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—
Chair

Mr. Bruce Stanton

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• (0905)

[Translation]

The Chair (Mr. Bruce Stanton (Simcoe North, CPC)): Good morning, ladies and gentlemen. Today, we are holding the 11th meeting of the Standing Committee on Aboriginal Affairs and Northern Development.

Pursuant to the order of reference of Friday, February 13, 2009, the committee is going to study C-5, an act to amend the Indian Oil and Gas Act.

[English]

This morning we are in consideration of clause-by-clause for Bill C-5.

We welcome back Karl Jacques and John Dempsey, from the Department of Indian Affairs and Northern Development, for their help and assistance throughout the course of this morning. You know that we have certainly considered testimony from several witnesses and organizations to help us with consideration of this bill.

At this point we will proceed to consideration of clauses 1 and 2.

(Clauses 1 and 2 agreed to)

(On clause 3)

The Chair: There has been an amendment circulated for clause 3. I think members have it. It's on a single page, and it's in respect of proposed subsection 28(1). This would be an addition to the bill. It would be after line 13, on page 21.

It should be noted that this amendment, which has been proposed by Monsieur Bélanger, is nearly identical to Ms. Crowder's amendment. Members, if we adopt the first motion by Mr. Bélanger, that would essentially negate the second motion by Ms. Crowder.

Ms. Crowder.

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): Sorry, Mr. Chair, I actually think my motion is different, in that it has different reporting requirements.

Did the committee get a copy of my motion?

The Chair: Yes, as far as I understand.

Ms. Jean Crowder: I think that's an important consideration, when we're looking at the two motions.

The Chair: Because Mr. Bélanger's motion is before us first, the text of Ms. Crowder's motion could be considered by the committee as a subamendment to Mr. Bélanger's motion. That would be the

proper way to proceed. Both of the amendments put forward are on the same topic, but there are differences in Ms. Crowder's proposed amendment. That's the way we would have to proceed.

At this point, Ms. Crowder, I don't know whether you're proposing the subamendment to Monsieur Bélanger's amendment.

Ms. Jean Crowder: I would like to propose a subamendment, but I don't have a copy of my amendment with me.

Could I have a copy of my amendment?

The Chair: We can certainly do that, by all means.

Do members have the text of Ms. Crowder's amendment?

Monsieur Lemay.

[Translation]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): At first glance, Ms. Crowder's amendment is more complete than Mr. Bélanger's. If I am not mistaken, Ms. Crowder's seems to respond a little more to what the First Nations who came to meet with us two weeks ago wanted.

Perhaps Mr. Bélanger could tell us if he sees a difference between the two or if Ms. Crowder's amendment is more complete than his. In my opinion, Ms. Crowder's goes a little further and better accommodates what the Stoney Nakoda First Nation wanted.

The Chair: Mr. Bélanger.

Hon. Mauril Bélanger (Ottawa—Vanier, Lib.): Mr. Chair,

[English]

I have two things, if I may.

Is this motion moved? If it is not moved, I will move it so that it will be duly on the floor before us.

The Chair: It is. We consider it to be on the floor, and at this stage....

Hon. Mauril Bélanger: Thank you.

I agree with Madame Crowder that there are substantial differences between the one I put forward and the one she's put forward. I'll let her talk about hers, because it deals with other matters entirely.

So you can deal with it either as a subamendment, as proposed, or just as a substitute motion and holus-bolus replace it. Then we either carry it or defeat it, and then we go back to the original motion, Mr. Chairman. But that's your call. You're the chair.

I'm not sure I'll support what Madame Crowder is proposing, in that it calls for certain things in there that are.... Well, I'll wait until she explains it.

What I'm asking follows up on the series of questions I asked throughout the few hearings we had. I have a concern, as a legislator, that we are granting authority here to the executive to basically enlarge the catchment area to include all provincial legislation and regulation that flows from that legislation. I think it behoves us, as legislators and as the agent of oversight for the government, to have a sense of what that actually does accomplish, if anything.

Not wanting to stand in the way of the work that had been done to arrive at the legislation before us, I thought I'd rather put an amendment demanding that the executive report annually on what indeed it has caught by virtue of the authority we are ceding to it, for one thing. Second, it would ask that it define any variations from province to province that might indeed be significant for future considerations of this committee or other committees.

That's the essence: putting an imposition on the government, on the executive, to report to Parliament periodically, on an annual basis, as to how it has used the authority we have ceded to it.

●(0910)

The Chair: Thank you.

Ms. Crowder.

Ms. Jean Crowder: Thank you, Mr. Chair.

I would propose that we actually substitute my motion for Monsieur Bélanger's, and then if my motion is defeated, we can come back to Monsieur Bélanger's.

I believe mine is more extensive, and it reflects the concerns I heard raised from witnesses who came before committee, in terms of wanting some oversight over the regulatory process. Although there is a "trust-me" element regarding regulation, as well as, I believe, a letter of comfort that came from the minister, we have no assurance or guarantee that future governments will honour that letter of comfort. That's why I would argue quite strongly that there should be some oversight, and that's why the regulations were proposed in there.

