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## Legislative Committee on Bill C-30

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EVIDENCE

**Thursday, March 22, 2007**

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**Chair**

**Mr. Laurie Hawn**

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Thursday, March 22, 2007

●(0905)

[English]

**The Chair (Mr. Laurie Hawn (Edmonton Centre, CPC)):** I call the meeting to order, and I would ask the media to take their leave.

I want to welcome you all to the 19th meeting of the Legislative Committee on Bill C-30. The easy part is over. This is where the recycled rubber hits the road.

I want to say at the beginning that in the process, we have a lot of expertise in the room. I intend to be methodical as we go through this, and rely on this expertise that we have in the room, both at the front and at the back. We have some members from Environment Canada here today. They are John Moffet and Michel Arès. Phil Blagden is here from Health Canada. We'll also have other officials from NRCan and Transport Canada here as we need them, as we go along.

You also have a document called "Bill C-30 Clause-by-Clause for Members". That's from the department, and it is the department's expertise on the bill.

[Translation]

I would also like to share some information with committee members before we proceed with the clause-by-clause study of this bill. As you know, there is a possibility that divisions on certain clauses, amendments or subamendments may result in tied votes, at which point I will be asked to deliver a casting vote.

The issue of the casting vote is explained on pages 268 and 269 of Marleau and Montpetit's House of Commons Procedure and Practice.

[English]

Therefore, without anticipating any results in clause-by-clause, I want to inform members that if there are tied votes on clauses of the bill, I will vote in the affirmative in order to leave the bill in its existing form. If there are tied votes on amendments or subamendments, the chair will vote in the negative in order to maintain the status quo and to keep the question open to further amendment, either here in committee or in the House at report stage.

Finally, I intend to notify the Speaker of any casting votes delivered on amendments. Normally, the Speaker will not select, at report stage, any motions that are defeated in committee. However, the Speaker does exercise a discretionary power of selection, and I intend to provide him with as much information as possible on which to base his selection decisions for report stage in the House. I

trust this information will assist the committee in the decision-making process on this bill.

We're now going to embark on the detailed clause-by-clause consideration of Bill C-30. I'd like to take a minute to ensure that committee members have the documents they will need. I think they do.

At the end of last week, 66 amendments had been received by the clerk. These were packaged into a binder and distributed to members first thing on Monday morning, March 19. One additional amendment was received from the NDP after the binders were sent out, and this has just now been distributed this morning. Earlier this morning, we received 34 amendments from the Liberal Party. We are advised that they are to replace the Liberal amendments currently found in your binders. These have been copied, and I believe you have been given them.

**Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP):** For clarity, Mr. Chair, on the 34 new Liberal amendments, did you say "replace"?

**The Chair:** They are replacing the amendments that were in the binder you were given on Monday.

[Translation]

Is that the case?

[English]

**Mr. Nathan Cullen:** So all the amendments that we've been reviewing that the Liberals submitted are no longer...

**The Chair:** They are replaced by the new package that you just got.

Does everybody have the package of amendments?

Mr. Moffet.

●(0910)

**Mr. John Moffet (Acting Director General, Legislation and Regulatory Affairs, Department of the Environment):** Mr. Chair, the departmental staff members don't have the most recent amendments.

**The Chair:** They're making more copies as we speak.

Mr. Jean.

**Mr. Brian Jean (Fort McMurray—Athabasca, CPC):** I would suggest, Mr. Chair, that it's very important for all of us in the room that the department receives them, so that they can provide any advice we need. I see that they do have them.

**The Chair:** They have them now. We're all dealing with these at the moment. Mr. Moffet has a copy now for Mr. Arès.

Monsieur Bigras.

[*Translation*]

**Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ):** I understand, Mr. Chairman, what the Liberal Party has just done. However we have just now received the amendments being tabled. It is therefore difficult for us to analyze their breadth. It seems the officials do not have the documents either. I do not know what to say. It seems to me that we had set a deadline, that of March 15, for submitting amendments, precisely in order for committee members to be able to study them.

I agree that it is possible to submit new amendments. However, I would draw your attention to the fact that these are new amendments that have not been analyzed by the parties nor by the members who will perhaps have to take a position on them as early as today.

This shows a lack of generosity, to say the least.

[*English*]

**The Chair:** Mr. Cullen.

**Mr. Nathan Cullen:** Along those lines, certainly our ability to consider and pass judgment on these amendments from the Liberals is impossible today. I wouldn't mind a little explanation from our colleagues as to why, with very firm timelines and dates that we pushed back, they would scrap all amendments and bring a whole bunch of new ones. It speaks of ill faith in the negotiation of this to table 34 new amendments today, many of them substantive and large, blowing the deadline that the committee has agreed to, including the members from that party.

I think an explanation is in order.

**The Chair:** I don't disagree.

Before I go to Mr. Warawa, I'd just point out that amendments to Bill C-30 are to be submitted to the clerk of the committee prior to clause-by-clause consideration, without limiting the ability to present additional amendments at the meeting itself. However, your point is well taken.

Go ahead, Mr. Warawa.

**Mr. Mark Warawa (Langley, CPC):** Just to elaborate on the points being made, the different amendments, the 66 amendments that you spoke of, we received on the morning of the 19th. And it was very difficult to go through that. A lot of time was spent, I'm sure, by all of us on the committee reading and immersed in the implications of each of the amendments so we would be ready today. Now, as we arrive, to receive another 34 creates a big problem for this committee moving forward. We do have commitments to move forward.

I hope this is not another delay tactic we're seeing from the Liberal Party. I'm very disappointed, Mr. Chair.

**The Chair:** Thank you, Mr. Warawa.

Mr. Godfrey, do you have a comment?

