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Chair

Mr. Merv Tweed

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• (1105)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): Thank you, and good morning, everyone.

We're certainly going to continue today with Bill C-3, an act respecting international bridges and tunnels and making a consequential amendment.

I've spoken to the committee members. One of the difficulties we had at the last meeting was that definition in that paragraph. It has been circulated. I'm going to ask the committee for a motion that would basically state that the decision to adopt clause 15 as amended be rescinded. Then we can add this clause to that line and approve it as amended.

I've spoken to most of the committee members and I believe there should be agreement for that.

Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Actually, Mr. Chair—I know we did this yesterday as well—I'm wondering if we could put the amendment to the end. There have been a couple of changes, and I would like to have an opportunity to brief with the department, and Mr. Masse as well, to make sure it's accomplishing what I want.

The Chair: If that's agreed by the committee, then we can proceed with the rest and come back to this one.

Some hon. members: Agreed.

The Chair: That's fine. Thank you.

We will go to new clause 15.1, and that is G-2 as amended.

Mr. Jean, do you have any comment on it?

Does anyone else have a comment?

I think it's been circulated. Or do you want us to defer 15.1 to get it—

Mr. Brian Jean: Mr. Chair, we can deal with 15.1. The department has suggested that we delete paragraph (b) of clause 15 and put in 15.1, which would be.... Has it been circulated?

The Chair: I think I'll put this clause 15 off until the end, if that's agreeable. By then, everybody will have the right documents in front of them and we'll be dealing with the same thing.

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

The Chair: We'll go to clause 16. We have an amendment, NDP-8.1

(On clause 16—*Regulations*)

The Chair: Mr. Masse.

Mr. Brian Masse (Windsor West, NDP): Thank you, Mr. Chair.

The specific language of the amendment is “and implement security plans concerning, but not limited to, the transport of hazardous materials and establish”. It's a continuation of the clause and it specifically calls for hazardous materials to be part of that.

The reason for the explicit notation of hazardous materials is because different crossings have different requirements and different usages of those hazardous material in the communities surrounding them. This is to provide an opportunity for the minister and the government to have some oversight on that. It's not necessarily oversight, but to at least have some expectations of what it is that is crossing.

There has been considerable dispute in my community about the usage of hazardous materials and their crossing the Detroit-Windsor corridor, whether they be through the train tunnel, the Ambassador Bridge, or where they're supposed to predominantly go, which is on a hazardous material ferry system. Truckers have taken placards off their trucks. We have film footage of that, as well as open commentary from them in the community. They do this to expedite their trip into the United States.

They actually can transport a series of things. I have a list from the United States government of some of the ones that are considered possible weapons. They have everything: corrosive liquids, explosives, jet fuel, gasoline, propane, pesticide—a whole series of hazardous materials. What I'm looking for is accountability for that.

If they choose a crossing and the crossing subsequently permits that to go forward, it puts the community at risk. I'll give a specific example. A truck going through the Detroit-Windsor tunnel or over the Ambassador Bridge has considerably greater exposure and safety issues related to that, versus the ferry system, where it's supposed to go. But the ferry system costs more money and can take a little more time.

The ferry system, which has a specific program from the Department of Homeland Security, actually preclears everything prior to it getting on the barge and going to the United States.

This is here to provide the minister and the community some assurances that these materials are properly passing through and that there's some type of degree of accountability and scrutiny there. That's why the amendment is there.

The absence of that is not acceptable. We had to fight for years in my community just to get a sign to say to use the ferry system and not to use any other crossings.

•(1110)

The Chair: Are there any comments?

Mr. Laframboise, go ahead, please.

[*Translation*]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): I have no objection to the requested amendment. The government is proposing to implement security plans. I see no problem adding the words “concerning, but not limited to, the transport of hazardous materials”. I thought that was already covered, but it's good to clarify the situation with respect to hazardous materials. We will be supporting this amendment.

[*English*]

Ms. Evelyn Marcoux (Director General, Surface Infrastructure Programs, Department of Transport): Would it be possible to have a copy of the motion? We don't have it.

The Chair: I'm sorry.

Ms. Evelyn Marcoux: Are you talking about clause 16 or clause 18?

The Chair: I'm talking about clause 16.

Ms. Evelyn Marcoux: We don't have either clause 16 or clause 18.

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

Mr. Éric Harvey (Legal Counsel, Legal Services, Department of Transport): Mr. Chairman, my initial reaction is that the motion is aimed at the transportation of hazardous materials. The Transportation of Dangerous Goods Act governs the transportation of dangerous goods with regard to the manner in which they can be transported in terms of physical containers, but I think it's also correct to say that it's not aimed at specifically the same thing that the motion is concerned about.

However, I understand that there are discussions, and I don't know what point they're at, but the issue of the transportation of dangerous goods over bridges I think is an issue with which the department is familiar. I cannot speak for this branch, because they are not here, but I'm wondering if in fact it would be better or proper to have such an amendment made in the context of a review of the TDGA instead of having it here.

I'm raising the question essentially to inform the committee of the existence of this other statute, and that's it.

•(1115)

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

Mr. Brian Jean: I was just going to mention to Mr. Masse and the committee that my understanding is that there is currently an act that deals with the transportation of dangerous goods, and this would be a duplication of the same.

The Chair: Yes, Mr. Masse?

Mr. Brian Masse: I'd be surprised if the minister wouldn't want to have this as part of safety and security. It's coming from the fact that safety and security often relate to security as the protection of the facility itself and the people who are using it. The safety element often relates to infrastructure.

The specific use of hazardous materials that occurs on these crossings is relatively unique. It's not on highways; it's on a specific crossing or a piece of infrastructure. I would feel a lot more comfort if the minister had the ability—and this is what we're talking about in clause 17. I would suggest adding:

the Governor in Council may, on the recommendations of the minister, make regulations respecting the security and safety of the international bridges and tunnels, including regulations.

I would feel better if the act to amend bridges and tunnels would identify one of the unique aspects of transportation related to hazardous materials—which are not just passenger vehicles; they're not just transport trucks bringing auto parts or our toilet paper or something else; they're actually dangerous goods.

This hinges upon the minister's ability to make regulations, and I believe hazardous materials warrant...

There have been spills and leakages on infrastructure. Most recently there was one on the Ambassador Bridge, and I want to make sure there's proper jurisdictional oversight that also cross-coordinates with some of the security measures that are there. You could have a situation where safety, security, and the minister's powers of the day should take into account hazardous materials and there should be no conflict in that.

I think it's a simple amendment that is of benefit.

The Chair: Mr. Carrier.

[*Translation*]

Mr. Robert Carrier (Alfred-Pellan, BQ): Thank you, Mr. Chairman.

What this amendment is proposing makes perfect sense. There must be laws on the books governing the surface transportation of hazardous materials, but these aren't clear. We need to know if the legislative provisions apply to all, or only to certain types of roadways. This is a relevant provision. It's important to control to some degree our bridges and international ferries to ensure safety and the flow of traffic.

The legislation, as currently worded, isn't exactly clear and the amendment recommends that the implementation plan take into account the transport of hazardous materials. It's makes perfect sense and is consistent with the aim of the bill, which is to ensure the reliability of international bridges. Therefore, I support the amendment.

[*English*]

The Chair: Thank you.

Ms. Marcoux.

