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## **Standing Committee on Transport, Infrastructure and Communities**

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**Chair**

**Mr. Mervin Tweed**

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## Standing Committee on Transport, Infrastructure and Communities

Monday, June 11, 2007

• (1535)

[English]

**The Vice-Chair (Mr. Don Bell (North Vancouver, Lib.)):** I call this meeting to order.

First of all, we'll start with a motion from Mr. Julian on amendment NDP-11. I then have a suggestion on a manner that we can take as an option.

(On clause 12)

**The Vice-Chair (Mr. Don Bell):** Mr. Julian.

**Mr. Peter Julian (Burnaby—New Westminster, NDP):** Yes, Mr. Chair.

**The Vice-Chair (Mr. Don Bell):** Are you moving amendment NDP-11?

**Mr. Peter Julian:** According to the agenda handed out, we were starting elsewhere, and I set myself up for that.

**The Vice-Chair (Mr. Don Bell):** Do all the members have this sheet? It's what we'll be talking about in a second. It's a proposal to group some motions, if there's a willingness to do so.

Would you care to move it?

**Mr. Peter Julian:** Yes, I move it.

Essentially, this is an issue that was brought up and raised earlier. The exemptions that are provided for under that section are not provided to “a holder of a Canadian aviation document or an operator of aircraft”. It's to separate the issues around non-punitive actions that deal with employees, which we all agree with, and the issue of whether or not to give a “get out of jail free” card to the holder of the document or the operator of the aircraft.

We're making a distinction here. Through this amendment we would essentially be defining a “person” as an individual, not as a holder of an aviation document or an aircraft operator.

**The Vice-Chair (Mr. Don Bell):** Okay. Thank you.

As you can see in this proposal here, if the committee wishes, we're proposing to group amendments. We could open the discussion to cover amendments BQ-17, BQ-18, BQ-21, BQ-22, and NDP-12 because they overlap to some degree. Do you wish to deal with them individually?

If the motion for amendment NDP-11 is passed, it may well be that BQ-17 and BQ-21, which delete parts of this amendment, 5.395 and 5.397, would then leave only 5.396 affected by your motion, Mr. Julian.

**Mr. Peter Julian:** Mr. Chair, we've moved the motion.

**The Vice-Chair (Mr. Don Bell):** That's correct.

**Mr. Peter Julian:** I would suggest that the discussion would be on amendment NDP-11, which essentially deals with flight data analysis agreements.

**The Vice-Chair (Mr. Don Bell):** Okay. Mr. Julian, do you wish to speak further to the motion?

**Mr. Peter Julian:** I'll respond after Mr. Jean.

**The Vice-Chair (Mr. Don Bell):** Mr. Jean.

**Mr. Brian Jean (Fort McMurray—Athabasca, CPC):** Thank you, Mr. Chair.

After our discussions last time and indeed the suggestions to exclude some of the different organizations from the self-reporting mechanism, could the department actually confirm what exactly Mr. Julian is trying to do with this amendment? Does the department think this would be a useful exercise to take it out and to not have it function in the way the others do?

**The Vice-Chair (Mr. Don Bell):** Mr. Reinhardt.

**Mr. Franz Reinhardt (Director, Regulatory Services, Civil Aviation, Department of Transport):** Yes, amendment NDP-11 deals with the universal voluntary non-punitive reporting program. It has nothing to do with flight data analysis.

This is a program where anybody can report voluntarily. I believe Mr. Julian's motion is that they would like to remove that right for operators and document holders. But if you remove document holders, you would prevent any pilot from reporting individually because a pilot is a document holder. Aircraft maintenance, engineers, and mechanics are document holders as well. You cannot do this.

The point was to have as much information as possible. There are already criteria to prevent abuse by big companies or certificate holders. They cannot report in cases of criminal activity, in cases of intentional things, in the case of not being qualified to do something, and in the case of accident-related safety issues. Those criteria are quite strong, and they cannot be used in such circumstances.

**The Vice-Chair (Mr. Don Bell):** Mr. Jean.

**Mr. Brian Jean:** That answered my question.

**The Vice-Chair (Mr. Don Bell):** Is there any other discussion?

Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ):** That answers my question.

[English]

**The Vice-Chair (Mr. Don Bell):** Mr. Julian.

**Mr. Peter Julian:** Mr. Chair, Mr. Reinhardt is right. The heading of the section is the voluntary reporting section. I think it is fair to say, however, that we have to ensure there is a distinction made between employees and the holders of Canadian aviation documents and aircraft operators. There is no doubt in my mind that a distinction has to be made. That's why, for the voluntary reporting sections, we're proposing this amendment.

**The Vice-Chair (Mr. Don Bell):** Is there any further discussion?

Mr. Fast.

**Mr. Ed Fast (Abbotsford, CPC):** Mr. Chair, I have a question.

Mr. Julian has used the term “get out of jail free card”. I appreciate what he's trying to achieve; it's always the spin you put on something. It's just that he's completely wrong. This is not about getting out of jail free.

I want to ask our officers here to comment on whether there's anything preventing the authorities from pressing criminal charges. Is there anything that would prevent a member of the public or an organization of the public from commencing an action for negligence in the civil courts? Is there anything preventing an employee from going outside of the voluntary reporting process and going to the press by way of whistle-blowing or going to Transport Canada to say that the company is doing something wrong and it's a serious problem?

Is there anything that prevents them from doing that?

**Mr. Franz Reinhardt:** Indeed, Mr. Fast, nothing prevents authorities from taking action based on information they have obtained outside of the system. Nothing prevents a private party from taking up a lawsuit. Nothing prevents any action being done against those individuals or those companies if it's done outside the voluntary, non-punitive reporting.

• (1540)

**The Vice-Chair (Mr. Don Bell):** Mr. Julian.

**Mr. Peter Julian:** Mr. Chair, Mr. Fast essentially made my point for me. I appreciate his asking the question.

As we have it in the clause right now, proposed subsection 5.396 (1) states:

If a person reports a contravention under the program referred to in subsection 5.395(1), they may not, except in the circumstances specified in subsection (2), be found to have committed the contravention in any proceedings under this Act before any court or other body that has jurisdiction to hear the matter.

Mr. Fast has just proved my point that essentially what the amendment does is take away the right of the employer, the aviation document holder, the operator of aircraft, to simply get around a contravention that may have occurred. Here they may not be found to have committed the contravention in any proceedings under this act before any court or other body that has jurisdiction to hear the matter. Mr. Fast has actually made my point for me, and I thank him for that.

Essentially this is a “get out of jail free card”, unless there is some circuitous route by which other information, not contained through the proceedings, comes to Transport Canada. The likelihood of that is less, so essentially what we have here is a “get out of jail free card” for operators. Very clearly, witnesses testified to the fact that they did not believe that would be helpful in increasing the safety and security of Canadian aircraft.

I thank Mr. Fast for making my point for me.

**The Vice-Chair (Mr. Don Bell):** Mr. Carrier.

[Translation]

**Mr. Robert Carrier (Alfred-Pellan, BQ):** It seems to me that the amendment can hardly apply because section 5.395 refers to a person who would be designated to administer the program in question, but, further on, it refers to any person who can report a contravention. So the word “person” has two different meanings. Subsection 5.395(2) states: “The Minister may designate a person or body to administer [...]” Here we're talking about a person who is designated for one thing, whereas, further on, in the other clauses, we're talking about a person who can report a contravention. It seems to me these are two different persons.

**Mr. Franz Reinhardt:** In legislative drafting, Mr. Carrier, the word “person” may be used to designate a corporation, an individual or an association. The word encompasses virtually everything.

In the case of subsection (2), which mentions that the minister may designate a body, that can be a person, but the intention of course is to designate a government body that is independent and objective, such as the National Research Council of Canada or the Transportation Safety Board.

Where it states that a person may report a contravention, it refers to any “person”, which could be an individual or a corporation, that is to say any person that has a legal entity, and that could also be a non-profit association. It is in that sense that the word “person” is used.

Consequently, the word is correct in both cases.

**Mr. Robert Carrier:** That's why it seems to me that the amendment can hardly apply to both possible definitions of the word “person”.

**Mr. Franz Reinhardt:** I agree with you.

[English]

**The Vice-Chair (Mr. Don Bell):** Okay. Are we ready for the question on the amendment?

(Amendment negated)

**The Vice-Chair (Mr. Don Bell):** On amendment BQ-17, go ahead, please, Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** Mr. Chairman, I withdraw—

[English]

**The Vice-Chair (Mr. Don Bell):** Excuse me.

Mr. Volpe on a point of order.

**Hon. Joseph Volpe (Eglinton—Lawrence, Lib.):** I just want to know how we're proceeding. I thought you were going to ask us whether or not we had accepted this concept of grouping all of these amendments as being consequential one of the other. If we're talking about, as we have just heard, an explanation of "person" meaning essentially an entity, whether it be personal or corporate, or if we're talking, for example, about employees or operators, or whether we're talking about document holders, certificate holders, owners of certain documents, all of these are captured by these amendments. So are we now going to have a discussion on each and every one of them to repeat the same thing, or are we taking into consideration that any discussion or voting on these cannot contravene what we've already just done? This was the discussion last week that prompted this grouping, so I'd like to know how you're going to proceed.

Shall we just include all of these as having collectively discussed the issue of voluntary reporting, and therefore being consistent with the vote we just took, or do we just go ahead and repeat this exercise over and over again?

• (1545)

**The Vice-Chair (Mr. Don Bell):** Just before I go to Mr. Laframboise, I did ask the question, in terms of grouping, if you wished to deal with them all. I understood that was not the pleasure of the group.

Do you wish to then group and deal with and discuss from amendment BQ-17 to NDP-12 as a group?

**Hon. Joseph Volpe:** Before Mr. Jean enters into the conversation, the reason I raised this as a point of order is that you had simply deferred until Mr. Julian finished with his motion, because he had moved this item, but we were going to discuss this afterwards, so here we are after the vote. I want to know how we're proceeding.

I'm not in the chair, but I didn't hear that the committee pronounced itself one way or the other against this. Since this has been produced at the request of one specific member—yours truly—I want to know whether we are going to proceed this way or not.

If you need a motion in that regard, then I shall so present.

**The Vice-Chair (Mr. Don Bell):** Procedurally what we would do is take the motion on amendment BQ-17 now, as I understand it, and then ask the committee if there's a motion to include discussion on all of them.

Is that correct?

Excuse me a moment.

[*Translation*]

**Mr. Mario Laframboise:** I simply want to tell you that I am withdrawing amendments BQ-17 and BQ-18 because BQ-16 has already been negated. I would just like us to be careful and I would like to add a comment on the debate that Mr. Volpe's starting. It should never be forgotten that we are conducting a clause-by-clause consideration.

I think the document that was tabled explains very well the decisions that were made, and that is why I am withdrawing amendments BQ-17 and BQ-18. But voting as a group on amendments without discussing them one by one... I would say that the Chair can rule that an amendment is contrary to the meaning

that has already been given to the bill. I believe it is a choice that the clerk can make with the Chair to say that such and such an amendment must be withdrawn, as I am doing with amendments BQ-17 and BQ-18. However, I think we'll have to obtain a legal opinion in order to adopt amendments as a package and to make it so that this committee stops studying what has been tabled clause by clause. I wouldn't want us to proceed backwards with the clause-by-clause consideration.

In the case of amendment BQ-17, among others, I've decided to withdraw it because we've already dealt with it. So I'm going to withdraw BQ-17 and BQ-18. If the Chair tells me that amendments BQ-17 and BQ-18 are not consistent with what we've already adopted, I agree to talk about it, but if we decide to vote together on a series of amendments and do not consider them one by one, I think that it's contrary to the procedure that should be followed in a clause-by-clause consideration.

For the moment, I withdraw amendments BQ-17 and BQ-18.

[*English*]

**The Vice-Chair (Mr. Don Bell):** My understanding procedurally is that we can discuss all of the amendments in a grouping here and then vote on them individually if we wish, because the discussion, as I understand it, crosses from one amendment to the other. We can deal with each amendment, discuss it only, and then vote on it individually, or we can discuss all the amendments in one grouping and then vote on them individually, or if there is consensus, vote on them as a block.