Okay, we'll go to Mr. Manning.

**Mr. Fabian Manning (Avalon, CPC):** I'm very concerned about the amendments. I realize the regulations and rules we have to allow those amendments to be presented today. I don't know about anybody else. Maybe other people have a more enjoyable life than I have, but I spent the last three or four days poring over the amendments. This is a new committee for me, and I have several questions, certainly for the officials of the department.

I find it strange here, now. I'm just concerned, number one, about the fact that we have these 34 new amendments. How are we going to proceed on a clause-by-clause basis? Are these all going to be in the order in which they're presented in the binder we received? It just creates some chaos for me, as a member. And I'm concerned about how we're going to proceed today with the plan we had in place for today, now that we have these amendments.

It is lack of good faith, I think, to present these amendments. If we had one or two new amendments presented today, that would be something we could deal with, but to have 34 laid on us begs the question of how we proceed.

● (0915)

**The Chair:** Mr. Godfrey, may we have an explanation?

**Hon. John Godfrey (Don Valley West, Lib.):** There are two substantive new amendments that are put forward in the package. The first deals with the Commissioner for the Environment and Sustainable Development, and it is based on the hearings we had previously. The proposal is to incorporate the work we were doing on that into Bill C-30, because the occasion has presented itself. That's the first substantive amendment, and it is the one that affects today's work, because it comes early in the proceedings.

The other substantive one has to do with the carbon budget, which was announced by Mr. Dion last Friday. We thought that to flesh out the references to large final emitters in Bill C-30 would be helpful.

Those are the two substantive new amendments. Many of the other amendments you have seen before. It's simply a question of renumbering the existing amendments that we had pre-submitted. There were some consequences from submitting these two new amendments.

The good news is that most of that will come later in our proceedings. That is to say, if we're going to proceed on the basis of the bill as it's currently constructed, the only new one we have to deal with this morning, we suspect, has to do with the Commissioner for the Environment and Sustainable Development.

We do apologize, of course, to committee members for this, because these are new developments, but they're not 34 new amendments. They're really two big new amendments with consequences for numbering and so on. Most of those consequences will be delayed to future meetings because of where they occur. The only one that affects today's discussion is the insertion of the concept of the Commissioner for the Environmental and Sustainable Development, which we have discussed at length in this committee.

**The Chair:** Mr. Jean, Mr. Cullen, and then I'd like to move on, if we can.

**Mr. Brian Jean:** I think we're stuck with them at this stage, giving regard to the circumstances, although I would suggest that all members of this committee show some flexibility and compromise toward these particular amendments and others that may be more appropriate to be put at the end of the legislation. If we as committee members decide to do so, I would suggest that maybe, very possibly, it would give us an opportunity to have some sober second thought on them and give us an opportunity to dissect and think about them.

We have a very important act in front of us. Canadians expect us to do a good job. I would hate to see something slide through that is not appropriate and not in the best interests of Canadians. As a result, I suggest that all members of this committee be flexible on this. If one of us says "Give us an opportunity to think about it", we should put it to the end, or put it to somewhere beyond, so that we have an opportunity to do so.

Would that be agreeable to the members?

**The Chair:** Well, I think it's in everybody's best interests, especially Canadians' best interests, if we do this in as cooperative and productive a manner as possible. It's incumbent on everybody here to do that.

Mr. Cullen.

**Mr. Nathan Cullen:** Following along that line, I have a small question, through you, for Mr. Godfrey. Depending on his answer, I'd like to make a comment.

With regard to this new amendment you've brought today, on the Commissioner for the Environment in particular, is that meant to be early on in the bill? And was it your intention for it to be heard today?

**Hon. John Godfrey:** That's right, Mr. Chairman. We think the logical place for it is early on in the bill.

**Mr. Nathan Cullen:** Sorry, but just to be clear, was it meant to be heard and discussed today?

**Hon. John Godfrey:** Yes.

**Mr. Nathan Cullen:** Well, then, Mr. Chair, this is a critical moment in terms of setting a tone for this committee. We've attempted to be up front. We've all agreed upon the rules. I'm looking at your ruling when we decided on how amendments would be brought. The suggestion that a substantive amendment....

We heard testimony about the Commissioner for the Environment many weeks ago. This did not happen in the last few days. So while it may be valid to have this consideration with regard to Bill C-30, it's irresponsible to drop it on the day of. And to expect committee members to discuss and cast votes on it can be seen as a form of delay. This is a substantive amendment on which we heard testimony some weeks ago, and suddenly we want committee members to address it and vote on it today—to change Canadian law, change the role of the Commissioner for the Environment, all with five minutes.

I think it's irresponsible on the part of my colleagues in the Liberal Party when we've been trying to work in a spirit and environment of cooperation and forthrightness. My goodness, we in the NDP tabled our amendments in November.

This is just totally unacceptable.

● (0920)

**The Chair:** Okay.

I would like to hear from Monsieur Bigras, and then I would like to move on—

**Mr. Nathan Cullen:** Sorry, Mr. Chair, but this is important. If the Liberals are proposing that this come up now for our vote and our consideration in debate today, and this is the type of precedent we're setting for the rest of Bill C-30, then—

**The Chair:** Well, there are a couple of things we're going to get to before we get to that one. My suggestion may be that we allow them to move it and we at least hear it. Then we can decide whether we're in a position to discuss it or not.

Monsieur Bigras.

[*Translation*]

**Mr. Bernard Bigras:** Mr. Chairman, I have not read the blues from the last meeting, but it was clear that we were to provide most of our amendments by the 15th, although we were not to be precluded from tabling other amendments after discussion.