[Translation]

Ms. Evelyn Marcoux: It's very difficult to oppose noble objectives. However, we have just now received the text of the amendment. When the bill was drafted,

[English]

precious care was taken by the legal team to make sure there was no contradiction or overlap with other legislation. Provincial laws regulate the transportation of hazardous material, and there's the federal act on that issue as well. To tell you whether we can recommend it or not is rather difficult for us. Since there is another piece of legislation that deals with that very issue, we would recommend to leave it and the other piece of legislation and amend it as required if the committee wishes.

The Chair: Mr. Fast.

Mr. Ed Fast (Abbotsford, CPC): Mr. Chair, why are we singling out hazardous materials? This is a clause of general application, and Mr. Masse makes a very good point that hazardous material should be considered in our security planning. However, many other aspects of security are not specifically mentioned: terrorism, smuggling, drug trafficking, and traffic safety. Many aspects of security could be enumerated specifically, and yet we're focusing on one item.

My guess is some of those issues are addressed in other pieces of legislation as well. In keeping it general, I think it gives the minister the power to make the required regulations, and I don't think it in any way detracts from Mr. Masse's concerns that the issue of hazardous materials be addressed.

The Chair: Mr. Scott.

• (1120)

Hon. Andy Scott (Fredericton, Lib.): Under whose authority is the federal legislation? The Department of Transport?

Ms. Evelyn Marcoux: It is the Minister of Transport

Hon. Andy Scott: The other piece of legislation we're speaking of also falls within the department. Are you telling us you've assessed the legislation that falls within your department, and that assessment would make this amendment redundant?

Ms. Evelyn Marcoux: No. What we're saying is the issue of transportation of hazardous material was raised before. We have worked with the sector in the Department of Transport that deals with it to make sure this issue is well covered in the legislation, and we are sure it is. The combination of that plus the provincial legislation has satisfied us that it is covered.

I'm not that knowledgeable about that act, and I don't want to misrepresent the department or the people who are working on that issue. That's what the level of discomfort is in terms of trying to agree with this. I wouldn't want that to contravene any other arguments in that legislation.

Hon. Andy Scott: If I may, it would be very difficult to ask us to make that determination today when you can't offer that you could feel that comfortable.

Ms. Evelyn Marcoux: I understand, but we were given this piece of paper just now. We'll have to go back.

Ms. Helena Borges (Director General, Special Projects, Policy Group, Department of Transport): Could I offer a few comments on this subject?

Hon. Andy Scott: Sure.

Ms. Helena Borges: The Transportation of Dangerous Goods Act applies to all highways, bridges, tunnels, and all modes—it's not just a road mode. The act has the same application as the Criminal Code, as a criminal act. If a company does not respect the act, it is chargeable under the Criminal Code. There are rules under federal law, under provincial law, and they complement each other, as to what Mr. Harvey said, how a good must be carried with the containerization, the labelling, and all those things.

If we now start to modify the provisions of those acts through another act such as this one, we risk losing the enforcement powers under the Transportation of Dangerous Goods Act, and that's very serious. It does apply to all modes, so it does get to Mr. Masse's point about marine and rail. It should stay in the Transportation of Dangerous Goods Act.

The Chair: Mr. Scott, do you have a follow-up?

Hon. Andy Scott: The enforcement of the provisions of the Transportation of Dangerous Goods Act is a reactive piece, in that if you were in violation—do I understand? I think that's what you.... This is calling for a plan that would be a different way to approach the problem than having a law that would have sanctions if you break the law. It's a very different idea to have a plan, say, for transport. That seems to me to be a different concept.

Ms. Helena Borges: In fact, let me clarify, because I recently had a very detailed meeting with my colleagues who are responsible for this act. In fact, there are various distinctions of dangerous goods. Any infrastructure operator, any company that carries goods, has to have an emergency response action plan under the act. Under that action plan, they have to deal with how the dangerous goods will be treated, where they are allowed to travel, and the labelling in terms of the toxicity of the good.

They also have to see if they're carried by water. If there is a spill over a body of water, they have to plan for how they will deal with the marine pollutants. That would be the case on a bridge—if something happens on the bridge and it goes into the water.

They have to consider all these facts in this emergency response assessment plan. That plan is approved by our inspectors at Transport Canada. We do have dangerous goods inspectors. Anytime there is a spill or a derailment, our people get out there, along with other emergency responders, to deal with the emergency response.

So those procedures are already in place. If you would like more information, we could get our dangerous goods people to provide it to you. But that planning process is already on the go, and it's already approved by the department.

• (1125)

The Chair: Mr. Masse.

Mr. Brian Masse: The distinction is for a plan. I won't just pick on the Ambassador Bridge; I don't want that to be the sole thing. Regarding the CP Rail tunnel that transports hazardous materials, when was the last time there was a full plan for a Department of Transport inspection...and tabled a plan with your department for the transportation of goods?

Ms. Helena Borges: I can't address the timing of it, but I can assure you that those plans are in place—the same way that their safety management systems plans are in place at all times.

Mr. Brian Masse: What I am informed—and this is the reason I'm having it.... I wouldn't look for the minister to find something that would intervene or.... Maybe I'm mistaken in terms of procedural legislation here, but I wouldn't be expecting that the minister would be putting in something that would violate another act.

But in the CP Rail tunnel, for example, where we have chlorine gas transported through the city of Windsor, the fire department doesn't have access to the site to provide training or inspect the hazardous materials. They have to make a request to CP Rail in order to enter the property to do that. Wouldn't it make sense for the minister of these infrastructures to have the capacity or require some type of preventative measure?

The question back to the department would be, if the minister did so within the context of the other legislation, how would that violate or break any law?

Ms. Helena Borges: I think you just answered your own question, Mr. Masse. Perhaps the best act to be addressing those points isn't the Transportation of Dangerous Goods Act—not in this one, because this one pertains just to a bridge, which is an extension of the highway; that's all it is. A rail tunnel is an extension of the rail line. So whatever you do at the tunnel or the bridge, you would have to do the same on the rest of the infrastructure that goes with it. When they do a plan, they're doing a plan for the whole entity.

You're right about the railways, but they do have their own police forces to implement their security and safety plans. Our inspectors go there and make inspections, as you know, from recent incidents on the rail safety plan.

So we're not disagreeing with your point that maybe the Transportation of Dangerous Goods Act needs to be looked at and made more rigorous. But it should be that act; it shouldn't be this act.

Mr. Brian Masse: I don't believe it should be excluded from this act. I guess the question would be to the legal people: can the minister not make...? I would like a ruling in terms of that. It seems to me there's a presentation here that this would violate other legislation. I don't see how that's possible since....

Ms. Helena Borges: If it doesn't violate, what it could do is give somebody.... You're now picking two acts. There's a clause right at the beginning of this act that says this act shall not override any other federal acts, including the Canadian Environmental Assessment Act. They still apply.

So all other pieces of legislation that are in existence still apply. The Transportation of Dangerous Goods Act would apply here. The Railway Safety Act would apply here.

As Mr. Fast said, if we start modifying this one to include just dangerous goods, what about all the other acts that are there for safety and security? How do they then get reflected in this provision?

Mr. Brian Masse: I can answer that really quickly, Mr. Chair.

I think the examples Mr. Fast gave—terrorism, drug activity, and smuggling—are illegal activities. This is a legal activity of transporting dangerous goods—

Ms. Helena Borges: It's inconsistent with the law.

Mr. Brian Masse: Yes, and I don't see why the government would be hesitant in having the minister able to be part of a plan of prevention.

I'm not comfortable waiting around for some other legislation to come forward to tighten up a very serious problem that we have in my community.

Mr. Ed Fast: It's already there.

Ms. Helena Borges: It's already there, that's the point.

