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Thursday, November 3, 2005

Chair

Mr. John Maloney

Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness

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● (1110)

[*English*]

The Chair (Mr. John Maloney (Welland, Lib.)): I'd like to call the meeting to order.

This is the 58th meeting of the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness.

We are about to start the clause-by-clause consideration of Bill C-16.

I have a preliminary comment to make. Our first amendment is Conservative Party amendment 1. I am making a ruling that this amendment is inadmissible. Amendments must be relevant to the bill. This amendment is not relevant; it deals with possession of a controlled substance, but it does not relate to impaired driving.

My ruling is not debatable, but my ruling can be challenged by a vote of the committee.

Mr. Vic Toews (Provencher, CPC): I challenge that ruling.

The Chair: I call upon my clerk.

The motion apparently is that the ruling of the chair would be sustained. So moved?

Mr. Vic Toews: That's the motion then.

As a point of clarification, I will move that the ruling be sustained, and then we can vote on whether or not it should be sustained. Is that correct?

The Chair: Yes.

Mr. Vic Toews: Okay. So I move that the ruling be sustained. I have to make that ruling and then there's a rule that we vote against that.

The Chair: I think the vote should maybe come from someone other than yourself.

Mr. Vic Toews: It doesn't matter.

The Chair: You want it overruled.

Mr. Vic Toews: We're going to overrule it. I'm going to vote to overrule it.

The Chair: Okay, but you're moving to sustain it.

Mr. Toews withdrew his motion, and it was made by Ms. Sgro that my ruling be sustained.

Hon. Judy Sgro (York West, Lib.): Yes.

The Chair: All those in favour of that ruling? All those opposed?

(Motion negatived)

(Clause 1 agreed to)

The Chair: CPC-1 is new clause 1.1.

Do you wish to move that one, Mr. Toews?

Mr. Vic Toews: Yes, I do.

The Chair: Shall new clause 1.1 carry?

Yes, Mr. Macklin.

Hon. Paul Harold Macklin (Parliamentary Secretary to the Minister of Justice and Attorney General of Canada): Thank you.

With respect to this concept that is being proposed by Mr. Toews, I'd like to put on the record some of the thoughts that have come to bear as a result of the previous meeting we held.

The idea that is being proposed by this CPC-1 is to enact a new offence in subsection 253(1) of the Criminal Code for possessing an illicit drug, but not open alcohol, in a motor vehicle, vessel, aircraft, or railway equipment with the exception of 30 grams or less of cannabis.

[*Translation*]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Mr. Macklin, for the interpreters, could you speak more slowly? What you are saying is important.

[*English*]

Hon. Paul Harold Macklin: There are legal and practical matters to consider. As a legal matter, we already have simple possession and "possession for purposes of trafficking" offences that apply to the situation of possessing a drug in a car. There is no suggestion that prosecutors are having problems obtaining convictions for these offences when the accused possessed the drug while in a car.

At present, if the person is impaired by a drug and also possesses a drug in a car, they can be charged with two offences: first, driving while impaired; and second, possessing the drug. If they are not impaired and possess a drug in the car, they can only be charged with possession.

Mr. Chair, there is no logical link to justify a law that says a driver for whom there is not even a suspicion of impairment by a drug will be convicted and sentenced as if they were impaired by a drug. This stands on its head the basic idea that the prosecution must prove impairment beyond a reasonable doubt if the impaired driving penalties are to follow.

In my submission, the proposal is likely to run afoul of the basic principles of criminal law protected under the charter, which is, of course, basic to our country's Constitution. On a practical level, how often will the police obtain evidence of drug possession by a driver in a car? In rare cases, the police may be able to investigate because the drug is in plain sight or because they received tips and obtained a search warrant. Otherwise, they simply won't be laying charges related to a driver possessing drugs while in a car.

The motion also has a drafting problem. It has no provision that would make a penalty available. It seems that Mr. Toews may have had in mind that the impaired penalties of section 255 would apply. While they do cover section 253, without an amendment the section 255 provisions would not cover a proposed new section 253.1.

Justice officials cannot assist with the drafting of consequential amendments on this particular proposal because there is no cabinet authority for a “drug possession while driving a car” offence. In fact, the proposal is outside the scope of Bill C-16, as the chair brought forward. It is properly a possession offence and not an impaired driving offence. It could be agreed that full consideration for possible inclusion in an omnibus bill will be given to the proposal, but only as a drug possession matter.

These are the points I wanted to put on the record for discussion and debate concerning this particular amendment.

Thank you, Mr. Chair.

● (1115)

The Chair: Mr. Toews.

Mr. Vic Toews: First of all, I would consider this another tool in the tool box. The parliamentary secretary says this will be rarely used. In fact, there are many circumstances where there is an appropriate and proper legal search of a motor vehicle in which the driver is demonstrated to be knowingly in possession of that drug, and there can be a conviction. It happens on a regular, if not daily, basis.

The issue here is not whether or not it will be used. The circumstances that give rise to this situation occur on a daily basis. In fact, as I've indicated, American jurisdictions do exactly that.

The parliamentary secretary says there are no penalty provisions there and that they cannot assist in the drafting of them. Even if we were to agree with that particular statement of the parliamentary secretary, there is a general provision in federal law, in the Criminal Code, which indicates that if there is no other penalty provided, here is the penalty that exists. We create an offence, and if there is, as the parliamentary secretary says, no offence specified, then the general penalty offence in the Criminal Code applies. The parliamentary secretary knows that.

Frankly, this is another tool the police will have to discourage the use and the transportation of drugs. I've made my position very clear, that I think this bill will do absolutely nothing to assist the police in stopping drug-impaired driving. This provision, in fact, will be the only thing that will assist them. There is an offence section—it has been made an offence—and there is a penalty clause. If there's no specific penalty clause, then there's the general penalty clause that applies in this particular case. So the arguments the parliamentary secretary is making are simply false.

The issue about the charter comes up all the time. Somehow a charter right is violated. How can there be a violation of the charter? We are talking about someone who is knowingly taking a drug—having a drug in their possession and driving a motor vehicle. That's the offence.

Under the 0.08% law, Mr. Chair, there is no evidence required of impairment today. You blow into a breathalyzer; it shows over 0.08%. There is absolutely no evidence of impairment; the mere fact of blowing into the breathalyzer is a per se offence, because you are in care and control of a motor vehicle. To suggest there's no criminal connection or nexus between the possession of a drug and the driving of a motor vehicle.... The exact same argument can be made in respect of 0.08% and the driving of a motor vehicle; it's exactly the same thing.