In my opinion, we could certainly allow the Liberal Party to present its marathon amendment on the environment commissioner, but we should expect this amendment to be stood, given the fact that we have not had the opportunity to look at it and that we need some time to do so.

Therefore, the Liberal Party presents its amendment, but we ask it to accept the idea of having it stood, in order to be considered later on.

[*English*]

**The Chair:** Mr. Godfrey.

**Hon. John Godfrey:** Two points, Mr. Chair.

First of all, the location of this amendment about the Commissioner for the Environment comes as a result of advice from the drafters. They felt this was the logical place to put it. I understand and share Mr. Cullen's concern that it's come early, that there hasn't been that much notice for it.

The second observation I would make is that I thought—unless I misunderstood him during the discussion on the Commissioner for the Environment—that at some point Mr. Cullen thought it would be a useful idea to migrate the independent Commissioner for the Environment into Bill C-30.

So while I understand the difficulty of confronting a new piece right off the top, it was suggested strongly by the drafters that we do so, and that this was the place for it. Secondly, the overall idea is not out of line with what I understood Mr. Cullen's thinking to be.

**The Chair:** Can I ask a question? Is it acceptable to members to follow Mr. Bigras's suggestion that the Liberals be allowed to move it, and then we can decide whether—

**An hon. member:** Let's talk about it.

**The Chair:** Okay.

Mr. Manning, go ahead.

**Mr. Fabian Manning:** Thank you again, Mr. Chair.

I respect Mr. Godfrey's comments, but to say we didn't get much notice.... We got five minutes' notice. To bring in a substantial amendment and give us five minutes' notice to sit down here at the table and to make a decision on that amendment I think is unfair to all members of the committee. If we're going to bring amendments—and we had the right to table amendments at each meeting—it's going to take the plan we had for today and put it to one side. To deal with this amendment I think is unfair to all committee members, and I think we should have a serious look at whether we even accept the opportunity to put forward the amendment today.

**The Chair:** I'm going to let the Liberals move it, and, per Mr. Bigras's suggestion, put off discussion of it.

M. Bigras

[*Translation*]

**Mr. Bernard Bigras:** My question is for the legislative clerk. Apart from the marathon amendment, is there, among those amendments that came in this morning and that we have just received, any amendment that might have an impact on other amendments that are already contained in the binder?

If such is the case, then it is more than a problem of substance, it is a technical problem. We would have to ensure consistency and we are at present very ill-equipped to do so, because we have not had the opportunity to analyze the amendments we have just been given.

• (0925)

[*English*]

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** Thank you for recognizing me, Mr. Chair.

I think the key here is that we've got a lot of work in front of us. We've got one of the most aggressive schedules of any legislative committee in the past, and this sets the precedent for the rest of the time. I think it's very important. It's not whether it's good or bad, and very possibly they're good amendments. The point is—and we respect they can be brought up at any time—we set a schedule and we set that schedule to meet certain criteria and to make sure we had an appropriate time to analyze the amendments. We have four different parties here, 12 or 13 different people who are putting forward a different role, and we need to make sure we can analyze it appropriately.

I would suggest—and I saw some agreement before from Mr. Godfrey that seemed to indicate he was prepared to do that—if there is a situation where these particular amendments deal with any other amendments, I think we have to put those at the end and deal with them at a subsequent time. We can bring them forward at any time they're deemed to be appropriate. Certainly, Mr. Chair, we need to look at some flexibility on the part of the other parties so we're not taken by surprise and some particular piece of legislation that is not appropriate in this particular case, or good for Canadians, slips through.

As I said before, I think the reality is they might be good amendments, but we don't know that without a proper opportunity to compare all four different sections with each section we have to deal with from the amendments from all parties and the original bill and what the witnesses have said. There's not a lot of opportunity to do that. With respect, Mr. Chair, I think there should be some flexibility on behalf of the other parties to at least, if one of the other parties doesn't want to deal with it at this stage, put it at the end so we can give some sober thought to it and look at all the considerations. I would think this would be the best opportunity for us in this particular case.

**The Chair:** If I could make a suggestion, I think I did sense some of that with Mr. Bigras's suggestion and Mr. Godfrey's comments that we call it when it comes. The Liberals can move it, but we stand discussion on it until the clerks have had some time, because there are interrelationships, which they're obviously not equipped to deal with on such short notice, nor are other members of the committee, other parties, equipped to deal with that on short notice.

Is that an acceptable way to proceed? When it comes up in sequence it will be moved, and we'll stand discussion on it until everybody has had a chance to examine it. Is that—

**Mr. Brian Jean:** I'm sorry for not being recognized, Mr. Chair, but I think all related clauses would as well be fair because of the necessary connection among them.

**The Chair:** As we go through it today, if some of them relate to that one, then we'll have to consider it at the time.

Mr. Cullen, do you have a final word?

**Mr. Nathan Cullen:** I would assume the related clauses are just about every Liberal amendment, because they took out all of them and put in a whole bunch of new ones. I don't think I can hear any Liberal amendment today, but I don't know.

This is a complicated act. When you adjust one piece, you adjust another. I don't have the Parliament of Canada Act in front of me, and I don't know if anyone else does. By changing all of the amendments, bringing in new ones, or bringing in a couple of substantive ones with a new act, it affects other pieces of their amendments. I can't hear any of them.

The Liberals have brought this on themselves. This is absolutely ridiculous.

**The Chair:** I'm going to make a ruling in a minute.

Monsieur Paradis.