Mr. Brian Masse: Well, it's not sufficient, I can tell you that much, because we have municipal services and others who have to ask for permission to get on property to do some of that planning and staging. Some things have to be brought by permission. This at least provides the accountability aspect, so the minister can actually do so. We don't have to request any more.

The Chair: Mr. Laframboise.

[*Translation*]

Mr. Mario Laframboise: The more I listen to you, Ms. Borges, the less confident I become. You maintain that a bridge or tunnel is the extension of a roadway, but we're not talking about just any bridge or tunnel in this case, but about international bridges.

It's as if you were saying to me today that bridge owners need not be the least bit concerned about the types of goods being transported over their infrastructures. However, I'm concerned and I want to be reassured. The issue here is the implementation of security plans and of a safety management system. In my view, it's become increasingly important for international bridge owners to be aware of the goods being transported over their bridges and to have a plan in place in the event of a catastrophe.

I don't have a problem with standards for carriers, but if ever a problem arises, I want the bridge owner to be aware of the goods being transported and to have a plan in place to ensure the public's safety.

Unfortunately, all you've managed to do today is fuel my concern. I submit that we must support Mr. Masse's motion. Bridge owners need to know what types of goods are being transported over their structures and they need to have safety plans in place. They need to know what to do and how to proceed if a problem arises. If you're telling me now that bridge owners do not have such a plan, then we have a problem at our borders.

• (1130)

Ms. Helena Borges: That's precisely what I'm saying. Owners are required to have a plan in place to deal with emergencies. As such, they must be able to demonstrate how they plan to comply with and enforce the provisions of the Transportation of Dangerous Goods Act and to control carriers that use the bridges or tunnels. This is already a requirement.

Mr. Mario Laframboise: Are you saying that bridge owners are already required to have such a plan in place? Then why are you opposed to including this in the legislation?

Ms. Helena Borges: We're not opposed to it. All we're saying is that this requirement is already spelled out in another piece of legislation, namely the Transportation of Dangerous Goods Act.

[*English*]

The Chair: Mr. Bell.

Mr. Don Bell (North Vancouver, Lib.): So that there is no question, in any way, of trying to appear to supercede the Transportation of Dangerous Goods Act, 1992, and since this whole Bill C-3 is dealing specifically with bridges and tunnels, and we want to secure those under security and safety, the issue of hazardous goods....

We've seen examples of them. I'm thinking not of bridges and tunnels but of rail in British Columbia, where the derailment of some goods had a severe environmental impact on salmon and fish stocks, and where a hazardous goods spill on a bridge in the province—not an international bridge—very seriously affected traffic or the connection and use of the bridge.

So I'm wondering if the reference to hazardous materials should be back to the Transportation of Dangerous Goods Act, 1992. In other words, these plans should address the transport of hazardous materials, as provided for in the Transportation of Dangerous Goods Act, 1992. This would refer back to the other act, so it doesn't attempt to supercede that act, but it raises the issue.

I don't know if Mr. Masse understands what I'm saying. I agree with my colleague here, Mr. Scott, who referred to the one being planning and the other being a response to an offence, in terms of the Transportation of Dangerous Goods Act, 1992. But that act, to the degree I'm understanding it, provides requirements and penalties. If we reference that act, we don't appear to be weakening it, but we're raising the issue of hazardous goods within this.

The Chair: Mr. Harvey.

Mr. Éric Harvey: The wording of the current provision refers to the development and implementation of security plans and also of safety plans. We got this only this morning. Frankly, I'm not convinced that the addition of the words adds much in terms of the scope of the provision and the possibility, in the development of those regulations, of requiring that the question of dangerous goods be addressed. In other words, when you talk about safety and security, somehow the question of dangerous goods is part of it. Basically, in putting this in specifically, what you would be doing is putting the spotlight on one, but in practice I'm not convinced you need the spotlight on it to have the scope to cover it.

I must say that by making reference to the TDGA in the statute itself, I can understand that you basically secure the meaning and the

scope of it. At the same time it becomes very neutral, in the sense that all it does is refer back to it; it doesn't provide for more. While I understand the concern, I must say it's not clear to me that under the current wording a chapter of the plan for dangerous goods could not be required when the regulations are being developed. This is really something that is at the core of safety and security. I think that through the regulations there could be a clear coordination vis-à-vis what is covered by the TDGA, so that there is no overlap and so that both regulations supplement each other instead of just being redundant.

• (1135)

The Chair: Mr. Bell.

Mr. Don Bell: I think the redundancy is what we're talking about here, from the point of view of the benefit of highlighting it. You don't feel it necessarily needs to be flagged or highlighted, and I think you're hearing—from some of the members, anyway—that we feel hazardous materials are of such importance that they do need to be highlighted or flagged.

If we ultimately want to flag other things as well, so that when we're talking about security plans we are giving recognition to issues that by virtue of experience in different parts of Canada are important, and if we're coming up with an act now in Bill C-3 and want to be able to make those references, and if it can be done in a way that addresses the procedural concerns you're talking about—one act not superseding another, but nevertheless showing that within that act this is an issue that is intended to be addressed by the legislators—then I think it should be there.

So if there isn't a better suggestion, I would support what is being proposed. If it can be modified in such a way that it refers to provisions provided for in the Transportation of Dangerous Goods Act and such that it takes the regulatory part away from this act but is enough to highlight it or reference it, I'd be satisfied with that.

The Chair: Mr. Blaney.

[*Translation*]

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

Mr. Masse is concerned about hazardous materials. I'm not a lawyer. From what I understand, this requirement is spelled out in another act. So then, in my opinion, it's a matter of addressing this concern without being redundant.

[*English*]

The Chair: Would it be fair to ask our witnesses to bring forward part of the Transportation of Dangerous Goods Act, so that we could see that referral, or do we want to just deal with this?

• (1140)

Mr. Brian Jean: Mr. Chair, the first thing is I have no question at all that what we're doing is limiting the minister's power under this, if you look at it: “and implement security plans concerning the transport of hazardous materials”. That's not what this act is about. It's about the security of our nation and the security of our main corridors.

But I would say this, Mr. Masse. I have been involved in the Transportation of Dangerous Goods Act, at least provincially, and there are much more serious consequences under that.

What I would suggest, if you want a motion at this stage, is that when we're dealing with safety as the main concern of this transportation committee, let's bring forward the federal Transportation of Dangerous Goods Act at the time we're doing it. If you want this to be specifically in there for the safety of tunnels and transportation, I think it's more appropriate that when somebody thinks of dangerous goods and transporting them wherever they may be transporting them, they look at it under that act and then make application there.

I really believe what we would be doing is limiting the minister's power here, and I don't see it as at all necessary. I think we all want the same thing, don't we? At least that's my perception: we want to keep the people safe and the main corridor safe. Let's do it under the Transportation of Dangerous Goods Act, and let's have a motion to bring it forward when we discuss that, and let's deal with it. If you want to make changes in relation to that act, I don't think you're going to find anybody in disagreement, but I don't think this is the place. This is an act that deals with the security of our nation as a result of what took place.

The Chair: You may speak very briefly, Mr. Masse.

Mr. Brian Masse: I'm not letting the minister off the hook for not having accountability for dangerous materials and because he is now, with this bill, going to make historic changes to have unprecedented powers with respect to the bridges and tunnels that will move hazardous materials.

Quite frankly, there is no other comparable type of issue. Hazardous materials, even by the Department of Homeland Security, are classified as weapons of mass destruction. In fact, you've seen in Miami-Dade County, in Florida, that they've moved the rail spur, and they've also done it in other areas, like Washington. Cleveland has a law. They are prohibited, and they've moved hazardous materials to other lines, away from populations.