I note the parliamentary secretary has brought absolutely no case law to this effect; that's because the case law simply doesn't exist.

If we look at the comparable American provisions and the discussion of exactly that issue, the parliamentary secretary will understand that all of those provisions have been upheld in American law, dealing with their criminal law power and with the issue of the nexus between the possession of the illegal drug and the transport in a motor vehicle. Frankly, if he is concerned that there is no penalty, then he shouldn't be concerned.

Thank you.

● (1120)

The Chair: Is there further comment from anyone?

Mr. Macklin? Perhaps we'll hear Mr. Comartin first, and Ms. Sgro.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): The issue Mr. Macklin has posited is that section 255 is not applicable. I realize that proposed new section 253.1(1) does not set out whether to proceed by way of indictment or summary conviction. I think the general interpretation that's applicable at that point is that it would only proceed by way of summary conviction, and the summary conviction provisions in subsection 255(1) would apply. That would be my understanding of the law, but it's a comment and a question, Mr. Chair.

The Chair: Do you wish to respond, Mr. Macklin?

Hon. Paul Harold Macklin: I'll have the officials respond to these concerns.

Ms. Catherine Kane (Senior Counsel, Director, Policy Centre for Victim Issues, Department of Justice): A few comments. With respect to the way it's drafted, the mechanics, section 255 refers to committing an offence under section 253 or 254, so if this is crafted as section 253.1, there is a gap. Our understanding, based on Mr. Toews' comments last week about the intention behind the provision, is that the impaired penalty should apply, that it should be tantamount to impaired driving so that the prohibitions, the minimums and higher penalties for second and subsequent conviction, would apply.

If that's not the intention, then it wouldn't be a concern that section 255 not apply, and you'd be relying, as you've suggested earlier, Mr. Toews, on the general provision, section 127 of the Criminal Code, disobeying a court order. That only leaves the general provision. Currently, that is an offence only punishable by indictment, but as a result of the amendments in Bill C-2, there will be the option of proceeding summarily or by indictment with the general provision.

Issues of greater concern, though, are with respect to the nexus between the behaviour and the penalties that follow. Certainly, a preliminary analysis of the charter concerns indicates there does appear to be a risk that the provision would be struck down.

The Supreme Court of Canada has made it clear in a number of cases that anything that has the risk of imprisonment has to provide the opportunity for an offence to not offend the principles of fundamental justice, and if there's simply no connection between having the possession of the drug in the car and being impaired, our preliminary analysis is that an argument could be made that that would offend section 7 of the charter, and perhaps also section 12 of the charter, because the punishment is disproportionate to the conduct—which is simply possessing the drug in the car—and we do have possession offences in the Criminal Code.

So a reliance on the American jurisprudence probably would not help make the case if there is a nexus. We would be relying on the Canadian case law, and as I mentioned, we do think there would be a risk that this provision would be struck down.

The Chair: Thank you.

Ms. Sgro.

Hon. Judy Sgro: On the same line as Mr. Comartin on section 255, how high is the risk?

Ms. Catherine Kane: More likely than not to be struck down.

Hon. Judy Sgro: More likely than not. So quite clearly you think Mr. Toews' amendment is really much more of a drug possession matter and is really putting the whole bill at risk if it goes forward.

Ms. Catherine Kane: That's correct. As we indicated last week, we would be prepared to look at this on an expedited basis, to explore what the appropriate penalties should be for possession of a drug in a car, but not necessarily to make the link that this is the same as impaired driving—impaired by a drug. If it's of a different nature, to possess a drug in a car, we can explore that as an offence: Does it need a different penalty structure? Is it more offensive conduct than possessing on the sidewalk or on a bicycle or whatever? We can look at that in the context of the drug offences, but not in the context of impaired offences.

That being said, we will certainly do the same analysis and look at what the Americans have done in-depth and what their success has been.

Hon. Judy Sgro: Currently, are we doing anything on the whole issue of drug possession in a car, other than what we're dealing with today and what Mr. Toews is attempting to do?

Ms. Catherine Kane: Bill C-17, which is the act to amend the Controlled Drugs and Substances Act, does have provisions with respect to new offences for possession, and there is an aggravating factor of possessing a drug in a car. So that is one model that is before this committee now, and certainly you may want to look at other penalties when this committee is reviewing Bill C-17.

● (1125)

Hon. Judy Sgro: Can I ask Mr. Macklin or the chair, when are we planning to get on to Bill C-17?

The Chair: Our next task after we've disposed of the bill will be to set future business.

Hon. Judy Sgro: Okay. Thank you.

The Chair: A clarification, Ms. Sgro. I think you asked Ms. Kane, if this section was struck down by the courts, would it scrap the whole bill. I think the response was no. Only this section would be struck down, not the whole works.

Ms. Catherine Kane: I'm referring to this section.

The Chair: Borys.

Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.): I'd just like to come back to some of the comments made by Mr. Toews.

Mr. Toews, I believe, tried to misconstrue something. He referred to the 0.08% as not being a scientific basis on which impairment... and perhaps I could get a clarification on that. He seemed to indicate that 0.08% doesn't necessarily mean impairment. I think the reason 0.08% is used as a benchmark measure is that there is a substantive body of scientific evidence and practice that shows it is in fact an indicator of impairment. I don't believe there has been doubt within the courts that this measure is accurate.

I don't quite make the connection you were trying to make, that the 0.08% is somehow just a guideline and that as a consequence of that we don't require exact evidence of impairment when it comes to other substances.

There is something even more troubling. Mr. Toews said the parliamentary secretary had made a false statement. It's quite worrisome that something of that sort would be said, that there's a witness providing evidence here and one of the committee members would make that accusation. I'd like Mr. Toews to clarify exactly where he believes the witness and, especially in this particular circumstance, the parliamentary secretary.... I think the parliamentary secretary and the witness should have a chance to respond to that very serious allegation.

Mr. Vic Toews: Well, let's deal with the 0.08%. What we're talking about has nothing to do with impairment; that is a measure our parliamentarians have decided would be unacceptable. Now, there is scientific evidence demonstrating that everyone over 0.04% is impaired in their ability to drive a motor vehicle, but it's not necessary to prove that. That's the reason you have a per se standard, 0.08%. Some states have 0.1%, some states have 0.15%, some states have 0.2%. Some countries have basically a zero tolerance level for that.

