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Chair

Mr. Merv Tweed

Standing Committee on Agriculture and Agri-Food

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● (0850)

[*English*]

The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)): I call the meeting to order.

Good morning, everyone. Welcome to the Standing Committee on Agriculture and Agri-food.

This is meeting number 55. Pursuant to orders of the day, we are studying the order of reference of Tuesday, October 23, 2012, Bill S-11, An Act respecting food commodities, including their inspection, their safety, their labelling and advertising, their import, export and interprovincial trade, the establishment of standards for them, the registration or licensing of persons who perform certain activities related to them, the establishment of standards governing establishments where those activities are performed and the registration of establishments where those activities are performed.

Joining us today to help us with clause-by-clause, from the Canadian Food Inspection Agency, are Mr. Neil Bouwer, vice-president, policy and programs, and Colleen Barnes, executive director; and from the Department of Justice, Julie Adair. Welcome.

We will start with the clause-by-clause, and if there is clarification or discussion needed, we'll go to our witness list and proceed from there.

I am going to postpone clause 1, the short title. It's always dealt with at the end of the bill, and we'll move into clause 2, where we have an amendment, NDP-1, in your booklet.

I will go to Mr. Allen.

(On clause 2—*Definitions*)

Mr. Malcolm Allen (Welland, NDP): Thank you, Chair.

We don't get many opportunities to do legislation at the agriculture committee, as most of my colleagues who are on the committee know. It's a bit different for us, in a way, but it's always a wonderful experience.

Is it the preference, Chair, for us to read the whole amendment into the record? They're submitted, obviously. I look for your guidance on that issue, whether you would like us to read word for word or just sort of paraphrase the amendment. Certainly we are ready to speak to the amendment as far as why we think it should happen.

I look to you as to what you would like us to do.

The Chair: It's your choice. I think everybody has the amendment in front of them, so if you want to defend your position, we will go from there.

Mr. Malcolm Allen: Chair, the amendment to clause 2 is to be more explicit, to give some examples.

In clause 2 on line 2, page 3 of the English, we would add the following:

> covering, such as pails, totes and barrels, used or to be used in connection with a

The same thing will happen further down. What we are suggesting is to define it more specifically by giving some examples.

Part of it is that when the reference to containers comes up later on...it's actually a cargo container, which might add confusion, because when you talk about containers, such as...that's why we're using totes, pails etc. When people look at containers and see cargo container, they think a container always means a cargo container. It's more a descriptor of what a container might entail. That's the whole intent of that piece, Mr. Chair.

The Chair: Any comments? Mr. Hoback, go ahead.

Mr. Randy Hoback (Prince Albert, CPC): Thank you, Chair.

I would like to go to our witnesses here and get some clarification from them on what this amendment would do and whether it is necessary.

The Chair: Mr. Bouwer, do you have any comments?

Mr. Neil Bouwer (Vice-President, Policy and Programs, Canadian Food Inspection Agency): Thank you, Chair.

We've looked at this and we think the term "receptacle", which is currently in the definition, does capture all types of containers, including pails, totes, and barrels. The definition has been drafted to encompass the various terms used in the current statutes. The proposed wording suggests examples of packages and receptacles, and in our view it is not needed to correctly interpret the definition.

The Chair: Does anyone else have further comments?

(Amendment negatived)

The Chair: We will now move to new clause 2.1.

I'll go to Mr. Allen again for NDP-2.

Mr. Malcolm Allen: Thank you, Chair.

Rather than read this, because it's rather lengthy—again its intent is to bring more clarity. It's a rather lengthy piece that talks about who would be regulated, who would be identified.

Maybe I should read it, because it's brand new.

> 2.1 The purpose of this Act is to ensure safe and high-quality food commodities by any means, including
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> (a) by promoting and providing for the safety and security of the public;
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> (b) by recognizing the responsibility of persons regulated under this Act for the safety and security of their products; and
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> (c) by encouraging the co-operation and participation of persons regulated under this Act and other interested persons in the development and implementation of modern, flexible and efficient policies, programs and laws for the continuing enhancement of the safety and security of food production.

We believe it brings more clarity to the bill, laying that out in a separate piece as 2.1, as you have indicated, Chair. We believe it will enhance the act and make it a better process.

I await comment from the other side.

The Chair: Are there comments?

Mr. Lemieux.

Mr. Pierre Lemieux (Glengarry—Prescott—Russell, CPC): Chair, we just want to be careful that we don't limit the scope of the act. The act is quite comprehensive in its nature. Sometimes when you add clauses and you are trying to define the purpose, the purpose can sometimes run counter to some of the actual clauses within the act.

My concern here is that by defining the purpose specifically like that, it may limit the act itself.

● (0855)

The Chair: Mr. Valeriote.

Mr. Frank Valeriote (Guelph, Lib.): Can I ask the witnesses whether new clause 2.1 conflicts in any way with the drafted legislation and whether it adequately sets out the purpose of the legislation?

The Chair: Mr. Bouwer.

Mr. Neil Bouwer: Thank you, Mr. Chair.

First of all, I would say the fact that there is no "purpose" clause in the Safe Food for Canadians Act in this bill is consistent with the existing food commodities statutes. As the member points out, there is a risk that it might potentially limit the scope.

In particular, the proposed wording in this amendment does not address some of the core functions of the legislation governing labelling, fraud, consumer protection, import and export, and interprovincial trade. In our view, the carefully chosen long title for the bill does provide an indication of the scope and interpretation to be given to the overall legislation.

The Chair: Mr. Valeriote.

Mr. Frank Valeriote: The word in the third line of new clause 2.1 is "including". From my understanding of legislative interpretation, "including" means "including without limitation". What is prescribed in (a), (b), and (c) is not intended to limit in any way the purpose of the legislation and therefore wouldn't be in contradiction of any other parts of the legislation that might not actually be recited in (a), (b), and (c).

Ms. Julie Adair (Legal Counsel, Agriculture and Food Inspection Legal Services, Department of Justice): I can answer, Mr. Chair. Thank you.

Although it says "including", it will colour the interpretation that is given to the first part of new clause 2.1. It can have a limiting effect.

Mr. Frank Valeriote: Okay.

The Chair: Are there any further comments? I will call the question.

(Amendment negatived)

The Chair: For the sake of expediency, I am going to ask that the committee approve clauses 3 through 9, simply because there are no amendments.

(Clauses 3 to 9 inclusive agreed to)

(On clause 10—Sending, conveying, importing or exporting in accordance with regulations)

The Chair: We have two amendments here. I'll advise that if Liberal-1 passes, then the NDP-3 fails, and vice versa. We're competing on the same lines for the amendments.

I will open the floor. It's the Liberal amendment.

Mr. Frank Valeriote: Given what is happening, Mr. Chair, there is not much chance of either of those events occurring.

The Chair: I never predetermine the outcomes.

Mr. Frank Valeriote: You never know.

An hon. member: We're working so nicely together.

Mr. Frank Valeriote: Mr. Chair, committee, you will recall the importers and exporters who appeared before this committee—two different representatives from the industry. We were all concerned when one of the witnesses indicated that while a food commodity might be made in compliance with the legislation here in Canada, it may be excluded as an import into another country because it doesn't meet their standard specifically. They gave an example of flour, it being made in Canada fortified with I think lactic acid, which would automatically be excluded in Europe.

From our review of the legislation, we couldn't determine, frankly, whether the act itself would automatically prohibit the export of that food commodity or whether the minister, through regulation, could actually permit the production of that commodity here in Canada and it would still be allowed to be exported into that other country, notwithstanding the lack of compliance.

Because you weren't here for us to ask you, I put forward this amendment so that we might have a discussion about the opportunity to include what is really a harmless clause, but it enables the minister to say, okay, wait a minute, in this instance we will make a list of food commodities that can be made here in Canada for the purpose of export, even though they don't comply with the expectations of food commodities in Canada. In other words, we'll allow them to make non-fortified with lactic acid flour so that they can export it.

I was importing this clause really for that reason alone. It reads:

> (4) Despite subsection (3), the Minister may make regulations authorizing the exportation of a prescribed food commodity.

Thank you, Mr. Chair.

● (0900)

The Chair: Comments?

Mr. Hoback.

Mr. Randy Hoback: Mr. Chair, my question is for the witness. Does paragraph 51(1)(c) not already provide the minister with the ability to do exactly what the amendment is asking him?

The Chair: Ms. Barnes.

Ms. Colleen Barnes (Executive Director, Domestic Policy Directorate, Canadian Food Inspection Agency): Thank you, Mr. Chair.

The issue that has been raised flags the concern the way subclause 10(3) is written. Exports and imports would all have to comply with the Canadian regime, and that's not the case. It's only if there are regulations in place that it operates.

What we've done is, in fact, in paragraph 51(1)(e), where there is the ability—

Mr. Frank Valeriote: Slow down just a second. Where?

Ms. Colleen Barnes: Paragraph 51(1)(e) is the regulation-making authority around exports.

The Chair: What page is that on? Page 22?

Ms. Colleen Barnes: Page 22.

Mr. Chair, in fact, we have built in that regulation-making possibility that the member flagged as a way to manage the issues around exports.

The Chair: Further comment?

Seeing none, I'll call the question.

Mr. Frank Valeriote: Mr. Chair, may I withdraw the amendment, given now that they've explained that it's adequately addressed?

The Chair: You certainly can.

Mr. Frank Valeriote: Then I'll happily withdraw the amendment.

(Amendment withdrawn)

The Chair: We now go to NDP-3.

Mr. Allen.

It's very similar.

Mr. Malcolm Allen: It is. Let me not read it, but simply say that I respect the fact that Ms. Barnes has told us that in paragraph 51(1)(e) it specifically talks about a regulation that can be created—not necessarily that is created, but can be.

