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Chair

Mrs. Deborah Schulte

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• (1545)

[English]

The Chair (Mrs. Deborah Schulte (King—Vaughan, Lib.)): We will get started.

I just want to welcome two new faces at the table. We have François Choquette with us today for the NDP as well as Garnett Genuis. John McKay is also joining us here today.

Thank you very much.

I think you know the procedure, Darren. You have 10 minutes to explain your private member's bill to us. The floor is yours.

Mr. Darren Fisher (Dartmouth—Cole Harbour, Lib.): Thank you very much, Madam Chair.

Thank you, colleagues and friends.

My private member's Bill C-238 calls for a national strategy for the safe disposal of lamps containing mercury. Bill C-238 calls upon the Minister of Environment and Climate Change to work with the provinces and territories to develop a national strategy for the safe and environmentally sound disposal of mercury-containing lamps.

We know that mercury is dangerous and we know that it is very toxic. This is an element that causes severe health problems, birth defects, and even death. We advise Canadians that if they break a mercury-bearing light bulb, they should step out of the room, but for years we've done very little to protect Canadians from the mercury-bearing bulbs that are thrown into landfills and that contaminate our lands and waterways every day.

To better reflect the environmental intent of the bill and to complement the federal government's proposed code of practice for the environmentally sound management of end-of-life lamps containing mercury, I propose an amendment right off the bat. I'd like to amend the title to now read "A National Strategy for Safe and Environmentally Sound Disposal of Lamps Containing Mercury Act". I believe, Madam Chair, that this better represents the precautionary approach and nature of this bill and the importance of viewing legislation through an environmental lens, as we've talked about so many times at this committee.

When the previous government took steps to ban the use of incandescent bulbs and promoted the use of efficient, compact fluorescent lamps, it was always assumed that regulations for their safe disposal would follow. In 2014 StatsCan reported that three-quarters of Canadians were using energy-efficient CFL bulbs. At a point where so many Canadians are using these bulbs, we must ensure their safe disposal.

I will note that this bill does not speak to a ban on fluorescent bulbs; it speaks to ensuring that Canadians are aware and are able to dispose of them in a safe and environmentally sound manner. Whenever we introduce or promote the use of a new product, we must look at the full life cycle.

The idea for Bill C-238 goes back to 2012. There was a realignment of districts when I was a municipal councillor, and all of a sudden I found myself representing Burnside industrial park. While touring local businesses to get caught up on what was going on in the park, I came upon a very innovative fluorescent light bulb recycling facility called Dan-x Recycling. This facility has the ability to recycle these mercury-bearing light bulbs entirely in a way that is safe for the environment. During my tour I asked what the regulations or guidelines were for the end of life for mercury-bearing bulbs, and I was shocked when I found out there were none. They were always contemplated but never enacted. At that point I started working within the municipality to, at the very least, divert the bulbs used in city-owned buildings to an environmentally sound disposal facility.

Canadians are investing hundreds of millions of dollars in municipal landfills across the country. These bulbs are valuable recyclables and they must be diverted from landfills and disposed of in an environmentally sound way. All of this was the inspiration for my Bill C-238.

Light bulb recycling facilities like the one in the riding of Dartmouth—Cole Harbour employ Canadians, while providing a valuable environmental service. This is the beauty of the clean economy. This is where costs are recouped, industry grows, and our environment gets protected.

Like all of you here, I want to leave this world a better place for our children and for our future generations. It's for Canadians and for future generations that we must move forward on a strategy now. This is an opportunity for us to provide leadership and to work with all levels of government to better the lives of Canadians.

I'm sure that some folks would focus on the potential costs associated with the consultation for a national strategy or for its implementation, but we must remember that there is always a cost to inaction.

Our colleague Nathan Cullen, who was formerly on this committee, explained eloquently in the House when he spoke to the bill that:

...if we look at the full cost of what is happening, there is a cost already being borne on municipalities and provinces, in trying to deal with these toxins, like mercury. There is a cost to consumers and Canadians directly through their health care.

The Canadian Council of Ministers of the Environment reported that waste lamps, whether broken or intact, contribute 1,050 kilograms of mercury into Canadian landfills each year. Remember that for a moment and know that sources state also that it takes only 0.5 milligrams of mercury to pollute 180 tonnes of water.

● (1550)

Remediation of mercury in land is very costly. We must prevent mercury contamination whenever possible.

From my days as a municipal councillor, I remember what it was like to have costs and red tape imposed on us by other levels of government. Through consultation with colleagues and stakeholders and comments made in the House of Commons during the reading of the bill, I've come across one measure that should be amended and removed from this legislation.

Our Conservative colleague, Mr. Dreeshen, of Red Deer–Mountain View spoke to the reporting mechanism in the original draft of the bill. He spoke to how the reporting mechanism, through working with the provinces, could cause delays and unnecessary costs. I'm inclined to agree to this point and have brought forward an amendment to that effect. I believe that it will be up to the consultation process to determine any sort of reporting features, regulations, or standards. Too much red tape could put undue hardship on the governments implicated in this legislation.

I must make note that certain provinces are leaders in the safe disposal of mercury-bearing bulbs. There are cool things being done across the country already. British Columbia, through its Light-Recycle outreach program, is now diverting 74% of all mercury-bearing bulbs sold in the province for safe disposal. Let's put that number in perspective. They were diverting only 10% back in 2010. Imagine what we can do with a national strategy, instead of a piecemeal approach across the county.

Outreach and public awareness are important parts of Bill C-238. Mr. Cullen spoke in the House about the importance of education and awareness around the safe disposal of these bulbs. I think he hit the nail on the head when he said:

changing the way we recycle and use products is important, but a key element in that is that consumers have full knowledge and full participation in whatever program we are trying to initiate.

It's another reason why a piecemeal approach does not work. It's also dangerous for Canadians. Mercury has the ability to undergo long-range transport. This means that, theoretically, mercury deposited into a Halifax municipality landfill could redeposit somewhere else, perhaps in northern Canada. It's our responsibility to show real environmental leadership and to protect Canadians whenever we can. It's also our responsibility to properly engage and consult relevant and interested governments and stakeholders whenever possible.

After listening to our colleagues in the House, such as Mr. Fastand and Mr. Cullen, speak to Bill C-238, I would like to amend, strengthen, and open the consultation process of the strategy. It's important that all interested and appropriate governments, persons,

and organizations be part of this consultation. We need to include our partners in other levels of government to ensure that they, along with the federal government, take ownership of this initiative. This will be a strong, collaborative effort that will include any interested indigenous groups, governments, stakeholders, or citizens to ensure that this strategy is best for all Canadians.

Again, it's important to note that I'm not here to tell provinces, territories, or municipalities what to do and how to do it. We could sit here and we could speculate on what a strategy could look like or should look like, but it isn't up to just us. It is important to me that Bill C-238 not put demands on the provincial and territorial governments. Bill C-238 complements our government's firm belief that a clean environment and a strong economy go hand in hand. You've heard that a lot, even recently around this committee from Mr. Fast echoing the Minister of Environment.

Now is the time to take responsibility and protect Canadians from this needless pollution. We must work together with all interested levels of government, stakeholders, and Canadians to develop a robust national strategy for the safe and environmentally sound disposal of mercury-bearing lamps. It is only by working together that we can leave the world a better place for future generations.

I want to thank you again, Madam Chair.

I want to thank you, friends and colleagues on this committee, for your consideration today.

I look forward to any further discussion you may have on Bill C-238.

Thank you very much.

● (1555)

The Chair: Thank you very much, Mr. Fisher.

We are going to start into a round of questions. Since we started a bit late, we're probably going to do just the first round of questions, so keep that in mind.

We'll start with Mr. Bossio.

Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.): Thank you.

Darren, you're a man after my own heart. As you know, I left municipal politics to go fight a megadump, a landfill expansion in my region. I led that fight for 18 years. That fight continues. It really gets at the issue of toxins that exist in our environment and in our landfills that are polluting our waters. After 15 years, we exposed massive off-site contamination, including in six residential wells. Trying to keep these light bulbs and other related toxic substances out of our landfills is very important.

That is why I'd like to ask you a question around the genesis of this bill. We both served in municipal politics, though not together, and we both understand how that works. What led you to decide that this was the key issue you wanted to bring forward as a bill in the House?

The success that you saw locally in reaching that diversion rate of 74% is really impressive.

Mr. Darren Fisher: Thank you, and “hugs” for the question.