The issue that you have to somehow demonstrate that someone is impaired is quite irrelevant to a 0.08% per se offence. It has never been important, in terms of the conviction, that the individual is actually impaired. An individual can stand up and say he was driving at 0.1% but he wasn't impaired. It's irrelevant. It's a per se offence. That's the point I was making.

To suggest that simply taking one point and making that part of an offence is not in any way offensive to the rules of criminal law. In fact, I was struck by the justice department lawyer saying this is just possession in a motor vehicle. We're talking about heroin and cocaine; we're talking about methamphetamine; we're talking about more than 30 grams of marijuana. To suggest that this is just possession indicates basically the Department of Justice's attitude towards drugs in this country. That comment I found utterly and deeply disturbing, that an official would come here and say this is just about the possession of drugs.

Why would we worry about mixing it up with cars? Cars are used on a regular basis to transfer these drugs, so I was very disappointed to hear that kind of attitude towards the possession of drugs. The danger of drugs and motor vehicles cannot be underestimated.

We do the same thing in respect of alcohol. If a person has alcohol in the motor vehicle beside them, open liquor, whether that individual has drunk the liquor or not is irrelevant; it becomes an offence. It's simply the association between the liquor in the car and the motor vehicle, regardless of whether the individual is actually driving; that's the offence.

The connections between alcohol and the motor vehicle and between the drug and the motor vehicle give rise to exactly the same kind of concern about highway traffic safety. Keep drugs away from cars so people are never tempted to use them in a motor vehicle.

It's a different thing when you have a drug in a house. I'm not saying it should happen, but at least they're not going down a public highway potentially jeopardizing the safety of individuals.

I know this Department of Justice lawyer probably didn't come here and say that off the top of her head. It's clearly direction from the minister, because I can't believe that a lawyer would actually say something like that. That's what concerns me, the political direction with respect to this bill.

Now, we have heard nothing about any case law to the effect that this is more likely to be unconstitutional than not. Quite frankly, these are the kinds of statements we hear every day coming from justice department lawyers, who, for political reasons, as they may be instructed by their minister, try to find an argument with which they can oppose this bill. There are two ways of developing a legal argument and a constitutional argument. One is the minister coming to the lawyer and saying, I'm concerned about this issue, can you give us an opinion? The other one is, I don't like this bill, find us an opinion that says it's unconstitutional.

Quite frankly, I don't know what the case is here, but we have a witness talking out of both sides of her mouth. We have a witness saying it's unconstitutional because of the issue of connecting it with the impaired driving penalties and on the other hand saying the impaired penalties don't apply here. Well, if they don't apply, fine; constitutionally there is no problem. We simply have a situation where the individual has possession of the drug in a motor vehicle and the automatic licence prohibition doesn't apply, so the constitutional argument she's been raising disappears. You can't have it both ways. If in fact this is what this bill does and only the general penalty section applies, as she says, then the constitutional argument disappears. If the penalty sections in respect of prohibition apply, then maybe there is some argument that can be made.

● (1130)

I don't think it'll go anywhere. I've spent many years arguing these kinds of things in court.

● (1135)

Hon. Judy Sgro: Did you win?

Mr. Vic Toews: Yes, I did.

I just want to tell you about a situation where, when I was acting as the director of constitutional law for the Province of Manitoba, I developed what they called administrative driving suspensions and seizures of motor vehicle. When you blew into a breathalyzer and you were over 0.08%, the licence was automatically taken away under provincial legislation without a criminal conviction.

Every lawyer in the province of Manitoba said it was unconstitutional—except me—and every lawyer was wrong—except me. As to these ideas people have that good, sound public policy is going to be struck down because of the charter, the courts aren't fools. They take a look at these issues as to why they're passed. You can suggest that there isn't a valid public policy reason to keep drugs—heroin, cocaine, methamphetamine, more than 30 grams of marijuana—out of a car and therefore it's constitutionally suspect, but there is absolutely no case law that would support that proposition.

The Chair: Thank you.

Borys.

Mr. Borys Wrzesnewskyj: I found a lot of things disturbing, and I'll just zero in on one. It was disturbing when he tried to misconstrue what the justice department lawyers were saying when they referred to possession, as if possession is meaningless and a charge of possession is meaningless. Possession of narcotics is a very serious charge, and to say it's just possession, it's meaningless, and this will all of a sudden provide some real penalties...well, there are some very serious penalties for possession. That's exactly what you're trying to do with this particular bill, but then you're tying it to impairment, and there's a rational disconnect there.

Besides that rational disconnect in your argumentation, there was a serious problem when you referred to a justice official in a way that made it sound as if they didn't treat possession of narcotics as a very serious criminal offence. In fact it is, and if you take a look at what possession entails and what it means...and if you've spent time in a courtroom you know what possession means and what the repercussions are. I think that was just a blatantly false statement you made when you tried to present the department's talking about possession as if they were pooh-poohing that particular, very important criminal charge tool we have.

I just wanted to make that point.

The Chair: Mr. Lemay.

[*Translation*]

Mr. Marc Lemay: We should stop discussing how to proceed and talk about substantive law. We are lawyers as well as legislators and I think we should take special care of a matter of law.

I am asking this to Mr. Toews and the lawyers. Let's imagine I am driving a motor vehicle, I have one ounce of heroin in my pocket and the odour of alcohol can be felt on my breath. Let's imagine finally that some police officers stop me, search me and find this ounce of heroin. They'd like to accuse me of an indictable offence, i.e. possession of heroin, under the Foods and Drugs Act.

Is this was confirmed, mister Toews, would'nt it be possible for me to argue, as a lawyer, that I should have been accused under your proposed Section 253.1 and, as a result, to be subjected to a summary conviction? Do you understand?

It is definitely a legal matter, but a clear one. It's a question I have since you proposed this amendment. I researched the subject, but it is still not clear for me.

● (1140)

[*English*]

The Chair: Are you requesting a comment from Mr. Toews and the justice lawyers?

[*Translation*]

Mr. Marc Lemay: Yes, as it is the essential question; it is at the heart of the amendment proposed by Mr. Toews. It's also at the heart of the debate from Mr. Macklin. I heard Ms. Kane with special attention and I feel this is really the problem.

