



House of Commons
CANADA

Standing Committee on Transport, Infrastructure and Communities

TRAN • NUMBER 007 • 1st SESSION • 39th PARLIAMENT

EVIDENCE

Tuesday, June 6, 2006

—
Chair

Mr. Merv Tweed

Also available on the Parliament of Canada Web Site at the following address:

<http://www.parl.gc.ca>

Standing Committee on Transport, Infrastructure and Communities

Tuesday, June 6, 2006

•(1115)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Good morning, everyone.

As stated at our last committee meeting, we're here today for clause-by-clause consideration of Bill C-3, An Act respecting international bridges and tunnels and making a consequential amendment to another Act.

Just before we proceed, Mr. Hubbard has a comment or a question.

Hon. Charles Hubbard (Miramichi, Lib.): Thanks, Mr. Chair.

I just have a question, really. This morning I found in my office a notice where a new master of the Royal Canadian Mint has been appointed. With appointments, under normal operations of committees, those names come before the committees for vetting. We have a timeframe to look at that name and consider whether or not he should appear before the committee. In fact, with all the attention the position has had in the last year or two, it might be good, at least for our committee, to consider having Mr. Bennett appear before our committee to explain his past to us and his resumé, in terms of whether or not it is an acceptable appointment.

I wonder, Mr. Chair, if you, as chair, or the clerk have received notice yet of that appointment.

The Chair: I have not received any notice. We can certainly check into it—

Hon. Charles Hubbard: Thank you, Chair. I think we have two weeks or so many days in order to review it.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): I'm sorry, Mr. Chair and Mr. Hubbard, but the reality is that we are not the committee for that, but the government operations committee is responsible for that appointment. It's not our committee, so if they want to call him before them, that's their prerogative. It doesn't have anything to do with us.

Hon. Charles Hubbard: Thanks for the clarification, but in terms of the announcement, it appears that the minister is responsible for transportation, infrastructure and communities. It came out under Mr. Cannon's name.

Mr. Brian Jean: The minister is responsible for 17 crown corporations besides this portfolio, so he is a very busy person, but it's the government operations committee that would be responsible for that—for all crown corporations—not this committee.

Hon. Charles Hubbard: Thank you again.

Could we sometime, Mr. Chair, have some indication of just what we are responsible for as a committee? The post office is something that has emerged. We could have a list of the different organizations that are under Brian and the minister's—

The Chair: I could ask the department and our clerk to help me with that for the next meeting.

Okay, we do have guests, I would like to say—I hate the word “witnesses”—but they are here to offer us advice as we go through this bill clause by clause.

Pursuant to the standing order, consideration of clause 1, the short title, and the long title of the bill are postponed.

(On clause 2—*Definitions*)

The Chair: I call the question.

Mr. Bell.

Mr. Don Bell (North Vancouver, Lib.): I have some questions regarding clause 2.

Clause 2, being definitions, that's under “Interpretation and Application”. The question hinges on the definition of “alteration”, and whether or not...there are a number of places throughout the bill where the term “alteration” is included.

We heard from the Ambassador Bridge company with respect to the concerns they have. There are a number of clauses referring to “construction or alteration”. That phrase goes hand in hand throughout many clauses in the bill. The concern they had raised in their presentation to this committee that is referred to in clause 2 was that because they operate one of only two bridges in private ownership of all the tunnels, crossings, and bridges, and because of the unique history they have by virtue of both the presidential order and the Canadian government's agreement in the original agreement for this bridge, this puts an unfair restriction on them both in terms of their financing ability and their ability to operate.

A number of the suggestions or requests they had were that this committee consider the deletion of the references to alteration, by defining alteration in clause 2. There are numerous ones throughout clause 6 and clause 7 where these refer to the words “or altered” or the word “alter” itself. I'm just wondering if I could hear further from Mr. Hicks or the staff with reference to that point and to the point made by the Ambassador Bridge people and the reason. I gather this was in the original bill, but I would like to hear that reference or the explanation of the concern for it.

The Chair: Mr. Harvey.

Mr. Éric Harvey (Legal Counsel, Legal Services, Department of Transport): The idea of including “alterations” is just that... everybody understands why constructing a bridge and why it would be regulated in the way it's proposed here. Vis-à-vis alterations, a series of alterations may have a significant impact on the traffic capacity of a bridge, and this is really what it's about—having regulations that will make sure that through alterations you may have an impact. When you impact traffic, the GIC is informed and then can approve it, but it's just not to leave decisions to the industry that may impact the traffic at the border.

In that respect, these provisions are neutral in that they apply the same way to everybody. There is no specific reference to any specific crossing in the entire bill as to why this would apply to one and not to the other. All these provisions and all those that refer to “construction and alteration” are applicable to all bridge operators.

• (1120)

Mr. Don Bell: Is the concern of the department the issue of a reduction in capacity rather than an expansion of capacity? An expansion of capacity on the crossing itself, be it a tunnel or bridge, really doesn't have any effect. It's governed by, as one of you called it, the end of the funnel at each end, and those are the road links, the highway connections.

If an operator wants to expand, connections will be required on each end. The capacity is there. Do I understand that the department's concern would be that someone might want to reduce capacity and therefore have a negative impact on the capacity to handle international trade between the U.S. and Canada?

Mr. Brian Hicks (Director, Bridge Policy and Programs, Department of Transport): I think it's actually more than that, and I'll use an example. Quite recently the Queenston-Lewiston Bridge in Niagara Falls added a fifth lane on their bridge. Obviously going from four lanes to five lanes would add capacity. Through this bill we would check the safety of this to make sure that by adding more capacity the lanes are not too narrow and causing safety problems and that the traffic leaving the highway and going onto this five-lane bridge is actually safe and secure.

So yes, we applaud people adding more capacity, but we want to make sure that it's done in a safe and secure manner.

Mr. Don Bell: Mr. Chairman, the concerns that were raised during that time related to the possibility of competitiveness, I think, rather than the safety issues. And I don't know if we defined that more clearly, but they were talking about, as I recall, the issue of other bridges being built in which either the Government of Ontario or the federal government may have an interest, and then it's the combination of the regulation of tolls, plus the ability of capacity that seems to be perhaps an intrusive factor, if you want to call it that, in the arrangements by which these bridges were built.

So again, I just want to understand that it wouldn't be a case of limiting the ability of one bridge to expand to the benefit of a competitor nearby, for example.

Mr. Brian Hicks: I think the intention of this bill is to make sure there is free-flowing traffic across the border and to make sure this is done in a safe and efficient manner. So any time somebody submitted an application to us, whether to add more lanes on the

bridge or to alter the bridge or tunnel, we would be looking at the traffic flow, the safety and security matters.

The Chair: Mr. Masse.

Mr. Brian Masse (Windsor West, NDP): I know that in Windsor West, where we have the Ambassador Bridge and then also the Detroit-Windsor Tunnel, both have operations right now geared up for expansion of classes and facilities that are on the surrounding properties to increase capacity. But as you do that, this also decreases capacity and creates other situations about the free flow of traffic.

We don't have a border authority in our region, despite having the Ambassador Bridge, a privately run facility; the Detroit-Windsor ferry, a privately run facility; the CP Rail tunnel, a privately run facility, and then the Detroit-Windsor Tunnel, which is owned by the City of Detroit, leased to a private company, and the other half of it is owned by the City of Windsor. There's no overall coordination body.

Will this provide some measure of coordination or at least examination that if one of those border crossings has infrastructure or other maintenance or repair, it doesn't happen at the same time? It's symbiotic. In fact, it goes beyond just Windsor, where what happens in terms of our flow of traffic affects even upwards to Niagara, but also, more importantly, down towards Samia, which is very close to us.

