STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION

COMITÉ PERMANENT DE LA CITOYENNETÉ ET DE L'IMMIGRATION

EVIDENCE

[*Recorded by Electronic Apparatus*]

Thursday, May 17, 2001

• 0911

[*English*]

The Chair (Mr. Joe Fontana (London North Centre, Lib.)): Okay, colleagues. I know there are a number of matters we have to get back to, but I'm going to return to clause 101, and we'll start debate on some of the ones we stood down—they're pretty significant. They're all significant, but we will go to clause 101.

We're here for the duration, until we finish this bill, I want to let you know. Hopefully we can get it done by twelve o'clock. If not, we'll go until two o'clock, just before question period. But I think we should be able to do it.

Mr. John Herron (Fundy—Royal, PC): We have an afternoon schedule set.

The Chair: Well, no, not really. I don't think there was a notice that we would meet this afternoon. If there was...yes, that's tentatively there. My goal is that if we can complete this by noon, or if not, by two o'clock, that would be good.

Mr. John Herron: I have to be in Sussex, New Brunswick—and I know you like Sussex.

The Chair: I do. I've been there.

(On clause 101—*Ineligibility*)

The Chair: We have amendments BQ-23, PC-21, and G-34.

Judy, do you want to take us through this? I think we started it last night.

Oh, I'm sorry, Madeleine. Amendment BQ-23 essentially seeks to remove amendments BQ-24 to BQ-29. I know we were talking about humanitarian and compassionate grounds; we have an amendment in BQ-25 that would take care of some of those concerns, but let's take it from amendment BQ-23.

[*Translation*]

Ms. Madeleine Dalphond-Guiral (Laval Centre, BQ): We presented this yesterday. I do not know if it would be worthwhile to do it all over again to get everyone back into the swing of things.

The purpose of this amendment, in essence, is to authorize a second appeal, in other words a second application for protection. We all know what this is aimed at. It would perhaps be interesting, for purposes of the vote, to begin with the Progressive-Conservative Party. If by some miracle this conservative amendment were rejected, we would then table ours.

[*English*]

The Chair: Where's amendment PC-21? Do you want to talk to us about this one, John?

Mr. John Herron: I'll try to bring everyone back to where we were last night. Lots of amendments that we're going to discuss are really important. They're all important for their own merit, and that's why we bring them forward.

Clearly, the issue we're looking at right here is of a higher level. Anita has a willingness to address this issue in another fashion. What we're saying is that as a point of fact—I think my numbers have been clarified—about 21% or 25% of appeals of refugee status are approved, so that's a huge envelope that we get the second time around.

• 0915

Although this is different, it's the same constituency, we'll say, that we're looking at. What we're concerned about is if a country's circumstances have really drastically changed, a person should be allowed to make another refugee claim. Right now, as the bill is written, it's only once in a lifetime.

The other aspect is the sexual assault issue we talked about last evening, where there's a case in which not all the evidence was able to be brought forth the first time around.

The intent of my motion is not just to permit a second claim at any time. I've tried to tighten it up with respect to two principal issues. One is if a country's circumstances have changed, and the second is if there were some particular circumstances that prevented some of the evidence from being presented during the first determination.

I'm amenable to looking at what the government wants to do using the pre-removal risk aspect of it. The ultimate thing of mine here is that if we screw this up from the approach, people may die, if they don't have a second appeal. That's the issue we're looking at.

So I'd like to be able to ask the officials...and if you could speak to Anita's approach as well. Because if we approach...at the end game, I don't necessarily need to fight for this.

The Chair: I think Anita can speak for herself. I'll ask Anita, perhaps. On the basis of what you indicated, let's see what Anita's proposal is.

Mr. John Herron: Mr. Chair, we're a team on this. We're trying to—

The Chair: Then I'm going to have Anita go through it first.

Ms. Anita Neville (Winnipeg South Centre, Lib.): Thank you, Mr. Chair.

I certainly may need some help over there.

This makes it far clearer for me. As I indicated last night, I'm a visual learner. As I understand it, when you look at the comparison between the current act and the new act, John, if we were to do what you are requesting and allow a second claim, the repeat claimant would go back to the beginning, as they do under....

If we were to do what I'm requesting under clause 112, the individual would go back—you have the arrow here—to the PRRA. My understanding is that the eligibility is six months, not one year, and that you can go back to the PRRA.

In addition, by using the pre-removal risk assessment, you can apply from outside the country as well, within six months. So it's a much speedier process, and you will have all the opportunity to bring back the information that you might not have brought forward the first time.

Mr. John Herron: What do you mean, Mr. Chair, through you, within six months?

Ms. Anita Neville: That you can come back and apply within six months for the PRRA.

Mr. John Herron: What if it happened in a country's circumstances, through you, Mr. Chair, a year or two later? Is that still cool?

Ms. Anita Neville: Yes.

The Chair: Okay.

Joan, do you want to—

Ms. Anita Neville: I think it's a tighter process, a faster process.

The Chair: But do we have the wording for how this thing would work? That's going to have to be inserted in...amendment BQ-25? Or is that...? It's clear that in actual fact this can occur now without any changes to the bill.

Ms. Joan Atkinson (Assistant Deputy Minister, Policy and Program Development, Department of Citizenship and Immigration): Yes. Thank you, Mr. Chairman.

As Ms. Neville indicated, while you have the chance to go through the whole process just once, you do have the opportunity, if you've been outside of Canada, after you've been removed—because you were determined not to be in need of protection—and you want to come back to Canada and make a protection claim, to come back to the pre-removal risk assessment, which is a protection decision.

That's where changed circumstances in the country of origin or other changed circumstances can be reviewed. I should also add, and Ms. Neville made reference to this, that those individuals who have been removed from Canada and are outside of Canada can also go to one of our missions abroad, one of our visa offices abroad, and make an application as a refugee seeking resettlement in Canada. They have that option.

Number two, if they're in a country where we don't have a presence, but UNHCR is there, they can go to UNHCR. They can indicate that they are in need of protection. We work very closely with UNHCR in those areas of the world where we don't have a physical presence. We're covered. We have coverage worldwide in terms of being able to deal with refugees that are seeking resettlement.

• 0920

So there are two options there for an individual after they've left Canada having been refused refugee determination. If there are changed circumstances, they can go to one of our missions abroad and seek resettlement in Canada as a refugee or a protected person, or they can come back to Canada within six months and make an application through the pre-removal risk assessment process.

The Chair: Technically speaking, if I could though, under the new act a failed refugee claimant will go through the PRRA anyway.

Ms. Joan Atkinson: Right.

The Chair: Because they've been refused, they're going to have access to the PRRA before we send them back to a country that may be problematic for them.

