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Chair

Ms. Bonnie Brown

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• (1540)

[English]

The Chair (Ms. Bonnie Brown (Oakville, Lib.)): Good afternoon, ladies and gentlemen. It's my pleasure to welcome you to the 14th meeting of the Standing Committee on Health, during which we will continue our clause-by-clause review of Bill C-12.

I welcome the officials from the Public Health Agency of Canada and from the Department of Health, who are here to assist us and who have done yeoman service overnight. Thank you very much, gentlemen.

You will recall we had stood aside clauses 20 to 33 until we got the opinion of the Privacy Commissioner. I think we should take care of those clauses that the Privacy Commissioner is advising us on.

To do that, we will begin in our binder on page 60. Here we have government amendment G-27, which we were hesitant to pass because we felt we needed the advice of the Privacy Commissioner. I think that was Mr. Lunney's request.

I would refer you to the letter from the Privacy Commissioner. I'm sorry it's only in English, so I can't give it out, but I can read it to you. It says:

The new section 33.1 sets out situations in which a quarantine officer is required to inform a provincial public health authority of certain information relating to travellers. The proposed new section limits the circumstances in which a quarantine officer would be required to provide this information to situations in which the officer has reasonable grounds to believe that a traveller poses a threat to public health. We understand the need for this provision. We would also note that this is information that the Minister could provide under paragraph 8(2)(m) of the Privacy Act. As a result, we are not opposed to this proposed change.

That is, they are not opposed to proposed new clause 33.1.

Mr. Thibault, would you like to move it?

Hon. Robert Thibault (West Nova, Lib.): I would like to move it with an additional subamendment.

The Chair: What is that...

Hon. Robert Thibault: It's very simple. It relates to some verbal advice from the Privacy Commissioner's office. It would be in the very last subclause—proposed subclause 33.1(3).

Mr. Rob Merrifield (Yellowhead, CPC): How can he amend his today when you wouldn't allow me to amend mine yesterday?

The Chair: When wouldn't I allow you?

Mr. Rob Merrifield: Yesterday.

The Chair: No, that was suggested by somebody else, and you said you'd accept it as a friendly amendment.

Mr. Rob Merrifield: I said I would make it an amendment to my own motion, and you said no, you can't do that.

The Chair: It had already been raised by somebody else. I let that subamendment go, but moved by somebody else.

Mr. Rob Merrifield: Okay. I didn't think it was moved at that stage; it was just debated. But that's technical.

Hon. Robert Thibault: I can mention this, and somebody else might care to move the subamendment.

Mr. Rob Merrifield: I just want fair treatment around the table, that's all. She picks on me every once in a while, so I have to keep her a little honest.

Hon. Robert Thibault: The wording I would like to add is prior to “The quarantine officer”, as that sentence starts now. You would add, “Despite subsection 56(1)”. Then it would go on to read “a quarantine officer may disclose confidential business information or other”.

The Chair: What's the number of that subsection?

Hon. Robert Thibault: It's “subsection 56(1)”. I can provide it in writing.

The Chair: Is it simply adding those words, “Despite subsection 56(1)”?

Hon. Robert Thibault: And “other”.

The Chair: Where's the “other”?

Hon. Robert Thibault: It's prior to “personal information”.

The Chair: There is “other” there.

Hon. Robert Thibault: Oh, I'm sorry, it's already there.

[Translation]

Mr. Réal Ménard (Hochelaga, BQ): Are we still at clause 33.1?

Hon. Robert Thibault: Yes.

Mr. Réal Ménard: Can you tell us how it's going to read? Or do you want to add “Despite subsection 56(1)”?

Hon. Robert Thibault: In subclause 33.1(3).

[English]

The Chair: Mr. Thibault, it's been suggested that instead of “despite”, it should say “notwithstanding”.

Hon. Robert Thibault: Perhaps we could have Mr. Brodie...

Mr. Dennis Brodie (Legislative and Regulatory Policy Advisor, Centre for Emergency Preparedness and Response, Public Health Agency of Canada): If I may, the addition of the word “other” only applies to the proposed new clause 40.2. We noticed a problem in the consistency between these clauses. Clause 33.1 has the word “other” in front of “personal information”. Clause 40.2—I believe it is now—does not have it.

The Chair: The number has been changed?

So is it that this addition of “other” goes in the next clause, not this clause?

Mr. Dennis Brodie: That's right.

Hon. Robert Thibault: It was underlined in this one.

The Chair: May I suggest then that instead of “despite”, you use the word “notwithstanding”.

Hon. Robert Thibault: I don't know. Does it have the same value?

• (1545)

The Chair: It means the same, yes.

Mr. Lunney.

Mr. James Lunney (Nanaimo—Alberni, CPC): Subclause 56 (1) basically provides permission to disclose information to other government agencies, if I read it right. It's not really “despite” that; it would be “in addition to”, or “complementary to”, or.... It's not really in contradiction.

Hon. Robert Thibault: This is wording as suggested by the Privacy Commissioner.

The Chair: I understand, but the Privacy Commissioner probably doesn't even know we have a 56(1).

Oh, no; they refer to it.

Mr. James Lunney: Subclause 56(1), Madam Chair, says:

The Minister may disclose confidential business information or personal information obtained under this Act to a department or to an agency of the Government of Canada or of a province

— etc, if it is necessary. So it is really not in contradiction to anything that's in subclause 56(1); it sort of complements it. There might be a better word.

Hon. Robert Thibault: Can somebody think of one?

The Chair: I think Mr. Lunney is correct here.

Mr. Mario Simard (General Counsel, Legislative Renewal, Health Policy Branch, Department of Health): I don't think it makes a big difference. You've put it forward because it was suggested verbally by the Privacy Commissioner's office.

Hon. Robert Thibault: If the chair doesn't accept it as a subamendment, I move the original amendment.

The Chair: Okay. I think it was moved yesterday.

Is there any discussion on proposed new clause 33.1?

