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—
Chair

Mr. Leon Benoit

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• (0905)

[English]

The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)): Good morning, everyone.

As everyone knows, we are dealing with clause-by-clause of Bill C-5, An Act respecting civil liability and compensation for damage in case of a nuclear incident.

(On clause 24—*Insurance*)

The Chair: We had started with clause 24 and we had actually had several interventions on clause 24.

Mr. Omar Alhabra (Mississauga—Erindale, Lib.): I was going back and forth.

The Chair: Yes, you were on, Mr. Alhabra. That is correct.

I don't have the remainder of the speaking list from last time. There was one other person other than Mr. Alhabra on the list, so please let me know if you want to be on the list.

We are on the BQ-3 amendment.

Mr. Alhabra, you go ahead and continue your intervention.

Mr. Omar Alhabra: Thank you, Mr. Chair, and good morning.

Good morning, everybody.

Mr. McCauley, we were discussing the insurance business, as you recall, and how it works. You were in the middle of explaining to us the process of selecting insurers, who does the insurance, and how it works. My question still revolves around NIAC and the fact that they're not really the insurer. They're an association, of sorts, to the insurance companies that demonstrate interest and ability in underwriting nuclear liability.

As far as I understand it, there are only two requirements to become eligible to underwrite a nuclear liability insurance. First you need to be authorized or approved by the financial insurance agency—I'm not saying the proper name—and second, to be approved by the minister. In order to be approved by the minister, does the insurance company have to be a member of NIAC?

Mr. Dave McCauley (Acting Director, Uranium and Radioactive Waste Division, Department of Natural Resources): No, the insurance company wouldn't have to be a member of NIAC. NIAC is the approved insurer today. That was done many, many years ago, and they're the only approved insurer. But no, it wouldn't be necessary. If another insurance company came forward, had received approval by the Office of the Superintendent of Financial Institutions to provide insurance in Canada, and then subsequently

put a submission to the minister, the minister could approve that company to provide nuclear liability insurance.

Mr. Omar Alhabra: So really you have to be a member of NIAC to be automatically approved, unless you're coming to the minister with another large pool of assets or financial strength, because NIAC right now is the only approved insurer.

• (0910)

Mr. Dave McCauley: In most countries there's one approved insurance pool. I think in the United States there are two. In most countries there is only one insurance pool. Under our current legislation, the Nuclear Liability Act, there is only one approved insurer, for historic reasons, to the Canadian operators.

What I'm saying is, that doesn't preclude other insurers. There's nothing in the legislation that would preclude, as you said, another pool coming forward and saying they want to provide insurance. They would have to be approved by OSFI as well as by the minister.

Mr. Omar Alhabra: I would like you to comment on the testimonies we heard from the industry that they feel they are able to get much lower insurance rates in other countries or that the markets in other countries are much cheaper than they are over here. Do you think that is accurate? If so, why do you think that is, given your knowledge of the industry and how it operates?

Mr. Dave McCauley: I don't know what the premiums are that insurers charge in other countries, so I'm unable to comment on that. It's a commercial issue, and we don't look at the premiums.

Mr. Omar Alhabra: Okay, thank you.

The Chair: Thank you, Mr. McCauley.

Mr. St. Amand.

Mr. Lloyd St. Amand (Brant, Lib.): Thank you very much, Mr. Chair.

Mr. McCauley, you and I discussed minor or major incidents the other day, if you'll recall, and also the insurance intended to cover major incidents, but not necessarily catastrophic incidents. Do you recall that exchange?

Mr. Dave McCauley: Yes, but the insurance is there to address all nuclear damage relating to a nuclear installation, be it minor, major, or catastrophic.

Mr. Lloyd St. Amand: Right. On that—and this is within the scope, in my view, of our deliberations—are you familiar with the prolonged maintenance shutdown of the reactor in Chalk River?

Mr. Dave McCauley : Yes.

Mr. Lloyd St. Amand: As I understand it, the reactor was to have been up to speed again by November 26, or some such date, but it's been a prolonged shutdown. So there are consequential effects for those who are undergoing treatment for cancer.

Will that type of incident be covered by insurance, firstly? Secondly, can you reassure the public, particularly the people in my riding who are concerned about their inability to access the treatment they require?

The Chair: Mr. Anderson.

Mr. David Anderson (Cypress Hills—Grasslands, CPC): On a point of order, I believe we're getting off the topic, which is the discussion of the bill here. I would like to stay within that if we can.

The Chair: The discussion is actually on Bloc amendment number 3. It would be expected and appreciated if we could keep the questions to the substance of the amendment.

Go ahead, Mr. St. Amand.

Mr. Lloyd St. Amand: When I ask the questions, if the witness is directed by the chair not to answer, so be it. In my view, the question or questions fall within the scope of what we're discussing, that is, the insurance and what types of incidents would be covered by the insurance.

The Chair: Mr. McCauley.

Mr. Dave McCauley: Well, I think in terms of the first part of your question, certainly I could say that as long as there's nuclear material at the reactor, the reactor is covered under the legislation. So even if it's shut down, it still continues to be covered under the legislation, and any damage that would result from that facility, even in a shutdown period, would be compensable.

As to your second question, I really can't address that. I don't have that knowledge.

The Chair: Thank you.

Monsieur Ouellet, you are on the list.

[*Translation*]

Mr. Christian Ouellet (Brome—Missisquoi, BQ): Thank you, Mr. Chair.

My question is for Mr. McCauley.

Subclause 24(1) requires that the insurance policy be approved by the minister. Subclause 24(2) states this:

(2) The Minister may enter into an agreement with the operator that authorizes that a portion of the financial security be alternate financial security.

What more does that do, Mr. McCauley? Does it provide additional security? The minister already has to approve the insurance company and the insurance. Does he also have to approve the alternate security?

• (0915)

Mr. Jacques Hénault (Analyst, Nuclear Liability and Emergency Preparedness, Department of Natural Resources): I'm going to answer your question as best I can.

The minister has to approve the insurer, but that has nothing to do with the fact that he has to approve the alternate security.

I don't really understand the meaning of your question. These are two separate things.

Mrs. Claude DeBellefeuille (Beauharnois—Salaberry, BQ): I have a question, Mr. Chairman.

[*English*]

The Chair: Madame DeBellefeuille.

[*Translation*]

Mrs. Claude DeBellefeuille: Thank you, Mr. Chairman.

I don't understand your answer, Mr. Hénault. Does the 50% also have to be evaluated by the minister?

Mr. Jacques Hénault: Yes.

Mrs. Claude DeBellefeuille: If the 50% has to be evaluated by the minister, what does it matter if we keep that percentage? In any case, he has to evaluate all the financial security presented. That's what I don't understand.

I also don't understand the answer you gave Mr. Ouellet.

Mr. Jacques Hénault: Last Tuesday, Mr. McCauley mentioned why we wanted to retain the 50% portion of the security covered by the insurance.

Mrs. Claude DeBellefeuille: Do you agree with me, Mr. Hénault, that 100% of the financial security given must be presented to the minister, who must in turn authorize it? The text of the bill is complicated. Did I understand correctly? In spite of everything, you're saying that 50% has to be secured. I don't think that's clear and I would like to understand.

Mr. Dave McCauley : The minister has to approve all security, 100%. If it's 50%, he has to give his approval of the financial security.

Mrs. Claude DeBellefeuille: Do you agree with me that 50% has been put in the text of the bill merely to guarantee a market for the insurer that has shown an interest in insuring all our nuclear facilities?

Mr. Dave McCauley : No. I don't like the words "guarantee a market for the insurers". It's more to retain a separate amount intended for another independent part of the operators in order to secure the risks because the insurer maintains reserves for the purposes of the nuclear liability system.

Mrs. Claude DeBellefeuille: I wouldn't want to misrepresent the remarks Mr. Harris made last Tuesday. He said that not a lot of insurers would agree to ensure nuclear facilities because it's risky. If it's risky, that's because it's dangerous. People would like us believe that nuclear energy is without danger, reliable, cost-effective and so on, but today we're discussing a bill on insurance and compensation. That's because there's a risk.

Consequently, if we retain this 50% requirement, won't we be depriving power station operators from going and negotiating better premiums and better coverage elsewhere, in other countries?

