environment when we don't even know what the determination is. Who's going to decide that? Who's going to determine if the environment is healthy or not? Who's going to make that determination? Is it going to be a judge?

If we take a look at the other clauses in the bill that this supposedly is going to be working with, subclause 9(1), which we've already taken a look at, and subclause 9(2), which we've already discussed in an amendment, and the amendment was defeated....

● (1710)

> Every resident of Canada has a right to a healthy and ecologically balanced environment.

Take a look at the scope of that. What scope is that? Are we looking at the health of the environment from the perspective of a biome or an ecozone? There are 15 terrestrial ecozones in Canada and there are five aquatic ecozones. Are we talking about looking at it from a healthy and ecologically balanced environment, from the perspective of a micro-climate? Who's going to decide that? None of this information is defined in this legislation. That is fundamentally the problem with this particular piece of legislation.

I know this is in response to what Dr. David Boyd brought forward. He says in his recommendation:

> Bill C-469 should include a provision establishing that Canadians have a responsibility to protect the environment. The provision would be hortatory rather than enforceable, but would make the point that rights and responsibilities are integrally related. As noted earlier, 80 nations....

I'm basically repeating what Mr. Kennedy said when he addressed this bill.

This is one individual who came before the committee. He basically testified that this should be brought forward. As I say, we can put it in there. If it's not going to be enforceable, why would we even bother to put it in there? I do have some very significant concerns, but not so much from the enforceability when it comes to the liability sections that we've seen in clause 18 of the bill. I think this clause would have wide-ranging and deep impacts on the legislation when it pertains to clause 23, which is the civil liability section. I can see individuals suing other individuals, whether it's something petty over lakefront property issues or whatever the case might be, protecting what they deem to be their ecologically healthy environment.

I can't, in good conscience, support this particular amendment, Mr. Chairman. I would encourage all members of the committee to defeat it.

The Chair: Okay.

Mr. Scarpaleggia, you have the floor.

Mr. Francis Scarpaleggia: I just don't understand how this changes anything that already exists in this bill. This right of every citizen to take issue with another citizen's actions that could be deemed to be harmful to the environment is what we've been debating all along. This is one of the issues the government members have a problem with and they have been saying so all along. I don't understand what this really changes. As Mr. Kennedy said, I thought it was more of a symbolic addition that he could live with having placed in the preamble. I don't understand why Mr. Calkins is raising this bogeyman when in fact that is one of the objections they've had with the bill all along, even before this amendment was introduced.

Maybe somebody could explain that to me.

The Chair: Mr. Woodworth, you have one minute.

Mr. Stephen Woodworth: Thank you.

I don't know if that's enough time to quite explain it. Remember, the bill says that someone can be sued for offending an environmental act. Now, we created a provision that says everyone has an obligation to protect the environment. Therefore, clause 23 is now available. If a judge is convinced that you have breached this provision, Mr. Scarpaleggia, you can be sued under clause 23. The person who proposed it gave his own definition of what this means. It included a duty to take part in the preservation and improvement of the environment and to prevent or minimize environmental damage caused by their own actions. That clause is going to apply to every single Canadian, and they will be exposed to the possibility, at least, of a lawsuit under clause 23.

I hope that answers your question.

Mr. Francis Scarpaleggia: It does.

The Chair: Mr. Calkins, you have 10 seconds.

Mr. Blaine Calkins: I would just like to go a little bit further.

Francis, when I was a national park warden, when I was a provincial park ranger, that was my job, to protect the environment. This clause actually deputizes every single Canadian to do that and it puts that onus on them to do that, but that's the problem. We have people who aren't qualified to be doing these kinds of things—

● (1715)

The Chair: Thank you.

Mr. Scarpaleggia, you have the floor.

Mr. Francis Scarpaleggia: I understand.

I'm going back to what Mr. Kennedy said his intention was. He didn't intend it to be taken that strongly. He in fact said he'd be in favour of having this in the preamble. He's introducing it for symbolic reasons. If it's in the preamble, I'm told by lawyers that it really doesn't have the force of law. I don't see what the problem is by putting this in the preamble. What we have to do to put it in the preamble, I don't know.

Our analysts are chuckling.

The Chair: Do you need the floor?

Ms. Duncan.

Ms. Linda Duncan: Thank you, Mr. Chair.

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

The Chair: Mr. Woodworth.

Mr. Stephen Woodworth: I'm not sure if Mr. Scarpaleggia was making a motion to defer this until we get to the preamble or if he was suggesting something else.

The Chair: Mr. Scarpaleggia, can you please clarify? Are you trying to stand this amendment, or do you wish to continue?

