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Chair

Mr. Bryan May

Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities

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• (1540)

[English]

The Chair (Mr. Bryan May (Cambridge, Lib.)): Good afternoon, everybody.

Pursuant to the order of reference of Monday, January 29, 2018, we're dealing with Bill C-65, An Act to amend the Canada Labour Code (harassment and violence), the Parliamentary Employment and Staff Relations Act and the Budget Implementation Act, 2017, No. 1.

We are here to do clause by clause but before we get into that, I would like to recognize that we have a number of guests joining us today. From the Department of Employment and Social Development, we have Brenda Baxter, director general, workplace directorate, labour program; and Barbara Moran, director general, strategic policy, analysis and workplace, labour program. From the Department of Public Works and Government Services, we have Charles Bernard, director general, portfolio and government affairs.

Welcome to all of you.

For the benefit of my colleagues, they are here to answer any questions that you may have from a potential legal perspective on some of the amendments, and especially if we get into amending those amendments. There may be some specific ramifications and we may want to utilize the services of the people sitting before us.

Also, because it is going to be captured in Hansard, I would like to wish MP Dabrusin a happy birthday.

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): Thank you.

The Chair: We won't sing, but that would be interesting, if it were sung, to see how they would actually write that out in Hansard.

Ms. Julie Dabrusin: Yes, out of tune.

The Chair: Out of tune.

We're going to jump right into it, folks. We've got quite a few amendments to go through. We have today and Wednesday to get through this, per the schedule, and I hope we can move with some expediency but also have some good discussion on the motions in front of us.

It has been said many times that the key to this bill is that we get it right. We have before us a number of amendments that I think will help to strengthen and improve this legislation.

Also, I'd just like to remind you that we do not have to read the amendments as we go through them.

We're going to start with NDP-1. Is there any debate on amendment number 1?

• (1545)

[Translation]

Ms. Anne Minh-Thu Quach (Salaberry—Suroît, NDP): Hello, Mr. Chair.

Hello everyone. I am replacing Ms. Trudel at the last minute, so please bear with me.

We are presenting this amendment on behalf of the Teamsters Canada Youth Committee. Representatives of this organization have appeared before the committee to request that mental health be included in the definitions in the Canada Labour Code. As a result, the current rules would acknowledge mental health. Further, adding these three important words, "physical or mental health", would strengthen the prevention of mental illness in the workplace.

[English]

The Chair: Thank you.

Mr. Warawa.

Mr. Mark Warawa (Langley—Aldergrove, CPC): Thank you, Chair.

I'd like to begin by congratulating member of Parliament Dabrusin on her 23rd birthday.

Conservative members will be supporting NDP-1.

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

The Chair: Within new clause 0.1 there is NDP-2.

MP Quach.

[Translation]

Ms. Anne Minh-Thu Quach: Thank you, Mr. Chair.

In this case, there is a group of organizations supporting this amendment: the Canadian Labour Congress, the Confédération des syndicats nationaux and several others.

We want the bill to include a broader and more inclusive definition in order not to legally exclude other types of violence or harassment, such as cyberbullying, in the future. We do not want the definition of harassment to be restrictive.

Various witnesses have shared their concerns before the committee. They are worried that cases of harassment might not be included in a bill that is designed to prevent harassment and violence. That is why we would like the definition to be as broad as possible.

[*English*]

The Chair: Thank you.

Before we continue the debate and vote on this, I would like to note that, if this were adopted, amendments PV-1 and CPC-1 wouldn't be moved; they'd be considered redundant.

Go ahead, Mr. Warawa.

Mr. Mark Warawa: Chair, as you pointed out, we have three opportunities or three options to define, or the committee may want to amend any one of those three. Before we call the question on that, and provide a fulsome discussion and debate on this issue, would it be appropriate to ask that MP Falk speak to her proposal and say why she believes it would be more appropriate?

The Chair: We could take this as a bundle, if you will. We have four amendments dealing with this particular issue.

Mr. Mark Warawa: We'd be discussing them all at the same time, and then we can get a consensus.

The Chair: We'd have to vote separately, but yes, we could discuss them all at the same moment.

I gather, MP Falk, you would like to speak to your amendment.

Mrs. Rosemarie Falk (Battlefords—Lloydminster, CPC): Yes.

With this amendment on harassment and violence, when we had our lovely department sitting here before us, we asked about the best type of definition, and what we would need in that. We went to occupational health and safety in the Canada Labour Code. We went there, worked with legal, and put that forward, so it wasn't too broad and it wasn't too narrow.

• (1550)

The Chair: Is there any further discussion on any of the proposed amendments in this section?

Go ahead, MP Quach.

[*Translation*]

Ms. Anne Minh-Thu Quach: We would simply like to add the words “gesture or contact” and “isolated or repeated” to the definition put forward by the Liberals. This is what various workers' groups have suggested to us. The words “including bullying, blackmail or coercion” should also be added to make the definition of harassment as broad as possible.

[*English*]

The Chair: When we get to that particular vote, you would need to propose that in a more formal fashion—a subamendment—but we could definitely discuss it at that time.

Go ahead, MP Fortier.

[*Translation*]

Mrs. Mona Fortier (Ottawa—Vanier, Lib.): Our definition covers the whole range of unacceptable behaviours, without mentioning any specific conduct. Our suggestion is based on all

the evidence we heard. We worked with the department to ensure that the definition is consistent with the purpose of the bill.

[*English*]

The Chair: Is there any further discussion?

Seeing none, we're starting with NDP-2.

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

The Chair: All those in favour of amendment PV-1?

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

The Chair: Now on to CPC-1.

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

The Chair: On Liberal-1.

MP Quach.

[*Translation*]

Ms. Anne Minh-Thu Quach: I would like to propose two sub-amendments to complete the definition of “harassment and violence” put forward by the Liberals. Instead of “any action, conduct or comment”, I would insert “isolated or repeated” after “any”, and after “conduct, comment”, I would add “gesture or contact”.

This is a positive sub-amendment.

• (1555)

Mrs. Mona Fortier: You would like it to read “any isolated or repeated conduct, comment, gesture or contact”?

Ms. Anne Minh-Thu Quach: Yes, because I want it to refer to the types of comments, gestures or contact that are isolated or repeated.

Mrs. Mona Fortier: I would like to ask the people who are more familiar with this language whether that would be acceptable in the definition.

[*English*]

Ms. Barbara Moran (Director General, Strategic Policy, Analysis and Workplace, Labour Program, Department of Employment and Social Development): I need to check with our legal counsel there just to see what that would do. Should I do that now and take two minutes?

The Chair: Yes, go ahead.

I believe Mr. Blaney has a question.

[*Translation*]

Hon. Steven Blaney (Bellechasse—Les Etchemins—Lévis, CPC): I would like to say something, Mr. Chair.

It is an interesting proposal, because it is consistent with the spirit of the definition that was just adopted, but it is a bit more specific. What I like about the proposal from my NDP colleague is that it adds the notion of an isolated gesture.

According to the evidence we have heard, MPs work in their constituency office and on the Hill, but also anywhere else that they exercise their duties. I think this clarification could be useful for the interpretation of the definition of harassment. For instance, it would clearly stipulate that while we are exercising our duties, whether we are on the Hill, at a riding office or somewhere else that we are working, our conduct and gestures, whether isolated or repeated, can constitute harassment.

I think that is a constructive addition to the bill.

[*English*]

The Chair: Thank you.