Mr. Dave McCauley: It would be possible for operators to negotiate a better premium with other insurers. However, under the bill, other insurers would have to obtain the minister's authorization in order to insure the operators.

Mr. Christian Ouellet: Why the 50%?

Mr. Dave McCauley: It's just an amount to insure a separate third of insurance or a security that is separate and independent of other means.

• (0920)

[*English*]

The Chair: Did you have something to add, Mr. McCauley?

[*Translation*]

Mr. Dave McCauley: I'd like to add that the 50% figure can be increased or reduced by regulation. It's not a fixed amount because it can be adjusted.

Mrs. Claude DeBellefeuille: I have one final comment, Mr. Chairman.

I get the impression this is interpreted as a lack of confidence in the minister. If the minister has the power to analyze and recommend financial security, the fact that there is the 50%, in addition to a clause on his power, reflects a certain mistrust. Is there some mistrust of the minister, whoever he or she may be? The attack is not personalized. Is the minister's power being reduced in a way?

Mr. Dave McCauley: Perhaps it's to get something stable and reliable. Insurance is an independent third party. Without other financial securities, there is always a possibility of risk. Insurance is something a little more concrete.

[*English*]

The Chair: Thank you.

We will now go to the vote on the Bloc amendment. It's Bloc amendment 3, and it would strike subclause 24(3).

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

The Chair: We agreed to do amendment 3 before 2. We'll now go to Bloc amendment 2.

[*Translation*]

Mrs. Claude DeBellefeuille: Mr. Chairman.

[*English*]

The Chair: Yes, Madam DeBellefeuille.

[*Translation*]

Mrs. Claude DeBellefeuille: I want to withdraw the amendment.

[*English*]

The Chair: Okay, that amendment is withdrawn.

(Clauses 24 and 25 agreed to)

(On clause 26—*Reinsurance agreements*)

The Chair: Mr. Bevington.

Mr. Dennis Bevington (Western Arctic, NDP): I would like some clarification on clause 26. We had a discussion about this a little earlier in the last session.

In terms of the reinsurance agreement, could you characterize the types of risks you would anticipate whereby you would put this clause in the agreement?

Mr. Dave McCauley: Yes, there are a number of risks.

First of all, there are the risks associated with small facilities—for example, Slowpoke reactors, etc.—where you would not anticipate that they could possibly create an incident amounting to \$650 million just because of the size and the amount of radioactive material that's contained in them. So whereas they would be covered by the \$650 million of funds and insurance, the federal government would be reinsuring the majority of that amount. These reactors usually are located in universities, etc., but by far the majority of that risk would be covered by the federal government.

Another area of risk would be risks that the insurers simply are not willing to cover, such as I had indicated previously—latent illnesses associated with release, for example. The insurers are only willing to cover damages for a period of 10 years after the incident, so in order for us to be able to ensure that victims who might be exposed to an incident would have coverage for a period longer, the 30 years that we're proposing, it would be necessary for the federal government to carry that risk.

For example, another area would be in the area of terrorism. In the event of a terrorist incident that would cause damage, the insurers have indicated that they would not be willing to cover the entire amount, and so it would be necessary for the federal government to provide.

I think those are the two main categories: the supplementary insurance associated with small facilities and the substantive risks that the insurers are unwilling to cover.

• (0925)

Mr. Dennis Bevington: Was there an analysis done of the potential likelihood of claims after 10 years? My experience is with the situation that occurred on Great Bear Lake with uranium contamination, which played out over many, many years.

Did you have documents that laid out the potential liability of the federal government under this?

Mr. Dave McCauley: No, we didn't. Basically all countries that provide a 30-year liability limit recognize that the insurers are unwilling to provide the compensation beyond 10 years and that public funds would have to be used to address the remaining period.

Mr. Dennis Bevington: Is there a mechanism for recovery of those funds?

Mr. Dave McCauley: No, there isn't.

Mr. Dennis Bevington: Okay. Thank you.

The Chair: Thank you, Mr. Bevington.

Mr. Ouellet.

[*Translation*]

Mr. Christian Ouellet: Thank you, Mr. Chairman.

If I've understood correctly, Mr. McCauley, you just said, in response to Mr. Bevington, that coverage of a terrorist act could vary over time. So it could be 20% now, 5% in five years or 90% in 20 years, and that could be set down in the act.

Is that what you're suggesting?

Mr. Dave McCauley: Following the events of September 11, 2001, insurers decided to withdraw their coverage of terrorist acts at all nuclear power stations. But they've gradually come back into that market and are starting to offer that coverage.

Currently, Canadian insurers, NIAC, only cover 20% of the terrorism risk. We're trying to increase that percentage to 100%. From now on, 80% of the risks associated with nuclear damage caused by a terrorist act will be covered by the government.

• (0930)

[English]

The Chair: Thank you, Mr. McCauley.

Mr. Bevington.

Mr. Dennis Bevington: Further on that terrorism provision or the responsibility for acts of terrorism to be passed on to the federal government, is there anything in the act that would ensure that there's no negligence on the part of the company when it comes to security and that the proper system is in place to eliminate the risk of this sort of activity going on, or is this simply open-ended, that there's an act of terrorism and the federal government is responsible?

Mr. Dave McCauley: The situation is that we explicitly indicated that damage relating to acts of terrorism would be covered under the legislation, because it was our view that these were things that the operator could take measures to preclude, whereas acts of war, and so on, were outside that scope, and therefore they should not be liable for damages that were caused by acts of war. That was the rationale as to why we included terrorism coverage, because we felt that the operators should have mechanisms in place to deter terrorists from taking advantage of nuclear facilities.

Have I answered the question?

Ms. Brenda MacKenzie (Senior Counsel, Environment Canada, Department of Justice Canada): I just want to clarify that the security of the installation is dealt with under another piece of legislation, not this one—that is, the Nuclear Safety and Control Act. It is the responsibility of the Canadian Nuclear Safety Commission to ensure that nuclear installations are safe. This act is only concerned with insurance, with establishing a proper insurance scheme. So that is out of the purview of this act.

Mr. Dennis Bevington: I want to clarify that, though. My understanding is that with this clause you're covering acts of terrorism. The federal government is the insurer for acts of terrorism in the system. My question is how the two acts then relate. How do you ensure that in the event that under one act a company is negligent, that follows through on any claims they make on that?

Mr. Dave McCauley: In terms of terrorism, there is no test of negligence. What the legislation puts in place is that the operator is absolutely liable, so if there is an act of terrorism that causes nuclear damage, there is no question. The operator is liable and there is no need to suggest that he was negligent in his operations. He is absolutely liable for all damages.

The issue, however, is that the insurers are unwilling at this time to provide 100% of the coverage. Their coverage is limited to 20%, and we are seeking to increase the coverage that they provide.

The Chair: Thank you.

Monsieur Ouellet.

[Translation]

Mr. Christian Ouellet: Mr. McCauley, does that mean that, if the terrorism protection by an insurance company increases from 20% to 40%, the premium will increase by the same amount for the company that is protecting itself?

Mr. Dave McCauley: Probably, but I'm not sure. I'm not an expert on the premiums that insurers charge operators.

Mr. Christian Ouellet: Are we opening the door to a possible coalition between the minister and nuclear power station operators? There's so much talk about brown envelopes. If I give you a nice gift, the premium isn't being increased because that will be too costly. We only hear about that. You won't always be in power; the Liberals will be back.

[English]

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

Mr. Omar Alhabra: Just to clarify and follow up on Mr. Bevington's point, I want to make it clear that if, God forbid, a terrorist incident occurred, the crown is not responsible for the coverage. It's the insurance company. It would still fall as if an incident occurred, so it would still be covered under the insurance policies, and it would still be covered under the act. Is that correct?

• (0935)

Mr. Dave McCauley: That is correct.

Mr. Omar Alhabra: Thank you.

The Chair: We'll go to the question on clause 26.

(Clauses 26 to 33 inclusive agreed to)

(On clause 34—*Interim financial assistance*)

The Chair: Mr. Bevington.

