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Chair

Ms. Bonnie Brown

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• (1630)

[English]

The Chair (Ms. Bonnie Brown (Oakville, Lib.)): Good afternoon, ladies and gentlemen. Welcome back.

We have had some consultation with the Privacy Commissioner, who has reported he cannot report back to us with an opinion until tomorrow, so we will not be able to do those clauses this afternoon. However, the first clause that we stood was clause 6, which begins on page 9. It doesn't have anything to do with "shall" or "may", so I think what we'll do is just do it first and then we'll hear a report from those people who met with the minister.

(On clause 6—*Quarantine station*)

The Chair: On page 9, Mr. Ménard.

[Translation]

Mr. Réal Ménard (Hochelaga, BQ): The rationale is the same as that used in my earlier statement. We would like the provinces to be as closely involved as possible in any and all quarantine decisions. I know that this is not what the government wants. I won't belabour the point, unless the government changed its mind sometime between Question Period and the present. Otherwise, on jurisdictional matters, we'll request a recorded division. I think we're clear on our respective positions and that as democratic individuals, we can respect those positions.

[English]

The Chair: Are you ready for the question? It is on page 9. It is "only with the agreement of the Minister of Health of the province." I think that is what Mr. Ménard is essentially adding. It is "only with the agreement of the Minister of Health."

Mr. Thibault would like to speak to it.

Hon. Robert Thibault (West Nova, Lib.): Very briefly, as Mr. Ménard would guess, I have to say that we cannot support this because it would be too onerous and would slow down the process we'd have to move on, but we've agreed on the consultation.

The Chair: Seeing no further hands, I'll call the question. It will be a recorded vote.

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

The Chair: Amendment BQ-6 fails to carry.

We're now on page 10 with Conservative amendment C-1. Mr. Merrifield, although it doesn't show up in the print, is actually removing the phrase "free of charge."

Mr. Rob Merrifield (Yellowhead, CPC): Yes, this comes from one of the witnesses. If you remember, both the Canadian Airports Council and the Air Transport Association came forward saying there were going to be these designated airports that have to provide furniture and space for quarantined people. It is quite onerous, in fact. In the bill it talks about equipment, furniture, fixtures, and so on, "free of charge". Some of these, particularly smaller, airports were saying this is a very onerous thing. We are saying they probably have a very good point and that there may have to be a negotiated settlement of some sort, but "free of charge" that we're going to put into this piece of legislation would become a real problem for these airports.

The Chair: Mr. Thibault.

Hon. Robert Thibault: I understand that the personal furnishing and the equipment has already been removed.

Would this not be the same as forcing expenditures? It would be the same as those other motions that were not receivable?

Mr. Rob Merrifield: I don't think so. You're asking for a freebie, is what you're saying.

The Chair: Because there wouldn't be any exchange of money, this one wouldn't—

Hon. Robert Thibault: There isn't any exchange, but this could force the exchange if it were adopted; and plus, these are federal properties for which the rent system is negotiated with Transport Canada.

The Chair: Yes, I understand that the problem arises with the follow-up to this, which is amendment C-3 on page 13. The Conservatives wish to eliminate the phrase "free of charge" and then on page 13 say "The Minister shall...compensate the operator of a facility", etc. They're saying remove "free of charge" and say "The Minister shall compensate". If amendment C-1 is defeated, that is, if "free of charge" stays in the bill, then amendment C-3 will not be votable because we've already decided to do "free of charge."

Mr. Rob Merrifield: I believe it would fair to them to negotiate that as part of their rent as normal practice, if that's what we're doing as a federal government, but to put in here "free of charge" on a piece of legislation at this stage would be a problem. I could pull off amendment 13 if we got rid of the "free of charge" so that the implication will be negotiated.

I'm a little nervous about not having some more implications, but to say "free of charge" I think is going too far, and that's what they had said to us.

The Chair: That's what the airport association said.

[*Translation*]

Mr. Réal Ménard: To get a clear understanding of the consequences, I'd like to hear Dr. Legault's opinion.

[*English*]

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): Yes, I just want to clarify this. That would be a substantive change from what is currently in place right now. Right now we do not pay rent, just like all the other federal security measures in place. The RCMP and Customs do not pay rent. That is a cost of doing business for the operators when they want to set up shop doing that in the eight designated airports and in the maritime ports.

So what has to be understood here is that this is a deviation from what is currently being done, and costs will be incurred because of it. This will affect us in—

[*Translation*]

Mr. Réal Ménard: What is the gist of the motion? Mr. Merrifield said that infrastructure owners had made representations, that they wanted to charge rent if equipment was installed on their premises in order to enforce the terms of the Quarantine Act.

Dr. Jean-Pierre Legault: Precisely.

It's important to understand the peripheral issues. Transport Canada leases the land on which the structures are erected, provided that it's given space free of charge for security-related operations. Therefore, there is no charge for police, customs, Health Canada and quarantine services.

•(1635)

Mr. Réal Ménard: In keeping with the Crown's prerogative.

Dr. Jean-Pierre Legault: Exactly.

However, the events of September 11, 2001 did not factor into the arrangements that had been made and requirements have become much more stringent, particularly from a security standpoint. Quarantine requirements are actually quite modest. In fact, we were the last ones to ask for a small amount of space to be set aside for this purpose. We've had to settle for some very poorly appointed space. In some respects, we're like the straw that broke the camel's back, because numerous other security-related requests had been received prior to ours. I simply want you to be aware that according to current policy, federal agencies are not charged any rent when security-related operations are involved. Adding this provision would change things.

Mr. Réal Ménard: It's the prerogative of the Crown to use public space for purposes deemed relevant to its mandate. I studied this in Administrative Law II. I may not look that knowledgeable, but I'm an educated man.

[*English*]

The Chair: Thank you, Mr. Ménard.

Mr. Lunney is next.

Mr. James Lunney (Nanaimo—Alberni, CPC): Thank you, Madam Chairman.

It seems to me that the airports, which are private enterprises, have negotiated their leases with the government in good faith. They've already had pressures put on them from other security agents and now we're trying to take space from them without compensation or without allowing them to renegotiate their leases and at least consider that.

It seems to me there was a question raised in the House about this the other day, that the transportation committee itself is asking for a freeze on airport increases because the government wants to take even more money. But it seems to me that it's not right. It's expropriation without compensation, in essence, to just demand space that someone has paid for without paying for it. The government shouldn't be playing this form of expropriation without some form of compensation. It just isn't right, especially when they're under that kind of pressure.

Hon. Robert Thibault: There are two things. The first is that it is federal property.

Mr. James Lunney: Which they're paying money for.

Hon. Robert Thibault: I understand that it's rented out to operators.

The second thing is that, as I understand the current Quarantine Act, there are provisions for that so that the space is provided. So this is not a new thing.

But overriding all of that, I believe, is the question of whether this amendment is admissible, because it does create a charge on government and it becomes a question of royal recommendation.

Mr. James Lunney: Change it, Mr. Thibault.

An hon. member: This is a little different from that.

The Chair: I was sure that's what the department had said. They want me to take the flak for this by making a ruling. I will have to make rulings on some of these, but I'll do so with the next one, not this one.

Hon. Robert Thibault: If this is to be debated, the only thing I question is whether it's Transport or Health in terms of where the federal government should or should not pay charges. Is it a Department of Health matter or is it a matter for the Department of Transport or the owners and lessees of those facilities?

The Chair: Mr. Merrifield has already spoken. Is there anybody who hasn't spoken?

Mr. Blaikie.

Hon. Bill Blaikie (Elmwood—Transcona, NDP): I just want to say that I don't think this is the kind of thing the royal recommendation is required for or applicable to at all.

The Chair: I agree. But you're not speaking for or against this?

•(1640)

Hon. Bill Blaikie: All I'm saying is that if the government wants to oppose it, I don't think they can't get away with some procedural trick on the royal recommendation. They have to tell us why they don't want to pay the money or why they want it to be free of charge.

The Chair: I think the official has already gone through that, but this is the way things have been done in an airport or at a dock.

Hon. Bill Blaikie: That's fine. That's not a bad reason. All I'm saying is that this reason will have to suffice. Trying to deal with it by way of the royal recommendation is not the way to do it.

The Chair: Mr. Savage.

Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.): In terms of expropriation, we're not talking about an organization taking property in order to make money or to take advantage of anybody. This is a very radical situation and for the public good. I understand that, and I would be opposed to the change.

If the change is made to take out the "free of charge", that doesn't mean there couldn't be a charge either, one assumes. We just take out the "free of charge" for now.

The Chair: Yes, we could remain silent on it.

Mr. Merrifield.

Mr. Rob Merrifield: Remaining silent would be better than putting in "free of charge".

You have a lot of private airports that are run by airport authorities and so on. When they came forward with their testimony, they were saying that you're asking them to pay for the heat, the light, the furniture. In fact, in the bill it talks about equipment, furniture, and fixtures. Those are pretty specific things.

Also, this bill is a little different from the existing one. As Mr. Thibault was saying, the quarantine officers will be in those airports right now, as I understand it, and these areas will be designated.

Am I right in that?

Dr. Jean-Pierre Legault: Yes, there are specific areas where we need a bit of space to be able to house the quarantine officers and have the examining rooms.

Mr. Rob Merrifield: So it's not just when this would be enacted. It would be part of doing business right now, as soon as the bill is enacted.

Dr. Jean-Pierre Legault: Yes, right now we do business and we don't pay rent, so that is the change we would have to live with.

Mr. Rob Merrifield: That's right. That's what I'm saying. So I think there's pretty good justification for not putting in the bill "free of charge". However you do it—charge less rent or however you want to compensate—that should be negotiated in some way, but it shouldn't be in a piece of legislation that we impose right now on these airport authorities. That's where I think we should—

The Chair: Thank you, Mr. Merrifield.

