



House of Commons
CANADA

Standing Committee on Transport, Infrastructure and Communities

TRAN • NUMBER 018 • 3rd SESSION • 40th PARLIAMENT

EVIDENCE

Wednesday, May 26, 2010

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Chair

Mr. Merv Tweed

Standing Committee on Transport, Infrastructure and Communities

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•(1835)

[English]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): I call the meeting to order.

Good evening, everyone. Welcome to the Standing Committee on Transport, Infrastructure and Communities. This is meeting number 18. Orders of the day are pursuant to the order of reference of Wednesday, March 3, 2010. We are doing clause-by-clause consideration of Bill C-442, an Act to establish a National Holocaust Monument.

Before we start, I want to make sure that everyone has the updated amendments. An original package was put out, and two Liberal amendments have been added. I want to make sure everybody has the same—

Hon. Joseph Volpe (Eglinton—Lawrence, Lib.): I thought you wanted us to bring our own.

The Clerk of the Committee (Ms. Bonnie Charron): We've got more copies.

Hon. Joseph Volpe: We have two new members, so I just wondered.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): If anybody has an update, I'd like an updated version, please.

The Chair: We just actually have them loose. They can be inserted.

Mr. Brian Jean: That would be fine.

Hon. Joseph Volpe: We have new members on the committee.

Mr. Brian Jean: That's no problem. I understand.

The Chair: It'll be the original package we had at the last meeting, plus two new ones from the Liberals. I just want to make sure everybody has them. They are headed LIB-1 and LIB-2 and deal with clauses 6 and 7.

Hon. Joseph Volpe: What are we dealing with first, by the way? Will it be the government ones or ours?

The Chair: We'll just go as they came in.

Hon. Joseph Volpe: So we'll go with the government amendments—

The Chair: But yours will fit into the clauses that they apply to in that order. Yours are applying to clause 6 and clause 7, so they would follow G-5. Then we have LIB-1, then G-6, and then LIB-2.

Hon. Joseph Volpe: We're becoming accustomed to efficiency. It's an acclimatization thing.

The Chair: As in normal situations, I am proposing to postpone the preamble until the end. Clause 1, the short title, we will postpone until the end. I'm asking that we stand clause 2 because we have to rely on other amendments to apply clause 2 when it comes up, so we'll come back to that.

(On clause 3—*Establishment of Holocaust Monument*)

The Chair: There are no amendments to clause 3.

Go ahead, Mr. Jean.

Mr. Brian Jean: This is a point of order in relation to clause 2, the definitions of “Council”, “Minister”, “Monument”, and “public land”. I understand we'll be dealing with that clause at a later time, so if some of the amendments deal with the description and the definition, and that description and definition change, we can then encompass those in the final compilation.

The Chair: Actually, they pre-empt some of the changes that are going to be made throughout the bill or some amendments that will come forward.

(Clause 3 agreed to)

(On clause 4—*Council to be established*)

The Chair: I like the way we start.

We're looking at the first amendment, and it's on page 3 of the bill. It's government amendment G-3.

Go ahead, Mr. Jean.

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

I would like to propose that this motion be accepted in its amended form. What it does specifically is take away a lot of the powers of the minister through a later compilation of all the other sections and instead puts the onus on the minister to make sure the council remains at arm's length, consistent with other acts.

In essence, it assigns the minister responsibility to make sure the minister stays at arm's length from the council and that the council performs its duties, which I think makes a lot of sense. It actually achieves consistency between the establishment of the national Holocaust monument and the establishment of other monuments pursuant to the National Capital Commission's policy.

This amendment also deals with eligibility requirements for the council itself. The government's position is that this council should be responsible for most of the issues contained within the original bill, in that it would be better for decisions to be made by council members who are directly connected to and affected by the Holocaust, which are the eligibility requirements set out. These council members would ultimately be responsible for making most of those decisions, which I think would be consistent with what most members want.

The Chair: It is at this point that I will make a ruling, and then we can see where we move from there.

I'm advised that this amendment would be inadmissible. It introduces a new concept beyond the scope and cannot be adopted unless G-4 is adopted.

Mr. Brian Jean: Let's do that, then.

The Chair: It is also inadmissible, but the two, if accepted by the committee, can be worked through.

Mr. Brian Jean: Is it the position to take clause 4 first, or which clause are we going to deal with first?

The Chair: I'm telling you that amendment G-3 as presented would be inadmissible, and it cannot be adopted unless G-4 is adopted.

Mr. Brian Jean: So are we going to deal with G-3 first?

The Chair: I'm just giving you the heads-up that they both are together.

Mr. Brian Jean: Do you want to deal with them both together?

The Chair: That's up to the will of the committee.

Mr. Volpe.

Hon. Joseph Volpe: Mr. Chairman, I'm glad you've raised this and have coupled some of these, because as per our last discussion on amendments that had not yet been tabled but had been received by members of the committee, we had some discussion about, first, the appropriateness and, second, the admissibility of each of those items.

It was our position then, and it continues to be our position, that these amendments presented by the government—because we're talking about amendments G-3 and G-4, I can speak specifically to both—are inadmissible, because as you have said, and we applaud you for making this particular decision, they are beyond the scope of the intent of the bill.