[*English*]

The Chair: Mr. Toews, do you wish to comment?

We'll then have Ms. Kane or Mr. Macklin.

Mr. Vic Toews: First of all, the charge that is laid is entirely up to a prosecutor. That has never been in question. A prosecutor can lay the charge under subsection 253.1(1). The prosecutor can also lay an impaired driving charge in the circumstances that you've indicated, provided there's other independent evidence. He or she could lay a charge of 0.08%, if the breathalyzer demonstrates that the person is over 0.08%.

The question is not then on a defence lawyer arguing that you can only lay this one or that one. That would never be the case, because they presently almost routinely lay the charges of 0.08% and impaired. One can't argue that you should have laid the impaired charge and not the 0.08% charge. That goes nowhere.

The argument that becomes more crucial is on the issue of double jeopardy. Is there any offence here that is an included offence, for example, that would make it so that the individual should not be prosecuted on both? That's generally the rule. For example, when it goes to 0.08% and impaired, the prosecutors drop one and leave the other.

For these particular cases, in the situation you raise, I would see a 0.08% charge, if the person blew over 0.08%, an impaired charge, and the charge here. The prosecutor would then stand up and ask that the accused enter a plea to X charge first. If the person pled guilty, there would then probably be a stay in respect of the other two, because of the issue of double jeopardy. But double jeopardy can't be addressed in this statute. Double jeopardy is addressed by the operation of judicial discretion and stay of proceedings of inappropriate charges.

I'm suggesting that this is simply one tool in the tool box. For example, if the prosecutor said it was more appropriate to proceed by way of indictment...let's assume Ms. Kane's argument is correct. If the one charge that can used is under section 127, they are proceeding by way of indictment, and that's the one the prosecutor may want to proceed on.

The Chair: Ms. Kane or Mr. Macklin, do you wish to respond?

Ms. Catherine Kane: Yes, I just wanted to correct a few things.

First of all, I referred to section 127, but I should have also referred to two other provisions with respect to general penalty provisions, those being section 743 of the Criminal Code and section 787. One applies to summary conviction offences and the other to indictable offences.

With respect to indictable offences, I would note that the general penalty for indictable offences is imprisonment not exceeding five years. The current offence for possession of a schedule I drug is a maximum of seven years, so in the choice of which offence would be charged, because the current law would only permit an offence of possession of that drug without the impaired penalties applying, under the general scheme it would be five years. If it was charged under the existing offence of possession of a drug, the maximum would be seven years. So there is that confusion there.

Mr. Vic Toews: Just for clarification then, if we are accepting your interpretation, what in fact I'm proposing is less than what already exists.

Ms. Catherine Kane: It is less, and that's what confuses us, because we were under the assumption that you were looking for more severe or certain penalties for that particular offence. You're correct. Our reaction to the scheme in terms of the constitutional concerns was based on the assumption that your intention was that the impaired-driving penalties would flow, but for a drafting gap in your motion, from a new offence of possession of a drug in a motor vehicle.

I would also like to indicate that I didn't mean to suggest that there wasn't anything serious about possession of a drug in a motor vehicle. Certainly it is very serious. Possession of any drug anywhere is an offence. Certainly the minister is open to any suggestions to find a way to combat the drug trade and the use of drugs, and Bill C-17 has dealt with that, in one way, by making it an aggravating factor to have the drug in the car, for all the reasons we would assume a drug is in a car—that it's on its way somewhere. Certainly it is not the minister's or our intention to suggest that it is not serious. We do think it's very serious. It hasn't been equated with "impaired by drugs" to provide for other penalties.

If you are interested in cases that have caused us to come to the conclusion that the scheme would be risky under the charter if the impaired penalties flowed, I would refer you to the Supreme Court of Canada decision in Malmo-Levine—in that case, the court was looking at connections between offences and harm and penalties—and also one phrase in the case of the Reference re Motor Vehicle Act, British Columbia, 1985:

> A law that has the potential to convict a person who has not really done anything wrong offends the principles of fundamental justice and, if imprisonment is available—

● (1145)

Mr. Vic Toews: Just a minute. On that case, that was an absolute liability offence with no provision for *mens rea*.

Ms. Catherine Kane: Okay, that may not be the preferred example, but there are some cases that we could provide to you if you wanted to look at those.

Like other charter analysis, it's an extrapolation of the existing case law to a particular set of circumstances, which at the moment is based on the motion and not on a particular set of facts.

Mr. Vic Toews: If your position is correct that the impaired driving penalties do not flow, then that can be something that can be looked at in the House when this bill is put forward. An amendment can be brought forward at that time, and then it would be in order.

At this point, your concerns about the impaired driving penalties—if what you are saying is correct—are simply not there, because these penalties appear to be even less. So there is no issue of double jeopardy. There is no problem with *mens rea*.

It's an unusual offence in Canadian law. You connect two issues like this to prohibit certain types of conduct, but we do it with solicitation for the purpose of prostitution in a public place. We connect the public place with solicitation. What's the nexus? Why don't we do it in private places as well, or in private businesses? We make these kinds of connections to address a particular evil.

The evil we're seeking to address here is the possession of a drug in a motor vehicle. If there's a penalty issue, and if the justice department isn't in a position to recommend any amendments to address that, fine, we can address that in third reading. But I don't see any constitutional problem, given the assumptions you've made and brought to this committee.

The Chair: There are currently four names on the list. I think we've pretty well exhausted our discussion of this clause. I will hear from those four people, and then I'll call the question.

Ms. Sgro.

Hon. Judy Sgro: Over to Ms. Kane, there currently are possession laws in Canada that prohibit the possession of an illegal drug. So that's already there. Impaired driving is another one that's already there. If the concern here, where we're trying to go, is the whole issue of judicial discretion and trading one off the other, I don't see where Mr. Toews' proposed amendment is going to help anyway.

I mean, we have possession charges and impaired driving charges currently there already. So if you stop the car and the fellow has possession of an illegal drug, I would assume he would be charged. Mr. Graham will no doubt comment on that, but I'm assuming they would be doing their job in charging him. Sometimes I think we're going back to that same concern all of us have, the judicial discretion issue and whether or not they're trading off one charge for the other charge. Otherwise, it seems to me that this is already here, within this bill, what Mr. Toews is trying to do, which is to strengthen it and find other ways.