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

The Chair: I will now direct your attention to page 76 in your binder. This is the other clause that is relevant to all this. Page 76 is

proposed new clause 40.2—you're right, Mr. Brodie, we changed the number yesterday.

Mr. Thibault is moving it.

I should read what the Privacy Commissioner says:

This proposed addition does not cause our Office any concerns because the amount of personal information involved is minimal.

Seeing no hands, I will call the question.

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

The Chair: Then there is the third part of his note. We asked him about page 100. We're clearing this up so we can go back and do all those set-aside clauses.

Hon. Robert Thibault: I would withdraw that motion, Madam Chair.

The Chair: Oh. Well, it's already been moved. The opinion of the Privacy Commissioner is:

We do not think that this provision is necessary, because the Privacy Act itself allows disclosures without the knowledge or consent of the individual if the disclosure is required by law.

Hon. Robert Thibault: That would be my wish. You may remember this was written in response to the suggestion by the airlines, but the Privacy Commissioner advises us that the airlines are already covered and that we don't need this amendment.

The Chair: It has been moved. Is there unanimous agreement to have this amendment withdrawn?

Some hon. members: Agreed.

(Amendment withdrawn)

(On clause 20—*Person at an entry or departure point*)

The Chair: This now leads us back page 34.1, clause 20. It is amendment C-8.1. Here we have two in a row, on page 34.1 and page 35. It is this question between “reasonably likely” and, as opposed to that, “might have”. I think yesterday we decided that “might have” was okay, or that we preferred it; therefore, Mr. Lunney, would you like to withdraw...

Yes, Mr. Merrifield?

Mr. Rob Merrifield: “Reasonably likely” is really nice wording, and today, in an act of fairness... I'll be consistent; I'll withdraw.

The Chair: Mr. Merrifield is withdrawing amendment C-8.1 on page 34.1.

We are now on page 35 with Mr. Thibault's “might have”. Mr. Thibault, do you move that?

• (1550)

Hon. Robert Thibault: I so move.

The Chair: Are there any questions on that?

Seeing none, I'll call the question on amendment G-15 on page 35.

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

The Chair: Thank you.

On page 36, this is the reason we stood down clause 20, because this amendment refers to clause 33.1, and we couldn't talk about it or vote on it until we had dealt with clause 33.1, which we've just done. Now we can deal with this one.

Mr. Thibault.

Hon. Robert Thibault: I so move.

The Chair: All those in favour?

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

(Clause 20 as amended agreed to)

(On clause 21—*Disinfestation of traveller, etc.*)

The Chair: I wrote Sonya's name on here. Did you want to comment on this?

Ms. Sonya Norris (Committee Researcher): I'll have to read the clause.

The Chair: It's disinfested—

Ms. Sonya Norris: Yes, that was bothering me. The word “disinfested” is throughout the bill, so to change it at this point would be difficult.

The Chair: “Disinfested”, to me, is a crazy word. It should be “disinfected”.

What are “vectors” anyway? I thought it was a mathematical term.

Hon. Robert Thibault: It could be rats, mice, ants, lice.

Ms. Sonya Norris: Anything that carries the disease.

The Chair: The words “disinfested” and “vectors” just brings this into a language most Canadians don't understand, as opposed—

Hon. Robert Thibault: — [*Inaudible—Editor*]—

The Chair: All right. In spite of that, Mr. Thibault, are you going to move this?

Hon. Robert Thibault: I so move.

The Chair: Are there any questions or concerns?

Seeing none, I'll call the question.

[*Translation*]

Mr. Réal Ménard: What causes problems is not disinfection, but the fact that more powers are assigned to the officer. He is given the power to disinfect everywhere the person believed to be carrying the vector has been. That is the purpose of the clause.

Hon. Robert Thibault: This restricts federal interventions to areas of federal jurisdiction. This had been requested by Ms. Gibson.

Mr. Réal Ménard: This does not limit these, but adds “reasonably likely to”. Not only in federal premises, but wherever the infected person has been...

Hon. Robert Thibault: No. It is the point of arrival or departure.

Mr. Réal Ménard: That is nevertheless a considerable extension.

Hon. Robert Thibault: But federal and provincial jurisdictions are always observed.

Mr. Réal Ménard: There is a principle in federalism, Mr. Thibault, that you must understand. It is said that microbes

follow people. That is what the clause says. Don't ask me to make comparisons.

Hon. Robert Thibault: Yes, but microbes always observe provincial jurisdictions.

Mr. Réal Ménard: So from that standpoint, you are somewhat like a microbe.

An hon. member: Oh, oh.

[*English*]

The Chair: Seeing no further questions or comments, I call the question on amendment G-17.

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

(Clause 21 as amended agreed to)

(On clause 22—*Medical Examination*)

The Chair: Then we come to page 38, which somehow or other has something to do with page 39. I think it is “might have”. It's the same question.

Mr. Thibault, are you moving the amendment?

Hon. Robert Thibault: I so move.

The Chair: Mr. Thibault is moving his, which says “might have”.

Are there any questions or comments? Seeing none, I call the question.

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

The Chair: On page 39 is amendment C-9.

Mr. Merrifield.

Mr. Rob Merrifield: I'll withdraw it.

The Chair: We're on amendment C-10 on page 40. This is Mr. Merrifield's also, but this is another one that is about expense that was not contemplated in the bill, so I'm ruling it inadmissible.

Mr. Rob Merrifield: Are you talking about page 40?

The Chair: Yes, page 40. This lays at the minister's purse the expense of these medical examinations, and it is a federal expenditure not contemplated by the bill, so once again, I'm ruling it inadmissible.

Mr. Rob Merrifield: Okay. We'll deal with it at another place then.

● (1555)

The Chair: Okay.

[*Translation*]

Mr. Réal Ménard: Madam Chair, I have a question. When you rule an amendment inadmissible, is it not the case that this does not prevent the amendment from being tabled in the House at the report stage. Is that correct?