Ms. Joan Atkinson: Correct.

The Chair: Before they're actually removed.

Ms. Joan Atkinson: As you can see, it says "as close to removal as possible".

The Chair: That's right. I just want to make sure that people are not being forced out before we give them the PRRA in the first instance.

Ms. Joan Atkinson: That's correct.

The Chair: Anita.

Ms. Joan Atkinson: And again, changed conditions can be brought forward at that time.

The Chair: That's right.

Mr. Gerry Van Kessel (Director General, Refugees, Department of Citizenship and Immigration): Or information not reasonably available at the time of the IRB hearing and with an amendment that's coming that includes the situation that Mr. Herron was mentioning yesterday and this morning around the abused spouse and so on. There's a specific amendment to that that's coming later.

Ms. Anita Neville: That's the other piece that I wanted to identify, John. What I'm proposing as well is that in clause 113—can I read you what it currently says, or you can look at it yourself—

Mr. John Herron: I'm not too bright. I'll read along. Just give me a second.

The Chair: Give us the gist of what clause 113 is.

Ms. Anita Neville: Well, clause 113 currently says that the rejected applicant can only present new evidence. What I'm proposing is "only new evidence that arose after the rejection or was not reasonably available", and then the added words that are important, "or that the applicant could not reasonably have been expected in the circumstances to have presented". So that will give clarity to the issue of the abused spouse that we were talking about.

The Chair: Anita, that's very helpful.

Now to Joan and Gerry, this picture is very fine. Obviously it's not going to go in the bill, so tell me where all of this is written, so that we all understand that what you just said is written. Tell me the clauses.

Ms. Joan Atkinson: Okay. The clause that we are looking at, clause 101, is the clause that makes reference to ineligibility for referral to the refugee protection division. So if you look at the charts, when a person makes a refugee claim, the first thing that happens is there's an eligibility determination. Are they eligible to go to the Immigration and Refugee Board and have a hearing of their protection claim at the refugee board?

Clause 101, which we're talking about, indicates those categories of persons that are ineligible to be referred to the refugee protection division.

Those that are referred to the refugee protection division go through the refugee determination system—they go to the refugee protection division and they have the appeal to the refugee appeal division.

The Chair: In which sections of the bill are those?

Ms. Joan Atkinson: The refugee appeal division is in clause 110.

The Chair: Put those down. I think it would be helpful if you know that.

Ms. Joan Atkinson: If their refugee claim is rejected or refused by the IRB through the refugee protection division and the refugee appeal division, they are then liable for removal, and before they are removed, there is a pre-removal risk assessment.

The Chair: And what section is that?

Ms. Joan Atkinson: The pre-removal risk assessment is clause 112.

The Chair: Okay, clause 112.

Mr. John Herron: Is that an oral presentation?

Ms. Joan Atkinson: It can be. It is designed to be primarily again a review of the changed circumstances of the case and information that was not reasonably available or could not have been expected in the circumstances to be presented. The bill allows for an oral hearing in cases where that is absolutely necessary.

The Chair: Okay.

Mr. John Herron: Mr. Chair, that's the—

The Chair: That's clause 112, and if you want to deal with that oral argument there, I'll let you deal with it at clause 112. Right now I'm just looking at the process of how clause 101 flows to clause 110, which flows to clause 112, so that this is the picture in front of us. If that is the preferred alternative of the committee, based on BQ-21 and PC-21, at the end of the day, we'll still vote on those if you want. If you're satisfied with Anita's approach, that's the alternative.

- 0925

Mr. John Herron: That's the comment I was trying to make. I like the approach on it, but the problem with this is that it might be more expeditious to do the Anita method—as we'll call it for now—and if that second claim.... If we're judging people and maybe deciding whether they live or die or are subject to persecution in any way, shape, or form, that's extremely dangerous if there's not an oral hearing. That's why we established the IRB. That's why we had the same decision. I think, Mr. Chair, if we go the Anita method for the second claim, there has to be an oral component to the prior claim. Otherwise, in my view we've screwed up, Mr. Chair.

The Chair: Okay, and I heard Joan say that the oral may...and if we need that clarified somewhere and make it more explicit than implicit.... We'll get to that in a moment. That's the scenario. If you want us to vote on BQ-21, BQ-23, or PC-21, that's going to be the approach. Then we'll move to Anita's amendments with regard to this.

Judy.

Ms. Judy Wasylycia-Leis (Winnipeg North Centre, NDP): I have a question. I'm just looking at PC-21, which adds a subclause to clause 101, a qualifier.

A voice: It applies under tight criteria.

Ms. Judy Wasylycia-Leis: I'm addressing the two very specific circumstances we talked about last night and this morning. Even though it's covered off, as we've heard this morning, in other sections of the act that will be amended, if this doesn't do anything different except give an extra protection, why not do it? I don't understand why the fuss. Let's just add it here so it's at the front end and so we'll have an extra precaution.

The Chair: I don't think so because we're trying to balance both things. We're not trying to make it so everybody has a second claim, because that's what we're trying to stop. What we're trying to say, based on the testimony we heard and the compassion of this committee, the government, and everyone, is that there may be some extenuating circumstances that weren't known during the first claim. We want to say they can be revisited not on the second claim... I hate that word; it's really a reconsideration of the first claim, in a sense, right?

Mr. John Herron: Right.

The Chair: It's really a reconsideration of the first, not second, claim.

Ms. Judy Wasylycia-Leis: Right.

The Chair: We are trying to stop a second claim. Let's be clear about that. We're trying to make sure that for those people who fall through the cracks, ones who couldn't bring up certain things during the first claim, we want them to be reconsidered through the PRRA system. The issue is clear.

They may not want that, Judy. At the end of the day, who knows? I think the PRRA may even work in some cases a heck of a lot better than a second claim, if that was the approach being suggested—faster, in fact.

Mr. John Herron: There's a lot of consensus building in this room, Mr. Chair, but I think it's really shameful if we revert to the prospect of having other oral hearings if we go through the whole process. If they don't get a second crack at this and an oral hearing because a country's circumstances have changed as opposed to just going through a file—

The Chair: I indicated to you that we're prepared to deal with making sure there is an opportunity for an oral on that second look, a reconsideration of the first one. Let's deal with that in a while.

Ms. Anita Neville: The issue is whether it's mandatory. Something mandatory can hold up the system. If it can be done through paper faster and better, that's great.

The Chair: I suppose it's a matter of words and semantics. Let's deal with the oral part when we get to it, okay?

BQ-23.

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

The Chair: PC-21.

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

The Chair: The government has a technical amendment, G-34, on clause 101, if I could. We'll do that, and then we'll go right to where Anita's needs to go just so we can continue the same argument.