Yes, it might be in the regulations, but I'm not going to, as a legislator, sit here and pretend I'm comfortable waiting for things that might pop up through regulations that, later on, I'll have no real opportunity to control. That's why I think it's important in here. When you look at the whole context of this act, it gives the minister lots of powers, it adds a degree of accountability and responsibility, and it puts the onus on him to actually make sure that those other acts work for him.

I don't want to wait for a motion in this committee to address what I think is a very serious problem. If it's redundant, so be it. What's the problem, then? If it's going to be in the regulations, why can't we explicitly have it here? I think it provides more flexibility.

The Chair: Mr. Fast, please.

Mr. Ed Fast: Mr. Chair, my issue here is that we're flagging one issue to the exclusion of a number of other just as—if not more—important issues, such as, as I mentioned earlier, terrorism. We have the legal and illegal carriage of goods and the legal and illegal carriage of individuals into Canada. There are many other issues we have to address if we're going to go down the path of flagging

hazardous materials. This is poor legal drafting practice we're engaging in.

I concur with staff. Leave it as it is. We can address this issue within the regulations. We already have other legislation that addresses hazardous materials.

We have placed staff in a very difficult position. At the very last minute, they received a motion, and they're now expected to provide advice on a totally different piece of legislation—hazardous materials. Quite frankly, they should have had notice that this would be coming forward, because that particular legislation is so significant in its scope. And for us to start making these kinds of flagging decisions in a vacuum is unhealthy. I don't think it's going to serve the purpose for which this particular act was brought forward.

So I would encourage Mr. Masse to be patient. Let's deal with it in another way. We can always ask staff to bring back a response to his concerns at a future meeting. They can come back.

The Chair: Mr. Carrier.

[*Translation*]

Mr. Robert Carrier: I'm in favour of reviewing sometime soon the legislation governing the safety and transportation of hazardous materials. However, given the current delays we're encountering at this level, no doubt we won't be able to get to this for several months. We're talking about bringing in additional protection. Since the government is keen on passing this bill quickly, why not include this safeguard that would give the department the authority to comment on the safety plan?

No reference is being made to specific acts, only to the subject-matter. The amendment reads “concerning, but not limited to”. Other subjects could be listed. Someone mentioned terrorism. That's a security issue that does not fall within the scope of this committee.

My question is directed to departmental officials. When a bridge is privately owned by a U.S. firm, is that company subject to our laws governing the transport of hazardous materials? Perhaps that's a unique situation — a privately owned bridge — but at the very least we should have some say in the operation of that structure.

• (1145)

Mr. Éric Harvey: Federal jurisdiction and laws apply within and up to the Canadian border. When a bridge is owned by an American firm, but is nonetheless located within Canada's borders, Canada's laws apply, just as they would apply to any operator, whether Canadian or foreign.

[*English*]

The Chair: Mr. Bell.

Mr. Don Bell: I'm just trying to help resolve this from the point of view of those of us who have expressed concern and would like to see this flagged. I understand the points raised by my colleagues with respect to the way this reads.

The way the amendment reads, by inserting after the words "security plans", by saying "to develop and implement security plans concerning, but not limited to, the transport of hazardous materials, and establish security management systems", maybe grammatically or positionally, to let it read the way it does it should be, "to develop and implement security plans and establish security management systems", and then add....

Mr. Masse, I'm trying to respond to your point.

I'm saying that rather than your wording, which does indicate "to implement security plans concerning, but not limited to, the transport of hazardous materials", it tends to give a greater focus, if you want to call it that, that the plans are to concern that but not be limited to it, and it takes away from the emphasis of the broadness of the security plans.

If you were instead to leave it as it is in (a) "implement security plans and establish security management systems", and then say "which would include the provisions contained in the Transportation of Hazardous Goods Act".... That is highlighting it, which is something some of us are agreeing to, but it puts it in the proper context. It's saying there need to be these security plans, there need to be the security management systems, and we want them to include provisions contained in the act. It is redundant to the point that they are there in the act, but it is highlighting it for those of us who feel the reference needs to be put into this particular act.

The Chair: Mr. Hubbard.

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

I'm having some difficulty with this whole debate, because usually the movement of hazardous materials falls under safety plans and not security plans. I know we're making a great issue of it and have spent a lot of time on it, but in terms of most movement of goods, you deal with the safety issue rather than the security issue. What happens if there is a spill?

I'm not sure of your intent, Brian, but if it were a load of gasoline going through a tunnel, is it a security problem or is it a safety problem? I contend it is a safety problem. We're probably putting this in the wrong place, even if it were a good idea.

If we're going to spend so much time on this, Mr. Chair, I would suggest we leave it until later, until maybe our witnesses can come back with the so-called traffic security, and we'll look at the content of that legislation. But we have a lot of the bill, and we can pass a lot of that today and get this off and come back later to clause 15, and this article too...to proceed and get some work done.

Above all, I think most people around the table...and, Brian, I don't know how you call this security. Movement of hazardous waste or hazardous material is a security problem. Maybe my legal definition is not...I'm not a lawyer, but what is security?

The Chair: Mr. Masse.

Mr. Brian Masse: Even in the United States a lot of it falls under the Department of Homeland Security. It's the safety of the actual

movement of it, and it is a security issue as it proceeds through the infrastructure.

I know the parliamentary secretary has a proposal, if he's willing to table that. That might get to the root of everything we're looking at here as well. If he's willing to propose that, then that might move this thing along more quickly.

The Chair: Mr. Jean.

Mr. Brian Jean: Thank you very much for recognizing me.

I was going to suggest, in consultation with Mr. Masse, that we include a paragraph (d), which would just simply state some of the things Mr. Fast just said. I think he had some excellent points.

And indeed it would read:

respecting the security and safety of international bridges and tunnels, including regulations

(d) concerning those items such as hazardous materials, trafficking of illegal products, terrorism.

I'm more than happy to do that as long as the criteria just give examples of different expectations of this report or guidelines of the report, rather than leaving it as it is, which I think really does restrict the minister.

• (1150)

The Chair: What I'm going to suggest, then, if you want to try to formalize that in writing, Mr. Jean, is that we could move on to the other clauses while we're getting that. That way we can actually move forward in the time we have.

Is that agreed?

Some hon. members: Agreed.

The Chair: Okay. So I'll ask you, Mr. Jean, to have the wording so everyone can see it.

Mr. Brian Jean: Yes, Mr. Chair, I'll get that done.

The Chair: Thank you.

Okay, we're moving on to clause 17.

(Clause 17 agreed to)

(On clause 18—*Authorized officer may make emergency direction*)

The Chair: Mr. Masse, you have an amendment in clause 18.

Mr. Brian Masse: Yes, sorry, Mr. Chair. I was looking at the other line.

The Chair: We have an amendment, NDP-8.2.

Just before I go to Mr. Masse, I'll ask everybody to make sure they have that copy in front of them.

Mr. Masse.

Mr. Brian Masse: This is just a change in the wording again. It would read:

of the Department of Transport or any designated person to make, subject to any restrictions or conditions that the Minister may specify, any direction that the Minister may make under section 17 whenever the officer or person is of the opinion that there is a threat

That's just to give the minister more authority to designate somebody, with relation to the previous clause. It's as simple that. It's an expansion of the minister's designation ability. I won't waste the committee's time with too much detail, but I believe it could be very important, for example, for other officials. That could be part of the condition that requires the minister to take action, be it, for example, a fire chief, a police chief, or whatever. It might be part of the process.

