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## Standing Committee on Health

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### EVIDENCE

**Tuesday, December 7, 2004**

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**Chair**

**Ms. Bonnie Brown**

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## Standing Committee on Health

**Tuesday, December 7, 2004**

•(1010)

[*English*]

**The Chair (Ms. Bonnie Brown (Oakville, Lib.)):** Good morning, ladies and gentlemen. It's my pleasure to welcome you to this meeting of the Standing Committee on Health, during which we will consider the clause-by-clause examination of Bill C-12.

First of all, I'd like to thank the members for respecting the deadline set by the committee for amendments. One hundred and fourteen amendments have been submitted to the clerk, and they have been organized in the white binders you got yesterday.

According to Standing Order 75(1), clause one, which is the short title, will be considered after the other clauses. Apparently there has also been some agreement to set aside clause two, the definitions, until the end. That's a fairly normal procedure.

For the new members, we examine every part of the bill, starting at the beginning, going line by line, and if necessary, word by word. Amendments can be proposed, debated, and voted on. A member can ask questions about a clause or debate a clause, even if you have no amendment to propose. Then we vote on each amendment, each clause, on the schedules and preamble, on the titles, and finally on the bill as a whole.

If you have your bill in front of you and just turn the front cover over, you will see at the top of that first page something called the royal recommendation—it just says recommendation. You have been given a piece of paper that explains the royal recommendation. It's called "financial initiative of the Crown". It essentially explains the constraints we're under here in making amendments.

The royal recommendation refers to the exclusive power of the Crown to spend public money and impose taxes. Crown approval is signified by a royal recommendation for spending and a ways and means motion for taxation. This means the minister went to cabinet and got approval to go forward with this bill, based upon a certain idea of moneys to be spent. The bill is then introduced in the House with that royal recommendation.

Therefore an amendment calling for additional public spending or spending for purposes not contemplated in the bill is inadmissible in committee, as it would infringe on the royal recommendation attached to the bill, or it would require a new one. Only a minister can provide a royal recommendation for report stage.

So there might be some amendments in here that contemplate spending that has not been contemplated by the drafters of the bill, in which case, that amendment will be inadmissible. This rule applies whether a bill is referred before or after second reading. This one has

come to us after first reading, but it's still accompanied by a royal recommendation.

At report stage in the House, a motion of amendment requiring the expenditure of public funds is admissible and will be selected by the Speaker if accompanied by a royal recommendation. But we are constrained by the royal recommendation we have.

Mr. Merrifield.

•(1015)

**Mr. Rob Merrifield (Yellowhead, CPC):** At report stage it's admissible with a royal recommendation, only at the recommendation of the minister. So even at report stage—

**The Chair:** It's tricky, but it might be negotiable.

**Mr. Rob Merrifield:** I see.

**The Chair:** Mr. Lunney.

**Mr. James Lunney (Nanaimo—Alberni, CPC):** This is the first time we've run into this. At the health committee we spent a lot of time on the reproductive technology bill, and it seemed to me there were probably some aspects of amendments that we considered, I think for counselling and so on, that might have involved spending money.

Did we have a royal recommendation with that bill, or is this something new that's being dropped on us?

**The Chair:** No, this is parliamentary tradition. In that one, when we considered such things as counselling, we did not expect the federal government to pay for it. In other words, we expected it to be done one of several ways: the individual would pay their own fee, or somehow or other it would be covered out of the medical side of things through the provincial insurance scheme. But we never considered moneys being spent by the federal government on that.

**Mr. James Lunney:** Following up on that, there are a lot of very serious issues related to compensation. I'm sure a number of amendments I'm aware of here deal with compensation related to some very serious aspects of this bill: providing facilities without compensation, equipping them without compensation, locking people up without compensation, and impounding aircraft without compensation. You're saying that in order to make any significant amendments to this bill, it would have to be done in the House and not at committee. Is that what the implication is here?

**The Chair:** To make firm recommendations on the spending of the Crown's money, it would have to be done at report stage. This bill does not preclude compensation.

Mr. Thibault.

**Hon. Robert Thibault (Parliamentary Secretary to the Minister of Health):** We have some panellists who could provide more clarity, but from my understanding, in discussing with members opposite many times, it's "shall compensate" in some areas. I'm willing to work with Mr. Merrifield to see if we can encourage the minister one way or another—and we'll be discussing this with him tomorrow—if there are some other areas we might change.

On the equipment part of it, I think you'll see there is an amendment that is acceptable that removes that side of the equipment. It does not create expense to the government; it removes the expense to another person. With other motions or amendments that create expense that's different, and admissibility comes into question.

**Mr. James Lunney:** That sounds like a pretty good sleight of hand to me. I mean, if the ministry is going to end up paying for equipment, that certainly sounds like an expense to me.

I'm just wondering how often this royal recommendation actually occurs. Some of you have more parliamentary experience.

**The Chair:** It has been pointed out to me, through the clerk, that it's possible that in other bills you haven't run into it. But in this bill the amendments suggest spending that was not contemplated by the drafters. I'll ask our officials to see if they can comment on this.

**Hon. Robert Thibault:** With respect, Madam Chair, these are commentators or experts from the department. What's allowed in the parliamentary process is a question for the legal counsel of the House rather than the department, I would presume.

**The Chair:** I see. Maybe they don't know the answer to this.

This is on the advice of the clerk, who has checked it with other clerks. In running into these amendments, it brings forward an issue that maybe we haven't faced before. I must say, I haven't faced it before either, Mr. Lunney.

Mr. Merrifield.

**Mr. Rob Merrifield:** On the issue we're undertaking, I'm prepared to sit down with Mr. Thibault and the minister to try to work something out.

What we're arguing about, I think, is where it says in the bill, "we may compensate". That may suggest we will. To say, "we shall in accordance with regulations", when the minister was here, met the same criteria. We're arguing about whether that gives a heavier burden of expense to the bill or not. I think we could argue it both ways. The intent is that we would, in accordance with the regulations that spell out what you would and what you wouldn't do. I think we could argue just as strongly that it doesn't change the actual obligation of the bill on expenses, by changing that.

•(1020)

**The Chair:** Mr. Blaikie.

**Hon. Bill Blaikie (Elmwood—Transcona, NDP):** Madam Chair, I have run into the royal recommendation before, and every time I do I find it quite irritating. It's an antiquated notion to begin with that somehow members of Parliament, either individually or collectively, can't put forward motions that require the spending of public money, that somehow this is reserved for the Crown.

Secondly, even though it does have some standing in parliamentary tradition, I don't feel it applies to this particular case. What we're talking about is the difference between may and shall, and both of them include the spending of money. It's not as if one is introducing a whole new element into the bill if the bill already has royal recommendation for spending money on compensation. So the difference between may and shall doesn't seem to me to be grounds for invoking this particular tradition.

If you want the opinion of people who have dealt with this before, I think there are places where it does make sense within the understanding of the tradition itself, which I personally think should be done away with. There are things that don't seem to make sense within the tradition itself. I'm not convinced it actually applies here. I don't think it should apply anywhere, but there are some places where I understand why it applies, given the precedents. But in this particular case I certainly don't see the argument.

**The Chair:** Thank you, Mr. Blaikie,

Mr. Thibault.

**Hon. Robert Thibault:** Again, Madam Chair, I don't want to argue in any way the merits or the lack of merit of any amendments, but I do see a big difference between may and shall—not to say it shouldn't be shall, but there is a big difference. If you're saying the minister may spend money, then he may. If the conditions are there and he judges that he should, he has the authority to spend. If you're saying he shall, you're putting an onus on the Crown that they will, under those circumstances, compensate or spend. You're creating the requirement to expend funds, while in the first part you're creating the authority but not necessarily the requirement. So there is quite a difference.

What we may want to do, Madam Chair—and I'd be agreeable if the others are—is put those amendments aside for today until we've had a chance to have discussions with the minister, and look at the other aspects of the bill.

**The Chair:** That's the conclusion I was beginning to draw.

Mr. Ménard, do you have something new to add?

[Translation]

**Mr. Réal Ménard (Hochelaga, BQ):** I would like to make two comments, Madam Chair.

We have always been told that our amendments could not involve the expenditure of public revenue, even in the case of private members' bills. That said, we could check with a clerk or a legislative counsel to determine whether the amendments are in order. If they are in order, we could then see how the government plans to react to them.

If the view is that the amendments are not in order, we may conclude that our discussions are pointless. Clearly, we must not deprive any parliamentarian from his or her right to move motions. However, I would like you to ask a legislative counsel whether, in the context of our work, it is in order to move amendments involving the expenditure of public revenue.

[English]

**The Chair:** I'm hearing suggestions for two different steps. One is to do some consultation with the minister first, which would be the negotiating way. Then, of course, if that doesn't work we could go Mr. Ménard's way and ask for an opinion from legal counsel.

In the meantime, we will stand down those clauses. We usually have two amendments: one that says may, and one that says shall—or the bill says may and the amendment says shall. So where we run into that conflict, for today we will maybe set those aside.

We've just set aside clause 1 and clause 2, clause 2 being the definitions. That will mean, ladies and gentlemen, that we will start on page 4 of your binder with the first amendment, BQ-2, from Madame Demers. It's in the white binder that was distributed yesterday.

May I suggest that while you're looking at BQ-2 on page 4, you also look at the one on page 5, put forward by Mr. Thibault, the one on page 6, and the one on page 7 on the same lines. So you have to look at these in concert, because you're going to have to pick one or the other.

(On clause 5—*Designing analysts and certain officers*)

•(1025)

**The Chair:** Madam Demers, do you want to speak to your amendment?

[Translation]

**Ms. Nicole Demers (Laval, BQ):** Yes, Madam Chair. I decided to put forward this amendment, because clause 2 of the bill, the interpretation clause, does not contain a definition of "screening officers" or "environmental health officers". There is no specific definition of these terms, and we were concerned that the individuals chosen for these positions might not have the necessary skills.

The legislative counsel therefore recommended that I include the following:

(2) The Minister may designate as quarantine officers any persons or classes of persons that are qualified to perform the duties and exercise the powers of such officers.

However, I have discussed this with Mr. Thibault, and I would be prepared to accept his amendment, which is much more inclusive than mine.

[English]

**The Chair:** Can we say that you are withdrawing yours?

[Translation]

**Ms. Nicole Demers:** Yes. If Mr. Thibault's amendment were to carry, I would withdraw mine. However, if his amendment does not carry, I would ask that my amendment be considered.

[English]

**The Chair:** Mr. Thibault's amendment is the one appearing on page 5 of your binder.

Mr. Thibault, would you speak to yours please?

**Hon. Robert Thibault:** I would move the motion, but I would move it while removing in subclause (2), as you see, "The Minister may designate qualified". I'd like to remove the term "qualified", because medical practitioners come with their own qualifications—that was a typo—with their own method of accreditation. But as for the rest, I'd like to move that motion.

**The Chair:** You want to withdraw "qualified" in screening. Those would not be medical practitioners.

**Hon. Robert Thibault:** No, the only place where "qualified" would be removed is at the very bottom, subclause (2), "The Minister may designate qualified medical practitioners". Just that "qualified" would be removed and all other "qualified" would remain. The reason for that "qualified" to be removed is that medical practitioners come with the Canadian Nursing Association, the Canadian Medical Association. They determine their own qualifications.

**The Chair:** Yes, but you're suggesting that screening officers don't have to be qualified, because screening officers might be customs officials, might they not?

**Hon. Robert Thibault:** Yes.

**Hon. Brenda Chamberlain (Guelph, Lib.):** Which one is he moving?

**The Chair:** Mr. Thibault's begins "That Bill C-12 in clause 5" and then it says "(a) Designating analysts and certain officers", and then it says subclause 5(1). I think those are the two "qualified" he wants to remove.

**Hon. Robert Thibault:** Just one "qualified"—the "qualified" right before "medical practitioners".

**The Chair:** Okay, I understand.

**Hon. Robert Thibault:** Yes, that's the only one that would be removed.

**The Chair:** I'm glad you asked that question, Madam Chamberlain, because I was removing the wrong one.

**Hon. Brenda Chamberlain:** I was hearing him say two things.

**The Chair:** Okay.

Mr. Ménard.

[Translation]

**Mr. Réal Ménard:** I understood that this amendment—and members from the government side will correct me if I am wrong—was in response to the representations made by nurses. They said they wanted to ensure that front-line staff—namely the screening officers or quarantine officers—were qualified. Of course, as we know, everything having to do with qualifications is a provincial matter; that is why I moved an amendment to make that clear. You will find it on page 6.

I am wondering to what extent we are responding to the representations made by the nurses and other witnesses. I would remind you that some witnesses said they were afraid that travel agency employees working at the airport might ultimately act as screening officers. Consequently, the concept of qualifications was very important, and I am wondering whether we might not find a type of balance in my amendment. It is very subtle, as usual. It appears on page 6.

•(1030)

[English]

**The Chair:** Mr. Thibault.

**Hon. Robert Thibault:** I think there's a little bit of confusion.

[Translation]

The only thing we want to do is to clarify that these people must be qualified, as we were asked to do. Thus, environmental health officers, for example, will have to be qualified.

[English]

Any concerns raised in terms of powers accorded to officers administering the acts and putting together the issue of competency training and professional qualifications were raised by several stakeholders, including opposition committee members, the Canadian Nursing Association, and industry. The intention of this amendment is to ensure that only qualified persons are designated, when the minister designates that they are a qualified person. The exact qualifications of each officer will be determined administratively by each province and can change over time.

The reason we ask in the proposed amendment that we circulated to remove this “qualified” is not to diminish the qualification, but it's because in the case of medical practitioners—doctors, for example, nurses—they have their organization that determines their qualifications. They're under provincial jurisdiction. They do it province by province; so if they're members of that organization, they are qualified. It was a little patronizing to have that word “qualified” in there again. But “qualified” remains for screening, for analysts, for all those other areas.