Mr. John Herron: Mr. Chair.

The Chair: Yes.

Mr. John Herron: I counted one, two, three, four, five. I didn't hear a recorded vote, did I?

Mr. Steve Mahoney (Mississauga West, Lib.): The chair makes six.

The Chair: Sure. It was on which one?

Mr. John Herron: It was—

The Chair: You're referring to a recorded vote on PC-21?

• 0930

Okay. We'll have a recorded vote on PC-21.

(Amendment negatived: nays 6; yeas 5)

The Chair: All right. We have a technical amendment, G-34. Steve, do you want to introduce it?

Mr. Steve Mahoney: I'm just looking for it.

The Chair: Joan, do you have it there? I think it's yours anyway. It's technical in nature.

Ms. Joan Atkinson: Yes.

It's just for ensuring that people who are inadmissible on grounds of being subject to international sanctions under paragraph 35(1)(c) are not ineligible for referral to the Immigration and Refugee Board for a full refugee determination. This is because some of those individuals, while they may fall under sanctions, may have a very legitimate claim for our protection if they fled that country. It's just to ensure that those people are not rendered ineligible to go to the Immigration and Refugee Board for a full hearing.

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

The Chair: Now, Anita, can I just make sure? I understood there were going to be amendments. So we don't lose track of this argument we've just been pursuing on BQ and PC things related to the PRRA....

What have you got?

Ms. Anita Neville: I have amendments to clauses 112 and 113.

The Chair: Okay. Let me deal with clause 101, and then I'll immediately jump to clauses 112 and 113 so we can wrap this thing up, okay?

(Clause 101 as amended agreed to on division)

The Chair: Okay, let's then go immediately to clause 112, and let's clean this thing up so we can do it.

(On clause 112—*Application for protection*)

The Chair: I know there are a bunch of amendments here too: G-38, BQ-25, G-39, and BQ-26.

Anita, we'll start with you. Which amendment do you have on this?

Ms. Anita Neville: I'd like to deal with the two of them together because I think it's a package. I'd like to—

The Chair: I have to deal with one clause at a time, but so—

Ms. Anita Neville: I'll speak to the two together if that's okay.

The Chair: Okay. Thank you. That will help.

Ms. Anita Neville: What I'd like to do in clause 112 is simply delete paragraph 112(2)(c).

The Chair: That's:

> in the case of a foreign national who has not left Canada since the removal order came into force, the prescribed period has not expired;

Ms. Anita Neville: Yes.

The Chair: That's going to be deleted?

Ms. Anita Neville: Yes, because the section speaks to those who may not apply for protection.

The Chair: Okay. Is that G-38, or is that another number now?

Ms. Anita Neville: It's another one altogether.

The Chair: Just hang on a second. I want to make sure I have paper.

What number did you say it was?

We have G-40 in the package.

A voice: What about G-39?

The Chair: No. Those are technicals.

Ms. Anita Neville: What I'm proposing is to withdraw G-40, and in its place—

The Chair: We should call it G-40b, then.

Ms. Anita Neville: Yes.

The Chair: Okay. G-40 has gone, and we'll make it G-40b.

- 0935 

Ms. Anita Neville: What I'm proposing is simply to delete all of paragraph (c).

The Chair: What would the effect of that be?

Ms. Anita Neville: The effect of it would be to clarify that for people whose claims for protection have been excluded, rejected, or determined ineligible, they will now have access to the pre-removal risk assessment.

Ms. Judy Wasylycia-Leis: Do you not mean to delete paragraph (d)?

Ms. Anita Neville: No, I'm talking about paragraph (c), Judy.

The Chair: It's paragraph 112(2)(c), on page 49 of the bill. This would be the mechanism to allow them into the PRRA.

Joan.

Ms. Joan Atkinson: By withdrawing or eliminating 112(2)(c), it's clear that the intention, as we indicated, is that anyone who has been refused, rejected, abandoned, withdrawn, or is ineligible will have access to the PRRA. They have an opportunity to make their protection needs known, and those are to be assessed before they are removed from Canada.

That clarifies that anyone who has been through the system, has been refused, and has been found not to be in need of protection, and anyone who is determined to be ineligible, whether they were abandoned, withdrawn, or whatever, will have access to the pre-removal risk assessment.

Ms. Anita Neville: And that will address those who are vulnerable, particularly.

The Chair: There are questions on that one, so I'll go to John.

Mr. John Herron: The issue that I really want to fight for here in the committee is that the claimant has to have an option for an oral hearing. Otherwise, it is an extremely regressive approach when compared to—

The Chair: I haven't lost sight of that. Let me just ask about that, just technically. Where in the bill does it talk about, explicitly or implicitly, an oral hearing? What clause is that?

Mr. Daniel Therrien (General Counsel, Legal Services, Department of Citizenship and Immigration). It's in paragraph 113(b).

The Chair: Well, we're going to deal with paragraph 113(b) in a moment.

Now, Madeleine, before I forget, if you look at BQ-25, it essentially was going to do exactly the same thing as what Anita's was going to do, and that was delete.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: Mr. Chairman, if the Liberals used my amendment as a model...

[*English*]

The Chair: We always like to steal good ideas. What can I tell you? You're right. So for BQ-25...for what we'll call the Madeleine-Anita amendments, they'll do exactly the same thing.

So BQ-25 and G-40b are on the table.

An hon. member: Could you verify the paragraph?

The Chair: It's paragraph 112(2)(c).

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

The Chair: So BQ-25 was dealt with and G-40b was dealt with.

There's a G-39 that is technical in nature. Do we need that one?

Mr. Daniel Therrien: No, it's inconsistent with the decision that was made.

Mr. Joan Atkinson: That's right. We're taking G-39 off the table altogether.

The Chair: So we're going to pull G-39. Thank you, G-39 is gone.

That means we're left with BQ-26 on this thing.

Anita, do you want to take us to G-40 then?

Ms. Anita Neville: Yes. I'm looking at replacing it, and it's self-explanatory. It replaces lines 17 and 18 on page 49 with the following:

> (d) in the case of a person who has not left Canada since the application for protection was rejected, the prescribed period has not expired; or

That's what we're proposing there.

The Chair: Okay, are there any questions on G-40? Judy.

- 0940

Ms. Judy Wasylycia-Leis: I need some clarification. All the testimony we heard on this paragraph in clause 112 was around deleting the idea of the six-month bar on the PRRA, and it doesn't sound as though we're doing that through this amendment.

The Chair: Isn't that the nature of your amendment NDP-51k?

Ms. Judy Wasylycia-Leis: Yes, it is.

The Chair: Well, that's all right, because this is a little different. That's why.