Mr. Blaikie.

Hon. Bill Blaikie: Madam Chair, let me preface my remarks by saying that if we hadn't privatized all the airports, we wouldn't be having this dumb debate, but we did, so that was too bad.

The Chair: I agree.

Hon. Bill Blaikie: It seems to me that if we take out "free of charge", it may still be able to be interpreted by the government that these things will be provided and maintained.

I think the thing here, if I don't misunderstand the situation, is that they want to be able to do this. They want to be able to move in and do this and they don't want to have somebody saying, "But you have to be pay me a certain amount of money before I let you in". It should be whatever language enables the federal government to act with dispatch, and then compensation can be figured out later.

It seems to me that either way, with "free of charge" left in, it's clearer that this is something that isn't going to be negotiated as a precondition of actually being able to set up these facilities, but if you took out "free of charge" and if I were the government and I wanted to set up these things, I would still read this clause to say, when required in writing by the minister, you have to provide and maintain any area or facility that the minister considers necessary.

It's neither here nor there for me, but "free of charge" does make it clearer that there is to be no negotiation at the beginning of the process, that whatever negotiation that comes about compensation will come after. That seems to me to be recommended.

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

Ms. Dhalla, and then Mr. Ménard.

Ms. Ruby Dhalla (Brampton—Springdale, Lib.): I basically want to echo what Mr. Blaikie said. Having the words "free of charge" really sets out the parameters and defines clear guidelines.

With regard to the RCMP and the customs officials also getting free space, we're just opening up a whole other can of worms. Because of the privatization of the airports, we want to ensure that we have the same standards across the country to best manage the situation, so I would be opposed to the motion.

• (1645)

The Chair: Thank you.

Mr. Ménard.

[Translation]

Mr. Réal Ménard: I'm a little confused about how I should vote. I'd like to have a better grasp of the legal aspects of this matter, in so far as facility operators are concerned. For example, does ADM, the Montreal Airport Authority, fall into this category? It does? As I understand it, regardless of whether these facilities are temporary or permanent, the federal government does not compensate in any way the agencies that make this space available.

When we refer to the operators of these facilities, we're referring in essence to airport authorities which are not viewed as non-profit organizations, but rather as for-profit businesses. Can we ask the federal government to use public funds? At present, the federal government does not provide financial assistance to airport authorities. Correct?

Dr. Jean-Pierre Legault: To my knowledge, it does not. Airport authorities run a business and in order to do so, they must comply with certain safety standards. They are being asked to set aside some space so that the federal government can implement security measures in relation to international flights.

Mr. Réal Ménard: Madam Chair, as a committee, we need to ask ourselves if we want to set a precedent that could well open the floodgates. Other public service providers could come knocking on the federal government's door asking for money in exchange for space.

Dr. Jean-Pierre Legault: The floodgates will open.

[English]

The Chair: Mr. Thibault.

I'm sorry, did Mr. Savage have his name in?

Mr. Michael Savage: No, I wasn't in.

The Chair: Go ahead, Mr. Thibault.

Hon. Robert Thibault: I have to vote against this amendment for all the reasons that have been mentioned by others. But I just want to say, if it's any assistance to the member, that his next thing dealing with the equipment and everything limits the cost to the airport, and I can support that.

The Chair: I'm now going to call the question, on page 10, amendment C-1, which removes "free of charge".

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

The Chair: So "free of charge" remains in the bill.

We have been given a new amendment by the government. It will be delivered to you and it will become page 10.1, and the French will be page 10.2.

Does Mrs. Chamberlain want to move this? It's a government amendment.

Hon. Brenda Chamberlain (Guelph, Lib.): I so move.

The Chair: It's moved by Ms. Chamberlain, to add "along with its fixtures". Perhaps the people who put this forward could explain why we're doing this.

Mr. Brodie.

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

The intent of this is that what we expect to be provided with free of charge is what you would get in a mall or a store. The mall does not provide the counters and all that stuff. It provides the area, the facility, and the fixtures. By "fixtures", we mean the electricity, lights, and so forth.

At the request of Transport Canada, they would like "along with its fixtures" added to this subclause, after "facility", to ensure that we all understand what is provided free of charge. It is the space and the necessary fixtures.

• (1650)

The Chair: In the subclause, it goes on to say, "provide free of charge equipment, furnishing and fixtures".

Mr. Dennis Brodie: Yes, and that part of the subclause would in effect be deleted.

The Chair: It would be deleted. That's what I thought. Do we have something that tells us to delete that? I think you explained that to me.

In other words, we're taking the bottom half of that subclause and just putting "fixtures" up, thus eliminating the need for the provision of furniture and equipment. In other words, we would expect to find a clean, empty room, with lights and perhaps a bathroom off it, and we would bring our own equipment and furniture. This lightens the onus on the airport to provide more things. They don't need to provide furnishings or equipment, just the room and the lights, etc., the fixtures.

Mr. Lunney wishes to comment.

Mr. James Lunney: Madam Chair, I fail to see where it says to delete that from the subclause. It simply says to replace line 26 on page 3 with the "facility, along with its fixtures", but I don't see anything calling for the deletion. Can you show us where that is?

The Chair: Your own amendment C-2—

Hon. Robert Thibault: If I'm not mistaken, this works if you've approved amendment C-2.

Mr. Rob Merrifield: If you approve amendment C-2, then it works, yes.

Hon. Robert Thibault: If you've approved amendment C-2, this comes in, so I think we should look at amendment C-2 first.

Mr. Rob Merrifield: Yes, so let's approve C-2.

The Chair: This is line 26, but if I can get an indication that people are going to vote for amendment G-4.1 and vote for amendment C-2, that will eliminate the bottom part of that subclause.

[Translation]

Mr. Réal Ménard: Madam Chair, we will be considering some definitions later and I'd like to know if the word "fixture" has been defined in the act? What exactly is the meaning of this word? Will it be defined at the beginning of the bill?

Hon. Robert Thibault: The reference to "fixtures" has been deleted.

[English]

The Chair: Is there a definition for "fixtures"? Can you get one for addition tomorrow? We won't be doing clause 2 with the definitions until then.

Mr. James Lunney: If it means plumbing and lighting and not desks and chairs, are you going to specify so?

Mr. Rob Merrifield: How are you going to do this? Both at once?

The Chair: No, I'm going to call amendment G-4.1 and then call amendment C-2, but the sense I have around the table is that if people vote for G-4.1, they're going to vote for C-2.

[Translation]

Mr. Réal Ménard: Madam Chair, will all references to furnishings and fixtures be deleted? They will. Therefore, we'll only be voting on...

[English]

The Chair: Yes, that's what amendment C-2 does.

Mr. Rob Merrifield: Only if we approve C-2. Actually, I would think it would make more sense to approve C-2 and then do this as a follow-up to it. I don't know why we went the other way.

The Chair: Madam Clerk would like to explain to you why we can't do that.

Ms. Joann Garbig (Legislative Clerk, Committees Directorate, House of Commons): No. If the committee wishes, it can be done. It's the same effect if you adopt one before the other.

The Chair: Can I have unanimous consent to do C-2 before G-4.1?

Some hon. members: Agreed.

The Chair: Okay, good.

Who is moving C-2? Mr. Merrifield. And that is to delete “and provide free of charge equipment, furnishings and fixtures that, in the opinion of the Minister, are adequate for the administration of this Act.”

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

The Chair: Now we will do G-4.1. It is moved by Mrs. Chamberlain?

Hon. Brenda Chamberlain: I so move.

The Chair: Did you have a question, Mr. Lunney?

Mr. James Lunney: If we haven't defined “fixtures”, it's like a blank cheque, isn't it?

The Chair: No, not at all. Most people understand what fixtures are. Fixtures are things that are fixed to the walls and ceiling and floors, things that you don't naturally move out.

Mr. James Lunney: Okay, but we're going to be discussing the definitions?

The Chair: I've asked Mr. Brodie to provide, in the list of definitions, a definition for “fixtures” for tomorrow, when we do clause 2, which includes definitions. He has agreed to do that.

[*Translation*]

Mr. Réal Ménard: We're voting in the absence of a definition? That's very uncharacteristic of you.

•(1655)

[*English*]

Hon. Robert Thibault: If you will permit me, Madam Chair, by the fact that we've agreed to remove “equipment, furnishings”, I think we're already saying it isn't that. I think we'll be happy with the definition that it means a washroom and the plugs and the light fixtures. I think “fixtures”, in general real estate terms, is understood to mean those. I don't think we're breaking legal ground here.

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

The Chair: We've established that this quarantine station is going to be provided free of charge, with space and its fixtures, but no furnishings or equipment. That's as far as we've gone with this.

Amendment G-5 is identical, so we don't need to put it.

I believe amendment C-3 is one that does run into the royal recommendation, because it was a cost never considered by the drafters. In any case, I think you've already pretty well decided it, because you've decided these things will be free of charge. In fact, this would conflict with what you just passed. Is there any objection to that?

Seeing none, I will say that C-3 cannot be put, and we've already done BQ-7.

(Clause 6 as amended agreed to)

(On clause 8—*Duty to provide*)

The Chair: We're now on page 16 of the amendments, ladies and gentlemen. Subclause 8(3) says, “The Minister may compensate any person”. Mr. Merrifield is suggesting “shall”, so now I will ask Mr. Merrifield to report on his understanding of his meeting with the minister.