[*English*]

The Chair: It can be only if you manage to persuade the minister to bring a broader royal recommendation than the one that first came with this.

Mr. Rob Merrifield: Are you suggesting—

The Chair: Just a minute, please. The clerk is saying something.

Other recommendations ruled inadmissible in committee cannot be brought back in report stage. The only ones that can are the ones that have some connection to the royal recommendation. This one does, so it can be brought back. But I might rule something inadmissible not because it's, say, beyond the money contemplated by the minister in the royal recommendation but because it's totally outside of the context of the intent of the bill. And that one couldn't be brought back.

As you know, I don't like ruling things inadmissible. That's why we had rather a long debate on the first amendment we had of this type around the royal recommendation. Mr. Merrifield, having been given lots of time, then decided he would prefer to have me rule it inadmissible so that he'd be able to bring it back—if he can convince the minister to help him out.

Mr. Rob Merrifield: Are you suggesting, though, that moving from medical “practitioner” to “practitioners” is an added expense? Is that what you're saying?

The Chair: No, it's the phrase, “conducted at the minister's expense.” You see, ordinarily medical examinations are paid for out of the insurance scheme of the province in which they happen, because the medical practitioner himself or herself can bill the provincial insurance scheme. This would have changed all that and made medical examinations done, say, in an airport, conducted because this bill required it, to suddenly become a federal responsibility.

Mr. Rob Merrifield: This is a federal bill.

The Chair: Yes.

Mr. Rob Merrifield: So what you're saying then, by suggesting what you just did, is that this bill would dictate to medical practitioners their obligation to do this examination at the provinces' expense and not the federal government's expense.

The Chair: Because in the administration of health care in this country, all provinces run their own funding system for their medical practitioners.

Mr. Rob Merrifield: I realize that.

The Chair: We transfer money to them.

Mr. Rob Merrifield: This is a federal act.

The Chair: Yes.

Mr. Rob Merrifield: The federal act is dictating an obligation by medical practitioners. What you're suggesting is that we should have the power to dictate it, but not any obligation to pick up the expense for it.

The Chair: No. What I'm suggesting is that this act, as with so many other acts, fits into the traditions of federalism. And one of those traditions is that health care is the responsibility of the provinces. We help them out with some extra money, and they in turn decide how many doctors they will have and how much they will pay them for the various procedures they do. We cannot interfere with that.

Just as an example, how would we decide what to pay a doctor to do this examination? That is all cared for and taken care of by each province, and they wish to retain the right to do that. So we cannot interfere in what provinces have traditionally done.

Mr. Ménard.

[*Translation*]

Mr. Réal Ménard: I am obviously pleased about all this independent talk. Let's hope it is contagious.

However, when we look at the budget forecasts, it can be seen that there are doctors working at Health Canada. I had understood, on the basis of the information you had given, that it was possible... It was said that quarantine officers had already been hired by Health Canada. Is it completely unrealistic to think that there are doctors who have been employed by Health Canada who are already on the job?

Dr. Jean-Pierre Legault (Chief, Quarantine, Travel Medicine and Migration Health, Office of Public Health Security, Centre for Emergency Preparedness and Response, Public Health Agency of Canada): It is not in the current procedure and no consideration has been given to making such an evaluation standard. Once again, quarantine officers will identify the problem, contain it and take the person to isolation in a hospital equipped to conduct the tests. There is a complete dual structure. Indeed, one needs not only the doctor, but also all of the equipment, laboratories and isolation rooms. We are therefore working very closely with all the hospitals and we have agreements with them.

● (1600)

Mr. Réal Ménard: I understand. That is excellent.

[*English*]

The Chair: Mr. Merrifield tried to put the cat among the pigeons.

Mr. Rob Merrifield: Well, it depends on how you think of an examination. If you're going to take it to a hospital or a clinic—

The Chair: Yes, that's different.

Mr. Rob Merrifield: But if you're going to quarantine someone, which I would assume we would be doing when we're enacting the Quarantine Act, then it may be that you're asking doctors to leave their facilities, which I would assume they would, and come to a hotel or an airport or wherever to do this examination—demand that they do that. I would assume that's what this would be saying. And we're going to be asking them to do it at the province's expense.

Hon. Robert Thibault: But we're silent on how the expenses would be paid. There might be occasion where it would be paid by the federal government, if it's a medical practitioner employed by the federal government.

Mr. Rob Merrifield: Yes, and the other point—it's just a small point—is we could remove “at the minister's expense”, but the point would be that it may be more than one medical practitioner; it could be “practitioners”. That's the other part of my wording.

The Chair: We're now on page 41, amendment G-19.

Hon. Robert Thibault: I would so move.

The Chair: This is to make sure that someone who is stopped gets the medical examination they need within 48 hours.

Hon. Robert Thibault: Again, that was in accordance with Madam Gibson's presentation.

The Chair: Yes.

Are there any concerns?

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

The Chair: Thank you.

Still in clause 22, on page 42, Mr. Thibault.

Hon. Robert Thibault: I believe amendment C-11 is coming up, which would do the same thing. I'll withdraw in favour of C-11.

The Chair: You're withdrawing amendment G-20.

Now we're on page 43, amendment C-11. That finishes clause 22, because we're going to take care of this issue in clause 23. Is that right, Mr. Thibault?

Hon. Robert Thibault: Yes.

(Clause 22 as amended agreed to)

(On clause 23—*Request of specific medical practitioner*)

The Chair: On page 43, Mr. Merrifield.

Mr. Rob Merrifield: Well, they probably should be informed of options to have a second examination.

I move it.

The Chair: Mr. Merrifield is moving it and explaining it. Are there any questions of him?

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

The Chair: Amendment C-12 seems to be partnered with amendment G-21.

This is the thing you were going to talk to the minister about. This is the change from “may” to “shall”.

Hon. Robert Thibault: Is this on the funding?

An hon. member: I thought it was compensation.

The Chair: And what shall the quarantine officer do? He shall accept what?