● (1150)

Ms. Catherine Kane: That's correct, and Mr. Macklin's comment pointed out that the current law would permit an offence of impaired driving to be laid where the evidence supported an impaired driving charge. If drugs were found in the car, a possession offence could also be charged.

Hon. Judy Sgro: Can I hear from Mr. Graham, please?

Mr. Evan Graham (National Coordinator, Drug Evaluation and Classification Program, Royal Canadian Mounted Police): Certainly, if a vehicle was stopped and there were illicit drugs in the vehicle, then the driver would be charged with possession as well as any other offences that led to the stopping of the vehicle.

I'm not a policy-maker, and I don't know how this would assist over and above the legislation we currently have. That's my opinion; I can't speak for the RCMP or the police community.

Hon. Judy Sgro: Thank you.

The Chair: Borys.

Mr. Borys Wrzesnewskyj: What is the maximum charge right now for possession? Is it seven or fourteen years?

Seven years—and for impairment, it's six months and $2,000.

Mr. Hal Pruden (Counsel, Criminal Law Policy Section, Department of Justice): For impaired driving, it depends on whether the Crown elects to proceed by summary conviction or by indictment. If it's by summary conviction, that might help him with a first offender. There's a minimum penalty, a $600 fine. The maximum penalty is a period of imprisonment for six months.

If the Crown chooses to proceed by indictment for the impaired driving, then the minimum penalty is again a fine of $600. The maximum penalty is a period of imprisonment of five years. The Crown might make that choice to go by indictment where there's a repeat offender before the court.

Mr. Borys Wrzesnewskyj: My worry right now is that Mr. Toews referred to this as another tool in the tool box. I'm just worried that it'll be a tool in the tool box of defence lawyers. You'll have people plea bargaining in these sets of circumstances and bargaining down to the lower set of consequences.

I don't think Mr. Toews' intention is to be soft on people who possess drugs for whatever purpose it may be, but in fact what he's doing with this is putting an additional tool into the tool box to allow for plea bargaining and diminished consequences for drug possession. I just don't understand the logic.

As a police officer, I think you'd find it quite frustrating when you see criminals plea bargaining down the consequences of their actions. Do you look forward to seeing this additional tool in the tool box for defence lawyers?

Mr. Evan Graham: Unfortunately for the police, it's not up to us what happens to the charge once it gets to the courts. We do see this with impaired driving, particularly. Most of my service was in British Columbia, and a number of cases involving low blood alcohol concentrations there are being pled down to motor vehicle act offences, like driving without due attention.

Mr. Borys Wrzesnewskyj: Thank you.

The Chair: Mr. Pruden.

Mr. Hal Pruden: Mr. Chair, I simply wanted to make the observation, and it has been observed already, that a new proposed 253.1(1) offence would carry as an indictable offence a maximum of five years imprisonment, whereas under schedule I of the Controlled Drugs and Substances Act, the maximum penalty available upon indictment is a period of imprisonment of seven years.

In addition to this, on a practical level one has to keep in mind that an individual might want very much to have on their criminal record a subsection 253.1(1), which many people will think must be impaired driving, as opposed to having on their criminal record a Controlled Drugs and Substances Act offence, where people will see right away that the person was using drugs. Unless police officers are quite educated about the 253.1(1) offence actually being a drug possession offence placed within the impaired driving provisions of the Criminal Code, it might not jump out at them if they are at the roadside or wherever they are looking at a person's criminal record.

● (1155)

The Chair: Thank you.

Mr. Marceau.

[*Translation*]

Mr. Richard Marceau (Charlesbourg—Haute-Saint-Charles, BQ): It is fine. Thank you.

[*English*]

The Chair: Mr. Thompson.

Mr. Myron Thompson (Wild Rose, CPC): Very quickly, the comment the Bloc member made a while ago that we're all lawyers discussing this thing isn't quite true. But I must admit I am one who doesn't understand a great deal of the conversation when we get into the legalities and everything. What I do know is that the Canadian public, the victims of crime, Mothers Against Drunk Drivers and all the other sources, have asked many of us over my 12 years to do what we can about impaired driving—particularly alcohol, but especially illegal drugs in the vehicle.

I suggest we do what we can to make certain they get the message that drugs and vehicles do not mix. Whether it's in possession or in your body, it's got to stop. I think Mr. Toews has done an excellent job through his proposal to do that.

Let's listen to the public a little. They don't talk in legal language; they talk in straight terms: fix it; there's a problem.

The Chair: Thank you, Mr. Thompson.

Mr. Macklin.

Hon. Paul Harold Macklin: I've listened to the debate that's going on, and quite frankly, at the end of the debate it's very interesting that the Conservative Party wants to introduce a new offence that has a lower maximum penalty for drug possession than what we have on our books. I find it just astounding. I think all of us want to make sure that we maintain solid penalty provisions and not water them down or in any way diminish them, as this would potentially do. I find it not only out of character, but also not acceptable.

The Chair: We'll call the question.

Shall proposed new clause 1.1 carry?

(Amendment agreed to)

(On clause 2)

The Chair: We have New Democratic Party amendment 1.

Mr. Comartin.

Mr. Joe Comartin: Quite frankly, Mr. Chair, because all my amendments flow from the same principle, if one doesn't pass, we needn't waste time on the balance of them. I'll make my argument on this one, but it would apply to the other ones, because they're all relative to this. I'm going to repeat the same arguments I made the last time and perhaps add a bit more.

I'm going to have a question for the officials as well.

The bill basically introduces two additional stages to the enforcement and prosecution of impairment by way of drugs. We already have the existing one, which is the police officer stopping an individual at the roadside because of suspicion of impairment and ascertaining that it does not appear they're impaired by alcohol but rather by drugs. So they make that observation, and they may put them through the roadside test to see if in fact they are impaired. That exists already; we're simply confirming it in this legislation.

The next stage is for that police officer to require—we're going to call him the accused now—the driver of the vehicle to attend with the officer to an evaluating officer. This is a person who will have additional training. That's stage two, and that's a new stage. Because of their training, this person would be better equipped to make an assessment of the impairment—I must say I have difficulty with this, because I think none of these officers will have the required medical expertise—and would actually be able, in some cases, to evaluate what drug has caused the impairment. At that point, if they make the conclusion that the person is impaired by way of drugs, the evaluating officer—and this takes us to stage three—can demand a bodily fluid sample. The person would have to comply with that demand or be faced, as they are now, with an alternative charge if they refuse to take the breathalyzer.