[Translation]

**Hon. Christian Paradis (Mégantic—L'Érable, CPC):** Mr. Chairman, I would tend to agree with Mr. Cullen. We are talking about two substantive amendments that may appear simple, but that is not necessarily the case, because all of the amendments are interconnected. We have analyzed the amendments we received earlier, those provided by the Bloc and the NDP as well as the Liberal Party. We must now examine a whole new series of amendments. We do not know what they deal with and I doubt that this would provide for an efficient discussion. We were provided with no prior notice and I fear that because of that some errors might slip in. We must be responsible.

[English]

**The Chair:** A short point, Mr. Watson.

**Mr. Jeff Watson (Essex, CPC):** Thank you, Mr. Chair.

I know it took the Liberals ten years to get to the point to be able to drop something like this on the committee, but I hardly think it's fair that we have a few minutes to assess the impact of the interconnectedness on the rest of the amendments.

It might be nice to suggest that they simply be introduced and we'll stand them, but how many other consequential amendments are linked to those that we might have to stand? We don't have an understanding yet of the interconnection. I think it quite frankly inhibits the work of the committee today.

I understand this probably adheres to the letter of the law regarding amendments, but it certainly violates the spirit of it. It's not simply to consider a few amendments that are new and are not necessarily substantial. This is brand new, and I think it violates any possibility for goodwill at the committee. I really think it was a disappointing thing to happen today.

Mr. Chair, perhaps it would be fair to subject these to the 48-hour notice rule. It would allow them to come before the committee in two days rather than introducing them here today.

• (0930)

**The Chair:** Mr. Jean, on a point of order.

**Mr. Brian Jean:** Yes, I have a point of order, Mr. Chair.

We have precedents set here. The precedent in relation to the question being asked is that each member of this committee has an opportunity to speak before any other member.

I've had an opportunity to speak three times, and it's four times, including this point of order. Mr. Warawa and many of the other members have spoken. Mr. Manning has actually had his hand up for quite some period of time and has not had an opportunity to be heard.

Mr. Chair, I think it would be appropriate for all members to be heard before we make any ruling.

**The Chair:** The provision is for the questioning of witnesses, not for what we're doing today.

**Mr. Brian Jean:** But with respect, it is a precedent, Mr. Chair. It is a precedent this committee decided on, and I think it would be appropriate for it to carry on to all sections that we deal with.

**The Chair:** It is in relation to the questioning of witnesses, and that's all it's in relation to.

I take all your points, and I agree. I'd like to start the process.

Mr. Manning, on a point of order.

**Mr. Fabian Manning:** Yes, I have a point of order.

We're present here. We come in and drop major substantive amendments on the table, and we're asked to agree to them in five minutes and go forward.

I've spent the past three or four days going through all these amendments. As I understand them, if for some reason or another one of the amendments is not passed here at the table, it defeats a couple of the other amendments. How can I therefore go forward on something that may affect the 15 other amendments before us this morning through this one amendment that we have before us right now?

I think it's unfair to me, as a committee member, to have to sit here today and be asked to proceed with this under the set-up we have.

**The Chair:** Mr. Manning, that's a point of debate.

I agree with the points that have been raised. I would like to suggest that we go through the process, because there are a couple of things we can do that are above and beyond the point of contention here.

When we get to the point that the amendment will be moved, we'll stand discussion on it. If we get no further because the very next one is dependent on something that falls out of it, we'll know it when we get there. If there's some doubt, which will be legitimate, we can suspend at that point, but we can at least start the process.

When we get to that point, if there is collective unhappiness, which I think will be self-evident, and the wish of the committee is to suspend, at that point we'll suspend and everybody will have time to assess it. But we can at least get the process started, because some of the process doesn't depend on the resolution of this particular conflict.

At the time, if the committee is unhappy, at that point we will suspend, at the desire of the committee. But there are a couple of things we can do first that have no relationship to this, and at least get the process started. It has no relation to the point of conflict we have here right now.

**Mr. Fabian Manning:** After listening to the concerns that have been raised by us here this morning, and members from the Bloc and the NDP, do you believe we're happy?

**The Chair:** No. I'm saying let's get to the point where the unhappiness will cause the process to stop. At that point, the collective unhappiness of the committee, as expressed by the committee, will force a suspension.

Mr. Jean.

**Mr. Brian Jean:** Mr. Chair, thank you for recognizing me.

I'm wondering if we can take a one-minute recess to discuss this. I understand your suggestion, but this is not a normal piece of legislation. It is all interconnected. The amendments proposed by the Liberals change the bill substantially, the amendments proposed by each party change the bill substantially, and we need an opportunity to look at that.

Mr. Chair, with respect, whether you say they may or may not be connected, we have no idea whether they are, but the whole bill is interconnected in three parts. Some parties have suggested it should be one part. There is just no possible way we will know whether or not the amendments proposed by the Liberals are included or connected to the pieces of legislation, the clauses we approve or don't approve. There is no way we can tell.

● (0935)

**The Chair:** Let's take a recess for a few minutes. But while you're discussing in your recess, remember what I said about getting to that point—hearing it. I suspect that the collective desire of the committee will be to suspend at that point, and we will suspend at that point. Your concerns will then be catered to in terms of going away, assessing, and so on.

● \_\_\_\_\_ (Pause) \_\_\_\_\_

●

● (0940)

**The Chair:** Order.

Before we proceed, I want to say that I've had a quick look at the amendment in question. My initial impression is that it authorizes new spending. That's fairly clear to me. It would require royal recommendation, and that would make it inadmissible. I'm willing to hear some argument on this either now or later, before making a ruling, but that is my strong impression, having had a look at the proposed amendment.

Do we want some discussion on that at this point?

Seeing heads nod, I'll go to Mr. McGuinty.

**Mr. David McGuinty (Ottawa South, Lib.):** Thank you, Mr. Chair.

I missed exactly what you said. Are you saying the environment commissioner piece is out of order?