Not only that, but it is our view that what these two amendments, along with the other government amendments, do is go to the heart of the bill itself and essentially remove the government from the House of Commons' commitment to the establishment of a Holocaust monument. That was not the intention of the House, and it is not up to this committee to then accept amendments that would free the government from the commitment the House imposed on the Government of Canada by virtue of its motion in second reading.

I'm a little surprised, as we were when we first discussed this, that the government could actually move in this direction. I think the best thing that could happen, in order to respect the will of the House of

Commons, is for these amendments, like the others, to be ruled out of order or ruled inadmissible.

If the government had a position that was different from that which their own backbencher presented, they had an opportunity to express it when and before that bill was presented to the House. Clearly, they moved away from something the House wanted, and they're trying to do something that is not consistent with the will of the House, expressed through a vote just a short while ago.

I think it's unfortunate that the government wants to present these amendments today. They could have done it at first reading and have handed the committee this at first reading, and we could have dealt with it then. That was not the position chosen, nor was it the government's position to support their own backbencher on this issue.

You'll recall, Mr. Chair, that I asked Mr. Uppal, the individual who presented this bill, whether he had consulted with the Prime Minister, and he indicated that he had the support of his government on the bill. I was rather surprised, if you have the support of your government on the bill, that the government would present amendments that reflect a change in every single clause of the bill. In effect, what the government is trying to do is to rewrite the bill that it authorized one of its backbenchers to present to the House for its approval.

Mr. Chairman, once the House has given its approval on an issue in an event that touches all Canadians, and I dare say is international in nature—i.e., that the House of Commons of the Parliament of Canada agrees that the Holocaust was an event unfortunate and tragic in its occurrence, but with implications that clearly define the value structure of a western democracy like our own—that the government would try to change that event, would try to change the will of the House in establishing a monument that reflects the interests of all Canadians in recalling the evil that people can do to their neighbours, be they local or national or continental...

That was the way that we and the Liberal Party perceived that bill when it was presented in the House, and that's why we voted accordingly or gave our consent accordingly. We felt that this was an issue that transcended communities, that transcended people, that transcended victims of genocide, and that transcended all other governments around the world. It was an expression of the Canadian collective. The Canadian collective said, "Okay, we agree with this member. We agree with all members of Parliament, including the members of the government caucus who sit on this committee, that this bill should be given quick and speedy acceptance in committee. Please deal with it accordingly."

● (1840)

So we came before the committee, and we were surprised a couple of weeks ago when we found an amendment for each and every clause that we had already unanimously accepted in the House of Commons.

Mr. Chairman, I applaud you—and I hope I'm speaking for my colleagues, at least in the Liberal caucus—for the position you have taken in ruling these amendments inadmissible, because we don't think we should erode the principle of establishing a government-funded... I shouldn't say “government-funded”; it is funded by the people of Canada through the representatives they send to the Parliament of Canada and executed through the Government of Canada.

That collective will of Canadians everywhere should be respected, in this instance for a historic event, as tragic in its dimensions as it was. We cannot take that away from anyone. I think the government would probably be best advised—although I'm not an adviser to them—to withdraw both G-3 and G-4, and indeed all of their other amendments, and go with the decision they previously made when the Prime Minister complimented the mover of this bill and agreed with him that he would whip all of his caucus into supporting this initiative so that it would be a reflection of the Canadian collective, rather than a reflection of any individual community, and we wouldn't poison the atmosphere by segregating that event off to only a special interest that might have a special attachment to it.

That would be wrong, Mr. Chairman. It would be terribly wrong. It would be, in essence, a reflection that we don't think the tragedy is as tragic as it should be and that we as Canadians don't value the lessons that need to be learned from those kinds of world events.

I'm going to tell you that I think our Liberal colleagues see the wisdom of your decision, and I'm hoping that other colleagues on the government side will say, “You're right. These two amendments are ruled inadmissible. Let's get on with the bill.”

•(1845)

The Chair: Thank you.

For us to continue the debate, historically we would have to have a challenge to the chair, but having let one party speak, I'd like to offer the floor to one person in each party. Then if there is a challenge to my decision, we can make it. I should have cut the discussion off at the start; I apologize for that.

In fairness, we will go to Mr. Laframboise and Mr. Davies.

[*Translation*]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Thank you, Mr. Chair. We will not challenge your ruling. This is an important bill. The monument has so much value that nothing justifies challenging it.

I see that you have avoided any partisanship, because the government amendments are interesting. The problem is that, if they are ruled inadmissible legislatively, we have to respect that. I think your decision was a good one, Mr. Chair. It is not a political decision, but a decision whose intent is to make sure that this bill is never challenged and cannot be.

If the result of the amendments is that the bill could be challenged, it would be in everyone's interests, including the government's, to withdraw them, interesting though they are. The basic objective is to have the monument. That is what is important. We must not add things, or add procedures that would allow challenges to the bill.

Mr. Chair, I feel that you made the right decision. The bill must never be challenged. We support your decision.

The Chair: Thank you, Mr. Laframboise.

The floor is yours, Mr. Davies.

[*English*]

Mr. Davies, you have a comment.