What we were hearing from the importers and exporters is a recognition that it can be. What they're saying is that they actually want to see it explicitly in the act that it *will* be, not that it *can* be through regulation through Governor in Council—which is all wonderful, but that doesn't make it so if they decide not to do it.

Their piece was that they actually want to see it stated in the act, so that they know it is, not that it might be, because clearly this is a "might be" act when it comes to paragraph 51(1)(e). That's not saying it will be, and I look to Ms. Barnes to tell me if I'm right about that.

This is actually not creating it; it's saying they can do it. Is that correct?

Ms. Colleen Barnes: We can make regulations in paragraph 51(1)(e), but for subclauses 10(1), (2) and (3) to operate there would have to be regulations around exports. So there is no implication for exporters unless we make regulations.

Mr. Malcolm Allen: Again, their concern was that the regulation might be something favourable to them, or it might not be. It can be an either/or in this situation. The regulation could be, "You cannot do that", as I see it in paragraph 51(1)(e). Notwithstanding that, their position was this: "Let's just state it in the act so that we can see it." A number of witnesses asked whether things being done in this regard, especially by reference as regulations come out, are going to be part of that process. I don't know that. I'm not asking you to actually answer to that process. That's a political piece, and that's fine. I think their intent around this issue was to say, "Let's just see it." That's where it's at.

Notwithstanding how you've explained things, and that Mr. Valeriote has actually withdrawn his, I'm happy just to go to the vote, Mr. Chair.

The Chair: We'll go right to the vote, then.

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

(Clauses 10 and 11 agreed to)

(On clause 12—*Possession of commodity that meets requirements of regulations*)

The Chair: We have amendment NDP-4.

Mr. Allen.

● (0905)

Mr. Malcolm Allen: Thank you, Mr. Chair.

Although I suggested that the process be a speedy one, I'm not prepared to simply withdraw stuff, even though I'm recognizing the vote count. As I've said many times before, the Glaswegian in me knows how to count.

The argument is exactly the same as it was before.

I understand the explanation, Ms. Barnes—and I appreciate it, by the way. You've been very clear on the explanation, so I don't think I actually really need to go through why I think this should be there. You have given me an answer as to why you think it's covered, and I've given my position as to why I think it needs to be explicit.

I'm prepared, Mr. Chair, to allow you to call the vote.

The Chair: Okay.

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

(Clause 12 agreed to)

(Clauses 13 to 19 inclusive agreed to)

The Chair: We now move to a new clause, proposed clause 19.1. There is an amendment, NDP-5.

I'll go to Mr. Allen.

Mr. Malcolm Allen: Thank you very much, Mr. Chair.

This is rather an extensive piece that's added, and let me describe it. This really is what one would call whistle-blower protection, recognizing that the Criminal Code of Canada allows for that. Let me just preface it by saying that other acts within this Parliament explicitly lay out whistle-blower protection beyond what's in the Criminal Code, which is all well and good. What this is meant to do is allow employees to come forward and feel secure with this idea that they can tell inspectors things that they may not see or to let folks know why an investigation should happen, since we're talking about safe food.

In this latest crisis, there were workers who said they knew things were happening in a way that they didn't believe was right, but because they felt vulnerable...and this vulnerability can be felt in all kinds of ways, and I'm not simply identifying a temporary foreign worker; it can happen to anyone who doesn't feel they have the protection they may want. This is what this is intended to do, not to allow vexatious complaints because somebody has a grudge or a grievance against their boss, because that's not what it's intended to do. Some of these places are unionized and they have a grievance procedure and they can go through that. Most places, if they're not unionized, have policies on how to bring forth a complaint about how it's not working out so well with your boss.

This really is about saying to folks, if there is a food safety issue and you have reason to believe that you would feel comfortable coming forward and identifying it, notwithstanding the fact...you should do it anyway. The culture should be that you shouldn't have an issue with it. This should be accepted by the employer you work for. But it depends on who you're telling it to. It might be your direct supervisor who actually isn't a good person to work for, who wants you not to say things. It isn't just a question of saying, well, of course the company wants to have safe food. Of course they'll say that, and of course they should do that. Unfortunately, we know that doesn't always happen. We all wish it did. If it did, then we probably wouldn't have the incidents we have across the country, or elsewhere, for that matter.

That's the reason for laying out the whistle-blower protection. I think we should be looking at this. It's a standard model across lots of statutes that are enacted, so that folks can feel comfortable coming with a reasonable complaint, a complaint that has merit and that can be adjudicated in a fashion so that they don't feel their employment or their advancement is jeopardized, or any of the other things folks feel vulnerable about. It would be lovely to say that we all feel equal in the workplace. The reality is it's not true. There are no egalitarian workplaces in this country. Even those who are in the top 100 of the best employers in the world don't have egalitarian workforces where everybody gets an equal say. Workplaces are hierarchical by nature. Somebody has to make a decision at some point. It's not taken by a vote. If it was, they might lose that vote. We're accustomed to that.

That's the rationale for whistle-blower protection. I'm interested in hearing the other side's comments.

● (0910)

The Chair: Comments?

Mr. Payne.

Mr. LaVar Payne (Medicine Hat, CPC): Thank you, Mr. Chair.

As I understand it, there is whistle-blower protection already in place. My concern with Mr. Allen's comments, particularly as they relate to the recent incident, is that the union talked an awful lot to the media, but I've never seen anything where they actually reported on the issues regarding E. coli.

When I think about this whole process with the union, where employees are scared to talk.... The employee's job, if there is an issue, I believe, is to go to their supervisor, to the union, and the union does have an opportunity to go to CFIA. CFIA doesn't work for the company, so it seems to me there are pretty clear lines in place, and protection. If the union did not do any reporting, I would say, why didn't they, if this was such a big issue? They're totally different unions. The CFIA does not report to the management of the company. To me it is very frustrating to hear comments by the union trying to stir the pot.

That's all I have to say. Thank you.

The Chair: Mr. Valeriote.

Mr. Frank Valeriote: Before I make a comment, I have a question, Mr. Chair.

Well, first of all, the word “employer” is not defined in the act.

I have a question for the witnesses. Have any of you worked on whistle-blower legislation in your career that was similar to this? The intent is to provide some form of protection for an employee, unionized or non-unionized, who wants to bring forward what they expect to be a violation of the act that will cause harm in some way. Have any of you worked on such legislation?

Mr. Neil Bouwer: No, Mr. Chair.

Mr. Frank Valeriote: Okay. Mr. Payne indicated that there's already such protection. I'm in support of this section; I should tell you that first. I am in support of this particular section, but I still want some clarification.

Can you tell me where that protection currently exists? If so, if it appears in other legislation, how does it connect to this legislation so that a whistle-blower in these circumstances in whatever plant, whether it be a processing plant or a ready-to-eat meat plant, can actually blow the whistle and be protected?

Mr. Neil Bouwer: The Criminal Code was amended in 2004 with general protection for employees who bring information forward to enforcement officials. That section is section 425.1. I'll ask Ms. Adair to reference it in a moment.

I just would like to say that, in our view, the Criminal Code provisions do cover workplaces and employees in establishments governed by the Safe Food for Canadians Act. Therefore, there is that protection that currently exists.

Moreover, I would say that law enforcement agencies and the justice system are best placed to address the issue of whistle-blowing. They have the machinery to support employees who feel that they would like to take advantage of such protections. The CFIA does not look at this issue as one in which it is well equipped to support in the way that the justice system currently does.

If I may, I'll ask Ms. Adair to cite that part in the Criminal Code.

Ms. Julie Adair: The English version of section 425.1 of the Criminal Code states:

> (1) No employer or person acting on behalf of an employer or in a position of authority in respect of an employee of the employer shall take a disciplinary measure against, demote, terminate or otherwise adversely affect the employment of such an employee, or threaten to do so,
>
> (a) with the intent to compel the employee to abstain from providing information to a person whose duties include the enforcement of federal or provincial law, respecting an offence that the employee believes has been or is being committed contrary to this or any other federal or provincial Act or regulation by the employer or an officer or employee of the employer or, if the employer is a corporation, by one or more of its directors; or
>
> (b) with the intent to retaliate against the employee because the employee has provided information referred to in paragraph (a) to a person whose duties include the enforcement of federal or provincial law.

For “Punishment”, in subsection 425.1(2) we provide that:

> (2) Any one who contravenes subsection (1) is guilty of
>
> (a) an indictable offence and liable to imprisonment for a term not exceeding five years; or
>
> (b) an offence punishable on summary conviction.

● (0915)

Mr. Frank Valeriote: If I can just recreate a set of circumstances here, I'm employed at a food processing plant. I'm concerned about the activities of somebody, activities that I think are leaning towards violating the legislation. I want to blow the whistle. I talk to somebody in advance of doing that because I'm afraid for my job. They say to me, “Frank, you're protected already because the Criminal Code says that if you blow the whistle and anything happens to you, that person can be charged.” Right? Charged. That's a big deal—charged.

On the other hand, I go to somebody and ask them and they say, “You know what? The legislation was changed. You can blow the whistle and they may not charge that person, but you are protected under this legislation, which is non-criminal legislation.” You can clarify that for me, but it's non-criminal legislation. In other words, if there's a violation, it's not a criminal act. It gives that person some comfort to know that they've got the protection of legislation that doesn't force upon the violator a criminal conviction. That's number one.

Number two, under the Criminal Code, they would have to establish beyond a reasonable doubt—you can correct me if I'm wrong—that the person violated the Criminal Code, which is a high threshold, as opposed to this legislation that's proposed, which is on the balance of probabilities, which I believe is a lower threshold, such as more than a 50% chance.

