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Chair

Mr. Bev Shipley

Standing Committee on Agriculture and Agri-Food

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● (1100)

[*English*]

The Chair (Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC)): Ladies and gentlemen, I want to call our meeting to order.

Pursuant to a reference of Tuesday, June 17, we are considering Bill C-18, An Act to amend certain Acts relating to agriculture and agri-food.

Colleagues, today, as you know, we will be going through Bill C-18 clause by clause and considering amendments put forward to us. As you know, there are 154 clauses. There have been 30 amendments put forward.

With that, I also want to welcome Ms. May, because she has some amendments for consideration also.

We have what we have agreed. You also have the motion in front of you. I will not read it, but I will be trying to work closely with that. I want to make sure that you have time to talk to your amendments, but we've all been around here long enough to know that being precise really works well in getting your point across so that there will be debate and questions on it.

I want to welcome, with us today from the CFIA, Tony Ritchie and Nicolas McCandie Glustien; from the Department of Agriculture and Agri-Food, Rosser Lloyd and Martin Crevier; and from the Department of Justice, Louise Sénéchal and Sara Guild.

Colleagues, these folks are here today if you have questions or if you need clarification. Don't be concerned about referring to them for that. That's why they're here, to help us as a committee move forward by making sure that we have clarification on the amendments before us.

With that, we're going to start.

Clause 1 is the short title. That will be postponed.

(On clause 2)

The Chair: We have NDP-1 to clause 2. Ms. Brosseau, could you speak to that, please.

Ms. Ruth Ellen Brosseau (Berthier—Maskinongé, NDP): Thank you, Chair.

I'd like to thank everybody for their presence here today, and also for your helping us out when we have questions.

I move this amendment to Bill C-18, that clause 2 be amended by replacing line 22 on page 2 with the following:

rights, means the intentional doing, without authority under

We are just seeking to make sure that we are protecting producers from being sued for patent infringement due to accidental reasons, like wind blowing seeds on their land...claim intent, plus the burden of proof to be on the companies.... I think it's a really important common-sense clarification measure.

That's why we are moving to have this amendment brought into Bill C-18.

The Chair: All right. Comments?

Mr. Lemieux.

Mr. Pierre Lemieux (Glengarry—Prescott—Russell, CPC): Thank you, Chair.

After looking looked at this amendment, I think the introduction of intent is problematic. When you look at UPOV 78, which has been in force for 23 years in Canada, it does not include the concept of intent with respect to infringement of rights.

This type of clause also places an undue burden upon the plant breeder to show whether there was intent or not intent, which is an extremely high bar to set. This was not under UPOV 78. I'm not sure why it's being introduced now when it really has not been a problem under UPOV 78.

I also worry that it could put us offside with other countries. We are not the only country that is signing on to UPOV 91. There has to be a common understanding of what UPOV 91 means. This will actually come up in further discussion too. If you start altering what UPOV 91 means, then it's not UPOV 91, it's something else. I think we have to be very cognizant of that as we work our way through the bill, especially through the plant breeders' rights part.

● (1105)

The Chair: Mr. Allen.

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

As much as I listen to my learned colleague, we're not actually worried about UPOV 78. We're actually worried about UPOV 91. So what 78 said or didn't say really isn't relevant anymore, since the government intends to go to 91.

I would bring to the parliamentary secretary's attention the fact that UPOV 91 has been amended in many countries and deemed fit based on the country. Some accepted UPOV 91 as is. This government seems intent on assuming this role, but clearly you can amend it to meet the needs of your individual citizens and farmers if you so choose. We've seen that elsewhere.

The intent here is to ensure that the biotech companies, when they have something, don't use the scare tactic of simply picking someone out who may have inadvertently done something and go after them in the court system. Farmers have somewhat deep pockets, but not nearly as deep as the firms that would come after them. That's been the case in the past. It is about a chill factor that would go through the farming community when someone has done nothing willful, if it were simply the result of an inadvertent circumstance. That's the intent of this, and nothing more than that. It's to make sure that there is a somewhat level playing field for both a farmer and a biotech firm. They get protection under UPOV 91. Farmers feel somewhat protected in a sense that if something unwanted happened to them, they wouldn't deliberately go out and break the law and steal somebody's intellectual property, which we agree you can't do. This is making it reasonable that this won't happen to them. That's all the intent is.

The Chair: Mr. Hoback.

Mr. Randy Hoback (Prince Albert, CPC): I think we should ask the officials for their definition on how they would do this amendment. I'll turn it over to them.

The Chair: Mr. Ritchie, you're on.

Mr. Tony Ritchie (Executive Director, Strategic Policy and International Affairs, Canadian Food Inspection Agency): Thank you, Mr. Chair.

As was indicated, intent has not been referenced in previous UPOV conventions, so adding that intention places a significant impact on the rights holder because it's going to require them to prove intent for instances where their rights have been infringed.

These infringements, Mr. Chair, can occur not just by farmers. They may occur by others in the value chain who do not respect the rights of the breeder and perform acts that are not authorized. They could occur by others commercializing and selling propagating material, or by those who could, with this proposed amendment, offer as a defence in a civil action that they did not mean to infringe.

This may place limitations on exercising the clause 5, section 5.1, which is the mandatory UPOV 91 provision. In addition, it may have a further negative effect on the investment of crop breeding in Canada. The bar may be raised so high for the breeder that they may choose not to invest in Canada, thereby limiting access to farmers of new varieties.

Introduction of the concept of intent into infringement may also invalidate the legislation to conform to UPOV 91 where intention has not been identified as a factor for infringement.

Other examples of intellectual property rights legislation such as the Patent Act do not have an element of knowingly infringing....

The Chair: Hearing all, shall the amendment carry?

(Amendment negatived)

(Clause 2 agreed to)

(On clause 3)

The Chair: NDP-2 please, Madame Brosseau.

● (1110)

Ms. Ruth Ellen Brosseau: Thank you, Chair.

The second amendment that we've proposed for Bill C-18 is to amend clause 3 by replacing line 3 on page 4 with the following:

> demonstrates unique features that are clearly distinguishable from the initial variety and has not been sold by or with the concurrence of

We are moving this amendment to make sure that new crop varieties are as good as, or initially better than, existing ones to ensure there is better competition in the research and development sector, and to protect existing varieties from minor modifications intended solely to make money and which provide no real benefit. It's a housekeeping, common sense amendment.

The Chair: Thank you.

Mr. Lemieux.

Mr. Pierre Lemieux: Thank you, Chair.

To review this particular amendment, the legislation says, if you turn to page 3, at proposed subsection 4(2), that “Plant breeder’s rights may be granted in respect of a plant variety if it”, and then it defines four critical, essential characteristics. It has to be a new variety. It has to be distinguishable, which would be distinct. It has to be stable. It has to be homogenous. This wording is very much in line with UPOV 91.

The NDP amendment is changing the definition of “new”. Although distinctness is already part of this definition, the amendment is going back up to “new” and changing the definition of “new” to be “new and distinct”, so it's not necessary in that sense. The distinguishability or the distinctness of a variety is already covered under proposed paragraph 4(2)(b). Inserting it into proposed paragraph 4(2)(a) is clearly not required.

I also go back to the comment I made on the previous amendment, which is that the wording in the legislation right now aligns with UPOV 91. We can't agree to UPOV 91 if we're going to change UPOV 91, because then what we are agreeing to is different from UPOV 91. Unfortunately, this amendment falls into that category, whereby these four characteristics are accepted by other countries that also have signed on to UPOV 91, and it would be very problematic to change it.

Also, as I mentioned before, it's already been covered under proposed paragraph 4(2)(b).

The Chair: Mr. Eyking.

Hon. Mark Eyking (Sydney—Victoria, Lib.): Just for clarification, Chair, when we go to line 2 on page 5 and the NDP wants to change it, it says right there “the holder of the...”. The paragraph that says “Without prejudice to...”, is that the paragraph we're talking about?

The Chair: No. We're on NDP-2. You're on NDP-3.

Hon. Mark Eyking: It says “replacing line 2 on page 5...”. So it's right there?

The Chair: Yes, you need to go to NDP-2. You're one ahead, Mark.

Hon. Mark Eyking: I'm one ahead? Sorry.

The Chair: Just save the thought.

Hon. Mark Eyking: I'll wait for the next round.

The Chair: Is that okay?

Shall clause 3 carry.... I'm sorry, I haven't heard.... We were in the debate. Hearing none.... Shall the amendment carry? Those in favour? Opposed?

(Amendment negatived)

(Clause 3 agreed to)

The Chair: Now we go to clause 4. There were no amendments that came forward. Is there any debate? Hearing none, all in favour?

(Clause 4 agreed to)

(On clause 5)

The Chair: Now we move to NDP-3.

Madame Brosseau, please.

● (1115)

Ms. Ruth Ellen Brosseau: Thank you, Chair.

This is the one that you were interested in, Mr. Eyking.

Again, this one modifies Bill C-18 in clause 5, with it to be amended by (a) replacing line 2 on page 5 with the following:

Act, the holder of the plant

It is also amended by (b) replacing line 5 on page 6 with the following:

Act, the holder of the plant

This is just to make sure that farmers' privilege cannot be taken away by the minister through regulation. We believe that it is just common sense to have a balanced approach when it comes to a plant breeder's rights, because it's not clear enough. Once again, it's just clarifying. We've heard from many witnesses and stakeholders that this is a right and not a privilege, so it's just reinforcing that exponentially in this text.

The Chair: You've heard the amendment.

Monsieur Lemieux.

Mr. Pierre Lemieux: Thank you, Mr. Chair.

What concerns me about this particular amendment is that it effectively removes the ability to use regulations. I think to put in place a legislative framework and then to have regulations follow is a very standard process. It's a well-defined process actually, using a regulatory process. Of course, there is wide consultation with industry, a gazetting process, and a feedback process.