**The Chair:** Mr. Ménard.

[Translation]

**Mr. Réal Ménard:** Mr. Thibault, I would like to know whether we are talking about the qualifications of individuals who will act as screening officers and quarantine officers. Perhaps we do not agree on the type of qualification.

**Hon. Robert Thibault:** Perhaps, but we could invite the experts to clarify this point.

**Mr. Réal Ménard:** What qualifications are we talking about?

**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):** I am Dr. Jean-Pierre Legault and I am in charge of the Quarantine Program. With respect to qualifications, we are talking here about people who do not already have a medical accreditation such as graduate nurse or physician. These qualifications therefore apply to screening officers and quarantine officers. At the moment, under the program, the standard states that in order to be a quarantine officer, people must be graduate nurses.

What you recommend on page 6 is good. However, the fact that you are asking that these people be qualified in the province where they carry out their activities would be a serious constraint, given that this is a program that is supposed to apply to the whole country.

As the program manager, I must be able to deploy my resources very quickly, to wherever the problem is. If a problem crops up at the Pierre Elliott Trudeau International Airport and I need 10 extra officers, I must be able to transfer them from units located in other provinces. The standard is that in order to work at the federal level, any individual involved in a national program must be qualified in at least one province or territory. When these people work at the federal level, they may do so in any province, provided they stay within their range of activities.

•(1035)

**Mr. Réal Ménard:** Based on the context you just described, Mr. Thibault's amendment seems to work better than the Bloc Québécois amendment. Is that correct?

**Dr. Jean-Pierre Legault:** It works better than the amendment on page 6 because it states that any individual who does not already have an official accreditation as a nurse or a physician in a province must be qualified.

There is already a definition of medical practitioner. I have no real objection to stating that they must be qualified, but they are already qualified under the definition.

**Mr. Réal Ménard:** I see.

[English]

**The Chair:** I'm going to move past page 4, because Madame Demers has agreed to go along with Mr. Thibault's amendment on page 5, and Mr. Thibault has now moved it.

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

**The Chair:** Pages 6 and 7 speak about the same lines in the bill, so these questions will not be put.

Apparently, in setting aside clauses 1 and 2 and then the first amendment being part of clause 5, I forgot to do something. We received no amendments on clause 3; everyone has found it acceptable. And we've received no amendments on clause 4. So I'm going to ask you, shall clauses 3 and 4 carry?

(Clauses 3 and 4 agreed to)

**The Chair:** Thank you.

Now I believe we are on page 8, by Mrs. Demers again.

Would you like to speak to it and move it? Page 8, the number at the bottom, Madame Demers.

[*Translation*]

**Ms. Nicole Demers:** We are adding a subclause:

(5) The Minister shall cancel a designation made under subsection (1), (2) or (3) if the person or class of persons ceases to meet the applicable conditions referred to in that subsection.

The purpose of this amendment is to ensure that if individuals no longer meet the conditions to qualify for the position, they will no longer be able to act as screening officers, environmental health officers or quarantine officers.

[*English*]

**The Chair:** Are there any questions to the mover?

Mr. Thibault.

**Hon. Robert Thibault:** Just for a point of clarification, it might be wise to ask the adviser from the Department of Health to comment on this, because I understand it's already implicit within the act.

**Mr. Dennis Brodie (Legislative and Regulatory Policy Adviser, Centre for Emergency Preparedness and Response, Public Health Agency of Canada):** Yes, thank you.

Our feeling is this is a power that is exercised all the time administratively by a minister who issues designations to various types of officers. It's not something we normally see in law. It's done administratively. Obviously if you no longer meet the qualifications, you no longer are a designated person. That is done administratively.

[*Translation*]

**Ms. Nicole Demers:** Even if this is not something normally found in a bill, I do think it is important in the context of legislation on quarantine. Even if this is done administratively, the terms of the act are not necessarily understood by everyone in the same way.

Madam Chair, I must tell you that the legislative counsel made this suggestion to me, and he must be familiar with legislative terminology. He must have thought that this had some importance. I understood his explanation when he gave it to me, and I found it very valid. I do not know what to say: I am stymied.

•(1040)

[*English*]

**The Chair:** Are there any further questions or comments?

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

(Clause 5 as amended agreed to)

(On clause 6—*Quarantine station*)

**The Chair:** Now we're on page 9.

The clerk tells me that within clause 6, although the first amendment is admissible, there is an amendment that could be considered inadmissible under that discussion we had prior to beginning on "shall" and "may" and all that. Therefore, she suggests we stand clause 6 down until we get that problem sorted out. Are you in agreement with that?

[*Translation*]

**Mr. Réal Ménard:** Madam Chair, I do not think the amendment on page 9 is the one that is not in order. Can you reassure me in this regard?

[*English*]

**The Chair:** No. It's just part of clause 6. She suggests we stand the whole clause aside in order to solve the other problem.

(Clause 6 allowed to stand)

(On clause 7—*Quarantine facilities*)

**The Chair:** That means we move through clause 6, so that would be pages 9, 10, 11, 12, and 13. That lands us—with the responsibility of course to come back to clause 6—on page 14. And page 14 is paired with page 15.

Mr. Ménard, it seems, has provided us with two choices in this particular clause 7, line 32, on page 3. Did you mean to do that, Mr. Ménard?

[*Translation*]

**Mr. Réal Ménard:** Yes, I did. I do not think there are two choices, but rather a sequence of events. First of all, we have about six amendments. As you know, under the bill, cabinet can make orders to designate quarantine facilities by being the direct spokesperson with the provinces. There may be quarantine facilities that involve health facilities for which the provinces are responsible. You will see that there are some amendments in which we say that no quarantine facility should be designated without the agreement of the province in question. Some witnesses, including the Canadian Medical Association and the Nova Scotia law professor, if I remember correctly, were of the same view.

We are therefore moving, first, that when the minister establishes a quarantine facility, he does so with the agreement of his provincial counterpart. That is one of the first amendments.

The second amendment also talks about the agreement of the Minister of Health, who can intervene to cancel, change or reactivate the decision. I think these are reasonable amendments which deserve to be passed in this age of cooperative federalism.

[*English*]

**The Chair:** It's not really one subsequent to the other; it's exactly the same line, but one is stronger than the other. The first one says "only with the agreement", and the other one says "may, with the agreement". It's exactly the same line, Mr. Ménard.

[*Translation*]

**Mr. Réal Ménard:** Yes, but I do not think the two have the same objective. I think that if we have to vote, on this side, we would be more comfortable if we could pass the amendment on page 14. If you want us to make a choice, I think it would be stated clearly that the agreement of the Minister of Health of the province concerned would be sought when a quarantine facility was established in the province.

•(1045)

[*English*]

**The Chair:** Mr. Merrifield.

**Mr. Rob Merrifield:** I have just a question on the amendment, and Réal can maybe help me with this. Are you saying that under this, the Minister of Health, federally, could only act on this if the Minister of Health, provincially, agreed? That's really what your intent is.

[*Translation*]

**Mr. Réal Ménard:** Yes, as the Canadian Medical Association asked and Ms. Gibson suggested. Clause 7 reads as follows: 7. The Minister may by order designate any place in Canada as a quarantine facility.

"Any place in Canada" could put us in a situation where the facility in question would come under provincial jurisdiction. Quarantine facilities cannot be designated without cooperation between the provinces and the federal government. I think we agree on that and we should state that in the legislation.

[*English*]

**Mr. Rob Merrifield:** If that's your explanation of it, in the last case of SARS, let's say, there was a provincial quarantine act that was brought into play, not a federal one, not this one. Each province has its own quarantine act. To say that this one should be subject to the provincial one, I don't think that's the intent of this act and where it should go. I can't imagine a situation where there would be a provincial minister who would object to this, at any rate. I don't think they should be subject to the provincial one.

[*Translation*]

**Mr. Réal Ménard:** Yes, but in the case of SARS, we were told that the steps taken were not taken under the Quarantine Act.

[*English*]

**The Chair:** Mr. Thibault.

[*Translation*]

**Hon. Robert Thibault:** Please correct me if I am wrong, but I think the Canadian Medical Association told us that we should inform all doctors and all health care administrative regions. The idea was not necessarily to seek the agreement of all these individuals, but rather to inform them so that they would be aware of the problems or the steps being taken.

A little later, we will come to government amendment G-7, in which there is a reference to consulting the provinces. I agree completely with Mr. Merrifield. This bill will be implemented in emergency situations. We must be able to react quickly. It becomes almost impossible to get the agreement of the provinces and to negotiate with them. The minister must be able to react quickly. We must also remember that the minister's powers will come into play in the case of individuals arriving in the country or leaving it. Within the provinces, in all other cases, the provincial legislation will apply.

**Mr. Réal Ménard:** [*Editor's Note: Inaudible*], Mr. Thibault.

[*English*]

**Hon. Bill Blaikie:** Madam Chair, it seems to me that we may have found one thing in the Canadian context that should not be subject to federal-provincial negotiation. The whole idea of a Quarantine Act is for the federal government to be able to act quickly. I think that consultation, notification, and cooperation is fine, but the Minister of Health being able to act only with the permission of the provincial Minister of Health seems to me to be contrary to the whole spirit of the bill.

**The Chair:** Are you ready for the question?

Did you move it, Mr. Ménard? Are you moving BQ-7? You spoke to it, but I don't remember you moving it.

[*Translation*]

**Mr. Réal Ménard:** Yes. If it were to be voted down, I would have to request a recorded vote, but I would do so regretfully.

[*English*]

**The Chair:** Well, you have to ask first. So you want a recorded vote.

I will now call the question on BQ-7, on page 14, and I will ask the clerk to take a recorded vote on that amendment.

(Amendment negated: nays 7; yeas 2) [See *Minutes of Proceedings*])

• (1050)

**The Chair:** We'll now move to page 15, which is a similar idea, just a little more softly put.

Mr. Ménard, are you moving page 15?

[*Translation*]

**Mr. Réal Ménard:** May I check with the parliamentary secretary? I can see that there is a mitigating change there that makes the provision softer, as you said. Would the government be prepared to pass this amendment?

**Hon. Robert Thibault:** No. Governmental amendment G-7 on page 19 reads as follows: (4) The Minister should consult with the provincial public health authority of the province in which the place is situated before taking possession of it.

So we ensure that there will be consultation.

**Mr. Réal Ménard:** All right. I will therefore withdraw our amendment. I wish the previous amendment had carried. That is not the committee's wish, but I hope we will pass the amendment on page 19.

[*English*]

**The Chair:** Shall clause 7 carry?

(Clause 7 agreed to)

**The Chair:** Thank you.

We are now on page 16, which is one of those we have to clarify due to the royal recommendation on the expenditure of more money than contemplated.

I believe page 16 can be grouped with pages 17 and 18. They are about similar things.

I think we can stand clause 8 aside, with your agreement.

**Some hon. members:** Agreed.

(Clause 8 allowed to stand)

**The Chair:** That also now includes the one you wanted to pass. We don't have to, but—

**Hon. Robert Thibault:** Except do the whole clause, but could we still do that article?

**The Chair:** I'm going to ask the clerk, because she is the poor soul who has to keep track of our machinations.

I think she prefers that we stand the whole clause aside. Is that not correct?

The clerk says that if we return to clause 8 later to do pages 16 to 18, and we do proceed with page 19, we'll have to remember that we've already amended the clause.

I think we can manage that.

Now that you've agreed to stand the clause aside, I need to get your permission to reopen clause 8.

**Some hon. members:** Agreed.

**The Chair:** I think the individual amendments should be stood aside.

**Mr. Rob Merrifield:** So you're going to do page 19?

**The Chair:** We are, but in just a minute. I think we need another thing to have a note of exactly what we did.

We're now back in clause 8. So I think I need your agreement to stand aside amendments C-4, C-5, and G-6, on pages 16 to 18.

**Some hon. members:** Agreed.

**The Chair:** Thank you.

Now we're on page 19. We're back in clause 8, because we got ourselves back in there.

Mr. Thibault has an amendment.

**Hon. Robert Thibault:** I move this amendment, which is in relation to discussions with the provinces and the territories, the B.C. Ministry of Health Services, and the Council of Chief Medical Officers of Health for Canada.

**The Chair:** I don't see any of that here.

**Hon. Robert Thibault:** No, it's from my notes. It's just an explanation of where this amendment comes from.

**The Chair:** But it would be all provincial public health authorities, not just that of B.C.?

**Hon. Robert Thibault:** No, no, but there was a specific intervention at the department from British Columbia.

**The Chair:** You're telling me where it came from.

**Hon. Robert Thibault:** Yes, where it came from and the reason this amendment was—

**Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.):** Mr. Emerson, from B.C.'s department of public health, did mention it in the committee.

**The Chair:** Okay.

Are there any questions or comments?

Mr. Menard.

[Translation]

**Mr. Réal Ménard:** Is it possible to amend an amendment, Madam Chair?

**I would like to make this amendment a little more virile. We could say:** (4) The Minister shall consult with and seek the support of the provincial public health authority of the province in which the place is situated before taking possession of it.

I think that if we added the words "seek the support of", the clause would be stronger.

• (1055)

**Hon. Robert Thibault:** The only problem, Mr. Ménard and Madam Chair, is that we are talking about emergencies here.

The provinces, the Canadian Medical Association and all the individuals who made presentations to the committee simply asked that we consult people, that we get in touch with them, that we discuss the situation with them.

It will not necessarily be possible to wait three hours for the person in authority to come to the office to inform him or her of the recommendation or decision of the department, the agency or the local health authority. We must react quickly. As we often said in committee, this is a bill that will be used only very rarely, but it should be implemented energetically when required.

**Mr. Réal Ménard:** However, Mr. Thibault, you cannot behave as though this were a war measures act. You cannot take over a facility without the province giving it consent in some fashion.