Mr. Dennis Bevington: Yes, we are looking for an amendment here: (2) The maximum amount paid under subsection (1) may not exceed 40% of the difference between

The Chair: Could we have clarification on what you're asking for on clause 34 again?

Mr. Dennis Bevington: On subclause 34(2):

(2) The maximum amount paid under subsection (1) may not exceed 40% of the difference

The Chair: So, you've changed 20% to 40%.

Mr. Dennis Bevington: That's correct.

The Chair: Yes, Mr. Anderson.

Mr. David Anderson: Mr. Chair, may I suggest that would be out of order? It seems to me that requires a royal recommendation to change the obligation of the crown or of the government.

The Chair: I am considering that. If I could have some input from the witnesses on that, I would appreciate it.

Mr. Dave McCauley: The rationale for putting the 20% was to limit to 20% the amount of the \$650 million fund that the minister could pay out before the tribunal was put in place. It's correct that of the \$650 million, some of those funds would be private insurance and some would be federal moneys.

As to whether there's a royal....

The Chair: Mr. St. Amand, you go ahead. I'm just going to take a further look at this, but your input may be helpful.

Mr. Lloyd St. Amand: I take it, folks, that you would concede that 20% is something of an arbitrary amount.

Mr. Dave McCauley: Yes, we would.

Mr. Lloyd St. Amand: Right. What is the downside, if any, if the amount were actually raised to 40%? What's the risk? I don't understand. The declaration's already been made.

Mr. Dave McCauley: Our interest was, in the event of a very serious accident, to rely very heavily on the tribunal to provide effective, efficient, and equitable compensation of victims. So we wanted to hold onto as much of the fund as possible for, actually, the claims determination by the tribunal. Nevertheless, we recognized it might take a bit of time for the tribunal to get up and running, so we wanted to have some mechanism to have money out to victims when the insurers are no longer operating. So that's why we limited it to 20%.

• (0940)

Mr. Lloyd St. Amand: To be fair, and I know it's just a figure of speech, "a bit of time" is an extreme understatement. We're talking years.

Mr. Dave McCauley: No, it would not be.

Mr. Lloyd St. Amand: Well, potentially we're talking years before final or ultimate payments would be made to the victims.

Mr. Dave McCauley: Oh yes, but we're talking about the establishment of the tribunal, so this interim payment would only be made between the time that a declaration was made, saying, okay, stop the payments under insurance—

Mr. Lloyd St. Amand: That's my understanding. I understand. But the ceiling is 40%. There's nothing mandatory about a full 40% being paid out. It would be that an interim payment up to 40% could be paid.

Mr. Dave McCauley: That's correct.

Mr. Lloyd St. Amand: So again, I'm having difficulty knowing, with that discretion available to the minister, why the ceiling of 40% is so problematic.

Mr. Dave McCauley: I'm not saying that it's necessarily problematic. What I'm saying is that the rationale for us to have the 20% was to seek to maintain as much of the moneys as possible for distribution by the tribunal. The 20% was chosen as minimizing the payout before the tribunal was in place.

The Chair: Mr. McCauley, could you explain a bit more what some practical implications might be in increasing that amount?

Mr. Dave McCauley: The situation would be that these demands would be coming to the minister to pay out, as opposed to a tribunal that would be in place and would have the expertise to deal with payouts like this. Our view was that it would be best to try to

minimize the amount of funds that was being spent by the minister acting in the capacity of providing interim insurance.

The Chair: So with a higher percentage paid out, it could increase the risk of someone having to pay some money back, that type of thing, because the tribunal hadn't been controlling more of the fund.

Mr. Dave McCauley: That's correct, and it would reduce the amount of funds available for the tribunal to pay out once it was in place.

The Chair: Mr. Bevington.

Mr. Dennis Bevington: It seems this is also a "may" clause: you may or may not.... So the point my colleague made, I think, is very valid. In some cases, this may be an evacuation where people's lives are completely upset and the minister would require more latitude in his ability to deal with the situation. So we're limiting the minister's authority here to deal with the situation. By increasing the amount, we're giving him more latitude, and to my mind, that's not a bad thing; it's a good thing.

Ministers of this government have responsibility for very large budgets and they deal with them in accordance with the good principles we have. In this case, he would have the ability to make those decisions. I don't see why fettering his ability to release dollars is a good idea; I don't see that at all. I see it in terms of ensuring that, in the end, other claims have an opportunity to come forward, which is quite correct, because the compensation that would come out of a nuclear accident would be ongoing for quite a while. So we do have to have some sense of that as well.

So I'm saying 40% would give the minister more ability to deal with the issues that may come up.

The Chair: Is there any comment from witnesses?

Mr. Dave McCauley: Well, I guess my last comment would be that it's always open to the government to provide additional payments outside of the scheme entirely, in the event of an incident.

The Chair: Mr. Anderson.

Mr. David Anderson: Mr. Chair, I just need some clarification.

I want to know, does this affect the federal government's involvement in payment in any way, shape, or form? If this only involves the \$650 million in insurance money, then there's no commitment or change in the federal's government's requirements. If it's outside of that, then it may require royal recommendation, in which case the amendment is out of order.

I don't know if I should be asking the clerk or the witnesses if they can clarify that for us.

• (0945)

The Chair: We need maybe some more clarification, if the witnesses could help with answering Mr. Anderson's concern.

Mr. Dave McCauley: Within the \$650 million, as I mentioned previously, there is an amount of federal funding that would be provided. For example, if the incident were caused by a terrorist action, then we understand, at this time, that 80% of all payouts would be covered by federal funds. So they would be within the \$650 million, but they would be paid with federal funds.

So to that extent, there is an element of federal funding that would be provided, but it's limited to \$650 million.

The Chair: So to be more direct with the question, could that affect the royal recommendation? I guess I'm looking for more guidance on that.

Mr. Dave McCauley: The total amount is limited to \$650 million, so even if it were all federal government moneys that were spent, the amount would not exceed \$650 million. So moving the percentage from 20% to 40% would not increase the payout over \$650 million.

The Chair: We have Mr. Alghabra first. Then we'll go to Mr. Allen.

It seems to me there wouldn't be an issue with the royal recommendation on this. We'll just go ahead with discussion on this.

Mr. Omar Alghabra: Thank you, Mr. Chair.

For clarification purposes, isn't this tribunal also for an unforeseeable large accident that may even end up costing more than \$650 million in a very improbable scenario?

Mr. Dave McCauley: Yes.

Mr. Omar Alghabra: You kept repeating it's limited to \$650 million, and the 20% here is applicable to the \$650 million, but it's possible this tribunal could be considering greater liabilities. It may be improbable. I hope it will never happen, but it could. The tribunal could be asked to arbitrate on that matter.

Mr. Dave McCauley: Absolutely, but the interim payment would be based on the \$650 million, and that's roughly just over \$100 million. If Parliament should later decide to appropriate additional funds to cover the incident, the assumption would be that the tribunal would already be in place, so we're not dealing with interim payment anymore.

Mr. Omar Alghabra: While increasing it to 40% may increase the pressure on the minister by giving him or her more discretion, that's really what it does. It gives the minister more discretion to spend the money as quickly as possible while the tribunal is considering the claims.

Mr. Dave McCauley: That's correct.

Mr. Omar Alghabra: It is giving the minister more discretion—

Mr. Dave McCauley: While the tribunal is being set up, not while it is being—

Mr. Omar Alghabra: I assume that once it's set up it will also take some time for the tribunal to consider the evidence and the claim and the testimonies for those claims.

Mr. Dave McCauley: No, once it is established, the minister would not be able to pay any—

Mr. Omar Alghabra: Okay, I understand what you're saying. While the tribunal is examining the case, the minister has no more discretion.

Mr. Dave McCauley: That's right.

Mr. Omar Alghabra: Okay.

The Chair: Mr. Allen.

• (0950)

Mr. Mike Allen (Tobique—Mactaquac, CPC): Mr. Chair, with respect to this, there seems to be a lot of uncertainty around whether

this will require a royal recommendation or not, because essentially, if an insurer or an operator has paid out \$350 million of a claim and \$300 million is still left, then the amendment we're talking about is taking the government's liability from \$60 million to \$120 million, 40% of that difference. Is that right?