Mr. Don Davies (Vancouver Kingsway, NDP): I have just a brief one, Mr. Chair.

Speaking for the New Democrats, we also commend you on your ruling. We think it's the correct one, and I can't but add the New Democrats' voice to the already astute and comprehensive remarks made by my colleagues in the Liberal Party and in the Bloc Québécois. I would encourage the government side to withdraw these amendments.

The Chair: We have a final comment, and then we'll....

Mr. Brian Jean: Mr. Chair, the first act is to challenge your ruling. I'd like to speak about that challenge.

I've had an opportunity to meet the people who gave you the advice in relation to that particular bit of inadmissibility, which is that these amendments were out of the scope of the bill. I'd like to talk about the scope a little bit. The scope of the bill, as it currently sits, refers to bylaws. Bylaws have to be received through an incorporation of some kind, either through a federally incorporated situation or through a provincial incorporation.

The first thing is that if we take a look at proposed clause 5 of amendment G-4, the thing that was found out of scope or inadmissible was that the government wants to have the individuals in proposed paragraph 4(1)(c) made accountable through the Canada Corporations Act and the Revised Statutes of Canada.

What this government is trying to do is make sure that we're perfecting a piece of legislation that's less than perfect, and quite frankly, if these amendments of the government's are not put forward, I would suggest that this bill will not pass, which would be, in my mind, a tragedy. What the government is trying to do is take an imperfect bill and make it as perfect as possible. That is our role here in committee.

Although it may have been ruled out of order and inadmissible because it's not within scope, I would challenge that ruling on the basis that I do believe it is in scope. I think other lawyers around the table can tell you that if you refer to bylaws, there are no other places that bylaws are found except in some form of incorporation document and as something given to you by statute.

I heard the argument that incorporation wasn't referred to in the first place in the first bill, so it's out of scope because it's not referred to. I think that is not at all clear, and I would suggest that a corporation would, first of all, give limited liability for the Government of Canada and the people of Canada and would give directors the ability to have limited liability instead of personal liability.

Second, it would allow funds to be placed in some sort of bank account. Where are the funds going to be placed? Are they going to be put in somebody's pocket? Under this bill, there is no place for the funds to be put. We want to protect the directors and we want to protect the people of Canada, but we also want some mechanism in place through which the funds can be collected, put into a bank account, and spent appropriately, and through which the people who are in control of those funds can be held accountable. We need a mechanism for that.

Also, these sections bring in consistency with other monuments that are currently within the NCC in other acts. I would challenge the ruling. I don't believe it's out of scope. I would certainly argue that. I think that any of the lawyers within the room and any lawyers within Canada could argue the same case very adamantly, because as it currently is, it refers strictly to bylaws.

Let's take a look what else the bill says. Proposed subclause 5(1), as I mentioned, is in accordance with section 155 of the Canada Corporations Act. Proposed subclause 5(2) says that the proposed name of the corporation in the application is the "National Holocaust Monument Development Council". I don't see very much contention in that.

How about proposed subclause 5(3), which says, "The applicants are to be listed in the application as the first directors of the Council"? What's the problem with the scope within that?

How about "The Council is not an agent of Her Majesty in right of Canada"? We're protecting the people of Canada. How about "The applicants are not entitled to be paid any remuneration for incorporating the Council"? It makes sense to me. How about proposed subclause 5(6), which says, "The directors of the Council are not entitled to be paid any remuneration for acting as directors"? That makes sense to me.

How about proposed subclause 5(7), which says, "The members of the Council are not entitled to be paid any remuneration for acting as members"? That makes sense, so what's wrong with clause 5 as proposed in these amendments? Does anybody see a problem with proposed clause 5? Is that not contained within the purpose and the intent of all the members of this committee and of all the House that voted for this? What in this section is outside the scope of our understanding of the original intention of the bill?

Let's look at proposed clause 4. It says, "Within one year after the day on which this Act comes into force, the Minister shall". This is a direction to the minister.

Mr. Volpe, I listened attentively to you; I would hope that you'd listen, because my argument is very persuasive, so I'm hoping that you're listening.

•(1850)

Hon. Joseph Volpe: In terms of persuasiveness, it might be a different story.

Mr. Brian Jean: Proposed paragraph 4(1)(a) says that they will "hold an open application process that allows members of the public to apply to the Minister to become members of the Council", so it's not going to be a government unilaterally imposing the desire of Canadians on this monument; it's going to be people.

What kind of people? Look at that. Proposed paragraph 4(1)(b) says that we're going to "select from among the applicants at least three and at most five individuals to be members of the Council". These are Canadians, but for people to be eligible, they have to "possess a strong interest in, connection to, or familiarity with the Holocaust". Otherwise, they will not be eligible.

I read every single part of those two sections. First of all, if they are out of scope, I don't understand why, but even if they are, they certainly fall in place with what is necessary in order to perfect an imperfect bill and to give what the House voted for, which was unanimous support to get a Holocaust memorial and monument built.

That is what we need to do, and we need to put aside the politics and start looking at reality. We need to perfect an imperfect bill.

The Chair: Thank you.