You acknowledge that the bill says that the minister can establish quarantine stations throughout Canada. So that could be done in areas that come under provincial jurisdiction.

**Hon. Robert Thibault:** The bill will apply to people coming into the country and people leaving the country.

**Mr. Réal Ménard:** Or who are in the country.

**Hon. Robert Thibault:** When they are in the country, they will be covered by provincial legislation. If people attending a conference in Montreal become ill, this is the responsibility of the Quebec government. The Quebec Quarantine Act would apply. The bill before us will apply only when these individuals seek to leave Canada. The expert could give us more details on this matter.

**Mr. Réal Ménard:** Yes, I would appreciate that.

**Dr. Jean-Pierre Legault:** There seems to be some confusion between a quarantine station and a quarantine facility.

A quarantine station is a permanent infrastructure. It is somewhat like the customs stations in airports and ports, at entry and exit points. In order to manage the program, we must locate our permanent infrastructures in the highest risk areas and manage a national program. Normally, that is done on a federal lands or at federal entry points.

Quarantine facilities are established when the permanent infrastructure is inadequate to meet the demand. This could be done in isolated cases. Let us say, for example, that a traveller is very ill. We must remember that the role of quarantine is to identify, intercept and take the person to the hospital according to isolation procedures. This is one of the roles of the front line authority. The federal government does not have the infrastructure required to hospitalize people.

Quarantining people means putting them into medical isolation in order to protect the public. Clearly, we will be working in cooperation with the provincial authorities and with the hospitals. When we bring them a sick person, the room this person goes to will become a temporary facility, while the person is there. We have to be able to act quickly. We can talk about cost recovery and all those other things later, but we have to put these people somewhere.

In the case of much larger groups, we have to be able to mobilize quite quickly in order to respond. If we are talking about managing a crisis involving 1,000 people, for example, we have to be able to act very quickly. Negotiations are a problem at such a time.

**Mr. Réal Ménard:** However, your officials did make a distinction. First of all, we heard from witnesses. Representatives from national carriers came in and told us that there should be permanent quarantine stations in the eight largest airports.

Our concern has to do with the fact that temporary quarantine stations maybe established anywhere in the country. Obviously, we understand that we are talking about people in transit, who are entering or leaving Canada. We intercept them when they are on Canadian soil. As clause 8 states, the quarantine facility can be located anywhere in the country. As a result, it is not out of the question that there may be cases where the cooperation of provincial health authorities is required. However, according to the bill in its present form, the minister could establish a temporary quarantine facility in a place that comes under provincial jurisdiction without obtaining the province's approval.

•(1100)

**Dr. Jean-Pierre Legault:** That is correct, yes.

**Mr. Réal Ménard:** I'm not imagining things when I say that: it's a real possibility. Of course, we hope the provinces will cooperate, but as legislators, we must ensure that when the legislation is interpreted, it is what is written down that is interpreted, not what you had in mind.

Anyway, I would like to obtain the support of the provinces. If that's not what the committee wishes, I would prefer to talk about consultations rather than have nothing at all. I would prefer to see our amendment carried rather than defeated. However, it seems to me that my sub-amendment was reasonable. However, if the committee does not want to adopt it, we'll remember that.

**Ms. Nicole Demers:** Excuse me, Madam Chair.

[English]

**The Chair:** Are we moving that "shall seek the support of" as a subamendment? We're moving it.

[Translation]

**Mr. Réal Ménard:** Yes, I move this sub-amendment.

[English]

**The Chair:** Okay. Now, it reads "shall consult and seek the support of the provincial public health authority". We're now going to vote on the words "shall seek the support of", in a subamendment moved by Mr. Ménard.

Are there further questions or comments? Seeing none, I'll call the question.

(Subamendment negated)

**The Chair:** We are back to amendment G-7, Mr. Thibault's motion. Do we need further time to speak about this? If not, I'll call the question.

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

**The Chair:** We need agreement now to stand aside clause 8 as amended.

(Clause 8 as amended allowed to stand)

(On clause 9—*Designation of entry point*)

**The Chair:** We also need to carry clause 9.

**Mr. Rob Merrifield:** I have a question.

**The Chair:** Mr. Merrifield has a question on that.

**Mr. Rob Merrifield:** Yes, and maybe this is for the department staff. What we're asking here is—and I need to have this clarified—when the bill is enacted, then the minister may designate any points in Canada as entry points. Will that happen on the invoking of the act, right away, or will it be something that will only happen in case of a crisis? We need to know that. And will it be posted right away? Will these airports or ports of entry know that they have been designated?

**Mr. Dennis Brodie:** An entry point that is a customs point is automatically an entry point according to the bill, I believe. So where there are customs offices, those are deemed to be entry points under the proposed act.

**Mr. Rob Merrifield:** Okay, so that's airport, cross-border, shipping, all of those?

**Mr. Dennis Brodie:** Right. Now, whether they're staffed or not is another question. As has already been mentioned, we currently have eight quarantine stations set up across the country.

**Mr. Rob Merrifield:** Those eight will remain.

**Mr. Dennis Brodie:** Yes, I don't anticipate designating any further entry points that aren't already customs offices.

**Mr. Rob Merrifield:** How about the departure points? That's clause 10, but we can ask the same thing. Does the same apply in clause 10?

**Mr. Dennis Brodie:** Clause 10 is a bit of a different situation. We don't routinely screen travellers leaving Canada. We would only initiate that action in the event of some emergency where there's an outbreak in Canada, and we have to ensure that people leaving Canada don't infect people in other countries.

So we would only designate departure points in that instance, and they would be, I would imagine, at key border points where the largest number of people leave. Or if the outbreak is confined to, say, an area of the country, the departure points would be relevant to it.

•(1105)

**The Chair:** On page 20, we have an amendment by Mr. Thibault. Do you wish to speak to it, Mr. Thibault, or is it self-explanatory?

**Hon. Robert Thibault:** Don't you want to carry clause 9?

**A voice:** Right.

(Clause 9 agreed to)

(On clause 10—*Designation of departure point*)

**The Chair:** Okay. Now we're into clause 10, on page 20. Are you ready for the question?

**Mr. James Lunney:** No. I have a question on that.

On the departure points, I want to clarify, in designating departure points, does that mean they could designate that the eight major ports of entry as far as air travel goes would be the only exit points, and all the land border crossings, for example, to go into the U.S., would then not be designated departure points? Would those crossings be closed? What is the actual effect of those departure points? Would it limit the places where people can exit the country?

**Dr. Jean-Pierre Legault:** With regard to the designated points, it permits screening.

The eight standard stations would be the standard designated points, but in a situation of duress, in an emergency, you could designate extra points if these are the points through which people will be exiting. So that gives you flexibility to deal with a crisis.

If people are exiting to the United States, they might exit through a lot of points that are different, and it may be the wish of Canada to screen them at the border crossings where they will be doing most of the exits. So we could deploy the quarantine officers there and act there.

**Mr. James Lunney:** Does anybody know how many border crossings we currently have with customs?

**Dr. Jean-Pierre Legault:** Yes. We officially have a potential of 1,300 border crossings, but in practice we have about 140. That means we would have to move very quickly and appoint a lot of persons, but that's feasible.

**Mr. James Lunney:** So you're saying you have 140 border crossings that would be priority points, and as many as 1,300 that you might have to staff with screening officers.

**Dr. Jean-Pierre Legault:** If we look at all the potential points in Canada, from a logistics point of view you would have to deal with a potential of 1,300 points if you don't shut some of them down. The main ones are the 140 points that you could have to deal with.

There's a multitude of ways you can deal with that, but that is feasible to do.

**Mr. James Lunney:** Wow. Thank you.

**The Chair:** Mr. Thibault.

**Hon. Robert Thibault:** I stand to be corrected, but I think there's another element to this point that's important.

If you have an area within Canada that is neither a departure point nor an entry point but you have a cruise ship come in—for example, the little community of Digby, which occasionally receives a cruise

ship—if there is a problem on that ship, an incident, the minister, if I understand this correctly, may designate that as a departure point and may invoke all provisions of the Quarantine Act to protect the people of the next port that ship would visit.

**The Chair:** Mr. Lunney, are you satisfied with the explanation?

**Mr. James Lunney:** Well, I'm just concerned. Is the implication of this clause that the minister could say, for example, well, we're concerned about Ontario, so we're going to close all of the border crossings from Ontario, all of them, and you can only exit through a dozen regulated spots?

**Dr. Jean-Pierre Legault:** No. It's a departure point for outside of the country. We're not talking about interprovincial travel here. We're talking about the points to exit the country.

**Mr. James Lunney:** I'm talking about exits to the U.S.

**Dr. Jean-Pierre Legault:** With that, if you need to designate the points, if you want to have extra points, you can put them in, if it's appropriate to do so, and then you do the screening at those points.

•(1110)

**Mr. James Lunney:** I agree with the wording changes that I see in the clause. Those seem to facilitate the languages better. I'm just trying to understand the implications of the clause.

**Mr. Mario Simard (General Counsel, Legislative Renewal, Health Policy Branch, Department of Health):** I think there's an element of information missing here.

By declaring a departure point, the only impact it has is with regard to clause 13 of the bill. All that means is that if you leave through a departure point, you have to report to the screening officers, but it doesn't mean that you cannot depart from another point.

**Mr. James Lunney:** I see. Thank you.

**The Chair:** Mr. Thibault, have you moved—

**Hon. Robert Thibault:** I do so move.

**The Chair:** Mr. Thibault has moved it.

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

(Clause 10 as amended agreed to)

**The Chair:** We're now on page 21, amendment BQ-9.

Monsieur Ménard.

[Translation]

**Mr. Réal Ménard:** I withdraw the amendment. It was an error on the part of the law clerk.

[English]

**The Chair:** He is going to withdraw it.

**An hon. member:** Bravo.

(Clauses 11 to 13 inclusive agreed to)

(On clause 14—*Screening technology*)

**The Chair:** We're on page 22 of the amendments, and clause 14. We have an amendment proposed by Madame Demers, and I think there's another amendment on the next page that is for the same line.

Madame Demers, do you want to speak to yours?

[Translation]

**Ms. Nicole Demers:** Yes. We feel it's important that it be the screening officer or quarantine officer who can use the prescribed screening methods. Otherwise it could be any person designated or authorized by the minister. That can be a customs officer as we feared and as the Canadian Nurses Association feared when they came to meet us. We believe it's important that this person be qualified. I'd be prepared to drop the term "screening officer" or "quarantine officer" and replace it by "qualified person". It's important that this be a qualified person, not just an authorized person.

[English]

**The Chair:** There's something going on here that I think we're not being clear about. I think the general intention is that the screening officer is a customs officer. I think you're labouring under the idea that a screening officer has some kind of medical credential. They don't. It will be a customs officers who will be the screening officer in the first instance.

[Translation]

**Ms. Nicole Demers:** He's the one who will be doing the screening and using the screening methods?

[English]

**The Chair:** Screening.

**Hon. Robert Thibault:** Perhaps we could get clarification from our panellists to make sure that you understand this properly.

[Translation]

**Dr. Jean-Pierre Legault:** We must point out that "screening officer" can mean many things. I don't have a problem with stating outright that the person has to be qualified for what he's doing. It can be a customs officer, because those officers do screening all the time, whether it's to find something illicit, to protect our nation's security or for medical reasons. They do very basic screening. If someone seems sick to them or if they have information telling them that the person is unwell, they must be able to call upon a quarantine officer with the right qualifications who will then conduct a more in-depth examination.

With regard to mass screening, we'll always use people who are qualified, but who are not necessarily quarantine officers. If we have a problem at Pierre Elliot Trudeau Airport and if we have to take the temperature of people who are arriving or departing right away, we need to mobilize qualified people to do this. We could ask nurses who don't have the federal status, but who are qualified by their professional body to come and take peoples' temperature. As long as we have the word "qualified", I think that that's fine.

Now with regard to screening officers who are customs officers, they are the first line of defence. They will tell us who seems to have a problem and will ask us to do a more in-depth assessment. Have I answered your question?

•(1115)

**Ms. Nicole Demers:** Yes, very well. Thank you.

[English]

**The Chair:** I'm not worried about the customs officer doing the initial screening, but you said it "could be" a customs officer doing

that screening, or it "could be" somebody else, and that "could be" could go up the qualification chain into say nursing, doctors, or whatever.

**Dr. Jean-Pierre Legault:** Correct.

**The Chair:** Could it also go down to somebody else who works at the airport, who literally has no qualifications to either be a customs officer or a medical person?

**Dr. Jean-Pierre Legault:** No. With the screening technology you obviously need to use someone who is qualified in taking that specific screening.

**The Chair:** Qualified according to whose standard...?

**Dr. Jean-Pierre Legault:** That would be the standard of the minister. With the ever-evolving technology, you may want to do a screening where the person who does that specific screening is trained, but who is perhaps not a nurse, who is perhaps not a customs person. Perhaps it could be a medical assistant in some sort of a program. If you have medical assistants who are trained in taking a person's temperature, a group of qualified persons to do that specific action, then you might elect to use those persons.

In SARS we had to go with groups of persons on the outside who had a specific type of qualification, and bring them in very quickly with the status of screening officer.

Depending on what you're dealing with, from the operational point of view, the accountability stays there.

[Translation]

The accountability remains.

[English]

Accountability stays there with regard to the authority you will give to those persons. In the medical world you cannot get out of accountability. When you appoint there is always an onus there, but you must not hamper the flexibility of what you will use to screen very quickly. We're always talking about situations of crisis management.