My concern is that once again there would be less of a focus on how those things come together, because currently we actually have processes under way to design new plazas that also affect different roads that seem to be running independently, and that could have consequential effects on the free flow of all the traffic.

• (1125)

Mr. Brian Hicks: That's an excellent point, and we are concerned about it. This came to our attention in the Niagara area where the Peace Bridge and the Niagara Falls bridge both had construction plans. The two of them, because they work so well together, have staggered their construction so that the whole frontier is not under construction at one time. It would be our intention that we would take the same approach at other frontiers, in other areas, and since they all would be applying to us, we would ensure that we're not creating a bottleneck at the border.

The Chair: We are ready for the vote.

(Clauses 2 and 3 agreed to)

(On clause 4—*Relationship with certain Acts*)

The Chair: On clause 4, we have an amendment. I think it's in front of you. It's brought forward by the NDP and entitled NDP-1

Mr. Masse.

Mr. Brian Masse: Thank you, Mr. Chair.

To my colleagues, the intent of this amendment originally comes from the City of Windsor, with expressed concern that you could have municipal by-laws and provincial laws that conflict and don't get the proper attention with regards to licensing and permits in the jurisdictions of border-crossing footprints.

So the simple addition at the end is:

Or the application of any provincial or municipal law, except in the event of a conflict with an approval issued under this Act.

This raises the awareness of the applicant to have to work within the jurisdictions of the province and the municipality, but at the same time provides that the act still has the authority at the end of the day.

The Chair: Discussion? It is admissible.

Mr. Carrier.

[Translation]

Mr. Robert Carrier (Alfred-Pellan, BQ): An amendment is being proposed to clause 4, with respect to the international bridge over the St. Lawrence River...

All right. I received the clarification I was seeking.

[English]

The Chair: Are there any other comments?

Mr. Laframboise.

[Translation]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): I have a comment to make concerning the translation. It reads: "[...] avec un agrément obtenu en vertu de la présente loi". I would suggest the word "consentement" be used. I do not like the word "agrément" very much. I would like the translators to tell us their opinion.

[English]

The Chair: Mr. Harvey.

[Translation]

Mr. Éric Harvey: Mr. Laframboise, the word "agrément" is the term used in the bill to designate the approval given by the Governor in Council, her consent. The word "agrément" is used consistently throughout the bill to express the equivalent of the English word "approval". For example, in clause 7, it reads: "L'obtention de l'agrément [...] est subordonné à [...]". This is the word that was chosen and that is used in the bill. So to respond to your comment without giving my opinion on the merits of the question, I think that the word "agrément" is the appropriate word here, since that it is consistent with the terminology used in the rest of the bill.

• (1130)

[English]

The Chair: Mr. Laframboise.

[Translation]

Mr. Mario Laframboise: I'm not sure that the word "agrément", even though it is used in the rest of the bill, is the most logical one. That is my personal position. The choice is up to you.

[English]

The Chair: Mr. Hubbard.

Hon. Charles Hubbard: For our legal people, there probably are a good number of municipalities involved with this, all the way from cities back in New Brunswick, probably local service districts... What implications would that have on the operation of the bill?

Mr. Éric Harvey: International bridges are a federal jurisdiction, which means that the federal government, Parliament, can basically govern every action that relates to it in the way that Parliament deems appropriate.

This motion has to do with the interplay between provincial and federal legislation. As I read it and understand the intent, the impact would be that in fact all this legislation would not prevail over provincial legislation. In other words, provincial legislation pertaining to international bridges would prevail over a provision in federal legislation that would say the contrary. That's my understanding.

The Chair: Mr. Hubbard.

Hon. Charles Hubbard: The amendment proposed dealing with municipalities is what I was speaking of. Is it acceptable?

Mr. Éric Harvey: If you do that, all of a sudden you'll have to refer to all the provincial legislation to see whether what you want to do is correct. In terms of whether it's acceptable or not, it definitely impacts the scope and the application of the bill to the point where the federal jurisdiction over international bridges would be limited at times, depending on the legislation applied by the provinces and municipalities.

The Chair: Mr. Scott, go ahead, please.

Hon. Andy Scott (Fredericton, Lib.): I might have misunderstood, but I'm not sure that's what I heard Brian say. I think I heard Brian say that this would compel the government to know where these inconsistencies are and perhaps consult. I thought he said at the end that it would not in fact constitute paramountcy. The paramountcy would be in federal legislation. I think that's what I heard Brian say.

Ms. Evelyn Marcoux (Director General, Surface Infrastructure Programs, Department of Transport): That's not how we understood it. The way we understand this is that the municipal bylaws would override the federal jurisdiction. For us, it's an unworkable process.

The Chair: Mr. Masse, go ahead, please.

Mr. Brian Masse: That would only be the case if the federal government wished to break a municipal bylaw. My understanding of the consent here is "any provincial or municipal law, except in the event of a conflict with an approval issued under this Act", so...

What we're seeking here is reassurance that provincial and municipal laws will be adhered to as the implementation of the act moves forward.

Mr. Éric Harvey: I have to say that I don't think it's correct to refer to the fact that the federal government would break a municipal law. The federal legislation applies, and when it applies it governs what it's aimed at governing.

If the intent, as Mr. Scott is suggesting, is to have a consultation, you don't do that through this mechanism. What you're doing here is giving a degree of priority to this legislation vis-à-vis provincial and municipal legislation. This has nothing to do with consulting. It's really the operation of legal, binding rules. It's not a consultation provision.

• (1135)

The Chair: Go ahead, please, Mr. Jean.

Mr. Brian Jean: Fortunately enough for all of us, our forefathers, in the British North America Act, set down the jurisdictions of the federal government and provincial government and allowed the province to delegate some authority to municipal governments. The situation you're suggesting, as I read it, is that we have to comply with municipal governments in matters related to international border crossings.

I mean no disrespect, but I've dealt with many municipal governments in the past, and some were made up of very intelligent people, and some were not. The reality is that we have a federal government that has specific jurisdiction over one of the most important things we have as a country, our international border crossings. Are we going to allow municipal governments to decide to have their laws override the federal government's laws?

I've seen many laws from municipal governments, which say, for instance, you can't have people sleeping on the streets. In fact, there's a law in the United States, in one particular town, which I'm sure everybody has heard of, that says you can't live together unless you're married. To suggest that a municipal government is going to be able to have a knee-jerk reaction and pass a law that's going to be supreme to federal government legislation in relation to international border crossings....

The Chair: Mr. Masse, go ahead, please.

Mr. Brian Masse: I've seen it happen in my jurisdiction that sometimes knee-jerk government decisions actually have proposals that affect municipalities and are in the best interest of not only the local municipality but the corridor itself. I remember getting proposals from some officials to build expressways along the Windsor waterfront to connect the border crossings. The municipality was asked to come up with a plan, and they did in our particular situation.

I don't view this as an interpretation, with great respect, of trumping the act in itself. I believe it provides a window for municipal and provincial laws to be part of the process. I think that's the important aspect.

Mr. Brian Jean: They already are part of the process. I have packages here in both official languages in relation to the Expropriation Act, the Customs Act, the Navigable Waters Protection Act, and some other acts. In all these acts, municipal governments are consulted, and so are provincial governments. The reality here is that it's under federal government authority, and I think something as important as this should be left there. It's beyond jurisdiction; it's ultra vires the provinces and the municipal governments.

The Chair: Mr. Laframboise.

[*Translation*]

Mr. Mario Laframboise: Thank you, Mr. Chair.