The rules state that if the chair has been challenged, there will be no debate. I opened the floor simply because we started with debate. I allowed everybody to speak. The chair's decision has been challenged, and we'll go immediately to a vote.

The Clerk: The question is shall the decision of the chair be sustained?

(Ruling of the chair sustained: yeas 6; nays 5)

•(1855)

The Chair: The ruling of the chair is sustained. Now I will put the question on clause 4 as presented.

Shall clause 4 carry?

Hon. Joseph Volpe: It's presented in the bill? Yes, I see.

The Chair: It's presented in the bill.

(Clause 4 agreed to)

(On clause 5—*Selection process*)

The Chair: I'll ask Mr. Jean to speak directly to amendment G-4, and then I'm prepared to make a decision on it.

Actually, I already have. I'm sorry.

Does clause 5 carry as presented?

Mr. Jean on a point of order.

Mr. Brian Jean: On a point of order, Mr. Chair, did the challenge relate simply to clause 4 or to amendments G-3 and G-4 as well?

The Chair: It related to both, because one was connected to the other.

(Clause 5 agreed to)

(On clause 6—*Design and location of Monument*)

The Chair: We have amendment G-5.

Mr. Jean.

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

Here's another very reasonable motion by the government. This motion actually requires the council to oversee, in consultation with the National Capital Commission, the planning and design of the monument and to make the required arrangements for the monument's planning, design, construction, and installation, which seems reasonable.

Certainly, here we're doing something that was unheard of in previous Liberal governments, and that is to remove some of the minister's discretion and involvement in the planning and design of the monument and in choosing a suitable place for the monument. Instead, the government is proposing assigning responsibility to the council, the eligibility requirements of which would have been established by the previous motion, to choose a suitable site for it. The motion does that in consultation, of course, with the National Capital Commission, but with the council making that decision. This is also again consistent with the National Capital Commission's mandate and its commemoration policy.

The Chair: Thank you, Mr. Jean.

The advice I have been given and have accepted is that it is inadmissible in the sense that it introduces a new concept.

Mr. Jean.

Mr. Brian Jean: I would challenge that, but I would ask for clarity on what new concept it would be installing.

The Chair: Bill C-442 requires the minister responsible for the National Capital Act to establish and work in cooperation with the national Holocaust monument development council to design and build a national Holocaust monument. The amendment attempts to require the council, instead of the minister, to oversee the planning and design of the monument and to make arrangements for its construction and installation.

The House of Commons Procedure and Practice, in the second edition, on page 766 states:

An amendment to a bill that was referred to a committee after second reading is out of order if it is beyond the scope and principle of the bill.

Mr. Brian Jean: I understand, Mr. Chair.

The Chair: It is the opinion of the chair that this is a new concept and that it is beyond that scope.

Mr. Brian Jean: What is the new concept? To take it from the minister's hand and make it so that the minister works in cooperation with the council?

The Chair: Yes, it is actually shifting the responsibility from the minister to the council, and giving a new mandate to the council.

Mr. Brian Jean: I challenge, Mr. Chair.

The Chair: The ruling of the chair has been challenged. There's no debate on that.

Bonnie.

• (1900)

The Clerk: Shall the decision of the chair be sustained?

(Ruling of the chair sustained: yeas 6; nays 5)

The Chair: The ruling of the chair has been sustained, and we will move to amendment LIB-1.

Mr. Volpe.

Hon. Joseph Volpe: We're back onto clause 6. Being ever mindful of the procedural advice that you have received, we do not take any authority or power away from the minister. What we are attempting to do with this is to reinstate part of the initial genesis of this bill, which essentially wanted the minister, in cooperation with the council, to oversee the planning and design of the monument. In other words, there would also be the constant executive oversight to reflect the will of the Canadian collective, as expressed through acceptance of this bill at second reading, that the monument be located on an area of public land chosen in the national capital region.

It's important, from our perspective, that we reinforce the principle of the minister being involved in selecting and allocating land—in other words, on behalf of the government, making land available for this monument—and then holding public consultations together, to take into account the recommendations of the public when making any decisions under paragraph 6(a) or 6(b). So from our perspective, this amendment is very consistent with the other two bills that have been presented in this regard.

Some members might object to the fact that it was Liberal members who proposed it in the past. From our perspective, that's no longer material. What is material is the fact that the House of Commons has essentially directed this committee, following a unanimous decision by the House of Commons and the Parliament of Canada, to have the minister implicit and implicated in all of the decisions, in cooperation with the council, to ensure that the decision of the Canadian public and collective, together with its values and its wills, be reflected in the act. We think our amendment doesn't take anything away. What it does is explain it in even greater detail.

The Chair: The amendment is in order, and I'll take debate if there is any.

Mr. Jean.

Mr. Brian Jean: I am curious. If we look at amendments G-3 and G-4, there was apparently new scope, and that was challenged, obviously, and we failed on that challenge. However, I was told that it brought in a new concept, which was that the minister was delegating authority.

If we look at the original clause 6, it says:

The Minister, in cooperation with the Council, shall oversee the planning and design of the Monument and shall choose a suitable area of public land in the National Capital Region for the Monument to be located.

And subclause 7(1) says

The Minister shall be responsible for allocating the public land for the Monument and for maintenance of the Monument.'