Hon. Robert Thibault: This would eliminate the option to deny a request made by a traveller regarding the second medical opinion—

Mr. Rob Merrifield: It's “shall”, not “may”.

Hon. Robert Thibault: — provided it would not unduly delay any measure that we had to take.

Mr. Rob Merrifield: I'll move this, Madam Chair.

The Chair: Okay. This is Mr. Merrifield's motion, and it is going to allow a traveller to insist on a second opinion. This gives him the right to do that.

Are there any questions?

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

The Chair: We go to amendment G-21 on page 45.

Mr. Thibault.

Hon. Robert Thibault: I think it's the same one.

The Chair: Is it the same thing? So you're going to withdraw?

Mr. Rob Merrifield: Yes, because I didn't like the wording in his.

• (1605)

The Chair: Amendment BQ-14 is on page 46.

Mr. Ménard.

[*Translation*]

Mr. Réal Ménard: I am wondering whether this might be incompatible with the amendment from Mr. Merrifield that we agreed to. It is incompatible with what we agreed to, if I am not mistaken.

[*English*]

The Chair: Could you just read out how it would read now, please?

Hon. Robert Thibault: Afterward, could we get an opinion from the experts?

The Chair: I only want to have it read out loud.

[*Translation*]

Mr. Réal Ménard: We just agreed to the right to request a second examination. Thus we cannot agree to “if there are reasonable grounds”. I do not believe that it is admissible. I withdraw it.

[*English*]

The Chair: Are you withdrawing it, Mr. Ménard?

Mr. Réal Ménard: Yes, Madam Chair.

The Chair: There's no point in having it read then.

Mr. Ménard is withdrawing BQ-14. Shall clause 23 as amended carry?

(Clause 23 as amended agreed to)

(On clause 24—*Interpreter*)

The Chair: We're now on page 47 with G-22.

Mr. Thibault.

Hon. Robert Thibault: I so move. This, again, is in accordance with the presentation of Madam Gibson.

The Chair: This is the interpreter thing.

Any questions? All in favour?

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

(Clause 24 as amended agreed to)

(On clause 25—*Report to public health authority*)

The Chair: We're on page 48 and it seems to have something to do with page 48.1. This is the question of “might have” as opposed to “reasonably expected”.

Mr. Thibault, you seem to be up first.

Hon. Robert Thibault: I so move.

The Chair: Mr. Thibault moves G-23.

Any questions? All those in favour of G-23?

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

The Chair: Mr. Merrifield is withdrawing C-21.1.

(Clause 25 as amended agreed to)

The Chair: What is this?

Hon. Robert Thibault: Mr. Ménard wants to insert a chapter.

[Translation]

Mr. Réal Ménard: It is really one of the amendments of which I am most proud.

[English]

The Chair: This also has some conflicts with the two that come after. The two that come after are “might have” and “reasonably likely to have”. I think we should deal with Mr. Ménard's first.

Mr. Ménard, this seems awfully long. Tell me what you're doing here.

[Translation]

Mr. Réal Ménard: Madam Chair, this amendment, from our entire stable of amendments, is the one of which I am most proud, because it is really law in its pure state. It is really what Ms. Gibson told us, namely that there aren't not to be an order to submit to a full medical examination unless it is authorized by a court. You no doubt recall just how emphatic Ms. Gibson had been on this point. In my view, it is one of the most interesting amendments we have looked at thus far.

Mr. Simard could perhaps tell us what he thinks of it, while remaining kindly disposed toward the mover.

[English]

The Chair: He wants you to buy in.

Mr. Simard.

[Translation]

Mr. Mario Simard: I believe that there was a misunderstanding on this question. Let us look at clause 31 of the bill. This clause provides that whenever a traveller refuses to undergo a medical screening, a medical examination or any treatment of this kind, as specified in the clause, the quarantine officer must go before the court to obtain an order, whether before a judge of a provincial Superior Court or a Federal Court judge, who is also a Superior Court judge.

In my view, the spirit of your amendment is fully covered by clause 31. I would even go so far as to say that clause 31 goes farther. First of all, it is a Superior Court judge and not simply a judge from a provincial court, unless it is the Superior Court of a province. Then, your amendment applies only to “following the medical examination”, which means that we have already gone beyond the stage of the medical screening and medical examination. It is only at that point that your clause would come into play.

With all due respect, I believe that clause 31 already covers what you want to accomplish. However, there was indeed a misunderstanding during the testimony on this subject.

•(1610)

Mr. Réal Ménard: Meaning that Ms. Gibson incorrectly interpreted the scope of the act?

Mr. Mario Simard: There was a misunderstanding.

Mr. Réal Ménard: The legislator does not legislate for nothing. If this aspect is already covered, we will withdraw the amendment. There is no narcissistic attachment to it, Madam Chair. If it's covered, it's covered.

We had also moved an amendment on the power to review a quarantine officer's decision. She had told us that it needed to be subject to a right of review. I have not yet seen this amendment in the list of our amendments.

The fact still remains that if this aspect is covered, we withdraw our amendment. But I thought it was well written.

Hon. Robert Thibault: It was a good amendment, but it's covered by clause 31.

[English]

The Chair: Thank you, Mr. Ménard. You're diligent and you wanted to make sure this got in.

Thank you, Mr. Ménard, for withdrawing BQ-15.

(On clause 26—*Order to comply with treatment or measure*)

The Chair: We're now on page 50, with Mr. Thibault moving “might have”.

Hon. Robert Thibault: So moved.

The Chair: All in favour?

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

The Chair: Mr. Merrifield, the next page, number 51.

Mr. Rob Merrifield: I'm withdrawing it.

The Chair: Thank you. C-13 is withdrawn.

(Clause 26 as amended agreed to)

(Clause 27 agreed to)

(On clause 28—*Detention by quarantine officer*)

The Chair: Here we are on page 52, but I think we did this, did we not?