There are times when we have to be able to respect jurisdictions. I understand our colleague, Mr. Masse, because I know that it is not always easy. As the former President of the Union des municipalités du Québec, it's not easy for me to discuss municipal issues. Interprovincial bridges and tunnels, however, are under federal jurisdiction. I do not think that we have to amend this clause. That is the point of the bill; you wanted to clarify the situation. The municipalities have to understand that these bridges and tunnels are under federal jurisdiction.

We are going to oppose what has been tabled.

[*English*]

The Chair: If I could, I just want to make a comment here, and it is based on the advice I've received from officials that the amendment does appear to be contrary to the principle of the bill. At this point, although I had previous information that it was admissible, I am now advised that it is inadmissible.

Mr. Scott.

Hon. Andy Scott: Could we use the occasion of the discussion, however, to deal with what...?

I would read this the way you did in your second interpretation, relative to the principle of the bill. Having said that, though, the way it was presented by Mr. Masse was different from your interpretation of the bill in the context of a consultation or a requirement to be aware of inconsistencies. He may have presented it differently from how it's interpreted by officials, and that's fine.

Maybe we can use this occasion.... Mr. Jean has said that there are many places within the act where the objectives of the particular amendment that Mr. Masse was proposing are met. Just for reference, where are they?

I'm with the department, and the officials, and Monsieur Laframboise in terms of the paramountcy of federal jurisdiction in terms of international border crossings. However, I also would be of the view that this paramountcy does not necessarily allow taking it to the level of unilateralism, if you like. I mean, there should be a requirement, and I'd like to know where it is so we can satisfy the objective that Mr. Masse articulated, without taking away the paramountcy of federal jurisdiction.

• (1140)

Ms. Evelyn Marcoux: Do you want to answer? Go ahead.

The Chair: Having acknowledged that it is inadmissible, I am going to look at limiting debate.

Mr. Jean.

Mr. Brian Jean: I was just going to say very quickly—and really, I think this is good, Mr. Chairman, because it identifies some of the other amendments that have been proposed by the NDP—that I really wish I had had an opportunity to speak to them about the amendments earlier too, so I could have satisfied some of their concerns.

We can look at a copy of the Canadian Environmental Assessment Act, under which, of course, all bridges and any international tunnels require an assessment to be done. I have copies, if anybody wants one.

If we turn to, for instance, paragraph 4(1)(d):

The purposes of this Act are

(d) to ensure that there be opportunities for timely and meaningful public participation throughout the environmental assessment process.

All the yellow tabs deal with municipalities, or public process, or provinces, and so on. So I'll just give a couple of examples.

Subsection 18(3):

Where the responsible authority is of the opinion that public participation in the screening of a project is appropriate in the circumstances—or where required by regulation

they will do so.

Hon. Andy Scott: Are you reading from the Canadian Environmental Assessment Act?

Mr. Brian Jean: Yes, I am.

The Chair: Go ahead, Mr. Jean.

Mr. Brian Jean: I can keep going through it, but the reality is that each of these tabs deals with either... Here's a better one.

Subparagraph 33(1)(a)(i):

Where a project is referred to a review panel, the Minister shall, in consultation with the responsible authority

—either municipal or provincial—

appoint as members of the panel, including the chairperson thereof, persons who (i) are unbiased and free from any conflict of interest

It goes on, Mr. Masse. The Canadian Environmental Assessment Act requires serious consultation with all authorities already.

The Chair: Mr. Masse, you may make a last comment.

Mr. Brian Masse: Some of the motions we will have are amendments that came about from the historic incorporation of the City of Windsor in relation to its jurisdiction. It's why the City of Windsor has suggested amendments to protect that type of status and to provide some of the solutions that they think are necessary to avoid the problems we've had.

We can basically deal with them as they come in terms of admissibility or inadmissibility, but it's just one act. That's not the role being sought by the motions and amendments.

The Chair: Thank you.

Do you want it on the record, Mr. Masse?

Mr. Brian Masse: Yes.

The Chair: Okay, we'll go to the vote.

(Clause 4 agreed to on division)

(Clause 5 agreed to)

(On clause 6—*Prohibition*)

The Chair: We have an amendment on clause 6 that was circulated and submitted by Mr. Bell. I'll ask him to make a comment, please.

Mr. Don Bell: Thanks, Mr. Chair.

This is again further to the discussion I had with the department with respect to, number one, the issue of alteration. I heard that argument, and there was no deletion of the definition of alteration. I guess it's the application of alteration.

There are two aspects to this, and I would refer you to clause 6 as it now reads, which is basically that:

No person shall construct or alter an international bridge or tunnel without the approval of the Governor in Council.

This is suggesting that, first of all, the first subclause would be more or less the same:

No person shall construct an international bridge or tunnel without the approval of the Governor in Council.

The deletion is the reference to “alter”.

The second part is: Despite subsection (1), the approval of the Governor in Council is not required in cases of replacement, substitution, expansion or twinning of an international bridge or tunnel at an existing international crossing.

My understanding is that there has been clarification. I have a copy of a letter from the U.S. Department of State clarifying to the Detroit International Bridge Company, which is the incorporated Ambassador Bridge, as we know it: “We have determined that the DIBC does not require a Presidential permit to expand or twin the existing bridge at that location.” The location is the Ambassador Bridge.

I realize that is the U.S. government's position, and we make our own decisions. I only wanted to talk about consistency in terms of going back to the original agreement of 1921. I said that I would bring forward this proposal for discussion by this committee so that there is at least an opportunity for discussion.

I again heard the argument from the department that it relates to the question of a fifth lane, for example, and the impact of expansion and/or twinning. I'd appreciate comments. It's in that same light, but I would appreciate any further comments that the department wanted to make on that.

It's the concern, as it was expressed, because of the uniqueness of the Ambassador Bridge, the historical relationship that it has, and the fact that it was built with private funds, with both the Canadian government and the U.S. government's presidential permit allowing it in terms of its ability to function in the marketplace, in terms of boring capacity, and things of that nature.

Could you comment on that?

• (1145)

Mr. Brian Hicks: The bill relates to all 24 international crossings. We've been very careful in the wording so that what we've put in the bill is applied fairly to everybody.

Our intention with this particular clause is that if you are going to construct, twin, or alter a bridge, you would then need Governor in Council approval.

I know that we use the word “twinning” a lot with bridges. In effect, you're building a new bridge. Whether it's a twin or not, you're actually constructing a new bridge across the border. The wording in this bill as it currently stands would require Governor in Council approval.

Mr. Don Bell: Twinning is another word for expansion, I guess, realistically. I appreciate you say it's a new bridge, but if you have an existing bridge...and I can relate it to a bridge in my jurisdiction, the Lions Gate Bridge. The alternative was to expand the number of lanes, and the question was whether the structure of the bridge could hold the additional lanes, or whether the way to obtain that extra capacity was to parallel or twin it. So it's a little different from a new bridge at a physical location that might be moved in the general proximity, which could be a mile or two miles away. You're talking about the impact of a particular bridge at a location.

I guess the difference, as explained to me by the witnesses from the Ambassador Bridge—and I just want to ensure that their interests are well vetted by this committee before we make our determination on this bill—in the distinction of those 24 locations you made reference to, in the financing and capacity of those bridges, is that there is no private liability, if you want to call it that. If the governments want to do something, they have the ability to raise the money. They don't have to go to the market to do so; they can do it through taxation, and make a government decision to apply funds to that, as opposed to a private operator, who has to make an economic case that will get either bond holders, banks, or someone to provide that money. Restrictions that might seem not unreasonable in a government owner context are unduly restrictive in a private owner context.

It's a question of what the interests of the Government of Canada are. I gather we want to ensure that safety and protection are the primary concerns—and the integrity of these international crossings. That's why I said I would raise this issue on behalf of the witnesses.