Given what I see already as a conflict in this very legislation between the need to promote trade—and I honour that—and not, for instance, to stop a plant that's processing 4,000 head a day through some vexatious claim, and on the other hand the need for food safety, would you not think that a person should at least have the protection of non-criminal legislation so that they could go to somebody and say they have reasonable grounds to believe that something is going on and it should be checked out, so that at least at that level, food safety comes first and not necessarily trade?

There are two questions there.

The Chair: Mr. Bouwer.

Mr. Neil Bouwer: Perhaps I'll start, and then I'll ask Ms. Adair to follow up on some of the legal questions embedded in your question.

First of all, I want to say that certainly if an employee in a food processing plant brought to the CFIA's attention matters with respect to food safety or other conduct in the plant, the agency would take very seriously those claims and would follow up in an administrative manner to the best of its ability. I want to assure you that that is the practice when it comes to food processing plants, and of course CFIA officials who are situated in the plants on an ongoing basis are looking after food safety and other regulatory oversight responsibilities, and they therefore enlist the support of employees at the plant and would listen to those legitimate concerns.

With respect to the coverage in the proposed bill, Mr. Chair, I would say that in our view the criminal sanctions are strong. They are robust and are adequate to protect whistle-blowers in the situation the member described, so we're satisfied with the sanctions that are in the Criminal Code that cover this provision. As I mentioned, our view is that the justice system and law enforcement agencies' treatment of whistle-blowing is appropriate, and that it is appropriate that law enforcement officials and justice officials are the ones who administer that whistle-blowing protection.

● (0920)

Ms. Julie Adair: With regard to the criminal versus regulatory—and this would be a regulatory offence—according to the scheme in the bill, it would be covered under clause 39 of the bill, so there would be penalties and fines involved. Although the Criminal Code provides for five years, if you look at clause 39, you would have either:

> (a) on conviction on indictment, to a fine of not more than $5,000,000 or to imprisonment for a term of not more than two years or to both;

So you're coming to similar penalties with regard to a regulatory offence.

Mr. Frank Valeriote: But what's the threshold? Is it beyond a reasonable doubt or is it on the balance of...?

Ms. Julie Adair: No, it's not.

Mr. Frank Valeriote: It is on the balance of probabilities. It gives the whistle-blower, and those circumstances they find themselves in, a little more likelihood of pursuing the matter and a penalty being imposed without their having to establish beyond a reasonable doubt.

Ms. Julie Adair: It would be up to the crown to decide. They have discretion on whether they are going to pursue it or not. But you are correct.

Mr. Frank Valeriote: Under the current legislation in the Criminal Code, have any of you been involved in a case where somebody blew the whistle and somebody was charged and convicted?

Ms. Julie Adair: I have not.

Mr. Neil Bouwer: No.

Mr. Frank Valeriote: None of you.

I think that speaks a lot, Mr. Chair, to the fact that the Criminal Code really doesn't work. It speaks a lot to the merit of the NDP and Mr. Allen's amendment here. If the threshold is a little lower, it's more likely that somebody is going to come forward and say something's wrong here, because then they're not concerned that the person who is actually in violation is going to be charged criminally and it's only going to be dealt with at this level. Given that it's the safety of our food—I think it should be clear that notwithstanding the constant reference to unions, it's not always union workers who are involved—I think there's a lot of merit in this proposition.

The Chair: Mr. Atamanenko.

Mr. Alex Atamanenko (British Columbia Southern Interior, NDP): I think in general we have a responsibility to make it as simple and as a safe as possible for employees to raise their concerns. It's my understanding, for example, that there are different cultures in different companies. When you compare XL with Cargill, from what I've read, there's a more open culture in Cargill, for example, so it's easier for employees to raise concerns. And we haven't seen problems in Cargill.

Yet from what I've read, there were people who would have wanted to raise concerns, but they were afraid to do so, even under the existing legislation under the Criminal Code. I think we have a responsibility to add some extra insurance. It's not going to hurt anybody to have extra insurance in this bill to ensure that people can actually come forward and feel safe, so that everybody wins. It's a win-win: the employees, the employer, the producer certainly, and the consumer. I don't even know why there's any opposition to put this into the legislation.

The Chair: Ms. Brosseau.

Ms. Ruth Ellen Brosseau (Berthier—Maskinongé, NDP): I know we're outnumbered. I know in politics, in discussions like this, you have to pick a hill to die on. This is a hill I would want to die on because these fines are rarely imposed. In paragraph 39(1)(a), when we're talking about the indictment and the fine of not more than $5 million or imprisonment, this doesn't happen very often, when it comes to food safety, right? I think it was mentioned earlier that it's never happened; we've never seen this happen.

Whistle-blower protection is something that we've heard...the union representative was talking about the culture in XL Foods. I have never worked in a slaughterhouse. I've visited Cargill with the committee and I know it's very important to have a good culture. When you're dealing with food you have rules, and if you don't follow those rules, you're putting Canadian safety at risk.

This is something that I think we need to have in the legislation. We're supposed to be working together to make it the best it can be. I would be really disappointed if it wasn't included.

● (0925)

The Chair: Thank you.

Mr. Lemieux.

Mr. Pierre Lemieux: Thanks, Chair.

Listening to the discussion, I think it would be very unwise to have two standards for whistle-blower protection. I think that's what's being advocated here.

The Criminal Code defines whistle-blower protection. It's a serious matter, and it should be a serious matter because we're talking about taking a disciplinary measure against an employee—demoting him, terminating him, otherwise adversely affecting the employment of an employee, or threatening to do so if he blows the whistle on a particular situation. It's a serious matter.

It would be unwise to embed in an act something that is whistle-blower protection but something less, because then you would have multiple definitions based on multiple acts. That's kind of what you're saying, “Well, this is different; this is food safety. We need to have something different for whistle-blower protection.” But then you could make that case for almost any act, that each act should have its own slightly different definition of whistle-blower protection. Then you could imagine the confusion—what applies when, what is the definition of whistle-blower protection, when does the Criminal Code kick in, etc.

I think, Chair, that what's in the Criminal Code is sufficient. If there is grave concern that the Criminal Code provisions are too strict, then changes should be made to the Criminal Code, which is beyond what we're doing here today. But that's where the changes should be made, so that there is, once again, a single reference in the Criminal Code as to what whistle-blower protection is offered. This idea of having multiple standards, I think, does not serve Canadians well. It's just going to lead to confusion. A few years down the line there will then be an attempt to rationalize whistle-blower protection back into one, clearly understood provision under one act or one code, such as the Criminal Code. That's why I would be against this, Chair.

The Chair: Mr. Allen.

Mr. Malcolm Allen: Let me start with Mr. Lemieux's assertion that it should only be in one place. I'd suggest that the government talk to the Competition Bureau, because they actually have whistle-blower protection in their act. It's already there. The government should know that it already has a double standard. It has already created it, and perhaps it should just be extended.

It's not actually a double standard, in my view. The Criminal Code always has a higher threshold, as it should, because you're talking about potentially incarcerating people. The standard should always be higher than what is basically an employment law piece. We're talking about losing your job, not committing a crime against someone by beating them up or threatening to take away their first child. None of those things is actually happening.

This is about losing employment or losing the opportunity within your employment, of perhaps getting a promotion if you do something or say something. It isn't one dimensional. It's not about a unionized place; it's about any establishment across the country, big or small, whether it be one or two employees.

For those of us who have worked in employment law, from whatever perspective, as lawyers, representatives, advocates of any description, we all know that 99.9% of the time these cases never go before the courts. There is usually a counter claim in the court by the employer, who hires a better lawyer who costs more than yours—it costs you a whole whack of money—and you settle out of court for a sum of money based on how many years you've worked there. Those are the deals that are cut across this land all of the time. I know that because I used to do it for a living. That's how it works, friends; it's no different from that.

The fact is that the government already has a whistle-blower protection act inside the Competition Bureau act. This simply does the same thing.

To Mr. Lemieux's point that it doesn't lay it out, it actually does lay out how it would happen.

The intent here is to recognize that we're not talking about the threshold of indictable offence, where you would have to go before the crown prosecutor and convince the prosecutor you had enough evidence yourself. It's you, as an individual, who has to bring the evidence forward to convince the crown to actually pursue something, who would then look for more evidence. It's an extremely high threshold to try to match.

That's why the intent of this is to say that the reality of the workplace is that the threshold for the protection should be lower, not higher. Indeed, the Criminal Code is in effect, and if we were to get to the point where, heaven forbid, the employer took action that would be an indictable offence, then the crown should move appropriately. No one denies that shouldn't happen. But what we are talking about here are the everyday occurrences inside a workplace that aren't necessarily organized. They have their own mechanism.

To Mr. Bouwer's point that the “CFIA would take seriously”, we absolutely agree with you, sir. This is not what this is about. This isn't about them not taking it seriously when someone comes forward. We absolutely agree that this is exactly how they act. We respect the fact that they do, and we admire them for that. This has nothing to do with saying that the CFIA isn't doing something. They will do what they need to do based on the information they have at their disposal, whether it be them personally or someone coming to them.

The idea of this protection is to make sure people will come forward freely, knowing they won't find themselves in the bog and the maze of the court system. The vast majority of folks don't want to go to court. They don't. I don't know anybody, other than a lawyer or a judge, who actually wants to go to court, ever. If you're going to court, it's not a good thing. You're going because you're a complainant or a defendant, so you're either trying to win something or you're trying to defend against something that's happening to you. If it goes to court, it means the fight is on. If you don't go to court, the employer has relented and said, “You know, we shouldn't have done what we did. We apologize for that and we back away.”