Mr. Dave McCauley: No, it's not 20%—

Mr. Mike Allen: It's 20% of the difference between \$21.1 million and the amounts paid out.

Mr. Dave McCauley: Just a second.

Yes, you're correct.

Mr. Mike Allen: What that means is that now the federal government is on the hook for an extra \$60 million, and complicating that is the fact that now we could be creeping into a reinsurance amount. We could be creeping based on a self-insurance amount we already provided the operator with under previous clauses, and I'm concerned that if something happened there would be risk to the government on this in extra dollars.

Having said that, I only see two options. Number one, I think it's going to take a royal recommendation and I would have to oppose this amendment if I'm forced to vote on it today. Otherwise someone should investigate this so we have a definite answer on this before we meet on Tuesday.

The Chair: I need more guidance. I thought I was clear on what the situation was. It seems to me we're talking about an interim payment, and I believe the witnesses had answered at one time that there would be no increase in government liability. Could we get clarification on that as much as possible?

Mr. Dave McCauley: That's correct. There is no increase in the liability. There's no increase. The liability is fixed at a maximum of \$650 million. In effect, the government would not pay out \$650 million because the private insurance would be covering an element of that—we would expect the majority of that. The government's ultimate liability could only be up to a maximum of \$650 million.

Ms. Brenda MacKenzie: Actually, may I clarify that?

The Chair: Yes, Ms. MacKenzie.

Ms. Brenda MacKenzie: If we go on to the financial provisions—that's starting at clause 58—you'll see that payments made by the minister come out of the nuclear liability reinsurance account, which is a special account in the consolidated revenue fund. If excessive payments are made—if an error is made, for instance—if there are insufficient amounts in that account, then an amount sufficient to meet the deficit is to be paid from the consolidated revenue fund. At the point that the minister is paying money out, he's paying money out of the consolidated revenue fund or the special account.

The Chair: So what does that mean? What does that mean in terms of the royal recommendation issue, to make it clear? It means increasing it to 40% from 20%.

Ms. Brenda MacKenzie: There is a theoretical increase in liability. It's unlikely. If the amount were paid out, if the minister mistakenly paid out more than was available in that account, then the shortfall would come from the consolidated revenue fund.

The Chair: Mr. McCauley, do you have something to add?

Mr. Dave McCauley: No, not really.

The Chair: Mr. Hénault, do you?

Mr. Jacques Henault: No, I have nothing to add.

The Chair: I thought you had your hand up.

Now we're going to go to Mr. Ouellet on this, and I'm going to have some further consultation with the researcher on this, as well. Then we'll go to Mr. Anderson.

Mr. Ouellet.

[Translation]

Mr. Christian Ouellet: Mr. Chairman, my question was the same as the one Mr. Alghabra asked. It's settled.

[English]

The Chair: Thank you.

Mr. Bevington.

Mr. Dennis Bevington: I'd just like to make a motion to table the amendment until Tuesday, and then we can have complete clarification on it.

• (0955)

The Chair: There's no debate on a motion to table. Mr. Bevington's motion is to table the decision on clause 34 until Tuesday.

(Clause 34 allowed to stand)

(Clauses 35 and 36 agreed to)

(On clause 37—*Public notice*)

The Chair: Mr. Bevington.

Mr. Dennis Bevington: The amendment here, regarding sub-clause 37(2), would be to add “and the newspaper of record for each province and territory of Canada or national newspaper of record if the nuclear incident occurs outside of Canada” following *Canada Gazette*.

Oh, it's been changed into more legal language. I apologize for that.

The Chair: Mr. Bevington is indicating he doesn't have any rewritten motion.

Mr. Dennis Bevington: Here it is. It's that Bill C-5 in clause 37 be amended by replacing line 8 on page 12 with the following:

Canada Gazette and in a newspaper in general circulation in each province and territory of Canada or, if the nuclear incident occurs outside of Canada, in a newspaper in general circulation throughout Canada.

The Chair: Do you have that written down, Mr. Bevington?

Mr. Dennis Bevington: Yes.

The Chair: Could you bring a copy of that or could we get a copy of that at the table here?

Madame DeBellefeuille.

[Translation]

Mrs. Claude DeBellefeuille: Are the amendments drafted in both official languages?

An hon. member: Yes.

Mrs. Claude DeBellefeuille: Perfect.

[English]

The Chair: No, we don't do that. When we're making an amendment, anyone can make a motion at the table here. We rely on translation to give you—

[Translation]

Mrs. Claude DeBellefeuille: Mr. Chairman, I believe the document was tabled in both languages and that the French version is available. So I'd like to have a copy of it. What I'm receiving here is the interpretation, not the translation.

[English]

The Chair: The researcher can read this into the record. It is written in both languages in the copy we've just received.

Mr. Anderson.

Mr. David Anderson: I think there's getting to be a certain amount of frustration around the table. It appears the NDP does have a prepared set that they haven't presented to the rest of us. I understand Ms. DeBellefeuille's frustration. She worked hard to get her amendments in on time, and now we seem to have a whole host of amendments that are coming forward without anyone on the committee having seen them ahead of time. So I'm wondering if the NDP is willing to give us a copy of those, or if there's some other reason for this happening.

The Chair: Mr. Anderson, there is, of course, no requirement in clause-by-clause for amendments to be brought to the committee ahead of time. It's really strictly within the control of each individual member of the committee.

Mr. Bevington.

Mr. Dennis Bevington: We forwarded these to the clerk at 8:30 this morning by electronic means. We just got them back this morning from the drafter.

The Chair: We will read the French as presented by Mr. Bevington.

[Translation]

Ms. Joann Garbig (Procedural Clerk): That Bill C-5, in Clause 37, be amended by replacing line 8 on page 12 with the following:

Canada Gazette and in a newspaper in general circulation in each province and territory of Canada or, if the nuclear incident occurs outside of Canada, in a newspaper in general circulation throughout Canada.

• (1000)

[English]

I'll now read the English:

That Bill C-5, in Clause 37, be amended by replacing line 8 on page 12 with the following:

Canada Gazette and in a newspaper in general circulation in each province and territory of Canada or, if the nuclear incident occurs outside of Canada, in a newspaper in general circulation throughout Canada.

The Chair: You've heard the motion in both languages.

Mr. Alghabra.

Mr. Omar Alghabra: I have a question for the officials.

If an incident occurs outside of Canada, this act does not apply to it. Is that correct?

Mr. Dave McCauley: That's correct.

Mr. Omar Alghabra: So we may want to consider just deleting the last section, then—speaking through you, Mr. Chair, to Mr. Bevington—about the incident occurring outside of Canada. I don't have a problem with the addition of advertising it in a provincial newspaper, but I'm not sure that if the incident occurs outside of Canada it applies to this act.

Thank you.

The Chair: Mr. Anderson.

Mr. David Anderson: I have just one point.

I think the amendment is unnecessary. Subclause 37(1) says clearly “The Tribunal shall notify the public, in a manner that it considers appropriate”, and I would suspect that in the event that we have an incident, it would be highly publicized and it would be well known that the tribunal has been appointed and what the purpose of it is.

The Chair: Thank you, Mr. Anderson.

Madame DeBellefeuille.

[*Translation*]

Mrs. Claude DeBellefeuille: Thank you, Mr. Chairman.

Mr. Bevington's amendment might perhaps be justified in the event of an incident occurring in the United States and causing damage in Canada, having regard to the reciprocity agreement between our country and the United States. Here I'm thinking of the fact that we can announce an incident that has occurred in the United States in a national newspaper.

Mr. Dave McCauley : If an incident occurred in the United States and damage was suffered in Canada, we wouldn't have a tribunal to handle the question. Only cases concerning incidents occurring in Canada are heard.

[*English*]

The Chair: Thank you.

We will now go to the question on the NDP amendment to clause 37.

(Amendment negated)

(Clause 37 agreed to)

(On clause 38—*Members of Tribunal*)

The Chair: Is there any discussion on clause 38?

Mr. Bevington.

Mr. Dennis Bevington: This is another amendment that we forwarded.

I move that Bill C-5, in clause 38, be amended by replacing line 11 on page 12 with the following:

who shall select from among themselves a person who shall act as the

This is to change the designation of how the chairperson is to be chosen for the tribunal.