• (1150)

Ms. Evelyn Marcoux: The minute the government receives a request for construction of any piece of infrastructure, whether it's a bridge or a road, it triggers the environmental assessment process. As part of that process, a lot of consultations are done with the community. The building of these bridges—and the case we're talking about is twinning—involves all of these consultations, plus the definition of a business case that needs to be put forward. At the end of the day, those structures are federal jurisdiction; they are the sovereignty of the Government of Canada. This is where our trade and business are going to be carried out with our neighbours, the Americans. It has to be part of a process.

Whether it's privately owned, publicly owned, or publicly managed, this act is trying to eliminate the differences between them. The governance of each bridge will remain as is. But the government is trying to bring in a policy that will take into consideration all the elements before giving approval to an important crossing that will determine a lot of economic factors.

Mr. Don Bell: I'd be interested in the government's side, Mr. Jean's side, or comments on this.

Thank you.

The Chair: Mr. Masse.

Mr. Brian Masse: Thank you, Mr. Chair.

Would this amendment have an impact on issues like the direct process, where you could have alterations of a significant magnitude

of not only the bridge but the tunnel in our community? Would this have an impact on that binational process?

Ms. Evelyn Marcoux: Do you mean the revision of the clause?

Mr. Brian Masse: Yes.

Ms. Evelyn Marcoux: We just received the clause this morning. New subclause 6(2) would absolutely have an impact on the big process.

Mr. Brian Masse: For members, that's where there has been a binational process in place for the Windsor-Detroit region, which has 42% of the traffic flow.

The Chair: Mr. Carrier.

[*Translation*]

Mr. Robert Carrier: If we accept the principle whereby the approval of the Governor in Council is required to build a bridge, I think that being able to replace it, alter it or twin it without getting such approval is contrary to the very nature of the bill. It wouldn't make sense to pass this bill if it's possible to replace in various ways a bridge that has already been accepted. We will therefore oppose the amendment.

[*English*]

Mr. Brian Jean: Very briefly, Mr. Chair, I'm not really surprised that the Conservatives have to go green again. But just as an example, the very option, Mr. Bell, of the Lions Gate Bridge, which is in your constituency, going ahead and twinning without an environmental assessment would really disturb me. In the best interests of Canadians, I just can't believe that anybody on this committee would want that.

The Chair: The question is on the amendment.

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

(Clause 6 agreed to)

(On clause 7—*Application for approval*)

The Chair: On clause 7, we have an amendment. It is amendment NDP-2. Again, I'm advised by counsel that it is inadmissible, as subparagraph (ix) is contrary to the principle of the bill.

(Clause 7 agreed to)

Hon. Charles Hubbard: Mr. Chair, just to comment, a lot of these amendments are appearing, at least from my perspective, within less than an hour. I'm not sure we're really dealing with them effectively in terms of what we have to look at or what the people in the department have to analyze. We may be throwing out some very good amendments and bringing in some very difficult ones.

The clerk must have had some timeframe for receiving the amendments. Usually it's an appointed hour. What are the guidelines of the committee? Is it a day or so many hours ahead?

•(1155)

The Chair: There are no guidelines as we entertain amendments from the floor during the clause-by-clause.

Hon. Charles Hubbard: So as chair, you are getting these from the floor.

The Chair: These are not from the floor; they were submitted earlier. The proposed Liberal amendment was submitted from the floor.

Hon. Charles Hubbard: They have been considered then by our counsel and by the department. They've had them before.

The Chair: Yes, and I did ask at the last meeting, to encourage people if they had them.... I understand that doesn't always happen.

Hon. Charles Hubbard: As long as they have been considered properly.

The Chair: Go ahead.

Ms. Evelyn Marcoux: We did not consider...This amendment to clause 6 was just handed to me. I don't know whether it was our mistake, but we just got this.

The Chair: Yes, that was tabled from the floor, as I made clear. The NDP amendments arrived earlier this morning, with notification from last week that they were on their way.

Ms. Evelyn Marcoux: Yes, we've seen those.

The Chair: We did get a legal opinion, basically, to find out if they were admissible. Once we've determined that, then the debate becomes open.

Okay, Mr. Hubbard.

Hon. Charles Hubbard: As long as the chair and the committee and the witnesses are satisfied that they have had adequate time to consider these. Mr. Masse's amendments may be very good, but you don't consider them in 10 minutes and decide whether they should be included or excluded from the bill. That is the important part that I wanted to mention.

Ms. Evelyn Marcoux: We have had time to review the amendments tabled by Mr. Masse.

The Chair: Yes.

Mr. Laframboise.

[*Translation*]

Mr. Mario Laframboise: I wish to come back to my original comments and talk about authorization for building a tunnel. It is true that, under clause 7 of the bill, the application is submitted to the Governor in Council and then to the minister, who approves it, but there are still some procedures to be followed. A little earlier, Mr. Jean named a few, including those provided for in the Canadian Environmental Assessment Act, etc. I wouldn't like anyone to get the impression that construction can be authorized without there being any analysis.

I would like you to summarize for me how this will work. When you get an application to build a bridge, tell us what takes place so that people can understand properly.

Ms. Evelyn Marcoux: When the application comes to the department, it is examined internally to determine which federal government organizations are involved. The authorities that have to

examine the application must be determined. Once they have been determined, the scope of the project is examined. Then internal meetings begin at the federal level to examine the project. The applicant is consulted to get clarifications and the analysis process begins; a case analysis is done, and the rationale of the project is determined. Usually this takes several months.

Then the people who will be affected by the project are consulted. Consultations take place with the citizens of the community, the municipality, the province, the region. In the case of Windsor, for example, four levels of government are involved: the provincial government of Ontario, the federal government, the State of Michigan and the Federal State.

As part of these consultations, decisions and objections arise. This is when the decision-making process is established so as to eventually make a recommendation to the minister and the Governor in Council with a view to the acceptance or rejection of the project.

In this process, there are also permits to be obtained under the Navigable Waters Protection Act. The Canada Border Services Agency and the Department of Fisheries and Oceans are also consulted. There is a whole series of consultations that are held inside and outside the system and at all levels of government.

Mr. Mario Laframboise: That includes environmental impact studies.

Ms. Evelyn Marcoux: Absolutely.

[*English*]

The Chair: Thank you.

I'm sure that all the stakeholders involved sometimes think government moves too slowly, and then when they do proceed, they think they're moving too fast at times.

Ms. Evelyn Marcoux: It's a catch-22.

•(1200)

The Chair: Absolutely.

Clause 7 has carried, so we'll move to the next clause.

(On clause 8—*Approval of Governor in Council*)

The Chair: We have an amendment introduced by the NDP. Again, I'm advised by counsel that it is inadmissible due to its being contrary to the principle of the bill.

Mr. Masse.

Mr. Brian Masse: I would like, at an appropriate time, at least written correspondence from the department on the inadmissibility of the amendments. They were originally submitted—those ones, in particular—from the City of Windsor and their legal experts.

I would like to have a copy of that tabled. They're different from some of the ones I submitted.

Mr. Brian Jean: Just for clarification, it's not the department that provides that; it would be the clerk. I would be interested in that as well, the reasoning. But for certain, it has nothing to do with the department; it has to do with the House of Commons.

The Chair: I'll ask my capable man beside me to respond.

Mr. Wayne Cole (Procedural Clerk): With respect to amendment NDP-3, it would require the consent of the municipality. That goes contrary to the principle of the bill, which is basically to provide for the Governor in Council to have the authority to issue relevant permissions. A veto given to the municipality goes against that. Because the bill has been approved by the House at second reading, the committee is required to respect that principle.