**The Chair:** My initial impression is that it authorizes new spending, which requires a royal recommendation, which makes it inadmissible.

**Mr. David McGuinty:** I guess my first reaction, Mr. Chair, is that this is very troubling.

We've heard the minister and various government members say many times in committee—

**The Chair:** Mr. Cullen, on a point of order.

**Mr. Nathan Cullen:** I apologize to Mr. McGuinty, but I'm not sure why we're able to discuss this. Has this been moved? Have we accepted this? I appreciate your ruling and consideration of whether it's in order, but I don't even know if we're looking at this yet.

**The Chair:** What I was trying to do before was get to that point, so that I can in fact make the point I just made. We were just having difficulty getting there.

**Mr. Nathan Cullen:** I do appreciate it, but just in terms of the process of this committee and being fair, we're now into a substantive debate without the motion having been moved.

This is the problem with dropping things on the table at the last minute. There's no consideration for the clerk's staff or the legal counsel to know whether something is receiving a royal recommendation, so we're making decisions essentially on the fly. We've only just seen this in the past five minutes, as have the staff.

● (0945)

**The Chair:** Everybody appreciates that this is not easy. We're not actually in clause-by-clause, so we're not actually discussing the amendment. After having looked at it, I'm giving you my impression before we get to that point. What this will lead to after the discussion about whether people agree with that or not, I'm suspecting, is that we will not proceed further and that it will wind up going to the next meeting.

Is this on the point of order? If not, we'll go back to Mr. McGuinty.

**Mr. Brian Jean:** It is on the point of order.

I just think it's appropriate that the Liberals move their amendment, and we can deal with it accordingly.

**The Chair:** Then we would go back to where I was trying to get to in the first place, and that is to start through the process and get to that point. I would probably repeat what I've just said, and we could take it from there. Is that agreeable?

Mr. Cullen.

**Mr. Nathan Cullen:** My apologies to you, Chair, but particularly after having heard your words already on this ruling, the problem with this is that a concept like this is something the New Democrats have been pushing for, as Mr. Godfrey pointed out. Because it has been done in such a hurried way, it has thrown into jeopardy the very possibility of moving this into Bill C-30. Because of it not being prepared and ready and tabled with due consideration and time, it sounds like we're going to lose this whole amendment entirely. While I'm urging the committee to get down to work, this has thrown what could be a very good idea into total jeopardy because of the Liberals delivering it so late to the table. I'm not sure we've gotten due consideration on this.

**The Chair:** I take your point, Mr. Cullen. What I'm trying to do is get the process moving and get to that point. I haven't made a ruling. I'm just telling you my first impressions of that.



**Mr. Nathan Cullen:** Oh, I see. You're about to make the ruling.

**The Chair:** Whether that changes with discussion or not remains to be seen. There are, of course, ways you can challenge any ruling that is disagreeable. That's part of the process.

Mr. Jean.

**Mr. Brian Jean:** I'll make this very short. I think it's appropriate for the Liberals to move their amendment scheme. That's the first thing we need to do, in proper order, and then we can deal with it accordingly, Mr. Chair.

And I do have a motion to deal with subsequent to that.

**The Chair:** So are we nodding in agreement to move forward? There are measures that can be taken by anybody who has an opposite view of anything that might happen.

I'm glad we had that little chat.

In accordance with Standing Order 75(1), clause 1 of this bill is postponed to the end of our examination, as it is the short title of the bill.

I now call the amendment to clause 1, which is amendment LIB-2 in the package you received this morning. I would call upon Mr. McGuinty to move it.

**Mr. David McGuinty:** Thank you very much, Mr. Chair. I'm glad we're back on the agenda. Terrific.

First of all, I'm not going to take the time to read the entire amendment, Mr. Chair, but I do move it, and I'd like to say a few words about it, if I could, to explain to Canadians who might be watching and those who are interested, and those here who are working on Bill C-30 together, what the import of this bill is.

In the course of the work of this committee, Mr. Chair, Liberal members have come to the same conclusion that the majority of members in the Standing Committee on Environment and Sustainable Development came to on February 27. That is, if this country is going to take the 21st century challenges of the environment seriously, we need a fully independent environment commissioner. Currently, the environment commissioner is an employee of the Office of the Auditor General and reports to it and not to Parliament. This is a subject that has been addressed in detail by many esteemed witnesses, Mr. Chair, before the environment committee. For example, Mr. Jim MacNeill, the former secretary general of the World Commission on Environment and Development, the Brundtland Commission, wrote a letter that quite bluntly stated:

I was extremely disturbed to learn that the Auditor General had recently dismissed the incumbent Commissioner from office. In my view, this action has potentially very damaging implications for the visibility, autonomy, responsibility and accountability to Parliament of future Commissioners and their Office.

He gives his complete support to the idea of a fully independent environment commissioner. I think a letter that's this direct, Mr. Chair, from a person of his character, is clearly a call to action.

Furthermore, Mr. Chair, Madam Gélinas, the most recent environment commissioner, sent a persuasive letter to the environment committee on this very subject. Some of the operative paragraphs and passages from her letter go as follows:

If we examine the duties of other commissioners (Official Languages, Ethics, Information, Privacy, etc.), we find that in addition to carrying out investigations,

these officials have a duty to promote and encourage best practices, without however becoming merely an advocate for one particular side.

She goes on and makes the comment that

Attaching the CESD's position to the Office of the Auditor General was not intended to restrict the CESD's mission and role to that of an auditor. And yet, this is what the position has become.