Yet here apparently—I don't know why, and maybe it's because it's a Liberal amendment—it seems to be in order and within scope, because here they're allocating that the council shall—and it's a mandate that the council shall:

- (a) oversee the planning and design of the Monument;
- (b) choose a suitable area of public land in the National Capital Region

—which is directly contrary to clause 7, which would have been in contrast to amendments G-3 and G-4, and the council would also hold public consultations, which is a brand new concept.

So how do we reconcile all of that? I just don't understand it. I would like some clarification.

The Chair: Liberals—my goodness, they're everywhere.

[*Translation*]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Mr. Jean, you asked if there was a lawyer in the room. I am one, I think.

[*English*]

Mr. Brian Jean: There are three or four.

[*Translation*]

Mr. Marc Lemay: No, there is a very big difference. Under the Liberal amendment, the minister remains in charge of the project, the design and planning of the monument, in cooperation with the council. But under your amendments, the minister does not do that any more. Let's not go over this again.

[*English*]

Mr. Brian Jean: Mr. Chair—

[*Translation*]

Mr. Marc Lemay: I just want to point out that, under the Liberal amendment, the minister remains in charge of the project in cooperation with the council.

•(1905)

[*English*]

The Chair: Do you have another comment?

Mr. Brian Jean: Well, yes, Mr. Chair. It says that the council “shall choose a suitable area of public land in the National Capital Region for the monument to be located”. It doesn't say that the minister does. Am I missing something?

[*Translation*]

Mr. Marc Lemay: Wait, you have to read the clause together with the amendment. When you do that, you see that it reads, and I quote: “The Minister, in cooperation with the Council...” Then you add what is in the amendment.

[*English*]

Mr. Brian Jean: Sorry—

[*Translation*]

Mr. Marc Lemay: It is important.

[*English*]

Mr. Don Davies: This might help, Mr. Jean, because I think I may have had the same original reading as you did. I thought it was replacing the entire clause 6, but it's not. It still says, “The Minister, in cooperation with the Council”, and then it carries on. So—

Mr. Brian Jean: But it also says—

Mr. Don Davies: I think the basis for the ruling of the chair previously was that it sought to replace the minister's oversight with the council's. The current amendment that is before us, if I am reading it correctly, retains the cooperation between the minister and the council, and simply just breaks out what they oversee jointly in a different manner. I think that's the difference.

The Chair: Mr. Jean.

Mr. Don Davies: And I'm a lawyer as well.

Mr. Brian Jean: I understand. There are four or five of them here. I haven't heard from Andrew yet, but I'm sure I will.

But where do you see...? I understand what you're saying, and I read it in conjunction with clause 6. I understand that totally, but what I don't see is where... It says “shall”; it simply says “shall”. In English, that means that's their obligation; they have to. It doesn't say “shall, in conjunction with the minister”. It says the council “shall”. So unless I'm... I apologize, but...

[*Translation*]

Mr. Marc Lemay: No. I am not anglophone, but...

Mr. Brian Jean: Just a moment, please.

Mr. Marc Lemay: Yes, that's it. I am going to tell him.

[*English*]

The Chair: The amendment is not changing any of the first two clauses.

[*Translation*]

Mr. Marc Lemay: That's right!

[*English*]

The Chair: The amendment is adding a third clause about holding public consultations. The beginning of the clause is, “The Minister, in cooperation with the Council, shall”.

[*Translation*]

Mr. Brian Jean: Yes, that's right!

[*English*]

The Chair: And “oversee”—

Mr. Brian Jean: Man, that was a really good argument for a few minutes.

The Chair: That's one; “choose a suitable area” is two; and the amendment is to “hold public consultations and take into account the recommendations of the public”. That's the amendment.

Mr. Brian Jean: And the public consultations?

The Chair: Yes.

Mr. Brian Jean: Where are the “public consultations”?

The Chair: It's (c) in your amendments—

Mr. Brian Jean: I understand, but where in the original document...?

[*Translation*]

Mr. Marc Lemay: Okay.

[*English*]

The Chair: That's the amendment. It's in (c).

Mr. Brian Jean: And there's no public consultation in the original bill?

The Chair: No.

Mr. Brian Jean: So is that not outside the scope of the original bill, since there were no public consultations at all? I don't understand.

The Chair: It's not changing the outcome of the bill. It's just adding pieces to it that will actually suggest they take into account the recommendations of the public when making any decisions.

Hon. Joseph Volpe: It's additional information, not contrary information.

Mr. Brian Jean: I don't really understand the difference, but the chair is challenged... We'll deal with it, I guess.

Hon. Joseph Volpe: If there's a challenge—

Mr. Brian Jean: If I can have the floor for a minute, my understanding is that we brought in new concepts. Even though it said “bylaws” in the original bill, we brought in new concepts. Wow. Bylaws have to be under an incorporation of some kind, and that's outside of the scope, but... Yet here we have public consultations, which weren't referred to at all in the original bill, and that's not out of scope?

Hon. Joseph Volpe: Are you challenging the chair's decision that this is in order?

Mr. Brian Jean: Yes.

Hon. Joseph Volpe: Okay.

The Chair: Then the debate will end and—

Mr. Brian Jean: Call a vote.