That's the reason for this amendment.

The Chair: Are there any comments?

Mr. Harvey.

Mr. Éric Harvey: Clause 18 exists to allow the minister to designate another person to do the same thing the minister himself does. What is very important to understand here is that the powers under clause 17 are very serious. I cannot emphasize that more.

They're very serious because they allow the minister, through his own decision, to order a series of very significant things in terms of "do this, do that", and it's aimed to be done on a very urgent basis only. In other words, the power of the minister under clause 17 is circumscribed to very urgent matters.

The idea of why we need to authorize a person other than the minister is simply that the minister may not be reachable. But the fundamental principle is that this power would be used, or exercised if you want, primarily by the minister to start with, and only under very exceptional circumstances would somebody other than the minister do it.

With all due respect, I don't believe the power found in clause 17 can be delegated to the chief of a fire department or anything of that sort. Cooperation will be required from perhaps the local police or the local services, but I don't believe the power in question here should be delegated to anybody other than someone who is very close to the minister, given the seriousness of what is being done and the related accountability that must come with it.

The Chair: Mr. Masse.

Mr. Brian Masse: I have just a quick clarification to make on this.

I was concerned that the minister would be restricted if he did designate authorities to intervene at that time, and that they may themselves be restricted.

Are you assuring me that the minister or his designates will have no...because right now, as private property stands, we require permission to enter.

What I'm looking for here is that under the minister's authority there can be no restriction whatsoever. I mean, look at how many bridges and tunnels we have. The minister can't be everywhere.

So I want to make sure that anybody he authorizes is able to take precedence on the site.

• (1155)

The Chair: Mr. Harvey.

Mr. Éric Harvey: Perhaps another way to explain why clause 17 exists is that it essentially gives the minister the power to regulate a

behaviour, just like regulations would otherwise. It's just that there's no time to develop regulations when a threat is imminent.

The words, "anything that in the opinion of the Minister it is appropriate to do or refrain from doing in order to respond to the threat" are very broad in scope and certainly allow the minister to say, go on that property and do this to address the threat.

Mr. Brian Masse: I'll drop my amendment. I apologize. The legislation wasn't as explicit as I thought.

The Chair: Mr. Laframboise.

[*Translation*]

Mr. Mario Laframboise: Mr. Harvey has convinced me. We're opposed to the amendment.

The Chair: Go ahead, Mr. Carrier.

Mr. Robert Carrier: I'd like to have something clarified. Mr. Harvey has convinced me of the importance of reaching this decision. My question relates to the translation. In the English version, we note the words: "any officer of a department", while the French version refers to a "fonctionnaire". The French version seems more general. A "fonctionnaire" could be anyone. Isn't an "officer" someone with more authority?

Mr. Éric Harvey: To my way of thinking, the words "officer" and "fonctionnaire" are equivalent. We don't want to impose too many restrictions, as this would prevent us from delegating and from rapidly responding to a situation. That's why a more general term was used, although it's restricted to a departmental official.

Mr. Robert Carrier: For the sake of clarity, would it be better to use the word "cadre" or "officier" in the French version?

Mr. Éric Harvey: No. I believe the word "officier" is an anglicism. If you use the word "cadre", you're raising a slew of questions. What exactly do you mean by "cadre"? Which level of "cadre"? I recommend that you stick with the current wording.

Mr. Robert Carrier: I'll trust you on this one.

[*English*]

The Chair: Thank you.

Since Mr. Masse has withdrawn the amendment, shall clause 18 carry?

(Clauses 18 to 22 inclusive agreed to)

(On clause 23—*Prohibition*)

The Chair: We have an amendment to clause 23. It is Liberal amendment L-2.

Mr. Bell, will you speak to it?

Mr. Don Bell: Thank you.

The copies were circulated.

The Chair: I want to make sure everyone has a copy of it.

Mr. Don Bell: It was circulated at the last meeting.

I should add that in subclause (1.1) of the proposed amendment, the word "only" should not be in there. Delete the word "only". It should read, "taking into consideration the following factors", rather than "taking into consideration only the following factors".

The reason this came up is that during the discussions with the witnesses, one of the comments was that some criteria should be provided. I'm aware that in the Investment Canada Act, for example, there are references I think to the net benefit to Canada. There are some guidelines so that people can understand the considerations that will be used in the decisions.

Here there were no criteria. If I understand the kinds of things that came out of the discussion with the witnesses, the issues that would come up on the acquisition of a bridge or tunnel would include the safety and security of the public, the criminal records of the people who want to acquire it or to whom it might be shifted, and the financial resources—and therefore the ability of a company to continue to operate the asset they're taking in a satisfactory way.

The issue really is that of providing some direction so that people will know under what circumstances or what guidance these decisions would be made.

I would appreciate the department's comments.

• (1200)

The Chair: Mr. Harvey.

Mr. Éric Harvey: When we developed the provisions respecting the transfer, the instructions I had were to make the lid very tight in terms of covering all possible transactions. For example, if you simply refer to the sale of the property, of the bridge, what can happen is that you can transfer the stocks of the company that owns the bridge and you achieve the same purpose without infringing the act.

Really, the mandate I had was to make the lid very tight, and I also got the assistance of a specialist in corporate law just to be sure that, essentially, our provisions were very tight. This means in fact that essentially the intent is for all potential transfers, no matter for what reason they exist, would be covered.

Now, the motion before you wants to, if you will, establish a box around the GIC when the GIC makes their recommendations. In other words, it sets a series of conditions and says this is it, nothing outside these criteria. I understand the word “only” is removed, but it nevertheless puts some kind of limitation in terms of the GIC discretion.

The bill is looking at bridges in a very general and broad way, concerning transportation, to start with, trade, security, safety, all of those criteria, and all of these matters will become, if you will, the framework that will apply to GIC when making its decisions. In other words, GIC cannot make an arbitrary decision. The decision that has to be made has to be consistent with the spirit of the act so that it's consistent with Parliament's intent.

I guess the risk of enumerating is that it will be interpreted as limiting the discretion of GIC. I guess the risk, when you enumerate, is that you may not think about something that may happen in the future that would make sense and be consistent with the spirit of the bill, yet not be able to use it. That's the risk I wanted to explain to this committee at this stage in the discussion.

The Chair: Thank you.

Mr. Bell.

Mr. Don Bell: I appreciate the comment, Mr. Harvey, but the intention wasn't to limit. The intention was, I guess, to provide some direction or priority or focus, in terms of what would be considered. That's why I want to make it clear that removing the word “only” would have been limiting, and it was the intention to ensure that it consider the following factors, to give some direction to people to know that what it is we're expecting will be the main concern, and to maybe depoliticize, to some degree, and ensure that there's a businesslike focus on the kinds of decisions that are made, rather than potentially being wide open. I am concerned, because of the nature of the crossings, or the importance of them, and the fact that there are only two of them that are privately held, that they're done in a fair way and that it's less political and more businesslike and more rational.

The Chair: Mr. Harvey.

Mr. Éric Harvey: I would like to add one comment. If you go to subclause 24(2), you'll see that the person who submits the application has to provide the minister with the information that will be listed in guidelines. In other words, it's not as if people will be shooting in the dark. I mean, those operators who want to make a transfer will know what is expected of them in terms of what they have to provide. This will help. And of course they will have to explain the circumstances, and that will then assist GIC in terms of making the decision it has to make.

• (1205)

The Chair: Mr. Jean.