**The Chair:** I understand. So you want flexibility.

**Mr. Dennis Brodie:** Madam Chair, could I just add to that?

**The Chair:** Yes, Mr. Brodie.

**Mr. Dennis Brodie:** The intent of this clause is to authorize the use of screening technology. Currently there are thermal scanners in some airports that people walk through and they can measure your temperature. That's the type of technology this clause refers to. So the person who runs that machine has to be qualified to use it. That's all we're talking about. We're not talking about screening.

[Translation]

**Ms. Nicole Demers:** If that's the technology we want to use and if the person must be qualified, we have to state that. Otherwise, we're allowing far too much leeway.

[English]

**Mr. Dennis Brodie:** Yes, and that's what we've said.

**The Chair:** That's why on the next page Mr. Thibault says "any qualified person", qualified for whatever the task.

So would you like to withdraw yours?

•(1120)

[*Translation*]

**Ms. Nicole Demers:** I withdraw mine.

[*English*]

**The Chair:** Thank you.

Mr. Thibault, we're now on page 23.

Mr. Thibault is moving his amendment G-9.

**Hon. Robert Thibault:** I so move.

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

**The Chair:** We have another amendment from Madame Demers in clause 14 on page 24. This is the addition of the word "prescribed".

Madame Demers, perhaps you could explain why you want to add that word.

[*Translation*]

**Ms. Nicole Demers:** I think that Mr. Brodie has just discussed that. It has to be regulatory. It has to be a recognized technology and that has to be indicated. Otherwise, people could use technologies other than the one prescribed. I think it's very important that the technology be specified by regulation. It can be lasers, heat detectors or anything else, but it has to be recognized technology.

**Hon. Robert Thibault:** I put the question to the member once again. I understand the point she's raising, which is an important one, but does this really have to be in the regulations? Can't this be part of operational issues that come under the purview of the department? Technology can change quickly. When we draft a bill, we're writing it for all eternity, and the legislation can always be amended later. This doesn't involve only technology that exists today, but also technology and occupations that may evolve.

The regulations can evolve more quickly than the legislation, but the process is still pretty slow. I think it would be a mistake to prescribe the technology to be used. I don't know whether the regulations could have recognized the technology that we used for SARS. I don't think we know whether this technology is effective and whether we will want to use it again in the future. We may want to use something we don't even have yet.

**Ms. Nicole Demers:** I think it was recognized before it was used anyway.

**Hon. Robert Thibault:** Not in the regulations.

[*English*]

**The Chair:** By using the word "prescribed" you're suggesting it be listed in the regulations, and Mr. Thibault is suggesting that perhaps you don't want to be restricted to technology that's already in the regulations because something better may have come along in the interim.

I think Mr. Lunney wants to comment.

**Mr. James Lunney:** I would hope that whatever screening procedures are going to be recommended and standardized across the nation, and a recommended procedure....

I think the fact that Madame Demers has raised this point is simply affirming that. It doesn't really change things in a great way. This is an example of what it does do. If your thermal sensors, for some reason, break down at one airport, and some improvising employee, in their enthusiasm to do their job, decides to check everybody's temperature with a thermometer as they're going by, orally, which actually wouldn't fit with the...then you have an issue. Have they reused these thermometers, have they adequately cleaned them, or are they spreading disease if they're taking it orally?

I'm just saying it doesn't do any harm to add that word "prescribed", at least as far as I can see. They're just saying that they're following a prescribed and laid-out procedure rather than improvising.

**The Chair:** So you're speaking in support of the amendment?

**Mr. James Lunney:** Yes, I would support the amendment.

**The Chair:** Any further questions or comments?

Mr. Merrifield.

**Mr. Rob Merrifield:** I suppose prescribed by whom? If it's prescribed by regulations, then I have a problem with it, because regulations can't change that quickly, and if it's not prescribed then we're handcuffing ourselves.

It was the same with SARS. Thermal scanners were never heard of until that broke out, and then we started using that technology.

So I wouldn't want to put in a bill something that would prohibit us, but if it were prescribed by the minister and the minister could do it, I could live with that. So I guess we need prescribed by whom.

**The Chair:** The word "prescribed" suggests the regulations. That's what that word traditionally describes.

**Mr. Rob Merrifield:** Then I have a problem with this.

[*Translation*]

**Mr. Réal Ménard:** This will be regulated by the authority enabled to legislate, like any other kind of regulation. I don't see why we should prevent ourselves from ensuring that there is some regulatory control. As a matter of fact, that is what the Office of the Privacy Commissioner told us. Technology can change and there can also be extremely invasive technology. This is why this control standard is necessary.

•(1125)

[*English*]

**Hon. Robert Thibault:** I remind members that I think we said already at the committee—I don't know if it was in the amendments or how we were going to do it—that we wanted at the committee to see, and I think we even said "authorize", any regulations or changes to the regulations.

So imagine how quick we are, how quick that regulatory process already is. I'm not arguing against it, but we slow it down by bringing it to us. If we have an emergency and we have to go through the regulatory process, I think it would be very difficult.

If Madame Demers' amendment would say "prescribed by the minister", I think that could be a lot faster. I think it would still answer to what you're suggesting, that there be a standardization, that there be a quality control, but I think the department is fully capable of doing that and they could do it in a much faster fashion.

**The Chair:** He's suggesting the word "prescribed" implies other things, such as the regulations, which might be slow to change and therefore slow to include a new technology. Perhaps you could say "any technology authorized by the minister". That would allow for instantaneous—

[Translation]

**Ms. Nicole Demers:** But the minister could also make a mistake.

**Mr. Réal Ménard:** We have a misunderstanding here. I don't understand the committee's reservations. Am I wrong to think that there is already regulation in place for the kind of situation we are talking about? Who is responsible for the equipment used in airports, for example? How is it established that a certain person could use a scanner or use the technology that you were talking about to take someone's body temperature?

**Dr. Jean-Pierre Legault:** That was established in a crisis. We had never faced that kind of situation before. In consultation with the World Health Organization, medical advisors determined that the best thing to do was to take people's temperature by any means possible, but not by invasive means. I should add that everything we do remains non-invasive. If we need to go any further, we proceed with an external examination.

In a crisis situation, with the emergence of new diseases in today's world, we have to be prepared to respond to anything. If we have to go through several levels of approval in a situation that requires immediate action, we won't be able to accomplish anything.

Requesting authorization from the minister will certainly allow us to ensure that the techniques used comply with what the medical advisors told us. To get back to what you were saying about temperature, only authorized methods can be used. However, our operations would be adversely affected if we had to go through a very cumbersome process. That's where the problem lies.

**Mr. Réal Ménard:** There's something I don't understand here.

Look what happened on Parliament Hill this week. Let's take 30 seconds to think about this. There are parliamentarians who could not gain access to Parliament Hill. The context may have been different, but the reason given was that the President of the United States thinks he's at home everywhere in the world. Our colleagues, members of Parliament, saw people from the RCMP directly enter their offices. This was a violation of parliamentary privilege.

As you stated, we must be able to respond swiftly in the case of an epidemic. However, our concern is that you would be interacting with people and you would collect information on their physical health and medical history. How will putting this in a regulation mean that it's less cumbersome? I had not understood that you had to go through the committee every time a regulation was amended. I had understood that, as is the case for the tobacco regulations, we wanted to see the regulations and afterwards, as in any other sector of government activity, they could be amended.

However, we should be careful about what we authorize because of an emergency. The limit in the bill is that nothing can be introduced into the human body. However, just because these technologies are not invasive right now doesn't mean that new technologies that come over the horizon won't be. If you have no control, you run the risk of committing abuses.

• (1130)

**Dr. Jean-Pierre Legault:** As far as the protection of privacy is concerned, you seem very worried about the collection and retention of data on individuals, which is something that we don't do during a check. When people pass in front of a thermograph, we don't record anything; we only look at whether the person has a problem or not.

**Mr. Réal Ménard:** Except that your quarantine officers are empowered to inquire about and record people's medical histories.

**Dr. Jean-Pierre Legault:** When an intervention takes place. The screening officer does not collect documented information.

**Mr. Réal Ménard:** No, it's the quarantine officer.

**Dr. Jean-Pierre Legault:** That's right. Any information the quarantine officer collects is kept in accordance with privacy criteria. These are medical documents, that is to say that they are kept with all required precautions. However, when we talk about new technology, we are not talking about a technology that's new for the quarantine officer, but the technology that is new for mass screening. And when we talk about mass screening, we are not talking about the collection of...

**Mr. Réal Ménard:** No, but we are talking about body searches.

**Dr. Jean-Pierre Legault:** Body searches? No.

**Mr. Réal Ménard:** You're going to collect information on an individual's physical state.

[English]

**The Chair:** We're not really sticking to this clause.

Mr. Lunney wants to make a comment on this clause.

**Mr. James Lunney:** We made some changes with regard to screening officers. We put in the word "qualified". I think we're all in agreement that "qualified" strengthens it a little bit, and clarifies it. It's just cleaner language.

We're going to look at one about relevant questions. This clause says "any" screening procedure. I think the addition there of the word "prescribed", so "any prescribed", is in the same context. It simply says that this is following the procedures outlined, be it by the authority here for quarantine.... And I'm sure there are technologies.

So it doesn't say prescribed in regulation, it just says prescribed, which means the recommended procedures.

I don't understand the objection, actually.

**Mr. Mario Simard:** May I give some information?

**The Chair:** Yes.

**Mr. Mario Simard:** When you say "prescribed", it means prescribed by regulations. Even if they're regulations by the minister, they're still regulations. You're subject to the regulatory process, to prepublication, to the whole process, and that takes a certain length of time.

I've heard some other words here, including "authorized" by the minister. This would mean that the minister has to exercise some control, but you're not then subject to the regulatory process, and you could react more quickly. In other words, you may want to consider, in line with the other amendments you were referring to, the word "reasonable", as in "any reasonable" technology.

There's just one other point I would like to make. It is very clear, in clause 14, that we're talking about non-intrusive technology here. This is in the bill itself.

**Mr. Rob Merrifield:** That's good. So we could change "prescribed" to "reasonable".

Would that be all right? Would you go with that amendment?

**The Chair:** Mr. Blaikie.

**Hon. Bill Blaikie:** I don't understand why we can't just say "any screening technology authorized by the minister that does not involve".

I mean, let's get on with it.

**The Chair:** Madam Demers, would you agree with removing the word "prescribed", and then, after "technology", adding "authorized by the minister"?

**Ms. Nicole Demers:** Definitely.

**The Chair:** Mr. Blaikie, do you move that as a subamendment?

**Hon. Bill Blaikie:** Yes—whatever needs to be done.

**Mr. James Lunney:** Can we just listen to that again? It sounds like it's going to come out doing the same thing as "prescribed", and "prescribed" is cleaner.

**The Chair:** No, no, it's not; it's totally different.

At any rate, I'm calling the question on Mr. Blaikie's subamendment.

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

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

(Clause 14 as amended agreed to)

●(1135)

**The Chair:** If Mrs. Chamberlain says so, it happens.

(On clause 15—*Duty to provide information*)

**The Chair:** Mr. Thibault, we're on page 25, and you have something.

**Hon. Robert Thibault:** I so move the amendment that the word "relevant" be added. That's in accordance with the wishes of the Office of the Privacy Commissioner.

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

**The Chair:** Mr. Ménard, again on clause 15.

[Translation]

**Mr. Réal Ménard:** This is a suggestion that was made by Ms. Gibson of the University of Dalhousie Faculty of Law. We made a few amendments to replace the French word *valablement* by *raisonnablement*. In clause 15(1), the point is actually to replace the French word *valablement* by the word *raisonnablement*. I think that this is a question of law. The need for reasonable grounds is

something that has been established by precedent. It's probably more precise.

[English]

**The Chair:** We'll vote now on BQ-12.

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

**The Chair:** On page 27, Mr. Thibault.

**Hon. Robert Thibault:** A great number of these are in here, in accordance with, again, Elaine Gibson of the Health Law Institute. She was suggesting that "might have"...or I think there were different words used. The legal advisers of the department are recommending that the term "or might have" be added.

The same amendment is going to be suggested for a great number of clauses.

**The Chair:** Are you ready for the question on amendment G-11?

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

**The Chair:** We are still on clause 15, and we have an amendment from Mr. Merrifield on page 28. Are you going to move that and speak to it?

**Mr. Rob Merrifield:** Yes, I'll move it. It is fairly self-explanatory. The reason we'd like to have it is because it's a little more explanatory. I don't think it needs much explanation. I think it's fairly clear.

**The Chair:** This isn't one of the ones you agreed to change to "might have" as opposed to "reasonably likely"?

**Mr. Rob Merrifield:** Yes, I think it is one.

**The Chair:** Do you have that chart, Mr. Thibault?

**Hon. Robert Thibault:** It adds a little bit of different wording. It is one that the previous one takes care of, so if the member agrees to withdraw....

**Mr. Rob Merrifield:** I'm fine with this one. The discussion was on whether we should put "reasonably likely to have" or "might have". Is that right?

**Hon. Robert Thibault:** "Might have" has a lot less onus on the drafter. It's a lot easier.

**Mr. Mario Simard:** If I may, there is some confusion here. This is not exactly the same thing. The paragraph you are referring to is the case when a traveller has to report to the screening officer that the traveller has been in contact with a person who has the disease. I'm suggesting that it may be too much to ask the traveller to report that he has been with a person who has or is reasonably likely to have had the disease. It's too much to ask of a traveller.

It's a policy decision. That means if you are on an airplane, sitting next to somebody who is coughing, if we followed your amendment, you would have to report to the screening officer. That's why the bill only talks about being in contact with somebody who has the disease. You know that the person has the disease.

**Mr. Rob Merrifield:** But you realize that when you booked this piece of legislation, even for SARS, this wasn't there. You're in a crisis situation. In this situation, if somebody coughs or shows symptoms and is reasonably likely to have the disease, you should come forward.

This isn't used very often. In fact, this is very seldom used. When it's applied, you should apply it aggressively. If somebody is reasonably likely to have the disease, you had better come forward.