The other thing, too, is that the regulatory process is more flexible than legislation, which is the strength of the regulatory process when it comes to having to make lower-level changes, or put definitions in place, etc., to further define the legislation. I think it's important, too, because with legislation in general, regulations allow the legislation to be tailored to particular circumstances that may arise after the legislation is implemented.

In our time here in committee, I think we have all spoken about one size not fitting all. I think a regulatory process and the use of regulations helps to guard against a one-size-fits-all approach. It allows regulations to actually tailor the legislation, but only to a certain degree, to particular circumstances that may arise, if it is necessary, following a well-defined regulatory process after the legislation has been implemented.

The Chair: Mr. Allen.

Mr. Malcolm Allen: I see I got a nod of approval. Thank you, Mr. Clerk.

As much as I can agree with the parliamentary secretary that regulations are meant to augment, supplement, and clarify, because as he's suggested in the past and is suggesting today, legislation shouldn't try to be all things to all people all of the time because it then becomes a book rather than a piece of legislation. Regulations, actually, are meant to enhance and clarify.

In this particular case, what we are attempting to do in the bill is to make sure that something isn't taken away by regulation, not clarified by regulation. The issue is one of a potential withdrawal of something that someone believes they've got under the legislation, rather than a clarification of something under the legislation. The intent of the piece is to say to those....

As everyone who has sat through the testimony of all the witnesses knows, one of the major points of contention in the legislation is about farm-saved seed. This is about saying to folks that we intend to let them keep this—albeit there are some pieces in here that define what that means, and we'll get to those pieces in the legislation. This is about giving comfort to those farmers and saying that we don't intend to lose it to a regulatory process—albeit I'm not suggesting the government has a nefarious sense here. That's not what it's about. But the issue is about telling people in a direct way. It's not an indirect way of saying we're never going to do that by regulation.

The issue is that there are always some who believe they're always nefarious, regardless of who's in power. It's not always going to be the other team that's in power. This team might be in power, and you may actually think we shouldn't have regulatory ability to do some of the things we might do that you may not like. So that's why we think it should be here.

It's that simple. It's not any more convoluted than that.

● (1120)

The Chair: Thank you.

That's the end of debate. Shall the amendment carry?

(Amendment negatived)

The Chair: I'll move to NDP-4, please.

Mr. Pierre Lemieux: You have to do the clause.

The Chair: No. We have a whole bunch of amendments to this clause, so we'll finish those first and then we'll wrap up with the approval of the clause.

Madame Brosseau, please.

Ms. Ruth Ellen Brosseau: Thank you.

The amendment proposes modifying clause 5 by adding after line 35 on page 5 the following:

> (3) The payment of royalties referred to in subsection (2) can only be required once, either when beginning to or ceasing to exercise the rights in respect of which the authorization is conferred under paragraph (1)(h).
>
> (4) It is not an offence to clean a protected variety of seeds for a third party and no person who does so may be compelled to reveal the names of their clients.

There are two parts to this amendment. First, we all know a lot of producers have come to committee and spoken to us about their concerns about the rising cost of seed inputs. It's also to talk about the possibility of royalty at every step of the process to ensure that the limits on them will be enforced.

The amendment gives plant breeders rights and producers the freedom to decide where and when they want to see the royalties kick in. Again, it's a more balanced approach when it comes to plant breeders' rights.

The second part of the amendment explicitly protects seed cleaners, taking them out of the awkward role of gatekeeping that the bill currently keeps them in. We are concerned about the long-term impact of Bill C-18. It's to make sure that we don't target seed cleaners, which is something that we're heard in our ridings and in consultations. That's what the two proposed subclauses are about.

The Chair: Thank you, Madame Brosseau.

Is there debate?

Mr. Lemieux.

Mr. Pierre Lemieux: I think the problem here is that it's restricting when royalties can be collected. It's short-circuiting a regulatory process that the industry may ask for.

Given our experience on this committee, I think we all recognize that agriculture in Canada is not homogeneous; there are many different sectors. They have different requirements and this type of amendment eliminates a regulatory process that a particular sector may ask for because it makes sense to them.

I think it's important when it comes to the payment of royalties that a particular sector has the ability to determine what's best for it, in wide consultation, of course, and working with the government and through the regulatory process. This would forbid it outright, no changes. I don't think that is necessarily conducive to all sectors within agriculture here in Canada.

I know there was some concern about paying royalties up front and paying end-point royalties, for example, which are not specified in the bill at this point, but there may be good examples whereby an end-point royalty may benefit the sector and ultimately benefit the farmer if it's a common sense change, but also if it stimulates and enhances the investment in new varieties for that particular sector of farmers.

Those would be my comments, Mr. Chair.

The Chair: Mr. Hoback.

Mr. Randy Hoback: I agree with what Mr. Lemieux says about having that flexibility. That's why we do regulations; things change from time to time and from year to year. All of a sudden whether a new technology comes into place or a different way of doing business, you want to have the ability to adjust regulations.

I will also remind the committee that the minister was very clear that any regulations that he proceeds with will be done in consultation with the farm groups and farmers as a whole. I trust his word on that. He said it more than once when he was in front of this committee at regarding both the process and regulations.

I oppose this amendment because it restricts the ability of governments to make regulations that farmers may require sometime in the future.

● (1125)

The Chair: Mr. Allen.

Mr. Malcolm Allen: My friends across the way hit the nail on the head, actually. It is restrictive and is intended to be so. It doesn't restrict the amount they can collect. It simply says that you can't start picking away at it at the beginning, at the middle, at the end, and perhaps even to sell it. That's really all it's saying.

For example, if you want to charge a dollar—let's use an easy number—for the entire system, you don't get to charge 33-1/3, then 33-1/3 and 33-1/3. You charge a dollar. You actually know up front what it's going to be. I don't end up with it picking away at me all the way through the system to find out that it ends up being $1.10.

I hear what the regulatory process says and I'm not suggesting anything otherwise. That may happen. I unfortunately didn't hear the minister, as wasn't here that day, but I did read it. I hear what my friends are saying about what the minister was saying as well. No doubt that will probably happen. This purposely is restrictive. We're not going to claim that it's not. It's intentionally so. There is a fear out there that this is what will happen, that we'll see this cascading royalty piece come into play. What it will mean for farmers is less money in their pockets and more money in someone else's pockets. It's pure and simple as that.

We're probably on opposite ends of the pole on this particular one. That's okay. It just gives folks an opportunity to look at one side or the other of whether this should be a type of restrictive piece. Ultimately it's not. I'm going to say it again, that it doesn't restrict the tech firm from actually charging you royalty and getting the money they think is fair based on what they do. It doesn't restrict that piece, but simply restricts it from pecking away at it all the way down the ledger.

The Chair: Thank you for the debate.

Mr. Pierre Lemieux: I just want to make a comment on that and provide a hypothetical example of where end-point royalties might be useful to a particular sector. If there's an end-point royalty—and I'm not saying that there would be or there should be—an example would be a breeder and farmers working together. With a front-end royalty the breeder basically earns his royalty upfront, sells the seed, and it's in the farmer's hands. With an end-point royalty, the breeder is actually very interested in the harvest. If there's a great bountiful harvest, not only does the farmer win but so does the breeder. If there's a lousy harvest they both lose. They actually have a connected interest in the harvest and it would run against what Mr. Allen just said. He said that the breeder would just take advantage of the farmers, but I would say in this example—and I'm not saying it's for all sectors under all circumstances—in particular sectors under particular circumstances you could see where the breeder and the farmer would actually have a shared interest in the harvest end of what is being produced from that particular variety.

If it actually stimulates more investment in research and development and the commercialization of new varieties then that's a good thing. That's what this bill is all about. It's about stimulating investment. If they have this joint interest and one of the benefits is that the breeder says, we're going to use that money to develop new varieties, then that's actually what this is all about and the farmer wins again.

I'm just giving an example that I think is quite reasonable.

Thank you.

The Chair: Mr. Dreeshen.

Mr. Earl Dreeshen (Red Deer, CPC): I'd like to look at proposed subsection 5(4) where the point was made about seed cleaning plants and that type of thing.

I think if we take a look at the different regulations that exist for them.... I did not hear anyone suggesting that there were going to be any issues or any problems. As someone who has taken grain to seed cleaning plants, I understand the processes and procedures they go through. I do think that when we add subsection 5(4) to this, we're throwing something in there that isn't required whatsoever. When you put it in as an amendment, that in itself causes an issue.

I just wanted to bring that to people's attention.

The Chair: Thank you for the debate.

Those in favour of the amendment? Those opposed?

(Amendment negatived)

The Chair: Can I move then now to—

● (1130)

Hon. Mark Eyking: I was in favour of that. I just wasn't quick enough on the draw.

The Chair: Okay.

Thank you.

I think the clerk wants to clarify something.

The Clerk of the Committee (Mr. Jean Michel Roy): Just to mention to you, in the agenda that you have received, the order of amendments is incorrect. What you do is simply continue with the package of amendments. Keep track of the package and forget the agenda for the moment.

Thank you.

The Chair: We will keep moving on down. If I miss it or if I'm on the wrong one, we'll get it straightened out.

We're now going to move to amendment G-1.

Mr. Lemieux, please.

Mr. Pierre Lemieux: Thank you, Chair.

I'd like to move amendment G-1, that Bill C-18, in clause 5, be amended by replacing line 2 on page 7 with the following:

> 5(1)(a) and (b) and—for the purposes of exercising those rights and the right to store—the right referred to in paragraph 5(1)(g) do not apply to harvested

When put into context, it will read as follows:

> The rights referred to in paragraphs 5(1)(a) and (b) and—for the purposes of exercising those rights and the right to store—the right referred to in paragraph 5(1)(g) do not apply to harvested material of the plant variety....

This committee heard from almost every witness interested in UPOV 91 that the government needed to strengthen the farmers' privilege. When he was here the minister indicated that that's what he heard through consultations, and this amendment is what he spoke about when he was here in front of committee.