Voices: Oh, oh!

Mr. Darren Fisher: That's how we get hugs into the blues.

Thanks very much for the question. As I alluded to in my notes, in 2012 there was a realignment of the districts in Halifax regional municipality, and I found myself representing the Burnside industrial park. Of course, for politicians, since there are no people who live there, there are no votes in there, but I was very eager to go in and find out how I could represent those businesses.

I took some tours of some of the really cool things that are going on in the Burnside industrial park and stumbled upon Dan-x Recycling. They are very neat and kind of eclectic folks who, I think, saw a TV show about the harm of mercury in light bulbs. The entrepreneur, who had a little bit of money, went and built a factory without borrowing any government money, predicated on the fact that he was expecting that there would be regulations federally, provincially, or municipally to ensure that light bulbs ended up there.

The tour that day led me, in my position as a municipal councillor on the environment and sustainability committee, to try to find a way for us to do that as a municipality. Could we come up with regulations whereby we could tell people that they must...?

We found out we couldn't do it. The best we could do was to ensure that all of the light bulbs, both the fluorescent tubes and the CFL bulbs that were used in municipal facilities...

If you think about fluorescent tubes, think about our MP offices. There are about 40 four-foot fluorescent tubes in every office, and there are 338 offices. There are millions and millions of these bulbs going to landfill every year because there are no regulations.

That was the impetus for this. When they told me there were no regulations but that they were always expecting regulations to come along, I was absolutely amazed. I was shocked that was the case. The bulbs we use, the CFL bulbs and fluorescent bulbs, are efficient and they're cheap. Kudos to the former government for having us use them, but I really wish we had moved forward on some form of national strategy 10 or 12 years ago.

• (1600)

Mr. Mike Bossio: In one area they achieved a 74% diversion rate. How did they go about getting to that level of diversion? What was the process they went through?

Mr. Darren Fisher: In B.C., they used EPR, extended producer responsibility, which essentially puts the cost on the user. The producer or the importer must take care of the end of life. That doesn't necessarily put the cost on a municipality or a province. Essentially, it is a user-pay system. They may have put a 10¢ cost on the front end when someone buys the lightbulb. I'm not exactly sure how B.C. did it, but the EPR method seems to have worked for them since they shot from 10% to 74% diversion in just under five years.

Mr. Mike Bossio: How much time do I have left?

The Chair: You have a minute and a half.

Mr. Mike Bossio: I'd like to pass the rest of my time over to John Aldag or Will Amos.

Mr. John Aldag (Cloverdale—Langley City, Lib.): Thanks, Mike. Do you need a hug?

Mike Bossio: Oh, oh!

Mr. John Aldag: It's a very commendable bill you have put forward. You have outlined the huge need. I actually want to explore the B.C. example. You touched on that. Did you want to speak any further to the amendments you're putting forward?

Mark, are you going to speak to that?

Mark Gerretsen: Yes.

Mr. John Aldag: Water contamination is a huge issue we have to deal with. Could you expand a bit more on the seriousness of that issue?

Mr. Darren Fisher: It's absolutely incredible. Just absolute trace amounts of mercury can poison hundreds of thousands of litres of water. This is incredible. We see big issues with mercury up in the north. People have said that this isn't going to solve all the issues of mercury. No, it's not going to solve all the issues of mercury, but this is a big step. This is an important step to take something that's absolutely recyclable and reusable. Think about the green economy. Think about the fact that this is going to create jobs across the country, if that's how we determine we will move forward. These lamps have no place in our landfills.

Mr. John Aldag: Thank you.

The Chair: You're done? That's perfect...almost right on the dot.

Next up is Mr. Genuis.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Thank you, Madam Chair. It's a pleasure to be visiting this committee today.

Mr. Fisher, congratulations on your bill. I was pleased—

Mr. Darren Fisher: Congratulations on your book.

Mr. Garnett Genuis: Thank you.

Some hon. members: Oh, oh!

Mr. Garnett Genuis: To get back to the topic, I wanted to just dig into the direction you chose to take here, especially with some of these potential amendments. I would be quite bullish in terms of the need to address this problem, the need for regulations to deal with the safe disposal of lamps containing mercury, and the risks of mercury in general.

What you've put forward is a bill that involves the development of a national strategy when, arguably, it is within the federal power to regulate the safe disposal of mercury directly. I understand from a private members' business perspective that there's only so much time in terms of preparation as well as debate in the House. I'm curious as to why you didn't take that step, though. My sense, looking at some of the amendments, is that they do soften a little bit the version of the bill that we had at second reading.

Your bill had strong support in the House at second reading, and I think the stronger version would have strong support at third reading. I'm curious as to your thinking behind, first of all, not going directly for the regulation route and, secondly, the softening in terms of the amendments.

• (1605)

Mr. Darren Fisher: Thank you very much for the question.

This is a really unique case because it's multijurisdictional. Municipalities are in charge of their solid waste disposal. Provinces issue permits that allow them, or dictate to them, what they can and cannot do. The federal government has say over toxic chemicals. So a really collaborative multi-government approach is needed.

I think our government is certainly not in the business of coming down hard on the provinces and saying, "This is what we're going to do." However, having us take a lead on this, I think, is showing environmental leadership. It's going to put everybody at the table. It's going to have us sit down and talk about those multiple jurisdictions.

Numerous things have come up before and we've talked about them. Light bulbs were specifically excluded from legislation in the past, as far as things that could be put in landfills go. I'm not certain why that happened in previous governments. But this is something that respects the multiple jurisdictions, all the levels of government and all those interested parties.

Mr. Garnett Genuis: Mr. Fisher, I would just disagree a little bit, maybe, in terms of the mechanics. You're quite correct in pointing out that it is the responsibility of the federal government to regulate toxic substances. Of course, the mechanics of how that disposal is worked out are up to other jurisdictions. It's not up to the federal government to say exactly where... or to decide on some of the very properly local details, but since we are talking about the regulation of a toxic substance, it would seem to me that it would be legitimate. There's certainly value in the consultation.

We do see cases of this federal government taking a somewhat more heavy-handed approach to the provinces. The carbon tax is probably the most obvious example. I know that's maybe a different discussion.

What would be the value, then, in the federal government just coming out and saying, "This is our job. This is a toxic substance. Let's impose regulations to address the safety issue that's in front of us"? What about having a bill that forced the government to do that, instead of saying, essentially, that the government may do that or may introduce a framework that may include certain things?

Mr. Darren Fisher: From the start, this bill was meant to be the beginning of a conversation, the beginning of a collaborative approach, in which multiple levels of government and interested parties sit down at the table and come up with a plan that works. They would look at successes, look at failures, and come up with a strategy that is respectful of all of the multiple jurisdictions, of all levels of government. That's the genesis of this. The plan from the start was to respect those other levels of government and to work with them to come up with a strategy that works and that Canadians back, support, and expect from us.

Mr. Garnett Genuis: I'll conclude here by saying thank you for putting this bill forward. I'm pleased to support it. In terms of the

amendments you're proposing, it's your bill, so it's up to you to propose those amendments. I think it makes sense for us to take direction from you in that regard.

I do hope we see the follow-up here, because it seems to me that some of the language does give the government opportunities to get out of what should be an obligation, which I think the House is seeking to impose on the government.

I hope we don't see in the future a kind of weaseling out of this. I hope you're right and that we actually do see the follow-up and the steps taken that, I think, are needed to keep the public safe.

Mr. Darren Fisher: I couldn't agree with you more and I appreciate your comments.

Thank you.

The Chair: Thank you very much.

Mr. Choquette.

[*Translation*]

Mr. François Choquette (Drummond, NDP): Thank you, Madam Chair.

First of all, I would like to thank you for introducing your private member's bill. It is greatly appreciated.

The fact that mercury poses a serious problem is nothing new. It has in fact been a priority of the Canadian Council of Ministers of the Environment for a few years now. Mercury pollution causes many problems. Mercury lamps are one source, but there are also others, such as cement plants and coal combustion plants, which pose very serious problems. Mercury is a neurotoxin with serious effects on the health of adults and children.

I agree with my colleague who just asked you some questions. It seems that your bill could have proposed a much more robust approach, since the federal regime allows for legally binding regulations. I am a bit concerned. Why did you not take that approach? Is the introduction of your private member's bill regarding mercury lamps a way of trying to influence your government by asking what it is doing in other areas, for its part, to ensure that mercury is not circulating in nature?