Mr. Francis Scarpaleggia: I'd like to stand it.

The Chair: Okay.

Ms. Duncan, you have the floor. I'll let you speak before I call to see if it's stood.

Ms. Linda Duncan: I am going to support that, because I think there needs to be a little more thought put into it.

As Mr. Calkins said, this comes out of a recommendation from Dr. Boyd, who is looking at legislation from other jurisdictions. But if you look at Canadian jurisdictions, what the Northwest Territories has put in is the right to protect the environment and maintain the public trust, which I think delivers more of what Mr. Kennedy is trying to do.

I agree that it should be stood, because I think we need to take a look at it. He was suggesting that he would like to stand it and perhaps later make changes to the preamble. But the preamble already states, “Whereas Canadians have an individual and collective responsibility to protect the environment of Canada for the benefit of present and future generations;” and “Whereas Canadians want to assume full responsibility”.

I'm not totally against it, but I don't like the idea of a mandatory obligation when there are no repercussions or penalties. But I'm willing to discuss this further with Mr. Kennedy, and I think a number of us would like to stand this one and have the chance to talk it through.

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

Mr. Stephen Woodworth: The difficulty we are encountering here, in my opinion, Mr. Chair, is that these discussions are supposed to occur—ideally, at least—at committee so that all members can hear and participate. Now we are straitjacketed as a result of arbitrary timelines. But it seems to me to lack transparency for certain members to go ahead and discuss an amendment when they're not at the table.

The Chair: Ms. Duncan.

Ms. Linda Duncan: I'm sure nobody would object if the Conservative members were to have recommendations to make from other precedents, which is all that is going to go on in this discussion. It's just that we're constrained here because we don't have access. I have a number of statutes here, but I don't have all of them, and I'd like to have the chance to look at this carefully and make helpful, constructive suggestions. There is no intent to make anything secret. Anybody else who has constructive recommendations can make them. All members of this table are free to table any amendments they please.

The Chair: We are bound by the motion that debate is limited. We have a time allocation, and I have to abide by it. If members of the committee wish to have discussions outside of committee meetings, there is no way I can stop it, nor would I try to. I encourage a robust discussion outside of the committee, and I believe we should use all available resources to come to decisions.

So I will call the question, and just for clarity, we are going to stand amendment L-1.1, and we will be standing clause 9.

Is there a point of order? We've been through this before.

● (1720)

Mr. Mark Warawa: Chair, could you explain to committee what you mean by that? You're standing the amendment and standing clause 9.

Procedurally, I don't know if you can do that. I think you can stand the amendment, because that's what's on the table at this time. But for you to sweep both of these in the same motion may not be proper. Is there a motion on the table right now?

The Chair: The motion on the table right now is clause 9, amendment L-1.1. We have to stand clause 9 to consider the amendment. Once we pass the motion, we can't amend the motion if a question has been asked. Procedurally, we have to stand both.

So I'm calling for the standing of amendment L-1.1 and clause 9.

(Clause 9 allowed to stand)

The Chair: A point of order, Mr. Blaney.

[*Translation*]

Mr. Steven Blaney: A point of order, Mr. Chair.

We have just come to a decision on putting the subamendment on ice, so to speak. But I would like to know what would happen if there were another subamendment to the same motion. I wanted to bring that to your attention. If there are others, we will have to include them when the main motion is presented like that.

[*English*]

The Chair: Are you referring to amendments or subamendments? We didn't have any subamendments that we're discussing. We're discussing—

[*Translation*]

Mr. Steven Blaney: We were discussing Mr. Kennedy's amendment. But if there were other amendments to the main motion, we also should have…

[*English*]

The Chair: We had two. We defeated one and we went on to the second one. Now we're standing the clause—

[*Translation*]

Mr. Steven Blaney: So the debate on amendment LIB-1.2 has been suspended as well.

[*English*]

The Chair: The debate is suspended on clause 9, essentially—

[*Translation*]

Mr. Steven Blaney: Oh, all the amendments to this motion, then.

Thank you.

[*English*]

The Chair: We'll come back to it. I'll have to confer about this, but we'll have to look at the time allocation when we bring it back to the table, if there's new information.

I'll have to consider that. I'm not ruling on that one right now.

We are moving to clause 10, Liberal amendment 1.2.

(On clause 10—*Right to access environmental information*)

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

Mr. Mark Warawa: Chair, just so we know where we stand procedurally, when we deal with the Liberal amendment 1.2 on clause 10, to this point we have not asked for the member to move this amendment.

The Chair: This happened on Bloc amendment 1.