We're using the word “store”. It clearly sets out that storage for the purposes of propagation, and conditioning for propagation, are permissible for the farmer for the sole purpose of propagation on his or her own holdings, for example replanting in future years. This amendment also makes it clear that stocking of seed, as long as it is for the purpose of propagating on the farmer's own holding, is also included in the exemption. The amendment has been drafted to make sure that the reproduction of propagating material and/or conditioning of propagating material is also protected under farmers' privilege.

I would encourage each of my colleagues here to support this amendment.

The Chair: Thank you.

Is there further debate?

(Amendment agreed to)

The Chair: We'll now move to Mr. Eyking for amendment LIB-1, please.

Hon. Mark Eyking: Thank you, Chair.

It's in clause 5 and it's going to be amended by adding line 6, on page 7. This is what's going to be in the line:

> (3) For greater certainty, a farmer who has acquired the rights referred to in paragraphs 5(1)(a) and (b) in respect of the propagating material of a plant variety may, without having to pay any further royalties
>
> (a) stock and condition the propagating material and any harvested material derived from the propagating material;
>
> (b) make repeated use of the harvested material on his or her holdings for the purposes of propagating the plant variety; and
>
> (c) sell, for uses other than propagation, harvested material that is derived from the propagating material.

Chair, and colleagues, this pretty well sums it up: farmers have a right to stock and condition the so-called propagated material; they can repeatedly use it for harvested material, so they can replant it for the following year; and they can also sell it to a farmer down the road, say, if there's a hog farmer who's going to be using it for feed. Of course, this does not mean using it for propagation, because they can't sell it to another farmer for seed.

I think this sums it up and really defines that, yes, the farmer who has this seed and has harvested it can use it for whatever they want to use it for, and that they also can sell it to the farmer down the road for feed. I think this would give a lot of clarification and would help many the witnesses who were here. I don't sense that this would change the intent of the UPOV legislation as put forward.

● (1135)

The Chair: Thank you, Mr. Eyking.

Debate.

Mr. Pierre Lemieux: Chair, I think I would just say that this particular amendment looks at amending farmers' privilege and we just did that. We just did that in amendment G-1, so this amendment wouldn't be necessary.

The Chair: Mr. Eyking.

Hon. Mark Eyking: Yes, that's why I voted for the previous amendment, because it did one part of that, but it didn't do the other parts. It doesn't say in your amendment that you can sell it for somebody to use for animal feed. It only says one thing. I think your previous amendment has that the farmer can stock it, doesn't it, but it doesn't have the other two things in it. This would add a couple of things to your amendment, because your amendment does not do as much as my amendment. Your amendment is fine, but it just doesn't go far enough, so you can't say they're the same.

I think if you want, Chair, you could get clarification through the staff you have. There is a difference in the amendments.

The Chair: Are you asking that?

Hon. Mark Eyking: I would say.

The Chair: Okay, who would you like?

Mr. Nicolas McCandie Glustien (Manager, Legislative Affairs, Canadian Food Inspection Agency): Thank you, Mr. Chair.

There are a few things in this amendment that we've looked at. For the most part it's repeating a lot of the exclusive rights of the breeder and what the farmers' privilege then allows the farmer. For instance, paragraph 5.3(c) says “sell, for uses other than propagation...”. If you go back to proposed paragraph 5(1)(c), the breeder's right is exclusively “to sell propagating material of the variety.” So the sale of the harvested material is already out. I think that's why the amendment was phrased as “For greater certainty...”. It may be adding all the different rights into that one place.

However, I think there is one element that is outside of the “For greater certainty...”. It's in (3), which says, “without having to pay any further royalties,” which may impact the ability to have regulations in different sectors that would address an end-point royalty scheme. In our opinion, that little bit in subclause 5(3) may not allow for those regulations to be made.

Hon. Mark Eyking: May I ask a question, Mr. Chair?

The Chair: Yes.

Hon. Mark Eyking: Let's be clear. Let's look at this in the farmer's terms. I'm a farmer and I've bought the certified seed. I plant it and I harvest it. What I am seeing here is that I, as a farmer, can do a couple of things with this seed: I can take some and sell it, of course, as long as it's not for somebody to plant. I can sell it to a farmer down the road who's feeding his hogs, or I can reseed part of that myself without paying royalties.

Are you saying that's where the problem is, that you should not be able to take that seed you have stored in your bin and reseed it without paying royalties? Is that where you have a problem with “without having to pay any further royalties”? That's what I am saying, “in respect of the propagating material of a plant variety may, without having to pay any further royalties.”

Are you trying to say that they should pay royalties when they reseed something they harvested the year before? Am I clear?

Mr. Nicolas McCandie Glustien: I think our problem was perhaps with the lack of clarity in the way it was phrased. In rereading it, I can see it the way we've been thinking about it in studying this the last few days. I can also see an interpretation where it is only on those acts that belong within the farmers' privilege for not paying further royalties.

I think that because of this lack of clarity, it may seem to us that this is essentially repeating the rights of the breeder and the rights of the farmer that have come up before. It was a little unclear to us, in terms of the potential for an end-point royalty.

Hon. Mark Eyking: Thank you.

Can you find where it is stated in this bill, beyond what I'm putting in here, that the farmer does not have to pay royalties on reusing the seed for seeding? I am willing to take that part out if you already see it somewhere.

Mr. Nicolas McCandie Glustien: The ability of the plant breeder to collect the royalties is in subclause 5(2):

> Without prejudice to any rights or privileges of the Crown, an authorization conferred under paragraph 1(h) may be subject to a condition to pay royalty to the holder of the plant breeder’s rights whether or not the holder is Her Majesty....

If you go back up to paragraph 5(1)(h), dealing with the rights that it sets out for the breeder that the latter can give to the farmer, the rights are all about the production and reproduction of the propagating material of the variety and the selling, exporting, or importing of the propagating material. Then the farmers' privilege comes and it carves out those elements of propagating on your own farm for future use of the harvested material.

Hon. Mark Eyking: You're saying...[*Inaudible—Editor*].

Mr. Nicolas McCandie Glustien: Yes. The royalties would be collected on the elements of the breeder's rights in subclause 5(1), and then the farmers' privilege carves out those elements of propagation on the farm.

● (1140)

Hon. Mark Eyking: Can you also see within this bill the other three things I have? Are those rights enshrined in this bill already?

Mr. Nicolas McCandie Glustien: In our opinion, they are.

The Chair: Thank you, Mr. McCandie-Glustien. We're well over time.

Thank you, Mr. Eyking.

Is there further debate?

Hon. Mark Eyking: Mr. Chair, if they are in there...what's wrong with repeating it?

The Chair: You heard the comment.

Is there further debate on the amendment?

(Amendment negatived)

The Chair: We now move to NDP-5.

Madame Brosseau.

Ms. Ruth Ellen Brosseau: Thank you, Mr. Chair.

This is on clause 5, page 7, to be amended by adding, after line 22 on page 7 the following:

> 5.5 The rights referred to in sections 5 to 5.2 are to be interpreted and applied in a manner that does not restrict the rights of farmers to sell or otherwise transfer propagating material to other farmers, including transfers by means of farmer-owned organizations such as cooperatives, associations and non-profit organizations.

We know that the minister said that he was going to clarify this. We are amending and reinforcing parts of this bill. We want to make sure that it is in black and white that farmers do have the right to save, condition, and exchange seeds. They should not have to pay for their seeds up front and should have the right to exchange and sell what they grow in their fields. It's also to make sure that we clarify that we include organizations and cooperatives in this amendment.

The Chair: Thank you very much, Madame Brosseau.

Is there debate?

Hearing none, shall the amendment carry?

(Amendment negatived)

The Chair: We'll now move to Ms. May.

Welcome.

PV? What's PV on your amendments?

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Thank you, Mr. Chair.

It's the designation used by the House of Commons for *Parti Vert*.

I think, initially, when they marked my amendments as “Green Party”, they were worried that members would be confused with government amendments. Until the day I form government, it's probably appropriate that we avoid the confusion.

Some hon. members: Oh, oh!

The Chair: Do you have your amendment, Ms. May, please?

Ms. Elizabeth May: Thank you.

The Chair: Amendment number one.

Ms. Elizabeth May: Thank you, Mr. Chair.

I'll refresh the memory of committee members because you moved this motion some time ago. In the fall of 2013 this committee, identically with committees throughout the House of Commons, moved a motion that required any member of Parliament in one of the smaller parties, either the Green Party or Bloc or Independent members, to give 48 hours' notice to produce amendments. I wish I had had more time to take into account some recent suggestions that were sent to me through the National Farmers Union, but we operate with the instructions that we have to get them here 48 hours ahead of time. As you will recall, Mr. Chair, the amendments that I, as a person not a member of this committee, will present today are deemed moved through some sort of mystical process, and I get to speak to them.

Quickly speaking to this, the Green Party is very concerned. We know the farming and the agricultural community in Canada is more or less split over Bill C-18, whether we've sufficiently protected farmers' privilege and whether we've got the balance right. In general, I want to stress one point that I think is pretty critical, and it was in the testimony that you heard from the National Farmers Union. Even though UPOV is recognized by the World Trade Organization and it does govern this area, every revamping of UPOV has the effect of ratcheting up corporate control over seeds and is a real concern to farmers but we as a country do have the right under all the UPOVs to maintain our own legitimate protection of plant breeders. That's why we are seeking in my amendments to help buttress the farmers' privilege. I welcome the government amendment that was just passed.

Also, for my colleagues across the way who before we began informally mentioned that they didn't know that Vancouver Island had a lot of agriculture. We have a lot of agriculture. In my riding we have hundreds of farms and farmers and producers of all kinds. We have over 20,000 farms in British Columbia. Contributing to this when you add processing to the total economic impact we have over a $40 billion of economic impact. That leaves out the product that my friends were assuming was B.C.'s biggest green product. I don't know anything about that.