Ms. Judy Wasylycia-Leis: I guess I'm wondering if the government would make the line go a little longer.

Ms. Anita Neville: It's really trying to prevent multiple claims from individuals who are seeking to delay their removal from Canada. It's not that loophole that we dealt with by removing paragraph (c). This is simply to limit the number of pre-removal risk assessment claims so that someone can't just continually apply and reapply.

Am I correct?

Ms. Joan Atkinson: That's absolutely correct.

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

The Chair: Can I get a mover for amendment G-38, which is also a technical amendment to clause 112?

Mr. Steve Mahoney: I so move.

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

The Chair: Okay, now we go to NDP-51k.

Ms. Judy Wasylycia-Leis: The purpose of this one is to delete paragraph 112(2)(d) entirely, in order to address the concern we heard about the difficulties created with the six-month bar inserted in the bill.

We heard from numerous groups—and I'm reading right now from the submission we heard from the woman from the Windsor refugee office. She was particularly passionate about this in the Toronto hearings. She called for us to remove the arbitrary time limit, and suggested that someone outside his or her country of origin may become a refugee *sur place* when conditions change in the country of origin or as a result of a claim of activities outside the country of origin. Serious changes in circumstances may occur at any time, so that's the reason for the....

I think it makes sense, so I'd love to hear an explanation of whether or not we've dealt with that concern in any other amendment. If not, I would still move it.

The Chair: Joan, have we dealt with it?

Ms. Joan Atkinson: We talked about it in terms of the chart. In the current act, unsuccessful claimants can make a new protection claim after being outside of Canada for 90 days once they've been removed. That process has been described by the Federal Court as a revolving door syndrome.

What happens is that people go all the way through the refugee protection division, with all the levels of judicial review and a PDRCC—which is a post-determination refugee claim process—an H and C, and everything else. They leave the country, they go to the United States for 90 days, they turn around, they come back, and they go all the way back to the beginning of the process and start it all over again.

Again, what we're saying is that for repeat claimants, we put in a six-month time out, if you will, in terms of those individuals having access to an assessment of their protection needs if they come back to Canada. But I must again underline the fact that those people who are outside of Canada also have the option of going to a visa office abroad and making an application as a refugee or a person in need of protection, through our refugee resettlement program overseas.

There are options and opportunities for those people who have had changes in their circumstances. They've had a full hearing of their refugee protection claim, an appeal, judicial review, a pre-removal risk assessment, and any H and C applications that they may wish to make at any point during this process. They have been found not to be in need of protection. They leave Canada.

What this section of the bill says is that you cannot make another claim for protection for six months when you have left Canada. During that six-month period, you still have the option of contacting one of our visa offices to make an application to come back to Canada as a refugee seeking resettlement.

The Chair: It's a waiting period.

• 0945

Ms. Judy Wasylycia-Leis: I just want to say I understand what is being said, in that this clause is intended to deal with abuse of repeat claims. I don't think it deals with the fact that circumstances can change in a country fairly quickly, and that any arbitrary time limit might exclude people at risk. There's a possibility, so I'd like to err on the side of not taking that chance.

The Chair: Steve, do you have a comment?

Mr. Steve Mahoney: I think there has been evidence that shows the abuse has been fairly serious. I even heard of a story where there was a bit of a halfway house on the other side of the border. People would simply go there to wait for 90 days, and then they'd come back here and go at it again. So in terms of the amendment that Anita recently put, this NDP amendment would be counter to that particular amendment. I just don't see how we can do this.

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

The Chair: Okay, there's a BQ-26.

Madeleine.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: The main purpose here is to bring about some form of concordance, because the clause says:

> ...with respect to a conviction outside Canada;

This is really very, very broad. You may have been convicted of running a red light, for example.

We are therefore suggesting that the clause read as follows:

> ...that, if pronounced in Canada, would be punishable by a term of imprisonment of at least two years;

[*English*]

The Chair: That's in paragraph 112(3)(b).

[*Translation*]

Ms. Madeleine Dalphond-Guiral: Yes. That is it: paragraph (3)(b).

[*English*]

The Chair: Joan, do you have any comments?

Ms. Joan Atkinson: This makes reference to the balancing decision we take in the context of the pre-removal risk assessment.

Just to explain again the objective of PRRA, we've been focusing it for refused refugee claimants for whom there may be changes in circumstances and how we deal with those particular changes through the pre-removal risk assessment. However, going back to our chart, the other category of people who go to the pre-removal risk assessment is those who are determined to be ineligible right at the front end.

For those people, we are talking about serious criminals, war criminals, terrorists, human rights violators, and so on. They are individuals who are excluded under the Geneva Convention, for example, from protection under the Geneva Convention. Those individuals still have an opportunity to make their needs for protection known and to make a claim for protection through the pre-removal risk assessment. They go directly from eligibility to pre-removal risk assessment.

In that pre-removal risk assessment, the decision-maker looks at the protection needs of the individual—what risk this person would face if they were to be returned to their country of origin—versus the seriousness of their criminal actions, the terrorism, the war criminality, the human rights violations, and so on, and does a balancing act between the protection needs of the individual and the need to protect the safety and security of Canada.

What we talk about in subclause 112(3) are those cases where refugee protection cannot be granted if those individuals are determined to be inadmissible on grounds of security, violating human rights, organized criminality, serious criminality, and so on. If the decision-maker decides there are very strong protection needs, they can stay the removal order, but they don't grant them refugee protection. I think the amendment is lowering the threshold for serious criminality in terms of those for whom we will need to do that kind of balancing act.

The Chair: Okay.

Madeleine, are you still...?

[*Translation*]

Ms. Madeleine Dalphond-Guiral: I am not quite convinced. That seems to me to be a little bit farfetched. I am going to get myself a cup of coffee; that might help me see things more clearly.

[*English*]

The Chair: Judy.

• 0950

Ms. Judy Wasylycia-Leis: I'm not convinced either, because I think the intent of this amendment was to deal with a concern we heard on the road, which was the possibility of persons being convicted of trumped-up charges in their country of origin.

The Chair: As Joan tried to say, in layman's language, if a person comes to this country and within 72 hours, or whatever, wants to claim some sort of status, and they are inadmissible by virtue of our front-end security screening, which now says in terms of serious criminality, if in fact you've been sentenced to at least two years, you become inadmissible at the front end of the system, but even though you're inadmissible for refugee protection, you are allowed access to the PRRA by virtue of a risk assessment that needs to be done before you're returned to your country.

I will allow the question, but I'm just saying I don't think this refers to the trumped-up charge thing. That's an entirely different issue.