Mr. Brian Jean: This reminds me of the Income Tax Act and how well that's going, with people coming along—lawyers primarily—and finding loopholes. I think that's the situation. You're limiting the minister; you're limiting the ability of the Canadian government to decide who owns the bridges.

What if a foreign power that we're not friendly with comes in and wants to own the bridges? What if somebody wants to own all the bridges and force the price of transfers to go up? There are just so many things. By setting that down, we need to take into consideration that for these important bridges and tunnels, for these passageways for I think 50% to 60% of our economy, we need to have it as wide open as possible so that we can make decisions as a government that are in the best interest of Canadians. The governor in council has to make the decisions in the best interest of Canadians; that's what it's there for.

I just think by limiting it, it's sort of what we're doing with the Income Tax Act. We're inviting the possibility of people finding loopholes that are not to our benefit.

The Chair: Mr. Masse.

Mr. Brian Masse: To the researchers, concerning this amendment, how does this compare with U.S. legislation with regard to their sale? This seems to really limit the scope of that. We've seen controversies on infrastructure sales recently in the United States, with the Dubai issue.

I think this would be different from what they have in the U.S. We do have joint ownership of some of this infrastructure, because of the 24 international crossings that are bridges or tunnels for car and vehicular traffic, only two are privately held. The others ones are jointly owned by governments.

Mr. Éric Harvey: I must admit that I'm not fully aware of the U. S. legislation.

One thing I would add is that the rationale for having control over the transfer is in fact consistent with the same rationale to have, initially, GIC approval to build the bridge. In other words, if you come and ask the GIC for permission to build a bridge, there will be, of course, assessments of the need for the bridge, and so on and so forth, but the GIC will undoubtedly look at your actual capacity to do it, and there will be a series of things, all kinds of things.

Here what will happen is the GIC will look at everything that has nothing to do with the new bridge, because the bridge will already exist, but it will nevertheless look at all the criteria in terms of who will operate it, the intent, the plans, and all of that. In that sense, the same spirit will go with the assessment of the transfer that should normally go with the initial authorization.

The Chair: Mr. Laframboise.

[*Translation*]

Mr. Mario Laframboise: I'm not happy with the proposed amendment. If certain criteria have been established, then they should be included. That's my position.

If you use the words "only", then they should all be listed. If you delete the word "only", it lends a certain tone to the act. If one particular criteria is not listed, that's opens to the door to legal challenges and that would make the situation even worse.

Therefore, if we do want some criteria in place, let's sit down and draw up a complete list. Otherwise, let's put our trust in the minister. I would opt for the latter course of action and I would defer to Mr. Harvey's explanations in this case.

[*English*]

The Chair: With that, I will call the vote.

(Amendment negatived)

(Clause 23 agreed to)

(Clauses 24 to 31 inclusive agreed to)

(On clause 32—*Capacity and powers*)

• (1210)

The Chair: We have amendment NDP-9. I want to make sure everybody has that in front of them.

Mr. Masse.

Mr. Brian Masse: Thank you, Mr. Chair. Mercifully, this is my last amendment.

This one is specific to a situation we have witnessed in Windsor, but I think it can happen in other areas. I'll read the amendment quickly:

For greater certainty, despite the provisions of any letters patent of a corporation established under this Act, where Parliament has authorized in an Act referenced in the Schedule a particular mode of transportation used for an international bridge or tunnel, that the mode of use cannot be changed by a corporation except upon application pursuant to this Act.

The reason for it is that we have in my community a rail tunnel, and there has been a proposition that the rail tunnel be converted to a

truck tunnel. It's the CP Rail tunnel I'm talking about in particular. For members, it's about 100 years old. There are actually two tunnels. They're small, single-sleeve tunnels that can only accommodate single-stacking rail at the moment. Double-stackers go through Sarnia.

Now there is a proposition that those tunnel tubes be converted for transport trucks. This has resulted in considerable controversy, not just in terms of the use of that facility in its on-the-spot location, but also in terms of the reciprocal effect of getting a new route to that facility in order to cross, getting a customs facility, and a whole series of other planning issues. The amendment here is just to make sure that the use of the international bridge and tunnel for the particular modes of transportation it's built and designed for, and of the subsequent infrastructure around it, is made consistent. That's why this specific element is in the clause.

I would ask for any comments, sir.

Mr. Éric Harvey: I think the provisions of the bill are in fact consistent with what you're after, because if you read the definition of "alterations", you'll read that it includes "a conversion, an extension, and a change in the use". Conversion is specifically what you referred to I think in your example of taking a rail tunnel and making it a truck tunnel or a road tunnel. That conversion is an alteration that requires GIC approval under clause 6.

Mr. Brian Masse: Okay. I had to make sure I got that on the record. I can withdraw my amendment.

Thank you.

The Chair: Thank you, Mr. Masse.

Mr. Brian Masse: I'm not trusting anything, I'm sorry. I've been through this....

The Chair: I'm going to ask, then, if clauses 32 through 37 can carry.

(Clauses 32 to 37 inclusive agreed to)

(On clause 38—*False statements or information*)

The Chair: We have government amendment G-3. Again I want to make sure everybody has it in front of them.

Mr. Jean, do you have any comments on this?

Mr. Brian Jean: I think it's very straightforward. It's just to expand it somewhat, but there's not really any rocket science in what we're proposing.

The Chair: Are there any other comments?

Mr. Harvey.

Mr. Brian Jean: It's just a clerical "or", as far as I can see.

Mr. Éric Harvey: In the current wording there's a reference to section 39; however, section 39 is divided into subsections, and as a result the drafters reminded me that to be accurate we should make this technical motion just to refer to the proper subsection.

The Chair: Can I ask that amendment G-3 carry?

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

(Clause 38 as amended agreed to)

(Clauses 39 to 42 inclusive agreed to)

(On clause 43—*Regulations*)

The Chair: We have another amendment, G-4. Does anyone want to make a comment on this?

Mr. Harvey.

Mr. Éric Harvey: This one was tabled to go with new clause 15.1. This motion was brought bearing in mind that new clause 15.1 would be added and that it was important to put it in the enforcement provisions.

•(1215)

The Chair: What I'm going to do then is suggest we leave this one out until we get to new clause 15.1.

Mr. Jean.

Mr. Brian Jean: I have made the changes and written it out. I'm not sure if it's been translated yet or not.

The Chair: I've asked for it to be translated before we present it.

Mr. Brian Jean: Sorry, Mr. Chair. I do have a question for the department. The original clause actually specifies section 26 as well, and I see it has been left out of this particular section, unless I'm reading it incorrectly.

The amendment to subparagraph 43(a)(ii) says "9, 13, 15.1 or" and the bill says "9, 13 or 26". In the French version of the amendment it actually has 26, but it's been left out of the English version. I wonder if that was on purpose or accidental.

The Chair: Is it on the next line?

Mr. Brian Jean: It's not on the amendment itself.

Ms. Evelyn Marcoux: It's because it's on the other line below.

The Chair: We are going to move past this right now and come back to it when we get amendment G-2 looked after.

(Clauses 44 and 45 agreed to)

(On clause 46—*Issuance of notice of violation*)

The Chair: We have another amendment. I'm hoping everyone has it in front of them.

Any comment?

Mr. Harvey.

Mr. Éric Harvey: Yes. This one is similar in kind to the previous one; it's technical. It's been brought to my attention by the drafters essentially to have tighter wording...with the remaining parts of the bill that are referred to.

The Chair: It's a technical amendment.

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

(Clause 46 as amended agreed to)

(Clauses 47 to 60 inclusive agreed to)

(Schedule agreed to)

The Chair: Now we have to go back. I think there's some work being done to clause 15.