She goes on further to say:

The recent direction taken by the Auditor General, Mrs. Fraser—aimed, among other things, at integrating the work of the CESD group into her own reports and thereby eliminating the Commissioner's report as we have known it since the position was created—leads me to believe that the risk is now real and that this fragile equilibrium is going to be disrupted.

I think, Mr. Chair, perhaps the most telling point of all is where she says:

A commissioner must be able to offer a vision, an approach, a way of acting and a general orientation. He or she must be able to debate, to promote activities, to work with departments in other ways than simply through audits.

Finally, she writes, for all members here to hear, especially those members who hold her work in such high esteem, as, for example, the Minister of the Environment has—and rightly so—offering to nominate her to the Order of Canada when she was removed from her duties, that:

If Canada wants the Commissioner for the Environment and Sustainable Development to exercise his or her role fully, he or she must be independent of the Office of the Auditor General of Canada, because the two mandates are incompatible.

As you may recall, Mr. Chair, not too long ago the Minister of the Environment said—and I repeat—that he was so impressed with the work of Madam Gélinas that she should be appointed a member of the Order of Canada. He went further by saying he would nominate her personally. I fully agree.

I agree with Madam Gélinas' testimony; the environment committee agrees with it. It is time to take action now before the next environment commissioner is selected. Our motion lays out the essentials of an independent agent of Parliament, a separate office with a separate budget, full discretion for hiring and firing staff, and a mandate to investigate and report on any issue within the commissioner's jurisdiction. That is the state or integrity of the environment in Canada and the implementation of sustainable development in the federal government.

Members will see, Mr. Chair, that the provisions are very carefully circumscribed, just as they are for existing agents of Parliament such as the ethics commissioner and the official languages commissioner. If we would like to get something done on the very first day that we begin to rewrite the so-called Clean Air Act, in my view, this would be the way to begin.

Thank you, Mr. Chair.

• (0950)

**The Chair:** Thank you, Mr. McGuinty.

Mr. Jean.

**Mr. Brian Jean:** I'm just wondering if Mr. McGuinty is going to speak to the rest of his amendments or just the two.

**The Chair:** We're just dealing with amendment L-2 at the moment.

**Mr. Brian Jean:** Amendment L-2 is 10 pages long, about 3,000 words of legal text. That's the amendment you're speaking of, Mr. Chair?

**The Chair:** We're speaking of L-2.

I have a question for Mr. McGuinty.

Are these consequential to L-32 and L-33...the Auditor General Act and the coming into force?

**Mr. David McGuinty:** Yes, they are.

**The Chair:** The decision on L-2 would apply to amendments L-32 and L-33.

Mr. Jean.

**Mr. Brian Jean:** Mr. Chair, subsequent to what you said before, we're seeking a ruling on these amendments that have been put forward by the Liberals now that they have tabled them.

**The Chair:** Okay.

Does anybody have any further discussion before I get to that?

Mr. Watson.

**Mr. Jeff Watson:** Yes. Mr. Chair, just before you get to that, I know these amendments are ten years too late for the Liberals after they implemented Kyoto, but astoundingly this one is 14 years too late. I was just rereading the Liberal red book from 1993, where they promised an independent ethics commissioner, and lo and behold, when they had the chance to do something about it, they got it wrong, Mr. Chair. They're playing a lot of catch-up. Maybe they were on the road to Damascus when they drafted this particular amendment, Mr. Chair, but I'm looking forward to your ruling.

I just wanted to make sure that was on the record.

• (0955)

**The Chair:** Thank you for that.

Mr. Cullen.

**Mr. Nathan Cullen:** The initial concerns I have with the process we are undertaking remain. Having heard your earlier considerations of this, my worry is that through this very short debate that we're now engaged in on however many pages of legal text the Liberals have proposed today, we will lose this concept in Bill C-30 of the commissioner of the environment simply due to the Liberals not having done their homework and not having brought this in a timely fashion to the committee.

I'm concerned about even this process of questioning whether it's valid or invalid or whether there are parts of concern. None of us sitting around this table... I suspect even Liberal members of the committee haven't seen this, and we are at the point right now of passing consideration as to whether it's admissible, from the clerk's advice, or whether the committee members want to vote for this or challenge your ruling or any of those other considerations.

Here's a potentially excellent idea put in jeopardy because of some obscure delay tactic that I'm still grasping to understand on the part of the official opposition.

**The Chair:** I take your point. The ultimate fate of this will be the will of the committee, one way or the other.

Mr. Jean, and then Mr. Manning.

**Mr. Brian Jean:** I need a new mike, a new earpiece. Mine doesn't work.

**The Chair:** Okay.

Mr. Manning.

**Mr. Fabian Manning:** Mr. Chair, you mentioned that other amendments would be affected by adopting this amendment?

**The Chair:** Yes, L-32 and L-33.

**Mr. Fabian Manning:** Could we get some clarification on exactly how, because I haven't had the time to study those. Is there anybody here who can give me some clarification on how they will affect that, subsequent to your ruling?

**The Chair:** Mr. McGuinty, are you prepared to address the consequential nature of amendment L-2 and its impact on L-32 and L-33?

**Mr. David McGuinty:** Both are required as a result of amendment L-2. They're quite self-explanatory. Do they require an explanation?

**Mr. Fabian Manning:** What about the L-2 amendment? Can you just spend a few moments addressing some of the parts of the new amendment on L-2? Again, we haven't had time to look at those and certainly to study, as I said, those nine or ten pages of amendments. My problem is that it seems like the weekend homework has been done on the Monday morning school run, and I have a concern with that. I'm just trying to get some clarification. By accepting this amendment today, Mr. Chair, do we go forward on this clause, then? Is that the procedure here?