Ms. Judy Wasylycia-Leis: But it's the words with respect to conviction outside Canada that are causing the concern. That allows for the possibility that someone convicted outside Canada could be artificially—

The Chair: Okay, that's a good question.

Daniel.

[*Translation*]

Mr. Daniel Therrien: I believe that the ultimate effect of your proposal would in fact limit access to the pre-removal assessment. Let me explain how.

What the amendment suggests is that what would limit access to the process would be a conviction punished by a term of imprisonment of two years. The bill, as it is presently written, refers to a person who is inadmissible on grounds of serious criminality. Acts of serious criminality are defined in clause 36 as offences that are punishable by a term of imprisonment of at least ten years. Therefore, the criterion provided for in the bill, namely offences punishable by a term of ten years in prison, is in fact stricter than what you are suggesting. What you are suggesting would limit access to the pre-removal assessment.

Ms. Madeleine Dalphond-Guiral: Mr. Chairman, as I read subsection (b), I see that a conviction in Canada is punished by a term of imprisonment of at least two years. So, here in Canada, it would be at least two years and outside Canada it would be ten years or more. Is that it? Is that what I am to understand?

Mr. Daniel Therrien: That is what I am saying.

Ms. Madeleine Dalphond-Guiral: That is quite interesting.

Mr. Daniel Therrien: We are going to look...

Ms. Madeleine Dalphond-Guiral: In that case, you should write: "ten years or more for those convicted outside of Canada."

Mr. Daniel Therrien: It is already written in there, madam.

Ms. Madeleine Dalphond-Guiral: I do not see that. Do me a favour, and write it in here.

[*English*]

The Chair: Okay.

John.

Mr. John Herron: I think maybe where others are coming from, and what we just touched on, is that in some countries, although it's still a criminal offence in Canada, for possession of narcotics or cannabis in some other cultures, you may be sentenced to well in excess of two years.

So now we have a situation where, using that criteria, in Canada you would not have received time within two years. That's one example where, with that particular issue, that's not serious criminality. In some cultures, they may view it to be serious criminality, but in Canada—

The Chair: Can I just ask the question: which standard are we going to use to make them inadmissible?

I think Madeleine, Judy, and John are raising the same thing.

Daniel, I heard you say something about ten years, yet this clause talks about a two-year sentence that's imposed by someone else other than Canada, and that's the measuring stick. If it's not clear, let's clear it up or give us an explanation.

Mr. Daniel Therrien: What's common for crime in or outside Canada is that the crime has to be punishable by ten years in Canada.

Ms. Joan Atkinson: The equivalent to an offence in Canada, if it's outside—

Mr. Daniel Therrien: For crimes committed in Canada, in addition to that test of punishable by ten years, the crime has to actually have been punished by—

The Chair: It doesn't say that. That's the point.

Mr. Daniel Therrien: It does.

The Chair: Not in paragraph 112(3)(b).

Mr. Daniel Therrien: Yes, it does.

The Chair: Where.

Mr. Daniel Therrien: It says:

> a conviction in Canada punished by a term of imprisonment of at least two years

The Chair: And then it says:

> with respect to a conviction outside Canada

So again, the wording—

Ms. Joan Atkinson: Then you have to go back to clause 36.

The Chair: I know, but who do you expect to be able to know how to do this? Surely to God, we should be able to expect to know how this thing works. Can you imagine what the average person out there has to go through if we can't even understand it? Why don't you just spell it out so that it's clear?

- 0955

I thought we were going to make this thing really easy to operate, to read and to understand, as opposed to having to refer to five sections to find the road map as to how you're going to get someplace.

Mr. Daniel Therrien: We could certainly say at the very end of paragraph 112(3)(b), "punishable by at least ten years".

The Chair: Thank you. Can you do an amendment? Okay.

John.

Mr. John Herron: In the case of someone who is punished for seven years for cannabis possession, would that make a person ineligible?

Ms. Joan Atkinson: No.

The Chair: What's with the cannabis this morning?

Mr. Steve Mahoney: Is that what you were doing last night?

The Chair: How did the B.C. Marijuana Party do, by the way? I didn't stay up that late, but did they get even one seat?

Ms. Joan Atkinson: If I could add, when we're talking about overseas convictions, we're always talking about equating them to the equivalent offence in the Canadian context. So regardless of what the offence is punishable by in the foreign jurisdiction, if in Canada it would be punishable by ten years or more, then they fall within. If they are punishable by less than ten years in the Canadian context, then they're not covered and they don't fall within.

The Chair: Yes, but sometimes it pays to keep repeating it wherever one can so that there's no confusion even in the minds of the legislators.

Inky.

Mr. Inky Mark (Dauphin—Swan River, Canadian Alliance): Perhaps you could just refer at the end to paragraph 36(1)(c).

The Chair: No, we have a better way. Daniel has proposed the words.

Daniel, can you tell us those again?

Mr. Daniel Therrien: Actually, amendment BQ-26 would work if we were to change the number "two" in the last line and replace it with "ten".

The Chair: Madeleine, you did it again. You saved the day.

There's a friendly amendment on BQ-26.

Ms. Joan Atkinson: Wait a minute. It may not work.

The Chair: Can it be done under BQ-26?

Ms. Joan Atkinson: Yes, but we need to change the wording somewhat to make it consistent.

The Chair: Tell me what it should be.

Mr. Daniel Therrien: It will be amendment BQ-26, but slightly modified. It would say:

> Canada that, if committed in Canada, would be punishable by a term of imprisonment of at least ten years.

The Chair: Okay, so "committed", not "pronounced", has to be the word, and "ten years".

We're doing amendment BQ-26 as a friendly amendment. We've changed it, and we're leaving it as amendment BQ-26, not a subamendment.

(Amendment agreed to)

Mr. Steve Mahoney: Are those all the amendments on clause 112?

The Chair: Yes.

(Clause 112 as amended agreed to on division)

(On clause 113—*Consideration of application*)

The Chair: Anita, you want to continue. Clause 113 was to deal with the oral thing, but I think there was another piece to clause 113 to finish this argument.

Ms. Anita Neville: It's under amendment G-41.

The Chair: Is that in clause 113?

Ms. Anita Neville: Yes.

The Chair: Let's go to amendment G-41, then, in clause 113, and clear that up.

Ms. Anita Neville: It simply clarifies the issue we've talked about and heard about on spousal abuse or someone fearful of bringing forward information at the first hearing.

The Chair: Okay, consideration at the PRRA.

Ms. Anita Neville: It doesn't address the issue that—

The Chair: No, we'll deal with that in a minute.

Ms. Anita Neville: I'll come to that next, because I have a thought.

The Chair: We'll deal with amendment G-41 first and get that cleared out.

Judy.