Mr. Rob Merrifield: My understanding, from the meeting with the minister, was that he was going to take it to cabinet, because I don't think he's opposed to the idea that when we invoke the Quarantine Act, the act is there to protect the public and therefore the public should assume some responsibility. He was nervous about changing “may” to “shall” in the sense of leaving it open ended, and I can understand that. That's why we said “in accordance with the regulations, compensate”, and the regulations should spell that out in very tight detail. I don't think there's any problem that way.

We do have a bit of a situation, in that if we do put in “shall, in accordance with the regulations, compensate”, is the department going to deem that an expense beyond what was intended by the “may”? That's a discretionary thing that I think the department may need to come back and answer.

The Chair: Mr. Ménard.

[*Translation*]

Mr. Réal Ménard: Basically, we feel that there should be some form of compensation awarded, but we're concerned that it will eat into the public purse. What happens if a quarantine facility is established and it becomes necessary to compensate 300, 800 or even 8,000 individuals? From a legal standpoint, can we say that the minister will provide reasonable compensation to all persons, in accordance with the regulations? How do we temper our generosity? Basically, that is the question.

[*English*]

The Chair: The fact that the word “compensate” is in the bill at all, even if it follows “may”, suggests to me that the drafters are open to the idea of compensation. However, because they don't know the size of the problem, as you suggest—8,000 people or 20,000—they would prefer to have “may”, which is less strong than “shall”. If they didn't want to compensate at all, they wouldn't even have put “may compensate” in, but “shall” strengthens it.

There is another whole problem here. If Mr. Merrifield's interpretation of the meeting is correct—and I will ask Mr. Thibault for his impression in a minute—and the minister is saying... We can assume the minister has cabinet approval for the words “may compensate”. He does not have cabinet approval for “shall compensate”, which proves the point that “may compensate” is within the recommendation, but “shall compensate” is not.

But the whole point is one of timing. When is the minister going to get on the cabinet's agenda with a new idea? It could be the third week in January for all I know. You can't just rush things forward to cabinet. You have to get on a list and move them forward in turn.

Mr. Thibault, what do you think of all that?

•(1700)

Hon. Robert Thibault: I think it would be fair to say the minister listened to us. He took it under advisement, and he'll be consulting.

In the meantime, we remain with the conundrum. We can't start assuming anything else other than what we have, and what we have is a problem because of the royal recommendation in terms of whether we can expand it or not. We have to go forward with as much as we can. Maybe one of the more salient points or more interesting points for us to get now, while we wait to hear from the minister, is legal advice from counsel to the committee as to exactly what the committee's position and latitude are. That might be the reasonable approach to take, because we can get that in a reasonable amount of time. But there's no way we're going to have back from the minister tomorrow an intent or a royal recommendation that permits us to move in any direction.

The Chair: Let me put it this way then. If we pass "may compensate", we keep alive the idea of compensation. If the minister is able to get "shall" approved by cabinet, and if in fact the bill has not come to report stage before then, that would allow him to give Rob a new royal recommendation that would encompass the idea of "shall".

To me, this is a classic case of something that is not acceptable at committee. Where negotiation takes place, though, it can be presented at report stage exactly as that initial piece of paper you got this morning says. Particularly when you've met with the minister and he's not averse to it, it's quite possible that he could come up with a new royal recommendation that talks about the obligation to compensate or something.

Mr. Rob Merrifield: Yes, and I hope you're not just suggesting this is for me. This is, I believe, the intent of the committee. I don't think there's anyone at the table who has a problem with compensation. It's how we do that in a way that doesn't break the bank and is fair to other people, yet doesn't give a blank cheque to a government in power—which may be any one of us, who knows?—at the time when a minister may not compensate.

The intent is to do the right thing. How do we do that in a piece of legislation that is fair? That becomes the issue, and hopefully the minister will come back and do that.

I would argue that "shall, in accordance with the regulations, compensate" is not any different from "may", but it depends on the regs, I guess.

The Chair: Traditionally, I think "shall" is different from "may". I've argued this in other committees at other times.

Mr. Rob Merrifield: It is only if the "may" means "never" or "not".

The Chair: No, if it's "never" or "not", you put something clear in, like "free of charge", which means you're not going to compensate. That they introduced the compensation idea suggests to me that it's definitely not going to be "never", double negative.

Mr. Blaikie.

Hon. Bill Blaikie: Madam Chairman, I really don't accept that the royal recommendation is applicable here, so I just wanted to go on the record.

It seems to me that one of the things that perhaps my Conservative colleagues should consider is that if we deal with these amendments to replace "may" with "shall" in committee, that may make it difficult to deal with them at report stage because they will be amendments that have already been moved, assuming of course that they may well be defeated. If they are confident that they'll be passed, then that's a different story.

But if there are ongoing negotiations with the minister and the minister is genuinely trying to get changes in cabinet, then those changes could always be reflected in report-stage amendments, provided the minister is going to get to cabinet soon. If he doesn't and there is no progress, then it's still open to move such amendments at report stage if they haven't been defeated.

•(1705)

The Chair: That's right. I forgot about that, Mr. Blaikie.

Mr. Merrifield, do you realize what he's saying? If this amendment is put to a vote here and fails to carry, you cannot then bring it back at report stage.

Mr. Rob Merrifield: I realize that. I understand what he's saying.

Hon. Bill Blaikie: It's just something to consider.

The Chair: Just a minute. Madam Demers is next. I was just trying to give Mr. Merrifield some time because it's his amendment.

Mr. Rob Merrifield: I realize that. I think you have to understand, too, that this isn't about compensating thousands of people. This is compensating travellers or others who are—

The Chair: We don't know that.

Mr. Rob Merrifield: Well, I think we do.

Hon. Brenda Chamberlain: No, we don't, and you're binding every province with this.

Mr. Rob Merrifield: I don't think you're binding any province with this at all. Each province has its own quarantine act. In the SARS experience, this act was not invoked at all. The provincial quarantine act of Ontario was the only one that was invoked.

The Chair: Now we're getting off of this. I was trying to give Mr. Merrifield time to think, but not to debate the merits of his amendment.

The next speaker will be Madam Demers, followed by Mrs. Chamberlain, Mr. Lunney, and Mr. Ménard.

[Translation]

Ms. Nicole Demers (Laval, BQ): Madam Chair, I agree with my colleague that we must tread very carefully when we talk about compensation, regardless of whether it's a matter of compensating one person or 1,000 people. I also agree that we need to choose our words very carefully, because the word "may" is highly subjective, and can lead to arbitrary action. Is there some other word we could use that would be less arbitrary, or more binding, if you will?

The current Health Minister seems to be very concerned about these matters and he seems quite trustworthy. However, the situation may not be the same in two, three, four or ten years down the road. We're about to vote on legislation that will be around for many years. In my view, the meaning of the word "may" is much too broad and affords too much latitude to the person applying the act's provisions.

At the same time, however, I have a problem with the word “shall” because it implies an obligation.

[*English*]

The Chair: Thank you.

Mrs. Chamberlain.

Hon. Brenda Chamberlain: Thank you.

I have a lot of trouble with “shall”. I think it is absolutely an obligation. When I read “shall”, it means that I will do that, period. There are no ifs, ands, or buts; I will do it.

I would be very nervous about binding us, not knowing what the situation was, how many people might be infected, or what the cost of this would be. We can't know what government would be in power at that time, nothing. So I just can't support that. I cannot.

The Chair: You're not next, Mr. Merrifield. Mr. Lunney is next, then Mr. Ménard, then Mr. Richardson.

Mr. James Lunney: Does clause 8 really talk about compensation in relation to facility?

The Chair: Yes, but I think what we're doing is capturing all the concerns around “may” and “shall” in hope that we settle this, because even the facility costs could be affected by the numbers. Suppose it's one planeload. It could be managed in one facility, such as a space in the airport. But suppose it's a cruise ship with a thousand people on it. The pier will not do. You have to quickly move people into some hotel or something. So the numbers of people and the size of the thing—

Hon. Robert Thibault: On a point of order, we should watch that we don't get mixed up, because we easily get debating the merit of it as opposed to the admissibility of it. Right now, we're at the admissibility side of it.

The Chair: I'm trying to get people to give me their feelings on the issue so that Mr. Merrifield can make a fair decision on whether to withdraw the motion or take a chance with it here. That's what I'm trying to do. I'm trying to be fair to my colleague, because he has to make that decision. That's why I'm allowing people to talk to the merits of the alternate—

Hon. Robert Thibault: The decision is moot if it's not admissible.

• (1710)

The Chair: Mr. Ménard, then Mr. Richardson.

[*Translation*]

Mr. Réal Ménard: Thank you, Madam Chair.

I have two questions for Dr. Legault. My sense is that the status quo is preferable, but I'd like some information on two points.

As matters now stand, the minister may, but is not required to, provide compensation. Is the rate of the compensation to be provided prescribed in the regulations? What will the regulations stipulate as far as compensation goes? Can you draw any comparisons for us? To your knowledge, has the federal government ever provided compensation before under similar circumstances?

Dr. Jean-Pierre Legault: There's not much I can tell you. We have not had to compensate anyone to date because we have never entirely taken over a hotel or ship. To my knowledge, when we have

taken possession of a place of business, we have always compensated the operator.

Mr. Réal Ménard: And is the rate of compensation prescribed in the regulations?

Dr. Jean-Pierre Legault: No, the regulations have yet to be drafted. I can ask my colleagues to answer your question. To my knowledge, the regulations have not yet been made.

Mr. Réal Ménard: If we were to vote in favour of Mr. Merrifield's motion, in any event, benchmarks would need to be set in the regulations. This cannot be a totally discretionary decision. The minister couldn't announce to Cabinet that \$100,000 in compensation will be awarded in Toronto, \$200,000 in Montreal and \$300,000 in Nova Scotia. The regulations would need to spell out clearly specific compensation rates, depending on the situations.