From my understanding from the staff or the clerk, that's procedurally correct to do if it's the will of this committee. So the question at this point would be that you've withdrawn amendments BQ-17 and BQ-18. Is there a desire to in fact discuss amendments BQ-21, BQ-22, and NDP-12 in open discussion and then either vote on the motions independently or vote on them as a block?

Mr. Jean, and then Mr. Julian.

**Mr. Brian Jean:** I was just going to say, from the government's perspective, I agree with Mr. Volpe, but I think it depends on the individual mover, and certainly, from our perspective, it's up to the person who's moving any one of those groups of amendments in that particular grouping.

In this case, Mr. Laframboise did not want to. I think it's appropriate that we deal with it separately, and he has graciously removed it. So I think we should move forward and deal with it. If members don't want to have them grouped together and it's one of their motions, then they shouldn't be grouped together and they should be dealt with individually.

• (1550)

**Hon. Joseph Volpe:** Mr. Chairman, I'm satisfied that you have said that Mr. Laframboise has accepted that the chair would say, in this particular group, for example, amendments BQ-17 and BQ-18 are consistent with the decision of the committee, and ask for any comments before we move on. As long as you say that, I'm happy.

**The Vice-Chair (Mr. Don Bell):** Mr. Julian.

[*Translation*]

**Mr. Peter Julian:** Mr. Chairman, I entirely agree with Mr. Laframboise. We have a responsibility to proceed with the clause-by-clause consideration. So we will have to continue in the same way as we have done until now.

[*English*]

I don't understand the urgency either. We've gone through three-quarters of the amendments now. We're on page 56. We've done three-quarters of the amendments that we have worked through. We have only a handful to come back to, so it does not make sense procedurally to change at this point.

I certainly don't think it's recommended to try to change our functioning of procedures, and the reality is that nobody is filibustering here. We're working through what is a complex bill that has ramifications. So I think continuing to proceed the way we have, as Mr. Laframboise has suggested, is the right route to go.

**The Vice-Chair (Mr. Don Bell):** My understanding is that the amendments were grouped so that the discussion, even if it's done individually, at least could follow the theme. So rather than moving on to amendment BQ-19, we'll stay within that amendment group, amendments BQ-21, BQ-22, and NDP-12, and then we'll move on to the next group and we'll deal with them individually, so at least there's a consistent discussion on the issues, because they overlap.

**Mr. Brian Jean:** That was my understanding.

**The Vice-Chair (Mr. Don Bell):** Mr. Julian.

**Mr. Peter Julian:** Mr. Chair, we have an agenda, and the agenda includes the clauses. We're working through the most complicated clause now, which is clause 12. When we finish the amendments, we would then go to clause 12 and then go on to clause 13.

I do not suggest at all that it's advisable to start jumping around. I think that complicates what's already a fairly complex bill. I would suggest that we just continue to proceed as we have for the first three-quarters of the bill.

**The Vice-Chair (Mr. Don Bell):** We are in clause 12, Mr. Julian. The suggestion is that we deal with those. There was a request from the staff that we group them so that it would facilitate discussion. So the rest of the grouping, it was suggested, on voluntary reporting would bring in amendments BQ-21, BQ-22, and NDP-12.1.1. Then we would go into whistle-blower protection, on which again there is a grouping, and we would move through those individually.

Mr. Jean.

**Mr. Brian Jean:** Can't we just move forward the way we're going and just carry on? If there's consensus with the people who are moving those motions that are in the group, then we deal with them as a group, and if there's not, then we deal with them individually. Can we just move forward?

**The Vice-Chair (Mr. Don Bell):** You're talking about the standard agenda, amendment BQ-19, then going back, or staying in the grouping that we're in? That's the issue before us.

**Mr. Brian Jean:** I think what matters at this stage, Mr. Chair, if I can just be blunt, is moving forward. I think if we move forward, that's the right direction.

**The Vice-Chair (Mr. Don Bell):** Is there agreement that we would move ahead based on the grouping that was requested to assist us in discussion, and that would mean we would move on amendments BQ-21, BQ-22, NDP-12, and then we would move to the next one, which is the whistle-blower protection grouping?

**Mr. Peter Julian:** I think there's agreement.

I agree with Mr. Jean on the point that we proceed. We have an agenda, and the next amendment that would be up would be BQ-19.

**The Vice-Chair (Mr. Don Bell):** Do I hear a majority position that we should proceed based on the grouping?

**Some hon. members:** Agreed.

**The Vice-Chair (Mr. Don Bell):** We'll go with the grouping.

BQ-21, which is page 63, Mr. Laframboise.

[*Translation*]

**Mr. Mario Laframboise:** I withdraw amendment BQ-21, Mr. Chairman.

[*English*]

**The Vice-Chair (Mr. Don Bell):** So you're not moving BQ-21. That's withdrawn.

The next is BQ-22. That is page 64. Again, that is Mr. Laframboise.

• (1555)

[*Translation*]

**Mr. Mario Laframboise:** Mr. Chairman, we did not decide at the outset on the other clauses concerning the Canada Labour Code. You decided to include this clause under the heading of "Voluntary Reporting". I take the liberty of challenging that. I'm having a lot of trouble because we haven't yet discussed the clauses concerning the Canada Labour Code or the other acts that we are supposed to discuss and that we have set aside. This is clause 2. That's why I'm having trouble—

[*English*]

**The Vice-Chair (Mr. Don Bell):** In effect, you want to move it...

I'm sorry, on a point of order, Mr. Jean.

**Mr. Brian Jean:** I was only going to mention that that's what I explained earlier. I think it's within Mr. Laframboise's right to move it to a different timetable. I think it's up to him whether he wants it grouped in this particular case or not. If he doesn't, that's fine.

**The Vice-Chair (Mr. Don Bell):** Mr. Laframboise, that's fine. We would move it, then, I presume in this case, to the revision of other acts. This would be moving it down further. That's fine. We'll move it then.

NDP-12.11, Mr. Julian.

**Mr. Peter Julian:** Mr. Chair, I'm jumping all over the place. If you'll give me a moment—

**The Vice-Chair (Mr. Don Bell):** What I'm saying is it's identical to BQ-22 and that would move it into the provision of other acts. We would move it farther down on the agenda, if that's agreeable with you.

**Mr. Peter Julian:** Give me a moment, Mr. Chair, because we have to consult three different sections to catch up.

**The Vice-Chair (Mr. Don Bell):** It's page 61.

**Mr. Peter Julian:** It's page 66.1, actually.

**The Vice-Chair (Mr. Don Bell):** No, it's page 64.1.

**Hon. Mauril Bélanger (Ottawa—Vanier, Lib.):** It is the same.

**The Vice-Chair (Mr. Don Bell):** Page 64.1. Mr. Julian.

**Mr. Peter Julian:** Yes.

**The Vice-Chair (Mr. Don Bell):** It's the same wording as BQ-22 was, or is.

**Mr. Peter Julian:** Yes, Mr. Chair, so I would put off.... Obviously, the discussion would be on the BQ amendment.

**The Vice-Chair (Mr. Don Bell):** Okay. Now we're back to BQ-19, which is page 56, and that is Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** I move that Bill C-6, in Clause 12, be amended by replacing lines 9 and 10 on page 17 with the following:

“(2) No person shall take any of the following actions in respect of an employee by reason only that the employee has reported a contravention under the program referred to in subsection 5.395(1) or has participated in good faith in an investigation conducted under this act:

- (a) disciplinary action;
  - (b) demotion;
  - (c) dismissal, discharge, or termination of employment;
  - (d) any action adversely affecting the employee's employment or terms and conditions of employment; or
  - (e) threat of any of the actions referred in paragraphs (a) to (d).
- (3) A person does not have the protection of subsections (1) and (2) if”

So this is for the purpose of improving and increasing the protection for an employee against measures that might be taken against him. Discussions have been started, and the government has introduced amendment G-3.1. When we adopted it, we asked ourselves the question whether, once included in the bill by the government, it protected all the clauses of the act, including that on voluntary reporting. Our objective is to ensure that employees are fully protected in the case of voluntary reporting.

Is this the right place to insert amendment G-3.1? If not, shouldn't we—I've said this from the start: there's no harm in being extra careful—add another amendment in another place to ensure that the employee is protected in the event of voluntary reporting? I don't know whether the department has had occasion to consider the subject.

•(1600)

[English]

**The Vice-Chair (Mr. Don Bell):** We'll have Mr. Reinhardt, and then I'll go to Mr. Jean.

[Translation]

**Mr. Franz Reinhardt:** Indeed, Mr. Laframboise, we re-examined the entire act following the revised amendment G-3.1, which was adopted last week. Protection is there for people who report within a business that has a safety management system, of course. Those who want to use the universal voluntary reporting system, for which the

business already has an SMS, will first have to report to the system and they will be protected. If they do not have a safety management system, the information is, in any case, “disidentified” immediately on receipt. For those who do not work for an employer—we take it for granted that, where there is an employer, there's generally a certificate holder—there will be a safety management system. For all certificate holders that manage commercial operations, there will be a safety management system. If you are a private pilot, a mechanic or other person who needs to use a voluntary system outside the safety management system, the information is “disidentified”. Under this protection, there is no danger that the employer will engage in reprisals.

**Mr. Mario Laframboise:** However, that's not appropriate as regards voluntary reporting. I find amendment G-3.1 interesting. However, I would have liked that amendment to be added to the entire “voluntary reporting” part in order to genuinely protect an employee who wishes to make a disclosure. I'm not sure that entering it in the safety management system file... You said so yourself: there could be problems if ever a person who is not covered by the safety management system decides to make a voluntary report. We want to ensure the employee's protection. I think it would encourage the employee, as you have convinced me, to make voluntary statements and reports, if we protect him more. You haven't considered this question.

Ultimately, I would have liked the text of amendment G-3.1 to be added to the “Voluntary Reporting” heading to be sure that employees are protected. Whether it's my text or that prepared by the government is of little importance. The important thing is that, under part of the act, employees or those who would like to report information feel protected from proceedings.

**Mr. Franz Reinhardt:** Mr. Laframboise, I can read you subsection 5.397(4), which states:

(4) Information reported under the program referred to in subsection 5.395(1) may not be used against the person who reported it in any legal, disciplinary or other proceedings.

I think that's quite serious protection. It isn't identical to what's contained in revised amendment G-3.1. That's why we haven't moved an equivalent to revised G-3.1: we thought that was sufficient.

[English]

**The Vice-Chair (Mr. Don Bell):** Mr. Jean.

**Mr. Brian Jean:** I was going to make the same comment. I know it appears that this was borrowed from the Public Servants Disclosure Protection Act and it spells out exactly what is meant by reprisal. But doesn't G-3.1, which we passed before, actually alleviate and address all of the concerns Mr. Laframboise has? That was my understanding in speaking to the department.

**Mr. Franz Reinhardt:** It does to a certain extent when people are working within an SMS environment and reporting and they have an employer they'll be protecting. Mr. Laframboise's concern was on why we don't have a parallel in the other system. We said we didn't think of putting in a parallel G-3.1 revised because there is a stronger protection there against taking any measures against an individual. Anyway, it's going to be identified immediately upon receipt.

**Mr. Brian Jean:** Could you be more specific in what you just said? First of all, you said it doesn't necessarily cover all that he wants it to cover. My understanding was that it does cover everything he wanted to cover in relation to the protection. Does it or does it not?

**Mr. Franz Reinhardt:** If you are an employee working for a certificate holder, all certificate holders will have SMS requirements, so there'll be internal reporting. If you do report, you are required to report first through your SMS and you are covered or protected.

The other universal, non-punitive, voluntary reporting is open to everybody to report. We assume those people won't necessarily have employers, because if they have an employer they have an SMS and they're covered. Even though there's no parallel, as I said to Mr. Laframboise, there is still a very strong protection in the second one. So we believe there's no need for a parallel.

•(1605)

**Mr. Brian Jean:** That's in the regulations as well, is it not, in section 5.395?

**Mr. Franz Reinhardt:** I don't understand your question. You said it's in the regulations?

**Mr. Brian Jean:** It's all right. Thank you.

**The Vice-Chair (Mr. Don Bell):** Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** Except that, to continue along the line adopted by Mr. Jean, let's take subsection 5.397(4), the one you just read to me, which states:

(4) Information reported under the program referred to in subsection 5.395(1) may not be used against the person who reported it in any legal, disciplinary or other proceedings.