[*Translation*]

Mrs. Mona Fortier: I would point out that we have had the privilege of submitting this proposed definition to both the lawyers and the unions, and they seem to support it. We will see whether it is possible to add this, but I would simply like to point out that the unions and the lawyers liked this definition.

[*English*]

The Chair: Ms. Moran.

Ms. Barbara Moran: There are two things. One of the things the proposed definition does is it proposes including any proscribed “action, conduct or comment”. What that does is it provides a regulation-making power such that you could further define what is meant by an action, conduct, or comment. If at that stage you wanted to add in words such as “isolated or repeated in nature”, you could do that through the regulation-making power.

There's nothing preventing you from adding it in here as well, but our advice would be to leave it as broad as you can and use that regulation-making power, as time goes by, to see if you need to add additional boundaries around it to make sure that it's as all-encompassing as you wish.

The Chair: Thank you for the reminder. I want to just ensure that all members of the committee received the letter from the minister that talked about what the intention is to do within regulations. I think it was very comprehensive, and there was quite a bit more there than I was expecting, which is a good thing. I would agree with that.

Mark.

Mr. Mark Warawa: Thank you for that, Chair. I found the letter from the minister inappropriate in that it was premature to thank the committee for its good work on this when we haven't finished the work. I would appreciate a letter—I think all of us would—after the work is done.

Also, I really want to respect the independence of committee work. I found that the minister was premature, and may even be seen as guiding the committee in its work.

We had heard from the witnesses about the importance of the definition, and that it was foundational to the legislation being effective. We heard from witnesses who are experts who deal with harassment issues. They shared that, I think, 50% of the people who actually are found to have been guilty of harassment did not realize they were involved in harassment, that their actions could be deemed

harassment. That's 50%. Whether it was 50%, or 51%, or 49%, it's a substantial number of people, so we need to define it.

Then we heard from different witnesses over and over again on the importance of defining. I think the NDP's suggested amendment is reasonable. It provides that foundational guidance of what harassment is. Then you build on that by regulation, but your foundation needs to be clear.

I'm happy that the government has introduced an amendment on harassment, but again, it has to be clear. I think the amendment that we're going to be looking at now provides that clarity.

To provide a vague definition does not meet the needs of what was being asked for by the witnesses: having a definition. If we as a committee say we've been asked for a definition so we'll give you a definition, but we're going to keep it so general that it really doesn't meet what they were asking for, it's so general that it could be deemed vague.... The government has clearly said from day one they want to deal with the legislation. You have that as your base, but definitions would be dealt with by regulation. I'm concerned that if it's left in a vague form—and that is what the government has said it wanted to do all along—we are not respecting what we heard. Providing that clarification, which the NDP amendment provides, is very important for that foundation to the legislation. I therefore support it.

● (1600)

The Chair: Thank you.

MP Blaney.

[*Translation*]

Hon. Steven Blaney: Thank you, Mr. Chair.

I agree with what my colleague, Mr. Mark Warawa, said.

We have to remember that the bill we are considering and are in the process of adopting applies to employees under federal jurisdiction and, as I said, it also applies to harassment in the political environment on Parliament Hill.

In this regard, we clearly remember testimony from MPs about situations that had absolutely nothing to do with their work, isolated situations that occurred outside MPs' normal working environment. These situations did not occur in the House of Commons or at riding offices, yet the conduct and gestures seem to match the definition of harassment exactly.

As legislators, we must clearly indicate that MPs are subject to the harassment legislation and must comply with it wherever they are. Our objective is zero tolerance of harassment.

The improvements suggested by the NDP serve this purpose. We are talking about actions, comments or conduct, but what is interesting in the proposed amendment to the basic definition is the reference to isolated gestures. This provides a reference to place that is not otherwise mentioned in the definition. This is therefore a constructive amendment. It means that even if an MP is in a dark corner and does something that violates the spirit of the act, they are at fault and will have to suffer the consequences.

In this sense, I think this is a very good addition by my NDP colleague and I intend to support it. As legislators, our role is to give clear directives to the those who will be implementing the act that we are in the process of adopting.

[English]

The Chair: Thank you.

MP Quach.

[Translation]

Ms. Anne Minh-Thu Quach: Thank you, Mr. Chair.

Thank you to the public servants who are here today.

I am just trying to understand why it would be better to include that in regulations rather than in the definition, especially in the part that refers to an isolated or repeated gesture. It can indeed be something that occurs just once as opposed to repeatedly. The seriousness of the incident also has to be considered.

The witnesses who appeared before the committee stressed that it can be an isolated incident. Whether a repeated event or an isolated incident, the seriousness of the act must be considered. The witnesses we heard considered it very important to include that in the definition, and that is why I am defending this point.

I would like to hear your thoughts on this. I would like to get a better understanding of why it would be preferable to include that in regulations as opposed to the definition.

• (1605)

[English]

Ms. Barbara Moran: I think that any more detail you put into the definition just makes it so.... For example, did we miss anything? The only reason I was suggesting that you could put it in through the regulations is that, first, there is a regs-making power in there, so you have the ability to do that. What the regulation-making does is provide further opportunity for consultation on that, if there is a desire to further define.

There may be a desire to go beyond that in terms of being able to further specify what the different behaviours are, but if it's the will of the committee to put that in, it certainly doesn't cause trouble to the legislation itself.

[Translation]

Ms. Anne Minh-Thu Quach: Thank you.

[English]

The Chair: MP Dabrusin.

Ms. Julie Dabrusin: I wanted to jump in because in some of the discussion it sounds a bit like what's being said is that if we don't put in these extra words, there is no definition of harassment, but there is one, and I take to heart Ms. Moran's comment, which was that there is a risk when you start getting too subspecialized, in that it seems like an exclusive list, a closed list. There is that concern as well. Gestures and contact could easily be included within "action" and "conduct" as well when we're dealing with it. How much are we parsing out within the actual statute? I also take it that it won't do grave harm to include them, but I do take to heart that it might make more sense to include them in a regulation.

The Chair: All in favour of the subamendment?

(Subamendment negatived)

The Chair: All those in favour of LIB-1?

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

The Chair: Ms. Quach.

[Translation]

Ms. Anne Minh-Thu Quach: Can I vote on division without opposing the amendment?

[English]

The Chair: On division? Yes, of course.

(On clause 1)

The Chair: Moving on to NDP-3, is there any discussion?

Madam Quach.

[Translation]

Ms. Anne Minh-Thu Quach: This amendment comes from the vice-president of the Confédération des syndicats nationaux, which strives to prevent accidents and illnesses in the workplace. She would like us to add the word "injuries". This term is already used, but she would like the term "incidents" used because the "incidents" and "accidents" are not the same thing, and if only "accidents" is used, the victim might not feel protected.

As the Office québécois de la langue française pointed out, these two terms are not interchangeable. An "accident" results in material and physical damage, while an "incident" refers to an event that is not significant in itself, but that could have serious consequences.

Since the term "incident" is already used 14 times in Bill C-65, we would like it to be used here as well.

• (1610)

[English]

The Chair: Mr. Ruimy.

Mr. Dan Ruimy (Pitt Meadows—Maple Ridge, Lib.): I find it a little bit confusing because it's almost like you're implying that harassment could be considered an accident. I think trying to include that "prevent accidents", and tying it to harassment, I don't think I can support that. It opens too many doors that imply different things.

The Chair: Mr. Blaney.