Dr. Jean-Pierre Legault: That's right.

[*English*]

The Chair: It's Mr. Lunney's turn.

Mr. James Lunney: My remarks were in relation to compensation for people who were affected by this, rather than for a facility. Maybe I'll just say what's on my mind, and that is that there's no accountability for the government when they want to incarcerate people, shall we say, or lock them up for awhile.

I'm concerned, because we saw something happen, for example, with the CFIA moving into the Fraser Valley and slaughtering millions of birds just recently, in a zealous attempt to gas everything in sight to prevent the spread of avian flu. Most of the birds weren't even sick, and some of them were on organic farms that were somewhat removed. They killed everything with feathers within sight, and I'm not aware that there has been any compensation yet. People are not satisfied that actually the public interest was served by this very zealous intervention, so I'm concerned that there's no accountability. If it is a public good we're talking about here, then the public should assume the responsibility rather than individuals.

I'll give you another example. We have CFIA rolling into a fish plant right in the middle of the hake season on the west coast, wanting to change the rules on labelling. In the middle of the season, that would just devastate the international market for hake. The parliamentary secretary, being a former Minister of Fisheries, would understand this.

Again, on intervention, we're able to stop that, but sometimes you get officials trying to apply their matter in a manner that is not in the interests either of industry or the individuals involved. It seems to me that our role as members of Parliament is to stand between the government and the people and to make sure the safeguards are there to protect the public interest.

The Chair: Thank you, Mr. Lunney.

Mr. Richardson.

Mr. Lee Richardson (Calgary Centre, CPC): Madam Chairman, I want to comment with regard to this whole notion of “free of charge” and the indignation expressed over here about who has to pay. Somebody has to pay. Nothing's free of charge. Just because it isn't the Department of Transport...somebody has to pay.

I put up with your last amendment where you presume it's free of charge to airports. Well, it's not free of charge to airports. Obviously the travelling public is going to have to pay. Airports that are privately run these days will simply have to pass on any undue costs to the travelling public or to their other lessees at the airport, whether it's the rent-a-car guy or the kiosk at the airport. They're the people who are going to end up paying for this, because there's a real charge. It's not free of charge.

Let me now go to the amendment at hand, and that is your concern, Mr. Thibault, about whether or not it fits within this other jurisdiction and royal claim. My sense is that what we're talking about here is again who is responsible for the obligation. If your mind is set on taking somebody's space at the airport and kicking out some vendor for the use of a temporary quarantine, that's one thing. But it seems to me that the obligation should not necessarily fall to those people who are in the business of working at the airport and running their business out of the airport, whether they're an airline or a little kiosk.

The obligation really should be to the public purse in the case of an emergency where we have a quarantine. This is an unusual circumstance and should go to the public purse. The Department of Health or the Department of Transport should be covering the costs of quarantine, rather than somebody who happens to have their business at the airport or—more likely, if it's a major situation—some poor farmer who happens to have his land next to the airport or the curling club that's next to the airport, and all of a sudden they're going to be expropriated for use on a temporary basis. My sense is that they should probably be compensated. This would obligate the government to compensate them. At what rate? The rate will simply be, as the amendment suggests, by regulation.

This committee is not going to establish the regulations. The regulations will be established and amended in due course by the department, through order in council, at liberty. They don't have to come back to Parliament to establish regulations.

• (1715)

The Chair: No, we have an amendment that requires the regulations to come back here.

An hon. member: That's not guaranteed yet either.

The Chair: That's not guaranteed.

I think I've expired the list.

[*Translation*]

Mr. Réal Ménard: Personally, Madam Chair, are you in favour of this amendment? I'm simply curious. Since you represent the left wing of the Liberal Party, I'd have a better idea of where we stand.

[*English*]

The Chair: Mr. Blaikie.

Hon. Bill Blaikie: I wonder if I could make a suggestion. Maybe this won't cut it, but what about, "The Minister shall, in accordance with the regulations, negotiate compensation with any person"? You have the element of negotiation there, and you have an obligation to negotiate. It seems to me that this might meet the test of my Conservative colleagues, and it's not contrary to the royal recommendation.

To have a bill that simply suggests that the government can go in and do anything it likes and use whatever it likes and it might compensate you and it might not, hardly seems to be respectful of the Canadians who might by chance be affected by this. At the same time, if we establish that it's a matter to negotiate, there's no obligation on the government. The obligation is to negotiate and the implication is that there will be compensation, but at the same time it doesn't have that same sort of blank cheque that I think the government members are legitimately worried about.

The Chair: It still implies that compensation will be given.

Hon. Bill Blaikie: But it's a matter for negotiation.

The Chair: I'm going back to Mr. Merrifield as the mover.

Hon. Bill Blaikie: I'm just asking whether some movement—

Mr. Rob Merrifield: I think you need a legal opinion on that. I think that's a very good, valid point.

Hon. Robert Thibault: Is there a motion that has been received?

The Chair: We have not had this motion moved. Are you going to move it, Mr. Merrifield?

Mr. Rob Merrifield: I need some information. I don't know whether it's from legal counsel or the department, but it's with regard to the negotiated settlement and whether that's admissible, first of all. I think part of the problem here is whether or not it's admissible. If it's deemed that it's going to put an onerous dollar amount on the maintenance of the bill, then I think it's inadmissible.

The Chair: That's my view. I had written "inadmissible" on this yesterday.

Mr. Rob Merrifield: That's why I asked originally if that's reality or not. If it isn't, then we have no choice but to wait until report stage to be able to see what the minister is going to do on it.

The Chair: I told you at the beginning that there were certain things in here that I thought were inadmissible, on the advice of the clerk and her advice taken from another clerk.

Hon. Bill Blaikie: Put us out of our misery and rule it inadmissible.

The Chair: It's inadmissible.

An hon. member: There.

Mr. Rob Merrifield: Would Bill's be inadmissible? Would a negotiated settlement be inadmissible?

The Chair: I think so. It's still "shall compensate", which conceives of money being spent for sure, when in fact—and I think Ms. Demers put it best—you don't even know how many people or how many places you have to compensate. That's why "may compensate" doesn't raise expectations that the government may not be able to fulfill, depending upon the size of the event.

[*Translation*]

Mr. Réal Ménard: Are you ruling the amendment inadmissible?

• (1720)

[*English*]

The Chair: Yes.

We're now on page 17. We have the same thing, "The Minister shall compensate any person".

Essentially, this next one is inadmissible too, although I didn't have it written in because it was a line conflict with the previous one, the same line.

I don't know what this one means. We are just totally confused. I'm on page 18.

[*Translation*]

Mr. Réal Ménard: Don't you think your ruling is a little too harsh, Madam Chair, given that the word "compensation" appears in the bill? Basically, if the reference had been to something other than monetary compensation, you would have allowed the motion. Maybe you're being too rigid in this case.

[*English*]

The Chair: I know it's a whole group with different opinions, but you can't have it both ways. I've given Mr. Merrifield every chance to withdraw and to try at report stage. He didn't want to do that. He preferred to have me rule it inadmissible. I came through for him, so now you can't complain after the fact that I shouldn't have.

[*Translation*]

Mr. Réal Ménard: Don't get up all riled up, Madam Chair.

[*English*]

Mr. Rob Merrifield: I feel so good that you did that for me.

The Chair: I know. I'm expecting a nice drink after work or something for that.

I'm on page 18, amendment G-6.

Hon. Robert Thibault: It's withdrawn.

The Chair: You withdraw it. That's good, because none of us could understand what it meant, what it was supposed to do.

We've finished clause 8.

(Clause 8 as amended agreed to)

The Chair: Now we're on page 20. This is where we began, but this is the thing about the Privacy Commissioner, I think.

Hon. Robert Thibault: Madame Chair, couldn't we go back and do 50 to 66?

The Chair: Just a minute. Is all this about privacy? What's it about?

Hon. Robert Thibault: No, but we had gone to that—

The Chair: But why? I think it was privacy.

If we came to an agreement on new clause 33.1, then we could go back and do 20 to 33. But new clause 33.1 is the one that's contingent upon the Privacy Commissioner. So all these pages, 20 to 32, are still out of the loop.

I would suggest that I took the paper clip off these too soon.

We have to go back to page 59. We can clean up one more. Again, this is "shall" compensate. The bill now says "may".

I'm calling this one inadmissible.

Mr. Rob Merrifield: Am I supposed to thank you for that again?

The Chair: Yes.

The clerk has found another one, on page 77, that she thinks we can deal with.

● (1725)

Hon. Robert Thibault: What clause is it?

The Chair: Clause 43, another case of "shall" compensate.

I'm going to call it inadmissible.

Mr. Rob Merrifield: I'm going to have to thank you again.

Mr. James Lunney: Hey, that's mine. Now you're doing it to me.

The Chair: I'm reserving your opportunity to do it at report stage, you see.

(On clause 50—*Assistance to quarantine officer or environmental health officer*)

The Chair: We're now on page 91, at amendment G-39, presented by Mr. Thibault.

What does this do? The actual description doesn't tell you much.

Hon. Robert Thibault: The warrant to enter and inspect does not apply, because the power to enter and inspect is under clause 47. This deletes the reference to clause 48.

The amendment was suggested by the Public Health Agency of Canada. Further information can be received from the expert witnesses.

The Chair: So it's a housekeeping thing. You're deleting it in one place because it's someplace else.

The Chair: Okay.

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

(Clause 50 as amended agreed to)

(Clauses 51 to 53 inclusive agreed to)

(On clause 54—*Report of contravention*)

Hon. Robert Thibault: Right, as we had done in another case.

The Chair: We are now on page 92.

Mr. Lunney, perhaps you could explain to us what you're trying to do in your amendment.