I agree with this statement, except that amendment G-3.1 also contains the following words: "[...] including any measure that adversely affects the employee's employment or working conditions [...]"

When we talk about disciplinary measures, that does not necessarily mean dismissal; it can be a schedule change as a result of which the employee must work at night rather than during the day. It is this additional protection that G-3.1 has the benefit of providing with the words "[...] including any measure that adversely affects the employee's employment or working conditions [...]" That is the protection offered by G-3.1. If we had been able to add that to this subsection (4), I think that would have satisfied me. The problem is that employees who report information in the context of SMSs enjoy a certain amount of protection, and those whose employers do not have a security management system have another type of protection.

I would like all employees who make a voluntary report in businesses that do not have an SMS, employees who decide to make a voluntary report, to have the same protection as those of a business that has an SMS. That quite simply is the purpose of our amendment BQ-19. I would be ready to accept an amendment to subsection (4) that you mentioned to me earlier, Mr. Reinhardt, in order to be able to amend that, if the government agrees.

**Hon. Mauril Bélanger:** [Inaudible - Editor]

**Mr. Mario Laframboise:** No, it isn't adopted.

**An hon. member:** Which subsection (4)?

**Mr. Mario Laframboise:** I'm on page 17, but subsection (4) is on page 18. It's subsection 5.397(4), which states:

(4) Information reported under the program referred to in subsection 5.395(1) may not be used against the person who reported it in any legal, disciplinary or other proceedings.

It's that G-3.1 adds: "[...] including any measure that adversely affects the employee's employment or working conditions [...]" If we added what is contained in G-3.1 to subsection 5.397(4), I think that would ensure identical protection for those who make reports within a business that has an SMS and for those reporting in a business that does not have an SMS.

[English]

**The Vice-Chair (Mr. Don Bell):** Mr. Reinhardt, does that make sense for Mr. Jean?

**Mr. Franz Reinhardt:** I have no objection. It doesn't affect it. As I told you, it was already protected, so it just makes it a little bit stronger.

**The Vice-Chair (Mr. Don Bell):** Is there agreement that that's an amendment?

[Translation]

**Mr. Mario Laframboise:** Yes, that's it, because I would withdraw amendment BQ-19, and, if the government agrees to a friendly amendment, if everyone agrees to adjust subsection 5.397(4) so that it provides the same protection as that offered by G-3.1, so that it is identical, that's fine with me.

[English]

**The Vice-Chair (Mr. Don Bell):** Mr. Julian.

[Translation]

**Mr. Peter Julian:** The problem is that the amendment does not dictate the process that should be followed for an employee who believes that he is the victim of reprisals. We have two amendments that are virtually identical, BQ-19 and NDP-12.1. However, NDP-12.1 suggests a complaints process under the Canada Labour Code for someone who finds himself in that situation. In BQ-19, there is no remedy procedure if an employee is a victim of measures.

**Mr. Mario Laframboise:** Except I'm talking about BQ-19. We can discuss your amendment in a moment. That's not a problem for me.

[English]

**The Vice-Chair (Mr. Don Bell):** Mr. Laframboise, could you read your proposal?

[Translation]

**Mr. Mario Laframboise:** What I'm moving is that, at page 18, subsection 4, line 32, the text reads as follows:

(4) Information reported under the program referred to in subsection 5.395(1) may not be used against the person who reported it in any legal, disciplinary or other proceedings, including any measure that adversely affects the employee's employment or working conditions.

At line 31, which begins with: "Information reported under the program...", we would add a comma following "other proceedings", then: "including any measure that adversely affects the employee's employment or working conditions."



•(1610)

[English]

**The Vice-Chair (Mr. Don Bell):** Is that agreeable?

So you're withdrawing BQ-19, and that's your motion instead.

[Translation]

**Mr. Mario Laframboise:** Yes.

[English]

**The Vice-Chair (Mr. Don Bell):** Is there any further discussion on that?

Mr. Bélanger.

[Translation]

**Hon. Mauril Bélanger:** Mr. Chairman, my question is for the Transport Canada people. In subsection 5.397(4), which we would amend by means of a friendly amendment, are we talking about legal or disciplinary proceedings, stemming from a source other than the aviation document holder?

**Mr. Mario Laframboise:** [Inaudible - Editor] person reporting.

**Mr. Franz Reinhardt:** Here it's clear that the employee is protected against any legal, disciplinary or other measures that might be taken, whether it be administrative procedures or document suspension measures, and we would now include reprisals, as provided in revised G-3.1 in subsection (4).

In English, at the end, that would read:

[English]

disciplinary proceedings, "including any measure that adversely affects the employee's employment or working conditions".

[Translation]

**Hon. Mauril Bélanger:** Does that also mean that the conditions... I'm referring to subsection 5.396(2), which reads as follows: "A person does not have the protection of subsection (1) if..."

Then it cites a number of cases.

**Mr. Franz Reinhardt:** Mr. Bélanger, we still intend to retain those provisions.

**Hon. Mauril Bélanger:** I would like to know whether we are amending subsection 5.397(4). In section 5.397... I don't want to get lost.

Does subsection 5.396(2) refer to section 5.397? In other words, do the exceptions stand, or are we going to create protection, regardless of the circumstances, in subsection 5.397(4)?

•(1615)

**Mr. Franz Reinhardt:** The two are compatible, Mr. Bélanger. If you read the section carefully, you will see that, if you do things voluntarily, you cannot avail yourself of the system. If there already is a safety management system, you must first report to it before using the system.

These requirements are still there. If you use the universal voluntary reporting system, no penalty will be imposed on you. If, as I have already explained, Transport Canada had independent

evidence and was proceeding against someone in court, one might wonder whether they had knowledge of such elements.

[English]

**The Vice-Chair (Mr. Don Bell):** Mr. Julian.

[Translation]

**Mr. Peter Julian:** The question is what steps will an employee have to take if his employer has taken action against him.

**Mr. Franz Reinhardt:** With the amendment to subsection (4), the employer cannot institute proceedings against the employee.

**Mr. Peter Julian:** What steps should be taken? If the employer takes measures against the employee—as is mentioned in amendment BQ-19, disciplinary action, demotion, dismissal, discharge or termination—what remedies are available to the employee? There aren't any.

**Mr. Franz Reinhardt:** Mr. Julian, section 5.392 is clear. It concerns an offence for which a person may be punished on summary conviction against the employer, and liable to a fine of up to \$1 million.

**Mr. Peter Julian:** What is the procedure that the employee must follow?

**Mr. Franz Reinhardt:** Any breach of any provision of Part I of the Aeronautics Act may result in proceedings, under the part on summary proceedings, and a fine of up to \$1 million. That information appears in section 7.3.

[English]

**The Vice-Chair (Mr. Don Bell):** Excuse me one second while you're gathering that information, Mr. Bélanger.

**Hon. Mauril Bélanger:** My only concern is that we may be injecting some confusion in proposed subsection 5.397(4). We're talking about "any information reported under the program referred to in subsection...may not be used against the person who reported it in any legal, disciplinary or other proceedings".

"Person", as defined in the law, means an individual, association, corporation—you name it. But by injecting in French

[Translation]

"contre un employé",

[English]

then we're possibly creating a double sense in this section. That's my concern here.

If I can be reassured that's not the case, then fine, but I think we may be adding confusion here to the text of the law by referring to *personne*, and then specifically excluding, by definition, corporations or associations.

**The Vice-Chair (Mr. Don Bell):** Mr. Reinhardt.

**Mr. Franz Reinhardt:** It's difficult to review the whole thing on the spur of the moment.

It seemed to me there was no need for that specific protection under the universal, voluntary, non-punitive reporting. But Mr. Bélanger's suggestion seems to be a bit redundant. It's clear to me that it's the employer and the employee. That's my interpretation.

**Hon. Mauril Bélanger:** Be careful, because it says, “Information reported under the program...may not be used against the person...in any legal, disciplinary or other proceedings.” It says “any”. It's fairly wide-ranging, so whether it's legal, disciplinary, or accusations, none of this can be used, and that's clear.

**Mr. Franz Reinhardt:** That's what I was saying earlier.

**Hon. Mauril Bélanger:** But by injecting “against an employee”, what does it say, that you can't use it against an employee but you can against a non-employee?

• (1620)

**Mr. Franz Reinhardt:** If you look at the English side, only where it says “including any measures”, without making reference to an employee, this is very clear.

[Translation]

**Hon. Mauril Bélanger:** We don't have the English wording, but we have the same problem in French. It states: “Dans aucune procédure judiciaire, disciplinaire ou autres, [...]”, which includes everything. It also states: “[...] il ne peut être [...]”, but there it states: “[...] contre un employé [...]”. That means that we're specifying that it's only when employees are concerned, which could create uncertainty. That might not include persons who are not employees, that is to say corporations, businesses and so on.

[English]

Be careful.

[Translation]

**Mr. Franz Reinhardt:** In the English version, it states:

[English]

“Information reported under the program referred to in...may not be used against” the person who reported it in any legal, disciplinary or other proceedings, including measures regarding the employment.

So that would be an add-on to this.

[Translation]

**Hon. Mauril Bélanger:** Personally, I think it would be preferable that it be separate.

**Mr. Franz Reinhardt:** At first, we thought it was well drafted.

**Hon. Mauril Bélanger:** Allow me to mention that we have made a number of amendments.

**Mr. Franz Reinhardt:** This is becoming difficult, Mr. Bélanger. We tried to draft this act the best way possible. We thought that the act offered that protection.

[English]

**The Vice-Chair (Mr. Don Bell):** Mr. Jean.

**Mr. Brian Jean:** I was all in favour of Monsieur Laframboise's amendment until I heard from Mr. Bélanger. I think it could call into question, in the interpretation, whether or not employees would be covered. I think that's a very valid point. I never thought about that.

But because we're including one group specifically, does that mean the rest are to be left out? I agree with Mr. Bélanger. I think it's very airtight now, Monsieur Laframboise; “any” is fairly clear in English, as far as not being able to have any recourse.

**The Vice-Chair (Mr. Don Bell):** Mr. Julian is next, and then I'll come to Mr. Laframboise for comment.

**Mr. Peter Julian:** I'll reserve my comments for later when we come back to the NDP amendment.

**The Vice-Chair (Mr. Don Bell):** Okay.

Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** If this can clarify the situation, I maintain that we need a provision concerning employees. If you believe that subsection (4) covers bodies corporate, let's create a subsection (5) that would only cover employees. We say: “Information reported under the program...”, as we said earlier. So we could state this: “Information reported under the program referred to in subsection 5.395(1) may not be used to exercise reprisals against an employee, including any measure adversely affecting the employee's employment or working conditions.”

So let's create a subsection (5) that would only concern employees. Does that suit you?

[English]

**The Vice-Chair (Mr. Don Bell):** Mr. Bélanger.

[Translation]

**Hon. Mauril Bélanger:** Mr. Laframboise, we could also be content with amendment G-3.1, which we have already adopted.

**Mr. Mario Laframboise:** In fact, I'm not opposed to amendment G-3.1, but it only covers employees working in the context of a security management system. However, this part of the act talks about voluntary reporting. That could be employees who work in other businesses and who are not covered by an SMS.

**Mr. Franz Reinhardt:** Mr. Laframboise, it would surprise me very much if employees who are working to become holders of an aeronautical certificate were not covered by a safety management system. Our intention—we're currently doing it by regulation—is to cover all the fields. Even small commercial operators will have a safety management system proportionate to the nature, size and risk of operations. Everyone will be covered.

Normally, if an employer operates in a commercial environment, there is a safety management system. So it's open. If you are a private pilot, mechanic or someone who is working for himself, you don't have an employer. So there is no danger that you'll lose your job. You use the universal voluntary system. That was my initial proposal.

[English]

**The Vice-Chair (Mr. Don Bell):** Go ahead, Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** I'm having even more trouble understanding. Earlier, we seemed to understand one another, but that's no longer the case.

•(1625)

**Mr. Franz Reinhardt:** Earlier I told you that you wanted something stronger. I told you that wouldn't be a problem for us. However, if you're asking me if such a situation can actually occur, my answer is that I don't think so because people who work for a holder of a commercial aeronautical certificate will all be covered by the safety management system.

**Mr. Mario Laframboise:** What about a pilot who works for a private company and transports his boss?

**Mr. Franz Reinhardt:** In the case of a pilot who transports his boss, the company has a safety management system. He's actually part of the group of 604 that have a safety management system.