Mr. Kennedy did move it. But any Liberal member can move one of their amendments onto the floor. I can even move it off the floor.

Mr. Mark Warawa: If we could do that from now on...just so we know what motion it is. Thank you.

The Chair: Yes, we did it the last time.

Mr. Francis Valeriote (Guelph, Lib.): I so move.

The Chair: Okay.

Liberal amendment 1.2 to clause 10 is that Bill C-469 in clause 10 be amended by adding after line 12 on page 8 the following:

> (2) For greater certainty, the environmental information referred to in subsection (1) shall be made available to the public in addition to any information disclosed under the *Access to Information Act*.

It has been moved.

Mr. Valeriote, do you wish to speak to it?

Mr. Francis Valeriote: I'll speak to it after Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: This amendment is to strengthen clause 10 to ensure that the broadest amount of environmental information is made available to the public and that any information that would be made available under the Access to Information Act would be a supplement to all the other environmental information that should be made available. That's how I understand that amendment.

● (1725)

The Chair: Mr. Valeriote.

Mr. Francis Valeriote: Valeriote as in chariot, Mr. Chair, if that's okay.

The Chair: I apologize.

Mr. Francis Valeriote: That's okay.

The Access to Information Commissioner, Mr. Chair, indicated, when she reported to Parliament on access to information, that the government has obliterated access to information to the point of irrelevancy, to use her words.

I'm certain Mr. Kennedy has brought this particular motion so that Canadians and Parliament would have greater access to information than that currently afforded under the Access to Information Act if they're going to make reasonable, informed decisions respecting those matters raised in clause 10. It makes sense that this amendment be adopted.

The Chair: Okay. Thank you.

Mr. Armstrong.

Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC): Thank you, Mr. Chair.

The amendment, of course, is going in a positive direction; however, it doesn't go far enough. The actual clause remains very redundant, even with this amendment. It causes a lot of issues about just how many different bodies are going to be asking for information from different government departments under different acts.

I'm going to list five examples where this is redundant.

For the first example, part 2 of the Canadian Environmental Protection Act, 1999, requires the minister to establish a registry for the purpose of facilitating documents relating to the matters under the act. This registry has been available online since March 31, 2000, and it contains approximately 3,000 documents related to regulations, notices, orders, permits, guidelines, codes of practice, agreements, policies, substances, and enforcement and compliance actions. Information is available to facilitate participation in consultations in decision-making processes under the act. The registry has also received between 34,000 and 164,000 unique visits per month, since 2009. This particular clause will make that redundant.

The second example, the Species at Risk Act, also requires a minister to establish a registry to facilitate access to documents relating to matters under that act. This registry is also online, and it provides access to over 2,300 documents related to Canada's strategy and legislation for protecting the recovering species, the protected species list, and information on assets. Again, there's already protection provided in that act.

The third example, the Canadian environmental sustainability indicators initiative, gives permanent funding in Budget 2010 to provide Canadians with regular information on the state of air quality, greenhouse gas emissions, water quality, water quantity, and protected areas. Again, there's protection there.

The Canadian environmental assessment registry was established in 2003 pursuant to subsection 55(1) of the Canadian Environmental Assessment Act. It is an important source of public information on projects undergoing environmental assessment under the act. The registry aims to help the public find information and records related to current assessments, and it provides timely notice about the start of an assessment and the opportunities for public participation. Once again, there's already protection currently under legislation.

The fifth example is the Access to Information Act, which applies to information related to environmental statutes. It gives Canadian citizens and permanent residents the right to be given access, on request, to any record under the control of a government institution. It places an obligation on the head of the government institution to make every reasonable effort to assist a person with their request, respond to the request accurately and completely, and, subject to the regulations, provide timely access to the record in the format requested.

With all of these existing mechanisms in place to share environmental information, it's unclear why the clause is needed. This amendment speaks to that. It tries to address that; however, it doesn't go nearly far enough.

We had witnesses come to committee on this. Theresa McClenaghan of the Canadian Environmental Law Association and Professor Stewart Elgie of the University of Ottawa both emphasized that these rights exist under broad federal access to information provisions.

I believe this amendment goes in the right direction. It addresses the fact that there are many protections already currently in place under many pieces of legislation. However, I don't think it goes far enough because of the redundancies that exist in the clause.

Thank you.

● (1730)

The Chair: Thank you.

Mr. Warawa.

Mr. Mark Warawa: Chair, it is now 5:30 and I move that we adjourn.

The Chair: We have a motion to adjourn.

(Motion agreed to)

The Chair: The meeting is adjourned.

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