Mr. James Lunney: These two actually work together.

● (1730)

The Chair: Which two?

Mr. James Lunney: The amendments on pages 92 and 93 work together.

This concerns the person who raises an objection. We want whistle-blower protection, but on the other hand, there is protection provided here, in the bill, that "no person shall dismiss, suspend, demote, discipline, deny a benefit of employment to, harass or otherwise disadvantage a person". So there's protection here already for a person who raises an issue, but because we're dealing with clauses that say a person has, or might have, then you're guilty until proven innocent; you know, you might or might not have some of these things.

If you have a person in here who has a suspicion that isn't really founded, or grounded on anything, and wants to make an allegation that doesn't have any substance, and you have people who can decide they might or might not have, based on an allegation, the person's identity is even protected. Maybe this person has their own little vendetta against the security agency or something.

I'm just saying that while we want whistle-blower protection, because there are so many might and uncertainties in the application of these laws, I think there is protection for a whistle-blower already. Having the disclosure aspect in here doesn't really protect the person who may be required to absorb the costs, based on a whimsical "might" concern.

The Chair: What is it you want to have happen to this person who's on a vendetta?

Mr. James Lunney: If they're identified, you could say, well, gee, this person has been mad at the boss because he ran off his wife, or they've been having an affair, or some crazy thing. There's an issue here that might not be related to public health at all. If they're not disclosed, though, that kind of a thing could remain hidden, to the employer's great cost, without any way to protect themselves.

The Chair: This whole thing is about identity. You want these people to be identified.

Mr. James Lunney: The amendment would delete the part about not identifying.

The Chair: The bill is suggesting that a whistle-blower's name should not be identified, and you're suggesting that maybe that's not a good idea?

Mr. James Lunney: Exactly.

The Chair: Mr. Thibault.

Hon. Robert Thibault: I have difficulty with that. I have difficulty with seeing how whistle-blower legislation can work if you don't protect the identity of the whistle-blower. I mean, that's one of the protections you give them.

Suppose the whistle-blower is innocent until proven guilty, and the whistle-blower is bringing information for the right reasons. How do we protect that person from a vendetta? One of the ways we do it is by protecting the identity of that person.

Mr. James Lunney: Can I respond to that?

The Chair: The issue you're raising, Mr. Lunney, would apply in all whistle-blower cases, not just here.

Mr. James Lunney: If it's an allegation of money being stolen, or some other impropriety, it may be easier to gather evidence than if we suspect there might have been a bug there, and they actually were out with somebody who could have had a bug—that type of thing.

The Chair: A lot of secrets might come out in this.

Mr. James Lunney: I'm just thinking that there is in fact a difference. When you're dealing with potential exposures to things, you already say "has" a communicable disease, or "might have". There's so much latitude already that if you get an allegation that may in fact be unsubstantiated, and somebody has their own personal agenda, there's actually no defence for those who are accused. They're guilty until proven otherwise.

The Chair: Are you ready for the question on amendment C-25?

Mr. James Lunney: I'm not sensing a lot of sympathy for this.

(Amendment negated [See Minutes of Proceedings])

The Chair: Good try, Mr. Lunney.

Now, what does this next one do? I know they're in concert.

Mr. James Lunney: They really work together, so if one's down, you might as well kill them both.

The Chair: You're going to withdraw C-26?

Mr. James Lunney: Yes. They go together.

Meanies.

(Clause 54 agreed to)

(On clause 55—*Collection of medical information*)

The Chair: We're on page 94, dealing with G-40.

There are so many numbers in this game.

Mr. Thibault.

Hon. Robert Thibault: Madam Chair, this experience would make you a good bingo caller.

This is housekeeping again. We're adding the term "relevant" before "medical information". It's more limiting in scope than the original.

The Chair: Yes. We've already debated this and agreed that we want to make sure this is relevant.

[*Translation*]

Mr. Réal Ménard: I don't quite understand the addition of the word "relevant". Relevant to whom?

Hon. Robert Thibault: The motion refers to relevant medical information. In the past, it was possible to gather general medical information. Not, only relevant medical information can be gathered.

Mr. Réal Ménard: In my opinion, the French should read "qui présentent des informations médicales pertinentes".

Hon. Robert Thibault: I understand your point.

[*English*]

The Chair: How would you say that?

[*Translation*]

Should it read "information pertinente"?

[*English*]

Is it the same word? It's *pertinente*?

Would you agree with that, Mr. Thibault?

Hon. Robert Thibault: Yes, "relevant" would remain in the English and it would be *pertinente* in the French.

• (1735)

The Chair: So it's *pertinente* in French.

L'hon. Robert Thibault: I agree to that amendment, but I don't know how you do that mechanically, Madam Chair. Do you modify mine?

The Chair: Do you know how to do it, Madam Clerk?

[Translation]

Ms. Joann Garbig: Mr. Ménard moves that the amendment be modified by substituting the word “pertinents” for the words “qui présentent un intérêt”, in the French version. Correct?

Mr. Réal Ménard: That's correct.

[English]

The Chair: He doesn't like that.

Ms. Joann Garbig: Exactly, so it's to replace the words *qui présentent un intérêt* with the word *pertinente*.

The Chair: Yes.

Okay, this is just a subamendment.

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

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

(Clause 55 as amended agreed to)

(On clause 56—*Disclosures to governments, etc.*)

The Chair: We're now on page 95, and we go to Mr. Thibault again.

Hon. Robert Thibault: I so move, and it's a similar sort of thing, except that this applies if the minister has reasonable grounds to believe. It's therefore adding “has reasonable grounds to believe that”.

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

The Chair: And on G-42?

Hon. Robert Thibault: I move G-42. It adds the words “or to enable Canada to fulfill its international obligations”. Our obligations, of course, are with the World Health Organization and similar organizations.

The Chair: Was this something that had been forgotten and you're just bringing it in to make sure we think beyond our borders?

Hon. Robert Thibault: Yes. We have an international treaty and international health regulations that we have to conform to in this. By adding this, it makes sure we conform to the health regulations.

The Chair: That seems to make sense.

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

The Chair: Amendments G-43 and C-27 have a line conflict.

Mr. Rob Merrifield: We discussed this one earlier. It's an addition of the wording “might have” or “reasonably likely to have”.

The Chair: Are you happy to go with Mr. Thibeault's “might have”?

Mr. Rob Merrifield: Yes, that's fine. The intent is the same.

The Chair: Mr. Thibeault has to move it.

Hon. Robert Thibault: I so move.

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

The Chair: Amendment C-27 cannot be put because it's the same line we just amended.

We're still in Clause 56.

Mr. Merrifield.

Mr. Rob Merrifield: Are we on page 99?

The Chair: Yes, page 99.

Mr. Rob Merrifield: This is just saying that if a person has information that is disclosed, he should be informed of that. I think that's a principal that is there. It actually came not from me, but from Elaine Gibson from Dalhousie University, who said the same thing. This is a recommendation coming from her that we see a lot of merit in.

The Chair: Mr. Thibault.

Hon. Robert Thibault: I would like to move a subamendment.

Mr. Rob Merrifield: This better be a good one.

Hon. Robert Thibault: I think you'll like it.

Do I have the floor, Madam Chair?

The Chair: Yes, you do, Mr. Thibault.

Hon. Robert Thibault: I move that amendment C-28, relating to clause 56, be amended by removing “immediately” on line 4 and adding, before the period,

except if not reasonably practicable or would defeat the purpose of this Act

The only intent here is that it's recognizing that this is an emergency situation and that you're managing an emergency. If either of those two things come into play, then you would accept a delay in time. Otherwise, it would be—

Mr. Rob Merrifield: Then why don't we just get rid of the word “immediately” and say “notify the person or business”?

Hon. Robert Thibault: Certainly.

Mr. Rob Merrifield: I would accept that as an amendment.

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

I have a subamendment moved by Mr. Thibault to remove the word “immediately”.

Mr. Rob Merrifield: Why don't I just remove the word “immediately” and leave it at that?

● (1740)

The Chair: Can he? I don't think so. We have to have a record based upon what's on the paper.

Mr. Rob Merrifield: I thought we could make amendments.

Mr. Lee Richardson: We just did it five minutes ago.

Mr. Rob Merrifield: No, I spoke to it, but I didn't move it yet.

The Chair: No, every addition and deletion that has been suggested at the table has been moved in the form of a subamendment and has been passed as a subamendment, and then we have passed the amended amendment.

Hon. Robert Thibault: Then if it's necessary, I move as a subamendment that the word “immediately” be removed.

Mr. Rob Merrifield: As a subamendment.

Hon. Robert Thibault: As a subamendment, yes.

The Chair: Okay, Mr. Thibault wants to strike “immediately”.

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

Ms. Ruby Dhalla: Madam Chair, on a point of order, I have a question.

In my version of the Quarantine Act, I don't even have a subclause 56(3).

Mr. James Lunney: We added it.

The Chair: This is a new subclause.

It's too bad we don't do something to show that on these papers. They should just be stamped with the word "new" or something—"new paragraph" or "new clause" or whatever it happens to be.

We have amended C-28 to delete "immediately". I'll now call the question on the amended amendment.

[*Translation*]

Mr. Réal Ménard: I'm not following here. Could you reread the amendment, Madam Chair?

[*English*]

The Chair: All it says is:

(3) If any personal information or confidential business information is disclosed under this section, the Minister shall notify the person or business to whom the information relates of the disclosure.

[*Translation*]

Mr. Réal Ménard: Are we still on clause 56?

[*English*]

The Chair: The question is on the amended amendment.

(Amendment agreed to)

(Clause 56 as amended agreed to)

(Clause 57 agreed to)

The Chair: Thank you.