[English]

**The Vice-Chair (Mr. Don Bell):** We'll have Mr. Volpe.

**Hon. Joseph Volpe:** I'm wondering whether Mr. Reinhardt would just clarify something for me. I appreciate Mr. Laframboise's line of questioning. Maybe Mr. Laframboise will want to put me in my place in a moment, but I detect a sincere desire on his part to accept what Mr. Reinhardt said regarding G-3.1 revised, and that is that it has adequate protections, as I read it, in the location where we put it last week.

The confusion that's emerging, from my perspective, and again, I say that Mr. Laframboise may want to correct me, is that the protections inherent in that G-3.1 revised are so laudable that they should apply to those who are not captured by the SMS system but may be working in an environment where.... One moment. I thought it was for all employees.

My understanding, Mr. Reinhardt, is that under an SMS system—and this we have not gone into in great detail—all the operations that are captured by employees, subcontractors, contractors, and actual operators have an obligation under the SMS. So anybody who works for an airport—let's say the machinists, the baggage handlers, those who pump fuel, those who prepare the plane—is part of this.

So G-3.1 revised, as we accepted it last week, covers the entire spectrum of anyone who's associated in any way with that SMS system. So the protections are applicable as well to those who are not the direct dependants of a document holder or a certificate holder, because you might have multiple document holders and certificate holders under "one operation". Is my understanding a little too generous, or am I completely off the wall?

**Mr. Franz Reinhardt:** No. Provided that it's related to aeronautics, Mr. Volpe, you're right; they will all be governed by an SMS. However, I don't want to mislead you. If in a company like a food caterer, like Cara, for instance, an employee decides to report, those guys are not covered by an SMS.

I just don't want to mislead you, because there are many other companies in an airport working and having contracts with the air operators.

**Hon. Joseph Volpe:** But they're not associated with the safety of the operation.

For example, the Cara people may happen on to a situation where they think safety might be compromised. Then they could report; they could keep quiet. If there were an incident or an accident that

involved some liabilities, they would have no protections if they had withheld information. But they're captured by something other than the SMS. They're captured by existing legislation and an existing framework. I think that's an accurate understanding on my part.

If I interpreted Mr. Laframboise's concern, he is suggesting—this is what I hear him saying, but maybe he's not saying this—that those people from Cara who, by happenstance, fall upon an incident that nobody else has reported perhaps should be covered too. Now, if that's what Mr. Laframboise is saying, I say it's laudable, and I would wonder, then, rather than pick on where in the legislation we would put that protection, whether in fact we are more effectively served by indicating that G-3.1 already captures that. And if it doesn't, Mr. Laframboise's suggestion of an amendment to his motion might just simply be a phrase, that under proposed subsection 5.397(4)...just simply refer back to that revised motion G-3.1 that we put in the previous section.

•(1630)

**The Vice-Chair (Mr. Don Bell):** Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** Mr. Volpe is partly right. However, I must speak to my research assistant. Until safety management systems are in effect everywhere, we want those who report certain things to Transport Canada to be protected. You said so yourself: sometimes it takes a number of years before the safety management system is in effect. In the meantime, we want to ensure that these people are protected.

You're nevertheless offering a protection provision here. That means that it is possible that not everyone is immediately covered. We want an employee to be protected from the moment he decides to file a complaint. Whether he transmits it directly to Transport Canada or through the safety management system, we want to ensure that that person is protected. Here I would be prepared to come around if we could add a subsection (5), which would simply consist in including those not covered by safety management systems. It's simply that.

**Mr. Franz Reinhardt:** I understand your idea, Mr. Laframboise. If you want to achieve the desired result, an amendment that might perhaps constitute the subsection (5) would be necessary. If that were the case, and if the government wanted to proceed in that manner, I would suggest that we take a few minutes—perhaps during a break—to try to draft something. It is very difficult to draft and answer questions at the same time. It isn't easy.

**Mr. Mario Laframboise:** Perfect, that would suit me.

[English]

**The Vice-Chair (Mr. Don Bell):** Mr. Bélanger.

[Translation]

**Hon. Mauril Bélanger:** While you're thinking, allow me to suggest that amendment BQ-19 perhaps be considered as it was initially proposed. It covers the entire voluntary reporting program, and a bit of time must elapse before we have operational systems. This amendment eliminates any confusion over the following sections, including subsection 5.397(4), because of the way it is drafted. A subsection (5) would therefore not be necessary. Perhaps we should consider returning to the initial amendment.

[English]

**The Vice-Chair (Mr. Don Bell):** We've come full circle.

Mr. Julian.

[Translation]

**Mr. Peter Julian:** I agree with Mr. Bélanger because—I listened very closely to the discussion that took place—the protection that Mr. Laframboise wanted to offer through his initial amendment is not offered through what we've discussed. If we go back to the original amendment, I would like to add the two provisions.

[English]

**The Vice-Chair (Mr. Don Bell):** Go ahead, Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** It will probably be easier to retain amendment BQ-19 once this discussion is over. I'm going to keep it and we'll move on to the vote. I don't have any objection to that. I think that's easier.

I understand that subsection 5.397(4) has its purpose. We simply want employees to be protected while the safety management system is being implemented. The way this has been drafted makes it possible to protect employees in the meantime. That is our single objective.

**Mr. Franz Reinhardt:** I understand you, Mr. Laframboise. However, I'm afraid that amendment BQ-19 causes confusion. It runs a bit parallel to the federal government's Public Servants Disclosure Protection Act. Section 5.392 already contains something different.

Why not keep that together with section 5.392?

In fact, I agreed with your proposal to draft a subsection (5). All I'm asking is for the government's consent—I'm speaking to you as a public servant—and a five-minute break, because it is very hard to draft while answering questions.

• (1635)

**Mr. Mario Laframboise:** If the objective is the same, I have no objection to there being a subsection (5). However, Mr. Jean isn't here.

**Mr. Peter Julian:** Mr. Chairman, perhaps we could take a break of a few minutes.

[English]

**The Vice-Chair (Mr. Don Bell):** Can we just clarify one point?

This is my understanding of what we have, of what we're discussing right now on the floor: amendment BQ-19 was withdrawn, and we have the amendment you made, which will be subclause 5.397(5)—no, an amendment to subclause 5.397(4), on page 18. You had suggested that it could be separate, as subclause 5.397(5), but the actual motion you made was to add to subclause 5.397(4).

[Translation]

**Mr. Mario Laframboise:** That's it. I agree that we should create a subsection (5). Then I would withdraw amendment BQ-19 and the other amendment, if the government agrees, if, in the next three or

four minutes, we can draft a subsection (5) that everybody would support. That would suit me.

[English]

**The Vice-Chair (Mr. Don Bell):** We're asking for approximately a five-minute recess. Is that what...?

Go ahead, Mr. Jean.

**Mr. Brian Jean:** I was just going to suggest that we move on to the next clause and have them draft it and bring it forward afterwards. Can we do that?

**The Vice-Chair (Mr. Don Bell):** I heard Mr. Reinhardt say he can do it right now.

[Translation]

**Mr. Mario Laframboise:** —won't be able to draft.

[English]

**The Vice-Chair (Mr. Don Bell):** All right. Keep us focused. We'll recess for five minutes or less. Thank you.

- \_\_\_\_\_ (Pause) \_\_\_\_\_
- 
- (1640)

**The Vice-Chair (Mr. Don Bell):** Let's reconvene, please.

Mr. Reinhardt, this is a subsection (5) that you've come up with?

**Mr. Franz Reinhardt:** Excuse me, if I may, after subsection (4), you could have a subsection (5), that would read:

Information reported under the program referred to in subsection 5.395(1) may not be used against an employee to take any reprisals, including any measure that adversely affects the employee's employment or working conditions.

And in French we—

**Mr. Brian Jean:** Mr. Chair, if I may, do you have that written out, Mr. Reinhardt?

**Mr. Franz Reinhardt:** Yes.

**Mr. Brian Jean:** Maybe you could give it to the clerk so she can get it and translate it.

**Mr. Franz Reinhardt:** They won't understand my handwriting, and it's a combination of...

**The Vice-Chair (Mr. Don Bell):** Do you wish to read it in French now, please?

**Mr. Franz Reinhardt:** I will read it in French now, and I've got it here.

[Translation]

“Il ne peut être fait usage de renseignements communiqués dans le cadre d'un processus visé au paragraphe 5.395(1) lorsqu'il engage une procédure disciplinaire contre [...]”

[English]

**The Vice-Chair (Mr. Don Bell):** We used the word “report” in English last time.

[Translation]

**Mr. Franz Reinhardt:** “Il ne peut être fait usage [...]”

[English]

If you're satisfied with the English, we can have the French completed by the end of the session here.

**The Vice-Chair (Mr. Don Bell):** Is that okay, Mr. Laframboise? Good. *Merci*.

Now, before we can deal with that, we have an amendment on the floor, which was to add to subsection (4), so we need agreement of the committee to withdraw that amendment.

Is there agreement?

**Mr. Brian Jean:** Do you mean subsection (5), Mr. Chair?

**The Vice-Chair (Mr. Don Bell):** No. We had an amendment—I have only the French at this point—which basically was an attempt by Mr. Laframboise to add this to subsection (4), and it was accepted as an amendment.

It's on the floor; it's not Mr. Laframboise's to withdraw, so I'm asking for agreement of the committee.

**Some hon. members:** Agreed.

(Subamendment withdrawn)

• (1645)

**The Vice-Chair (Mr. Don Bell):** Now we have the amendment of Mr. Laframboise, which you're moving, which would add subsection (5), as recited in English and will be translated in French.

Is there any further discussion on that?

(Amendment agreed to)

**The Vice-Chair (Mr. Don Bell):** Now we're moving on to NDP-12.1 and NDP-12.2.

Mr. Julian, you wanted to make a suggestion that there's a similarity between what we've done with BQ-19, but you're suggesting the difference occurs in proposed subsection (2) on your NDP-12.1?

**Mr. Peter Julian:** Yes, Mr. Chair.

NDP-12.1 and NDP-12.2 are very similar, so we'll only need to have one, hopefully, brief discussion. We've resolved part of the issue, both through 3.1 and also through the Bloc amendment we've just discussed. What is missing is a process or procedure.

If we look at NDP-12.1, proposed subsection (2) says:

An employee—or a person that the employee designates for the purpose—who alleges that a person has taken an action referred to in subsection (1)

—in other words, the areas we just talked about, disciplinary action, demotion, dismissal, and other actions adversely affecting an employee's employment—

against the employee may make a complaint in writing in respect of the action to the Canada Industrial Relations Board, established by section 9 of the *Canada Labour Code*, within 90 days after the day on which the employee knew, or in the Board's opinion ought to have known, that the action had been taken.

And then proposed subsection (3):

Sections 133 and 134 of the *Canada Labour Code* apply with respect to a complaint made under subsection (2).

So this allows for a process for the whistle-blower that protects that individual.

What I would like to offer to you, Mr. Chair, is that proposed subsections (2) and (3) of NDP-12.1 would be added as proposed subsections (5) and (6), following the G-3 motion from the government that we adopted on page 15.

So we adopted new subsections (3) and (4) a few days ago. We would take proposed subsections (2) and (3) from NDP-12.1 and make those new proposed subsections (5) and (6).

**The Vice-Chair (Mr. Don Bell):** That's your motion.

**Mr. Peter Julian:** That's my motion.

**The Vice-Chair (Mr. Don Bell):** Mr. Reinhardt, is there any problem?

**Mr. Franz Reinhardt:** We believe it would be very dangerous to embark upon that type of appeal mechanism. There are already very serious provisions for enforcement against people who breach any of the provisions under part 1 of the Aeronautics Act. There could be some reconstructions up to \$1 million....

**The Vice-Chair (Mr. Don Bell):** Mr. Julian.

**Mr. Peter Julian:** Mr. Reinhardt, I did ask you what the process was for the employee. The process is going to court, which we would have regardless of whether Bill C-6 existed. This allows for a legal process that is outside the court system.

**Mr. Franz Reinhardt:** Mr. Julian, with all due respect, the process would be for the employee to report to Transport that there is an alleged violation by an employer regarding a provision of the Aeronautics Act. Transport Canada would carry out the investigation and take action if the evidence is there to support the enforcement process.