We're going to suspend for a couple of minutes while we get the translation, if that's suitable to everybody. It shouldn't be very long.

•(1218)

(Pause)

•(1234)

The Chair: I'm thinking that everyone now has new subclause 15(2) in front of them, in English and in French.

(On clause 15—*Regulations*)

The Chair: Mr. Masse.

Mr. Brian Masse: Thank you, Mr. Chair. I move new subclause 15(2). A translation has been provided.

I appreciate the mercy of at least taking into account some of the concerns that have been expressed with regard to this legislation. I think one of the things to keep in context is the fact that this is giving serious changes to legislation that previously my municipality had some influence upon. It has created some awkwardness for me, and some concern.

The legislation does a lot of good things in many respects, but this is one about which I have some reservations, and this, explicitly at least, brings in other levels of government for consultation, which is important. I think it's important not only just for Windsor but for many other regions that have to have access to decision-making and input.

•(1235)

The Chair: Mr. Laframboise.

[*Translation*]

Mr. Mario Laframboise: Mr. Chairman, since I assume the government agrees with the new subsection 15(2), I will gladly support the bill. As I already indicated, as the former President of the Union des municipalités du Québec, I'm happy to entrust some powers to municipalities.

[*English*]

The Chair: Thank you.

Mr. Hubbard.

Hon. Charles Hubbard: Mr. Chair, along the same vein, I would like to know the position of the parliamentary secretary and the government. To me, I would not agree if I were sitting in his position, but if they do agree, I certainly would vote for it.

The Chair: Mr. Jean.

Mr. Brian Jean: I would say the compromising position of the Conservative Party is why we're in power and you're not.

Some hon. members: Oh, oh!

Mr. Don. Bell: You're in a compromising position?

Mr. Brian Jean: When you're on the other side, I'm always in a compromising position.

Some hon. members: Oh, oh!

Mr. Brian Jean: I would just like to say that we're very happy with this particular motion. We think it's appropriate, and it will help Canadians.

The other issue, of course, is new clause 15.1, and I don't want that to be left out in the back, after we deal with that, of course.

Hon. Andy Scott: Do we deal with new subclause 15(2) before new clause 15.1?

The Chair: Yes, this is the new subclause 15(2).

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

(Clause 15 as amended agreed to)

The Chair: On new clause 15.1 we had a government amendment, G-2.

Mr. Jean.

Mr. Brian Jean: I think this also deals with some of the comments Mr. Masse brought forward earlier, which is the consultation with the municipality as well.

I just want to make sure, Mr. Chair, that we deleted paragraph 15 (b). Is that correct?

I think it's straightforward. It just takes out, in essence, paragraph 15(b) and puts it into new clause 15.1, to deal with the same issue. So unless there are any comments from the department, I think it's very straightforward, and it actually deals with consultations from other levels of government too, which of course is something we all want.

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

(On clause 43—*Regulations*)

The Chair: Now, G-4.

Mr. Laframboise.

Mr. Mario Laframboise: No, it's okay.

The Chair: Mr. Harvey, is there any comment on this, or Mr. Jean?

Mr. Brian Jean: This is the clause we were discussing before in relation to hazardous goods. I can confirm to Mr. Masse that in my opinion I think the committee should, at the very first opportunity—because we are going to be dealing with safety in all modes of transport—deal with dangerous goods. I would ask for the consent of the majority of members that we would give assurances to Mr. Masse that we will deal with the Transportation of Dangerous Goods Act from a federal perspective when we deal with the safety of all modes of transport, which we are going to do immediately. That is my understanding. We're all very interested in this.

The Chair: So what we're asking the committee to do is that clause 43....

Mr. Steven Blaney: No, you're talking about the wrong clause. Clause 43 is housekeeping.

The Chair: Mr. Harvey.

Mr. Éric Harvey: Clause 43 is simply to provide for clause 15.1 in the sanction provisions, so that orders issued under that will be sanctioned. That's all. It's purely technical.

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

The Chair: I'm sorry, Mr. Laframboise.

[*Translation*]

Mr. Mario Laframboise: Shouldn't you be adding subsection 15 (2)?

Mr. Éric Harvey: No, that provision merely refers to a consultation process.

Mr. Mario Laframboise: Fine then.

[*English*]

The Chair: Okay.

(Clause 43 as amended agreed to)

•(1240)

The Chair: Clause 16?

Mr. Brian Jean: That would be the issue I was discussing, Mr. Chair, in relation to—

The Chair: Oh, that's right. I'm sorry.

We had amendment NDP-8.1 on clause 16. If I understood it correctly, the amendment would be withdrawn based on the assumption and consideration of this committee that we will move very quickly into the review of the Transportation of Dangerous Goods Act, 1992, which is part of the safety and the security the committee deemed a priority.

Mr. Scott.

Hon. Andy Scott: Could I ask the parliamentary secretary, is this review sanctioned or is it something that we're doing on our authority?

Mr. Brian Jean: On our authority as a committee, just simply to deal with safety and security.

My comments to Mr. Masse, and those of the department, are that this is under review right now. We're very interested, obviously. How can you deal with the safety of all modes of transportation in Canada unless you're dealing with dangerous goods, which are obviously one of the major aspects of this. I think what we should do is just have the committee's opinion at this stage, if that's one of the first pieces of legislation that we want to review relating to the safety of transportation in Canada. It would make sense to me.

Hon. Andy Scott: I would make a distinction, though, between the committee making a decision that we would wish to consider a subject and the parliamentary secretary, representing the minister on this committee, giving us assurances that this would be something that the government would in fact sanction.

The committee, particularly in a minority situation, can call on anything, frankly, if we decided to do it. It's more important that the government is agreeing to this exercise. The parliamentary secretary, as the representative of the minister on the committee, is saying this is something the government sanctions, as against it simply being something the committee is demanding—which is a very different thing. I would want to hear from the parliamentary secretary on that.

The Chair: Just a response, Mr. Jean, and then I'm going to go to Mr. Laframboise.

Mr. Brian Jean: The response is simply that our minister is very, very interested in anything the committee brings forward, because we obviously represent all Canadians here. I would assure all members that in my opinion—and this is my opinion only, because I can't bind the minister, or the Prime Minister, of course—anything that the committee brings forward as an action item, the minister will look at and take serious consideration of and I believe do.

The Chair: Mr. Laframboise.

[*Translation*]

Mr. Mario Laframboise: I'm very unhappy about one thing. According to procedural rules, we're entitled to propose some amendments today. Earlier, departmental officials told us that it was too early to do that, that they didn't have enough time to analyse them. I'm quite convinced that Mr. Masse's proposed amendment would not have affected any other acts. We were short on time and I think it's regrettable that we did not have access to the retinue of law clerks who could have ruled immediately on the status of this amendment. I cannot readily accept the request for more time. To my mind, this was an improvement of the position taken in the bill. I'm convinced of that, but I will go along with the decision. I have no objections if Mr. Masse wants to withdraw his amendment. However, I do object to being told that officials only received the amendment this morning. After all, this is important. Once the legislation is adopted, it's a done deal. I'm not very happy with the way things have gone.

[*English*]

The Chair: Ms. Marcoux.

[*Translation*]

Ms. Evelyn Marcoux: If I understand correctly, the committee will hear from representatives next Thursday on this very matter. Since the committee will be dealing with this legislation next Thursday, we're talking about one week.

[*English*]

The Chair: Mr. Masse.