• 1000 

Ms. Judy Wasylycia-Leis: I'm not sure exactly what this really does. It's dealing with the problem of PRRA making determinations on risk to Canada, right? Through this amendment, how will PRRA get all the evidence introduced before the IRB that must be relevant to making a determination as risk to the person?

The Chair: Good question.

Joan.

Ms. Joan Atkinson: This doesn't put evidence in front of the IRB. We're talking now about the pre-removal risk assessment, and how we get evidence in front of the decision-maker at the pre-removal risk assessment to ensure changed circumstances are considered, as well as evidence that could not have reasonably been expected under the circumstances.

For example, in the case of an abused woman, where she felt threatened and could not put her case forward to the IRB, in the pre-removal risk assessment, there will be ample opportunity for her to put forward her case to the decision-maker in the pre-removal risk assessment.

The Chair: Madeleine.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: Mr. Chairman, I have not yet had my coffee, but perhaps my mind is clear enough. Our amendment aimed at dealing with such situations, and I therefore believe I could withdraw this one, unless my colleagues believe it is the best one of the two. Our purpose was indeed to cover this type of situation.

[*English*]

The Chair: Yes. I was going to ask you that before I put it, with amendments BQ-26 and BQ-27.

Ms. Madeleine Dalphond-Guiral: I'll go and have my coffee.

The Chair: You see, I'm thinking of you, Madeleine.

All in favour of amendment G-41?

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

The Chair: Madeleine, amendment BQ-26 has been hoisted.

How about amendment BQ-27? Is it the same thing?

[*Translation*]

Ms. Madeleine Dalphond-Guiral: Same situation, same thing.

[*English*]

The Chair: Amendment BQ-27 is gone.

We're on amendment BQ-28.

Mr. John Herron: This is it. I'm here now. I've been waiting for this for the last half hour.

The Chair: Do you want to put your name on this one, too?

Mr. John Herron: No, I don't want to be attached to it.

The Chair: That's good, because Madeleine gets to put it forward.

Go ahead, Madeleine.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: With regard to BQ-28, there has been much hesitation expressed about the fact that the witness is not automatically heard. We are therefore asking that there be a real hearing held. I do not know if my friends opposite will feel like agreeing to this proposal. I believe that the minimum is for a person to be heard if indeed there are new elements to be brought forward or specific circumstances such that the claimant was unable to bring there forward earlier.

[*English*]

The Chair: Can I ask you a technical question?

Clause 113 doesn't deal with the Immigration and Refugee Board. It deals with the PRRA. The amendment is not constructed correctly, because it refers to the wrong people who will hear these things.

I'm suggesting, if one wanted to do it, we either should do a simple thing in paragraph 113(b) by saying "no hearing", or we make a change where it does not read "a hearing shall be held before the Refugee Appeal Division of the Immigration and Refugee Board". In fact it will be heard by PRRA, the CIC, or whatever, where it's supposed to be heard.

I'll just leave it with you for a moment. I know Anita wants to talk about it, and so does John.

Ms. Anita Neville: I haven't discussed this and don't know whether it's possible. I'm wondering whether paragraph 113(b) might be changed.

I don't think it should be mandatory. I'm not sure a hearing is required in every case. I'm wondering if subclause 113(b) might be changed in a more positive manner, with "a hearing may be held on the direction of the Minister on the basis of prescribed factors". Would that work? No?

Ms. Joan Atkinson: Yes, "may be held" could work.

• 1005 

Ms. Anita Neville: My point, John, is that there are many instances where someone may not wish to have a hearing or where a hearing would simply slow down the process. The option is there if it will enhance the case being made.

Mr. John Herron: I agree with that approach, but it's—

Ms. Anita Neville: If you can come up with better wording—

The Chair: John, do you want talk to this? You started this thing.

Mr. John Herron: What I'm saying here is that since the Singh case, we as a society have said we can't determine whether people will live or die or face persecution by looking at a file. The claimant should have the right to an oral hearing. That has been the tradition of the country for almost a decade now in terms of our approach to immigration. Given that we're not going to go through the entire cycle, which could be expeditious and still accomplish the same objective, we've had some amendments that have headed in that direction. The key thing is that I'm not going to support a bill where we're going to determine whether people live or die or face persecution by merely looking at a file. The claimant should have the right to have access to an oral hearing.

The Chair: John, I think you've made the case.

One of the things I heard was that in some cases an oral hearing may not be required even by the applicant, as Anita has said, because it makes an awful lot of sense not to go through it.

Mr. John Herron: It should be the claimant's option.

The Chair: That's what we're going to ask. I think you've made the case in terms of an oral hearing, but there may be cases where an oral hearing is not required.

Mr. John Herron: Okay. Then I'm feeling better.

The Chair: Joan.

Ms. Joan Atkinson: The first point I'd like to make is that refused refugee claimants have had an oral hearing. They have been to the refugee protection division, and they have had an oral hearing. They have had their case reviewed by the refugee appeal division. They have had access to judicial review to have the decision of the Immigration and Refugee Board reviewed by the Federal Court, and they have had access to humanitarian and compassionate decision-making. What we're saying here is that in those cases those individuals have had ample opportunity to have an oral hearing to have their situation reviewed completely and thoroughly.

The pre-removal risk assessment is one last assessment on changed circumstances, what is different between the final determination all the way to the Federal Court and before they're removed to make sure we are looking at their protection needs before a removal, and that is a file update. For those who were determined to be ineligible at the front end and who go directly to the pre-removal risk assessment, there is in the bill an opportunity, if the circumstances warrant it, for those individuals to have an oral hearing. So we think we have covered all the protection needs and all the rights of individuals to ensure they get a fair hearing on their protection needs before they are removed from Canada.

The Chair: Anita.

Ms. Anita Neville: I have a question, Joan. Where is it in the bill that they have the opportunity for the oral hearing?

Ms. Joan Atkinson: That's in paragraph 113(b).

The Chair: It says "unless the Minister, on the basis of prescribed factors, is of the opinion that a hearing is required". I would think someone would want to strengthen that but perhaps not go as far as John is. I think we're all trying to get to the same point, but I don't know how we get there.

Anita.

Ms. Anita Neville: I'm just trying to figure out how to strengthen it.

Mr. John Herron: It could read "where the claimant has the option to attend a hearing".

Mr. Steve Mahoney: I have an option.

The Chair: Steve.

Mr. Steve Mahoney: Joan, what if we were to amend it to say "a hearing may be held if the Minister, on the basis of prescribed factors, is of the opinion that it is required"?

Ms. Joan Atkinson: We could do that.

Mr. Steve Mahoney: It's a positive instead of a negative.

Mr. John Herron: It's the same option.