[Translation]

Hon. Steven Blaney: I know there can be accidents, but I think we should stipulate that there can also be incidents. As we said earlier, harassment essentially involves repeated or isolated conduct which, in itself, does not necessarily constitute a physical attack, but it can have consequences. I think this is a valid clarification.

[English]

The Chair: Mr. Ruimy.

Mr. Dan Ruimy: To counter that, again, when we're talking about accidents, we already have codes that speak to accidents. I don't think you're saying, "I accidentally hit you, I accidentally touched you."

I don't think that's what you're referring to. You're talking about occupational health and safety. Trying to tie that together, why are you picking accidents as part of the harassment code?

The Chair: MP Quach.

[*Translation*]

Ms. Anne Minh-Thu Quach: Based on the arguments made by the vice-president of the CSN, there could be a legal gap in the definitions, which could hurt victims. So a distinction must be made between the two terms and the term “incident” must be included in the purpose of the act. That would help victims.

[*English*]

The Chair: Mr. Warawa.

Mr. Mark Warawa: I have a question for Madame Moran regarding this recommended...

Words have different meanings legally at times than what we understand in normal Tim Hortons type of language. If there has been concern with the use of the word “accident”, in the legal language, in legalese, would that create a concern such as that raised by Mr. Ruimy? Is there an advantage to taking it out or should we leave it in?

I'd appreciate your comment.

Ms. Barbara Moran: This is for the whole of part II, which includes all occupational health and safety, so the terminology “accident” is absolutely appropriate.

In terms of adding a reference to including “harassment or violence”, why include just “harassment and violence” and not some of the other incidents, accidents, whatever they might be, that are related to occupational health and safety?

That would be my caution there with including “harassment or violence”, because this part deals with things that are much broader than just harassment or violence.

The Chair: Mr. Blaney.

[*Translation*]

Hon. Steven Blaney: I would like to pick up on what Mr. Ruimy said. The word “accidents” is already in the bill. In addition to that, we would like to add the term “incidents of harassment”.

Our objective is for the bill to be as clear as possible. Incidents of harassment are at the heart of the bill we are considering. I would like to go back to the example of an MP who is neither in the House of Commons or in their office, and whose conduct towards a staff member at the end of the evening is inappropriate. That is an incident and not an accident. It is an incident that can have consequences and that can be considered harassment.

This is truly an essential clause of the bill. There are a number of amendments, but in order to have a stronger bill, the terms have to be clearly defined to make sure there are no loopholes that MPs could use to say that it does not apply to them because they are not in their office or in the House of Commons, for instance. We definitely want to avoid any gap in the legislation, as Ms. Quach said earlier. I am not an expert on harassment, but I can tell you that is what we are hearing.

It is especially important to include this term from the outset. I think the term “incidents of harassment” is actually more important than the word “accident”. This is central to the bill. We want to end incidents of harassment.

• (1615)

[*English*]

The Chair: Okay.

MP Quach.

[*Translation*]

Ms. Anne Minh-Thu Quach: Thank you, Mr. Chair.

I would like the public servants to explain a few points in the notes we received. Adding the term “incidents” could impact the way incidents of harassment are investigated.

Is there a difference in the way investigations are conducted depending on whether it is an accident or an incident? That is what the amendment requested by the CSN vice-president seems to suggest.

[*English*]

Ms. Barbara Moran: Just so that I understand, you're talking about adding the word “incidents” instead of “accidents”?

Ms. Anne Minh-Thu Quach: No, just adding it.

Ms. Barbara Moran: Just adding “incidents”? I think I would have to, again, consult with some of the legal counsel. My own personal opinion is that I don't think “incident” appears at other places in the code so we'd have to look at that very carefully to see if we're introducing a brand new terminology that doesn't have definition within the code.

The Chair: Julie.

Ms. Julie Dabrusin: I'm a bit concerned about adding new terms on the fly at this point, because we are dealing with terminology and we're dealing, not with a stand-alone act, but amendments to an already functioning act. I'm going to be put that as a thought that we should keep in mind.

The other part is, I don't really see how this terminology—if I'm looking at NDP-3—has anything to do with whether we're in our physical workspaces, such as our offices, or if we are out of our workspaces, our official workspaces as recognized. To me, the word “accidents” doesn't change that.

I want to keep us focused on the wording; I am concerned about starting to add extra terminology.

Mr. Mark Warawa: Under section 122.1, the present wording is, “The purpose of this Part is to prevent accidents”, etc., and the amendment, then, would add “, incidents of harassment or violence” and then it would carry on reading “and physical or psychological injuries and illnesses arising out of”.

Just for clarity, what we're talking about is to add into the existing legislation “incidents of harassment and violence”.

And what is Bill C-65?

Ms. Julie Dabrusin: There is no word “incident” in this amendment. I'm just trying to clarify that.

Mr. Mark Warawa: The amendment says “incidents of harassment or violence”.

Ms. Julie Dabrusin: Is that in the amendment?

Mr. Mark Warawa: It's on page 6 of the list of amendments.

Ms. Julie Dabrusin: Okay, sorry. Then I'm looking at the wrong one, because I only have the word “accident” in mine.

Mr. Mark Warawa: “Accident” exists in the current legislation. What is being proposed is to add “, incidents of harassment or violence”. That's what Bill C-65 is all about. Are we supporting Bill C-65, yes or no?

Ms. Julie Dabrusin: I'm really just focused on the word “incident” because I want to clarify. Again, when I'm looking at NDP-3, I do not see the word “incident”.

Oh, it was replaced.

The Chair: It was replaced on Friday, so you're looking at an old version.

Ms. Julie Dabrusin: I'm looking at an old version. I apologize.

The Chair: Go ahead, MP Quach.

[Translation]

Ms. Anne Minh-Thu Quach: I would like to add that even the Liberals, in amendment LIB-2, use the term “incidents”. This amendment would amend Bill C-65 on page 2 to read “all incidents of harassment”.

In Bill C-65, the word “incident” is already used 14 times. I do not understand how that could create a precedent since it is already used.

Our amendment would simply add the word “incident” to the purpose of the act; it would not replace another term. I do not see how that could create a serious precedent or make the bill so complex.

• (1620)

[English]

The Chair: We'll go to Mr. Blaney.

[Translation]

Hon. Steven Blaney: If we do not want to amend the existing act by adding a term, we might as well not be here. Under the best of circumstances, we would not be sitting here and we would not have heard from witnesses, including employees of the House of Commons, of MPs and of crown corporations, who have experienced incidents of harassment, whether isolated or repeated. In that sense, I agree with my colleague Mr. Warawa: if we cannot agree to call a spade a spade and if the purpose of Bill C-65 is not to end incidents of harassment, we might as well close our books and leave things as they are.

This bill is important to the government and to all the opposition parties. Our job is to improve the bill. Adding the term “incidents of harassment” in this particular case seems to be fully consistent with the purpose of the act, which is to end harassment in the workplace, whether in institutions under federal jurisdiction, or in parliamentary institutions in particular.

In that sense, the NDP proposal is constructive and I think it would be a shame if the government decided not to add it on the

pretext that it is already in the bill. If we are here to push through a new bill, it is precisely because there are problems and the tools the government currently has are inadequate to end harassment. As you accurately pointed out, we received a three-page letter from the minister, asking us to do everything possible to end harassment. This is a specific instance where we can do something.