**Mr. Peter Julian:** This puts already established procedure in place. All three of the opposition parties offered amendments to this effect, that provisions of the Canada Labour Code would apply even in provisions of Bill C-6. We're certainly not contradicting anything in Bill C-6. It offers that level of protection for the employee that I think we all share.

We want to ensure that the employee whistle-blower is protected. This allows for that level of protection. Otherwise we don't have a clear and defined process for an employee. This allows very clearly for that through the Canada Industrial Relations Board and the Canada Labour Code.

**The Vice-Chair (Mr. Don Bell):** Go ahead, Mr. Reinhardt.

**Mr. Franz Reinhardt:** I will repeat that we believe there's sufficient protection there if you use the enforcement process that's available to anybody through Transport Canada and the department. People who are not respecting the provisions of the act will be prosecuted.

I don't think it's necessary to go through an industrial mechanism to review things under the Aeronautics Act. I think the Aeronautics Act should be self-sufficient. It should allow for the enforcement of each and every provision of the act without having to revert to an industrial relations procedure under the Canada Labour Code.

•(1650)

**The Vice-Chair (Mr. Don Bell):** Mr. Bélanger, and then Mr. Laframboise.

**Hon. Mauril Bélanger:** Mr. Chairman, I have three difficulties with this.

First, by putting it under G-3.1 we're back into the SMS section of the law, which we've completed. We're reopening a section that we've already dealt with.

Number two, if the second—

**The Vice-Chair (Mr. Don Bell):** We're still on the same clause, Mr. Bélanger. It hasn't been completed.

**Hon. Mauril Bélanger:** I understand, but presumably we have to move in one direction at some point.

The notion that he has in subsections (2) and (3)... Basically, if we adopt—and I hope this committee will—subsection (2), that the Canada Labour Code applies, and we include that for greater certainty in the act, then that section would not be necessary.

Finally, I'd be concerned that subsection (2) would be prescriptive to the point that it would be the only remedy available. That's certainly not the intent. I would expect, and I need confirmation of it, that whether this remedy is mentioned in the law or not, it will exist.

By singling this out in the bill, could it be seen that this is the remedy and there is nothing else?

Those are three difficulties I want to flag. That's why I won't support this amendment.

**The Vice-Chair (Mr. Don Bell):** Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** I'd like to go back to what you previously said when we talked about it. You said that penalties were already provided for in the Aeronautics Act following an offence. Is that correct?

Consequently, if a person dismisses an employee in violation of the act, that person would be penalized to the tune of \$1 million. Is that correct, Ms. Stanfield?

[English]

**Mrs. Susan Stanfield (Legal Counsel, Department of Transport):** The penalties are being amended, so I have to look to see what the new penalties are.

**Mr. Franz Reinhardt:** I can read it:

A corporation that is convicted of an offence under this Part punishable on summary conviction is liable to a fine not exceeding one million dollars.

[Translation]

**Mr. Mario Laframboise:** That means for every violation, including when we say that an employee must not be dismissed. That means that, if there were a dismissal, there would nevertheless be a violation and the act could be used. I want us to understand clearly. The employee can decide to use the Canada Labour Code. Ms. Stanfield, you said that the Canada Labour Code applies to all acts. Is that it? We didn't go back to that subject.

[English]

**Mrs. Susan Stanfield:** The Canada Labour Code already applies.

[Translation]

**Mr. Mario Laframboise:** So it already applies, and penalties can be added to that because the company has not complied with the act. Mr. Julian's amendment refers to a complaint to the Canadian Industrial Relations Board. Is that a measure that we can currently use, or is that something that would be added?

[English]

**Mrs. Susan Stanfield:** It would be new in this act, but I share Mr. Bélanger's concerns that by encoding something that really comes from the Labour Code into the Aeronautics Act you may be setting up a conflict between the Aeronautics Act and the Labour Code, where both work in their worlds fairly smoothly right now. If you put this in here, it's kind of an oddball because the Aeronautics Act has very limited authorities in it dealing with what would be considered labour relations types of activities. There are provisions for limiting the hours of work and stuff like that in the Aeronautics Act, but there isn't much about the labour relations vis-à-vis collective bargaining, enforcement of contracts under collective bargaining, matters like that.

I would be concerned, especially since you don't know enough about who the employee is and the questions that may arise. You don't know what kind of collective bargaining they're governed by and you don't know whether they are covered by any collective agreements. You may in fact be pushing them into a process that would be dealt with under the Labour Code in a different way, that might be more advantageous to them.

I'm not a Labour Code lawyer, but we have discussed with officials from the department who administer the Canada Labour Code and they do agree that it does govern this work done under the Aeronautics Act. They don't have any concerns that it's not covered. They agree with us that it's not necessary to repeat provisions or make reference to it. It is already governed, and anything where you're starting to add provisions that look like they come from the Labour Code may create questions of how the Labour Code is supposed to be administered. Given that they were satisfied and they are the specialists, I would be very hesitant to put too much into this act that even speaks to duplicating, because we really don't know.

•(1655)

[Translation]

**Mr. Mario Laframboise:** Mr. Reinhardt, you seemed to have a text.

**Mr. Franz Reinhardt:** No. I reassert what I told you. Part I of the Aeronautics Act states this:

Except as otherwise provided by this Part, every person who contravenes a provision of this Part or any regulation, notice, order, security measure or emergency direction made under this Part is guilty of an offence punishable on summary conviction.

We're clearly saying that the body corporate found guilty of such an offence is liable to a fine of \$1 million.

[English]

**The Vice-Chair (Mr. Don Bell):** Mr. Julian, and then Mr. Jean.

**Mr. Peter Julian:** Mr. Chair, I think the more we're discussing this, the more we're actually seeing the necessity to have it in place. If there is no contradiction between the Canada Labour Code and the Aeronautics Act, then it is advisable to have that option available to employees. It is an option. The specific wording of the amendment is "may make a complaint in writing". It gives an avenue for that employee. It's "may make". It's not an absolute; it's not a requirement. It is an option that employees have.

Very clearly, the Canada Labour Code needs to govern the discussions that take place at this level. Otherwise if an employee is punished, if that employee is disciplined, if that employee is dismissed, what we have is the SMS, because this is, as Mr. Bélanger correctly identifies, within the SMS systems of the act. We have what we received two weeks ago: the enterprise manager's simplified event review process of SMS-related non-compliance events.

So was there a contravention of the Aeronautics Act? Yes. Was this contravention committed by a person or enterprise governed by an SMS? Yes. Was the contravention internally reported and documented within the enterprise? Yes. Was the contravention committed intentionally by the enterprise? Yes. We lead to "the enterprise manager submits within 12 months a detection notice to aviation enforcement".

If what we are doing is setting up a system—a very long, convoluted system—for an employee who has lost their job as a result of actions that we are trying to protect against by reinforcing certain provisions of this bill, then in a very real sense an employer can take disciplinary action against the employee. It may be in a couple of years. The company may be fined. Maybe the employee can go to court. But there is no protection. There is no internal system that allows that employee to reach out in an immediate way. The amendment here offers a 90-day timeline so the employee can move through the Canada Labour Code, through the Canada Industrial Relations Board.

It is not something that requires them to go to court. It is not something that requires them to simply trust in Transport Canada. It is something the employees themselves can do. That system of checks and balances we should want to see within Bill C-6, because certainly that's what witnesses called for: a system of checks and balances.

So what the amendments do is establish that system of checks and balances and give an option to the employee. It's not an obligation; "may make" is an option for employees to take, so that employees have the ability to move through an existing process and protect their job when they have been disciplined or dismissed unduly.

It doesn't make sense for us to set up a series of checks and balances but have in the end no ability for the employee to do anything except either trust in Transport Canada or essentially go through the court system. That makes no sense, because what it does is allow for a hollow shell. We're essentially saying to the employees, "We don't really want any actions to be taken against you, but if the actions are taken against you, we're not going to leave you with any options."

I think to be consistent with what we have discussed thus far in the committee—Mr. Laframboise's amendment, the Liberal amendments

that have come forward, and even the government's own amendments—we need a process for those employees, and that's what this amendment provides for.

• (1700)

**The Vice-Chair (Mr. Don Bell):** Mr. Jean.

Are you ready for the vote?

The understanding, then, is that there would be an addition of proposed subsections 5.392(5) and 5.392(6).

That's under the amendment G-3.1 on page 15.

(Amendment negated)

**The Vice-Chair (Mr. Don Bell):** Mr. Julian, do you want to discuss amendment NDP-12.2.2?

**Mr. Peter Julian:** No, Mr. Chairman. It's very similar to what we've just debated. I would have offered the same amendment, so I'll withdraw that. We've had the debate and discussion on that.

**The Vice-Chair (Mr. Don Bell):** Thank you.

Moving on, then, still in clause 12, now the grouping is "Deletion of provision for internal reporting before voluntary reporting".

We go to amendment, BQ-20 on page 58.

[Translation]

**Mr. Mario Laframboise:** I withdraw amendment BQ-20, Mr. Chairman.

[English]

**The Vice-Chair (Mr. Don Bell):** That's Mr. Laframboise. Yes.

[Translation]

**Mr. Mario Laframboise:** I withdraw it.

[English]

**The Vice-Chair (Mr. Don Bell):** Okay.

Then we have amendment Lib-7 on page 59.

[Translation]

**Hon. Mauril Bélanger:** I withdraw amendment LIB-7.

[English]

**The Vice-Chair (Mr. Don Bell):** Then we have amendment NDP-12 on page 60.

Mr. Julian.

**Mr. Peter Julian:** Mr. Chair, I would love to have a debate on that, but very clearly we've had the same amendment withdrawn by the Liberals and by the Bloc. I sense that what they're saying is that they would not support the NDP amendment.

So in the interest of time, given that they have signalled that they will not support my amendment, I will withdraw it.

**The Vice-Chair (Mr. Don Bell):** So NDP-12 is withdrawn.

Moving on—still on clause 12—to the provisions of other acts where they prevail, I guess we should go back now to BQ-22 and NDP-12.1.

We'll start off with BQ-22, which is page 64....

Hold on a second. To my understanding, we'll just go to the chart we have here, under this section of "Provisions of other Acts prevail". Amendment NDP-8.1 was stood because we had similar amendments in BQ-6, NDP-3, and Lib-2.

Mr. Bélanger.

**Hon. Mauril Bélanger:** I don't know what the committee may think, but we've been running into many of these references to the Canada Labour Code. We had stood it early on, and I'm just wondering if now may be a good time to deal with clause 2. If resolved that indeed there is a reference made in the law to the Canada Labour Code, and perhaps other laws, that may expedite then the rest of these. If it's done as I hope it will be, then every time it comes up we could just delete it or defeat it and carry on.

But I don't know if it would be appropriate to do so at this time.

**The Vice-Chair (Mr. Don Bell):** We would ask Mr. Reinhardt where that would be appropriate, the reference to the Canada Labour Code.

• (1705)

**Mr. Franz Reinhardt:** There were legal opinions, I believe, and I think this committee sought a legal opinion specifically about this issue here. I got the information that HRSDC themselves said they don't want this and don't think it's necessary. They believe they have full authority with their legislation over any other thing that is a federal activity covered by the Labour Code.

I'm just reporting what HRSDC said. I know there were numerous legal opinions to the effect that it is not necessary. I believe the committee itself sought an opinion on this.

**The Vice-Chair (Mr. Don Bell):** Mr. Christopher.

**Mr. John Christopher (Committee Researcher):** Our legal people, as you know, don't give legal opinions, but they were of the view that, generally speaking, specific acts take precedence over general acts. So the Labour Code would have application. But to be fair, they also did say that, in their opinion, if the committee wanted to add it in, it wouldn't necessarily harm the act.

**The Vice-Chair (Mr. Don Bell):** Mr. Bélanger.

**Hon. Mauril Bélanger:** I was looking for an opinion not on the Canada Labour Code—I've pretty well made up my mind on that one—but on the other two acts that were referred to in the Bloc amendment.

**Mr. John Christopher:** There again, they said that acts of specific application generally take precedence over this act, and they wouldn't need to be included.

**The Vice-Chair (Mr. Don Bell):** It's the Transportation of Dangerous Goods Act and the safety board act.

What are you suggesting, Mr. Bélanger, at this point?