● (0930)

If you're in court, they're not about to lie down in front of the court and say *mea culpa, mea culpa*. They're not going to lie down. They're going to go to the court with their boots on and say, let's take on the fight, which in the business is called the judicial chill. There are ways to get employees not to go to court. There are ways to make sure you don't go to court. Usually it's about dragging it for as long as you humanly possibly can, costing the other side a small fortune, and backing away.

The fact is we've heard there aren't that many instances where this actually goes to court. I know Ms. Adair said there were none, but she may just be talking about this particular case of food safety. There may be other instances across the land where it did happen. The fact that there aren't reference materials where you can point to hundreds of instances tells me either that things happen in a way that everybody's really nice to one another and accepts people when they complain—and I say that with my tongue firmly planted in my cheek because we all know that's not true. The court system clearly affords the protection, but it doesn't make people feel comfortable enough to actually use it, otherwise we would see them go forward knowing they have the full protection of the court system.

The standard is too high. At the end of the day, it is a court process where you need to have enough information, enough evidence—not even information, but enough evidence—for which the standard is higher to get a conviction. This is a way to mitigate that issue: by saying the standard of the court system, appropriate as it is, should be left alone. This is about saying the reality of workplace employment law is a much different standard from the standard of criminal court proceedings. That's why this should be included.

Clearly, as my colleague Madame Brosseau said, that's why we feel very strongly about this particular piece. We need to understand the realities of what people face, not the wonderful intents of what the Criminal Code says is your protection. That's the reason to do this. If we intend to actually make things better, this is a way to potentially do that, in our view. It isn't a way to get in the way, to make it cumbersome, or to slow the process down. This is a way to try to enhance the process so that people will feel free to come forward without feeling there's retribution, and without having the standard of saying, “Well, there was retribution and now I have to go to court to prove it”, which makes it immensely difficult for folks in general at any particular time.

I would hope my friends across the way would think twice about it. I haven't really asked a question. I don't really need any clarification from them. They're free to offer it, obviously. I would never suggest you shouldn't. I've simply stated what we believe is the need to have it done.

The other side may want to ask a question of you, but clearly, with the greatest of respect to all three of you, you don't get an opportunity to vote. I'm really looking at the other side, albeit I am addressing you. I'm looking at the other side for their vote, and through you. I appreciate, by the way, the work you've done on this bill, in the sense of laying it out.

As you can see, we have a lot more yeas than we do amendments, to the scope I think of about ten or twenty to one. They're all positive, by the way. There are things you've done that we're trying to enhance, not actually take away. If you'll notice, there really isn't anything here that takes away something you've done. It's to add to it and hopefully make it a better piece of legislation.

I look to the other side to see if we've maybe corralled a vote or two. We only need one; two would be wonderful; all of them would be even better.

Thank you, Chair.

● (0935)

The Chair: Mr. Hoback.

Mr. Randy Hoback: Thank you, Chair.

Through the chair to Mr. Allen, the speech by Mr. Allen is actually a very good speech. There's no question we understand what he's trying to do. He's attempting to make sure we have a good piece of legislation and he wants to give it as much strength as possible. I don't question that at all. I just sometimes think that in his enthusiasm to do that, he may actually create more problems and more unintended consequences than what he understands.

An employee right now has a lot of options if he sees a situation on the plant floor that he can't deal with. He can go to his shop steward. He can go to his union boss and complain. He can go anonymously to the CFIA and complain that way. I assume that would be investigated.

I look at the fact that whistle-blowing is embedded in the Criminal Code, so it's there. There is also a thing called a union, which is there. That's why unions were created, to protect a fellow employee. If there's a situation where the union felt the employee was being treated wrongly, it has lots of options too.

I think we're trying to put something in here that maybe is part of the function of the union or of the Criminal Code. If the Criminal Code needs to be strengthened or changed, then let's deal with that in the Criminal Code legislation. I don't think this is the appropriate legislation to deal with that.

Chair, I guess I'd just leave it at that. I see no reason to add this to the act at this point in time.

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

(Clauses 20 to 23 inclusive agreed to)

(On clause 24—*Authority to enter a place*)

The Chair: It's NDP-6.

Mr. Allen.

Mr. Malcolm Allen: Thank you, Chair.

Again, this is simply for clarification, where we are suggesting that in clause 24 we add the words:

> this Act, without prior notice, enter a place, including a conveyance,

The rationale, obviously, is that it doesn't actually say that—at least, in our view, it doesn't say that. Inspectors will understand that they still have that piece, although they will get it by directive, I'm sure. We just simply want it to say that so that folks who actually read the act, who are on the other side of the threshold, can look at an inspector who has a directive and understand his or her responsibilities. They enter and someone says, "Well, I read the act and it doesn't say you can enter without giving me notice." It's really not about the inspector understanding what their powers are per se; it's about the other side who may be accepting it.

As a further clarification, Chair, just so the government can find the duplicity in the two acts, check out the Environmental Protection Act. It has whistle-blower protection as well.

So there are two acts where you've done it twice. You should probably not worry so much about the Criminal Code, but maybe look to those acts where you have that. When we find another one, we'll help you with that one, too.

That's really the extent of this piece, Chair.

The Chair: Are there any comments?

Seeing none, I'll call the question.

(Amendment negatived)

(Clause 24 agreed to)

(Clauses 25 to 27 inclusive agreed to)

The Chair: This brings us to NDP-7, creating a new clause 27.1.

Mr. Allen.

● (0940)

Mr. Malcolm Allen: Thank you, Chair.

My understanding of the old act is that the inspectors had certain powers. What we're looking for in this particular case, under new clause, 27.1, is that:

> 27.1 A peace officer must provide such assistance as an inspector may request to enable the inspector to exercise their powers or perform their duties or functions under this Act.

It's actually now presently found under subsection 23(3) of the Plant Protection Act. What we're looking for is to include it in this piece so that if indeed an inspector feels they can't get something done and would need the assistance of a peace officer, the act explicitly says it and they can then request the assistance of a peace officer. The peace officer would then know, under their jurisdiction, that indeed under this act that peace officer can act accordingly and would come forward.

It's just that simple check.

The Chair: Mr. Valeriote.

Mr. Frank Valeriote: Could I ask the witnesses if the issue addressed in new clause 27.1, permitting a peace officer to provide assistance that an inspector may request and exercise powers that are required, is already provided for elsewhere in this legislation or in other legislation?

The Chair: Ms. Barnes.

Ms. Colleen Barnes: Mr. Chair, the legislation does enable the inspectors to reach out to peace officers when they need to. There's nothing here that precludes that.

The proposed amendment just says they "must provide". So the proposed wording of the amendment doesn't get you the outcome because it's not likely that a peace officer, if having competing priorities, would necessarily go with the food inspector when asked.

Mr. Frank Valeriote: Could you tell me where in the legislation that is provided for?

Ms. Julie Adair: In subclause 24.(4), it states, "The inspector may be accompanied".

Mr. Frank Valeriote: It's on page 10. Okay.

The Chair: Is there any further comment?

(Amendment negatived)

(Clauses 28 to 39 inclusive agreed to)

The Chair: This moves us to a new clause. NDP-8 is creating a new clause 39.1.

Mr. Allen.

Mr. Malcolm Allen: Thank you, Chair.

Our new clause 39.1 would say that:

> Any person who contravenes a provision of this act, of the *Food and Drugs Act* as it relates to food, or [a provision] of the regulations made under either of those Acts, and who, in doing so, knowingly or recklessly causes a risk of injury to human health, is liable, in addition to any fine

—which is already in the legislation—

> to treble damages, punitive damages and, in the discretion of the court, damages in excess of any profit.

It relates primarily to this idea of risky behaviours; it's if someone or a company were to engage in risky behaviours where they took the view of doing something of such a nature that they would end up at this stage, go through the courts, be fined, and hit the $5 million level of this thing. It's a very egregious act, not a minor hiccup where something went amiss or went wrong. This idea would move along in a way such that...the outside litigation, if you will, would be allowed such that this would actually happen.

It's typical legal stuff, right? I mean, ordinary folks don't see what this is about, in the sense of saying, "Well, how does this protect food safety?" Really, we're talking about the court system; earlier, we were talking about the court system in a different way. This is about allowing those penalties to be greater if indeed an act were such that you could see that someone actually went about behaviours knowingly, behaviours that not only were contravening the act, but really were, in a very unsafe way, premeditated. I hate to use that word, because maybe it wasn't that egregious, but certainly it was such that they should have knowingly not behaved in that way and should have modified their behaviour.

This is really about ensuring that there are penalties beyond when we move into things like awards, beyond this idea.... It really is about the upper end of behaviour. Some of the words to describe it are things like "fraudulent" and "reckless corporate behaviour". This really is an extraordinary measure. It's not something that would be utilized...hopefully never, actually. But clearly there are times when behaviour is such that it needs to be penalized in a particular way.

This isn't food tampering per se. This isn't about putting pins in something or tampering with a bottle on a shelf and that sort of stuff. This is really more of a corporate piece, where a decision was taken at that type of level, and not an act by an individual, necessarily, where the legislation speaks to tampering, where you have that.

Let me leave it at that, Chair.

● (0945)

The Chair: Mr. Lemieux.

Mr. Pierre Lemieux: This is on NDP-8?

The Chair: Yes, it is.

Mr. Pierre Lemieux: Okay.

I'd like to raise a point of order. I'd like to get a ruling from you, Chair, on whether this is admissible or not. I feel that this is outside the scope of Bill S-11. The House has passed Bill S-11 at second reading. It is stated that Bill S-11 consolidates four food-related statutes: the Canada Agricultural Products Act; the Fish Inspection Act; the Meat Inspection Act; and the food-related provisions in the Consumer Packaging and Labelling Act.

There's no mention of the Food and Drugs Act. That's why I feel that this particular amendment would fall outside of what we're accomplishing today.

The Chair: I thank my colleague for the advice.