The Chair: —we'll call the question.

The Clerk: Shall the decision of the chair be sustained?

(Ruling of the chair sustained: yeas 6; nays 5)

The Chair: We have already started the debate on page 7.1. We can continue the debate or call the question.

An hon. member: Call the question?

The Chair: Shall the LIB-1 amendment carry?

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

(Clause 6 as amended agreed to)

(On clause 7—*Public land and maintenance of Monument*)

The Chair: We have government amendment number 6, which is in order, but I do want to advise the committee that amendment LIB-2 cannot be moved if amendment G-6 is adopted, because it is amending the same lines.

Mr. Jean.

• (1910)

Mr. Brian Jean: This amendment requires the NCC—because obviously this is going to be placed on NCC lands—to be responsible for identifying a site, which would be accessible to the public at all times, where the monument would be located so Canadians could utilize it as necessary. The site would have to be part of public lands in the national capital region as defined by the National Capital Act.

[*Translation*]

Mr. Marc Lemay: A point of order, Mr. Chair. With all due respect to my colleague and to your ruling, Mr. Chair, it seems to me that amendment G-6 should be ruled out of order because we have just agreed to clause 6 as amended. That creates and mandates the

council according to the amendment that the Liberals prepared and passed. It chooses an area of land.

If you go back to the amendment we agreed to not two minutes ago, you can read the following:

“Council, shall:

(a) oversee the planning and design of the Monument;

(b) choose a suitable area of public land in the National Capital Region for the Monument to be located;”

With respect, Mr. Chair, the amendment that is now being proposed would say the opposite. If you declare this amendment to be in order—I am a little confused—the National Capital Commission would be responsible for identifying a site that is accessible to the public at all times. That is the opposite, in my view. With respect, Mr. Chair, it is out of order.

[*English*]

The Chair: Thank you, Mr. Lemay. You've challenged the ruling of the chair in your opening comment.

[*Translation*]

Mr. Marc Lemay: I don't know; why not? For me...

[*English*]

Some hon. members: Oh, oh!

The Chair: It's becoming not a lot of fun to sit here.

Mr. Marc Lemay: I like it. Mr. Gaudet doesn't do that.

Some hon. members: Oh, oh!

The Clerk: Shall the decision of the chair be sustained?

(Ruling of the chair overturned: nays 6; yeas 5)

The Chair: We will now move to amendment LIB-2.

Mr. Volpe.

Hon. Joseph Volpe: Mr. Chair and colleagues, we took the intent from the just accepted motion, amended as it was, for clause 6. We felt that we would be consistent with the intent, so that the minister would be responsible for both the construction and the maintenance of the monument. That's an expansion. We think it's a logical extension of the intent of the bill, because we've already accepted that the minister would be responsible for allocating the public land as part of the commitment by the House of Commons to the principle of establishing a monument to this tragic event, which would be reflective of the interests of not only a few people who might have an attachment to the Holocaust but all people who want to decry this absolutely tragic and murderous event in the history of mankind.

We wanted to make sure that the Government of Canada, reflecting the interests of all Canadians, would take responsibility not just for allocating the land, which it has already accepted, but also for building and maintaining the monument. We've already accepted the principle that it would be guided in some of this by the council, the concept of which has been accepted in previous clauses as amended, but we wanted to make sure that the principle of the minister being responsible for all of this was maintained. That was, after all, the intention of the mover of the bill, and it was supported by the House. We want to ensure that everybody understands that's really what the House wanted to do. It wanted the executive branch to be in a position such that it would always reflect the interests of all Canadians in this monument.

●(1915)

The Chair: The amendment is in order, so I'll open up the floor for debate.

Mr. Jean.

Mr. Brian Jean: Well, what surprises me, Mr. Chair, is... I've only been in this place for six years, but of the last 50 years since the Holocaust happened, the Liberals have been in power for 40, and it's amazing that during that entire time no Holocaust monument has been set up in all of Canada. In fact, it took this Conservative government to come forward and this Prime Minister's support of a private member's bill from the Conservative side to do this.

Hon. Joseph Volpe: Mr. Chair—

Mr. Brian Jean: Now the Liberals are in a position—

The Chair: Mr. Volpe, on a point of order.

Hon. Joseph Volpe: Even though we disagree on some things on occasion, we try to maintain a particular relevance to the issue at hand. I might remind the parliamentary secretary, as I indicated during the course of my presentations earlier on in the evening, that there were other motions and bills presented. They were authored by Liberals. I took pains to indicate that the partisanship associated with the presenters had absolutely nothing to do with whether or not the House accepted this.

I'm not going to reflect on people's views of history and the past. What I do want to do is move forward and indicate that the House of Commons has accepted that the Government of Canada would initiate this as a reflection of the values of the Canadian public. It has nothing to do with partisanship, and I think you would be well advised to stay away from that.

The Chair: Mr. Jean, on the same point of order?

Mr. Brian Jean: I'm still dealing with my point of order, and I will rephrase it and say "most of which were Liberal majority governments".

The Chair: Are you debating the point of order? If you aren't going to debate the point of order, I'll rule on it first.

Mr. Brian Jean: On his point of order?