**Hon. Mauril Bélanger:** If I recall, I think it was Lib-2. The amendment I was proposing is not quite the same, but I was proposing that we reference the Canada Labour Code in Bill C-6 for greater certainty.

If we need to have the phrase "for greater certainty", then I'm quite prepared to do it, if somebody wants to recommend it. It would be a friendly amendment.

**The Vice-Chair (Mr. Don Bell):** Give me a moment.

**Hon. Mauril Bélanger:** I'm suggesting that if we clear it, we'd then know where we're going later on.

I'd move it too, if you're allowing me to do so, Mr. Chairman, but I don't want to break the goodwill here.

**Mr. Brian Jean:** It seems to me that we stood it.

**Hon. Mauril Bélanger:** We stood it.

**Mr. Peter Julian:** No, we didn't stand Lib-2. We stood the BQ motion.

**Hon. Mauril Bélanger:** We stood them all.

**The Vice-Chair (Mr. Don Bell):** At this point, we're now on NDP-8.1, which was stood because of the similarities with BQ-6, NDP-3, and Lib-2.

Mr. Jean.

**Mr. Brian Jean:** Mr. Chair, if we were to deal with this matter now, it's certainly agreeable from the government's perspective.

But are you also seeking the inclusion of the Transportation of Dangerous Goods Act, etc., Mr. Bélanger?

**Hon. Mauril Bélanger:** No, I'm not.

**The Vice-Chair (Mr. Don Bell):** Mr. Julian.

**Mr. Peter Julian:** Mr. Chair, I think if we stood NDP-8.1, we should come back to amendment NDP-8.1.

**Mr. Ed Fast:** Mr. Chair, Mr. Bélanger just made his motion.

**The Vice-Chair (Mr. Don Bell):** It was a suggestion. It wasn't a motion, as I understood it.

**Hon. Mauril Bélanger:** We can stand NDP-8.1 until we deal with article 2, or section 2, or whatever, and carry on.

**The Vice-Chair (Mr. Don Bell):** Mr. Julian.

**Mr. Peter Julian:** Mr. Chair, are you now moving to NDP-8.1? Is that your intention?

**The Vice-Chair (Mr. Don Bell):** That's correct. It's amendment NDP-8.1.

It says page 44 on the list, but it's apparently not correct. It's on page 39. It's clause 12, line 29, on page 11, replacing line 29 with the proposal.

Mr. Julian.

**Mr. Peter Julian:** I move this amendment, Mr. Chair. This is for designated organizations.

Mr. Bélanger is quite right that we need to come back to clause 2 to have the overall discussion

• (1710)

[Translation]

on the scope of the bill. As regards the designated organizations, they are subject to the Canada Labour Code, to the Transportation of Dangerous Goods Act, 1992 and the Canadian Transportation Accident Investigation and Safety Board Act.



[English]

Essentially, we're simply making sure that designated organizations are covered by those three important pieces of law. It's certainly something that I think all members around this table can agree on.

When there are conflicts, we come back to the issue of to what extent the Labour Code and the other two laws actually carry over. It's only in the case of conflicts. It's certainly not in a general way but in the case of conflicts only.

For the moment, because we're dealing with clause 12, this section deals with designated organizations and making sure they are subject to those three pieces of legislation.

**The Vice-Chair (Mr. Don Bell):** Okay. I gather it's proposed subsection (6) that you're actually dealing with, on page 11, and you're adding line 29.

**Mr. Peter Julian:** Yes.

**The Vice-Chair (Mr. Don Bell):** Okay.

Mr. Bélanger.

**Hon. Mauril Bélanger:** I'll pass.

**The Vice-Chair (Mr. Don Bell):** Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** I want us to understand each other. I understand, Peter, but if we want to adopt amendment LIB-2, the act is clearly subject to the Canada Labour Code. I think we're resolving everything. I know that it doesn't hurt to be extra careful. That's why we're adding the Canada Labour Code, but repeating it 20 times is too much. I agree with you.

As regards the other two acts, I would like us to vote on them one by one and to start with the Canada Labour Code. If we agree, that's perfect, but if we don't agree on the others, then that's the way it is. I don't want to engage in needless debate, but I am opposed to Julian's motion because amendment LIB-2 covers everything.

[English]

**The Vice-Chair (Mr. Don Bell):** Is there any other discussion?

(Amendment negatived)

**The Vice-Chair (Mr. Don Bell):** Now, at this point, do you want to discuss item 2? We had pushed down BQ-22 and NDP-12.1.1. That's page 64. That's Mr. Laframboise's amendment.

[Translation]

**Mr. Mario Laframboise:** Could we move on to amendment LIB-2 immediately, in view of the fact that we have come to it?

[English]

**The Vice-Chair (Mr. Don Bell):** But we're still on clause 12 at this point.

If you want, we can stand clause 12 where we are and go back to clause 2 and deal with that, and that may facilitate some of the further discussion.

Is there agreement?

**Some hon. members:** Agreed.

(Clause 12 allowed to stand)

(On clause 2)

**The Vice-Chair (Mr. Don Bell):** Okay, it's done. We'll go back to clause 2.

Mr. Bélanger.

[Translation]

**Hon. Mauril Bélanger:** I move that the amendment concerning section 3.2—

[English]

**The Vice-Chair (Mr. Don Bell):** We're dealing with amendment BQ-6, I presume, at that point, which was moved.

**Hon. Mauril Bélanger:** It might be useful to take them in reverse order—I think everyone is sort of agreeable to that—amendment Lib-2 and then the others.

**The Vice-Chair (Mr. Don Bell):** Well, amendment BQ-6 was moved already.

**Hon. Mauril Bélanger:** Fine.

**The Vice-Chair (Mr. Don Bell):** Mr. Laframboise, would you like to reverse the order and deal with amendment Lib-2?

[Translation]

**Mr. Mario Laframboise:** Yes.

[English]

**The Vice-Chair (Mr. Don Bell):** Then it's withdrawn by agreement?

Okay, we'll go to amendment Lib-2. Thank you.

What page is amendment Lib-2 on?

**Hon. Mauril Bélanger:** Page 11, I believe.

So moved.

**The Vice-Chair (Mr. Don Bell):** So you're moving amendment Lib-2.

I should clarify. We didn't withdraw the BQ motion; we just stood it while we went back to this.

It has been moved. Is there any discussion with respect to amendment Lib-2?

Mr. Julian.

• (1715)

**Mr. Peter Julian:** I would move an amendment to Lib-2, that after “provisions of the *Canada Labour Code*,” we would add, “the *Transportation of Dangerous Goods Act, 1992* and the *Canadian Transportation Accident Investigation and Safety Board Act*”.

**Hon. Mauril Bélanger:** That's not a friendly amendment, Mr. Chairman.

**The Vice-Chair (Mr. Don Bell):** You're going to consider it as a friendly amendment?

**Hon. Mauril Bélanger:** No.

**The Vice-Chair (Mr. Don Bell):** Okay, so it's not a friendly amendment.

In effect, you're moving a subamendment to the amendment.

**Mr. Peter Julian:** Yes.

**The Vice-Chair (Mr. Don Bell):** Okay.

Is there any discussion on that? Are you ready for the question?

Mr. Julian.

**Mr. Peter Julian:** On these three acts, again, when it comes to inconsistencies, when there is a confrontation between the two pieces of legislation, we are simply saying that the Transportation of Dangerous Goods Act and the Canadian Transportation Accident Investigation and Safety Board Act prevail.

I certainly appreciate the Liberal amendment on the Canada Labour Code. That's good. These other two pieces of legislation are vital as well, and witnesses have testified to that effect. So we're certainly not contradicting anything that came out of the committee hearings. In fact, adopting the subamendment to the Liberal amendment respects what witnesses told us.

**The Vice-Chair (Mr. Don Bell):** Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** I'm obviously going to support the subamendment moved by Mr. Julian. I repeat that including acts in this bill merely clarifies the position with regard to businesses so that they know it well. I clearly understood about the Canada Labour Code, and I'm going to support the Liberals.

Mr. Reinhardt or Ms. Stanfield, what is dangerous about the Dangerous Goods Transportation Act, 1992 or the Canada Transportation Accident Investigation and Safety Board Act? In my view, the act in any case applies to the Canada Transportation Accident Investigation and Safety Board. I don't see who could be opposed to that. Could a legislative conflict apply to the transportation of dangerous goods? Is it because it is an act that it is constantly evolving?

[English]

**Mrs. Susan Stanfield:** I'm not a specialist in the TDG Act, but it seems to me that the same minister administers both pieces of legislation. So in the event that there were a conflict, it would be his responsibility to resolve it one way or another to fulfill his duties under both acts, because both acts speak to safety in one way or another. So I don't see that it's necessary to highlight it in the Aeronautics Act, because both acts exist.

I know I've argued this before, but every time you have acts that contain provisions that say they prevail and then you repeat it somewhere else, you raise a question for another piece of legislation governed by those acts that doesn't have a prevailing clause, whether or not they prevail over that act.

I could use as an example the Bank Act, which governs federal undertakings; therefore, the Canada Labour Code would apply. If we add something to the Aeronautics Act that says even though the Labour Code says clearly that it prevails, the Bank Act doesn't say that. The question will be asked that we look at the Aeronautics Act, which repeats that the Canada Labour Code prevails, but the Bank Act doesn't. So what is the status of the Labour Code with the Bank Act?

That's my concern with repeating things that aren't technically necessary to be repeated, that it may raise a question in a judge's mind somewhere down the road, because they look at the whole statute book sometimes when they're trying to interpret legislation. That's my concern.

[Translation]

**Mr. Mario Laframboise:** My next question is for Mr. Reinhardt. We're also going to touch on the transportation of goods. The SMSs do not just concern the transportation of passengers; they also concern air transport as a whole.

I understand why employees who testified before the committee asked us to include the transportation of goods. An employee may be called upon to decide whether he should apply the safety management system or the Transportation of Dangerous Goods Act. A manager could tell his employee to do something, and the latter could report to the former that he must transport dangerous goods. In my view, the employee should rely on the Transportation of Dangerous Goods Act, not the safety management system.

I understand why we want to clarify, but these kinds of situations may arise. Do you think that employees will know what to do if we don't clarify matters? Usually they must comply with a series of rules when they transport dangerous goods. It's probably you who issue these directives.

• (1720)

**Mr. Franz Reinhardt:** We have always thought that an SMS should never conflict with other acts that already apply.

[English]

**Mr. Merlin Preuss (Director General, Civil Aviation, Department of Transport):** Another point to be made here is the responsibility for enforcing the Canada Labour Code and the Transportation of Dangerous Goods Act and the Aeronautics Act.

[Translation]

Those are my responsibilities.

[English]

It's up to me to determine what tool I need to keep the transportation system safe as it applies to the Labour Code and as it applies to dangerous goods in the air.

[Translation]

Ultimately, everything is in my hands,

[English]

as an agent of the minister, obviously.

**The Vice-Chair (Mr. Don Bell):** Are you ready for the question on the subamendment?

(Subamendment negated)

**The Vice-Chair (Mr. Don Bell):** Are you ready for the question on the amendment, which is to the addition of the Labour Code, Lib-2?

(Amendment agreed to)

**The Vice-Chair (Mr. Don Bell):** Now we are in a position... because amendments BQ-6 and NDP-3 have in effect been covered by virtue of Lib-2, as I understand, and what I need to do....

Amendment BQ-6 was stood. Are you in favour of withdrawing it? I have agreement from the committee to withdraw amendment BQ-6?

**Some hon. members:** Agreed.

**The Vice-Chair (Mr. Don Bell):** Amendment NDP-3.

Mr. Julian, that's the same as amendment BQ-6.

**Mr. Peter Julian:** Yes, it is, Mr. Chair.

Obviously, I feel very strongly that it is not appropriate to allow Bill C-6 to override the Transportation of Dangerous Goods Act and the Canadian Transportation Accident Investigation and Safety Board Act, but we've had this debate and others have disagreed. That becomes more of a public domain debate. I don't think we need to spend more time arguing that here around this table.

**The Vice-Chair (Mr. Don Bell):** Thank you.

I have a motion I want to deal with in a moment about the extension of the meeting, but I think we have an opportunity here now to finish clause 2.

Therefore I would ask, shall clause 2 carry as amended?

(Clause 2 as amended agreed to)

**The Vice-Chair (Mr. Don Bell):** Now we have a motion from Mr. Jean.

**Mr. Brian Jean:** I'm just wondering if the clerk could give us an idea of where we sit now with the amendments, how many clauses are left to deal with.