We are now on page 100, and a new clause, clause 57.1.

Mr. Thibault.

Hon. Robert Thibault: I move the amendment, which would enable the disclosure of necessary information between the private sector and government for the purpose of protecting public health. With this amendment, the Quarantine Act would have precedence over the PIPEDA. This amendment is to address concerns expressed by the Air Transport Association of Canada. You may remember them making their presentation at this meeting.

The Chair: I remember that.

Hon. Robert Thibault: They could be asked by our act to give information that the Privacy Act would protect them from giving out. This is to ensure that they don't have that double jeopardy situation.

The Chair: Mr. Ménard.

[*Translation*]

Mr. Réal Ménard: All of this gives me cause for some concern. We heard from the Commission d'accès à l'information representative, but I hadn't understood that we were inviting a government spokesperson. In truth, if we adopt this amendment, the disclosure of personal information gathered as part of an assessment done in connection with a quarantine operation would not be viewed as a violation of the PIPEDA.

Since early this morning, we've been reviewing closely the assessment mechanisms in place and how information circulates. I'd be interested in hearing the views of either Mr. Simard or Dr. Legault on the subject.

Hon. Robert Thibault: Perhaps I could make a suggestion.

Maybe we could defer the vote until we've heard from the Privacy Commissioner. This amendment is very similar to the other two. We've put this question to the Commissioner.

Mr. Réal Ménard: You would like to bring this to the Commissioner's attention. I think that's a good idea, because the implications could be quite serious.

[*English*]

The Chair: With your agreement, we'll stand this one and refer it to the Privacy Commissioner.

Mr. Brodie, I leave that in your capable hands.

(Amendment allowed to stand)

(Clauses 58 to 61 inclusive agreed to)

(On clause 62—*Governor in Council*)

● (1745)

The Chair: We're now on page 101, with the beginning of clause 62.

Mr. Ménard.

[*Translation*]

Mr. Réal Ménard: It's a matter of shoring up the provision respecting the making of regulations. More comprehensive wording has been suggested in so far as technologies are concerned. By this I mean technologies that could be used during a physical examination.

The physical examination is part of the medical screening process. The use of the word "including" opens the door to possibly prescribing this in the regulations. I'm beginning to realize that this is a very generous amendment. How does this government feel about it?

Hon. Robert Thibault: Occasionally, it's important to include this in the regulations, since the definition of medical examination [*Editor's note: inaudible*].

Mr. Réal Ménard: I don't recall asking the legislative counsel that question. However, I do think that adding the word "including" could broaden the scope of the technologies used.

[*English*]

Mr. Mario Simard (General Counsel, Legislative Renewal, Health Policy Branch, Department of Health): If I may, I think this is an amendment that is consequential to your previous amendment, where you were proposing that the health assessment and technologies be prescribed by regulation. You've withdrawn that amendment, so this becomes *caduc*.

[*Translation*]

This amendment has become obsolete because the previous ones have been rejected.

Mr. Réal Ménard: Really?

Mr. Mario Simard: It was merely a matter of granting the regulatory authority that comes with the obligation to prescribe by regulation.

[*English*]

The Chair: The clerk doesn't think it has to be considered as consequential to the other one, that it could stand alone.

Hon. Robert Thibault: But it's a similar idea.

The Chair: It's a similar idea.

[*Translation*]

Mr. Réal Ménard: In my view, this adds grist to the government's mill. As I recall, the use of the word “including” allows for certain unexpected additions. However, I won't be dogmatic about this. Does the Parliamentary Secretary have an opinion?

Hon. Robert Thibault: According to the notes I received,

[*English*]

again, this amendment speaks to prescribing a health assessment in the regulations. In practice, a health assessment could vary with the illness of concern.

[*Translation*]

It's a matter of prescribing this in the regulations and to ensure that even if the situation changes, the practices remain the same. I don't know if this is the appropriate place for this, or whether it concerns the operational side of things.

[*English*]

The amendment would limit the need for flexibility under quarantine powers.

[*Translation*]

Examinations can change, depending on the technology used.

Mr. Réal Ménard: Generally speaking, the use of the word “including” opens the door to including other things. For instance, the use of the word “including” in section 15 of the Charter allows for the inclusion of other grounds. Correct?

If it's a problem, I'm prepared to withdraw my motion. I was merely acting out of simple generosity.

[*English*]

The Chair: So you're happy to withdraw it? People aren't really understanding why it's an advantage, I think.

The term “health assessment” is going to be defined in the definitions, isn't it? If we were going to do something about including technologies, we'd put it as part of the definition.

We can do that, and I'll ask the officials to keep that in mind when they're looking at the definition of “health assessment”.

So you'll withdraw this, Mr. Ménard, is that correct?

[*Translation*]

Mr. Réal Ménard: That's correct.

[*English*]

The Chair: Thank you.

The Chair: On pages 102 and 103, we have two that are identical in English, one from Mr. Merrifield, “respecting any compensation that is to be paid under this Act”, and one from Mr. Lunney that is exactly the same.

What does this one have to do with, Mr. Merrifield?

Mr. Rob Merrifield: Actually, it's a consequential amendment. If there are any payments coming out or any compensation is to be paid out, and if it's applied in the regulations—if there are any regulations with according compensations, which we hope there would be—it's respecting any of that compensation to be paid under the act.

I don't see a problem with that.

The Chair: But what about that compensation? I don't know what this follows.

Mr. Rob Merrifield: It's following the same thing all the others are following. The Governor in Council may make regulations, and this is saying we may make regulations with regard to compensation.

• (1750)

The Chair: Is there any problem with that from the officials? No? Compensation is conceived of by the act, and there could be regulations about it. This is just in agreement with that.

Mr. Rob Merrifield: Yes.

The Chair: Mr. Simard.

Mr. Mario Simard: Yes, but you have not adopted the amendment that would provide for compensation as prescribed by regulation. These regulations would mean nothing if you don't have the previous amendments, but that's a parliamentary matter. I'm just pointing it out.

The Chair: So this is consequential to saying there “shall” be compensation and it “shall” be described in the regulations, and we defeated both those things. We're left with—

Some hon. members: No.

Hon. Robert Thibault: No, we didn't accept them. We didn't vote.

The Chair: That's right, we didn't accept them.

Mr. James Lunney: But the bill does say the minister may compensate.

The Chair: That's right. What about the compensation the minister “may” decide to give? Would that be in the regulations? Is that how you visualize it happening, or have you thought about it?

Hon. Bill Blaikie: It says “any” compensation, it doesn't say “the” compensation. It's consistent with “may”.

The Chair: Exactly.

Mr. Mario Simard: I don't want to get into the parliamentary debate, but I think it is getting to the same point by the back door. I leave it to you to decide.

Hon. Robert Thibault: Would the member agree that we change the words to “respecting any compensation that may be paid under this act”? I would say that would be consistent with the act generally.

Mr. James Lunney: I have the exact same amendment. It would still be subject to the “may”. If the minister decides that he's going to compensate, then there are regulations to provide a mechanism to do so.

Hon. Robert Thibault: And then he may make regulations to comply.

Mr. Rob Merrifield: Yes, but that is to be paid under the act. It could still be the “may”. I don't think that makes any difference.

The Chair: This is consequential to the others and it should be brought in at report stage with the others.

Mr. Rob Merrifield: No, we should do it here, and this gets to my point earlier. If the minister and the department were genuine about the “may” meaning compensation, but without obligation—that's really what they're saying—then this should be respecting the compensation that is to be paid under the “may”.

The Chair: But the whole reason to have the “may”, in my understanding of these debates that go on with a lot of bills, is that you have to be flexible because you don't know the size of the incident. Therefore, you wouldn't lay out the compensation in the regulations. Compensation in regulations might be definitive.

Mr. Rob Merrifield: So what you're saying is that in the regulations there would be no compensation for anything.

The Chair: There wouldn't be any list saying you get ten dollars if you do this and you get forty dollars if you do that, and if you do this—

Mr. Rob Merrifield: No, but it's not specifying anything. It's just saying—

The Chair: Have regulations about it.

Mr. Rob Merrifield: Yes, and it's respecting those regulations. Are you saying there would be no compensation? Are you comfortable with that?

The Chair: No, I'm not saying there would be no compensation. I'm saying that what you want is flexibility based on the word “may”, based on the amount of money you have, and based upon the number of places that are expecting to get some of it. You want maximum flexibility.

I think Mr. Blaikie disagrees with me.

Hon. Bill Blaikie: I think we're being overly sensitive about this. This just says “respecting any compensation”. It doesn't say “respecting required compensation”, “compulsory compensation”, it just says “respecting any”. If there's any compensation paid for out of this act, which may be the case, then there ought to be regulations about it, just like there are regulations about everything else in the act. I don't see the problem.

The Chair: Mr. Thibault.

Hon. Robert Thibault: But if you look at the other items under 62—for example, “may make regulations...respecting the methods of disinfecting, disinfesting, decontaminating”—we don't have anything specific in the act about that. It's a “may” power, “may” regulate, so I don't think it would be that big a problem.

The Chair: All in favour of amendment C-29?

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

Mr. James Lunney: As opposed to C-30?

Some hon. members: oh, oh!

Hon. Robert Thibault: How about C-29.5? Let it be renamed C-29.5, then both guys are happy.

The Chair: Mr. Thibault, I'm on page 104, and it's over to you.

Hon. Robert Thibault: I so move.

The Chair: What does this do?

Hon. Robert Thibault: This amendment would add regulation-making authority in terms of the provision and maintenance of an area or facility within airport authorities for the purpose of a quarantine station. This amendment would prescribe specifications and ensure the minimum standards are met. This amendment is to respond to industry concerns that the related costs associated with this provision of federal space equipment, furnishings, etc....