Moving on to my amendment which, in this case, is to add another clause to clause 5. I'm proposing that at line 22, on page 7, we add a general direction for interpretation of all the preceding clauses within clause 5. As you'll see before you, and for the*Parti Vert -1* the suggestion is that:

> Sections 5 to 5.4 are to be interpreted and applied in a manner that does not impose unreasonable financial burden on farmers or impede their rights to grow, save and use seed for planting, including their unrestricted rights to clean, store and prepare seeds for that purpose.

Again, Mr. Chair, I think it's pretty straightforward. I welcome any comments from the officials who are here today. This is a guide to interpretation to ensure that we don't accidentally, unintentionally, create new financial burdens on farmers or impede the rights to clean, store, and prepare seed and to grow, save, and use that seed in ways that the current Bill C-18 suggests it does not intend to have those impacts. This is to clarify for purposes of interpretation.

Thank you very much.

● (1145)

The Chair: Thank you very much.

Is there debate?

Mr. Lemieux.

Mr. Pierre Lemieux: Chair, I raise the point that again, this is touching on farmer privilege. I think amendment G-1 achieved the clarity that witnesses were looking for. We passed that, and there's the clarity that witnesses were asking for.

I have other concerns with this. One of them is around the words “does not impose unreasonable financial burdens on farmers”. I think that's problematic, because a lot of farms are businesses. There are other businesses in the value chain. Plant breeders may sell to farmers. They may sell to another enterprise in the value chain. It sets up this hierarchy of rights that's different.

It's not well-defined. What exactly does “unreasonable financial burdens” mean?

So I don't think it does clarify. I think it injects uncertainty. For that reason, I wouldn't support the amendment.

The Chair: Mr. Allen.

Mr. Malcolm Allen: Although I tend not to always agree with my friend across the way, I'll agree with part of his statement on this particular amendment. It is, quite truthfully, extremely vague. Unless you're sitting here through all the testimony, it's a bit of a reach to really understand what exactly it is, albeit we understand what it is in the sense of what we believe is a farmer's right, rather than a privilege. We think “privilege” is the wrong terminology. It conveys the wrong meaning, in my view. The government has deemed fit to accept what we thought was a strengthened amendment. I don't want to go back and debate it, because we did support the government's small step forward. I just don't think it follows with the infamous statement that was made on the moon, about one small step for mankind, and then something else. The other part, the something else, could have passed with ours.

We'll support this amendment even though it is vague. It's an attempt to go forward with a farmer's right, but it leaves a lot of things open to interpretation, and that's always problematic. As my friends down there would say, we'd have to regulate it to death to try to figure out what it means.

But it's an attempt to do something, perhaps a little more than my friends across the way were hoping for.

The Chair: Thank you, Mr. Allen.

Mr. Dreeshen.

Mr. Earl Dreeshen: Thank you, Mr. Chair.

Speaking to this particular amendment, I think in talking about unreasonable financial burdens you're making an assumption that the new direction of UPOV 91 is going to harm farmers financially. As we've heard here—and for me as a farmer—the most expensive seed is what you buy first. When that's gone, you then go down through the next level. The reason you're looking at that is that you've looked at the traits, you've looked at the situations that exist there. For someone from the outside to assume that these are going to be unreasonable financial burdens.... I guess if you get hailed out, and you bought something that's twice as much as before.... But that's why you have this other suite of things you're going to deal with.

As other people have suggested, when you throw the words “unreasonable financial burdens” in there, you tie in that assumption, which is certainly not the case in the grain industry. There may be some other smaller groups that may fear that, but it certainly isn't the case in the industries we're speaking of here.

● (1150)

The Chair: Mr. Payne.

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

I just see the word “unreasonable” as muddying the water. What is unreasonable to you might not be unreasonable to Mr. Eyking or Mr. Dreeshen, and that goes all the way down the line.

So I don't think it helps the situation at all.

Thanks.

The Chair: Mr. Eyking.

Hon. Mark Eyking: I like the amendment, but there's one part that doesn't fit in there, the "unreasonable financial burdens on farmers". That's just too broad and vague. It's too open-ended. The rest of it's good:

> ...or impede their rights to grow, save and use seed for planting, including their unrestricted rights to clean, store and prepare seed for that purpose.

That all makes sense, but that's not the way it works here. That part really doesn't fit. If it were out of there, I think I would have no problem with the amendment.

The Chair: Ms. May, then we'll move.

Yes, quickly.

Ms. Elizabeth May: Thank you.

One thing I would like to suggest regarding Mr. Dreeshen's concern is that if there is no risk of additional financial burdens, then there's nothing to fear from this amendment. There's a great deal of statutory interpretation of the word "reasonable" and there are a lot of tests that are applied, but it is guidance for interpretation only.

I would also say to my friend Mr. Lemieux that if in the value chain of food production in Canada we don't decide that in that hierarchy, farmers are the most important, then I don't know what we think we're doing.

I would invite any of my colleagues who are members of this committee and who might wish to preserve some of the language to amend this—I'm not allowed to as a non-committee member—to remove "unreasonable financial burdens" and just include "does not impede their rights to grow...", etc. If you like that language, we can take out "unreasonable financial burdens" and have it be a friendly amendment, or have it proposed entirely at this table by a member of the official opposition or the Liberal Party.

Thank you.

The Chair: Mr. Eyking.

Hon. Mark Eyking: I'll put that forward. I see no problem with taking that out.

Does it have to be written down?

The Chair: We need it in writing, please.

Yes, Mr. Hoback.

Mr. Randy Hoback: I'll let them write their amendment before I comment.

The Chair: Okay.

Colleagues, the amendment would read as presented, with one change: the words "unreasonable financial burdens on farmers" would be removed.

Is there debate?

Mr. Randy Hoback: Mr. Chair, I have a point of order first.

The Chair: Sure.

Mr. Randy Hoback: Is this debate on the amendment to the amendment?

The Chair: This is debate on the amendment to the amendment.

Mr. Randy Hoback: So we'll vote on the amendment to the amendment, and then we'll vote on the amendment itself?

The Chair: We will be voting on the amendment to the amendment first, and then we'll vote on the amendment.

Mr. Randy Hoback: Okay.

When I look at the whole amendment that's being proposed, in its original state and as amended, you're just repeating what has already been encompassed in the government's amendment, which was already approved. Whenever you start repeating things, you start creating all sorts of conditions where you're unsure of what exactly is the intent of the committee or the piece of legislation that's there.

So I would keep it simple, and the simplest way is the way the government amended it previously. Thus, I don't think this is necessary. I think we're going down a road that we don't need to go down. Whether we amend it or not, it still says the same thing, and it's already in the clause. I just don't see this as being necessary at all.

● (1155)

The Chair: Thank you for the debate.

Shall Mr. Eyking's subamendment to PV-1 carry?

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

(Amendment negatived)

(Clause 5 as amended agreed to)

The Chair: Thank you.

Folks, we now have in front of us clauses 6 through 16, for which there have not been any suggestions of amendments. We can move through those rather quickly by consent, regrouping and applying them as one vote.

Can we do that?

Some hon. members: Agreed.

(Clauses 6 to 16 inclusive agreed to)

(On clause 17)

The Chair: Madame Brosseau, go ahead with NDP-6, please, under clause 17.

Ms. Ruth Ellen Brosseau: Thank you, Chair.

I move to amend Bill C-18, in clause 17, by replacing lines 21 and 22 on page 14 with the following:

> acceptable, the Commissioner may take those results into consideration as part of the evidence for a review of a decision pursuant to any regulations made under paragraph 75(1)(m). The person on whose part material is

This amendment just speaks to the fact that we know that there are a lot of people in groups who call for foreign studies to be recognized and given consideration. We just want to make sure that there's more due process and harmonization when it comes to the criteria given, and to make sure that Canadian findings take precedence whenever there's a discrepancy found.

So this amendment is just to ensure that the acceptance of foreign studies is governed by due process.

The Chair: Thank you, Madame Brosseau.

Mr. Lemieux.

Mr. Pierre Lemieux: I don't quite understand why the amendment is coming forward. Right now it says the commissioner may rely on those results. He has the flexibility, using his good judgment, to rely on those results.

I'm wondering if Madame Brosseau could explain in more detail why this amendment is necessary. What is lacking or where is it that you feel the commissioner might not act in the best interest here?

Ms. Ruth Ellen Brosseau: It's based on consultations that we had with stakeholders, where this was put forward as a recommendation. We decided it was suitable to be put in an amendment, just to make sure that Canadian research takes precedence.

Mr. Pierre Lemieux: Again, Mr. Chair, I don't quite understand why there's this lack of confidence, perhaps, in the commissioner having the ability to rely on those results, as it's worded right now. I don't understand why there's a change to that.

The Chair: Mr. Allen, I know you wanted to speak. Maybe now is your time.

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

We talked about this just last week with one of the witnesses, and I asked a question around how you determine who does what. So, part of a study is whether it is internationally accepted by all parties or not. Right now there isn't that.

In many industries there is an ISO standard, which many of you may well be familiar with, that is acceptable across boundary lines of countries, per se. The auto sector is a prime example of that in North America, where they have ISO standards that say, “If you make the part to this standard, we'll accept it here, and here, and here.”

In this particular type of material, that's not absolutely so, at the moment. The intent is to say to folks, “How do we develop those standards and how do we make sure we have those standards?” If we're literally going to suggest to folks that they use it over there, why can't we have it? Well, the issue is, did they actually test it in the same manner we did? Right now, it's a very loosey-goosey situation. We say, “Well of course they have the standards as us”. Do they really?

A lab in Alabama has the same standards as a lab in New Hampshire. Perhaps. We don't now that because there isn't any recognized acceptable standard. There is no international designation for them. It's simply a private lab run by some individuals who say they do testing to such-and-such a level. Okay. It may well be true, but we don't know that.