The Chair: Yes.

Mr. Brian Jean: Go ahead.

The Chair: I won't rule it a point of order, but I think it does have to be relevant in the discussion—

Mr. Brian Jean: Absolutely.

As I was saying, most of which over the last 40 years were Liberal majority governments, and I apologize for missing that. So of course they had any sway they wanted in government with finances, etc.

In this particular case, I see that what the real issue is, notwithstanding that a lot of people have come forward and said... In fact, I've been told that enough money has already been committed to pay for the entire project. People wanted to donate to this project.

But what I understand, Mr. Volpe, is that in essence you want to take it away from the hands of those people who want to donate money for this Holocaust monument. You want to take it out of their hands, make the government pay for it, make the minister responsible for deciding where to put it, and make the minister responsible for deciding how to design it and what it should be, instead of, as the government wants, leaving it in the hands of those people who have been most greatly affected. Is that what I'm to understand?

The Chair: Mr. Volpe—

Hon. Joseph Volpe: Since I've been asked the question directly, I'm willing to answer that anybody who wants to make contributions to worthwhile causes has a plethora of choices in which to express his or her view with finances. They are charitable organizations. They are funds. They are community organizations. They relate to the Holocaust. They relate to Canadian tradition. They relate to a newer tradition emerging.

What I've said—and I want to be consistent about this—is that this is an opportunity for the Canadian public to see this initiative as its own. The only way the entire Canadian collective can see this as its own, the only way the Canadian collective can give an expression of its commitment to that event and recall for the entire world that it decries these types of historic circumstances that led to the tragic event of the Holocaust, is for the Government of Canada to back, on behalf of all Canadians....

This doesn't preclude anyone else from taking whatever funds, energies, or resources they have and putting them in other situations where they, too, can reflect on the event, but that would be a personal or a small community decision. It is not the Canadian collective decision.

From our perspective in the Liberal Party, our support for this bill goes to the heart of the collective's interest in expressing its collective view. You can't do that by going to a few select people who have some money at their disposal to do this. You go to the Canadian public through the arm of the Canadian government and you execute this result.

That's all it is, Mr. Chairman. It has nothing to do with depriving people of the opportunity to contribute.

An hon. member: Or participate.

●(1920)

The Chair: Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise: Are we talking about the point of order, Mr. Chair?

[*English*]

The Chair: No, we're back to discussing.

[*Translation*]

Mr. Mario Laframboise: I would say that the Liberal amendment is in conformity with what we agreed to previously, that the minister is responsible for overseeing the construction and the maintenance of the monument. But we cannot pass clause 7 as it stands if we are going to discuss amendment G-7 later.

In paragraph 7(2), it says: "The Council shall spearhead a fundraising campaign to cover the cost of constructing the Monument." Here is what the government is proposing in amendment G-7: "The Council shall spearhead a fundraising campaign to cover the cost of planning, designing, installing and maintaining the Monument..." So amendment G-7 would take care of the maintenance.

We have to be consistent. We should have a friendly amendment, meaning that we should support amendments LIB-2 and G-7 as presented and we should replace clause 7 of the bill completely, if we want to be consistent. We should discuss both of them at the same time so that we are sure that we have got it straight.

[*English*]

The Chair: Mr. Jean, on a point of order.

Mr. Brian Jean: I would like some indication. I just noticed something. Quite frankly, I can't believe amendment LIB-2 would be in order. I think it's ultra vires. It's beyond the minister's power, I would think, in this circumstance. I don't know if I'm correct or not, but the NCC has jurisdiction over all of the lands as an arm's-length body. If the NCC has jurisdiction for the NCC and they are asking for the minister to be responsible for the construction and maintenance of the monument, I would see that as a conflict of laws. As a result of that, it would not be in order. I would like some indication of that.

All the sitting members here have had experience with the NCC, with the act itself. We've been here. We've gone through the act. The NCC—the commission—is responsible for the commission. Are they suggesting that the minister is going to be responsible for this one particular monument, which I think is beyond his jurisdiction?

I've just received word from a little birdie on my shoulder that the minister is not actually allowed to make any orders for a crown corporation, so I think this particular Liberal amendment is beyond jurisdiction.

The Chair: Mr. Laframboise, on the same point of order.

[*Translation*]

Mr. Mario Laframboise: Brian, the minister has to be responsible. The object of the bill is for the minister to continue to be responsible. I know what you want to do; you want to change it all and put the responsibility on the council. But that changes the meaning of the bill. The bill came from Parliament, and, as we have already said at committee, we cannot do what we like with a bill like this.

Clearly, Mr. Chair is correct. Perhaps he is starting to raise his game in order to become the next Speaker of the House, because he is quite even-handed.

But we still all have to be consistent, in terms of amendment LIB-2. The minister must be responsible for the construction and maintenance of the monument. But your amendment G-7 says that the council is going to have fundraising campaigns.

I understand what you are saying. You do not want the government paying for it. However, it is best if amendment G-7 harmonizes perfectly with the goal of the bill. So I think that we have to pass amendment LIB-2 and amendment G-7, and replace clause 7 completely. Actually, amendment LIB-1 replaces paragraph 7(1) and amendment G-7 will replace paragraph 7(2) automatically, and clause 8.