It's debatable on each side. I've asked for a confirmation. It is within the scope, because in the comments it does say that it relates to food, and the opening of the bill implies that as well. I'm going to rule that it is in order.

I will move to Mr. Valeriote.

Mr. Frank Valeriote: Thank you, Mr. Chair.

I have a question for Mr. Allen, just for clarity. When he speaks in new clause 39.1 of "is liable, in addition to any fine, to treble damages, punitive damages and, in the discretion of the court, damages in excess of any profit", are those sums payable to the crown or are they payable to a putative complainant who might come forward after the case?

Mr. Malcolm Allen: It could apply to both cases. It would depend if someone brought forward a class action lawsuit or whether the crown took them on. It could happen in two cases.

I'm not a lawyer, so this is an attempt to make legislation and not to define the law. Clearly, there are opportunities to do certain things within the law outside the scope of the act. It's about ensuring that folks have those opportunities. Ultimately, that's what we want to see transpire. Private prosecutors would have the opportunity, as well as private parties, such as in a class action lawsuit. In my view, the attempt is to apply it to both.

The Chair: Seeing no further comment I'll call the question.

(Amendment negatived)

(Clauses 40 to 46 inclusive agreed to)

(On clause 47—Disclosure—risk or recall)

The Chair: It is Liberal amendment 2.

Mr. Valeriote.

Mr. Frank Valeriote: Thank you, Mr. Chair.

If you look at the current clause 47, it says:

> The Minister may disclose to a person or government, without the consent of the person to whom the information relates, any personal information or confidential business information if the Minister considers that the disclosure is necessary

And then it goes on to prescribe circumstances in which they think it may be necessary to apply this section.

It goes on to define what government means, but, interestingly, there's nothing in the legislation with respect to the confidentiality and the maintenance of that confidentiality following the disclosure.

We will all recall that Ms. Karen Proud was here on behalf of the Retail Council of Canada, representing I can't recall how many dozens of members. Other witnesses before the committee also expressed a vigorous concern about (a) the person or people to whom the information would be disclosed, and (b) the need to maintain a certain degree of confidence.

No one is suggesting that the minister or anyone from the CFIA or anyone investigating a violation should be limited in the vigour with which they might pursue their investigation. Who knows where evidence may be found in respect of a violation? To the common person, it appears to be on the floor or dripping from the ceilings, as in the case of XL, but either a failure to act or indeed some act that was undertaken by the prospective offender could be disclosed in written material.

When going through all this material, depending on who's going through it and what's disclosed, they might find information that's completely irrelevant to their investigation and yet could nevertheless be disclosed: confidential information, information about a particular business practice that might be a secret that they would want kept from their competitors. That was understood by all of us, and any one of us in business understands the merit of the concern.

The amendment I have proposed in subclause 47(1), and I'll only read the first part because I think it makes the point as to the intent of the balance of the amendment, is that:

> The Minister may disclose any personal information or confidential business information to a person or government, without the consent of the person to whom the information relates and without notifying that person,

—provided, and this is where I think the operative words are—

> if the person to whom or government to which the information may be disclosed agrees in writing to maintain the confidentiality of the information and to use it only for the purpose of carrying out functions related to the protection of human health or safety or the environment and if the Minister considers that

to be the case.

Mr. Chair, I'm not going to spend a lot of time. I think it's self-explanatory. We're merely trying to address the concerns of stakeholders who came before this committee, who didn't have the benefit, I don't think, of asking you questions at committee because you weren't here, but certainly compelled a number of us to be concerned and to bring forward this amendment so they would be protected should confidential information be disclosed.

● (0950)

The Chair: Thank you.

Are there any comments?

Seeing none I'll call the question.

Mr. Valeriote.

Mr. Frank Valeriote: Mr. Chair, it's freakish almost how we have a conversation about an issue that was raised that I think is very important, and, maybe I'm wrong, an issue that even members of the government asked questions about. I know some of you over there are in business.

Is this of so little concern to you that you don't even have a question about this, either of me or of the witnesses?

The Chair: Mr. Lemieux.

Mr. Pierre Lemieux: I can comment, Chair.

I think we've had a lot of discussion over the past number of weeks about the ability for the agency to react quickly and in a fulsome manner to food safety incidences when they arise, and not to put in place things that will slow down their reaction time. The agency's reaction to a particular incident has to be prudent, and there are remedies if a company feels it wasn't prudent.

Here, I think, if you're asking for “the person to whom or government to which the information may be disclosed” to agree in writing to maintain the confidentiality of the information, there's an immediate discussion over what is confidential. You've just presented me with all this information. Let's stop, and let's come to a common agreement on what is confidential. What if there's disagreement on what is confidential?

Now you can see sort of the administrative burden that's placed, and the confidentiality burden that's placed, on the parties trying to get information out to the public, or out to other levels of government, regarding a food safety incident. Now there'll be a lot of time lost just agreeing to what is confidential in this information and what is not.

I think it's clear that this would impede the ability of the agency or of the minister to act quickly in order to divulge information related to food safety incidences as they arise. That would be my concern.

● (0955)

The Chair: Mr. Valeriote.

Mr. Frank Valeriote: I'm just going to bring your eyes to the section of the amendment that says that they'll just agree in writing to maintain the confidentiality of the information and to use it only for the purpose of carrying out the function related to the protection of human health or safety—which is really the intent of this legislation—and for no other purpose.

So with the deepest of respect, I hardly see how signing a confidentiality agreement is going to keep them from carrying out the functions when it says that they can proceed to carry out their functions.

The Chair: Mr. Lemieux.

Mr. Pierre Lemieux: Chair, I think the whole question of, for example, what is considered to be commercial and in confidence is an issue, as is what is considered to be releasing technically advantageous information into the marketplace that pertains to the company in question with regard to a food safety incident. I mean, these are the types of things where there has to be....

He's asking for agreement in writing to maintain the confidentiality of the legislation. Well, then, just what...? In order to determine what can and can not be divulged, there has to be an understanding as to what is confidentially protected or not protected. This is where everything is going to bog down.

I think that's what we're trying to avoid with Bill S-11. We're trying to give the minister and the agency the tools they need to be able to respond quickly to situations when they arise.

The Chair: Seeing no further comment, I'll call the question on Liberal amendment 2 on clause 47.

(Amendment negatived)

(Clause 47 agreed to)

(Clauses 48 to 51 inclusive agreed to)

(On clause 52—*Incorporation by reference*)

The Chair: That brings us to NDP-9.

Mr. Allen.

Mr. Malcolm Allen: Thank you, Chair. I will draw the attention of the members to what it says in clause 52 now:

> A regulation made under subsection 51(1) may incorporate by reference any document, regardless of its source, either as it exists on a particular date or as it is amended from time to time.

Since it says "any document" and "regardless" of where it came from, we are suggesting that we should add:

> ment as it exists on a particular date, provided that the person or body that produced the document is not in a material conflict of interest.

That states the obvious: accepting any document from anybody, regardless of where you got it from, to do, now, changes "by reference" rather than by gazetting it.... If you're not telling folks, "Well, we're not taking this stuff from you because you actually have a material conflict of interest when it comes to this".... Doing it "by reference" actually expedites the process, so you don't slow it down. According to what folks are saying, they don't want to have that happen. I think this is a protection for "by reference" rather than a hindrance. Our friends may tell us at the end that they don't intend to have a conflict of interest from folks when we get material. I would simply like to have it stated that way, that we won't put ourselves in a conflict of interest when it comes to doing the regulation "by reference" rather than the other way, where it was gazetted and folks had opportunities to make presentations.

I'm not saying they won't be consulted. The consultation process through the reference part may indeed happen because it was asked for, but this is a simple attempt not to find ourselves with the potential charge of, "You know what? You allowed this person to do this and clearly here's the reason they did it, because it was of benefit to them, and them alone, and you actually took it from them." So it speaks specifically to material conflict.

● (1000)

The Chair: Mr. Payne.

Mr. LaVar Payne: Chair, those are interesting comments by Mr. Allen. I'm wondering if the officials could maybe comment on this for us. It would certainly help out.

The Chair: Mr. Bouwer or Ms. Barnes?

Ms. Colleen Barnes: Thanks, Mr. Chair.

For this proposed amendment, we wouldn't be able to bring in a document where there is a direct conflict of interest. When we do the regulation that incorporates the document in the first instance, it will go through the full Treasury Board approval process, so there will be ample opportunity for all to comment on whether that is a good document to reference in. Then once it is in, and as changes happen, as standards change, it allows us to be a bit more nimble in terms of making those innovations available more broadly. That is why it is written the way it is, with the reference to "from any source" and "as may be amended from time to time".

Mr. Malcolm Allen: Forgive me, Ms. Barnes, but I am going directly to you, and you can help me. I mean no offence when I say this. What I heard—I hope I am right when I say this—is that through the Treasury Board process to the regulatory process, if I send in a document in a clear conflict of interest, you will then vet it at that point to a degree. Vetting is my term, not yours.

Just let me finish.

That's why you said to folks to go ahead and submit, because you don't care if they have a conflict of interest. What you are telling folks is that it's okay to submit it with a conflict of interest; you'll just kick it out here. Why don't you just tell them they can't submit it so that they don't think they actually can get it submitted, not realizing they are going to get kicked out down there? Why not just say it up front?

I interpreted what you said. I look for clarification from you if I have misspoken and paraphrased what I think you said.

Ms. Colleen Barnes: When we use "incorporation by reference", we use it when we have, for example, an international standard or practice or code that everyone agrees is how it should be done. Then the regulation will say that everyone has to follow that standard.