The idea of it being acceptable is the whole idea of, what standards do we have? Are they comparable? How do you measure that comparability? How do you do that?

Without a recognized international standard between the parties that's agreed upon in advance, are you sure you're getting what you actually said you wanted? Or, are you simply hoping you get what you thought you might get? That's the dilemma with materials.

That's really where we're trying to drive this piece, so it ends up being a safety piece, and we don't end up bringing in material and then finding out after, oops, that lab really wasn't a very good one. We shouldn't have accepted it. Now we're scrambling after the fact to introduce regulations that prohibit because we have to go back to square one.

The whole process of making sure this is an acceptable standard has a whole process to go. Now perhaps Mr. Lemieux will tell me the regulatory framework is going to do all these things for us, and that we're going to actually get to a standard that's acceptable because clearly there are standards that would be and some that would not be. It really is providing a framework, so that everyone is on an acceptable page that says that standard is independently verified.

ISO standards are done by a third party evaluation. It's not just simply somebody putting they're hand up and saying he or she has a certificate. They have to be verified and they have to be verified on a continual basis. You would actually know you really get the stuff that you actually thought you would get in a safe manner. That's really what this is all about.

Then eventually when you say you will accept it, it can actually come across the border, and there isn't any issue. That's really what it's about.

● (1200)

The Chair: Mr. Eyking.

Hon. Mark Eyking: Mr. Chair, I'd like to get some opinions from the witnesses who are here. Does this give the commissioner any more teeth, manoeuvring room, or whatever, compared to what's in their original clause?

Mr. Tony Ritchie: Thank you, Mr. Chair.

I will take the first stab at this and my colleague, Nicolas, can add additional material.

Article 12 of the UPOV 91 convention does state that we can take into account the results of growing tests or other trials that have already been carried out. The core components of UPOV are that breeders need to demonstrate that their product is distinct, uniform, and stable. These are common to all UPOV member countries.

Requiring tests and trials to be carried out in each jurisdiction often significantly increases the cost to the developer and can delay the introduction of innovative new varieties into the marketplace to the detriment of farmers.

Canada accepts high-quality, distinct, uniform, and stable results in tests and trials. As well, we sell our own tests and trials to other UPOV member countries. Imposing regulations in that particular environment would significantly delay the ability to consider those tests and trials internationally, and can result in fewer varieties and less choice for farmers.

Mr. Nicolas McCandie Glustien: Mr. Chair, if I could add one quick thing to that, or two quick things?

● (1205)

The Chair: Sure.

Mr. Nicolas McCandie Glustien: At the beginning of subclause 24(1) in terms of the acceptability of the tests, it does say that it's from the appropriate authority in the country of the union. This is the authority that's charged with discharging the UPOV 91 legislation in that country, so it's from a regulated authority. The CFIA is that authority in Canada and there are other competent authorities across the globe.

The other part is that the way the amendment is structured would limit the consideration of that foreign data only to reviews of the decision of the commissioner. The commissioner takes decisions under subsection 23(1) about the application for breeders' rights. The way the amendment is written now would limit it to only reviews of those decisions done through the regulatory process. It would actually restrict the ability of the commissioner to review and consider foreign data.

The Chair: Any further debate?

Those in favour of the amendment? Opposed?

(Amendment negatived)

(Clause 17 agreed to)

The Chair: I'll move on. Seeing there are no amendments to clauses 18 through 38, I would like to seek unanimous consent to apply the vote to carry all of those.

(Clauses 18 to 38 inclusive agreed to)

(On clause 39)

The Chair: What we have in front of us is NDP-7. I'm going to allow the debate to happen on this because I think it has some validity. It could easily have been ruled inadmissible, but I'm going to allow the debate to happen.

Madame Brosseau.

Ms. Ruth Ellen Brosseau: Thank you.

This one is on page 22, clause 39, with the following words to be added after line 42:

> (4.1) The Commissioner is responsible for providing information, on request, to breeders of plant varieties, dealers in seeds, growers of seeds, farmers and horticulturists to explain the application and operation of this Act and the regulations, and for seeking comments from those entities on the application and operation of the Act, including any proposed changes to the Act and the regulations.

Mr. Lemieux mentioned today that consultation is very important. Since this is a fairly big bill, touching on nine pieces of legislation and has quite a few sweeping changes, we want to reinforce that farmers' interests are being taken into consideration.

This amendment reiterates the fact that consultation is very important. Many of our witnesses said time and time again that even if they did support this bill, they wanted to be an active part of the consultation. In broad strokes that's what this amendment does, to make sure that producers are given the right to understand these laws and participate in consultations when it comes to regulations.

The Chair: Thank you.

Is there debate?

Mr. Lemieux.

Mr. Pierre Lemieux: Again, Chair, I'm just wondering, are there examples of problems we should know about? CFIA, the commissioner, already have this responsibility. They carry out this responsibility. Is there something specifically driving this amendment that we should know about?

Ms. Ruth Ellen Brosseau: It was just based on witnesses who came to committee, and also in just talking with stakeholders. They said they wanted to be consulted. It's just reinforcing and making sure it is enshrined in this legislation.

The Chair: Mr. Payne.

Mr. LaVar Payne: Thank you, Chair.

It is a bit confusing to me as well. I'm just wondering if we could actually get the departmental officials to help clarify this for us.

The Chair: Mr. Glustien.

Mr. Nicolas McCandie Glustien: Thank you, Mr. Chair.

I look at this amendment in two parts. The beginning is about providing information. We feel that the commissioner is already charged with that responsibility in the legislation and a number of other places. If you look at proposed subsection 67(2)—it's subclause 45(1) of the bill, back on page 24—the commissioner is already charged with putting all useful information for regulated parties on the Internet. That type of information is already being provided. The commissioner and the CFIA are very committed to ensuring transparency around all information for regulated parties and farmers.

As for second part, the seeking of comments and the consultation aspect, it doesn't appear in the bill but is part of the PBR Act. It's section 73. It wasn't amended, so you wouldn't have seen it in the bill. But it sets up the plant breeders' rights committee, which is struck, essentially, to look at matters of interest around the regulated parties in this case. It's a committee that pulls in from all sectors and all stakeholders.

In that, we feel these things are already done and enshrined in the legislation.

● (1210)

The Chair: Thank you.

Is there further debate?

(Amendment negatived)

(Clause 39 agreed to)

The Chair: Thank you very much.

We'll now move to clause 40. Here again, we could put together clauses 40 to 49 and seek to apply the vote to all of them.

Some hon. members: Agreed.

(Clauses 40 to 49 inclusive agreed to)

(On clause 50)

The Chair: Thank you very much.

We'll now move to amendment NDP-8.

Madame Brosseau, please.

Ms. Ruth Ellen Brosseau: Thank you, Chair.

This one is that clause 50 be amended by adding after line 39 on page 26 the following:

> (4.1) Section 75 of the Act is amended by adding the following after subsection (1):
>
> (1.1) Despite subsection (1), the Governor in Council may not make regulations that would restrict the use of harvested material by a farmer under subsection 5.3(2) by
>
> (a) excluding a particular plant variety from the application of that subsection;
>
> (b) establishing limits on a farmer's use of harvested material, such as saving, treating, exchanging, conditioning and storing such material; or
>
> (c) establishing limits on the proportion of harvested material that may be kept by a farmer on an annual basis.

Once again it's coming back and making sure that we reinforce the fact that this is a right and not just a privilege, and the fact that it cannot be taken away by regulation. It comes from the stuff we've heard from stakeholders and from witnesses here at committee.

The Chair: Thank you very much.

Is there debate?

Mr. Lemieux, please.

Mr. Pierre Lemieux: Thanks, Chair.

I think the what I'll say here will go back to earlier comments I made regarding regulations and the farmers' privilege. Once again, the agricultural sector is not homogeneous across Canada; there are particular sectors that have particular needs. They may in fact want regulations to be developed for their particular sector. I don't think we should shut that down, which is really what this is doing. It's really saying that the Governor in Council may not make regulations. It's basically shutting down the regulatory process again. I don't think that's constructive, and I don't think it necessarily well serves our agricultural sector.

Of course, the regulatory process that we follow involves extensive consultation. There's a lot of research that goes into regulations. Why are they being put forward? What are the positive and negative consequences that could come about? What do the industry stakeholders think about this? There's a full process for regulations. I don't think it is, as I say, constructive to simply shut down the regulatory process when it comes to this legislation.

The Chair: Sure, thank you.

Mr. Eyking, please.

Hon. Mark Eyking: Well, Mr. Chair, I see a lot of similarities in this amendment to the one I put forward, so I'm kind of questioning the parliamentary secretary on his comments on shutting down the regulatory process. I don't know what part of this is shutting down something. I don't know where he gets this shutting-down business.

Mr. Pierre Lemieux: Do you want me to answer that?

Hon. Mark Eyking: Yes.

Mr. Pierre Lemieux: If you look at it, it reads:

> Despite subsection (1), the Governor in Council may not make regulations

If this were to pass, the Governor in Council cannot make regulations.

Mr. Mark Eyking: Read the whole thing.

Mr. Pierre Lemieux: It continues:

> that would restrict the use of harvested material by a farmer under subsection 5.3 (2)....

So it is not possible. It is shutting down the regulatory process.

The Chair: Thank you for that debate.

Mr. Allen.

● (1215)

Mr. Malcolm Allen: The parliamentary secretary is 80% correct. The other 20% is that in 5.3(2), it's explicit as to what exactly he's talking about. He's talking about harvested material by a farmer, such as excluding a particular plant variety from what is safeguarded by farmers' privilege, unreasonable limits on a farmer's use of harvested material, and a limited proportion for harvesting.

It is specific. It isn't so regulations can never be written again, unless of course you come back to Parliament. That's not what it says. It is talking about a particular piece and specifically about what is deemed in the bill to be farmers' privilege, albeit I think it should be farmers' right. It's talking about the specifics of that piece, not that regulations generally for all time under this particular act can never be done. That's not what it's trying to attempt to do.