I think the opposition is taking a constructive approach toward the government by stressing the importance of including incidents of harassment in Bill C-65. This suggestion does not come from us, but from the NDP, but it is fully consistent with the spirit of the minister's letter and with the spirit of the bill. As a result, I think this proposal is very good and, of course, I intend to support it.

On the other hand, it is clear that if the opposition supports definitions that are struck down by the government each time, it will be a one-way process. I would even say the result could be watered down. I do not think that is what the committee wants, nor is what the minister asked us to do.

Thank you.

[English]

The Chair: Is there any further debate?

Ms. Julie Dabrusin: I also don't have this one.

Mrs. Mona Fortier: It might be a translation thing.

Ms. Julie Dabrusin: Give me a second.

[Translation]

Mrs. Mona Fortier: The definition of the words “incident” and “accident” is not the same in English and French.

Ms. Anne Minh-Thu Quach: That is why I want to add it.

Mrs. Mona Fortier: But it is there, in the French version.

[English]

This is “accidents”; this is “incidents”.

[Translation]

Hon. Steven Blaney: I do not see it in French, in clause 122.1.

Ms. Anne Minh-Thu Quach: It is not there at all.

[English]

Ms. Julie Dabrusin: Could we have a brief recess for a moment just to take—

The Chair: Certainly. We're just going to suspend very briefly just to make sure we are actually looking at the current documents.

• (1620)

_____ (Pause) _____

• (1625)

The Chair: Go ahead, MP Dabrusin.

Ms. Julie Dabrusin: Could we get some clarification from the department on one part? I'm focusing on the last two words of the proposed amendment, “harassment or violence”. Adding in those terms, adding this proposed amendment specifically referencing harassment or violence, would that cause any trouble for its operation within the act as a whole? I'm always mindful of the fact that it's operating within an act as a whole.

Ms. Barbara Moran: Sure. One comment is that, because of the change that was made to the definition, if you move forward with that, it can't be "harassment or violence". It would need to be "harassment and violence". That would be one thing.

On the French/English thing, usually when we use *incidents* in French, we use "occurrences" in English, so I would say "occurrences".

All I would add, though, is the point I made a little while ago. This is for all of part II, which is much broader than harassment and violence. The intention, I believe, in adding in the reference that's in Bill C-65 now to physical or psychological injuries was to get at the impact of these acts, and so in particular adding the psychological injuries was really intended to get at the impact, particularly of harassment and violence. That would be just something I would note for your consideration.

Ms. Julie Dabrusin: Just to clarify then, really in the way it operates within the statute, you would be looking at impact, not cause, in that section. Everything else is worked around focusing on impact, not cause. There are many other causes that also could fall within part II, correct?

Ms. Barbara Moran: Right.

The Chair: We'll go to MP Blaney.

[*Translation*]

Hon. Steven Blaney: Mr. Chair, according to what I understood of Ms. Moran's explanations, the section in the Canada Labour Code applies much more broadly, of course, but we are talking about a context where the person sustains a psychological or physical injury.

What is interesting in the bill on harassment we are studying now is not necessarily the impact of reprehensible behaviour, but the behaviour as such. It may happen that a sexual harassment situation is not judged according to the impact on the affected person. Our objective is to prevent that behaviour. That is one more reason to include the term "occurrences of harassment" in the definition, as my New Democrat colleague has proposed.

Do you understand, Ms. Dabrusin? You presented a good argument. The Canada Labour Code aims to determine whether the person has suffered an injury. In this case, however, we are not seeking to determine whether the harassing behaviour injured the person; the harassment as such is unacceptable and that is what we are trying to target. That is why this is indeed innovative, and a new element in the Canada Labour Code. It is the legislator's role to take this reality into account.

Our purpose is really to target harassment, and not necessarily the consequences it may entail. The law already takes the consequences of harassment into account. If a person suffers psychological or physical injuries because of harassment, we take that into account; that said, we deal with the symptom. In this case, however, we want to attack the source, i.e. the occurrence of harassment.

• (1630)

[*English*]

The Chair: Go ahead, Madam Minh-Thu Quach.

[*Translation*]

Ms. Anne Minh-Thu Quach: Thank you, Mr. Chair.

Personally, I find it completely absurd that as we are discussing Bill C-65, which deals with harassment and violence, we can't even include the words "harassment" and "violence" in the clause we are debating.

This was requested by the vice-president of the Confédération des syndicats nationaux. In her opinion, we have to add the occurrences of harassment or of violence, otherwise we'll only talk about accidents and injuries. If we want to refer to harassment and harassment-related violence, we have to include those terms, and this is where she suggested we include them.

The Chair: Mr. Blaney, you have the floor.

Hon. Steven Blaney: Mr. Chair, I agree entirely with my colleague Mr. Mark Warawa when he says that our work as parliamentarians is independent. I am surprised that we received a letter from Minister Hajdu during our work. The letter in question, I must say, refers to pillars of the act. There are three pillars: prevention, intervention and support.

The new framework is based on the first pillar, prevention. In the letter, it says that "the Government of Canada believes that prevention will have the greatest overall impact". Why? It will help to "reduce incidents of harassment and violence in the workplace". Isn't that exactly what we are doing?

There may be other amendments we can set aside, but this one seems fundamental to me. If we want to base our approach on prevention, as is the government's intention, and reduce harassment issues at the source, we have to attack the behaviour and the behaviour is manifested in incidents, whether they are isolated or repeated.

This is an extremely important amendment which sends a clear message that this bill is serious. Employers and parliamentarians must heed the message, because now we have an act about harassment.

[*English*]

The Chair: Is there any further discussion?

All those in favour of NDP-3?

[*Translation*]

Ms. Anne Minh-Thu Quach: I'd like a recorded vote.

[*English*]

The Chair: We will have a recorded vote.

All those in favour of NDP-3?

Mr. Mark Warawa: It was recommended that "or" be changed to "and". In the amendment, it was recommended by Ms. Moran that "incidents of harassment or violence" should be changed to "incidents of harassment and violence". That was accepted as a friendly amendment. Is that what we're voting on?

The Chair: No, we're voting on the amendment. If you want to move that, we could do a subamendment on this amendment. We could easily do that.

Mr. Mark Warawa: Was it accepted as a friendly amendment? It is now reading "and" instead of "or".

Mr. Olivier Champagne (Procedural Clerk): We need to decide on your subamendment.

The Chair: Yes.

Mr. Mark Warawa: Chair, before we vote on this amendment, I will move a subamendment that “or” be changed to “and”.

The Chair: Is everybody understanding what is happening here?

There is a subamendment on this amendment changing the word “or” to “and”.

Go ahead, Julie.

•(1635)

Ms. Julie Dabrusin: I think that, as we're going down this route, we have to consider one more subamendment, which maybe he will just include. I believe that Ms. Moran mentioned that the word should be “occurrences” not “incidents”.

Mr. Mark Warawa: I'm glad you brought that up. That was part of my subamendment.

Ms. Julie Dabrusin: You said “and”.

The Chair: Do we want to include both of those in the subamendment?

Hon. Steven Blaney: What is the subamendment?

The Chair: We'll read it here shortly, once I get it figured out.

It would read “The purpose of this Part is to prevent accidents, occurrences of harassment and violence.” That's the new reading of the proposed subamendment of amendment NDP-3.

First, we need to vote on the subamendment. I see some shaking of heads. Are we concerned, Ms. Moran?

Ms. Barbara Moran: You need to add a comma.

The Chair: Thank you for that. Where would we need to add a comma?