•(1140)

**Hon. Robert Thibault:** Could we ask the legal counsel if the terminology "reasonably" in that sentence reduces the onus on the traveller? Is it reasonable that I would know a person is likely to have it, as opposed to a medical practitioner understanding that a person might have it?

**Mr. Mario Simard:** It's a policy decision. If you think it's reasonable to ask that, it's fine. I don't think the problem is with the wording as such. The wording presents a proper test. It's a matter of determining how much you are prepared to ask from the traveller. It's a policy decision.

**Mr. Rob Merrifield:** My opinion is that this is only used in extreme situations. I think it's reasonable to ask the traveller whether he or she has been in contact with somebody who may have or carries the disease.

**The Chair:** Are you ready for the question? As the staff person says, it's a policy decision.

**Mr. James Lunney:** We've used "or might have" already.

**The Chair:** He says there is nothing wrong with this wording if you want to use it.

**Mr. James Lunney:** In the interests of consistency, frankly, I have great discomfort with "or might have" because it gives tremendous power to incarcerate people who have no symptoms, may be perfectly healthy, and may never come down with anything.

**The Chair:** I understand, but we don't have "might have" here. We're not dealing with that in this case.

**Mr. James Lunney:** I'm only saying it's in the next one and it's in the other one. Would Mr. Merrifield be consistent in using the language at least?

**The Chair:** We're on this one, though, Mr. Lunney.

**Mr. James Lunney:** If you're going to use language with the same force, why aren't you consistent in using "or might have", which is as bad?

**The Chair:** The mover wants this language, so we're going to vote on this language in amendment C-6.

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

(Clause 15 as amended agreed to)

(On clause 16—*Obligation to inform*)

**The Chair:** We are now on clause 16 on page 29. Mr. Thibault has something, but Mr. Merrifield has something similar on the next page. Mr. Thibault covers line 19 and replaces lines 22. Mr. Merrifield, on the next page, is replacing line 22.

Here we get into the discussion that was started a minute ago by Mr. Lunney. Are we going to use "might have" or "is reasonably likely to have"?

Mr. Thibault, your amendment comes first.

**Hon. Robert Thibault:** I can talk about the amendment generally, but about the question of the "might have", this is what was

suggested to us by the drafters at the Department of Health, the legal services, as better legal language. I think it accomplishes the same thing. There's no philosophical difference between the two.

**Mr. Rob Merrifield:** That's my opinion of it as well. I don't have a preference. This just gets into the language. The intent is the same. Pick one and let's go with it.

**The Chair:** Okay, so we now have Mr. Thibault's amendment in front of us. I'll call the question, if I see no further questions, by a show of hands.

Mr. Merrifield.

**Mr. Rob Merrifield:** Maybe further to that, since we're likely going to follow this through all the way, is this the counsel given at the other end of the table, that we should go with the "might have", or is there a difference?

**Mr. Mario Simard:** Yes, and one of the reasons we went with "might have" is because, if you look at paragraph 16(1)(a), you already have "reasonable" there: "the screening officer has reasonable grounds to suspect that a traveller has or might have or might have...." So you already have the notion of reasonableness. Otherwise, it would be redundant.

**Mr. Rob Merrifield:** Okay, good enough.

**The Chair:** I'll now call the question on amendment G-12, on page 29.

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

•(1145)

**Mr. Rob Merrifield:** I'll withdraw my amendment.

**The Chair:** Now Mr. Merrifield is withdrawing his amendment, on page 30.

(Clause 16 as amended agreed to)

**The Chair:** We didn't get any amendments to clauses 17 or 18.

(Clauses 17 and 18 agreed to)

(On clause 19—*Health assessment required*)

**The Chair:** Okay, we're moving right along. We're on page 31, an amendment from Mr. Ménard.

[Translation]

**Mr. Réal Ménard:** Actually, in light of the amendments we made concerning authorized health assessments, I'm wondering whether we shouldn't do the same thing here. I wonder whether this amendment is necessary, given what we've adopted already. I'm in the hands of our advisors. If they tell us that this amendment is null and void given what we've just adopted, I'm prepared to withdraw it. I don't know what our advisors think about this.

**Mr. Mario Simard:** You already have a definition of health assessments, or *contrôle médical*, in clause 2, which sets out what is meant by a health assessment.

**Mr. Réal Ménard:** So you don't think this amendment is necessary.

**Mr. Mario Simard:** No, I don't think it is necessary.

**Mr. Réal Ménard:** All right. I'm prepared to withdraw it.

[English]

**The Chair:** Thank you, Mr. Ménard.

We've carried up to clause 18 now, other than the ones we've set aside. There's another amendment to clause 19.

**A voice:** There are several.

**The Chair:** On page 32, Mr. Thibault has an amendment that brings in this "has or might have", and I think Mr. Merrifield—

**Mr. Rob Merrifield:** That's fine. I'll withdraw my amendment.

**The Chair:** Okay, Mr. Merrifield is going to withdraw his amendment on page 33. So I'll now call the question on page 32, amendment G-13.

Mr. Thibault has to move it.

**Hon. Robert Thibault:** I so move.

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

**The Chair:** Amendment C-8, on the next page, has been withdrawn. We're now on page 34, where Mr. Thibault has an amendment.

**Hon. Robert Thibault:** I move this amendment. Again, it establishes "48 hours after the quarantine officer requires". It's in accordance with what was suggested by Elaine Gibson in her presentation at the committee.

**The Chair:** What is going to happen within 48 hours in this one?

**Hon. Robert Thibault:** The amendment would provide time limits for the conduct of health assessments. This amendment would ensure that individual rights are not unduly impacted for the extended period of time.

**The Chair:** Very good.

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

(Clause 19 as amended agreed to)

**The Chair:** Mr. Thibault.

**Hon. Robert Thibault:** Madam Chair, I propose that we stand clauses 20 through 32, that we do clause 33 and then immediately return to clause 20.

**The Chair:** There is a new clause 33.1, which, if passed, has impact on the ones we're just approaching now.

We're now on page 34.1 in our binder.

[Translation]

**Hon. Robert Thibault:** Once we've seen that amendment, it will clarify the others.

[English]

**The Chair:** He wants to stand clause 20 aside. In order to accommodate what Mr. Thibault is suggesting, we would actually be moving to page 60.

[Translation]

**Mr. Réal Ménard:** Is the parliamentary secretary proposing that we allow clauses 20 to 32 or 20 to 33 to stand, and if so why? I don't mind doing it, but I'd like to know why.

**Hon. Robert Thibault:** It's clauses 20 to 32. As a matter of fact, when we read clause 33.1, it will clarify many of the issues that come up in other amendments and clauses. You will see that amendment G-27 on page 60 deals with several federal-provincial issues.

**Mr. Réal Ménard:** That's on page 60 of our document?

**Hon. Robert Thibault:** That's right. Advising the provinces.

[English]

**The Chair:** Are you in agreement to proceed in this fashion?

**Some hon. members:** Agreed.

(Clauses 20 to 32 inclusive allowed to stand)

**The Chair:** Thank you. If you have a paperclip with you, you might just want to put those pages together and turn to page 60.

This is a brand-new clause. This isn't a subclause of clause 33. We're adding a new clause here, clause 33.1, and Mr. Thibault is going to explain it.

Mr. Thibault.

•(1150)

**Hon. Robert Thibault:** This amendment would add notification requirements for provincial and territorial public health authorities regarding the administration and enforcement of certain parts of the act, clauses 22, 26, 27, 28, 29, 32, 33, 35, and 39. In practice, the administration of the federal Quarantine Act would have implications for public health in provinces and territories. This amendment underscores the need to maintain and support positive and collaborative federal, provincial, and territorial relations. This was suggested by the Council of Chief Medical Officers of Health in recent consultations. So this is in response to that.

**The Chair:** This puts quite an onus of communication on the federal government, particularly on the second page. Essentially, all information about this traveller shall be communicated to the province.

Mr. Ménard.

[Translation]

**Mr. Réal Ménard:** In clause 33.1(1), why is the expression "shall inform" used? You say this is a matter of cooperation, but really, this only concerns the transmission of information.

**Hon. Robert Thibault:** Remember that this is exactly what the doctors asked the committee to do. They asked that we inform the provinces as soon as possible. In addition, the provincial medical officers asked for this information in order to make sure that everyone is on the same wavelength. This is something we learned during the SARS crisis. It may be a good idea to ask for the advice of the experts in this matter.

**Mr. Mario Simard:** That's right. When we say "shall inform", that means that there's an obligation to inform. The point of this provision is to force the federal government to inform the provinces when measures are taken, in case this has an impact on the administration of their health care system. The second part of the provision indicates what information is transmitted so as to protect private information.

**Mr. Réal Ménard:** That wouldn't be a bad idea, since the provinces may have to step in to provide the care.

You really are a dove in this government. We know that there are hawks, but there are also doves.

[*English*]

**The Chair:** Mr. Merrifield.

**Mr. Rob Merrifield:** I don't have a really big problem with it, other than that I don't know why it's here. If we're going to give all this information to the provincial public health authorities, that's fine, but why don't we just say "in accordance with the regulations"?

These specify areas. We don't specify them in the bill in other areas. Why don't we just say "in accordance with the regulations" on these, and then put them in the regulations? To me, it seems out of place in the bill.

[*Translation*]

**Mr. Réal Ménard:** It is the provinces that will provide the services. You may be pleased to hear that Belgium does it.

[*English*]

**The Chair:** The thing is, we've had a request to do this from the chief of the organization of the medical officers of health of the provinces, I believe. Is that it, Mr. Thibault?

In some cases...as a matter of fact, the trend for this committee has always been to get more in the bill and less in the regulations, so your comment is surprising.

**Mr. Rob Merrifield:** I realize that. It's out of place with the rest of what we've always argued. I'm wondering if there's an explanation from the other side as to why we're putting these details here.

Maybe it's a good thing, but....

**The Chair:** I think by putting it in the bill we're actually laying out very clearly our sense of obligation to the provinces, that they be told these particular things, and maybe more if they are discretionary.

**Mr. Mario Simard:** And if I may, it's also because this is about the transferring of personal information, so it's better to have it in the act so that it's clear what information can be transmitted under what circumstances.

**Mr. Rob Merrifield:** Fair enough.

**Mr. James Lunney:** This is exactly the point I wanted to raise here, because it does involve personal and confidential information about business and other personal matters. We've had input from the Privacy Commissioner on other things, such as reasonable questions.

Is this something the Privacy Commissioner has had a chance to review? Should we be seeking some input from the Privacy Commissioner on this clause that is being suddenly added to the bill?

**Mr. Mario Simard:** I cannot answer that question. All I can say is it is because of that sensitivity that we've added subclause (2), which specifies exactly what information you can give.

It's very limited, as you can see.

•(1155)

**Mr. James Lunney:** Madam Chair, might I suggest that we refer this matter with some urgency to the Privacy Commissioner for her review before we continue with this clause?

**Hon. Robert Thibault:** It's my understanding that there has been consultation with the Privacy Commissioner all along.

Again, perhaps the framers of the amendment might be the best ones to ask.

**Dr. Jean-Pierre Legault:** What is out there is really what is done in practice right now, so it outlines what is being done.

What the Privacy Commissioner has asked is that when we transmit information for the management of the case—and this is why it is there—the office be informed. In the privacy laws there is a way to do it, but it's very tedious because we need to inform each time that we inform somebody else about information on a person without the consent of the person. There is no time for that, so we always need, after the fact, to inform the Office of the Privacy Commissioner of what we've done. Just the sheer volume of it is quite tedious.

In actual fact, as was raised, we deliver the person to the provincial system, and we need to have an exchange of information when we ask the province to participate in the care.

Or what we do is intercept. We deliver them using isolation techniques to make sure the spread does not occur, and we need to inform our business partners.

**Mr. James Lunney:** That said, I think the question still remains that we're adding a very substantial section to the bill. I would assume the Privacy Commissioner has reviewed the bill as it was and made comment on it.

**The Chair:** That was the question, actually.

Has the Privacy Commissioner reviewed this new clause?

**Mr. Dennis Brodie:** No, the Privacy Commissioner has not reviewed this clause. However, as my colleague said, it is in line with the general advice we get on a continual basis from the Privacy Commissioner, which is that if you're going to disclose personal information, you'd better be clear about what type of personal information you're disclosing. That's the general advice we've followed.

But no, we have not consulted with the Privacy Commissioner on this specific wording.

**The Chair:** How long would it take to do that?

**Mr. Dennis Brodie:** We could try today.

**The Chair:** I'm wondering if you could find a fax machine close to here and get somebody in that office to have a look at it.

People have been here now for two hours. There is food at the back of the room for everyone in the room, so I'm going to call a little recess here.

We'll reconvene in about 20 minutes. We're recessed until 12:20.

- (1158) \_\_\_\_\_ (Pause) \_\_\_\_\_
- (1224)

**The Chair:** Welcome back, ladies and gentlemen. I hope you feel somewhat refreshed from your lunch.

Thank you, Madam Clerk, for arranging that.

I have had a report from the officials that they haven't got an answer from the Privacy Commissioner yet but might have one by the time we reconvene at 3:30. But looking at the bill, I can see that the part after this, page 61, moves into a different part of the bill, about conveyances, so I think we could probably go forward and stand G-27, if I have your agreement, until we get that answer, because this particular G-27 is the linchpin to going back to clause 20.

- (1225)

**Mr. Rob Merrifield:** So you're going to go beyond page 60, then?

**The Chair:** I think so, because we don't have an answer and it is the linchpin of doing that other piece we have set aside.

(Amendment allowed to stand)

(Clause 33 allowed to stand)

(On clause 34—*Report of arriving operators*)

**The Chair:** We're now on page 61. Mr. Thibault has an amendment called G-28. It's about conveyances.

Mr. Thibault.