Again, it falls back, and you'll see a theme, Mr. Chair, that my friend Mr. Eyking has done, and we've done as well, and the government did to a certain degree, albeit we felt it needed to move a bit further. In the preceding amendments where we were talking about the section on farmers' privilege and trying to enhance it... because if there were a theme that all witnesses talked in mentioning the farmers' privilege part of this legislation, it was that it needed to be clarified. They needed it to be enhanced and strengthened to the point where people truly understood what it is.

That's what these things are trying to do, no less, no more, and not to infringe upon the government's right to make regulations except in specific areas when it comes to what farmers have pointed out from the very beginning of this legislation and what the government by its own amendment to its legislation recognized, which is that there was not strong enough language under the farmers' privilege section. Otherwise they never would have amended it. They brought forward an amendment, and the minister agreed that it needed some clarification. What we're trying to do, the only thing we're trying to do, is enhance that piece so that farmers truly understand that their privilege is truly protected, because that is their biggest fear.

There are many pieces in this legislation and, quite correctly, Mr. Chair, when you have lumped many clauses together, we've agreed with you because we didn't have any amendments because we agreed with the clauses. We agree with the vast majority of this legislation. It's in specific areas where we are pointing out some failings and some weaknesses. Maybe “failings“ is too strong a word —perhaps some weaknesses is better. That's what we're trying to point out in this legislation. These are weaknesses that we think can be enhanced. Nearly every witness who addressed this area said the same thing over and over again. Unfortunately the government, when it said it was going to bring something forward, was a little “lacking”, if I can use that word, in strengthening it.

They did amend it, I give them that. I can't suggest that they didn't, and for the record, just to make sure, because I know we've been voting quite quickly and we don't always see the hands, Mr. Chair, we actually voted with the government on their amendment. We voted in favour of it, albeit in the words of an old friend of mine, it just doesn't go far enough.

The Chair: Mr. Hoback, please.

Mr. Randy Hoback: I appreciate my colleagues across the aisle. I understand what they're trying to do. They're just trying to ensure that farmers are firmly planted on farmers' privilege, but the reality is that they are kind of doing the opposite. Farmers have told this committee that they wanted to be part of the consultation process as these regulations are developed and changed. The reason for that is that the farming community changes every so often. Things come up, such as new varieties, different weather conditions, and new machinery. There are all sorts of reasons why you want to look at regulations periodically and say that one is no longer needed or that something else is needed.

When you try to put something fixed into legislation, it takes away the farmers' ability to have that flexibility to modify those regulations. What I would suggest to my colleagues across the road is not to handcuff farmers, but allow farmers to participate in a process as regulations come forward where they actually are consulted and involved in the process when they develop new regulations.

If you talk to Mr. Banack with the CFA—I'll just use him—he said in testimony here in committee that they want to be part of that process. For us to take away their ability to be part of that process and make it fixed in legislation, I think, would be a huge mistake. I don't think we should go down this road. I think we should let the regulatory group do what it's supposed to do, and that's to create proper regulations.

The Chair: Thank you for the debate.

We'll vote. Shall amendment NDP-8 carry?

(Amendment negatived)

(Clause 50 agreed to)

The Chair: On clauses 51 through 56, I would ask that we apply the vote to clauses 51 through 56.

(Clauses 51 to 56 inclusive agreed to)

The Chair: We will now go to amendment NDP-9 to clause 57.

Madame Brosseau, please.

● (1220)

Ms. Ruth Ellen Brosseau: Thank you, Chair.

This one is on page 33, that clause 57 be amended by replacing line 24 on page 33 with the following:

> time to time, with the consent of Parliament.

The purpose of this amendment is to talk about limiting incorporation by reference. It's become more and more of a trend with government bills, as we've seen of late, so this amendment intends to limit incorporation by reference.

The Chair: Thank you very much.

Is there debate?

Mr. Eyking, please.

Hon. Mark Eyking: All legislation that comes before Parliament should be reviewed to a certain extent. It's just like what we're talking about with the rail act that is collapsing. Everything needs to be reviewed.

On where we are at with this, I just want a little more detail on how you would do that. Would this go before the committee every once in a while? We're still on UPOV. If this is an international standard, and we're going to accept it, how do we go...? I'm just trying to get clarification from the NDP on reviewing it at Parliament. Is there a timing with this so that every once in a while it's brought back?

I'm not saying it shouldn't be. I'd just like more detail, that's all.

The Chair: Thank you. That's a good question.

Mr. Malcolm Allen: If you're going to do a review, what we're suggesting is that, rather than just being incorporated by reference, you actually bring it before Parliament, which ultimately means that a study of some description comes here—and if it does, we may not be here. It could be other folks here, so in our view, that's a regulatory process. You could set that up so that it says that after a certain period of time this is where it will go back to.

When we say it should come back before Parliament, let the obvious be said: we are the members of Parliament, and the function that we do are inside this committee. So we'd actually be bringing it back before Parliament, which means you'd bring it in front here and you'd actually review it rather than that it simply becoming incorporated by reference, so that off it goes and somewhere down the line somebody finally figures it out and asks what happened: “Oh, it got incorporated by reference, did it? That's what happened to it”.

The idea is that there is a review process, as Mr. Eyking has pointed out. It does happen. The issue of when it should be or how many years it should be can be determined by regulation. That could be part of it, but the intent is that it be reviewed and that it be reviewed by parliamentarians, not simply incorporated by reference. That's the sense behind it. Obviously the details of such would have to be a regulatory framework.

The Chair: Okay, Mr. Lemieux.

Mr. Pierre Lemieux: Thank you, Chair.

We had witnesses come in front of committee who supported that. The reason they support it is because it allows the government to be more nimble in making changes to their advantage, especially when you look at something like the Feeds Act and the Fertilizers Act, etc. I know we're going to see this type of amendment come up again.

Stakeholders in the agricultural sector get a bit frustrated when the government is constrained by its own processes and is unable to respond quickly to their needs. What I clearly heard from many witnesses at committee was that the incorporation by reference is a good initiative. They liked that. Just to put the fears of my colleagues to rest, it's something that's already in place in many other acts. I would, for example, raise the Safe Food for Canadians Act. Incorporation by reference was there and no one voted against it or tried to do amend it. You were quite comfortable with it under the Safe Food for Canadians Act. Here again we have the support of witnesses and of stakeholders saying that incorporation by reference is a good thing.

By pulling it back in front of Parliament, “with the consent of Parliament”, you are basically elevating what is supposed to be a quick and nimble approach to the process and you are imposing upon it, what I'll call, a legislative burden. With the legislation it follows a process. Legislation is key and we do it for legislation. But there are other processes that are meant to be less time-consuming, less resource consuming, and less burdensome to everybody. The incorporation by reference is one of those supported by industry and stakeholders, and it was supported by you in previous legislation and is already in place in other acts.

To say “with the consent of Parliament” not only undoes all of that, it also actually imposes upon it the legislative process that is probably the slowest and most cumbersome process of any of the other processes.

Thank you, Chair.

● (1225)

The Chair: Mr. Allen.

Mr. Malcolm Allen: I understand what my friend across the way is saying, except his underlying position is buttressed only by the fact that all the things that will happen are good. The dilemma is—and I recognize I'm a bit older than he is—life is not always just good. Sometimes things are bad, or they don't work out as well as you'd like them. So in the sense of “let's be nimble, let's be quick, Jack jumped over the candlestick”—except if the candle were on, he might have burnt his underside.

The dilemma is that yes, he can be nimble and quick. Indeed, Mr. Dreeshen, I'm sure, could point to an example where if we just do this by reference this would be a good thing for farmers. You know what? I probably would agree with him. He's probably right, because he's a farmer and very knowledgeable and brings a lot to this committee in a lot of different aspects. But there can be things that aren't. If you incorporate things by reference, you wonder after the fact why you did that.

There are times that yes, democracy can be slow, tedious, and cumbersome. But the nature of doing it that way is to make sure we take time to reflect and don't just automatically do things. Some things are dead obvious. I would agree with the government side, it is dead obvious that would be an enhancement to the industry, to agricultural producers, and it should go quickly. One would hope that legislators could do that quickly and say let's get on with it, just as we've done with this. We're not reading through clauses that don't have an amendment. We're not going to talk about them on and on. We say we agree with the government. Those clauses are fine, and move forward. We would hope that's what legislators could do.

I get the fact that there are things that are enhancements to the industry and to producers. Yes, it would be nice to simply say let's move them quickly because they want them, it would be helpful, and we ought to let them have them.

But it doesn't always and shouldn't be in my view, an accepted fact that all those things we incorporate by reference are always going to be positives. That leads one to assume that life is always nice, and that it's always good. Heaven knows it just isn't sometimes. Sometimes it's grey; it's neither all good nor all bad. Sometimes it's grey and it becomes something that isn't what we thought it was.

We've passed stuff before that turned out to be...and this legislation started out that way. If we'd done what Mr. Lemieux's suggesting and said that we'd had this stuff before and that we'll incorporate by reference the farmers' privilege piece.... The government decided it wasn't good enough and wanted to amend it, but they would've passed it the way it was, if they'd had it that way.

Our suggestion is simply that yes, it's slower; yes, we understand that. I agree with Mr. Lemieux, there's no question that folks at the end of the table—witnesses who are in their spots—many of them said they like incorporation by reference. I'm not going to deny that because it's in the testimony. The issue with it is that their assumption is they like what gets incorporated. That becomes a dilemma.

I'm not suggesting that folks are going to put stuff forward that isn't good, necessarily. I'm saying that mistakes get made and unintended consequences come about. That's why life isn't always just wonderful.

