Mr. Robert Connelly: Thank you, Mr. Tonks.

Perhaps I might explain how crown corporations are treated at the present time under the act and what is proposed in Bill C-9. At the present time, provision is made under the act to bring crown corporations under the act through regulation.

Some crowns are brought under the act as a proponent in some instances because of some other federal regulatory trigger. For example, Atomic Energy of Canada Limited must get a licence to do most of the things they might do within Canada from the Canadian Nuclear Safety Commission, and that will trigger the act. So in some instances they are brought in as a proponent, similar to a proponent in the private sector. So that is, by way of example, how the act functions at the present time.

They are not considered, though, as a federal authority under the act. They are brought in, in some instances, as a proponent much like the private sector is. So that's the first point.

In terms of Bill C-9, what is proposed is some modification to allow a greater variation of the development of regulations so that we can overcome a bit of a problem that has plagued us in the past, which is the notion of one size fits all. In other words, there have been concerns that a regulation perhaps ought to be tailored a little more to fit the unique circumstances of the crowns, and that is a modification that exists in Bill C-9.

I think those are the main points I'd like to raise, Mr. Chairman.

Mrs. Karen Kraft Sloan: Yes, Mr. Chair.

I also wanted to point out to the members that I believe after seven years of the legislation we maybe only have one set of regs for a crown corporation. It does cause some concern that there isn't universal application of environmental assessment for different types of federal organizations or entities. I think it's important to bring crown corporations under the federal Environmental Assessment Act.

One has to have a further examination of the crown core list when we look at Atomic Energy of Canada, the Business Development Bank of Canada, the Canada Lands Company, Canada Mortgage and Housing, and the Export Development Corporation.... There was some concern as to whether they were covered because of a different act of Parliament, but there are some significant crowns that are not given the same universal application of treatment. So I would encourage members to support this motion.

Thursday, December 5, 2002
Mr. Gary Lunn: Thank you, Mr. Chair.

I moved this motion yesterday, and I'll just repeat my comments very briefly. The intent is to allow for variance of requirements for projects located outside Canada based on unique circumstances. We want to make sure we remove the ability to create different regulatory regimes for crown corporations inside Canada. We don't see any reason, just because they're crown corporations, that they should be able to have separate regulatory regimes while they're inside Canada. We understand the necessity for projects outside Canada, but with the ones inside, we do not believe there should be a separate regulatory regime.

Mr. Joe Comartin (Windsor—St. Clair, NDP): Mr. Chair, I have a question, and I guess it would be to Mr. Connelly. There is reference to crown projects in foreign lands, and I don't think it's clear--at least it's not clear to me--which projects would be involved. Perhaps we could get some indication of where they see this being applicable

Mr. Robert Connelly: Okay.

I'm not an expert on the work of all the crown corporations, but there are a few that have some projects that might be involved outside Canada. One that comes to mind would be the Canadian Commercial Corporation. I think I explained on the day the amendment of the term federal authority was changed that I thought EDC would still be excluded, because of a previous change to their act. That seems to be incorrect, and I did want an opportunity to clarify that, so I'll take that opportunity here. The change to the definition of federal authority as it exists right now would also include EDC. There's a potential that other current crown corporations that deal with projects outside Canada could be affected by this too. Those are two that come to mind.

Mr. Julian Reed (Halton, Lib.): For clarification, would this involve things like CIDA projects, nuclear projects in other countries, and so on?

Mr. Robert Connelly: CIDA projects are already covered under the current act, because they have always been considered a federal authority. With the change to the definition of federal authority made earlier by this committee, the implication would be to bring all crown corporations under the act. That would mean that any time there is a project outside Canada and that crown corporation has an involvement, either as a proponent or as a funder, they would potentially be subject to the act as well.

Mr. Joe Comartin: I wanted to follow up, because this is one of the ones that bothered me. Does it apply to military sites in other lands? We've had a couple of incidents in the last few years of potential toxic sites. Would it apply to that type of situation?

Mr. Robert Connelly: It does apply to National Defence activities, except where it is determined that there is an emergency because of a war. There is that broad exclusion in the act. Another department that potentially has some projects abroad would be Veterans Affairs, with some of the monuments and cemeteries outside Canada. Those are examples of federal authorities that do or could have projects outside Canada that would be subject to this act.