• (1755)

The Chair: How does it respond to industry concerns?

Hon. Robert Thibault: I'm not sure. We have already, by removing the equipment and furnishings side of it, and left only fixtures.

The Chair: Are there any other questions?

Does this mean you're going to have regulations respecting...? How are you going to know? Why would you have that in regulations? Why wouldn't you just leave yourself open to deciding what you need when you see the crowd and you see the space available?

Hon. Robert Thibault: But it is “may”, that you may make regulations following the certain.... But you could ask the officials who have drafted this.

Mr. Dennis Brodie: Yes, I think the idea was that this would allow the government to say for example we'd like this type of bathroom fixture in a facility. It allows then the stakeholders to be able to comment on what those regulations say. So it was allowing some consultation to take place about what this room would look like.

Mr. Rob Merrifield: And that's because you're paying so much for the room.

The Chair: You can't have it both ways. We're saying we don't need the furniture, we don't need the equipment. We only need the fixtures like the bathroom. Oh by the way, we're going to tell you what kind of a bathroom we need.

Mr. Dennis Brodie: I guess it's more for certainty than anything else.

Mr. Mario Simard: The advantage for the industry is that if regulations are adopted, they know exactly what they have to provide as opposed to being subject to the discretion of the minister.

Dr. Jean-Pierre Legault: My understanding is that they have a voice there when regulations are made. This is actually making sure they do have a voice when the specifications are made.

The Chair: But once the regulations are made and there are specifications, say, for the bathroom, they're coming to beg you to change it. Why not just convene a meeting, have a consultation with the people who run airports and say, by the way, what kind of bathrooms do you have, and by the way, these are the kind we'd really like. But if you put it in a regulation, they have no choice. They might have just put in a new bathroom in and all of a sudden you're saying it has to have this, that, and the other thing. I think this is really heavy-handed over them.

Mr. Rob Merrifield: Now you're sounding like me.

The Chair: No, no, we have agreed that they have to provide the room and the fixtures for free and we can't then go back and say, oh by the way, would you please.... I mean bathroom renovations in a private house can cost \$10,000 or \$15,000. Can you imagine a public bathroom? You have to have this kind of a bathroom. It has to have so many showers and have this, that, and the other thing. It could cost them \$100,000 to rebuild it if you have specifications.

So which is it?

Mr. Lee Richardson: Just for clarification, who is to provide this quarantine space, facility?

Mr. Dennis Brodie: Where the minister designates an entry point, and currently....

Mr. Lee Richardson: Could you give an example, please?

Mr. Dennis Brodie: Sure. There are eight quarantine stations currently in Canada at all the major airports.

Mr. Lee Richardson: Is it the airport that is to pay for it?

Mr. Dennis Brodie: No, they provide the space, the room. We provide the equipment, furnishings, etc.

Mr. Lee Richardson: But you say they provide and you presume what—that they provide that at no cost to themselves?

Mr. Dennis Brodie: That's correct. That's the arrangement Transport Canada has.

Mr. Lee Richardson: No, I said you presume that they provide it at no cost to themselves. Is that what you're saying?

Mr. Dennis Brodie: No, I'm not saying that at all.

Mr. Lee Richardson: At Gander, for example, you would presume the Department of Transport would pick up the tab for this facility?

Mr. Dennis Brodie: The arrangement Transport Canada has with every airport in this country is that they shall provide sufficient space for federal services—customs, immigration, and quarantine. That's the government policy. We're just confirming that in this legislation.

• (1800)

Mr. Lee Richardson: Well, I'm asking you who is to provide the facility. Take, for example—

Mr. Dennis Brodie: The airport. The airport is required—

Mr. Lee Richardson: The airport.

Mr. Dennis Brodie: Yes, they have an agreement with Transport Canada and they're to provide sufficient space for Canadian inspection services.

Mr. Lee Richardson: And that's open ended?

Mr. Dennis Brodie: That's my understanding, yes.

Mr. Lee Richardson: So you're saying, like the chairman's example earlier, if it was three million people, the airport or whoever owned the airport would be responsible for providing a facility to house and quarantine three million people. Is that what you're saying?

Mr. Dennis Brodie: No, that's not what I'm saying at all. This is a quarantine station, the administrative facilities for housing quarantine staff. You're referring to a quarantine facility, which is where

people are isolated. That is not in an airport. It could be in an airport, but unlikely.

Mr. Lee Richardson: This is the facility. Is there a designated space and the size and that sort of thing?

Mr. Dennis Brodie: Yes.

Dr. Jean-Pierre Legault: Okay, as for what these specifications would be, what is required would be to put down on paper in the regulations to be sure it's uniform. Right now, what is needed is enough space to house the quarantine officer and the examining room or rooms. For example, in Toronto, because of the three terminals, you need one in each terminal. But you need to have a place to go to examine these persons.

That is the infrastructure that is there on what is supposed to be the permanent structure. If there's a crisis and you need more, then that is something different. We obviously work very closely with the airports to make sure there's a hangar that we can use or someplace where we can put the persons while we triage, but that's a temporary facility at a time of crisis.

Mr. Lee Richardson: That's included in the legislation. This is what this implies, that they would have to provide that. Is that what you're saying?

Dr. Jean-Pierre Legault: What they have to provide in the regulation is with the station. The station is the structure where you house the permanent staff or the staff who work on a routine basis.

Mr. Rob Merrifield: What's the square footage in that?

Dr. Jean-Pierre Legault: The square footage of that would be about half of this room here, even less.

Mr. Lee Richardson: Is this space there all the time?

Dr. Jean-Pierre Legault: That is there all the time in the major airports, the ones that have a sufficient volume to warrant a quarantine station and that do international travel.

Mr. Lee Richardson: Is there any facility in the bill to provide for quarantined people? Now we've talked about space. Have we already lost the argument with regard to quarantining people? Is there anything in the bill that refers to that? Who is responsible for providing that space?

The Chair: I think you mean the facility. This is the station—

Mr. Lee Richardson: No, we already got that. I just want to make sure we already lost the first argument that we have all these people coming in.... Who is responsible? Is that part of this bill? Who's responsible for housing those people who are going to be quarantined?

Dr. Jean-Pierre Legault: All right. If you quarantine them and you declare a place as a facility like a hangar, then the minister may compensate. This is what is there; the “shall” or “may” is with regard to that.

Mr. Lee Richardson: Well, we've already lost that argument. But if it wasn't a hangar, if it happens to be, for example, a curling rink down the block, or in Gander it was the school, then he may or may not compensate the school for putting up all these people. They may be stuck with the bill.

Dr. Jean-Pierre Legault: That is the question to be answered by Parliament, as to what Parliament wants—

Mr. Lee Richardson: I think we heard the answer a little earlier. Yes, the people get stuck with the bill.

Dr. Jean-Pierre Legault: What everything that was seen with—

Mr. Lee Richardson: I just want to be clear, so we all know what we're talking about.

• (1805)

The Chair: Are you ready for the question?

Hon. Robert Thibault: Madam Chair, on this issue precisely I'd just like to add a quick point.

The Chair: Mr. Thibault.

Hon. Robert Thibault: When we're looking at this as it exists now, without adding this, the minister says in writing to the airport, "This is what I need". Now, with this, it gives the minister a chance to put in regulations what these facilities are going to be like, and it gives the minister a chance to get some input back from these people through the regulations process. Assuming that we are going to get the clause that we'll be looking at later, it brings it back to this table also, back to this committee, because we approve these regulations, so we can take away the gold drinking fountain or whatever.

The Chair: Mr. Merrifield.

Mr. Rob Merrifield: Yes, that was my discomfort with it. I actually kind of like it in the sense that it lays down the specifics, but I would only be comfortable with that if we were to bring back the regulations here so that we could take a look at them. If we can't put those parameters around it, at least we can add some sanity to it that way.

The Chair: Are you ready for the question on amendment G-45?

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

The Chair: Now, an amendment from Mr. Thibault again, on page 105.

Hon. Robert Thibault: This amendment was suggested by the committee during witness testimony. This amendment would guarantee privacy rights by involving the Office of the Privacy Commissioner when regulations are being made for the protection of personal information. This would be putting in regulations after consultation with the Privacy Commissioner, as defined in the Privacy Act.

The Chair: So there won't be any regulations gazetted or anything else until the Privacy Commissioner has gone over these regulations.

Hon. Robert Thibault: The ones that are applicable, yes.

The Chair: Yes, okay. This is amendment G-46. Mr. Thibault has moved this.

Yes, Mr. Blaikie.

Hon. Bill Blaikie: It doesn't actually guarantee privacy. It just guarantees consultation with the Privacy Commissioner.

Hon. Robert Thibault: Yes, but I think we can assume that the committee is going to....

The Chair: What would happen if the officials consulted the Privacy Commissioner and the Privacy Commissioner said, "I don't like this, I don't think it protects privacy enough", and they said, "We don't care, this is the Quarantine Act, we have to do it".

Hon. Robert Thibault: This body would have the final word, assuming that we're going to accept an amendment that brings the regulations back to the committee for approval.

The Chair: But how would we know that the Privacy Commissioner didn't approve it?

Hon. Robert Thibault: We have to have a certain assumption that our officials would be telling us the truth.

Hon. Bill Blaikie: He'll put it in his yearly report.

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

The Chair: Page 106, amendment G-47 from Mr. Thibault again.

My, you've been busy, Mr. Thibault.

Hon. Robert Thibault: Oh, sorry, amendment G-47 should be deleted.

The Chair: Okay, amendment G-47 is gone, people, and we're on page 107.

We're finished with clause 62.

(Clause 62 as amended agreed to)

The Chair: Now, this is the big one, isn't it?