**Hon. Robert Thibault:** I move the clause.

The intention of the clause is to secure that a conveyance operator reports any illness or death on board before arrival in Canada. The existing wording may be interpreted to mean a private conveyance vessel, such as a yacht or private carrier, that is not used for the business purpose of carrying persons who could be exempt from reporting requirements. This clarifies it, that they're not exempt. This amendment would allow the minister to set out in regulation which types of private conveyances are required to report public health-related activity. This amendment was suggested by the chief medical officer in one province, either Prince Edward Island or New Brunswick, during recent consultations with the provinces and territories.

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

(Clause 34 as amended agreed to [See *Minutes of Proceedings*])

(On clause 35—*Diversion order*)

**The Chair:** We're now on page 62, clause 35, and Mr. Ménard has an amendment, BQ-19.

Mr. Ménard.

[Translation]

**Mr. Réal Ménard:** Same comments as earlier, Madam Chair. The legislative advisor helped me check all the places where we thought that in order for screening officers or anyone else engaged in an activity for a third party to be able to do so, there had to be reasonable grounds. You will see that there are five or six other such amendments. This also applies to the clause before us, clause 35,

concerning vehicles. I think this simply enshrines what has been said in case law.

(Amendment carried)

(Clause 35 as amended carried)

[English]

**The Chair:** We're now on a new clause called 35.1, which has been inserted, and Mr. Thibault will explain why.

**Hon. Robert Thibault:** I'll move the amendment.

This amendment would enable the Minister of Health to communicate directly with NavCanada, the current provider of air navigation services in Canada. This amendment was suggested by NavCanada and is supported by Transport Canada.

**The Chair:** And what will it accomplish, Mr. Thibault?

**Hon. Robert Thibault:** It's that a deviation order to an airline asking them to go to another place would be done through NavCan so you maintain air security.

If the experts would like to comment, that would be fine.

**Mr. Dennis Brodie:** The intent of new clause 35.1 is to allow the minister to divert an aircraft if there is a public health emergency on board to an alternate landing site. This additional clause ensures that the minister can communicate directly with NavCanada, which then can order the airline to divert.

- (1230)

**The Chair:** That's very clear. Thank you very much.

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

(Clause 36 agreed to)

(On clause 37—*Screening officer*)

**The Chair:** We're now on page 65 and we're looking at clause 37. Mr. Ménard has an amendment.

[Translation]

**Mr. Réal Ménard:** This is the same comment as earlier, but which applies to a screening officer concerning a vehicle. It refers to "reasonable grounds".

(Amendment carried)

[English]

**The Chair:** We're still on clause 37, and on page 66 Mrs. Demers has an amendment called BQ-21.

Madame Demers.

[Translation]

**Ms. Nicole Demers:** This is the same thing. We want to say "take any reasonable measures".

(Amendment carried)

[English]

**The Chair:** On page 67 Madame Demers has another amendment.

Madame Demers.

[Translation]

**Ms. Nicole Demers:** Yes, we should say “to a place that is within a reasonable distance”. We’re saying implicitly that the place determined for the vehicle in question must be at a reasonable distance, in case of error. In fact, the person will be responsible for getting his vehicle. Therefore, it has to be at a reasonable distance.

[English]

**Hon. Robert Thibault:** I have to oppose this motion.

[Translation]

The concept that was valid in other circumstances is difficult to apply here. It’s the matter of determining what is a “reasonable distance”. We’re talking about an emergency, and it is difficult to limit ourselves. We have to understand that from an operational standpoint, the people who will be dealing with these issues are reasonable insofar as possible. How do you measure what is “reasonable”? Those vehicles have to be sent to a safe place. That is the primary consideration. Therefore, in this case, it’s difficult to use these terms.

[English]

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

This isn’t reasonable grounds; this is “a reasonable distance”, and I would ask, according to whom? It seems to me—

[Translation]

**Mr. Réal Ménard:** Could we have an opinion from our advisors, Madam Chair?

**Dr. Jean-Pierre Legault:** This might cause a problem with operations, depending on who makes the decision. For example, NAV CANADA would never agree to having anyone else dictate what a reasonable distance is. For example, if we ask a plane to change its course and head elsewhere, NAV CANADA is responsible for managing the crisis. The same would apply for a ship, though in that case the decision would be Transport Canada’s.

It is understood that the person responsible for the diversion tries to move the vehicle to the closest possible location, taking into account security, fuel and other factors. However, the person in charge of the crisis must decide where that reasonable distance, that zone, lies. For example, if a vehicle carried a bomb, we could not tell a technician to take the vehicle containing the bomb to a reasonable distance from the school where it was found. He would have to do that. I don’t know whether I am explaining this clearly.

**Ms. Nicole Demers:** I withdraw the amendment, Madam Chair.

[English]

**The Chair:** I don’t think they heard you, Madame Demers.

[Translation]

**Ms. Nicole Demers:** Excuse me. I said I would withdraw the amendment, Madam Chair.

[English]

**The Chair:** Thank you very much. Page 67 is withdrawn.

(Clause 37 as amended agreed to)

(On clause 38—*Duty to provide information*)

**The Chair:** On page 68, Mr. Thibault has presented amendment G-31, and he will explain it to us.

**Hon. Robert Thibault:** I so move.

This is adding the term “relevant,” as suggested by Elaine Gibson during her testimony.

•(1235)

**The Chair:** I call the question.

No, just a minute.

**Mr. Rob Merrifield:** I’m not going to get hung up on the words. The intent is the same as from Elaine Gibson, so I’ll go with this one this way.

**The Chair:** I call the question on G-31 again.

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

**The Chair:** We’re now on page 69, still on clause 38, with an amendment by Mr. Ménard.

[Translation]

**Mr. Réal Ménard:** The thinking is the same as that in the preceding amendment. A screening officer may ask a driver to answer his questions—I’m talking about the screening officer, but I am not quite sure about this—however, the driver has to answer the questions and has to provide documents. We thought that this had to be tempered, that we needed to say the operator should provide information or records that the officer may reasonably require in the performance of a duty.

So we are setting limits. We have to be careful when it comes to human rights. That is what Ms. Gibson has taught us. So as I have said, I think this is a reasonable amendment.

[English]

**The Chair:** Are there any questions or comments?

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

(Clause 38 as amended agreed to)

**The Chair:** We’re now on page 71, with Mrs. Demers.

(On clause 39—*Order of environmental health officer*)

[Translation]

**Ms. Nicole Demers:** In the same vein, we are asking that reasonable measures be used. We are only adding the word “reasonable”. We want to be consistent, Madam Chair.

[English]

**The Chair:** Seeing no hands, I’ll call the question on amendment BQ-24.

**Mr. Rob Merrifield:** I have just one question. She just puts “reasonable” in this, and it’s before “measures”. I have it after “measures”. Oh, no, that’s a different spot.

That’s fine. Go ahead.

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

**The Chair:** We’re on page 72, and we’re still on clause 39.

This is the one, Madame Demers, on conveyance within a reasonable distance. You withdrew the previous one. Would you like to withdraw this one?

[Translation]

**Ms. Nicole Demers:** Yes.

[English]

**The Chair:** The amendment on page 72 is withdrawn.

On pages 73 and 74, the English is exactly the same, and the French is exactly the same as well.

No, they aren't the same.

Mr. Merrifield's amendment comes up first. Mr. Merrifield, are you moving this?

**Mr. Rob Merrifield:** Yes. It is a small point, but it is "measures reasonably necessary to carry out". I move it.

**The Chair:** Are there any questions or comments?

I'll call the question on amendment C-18.

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

**The Chair:** Amendment C-18 passes; that means amendment BQ-26 is not movable.

(Clause 39 as amended agreed to)

(Clause 40 agreed to)

**The Chair:** Thank you.

We are now into a proposed new clause, clause 40.1, that is being put forward by Mr. Lunney.

Mr. Lunney.

**Mr. James Lunney:** Thank you. May I just have a second to get the context here?

This came from—it was a person who was here from Canadian transport, or whoever he was—one of our witnesses, who raised the issue that personnel cannot currently be compelled to work in a dangerous environment. There are Canada Labour Code provisions here.

This clause would simply add: "No person is required to carry out an order under subsection 39(1) if so doing would expose them to a danger as defined in subsection 122(1) of the Canada Labour Code."

You can say: "This plane is full of death agent X Y Z; just go in there and move it over here for us."

•(1240)

**The Chair:** I remember that example.

Mr. Thibault has a response.

**Hon. Robert Thibault:** Subsection 39(1) refers to the operator of the conveyance, not to the personnel. I think there may have been some confusion there as to whether it would apply to the pilot or to Air Canada. I think it applies to the operator and not to the personnel, but perhaps we could get an explanation from our expert witnesses.

**Mr. Mario Simard:** If you look at subsection 39(1), towards the end of the paragraph it says "the officer may order the owner or operator of the conveyance or any person using it for the business" to do whatever.... This is an order to the operator, not, for example, to the personnel at the airports or other people like that.

**The Chair:** The operator—say it was Air Canada—would then give the order to an employee to move the conveyance.

**Mr. Mario Simard:** Yes, but then the labour laws would apply. The order is not to the employee; the order is to the operator.

**The Chair:** I understand that, but how is the owner going to get the thing moved without asking one of his employees? And if that employee doesn't have the labour law memorized, he might feel obligated to do it because his boss is telling him to do it.

I think what Mr. Lunney is trying to do is to put, right in this bill

**Mr. James Lunney:** I can't compel somebody to expose himself to danger under those circumstances in the fulfilling of that requirement. There may be another way to move an aircraft without the pilot getting into the cockpit, by hooking up a machine externally and moving it somewhere out of a containment area, but we're basically asking that people not be asked to take on undue risks that are outside their normal mandate in fulfilling this requirement.

**Hon. Robert Thibault:** Madam Chair, I have a question through you to the expert or to Mr. Lunney.

Am I correct in saying that this amendment would reiterate the Canada Labour Code? It doesn't create new law, or new...? I ask the question.

**Mr. Mario Simard:** Under the laws of the provinces or, when it falls under federal jurisdiction, under the federal labour code there are all sorts of provisions that provide that in cases where you feel your health is at stake you can refuse to undertake the work, so I think in that sense it's redundant.

But perhaps Jean-Pierre can....

**Dr. Jean-Pierre Legault:** What I can clarify here is that the environmental officer has the duty to inform when there's a danger and inform of the duty of a refusal to work.

If you give the order to the operator, then the onus is on the operator to move that conveyance in a safe manner. If you need to attach some special equipment, then that needs to be done, and you may need to do it before it is moved. But the order still stands that the operator has to move the conveyance.

Obviously, if there is an oil spill on a tanker and/or there are gases that are a danger, then the quarantine officers will ask the coast guard to don their HAZMAT suits, their self-breathing apparatus, and take charge of the vessel and move it away.

I think it is already there. All of the labour laws continue to apply with this, but what it causes by way of problems is that it prevents you from giving the order to the operator. That is what may be problematic from our point of view.

**Hon. Bill Blaikie:** Just by way of clarifying, then—and I'm just making this as a suggestion—instead of “no person”, it could be: “No employee of the owner or operator of the conveyance or any person using it for the business of carrying persons or cargo shall be required to carry out an order under subsection 39(1) if doing so....”. This way, you clear up the confusion between owners and operators and their employees and you've reaffirmed the Canada Labour Code and you haven't added anything to the code, and everything's cool.

**Mr. James Lunney:** I would accept that as a friendly amendment.

• (1245)

**The Chair:** There's no such thing as a friendly amendment here.

Mr. Blaikie, are you willing to move that?

**Hon. Bill Blaikie:** I would move a subamendment to Mr. Lunney's amendment, which would make it say: “No employee of an owner or operator of the conveyance or any person using it for the business of carrying persons or cargo”—

**The Chair:** Slow down.

**Hon. Bill Blaikie:** It's basically the language that's already in subclause 39(1).

**The Chair:** Oh, I see. Okay.

Can we vote on Mr. Blaikie's subamendment?

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

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

(New clause 40.1 as amended agreed to)

**The Chair:** He didn't have it written out because it's the language in the bill.

Where exactly are those phrases?

**Hon. Bill Blaikie:** It's subclause 39(1), where it says, “the officer may order the owner or operator of the conveyance or any person using it for the business of carrying persons or cargo”. That's the phrase where I want to put “No employees of”—

**The Chair:** —“an owner or operator of a conveyance or any person using it for”, etc. etc.

**Hon. Bill Blaikie:** Yes. That way, it just mimics what's in subclause 39(1).

**The Chair:** Yes: “...or a person using it for the business of carrying persons or cargo is required to carry out an order under subclause 39(1) if doing so would expose them to a danger”.

That is now passed. Amendment C-19 is passed.

**Hon. Robert Thibault:** Now we have confirmation that we pass it first and you draft it later.

**The Chair:** If the words are findable.

We're now on page 76. Welcome, Ms. Dhalla, by the way.

Actually, we aren't on page 76. We've set aside a pile of pages we have to go back to. I don't want you to get too optimistic about this.

**Ms. Ruby Dhalla (Brampton—Springdale, Lib.):** I thought we were going to make great work this morning.

**The Chair:** We're on amendment G-32. This also suggests a brand-new clause. Now that we've passed new clause 40.1, I think this will have to be renumbered as clause 40.2, would it not? Mr. Thibault's amendment in G-32 would now be called new clause 40.2 in the dark print on page 76.

We'll ask Mr. Thibault to explain to us why he feels we need a new clause here.

**Hon. Robert Thibault:** I move the amendment.

This amendment would add notification requirements to provincial and territorial public health authorities regarding the administration and enforcement of certain parts of the act—the same clauses we have under study. In practice, the administration of the federal Quarantine Act has provincial and territorial resource implications.