Mr. Brian Masse: That's fair enough. I understand we're going to hear this theme on a number of these amendments, but I would like to have it specifically in writing to be tabled at the end of the day.

The Chair: As quickly as we can get them prepared.

Mr. Brian Masse: Yes, not necessarily at the end of this day, but as the clause-by-clause procedure winds its way through committee.

The Chair: I'll perhaps ask that all members of the committee be copied with those reports.

Mr. Scott.

Hon. Andy Scott: Just to add a layer of understanding to the situation, while the parliamentary support is responsible for determining the admissibility of the amendment as to whether or not it violates the principle, there is also the decision as to whether the bill comes here after first or second reading. If the bill had come here after first reading rather than second reading, then the admissibility would be different.

There is a layer of responsibility that gets us to this place that needs to be clearly understood.

The Chair: Thank you, that is also information for me.

(Clauses 8 to 11 inclusive agreed to)

(On clause 12—*Expropriation*)

The Chair: We have an NDP amendment, NDP-4.

Mr. Masse.

Mr. Brian Masse: Why don't we get an interpretation first? Is it going to be deemed admissible?

The Chair: It is acceptable and debatable.

Mr. Brian Masse: The amendment reads: 12(2) Despite subsection (1), no expropriation shall be initiated until the approval of the Governor in Council has been given in accordance with section 8 and except in accordance with any terms and conditions imposed in that approval.

It's consequential, I believe. I'm dropping the amendment since it's consequential. It just reaffirms the process I couldn't change.

The Chair: Right.

(Clause 12 agreed to)

The Chair: There is a new clause, 12.1, amendment NDP-5. Unfortunately, it is inadmissible due to requiring royal recommendation. It violates royal recommendation.

Mr. Brian Masse: May we have further explanation on that, please?

•(1205)

The Chair: I would ask my clerk.

He would like further explanation.

Mr. Wayne Cole: There is a royal recommendation attached to this bill, which governs expenditures made in accordance with it. The appointment of a commission would entail additional expenditure, and that's not covered by the current royal recommendation.

Mr. Brian Masse: In the amendment, the minister may appoint a commission. That is up to the minister's discretion. What's to determine whether funding will be required?

I come from a municipality where, once again, there is no joint type of management. It's different from Sarnia, or Sault Ste. Marie, or Fort Erie and Buffalo. There is no type of governance model whatsoever, and I know people would gladly volunteer to participate in a body that would at least have some involvement with the planning and coordination of border facilities.

This is the problem we have in my jurisdiction. It's chaos. There's absolutely no coordination whatsoever. To a significant degree, it has empowerments and it has the interests of everybody working together. I suggest that you would find individuals willing to sit on such an authority through appointment without remuneration.

My previous submissions had more details of what that might be. But it turns out that they were suggestions that it would be more for regulations, in terms of what that body would be, so I dropped the specifics, to be determined by regulations. Once again, "may" does not impose this on all jurisdictions and regions. What it does is provide for those who have a complete void of this to have that opportunity, if the minister desires it.

The Chair: Mr. Scott.

Hon. Andy Scott: Is there anything to preclude the minister from doing this in the legislation now? So he may do it anyways.

Mr. Éric Harvey: As a minister of the Crown, he can always set up that type of commission or review, depending on how you want to call it. But it's true that you don't need that authority for the minister to set up commissions.

Hon. Andy Scott: To offer some clarity, having said that, I still go back to the original intent.

Brian, I'm not sure if there is any way to salvage it. The original intent, and you read the press releases for the first time ever, says that the federal government has had the authority to do this, and so on. It occurs to me that it may not be adequate to rely on the environmental assessment process to be the consultation guarantee.

All I'm seeking is consultation; I'm not seeking anything that would trump federal jurisdiction. But I do think that the Government of Canada should be compelled—not just by environmental legislation, but rather out of respect for the municipal governments. Unfortunately, we're here after second reading rather than first, and perhaps we don't have the latitude to do that. I don't think a consultation exercise would be inconsistent with the principles of the bill.

The Chair: Mr. Masse.

Mr. Brian Masse: This is also consistent with legislation being proposed in Michigan. Border authority legislation has been tabled by a number of different representatives with regard to having a public border authority. So it is consistent.

This is the practice in many jurisdictions. They might have a different model that includes compensation and what not. Once again, I say, if there is the interest of the minister to do so, this empowers him to do that, his ability. If people, of their own volition, want to sit in some type of advisory capacity that assists in the facilitation of municipal, provincial, and federal issues related to the border, where there is a void, this allows that. Once again, it does not trump any other existing border authority or commission and it does not provide for a mandate for the minister to have to do this. This is an expressed option that could be provided without remuneration and then not requiring royal assent.

The Chair: Mr. Laframboise.

[Translation]

Mr. Mario Laframboise: I do not find that stupid at all.

My question is for our Clerk. With the few explanations that Mr. Masse has given you, do you maintain that this amendment is inadmissible? Do you maintain this because this bit of information could entail costs?

Mr. Wayne Cole: If it's optional or mandatory, it does not have any impact. Furthermore, even though the commissioners may not be paid, there would have to be administrative costs. Bill C-3 is not what gives the minister the power to appoint commissioners, but other acts.

• (1210)

[English]

The Chair: Mr. Jean.

Mr. Brian Jean: I would just like to comment. First of all, I think the idea has merit. I really believe it does and I think that anybody in the room would say the same thing. I think it needs a lot more work, to be blunt, and maybe, Mr. Masse, we could work on something to put in a different set of regulations that would probably be more appropriate.

The key here is, if we can just take ourselves back from our perspective, we're going to have seven or eight or whatever number of people who are prepared to sit on a board for no fee, regulate the Ambassador Bridge, for instance, which has a \$1 billion investment. I think there are a lot of issues that need to be dealt with on this. It's got to be exercised, and I think if the minister wants to do so, even as a test project, then we should leave that open to him. Maybe that's something that we as a committee could forward to him as a recommendation, to look at a test project in one particular case.

But there's a lot of work here and I'd hate to see us come across with something like this, and then a \$1 billion investment, for instance, for the folks who own the Ambassador Bridge...and being able to regulate that. There's a lot of other local politics involved, and people make decisions based on politics rather than on common sense, and our government, the Parliament of Canada, I think, will make those decisions for everyone, in the best interests of Canadians.

The Chair: Mr. Masse, last word.

Mr. Brian Masse: With all due respect, I believe it's very important. The intent isn't to have this body have jurisdictional oversight of any particular border.

I would like to give an insight of what's happening in my municipality. The Department of Health is studying, on a daily basis, the respiratory problems of children in my community who attend school. They actually go to school with backpacks on their back that measure the particulate matter that is going in their lungs. There will be a public meeting coming up on that.

I would suggest that you'd find that whatever the minister created in terms of an advisory capacity body for this, there would be people willing to do so without remuneration, given the impacts of what's happening. That's why, once again, it's in the consultation element.

The Chair: Thank you.

I will revert back, I think, to my initial comment that this new clause will be inadmissible at this time, and we will move to clause 13.

(Clauses 13 and 14 agreed to)

(On clause 15—*Regulations*)

The Chair: On the first government amendment on clause 15, Mr. Jean.

Mr. Brian Jean: There are three particular amendments dealing with clause 15. The first is to take out paragraph 15(b). The second is to add new clause 15.1, which everyone should have a copy of. The third is to have a consequential amendment to clause 43.

The Chair: Comments?

Mr. Laframboise.

[Translation]

Mr. Mario Laframboise: I understand where the government is heading. I didn't have the impression that it was tabling something like this.