Wednesday, December 11, 2002

Mr. Robert Connelly: To turn to G-4.1, the primary function of this section is to retain the ability to create future regulations, if need be, for wholly owned subsidiaries of crown corporations. **Proposed subsection 8.2 is to address potential conflicting decision-making responsibilities. This ensures that the federal department is triggered, because of its role as a regulator, and is fully responsible for the assessment, rather than a crown corporation, if it is also a proponent for the same project. An example of that might be Atomic Energy of Canada Limited**, which is regulated by the Canadian Nuclear Safety Commission. We would prefer that the process to be used would be that under the act with the regulatory body, rather than any process that would be used by the crown corporation here.

Mr. John Herron: My question is for the officials. The amendment is not on the table, we're not discussing entirely the amendment, but our concern is about accountability and improving that aspect of it with respect to crown corporations. That's why we want the crown to play by the rest of the rules as the other folks do. But given that cabinet thinks that's a pretty tough thing to do, and if you've got three years to set up the regulations on that.... The government sat on Kyoto for five years before they really engaged in earnest this spring. So I would like to hear a commitment from Mr. Connelly that he'd be amenable to coming before this committee or tabling something in writing once every six months on how the crowns and their subs are progressing, so that we don't get into a Kyoto situation, don't have this done at the thirty-fourth month, aren't rallying to try to get this done in the last few months. I would like to have a commitment from the agency for a progress report that those regulations are coming into effect, so we don't have a year or two on the process. If that's the case, maybe Gary and I could have a chat, but it might be better to do that at a different time.

Mr. Gary Lunn: I'm not so sure if I have a question or more of a statement, Mr. Chair, but here goes.

First, with G-1a, it's well known that yesterday this committee, all members on all sides, passed CA-22 and brought all crown corporations operating inside Canada within the act. Crown corporations operating outside Canada would continue to be exempt from the act, but this one made crown corporations accountable like any other corporation. This committee decided that they shouldn't have any different rules, just like anybody else. Of course, that's just the accord. It went all the way up to the PMO. We're told by numerous people that it went to cabinet and they're going to resolve it.

So what has the result been? I'm putting it on the record that they're now going through the back door because they can't deal with the clause where CA-22 was. Obviously, there'd be a line conflict, so they're changing the definition of a federal authority. They're exempting the Export Development Corporation, the Canada Pension Plan Investment Board, and any crown corporation that is a wholly owned subsidiary, Mr. Chairman. So I'll acknowledge that they snookered us on this one. This is not about a democracy, this is not about a committee that's going to operate. Obviously, the department is taking its orders from somewhere--with no disrespect to any of the people here--and they're coming back and they're going to undo what that amendment passed.

So I find it absolutely unbelievable that they're actually looking for our cooperation on other matters, when we have played fair ball on this bill all the way through. They will go to any lengths to get what they want and have absolutely no respect for democracy or what this committee has passed previously.

Thank you.

Mr. Robert Connelly: CA-22, Mr. Lunn, is not affected. Your motion is not changed.

Mr. Gary Lunn: My motion deals with federal authorities, and you're changing the definition of federal authorities.

Mr. Robert Connelly: Your motion dealt with the issue of crown corporations and the whole issue of variance with projects outside Canada environmental assessment regulations, and that was accepted by the government with a friendly amendment.

Mr. Gary Lunn: The intent, though, was that the crown corporations operating inside Canada would be under the act.

Mr. Robert Connelly: Mr. Lunn, that's not what your motion does. Madam Kraft Sloan's motion brought all crowns fully under the act. CA-22 would not accomplish that.

Mr. Gary Lunn: I accept that.

Mr. Robert Connelly: I just want to clarify that Madam Kraft Sloan's amendment to the definition of federal authority would mean all crowns are covered under CEAA, with no variation. They have to apply all the requirements of the Canadian Environmental Assessment Act, including all the registry requirements. The difference between that and the government motion is that we have the possibility of varying that requirement. They'll all come under the act, but we have the possibility of varying some of the requirements for those that, I think, need that variance in order to operate.

Mr. Gary Lunn: But they don't come under the act. Any crown corporation under this legislation has the ability to write its own regulations within three years.

Mr. Robert Connelly: Let me clarify that also, Mr. Lunn. These regulations are developed by the Minister of Environment and approved through a special committee council. As I said earlier, if the committee finds it appropriate for us to report on progress with that, we would certainly be pleased to do so.

Mr. Gary Lunn: Is it not true that the Canadian Environmental Assessment Act can then develop a specific regulatory regime for any crown corporation operating inside Canada, as long as it's done within three years? Is that true?