Let's take, for example, a Codex standard around a food processing approach. The obligation in the regulations—that would go through Treasury Board and would be approved and consulted on with stakeholders quite heavily as we are preparing that regulation—would say that everyone has to comply with that code and standard. That way, as that code evolves and innovation happens, that's immediately available to regulated parties in Canada. That's why we have it drafted as we do currently in the statute to say a "document from any source and as may be amended from time to time".

To your point about the conflict of interest provision, if when we do our regulation we reference a source that people don't believe has merit in being referenced in, then the Treasury Board and the agency will take comments from stakeholders at that time.

Mr. Malcolm Allen: I appreciate your response. I don't agree. I think it should be explicit, not implicit. I think what you just described is an implicit process, not an explicit process. We don't always all agree with certain standards that might be accepted by the government. You referenced Codex, and perhaps we all will, and perhaps some don't, so it isn't an all-in or all-out process. It's a democratic process whereby the government's will is such that it accepts certain standards that may not be accepted as standards by future governments.

My reason for referencing this piece in this particular way is to say, let's be explicit; let's not be implicit in this piece. But I appreciate the clarification, and I thank you for that. I do understand what you're saying. We just differ in our view of how we should communicate that to folks.

(Amendment negatived)

(Clause 52 agreed to)

(Clauses 53 to 66 inclusive agreed to)

(On clause 67—*Regulations*)

● (1005)

The Chair: We have amendment NDP-10.

Mr. Allen.

Mr. Malcolm Allen: Thank you, Chair.

This speaks to a public interest intervenor mechanism looking at the Board of Arbitration. In our view, it's a balance of how one advocates on behalf of certain groups that perhaps don't have the resources to advocate on their own behalf. So we'd add subparagraph (viii). It would be amended to say the "criteria to fix public interest intervener costs and to tax final costs" by the Board of Arbitration and Review Tribunal "in connection with proceedings under this Act".

There are folks out there who would want to be intervenors and can't afford to because they'd be taking on a very large corporation that has very deep pockets. Again, this is a litigation issue, so the issue is always money when it comes to litigation of some form or another. It's always about resources and how to find stuff.

Clearly, this is about trying to balance the playing field, so to speak. Yes, there's a cost involved, and I recognize that. The government doesn't like costs per se. I'm sure one of the reasons they'll vote against it is because of the cost. Other than that, it is about trying to level the playing field between the competing forces of one group defending its way and another group advocating on behalf of others.

I'll leave it at that, Chair.

The Chair: Thank you.

(Amendment negatived)

(Clause 67 agreed to)

(On clause 68—*Review*)

The Chair: There are two amendments to this clause. I'll advise that if Liberal amendment 3 is adopted, then NDP amendment 11 fails. If Liberal-3 is not adopted, then we will move to the question on NDP amendment 11.

I am opening the floor to Mr. Valeriote.

Mr. Frank Valeriote: Thank you, Mr. Chair.

You're doing a great job.

Let me speak briefly and quote Sheila Weatherill. We recall Ms. Weatherill prepared the report following the listeriosis outbreak. It became very apparent during their investigation that there was information not available to them that would have helped them in their investigation. She said this:

> Due to the lack of detailed information and differing views heard, the Investigation was not able to determine the current level of resources as well as the resources needed to conduct the CVS activities effectively. For the same reason, we were also unable to come to a conclusion concerning the adequacy of the program design, implementation plan, training and supervision of inspectors, as well as oversight and performance monitoring.

Accordingly, she recommended, and I believe it was recommendation 7, that:

> To accurately determine the demand on its inspection resources and the number of required inspectors, the Canadian Food Inspection Agency should retain third-party experts to conduct a resources audit. The experts should also recommend required changes and implementation strategies. The audit should include analysis as to how many plants an inspector should be responsible for and the appropriateness of rotation of inspectors.

Since that time a survey was undertaken. Questions were asked of Carole Swan, former president of the CFIA. It was determined that there was a question about the equivalency of 260 full-time inspectors and where they were placed. But during the questioning of her, she told reporters that a firm was hired by Agriculture Canada. It was PricewaterhouseCoopers. She indicated that they conducted a survey and not the audit that had been requested, urged, suggested by the Weatherill report.

I am quoting her. She said, "They didn't conduct it as an audit. An audit is a very specific process. It was a detailed review."

The specificity of an audit is something that the Weatherill committee clearly, I would suggest, given the seriousness of the circumstances they were investigating, gave some very careful consideration to. One does not, just for the fun of it, recommend a third-party audit. So there are some very real reasons for it.

Since then we've had the E. coli outbreak at the Brooks plant. I know there is an independent panel looking at it. I'm not going to comment on anything with respect to their investigation until it's completed and we've had an opportunity to look at it. But what has become clear to me and those on this committee who have a memory of any time the CFIA has come before this committee in the last four years that I've been on the ag committee is that it's really difficult to get a clear visual of what's going on.

That is not to suggest that CFIA isn't conducting its business properly, but it's very difficult to get a handle on what's going on—whether the resources they have are adequate to fulfill the intent of the legislation, or whether the systems they have working are functioning effectively and creating the desired outcomes, or whether it be CVS or any other strategies that they deploy, of which there are many.

● (1010)

In my former business life, on at least two specific occasions I can think of, where, because of the size of the firm, the number of employees, the technical work that was going on, all the computers and everything, I thought, "Who am I to just walk around here and decide that this works? They're all working as efficiently as they might. There are no other systems that I can introduce. They have all the resources they need, human, financial, and otherwise, to effectively carry out the duties they are supposed to."

I dare say that probably every one of us around this table involved in business knows the value of an audit, a third party who comes in and gives an objective perspective and takes a picture of what's happening and what might be useful to make it happen better, and what resources are needed to make it happen better.

Several of the witnesses who were asked about a third-party audit saw the merit of that. The idea of a review, at the very least, was brought up at the Senate. There was discussion at the Senate about the merit of an audit as well. This is with the understanding that everyone embraces this legislation as nothing but the best of intentions when we're talking about making certain amendments to this legislation. This is not gamesmanship. This is not trying to make anyone look like something has been missed, but we have all, including the government, found the merit of the Auditor General's audits of different ministries, different functions that are undertaken by the government from time to time.

Regardless of whether it brought any form of embarrassment, I have never—well, maybe once or twice—heard the government dismiss unequivocally the comments made by the Auditor General. We know how serious those are. We're talking about people's safety. In this instance, we're not talking about how much we might be spending on planes. We can argue that back and forth, but with other audits the Auditor General has done we're not talking about matters of safety. In this case, we are talking about people's safety.

I already spoke of the conflict, that constant dynamic between the minister's having to make sure that trade continues...and that's an important function I don't want to diminish. You can't shut down a plant unless there is real cause. Obviously, there was cause in this instance at XL Foods, but you also have to consider safety.

I get concerned when somebody says "I'll self-examine". There are certain things that we can do when we self-examine. We can examine our conscience from time to time, but it's generally better when you run these things by other people and get an objective opinion. We can do physical examinations of ourselves, but even at that, it's always better to get an opinion from the doctor or the dentist or the psychotherapist, whoever it may be who would render an objective third-party opinion, because we lose objectivity when it's our reputation on the line. We lose objectivity when there may be something we are trying to protect. We lose objectivity perhaps when we fear that we might even lose the messaging opportunities over which we might want to maintain certain control.

● (1015)

Of all the amendments...it is so important that at the beginning of this legislation being brought into force an audit be undertaken, so that we actually know the resources that exist, so that we actually know that the human resources that exist are adequate, more than adequate, to undertake all of the responsibilities of the CFIA. We don't even have a baseline right now, so that five years from now we know what should have existed and what should have transpired over the five years. As the legislation reads now, even the review that is undertaken doesn't happen for five years—five years from when the section comes into effect. I think in itself it is a tragedy that we can't examine this now.

I really, unemotionally, ask that the government consider accepting this amendment, so that it is not a self-examination, so that it is not the minister hiring somebody that he thinks will do a good job. I'm not questioning the integrity of the minister. I'm not questioning the integrity of any of the people who might be on a panel or who may be brought together to undertake this review; I am questioning the fact that it is a review that's going to be managed, monitored, by the agency and the minister, and not somebody from outside who has nothing to gain or lose from looking at the agency and saying, "This is where things are and this is where they can be improved. These are adequate. These are less than adequate."

Those are my remarks, Mr. Chair.

● (1020)

The Chair: Mr. Lemieux.

Mr. Pierre Lemieux: Chair, I will make a comment.

What I want to say is that the Auditor General reports to Parliament, and it is simply irregular for Parliament to tell the Auditor General where to conduct audits.

Mr. Valeriote is asking that through this act we tell the Auditor General that he or she absolutely must conduct this audit every five years. There's no choice in the matter, not for the Auditor General, and that's inappropriate, Chair. The Auditor General decides where to expend his or her resources in conducting audits, based on decisions the Auditor General makes as to where audits need to be conducted within government, and the Auditor General reports that back to Parliament.

To obligate the Auditor General to do something I think is inappropriate, Chair. I don't think this is the proper approach, and that's why I would not be in favour of this amendment.

The Chair: Seeing no further comment, I will call LIB-3 to clause 68.

(Amendment negatived)

The Chair: I'll move to NDP-11 on the same clause.

Mr. Allen.

Mr. Malcolm Allen: Thank you, Mr. Chair.

Just for the sake of our friends at the end, and those who are watching, this is actually our last amendment as the opposition.

I say that because there are, I believe, 110 clauses in the bill, to which we have made eleven amendments. I believe Mr. Valeriote made a few as well. In some cases, they were in the same place but worded slightly differently.

I think, Chair, I'd like to have it in the record that all of them were put in with respect to trying to be creative and helpful and positive. Throughout this entire legislation, we did not try to strike out things just because we thought they should go away.