That's the dilemma we face and why we have a little trepidation about simply doing it by reference on every occasion. I understand that we'd probably agree that in some cases it should be done. So how do you separate it? That becomes the dilemma. Doing it all one way makes it difficult. In doing it the way we're suggesting, we're saying that you can still move things quickly where there's all-party agreement: let it go. The industry does that, we've seen that happen in this committee on a number of occasions and over the number of years, quite frankly, that I've been here. Things can be done quickly.

It won't be as quick as incorporation by reference. I agree, it won't be. I think it becomes a cautionary piece. Sometimes you need to do things just a tad more slowly than one would hope.

The Chair: Mr. Eyking, please.

● (1230)

Hon. Mark Eyking: The biggest problem I have with this bill, and it's like many of the previous government bills, is that it's an omnibus bill and loaded with so much in it. The problem that you have, as we hear from farmers, is that there are many parts of this bill that are good and yet some parts that are not so good , or that need to changed or tweaked, I guess.

I'm assuming this amendment applies only to this one part of the bill and the whole deal with UPOV and the seed. That's what I'm assuming, because if you're saying that Parliament has to look at this bill again.... I don't know if parliamentary rules say you can just take one clause or one section out of a big bill like this and only review one part. I need clarification: would you have to put it in context if the whole bill has to be reviewed by Parliament?

The Chair: Mr. Payne.

Mr. LaVar Payne: Thank you, Chair.

I've been listening to Mr. Allen, Mr. Lemieux, and Mr. Eyking, and it certainly does create some questions, obviously, which the opposition has put forward.

Mr. Lemieux has said that we've already done a number of those types of situations in terms of incorporation, so I guess one of the things I would ask would be that the officials make some comments regarding that.

The Chair: Mr. McCandie Glustien.

Mr. Nicolas McCandie Glustien: Thank you very much, Chair.

As Mr. Lemieux mentioned, the incorporation reference authority has been sought in other acts of Parliament recently—the Safe Food for Canadians Act and the Food and Drugs Act—in terms of incorporation of food additives. Incorporation by reference is really a regulatory tool that has been used for hundreds of years.

What we are doing in this authority is seeking a very clear authority as to how we would proceed on incorporation. What it does is allow the regulations to incorporate a document either as it exists at a specific time or as it's amended from time to time.

It allows us to have flexibility. The Governor in Council proposes regulations that contain a document, and that document can be referenced out. Then, as future changes can happen to that document, that's what gets incorporated into the regulations. It goes through a strict Governor in Council process. When we propose to incorporate a document, it goes through the entire regulatory process of GIC approval—CG1 and CG2—so the choice to incorporate that document by reference is done very deliberately.

What we've been doing at the Food Inspection Agency, because we were given this authority in the Safe Food for Canadians Act, is working diligently with stakeholders on how we would go about using the incorporations by reference authority on a consistent basis across all of our statutes. We're developing clear guidelines on consultation with industry, on the choice of documents, and then on how those documents may change in the future.

What the amendment would seem to do is that any time the Governor in Council wishes to put forward a regulation that would incorporate a document by reference, that regulation would then have to be tabled in front of Parliament for approval. For us, that would then add a lot to the regulatory process. It's above and beyond the bar that we normally have to do for all regulations, and the use of incorporation by reference is really to clarify, to provide details on things that maybe don't need to have the wait in regulation. I'm thinking of schedules of approved ingredients, where the provisions and approval part is in the regulation, and then you detail out the list in an incorporated document.

From our perspective, if we had to table those GIC-approved regulations in front of Parliament each time we wanted to incorporate a document, we very likely would not use that authority at all. We would go back to making regulations of schedules and lists, doing those directly in the regulation, and suffering through the regulatory process. When a new ingredient is added and industry really wants it, we would then have to go through the regular regulatory process, so from us, especially in contrast with the Safe Food for Canadians Act, the Food and Drugs Act, and the Department of Justice's own incorporation by reference bill, which all would not impose this.... Anyway, thank you very much.

The Chair: Thank you very much.

Thanks for the debate.

The motion is on the amendment. Shall amendment NDP-9 carry?

(Amendment negatived)

The Chair: I'll now move on to amendment PV-2.

Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

Knowing that I'm not a member of this committee and couldn't speak until the last round, my amendment also touches on the issue of incorporation by reference.

To clarify for the record, because Mr. Lemieux seemed to think that the official opposition supports the notion of incorporation by reference, I recall very clearly a quite brilliant speech by Craig Scott in which he slaughtered the notion. It was put forward initially through Bill S-12, in early 2013. That was a bill for the Statutory Instruments Act, moving directly contrary to all of the advice that the House has ever received from the Standing Joint Committee for the Scrutiny of Regulations.

Moving towards this rather carte blanche is speedy and efficient, but one of the reasons we have always had the posting of draft regulations on the *Canada Gazette* is to allow for transparency and scrutiny. This is a move towards far less information, far less scrutiny. You know the old phrase “ignorance of the law is no excuse”. Well it's going to be much harder for stakeholders in all of these different fields, whether food safety, or plant breeders' rights and farmers' information. This is happening across many areas of public policy in Canada, and in every single case it's a bad idea.

It is dangerous to the people who have to follow those regulations. They don't have any opportunity to be certain through the usual functioning of Parliament with regulations being posted on the *Canada Gazette*.

Given that this is the way it's moving, at least my amendment attempts to make sure that people who are impacted through regulations incorporated by reference, as this act now does, will not face a financial difficulty in accessing those regulations and will know where to look to find them.

If you go to clause 57 in the bill, at page 33, my amendment proposes to change the regulations that are incorporated by reference under proposed subsection 5.1(2). My amendment changes the word "accessible" to "available to the public free of charge on the departmental website".

It's a very simple change. It makes sure that people who are impacted by these regulations, and many of them are your constituents I say to my Conservative friends across the way.... You don't want them to find out that they've run afoul of some law they've never heard of, and when they try to access it they don't know where to look, and then they are told they have to pay to have a look at it.

This clarifies it and protects individuals who are impacted by regulations. They may no longer have an opportunity to comment on them when they're under development because they're no longer gazetted on the *Canada Gazette*, but at least they should make sure they have an easy way to find out what the law is and and they can get that law without having to pay for it.

I hope you will all support this.

Thank you.

● (1235)

The Chair: Is there any debate?

Mr. Eyking, please.

Hon. Mark Eyking: What is it now? When people go to the department's website on rules and regulations, do they have to pay for it right now?

You're saying they shouldn't have to pay for it.

Ms. Elizabeth May: Yes.

With your permission, Chair, we have been looking into this, and it's often very hard to find out where the new regulations are listed. Sometimes when you try to find them when they are not on the *Canada Gazette*, there can be costs involved.

We want to make sure that doesn't happen to farmers. We're trying to figure out how the regulations under this section and this act are newly incorporated by reference, which basically means that we've short-circuited the normal notice requirements. If you put something on the *Canada Gazette*, there's a notice period and people comment.

It's true that this is fast and really efficient, but it's not transparent. There is much less public scrutiny. We want to at least make sure that people don't have to pay to get that information.

The Chair: Thank you very much.

Is there any further debate?

Mr. Lemieux.

Mr. Pierre Lemieux: Thank you, Chair.

That's a very negative view of incorporation by references.

Ms. Elizabeth May: You betcha.

Mr. Pierre Lemieux: It sounds like there's nothing good that can possibly come of it, and I think that's very untrue. It's sort of a "sky is falling" type of approach.

You know, you may have said that about the regulatory approach before it was set up in government, too, but that's not the case. The regulatory approach serves a useful need. As was mentioned by our witnesses, for a document to be incorporated by reference, it must go through the regulatory process. So there is all that visibility in order to identify what documents would be incorporated by reference. That is gazetted.

There's also sort of a hierarchy, I think, and we know the hierarchy. That's what I was explaining before. There's legislation, there's regulation, and then there's incorporation by reference. It's a hierarchy that depends on the situation: you can't use regulations to make legislation, and you wouldn't use incorporation by reference to make regulations or legislation. They're meant to complement each other. They each have a role. I think what you're proposing here is actually being considered by CFIA, for example, right now.

The other thing I notice with your amendment is that we're under the Feeds Act here, but there is also incorporation by reference under the Fertilizers Act in this bill, the Seeds Act, the Health of Animals Act, and the Plant Protection Act. You didn't mention any of those. You only brought it up under the Feeds Act.

So I don't believe this is necessary.

Maybe the last point I'll make is that it says now "on the departmental website". That's basically locking it into legislation. It doesn't really take into account, I think, evolving technology. Ten years from now, 15 years from now, websites may be passé. There may be new technology by which people access information. This is somewhat unduly restrictive. If you look back 10 or 15 years, apps were not known. Now we have apps. There are many different ways to communicate information, and I don't think legislation should narrowly define the way in which information is communicated. We are allowing, under the current wording of the act, that it must be "accessible". That allows for transitions in technology over the next five, 10, 15, or 20 years without putting it right back through the legislative process to talk about how else it should be accessible.

Thank you, Chair.

● (1240)

The Chair: Thank you.

Very quickly, Ms. May.

Ms. Elizabeth May: I'm surprised to hear Monsieur Lemieux make that point, because the current administration has used websites as the go-to place in numerous pieces of legislation, including the revamping of CEAA 2012. I really think departmental websites are referenced throughout the Government of Canada right now, so it's not restrictive of new technology.

I also draw his attention to this. If he thinks these are gazetted, they're not. If you go to proposed subsection 5.1(4), it states very clearly that:

> For greater certainty, a document that is incorporated by reference in a regulation made under subsection 5(1) is not required to be transmitted for registration or published in the Canada Gazette

So when you say they're gazetted anyway, they're clearly not. I'm just trying to make sure—

Mr. Pierre Lemieux: Perhaps we can get clarification on it, because our witnesses have said just that.

Ms. Elizabeth May: I also would say, just quickly, that the only reason this only applies to the Feeds Act is that I and the drafters we could access in the Library of Parliament and elsewhere were trying to figure out how to fix this, and the way it's drafted in its omnibus form made it quite challenging to figure it out. So I went with the Feeds Act only, but really, the point is one for all sections of the act where we are incorporating by reference.