The difficulty I have is with the third stage. I think it makes sense for us as a country to introduce the concept of the evaluating officer. I think back—I was just asking Mr. Macklin—to when the impaired sections of the code brought in the breathalyzer—I actually thought it was after I started practising, because I did a number of the trials. A number of the smaller police forces in particular didn't have the breathalyzer for the first number of years.

I did a number of impaired driving charges, and as Mr. Toews has said in previous comments, they're just very difficult to prove. I think what we do by introducing the concept of the evaluating officer is to enhance the credibility, I guess is the only way I can put it, of the evidence that's before the court. In effect, you would now have a regular police officer, with all his or her basic training, making the evaluation at the roadside, and they would testify. Then you would have the evaluating officer, with a greater degree of expertise, who would also testify, with the expectation that, unlike the kinds of trials I went through on alcohol-related offences back in the early seventies, the evidence before the court would be much stronger and the chance of conviction would be substantially enhanced.

As I said earlier, the problem I have is with the third stage. It's quite clear to me from all this evidence we've heard—and I'm not saying anything that the rest of you don't know—that we don't have any levels for impairment due to any of the drugs. It would appear that we're getting fairly close with marijuana. I have to say, based on the evidence, my assessment is that we're two to five years, perhaps as much as ten years, away from having one. That will be the next major step forward. It would then be logical to introduce stage three, where police officers could demand a bodily fluid sample, whether it be blood, urine, or perhaps others, from the prospective accused.

● (1200)

The difficulty we have is that I think the courts are going to have real difficulty under the charter with that third stage. You hear from us all the time that you'll get varying opinions this, depending on which lawyers you ask and where they're coming from, but there is a serious risk of this.

More basic than that, I think you're going to see judges not admitting the bodily fluid sample. They're going to do it for a combination of two reasons. They're first going to ask what the relevancy is, and that's always a test for admission of evidence.

I think the crowns are going to be hard-pressed to say that all this shows is that a person had drugs of this amount in his or her system. The question from the defence counsel and in the judge's mind is going to be on what that tells us, other than the fact that the person had drugs in his or her system. They're already convinced that the person had drugs in his or her system, because they've heard from two police officers, including one with special training, saying that this person was impaired by drugs. This doesn't tell them anything.

The secondary thing that goes with it is the prejudicial impact it has. The judges are going to take that into account; they'll take this into account under the charter. But even if we don't get to that, they're going to take this into account under our rules of evidence, and I believe they are going to consistently exclude the evidence.

As a society, if we go ahead with stage three, we are going to be imposing a system on our police officers that they're going to attempt to use, it's going to cost a great deal of money, and I think it's ultimately going to be unsuccessful, by and large.

I want to make one final point on the whole issue of taking bodily samples. We can point to all kinds of cases, but we had one earlier this week or at the end of last week with regard to DNA. We know that the use of DNA is very important. It's very useful for enforcement and for investigations.

In that case, the Supreme Court of Canada denied the taking of a sample. This is a reflection of the attitude of our courts, starting from the trial division all the way up to the Supreme Court of Canada. There was a juvenile offender, and it was all about a privacy invasion of the person's personal integrity. They're very protective of that.

When you look at the relevancy, the prejudicial impact, and the fact that the standards are not there and there's no way on how to use these, it's going to get struck down.

Having said all that, my amendments throughout the sections are to in effect eliminate the third stage, so that police officers will not have the right to demand the bodily fluid as the result of a suspicion of the use of drugs.

Thank you, Mr. Chair.

● (1205)

The Chair: Thank you.

Mr. Cullen, and then Mr. Macklin.

Hon. Roy Cullen (Etobicoke North, Lib.): Thank you, Mr. Chair.

Mr. Comartin, the whole purpose behind the approach that's taken with this bill, as I understand it, is to recognize the fact that we don't have the technologies today to determine from a sample, with the same sort of certitude we have with alcohol, whether that level is sufficient or not sufficient to cause impaired driving. With alcohol, the samples can be analyzed, and we know with some certainty, if it's 0.05% or 0.08%, whether those benchmarks have been exceeded.

With drugs, we've heard testimony that it could be someone had a joint at some point in time in the evening and then they had a snort of cocaine, and maybe they're on some prescription drugs as well. As I understood it from the witnesses, the technology is some years away to be able to examine this with any kind of certitude and draw the conclusion that, based on that mix, this person would not be able to drive in an unimpaired way.

That's some years away, and my understanding of this bill is that this is why we need to have these three legs: to give the kind of certainty, or provide a proxy for the certainty we have with alcohol but don't have with drugs. The first part is for someone, a police officer, to note that someone is driving in what appears to be an impaired way. The second is for the police to pull the person over. The next step would then be to do a roadside test. The person then would fail, let's say, a roadside test, and the third phase would be to analyze the bodily fluid and, let's say, reach a conclusion that there certainly was some level of drugs in those bodily fluids.

So it's based on the premise that when you put the three together.... I don't know, but I'm hoping and praying that our justice system still has a sort of “reasonable man” test. It seems to me if you're a reasonable person, and if someone is driving “higgledy-piggledy, my black hen”, and they're pulled over, and they cannot put their finger on their nose or they can't walk a straight line, and some initial tests are done right on site, and then the third test confirms that there is a level of substance—drugs—in the person's bodily fluids, surely a reasonable person would conclude that this person was driving in an impaired way because of drugs. Has our criminal justice system so escaped us that we can't put this into play?

I think we also heard from witnesses that while the third leg might be challenged, on balance of probabilities it could withstand a challenge. If you take away the third leg.... I think if we want to deal in a real way with people driving when they've had drugs and are causing public safety issues for Canadians, to get rid of the third leg weakens the bill considerably and I think reduces our chances of dealing with people who are taking drugs and driving and are killing people on the roads.

Maybe, Mr. Chairman, I've missed the whole intent of the bill, but it seems to me the idea is to recognize the fact that we don't have the technologies today to go into someone's bodily fluids in a laboratory setting and say, “Clearly this tells us they had three joints, they had two snorts of cocaine, and they're on some prescribed drug, which, when you mix them all together in a cocktail...”, and maybe even draw all those algorithms together and say, with this permutation, that combination, that algorithm, clearly they've passed over this—whatever the magic number is—0.06%, or whatever the technology and the science tells us later.