This is the one that seems to be kind of oddly laid out on the page. First of all, the French text appears twice, so the bottom two paragraphs on the right you may put a stroke through because they simply repeat the top two paragraphs in French. In that sense, we're amending this page but with general agreement, I would assume. It hasn't been moved. So before we move it, we have to strike out the bottom two paragraphs on the right hand side of the page, which are mirror reflections of the top two.

Mr. Thibault, are you moving this?

Hon. Robert Thibault: So moved.

The Chair: Any questions?

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

The Chair: This is the last one, and it is about the royal recommendation. I'm ruling it inadmissible, to keep open the possibility of...

(Clause 28 as amended agreed to)

(On clause 29—*Right to review*)

The Chair: We're now on page 54. Again, we have a couple on the same line, I think. Line 22 on page 9. Mr. Ménard is suggesting he has reasonable grounds to “suspect”. Mr. Thibault is saying he has reasonable grounds to “believe”.

Hon. Robert Thibault: Madam Chair, I would ask Mr. Ménard to consider what legal counsel tells me, which is that “believe” is a stronger threshold than “suspect”. G-26 might do more to achieve what he was originally attempting to achieve than his own motion. I'd ask him to consider that. He may want to withdraw in favour of G-26.

[Translation]

Mr. Réal Ménard: You say that the threshold allowing intervention is higher when we say “suspect” rather than “believe”.

Hon. Robert Thibault: That's what the lawyers tell me. I do not know, myself.

[English]

The Chair: No, “believe” rather than “suspect” has a higher threshold.

[Translation]

Mr. Réal Ménard: All right. I will leave it to the lawyers.

•(1615)

[English]

The Chair: Thank you, Mr. Ménard. BQ-16 is withdrawn.

Mr. Thibault, on page 55, you're moving.

Hon. Robert Thibault: Yes, I so move.

The Chair: All in favour of G-26?

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

(Clause 29 as amended agreed to)

(Clause 30 agreed to)

(On clause 31—*Release*)

The Chair: We are now on page 56.

Mr. Merrifield.

Mr. Rob Merrifield: This is a small change. It was brought forward by the Canadian Bar Association that we add “or prudent”.

The Chair: Yes. As a matter of fact, our science adviser suggested to me that we may be dealing at some point in the future with a totally unknown disease that nobody can label. Therefore, the whole idea of prudence is a good concept to put in. I'm only relaying to you what the scientist said.

Mr. Rob Merrifield: I so move.

The Chair: Mr. Merrifield has moved amendment C-15. Are there any questions?

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

(Clause 31 as amended agreed to)

(On clause 32—*Release*)

The Chair: We are now on clause 32. We are on page 57 with amendment BQ-17.

[Translation]

Mr. Réal Ménard: It was for similar reasons that Ms. Gibson had suggested this to us. Each time there is any question of detention, or control, it is important to ensure that reference is made to reasonable

grounds. I don't know if we feel that it is still relevant, but I would tend to think so.

[English]

The Chair: Are there any questions or concerns? Seeing none, I call the question on amendment BQ-17.

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

The Chair: Mr. Ménard, on line 8 of the same clause.

[Translation]

Mr. Réal Ménard: It's the same comment.

[English]

The Chair: We're on BQ-18 on page 58, and Mr. Ménard has moved it.

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

(Clause 32 as amended agreed to)

(On clause 33—*Transfer to public health authority*)

The Chair: We are now on clause 33. Amendment C-16 is ruled inadmissible. I did that yesterday. I did it twice.

What page are we on now?

We are on page 62.1. The reason we're going there is because there's a new amendment that has to be given out.

Hon. Robert Thibault: Madam Chair, I certainly am willing to withdraw the two government ones that are there, and I believe Mr. Merrifield would do the same.

The Chair: What pages are they on?

Mr. Rob Merrifield: They are on pages 108, 109, and 110.

Hon. Robert Thibault: Pages 105 and 106 are the government ones.

Mr. Rob Merrifield: Is this page 111 then?

The Chair: No, she says it's page 106.1.

•(1620)

Hon. Robert Thibault: Yes.

The Chair: They're probably renumbered. I'm on amendment C-31 from Mr. Merrifield, which I believe he's going to withdraw.

Mr. Rob Merrifield: I'll withdraw it, yes.

The Chair: The one in the binder on page 107 is being withdrawn.

Mr. Rob Merrifield: To do this accurately, why don't we insert this ahead of it and then withdraw it? If it passes, that would be the thing to do.

The Chair: Now that he has withdrawn it—

Mr. Rob Merrifield: I won't withdraw that one. It's really a procedural thing. We might as well do it right.

The Chair: Okay. On page 106.1, this is the new and agreed upon melding of the two resolutions that were put in. Let's read it.

Mr. Rob Merrifield: I can give a little explanation if you like.

The Chair: Go ahead, Mr. Merrifield.

Mr. Rob Merrifield: Basically, this is the Tobacco Act with a bit of a consideration on it, so that the minister has the opportunity to act in a situation where an emergency comes forward. The regulations don't exist at the present time, so it's a hybrid of the Tobacco Act. However, it does give the direction that the regulations will land here at the committee and be dealt with.

I think that's what the committee was looking for, and Mr. Thibault—

The Chair: Mr. Thibault has agreed.

Mr. Rob Merrifield: — together with the department, had no problems with this.

The Chair: Mr. Merrifield, are you moving new clause 62.1?

Mr. Rob Merrifield: Yes, if you want to do them separately.

The Chair: We have to, yes.

First of all, apparently Mr. Merrifield actually did move his amendment C-31 yesterday, so I have to have unanimous agreement to remove it from the floor.

Some hon. members: Agreed.

The Chair: He isn't withdrawing it yet; he's going to withdraw it later. But I'm stuck with the procedural problem of the fact that it actually has been moved.

Mr. Rob Merrifield: We want this passed before we withdraw these.

[Translation]

Mr. Réal Ménard: I have a question.

[English]

The Chair: Just a minute. The clerk is telling me I'm wrong. I can't do it that way. Let me see what I can get from the point of view of how I can do it.