Hon. Steven Blaney: Take that as a friendly amendment.

Ms. Barbara Moran: Thank you. You need a comma after “accidents”.

The Chair: So it would be...on here there is one.

Ms. Barbara Moran: Yes, I just didn't hear you say the comma, so I wanted to make sure, so it's “accidents, occurrences of harassment and violence”.

The Chair: Yes.

Ms. Barbara Moran: Thank you. I'm sorry.

The Chair: Fair enough. My apologies.

Okay.

Mr. Robert Morrissey (Egmont, Lib.): Can we get clarification by the analyst on what we're voting on?

The Chair: What has just occurred is a subamendment to NDP-3, so we're not voting on the actual amendment, we're voting on changing the amendment to now read, “The purpose of this Part is to prevent accidents, occurrences of harassment and violence.” That is the subamendment. We're not voting on the amendment itself, but just the change to the amendment. We're changing the word “incidents” to “occurrences” and the word “or” to “and”.

Mr. Dan Ruimy: Is “occurrences” more consistent with the rest of the...?

The Chair: I am getting nods from Ms. Moran.

Mr. Dan Ruimy: This is my concern, that it's not, but if that's what we're saying....

The Chair: In terms of the subamendment on amendment NDP-3, all those in favour of the subamendment?

(Subamendment agreed to)

Hon. Steven Blaney: Just a clarification, Mr. Chair, I understand that in French, and maybe Mona

[*Translation*]

could confirm this—we will say “occurrences of harassment and violence”. Is that right?

Mrs. Mona Fortier: Yes.

[*English*]

The Chair: But it says “occurrences” now.

Hon. Steven Blaney: The same word in French.

The Chair: I'm hearing “incidents” in my ear.

Hon. Steven Blaney: The subamendment was to switch the “or” for an “and” in French, as well.

The Chair: Correct.

Mr. Dan Ruimy: Mr. Chair, what are you hearing in the translation?

The Chair: I'm hearing “incidents”.

Ms. Julie Dabrusin: Yes, because that's the translation in French, *incidents*.

The Chair: Of “occurrence”.

Do we have a concern or question, Ms. Moran?

Ms. Barbara Moran: We're just double-checking on the “occurrences”.

The Chair: Okay, we'll give you a few minutes.

Mr. Dan Ruimy: This is the legislation. Whatever we put here we have to make sure we have it right, regardless of what the minister's letter said.

•(1640)

Hon. Steven Blaney: What I'm saying is that the minister is using “incidents” both in French and in English in her letter.

The Chair: Ms. Moran, you're good? Okay. Excellent.

All those in favour of amendment NDP-3 as amended? We are having a recorded vote.

(Amendment agreed to: yeas 9; nays 0) [See *Minutes of Proceedings*]

The Chair: It wasn't even close. Fantastic.

Shall clause 1 carry as amended?

(Clause 1 as amended agreed to)

(Clause 2 agreed to)

The Chair: Now we have CPC-2, a new clause 2.1.

Is there any discussion?

Ms. Falk.

Mrs. Rosemarie Falk: This would just refer to training, so that we would have.... This one, I believe, specifically would be for MPs to have training. I think this is one where we had to have it.

A voice: I believe it's MPs and everybody.

Mrs. Rosemarie Falk: Right, but there's another one that doesn't; we must have had it in two parts. This one would refer to MPs having training, so "employers".

The Chair: Is there any further discussion?

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

Mr. Mark Warawa: Can you read out the result of that vote, how many in favour and how many opposed?

The Chair: I believe it was 4 to 5. I think I'm counting correctly.

(On clause 3)

The Chair: We have LIB-2 for discussion.

Go ahead, Mona.

[*Translation*]

Mrs. Mona Fortier: It's the same idea, but we still have to adopt the amendment.

This amendment is similar to what you suggested. We are proposing that we use the word "and" instead of "or", so that this is in line with what is proposed in our first amendment.

There will be other amendments to replace the word "or" with "and".

[*English*]

The Chair: Mr. Blaney.

•(1645)

[*Translation*]

Hon. Steven Blaney: I'm a bit surprised that our government colleagues voted down our amendment that proposed that we provide training on harassment. This amendment was put forward, but there was no debate. We immediately went to the vote and the amendment was not adopted. However, all of the witnesses we heard were in favour of the idea of providing training to employees to raise awareness about harassment.

[*English*]

I'm surprised that the government is not in support of training to prevent harassment in the workplace. I would have expected that when the amendment was tabled, we would have heard the argument from the government not to support this amendment, instead of, I would say bluntly, opposing and moving on to the next one.

We heard that training is critical to prevent harassment, and I'm disappointed to see that we had the opportunity to discuss those issues previously and that this is just not considered or even discussed.

The Chair: Bob.

Mr. Robert Morrissey: We accept the point you're making, but we have some minor amendments to a later opposition amendment.

Hon. Steven Blaney: Are you suggesting that you will address the training in the later...? Good.

The Chair: Just to clarify, what we're looking at right now is Liberal-2, which is again one of these changing "or" to "and", and I think this is going to occur a couple of times moving forward.

Is there any discussion, or can we accept that amendment?

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

The Chair: We'll go to NDP-4, Madam Quach.

[*Translation*]

Ms. Anne Minh-Thu Quach: The current provision in the bill specifies that employers must make information available to employees "in printed or electronic form". Our amendment aims to replace the word "or" with the word "and", so that prevention will be more effective. We don't want the employee to be forced to ask where the information is; he or she has to be able to find it easily. In a harassment case, it can be quite intimidating for an employee who needs to have access to information to have to go to an employer to obtain it.

According to the recommendations of the representatives of the Workers' Health and Safety Legal Clinic who came to testify before the committee, among others, this information has to be easily accessible, in a printed document, and in any other available form. It must be accessible to all employees and victims.

We can't let employers foster discomfort and intimidation around this issue. If the information is accessible in a paper document, this could facilitate access to services.

[*English*]

The Chair: MP Fortier.

[*Translation*]

Mrs. Mona Fortier: We have read the amendment and we are going to support it.

[*English*]

The Chair: Is there any further discussion? Seeing none, all those in favour of NDP-4?

(Amendment agreed to)

The Chair: Now we have NDP-5.

Madam Quach.

[*Translation*]

Ms. Anne Minh-Thu Quach: We want workers to be better protected by business policies, and we want this to be guaranteed by the Canada Labour Code. This is in keeping with the wishes of the Workers' Health and Safety Legal Clinic, as well as those of the Fogler, Rubinoff LLP legal firm, and of the founder of the Rubin Thomlinson LLP legal firm.

We want employers' freedoms to be specified in the fundamental bases. We want immediate assistance to be provided in cases of workplace harassment or violence, we want the information to be protected, and we need a system to deal with complaints. We want all of that to be included.

We want to remind you that this is not extravagant. These are services that have to be offered to employees who are victims of harassment or violence.

This also allows employers to know what to expect and to have a better understanding of what is happening in the workplace. Earlier, in discussing the Conservative amendment, we talked about prevention, and this will come up again a bit later. I think that everyone needs to be made more aware and to have the appropriate tools at their disposal. In order to do so, this amendment needs to be passed.

•(1650)

[*English*]

The Chair: Thank you.

Mr. Blaney.

[*Translation*]

Hon. Steven Blaney: Of course, the law and the regulations always have to be balanced, and we are aware of that. Recently, we saw a harassment situation in Quebec. We wanted to avoid imposing an administrative burden on employers by forcing them to have a policy with a cumbersome bureaucratic process. There is a very easy solution which others have applied, including the Government of Quebec. It involves developing framework policies that can be adopted by employers.