We understand it's not there. Maybe we'll get there some day and maybe we won't, but does that mean we just throw out this sort of model? I see it as a model that says that when we have three sets of evidence that all corroborate each other, surely, Mr. Chairman, as reasonable people we'll say, and surely our courts as reasonable people will say, this person was driving in an impaired way because of drugs.

● (1210)

Let's get real about some of these things.

The Chair: Mr. Macklin.

Hon. Paul Harold Macklin: Thank you very much, Mr. Chair.

Let me walk through this process and at least put some clarity, hopefully, to where I see, if we adopt this series of amendments from the NDP, that they will weaken the bill itself.

First of all, the whole problem, as I think we've relatively well clarified, is that NDP motions 1 through 14 are going to remove stage three, the confirmation—I underline “confirmation”—of drug presence in a bodily fluid sample. I think that's the key word as we're working through here: “confirmation”. Three provincial justice departments and the RCMP have responded to inquiries that have been sent by Justice Canada to all provincial counterparts and the RCMP on this matter. All three provinces and the RCMP expressed opposition to removing stage three from Bill C-16.

Far from being an improvement to the bill, the motions would put the accused person in a much worse position. This is because there would be no check on whether the drug recognition evaluation officer was confirmed in the opinion that the impairment observed was caused by a particular drug family.

Referring to Mr. Cullen's comments about models, there actually is an international model that we are trying to pursue here and are following. The process would not meet the protocol that has already been set by the International Association of Chiefs of Police. This is an organization that also sets the training standards for our DRE officers. Without stage three, Canada would be seen, obviously, as out of step as a country, not only by the IACP, but also by defence lawyers and civil libertarians.

Also, I think we need to remember that the evaluating officer must have reasonable grounds before demanding a blood, urine, or saliva sample. So even if we agreed that blood sampling was too invasive, which I don't, it needs to be kept in mind that the urine and saliva sampling is less invasive than blood sampling, and the motions would knock these samples out too.

I believe that stage three is not so invasive a measure that the courts would strike it down. Bill C-16 is not proposing that police can demand blood samples as a fishing expedition for evidence, nor does it allow the police to demand a blood sample based on suspicion. The demand for blood samples comes only after the evaluating officer has observed signs of impairment that match those symptoms associated with a particular family of drugs. Each drug family has its own set of symptoms that can be learned by a police officer, a forensic scientist, nurse, or doctor.

The courts have already upheld an existing provision of the Criminal Code with regard to a demand for a blood sample made by a police officer who has reasonable grounds to believe a person has committed a section 253 alcohol offence. This demand is found in paragraph 254(3)(b), and it applies where a driver, by reason of a physical condition, cannot provide a breath sample or where it would be impracticable to obtain a breath sample—in situations, possibly, where there had been a car accident and the person was incapable of actually providing it.

So it is imperative that we keep stage three. Without it, the accused really does not have a complaint that there are not enough checks and balances. With it, I submit that the legislation would survive a charter challenge, just as the paragraph 254(3)(b) demand for blood in order to test alcohol has been accepted by the courts.

Therefore, I would submit, to keep us in tune with the whole principle of this drug recognition exercise and to keep us in tune with the protocol that has been set out by the International Association of Chiefs of Police, that it's appropriate that we maintain this. I think it's important that all of those amendments not be supported.

● (1215)

The Chair: Are there any other comments?

Mr. Comartin, go ahead.

Mr. Joe Comartin: On Mr. Macklin's final point, about being able to take blood samples now, the reasons the courts have accepted that for alcohol-impaired purposes is because we do have a standard with a degree of certainty that our courts have been willing to accept. So whether you get that certainty from a breathalyzer or a blood sample, we know that the amount of alcohol in the blood will tell us with a degree of certainty that we've accepted as a society and our courts have accepted that this person in fact is impaired. We don't have that.

It's interesting to note the kind of restrictions we have on taking that blood sample. We did that as a legislature, but we did that as a legislature because we knew what the courts would do unless we could show that only in these extreme circumstances can you invade the person's body and take a sample. It's actually a strong argument for the position I've taken, which is that this is not going to survive a challenge.

The Chair: Mr. Cullen.

Hon. Roy Cullen: On the question of invasion, I'm probably the odd person out, and I respect why individuals would not want to give a little piece out of their nose or a follicle of hair. Frankly, they can take any follicle of hair or little swab out of my nose if they want, but I respect that for some this is seen as invasive.

On the other point—and again, Mr. Chairman, I'm not a scientist, but to get to a point, I suspect, where we could have the same methodological approach to, say, drugs in your blood system and alcohol...with alcohol that can be measured with some degree of certainty, and we have established as a society certain benchmarks, a 0.05% or 0.08% blood alcohol concentration.

I'm not a scientist, but we've heard testimony that, first of all, with certain drugs there are also lead and lag times. You might have had a joint two days before and it might still be in your bloodstream, but it might not impair you, as one example. So this lead and lag time is an issue.

The other one is, how do you come up with equivalence, if we ever get to that world where we can say, in this perfect world we have, three snorts of cocaine is equivalent to five joints or something? I don't think we'll ever get to that world. Maybe the scientists would say you're wrong, we'll get there, but if we can't get to that world...and then someone has taken some prescribed drug, and we heard testimony that even those can get on the radar. Are we ever going to get to that world?

First of all, you have to come up with equivalence. There are new drugs coming out every day, and different drugs have different potencies and everything. To say they're going to have a certain equivalent, and by the way, we're going to set a benchmark, that once we have the algorithms to factor all that in and come up with an equivalent, then we benchmark....

I don't know. I'm not a scientist, but what I heard was that we're a few years away from that. So in the meantime, we're saying that until we have the science nailed down, we just let people drive while they've had drugs—drugs that are shown, by a reasonable person...if they fail all three tests, then they're driving under the influence of drugs in a dangerous way. That's my judgment.

The Chair: Thank you, Mr. Cullen.

Ms. Sgro.

Hon. Judy Sgro: To Mr. Graham, I think it's difficult enough doing impaired driving tests, and we have the equipment, providing the police have everything with them. What is the comment of the police community—even though I know they would be very supportive of this kind of thing—when it comes to actually being able to start having drug recognition evaluation officers?