Hon. Robert Thibault: It's easier when we don't agree.

Mr. Rob Merrifield: I told you we have to watch it, Chair.

The Chair: Do I have unanimous consent to allow Mr. Merrifield to remove his motion to put forward C-31? Amendment C-31 is still in the book, but we need to get the motion off the floor.

Everybody agrees?

Some hon. members: Agreed.

The Chair: Thank you.

The motion to move C-31 is now not before you by unanimous consent.

Mr. Merrifield is now moving new clause 62.1. Are there any questions about it?

Mr. Ménard.

[Translation]

Mr. Réal Ménard: I was here when we studied the tobacco regulations. I think that you were here as well, Madam Chair. What I remember of it is that the minister's obligation was time-dependent once there was pre-publication in *The Canada Gazette*. I do not see that. What it says is: "The Governor in Council may not make a

regulation under section 62 unless the Minister has first laid the proposed regulation before the House of Commons." It seems to me that for the tobacco regulations, there was an obligation of 120 or 180 days following publication or pre-publication.

Hon. Robert Thibault: There may be confusion between clause 62 and clause 62.1. In clause 62.1, the regulations affect us, and they are regulations that the committee needs to study, the whole operational aspect. Clause 62, if I have understood it correctly, has strictly to do with the list of illnesses or infections that may be of interest to us. It is not prepared by the minister, but must be accepted by Cabinet.

Is that correct, Mr. Simard?

• (1625)

Mr. Mario Simard: Yes. But to make things clear, this amendment, which concerns the obligation to table regulations before the committee, only applies to cases of regulations approved by the Governor in Council, by the Cabinet, under clause 62. If you look at clause 63, you will see that the minister may also pass regulations in two restricted cases, namely when the Minister wants to amend the list of illnesses or to designate the authority to which a carrier shall refer. In the amendment before you, clause 63 is not covered. That means that the minister's regulations will not be placed before you. If you would like them to be, an amendment is required.

Mr. Réal Ménard: That is not my fear. It is rather in case the department is in a period of consultations for regulations that are to be published or pre-published and is slow in sending them on to the Standing Committee on Health, as it almost happened with the private member's bill on the inflammability of cigarettes. I may be mistaken, but it seems to me that there was, in the Tobacco Act, a fixed delay within which the regulations had to be referred to the Standing Committee on Health once they were pre-published.

We know that this is not the minister's intention, but it could take two years to refer the regulations. We want the Minister to act swiftly and refer them to the committee.

Mr. Mario Simard: I cannot answer your question. I don't know whether this provision is in the Tobacco Act. The force and effect of this provision, if you look at clause 62.1(3), is to say that before passing the regulations, they must be introduced in the House of Commons. I note in passing that it is the House of Commons and not the Senate.

The bill must therefore be introduced in the House of Commons. There are two possible scenarios: either the House makes no comments on the regulations, in which case, after 30 days of sitting or 160 calendar days, the regulations may be adopted as is without any amendments—the government does not have the right to make amendments—or the committee reports to the House and the House suggests amendments to the proposed regulations. When that occurs, the regulations must be passed with the amendments recommended by the House.

In fact, there is nothing there that requires the minister to introduce the regulations at the time of pre-publication. I do not know whether that was the case in the Tobacco Act, and I unfortunately do not have this act with me. I wish to note that pre-publication of regulations is not a legal requirement, but a government policy.

Mr. Réal Ménard: I do not know what you think about it or if you remember it, Madam Chair. We can no doubt live with the fact that there is no deadline, but I think it would be better if there were one. At least we will see the regulations, that much is certain.

Hon. Robert Thibault: And we must pass them.

[English]

The Chair: We're not just going to get to see them. It says that if they're tabled in the House and referred to committee, then the committee has to report:

(3) The Governor in Council may make a regulation...only if...

(b) the House of Commons has concurred in a report from a committee approving the proposed regulation or an amended version of it...

So if they send them to us and we decide to amend the regulations and get concurrence when we take them back to the House, it's our regulations that prevail, not the original set that was tabled.

This is very great. This is terrific for us. It's power. We get to amend, and if the House concurs and agrees with us, then it's our version that prevails.

Mr. Rob Merrifield: That's what we were looking for.

The Chair: That's what we wanted.

Mr. Rob Merrifield: It was to make sure that when the regulations come here, we have the same power that we have today in looking after the regulations, so that the regulations will be dealt with by this committee.

[Translation]

Mr. Réal Ménard: That is clear. But we had it for tobacco. That is not the question I was raising.

[English]

Mr. Rob Merrifield: The Tobacco Act is the version on page 107. It comes out of the Tobacco Act. What we have here in new clause 62.1 is actually a blend of the facts on reproductive technology.

The Chair: Mr. Ménard, if I can intervene here for a second, if you wanted this committee to review what is gazetted as the first draft of the regulations, nothing would prevent you from asking the Department of Health to alert you to that gazetting, lifting them off the Internet, and coming here. If you think there's anything bad about them, you might want to get us into the commenting period, but there's nothing preventing any of us from doing that. Anybody can comment.

[Translation]

Mr. Réal Ménard: I understand that. The problem is that regulations can lie on the shelves in the Privy Council Office or the Office of the Minister of Health without any obligation to refer them to the government. That was the issue.

However, I can very well live with that.

•(1630)

[Translation]

Hon. Robert Thibault: In my view, if a minister considers amendments to the regulations and pre-publishes them, it is a consultation tool for those affected, both the public and the other governments. But there is nothing after that that obliges the minister to introduce these regulations. The advice he may receive following

pre-publication might be that the regulations should not be introduced, and that they should be withdrawn. If that were the case, there would be no reason for them to reach the committee.

Where we come in is if the minister decides that he can bring the regulations into force. That is when we can review it, make amendments and changes, etc.

[Translation]

Mr. Réal Ménard: You are right.

[English]

The Chair: Mr. Ménard, are you ready to go ahead with new clause 62.1?