• (1610)

[*English*]

Mr. Darren Fisher: Thank you very much for the question and thank you, also, for your comments in the House of Commons when you spoke to this bill. You spoke in support of it, and I appreciate your comments. A lot of the things you said were things that we looked at when we talked about different ways of amending this and making it work.

First, when you write a private member's bill, you want it to be successful in the House of Commons, but you also want it to be successful across the country. I think, again going back to the comments I made to Mr. Genuis, I want this to be successful and I want this to be seen by the provinces, territories, indigenous governments, and all of the groups that are interested in participating in this. I want them to feel like partners at the table in collaborating to come up with a strategy as opposed to taking the heavy-handed approach of us saying "This is what we're going to do. What do you think?"

I think it's important that we come in from the start with a collaborative approach. I share your comments and those of the previous speaker, and I do hope this is taken seriously and looked at. I believe, based on the successes of B.C., P.E.I., Manitoba, and Quebec, and the voluntary program in Ontario.... I'm not a fan of voluntary programs, but it is having some success. I want to see if we can look at these successful programs. Nova Scotia has just hopped on the bandwagon in the last few months with a program. Nova Scotia Power is participating and taking bulbs back.

These are steps in the right direction, but these are piecemeal approaches. These are approaches that help the overall picture. I mean, we are currently throwing away in landfills, 50% of all of the mercury-bearing bulbs used in Canada. That is including the success of B.C., Manitoba, P.E.I., Quebec, and now Nova Scotia. Actually, the numbers probably don't reflect the new program that Nova Scotia has started, but they reflect the programs of the other provinces that are doing great things. Let's get everybody in the room. Let's find out what's working. Let's find out why B.C. is so successful and see if that would work across the country. Let's have the respect for those other levels of government and have them at the table to share their successes with us.

[Translation]

Mr. François Choquette: Mr. Fisher, I would like to ask the same question that was asked earlier. Having a strategy is important, but I would like to see regulations for its application to ensure that concrete action is taken as a result. Despite everything, having a strategy is not a bad idea, although there is already a code of practice. I do not know exactly how your strategy will fit in with the existing code of practice.

That said, when there are federal responsibilities, we must always be careful not to pass the buck on to the municipalities. You were a municipal councillor and you know all too well that the federal government must assume its responsibilities. We must be careful not to always pass the buck on to the municipalities. We must not add to their tax burden, which is already very high.

What are your thoughts on all of this? In what way will your strategy complement the existing code of practice?

[English]

Mr. Darren Fisher: Thank you very much again for the question.

The code of practice is voluntary, and it's designed to complement other initiatives that are happening in the country, including this, if this gets forwarded through the House.

I've seen first-hand how this creates jobs in my riding, and how this could create jobs across the country. We've talked about the

green economy. We've talked about the ability for private business to build these plants and create these jobs, seven, eight, nine, or ten at each, depending on the size of the community. We've talked about EPR. We've looked at situations of EPR across the country. These are things that don't necessarily have to cost municipalities, provinces, or taxpayers. That's not what we're here to talk about. We're not here to discuss how the strategy looks, what it looks like, whether this is going to cost any money, or what it's going to cost. This is to start the conversation, look at those successes, look at EPR, look at the green economy, look at creating jobs. Again, we'll go back to Dan-x. They have seven to 10 employees working there full-time. Let's say they're at 15% to 20% capacity, so they have a lot of room to grow. Regulations will help that. This is not necessarily going to be a cost to municipalities or provinces.

•(1615)

The Chair: Thank you very much.

Mr. Darren Fisher: Thank you for the question, sir.

The Chair: Go ahead, Mr. Gerretsen.

Mr. Mark Gerretsen (Kingston and the Islands, Lib.): Thank you very much, Madam Chair.

Mr. Fisher, your bill is interesting and, quite frankly, as you and other people around the table mentioned, one that I didn't realize was so needed. Like many people, I assumed the legislation was already there, but it is in fact not.

We both have had experience at the municipal level. Municipalities that are primarily in charge of waste within their areas don't seem to already have a strategy on this, yet they do have strategies on stuff like paint recycling, battery recycling, and some hazardous waste stuff.

I'm curious. Do you know why it is that we haven't already seen strategies developing in municipalities? Is there some complication to dealing with light bulbs in particular?

Mr. Darren Fisher: That is a great question.

Mr. Mark Gerretsen: Thank you.

Mr. Darren Fisher: I know you hear that often.

Mr. Mark Gerretsen: Yes, I do.

Voices: Oh, oh!

Mr. Darren Fisher: I can take a stab at that.

For things like paint, the federal government has federal regulations for toxic chemicals, but it doesn't have regulations for light bulbs containing toxic chemicals. They were specifically separate from Canada's dangerous toxic chemical laws. It's unfortunate that we're moving forward with this now, because we really should have had federal regulations that took light bulbs into play a dozen years ago.

Mr. Mark Gerretsen: Maybe that was actually because they were trying to encourage those light bulbs back then.

Mr. Darren Fisher: Exactly. There's nothing wrong with using these bulbs if they're handled properly.

Mr. Mark Gerretsen: That leads me to my next question.

We've seen—

Mr. Darren Fisher: It will also be a great question, I expect.

Mr. Mark Gerretsen: This will be a great question too.

Compact fluorescent light bulbs are very popular now. I think that even the compact ones are probably at their peak, because we're seeing LED being so much more popular. I realize that when we talk about the longer light bulbs that would be in a room like this, they're still fluorescent, but I'm sure there will come a day when they become LED as well.

Do you think we're still projecting towards using more mercury right now, based on your research and what you've done on this bill, or do you think the usage is actually declining right now, notwithstanding the fact that you've identified that there's already so much of it still out there?

Mr. Darren Fisher: The CFL light bulbs they are producing now are using less mercury. The technology is getting better. They are down to about 3.5 milligrams, whereas there was a time when it was 20 milligrams for some of those smaller CFL bulbs.

The fact is, these light bulbs are very efficient; they're cheap; and they reduce greenhouse gas emissions.

Mr. Bossio and I have talked about this in the past. I don't envision a ban on these. You're right—LED lights are coming in. You buy an LED light right now, and it's \$20. If you try to do a 450,000-square-foot warehouse in Burnside in LED, you can't afford it. It can't be done. Fluorescent lights are fine; they are safe if they are disposed of safely and properly at their end of life. If we think cradle to grave with new products that come forward, there is not a dangerous component to them.

I'll tell you, if I have a second—

Mr. Mark Gerretsen: Just so you know, Mr. Fisher, I'm on a time constraint—

Mr. Darren Fisher: Okay, fair enough.

Mr. Mark Gerretsen: —so I might interrupt you.

How much time do I have?

The Chair: You have two and a half minutes.

Mr. Darren Fisher: You go ahead.

Mr. Mark Gerretsen: I have another great question. Do you know if there is currently any use for the by-product after proper disposal?

I imagine that, in the strategy, we'll probably see the light bulb being taken apart. Is there a value in the mercury, the glass, and so on, which could then be sold off or used in another way?

• (1620)

Mr. Darren Fisher: I have done several tours since that first tour of Dan-x in 2012. I got a chance to plunge my hand into all the granular glass. You don't even cut your hand when you put your hand in it. The glass, the phosphor, the metal, and the mercury are all 100% recyclable and reusable, and have end markets.

Mr. Mark Gerretsen: So there is a use.

Mr. Darren Fisher: There is absolutely no reason why a mercury-burning light bulb should ever be thrown into a landfill.

Mr. Mark Gerretsen: My final question, Mr. Fisher—

Mr. Darren Fisher: Do I have time?

The Chair: Yes.

Mr. Mark Gerretsen: Can you confirm whether this is true or false? As a child, did you ever, for the hell of it, break one of these light bulbs to watch it explode?

Mr. Darren Fisher: When I was a young man—18, 19, 20 years old—I worked in a warehouse that sold school supplies and over-the-counter drug sundries for drugstores. My job was to replace—on the huge, big ladder that we would raise up—the four-foot fluorescent bulbs. This has no bearing on what brought my bill forward, because this is something I reflected on during the writing of the bill.

My brother and I would get in the big metal garbage containers outside and—I'm not necessarily proud of this—literally lightsaber. We would make sound effects and everything. We would smash these bulbs in the big metal garbage containers.

Mr. Mark Gerretsen: You need to bring legal counsel with you next time.