It's an added responsibility, hugely, that again we're asking our police to take on. What are your thoughts on that?

● (1220)

Mr. Evan Graham: We're in a position where we currently have approximately 200 drug recognition experts in Canada. That is nowhere near the number we need to deal with drug impairment, because it appears to be on the rise, based on the current studies out there.

One of the problems we have with alcohol-impaired drivers is that impairment is based on the individual's tolerance. So someone can be well below the legal limit but still be grossly impaired. With drugs, it's no different. People have different tolerances, so some people can ingest more of the specific drug than others and show no symptomology or impairment, while others can have very little but be grossly impaired.

Having been involved in the program for 10 years and having conducted many evaluations, I think it's really important to look at the fact that we're showing the impairment first, and then the bodily fluid sample is to either refute or confirm what has been called by the drug recognition expert. It may be that the person is fatigued. The symptomology is the same as impairment by alcohol or drug or a combination. It's for the safety of the individual as well as for the police to be able to confirm or refute that.

As has been pointed out, this is a tool that right now is the only tool we have to deal with drug-impaired drivers. So there will be an impact on the policing community to provide the training and get the people up to the standard that is required. But in the long run, the cost of the training and the time involved is minuscule compared to the costs involved with impaired driving as a whole.

Hon. Judy Sgro: I have one further question. When individuals are pulled over and blow in excess of 0.08%, are they told that if they disagree with the test they can go to the local hospital and get a blood test?

Mr. Evan Graham: No. When a breath demand is read, that is all they have the option for. If they say they want it by a blood test, that's not their option. They'd then be charged with refusing to provide the breath test.

The only time we can go to the blood test is if the person is incapable of providing one because of a facial injury or being in the hospital incapable of being transferred to a site where an evidentiary breath test could be provided.

Hon. Judy Sgro: What about the issue of legal drugs, being impaired because of whatever current drug they might be on, a prescription drug that may be mixed with something and has put them into impairment?

Mr. Evan Graham: Well, paragraph 253(a) of the Criminal Code says alcohol or a drug. It doesn't differentiate between illicit drugs, prescription drugs, or over-the-counter medications. Really, the bottom line is if the person is impaired, he or she shouldn't be driving, and the only way a person is going to be impaired using most prescription drugs is to have taken them in excess of the therapeutic level or because the person is intolerant to the drug—or it's a drug that is going to be impairing, and he or she has probably been told that when the drug was dispensed.

Hon. Judy Sgro: Thank you.

The Chair: Thank you.

I call the question on amendment NDP-1.

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

The Chair: We're now on amendment G-1.

Mr. Macklin.

Mr. Joe Comartin: Mr. Chair, I want to alert you to a conflict of interest with Marc Lemay. He's looking forward to challenging this all the way up to the Supreme Court of Canada. He should have declared himself in conflict.

Mr. Marc Lemay: But you're going to be judged there.

Mr. Joe Comartin: Mr. Chair, just on detection, based on that vote, I'll withdraw my other amendments. We don't have to go through them.

The Chair: So you're withdrawing all your amendments, NDP-3 up to NDP-14 inclusive, sir.

● (1225)

Mr. Joe Comartin: Yes. They're all related to this issue.

The Chair: Okay. Thank you.

Hon. Paul Harold Macklin: With respect to the change in clause 2, the amendment will change some of the wording to show that physical tests and breath tests at the screening level are to be performed without delay. Wording changes will show also that at the evidential stage, physical tests—breath tests and blood—are to be demanded and provided as soon as practicable.

The Chair: Shall I call the question?

Shall government amendment number 1 pass?

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

The Chair: BQ-1, Mr. Marceau.

[*Translation*]

Mr. Richard Marceau: Mr. Chair, based on what we agreed with the department, we'd like to modify amendment BQ-1. The negotiation was on the English version. The words *For greater certainty* should be added at the beginning, before *A peace officer*. If I am not mistaken, that was the agreement, Catherine.

[*English*]

The Chair: Okay. Any further discussion?

Shall BQ-1, as amended, carry?

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

The Chair: BQ-2.

Mr. Marceau.

[*Translation*]

Mr. Richard Marceau: Mr. Chair, we checked with the Department of Justice and other intervening parties and, as a result, we are going to withdraw amendments BQ-2, BQ-3, BQ-4, BQ-5, BQ-6 and BQ-7.

[*English*]

The Chair: Thank you.

(Clause 2 as amended agreed to)

(Clauses 3 and 4 agreed to)

(On clause 5)

The Chair: Now to amendment G-2. Mr. Macklin.

Hon. Paul Harold Macklin: This motion is simply to change the wording, to use the word "practicable".

The Chair: Has everyone found it in their package?

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

(Clause 5 as amended agreed)

(Clause 6 agreed to)

(On clause 7)

The Chair: Amendment G-3. Mr. Macklin.

Hon. Paul Harold Macklin: Again, it is the same principle. It's just to amend it so the word "practicable" is utilized.

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

(Clause 7 as amended agreed to)

(On clause 8)

● (1230)

The Chair: Next is amendment G-4.

Mr. Macklin.

Hon. Paul Harold Macklin: On amendment G-4, the motion in clause 8 will ensure that offences related to criminal negligence, manslaughter, dangerous driving, leaving the scene of an accident, and cases of impaired driving causing death or injury are included in the exceptions to the limitation and the offence regarding the use of test results.

Secondly, the motion will ensure that provinces may continue to use licence suspension, vehicle impoundment, and other provincial measures to sanction anyone who drives with alcohol or impairing drugs in their system.

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

(Clause 8 as amended agreed to)

(Clauses 9 to 11 inclusive agreed to)

The Chair: Shall the title pass?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: Shall I report the bill to the House?

Some hon. members: Agreed.

The Chair: As our amendments are not terribly substantial, I don't think we necessarily need an order to reprint.

Mr. Macklin.

Hon. Paul Harold Macklin: I think maybe we should have it reprinted. This is a substantial amendment, and I think it needs to be clear what is happening to the bill. I think it should be reprinted so it's properly interposed.

The Chair: Shall the committee order a reprint of the bill?

Some hon. members: Agreed

The Chair: I would like to suspend for a few minutes and move to future business.

[*Proceedings continue in camera*]

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