The Chair: How does that amendment fit in there?

We will read subclause 38(1) in English as it is proposed to be amended, and we'll rely on translation to give the French version, unless there is a further need. Let's just go ahead in English, slowly.

Madame DeBellefeuille.

• (1005)

[*Translation*]

Mrs. Claude DeBellefeuille: Mr. Chairman, this isn't a translation I'm hearing, but an interpretation. If I have to take a position on the amendment, I'd like it to be read in my language. I shouldn't have to repeat this every time an amendment is introduced. I can't vote on the basis of an interpretation. I think I have a right to have the French version of the amendment read to me. How can I take a position on an interpretation. I don't want to get angry, but I believe I'm about to.

[*English*]

The Chair: Madame, the fact is that at clause-by-clause like this, there is no requirement for these amendments to come in both languages.

Some of these we have in both languages. When we have them in both languages to accommodate, absolutely we'll read them in both languages. But you must understand that it isn't a requirement. It's not like other motions brought before the committee, just so that you understand that.

We will certainly accommodate. You have every right to know what you're voting on before you vote.

Yes, Madame DeBellefeuille.

[*Translation*]

Mrs. Claude DeBellefeuille: Do you want me to tell you what I understand about this situation? I believe that the NDP is being disrespectful toward me, being a unilingual Francophone. I find that unjustifiable and unacceptable. The Bloc Québécois has taken the trouble to work on the amendments and to table them in both official languages.

[*English*]

The Chair: We will go to the amendment. The clerk could read it in both official languages, the NDP amendment to clause 38.

We're trying to accommodate getting these. Of course, these were just received early this morning. Every party has a copy now, so can we work with that?

I'll just wait a minute or two until you have time to look at them.

Yes, Mr. Harris.

Mr. Richard Harris (Cariboo—Prince George, CPC): This is a point of order. I would add my comments to what Madame DeBellefeuille said. While it's not a requirement, as you have aptly pointed out, I believe she has an excellent point and that in this case—in every case—we should do whatever we have to do that is proper to provide the appropriate translation for the members who are sitting around the table.

If, for example, something were presented in French only, notwithstanding that there might be an English translation, I would feel uncomfortable not having an English translation in front of me, because I'm unilingually English. So I sympathize and I support Madame DeBellefeuille's concerns.

The Chair: That's fully understood, Mr. Harris, and agreed.

Let's go ahead, then, with the vote on the NDP amendment to clause 38.

(Amendment negatived)

(Clause 38 agreed to)

(Clauses 39 to 43 inclusive agreed to)

(On clause 44—*Hearings*)

The Chair: Mr. Bevington.

Mr. Dennis Bevington: There is an amendment in front of you in both official languages on clause 44 that I'd like to present. If you want me to read it into the record, I will try to do that in.... If it's not required, though, the clause is in front of you—

• (1010)

The Chair: Mr. Bevington, just for clarity, could you read the reference number at the top of any of these amendments right at the start so that everyone is on the same amendment? The reference number is in the upper left-hand corner of the sheet.

Mr. Dennis Bevington: It's 3176582.

The Chair: All right.

Mr. Anderson.

Mr. David Anderson: We're going to oppose the amendment. I think clause 45 covers this, because it gives the tribunal the powers of a superior court. I think this is unnecessary.

The Chair: Okay, Mr. Anderson.

Is there any further discussion?

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

(Clause 45 agreed to)

The Chair: Oh, my apologies; we'll go back to clause 44. The amendment was defeated, but we did not vote on the clause.

(Clause 44 agreed to)

(Clause 46 agreed to)

(On clause 47—*Frivolous or vexatious claims*)

The Chair: Mr. Bevington.

Mr. Dennis Bevington: I have an amendment here, Mr. Chairman, number 3176971.

The Chair: The reference number, again, is in the upper left-hand corner.

Is there any discussion?

Mr. Bevington, go ahead.

Mr. Dennis Bevington: Mr. Chair, this changes this clause to ensure that the claim is heard before a decision is made as to whether

it's vexatious or frivolous. If you don't hear the claim, how can you make the judgment of its nature?

The Chair: Could we have the witnesses respond to that? Who would like to do that?

I understand you're just trying to get a clear picture of what you will be responding to here.

Mr. Dave McCauley : Is it clause 47 we're talking about?

The Chair: We're talking about clause 47, and the amendment is reference number 3176971.

Ms. Brenda MacKenzie: If I understand correctly then, the amendment was to insert the word “not” and say “The Tribunal may not refuse to hear any claim”.

This particular provision is quite a standard provision in the rules concerning quasi-judicial tribunals. The tribunal would have received the claim and would have received the documents, and therefore it is quite normal for a tribunal to be given the power not to hear things that on their face are frivolous or vexatious.

The Chair: Mr. Alhabra, and then Mr. Boshcoff.

Mr. Omar Alhabra: I'm just going to be very short.

Obviously the tribunal will read the claim before it decides if it's frivolous or not, just like any court or any proceedings. They will examine the claim and then decide if it's frivolous or not, and then decide not to hear it, or to hear it. I think this is normal and standard. I will be—sorry—opposing the amendment.

The Chair: Thank you.

Mr. Boshcoff.

Mr. Ken Boshcoff (Thunder Bay—Rainy River, Lib.): I'm fine, thank you.

The Chair: Mr. Bevington, a final comment?

Mr. Dennis Bevington: I'd just say that in many cases the people who will be making claims against nuclear accidents are not necessarily ones who have access to lawyers, and they may not be able to put their claims in a fashion that would appeal to the kind of tribunal we're setting up here.

I would think there needs to be some protection for Canadian citizens who would be under some.... What we're saying here is that this tribunal has to be open to hearing the claims that people have. A tribunal could refuse to hear a claim and then that would be the end of it. If a tribunal has to hear the claim, they might get the claimants to put it in a format that would be more acceptable.

• (1015)

The Chair: Just for clarity here, would any of the officials like to respond to that?

Ms. Brenda MacKenzie: There are processes for rehearing and appeals of any decision. Also, if the tribunal makes a decision that is inappropriate, it's always subject to judicial review by the courts. There is a normal process for dealing with claims. This is a normal rule for a quasi-judicial tribunal.

The Chair: Thank you.

I do have a list here.

Mr. St. Amand.

Mr. Lloyd St. Amand: I was going to make the same points as Ms. MacKenzie, not as well likely, but I was going to make the same points.

The Chair: Thank you.

Monsieur Ouellet.

[*Translation*]

Mr. Christian Ouellet: Speaking to our experts, I wonder whether a clause such as this one isn't more for businesses in general, people who have ready access to the courts and a lawyer. I feel this clause is inappropriate for the purpose of protecting the ordinary person who might be affected by a nuclear incident.

It forces people who have little knowledge, means or money to hire a lawyer not to institute proceedings because, if the claim is poorly written or poorly prepared, it will be said that it is frivolous and will be dropped. If the purpose of this clause is to protect the population as a whole, I don't think it is appropriate. You'll tell me if I'm straying very far from the truth, but it seems to me the purpose of this clause is precisely to protect businesses or, more generally, people who can gain access to the courts.

[*English*]

The Chair: Ms. MacKenzie, go ahead.

[*Translation*]

Ms. Brenda MacKenzie: The expression frivolous or vexatious has a well-known meaning; it's a kind of bad faith.

[*English*]

It's not the idea of somebody who just doesn't know how to fill out a form. In fact, the whole purpose of the tribunal, as set up, is to ensure that claims are heard expeditiously and that it isn't necessary, although you have the right, for people to be represented by lawyers.

[*Translation*]

Mr. Christian Ouellet: Can you give me an example of a frivolous or vexatious claim in the case of a nuclear incident?

Mr. Dave McCauley: It could be a person from Alberta who files a claim for compensation for headaches or something like that after seeing on television that an incident has occurred in New Brunswick. It's weird and it's not—

Ms. Brenda MacKenzie: Perhaps a person.

Mr. Christian Ouellet: Your example isn't very good: it could be true.

Mr. Dave McCauley: We thought of a lot of examples relating to incidents—

[*English*]

The Chair: Thank you.