Ms. Marcoux, my question is simple. The Bridge and Tunnel Operators Association was afraid that this clause might endanger their financial survival. Can you reassure us on that count?

Ms. Evelyn Marcoux: The Association's representatives appeared before us, saying that, after consulting the financial sector, they feared that the fact that the government had some legal authority over tolls might influence their quotation on the market and that their financing would thus cost more.

The amendment tabled today is designed to try and answer these concerns. We haven't begun the process of changing tolls; we are in reactive mode. If the government realizes that an increase in tolls is causing problems with the fluidity of traffic and trade, it will then give itself the option of intervening.

• (1215)

Mr. Mario Laframboise: Did you consult them before making this amendment?

Ms. Evelyn Marcoux: Yes. They were consulted and they agree on the amendment as tabled. We should recall that they comprise the large majority of operators of international bridges.

[English]

The Chair: Mr. Masse.

Mr. Brian Masse: What will be the litmus test in terms of the effects of flow of traffic? How will that be determined?

Ms. Evelyn Marcoux: That's a good question.

It's the next step. The way the motion reads, the minister has to satisfy himself that the increase of tolls has created the traffic fluidity problem. It will have to be combined with the cost of the dollar, the volume of trade, and a series of factors that will come into play.

This is not going to be a black and white decision. It will require that the minister consult with the operators and the banking community.

Mr. Brian Masse: What about the community, hence my previous argument for a border authority or some consultation? The banking community and operators may not have the same interests as international trucks. They're lined up in front of schools, churches, homes, and businesses that don't have the same ability to influence the minister. My concern would be how those are measured.

Ms. Evelyn Marcoux: There will be consultations with the stakeholders as well, before the minister makes the recommendation to the Governor in Council.

Mr. Brian Masse: But how do we ensure that the stakeholders include the community? That's my only concern.

Ms. Evelyn Marcoux: This is part of how the government does business. Before we have to take action, it's part of a consultation process.

Mr. Brian Masse: With all due respect, I've heard that before.

Ms. Evelyn Marcoux: Okay.

Mr. Brian Masse: Will there be more descriptions of proposed new clause 15.1 through regulations?

Ms. Evelyn Marcoux: No. In fact, this takes it outside the process. It takes it outside the regulation process and puts it into the guidelines process, with Governor in Council approval, on the recommendation of the minister. This basically allows the minister and Governor in Council to react more quickly or to have more flexibility in administering the issue as appropriate, as opposed to it being embedded in the regulation.

That's what the amendment proposes.

Mr. Brian Masse: I don't think it would be adverse.... I'd like to add another amendment to include the local municipality, since the minister is doing it in an advisory capacity. They would know best; I would imagine that the department of transportation in each municipality is going to know best how the flow of traffic is managed in the community.

I think that would be fair, because this is an advisory to the minister, and that's all it is. It will ensure that he's going to pick up the phone, or his officials will, to consult with those individuals. Is that correct?

Mr. Éric Harvey: Yes, but I'd like to make a comment.

I understand your point vis-à-vis the consultation of the community and all of that. As Evelyn mentioned, however, the whole idea of the provision is to be reactive. In other words, my sense is that if there's a traffic problem resulting from modification of the tolls, the people you referred to earlier, the community, the municipality, and all of that, would in all likelihood be the ones triggering the process. They would pick up the phone to say there's a

line-up in front of the school because the tolls have increased. The mayor could do it, or whoever.

There would be an impact on somebody. The idea is that you're going after the person on whom there will be an impact. The way this provision is developed is to have those who are negatively impacted on trigger the process.

Mr. Brian Masse: With all due respect, if it's not triggered by individuals and the toll later has adverse consequences for the community that aren't anticipated, then where is that role? I fail to see how they could be left out of this, when you have operators that are included, and this is consultation.

I've had a number of different things ruled out of order here, but this is consultation again. How can you suggest that the owners or operators, as well as the minister, are going to have the best knowledge exclusively of this, when you actually have professionals who are working locally on a regular, day-to-day basis to actually mitigate traffic in their community?

I don't understand how it wouldn't be a good thing, because if it isn't by the prompting of citizen groups—who apparently have to fight their way into the process again on legislation to actually get some type of representation, as opposed to being included in the legislation—I don't find it acceptable.

● (1220)

The Chair: Mr. Jean.

Mr. Brian Jean: I was going to say, Mr. Masse, that I think most of us would agree. The difficulty, of course, is that when you consult and when you have the requirement to consult in legislation, it takes time. The Supreme Court of Canada's decisions in relation to consultations are very clear; if there's a positive requirement to consult in legislation, then you have to consult, and you have to go through the normal process. I believe this clause, as Mr. Harvey said, is to enable the minister to react instantly to situations, such as on health and security. This gives him or her the opportunity to do so immediately. I think that's the first step.

The second thing is that even in my community of Fort McMurray recently, we had an environmental situation where there were noxious fumes being put out by a particular situation. The provincial government, through its department of environment, closed that facility down, so it stopped. That does not mean the example you used for noxious substances.... The provincial government can certainly take steps to deal with that matter separately, through its department of environment, for instance.

This morning I was going through all of the different departments that are involved in some of the proposals you put forward, and there must be 15 to 20 different departments that would be required to do so. I think the cooperation level provincially and federally would be such that they could respond on an instant basis—and that's necessary.

The Chair: Mr. Masse, and then Mr. Scott.

Mr. Brian Masse: Thank you.

With all due respect, that hasn't been the case.

I do have a subamendment to add on line 13: after “operator”, the words “, and municipality”. So on line 13, after the word “operator”, we would add “, and municipality”.

The Chair: Just one second, as we're just making sure of this.

Mr. Brian Masse: I would substitute “, and municipality” and—maybe this would help—add “and stakeholders” too.

The Chair: We're just finding out exactly where you are with that amendment.

Could I ask you to hold off on that. We're dealing with clause 15.

Mr. Brian Masse: I'm going to keep it with “and municipalities”.

The Chair: But we're dealing with clause 15 right now.

Pardon me, we're on G-1, government amendment 1, clause 15.

Mr. Wayne Cole: He's talking about the next motion, which will substitute text, and that's what he wants to amend. But we have to deal with the first one before we get to it.

The Chair: Mr. Laframboise.

[*Translation*]

Mr. Mario Laframboise: Is this the discussion about the amendment tabled by Mr. Masse? No?

[*English*]

The Chair: No, what we'll do is address the government amendment first and then deal with the subamendment he's adding to the next step.

Mr. Scott.

Hon. Andy Scott: Just as a matter of procedure, if a subsequent amendment is going to bear on the clause that you're discussing right now, it is not unprecedented to hold the clause you're discussing right now to deal with whether the committee is interested in the subsequent amendment, because that would bear on whether you want to change the one that is existing, just for what it's worth. You don't have to necessarily do these in sequence. That's just a point.

It occurs to me—and I'm looking over at the parliamentary secretary—that the theme that's emerging here has to do with the fact that we are moving from a situation where the municipality, particularly the Municipality of Windsor, had a virtual veto...is it fair to say, going back to the twenties?

A voice: Yes.

Hon. Andy Scott: So we're going from that, which I believe the government would wish to move beyond, and we would support the government in that. However, I don't think you have to go from having that level of involvement by the municipality all the way to saying we would be open to consultation, or it's contained within the environmental assessment process, or some other.... It strikes me that if this is an attempt by the government to take ownership of this once and for all, which the press release suggests with some excitement is happening for the first time, why should not the government be compelled to consult?