I did speak out against the Statutory Instruments Act in 2013, because incorporation by reference as a blanket principle is anti-democratic and involves less scrutiny.

The Chair: Thank you.

If there is no further debate, shall amendment PV-2 be carried?

Yes, Mr. Allen.

Mr. Malcolm Allen: On a point of order, Mr. Chair, a question was directed to our friends at the end on whether or not it is indeed gazetted. I'd actually like to hear the answer.

The Chair: Oh, okay. Sorry.

Go ahead.

Mr. Nicolas McCandie Glustien: I think I just need to make a distinction between the regulation that incorporates the document, which is gazetted—that's in proposed subsection 5.1(1)—and then the document itself. What proposed subsection 5.1(4) says is that the document itself is not considered a regulation, because then it essentially would just be the regulatory process. It's removing it from the registration requirements in the transmittal to the clerk for changes to the document. There's a distinction there.

When the GIC proposes a regulation that says a document will be incorporated, that's a regulation that goes through CG I and II and all of that. When that document then later on has amendments, that's not considered a statutory instrument under proposed subsection 5.1(4). You then don't have to do all the exact same regulatory steps.

It's essentially saying that the document further on down the road will be treated slightly differently. That's the distinction there.

The Chair: Thank you very much for that.

Shall PV-2 carry?

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

The Chair: Now to PV-3.

Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

This is in relation to those sections of the act that allow for the minister to look to science capacity in governments of foreign states, subdivisions of foreign states, international organizations, or associations of foreign states.

As you've heard in testimony before the committee from the National Farmers Union:

> Canada's public science capacity has been severely reduced as a result of federal funding cutbacks. Canadian science should be used to make decisions about products used and sold in Canada and their potential impacts on our farms, agricultural ecosystems, economy, environment, animal and human health. Studies done in, by and for foreign countries or associations of foreign countries cannot adequately assess the products or processes as they might be used in Canada under our climate in various regions of the country or how they might affect Canadians. To allow for non-Canadian research to underpin regulatory decisions is to abandon vital Canadian interests for the sake of political and budgetary expediency.

Everything I've just read to you was from evidence before this committee. I'm attempting to delete those sections that deal with accessing foreign information.

It is also interesting to me that the way it's drafted is that in considering an application, the minister may consider information available from....But there's no protection for that being in addition to making sure that we have Canadian information, which is why I am persuaded by the National Farmers Union's evidence to the committee and prepared these amendments.

Just for clarity, Mr. Chair, PV-3, PV-4, PV-5, and PV-6 are all to the same effect, that under different acts we make sure that we're relying on Canadian science.

● (1245)

The Chair: Mr. Lemieux.

Mr. Pierre Lemieux: The current wording of the act says that the minister may consider information. There may be very relevant, very pertinent information. It may be supplementary information. He may consider that. He has to use his judgment, as he should, actually.

He's the minister. He should be able to use his judgment. Any type of research that is useful and meaningful would be considered. Why not? What would you be afraid of if it was being considered?

I don't see this being a threat to sovereignty or sovereign decisions. The Government of Canada makes decisions. It may or may not reference studies and reviews that occurred in other countries. But certainly, a decision that affects Canada is made by the Government of Canada and there's no forsaking of its rights regarding sovereignty in that domain, so I don't find the deletion helpful at all.

In fact, one of the aims of this bill is to encourage innovation, science, and research in the agricultural sector, and having more information available or potentially available would be helpful to the cause, not detrimental to the cause.

The Chair: Ms. May.

Ms. Elizabeth May: My honourable friend may have misunderstood my point. It was not a sovereignty concern. The point is that Canadian science for evidence-based decision-making is especially required when dealing in a context as intimately connected to climate, place, local knowledge, and local science,

In this instance, this section might allow a minister, not necessarily the current minister but a future minister, to ignore Canadian science and base their decision solely on information from foreign states, allowing us to further deplete the capacity of Canadian science in the agricultural field.

The Chair: Mr. Dreeshen.

Mr. Earl Dreeshen: I have a couple of points. First of all, we have an amazing Canadian scientific regime that is doing some amazing work throughout and has been partnering with industry and doing wonderful things. This opens up the UPOV. It opens up these opportunities for us to work together and for us to be able to take our expertise and to move it to other places in the world. It is frustrating at times that we don't look at the other opportunities that we're going to gain from this.

I just wanted to bring you back to one of the other pieces of legislation or things that we have talked about in the House, and that is motion M-60 as it was debated in the House. Just to read it:

> That, in the opinion of the House, the government should ensure that production management tools available to Canadian farmers are similar to those of other national jurisdictions by considering equivalent scientific research and agricultural regulatory approval processes by Health Canada, the Pest Management Regulatory Agency, and the Canadian Food Inspection Agency.

So we are talking about these agencies as they take a look at what is out there and giving our Canadian farmers these opportunities and tools to work with.

You may be familiar with that particular motion, Mr. Chair, but certainly it's something that I believe we should pass in its entirety. That's what we have here. Bringing in this particular amendment would negate that.

● (1250)

The Chair: Thank you very much.

Mr. Hoback.

Mr. Randy Hoback: I guess I'm just thinking about this. When I was in that situation, I would want all the data whether it's Canadian data or data from another country that maybe has in the expertise in that scenario with that crop type. To say that we're going to discount that expertise and just go with Canadian data, well, what has happened in the past in those scenarios is that it takes five or six years to actually acquire that Canadian data before you even get to a position that you already were in using foreign data. So to say that we must only use Canadian data, I think, is not really the way to go or in the best interests of the farmers overall. In fact, we heard that quite often in the PMRA scenarios, when we looked at different types of products that are used in the States that we want access to in Canada. They want to use U.S. data, because that data basically reflects on our standards here.

I think it comes back to what I said. If I'm sitting there making a decision, I want to have data from all sources available to me. I don't want to be restricted to data that I may not have, and because of that, I don't want to have to go through a timely process, an expensive process, to find out information that I could have had just by recognizing the data coming from another UPOV country.

This just doesn't make sense to me at all.

The Chair: Thank you very much.

We have amendment PV-3.

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

(Clause 57 agreed to)

I'd like to move on to clauses 58 to 66. May we deal with those under one vote?

Some hon. members: Agreed.

The Chair: Thank you very much.

(Clauses 58 to 66 inclusive agreed to)

(On clause 67)

The Chair: We have NDP-10.

Madame Brosseau, please.

Ms. Ruth Ellen Brosseau: Thank you, Chair.

This is on page 44. It would be amended by replacing line 10 with the following:

> time to time, with the consent of Parliament.

Once again it's just to omit incorporation by reference. I think we had a pretty good debate. It just wants ensure that regulations and laws come before Parliament.

I don't want to beat a dead dog.

The Chair: Thank you very much.

Debate? Comments?

Mr. Pierre Lemieux: Chair, I would just say we had the debate. The same debate that we had on the previous amendment would apply to this amendment as well.

The Chair: Thank you very much.

Anything further?

Mr. Allen.

Mr. Malcolm Allen: It's quite all right, Mr. Chair.

It's not to belabour the debate because my friends are right. We've had this debate, and we'll see this in a couple of other places. I will thank Ms. May for her clarification on Bill S-11, but I actually requested some notes from Bill S-11, and my friend across the way suggested that we didn't try to amend it. That's not actually accurate. We did try to amend Bill S-11 when it came to incorporation by reference. And we did vote against it when you didn't change it by that particular piece. So I just want the record to reflect that.

My memory is such that it doesn't always come back to me quickly enough. So the BlackBerry is a handy tool every now and again. Albeit I don't necessarily care for it most of the time, but sometimes it's helpful. So let the argument stand on incorporation by reference from before. You've articulated it quite clearly. My friends across the way don't agree. As I quite often say, this Scotsman can count. I believe it will be 5:4, but in any case I live to be disproved. We'll see how it goes. You never know.

The Chair: We have in front of us NDP amendment 10.

(Amendment negatived)

The Chair: I want to move quickly to amendment PV-4.

Ms. May, please.

● (1255)

Ms. Elizabeth May: As I indicated a few moments ago, Mr. Chair, this brings forward the same notion that has now been defeated, concerning the potential that we will rely only on foreign finance in the way that current clause 67 is drafted in relation to the Fertilizers Act. I submit the same points, and as we've just discussed on the previous amendment, we think we know which way the debate is going to go on this one.

I would only say that the effort here is not to say that the minister can't look at any science from other countries. The minister doesn't need a statutory empowerment to look at science from anywhere. My concern is by making it statutory, he may rely on foreign science without mentioning that there must be Canadian science that's applicable. We run the risk of losing Canadian scientific capacity.

The Chair: Mr. Dreeshen, please.

Mr. Earl Dreeshen: I think perhaps I should just read into our discussion some of the comments that were made.

This is from Clyde Graham, the acting president of Canadian Fertilizer Institute:

> ...the fertilizer and supplement industry supports new provisions in the Bill that enable tools such as incorporation by reference, licencing, export certificates and acceptance of equivalent foreign scientific data.

So we have certainly heard from witnesses what it is that they anticipate and expect from us.

The Chair: Is there further debate?

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

(Clause 67 agreed to)

The Chair: Then we have clauses 68 through 74. I would like to combine those into one vote. Do we have that consent?

Some hon. members: Agreed.

(Clauses 68 to 74 inclusive agreed to)

The Chair: Thank you very much.

Folks, we have just a couple of minutes left. We're actually getting along pretty well, but we are obviously not going to finish. I know some have commitments at 1 o'clock, so with the indulgence of the committee, if it's okay, we'll see you back after the votes. At 3:30 we will be in room 237, so it will be a lot closer. Be prepared, as I hope that we can wrap it up then.

We're doing really well. I want to thank the committee for moving along and having good questions. See you a little later.

The meeting is adjourned.