Mr. Alghabra.

Mr. Omar Alghabra: Mr. Chair, I don't want to make this discussion longer, but I feel that I have to respond, because this is, again, very standard in any quasi-judicial—in fact, even in court—proceedings. The fact of the matter is that we have a minimum of five judges or adjudicators. The majority of them will be judges, and everybody will be allowed to submit their claim and they will

examine the claim based on its merits. I'm going to have confidence in the fact that the tribunal will do everything they can in studying that claim and then make a decision as to whether it's frivolous or not. This is in fact to protect the public interest, because there has to be a balance between what the tribunal should focus on and how to distinguish or differentiate between a frivolous claim and a legitimate claim that must be focused on, and save public money and public interest in looking after these claims.

So again, I will oppose this amendment.

Thank you.

• (1020)

The Chair: We have one more speaker on this. Mr. Bevington.

Mr. Dennis Bevington: Clearly there's no definition of “frivolous or vexatious” in this document.

I guess my feeling about this goes back to my particular experience with nuclear contamination problems. In my own community, we've had two of them. There's always a line drawn between what is appropriate and what is not appropriate.

For instance, when the Atomic Energy people came down my driveway and sorted out the dirt in my driveway to find pieces of radioactive material, they didn't bother to take a look around the rest of the yard; they focused only on the driveway. Would that be a frivolous or vexatious claim if I went back to the tribunal and said, “I don't think the cleanup you've done is appropriate”? For a homeowner to come forward with a legal document, I think, is difficult.

I don't think this field has been completely understood in terms of how nuclear contamination exercises should be conducted; and certainly, to give the tribunal the ability to simply ignore claims because they consider them frivolous or vexatious, I don't agree with that. I think the jury is still out on the nature of nuclear contamination, and I think any law that we put forward should give protection to the citizen first, in the case of any kind of action that comes out of accidents that occur with this particular material.

Thank you.

The Chair: We will go, then, to the question on the NDP amendment.

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

(Clause 47 agreed to)

(On clause 48—*Report on the activities of the Tribunal*)

The Chair: Mr. Bevington.

Mr. Dennis Bevington: This is reference 3176957, and speaking to this particular amendment, it simply makes it mandatory for the tribunal to report to the minister.

The Chair: From the officials, are there any comments on that?

Ms. Brenda MacKenzie: The purpose of the words “at the request of the Minister” are to require the tribunal to submit a report at any point that the minister considers it necessary. For example, if the minister is concerned about emerging information about the size or the quantum of the damages that are coming forward, the minister can then require the tribunal to provide this information to the House. So it is ensuring that information from the tribunal is presented to the House when the minister thinks it appropriate.

The Chair: Thank you.

Go ahead, Mr. Anderson.

Mr. David Anderson: I'd just like to make the point that I think this is an important provision to be left as it is. It actually limits.... It puts the tribunal under the minister's authority, so that, as Ms. MacKenzie has pointed out, when the minister requests information, the tribunal is required to provide it. If we make the change, the tribunal can provide its report at its leisure, and the minister does not have any say over that.

I think it's important that we leave clause 48 as it is.

The Chair: Thank you, Mr. Anderson.

We'll go to the vote on the NDP amendment to clause 48.

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

(Clauses 48 to 51 inclusive agreed to)

(On clause 52—*Public hearings*)

•(1025)

The Chair: On clause 52, go ahead, Mr. Bevington.

Mr. Dennis Bevington: Mr. Chair, we have another amendment, 3176874. This speaks to ensuring that the public well understands the operations of the tribunal, including its ability to go into sessions that are private.

The Chair: Is there any response from the officials on that?

Go ahead, Ms. MacKenzie.

Ms. Brenda MacKenzie: May I simply explain the purpose behind clause 52? For example, in the case of a medical claim it is quite likely that sensitive medical information could be divulged, and that would most likely be the situation in which a tribunal would not want that person's identity or the nature of their personal troubles to be disclosed in public.

The Chair: Mr. St. Amand, do you have a comment?

Mr. Lloyd St. Amand: Mr. Chair, I think the proposed amendment from Mr. Bevington would render the clause so ambiguous that it would make no sense. I think the amendment should be defeated.

The Chair: Let's go to a vote on the amendment.

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

(Clauses 52 to 55 inclusive agreed to)

(On clause 56—*Appeal*)

The Chair: Go ahead on clause 56, Mr. Bevington.

Mr. Dennis Bevington: Thank you, Mr. Chair.

I'd refer to 3176703.

The Chair: We don't seem to have that in the package. If you could provide it, we will read it in both official languages—or Mr. Bevington, could you read it both official languages?

Either one would do. If you could bring it up here, we would do that.

Mr. Dennis Bevington: In English, it would replace lines 30 and 31 with, following “parties”:

“The panel hearing the appeal may, if in its opinion it is”

[*Translation*]

In French, it's “elle peut toutefois recevoir des nouveaux éléments”.

[*English*]

The Chair: That doesn't seem to fit. Could we have that up here so we can have a look at it?

Thank you.

We're going to read this amendment in both official languages. The amendment is to clause 56.

[*Translation*]

Ms. Joann Garbig: The purpose of the amendment is to delete the words “in exceptional circumstances”.

[*English*]

It takes out the words “in exceptional circumstances”.

[*Translation*]

That's at lines 32 and 33 of the French version.

I'm going to read the text. Que le projet de loi C-5, à l'article 56, soit modifié par substitution, aux lignes 32 et 33, page 15, de ce qui suit:

« elle peut toutefois recevoir de nouveaux éléments»

[*English*]

That Bill C-5 in clause 56 be amended by replacing lines 30 and 31 on page 15 with the following:

parties. The panel hearing the appeal may, if in its opinion it is

•(1030)

The Chair: Could you read subclause 56(3) with the amendment as it would read now?

Ms. Joann Garbig: (3) The appeal is to be heard on the basis of the record of the panel whose decision is appealed, and on the submissions of interested parties. The panel hearing the appeal may, if in its opinion it is essential in the interests of justice to do so, admit additional evidence or testimony.

[*Translation*]

In French, it reads as follows:

(3) La formation entend l'appel en se fondant sur le dossier de la formation initialement saisie et sur les observations des parties intéressées; elle peut toutefois recevoir de nouveaux éléments de preuve ou entendre des témoignages si, à son avis, cela est indispensable à la bonne administration de la justice.

[*English*]

The Chair: You have heard the amendment. Is there any comment or discussion on the amendment?

(Amendment negated)

(Clauses 56 to 61 inclusive agreed to)

(On clause 62—*Limit of payments*)

The Chair: Go ahead, Mr. Bevington.

Mr. Dennis Bevington: Thank you, Mr. Chair.

This is reference 3176594, which is to amend clause 62 by replacing lines 21 to 26 on page 17.

The Chair: Mr. Bevington, could we have that up here, as well? We don't have it. Go ahead.

Mr. Dennis Bevington: I've been told by my assistant that this has been ruled out of order, so I'll pass that one over.

(Clauses 62 to 64 inclusive agreed to)

(On clause 65—*Failure to maintain financial security*)

The Chair: Mr. Bevington.

Mr. Dennis Bevington: Do you have reference 3175984, Mr. Chair?

The Chair: I believe everybody has that in front of them in both official languages.

Mr. Dennis Bevington: Thank you very much.

This would replace line 34 on page 18 with the following:

\$1 million for each day in which the offence is

It increases the summary conviction to a fine not exceeding \$1 million from \$300,000.

The Chair: You have heard the amendment. Is there any discussion on the amendment?

(Amendment negatived)

The Chair: We'll go to Mr. St. Amand.

Mr. Lloyd St. Amand: May I be permitted to ask the officials a question about subclause 65(2). It's not an amendment. I'm just seeking clarification.

The Chair: Yes, absolutely.

Mr. Lloyd St. Amand: If I could draw your attention, folks, to subclause 65(2), it is mandatory that the operator have insurance. That's clearly mandatory, but I'm a little concerned about the potential for wriggling out of that mandatory obligation: "No operator is to be found guilty of the offence" of not having insurance "if it is established that the operator exercised due diligence to prevent the commission of the offence."