You may be right, Mr. Jean, on this particular point, because this may be an emergency situation, but I think the general need to compel the government to consult is interfering with the discussion on this particular piece, which may or may not require that. But I

think that's the problem. The problem is that the municipality does not wish to rely on the good intentions of the Government of Canada. They want to know that the Government of Canada, in moving away from the traditional relationship on this issue to the new relationship, should consult, and should be compelled to consult, just in general, and it shouldn't get in the way of every one of these discussions.

• (1225)

The Chair: Mr. Jean.

Mr. Brian Jean: My position is that I think we should vote on the amendment put forward, first of all, and then deal with the subamendment and argue that case, because otherwise it's a moot point.

The Chair: I'll let Mr. Masse speak, but the subamendment actually applies to the government amendment number two. So, Mr. Masse, if you have any comments, what I'd like to do is proceed with that, and then your two amendments, and then go to—

Mr. Brian Masse: Just briefly to what Mr. Scott has articulated, and I don't mean to reiterate things over and over, but the reality is that it is a significant shift.

I can take a specific example, in 9/11. When the border closed completely, it was the municipalities in the area that actually managed the traffic flow through the entire community, but we were solely dependent upon the border crossings and getting them through in different capacities. The municipality, though, deals with all the repercussions along the way, and hence just the inclusion of consultations is what's sought after here.

The Chair: Mr. Fast, very briefly.

Mr. Ed Fast (Abbotsford, CPC): Mr. Chair, we may be forgetting something here, and that is the removal of paragraph (b) is in response to concerns raised by industry, and we have responded to those concerns and we have committed to address the issue in regulation. So if Mr. Masse wishes to provide for some consultation in that process, then perhaps he should address it through the parliamentary secretary and the minister as they are crafting those regulations.

The problem I have is that we had crafted some legislation, most of which is acceptable to the industry, but there are small portions of it that cause some serious concerns, especially with respect to the financial ramifications. We're taking this section out as a response. And I think it's healthy. They support the removal. I believe generally this committee supports that removal.

So I would prefer we simply move ahead with the current amendment, see where that goes, and if in fact there's need to address consultation after that, obviously you, as chair, are going to consider that.

The Chair: We have an amendment, G-1, on clause 15, and I'll ask if that amendment should carry.

Mr. Masse.

Mr. Brian Masse: Are we doing subamendments first?

The Chair: We're going to go down.... I have this amendment.

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

•(1230)

The Chair: We have two more amendments to clause 15: NDP-6 and NDP-7.

Again, Mr. Jean, I'm going to have to give you the advice I've received, and that's that your amendments as presented are inadmissible, the first one because it's beyond the scope, and the second one because it is contrary to the principle.

Mr. Jean.

Mr. Brian Jean: I'm sorry. I was a little bit taken aback. I feel as though I'm bombarded; I have more paperwork than anybody else here, so I think that should give me some leeway, but....

Just going back to Mr. Masse's comments in relationship to stakeholders, I have a proposal for this that that might be satisfactory to him and might solve the whole situation. So when that comes about, that's what I'm interested in.

The Chair: Okay. Seeing that they're both inadmissible and it looks as though there is some agreement to it, I will ask if clause 15 as amended shall carry.

Mr. Bell.

Mr. Don Bell: What about proposed new clause 15.1?

The Chair: We're going to deal with it separately.

Mr. Don Bell: Doesn't it become part of clause 15?

I see; it becomes an additional—

The Chair: It becomes a single clause in itself.

(Clause 15 as amended agreed to)

The Chair: Now we have a new clause 15.1. It's amendment G-2. It should be in your file.

We have a subamendment coming forward, but I would ask if there's any discussion or anything on this before....

Mr. Brian Masse: The specific one I'm proposing is “municipal government”. That's consistent with language of the bill, and it would be on line 13 of the English text of amendment G-2.

The Chair: So it would say, “Before ordering an owner or operator...the Minister shall consult”—

Mr. Brian Masse: It would be “shall consult with the owner or operator”—

The Chair: —“owner or operator or municipality”?

Mr. Brian Masse: Yes, “or municipality”.

The Chair: That would be an amendment to the proposed new clause.

Mr. Jean.

Mr. Brian Jean: I'm just wondering if Mr. Masse and all those people who would be in favour of something like this would accept: “...the Minister shall consult with the owner or operator”, and then new words: “or any other entity that is, in the opinion of the Minister, a relevant stakeholder, having regard to all the circumstances”.

I can tell you why I put in all of that. I know it sounds like a lot of legalese, but if I may say so, there is a positive.... What happens is

that there is indeed a positive requirement on the minister to consult, and I'm concerned with the timeframe. That's why if we have “having regard to all the circumstances” in there, if there's any review of it later on and there's an emergency.... For instance, who knew in 1989 we were going to have a problem with terrorists? If there's something that comes along in the future that means the minister—and this is the only person in all of Canada who can make this change—wants to make an immediate change, he can do so immediately, “having regard to the circumstances”. That makes sense.

Mr. Brian Masse: Could you read the amendment again?

Mr. Brian Jean: Certainly. It reads: “...with the owner or operator”, and then here's the amendment:

or any other entity that is, in the opinion of the Minister, a relevant stakeholder, having regard to all the circumstances

The words “relevant stakeholder” would be obvious, but “having regard to the circumstances”, means that if it's an emergency situation it can be done, but if it's not an emergency situation different stakeholders would be involved in the consultation, and that would be a requirement.

Mr. Brian Masse: I can agree to that.

The Chair: Mr. Laframboise.

[Translation]

Mr. Mario Laframboise: If I understand rightly, at the end of the subsection, you would remove “concerning the impact that those tolls, fees or other charges could have on their financial situation”?

[English]

Mr. Brian Jean: No, it's not really that; I'm sorry, Mr. Laframboise. It was just to put in there.... I'm not removing any words at all; all I'm doing is adding words.

[Translation]

Mr. Mario Laframboise: You're just adding words. All right.

It is not because I was very impressed by the representatives of the Ambassador Bridge, but if you are discussing their financial situation, you are discussing their balance sheet. This is a private company, therefore you have to beware of any discussions you have about it.

That the federal government should be able to discuss the financial situation of a company with it is all right, but if you do so with stakeholders in the community, you are probably going to make public the company's balance sheets. I would like you to take that into account. I do not want to protect them, but the situation of the Ambassador Bridge representatives is special.

•(1235)

[English]

Mr. Éric Harvey: Yes, if I may.

[Translation]

I will answer the member's comments.

It is solely a question of the order in which the parties must be consulted. If we began by talking about a consultation with the people Mr. Jean talked about using his words and then referred to a consultation of owners and operators about their financial situation, this would deal with your concern and also Mr. Masse's.

[English]

The Chair: Mr. Scott.

Hon. Andy Scott: Not to complicate this further, but I would be satisfied, and I think there would be a broader consensus in the community itself, if you articulated, “the owner or operator and the municipality”, and then said “stakeholders”.

The reality is that I don't like to set the precedent that we are characterizing municipalities as an order of government, as stakeholders, in the same way as other people would be stakeholders. Other stakeholders don't get elected, other stakeholders don't have public mandates, so I would like to see that “municipal government”—whatever the language is—included, and then go to “stakeholders”, because I think there's a distinction.

The Chair: Mr. Jean.

Mr. Brian Jean: I was just going to say that I think you're right, and I think Mr. Masse is correct.

I would suggest that instead of “municipality”, it say “other levels of government”, just to include.... For instance, some are owned by the province, some are owned...you know. And as long as we have—and I haven't got a legal opinion on this—“having regard to all the circumstances”, so that it gives the flexibility to the minister in cases of emergency, that's really what I'm concerned about.

So for the blues, in a thousand years when they read about our discussion, that would mean that “having regard to all the circumstances” would include every stakeholder that would be relevant. Is that correct? Would that be satisfactory?