Mr. Darren Fisher: The thing is, there was no knowledge of this. There was no knowledge of the dangers of the mercury in these four-foot fluorescent bulbs. I'm talking about something that happened 32 years ago, and that's the thing. Now that we are aware of it, we can find ways to solve this issue and not have these end up in our landfills.

Mr. Mark Gerretsen: I just want to say that I know I've been—

The Chair: You're out of time, by the way.

Mr. Mark Gerretsen: jesting a little bit, but this is a very good initiative, and I am very proud that you've brought this forward, because it's going to significantly help out.

Thank you.

The Chair: Thank you very much.

We've just ended the first round of questioning.

Darren, if you want to take your spot at the table again, we're going to have—

Mr. Mike Bossio: Madam Chair, I would just like to add that the last comment certainly does explain a lot.

The Chair: I was going to say, how many of us have taken a fluorescent tube out—

Mr. Darren Fisher: Exactly.

The Chair: —and it has accidentally fallen over in the garage and exploded, and we just sweep it all up without any realization that we are spreading mercury around.

I think all of us have done that, so that explains a lot.

We now welcome Virginia Poter from the Department of the Environment.

You are the director general of the industrial sectors, chemicals and waste directorate. Welcome and thank you very much for coming today. The floor is yours.

• (1625)

Ms. Virginia Poter (Director General, Industrial Sectors, Chemicals and Waste Directorate, Department of the Environment): Thank you, Madam Chair, and thank you to the committee for the invitation to appear here today to contribute to its study of Bill C-238, the national strategy for safe disposal of lamps containing mercury act. Thank you to Mr. Fisher for bringing forward this bill.

Before focusing on Bill C-238, I would like to provide a brief overview of how mercury is currently managed in Canada, as it may be helpful context to your study.

As you are likely aware, and as Mr. Fisher has pointed out, mercury is a potent neurotoxin that poses a risk to Canadian ecosystems and human health. Although mercury occurs naturally in the environment, it is also released as a result of human activities, such as the combustion of coal and the use and disposal of consumer products such as lamps.

Because of the dangers posed by mercury to the environment and human health, mercury is listed as a toxic substance under the Canadian Environmental Protection Act, 1999, or CEPA.

In 2010, Environment Canada, along with Health Canada, released “Risk Management Strategy for Mercury”, and I believe a copy was provided to the committee. The strategy provides a comprehensive description of the Government of Canada’s plans and progress in managing the risks associated with mercury. One federal action outlined in the strategy that may be of particular interest to you is the promulgation of the products containing mercury regulations, which came into force about a year ago, in November 2015. These regulations prohibit the manufacture and import of products containing mercury or any of its compounds, with some exceptions for essential products that have no technically or economically viable alternatives. In the case of lamps, the regulations set mercury content limits for fluorescent and other types of lamps and require labels to inform consumers about the presence of mercury, as well as safe handling procedures and options available for the end-of-life management of these products.

In addition to the broad range of domestic measures included in the risk management strategy, the need for global action on mercury was also highlighted. Since 2010, Canada has been active in the international negotiations for the Minamata convention on mercury, which our government signed in 2013 and recently tabled in Parliament. Once the necessary compliance requirements are in

place, the government will be in a position to ratify the Minamata Convention on Mercury.

I will now turn to Bill C-238 and how it would contribute to the government’s ongoing efforts to address mercury.

The bill addresses one source of mercury pollution: lamps. Mercury is an essential component in some energy-efficient lamps, such as fluorescent tubes and light bulbs. These lamps contain a small amount of mercury, which may be released when the lamps break or are improperly disposed of as regular garbage.

There are four aspects of the bill that I want to mention specifically.

First, the bill speaks of “safe disposal”. In the waste-management context, the term “disposal” often means final disposal in a landfill or incineration. However, the environmentally sound management of lamps at end of life includes a range of activities, such as collection, transportation, processing, and recycling, as well as final disposal. I note that the discussion of the bill in the House of Commons, as well as the remarks made by Mr. Fisher today, seems to acknowledge that the national strategy is intended to cover the full range of these activities to ensure the environmentally sound management of these lamps at end of life.

Second, the bill would require the Minister of Environment and Climate Change to develop and implement a national strategy for the safe disposal of lamps containing mercury in co-operation with representatives of provincial and territorial governments. It is important to keep in mind that the jurisdiction over the protection of the environment, including matters related to waste management, is shared among different levels of government in Canada. Other governments, including provincial, territorial, and municipal, have an important role to play in the management of lamps containing mercury. Therefore, a national plan of this kind would build on the existing areas of responsibility and the respective strengths of the various government levels in order to effectively address gaps and make timely progress on this issue.

Third, the bill would require the minister to engage with environmental groups and industry in developing and implementing the national strategy. However, consultations with a range of other interested parties, including indigenous groups, would also be important in order to create an effective national strategy, as the protection of the environment is a responsibility shared among all Canadians.

• (1630)

Fourth, Bill C-238 sets out three elements that a national strategy must include, in paragraphs 2(a) through 2(c). Our experience working with our provincial and territorial partners suggests that flexibility is important when developing national approaches to issues that are of shared jurisdiction, in order to accommodate existing initiatives.

At this point, allow me to provide you with a very brief overview of some related initiatives currently under way.

On April 8, 2016, Environment and Climate Change Canada published the proposed code of practice for the environmentally sound management of end-of-life lamps containing mercury, for public comment. The code is intended to address reducing mercury releases and emissions to the environment from these lamps, and also includes options for diverting used lamps from landfill and managing them in remote and northern areas. We are currently working to finalize the code of practice for publication later this year.

It's important to note that all provinces and the federal government have committed to implementing the Canada-wide action plan on extended producer responsibility. This plan, approved by the Canadian Council of Ministers of the Environment in 2009, aims to divert products from landfill and increase the recycling of a broad suite of products, including mercury lamps. One important aspect of extended producer responsibility programs is the enhanced financial responsibility that manufacturers and importers in the management of waste would assume. As a result, all provinces now have in place the necessary authorities to implement programs, and work continues to explore options for northern territories. Four provinces have implemented specific mandatory programs to collect and recycle mercury lamps, and as Mr. Fisher noted, those are British Columbia, Manitoba, Quebec, and Prince Edward Island.

Although a number of initiatives to address lamps that contain mercury are already under way in Canada, co-operation among all levels of government will promote a consistent nationwide approach to the safe and environmentally sound disposal of lamps containing mercury.

Thank you again for inviting me to appear today. I would be pleased to respond to your questions.

The Chair: Thank you very much, Ms. Poter.

The first one up to ask questions is Mr. Amos.

Mr. William Amos (Pontiac, Lib.): Thank you, Ms. Poter. I appreciate the testimony. I appreciate you being here today. It's a privilege to have the opportunity to ask questions.

Is Environment Canada supportive of this bill?

Ms. Virginia Poter: I'm here to provide facts and context. I am not representing a position. A policy approach comes from the elected officials.

Mr. William Amos: Thank you. I understand that.

Does this bill mesh well with existing initiatives?

Ms. Virginia Poter: I think it might be helpful to provide a bit of context around what we see as current gaps today, and how a strategy might help fill those gaps. As was noted, there is extended producer responsibility in four jurisdictions in Canada, and there are other voluntary take-back programs across the country as well. A strategy could look at how you would harmonize those types of requirements that currently are, perhaps, a bit different across jurisdictions.

Mr. William Amos: That's helpful, because the bill itself, I think, arguably could be improved by making specific reference to extended producer responsibility and the importance of ensuring harmonization. Would such a reference to federal, provincial, and

territorial support for EPR be appropriate in the context of such legislation?

Ms. Virginia Poter: The bill as written now, and with the amendments that I understand have been proposed to this committee, looks at how you would develop a strategy and who you would involve, taking advantage of what currently exists. To come up with an approach that is dictated from the start, I think, undermines, perhaps, a bit of the intent that it appears was put forward in this bill, which is to collectively develop a national strategy.

• (1635)

Mr. William Amos: I appreciate the deference to other jurisdictions' responsibilities as regards waste management. I understand the sensitivities in that regard. But is it not the case—and you indicated this in your speech—that in 2009, governments across the country signed on to EPR as a guiding principle? So that's already agreed upon. I'm trying to figure out if there would be anything controversial about making reference to this, for example, in a preambular statement. We're thinking, of course, of clause-by-clause in which amendments may be considered.