Surely we're not going to go down that slippery slope of the operator saying he got notice too late that his premium wasn't paid or that he did his best to maintain insurance or the notice was sent to the wrong address, or something weak and lame like that. I don't quite get subclause 65(2). If it's absolutely mandatory on the operator, why are we giving the operator a potential out by saying if you've done due diligence then you'll be absolved?

• (1035)

Ms. Brenda MacKenzie: May I respond?

The Chair: Yes, Ms. MacKenzie, go ahead and respond.

Ms. Brenda MacKenzie: This establishes the failure to maintain financial security as a strict liability offence, and it was thought

necessary to make this clear that it's not an absolute liability offence, because that is what we talk about in the rest of the bill, that the operator's absolutely liable.

Mr. Lloyd St. Amand: Yes.

Ms. Brenda MacKenzie: In the case of the failure to maintain the financial security, we've clarified that is a strict liability offence for which the defence of due diligence is always available, and in the example that you gave, that would not meet the common law test of due diligence.

Mr. Lloyd St. Amand: But why isn't failing to maintain insurance an absolute liability offence?

Ms. Brenda MacKenzie: It is far more normal in the statute book for offences to be strict liability. You see very few absolute liability offences. And so in this context the absolute liability of the operator, in the event of an accident, is quite exceptional in the rest of the bill, and it was thought necessary to make it clear that when we get to clause 65, we're back in the normal world of due diligence and strict liability.

Mr. Lloyd St. Amand: I don't want to debate it with you at length, but to me it rather dilutes the purpose of the bill, which is to impose the highest possible standard on operators of potentially dangerous sites, and we're diluting our emphasis on that point if we establish their non-failure as strict liability rather than absolute liability.

Ms. Brenda MacKenzie: Yes. I can't comment on what the appropriate choice would be; I'm just explaining this was drafted to be consistent with related statutes, in particular the Nuclear Fuel Waste Act, which similarly imposes strict liability on the operator and imposes similar penalty amounts.

The Chair: Okay, Mr. St. Amand? All right.

(Clauses 65 to 68 inclusive agreed to)

The Chair: We will now deal with clause 68.1, a new proposed clause.

Madame DeBellefeuille.

[*Translation*]

Mrs. Claude DeBellefeuille: Thank you, Mr. Chairman.

When we read the bill, we were surprised at the content and scope of the regulations. We thought that, if the regulations were examined by parliamentarians, the decision-making process concerning the regulations would be more open, more transparent. It would also be possible to hear from witnesses who would appear on the subject. Other committees have done this in relation to other legislation. These regulations are very important. We see that, in the present circumstances, they are not minor.

The Bloc Québécois believes that it would be appropriate and good practice to take part in the debate and to examine the regulations under this bill together. There is an organization whose purpose is to draft regulations, but its role is more to see to the drafting than to the content of regulations.

I don't know what you think, Mr. McCauley, but it seems to me it would be reassuring for Quebeckers and Canadians to take part in the debate through their parliamentarians, their elected members, and to examine the regulations.

•(1040)

[English]

The Chair: I'm not sure a response on that from the officials would be in line. While any comments you could make would certainly be welcome, it's more of a political decision, I think.

Go ahead. Do you have any comments on that?

Mr. Dave McCauley: We were relying on the federal government's regulation-making provisions being open and transparent.

The Chair: Mr. Anderson.

Mr. David Anderson: I have just one point. Our position is that this would basically make unworkable the setting in place of regulations. There's an obvious process for it in the Standing Joint Committee on Scrutiny of Regulations, which can look at any regulation they choose. So our preference is that we leave in place the structure that's already there.

The Chair: Madame DeBellefeuille.

[Translation]

Mrs. Claude DeBellefeuille: Could the parliamentary secretary tell us how the situation would be difficult or unworkable? I've learned that, in the case of another bill, the Immigration Committee agreed to have the regulations looked at in committee.

Why isn't the parliamentary secretary in favour of transparency and debate in committee? We could give proper consideration to the regulations, which are very important. These are not minor regulations.

[English]

The Chair: Mr. Anderson will respond to that.

Mr. David Anderson: To reiterate, there's already a committee set up to take a look at the regulations as they're coming through the process. The process has been established.

If you look at pages 19 and 20 of the bill, there are 15 different paragraphs there that will have regulations. This amendment says that every last one of them is going to have to come before the House of Commons to be approved, so I think it's obvious to members that almost....

I don't know how it will be workable, but it looks to me that it would be unworkable.

The Chair: Mr. St. Amand.

Mr. Lloyd St. Amand: I just wondered if the officials can let us know what other committees have imposed on regulations the route of having to go to the House, rather than just to the Governor in Council.

The Chair: Ms. MacKenzie, would you like to respond?

Ms. Brenda MacKenzie: This would be a unique process in the nuclear area. I've been involved in many regulation-making exercises, and I actually haven't gone through such a process in which the regulations would have to be introduced first in the House.

Just to clarify, the regulation-making process is quite complex, and the policy followed is that proposed regulations are published in *Canada Gazette, Part I*, with an extensive regulatory impact analysis statement. This statement includes economic and other considera-

tions associated with the proposed regulation and provides for an extensive consultation period with anybody who's interested. That would usually be industry, for example, or non-government organizations of some sort, but also any member of this committee or anyone else would be equally able to comment and make representations. What the committee would choose to do with its views, of course, is not known to me.

All of that would have to be done prior to the regulations being made in *Canada Gazette, Part II*. At all times, even after the regulations are made, all regulations stand, subject to the review of the Standing Joint Committee on the Scrutiny of Regulations.

So there is a very extensive consultation process in place, which the committee can become extremely active in, if it so chooses, as can any other person.

•(1045)

The Chair: Thank you.

Mr. St. Amand, did you have more?

Mr. Lloyd St. Amand: No.

The Chair: Okay.

Monsieur Ouellet.

[Translation]

Mr. Christian Ouellet: Thank you, Mr. Chairman.

I find it curious that Mr. Anderson considers this option unworkable, whereas it would be normal to proceed in this manner in such an important case as this. In fact, these are policies that are being established, and a change in orientation. I would find it hard to understand if, in five years, he himself didn't request this because he would like to have the opportunity to discuss the matter in committee.

You say this has never been done in the case of the nuclear issue. But we're talking here about a small part of the federal government's overall power. However, it takes this kind of approach toward the committees on other matters. It isn't because this has never been done on the nuclear issue that it's infeasible. I don't understand why you find this more difficult than anything else. We're coming back to study appropriations and all kinds of other issues.

Mr. Anderson, we know perfectly well that, by submitting something directly to the House, we have much less of a chance of knowing the how and why of the regulations. We also know that the consultation is often directed by the sitting minister and that there isn't at all the same type of consultation in the committees.

How much time would it take to conduct this kind of consultation? It seems to me it wouldn't take more time than in the case of a statute. These regulations will be as important as the act itself.

[English]

The Chair: Is there any response to that from any official?

Ms. MacKenzie.

Ms. Brenda MacKenzie: I agree that regulations are extremely important, and that is why it is important that they go through a full consultation process. As provided for in this piece of legislation, it would go through the full consultation process, publication in *Canada Gazette, Part I* and *Part II*, and the various requirements of the Statutory Instruments Act, which are extremely onerous.

The Chair: Thank you.

Madame DeBellefeuille.

[*Translation*]

Mrs. Claude DeBellefeuille: Thank you, Mr. Chair.

I would like to inform the people around the table that the amendment introduced by the Bloc Québécois was inspired by the Tobacco Act. We didn't make up this amendment: these provisions already exist in another act.

So if it's feasible in the context of the Tobacco Act and doesn't seem too complicated or unworkable, I don't see why we couldn't do this as well in a bill as important as this one.

Mr. Chair, you missed my speech, which was very interesting.

[*English*]

The Chair: No, I was listening carefully.

[*Translation*]

Mrs. Claude DeBellefeuille: But since you don't vote, that's not too serious.

[*English*]

The Chair: I'm afraid a chair has to multi-task, as we all do at times.

Is there any response?