I used two years. I know that's certainly something that's been used by other committees in other reports to Parliament. Two years is a reasonable period of time in which to see a legislative process unfold and to see some action. So that's the extent of the proposal there.

The Chair: We can't simply substitute it. Mr. Bélanger's motion came to us first, so we'll hear it. If there is unanimous consent of the committee to stand Mr. Bélanger's motion aside for consideration of Ms. Crowder's motion, then we could go to Ms. Crowder's motion first.

Is there unanimous consent to do so? Of course you understand that if we consider and adopt Ms. Crowder's motion, then just the opposite of what I first explained would occur. It would really negate Mr. Bélanger's motion. Do you understand?

Hon. Mauril Bélanger: That's not necessarily the case, Mr. Chairman.

The Chair: We've explained that if there is unanimous consent of the committee to go to consideration of Ms. Crowder's motion at this point, we can do that.

Is there unanimous consent?

Hon. Mauril Bélanger: Mr. Chairman, I am prepared to give unanimous consent. But if indeed we do adopt her motion, there could still be room for amendments to her motion.

The Chair: Absolutely. *C'est correct.*

Hon. Mauril Bélanger: In that case, you'd have consent.

Thank you.

The Chair: Is there unanimous consent to consider Ms. Crowder's motion first?

Some hon. members: Agreed.

The Chair: Okay. We'll continue, then, with consideration of Ms. Crowder's amendment.

Ms. Crowder.

Ms. Jean Crowder: Mr. Chair, I have already spoken to it. The Stoney Nakoda came to the committee late in the day, but they presented sufficient evidence, and certainly Chief Buffalo raised some concerns as well. In terms of process, part of our responsibilities as legislators is to oversee the legislative and regulatory process. That's why my amendment is proposed as it is.

The Chair: Are there speakers on the amendment?

Mr. Duncan.

Mr. John Duncan (Vancouver Island North, CPC): It might be worth hearing from the officials on this. The catchment of the motion is talking about consultations, proposed amendments. There may be none, in which case it would be a nil report in terms of that aspect of what's being asked for. Other than that, if the officials have some concern, I'd like to hear what they have to say.

The Chair: We'll go to Monsieur Lemay and then we'll hear from our officials if we can.

[*Translation*]

Mr. Marc Lemay: Mr. Chair, we are going to support Ms. Crowder's amendment.

I will answer Mr. Duncan. Several acts of Parliament require reports every two years. That is what is intended here. But, in proposed clause 6(1.1), it says: "(1.1) The Governor in Council may, by regulation..." Without an amendment, a report on the progress of the consultations will clearly not be mandatory. But it is interesting to see that the proposed amendment makes equal mention of proposed regulations and regulations made under this act. I recall very clearly that that was what the Assembly of First Nations was asking for, as well as the nation whose name I have forgotten again. We act as legislators, but we respect the will of the First Nations. So I think that Ms. Crowder's proposed amendment precisely reflects the will expressed by the people of the Stoney Nakoda First Nation.

• (0915)

[English]

The Chair: Okay, let's hear from Mr. Jacques or Mr. Dempsey with regard to Mr. Duncan's inquiry.

Mr. John Dempsey (Director, Policy, Indian Oil and Gas Canada, Department of Indian Affairs and Northern Development): Indian Oil and Gas Canada has no real concerns with the proposed amendment. The oil- and gas-producing first nations we have been working with for the past ten years have been involved throughout the process, and they will continue to be involved in the consultation process.

The Chair: Considering that the first paragraph in Ms. Crowder's amendment is, for all intents and purposes, the same as... I'll leave Mr. Bélanger's amendment out of it for the moment, but does the addition of (a), (b), and (c) represent any implications you could comment on?

Mr. John Dempsey: No.

The Chair: Mr. Albrecht.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): I'd like clarification, Mr. Chair. I have a concern with the wording of (b), where it refers to "proposed regulation". Is this implying that the proposed regulations could not be implemented until it was seen by the report to Parliament? To me, that would seem to slow down the process.

Maybe I'm not understanding the spirit of the motion, but I'd like clarification on that, because the last thing we want to do is slow down the process of allowing first nations to fully develop their resources.

The Chair: Are you seeking clarification from the department?

Are there any comments, Mr. Dempsey or Mr. Jacques?

Mr. Karl Jacques (Senior Counsel, Department of Indian Affairs and Northern Development): The concern is a valid point, but there is a process for making the regulations already, so I don't know whether that would imply they would have to be subject to any precondition. To make these proposed regulations conditional, that would have to be stated more clearly, in my opinion.

The Chair: Madam Crowder.