This amendment underscores the need to maintain and support positive and collaborative federal-provincial-territorial relations. This amendment would respect the constitutional division of powers in public health. This amendment was suggested by the Council of Chief Medical Officers of Health in recent consultations. It's quite similar to the one we're considering for people, but this time it's for conveyances.

**The Chair:** Mr. Lunney.

**Mr. James Lunney:** There's the same thing in the third clause here; it's on page 76.1. It says again we're dealing with “confidential business information or personal information obtained”. It's really the same objection, that the Privacy Commissioner has not had a chance to have a look at it. Might I suggest we follow the same format as with the previous one: that because it is an extensive new clause the Privacy Commissioner has not had a chance to review, this be referred to him before we make a decision on it.

**The Chair:** Are there any other comments on that suggestion?

[Translation]

**Mr. Réal Ménard:** Here, we are talking about the diversion of a vehicle. To my mind, this is somewhat different when it comes to transmitting personal information. I don't know. We might consult our advisors, because it seems to me that...

• (1250)

**Hon. Robert Thibault:** We have to recognize that, when we studied the first one, we asked the Privacy Commissioner to look at certain things. We considered the specific data that provincial and local medical authorities would need in cases of emergency to protect Canadians and foreigners. I don't think there is a problem pertaining to individuals. There would certainly not be a problem when it came to property, planes, trucks and ships. Is the vehicle in question a Dodge or a Ford? I don't know whether we need to go into such critical detail.

**Mr. Réal Ménard:** We can check. Might we be told what our advisors think?

**Mr. Mario Simard:** As in a previous amendment, this does not, generally speaking, have any impact on personal information. We can consult the Privacy Commissioner's Office today, and submit the issue to the Privacy Commissioner. However, I think this issue is much less delicate than...

**Mr. Réal Ménard:** We are not talking about names or brands here. It doesn't matter whether tires are Firestone or some other brand.

**Mr. Mario Simard:** A number of people use vehicles, but far fewer. In practice, we are talking about a conveyance that would be disinfested somewhere.

**Dr. Jean-Pierre Legault:** It is possible to obtain a list of passengers onboard a plane or ship. Passenger lists can be obtained, and they constitute essential information for those dealing with these issues at the provincial level.

[English]

**The Chair:** I'm seeing a split in opinion here. Can I just see a show of hands? How many people would prefer to send this along to the Privacy Commissioner with the other one?

Five people say it's not necessary to have the Privacy Commissioner, four people think it is.

I think I'm going to call the question on amendment G-32.

[Translation]

**Mr. Réal Ménard:** Madam Chair, I believe we should still comply with the wishes of a member of Parliament, as we have already done, since this institution does exist. I believe it is not necessary, but I would still be more comfortable if we complied with the wishes of a member of Parliament, since the Office of the Privacy Commissioner exists in Canada. Let us comply with the wishes of a member of Parliament. I agree with Mr. Thibault that it is not necessary, since we are talking about a vehicle. However, since a member of Parliament wishes it, I think that we should comply.

[English]

**The Chair:** But it wouldn't hurt.

[Translation]

**Mr. Réal Ménard:** Madam Chair, be the peacemaker.

[English]

**The Chair:** You're very generous.

My problem in the chair is that most of the time I try to deal with majority decisions.

**Hon. Robert Thibault:** I'll let my motion stand if it's easier for the chair.

**The Chair:** What's that?

**Hon. Robert Thibault:** Let the motion for that amendment stand until we have the information from the Privacy Commissioner.

**The Chair:** Okay, amendment G-32 is going to be stood aside until we refer to the Privacy Commissioner for comment, so I would advise the people at the other end of the table that maybe somebody should get this over to them as well. Thank you very much.

(Amendment allowed to stand)

**The Chair:** Moving on, we did not receive any amendments for clauses 41 and 42.

(Clauses 41 and 42 agreed to)

(On clause 43—*Compensation to owners*)

**The Chair:** The amendment on page 77 is one that talks about "shall compensate", so again we have this royal recommendation question that we are going to work on at another time. Could we please stand aside amendment C-20?

I'm not hearing a lot of participation here.

**Mr. Rob Merrifield:** Yes, that's fine, set it aside.

**The Chair:** Okay, good. Silence is agreement? That's easy. Boy, I could just run this show right past you.

**An hon. member:** Hey, go for it.

**The Chair:** I really like to know we're all on board.

**Hon. Bill Blaikie:** Ask her if we can pause, in which silence... [Inaudible—Editor].

**The Chair:** On pages 78 and 79, the English is identical, but Mr. Merrifield is up first.

**Mr. Rob Merrifield:** We're just saving the money, so this is a reverse of what we were arguing about the bill before. If someone is going to be compensated with other sources—salvage insurance or any other sources—we don't pay the whole thing. We exercise those first before the government is on the hook for it.

• (1255)

**The Chair:** Are there any questions for Mr. Merrifield?

**Mr. Rob Merrifield:** This comes from the Canadian Bar Association as witnesses.

**The Chair:** Okay, good.

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

**The Chair:** Mr. Lunney's amendment is not moveable now, because it amends the same lines.

Can we stand clause 43 as amended because we set aside that one clause earlier?

**Some hon. members:** Agreed.

(Clause 43 as amended allowed to stand)

(On Clause 44—*Obligation of operator*)

**The Chair:** We're now on clause 44, and the amendment on page 80.

Mr. Thibault.

**Hon. Robert Thibault:** This is an addition of "or might have".

**The Chair:** So it will say "have or might have".

I think we've debated this to death.

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

(Clause 44 as amended agreed to)

(On clause 45—*Prohibition*)

**The Chair:** We're now on clause 45, and the amendment on page 81.

**Hon. Robert Thibault:** It's moved, and it's an addition of "or might have" also.

**The Chair:** This is exactly the same thing. Mr. Thibault is adding "or might have".

We're on page 81, at the bottom. Clause 45 will say "a body part or other human remains that have or might have a communicable disease" or something else.

Seeing no questions, I'll call the question.

Sorry, Mr. Lunney needs a bit of time.

**Mr. James Lunney:** Maybe we do need to think about this. A lot of our "might haves" have been dealing with live people who have been exposed to a disease. This is pretty much a dead one, because we're talking about cadavers and body parts here. Is it not possible at this stage to determine if they have or don't have it? They may not be in a hurry, so the "or might have" may not be as urgent in this case, because by this stage presumably you can determine if they have it, no?

**The Chair:** Unless it's an unknown illness, unless you have not yet identified it.

**Hon. Robert Thibault:** But if you have a cadaver that might have a communicable disease—

**Mr. James Lunney:** Somebody would like to bury them.

**Hon. Robert Thibault:** Do you want them imported into your country if they "might have" Ebola? If they "might have" Ebola, do we want to export them to another country?

**Mr. James Lunney:** I withdraw my objection.

**The Chair:** Mr. Merrifield.

**Mr. Rob Merrifield:** When it comes to clause 45, and also clause 44, my point is that they are asking for a death certificate. I was thinking of it the other way around. What if we're transporting body parts and the person is actually still alive—maybe a kidney or some other body part—and they have to provide a death certificate to be able to transport it. That's what it says in the bill, and that was my question on clause 44.

**The Chair:** That's a very good point, Mr. Merrifield.

**Hon. Robert Thibault:** Should we ask our legal advisers if they thought of that?

**Mr. Mario Simard:** That's a good point, and we've addressed it in clause 46.

**The Chair:** All right, he thought of everything.

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

(Clause 45 as amended agreed to)

(Clause 46 agreed to)

(On clause 47—*Powers of inspection*)

•(1300)

**The Chair:** We're now on clause 47, and the amendments on pages 82, 83, 84, and 85. We can't do everything, because that would

cause conflicts within the lines. I would therefore suggest that you just have a glance at those four pages.

On page 82, it's talking about a "conveyance or place, or any contents within it". Mr. Merrifield is suggesting that we add the idea of "a traveller".

[*Translation*]

**Mr. Réal Ménard:** No, on page 82 the issue is authority to inspect a place. Here again, we are adding the word "reasonable". That is the issue. Is it because of the quarantine officer?

[*English*]

**The Chair:** I'm looking at page 83, and I see the injection of the word "traveller", which is not mentioned on page 82.

**Mr. Rob Merrifield:** Yes, it is.

**The Chair:** That's the first change, and then on page 84, "a traveller" is in there again.

**The Chair:** I'm talking about clause 47. The first substitution is for lines 10 to 16. The second substitution is right in the middle of that, and it's at line 14. The next one is line 14, and the last one is also lines 14 and 15. All that falls within lines 10 to 16.

Mr. Ménard has put forward the long clause, all written out.

[*Translation*]

**Mr. Réal Ménard:** This is not a new provision. It would give a quarantine officer or an environmental health officer the authority to inspect a vehicle or a place. The officer can declare that a vehicle is infested with vectors, or that it could be the source of a communicable disease, and so on. We want to limit that authority by using the word "reasonable".

[*English*]

**Hon. Robert Thibault:** Madam Chair, it may be easier if we stand clause 47, do clause 48, and then come back.

[*Translation*]

**Mr. Réal Ménard:** No, but we can deal with it. If the same objectives are achieved through other amendments, I have no objection to withdrawing this one. We might want to hear what Mr. Legault has to suggest.

**Dr. Jean-Pierre Legault:** The amendment on page 82 is a problem because it greatly restricts monitoring authority. Obviously, to detain someone, or to do more than monitoring, we need reasonable grounds. However, to establish those grounds we need to start by stopping the vehicle and inspecting it. This would be like deciding that police officers no longer have the right to check whether people are wearing safety belts and no longer have the right to check vehicle speed using radar. Routine inspections and random inspections constitute an integral part of any security system.

If this amendment went through, inspectors and quarantine officers would no longer have the same rights that all customs officers have. To my mind, losing the power to decide whether to inspect an airplane or boat creates an operational problem. It is during an inspection that one can determine whether all police officers in Quebec have what it takes to do roadside checks.

I quite agree with the idea that this amendment would be applicable for a dwelling-place. However, for an aircraft or boat, the officer already has the right to do health and safety inspections. Are we to decide that the officer would not have the same power to conduct health inspections?

• (1305)

**Mr. Réal Ménard:** We are not just talking about inspection here, but about potential seizures.

**Dr. Jean-Pierre Legault:** In the case of potential seizures, reasonable grounds are needed. However, refusing officers the right to conduct random inspections is like telling customs officers that they cannot check luggage.

**Mr. Réal Ménard:** I would like this to be considered from an operational standpoint. We give a quarantine officer and an environmental health officer the power to determine whether the vehicle is a transmission vector. So there must be some indication that contamination could be present. This is not random. You don't just choose any vehicle, with no criteria. Something points you to a given vehicle.

**Mr. Mario Simard:** This type of inspection authority exists in all regulatory regimes; it can be found, for example, in the Food and Drug Act and the Hazardous Products Act. The fact is that there is no way of determining if a problem exists before boarding a ship. If you consider the powers granted under clause 47(1), you will see that these powers involve obtaining information, namely, the authority to board a ship, to consult documents, to take samples, etc. It is a search for information. Once that has been done, the steps that can be taken will depend on the reasonable grounds, etc. At this point, there are no reasonable grounds.

**Mr. Réal Ménard:** How does this relate to the Supreme Court decision in Hunter, for example? In this case, there could be an intrusion on an individual's privacy.

**Mr. Mario Simard:** Yes and no. In this case, no detention has yet been ordered. The operator is simply being asked to show these documents, to say where he is from, and what the vessel is carrying, that type of thing. It is only a power to inspect; no further steps are taken.

**Mr. Réal Ménard:** Did the Supreme Court not rule on random searches?

**Dr. Jean-Pierre Legault:** Public health is involved when, in a city, health inspectors conduct random inspections of restaurants. They enter the premises, have a look around, and take samples. If we tell them that they have no right to inspect a public building or a restaurant without having reasonable grounds to do so, and if they must wait until a complaint is made or until someone becomes sick before conducting an inspection, then the security system will be very limited. That reality applies to any security system. I'm only trying to make you aware of this fact.

**Mr. Réal Ménard:** I thought there had been a Supreme Court ruling on road blocks.

**Mr. Mario Simard:** That's true, but it did not involve a situation where an individual was ordered detained. No measures were adopted. It does not really apply because in this case we are dealing with aircraft and ships. We are not dealing with individuals. We have not reached a point where an individual would be isolated, or set

apart; it does not involve detention or the adoption of certain measures. At this point we are only seeking information about the vessel.

**Mr. Réal Ménard:** The same applies in the case of road blocks. If there is a roadside check on route 20—

**Mr. Mario Simard:** In this case, we are not discussing individuals, but rather aircraft and ships.

**Mr. Réal Ménard:** We are dealing with modes of transportation. If I understand correctly, when all is said and done, you will find that this amendment might prevent you from doing your job properly.

**Dr. Jean-Pierre Legault:** Yes, and it would prevent us from carrying out checks, from boarding a Panamanian ship that has just docked and only undertaking a visual inspection. That is a limitation.

**Mr. Réal Ménard:** Are you a lawyer?

**Dr. Jean-Pierre Legault:** No. I am a doctor.

**Mr. Réal Ménard:** Well, I have a touch of the flu.

[English]

**The Chair:** The thing is that Mr. Ménard's amendment is trying to put some restrictions on the quarantine officer, in this case on inspection. The officials are suggesting that you can't always have proof before you're looking, and therefore this amendment would restrict their ability to do the job. That's what I'm hearing.

The question is whether or not Mr. Ménard would agree with them that it would restrict the officer's ability to do his job. If so, I'm sure he'd like to withdraw it, but if he doesn't, we will have to vote.

Mr. Ménard.

[Translation]

**Mr. Réal Ménard:** With respect, Madam Chair, that isn't the right question. The question is to determine whether or not they will be limited. Quite often, a legal authorization is required before a random check can be conducted.