Mr. Steve Mahoney: We've heard from Joan about all the hearings, judicial reviews, and kicks at the can that have happened in this case, and if the prescribed situation is there, there may an oral hearing.

The Chair: Listen, if I can just say something, the removal of the word "no" is pretty significant. Paragraph 113(b) now says "no hearing". Steve has suggested it read "a hearing may be", which is more positive. It's not an emphatic "no...unless". It is "a hearing may be held if the Minister". It's much more positive. I know it doesn't go quite as far as you may want to go, but....

• 1010

Mr. John Herron: The bottom line is that we're still going to be making a determination about that person's life in that second situation. There is still a possibility, not a probability, that we will make that determination by looking at a file as opposed to an oral hearing. That is possible.

Mr. Steve Mahoney: It is possible for it to be an oral hearing.

Mr. John Herron: Right. What I'm saying is that if we're going to determine people's lives and if we're not going to go through the whole process, at least in the second claimant scenario they should have an oral hearing.

Mr. Steve Mahoney: I'm moving that amendment that I just mentioned.

Mr. John McCallum (Markham, Lib.): I would have been more sympathetic except, as you've said, they've already had a number of oral hearings.

The Chair: Inky.

Mr. John Herron: But not in a second claim.

The Chair: It's not a second claim. It's a reconsideration of the first.

Mr. John Herron: It's reconsideration of a change in circumstances—

The Chair: Let's not mislead people.

Reconsideration of the first claim based on some pretty exceptional circumstances is a long way from where we were yesterday. Thank you, John, for doing that, and thanks to everyone else for at least bringing forward that if the circumstances have changed, we want to give those people an opportunity to have their first claim reconsidered. That's a big leap. I think we've come a long way.

We're down to the final stroke as to whether it will always be an oral hearing or it should be oral or otherwise depending on the circumstances. I heard that perhaps an oral hearing would just delay it and that maybe it could be done in a much more expeditious fashion.

Inky.

Mr. Inky Mark: This amendment really isn't necessary, because it doesn't change the intent of the clause, other than that it sounds nicer.

Mr. John Herron: It sounds nicer.

Mr. Steve Mahoney: That's a reason to do it, then. I'm a nice guy.

The Chair: We'll put that on hold while they work this thing out.

Can we go to clause 115 while we're waiting, or have we decided what we want to do? I favour John's approach. I want it made stronger so that an oral hearing is the rule and not having an oral hearing is the exception. I think that's where Anita and everybody else are trying to get to.

Mr. Steve Mahoney: Not everybody.

The Chair: I'm just saying—

Mr. Steve Mahoney: That's your opinion. I'm telling you I don't—

The Chair: What are you saying?

Mr. Steve Mahoney: I'm saying that—

The Chair: Who makes the decision?

Mr. Steve Mahoney: The minister or the delegate, and that's the case throughout this legislation. If you make it "shall be heard", then I guarantee you that in every single case the lawyers who are going to get involved in this are going to be demanding oral hearings, and you're going to bog down the entire system, which may not be to the detriment—

The Chair: I didn't say it "shall" be done in every case. I'm saying it's somewhere between a "may" and a "shall", and we're all trying to get there.

Mr. Steve Mahoney: So it's "might".

Mr. John Herron: The claimant has the option.

The Chair: Anita.

Ms. Anita Neville: I'd like Daniel to explain this. He did so in a cursory manner. What's the effect of changing it from "no hearing" to a positive statement with "may", and what would be the implications of a positive statement with "shall"? How would the courts deal with it? I think it's important we all understand that, at least the non-lawyers.

The Chair: Daniel.

Mr. Daniel Therrien: I'll address the difference between what we have in the bill and Mr. Mahoney's proposal of "may...if the Minister...is of the opinion that it is required". It may appear to be simply cosmetic, but I don't think it would be. A rule saying there would be "no hearing...unless" would signal to the courts, which would ultimately look at whether there's a right to a hearing, that the intention is that it would be very exceptional to have a hearing.

If the rule is that there may be a hearing if the minister is of a certain opinion, then, obviously, the minister has a choice, but it's not so clear that this is very exceptional. There's more discretion there, and there's the stronger possibility of a hearing. The word "shall" would bring it, I think, to a level that would be beyond what is necessary to achieve the objective, which is to provide for a hearing when a hearing is required, but leave the minister discretion to decide whether a hearing is required or not.

• 1015

The Chair: Can I just ask you a technical question? So far so good, in what you said, because of the emphasis on a hearing "shall" or "may" be, and therefore it's reversed. That word "no" is problematic because it says, stop—a red light—unless something happens. A hearing is at least an orange light, and can go to green.

If you reverse this whole thing by saying a hearing shall be held unless the minister, on the basis of prescribed factors, is of the opinion that a hearing is not required, would that essentially say the same thing?

Mr. Daniel Therrien: That would probably ensure that a hearing would be the rule, and based on what—

The Chair: Well, it would say "unless" the minister—

Mr. Daniel Therrien: But still it would...I think the courts would interpret this as requiring, in a majority of cases, a hearing, even though, as Ms. Atkinson has explained, there has been a hearing before the IRB; there's been an appeal before the RAD and there's been judicial review.

The Chair: Okay. I'm going to deal with amendment BQ-29.

Mr. John Herron: I'd like to talk to you. Do you have that written down, Mr. Chair, the Fontana amendment, because—

The Chair: Let's see where it goes. Hang on a second. I have to deal with what's before me here, and that's amendment BQ-28, which is wrong from the standpoint that it's not the refugee appeal division. Perhaps just get rid of refugee appeal division. Just say "a hearing shall be held". That might be easier. It's technically wrong, Madeleine.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: That is alright.

[*English*]

The Chair: Okay. I want to deal with her amendment.

Mr. Steve Mahoney: Why are you amending her amendment?

The Chair: Because I'm trying to tell her...because I'm a nice guy and I'm telling her it's wrong.

Mr. Steve Mahoney: No, but we're against the word "shall", regardless of whether you amend it or not.

The Chair: But you can deal with it by way of a vote. Okay?

Mr. Steve Mahoney: Thank you.

The Chair: Let's vote. I'm just trying to deal with it.

A hearing shall be held, period. Amendment BQ-28 will be dealt with on that basis.

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

The Chair: Yes?

Mr. Steve Mahoney: I was prepared to put an amendment. I don't know what's happening. Is this being drafted or...?

The Chair: No. Hang on a sec. We have a number of other amendments on clause 113 that I have to deal with.

Mr. John Herron: Mr. Chair, could this not be amended as you've read it?

The Chair: No, you can't do that, because I've recognized Steve.