The New Democrats are suggesting that policies be developed. Knowing how to get immediate assistance, for instance, is an extremely important element. One of the most desirable objectives of this bill is that employees whose workplace is subject to federal regulation, or who report to a parliamentarian, be well informed about what they can do if they find themselves being harassed. Making this clear in the act is really a part of prevention, which is the first of the three pillars: prevention, intervention, and, ultimately, support. This seems very constructive to me.

I would like to know how the government sees this amendment. In my opinion, this too is a legislative matter, and it gives sufficient leeway to define how we will proceed with regulations.

[*English*]

The Chair: Is there anything further?

[*Translation*]

Hon. Steven Blaney: I support this amendment, and I'd like to hear the government's opinion.

[*English*]

The Chair: Is there any further discussion?

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

The Chair: Next is CPC-3, and I'll just note that if it's adopted, NDP-6 would be considered redundant.

Is there any discussion?

Mr. Robert Morrissey: Mr. Chair, we have a subamendment to CPC-3. Proposed paragraph 125(1)(z.161) would stay the same except to remove the words "the prescribed". We would suggest adding a paragraph 162, to be worded "undergo training in the prevention of harassment and violence in the workplace". We feel that it adds to this.

Hon. Steven Blaney: You removed the word "prescribed"?

Mr. Robert Morrissey: Yes: "the prescribed".

Hon. Steven Blaney: And then?

Mr. Robert Morrissey: We add paragraph 162: "undergo training in the prevention of harassment and violence in the workplace".

Hon. Steven Blaney: Okay.

Mr. Robert Morrissey: That's to make sure the employers get the training as well.

Mr. Mark Warawa: I like this.

Mr. Robert Morrissey: Thank you, Mr. Warawa.

Mrs. Rosemarie Falk: I know that when we drafted this, that is why we had the amendment previously. When we were working with legal services, they said we needed it in clause 2 to be employers and—

Mr. Robert Morrissey: That's why we referred to it earlier.

Mrs. Rosemarie Falk: —that we weren't able to add employers into clause 3. That's why we needed the other amendment. They went hand in hand.

Mr. Robert Morrissey: We got the advice to add it here.

Hon. Steven Blaney: Interesting....

Mr. Robert Morrissey: Well, we can ask the officials.

The Chair: Ms. Moran.

Ms. Barbara Moran: That section we're talking about is all about what the duties of employers are. Where it gets tricky is that this would put the obligation on the employers themselves. It's saying that as an employer you have an obligation to ensure that your employees have this training, and then, because we don't reference employees, that they also have the obligation to undergo training themselves. It's just keeping it all in one bundle, if you will.

•(1655)

The Chair: Good. Is there any further discussion?

Seeing none, first we need to vote on the subamendment, which removes the words "the prescribed", so that after the comma it would now read, "receive..."? Does it make sense? It would be a new paragraph, correct?

Mr. Robert Morrissey: You're just removing the words "the prescribed".

The Chair: It's not a complete sentence, though, because then it would say "receive undergo training".

Mr. Robert Morrissey: Why? It's "receive training": to "receive training in prevention of harassment and violence in the workplace".

The Chair: So not "undergo"?

Mr. Robert Morrissey: No.

[Translation]

Hon. Steven Blaney: So, in the French version, the word “réglementaire” would be removed. The word “réglementaire” means “prescribed”, doesn't it, Ms. Fortier?

Mrs. Mona Fortier: Yes.

[English]

The Chair: We'll just have a clarification here and see what it says.

[Translation]

Hon. Steven Blaney: Fine.

[English]

I'm surprised at the Liberals now.

Voices: Oh, oh!

The Chair: Thank you.

Again, you're removing “the prescribed” from proposed paragraph 161, and then adding in paragraph 162, “undergo training in the prevention of harassment and violence in the workplace”.

Rosemarie.

Mrs. Rosemarie Falk: Can legal confirm that this would cover MPs under the parliamentary context? We were told that because we aren't supervisors or managers it had to be elsewhere.

The Chair: I think this is to do with—

Mr. Robert Morrissey: Members are included elsewhere.

The Chair: We are included elsewhere in the code.

Mr. Robert Morrissey: Referred to in the bill....

Mrs. Rosemarie Falk: For training?

A voice: No—

Mrs. Rosemarie Falk: That's what this is about, right?

The Chair: Ms. Moran.

Ms. Barbara Moran: Do you want to go ahead, Charles?

Mr. Charles Bernard (Director General, Portfolio and Government Affairs, Department of Public Works and Government Services): It would cover employers under the PESRA.

The Chair: Okay. We're talking about—

A voice: We're employers.

Hon. Steven Blaney: Including MPs?

Mr. Robert Morrissey: We're employers.

Mrs. Rosemarie Falk: For sure. They told us differently, so we just want to make sure it's correct.

The Chair: Okay. All those in favour of the subamendment? We're talking about CPC-3.

(Subamendment agreed to)

The Chair: MP Quach.

[Translation]

Ms. Anne Minh-Thu Quach: Near the end of the paragraph, after the words “in the work place”, I would like us to add “in accordance with the time periods set by regulation”, so that a time frame will be respected in providing training to employees and employers.

In some places, the deadline is 60 days after hiring someone. We suggest we specify that the training must be provided within a certain period of time, set by regulation.

[English]

Mr. Dan Ruimy: Could I get a clarification of that in English, please?

The Chair: Could you say it one more time, please?

● (1700)

[Translation]

Ms. Anne Minh-Thu Quach: After the words “dans le milieu de travail”, close to the end of the paragraph in French, we would like to add “conformément aux délais fixés par règlement”. We want to ensure that there will be a deadline that people will have to respect and that it won't take 10 years before training is provided.

[English]

The Chair: Is that singular or plural?

[Translation]

Ms. Anne Minh-Thu Quach: It is plural here. The objective is that training be provided to an employee within the prescribed time frame after the person is hired.

[English]

The Chair: Is this between commas?

[Translation]

Ms. Anne Minh-Thu Quach: Are you talking about the parentheses or the commas?

The Chair: The commas.

Ms. Anne Minh-Thu Quach: Yes.

[English]

It's just to make sure that it's not getting indefinitely....

A voice: To make sure it actually happens.

Ms. Anne Minh-Thu Quach: Yes.

The Chair: Can we ask Ms. Moran what the ramifications of that would be?

Ms. Barbara Moran: I think the issue I would have is that your timelines, even if we set them out in the regulations, are going to vary depending on your particular workplace for the different circumstances. It would be challenging to set out in a comprehensive way in the regulations specific timelines for when you have to have the training. I think that would be my caution. What this would require is for the regulations to set out some very specific timelines, which I think would be challenging, frankly, for employers, to some extent, and wouldn't give them the necessary flexibility.

Brenda was just referencing that trucking would be different from marine, which would be different from other... There are very different workplaces, if you will. You could be on a boat, on a train, or on a plane, and some of the training requirements for when you would need to have this particular training need to have flexibility for the employer.

[Translation]

Ms. Anne Minh-Thu Quach: In that case, would there be some way of wording this so as to provide flexibility but also force the employers to provide this training? If the law stipulates that training must be provided, but no one is forced to offer it, and no one makes sure that the employees and employers have received it, including it in the act will serve no purpose.