[Translation]

Mr. Réal Ménard: Yes, I can accept the package of regulations.

With respect to the inflammability of cigarettes, do you recall, Madam Chair, that there had been problems over the regulations? What was the name of your somewhat conservative colleague? Mr. McKay, I believe.

I simply wish to comment to the committee that there is no duty to act within a specific period on the part of the minister. There is no doubt that we are reviewing the regulations, that we can amend them and that we can introduce them. So I can very well live with that.

[English]

The Chair: Thank you, Mr. Ménard.

Seeing no further questions, I will call the question, moved by Mr. Merrifield, on amendment G-48.

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

The Chair: We have to do the amendment on proposed clause 62.2, which is at the bottom of that page, separately.

Are you moving it, Mr. Merrifield?

Mr. Rob Merrifield: I so move.

The Chair: Mr. Merrifield moves again.

Are there any questions? Seeing none, I'll call the question.

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

The Chair: Now we are on page 107.

Mr. Merrifield, do you want to withdraw?

Mr. Rob Merrifield: Yes, I'll withdraw it.

Hon. Robert Thibault: You can rule all of these as inadmissible now anyway.

The Chair: Amendment C-31 is withdrawn.

We're on page 109.

Mr. Rob Merrifield: Rule them inadmissible.

Hon. Robert Thibault: They're inadmissible, I believe, Madam Chair.

The Chair: Oh, it cannot be put because we've already dealt with it, sorry.

We've done the latter pages of this, so now I will ask the clerk to tell us which page we should turn to.

We're in clause 2 on definitions. We're beginning with clause 2 on page 1, amendment G-1.

(On clause 2—*Definitions*)

The Chair: On page 1 we have an amendment from Mr. Thibault.

Hon. Robert Thibault: This amendment was suggested by the Office of the Privacy Commissioner during witness testimony. It addresses an identified need to further limit the definition of “health assessment”. This amendment would narrow in scope the information collected from a traveller undergoing a health assessment—tell me when you've heard enough.

The Chair: Thank you, Mr. Thibault.

Any questions on this one? Seeing none, I call the question on amendment G-1.

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

The Chair: We're on page 2, amendment G-2, but you'll notice on the left side the words “medical examination” are not within the clause, as they are on the right side, “*examen médical*”.

The amendment is coming around to you with the correction.

Mr. Thibault, are you moving this?

Hon. Robert Thibault: I so move.

The Chair: Thank you.

All in favour of amendment G-2?

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

• (1635)

The Chair: On page 3 there was something wrong with this amendment. It was a similar thing. The correction is coming around, a correction to the English text.

They repeated the text twice. It's just one of those things. We're actually just cleaning up something.

Hon. Robert Thibault: I think in some places they put the French on the English side and the English on the French side.

The Chair: It's because the alphabetical order was different in the two languages.

Mr. Rob Merrifield: Do you need me to withdraw amendment G-3?

The Chair: We have the correction here. We haven't moved amendment G-3 as it is in your binder. You have a new version, except there's no French here because apparently the French is fine.

Mr. Thibault, you can move this new sheet, which combines with the old sheet, provided you add... Read that.

[*Translation*]

Ms. Joann Garbig (Legislative Clerk): There are no French instructions, so we need to add: “Que le projet de loi C-12, à l'article 2, soit modifié par la substitution, à la ligne 1, page 2, de ce qui suit.”

Hon. Robert Thibault: That is exactly what I was going to suggest.

Ms. Joann Garbig: And the new English version, and that's that.

Hon. Robert Thibault: Certainly.

[*English*]

The Chair: Amendment G-3 has a new English version and that small addition on the French side to make things clear.

It is so moved by Mr. Thibault. Shall it carry?

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

The Chair: We're now on page 3.2 with amendment BQ-1 by Madame Demers.

Madame Demers.

[*Translation*]

Ms. Nicole Demers (Laval, BQ): Madam Chair. It is to ensure that the customs officer doing the screening has the skills to do so.

Hon. Robert Thibault: Madam Chair, I would ask Ms. Demers whether she would like to consider the government's amendment, G-4, which has the same force and effect, but which is broader. I think that it is the same as for the one we had seen. We will get there soon enough. It is on page 5. If we want to ask the lawyers about it, I think that we will see that it has the same force and effect, that it meets what you are requesting and that it goes even further.

Ms. Nicole Demers: Perfect. That's all right, Madam Chair.

[*English*]

Hon. Robert Thibault: Did we do amendment G-4 already?

The Chair: I have some writing here.

[*Translation*]

Ms. Nicole Demers: I think we already approved the G-4.

[*English*]

Mr. Rob Merrifield: It's already been dealt with.

The Chair: It seems like we have dealt with it.

Madame Demers, are you withdrawing amendment BQ-1 then in favour of amendment G-4?

[*Translation*]

Ms. Nicole Demers: Yes, Madam Chair. But I thought that we had already settled that yesterday. In fact, it was the first amendment that I had moved. It was settled.

[*English*]

The Chair: Yes.

[*Translation*]

Hon. Robert Thibault: We are consistent.

[*English*]

The Chair: Maybe we did a few before we set aside clause 2. We set aside clause 2 right at the beginning of the meeting. But then why do we all feel we've just done this? I feel we have.

Hon. Robert Thibault: Aren't we past clause 2 here and on to clauses 3 and 4?

The Chair: I think we started on it before...

Mr. Rob Merrifield: I have it checked. It's checked, but we changed the word “qualified” and designated...

The Chair: Amendment BQ-1 is withdrawn.

We did clause 2, with the exception of... but were there not two new definitions, or were those the two?

Hon. Robert Thibault: They were the government motions.

The Chair: Is the government bringing a new definition? We asked for a couple of extra definitions.

Hon. Robert Thibault: I had a discussion with the officials later. It would be highly irregular because what we're asking for is a definition of "fixture".

• (1640)

The Chair: That's right, "fixture".