Ms. Virginia Poter: I don't think it's my place to propose wording and amendments to the bill. I take your point that there was endorsement by provinces and territories through the Canada-wide action plan on extended producer responsibility back in 2009. There are other constituencies that Mr. Fisher has, I think, flagged in his bill, including other interested parties and other interested governments that might go beyond the provinces and territories that have already signed on to the Canada-wide action plan. That would be something for the committee to think about.

Mr. William Amos: Okay, thank you.

Just looking at the way this is drafted, you will note that after the short title it goes straight to the national strategy. There is no preambular section in this bill. Is it common for federal environmental statutes to have preambles? Would it be common for an environmental statute to have preambular language?

Ms. Virginia Poter: I don't think I'm an expert on that.

The Chair: I'm not sure it is appropriate to discuss how to craft a private member's bill.

Mr. William Amos: I'm not asking how to craft it, Chair. I'm simply asking if it is common, in her sphere of expertise, for legislation to have preambular statements. I don't think I'm asking for guidance on what preambular statements it should contain.

The Chair: I don't know if she has the background to give you an answer to that. She is not a lawyer or... This is crafting legislation, right?

Mr. William Amos: Sure.

The Chair: That's not really your expertise, right? It's crafting legislation.

Mr. William Amos: I think a senior official can be presumed to understand a variety of environmental statutes within the line of her —

The Chair: Sure, but you're asking for an opinion on how to craft legislation.

Mr. William Amos: No, I'm not asking for an opinion. I just refuted that. I'm asking whether or not it's common in a statute. I'm not asking for an opinion on whether it should be in there or what it should contain. I'm just asking if it's common.

Ms. Virginia Poter: I wouldn't profess to speak for all legislation across the government. There is quite a bit. I referenced the Canadian Environmental Protection Act, previously. I'm trying to remember, because it's a very large bill, but I believe it has a preambular section. I wouldn't want to go beyond that, so I can't comment properly.

Mr. William Amos: Okay. My follow-up question was about whether there are particular environmental principles that are typically contained in Canada's federal environmental statutes, but I won't go there just out of deference to that.

Chair, am I out of time?

The Chair: You are, actually. Sorry about that.

Mr. William Amos: I figured I was pretty close.

The Chair: Mr. Shields.

Mr. Martin Shields (Bow River, CPC): Thank you, Madam Chair.

Thank you to Mr. Fisher for bringing this bill today.

Thank you, Ms. Poter, for being with us today as an expert witness. I know you said that policy is not yours to make decisions on, but you referred to flexibility in multiple levels of government, so when you talked about recognizing different levels of government and how things are affected, that sort of got into it for me. That's why I want to ask you the question.

Mercury has been kicking around as a bad thing for a long time. As a high school kid, we used to steal it and put it in our pockets and take it home. That's what we did. The science teachers would go nuts when they didn't have any at the end of the year.

There is this sense of voluntary versus something.... In this piece here, we've taken out the "shall" and we have "may". The word "must" is gone. There is no end mandate for something to be done. When there's legislation, in your world, that has a mandate versus being all voluntary and grassroots, what is the difference in end result? How long does it take? Is there a difference between having a mandate that says "in five years you will have something" from one level of government versus saying "we're going to work at this until we get something"?

• (1640)

Ms. Virginia Poter: That's a fairly broad question. I'll try my best to answer it.

Mr. Martin Shields: Thank you. We've had great questions. What are we left with?

Voices: Oh, oh!

Ms. Virginia Poter: With regard to flexibility, I was trying to indicate that when you're dealing with multiple levels of government, you need to understand how different parts of the country operate. There are different pressures, different economic profiles, and different types of industries operating on that land base, so that

does change the context in which a particular region is thinking about how to best manage an issue.

The other thing I would say is that a principle in risk management under CEPA, but with other acts as well, for us at Environment and Climate Change Canada is to look at what we call the best placed act or the best approach. We think about the objective we are trying to achieve and then use the instrument that achieves that result with the lightest touch possible while still ensuring that we achieve our aim.

Voluntary instruments can be very effective, and sometimes regulations are less effective than you might assume. It always depends on the context. It depends on the type of risk you're trying to manage. The notion that's in the bill is that you develop a strategy and engage with the various interested governments, partners, and stakeholders to understand the issue and how best to manage it. Considering all of the activities involved in managing mercury at the end of life, I don't know if there's any one jurisdiction that has those completely nailed. It would be interesting to be able to pull from the best ideas from across the country.

Mr. Martin Shields: You answered that very well, but I probably would quickly go to the other extreme. We all have a driver's licence test to pass, and we do that in every part of this country, because there's a risk if we don't. Mercury is a risk. There has to be a deadline to do something here, or I see it being out there too long.

If I have any more time, I'll give it to Jim.

The Chair: Yes, you have two minutes.

Mr. Jim Eglinski (Yellowhead, CPC): I'd like to first thank Darren for bringing Bill C-238 forward. I do have some concerns as a former municipal mayor, as a councillor, and as a county councillor who looked after the dump situation we had. In a county, unlike a municipality, you may have 15 or 20 facilities that you need to consider. My concern is with the disposal of the mercury vapour lights. In my shop, I have five of the largest ones you can get. When I was buying them, I watched the guy say, "Oh, this one doesn't work", and throw it in the garbage, where it smashed. I didn't want to hang around there very long. I grabbed the ones that did work and left.

I wonder if you can give me an example of another similar chemical that we have out there that is put into voluntary waste disposals, and tell me how those work. I'm wondering how we transport these things. The little farmer takes his mercury vapour lights over to the county dumpsite that's not occupied by anybody, but eventually somebody comes and moves the stuff. I wonder if you can think of any other examples, for other chemicals, of voluntary systems that work, or of compulsory systems, that do disposal through a dumpsite.

Ms. Virginia Poter: I'm not sure I have one top of mind. I'm thinking about lead batteries, but I honestly don't know enough to speak properly to it. I can't answer that question.

Mr. Jim Eglinski: Is there legislation out there forcing people to dispose of these types of things in a set format that the public has to adhere to?

Ms. Virginia Poter: What might be helpful is to explain a bit of context around waste management and how the various levels of government interrelate in this fairly important issue.

The federal government has focused quite deliberately on the interprovincial and international movement of hazardous waste. We implement the Basel Convention, and we have a very strong permitting regime. As was mentioned by Mr. Fisher, the provinces and territories put in place regulations and other tools, and they monitor the operation of waste management facilities. The municipalities are the ones that are collecting the waste from homes, as well as from local businesses, and they're the ones that are overseeing the management of particular landfills. At the federal level, the best understanding we have is of the interprovincial and international movement of hazardous waste. We also engage with provincial and territorial partners through a task group under the Canadian Council of Ministers of the Environment, or CCME, looking at various waste issues. We contribute, or sometimes we'll lead on an issue, but there is very much an acknowledgement that the provinces and territories quite often are the ones that have a lot of that type of expertise, and they would have that type of information.

We could certainly follow up, if you were keen to understand that.

• (1645)

The Chair: Unfortunately, there's so much to learn here, but we are out of time on that question.

We now go over to Monsieur Choquette.

[*Translation*]

Mr. François Choquette: Thank you very much.

Ms. Poter, thank you very much for being here and for sharing your expertise.

My question is similar to the one I already asked about the existing code of practice. We already have the Products Containing Mercury Regulations, of course, which took shape in November 2015, and now the code of practice will be finalized in 2016.

Would this strategy not be somewhat redundant? What more could it add to what is already in place?

[*English*]

Ms. Virginia Poter: Thank you for the question.

The code of practice that was published in a draft back in April of this year, and which we hope to finalize this year, provides an overview of best practices to a certain level across a number of particular areas of environmentally sound management of lamps at end of life. It is a voluntary tool kit that would be made available to jurisdictions. They could draw upon it to help inform, whether they are going down a path of regulation or whether they are putting in place programs, and it could be used in various educational materials.

Some of the waterfront has been covered there, but important gaps remain. As I mentioned earlier, we do have different approaches to extending producer responsibility across the country, as number one.

Another gap is in detailed guidance for industry and those facilities that are operating the waste management facilities and dealing with these hazardous materials.

Public education and outreach is another area where we think there is currently a gap.

As well, our northern and remote communities don't necessarily have much access to programs or to guidance, and that's taking into account the somewhat different circumstances they face, as compared to more urban centres in Canada.

As a starting point, those are some gaps we see despite the fact that the code of practice is being developed and despite the fact that there is activity under way by various jurisdictions.

Gaps remain. Mercury is a toxic substance, and the more we can do to take action, the less we expose the environment and human health to risk.