With respect to the last comment by my friend the parliamentary secretary about the Auditor General, that's why we didn't write it as such, as the Auditor General, when we ostensibly wrote a similar amendment to what Mr. Valeriote has just put forward.

This is an ongoing debate about Sheila Weatherill's recommendation 7, about whether indeed it has been complied with by the government or not. The opposition says no. To be fair, Carole Swan, the past president of CFIA, has also said that she didn't believe it was an audit as defined as such.

The reason for doing this is twofold. One is that I don't believe... and I sat on the subcommittee for listeriosis. When Sheila Weatherill was on a parallel path doing the review, we had a subcommittee of the agriculture committee doing a study, which came out with ostensibly the same recommendations as Ms. Weatherill, minus one or two here or there.

So I have a lot of knowledge and history going back around this issue about what is required under section 7 of Sheila Weatherill's report. The government has continued to say, yes, we did it, even though their president has said, well, no, we really didn't; we kind of did a bit of it, but we really didn't do it.

Folks don't have to take my word around it, because I'm the opposition, of course, and perhaps I'm simply in conflict with the government over this issue. But I would take the word of Carole Swan, who was indeed the president of the CFIA and who said, well, we did a review; we didn't actually do an audit.

That being the case, the reason for this is twofold. One is to comply with recommendation 7 from Sheila Weatherill. The government said they would do all of the recommendations, and that would actually finish it for them. If they did that audit, this would actually be the second-last piece to get done, because part of her recommendation is also to modernize the Safe Food for Canadians Act, which came into force because of one of her recommendations as well, which is an appropriate thing.

We agree with that, and that's why, as folks will notice, after this one we're all “yea” to the end. Then we'll actually get to the name of it, and that will be the last piece.

We notice that we've done these in large groupings in the sense of saying “yea” to, what, 90% of this? That's not a bad working-together environment here—albeit, my friends so far have their last opportunity to actually vote with us on this one. We'll see if we can't help them come to the conclusion that they should.

So there are two reasons here. The Weatherill report is the one that is outstanding. The second is that the government has agreed, through an amendment in the Senate, to do a review in five years and then in ten years, so every five years. The argument for it is that if you're going to do a review in five years, you're measuring it against what, exactly?

It's good to do a review. We agree with the review. The difficulty is that at the end of five years, do you have five because you started at zero? Do you have six because you started at one? Or are you at four because you started at minus one? If you don't have a baseline to draw from, how do you measure? At year five, you now have a baseline, and at year ten you can measure against the five years, and you've lost the first five.

Part of that is a resources thing. The government always assumes that when we're saying something, we're asking for more. As we heard from testimony the other day on this very issue, perhaps in some instances there are too many resources in a place, and they should be adjusted accordingly.

● (1025)

That may well be true. In fact, I would accept that it might be true. I would also accept that it probably is true, because if you actually haven't done the audit, especially around CVS.... This was one of the things that Ms. Weatherill was highly critical of, because actually, at the point she did the review, this was still a pilot program. She was highly critical of CVS, and not just on the part about resourcing it. She was highly critical of the fact that it had never been verified that it did the things they said it would do. That's why we have continued to talk about this since 2009. This is almost three-plus years later, actually. That's exactly what this should do.

Why is there a reluctance on the government's side, besides the cost? And it is agreed there is a cost factor to do this. Why one wouldn't want to determine where exactly we're starting from to go forward escapes me, Chair. It truly does. I would hope in this one instance the government would reconsider and commit to it through the amendment process.

We have missed opportunities in the other amendments, whether big or small, and granted, some were small. I heard the explanations. I accept their explanations, even though I think we could be more explicit in the way we say things.

I believe you are making the greatest attempts in saying, no, you've actually covered that off, but it's over here somewhere. For those who deal with the legislation, they will be able to find it. You're not hiding it; don't misconstrue what I'm saying. For some folks, it's easier to simply get the bill and say, there it is, and I can read through it and see it. In other cases, you go over here and look at the regulation. Those who deal with these processes know where to go and do that. I just like plain language, to make it easy for folks to find.

My friends across the way so far haven't agreed with us on the first amendments. I will reference these parts simply because this is their last opportunity, even though it references another amendment. Mr. Lemieux says they don't want to duplicate. The Canadian Environmental Protection Act has a whistle-blower component to it. The Canada Labour Code has a whistle-blower protection part in it. The Ontario Environmental Protection Act and Ontario's Environmental Bill of Rights have whistle-blower protection.

My friends across the way constantly tell us how we need to harmonize our food regulations and safety measures with the U.S. and our trading partners so that we have best practices and harmonization. Lo and behold, in the U.S., the FDA, under the Food Safety Modernization Act, has a whistle-blower protection component in the act.

I know we can't go back, Chair. I recognize that. But I reference those for my friends across the way, because this is your last opportunity on an amendment that we think is actually a positive piece to help the legislation.

I'd ask Ms. Barnes—I shouldn't direct it directly to Ms. Barnes because I'm not sure who will answer—if we can actually have whistle-blower protection through regulation, if at some point the government says, "You know what? Maybe we missed the boat on that. We can add it in."

I'm not sure who will answer that, whether it's a yes or a no, or a perhaps, even. I will take any answer.

● (1030)

Ms. Colleen Barnes: Where we have come out is that the protection is there in the Criminal Code of Canada. It has implications for the agency if we bring it in under our own statute.

Mr. Malcolm Allen: If I could, I don't want to cut you off, but I understand what you said before. I wasn't asking whether you want it. I'm asking you if, technically, through regulation, you could do that if it was so requested of you to write the regulation. I'm not looking for a, "We like it," or "We don't like it," or "It's somewhere else". I'm just asking a technical question.

The Chair: Mr. Bouwer.

Mr. Neil Bouwer: Mr. Chair, I would say the CFIA's administrative procedure around how to handle cases of whistle-blowing is the place where the agency would most appropriately respond.

While I have the microphone, Mr. Chair, I would just like to say that the examples the member pointed out of Canadian federal legislation that include whistle-blower provisions are all before the 2004 Criminal Code of Canada amendments. So this applies to the Competition Act, the Canadian Environmental Protection Act, as well as the Canada Shipping Act. All of those provisions existed before the Criminal Code of Canada amendment was put in place in 2004.

Mr. Malcolm Allen: I appreciate that. We do know that. Just to be clear...because now we get into, well, we've got the Criminal Code so we don't have to do it anymore. No one took them out. They haven't gone back and amended them or removed them. Maybe the government wants to do that. I don't know. I would suggest that they shouldn't.

In any case, I appreciate, Mr. Bouwer, the explanation about CFIA and the procedure. That's helpful because it was strictly a technical question. I recognize that if you thought it was imperative to have that in the act, you would have done it. I absolutely believe that to be true. This isn't a question of what you feel. It's simply a technical thing, and I appreciate the clarification. It's very helpful.

Let me end, Chair, by saying that the reason we brought forward the amendments was to enhance a piece of legislation that we believe in. We said we would do it in an expeditious and thorough way based on the timeline that we thought needed to occur, and we've done that. I'll let my friends across the way have the final decision on whether they believe that to be true or not. But we did say we would do this in a way that would be fair, reasonable, and quick. We have done that and we have not been obstructionist. As the official opposition, we've brought forward, in our view—and Mr. Valeriote will obviously speak for himself—what we believe to be concrete and positive suggestions that were helpful.

With that, Chair, I'm ever hopeful. It may just be the Scotsman in me, living in that country where it rains a lot and when it's sunny it's always a miraculous day in the world. Perhaps my friends across the way, in this last instance, will decide that there's merit in voting for the amendment rather than not.

Chair, let me just say to you, sir—because time will probably run out quickly and we won't get to say this—thank you for your guidance through this, and my thanks to my friends who were here to help.

This is a new procedure for the agriculture committee. We don't do legislation very often. In fact, it's highly unusual for us to do legislation. Let me thank Madame Adair, Monsieur Bouwer, and Madame Barnes for their interventions and help and explanations as we worked through this. They were extremely gratifying. I didn't necessarily always agree as to where it should happen, but we certainly agree that the legislation is needed, and we appreciate all of the hard work that went into crafting it and for helping us work through it. We look forward to working with you in the future.

To my colleagues, you have one last opportunity to say yea.

The Chair: I could ask them to turn up the fireplace if you like.

Mr. Malcolm Allen: Well, we could, but then I'd probably be looking for a lump of coal.

The Chair: Mr. Valeriote.

Mr. Frank Valeriote: Mr. Chair, I would like to add to Mr. Allen's comments. All opposition members have come here with the best of intentions, embracing all this legislation, not attempting to foreclose any of the good parts of it, of which there are many. We came with the intent of enhancing it.

Before I thank you, Mr. Chair, I do have some questions of Ms. Barnes.

How long have you been with the CFIA?

● (1035)

Ms. Colleen Barnes: It's about four years now.

Mr. Frank Valeriote: That's 2008. You were there when Carole Swan was the president.

Ms. Colleen Barnes: I was, yes.

Mr. Frank Valeriote: She said an audit is a very specific process. This was a detailed review. Do you agree that a review is different from an audit?

The Chair: I think you're asking—

Mr. Frank Valeriote: It's not a policy question.

The Chair: I think you're asking for an opinion, though, and she's not—

Mr. Frank Valeriote: Mr. Chair—

The Chair: I'm going to rule it out of order. You're asking her for an opinion. She's not here to give her opinion. She's here to implement the policy.

Mr. Frank Valeriote: Mr. Chair, I hate to disagree with you, but that's exactly why she's here.

The Chair: I'm sorry, I won't allow it.

You cannot ask a witness an opinion that represents the government.

I just won't allow it.

Mr. Frank Valeriote: It's not the government she's representing.

The Chair: The question is out of order and there will be no more on that.