Ms. Brenda MacKenzie: I agree that the regulations are extremely important. The purpose of delegated legislation in any act—and there is a lot of it; the statutes of Canada are like this and the regulations are like this—is to spare Parliament, just because there is so very much work to be done. Certainly you're correct, it is possible nevertheless to require that the regulations be brought before the House. That's a decision here.

• (1050)

The Chair: Thank you.

Mr. Anderson.

Mr. David Anderson: I don't know if this is the final point or not, but we have a full consultation process put in place now, as Ms. MacKenzie pointed out. Adopting this amendment would require that each regulation put forward would go through a process in which it would have to go to the House, and it would come back to the committee, and then it would go back for concurrence to the House or wait 30 days, and then it would go through the regular process we have now. We're talking even about the hiring of employees of the tribunal. I just find that unnecessary. We've got a good process in place that seems to be working, and I would ask members to oppose the amendment.

The Chair: Madame DeBellefeuille.

[*Translation*]

Mrs. Claude DeBellefeuille: You know that this bill has been neglected. We've waited 30 years to be able to debate it. Perhaps we could wait a few days for parliamentarians to be able to debate the regulations of a bill as important as this one.

[*English*]

The Chair: Thank you. *Merci*.

We will now go to the vote on the amendment.

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

(Clauses 69 to 74 inclusive agreed to)

The Chair: Mr. Alghabra.

Mr. Omar Alghabra: We received a letter from the Ontario Ministry of Community Safety and Correctional Services. I'm not sure the officials have a copy of that letter. I know we went over clause 18, the clause that this letter is addressing, but I think out of acknowledgement and taking this letter seriously, I'd like the officials to respond to the concerns. They're quite short and concise. They basically talk about clause 18 in both points they raise. They're asking for some language adjustment to it.

The Chair: Okay, this is highly unusual because it doesn't apply to any clause that we have dealt with. It doesn't apply to the next clause.

Would the committee allow this question put by Mr. Alghabra to be responded to by the officials? Is there any objection to that?

An hon. member: No.

The Chair: Then we'll go ahead.

Please, is there any response?

Ms. Brenda MacKenzie: Yes. This letter suggests that in order for this federal legislation to match the provincial legislation, some adjustments to the terms are necessary.

Actually, we were aware of provincial emergency legislation during the drafting of this legislation, and we were careful to draft the terms in clauses 18 and 17, or the two provisions that they refer to, in a broad enough manner that the provincial law would be encompassed. We felt it inappropriate to write specifically to Ontario's legislation, because we're not doing something just for Ontario; we're doing it for all of Canada, and so we were mindful of the various provincial emergency legislation in place and were careful to draft clauses 17 and 18 broadly enough that they would encompass the provincial schemes.

• (1055)

The Chair: Mr. Bevington is next on this.

Mr. Dennis Bevington: It's a motion, Mr. Chair.

The Chair: What does your motion apply to?

Mr. Dennis Bevington: It applies to the next meeting of the standing committee.

The Chair: We've been given notice of this motion. I told Mr. Bevington that we'd deal with this motion at a quarter to eleven and I let that slip.

But I do want to let you know that we are to a clause.... The clause we stood to the next meeting is the next thing we have to deal with. We have to put that off anyway.

We will now go to Mr. Bevington's motion. The officials may leave the table if they'd like.

Mr. St. Amand.

Mr. Lloyd St. Amand: We had agreed as a committee that the officials be allowed to comment on the letter and they've done that. Further to Ms. DeBellefeuille's earlier point, perhaps I could ask the officials to comment on the second page of the letter from Mr. Helkey, the next to last paragraph, which says "we also request that we be afforded the opportunity to review and comment on any proposed regulations".

I take it that's an automatic, is it not?

The Chair: There are two things. That really isn't in order right now. The second thing is that I have indicated to Mr. Bevington that we would deal with his motion, and we're running out of time. I'm going to rule that out of order, but I would ask the officials to maybe come with a response for the start of the next meeting.

Could we do that?

Mr. Lloyd St. Amand: I just need a yes or a no.

The Chair: Okay, we've got an answer and it's done.

Mr. Bevington, to your motion.

Mr. Dennis Bevington: I'd like to move that, with the government's indication it is about to sign the Global Nuclear Energy Partnership, and with the Minister of Natural Resources' comments in front of the committee on November 22, 2007, that "once the government has made a decision then I would be quite happy to come back to committee," the Standing Committee on Natural Resources request that the minister appear at the next meeting of the committee on December 11, 2007—that's an amendment to this motion—in order to discuss Canada's participation within the Global Nuclear Energy Partnership.

The Chair: You've heard the motion.

Mr. Anderson.

Mr. David Anderson: Mr. Chair, if the committee asks, I would be glad to take the request to the minister. I can't guarantee his schedule will allow it, but I will certainly take the request back to him.

The Chair: You heard that, Mr. Bevington.

Mr. Boshcoff.

Mr. Ken Boshcoff: My concern, Mr. Chair, is that we haven't set our priorities yet in terms of what we want to do. I'm getting antsy too. If we want to do this by notice of motion, then I'm sure we'll all start to do it. Either we all sit down and agree on what our program is, or I have a whole bunch in the cooker too.

The Chair: I understand that, Mr. Boshcoff. I would certainly prefer to deal with them all together. If we were to get done clause-by-clause on Tuesday, we could certainly have the remaining time allocated to a discussion of future business. It's up to Mr. Bevington. He has a motion on the floor, and we've heard some discussion on it.

Mr. Alghabra.

Mr. Omar Alghabra: Mr. Chair, I gave notice to the committee to conduct a study on the government's decision on joining GNEP and also to review restructuring for AECL. I propose that perhaps we can amend my motion, or merge these two motions together, where the testimony of the minister could be part of the study so that we don't have a separation between the testimony of the minister and the study, if the committee agrees to conduct that study.

The Chair: Mr. Bevington, you've heard that proposal. You'd have to consider it a friendly amendment. Would you consider that, or would you consider putting this off until we discuss future business, which may be part of the next meeting if we get done clause-by-clause? You have no requirement, of course, to do that.

Madame DeBellefeuille is up next, so I'll just carry through here then, Mr. Anderson.

• (1100)

Mr. Dennis Bevington: I'll hear what the others have to say first. [Translation]

Mrs. Claude DeBellefeuille: Thank you, Mr. Chairman.

I would also be in favour of the NDP motion—and I believe Mr. Ouellet would be as well. The only problem is that one NDP member—Paul Dewar, I believe—introduced a motion on the same subject in the Standing Committee on Foreign Affairs and requested a vote in the House.

In the circumstances, I would find it quite curious for us to hear from the minister and study the question. I think it would be inconsistent for us to hold a debate here, while, in another committee, a vote was requested in the House on the same subject. I don't know whether Mr. Bevington was aware that his colleague had introduced a motion on the same subject. I'm in favour of the idea of hearing from the minister and debating this motion, but I nevertheless want to make you aware of the situation.

[English]

The Chair: Thank you very much for pointing that out. It's a good point.

Mr. Anderson.

Mr. David Anderson: I have a suggestion. I think it fits in with Mr. Boshcoff's and Omar's suggestions as well. And that is, if Mr. Bevington would be willing to discuss the issue with Mr. Alghabra, I would talk to the minister and see if he would be able to appear possibly next Thursday. That would give us Tuesday to discuss future business and set the agenda. If it's possible for his schedule and he's willing to come, then we'll try to get him here on Thursday, if the committee chooses to do that. If you want to call him for Tuesday, I'll take that request as well.

It looks as though we have a few different things going on, and in fact Mr. Alghabra's request is for two very different things as well, so we may want to put some focus on his request as well.

The Chair: For clarity, we do have Mr. Bevington's motion on the floor. To withdraw it, we would have to have unanimous consent, including from Mr. Bevington. You've heard the proposal.

Mr. Bevington, I don't know if you want to respond to that.

Mr. Dennis Bevington: With the understanding that on Tuesday, we would look at setting a date for Thursday, I could withdraw the motion until then.

The Chair: Is there unanimous consent to do that? Fine.

(Motion withdrawn)

The Chair: Thank you very much for your cooperation.

We'll see you on Tuesday to hopefully complete clause-by-clause, to continue with clause-by-clause on Bill C-5.

The meeting is adjourned.

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