[*Translation*]

Mr. François Choquette: Ms. Poter, what percentage of mercury pollution is from these lamps? I certainly do not want to minimize the environmental impact of mercury lamps. If you do not know, we will move on to another question.

[*English*]

Ms. Virginia Poter: I don't have the exact numbers, but I would say, given the work I've done on the Minamata Convention on Mercury, that the vast majority of air pollution from mercury comes from foreign sources. About 95% of deposition comes from Asia, the U.S., and other countries, and it is deposited quite often in our north. The contribution from the domestic use of products would be on a somewhat different order of magnitude.

We do know from one study that an expected 200 kilograms of mercury was released to the air from products, and our numbers showed 1,300 kilograms deposited in landfill sites.

• (1650)

[*Translation*]

Mr. François Choquette: Why did I ask this question? As you know, most mercury pollution comes from cement plants and coal-fired power plants. What is the government doing about this currently? Is something being done to address mercury pollution? I understand the benefit of this bill and strategy, but, in real terms, it is just a drop in the bucket given the effort the government has to make to deal with the health hazard that mercury poses.

[*English*]

Ms. Virginia Poter: I would say that on sources of mercury to air from coal-fired electricity, regulations have been passed. The intent behind them was not about reducing mercury, but there's a strong co-benefit already being realized and continuing to be realized from the promulgation of those regulations.

I'm not the expert in those regulations. I don't have all the—

[*Translation*]

Mr. François Choquette: What about cement plants?

[*English*]

Ms. Virginia Poter: I don't have ready facts for that, but we could certainly follow up.

The Chair: You have about 30 seconds, but we are—

[Translation]

Mr. François Choquette: I will take these 30 seconds to say that the principle of extended producer responsibility is indeed extremely important. We often hear about the life cycle of a product, from cradle to grave, although it should really be from cradle to cradle. Resources are in fact limited and we should always reuse them rather than burying them.

Since this bill is going in this direction, we will continue working toward this end.

[English]

The Chair: Thank you very much.

Go ahead, Mr. Fisher.

Mr. Darren Fisher: Thank you very much. I'm using Mr. Aldag's time, but I only need 30 to 40 seconds.

I missed it when you were speaking about the Minamata Convention. In 2013 we signed on, but we've never ratified it, and I missed what you said as to why. It's supposed to take place by 2020, and we're now closing on 2017.

Why haven't we ratified that? I know you said it, but I missed it.

Ms. Virginia Poter: Thank you for that question.

Whenever you sign on to a treaty in international law, before you can ratify the agreement, you must have all the implementing measures in place before you would be able to ratify it in Canadian law. Some other countries, perhaps, take a slightly different approach.

In this case, most of our implementing measures are in place. The treaty is quite thick and covers many different types of areas in which you must take action. We have one remaining action in train, but we just have one more regulation to finalize.

Mr. Darren Fisher: Can you expand on what that regulation is? This deals with methylmercury, right?

Ms. Virginia Poter: It deals with mercury, elemental mercury.

Mr. Darren Fisher: But Minamata Japan, was a methylmercury issue, right?

Ms. Virginia Poter: The treaty itself deals with elemental mercury. It was conceived in Minamata, Japan, because, of course, the formation of methylmercury is a key outcome of exposure to elemental mercury.

Now I've forgotten the question.

Mr. Darren Fisher: We have one final step to do before we ratify the Minamata Convention.

Ms. Virginia Poter: That's right. We are in the final process of putting in place export control regulations for elemental mercury.

Mr. Darren Fisher: We don't export mercury, do we?

Ms. Virginia Poter: We do export a very small amount, and we just found that out. We had to do all of our research, and we were digging through statistics. There's a very small amount of mercury that is exported from the country.

Mr. Darren Fisher: Wow. That's fascinating.

Thank you, Madam Chair.

Thank you, Mr. Aldag.

Ms. Virginia Poter: Thank you.

The Chair: Mr. Aldag.

Mr. John Aldag: Thank you.

I wanted to get some clarification on a couple of items in your brief. The first page talks about the products containing mercury regulations. You note that the regulations prohibit the manufacture or import of products containing mercury or any of its compounds, with the bit of clarification that that is unless there's no substitute.

How is that going to impact the market for things as we get into recycling light bulbs and pulling the mercury out? Is this regulation a barrier to the reuse of mercury? I'd like your thoughts or your clarification on what these regulations are pointing to in the realm of the use of mercury in Canada down the road?

• (1655)

Ms. Virginia Poter: The products containing mercury regulations prohibit products from containing mercury unless they are specifically listed as being allowed to contain mercury.

The allowances are detailed by levels and by product types, so there's an annex that lays those out. Some of these fluorescent lights, CFLs, and so on are included in the list, and specific amounts are allowed for specific sizes.

These limits are consistent with the Minamata treaty, so, globally, there's been an agreement on the amounts of mercury allowed. We are all lining up our regulations domestically to ensure that we can comply with that international requirement. We're lined up with the United States, for example, and with the European Union, and so on.

Mr. John Aldag: I just wanted to make sure that we were lining up in some way or another with the other agreements.

There was also a statement on page 2, in the same section, in which you note that the regulations that we were just talking about set mercury content limits. Then you go on to say "as well as safe handling procedures and options available for the end-of-life management of these products." Is that all handled under the regulatory framework?

There's also something about requiring labels to inform consumers. It was unclear in the sentence where the regulations end and where the voluntary compliance piece comes in. Are the options available for end-of-life management actually regulated, or are they simply part of voluntary compliance?

Ms. Virginia Poter: The products containing mercury regulations work with the code of practice to some extent—

Mr. John Aldag: The code of practice would be non-enforceable.

Ms. Virginia Poter: It's a voluntary system. The way the product regulations work is that you set limits on how many milligrams of mercury you can have in particular lamps and in other products. When an allowable limit of mercury is in a product, you, as a manufacturer or importer, have to put on the box that the product contains mercury, so that consumers know that when they are buying it. The next time you buy a light bulb you should look. You'll see that there's a little label on the box that says "contains mercury". The instructions talk about being careful because mercury can cause problems, so you need to dispose of it carefully. I don't have the exact wording of the regulations off the top of my head, but that's essentially what they tackle.

Mr. John Aldag: I just have a concern. I assemble IKEA furniture without reading the instructions. I definitely don't read instructions when I'm buying light bulbs. I'm sure a lot of other Canadians don't go to that limit either.

I'm probably going to run out of time, but the other piece—

The Chair: You are out of time.

Mr. John Aldag: Okay...and it was a good one, too.

The Chair: I want to thank Ms. Poter for joining us today. Thank you for your witness statement and for answering all the questions. Some of them were a little on the edge there, but we really appreciate your being in front of us. That's not always the way committees do private members' bills, but we do appreciate your time.

You're very welcome to stay if you're interested in staying as we go through clause-by-clause, but you don't have to sit at the table. It's whatever you feel comfortable with.

Ms. Virginia Poter: Thank you very much, Madam Chair.

The Chair: Okay, we'll now move into the clause-by-clause section of the proceedings today. Because we've never done it before, I thought I'd go through it carefully and in some detail, just so that we don't miss something important.

How many of you have been through a clause-by-clause before? Okay, we have two experts here.

You have, too? Okay, you can help us through if we get into trouble, but for everyone else, we're just going to take this one step at a time.

Again, as the name indicates, this is an examination of all the clauses in the order in which they appear in the bill. I'll call each clause successively, and each clause is subject to debate and a vote.

If there is an amendment to the clause in question, I'll recognize the member proposing it, who will then explain it. The amendment will then be open for debate, and when no further members wish to intervene, the amendment will be voted on. Amendments will be considered in the order in which they appear in the package each member received from the clerk.

You all have a package. If there are amendments that are consequential to each other, they'll be voted on together.

In addition to having to be properly drafted in a legal sense, amendments must also be procedurally admissible. This is why I have Olivier Champagne here with us today to make sure we do this properly.

You're an expert on clause-by-clause.

• (1700)

Mr. Olivier Champagne (Procedural Clerk): I am.

The Chair: Thank you.

I may be called upon to rule amendments inadmissible if they go against the principle of the bill or if they are beyond the scope of the bill, both of which were adopted by the House when it agreed to the bill at second reading, or if they offend the financial prerogative of the crown.