Mr. Laframboise?

The Chair: I am going to read this amendment, and hopefully I've got it right:

...the Minister shall consult with the owner, operator, or other level of government, or any other entity that, in the opinion of the Minister, is a relevant stakeholder, having regard to all the circumstances concerning the impact that those tolls, fees or other charges could have on their financial situation.

Mr. Jean.

Mr. Brian Jean: I suggest that the only change would be to “levels” of government

The Chair: So, “or other levels of government”.

Mr. Bell.

Mr. Don Bell: In terms of the grammar, I guess, could you read the reference to the “relevant stakeholder”?

The Chair: It would be: “or other levels of government, or any other entity that, in the opinion of the Minister, is a relevant stakeholder, having regard to all the circumstances...”.

Mr. Don Bell: Okay. When you start with “owner or operator”, then go to “stakeholders”, and then come back to “the impact that those tolls, fees or other charges have on their financial situation”, you're really relating that part to the owner or operator, are you not?

You're taking the broader picture, the financial situation of any of the stakeholders?

Ms. Evelyn Marcoux: I think one of the comments was to put all the stakeholders before the owner and operator and then have the financial situation.

Mr. Don Bell: That is what I was going to suggest, that you talk about all the circumstances that could relate to the other stakeholders, then the impact of the tolls and fees specifically with respect to the owner or operator, because that affects them directly.

Ms. Evelyn Marcoux: That's what you want. Yes, I agree.

• (1240)

Mr. Don Bell: So the wording would be the way you had it, but you would pull the “owner or operator” part to the end and say “and with the owner or operator, concerning the impact that these tolls, fees and other charges...”.

The Chair: Could I ask the indulgence of the committee? I know we're not going to get this bill finished today. I would ask that this be brought back to us, and we can continue with the other relevant clauses. Then we can have it in French and English for everyone to look at and confirm that it's appropriate.

Mr. Jean.

Mr. Brian Jean: On the record, it is very important to have all the stakeholders, including owner-operators and levels of government, included as one form, and whether fees and charges impact municipalities or whether they impact owner-operators.... This is not a law that says this is the way it has to be done. This is in the opinion of the minister—an intelligent person at all times, especially in this particular case. But if a person is going to be making a decision like that, I don't want to take out owners and operators and just say, okay, we're going to deal with owners and operators just on fees. I think they need to be consulted on everything.

If they're relevant in the opinion of the minister, whatever the impact is, they should be consulted, and I don't think restricting owners and operators to fees is logical.

The Chair: Mr. Harvey.

Mr. Éric Harvey: I'd like to pick up on your offer to take some time to do the drafting. When I'm sitting with the drafter by myself, we sometimes take a long time to develop revisions. My own experience is that the more people who are added, the more difficult it becomes.

What I would undertake, though, is to speak with my drafting colleagues. I think I understand very well where we want to go. I'd like to basically work with them, and of course, with the parliamentary secretary and everybody involved, so that we can come to the next meeting with something that is agreeable to everybody.

The Chair: Mr. Carrier.

[Translation]

Mr. Robert Carrier: Given that the entire amendment is going to be studied, I would like to reflect on the scope of the word “consultation”. Does that imply that approval must be sought? To me this word is a bit nebulous in relation to all the stakeholders mentioned in the context of consultations. Does the government decide, in the end?

Mr. Éric Harvey: According to my understanding of the amendment, the current structure, whereby the minister makes his decision, remains. We wish to add other parties, however, to the consultation before the minister makes his decision. I do not understand, from my reading of the proposal made, that it is intended that the minister’s decision should be conditional on the approval of the people consulted. These people will have the opportunity to express their interests before the decision is made, but in the end someone has to decide. From what I understand, the minister would continue to do so, as the current provision stipulates.

[English]

Mr. Brian Jean: Monsieur Carrier, the situation is that the courts have interpreted what consultation means—particularly in relation to aboriginal communities, but it would be used overall in common law that there is a positive requirement to consult. And consultation means that they would have to actually get the opinion and weigh that opinion in an impartial manner. That’s my understanding. But aboriginal law has transgressed to such a point, for instance, that this would be a requirement. And I think it’s already in law what “consultation” means.

It’s the normal, practical meaning, but it has to be more than just telling them what’s going to happen. That’s what happened in aboriginal cases.

The Chair: Mr. Harvey, could I ask that once you have this drafted you forward it to the clerk’s office to distribute among the members of the committee? Thank you very much.

We do have another amendment, NDP-8. Once again, I am taking the advice of counsel and suggesting that it is inadmissible. It’s beyond the scope in imposing a tax.

Mr. Masse.

Mr. Brian Masse: It’s not a tax. It’s a percentage of the total revenue.

• (1245)

The Chair: Mr. Scott.

Hon. Andy Scott: And a percentage of my income isn’t a tax either.

The Chair: Thank you.

Hon. Andy Scott: That wasn’t my intervention.

Perhaps with 10 minutes remaining and with a genuine desire on the part of some members of this committee to speak to the general issue of consultation, as being someplace between where we are before this bill and where we are with this bill, to compel an environmental assessment, not through other legislation, as has been cited, but rather because the Government of Canada wants to take charge of these international entities, it strikes me that this is a positive development. It should require, however, that they engage

the affected communities. We haven’t even begun to discuss where the bridge ends and the road begins, and all those kinds of issues. You’re going to need goodwill.

Therefore, I would suggest that we take the time that’s necessary so that perhaps the government could come up with something that is admissible, that would satisfy that, and then not have to deal with these problems later when the communities feel they haven’t been engaged. I’m thinking of post offices, just for the moment, but it does happen from time to time.

The Chair: Mr. Masse.

Mr. Brian Masse: I think that’s where, at the end of the day, not just my community but I think all communities want to be. The reality is that it doesn’t always happen unless it’s actually included in the specific statements. It gets lost, and over time the awareness of it, so it doesn’t happen elsewhere. That’s my genuine concern, and I think it should be part of due process at some level.

I think it’s helpful for the government to have that type of accountability, and that’s what I have been attempting to seek through these amendments today, because it is a shift.

Be careful what you ask for, because this is a very complicated situation, not just in my municipality but in others, not only in terms of the way vehicles flow to and from our border crossings but also legislation on the U.S. side that affects the rates and the response. Hence, people on the actual ground floor, who are working for the citizens there, really need to feel the comfort that they have a direct process and involvement.

We’ve actually had some agreement on some things with regard to the border. Stage one, which the City of Windsor had signed off on—and for many of those initiatives we actually had final approval of projects go forward—is quite different from stage two, which the City of Windsor was outside of. Hence, that’s where I would like to see, at least at some point in time, something not ruled out that has explicit notation.

The Chair: Thank you.

Are there any other comments?

Mr. Jean.

Mr. Brian Jean: If the amendment itself were forwarded to me from the department, I would be more than happy on Wednesday afternoon or before the meeting to sit down with Mr. Masse and go through it and see whether it meets his approval. If we have people from opposite ends of the spectrum of political will going through it, it might be that we could just come and circulate it and have it passed.

The Chair: But again, I would ask that it be circulated for all members at the same time.

Mr. Brian Jean: Absolutely.

We can try to alleviate any lengthy discussion, if you would like to do that, Mr. Masse.

The Chair: Thank you.

Do we want to continue on to one more clause?

An hon. member: Adjourn.

The Chair: Then I would suggest that when we come back on Thursday we will finish up new clause 15.1 and move forward with clause-by-clause at that point for the rest of the bill.

The committee is adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

**Also available on the Parliament of Canada Web Site at the following address:
Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante :
<http://www.parl.gc.ca>**

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.