Do we need the motion? I'd rather just carry on. It appears that we could probably be done in 20 or 30 minutes, the whole bill, so do we need the motion to deal with it, or can we just carry on as a committee and get this piece of legislation done?

**The Vice-Chair (Mr. Don Bell):** Mr. Julian.

**Mr. Peter Julian:** Mr. Chairman, we were going through clause-by-clause. We do require more time. I disagree with Mr. Jean that somehow, magically, in 20 minutes we're going to have everything wrapped up.

There are also a number of other issues that have been brought forward. We have the government pushing for extended sessions now, so we'll be working into the evening in the House. We also have the fact of what happened last Friday, where Liberal and Bloc and NDP members were caught by what was quite a mean-spirited action by the government in the House of Commons to try to force through the budget and force through essentially emergency procedures.

So not only do we have the extension of the House hours, but we also have to be in the House because of the fact that this government, quite frankly, has not acted in an appropriate fashion.

For all those reasons, I regret to say I can't agree to extensions in the time here because of what the government has been doing in the House.

•(1725)

**The Vice-Chair (Mr. Don Bell):** Mr. Jean.

**Mr. Brian Jean:** I'd like to move the motion, Mr. Chair. I'm surprised at Mr. Julian, because he actually put forward an amendment on my motion last week to have it today. Nevertheless, I would like to deal with it, and I think it's appropriate.

**The Vice-Chair (Mr. Don Bell):** To extend by an hour, up to 6:30 if required.

**Mr. Brian Jean:** Do you want a friendly amendment? Make one.

**Hon. Joseph Volpe:** What we're saying is we don't need that. I think the—

**The Vice-Chair (Mr. Don Bell):** Do I understand there's general consent to do that, to extend it for an hour?

I don't need it to be unanimous; it's a majority decision. So we'll extend until 6:30, as needed.

Moving on then, we're into “Administrative penalties, enforcement”.

**An hon. member:** Did we finalize clause 12?

**The Vice-Chair (Mr. Don Bell):** We're on amendment BQ-22, page 64.

Mr. Laframboise.

[*Translation*]

**Mr. Mario Laframboise:** I withdraw it, Mr. Chairman.

[*English*]

**The Vice-Chair (Mr. Don Bell):** It's been withdrawn. Is that agreed?

**Some hon. members:** Agreed.

**The Vice-Chair (Mr. Don Bell):** Mr. Julian.

**Mr. Peter Julian:** Mr. Chairman, please clarify, where are you moving? We were in “Provisions of other Acts prevail”.

**The Vice-Chair (Mr. Don Bell):** We've gone to amendment BQ-22. We're on clause 12. BQ-22, as you may recall, was moved down from the first block of discussion into the “Provisions of other Acts”, which was the last block on clause 12. It's on page 64.

It's been suggested by the mover that it be withdrawn, and there's agreement by the committee.

We have amendment NDP-12.1.1, which was also going to be moved down. It's similar to BQ-22. It's identical, in fact.

Since we've agreed to withdraw the other, is there agreement to withdraw...?

**Mr. Peter Julian:** You're not talking about NDP-12.2, Mr. Chairman?

**The Vice-Chair (Mr. Don Bell):** No, I'm talking about NDP-12.1.1.

**Mr. Brian Jean:** It was the same as the Bloc....

**The Vice-Chair (Mr. Don Bell):** It was the same as amendment BQ-22, which has been withdrawn.

Since the two are identical and there has been a committee decision to withdraw amendment BQ-22, then amendment NDP-12.1.1 is withdrawn.

**Mr. Peter Julian:** If I could say, Mr. Chair, that is a nice try. However, it's not the committee that withdraws an amendment; it is the individual mover who withdraws it.

It's Mr. Laframboise who withdrew his amendment, so—

**The Vice-Chair (Mr. Don Bell):** His was moved, as I understand, and therefore it's the committee that withdrew it.

Once it's moved, it becomes the property of the committee; it's no longer the property of the mover. It is the property of the mover if it hasn't been moved.

**Mr. Peter Julian:** With respect, Mr. Chair, it's the mover who withdraws the motion, and then there has to be agreement from the committee.

**The Vice-Chair (Mr. Don Bell):** The mover can suggest it, and then there has to be agreement from the committee, once it's moved. Once it's moved, it's the property of the committee, and the committee decides. The mover agreed to withdraw, and the committee agreed.

**Mr. Peter Julian:** Yes, I understand that, Mr. Chair, but that does not mean amendment NDP-12.1.1 has been withdrawn.

We would move to amendment NDP-12.1.1. That is the NDP amendment. Now, given the fact that Mr. Laframboise has signalled that he wouldn't be supporting amendment NDP-12.1.1, I will, as mover, simply not move the motion, but I reserve the right to withdraw, move, or not move any of the NDP amendments that come forward.

**The Vice-Chair (Mr. Don Bell):** My understanding is that it's within the prerogative of the chair, if the motions are in fact identical and one has been withdrawn, for the chair to rule that the second one in fact does not proceed, but because of the fact that you've agreed not to proceed, let's move on. We're not here to argue the points. Thank you.

(Clause 12 as amended agreed to)

(Clauses 13 to 34 inclusive agreed to)

(On clause 35)

• (1730)

**The Vice-Chair (Mr. Don Bell):** Now we're on to amendment NDP-12.2.1. We're under the "Administrative penalties", and we've grouped them.

Go ahead, Mr. Laframboise.

[*Translation*]

**Mr. Mario Laframboise:** I have a point of order. Are we adopting clauses 14, 15, 16 and 17?

[*English*]

**The Vice-Chair (Mr. Don Bell):** We just did clause 34.

On page 66.1 is amendment NDP-12.2.1.

Go ahead, Mr. Julian.

**Mr. Peter Julian:** Mr. Chair, these amendments in this section—amendments NDP-12.2.1, NDP-12.3, NDP-12.4, NDP-12.5, and NDP-12.6—are designed to toughen penalties in this section of Bill C-6.

What we have here is the option currently that a company can essentially receive a notice of violation without penalty. In other words, you can commit the crime and not do any of the time. It's a bit contradictory with the Conservatives' justice policy, certainly, but what we're endeavouring to do with these amendments is allow for strict penalties around violations to ensure that there is compliance with the law. All the amendments are in that vein.

If members of the committee want, I can move each of them separately or I can move them as a block for discussion; I'll leave that up to you. This is one case, I think, Mr. Chair, in which the amendments do jibe together in such a way that there could be a group discussion.

**The Vice-Chair (Mr. Don Bell):** Is that agreeable?

**Some hon. members:** Yes.

**The Vice-Chair (Mr. Don Bell):** Okay, we'll deal with them as a block.

Go ahead, Mr. Julian. Is there anything you want to add, or are you ready for discussion?

**Mr. Peter Julian:** Well, hopefully members have read through the amendments, which essentially toughen up the penalties under this legislation.

**The Vice-Chair (Mr. Don Bell):** Mr. Jean.

**Mr. Brian Jean:** Very briefly, my understanding is that what the NDP amendment does in relation to all of these clauses is take away any opportunity on a small infraction to warn the certificate holder. Is that, in essence, correct, Mr. Reinhardt?

**Mr. Franz Reinhardt:** Yes. I should have said for the record, yes.

**The Vice-Chair (Mr. Don Bell):** All right. Then is there any further discussion?

Is it agreeable, then, that a vote on this one, amendment NDP-12.2.1, would apply to all of them as a block? Not the Bloc, but a block. That would apply to amendments NDP-12.3, NDP-12.4, and NDP-12.5.

**Mr. Peter Julian:** And amendment NDP-12.6.

**The Vice-Chair (Mr. Don Bell):** No, amendment NDP-12.6 is in clause 36.

**Mr. Brian Jean:** It still deals with the same thing.

**The Vice-Chair (Mr. Don Bell):** Okay, if it's agreeable, we can deal with amendment NDP-12.6 as well.

Mr. Julian, is that fine with you?

**Mr. Peter Julian:** Yes.

**The Vice-Chair (Mr. Don Bell):** Okay. So the vote will then be, in effect, on those five motions.

(Amendments negated)

(Clauses 35 to 41 inclusive agreed to)

(On clause 42)

**The Vice-Chair (Mr. Don Bell):** We have amendment G-6, which is page 69.1.

Mr. Laframboise.

•(1735)

[Translation]

**Mr. Mario Laframboise:** I have a point of order, Mr. Chairman. There's also BQ-15 which we're discussing here.

[English]

**The Vice-Chair (Mr. Don Bell):** I'm sorry, there is which?

[Translation]

**Mr. Mario Laframboise:** On your summary, there are G-6 and BQ-15.

[English]

**The Vice-Chair (Mr. Don Bell):** I stand corrected.

I'm advised that it has already been adopted.

[Translation]

**Mr. Mario Laframboise:** No, we decided that we would talk about it again at this time. Earlier you adopted clause 35, but we had decided to postpone discussion at the same time as that on G-6.

I'm told that BQ-15 was adopted. So that's perfect.

[English]

**The Vice-Chair (Mr. Don Bell):** It has been carried.

We're back, then, to amendment G-6.

Mr. Jean.

**Mr. Brian Jean:** I think it's an excellent opportunity to say that we need a friendly amendment from somebody in order to include the Senate on this particular piece, if the other members wish to go forward with this clause. It actually reflects some of the comments we heard from other members, and indeed from at least two of the witnesses, and it is consistent with those discussions. But in order to reflect the proper purpose of this would be to include the Senate.

**The Vice-Chair (Mr. Don Bell):** Is that agreeable?

Mr. Bélanger.

**Hon. Mauril Bélanger:** Including the Senate is, but I have a reservation here, Mr. Chairman. My concern is that this, if adopted, could be seen as the standing committee of the House substituting itself for duly or legally mandated organizations or bodies, such as the Transportation Safety Board or others. I know what the committee has the ability to do; it can review any regulation under this act. But "either on its own initiative or on receiving a written complaint regarding a specific safety concern" is the line that bothers me.

One interpretation could be that upon receiving a written complaint, we must. I know we can do it on our own initiative, but if someone sends us a written complaint regarding a specific safety concern, you could read this and interpret it as meaning that the committee must usurp a mandate that is set in law for another

agency of the Crown. That's my concern about this particular section.

**The Vice-Chair (Mr. Don Bell):** Mr. Jean.

**Mr. Brian Jean:** Hearing Mr. Bélanger, I understand, because it's already in law. Everything it says is already there, in fact. Indeed, I understand the negative implications. I would be happy to withdraw this if it is the will of the committee to do so. I think it goes without saying, and it could in fact lead to some negative consequences, as Mr. Bélanger says.

**The Vice-Chair (Mr. Don Bell):** Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** It's interesting that G-6 has been maintained. I agree on that amendment. Mr. Reinhardt, you say it's already in the act?

**Mr. Franz Reinhardt:** The committee always has the power to review everything pertaining to transportation. That's included in the committee's mandate.

**Mr. Mario Laframboise:** I find the amendment interesting. I agree on that. You want to add the Senate. I'm not the one who's going to move it.

•(1740)

[English]

**The Vice-Chair (Mr. Don Bell):** Mr. Jean.

**Mr. Brian Jean:** My understanding is that I cannot withdraw this without agreement.

**The Vice-Chair (Mr. Don Bell):** It has been moved now. Is there agreement to withdraw?

**Mr. Brian Jean:** I see what Mr. Bélanger is trying to say. There could be a mandate of another committee that indeed could lead to a complication between the two. Certainly, it could be argued that this committee would be the right one to study something, but it may be outside its purview. It might be the military that needs to study it. My preference at this stage, now that it has been brought to my attention by Mr. Bélanger, is not to have this. Of course, we have to deal with it, and I would ask for a vote.

**The Vice-Chair (Mr. Don Bell):** So the issue is to withdraw.

We'll have Mr. Julian.

**Mr. Peter Julian:** This is an amendment that actually makes a great deal of sense. We've been hearing from witnesses about oversight. We've been hearing about the importance of having a system of checks and balances. This is one of the things we need to have. We shouldn't be giving a blank cheque under this bill.

I'm a little confused by the government putting forward an amendment and then wanting to withdraw it. It just doesn't make sense. When they have bad stuff, they always push it forward. When it's good stuff, they want to withdraw it. What's wrong with this picture?