We have been told that we are not being asked to adopt this amendment for operational reasons. You are saying that in fact, this will prevent you from identifying the source of a communicable disease.

I am prepared to consider this, but I was wondering if the parliamentary secretary might not have a similar amendment. The fact that there is no information is what is bothering me. What is being done is completely gratuitous.

If you stop someone and you see that he has a fever, there are indicators. In this case, there is nothing: it is completely random. When it is random, there is always a possibility for some discretion, legally speaking. When it is discretionary, it can leave the door open to abuse. That is how we see it. That is why we have this amendment.

If you think this will prevent you from doing your job and might be harmful to the health of Canadians or Quebecers, then, of course, I will withdraw it. I am a wise, good-natured, reasonable, attractive, careful and lovable man. However, I would like to see if the parliamentary secretary has another card up his sleeve.

•(1310)

[*English*]

**The Chair:** Do you have a comment on this?

**Hon. Robert Thibault:** I have six or seven quick ones.

**Some hon. members:** Oh, oh!

**The Chair:** Okay, okay. I thought you would have something.

**Hon. Robert Thibault:** With a little bit of patience, when we get to government amendment 38, in clause 48, we have an amendment that you need a court order to *entrer dans le domicile* or to go into somebody's home. It will take care of that.

In this one, the member's motion would imply the provision of the reasonable evidence for search and seizure that we know and live with and enjoy as Canadians all the time, and that's our civil protection. But if we put that test in this case, it stops an officer from being able to go and do an inspection where he might not have that reasonable thing that would stand up to a court allowing him to go into our house; but it might be important that he go onto a vessel, that he go into an airplane, that he go into a public place, and that he can verify if there is reasonable evidence that he should go to court for and get more information, and bring in a health professional, or all of those other things.

So that's the risk with your amendment, Mr. Ménard.

[*Translation*]

**Mr. Réal Ménard:** I acknowledge that there is a problem, Madam Chair. I will withdraw my amendment.

[*English*]

**The Chair:** Thank you, Mr. Ménard.

**Mr. Rob Merrifield:** I'll withdraw my amendment on page 83.

**The Chair:** Mr. Merrifield's withdrawing page 83.

We are now on page 84. We're still on clause 47. Mr. Thibault has an amendment to add the words "or might have". We've done this twenty times, I think.

You have to move it, Mr. Thibault.

**Hon. Robert Thibault:** I so move.

**The Chair:** He moves it.

We're on page 84.

**Hon. Robert Thibault:** Just one moment, please. My notes from my departmental officials say that I should wait until we have gone to clause 48 on this one.

**The Chair:** This is getting ridiculous; we've set aside so many things. This is a simple decision. We're going to take the vote on G-35.

**Some hon. members:** Agreed.

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

**The Chair:** The departmental officials cannot, through their interventions, run the meeting.

**Hon. Robert Thibault:** No, I agree with you, but I think we cannot come back to an amendment after we have amended the clause. We have one shot at this. If we have amendments later that

we have stopped from going into force because of another amendment we did first, I don't think we're doing Canadians a favour by making bills unoperational. Sometimes it means that we have to jump around.

**The Chair:** I understand that. We've made those accommodations, but how could the addition of the three words "or might have" possibly...?

**Hon. Robert Thibault:** I did not know that. That's why I suggested that we hear from the officials if there was a problem with this one, because the note said that perhaps we could, Madam Chair.

**The Chair:** Okay. I don't think we're going to get into trouble.

**A voice:** Or "maybe" or "could be".

[*Translation*]

**Mr. Réal Ménard:** Don't be afraid to ignore your officials, Mr. Thibault.

[*English*]

**The Chair:** Now, the clerk is suggesting to me that amendment C-24 cannot be moved because we've just amended lines 14 and 15.

I don't understand where you would want to—

•(1315)

**Mr. Rob Merrifield:** It will be dealt with when we go to page 87. So I'll withdraw that, and on page 87 I will—

**The Chair:** The amendment on page 85 is being withdrawn by Mr. Merrifield.

**Mr. Rob Merrifield:** Because it will be dealt with on the other one.

**The Chair:** Okay. Now we're on page 86.

**Hon. Robert Thibault:** On this one, Madam Chair, it is important that we go to clause 48 first, because it refers to something that will have been changed in clause 48, if we accept the amendment at clause 48. That is my understanding.

**Hon. Bill Blaikie:** Can you explain that to us, rather than just assert it?

**Hon. Robert Thibault:** Yes. I'll ask the officials to explain.

**Mr. Dennis Brodie:** If you look at paragraph 47(1)(b), it says "subject to section 48". Mr. Thibault has an amendment to clause 48, so if you don't deal with clause 48 first and you pass clause 47, you won't be able to come back and delete that reference—because the reference shouldn't be there.

(On clause 48—*Warrant required to enter dwelling-place*)

**The Chair:** I'm on page 90, the one you want to do.

Can I ask you to take these few pages in your hand, hold on to them, and we'll move to page 90? Is that okay?

**Mr. Rob Merrifield:** If that's the only amendment to clause 48, why don't we just do it?

**The Chair:** Is it agreed to proceed to page 90?

**Mr. Rob Merrifield:** Right. Yes.

**The Chair:** Thank you.

We're on page 90. Mr. Thibault would like to move his amendment.

**Hon. Robert Thibault:** It's so moved.

**The Chair:** Could you explain, please?

**Hon. Robert Thibault:** The wording of this succinct clause is more permissive than intended. This amendment would clarify intentions. The amendment makes it clear that an officer may not enter a dwelling except with permission of the occupant or under the authority of a warrant. Dwelling places in this context are those located on conveyances, i.e., close quarters or a conveyance that is also a dwelling place, house, boat, or motor home.

**The Chair:** Are there any questions?

Mr. Ménard.

[*Translation*]

**Mr. Réal Ménard:** I am trying to understand, Madam Chair. This is interesting. Had the officials provided for entry into a dwelling-place without a warrant? If that is the case, we would really...

**Hon. Robert Thibault:** I think it is a matter of defining a dwelling-place, if we are talking about a passenger cabin or the ship's crew's quarters. Is this a dwelling-place or not? Would it be the same as entering a...? This makes it clearer. A warrant would be required.

**Mr. Réal Ménard:** Just for our personal edification, the original wording of clause 48(1), according to our briefing book, reads as follows: 48. (1) A quarantine officer or an environmental health officer may, at any reasonable time, enter and inspect a dwelling-place with the consent of its occupant or under the authority of a warrant.

There was never any danger of going beyond the bounds when entering a dwelling-place. It would really be...

[*English*]

**The Chair:** The original text says they "may enter" with a warrant, but this I think has been turned around to make it stronger with "may not enter...without".

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

**The Chair:** Okay. Now go back to where you were holding the papers. The clerk wants me to pass the whole clause because there isn't another amendment.

(Clause 48 as amended agreed to)

**The Chair:** Back to page 86, Mr. Thibault is moving "enter and inspect" because it reflects what we did here. Are there any questions or comments to Mr. Thibault? Seeing none, I'll call the question on amendment G-36

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

**The Chair:** On amendment G-37, Mr. Thibault, again.

**Hon. Robert Thibault:** One moment.

**The Chair:** Are you finding something wrong with your amendment?

**Hon. Robert Thibault:** I'd like to get some opinion from the officials on the reason they would recommend standing this one.

**Mr. Dennis Brodie:** I'm sorry. That's not the one.

**Hon. Robert Thibault:** It can go forward. Okay. Thank you.

**The Chair:** Are you moving amendment G-37, Mr. Thibault?

**Hon. Robert Thibault:** Yes.

**The Chair:** Okay. Are there any questions of Mr. Thibault about this one?

Mr. Ménard.

• (1320)

[*Translation*]

**Mr. Réal Ménard:** Well, of course, it is clause 47(1)(e) of the amendment that makes the difference. No sample can be taken from any traveller. Is that it? I would like to understand the logic in this amendment.

**Mr. Mario Simard:** Helen Gibson pointed out that the aim of this provision was to provide for the acquisition of information on means of transportation. If you read clause 47(1)(e), you will see that, for example, taking blood samples from passengers will not be allowed. We had not noticed that, and it was obviously not our intention. This amendment sets out the parameters for the rest.

**Mr. Réal Ménard:** This only makes sense, since blood tests can lead to bad blood. That joke will appear much funnier to you when you understand French, Madam Chair. It will be translated, this time.

[*English*]

**The Chair:** Okay. Are there any other questions? No?

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

**The Chair:** We're still on clause 47, and we're on page 88 with Mr. Ménard.

[*Translation*]

**Mr. Réal Ménard:** Just a minute. I'm not ready. This is my amendment on the enforcement of the powers set out in the clause. It is the same story: it involves reasonable grounds.

[*English*]

**Mr. Rob Merrifield:** Has it not been dealt with?

**The Chair:** I feel like I haven't read this.

**Hon. Robert Thibault:** It's very similar.

[*Translation*]

**Mr. Réal Ménard:** I believe it will no longer be necessary in view of the previous amendments that have been adopted. So I will withdraw it.

[*English*]

**The Chair:** Is that the end of clause 47?

**Some hon. members:** There's one more.

**Hon. Robert Thibault:** This is very similar to the "prescribed" problem, again.

**The Chair:** This is Ms. Demers' amendment. I think she should have a chance.

[*Translation*]

**Ms. Nicole Demers:** We had concerns about clauses 47(1)(e) and 47(1)(f), which could affect the rights of the people involved. If that has been taken care of, I will withdraw it, Madam Chair.

[English]

**The Chair:** However, this is the chance for a person to state their case; it's not quite the same.

[Translation]

**Ms. Nicole Demers:** We were concerned about the possible infringement of rights. It is different if you believe that the person or persons involved will have a right to state their case.

[English]

**The Chair:** So you're happy to withdraw it, Madam? Okay.

(Clause 47 as amended agreed to)

**The Chair:** Thank you.

We've now done with page 90 and passed clause 48.

Mr. Ménard.

[Translation]

**Mr. Réal Ménard:** Madam Chair, I believe we had agreed to end the meeting at 1:30 so that we could be in the House for question period. Would you agree to having a quick recap of the day's progress? I don't know if there is any hope for us to finish today. We seemed to be making some headway, and I thought we might be able to finish, unless you think that the matter of compensation might lead to some lengthy discussion. How many clauses do we have left? Do you think we can realistically hope to finish today if we sit from 3:30 to 6:30 or 7 this evening?

[English]

**The Chair:** The members of the committee are always full of surprises, and it will depend on how much they talk. How can I predict? I cannot predict. We're going to work at least until 6:30—

[Translation]

**Mr. Réal Ménard:** How many clauses do we have left?

[English]

**The Chair:** Quite a number.

**Hon. Bill Blaikie:** We could get some more out of the way if we work for the next five minutes.

**The Chair:** I was just going to say, in five minutes we might get another five done.

I cannot make these predictions or make promises, Mr. Ménard. We just have to commit ourselves to getting the task done. So let us move forward.

We're on page 91. Mr. Thibault has an amendment.

[Translation]

**M. Réal Ménard:** Mr. Thibault wanted to speak.

[English]

**Hon. Robert Thibault:** Madam Chair, if I could answer a point—

**The Chair:** Just one second. There are no amendments to clause 49. So shall clause 49 carry?

(Clause 49 agreed to)

**The Chair:** Now we're on page 91.

[Translation]

**Mr. Réal Ménard:** Excuse me, Madam Chair. Someone had asked a question that seemed intelligent and might even be useful.

•(1325)

[English]

**The Chair:** Well, it would have been good if I had been sitting over there, Mr. Ménard, counting clauses, but I haven't been, I've been working through—

[Translation]

**Mr. Réal Ménard:** Madam Chair, that is not my question. Take a deep breath. I was trying to ensure that the committee could proceed as expeditiously as possible. I was asking if we might have some idea of the timetable for adoption. You say that there are 30 left and I know that the parliamentary secretary wanted to add something. I simply wanted that information. We all want this to go as smoothly as possible.

**Hon. Robert Thibault:** There is no real way of knowing how long it will take. Personally, I don't think we will finish today, because we raised the issue of compensation. If the minister must consult with cabinet, then we will have to take it up with him. If he agrees with our orientation, then we will certainly not be finished today. Also, we could ask for a legal opinion from the House of Commons counsel or from the committee's legal advisor. In that case, there will be no answers forthcoming today. In both cases, it will take some time before we can return to the clauses that we have left pending.

**Mr. Réal Ménard:** That's what we wanted to hear.

[English]

**The Chair:** It would be my general feeling that we wouldn't get it finished today.

Mr. Merrifield.

**Mr. Rob Merrifield:** I'm perhaps blindly optimistic, but I think the discussion with the minister will come down to a concept and I think that can be worked out. I think we're all going in the same direction; it's just a matter of how we're going to make it happen. I think, then, things could pull along very quickly. There is a possibility that if we get the information from the Privacy Commissioner we may be able to go through it.

**The Chair:** Well, the Privacy Commissioner, I'm hoping, will come through with it, but will you have a chance to talk with the minister about this?

**Mr. Rob Merrifield:** Yes, we will be meeting between 3 o'clock and 3:30.

**The Chair:** Good.

**Mr. Rob Merrifield:** I want to say that there are the next two.... Mr. Lunney had to leave. So we could do one more, but I would ask that perhaps we call it a day or leave it until 3:30, because then we get into Mr. Lunney's amendments, but he's not here.

**The Chair:** I think now the flow has been interrupted, and it's just about 1:30, so I think we'll adjourn for now and come back at 3:30 and do our best to move through it.

We have to go to a different room, Room 209, but in this building,  
at 3:30.

The meeting is adjourned.

Thank you very much for your cooperation, ladies and gentlemen.

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