[English]

Ms. Barbara Moran: Sure. I'd have to talk to the folks and see if there's a way we can do it where it isn't specific to the regulations, and that makes it clear that you want the training to be done within some sort of established timeline, if I understand you correctly.

Ms. Anne Minh-Thu Quach: Yes.

The Chair: Folks, we have not suspended, so please stay in your seats. Thank you.

Can we can come to order, please?

Ms. Moran.

• (1705)

Ms. Barbara Moran: Thank you for giving me the time to consult.

The collective wisdom suggested that one thing to think about on this is that if you leave it vague by just saying that the training is required, then you're saying to the employer that he or she has to provide that training. If you put in a timeline, whatever the timeline might be and however you want to do the timeline, it provides the employer with a bit of an out, as in, "Oh, that person's only here for 90 days, so I'm not going to bother training them." Or for 60 days, you're not going to....

It's just something to be cautious about. If the committee wishes to proceed with making some reference to timelines, rather than suggesting that it be set out in regulations I would suggest that you put in something like "receive training within reasonably practicable timelines". "Reasonably practicable" is terminology we use in various parts. It would allow some flexibility, if you felt you needed to put in some reference to timelines.

[Translation]

Ms. Anne Minh-Thu Quach: I understand your reasoning. I will use those words rather than precise terms. That will solve the issue in cases where there is a 30-day time period although the person has only been hired for 20 days; this situation does seem a bit unusual, however.

Thank you.

[English]

The Chair: Okay. We're now still dealing with our second subamendment to CPC-3 and the wording, just for clarification,

would be at the end of the word "training", where it would say "within practicable reasonability"...?

Ms. Barbara Moran: It would say "reasonably practicable".

The Chair: "Reasonably practicable"?

Ms. Barbara Moran: Yes.

The Chair: Thank you. You can tell I'm not a lawyer.

Then we would have the word "timelines", so it's with "reasonably practicable timelines."

Okay. All those in favour of subamendment number 2 for CPC-3?

(Subamendment negated)

The Chair: Now we go to amendment CPC-3 as amended, correct? All those in favour of CPC-3 as amended?

(Amendment as amended agreed to)

The Chair: Next is NDP-6.

Madam Quach.

[Translation]

Ms. Anne Minh-Thu Quach: Did you not say that this amendment would be redundant if CPC-3 is passed?

[English]

The Chair: Thank you for that. You're right.

[Translation]

Ms. Anne Minh-Thu Quach: Stay with us, Mr. Chair!

[English]

The Chair: When you're right, you're right.

Now we have amendment Liberal-3.

Mrs. Mona Fortier: I think it's the same idea.

The Chair: Is there any discussion?

• (1710)

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

(Clause 3 as amended agreed to)

(Clause 4 agreed to)

(On clause 5)

The Chair: On clause 5 we have amendment LIB-4.

I have a couple of notes here. The amendment should read "harassment and violence" instead of "harassment or violence".

Then also, if this is adopted, amendment NDP-7 cannot be moved due to redundancy. As well, if it is adopted, amendment LIB-6 is also adopted as a consequential amendment.

Mr. Blaney.

[Translation]

Hon. Steven Blaney: Mr. Chair, this amendment seems constructive.

In practical terms, thanks to this amendment, if an employee is subjected to harassment by her line supervisor, the person will not go to that supervisor first to disclose the harassment. That would not make sense. The victim will address her complaint to the designated person.

This is indeed something we heard. We discussed it and it seems a constructive and necessary element to add to the bill in order to protect the complainant, the alleged victim.

[English]

I said you did good work.

Mr. Robert Morrissey: That was the one thing on which there was very strong consensus.

The Chair: Agreed. Is there any further discussion?

MP Quach.

[Translation]

Ms. Anne Minh-Thu Quach: I expect that this aspect was taken into consideration, but I'd like to know whether the victims who filed a complaint against their supervisor will have recourse to special provisions to protect them when they make their complaint. Will this be included in the regulations? We want to make sure that the victim will have a specific recourse that will allow her to submit the complaint without being subjected to reprisals.

[English]

Ms. Barbara Moran: I think this amendment is suggesting, first, to provide a person other than the supervisor. There is a protection already in the code, not even within Bill C-65 but within the Canada Labour Code, that protects an employee against reprisal. If they bring forward any complaint, under part II of the code, they are protected. They cannot be somehow disciplined for bringing forward that complaint. It's under section 147 of the Canada Labour Code. It's protection against any disciplinary action.

[Translation]

Ms. Anne Minh-Thu Quach: Fine, thank you.

[English]

The Chair: Is there any further discussion?

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

The Chair: We are on amendment CPC-4.

Monsieur Blaney.

• (1715)

[Translation]

Hon. Steven Blaney: Thank you, Mr. Chair.

I feel that this is an important amendment and I'm anxious to find out the government's position on it. We already discussed it. Essentially, we realize that small businesses don't always have the resources to investigate cases of harassment. As was the case regarding the amendment we just discussed, it often happens that the aggrieved party and the employer work in close proximity. The purpose of this amendment is to allow the Minister of Labour to play an intermediary role and to act as a recourse for the employees of small businesses.

The amendment would add this:

(1.1) In the case of a complaint relating to an occurrence of harassment or violence in a workplace at which less than 20 employees are normally employed, the employee who believes on reasonable grounds that there has been a contravention of this Part may refer his or her complaint to the Minister in accordance with subsection (8).

What we want to do, basically—and this seems like an important point to us—is to see to it that the department is not just a sort of mailbox, and that the reply is not simply to go and see your employer and follow the process.

In certain cases, it's important that there be an independent third party. That is in fact what is done under other laws. We have to remember that both in a small business and any other business, there is always a contractual link between the independent investigator and the employer, since ultimately the independent investigator is paid by the employer. This creates a type of dependency that can change the perception of impartiality which is necessary in cases of harassment.

That is why there are specialists at the department who can evaluate the complaint filed by the employee and see whether there are reasonable grounds; they can then follow up on the complaint and receive the employee. I would say that this is an approach that aims to protect the potential victims of harassment.

[English]

The Chair: Bobby.

Mr. Robert Morrissey: Mr. Chair, I'm surprised at this amendment coming from the opposition, which was really quite articulate about removing the minister from any particular part dealing with a member of Parliament. Now it wants to include the minister in dealing with a small business, which could have the perception of politicizing.

That's why I cannot support it. It should be, as it is in the act, figured out by the business itself. This would add a political layer for a small business, and I'm surprised at such a thing coming from the opposition.

[Translation]

Hon. Steven Blaney: I understand your argument, and I would be very open to the idea of excluding parliamentarians' offices from this special recourse, so that they can follow the normal procedure.

This is far from being a partisan approach. I think it's an interesting argument to oppose the amendment.

I am aware of the fact that according to this amendment, the Minister of Labour stops being a spectator and becomes an actor with regard to businesses that are under federal jurisdiction.

I asked the minister to tell us what happens currently if an employee feels he or she is a victim of harassment, if the employer does not act or does not respect all of the steps in the process. We always hear the same thing from the department: the employer must apply the process.

What do we do when people do not follow the process? It is the role of the department to support the victims of harassment. This has in fact been done for decades, in Quebec for instance, and it works well.

That is the purpose of this amendment. I would be quite open to the idea of excluding parliamentarians if you think there is potential interference here. Be that as it may, this amendment involves a very important aspect of the law, that is to say that the employer is responsible for ensuring his workplace is harassment-free, but should there be harassment issues, the department could intervene. This amendment would give it the power to do so.