• (1925)

[*English*]

Mr. Brian Jean: Mr. Chair, I would like some form of opinion in relation to the ultra vires nature of this. I don't think it's in order.

The Chair: Do you have a point of order, Mr. Volpe? You want to respond?

Hon. Joseph Volpe: I sent the letter to the minister, and I think the parliamentary secretary is in possession of a copy. Bill C-442 is merely calling on the government to do what it could easily do administratively. The NCC already possesses the authority to establish a monument without parliamentary approval. Indeed, the NCC is currently responsible for 16 monuments, including the Hungarian monument, the Canadian tribute to human rights, the monument to Canadian aid workers, the national naval monument currently under construction, and the national monument to the victims of Communism for which the NCC is in the planning phase.

None of these monuments required legislation to move forward. In fact, all that is required is that the minister, with the stroke of a pen, say he is going to finance something—and we've dealt with some of those strokes of the pen in supplementary estimates for the NCC—and it's done. All this amendment does is ask the minister to use the stroke of a pen, as he has been wont to do in the past. I don't think it's ultra vires, and I don't think there is a conflict of laws. It is simply, as my honourable colleagues from the Bloc have indicated, that there is an intention, which is respected in our amendment, that is consistent with everything that's passed before him. We might even talk about whether or not amendment G-8 is in order, but we will deal with that differently.

I don't think any of the arguments about whether or not the amendment is acceptable carry much weight. It's clearly consistent with everything we've done to this point, such that the minister is responsible for this initiative, and that responsibility is consistent historically with other things that have happened, and the NCC is—

Mr. Brian Jean: You forgot the Hong Kong memorial as well.

The Chair: Mr. Lemay, on the same point of order.

[*Translation*]

Mr. Marc Lemay: Let us try to go in order, Mr. Chair.

We must always keep in mind amendment LIB-1 that we agreed to a quarter of an hour ago now. We have given the minister and the council their mandates. The amendment reads as follows, in part: “(b) choose a suitable area of public land in the National Capital Region for the Monument to be located.” That amendment is now passed.

Now we have to move to amendment LIB-2 in order to change paragraph 7(1) of the bill. This paragraph is made consistent by the Liberal amendment that proposes that the paragraph read: “the Minister shall be responsible for the construction and the maintenance of the Monument.” That would be new paragraph 7(1).

In a few minutes, we will get to work on paragraph 7(2). As my colleague Mario Laframboise said, we will have to replace paragraph 7(2) with amendment G-7.

For the moment, Mr. Chair, let us deal with paragraph 7(1) only, by passing the Liberal amendment.

That's it.

[*English*]

The Chair: Is there further comment on the point of order?

Mr. Marc Lemay: We vote.

The Chair: That is not a point of order. It is the chair's responsibility to deal with the procedural issues of the bill and the amendments, not the legal aspects of it.

Mr. Brian Jean: Even though, Mr. Chair, what we're proposing to adopt is illegal, and what the Liberals have proposed is beyond the power of the minister and beyond the power of the House and the chair?

• (1930)

The Chair: I'm saying that you may or may not be correct in your statements, but procedurally, the amendment is in order and is debated as such. The legal side looks after itself.

The judgment of the chair is strictly on the procedure of it. The amendment is acceptable. We've had debate on it. If there is no further debate on it, I will call the question.

All those in favour of amendment LIB-2, please raise your hands.

(Amendment agreed to)

The Chair: Shall clause 7 as amended carry?

Mr. Lemay.

[*Translation*]

Mr. Marc Lemay: With all respect, Mr. Chair, I have to support my colleague Mario's remarks as a matter of great urgency. We have to consider paragraph 7(2). I am with Mr. Jean and my colleague on this. If we were to pass clause 7 as it presently stands, we would have a real problem.

With respect, may I make this suggestion? I have not done it often, but I ask you to deal immediately with amendment G-7, which could replace paragraph 7(2). Then we would be rolling. Do you follow what I am saying? I do not think that we can pass clause 7 right away. We should pass amendment G-7 and replace paragraph 7(2) with it. Then we could finish it off.

[*English*]

The Chair: Mr. Jean, on a point of order.

Mr. Brian Jean: It's 7:30 p.m. The notice of the meeting said we go until 7:30 p.m., so I'm wondering if we're done; it's actually 7:35 p.m.

The Chair: I would need a motion to adjourn.

Mr. Brian Jean: I so move.

The Chair: Mr. Jean has moved that the meeting adjourn.

We have a motion to adjourn. It's non-debatable, so I'll call the question. The motion on the floor is to adjourn the meeting until the next scheduled meeting.

(Motion agreed to)

The Chair: While people are moving away, I would remind you that the meeting tomorrow starts at 8:30 a.m. for one hour.

Hon. Joseph Volpe: Just a point of clarification. We have already voted on clause 7, the amendment. We've accepted the amendment and that's where we stopped.

The Chair: We haven't voted on the Liberal 2 amendment yet, have we?

Hon. Joseph Volpe: We did. Yes, we did.

The Chair: We voted on it. So we have to vote on clause 7 as amended.

The meeting stands adjourned.

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