Mr. Brian Masse: From my perspective, I see this as a more onerous position for the government. I'm willing to drop my specific amendment to this clause, but I am doing so under the advice and I guess from the discussion we have had here that there is going to be a serious review of the legislation and improvements. I think Canadians should expect that. We have a serious problem with the transportation of dangerous goods and hazardous materials through our communities.

The United States has already been dealing with that. They have separate legislation. They are actually redirecting train traffic of these materials to other destinations, away from communities and from centred areas where populations are large. They've been dealing with this specifically.

So this is a very complex and larger issue, and I think this puts more onus.... I don't have a problem dropping it right now, since I think, quite frankly, they know they have to come up with a solution and accountability related to dangerous goods and hazardous materials on bridges and tunnels. They had better do so soon, because they will be responsible if this bill passes and there are no plans and no changes.

•(1245)

The Chair: Mr. Laframboise.

[*Translation*]

Mr. Mario Laframboise: I simply wanted to point out to Ms. Marcoux that based on the order in which government bills were tabled, Bill C-3 should be debated in the House before next Thursday. That information was passed along to me by my leader.

As you can appreciate, that could potentially influence my party's position on this bill or our discussions. I'd like us to have this time, but in my opinion, the process of adopting the bill will already be under way. I realize that we can always amend the bill before its adoption, but it will already have come up for debate next week in the House, before we've heard from everyone.

[*English*]

The Chair: Mr. Scott.

Hon. Andy Scott: I'm curious as to whether the protection that Mr. Masse was seeking—I don't want to put words in the mouth of the officials from the department, but there was some recognition of the need to look at the transport of dangerous materials—was legislation or regulation. I understand it was legislation. So the protection that Mr. Masse was seeking would probably require something by way of legislation.

Even if the minister were here and said “I would like to bring forward legislation”, I could tell the minister he would have to be in a lineup with a whole bunch of other people who have legislation. Consequently, I think we would wish to hear in clear debate, or some place, something from the government talking about the need to do this.

I mean no disrespect to my colleague from Windsor, but there is not much advance here by way of dealing with hazardous materials if what it really relates to is a review by this committee. I'm not trying to diminish the importance of the committee review, but the reality is there is a requirement for a commitment from the government, particularly as it requires legislation, a legislative amendment, that's a long way out there on the legislative agenda. Even if the minister himself were trying to push it, I can tell you that it takes time.

The Chair: Mr. Jean.

Mr. Brian Jean: Perhaps I may say this, Mr. Chair. The reality is that clause 16 already allows encompassing hazardous goods. It already allows it. It doesn't restrict it at all. It is wide in its berth, and we all understand here, and even the department in my discussions with them understands, that this is a critical issue and that we need to deal with it. It's under review in the department. How can we be more forthcoming and truthful than to say everybody understands this is an issue?

Clause 16 already includes that. It doesn't restrict it. We've worked cooperatively together to reach it. I think everybody on the committee understands my position and my colleagues' position on all the issues, and I think they would suggest that we all have the same interests at heart. So why would we say something today and not follow through? It's a commitment we want to follow through with because we believe in the safety and security of Canadians.

By way of example, if I can be so blunt, the only highway in my particular riding of Fort McMurray goes right through my community, and not 50 feet from the Tim Hortons we have, I think every 25 seconds, a hazardous load goes through that highway. So I have asked the department myself about some issues respecting that, from a provincial government.... I am very interested in that issue because I have 70,000 people living within that dangerous goods route. I think many more dangerous goods go through there than go through other areas, so I am very interested in looking at the act.

The Chair: Final word, Mr. Masse.

Mr. Brian Masse: A clarification. I was under the impression that regulations would be looking at this issue as well. Then I thought I heard something different from Mr. Scott. Will the regulations explicitly look at hazardous materials?

Ms. Evelyn Marcoux: You mean through this act?

Mr. Brian Masse: Yes.

Ms. Evelyn Marcoux: Mr. Harvey.

Mr. Éric Harvey: If you read paragraph 16(b), you will see that the regulations must specify what must be included in the security plans.

Mr. Brian Masse: I just want to make sure, and I hope they get the message, that it includes safety and security. This is why I explicitly wanted it in there before, because I've been told, "Oh, don't worry, regulations will take care of it". I hold this government accountable if regulation does not deal with this issue.

Mr. Éric Harvey: But also remember that the opening paragraph of clause 16 gives very broad power to regulate safety and security in general. Paragraphs 16(a), (b), (c), and (d) articulate it but don't limit the generality of the opening paragraph.

• (1250)

Mr. Brian Masse: Are you saying yes?

Mr. Éric Harvey: Yes.

The Chair: Mr. Masse, will you withdraw your amendment?

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

(Amendment withdrawn)

(Clause 16 agreed to)

The Chair: Mr. Scott.

Hon. Andy Scott: I suspect that as soon as we pass this, we'll adjourn and it will be over. I'd like to comment on a couple of things before that happens.

The Chair: We do have a few more things. Do you want to do it now?

Hon. Andy Scott: I may as well, since I've opened it up.

There have been a number of references to the fact of late notice that we have amendments. I think it is critically important to make this point. Mr. Fast in particular thought it was somewhat disrespectful or unfair to officials. I will give Mr. Fast a list of a lot of his colleagues' over the last number of years...as a chair of the justice committee, with very complicated legislation.

It is the nature of the place, it is part of the rules, and it happens.

I would say this of your colleagues for the last number of years: on very complicated legislation they would make amendments from the floor, and I wouldn't want that to be characterized as disrespectful of the professional staff.

The second point I would make—

Mr. Ed Fast: Can I respond?

The Chair: No.

Hon. Andy Scott: I think we all understand that we have the right as parliamentarians—

Mr. Ed Fast: We're not challenging that at all, Mr. Scott.

The Chair: Excuse me, we have to understand that every bill is subject to amendment. There can be new ones come on the floor and we have to deal with them.

Hon. Andy Scott: The second point I would make is that there has also been reference to the fact that many of Mr. Masse's proposed amendments are out of order, because with the bill coming here after second reading, it is assumed that the principles of the bill have been adopted by Parliament.

To date in this Parliament, there hasn't been a single piece of legislation come to committee after first reading. That is a significant change in the way the committees function. It's a significant decrease in the influence of parliamentarians in terms of legislation, because it limits us in our ability to affect legislation in committee prior to that principal agreement. There hasn't been one. Of the 20 pieces of legislation sent to committee, zero have gone before second reading, as against almost 30% of all the legislation in the last Parliament, as a specific exercise to give parliamentarians more capacity to change legislation earlier in the process, before decisions are made.

I make the point because we rule things out of order sometimes not knowing why, I guess, and the reality is that this is the reason. I would make the point strenuously to members opposite in particular that we should see more legislation after first reading so that as parliamentarians we would have an opportunity to affect public policy earlier in the process.

I would hope that members on this side will join with me in that observation, because it is critically important. We were making progress, and that progress seems to have been arrested, for whatever reason.

The Chair: Thank you, Mr. Scott, and while not agreeing or disagreeing, I think that's probably something that has to be dealt with by the House leaders. There's always agreement how legislation moves through the House, but your point is well made.

Shall clause 1 carry?

Some hon. members: Agreed.

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill carry as amended?

Some hon. members: Agreed.

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

Some hon. members: Agreed.

We will meet again on Tuesday at 11 o'clock, and the issue will be safety. We will notify you of what room.

The Chair: That's it. That's the last line.

Thank you all, and have a good weekend.

Thank you to our witnesses for spending time with us.

The meeting is adjourned.

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