**The Chair:** Well, we're discussing it now.

**Mr. Fabian Manning:** Yes, but if we accept it today, do we accept it in its entirety, then?

**The Chair:** Unless it is amended.

Mr. Warawa.

**Mr. Mark Warawa:** Mr. Chair, I'm looking forward to your ruling. As has been expressed, I too am very concerned about what's happened this morning. We are all here to move forward on Canada's Clean Air Act, and yet what we see now is nine or ten pages of legal text provided to the committee on one amendment.

What has been the result of that? We're now an hour into this meeting, and we've been stalled. I don't know if it was deliberate or not, but the results have put this committee into a quagmire and made it very difficult to move forward, both on the issue of Bill C-30 and also on dealing with the commissioner and the appropriate ways of dealing with the office of the Commissioner for the Environment. I'm very disappointed. I think it's important that you do provide a ruling on this, and I look forward to that.

**The Chair:** We have three more who have asked to speak.

Mr. Jean.

**Mr. Brian Jean:** Not only do we have 3,000 words in one of their many amendments to look at prior to dealing with it, but it changes a substantial portion of what I consider to be one of the greatest offices in Canada, and that is, they're asking for an amendment to the Auditor General Act. I don't have a copy of the act in front of me. I understand that section 51.1 and section 15.1 of the Auditor General Act are repealed.

They're putting this forward, Mr. Chair, and I think it's beyond the point of ridiculous at this stage: 3,000 words of text that we have three minutes to review, plus amendments to other acts. Quite frankly, the Auditor General Act is one of the most important cornerstones of independence that we have in this Parliament. I just think it's ridiculous at this stage.

• (1000)

**The Chair:** Monsieur Bigras.

[Translation]

**Mr. Bernard Bigras:** Thank you, Mr. Chairman.

As for the substance and the spirit of the motion, I adhere to the principles outlined. However, I wonder if it is truly within the confines of Bill C-30 that the changes proposed by the Liberal Party should be made. I consider the wish expressed to be interesting, but given that it would have an impact on amendments 32 and 33, it is my belief that this would place us in a precarious situation.

I therefore find the Liberal Party's actions today less than generous, despite the fact that they flow from valid principles. I am afraid that in using Bill C-30 to this end, we might be missing a golden opportunity to grant greater powers to the commissioner for the environment. The way in which this process is unfolding makes me uncomfortable.

[English]

**The Chair:** Monsieur Paradis.

[Translation]

**Hon. Christian Paradis:** Thank you, Mr. Chairman.

This is a substantive amendment. Earlier, I said that it could appear to be simple in the minds of those bringing it forward, but that is not necessarily the case for those who are receiving it. There is a system such that it ties in with other amendments that have been mentioned. I am not at all comfortable with the idea of working in this way, in other words of receiving amendments as such without prior notice. I fear that our work will be botched. I am therefore awaiting your ruling, Mr. Chairman.

[English]

**The Chair:** Thank you. I think the discussion has died down.

My ruling now on this is that it would require royal recommendation because it does establish a new office under the Parliament of Canada Act and thus requires new spending; thus it requires a royal recommendation. I would therefore rule that it's inadmissible.

Mr. McGuinty, on a point of order.

**Mr. David McGuinty:** Thank you, Mr. Chair.

I'd like to make a comment about that if I could. It's very unfortunate. In fact, it's a bit troubling to find out, after hearing the minister and various government members say many times in committee, in the House, and on television that we want to work together to put a much stronger Bill C-30 together, that what I hear implied in the ruling is that this bill doesn't spend any money and can't spend any money.

I'm not sure I know what we're going to be doing here with all these substantive amendments we've tabled if this is an impotent bill. I hope there's a way around this procedurally. I'm not an expert on parliamentary procedure, but my staff have handed me a relevant passage from the compendium. It states that

The Royal Recommendation can be provided after a bill has been introduced in the House, as long as it is done before the bill is read a third time and passed.

I think it would be useful for us going forward, for the suite of amendments we put forward, and for all parties who put substantive and serious amendments forward. I think it would be important for us to know, perhaps through Mr. Warawa, the parliamentary secretary who represents the government on this committee.... Before we go any further, I think Canadians need to know two things. First, is the government going to bring a royal recommendation later on in the House so we can pass spending amendments here, or is this process effectively a sham when it comes to money? Second, are we going to be a side show while the Prime Minister runs around announcing billions of dollars worth of programs that pre-empt the work of this committee?

I think Canadians who are watching deserve to know. We'd like to know. We've put forward some very serious substantive amendments, because this is a bad bill, and we're doing everything we can to rescue a bill.

So we put these forward, and now we find out that there is no royal recommendation attached and we can't talk about spending money. How can we possibly put forward a so-called Clean Air Act that doesn't call on the government to spend money? I'd like an answer to that before we go any further. How can Canadians trust this process if it was set up to fail in the first place?

• (1005)

**The Chair:** That ruling was on this amendment.

Mr. Cullen.

**Mr. Nathan Cullen:** Again the process that the Liberals have chosen has put into jeopardy some of the very ideas many of us have promoted. I'm going to seek that we stand this particular change to the bill to give us time to consider it and give the government time to consider the necessary and legal attachment of a royal recommendation to such a position.

But keep in mind that this idea has been thrown into jeopardy by the movers, by the process of dropping it on the table the day of, when we've had weeks...when the Liberals themselves asked for extra time to contemplate and consider it over the break. Against the wishes of the New Democrats and every major environmental organization in this country, extra time was given.

Now on the day of the committee they bring forward a motion that we think is of substance, requiring a royal recommendation, which we also think is possible through this and through the government's consideration, which we encourage the government to do. But to rule on this today would be a mistake. It would be to slip into the error the Liberals have made in presenting this in the time they have. I would urge this committee to stand this motion and to move on with other business.