Seeing no further comments...okay, please.

Mr. Frank Valeriote: Ms. Barnes, do you see the value of an audit versus a survey?

The Chair: Mr. Lemieux has a point of order.

Mr. Pierre Lemieux: We're focused on a particular amendment and he's asking for a personal opinion. That's the way he's framing the question.

Your question should be, “Could there be an audit?” not “Do you think there should be an audit?” Ask the minister that question. Ask us that question. Those are political questions. The witnesses are there to provide advice on the wording of certain clauses, the wording of the act. They are not here to say, “I agree with it”, “I disagree with it”, “I feel strongly in favour of this”, “I feel strongly against this”. That's not their role. Mr. Valeriote is placing them in a very difficult position, and I think it's unfair.

The Chair: I will rule it as a point of order and I'll ask that members not ask personal opinions of our witnesses.

Mr. Frank Valeriote: Has an audit ever been undertaken?

Mr. Neil Bouwer: Mr. Chair, if I may, the CFIA is subject to regular audits that are both internal to the government and also external. The agency is audited as a matter of course by international partners—various programs at various times. In addition to that, we have our own internal audit functions within the agency. We are also, like other agencies of government, subject to oversight by the Auditor General who chooses to audit agency operations from time to time. Those are, in the main, financial audits.

Mr. Frank Valeriote: When was the last time the Auditor General did an audit of the CFIA?

Mr. Neil Bouwer: I would have to check, Mr. Chair, on the exact date, but I can tell you and the member that these are ongoing in fact. There have been audits as recently as this calendar year.

Mr. Frank Valeriote: By the Auditor General?

Mr. Neil Bouwer: By the Auditor General, yes.

Mr. Frank Valeriote: What does he audit in this case?

Mr. Neil Bouwer: In short, Mr. Chair, the Auditor General has the discretion to choose what part of the agency's operation he audits. He will choose, based on his own priorities, different areas of the agency.

Mr. Frank Valeriote: Has there ever been a comprehensive system-wide audit of the CFIA by the Auditor General: system-wide, all resources, human resources, financial resources, the adequacy of the CVS, and the deployment of all of its programs?

Mr. Neil Bouwer: Mr. Chair, the Auditor General focuses on performance audits and audits for financial comptrollership. It does not generally undertake resource audits of the nature I think you're suggesting. The scope of the Auditor General's activities are laid out in legislation that guides the Auditor General. I think some of the things you are alluding to fall outside the scope of the Auditor General.

Mr. Frank Valeriote: Thank you.

The Chair: Mr. Hoback.

Mr. Randy Hoback: Very briefly, just before I get started, I want to pass on my appreciation to the opposition members for the goodwill they've shown around working with this piece of legislation.

In fact, Mr. Chair, may I suggest we have the fireplace on more often? It seems to bring out a lot of goodwill.

I think what you're going to see here in any of these amendments isn't necessarily that we will agree or disagree on the theory behind them or on the wording and implications. Even when you look at this last amendment, I think if you talk to CFIA, their process review is ongoing. If you were to do a benchmark at this point in time and go five years ahead from now and look back, you would see that the system is totally different. They're always changing, always in flux, always in motion. There are always new best practices coming into play, depending on the sector. So doing a benchmark right now would really be a waste of time in a lot of cases.

I'll leave it at that.

● (1040)

The Chair: Mr. Valeriote.

Mr. Frank Valeriote: Mr. Chair, I'm sorry, this is my last crack at this and I've got to ask you. The former president of the CFIA, Carole Swan, was asked that very question about an audit versus a survey back in 2010. It was not ruled out of order at committee, and yet now it's ruled out of order. Can you explain to me the discrepancy, why it would be a question in order then and now it's out of order?

The Chair: I can't make comments on previous decisions. But I know that when you ask a government employee an opinion, you're out of order.

Mr. Frank Valeriote: Thank you, Mr. Chair.

The Chair: Any other comments?

Mr. Allen.

Mr. Malcolm Allen: To my good friend, Mr. Hoback, yes, of course, systems evolve and change.

The only way to measure if they've changed is to know where you started. It's like my saying that I'm going to drive to Edmonton, but I don't know where I am. I don't know whether I should go north, south, east, or west. I could be in Yellowknife or I could be in St. John's, Newfoundland. But I'm going to Edmonton and I'm going to get there. I might drive all the way around the world to get there because I went in the wrong direction; I ran into the ocean and said, "Ooh, now what?"

The idea of benchmarking—and everyone in every organization understands the term. The only way to know where you're headed is to know where you've started. If you don't, you could go in the wrong direction or you could go in the right direction. But you still don't know if you're headed in the right direction because you didn't know where you started. That's the idea.

Mr. Bouwer, you're absolutely right. Internally, this stuff goes on all the time. You're absolutely correct about the AG, by the way. I sit at public accounts. Your description of the AG is bang on. Consequently, we didn't ask for the Auditor General in this amendment because it was too limiting, quite frankly. Mr. Ferguson isn't mentioned in our amendment because of the limitations he has under statute to review, and the fact, as Mr. Lemieux, correctly pointed out, that we cannot tell him what he must do. We certainly can request something of him. He can take that under advisement and make a decision, yes or no. Right? It's the same thing we do at the public accounts committee; we can make suggestions to the Auditor General if we choose to and write reports back that say we would like to see something at some point from whomever. That's how it works.

As I say, if you're on your way to Edmonton, great city that it is—I was there last weekend. I knew that when I left Toronto, my starting point, I was flying west. I had a starting point to leave from. This is why you folks need to have a starting point. Otherwise, when you get to your destination in five years, you'll try to figure out what the next destination is and it'll take you 10 years to figure out how much it's actually changed.

Mr. Bouwer, to your point that you do the internal thing, let's hope you do one of those really big internal pieces that gives you your benchmark that you absolutely need to go forward with. Otherwise, the question will remain an open question on CVS and the resources for it, on a continual basis, which does not need to be. I stress that: it does not need to be.

You can plug this hole once and for all by doing this. Then it's done and you will not have to continue to answer through the government—because they are the ones who will get the questions: how many do you have, how many do you need? We will do the dance of, "We have 700 brand-new." "Yes, but they're out in the field, looking for pests." "No, they're not." "Yes, they are."

We can fix this with this amendment and then it's done. I welcome the government's opportunity to help us fix that.

I'm going to end there, Chair, because I understand the bells will ring soon and I know you want to get to the naming of the bill.

The Chair: Seeing no other comments, shall NDP amendment 11 on clause 68 carry?

(Amendment negatived)

(Clause 68 agreed to)

(Clauses 69 to 110 inclusive agreed to)

(On clause 111—*Order in council*)

The Chair: We have Liberal amendment 4.

Mr. Valeriote, go ahead.

● (1045)

Mr. Frank Valeriote: Thank you, Mr. Chair.

I raise this again. When you look at clause 68, it says, "Five years after the coming into force of this section". Clause 111 says, "This Act, except sections 73, 94, 109 and 110, comes into force on a day to be fixed by an order of the Governor in Council." I added clause 68 so that it too would come into force to be fixed by an order of the Governor in Council.

Could you explain the difference between the coming into force as cited in clause 68, as opposed to in clause 111, on a day to be fixed by an order of the Governor in Council? I want to make sure that clause 68 comes into effect immediately so that the five years will start to count down immediately from now.

I'm not sure who will answer that.

The Chair: Mr. Bouwer.

Mr. Neil Bouwer: Mr. Chair, just to clarify that, as drafted, the resource review provision would....the clock would begin ticking upon coming into force of the act. Therefore, if there was, for example, a delay of six months, in terms of coming into force, the clock would begin six months hence.

Mr. Frank Valeriote: Can you see any reason why it wouldn't come into force now? Why would it be delayed six months?

Mr. Neil Bouwer: For example, it may take us six months to go through the regulatory process that's required by various sections of the act.

Mr. Frank Valeriote: What does it mean when it says "except sections 73, 94, 109 and 110"? When would they come into force, if it doesn't come into force by order of the Governor in Council?

Ms. Julie Adair: Mr. Chair, those sections come into force on royal assent because they are provisions dealing with transitional matters, such as licences, which are currently being issued through meat inspection, fish inspection, and the Canada Agricultural Products Act. Section 94 is with regard to regulations under the Health of Animals Act that are amended here.

Mr. Frank Valeriote: That adequately explains, Mr. Chair, why I, through this amendment, have added clause 68 to clause 111, so that the five-year time will start to run immediately upon royal assent, which will likely happen sooner than the order of the Governor in Council, which could be delayed by six, eight, ten months, depending on when the regulations are brought forward.

So that it's clear, we're hopeful that at the very least we can start the clock ticking on the five years, under clause 68, for the internal review sooner rather than later. That's the reason for the amendment, Mr. Chair.

The Chair: Comments?

(Amendment negatived)

(Clause 111 agreed to)

The Chair: Shall clause 1 carry?

Some hon. members: Agreed.

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill carry?

Some hon. members: Agreed.

Mr. Frank Valeriote: It's recorded that everyone was in favour, is that correct?

The Chair: We didn't have a voice vote, but I'll put it on the record that all members agreed to the final.

Mr. Frank Valeriote: That's fine.

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

Some hon. members: Agreed.

The Chair: Thank you.

Mr. Lemieux.

● (1050)

Mr. Pierre Lemieux: Can I just confirm that you'll be reporting it to the House tomorrow during routine proceedings?

The Chair: You can confirm that.

Mr. Pierre Lemieux: Thank you.

The Chair: Thanks to everyone for your help, to our staff up here and to our colleagues at the other end.

I will advise that we are meeting back here tonight at six o'clock, after the vote. It's regarding grains.

Thank you.

The meeting is adjourned.

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