**The Vice-Chair (Mr. Don Bell):** I think they listened, perhaps, to wise counsel from the opposition, in this case.

Mr. Bélanger.

**Hon. Mauril Bélanger:** Mr. Chairman, I'm not changing my opinion on the difficulties this may give rise to. However, I thought we were going to entertain, at some point, from the government—perhaps if not today it could be at the report stage—a mandated review of this bill a few years hence. In my case, it would be a very welcome amendment for five, six, or seven years down the road. That has a great deal of appeal in the sense that it is mandated by law, and therefore it must happen at some point.

This just confirms that the House has the authority to do what it wants in terms of setting up committees, whether they're standing or not, and committees have some authority to initiate reviews or not. The difficulty, and I'm repeating myself, is in the way it's worded: the House may review any regulations made “either on its own initiative or on receiving a written complaint”. I know that it may, on receiving a written complaint, and I'm pretty sure that no committee would necessarily get going, but this could draw the committee into areas of debate, discussion, and investigation that it doesn't really want to be drawn into. It might invite a pile of letters from anyone who has a beef with Transport Canada or if there is a safety matter. The way it's worded, I expect it could create a situation that the committee, the House of Commons, and the Parliament of Canada don't want to have happen.

What I'd love to see, however, and I repeat, is a mandated review of the act five years from now, as is now being written into many acts, but we don't see this in this act.

**The Vice-Chair (Mr. Don Bell):** Mr. Laframboise.

[*Translation*]

**Mr. Mario Laframboise:** Clause 29 is nevertheless clear. We're saying “may”, not “shall”. That doesn't trouble me. Mr. Bélanger is acting as though he were going to take back power. That won't happen, so there's no problem.

[*English*]

**The Vice-Chair (Mr. Don Bell):** Mr. Jean.

**Mr. Brian Jean:** Mr. Chair, based on a previous commitment made, can I have a few minutes of the committee's indulgence and just have a bit of a recess here?

**The Vice-Chair (Mr. Don Bell):** We will have a short pause.

- \_\_\_\_\_ (Pause) \_\_\_\_\_
- 
- (1745)

**The Vice-Chair (Mr. Don Bell):** We will reconvene the meeting.

Mr. Jean.

**Mr. Brian Jean:** Mr. Chair, I'm still looking for a friendly amendment. I'm not sure if I have one or not.

**The Vice-Chair (Mr. Don Bell):** I don't think we do. At the present point we have G-6 on the floor. I'm gathering there isn't unanimous agreement to withdraw—I see Mr. Julian—so therefore we will vote, because a motion to withdraw has to be by unanimous consent, or we vote on the motion.

Are you ready for the question on G-6?

Mr. Julian, do you want to speak?

**Mr. Peter Julian:** Yes, I want to speak on this bizarre situation where the Conservatives have actually done the right thing and want to pull it off the table.

**Hon. Joseph Volpe:** Just vote. We want to see how you vote, yes or no.

**The Vice-Chair (Mr. Don Bell):** Are you ready for the vote?

**Mr. Peter Julian:** I'm ready for the vote.

**The Vice-Chair (Mr. Don Bell):** The motion before you is G-6.

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

(Clause 42 as amended agreed to)

(On clause 43)

**The Vice-Chair (Mr. Don Bell):** On clause 43, all three are basically the same, so we'll move to Lib-8.

**Hon. Mauril Bélanger:** The amendment is withdrawn.

**The Vice-Chair (Mr. Don Bell):** Mr. Bélanger withdraws the amendment. It was not moved. Therefore, all three are the same.

We don't have the agreement.

On amendment NDP-13, Mr. Julian.

**Mr. Peter Julian:** I'm going to move amendment NDP-13, Mr. Chair. We have the opinion from the Library of Parliament on Bill C-6 and the Access to Information Act. This has been forwarded to the committee.

What we have is essentially now seven new sections that will take away from access to information. What we have currently under the Aeronautics Act is two sections already listed in schedule II of the Access to Information Act. Essentially, we would be adding the following: sections 5.392; 5.393; subsections 5.394(2); 5.397(2); 22 (2); paragraph 24.1(4); and subsection 24.7.

So what we have is a widespread exemption from disclosure under access to information. That is clearly not in the interests of the travelling public. It simply is not; there's no other way to put it. We heard very strong testimony. I would take the time of the committee to read through some of the testimony of Ken Rubin and other witnesses who came forward, if members of the committee want to hear that testimony repeated for them.

Essentially, what has been very clear from testimony from the beginning is that you can't simply say we'll have Bill C-6 and will take away wholesale mandatory exemptions from disclosure in the Access to Information Act. The public needs often to get this information. Under the Access to Information Act we've already seen that even now it's difficult to get information out. We've talked about some of the applications under access to information where text arrives blanked out that took years to actually come through the system.

If we go from two to adding seven new sections where there is mandatory exemption, then what we're simply doing is locking away that information. And it's public domain information. When people choose their airline, when they choose which flight to put their family on, they have to know.

I have no doubt that we need to strengthen the access to information provisions, so that we're not moving from two to nine sections where there's mandatory exemption. We need to provide the checks and balances, and we need to make sure that even though we have a very convoluted and complicated and long process under access to information—this information just doesn't get shoved out the door, but takes a lot of diligence and hard work to get—at least those provisions exist, so that eventually the truth will come out.

My fear is that if we do not water down what are quite radical portions of this act, then the truth will never come out. In a case where companies may act in an irresponsible way and lives may hang in the balance, I think our responsibility as parliamentarians is to make sure that there is no watering down of access to information. It is complicated and long now. We can't make it virtually a vault, from which that safety information will never come out into the public domain. That's why I'm moving amendment NDP-13.

• (1750)

**The Vice-Chair (Mr. Don Bell):** Is there any further debate?

You've heard the arguments. Are you ready for the question on amendment NDP-13?

(Amendment negatived)

**The Vice-Chair (Mr. Don Bell):** Therefore, amendment BQ-23, I'm presuming, is withdrawn.

[*Translation*]

**Mr. Mario Laframboise:** Yes.

[*English*]

**The Vice-Chair (Mr. Don Bell):** Thank you.

(Clause 43 agreed to)

(Clauses 44 to 48 inclusive agreed to)

(On clause 49—*Order in council*)

**The Vice-Chair (Mr. Don Bell):** On clause 49 we have amendment G-7 on page 73. It is Mr. Jean's.

**Mr. Brian Jean:** This was a proposal put forward as a result of the Bloc's suggestion, and which we thought was a good idea.

**The Vice-Chair (Mr. Don Bell):** The two sections shall not come into effect until three years after the act comes into force.

**Mr. Brian Jean:** Yes, Mr. Chair. And with respect, we've talked about this for quite a period of time. I think we're ready for the vote, unless there are any specific questions.

**The Vice-Chair (Mr. Don Bell):** Is there any further discussion?

Are you ready for the vote on amendment G-7?

**Mr. Brian Jean:** Mr. Chairman, before you call the vote, I notice that the department would like to have a comment.

**The Vice-Chair (Mr. Don Bell):** Ms. Stanfield.

**Mrs. Susan Stanfield:** I have a proposal for you to consider.

Right now, it says “three years after this Act comes into force”, but the way the bill is drafted, various provisions may come in at various times. If you want to be certain, I'd recommend you change

it to “three years after this Act receives royal assent”. Then you have a definite timeline to start counting your three years.

**Mr. Brian Jean:** The government would certainly be open, Mr. Chair, to a friendly amendment on that basis.

**Hon. Joseph Volpe:** So moved.

**The Vice-Chair (Mr. Don Bell):** Consider it a friendly amendment.

All those in favour of G-7?

**An hon. member:** The amendment.

**The Vice-Chair (Mr. Don Bell):** The amendment, I'm sorry.

**An hon. member:** The amended amendment.

**The Vice-Chair (Mr. Don Bell):** Wait a minute now.

It was a friendly amendment, in terms of royal assent, so that's part of it, so now we're dealing with G-7.

(Amendment agreed to)

(Clause 49 as amended agreed to)

• (1755)

**The Vice-Chair (Mr. Don Bell):** Now we have clauses that were stood.

BQ-11, page 27, and that was by Mr. Laframboise.

(On clause 8)

[*Translation*]

**Mr. Mario Laframboise:** We are moving an amendment to clause 8 at lines 19 to 21.

[*English*]

**The Vice-Chair (Mr. Don Bell):** In effect, deleting after the word “aeronautic” on line 20, and then through to 21.

[*Translation*]

**Mr. Mario Laframboise:** The amendment reads as follows: “and on the part of providers of services relating to aeronautics, and the”.

[*English*]

**The Vice-Chair (Mr. Don Bell):** You're withdrawing it?

[*Translation*]

**Mr. Mario Laframboise:** Yes.

[*English*]

**The Vice-Chair (Mr. Don Bell):** Is that agreed?

**Some hon. members:** Agreed.

**The Vice-Chair (Mr. Don Bell):** We're back to clause 8.

Mr. Julian, it was identical, as I understand.

**Mr. Peter Julian:** Yes, I understand, Mr. Chair. However, just because the Bloc has withdrawn their amendment doesn't mean necessarily that the NDP would draw its amendment.

**The Vice-Chair (Mr. Don Bell):** My understanding, from the clerk, is that because the two are identical the withdrawal of one is of the other.

I understood that the committee had made the decision not to proceed with that amendment previously. It would be considered inconsistent. It dealt with it at the time the original BQ-11 was brought up.

**Mr. Peter Julian:** I don't want to belabour this, Mr. Chair, because I do have the intention to withdraw ours since the Bloc has withdrawn its amendment, but the mover is the person who can withdraw the amendment, no other. Even if it is an identical amendment, if the Bloc chooses not to proceed with its amendment, the NDP *could* choose to proceed with its amendment.

I don't want to belabour the committee's work on that, but I just want to make sure the principle is clear.

**The Vice-Chair (Mr. Don Bell):** I understand that principle. My advice was that the committee had made that decision.

If a motion is moved, then it's up to the committee to withdraw it. If the motion has not been moved, then it's up to the mover to withdraw, as I understand.

**Mr. Brian Jean:** Mr. Chair, a point of order. I'm just wondering if we could deal with that when it becomes necessary to do so. It's not necessary.

**The Vice-Chair (Mr. Don Bell):** You're going to....

**Mr. Peter Julian:** I am withdrawing it, yes, Mr. Chair.

**The Vice-Chair (Mr. Don Bell):** You're withdrawing. Thank you.

So we're ready to now deal with the issue of clause 8 as amended. There were previous amendments. BQ-9 was adopted previously, so there was an amendment.

(Clause 8 as amended agreed to)

**The Vice-Chair (Mr. Don Bell):** Where are we here? We have the potential to revert to clause 1.

By unanimous consent it was agreed that the committee would reserve the right to revert to clause 1 after all the other clauses were decided.

Back to clause 1, and I don't remember what that was about. The definition of "management" was the issue at that time.

Do you wish to reopen clause 1? All those in favour of reopening clause 1?

**Some hon. members:** No.

(Clause 1 agreed to)

● (1800)

**The Vice-Chair (Mr. Don Bell):** Shall the title carry?

**Some hon. members:** Agreed.

**The Vice-Chair (Mr. Don Bell):** Shall the bill as amended carry?

**Some hon. members:** Agreed.

**The Vice-Chair (Mr. Don Bell):** Shall the chair report the bill as amended?

**Some hon. members:** Agreed.

**Mr. Peter Julian:** A point of order, Mr. Chairman. For the record, I would like to have as part of the transcript that the NDP is opposed to reporting the bill to the House.

**The Vice-Chair (Mr. Don Bell):** It will be on division.

Shall the committee order a reprint of the bill?

**Some hon. members:** Agreed.

**The Vice-Chair (Mr. Don Bell):** Is there any other business?

Mr. Julian.

**Mr. Peter Julian:** Mr. Chair, what is on the agenda for Wednesday's meeting?

**The Vice-Chair (Mr. Don Bell):** Apparently we haven't agreed to an item for Wednesday at this point.

Do we want to have our subcommittee meeting immediately following this?

**Some hon. members:** Agreed.

**The Vice-Chair (Mr. Don Bell):** Okay. We'll do that.

This meeting is adjourned.









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