If you wish to eliminate a clause of the bill altogether, the proper course of action is to vote against that clause when the time comes, not to propose an amendment to delete it. Since this is the first exercise for many of us, I will not be going quickly, if you don't mind. I'll be going slowly to allow all members to follow the proceedings properly. If during the process the committee decides not to vote on a clause, that clause can be put aside by the committee so that we can revisit it later in the process.

As indicated earlier, the committee will go through the package of amendments in the order in which they appear and vote on them one at a time unless some are consequential; I'm doing a little bit of repeating here. Amendments have been given numbers in the top-right corner of the pages to indicate which party submitted them. There's no need for a seconder to move an amendment. Once an amendment is moved, you will need unanimous consent to withdraw it, so be careful what you're moving. During debate on an amendment, members are permitted to move subamendments. These subamendments do not require the approval of the mover of the amendment. Only one subamendment may be considered at a time, and that subamendment cannot be amended.

Mr. Mark Gerretsen: Can you have a subamendment to a subamendment?

The Chair: No. It would be a separate subamendment. It would then be voted on.

Mr. Mark Gerretsen: There's no sub-sub.

The Chair: No.

When a subamendment to an amendment is moved, it's voted on first. Then another subamendment may be moved, or the committee may consider the main amendment and vote on it. Once every clause has been voted on, the committee will vote on the title and the bill itself. An order to reprint the bill may be required if amendments are adopted, so that the House has a proper copy for use at report stage.

Finally, the committee will have to order the chair to report the bill to the House. That report contains only the text of any adopted amendments as well as an indication of any deleted clauses.

I thank all the members for their attention and wish everyone a productive clause-by-clause as we go through the consideration of Bill C-238.

Are there any questions?

Mr. Shields.

Mr. Martin Shields: Madam Chair, is a motion to move the bill with the amendments, in whole, in order?

The Chair: I think our plan was to go clause by clause.

Mr. Martin Shields: I know, but I'm asking you a question. I'm asking if that is in order.

The Chair: I don't think so, but let me see. If everybody agrees...?

Basically, with unanimous consent—and I see a head shaking no, so I don't think we're going to get unanimous consent—we could change the process, but I think we agreed that we would go through it clause by clause. Let's just go through it.

Mr. Eglinski has a question.

Mr. Jim Eglinski: We can discuss each portion as we go through and ask questions.

The Chair: Yes.

Mr. Jim Eglinski: Thank you.

The Chair: All right. I'll get started.

Pursuant to Standing Order 75(1), consideration of clause 1, the short title is postponed. I've already explained why we postpone that.

(On clause 2)

The Chair: Mr. Gerretsen.

• (1705)

Mr. Mark Gerretsen: Madam Chair, after great consideration of this bill, I've come up with an amendment to it.

The Chair: Please proceed.

Mr. Mark Gerretsen: Do you need to read out the original first or can I just read out the amendment? How does that work?

The Chair: I can certainly do that if you prefer.

Mr. Mark Gerretsen: I don't prefer—

The Chair: Everybody has it. Does everybody have a copy of the amendment? Do we need to read it out?

Mr. Jim Eglinski: Are you on the committee stage one or the—

The Chair: I'm talking about the one that was presented in the House. Does everybody have the one that was presented in the House? Do we need to read it out?

Mr. Garnett Genuis: It's the original one.

Mr. Mark Gerretsen: Yes, it's the original.

No, it's not necessarily? Okay.

The Chair: If everybody has it, then go ahead and read your amendment.

Mr. Mark Gerretsen: My amendment would be that Bill C-238 in clause 2—because we're on clause 2, correct?—be amended by replacing lines 8 to 18 on page 1 with the following, and I'm going to read this out. I did ask the clerk in advance, and it was her recommendation that we read it out to get it on the record, so I will do that.

The Chair: Thank you.

Mr. Mark Gerretsen: The amendment is that Bill C-238 in clause 2 be amended by replacing lines 8 to 18 on page 1 with the following:

ments and with representatives of other interested governments in Canada that are responsible for the environment, and in consultation with all interested persons or organizations that he or she considers appropriate, must develop a national strategy for the safe and environmentally sound disposal of lamps containing mercury. The strategy may include

(a) the identification of practices for the safe and environmentally sound disposal of those lamps;

(b) the establishment of guidelines for facilities where activities involved in the safe and environmentally sound disposal of those lamps are carried out; and

(c) the development of a plan to promote public awareness of the importance of those lamps being disposed of safely and in an environmentally sound manner.

That is the conclusion of my amendment, Madam Chair.

The Chair: Just to make it clear, does everybody know how that fits in? You start at clause 2, and then you go to the third line.

Mr. Choquette.

[*Translation*]

Mr. François Choquette: Did Mr. Gerretsen explain his amendment?

[*English*]

Did you explain your amendment or do you want to explain your amendment?

The Chair: Just give the rationale.

Mr. Mark Gerretsen: The rationale for this amendment was to ensure that we include indigenous governments and related stakeholders.

The Chair: Basically, it's expanding from just “provincial and territorial governments”.

Mr. Mark Gerretsen: Yes.

[*Translation*]

Mr. François Choquette: I would like to talk about this amendment.

I have some questions. I understand the need to cooperate with environmental groups and with first nations; that goes without saying. My question is why was the reference to the implementation of the strategy removed? Before it said:

[*English*]

“must develop and implement”

[*Translation*]

The amendment says:

[*English*]

“must develop a national strategy”, but there is no more “must... implement a national strategy”.

From my point of view, that's a concern. You might have a national strategy, but if you don't implement it, what does it serve?

Mr. Mark Gerretsen: I think I'll let Mr. Fisher expand on it. This is something he addressed in his comments when the questions were asked of him at that time. The rationale for that was to ensure that the proper relationships were respected among the different levels of government.

Madam Chair, can I turn...?

The Chair: I'm happy with that.

Go ahead.

Mr. Darren Fisher: The Minister of Environment wouldn't have the ability to implement it on her own because of the multiple jurisdictions involved, so she will work towards implementing it in conjunction and collaboration with other levels of government.

Mr. William Amos: You'd be entrenching other jurisdictions.

Mr. François Choquette: Why don't you just write that we should implement it with the coordination of the other groups?

Mr. William Amos: That's essentially what it does say.

Mr. Darren Fisher: The minister doesn't have the authority to implement a strategy without recognizing the different levels of jurisdiction.

Mr. Jim Eglinski: Is that the reason you have "may"?

Mr. William Amos: The "must" would fetter ministerial discretion, arguably, in other jurisdictions. The intention is to dial that back, with it not fettering jurisdiction.

The Chair: I think that answers the question.

Mr. Genuis.

Mr. Garnett Genuis: I have a follow-up question to the comment that putting language like "must" or "implement" in the legislation fetters ministerial discretion. Of course, that's the purpose of legislation: to fetter ministerial jurisdiction. It's for the legislature to give direction to the executive about what the legislature, the representative of the people, believes must be done. My view would be that it's entirely appropriate.

In the final line of the first paragraph, there's the phrase, "The strategy may include...". I wonder why it doesn't say, "The strategy must include"? Such language is closer to the original. I see the value of some of the amended language, but this would actually ensure that these things are done, not that they're mere suggestions contained in legislation.

•(1710)

The Chair: Mr. Gerretsen, do you want to answer?

Mr. Mark Gerretsen: Yes, I'll answer that. I don't think that putting the word "may" in there significantly changes the original, which was saying "that includes". I'm not trying to split hairs, but I just don't think there's that much of a difference—or I should say that I don't think we should try to split hairs on it.

An hon. member: That—

The Chair: Hold on. We have a speaking order.

Do you want to respond?

Mr. Garnett Genuis: He can go first, and then I'll go.

The Chair: Mr. Eglinski.

Mr. Jim Eglinski: I'm just wondering about this. By using "must" over "may", aren't we going to say "must (a), must (b), and must (c)"? Or do we want "may (a), may (b), and may (c)"? To me, I think if we're trying to put in legislation to make sure those things are done, then "must" says they must be done.

The Chair: Mr. Gerretsen.

Mr. Mark Gerretsen: I think that in the interest of creating a strategy, it's sometimes better to leave the opportunities open for that strategy to evolve and to be built on its own through that consultation process. In consulting with the various different levels of government when identifying these particular bullet points here, these three particular strategies or considerations for the strategy, if you say "must", then you're forcing all three to be absolutely necessary, whereas the other way you give a bit of latitude to the whole point of the national strategy.