Apparently I forgot to put an earlier question on, and we actually finished the amendments, so I have to ask you now, shall clause 43 as amended carry?

(Clause 43 as amended agreed to)

The Chair: Now we're on to a new one, Mr. Merrifield's amendment C-31, which proposes a brand new clause 62.1, ladies and gentlemen. Mr. Merrifield is moving it, so he's going to explain to us what it is he's going to do here.

Mr. Rob Merrifield: This is what we talked about before with the regulations coming back to this committee for approval. There are two approaches on pages 109 and 107, and they're different. The first one follows the Tobacco Act version, which is that we would have the same power as we do now when we review the regulations in the sense that we can make recommendations and go through the process.

As for the assisted human reproduction model, our discomfort with that one, if you remember, Madam Chair, is that the minister may take our recommendations or may not.

• (1810)

Hon. Robert Thibault: May I make a correction on that, just for the information of the committee?

Mr. Rob Merrifield: I don't think that's incorrect, but you can speak to it.

Hon. Robert Thibault: This is what officials have told me; I was not part of that. I've heard your concerns and I brought it back. It's my understanding from officials that no regulations have been promulgated under the Assisted Human Reproduction Act.

Mr. Rob Merrifield: That's right.

Hon. Robert Thibault: The department has only started to consult on the first set of regulations, and those regulations must come to this committee. The committee can't be contravened.

Mr. Rob Merrifield: Subclause (5) on page 110 is what I'm referring to, "the Minister shall take into account any reports of the committee of either House". If the regulation does not incorporate a recommendation of the committee of either House, the minister shall lay before that House the reasons for not incorporating it. So the minister doesn't have to accept the committee's recommendations.

Hon. Robert Thibault: He can override the committee, you mean.

Mr. Rob Merrifield: He can override it, completely throw the committee's work to the wind and say, "I'm sorry, I'll give you no or little explanation and I'll do it my way". That's the model for the assisted reproduction version of the regulations. We get to see them, to comment on them, and he'll say yes or no.

The Tobacco Act version is a little different. We then can make the recommendations and it goes through the same process, a vote in the House, as we have now, which is stronger. I think it's what we are looking for with regard to the regulations, if we're going to make them substantive.

The Chair: Which one of these do you want to move?

Mr. Rob Merrifield: I'll moving the first one, on page 107. The Tobacco Act is—

The Chair: That's preferable to you.

Mr. Rob Merrifield: That's preferable to me.

The Chair: He's given us two choices here, ladies and gentlemen. After studying it, Mr. Merrifield seems to believe that the amendment on pages 107 and 108 is preferable. Certainly it's shorter than the one on pages 109 and 110. Mr. Merrifield is moving amendment C-31.

Are there any further comments on it?

Mr. Thibault.

Hon. Robert Thibault: My preference of course would be with amendment G-49. Amendment G-48 shouldn't appear at all and should be abandoned. The governmental preference would be amendment G-49, which is—

The Chair: I don't know what you're talking about.

Hon. Robert Thibault: There are four shown here.

The Chair: Oh, I see. The amendments on pages 111 and 112 are also similar.

Hon. Robert Thibault: Page 111 should be removed. It was given in error.

The Chair: Amendment G-48 on pages 111 and 111.1 should be withdrawn.

Hon. Robert Thibault: Yes.

The Chair: Just a minute, I want to know what it is we're going to compare before we start.

Just hold on, Mr. Ménard.

Do think your amendment G-49 on page 112...?

• (1815)

Hon. Robert Thibault: That would be the preference. I understand that it would mimic very closely the assisted human reproduction....

Mr. Rob Merrifield: It's exactly the same.

Hon. Robert Thibault: It would be based on the same idea.

On the amendment Mr. Merrifield is proposing on page 109, I'm told by the department that it would be very acceptable after a very small modification.

I'm wondering if Mr. Merrifield would accept holding this back, so we can have a chance to have those discussions to see if there's a way of negotiating around this.

Mr. Rob Merrifield: It's subclause (5) I have a problem with, if we can tighten it up.

The Chair: The two movers of these alternate amendments that cover the same thing are suggesting it's possible that they may be able to come up with a united effort for tomorrow.

Is that what I'm hearing, Mr. Thibault?

Mr. Rob Merrifield: Okay, let's do that.

The Chair: Amendment G-48 has been withdrawn.

The Chair: I'm going to ask you to stand down amendments C-31, C-32, and G-49 to allow Mr. Merrifield and Mr. Thibault to get together and see what they can come up with in a single package tomorrow.

[*Translation*]

Mr. Réal Ménard: Under the circumstances, the government can seek the support of the Conservatives. Please understand that we want the regulations to be as clear and as binding as possible. I prefer an approach similar to the one adopted in the case of the tobacco regulations. Then we wouldn't be tempted. I'll try and convince my colleague who was absent when we voted on the tobacco regulations.

The difference between the two approaches is that in the case of the second one, the government has an out, whereas this is not the case with the first approach. It's simply a matter of bearing this in mind, because we could encounter some clever people, maybe not in government, but in management.

[*English*]

Mr. Rob Merrifield: What does Bill say? Do you like the Tobacco Act?

Hon. Bill Blaikie: Well, I'm going to wait and see what you guys come up with.

The Chair: And so am I.

(On clause 74—*Offence by employee or agent or mandatary*)

The Chair: We're now on page 115. Mr. Lunney has an amendment.

Mr. Lunney, would you like to move it and tell us what it is you're trying to accomplish here?

Mr. James Lunney: This is a clause that was objected to by one of our witnesses the other day, who I think was representing the airline industry or the airports. The objection was to this sense of guilty until proven innocent in clause 74.

The Chair: It's on an offence by an employee or agent or mandatory—"mandatory"—I don't know what that person is. It has an "agent", and then later "or mandatory", and then "the employee or agent or mandatory". What is a "mandatory"? Have you every heard that word before?

[*Translation*]

Mr. Réal Ménard: We're familiar with the term. In government, a mandatory is an agent authorized to act on the government's behalf. Depending on the applicable schedules of the Public Service Act, there are certain implications. In this context, it's not clear that this is the appropriate choice.

[*English*]

You have to talk frequently with me.

Hon. Brenda Chamberlain: Obviously a lot more.

The Chair: Mr. Lunney, go ahead.

Mr. James Lunney: I'll just read the clause. It might help. If you look at clause 74, it says:

74. In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent or mandatory of the accused, whether or not the employee or agent or mandatory is identified or has been prosecuted for the offence, unless the accused establishes that

And then paragraphs (a) or (b) follow. And this has the sense of being guilty until proven innocent.

There was an objection raised about this. My amendment would simply say, "provided that the employee or agent or mandatory is identified or has been prosecuted".

It simply removes that guilty until proven innocent clause again. This language here, "whether or not"—it is sufficient proof of the offence whether or not the person has even been identified or prosecuted.

The Chair: Our legal student is going to give us his interpretation.

[*Translation*]

Mr. Réal Ménard: I may be wrong, but I think the reference in this case is to the relationship between the employer and the employee, or mandatory; the provision spells out the extent to which an employer can implicate an employee, and vice versa. I don't think this has anything to do with the burden of proof.

Mr. Mario Simard: In fact, when proceedings are instituted against a company, for instance, against an airline, this amendment would ensure that the government is forced to disclose the name of the whistle-blower. There is no such requirement in the bill, as it is now worded.

Mr. Réal Ménard: Does this have anything to do with the relationship between the employer and the mandatory or agent?

Mr. Mario Simard: Yes.

Mr. Réal Ménard: However, it has nothing to do with the burden of proof or the presumption of guilt or innocence. To my mind, the amendment is not very relevant.

[*English*]

The Chair: Mr. Blaikie is next, then Mr. Thibault.

Hon. Bill Blaikie: My understanding of this, just on cursory reading, is that this is to establish the responsibility of management, not just having to charge particular employees. It does give management an exemption or an out, or whatever you want, if it can prove that the offence was committed without management's knowledge or consent, or that it exercised all due diligence.

In other words, if you know that something happened under someone's supervision, but you can't prove which one did it, you can hold the management of that particular operation responsible, unless of course it can prove either (a) or (b). It seems to me that this is a reasonable request and that the Conservative amendment isn't necessary.

● (1820)

The Chair: You're speaking against the amendment then.

Mr. Thibault.

Hon. Robert Thibault: As I understand the amendment, when I read it against the bill, it would change the sense from "whether or not" the agent or mandatory is identified to "provided that" the agent or mandatory is identified. It would force the disclosure of the whistle-blower, rather than protecting this person.

The Chair: Yes. That's what you tried to do with an earlier amendment, and we turned it down.

Do you want to withdraw it, or shall we vote?

Mr. James Lunney: Talk about putting a gun to my head. I don't sense a lot of sympathy for this motion around the table.

The Chair: No. Well, you got it the last time and you saw what happened.

Mr. James Lunney: I respectfully withdraw the motion, to avoid another beating.

The Chair: Thank you.

I forgot to do a whole bunch of clauses for which there were no amendments. So I'm going to ask you now.

(Clauses 63 to 84 inclusive agreed to)

The Chair: Thank you.

We are actually done, except for the stood clauses. I want to remind you that besides those that we're waiting for an answer on, we're also waiting for a couple of definitions, for the Privacy Commissioner's report, and now for your suggestions for that last one.

Mr. Rob Merrifield: That won't take long.

The Chair: I don't want you to get the feeling there's nothing to do tomorrow—there's quite a list—but we have broken the back of it. I certainly congratulate you and thank you for your cooperation.

Hon. Robert Thibault: We congratulate the chair.

The Chair: This meeting is adjourned.

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