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# **Subcommittee on Private Members' Business of the Standing Committee on Procedure and House Affairs**

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**EVIDENCE**

**Wednesday, February 28, 2018**

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**Chair**

**Ms. Filomena Tassi**



## Subcommittee on Private Members' Business of the Standing Committee on Procedure and House Affairs

Wednesday, February 28, 2018

• (1605)

[English]

**The Chair (Ms. Filomena Tassi (Hamilton West—Ancaster—Dundas, Lib.)):** I call to order the Subcommittee on Private Members' Business of the Standing Committee on Procedure and House Affairs for our 13th meeting.

Everybody has in front of them the items we are going to go through today to approve. I'll ask David, our analyst, to provide comments on anything he would like to state with respect to these items.

**Mr. David Groves (Committee Researcher):** I'm happy to speak on any of the bills or motions if anyone has any questions.

The one I noted that I thought the committee might want to discuss is Bill C-385, an act to amend the Navigation Protection Act.

The criterion this year around votability is whether it concerns a question that is currently on the Order Paper or the Notice Paper as an item of government business. The item of government business is Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts.

The question at issue is the Navigation Protection Act. The NPA is an act that regulates, among other things, the development or maintenance of works or obstructions that might affect the navigation of navigable waters across Canada. Under the current version of the NPA, protections are provided only to navigable waters that are on the schedule.

Bill C-385, the item before the committee, amends the NPA to add a number of lakes and rivers to that schedule, so it extends those protections to those lakes and rivers specifically. The government bill, Bill C-69, was introduced earlier this month, on February 8, and makes significant amendments to the NPA. It renames it the Canadian Navigable Waters Act and, under the CNWA, the regime around protecting navigable waters from obstructions and works changes considerably. In particular, it expands the protections that were previously granted in the schedule to any lake, river, or body of water that meets the definition of "navigable water".

There is a distinction between the types of protections offered, based on the type of work, and there remains a schedule on the act. There remains something of a difference between lakes and rivers on this schedule and navigable waters generally.

I can get into that if you would like, but suffice it to say that both Bill C-385 and Bill C-69 extend protections currently provided by the NPA to the lakes and rivers named in the private member's bill. They do so in different ways and would ultimately provide slightly different levels of protection. The issue that arises is whether they concern the same question. I'm happy to provide my assessment on that question.

**Mr. David de Burgh Graham (Laurentides—Labelle, Lib.):** Yes, please.

**Mr. David Groves:** Okay. My assessment is that in fact they do concern the same question or a similar enough question. They are essentially.... I'll go through it very briefly.

This provision is a little vague, but I interpret the criteria to cover three situations. The first is where a bill is duplicative: where a government bill and a private member's bill seek to achieve the same goal and they do it in the same way. That's not the case here.

The second is where the bill is redundant: where the two bills seek to achieve the same goal but achieve it in different ways. I would argue that this is the case here.

The third is where the bill is contradictory: where the two bills seek to achieve opposite goals and, if both were passed, they would be in conflict. It would be difficult or impossible for them to operate at the same time.

In this case, I would suggest that there is a strong argument to be made that the government bill renders the private member's bill redundant. Though they do it in different ways, both seek to provide navigation protection to the lakes and rivers outlined in the private member's bill. This is not a perfect case of redundancy, since, as I mentioned before, the substance of the bills does not completely overlap, though I would argue that it's very, very close.

My assessment would be that in this situation the criteria allow for a small margin of difference between the two bills. For that reason, I would argue that the degree of overlap here is so substantial that the criterion of non-votability applies.

I realize that this was quite dense. I'm happy to take questions.

**Mr. David de Burgh Graham:** David, nothing you say is dense.

**Mr. David Groves:** That's the nicest thing anyone has said to me today.

**Ms. Rachel Blaney (North Island—Powell River, NDP):** Could I speak to this, please?

**The Chair:** Yes.

**Ms. Rachel Blaney:** I have had conversations with Wayne Stetski with regard to Bill C-385.

I believe this is absolutely clear. I agree with your analysis that this is not necessarily the best step forward for him. I think we are happy to have this voted non-votable so that he can move forward with some other bills that he already has.

Thank you.

**Mr. David de Burgh Graham:** Has anything ever gone to non-votable with a unanimous consent before?

**Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC):** It must be the first time. Is it?

**Mr. David de Burgh Graham:** It would be neat to set a precedent today.

**The Chair:** Are there any other comments?

**Mr. David de Burgh Graham:** I see the arguments both ways. On balance, David's explanation makes a lot of sense, and I'm happy to comply with Rachel's request.

**The Chair:** Mr. Schmale, do you agree?

**Mr. Jamie Schmale:** Yes.

**Mr. David de Burgh Graham:** With the rest of the bills, I don't think I have any problems. If the others don't, either, we can pass them all as they are.

● (1610)

**The Chair:** Okay.

The motion reads:

That Bill C-385, An Act to amend the Navigation Protection Act (certain lakes and rivers in British Columbia), be designated as a non-votable item.

David moves this.

(Motion agreed to)

**The Chair:** Bill C-385 is deemed non-votable.

The next motion is as follows:

That the Subcommittee present a report listing the remaining items that it has determined should not be designated non-votable and recommending that they be considered by the House.

David moves this.

(Motion agreed to)

**The Chair:** That's it.

We are adjourned.







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