The national strategy is about getting out there and finding out the information so that you can then build the strategy. I think it's kind of prescriptive, and when you do that in advance, you limit the ability to allow that to occur.

The Chair: Mr. Genuis.

Mr. Garnett Genuis: To give some clarity to this discussion, because we're talking about some specific points, I'd like to move a subamendment then, so we can discuss the subamendment, debate it, and vote on it. I will move that we change "the strategy may include" to "the strategy must include".

For the reasons laid out, these three things are, I think, all important, which is why Mr. Fisher put them there. They identify practices for the safe disposal of these lamps, the establishment of guidelines, and the development of a plan to promote public awareness.

There is a great deal of latitude in terms of how the government does each of these three things. However, I think it is reasonable for us, as legislators, to say to the government that the strategy must include some element of these three parts. Again, that's not to be overly prescriptive about how these things are done, but it must include some element of these.

Certainly it doesn't limit the government from doing more. The government can certainly do things outside of these three areas as part of the proposed national strategy. However, I don't at all think it unreasonably fetters the discretion of the government. As I said before, to some extent, the purpose of legislation is to limit the discretion of government where appropriate, but I don't think it does so unreasonably at all. I think it's conducive to the intent of Mr. Fisher's bill, which is to have a strong bill, a strong statement, that's going to ensure that action is taken.

The Chair: Okay.

Mr. Choquette.

[*Translation*]

Mr. François Choquette: Thank you very much, Madam Chair.

I have two comments.

•(1715)

[*English*]

The Chair: Just to be clear, we're debating the subamendment.

[*Translation*]

Mr. François Choquette: I would simply like to say that I will support the subamendment. Once we have finished dealing with it, I would like to put forward a subamendment of my own.

My Conservative colleague explained his point of view well. His arguments were very relevant and very well explained. I also think that this strategy needs to be a bit stronger, more rigorous. That would not prevent us from working in coordination with other groups.

[*English*]

The Chair: Mr. Fisher.

Mr. Darren Fisher: On the subamendment, in the spirit of having true collaboration and allowing the governments to own their jurisdiction, I'm going to support “may”, and not the subamendment of “must”. It will be up to the governments that are implicated in the strategy to choose how best to implement that strategy.

I won't be supporting the subamendment. I'm content with it saying “may”.

The Chair: Okay.

Is there any more discussion before we call the vote on the subamendment, which would be to replace “may” with “must”?

(Subamendment negatived)

Mr. Garnett Genuis: Madam Chair, could I ask, procedurally, whether that vote is recorded—the members who voted for and against?

The Chair: Yes, we have it.

An hon. member: No, you have to ask for it to be recorded.

The Chair: Oh, okay.

Mr. Garnett Genuis: Am I too late to ask to record the fact that it was Conservatives and NDP who voted in favour and Liberals who voted against? Is it too late to ask for that?

The Chair: You missed the chance on that one, but if you ask ahead of time, we can do that.

Mr. Garnett Genuis: Okay.

Mr. Mark Gerretsen: On a point of order, the whole point of asking after the vote is that you've seen the way the vote has gone.

An hon. member: Oh, oh!

Mr. Mark Gerretsen: No, seriously, you can—

The Chair: Well, you might be able to do that municipally, but I've just been told that you have to ask for it ahead of time.

Mr. Mark Gerretsen: Okay.

It happens all the time on our defence committee, and it's always asked for after the vote.

Mr. Garnett Genuis: I mean as a point of just—

The Chair: Okay, you know what, it's before, so just on a technicality, you have to ask for it before the results are announced. I did it quite quickly. Unfortunately, I didn't realize there was going to be an issue with it, so I said it very quickly. That was why it's not allowed.

An hon. member: We've learned from this lesson, so let's move on.

Mr. Garnett Genuis: Absolutely.

Given that I made a comment on the record about how folks voted, I think it's there.

The Chair: It's on the record.

Mr. Garnett Genuis: I don't want to prolong this at all, but I'll just very briefly move another subamendment to replace “may” with the word “should”.

The Chair: Hold on. Mr. Choquette had the next step on a subamendment.

Go ahead.

[*Translation*]

Mr. François Choquette: Thank you very much, Madam Chair.

[*English*]

The subamendment would be after “that he or she considers appropriate, must develop”, where we would add “and implement, in conjunction with provinces and territories” before “a national strategy”.

I'm adding to the amendment, after “must develop”, the words “and implement, in conjunction with provinces and territories”. That answers the problem the Liberals were having with the fact that we need to do it in conjunction with the territories and the provinces.

The Chair: Okay, I think we all understand what that subamendment is. Do we have any discussion on that subamendment?

I understand why you are proposing it.

Mr. François Choquette: I am proposing it. If nobody is going to speak on that, I would ask for a recorded vote.

The Chair: Did anybody else want to say anything on that? I think we've been over the particular reasoning about why that one isn't going to fly.

We will call a vote.

(Subamendment negatived: nays 7; yeas 2)

The Chair: Mr. Genuis has one more subamendment.

Mr. Garnett Genuis: Instead of proposing a subamendment, maybe I'll just ask if there is any point in proposing “the strategy should include”. I wonder if there is a way of meeting halfway and at least trying to strengthen it a bit. I won't bother moving it if there is no interest. Is there a willingness to support even a subtle toughening of the language here?

● (1720)

Mr. Darren Fisher: As the writer of the bill, I am content with “may” and with allowing the governments and the different levels to work together to come up with a plan to implement.

Mr. Garnett Genuis: I think we could have had a stronger bill, but I'll step back from proposing that subamendment, since it clearly doesn't have a chance of passing.

The Chair: All right. That covers the changes to clause 2.

We now need to actually approve clause 2.

Mr. Mark Gerretsen: We have to vote on the amendment.

The Chair: I got ahead of myself.

Would you like a recorded vote?

Mr. Mark Gerretsen: I would wait until somebody asks, rather than asking people.

The Chair: I will leave it.

First, we'll just do the amendment, and then we have to go to the clause with the amendment.

(Amendment agreed to)

The Chair: Now we need to do clause 2 as amended.

(Clause 2 as amended agreed to)

(On clause 3)

The Chair: All right. Now we move to clause 3.

Are there any amendments to clause 3? Do you want to bring anything forward? Does anybody have anything for clause 3? That's "Report to Parliament".

Mr. Mark Gerretsen: There were two other amendments. I just want to make sure that we are in the right place.

The Chair: Yes, those come later, on the title. I have nothing in front of me for clause 3 and clause 4.

Okay, if we are ready, we'll vote on clause 3.

(Clause 3 agreed to)

(On clause 4)

The Chair: Does anybody have anything for clause 4, which is "Review and Report"? I don't see anybody bringing anything forward for clause 4.

(Clause 4 agreed to)

(On clause 1)

The Chair: Now, we will go back to the short title.

Who would like to bring something forward for the short title?

Please, go ahead.

Mr. Mark Gerretsen: Madam Chair, I move that Bill C-238, in the short title, be amended by replacing line 5 on page 1 with the following:

Safe and Environmentally Sound Disposal of Lamps Containing Mercury Act.

The Chair: Is there any debate on the short title?

Seeing no debate, all those in favour of the amendment?

(Amendment agreed to)

The Chair: Thank you for the amendment.

Now I have to call the question on the short title. All those in favour?

(Clause 1 as amended agreed to)

The Chair: Thank you very much.

Shall the bill as amended—

Mr. Mark Gerretsen: I have another amendment, Madam Chair.

The Chair: Sorry. Go ahead.

Mr. Mark Gerretsen: I move that Bill C-238 be amended by replacing the long title on page 1 with the following:

An Act respecting the development of a national strategy for the safe and environmentally sound disposal of lamps containing mercury.

The Chair: Okay. That makes sense.

Is there any debate on the addition of those words?

Mr. Jim Eglinski: Can you just [*Inaudible—Editor*]?

The Chair: Sure. He just made the long title match with the short title.

• (1725)

Mr. Jim Eglinski: Okay. Got it.

Thank you.

The Chair: All those in favour of the amendment?

(Amendment agreed to)

The Chair: That was unanimous.

Shall the title as amended carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

Mr. Mark Gerretsen: Now we demand that the chair report to the House.

Some hon. members: Oh, oh!

The Chair: Hold on.

Shall the chair report the bill as amended to the House?

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Chair: That is it. We have just done our first private member's bill, clause by clause. Well done.

Some hon. members: Hear, hear!

The Chair: We have ended. Thank you.

The meeting is adjourned.

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