**The Chair:** You have an option, Mr. Cullen. I've made a ruling.

**Mr. Nathan Cullen:** Is the option to challenge your ruling and stand the motion?

**The Chair:** No, you have an option to challenge the ruling.

**Mr. Nathan Cullen:** Chair, in order to save a good idea presented in a bad fashion, I'll challenge the ruling. Following that I'll seek to stand this motion.

**The Chair:** Okay.

The question is not debatable. Is the chair sustained?

**The Clerk of the Committee (Mr. Chad Mariage):** The question is that the chair be sustained or not.

**Mr. David McGuinty:** Sorry, Mr. Chair, what does "sustain" mean?

**The Chair:** I made a ruling and the ruling has been challenged. So do you vote to sustain the chair, sustain the ruling, or not sustain the chair?

**The Clerk:** The question is shall the chair be sustained?

*(Ruling of the Chair sustained)*

**The Chair:** The chair is sustained by a vote of 7 to 5.

Mr. McGuinty.

**Mr. David McGuinty:** Thank you, Mr. Chair.

I'm incredibly disappointed, but I'm not surprised. We wanted to get things done on the environment commissioner. We wanted to make some progress.

Mr. Chair, I have an alternate amendment that I'd like to move that does not require the spending of any funds beyond what is already provided for in the given authorities. I would like to distribute that. I have copies available, translated into French.

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** Mr. Chair, here we are, at 10:10, with another amendment put forward by the Liberals. I mean, the sham here, the sideshow, is clearly evident.

We have a government that put forward a legislative committee, in cooperation with the NDP, and we've come before Canadians prepared to make amendments. We want an act that does a good job. For the first time in history, we have a government that's prepared to stand up for Canadians and put mandatory regulations and emissions standards in place, as well as clean air, in homes and outside.

This is absolutely ridiculous. We have a government that's prepared to cooperate, to compromise, and here we are, at 10:10, receiving more amendments from the Liberal Party. It is quite frankly a sham, and the sham is over on that side. We have come

forward to work cooperatively, and we want to do so, but how can we do that when this kind of sideshow happens? It's disturbing.

**The Chair:** Your point is taken.

We have to get copies of this amendment. The amendment is being submitted in accordance with the rules, however distasteful that may be to some.

Mr. Manning.

• (1010)

**Mr. Fabian Manning:** My concern here, again.... And I stress, I have studied the amendments that we were presented with prior to the weekend. Some of the amendments put forward by the Liberal Party and others are amendments that I certainly think are of a positive nature, going forward with the bill.

You know, the government brought forward this bill. This special legislative committee was struck to look at the bill, to accept recommendations, to see if we can come forward with a bill that Canadians accept. To use the words of Mr. McGuinty, I'm disappointed but not surprised that we're here this morning with 30-odd new amendments, with another one just laid on us again. It's an understatement, in my view, to mention a pre-empting of the work of the committee.

Mr. Chair, we all came here in good faith—I certainly did—to address the concerns Canadians have with the environment. To see the sideshow that's gone on here this morning.... I hate to say this, but I think it's a major delay tactic by the Liberal Party. Attempting to jeopardize the work of the committee in our first meeting on clause-by-clause—we haven't even gotten to the first one yet this morning—I think is a major concern for us all.

If there's this idea that we're going to sit here and approve these amendments in three to five minutes, then certainly from my point of view—and I do speak only for myself—it ain't going to happen. I want an opportunity to study these amendments. I want an opportunity to have my say, to put forward any subamendments I may want to put forward, and to address the concerns we have.

I think it's just a delay tactic that's jeopardizing the whole atmosphere of what we're trying to do here.

*[Translation]*

**The Chair:** Mr. Paradis.

**Hon. Christian Paradis:** Mr. Chairman, I would simply like to make an observation along the lines of those already made by my colleagues. We came here to this committee meeting in good faith. I believe that everyone wanted to see the members of this committee cooperate in order to have things move forward, but we come here this morning and we are presented with a humungous amendment, without any prior notice. You then make a ruling that is challenged, but sustained. In the end, which is no surprise, we are presented with 12 amendments.

Mr. Chairman, I do not know how far the Liberal Party will try to stretch the rules that have been set for this committee, but I am worried. I stated earlier that we had, at the outset, established the way in which we would be working, and, Mr. Chairman, my expectation is that that will continue.

[*English*]

**The Chair:** Mr. Watson.

**Mr. Jeff Watson:** Mr. Chair, I'd actually like to defer my time to Mr. Warawa.

**The Chair:** Mr. Warawa.

**Mr. Mark Warawa:** Thank you, Chair.

I think the disappointment is well expressed around this table. We are all here to work for legislation that would provide reductions in greenhouse gas emissions and pollution levels. Unfortunately, we have been very disappointed and sidetracked by attempts by the Liberal Party to delay the progress on this. As I said earlier, we seem to be stuck in a quagmire here, and we need to move forward.

To continue this game that has been orchestrated by the Liberal Party will not move us forward. It will not be fruitful, so we need to stop this. We need to refer to the steering committee to get us back on track, because this delay cannot be continued. The longer this meeting goes, the less fruitful it will be, so I would like to move that this meeting be suspended and that we refer to a steering committee to get us back on track.

**The Chair:** Mr. Warawa, did you mean to suspend or adjourn?

**Mr. Mark Warawa:** I move to adjourn.

**The Clerk:** The question is whether to adjourn the meeting now, on the motion by Mr. Warawa. It's not debatable. The question has to be put forthwith.

(Motion agreed to: yeas 8; nays 4)

● (1015)

**The Chair:** This meeting is adjourned.

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