Ms. Jean Crowder: Certainly, if you read the motion, it doesn't say that there's any concurrence or agreement or anything else. It simply says "a summary addressing the following matters", so it's simply that the information would come before the committee, or a report would be made to Parliament, and the committee could determine if it was going to look at it. But it can determine that now. It's just formalizing the process more in terms of a reporting. It's simply a summary of proposed regulations.

It's just a way of making sure that we've noted the concerns raised by first nations that have come before the committee in regard to the fact that there is some sort of oversight process. Certainly, again, the committee now could call the department before it to consider regulations in the works. There's nothing in this to indicate that the committee will need to approve or disapprove or whatever.

The Chair: Mr. Albrecht.

Mr. Harold Albrecht: Mr. Chair, could I just ask Ms. Crowder to clarify for me the difference between (b) and (c)? The one talks about regulations, and I agree that we're already privy to that information, but the other talks about proposed regulations, so what benefit is there to adding (b)?

Ms. Jean Crowder: As we know, government grinds exceedingly slow. I've been involved in another committee where the regulatory process was taking seven years to develop, so I would suggest that a report every two years to talk about regulations that are in development isn't onerous or unreasonable. Sometimes a committee has played a role in encouraging the department to move more quickly on actually developing the regulations instead of just proposing them.

Again, I think it's a way for the committee or Parliament to have oversight of whether the regulatory process is being developed in an expeditious manner.

• (0920)

The Chair: Monsieur Bélanger.

Hon. Mauril Bélanger: I'm seeing that this likely will be adopted, so I will express my wish, then, to amend Madame Crowder's motion in (c), "any regulations made under this Act", and add to that "and describe any variations in the regulations from province to province", which is essentially the last bit from my amendment.

I'm after any variations between jurisdictions across the country, so if that were a friendly amendment, it might simplify things, such that (c) would read: "any regulations made under this Act and describe any variations in the regulations from province to province".

The Chair: Okay.

You'll note that this is the same wording as the last phrase of Monsieur Bélanger's initial motion.

Now we're discussing the subamendment.

Ms. Crowder.

Ms. Jean Crowder: I just need a point of clarification.

Are you talking about provincial regulations from province to province? Because federal regulations would apply, in my understanding, from coast to coast to coast.

Hon. Mauril Bélanger: Maybe and maybe not.

Ms. Jean Crowder: Okay, but are you asking specifically, Mr. Bélanger, around federal regulations that differ or provincial regulations that differ?

Hon. Mauril Bélanger: This says "made under this Act". Therefore, it has to be regulations made by the Government of Canada. The concern I have expressed, and the reason I'm going to make sure that my concern is addressed, is that because we are saying the government can basically adopt provincial legislation and regulations in the catchment in applying this act, there may be, therefore, variations that flow from that. I want to know that. That's all.

If our regulation is to apply to provincial regulations, then there will obviously be variations, and I want to know. That's the purpose of this. There's nothing nefarious and nothing hidden. It's just to make sure that the legislator knows what the executive is doing.

The Chair: Ms. Crowder.

Ms. Jean Crowder: I think that makes absolute sense.

Hon. Mauril Bélanger: So is it a friendly amendment?

Ms. Jean Crowder: Yes, it's a friendly amendment.

The Chair: It's a subamendment. We'll accept it in the formal fashion. It still needs.... We have a subamendment on the floor, so we'll deal with it now.

Are there any other speakers on the subamendment?

Mr. Duncan.

Mr. John Duncan: Yes. We had no problems with Mr. Bélanger's amendment. We've had a discussion on Ms. Crowder's amendment. Because we didn't have a problem with your original amendment, I don't think there's an issue with the subamendment to the amendment.

We're saying a lot here. I would like to point out, however, that we are changing the things that Indian Oil and Gas Canada will have to consider. They will have to be cognizant of these changes, and it does change what they would normally do, given the reference prior to these amendments. So as long as we recognize that these aren't free, and there is some change in management focus that will be required as a consequence....

• (0925)

The Chair: Are there any other speakers on the subamendment? No? Then we'll ask the question.

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

The Chair: Now the amended amendment is before you.

Monsieur Lemay.

[*Translation*]

Mr. Marc Lemay: I think that we should vote for the amendment as amended. Let me give you an example. We regularly receive

reports from the Cree-Naskapi Commission. It was when we received that report that we became aware of some problems and we were able to have Cree and Naskapi representatives appear before us. Since then, things have started to happen, in less than a year, in fact.

That is exactly the goal of Ms. Crowder's amendment. We should pass it as amended by the subamendment that we have just passed.

[*English*]

The Chair: Are there any other speakers on the amendment as amended by the subamendment? No? Then I'll call the question.

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

(Clause 3 as amended agreed to)

(Clause 4 agreed to)

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

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

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill?

Some hon. members: Agreed.

The Chair: Okay. *C'est ça*. Our job is done for this morning. Congratulations, members.

We will be adjourning this meeting. I would just ask that the subcommittee members stay for our pre-arranged meeting.

Have a great morning.

The meeting is adjourned.

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