Hon. Robert Thibault: It's a common term in property law. This would be the only act ever anywhere that would have one, I think. There is a common understanding in law of what the word "fixture" means.

[Translation]

Mr. James Lunney: There is a first time for everything, Mr. Thibault.

[English]

The Chair: Is everybody satisfied that among lawyers, and particularly in real estate law, everyone knows what a fixture is?

Mr. Rob Merrifield: Yes, it's golden faucets.

The Chair: Then we have finished with clause 2, the definitions.

Shall clause 2 as amended carry?

(Clause 2 as amended agreed to)

The Chair: What is the schedule? Is that the list of diseases?

We've had people who didn't think this was a good list.

[Translation]

Mr. Réal Ménard: Did we propose— [Inaudible—Editor]—

[English]

The Chair: Our researcher doesn't think it's a good list. Do you have a revised list?

Mr. Brodie.

Mr. Dennis Brodie: May I speak to this, Madam Chair?

The Chair: Yes.

Mr. Dennis Brodie: There may be some confusion about this schedule. As you know, now that those clauses have been approved, travellers must report to a quarantine officer if they have a communicable disease. The purpose of the schedule is so that the public knows which communicable diseases must be reported.

It is not intended to be a definitive list of all the diseases that might be of concern with respect to travellers arriving in or departing from Canada. That is covered by the definition of "communicable disease".

The second purpose is that airlines or other conveyances are required to report when they have a passenger on board who may have a communicable disease. Again, it's to ensure that they know which communicable diseases are of the most concern and that we want to know about.

The Chair: Do you want to add to this?

Mr. Lunney.

Mr. James Lunney: My recollection is that I think it was Dr. Low, the microbiologist, who looked at this list and suggested that tularemia is not communicable and hemorrhagic fevers are virtually no risk. We had asked him to submit a list, and I believe he agreed that he would do so, but we never heard anything back.

The Chair: The clerk confirms that she has not heard from him.

There is this question Mr. Lunney raises to the officials that says there are certain diseases on that list that nobody considers communicable. So why are they there?

Dr. Legault.

Dr. Jean-Pierre Legault: Certain diseases like tularemia and anthrax are diseases of concern from a bioterrorist point of view and are reportable diseases in most countries. We have included them because they are diseases to be reported, and if notified to the quarantine officer, you will follow up on those issues. Those are diseases of concern to be declared and looked at. That was the opinion of the health specialist of the agency with regard to emergency preparedness.

The Chair: Are they listed under a different title other than communicable diseases?

The way it looked to Dr. Low, we thought those things were communicable and they're not. You're saying there's a different reason. So should they not have a different title?

Dr. Jean-Pierre Legault: The degree of communicability is low on two of them, it is true. We could either remove them or we could leave them there.

Mr. James Lunney: I think the point Dr. Low made was that this is some ancient list. Things that were in the old Quarantine Act, things that were a concern 100 years ago, by and large, are not considered to be the same kind of threat today. Therefore, in his opinion it should be updated to be more realistic. In the department's view, they liked the old list. I don't suppose it does any harm to have them there if they like a list that's more comprehensive, even if it isn't a threat.

• (1645)

Dr. Jean-Pierre Legault: The old list only had six, and tularemia and anthrax were not there.

Mr. James Lunney: In as much as it doesn't really change the significance to have them listed, and since we haven't heard from Dr. Low, I would suggest we let it pass.

The Chair: Thank you.

Now I shall ask you, having discussed the concerns we did have with the schedule—yes, Dr. Dhalla.

Ms. Ruby Dhalla (Brampton—Springdale, Lib.): Does the clerk have the notes from when Dr. Low was here? Did he mention any of the specific diseases that are not listed here?

The Chair: They'd probably be in the transcript.

Ms. Ruby Dhalla: Did he add anything at that point? I don't recollect him adding any particular diseases.

Mr. James Lunney: I made a few notes on the page, but I didn't add anything new, so I don't think he did.

Ms. Ruby Dhalla: That's fine.

Thank you.

The Chair: Thank you.

(Schedule agreed to)

(Clause 1 agreed to)

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

The Chair: Shall I report the bill as amended to the House?

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill?

Hon. Robert Thibault: I would recommend that the chair, at the call of the committee, order a reprint that also renumbers the clauses to reflect the changes made.

The Chair: Shall the committee order a reprint of the bill with the clauses renumbered?

Some hon. members: Agreed.

Mr. James Lunney: I think it should be noted, Madam Chair, if I may, that we're agreeing, but under protest, about this royal reference, as there are some significant changes that we feel need to be looked at to improve the bill that will be discussed in the House.

The Chair: On that point, as I know there are people who are going to want to bring the amendments that were ruled inadmissible forward, I'm going to read you the instruction from the clerk:

I would like to advise members how the notice period for report stage operates for bills referred to committee before second reading.

— which is what ours was; it came here after first reading—

According to Standing Order 76(1) and (2), three sitting days are required between the presentation of the committee report and the commencement of report stage debate;

I've never seen it happen in three days. Usually it's three weeks.

Mr. James Lunney: It's up for debate on Tuesday.

The Chair: Is it?

Mr. James Lunney: It's on the schedule for Tuesday.

The Chair: Three sitting days are required between the presentation of the committee report, which I will probably try to do tomorrow. I think we'll have to do it Monday because Friday we have to get home. That may be a possibility. We'll have to talk early in the morning.

... in addition, report stage motions must be published on the *Notice Paper* one sitting day prior to the commencement of report stage.

So the sooner we get report stage done...

Mr. James Lunney: Is that what it will be? Two days before we go?

The Chair: Why don't we just circulate this to everybody and they can read it on their own.

How many people want to present amendments at report stage? Just three of you or two of you? Instead of my reading this for people who aren't that interested, we'll just give them a copy. How's that?

I'd like to thank you very much for your work and your cooperation. It was wonderful. Congratulations. You've just passed Bill C-12 through committee.

This meeting is adjourned.

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