• (1720)

[English]

Mr. Robert Morrissey: My only comment, Mr. Chair, is that it would appear to add another level, and the onus is on the employer to deal with the issue. I disagree with it.

The Chair: Madame Quach.

[Translation]

Ms. Anne Minh-Thu Quach: Thank you, Mr. Chair.

It's important that we support this amendment because it is true that in small workplaces it may be difficult for employees to put forward their point of view and defend their rights. It isn't easy to do that. Getting the department, public servants, or experts involved—they are not parliamentarians, obviously—can help create a certain independence to allow people to intervene. Personally, I support this amendment.

These are specific cases. In any case, all harassment cases have to be evaluated on a case-by-case basis. Those who intervene will do so with as much discernment as possible. It's the same thing in businesses where there are conflicts, and in small businesses with fewer than 20 employees.

[English]

The Chair: Monsieur Blaney.

[Translation]

Hon. Steven Blaney: I want to thank my colleague, Ms. Quach.

I want to tell my colleague that the intention behind that amendment is to get the department, the experts and the inspectors to intervene. Currently, their role is to manage the process. However, sometimes the process is long and fastidious and it can be a torture for the employee, especially in a small business. So we have to offer another option.

This was in fact done, among others, by the Quebec Commission des normes, de l'équité, de la santé et de la sécurité du travail. We can learn from the best practices that are used elsewhere. In this way, the government and the department employees would play an active role in prevention and especially in helping to resolve harassment cases.

If we want to send a real signal, it's important. We always drop the ball into the employer's court without having any mechanism that allows us to say that things have gone too far. This may affect our effectiveness in reaching the act's objective. We have to give ourselves a tool for small enterprises.

I am aware of the fact that this is an innovative measure, but it seems to be the best way to attain the law's objective, which is to reduce workplace harassment.

[English]

The Chair: Is there any further discussion?

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

The Chair: Amendment NDP-7 is redundant, so we're now moving to amendment NDP-8.

Madame Quach.

[Translation]

Ms. Anne Minh-Thu Quach: Thank you, Mr. Chair.

The amendment aims to lighten the procedure to handle victims' complaints. The amendment specifies the various ways in which the complaint can be submitted: it can be filed orally or in writing.

The Canada Labour Code does not specify whether complaints are to be received orally or in written form. If the complaint can only be submitted in writing, and the employer decides to handle the complaint, he could obviously require very cumbersome or indiscreet processes, for instance the use of very onerous forms. We want to allow the victims to file their complaint in two ways, that is to say either orally or on paper. We want this to be in the law. In this way, there would be a standard procedure for all workplaces and it would be clear to everyone.

• (1725)

[English]

The Chair: MP Fortier.

[Translation]

Mrs. Mona Fortier: Thank you, Mr. Chair.

I like this amendment, but I'd like to ask the officials to explain to us how it could be interpreted. I don't see a problem, but it would be interesting for you to tell us if the proposed wording is acceptable.

[English]

Ms. Barbara Moran: The only thing I would note is that

[Translation]

in French, I would prefer that we use the word “oralement” rather than the word “verbalement”,

[English]

for consistency with the rest of the Canada Labour Code.

[Translation]

Mrs. Mona Fortier: Excuse me; I did not understand that you said.

Ms. Barbara Moran: The word “verbalement” is used, but I recommend that we replace it with the word “oralement”.

[English]

Other than that, it doesn't cause us concern.

The Chair: Could you say it in English, please?

Ms. Barbara Moran: It should be “orally”.

The Chair: And it would be “orally” as well?

Mrs. Mona Fortier: It would be like saying “verbally” in English.

[Translation]

I don't think this changes the intent.

[English]

The Chair: So it doesn't change in English? Because it's a drafting standards issue, somebody would have to move a subamendment to change that from “*verbalement*” to “*oralement*”.

MP Ruimy.

Mr. Dan Ruimy: With the “orally” part, is there a problem? If three months down the line somebody comes along and says, “Well, I told them”, but you don't have..., how would that play into that?

The only question I have about the “verbal” part of it is how do you prove that? Is there another legal way of approaching that?

Ms. Barbara Moran: Speaking from the operations side, it's certainly easier if it's in writing. If a complaint comes forward to the labour program, for example, that the process hasn't been followed, it's easier if it's in writing.

Right now the legislation is silent on it. I would again defer to.... But I think it's generally understood to be both, so adding “orally or in writing” is generally understood to be accepted, so it's just making that more explicit. Currently that's the understanding of the legislation, that you can submit it orally.

Mr. Robert Morrissey: Is there another legal method of communicating that's recognized?

Ms. Barbara Moran: I'll check.

Maybe that's a good point. We can't think of anything, but if you don't include “orally or in writing”, then it leaves it up to jurisprudence to determine that, if you leave it not specified in the legislation. If you put it in, then it could be limited if somebody does come up with something that couldn't be considered orally or in writing, such as sign language.

We'd have to check on that, but that would be just one of the things to consider.

The Chair: That's something that could be, theoretically, added in regulation or changed in regulation.

Mr. Dan Ruimy: How do you avoid the he-said-she-said thing or the whatever-whatever-said, or the whatever-gender-said, “You said this. I said this.” And the “No, I didn't.”

Where does that fit into all of this?

• (1730)

The Chair: Ms. Baxter.

Ms. Brenda Baxter (Director General, Workplace Directorate, Labour Program, Department of Employment and Social Development): I think the idea is that right now a complaint can be brought forward in any fashion, orally or in writing. When it comes to undertaking any investigation or exploration into that

complaint, documentation is prepared, so just because a complaint was received orally wouldn't mean the entire investigation would be undertaken orally. There would be documentation.

Mr. Dan Ruimy: I understand that after the fact, there's the documentation, but is there a point at which the person says, “I told my supervisor about this incident” and the other side says, “No, you didn't”? I'm trying to understand how that plays together versus at the end of the investigation. The harassment has to be investigated, but it's more of he-said-she-said at that point. How does that play into this?

A voice: Can we just go with a subamendment with “orally”?

A voice: Do we have to change “orally” to “verbally”?

The Chair: To do this, we would need a friendly amendment.

A voice: [Inaudible—Editor]

The Chair: We're going to wrap this up.

[Translation]

Mrs. Mona Fortier: The idea is simply to replace the word “*verbalement*” with the word “*oralement*”.

[English]

The Chair: We need a subamendment to do that.

A voice: We can do it as if she moved it.

The Chair: We can do it as if she moved it? Okay. That's perfect.

The new wording in the French would be replacing “*verbalement*” with “*oralement*”.

We don't need a subamendment for that. We can do it as if MP Quach moved it.

If we could move the question, then, in terms of NDP-8, shall this amendment carry?

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

The Chair: Seeing that the clock is at 5:30, we do need to wrap up. However, I do want to ask this committee to look very closely at the list we have and note that we are on page 3 of 7 pages. I would strongly recommend that we add a day. In terms of having an additional clause-by-clause meeting, obviously the day that would make most sense would be tomorrow. Could we maybe talk off-line and see what would work best in terms of time? The alternative is that we keep going or have additional time added on Wednesday.

Maybe the vice-chairs could meet after this to discuss either adding more time or having another meeting tomorrow night. We would have to post that fairly soon, correct?

All right. We're past 5:30. We will adjourn.

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