Mr. Steve Mahoney: I'm moving that paragraph 113(b) be amended to read "a hearing may be held if the Minister".

The Chair: What are we going to call this? What number, please?

Mr. Steve Mahoney: Amendment G-X3, right?

Ms. Judy Wasylycia-Leis: Call it amendment M-1.

Mr. Steve Mahoney: SWM-1, how's that?

The Chair: Okay. Can you read it again, slowly?

Mr. Steve Mahoney: "A" replaces "no". Hearing stays. "May" replaces "shall"; "be held" stays. "If" replaces "unless", and the rest stays the same.

(Amendment agreed to)

Mr. John Herron: I want to move an amendment.

The Chair: Before we get there, can I deal with some of these other ones? Thank you.

Which ones haven't we dealt with? Amendments BQ-26, 27, and 28. Did we deal with amendment G-41?

Mr. Steve Mahoney: We dealt with amendment G-41, I think.

The Chair: We'll go to amendment G-42.

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

The Chair: John, we'll let you—

Mr. John Herron: I'd like to move, in paragraph 113(b), replacing that clause as amended, to say that "a hearing shall be held, on the basis of prescribed factors, unless the minister is of the opinion that no hearing is required".

The Chair: Okay. Does everybody understand that motion?

An hon. member: Could he repeat it?

The Chair: Can you repeat it again, John? Slowly.

• 1020 

Mr. John Herron: A hearing shall be held on the basis of prescribed factors unless the minister is of the opinion that a hearing is not required.

The Chair: What are we going to call that?

Mr. John Herron: The Fontana amendment.

The Chair: No. We're going to call it a PC...give me a number.

An hon. member: Amendment PC-1X.

Mr. John Herron: That's why I was trying to get in earlier.

The Chair: No. You can further amend it. I haven't closed off the clause yet. We could have treated it as a subamendment.

I'm going to rule that one is in order as subamendment PC-1X.

(Amendment negatived)

The Chair: Thank you.

(Clause 113 as amended agreed to on division)

(On clause 114—*Effect of decision*)

The Chair: I have amendment NDP-51L.

Ms. Judy Wasylycia-Leis: I move that clause 114 of Bill C-11 be amended by deleting subclause 114(3) entirely.

The reason for it is basically to provide for vacation procedures for PRRA to be done at the IRB. It's based on a concern we heard that this represents a change from the previous bill, Bill C-31. It's an attempt to allow for this to revert to the process involving the IRB. The only way to do that is to delete this section.

The Chair: Are there any comments on that?

What would be the effect of that, Joan?

Ms. Joan Atkinson: The effect of deleting this would be to remove the minister's ability to vacate a decision on protection made by PRRA as a result of misrepresentation by the individual. It does not return decision-making on PRRA to the IRB, as has been suggested. That would not be the result of removing this particular clause.

But it would remove our ability, if the decision was taken to grant protection to someone through the PRRA, the pre-removal risk assessment, on

the basis of misrepresentation or fraud, to be able to go back and withdraw that decision because it should never have been made in the first place—it was based on totally fraudulent information.

I should also point out that this decision by the minister is also "JR-able".

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

(Clause 114 agreed to)

(On clause 115—*Protection*)

The Chair: We have a few here.

Amendment BQ-29, Madeleine.

• 1025 

[*Translation*]

Ms. Madeleine Dalphond-Guiral: The purpose of amendment BQ-29 is to ensure that Canada's responsibility to not remove a person who risks being tortured applies to everyone. Perhaps not to everyone, but...

[*English*]

The Chair: What would be the effect of this amendment, Joan?

Ms. Joan Atkinson: This would remove our ability to do that balancing I talked about before in the case of a person who's been granted protection. So this would be a person who's been accepted by ourselves or the Immigration and Refugee Board to be in need of protection, whereas this person may be excluded from protection under the Geneva Convention, and is inadmissible on grounds of serious criminality, or constitutes a danger to the public, or who is inadmissible on grounds of security, violating human rights, organized criminality, or so on. In this case, if in the opinion of the minister the activity of that person is so egregious and is so serious, and that person constitutes such a danger to the security of Canada, they can be removed regardless.

By removing this clause, it removes our ability to be able to do that balancing in the most exceptional of cases where the seriousness of the acts that have been committed by that individual—we're talking here about terrorism, about war criminals, about serious criminality—is so egregious and so serious that we reserve the right to be able to remove that person from Canada.

The Chair: Madeleine.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: I have a question for you. A few months ago, two young people guilty of a crime punishable by the death penalty in the United States were ordered to not be returned to the United States. You are going to tell me that this case involved the Extradition Act and that the situation we have here is different but, in the end, the result is the same. Is it not the case that a bill, at least in its spirit, must fit with case law?

Mr. Daniel Therrien: The case you mention did indeed deal with the Extradition Act, although the principles might be applicable in the area of immigration. This matter will as a matter of fact be heard by the Supreme Court next week in the Suresh case. The government's position in the Suresh case, which is the same as that taken in the bill, consists in saying that there can be a balancing of the risks and that this balancing is in conformity with our international obligations.

[*English*]

The Chair: Steve.

Mr. Steve Mahoney: Mr. Chair, if we want to err on the side of protecting serious criminals and terrorists, and people who are a threat to this country, we're going to become a safe haven, which I have heard certain members opposite, or at least their parties, claim we are, when in fact we know we're not, and we're trying to ensure we don't become a safe haven. If you want to put a complete ban on the ability to deport these people, guess what? They're going to be at the border tomorrow.

This bill does allow some flexibility and some balance on the part of the minister to look at the situation with regard to torture so that we're not just being cruel and inhuman with regard to human rights. That flexibility is there. With due respect, your amendment would close the door on that, and that's just not acceptable.

The Chair: Madeleine.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: In the hypothesis where the Supreme Court's decision validated the previous one, I imagine that harmonizing the Immigration Act and the Supreme Court's interpretation would be thinkable. Answer yes.

[*English*]

The Chair: Who knows?

(Amendment negatived)

The Chair: We're on PC-24. I think it's the same argument, but a little different. Go ahead.

Mr. John Herron: I'm not moving it.

The Chair: Good. Are you withdrawing it?

Mr. John Herron: Yes.

The Chair: Thank you. We need that balance, that option.

• 1030 

(On clause 115—*Protection*)

The Chair: We have G-43, I believe. It's moved by Steve Mahoney.

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

Ms. Judy Wasylycia-Leis: Do you have mine?

The Chair: I'm sorry.

Ms. Judy Wasylycia-Leis: NDP-51m.

The Chair: It's not on my agenda.

NDP-51m.

Ms. Judy Wasylycia-Leis: The proposal is to add a subsection to clause 115 basically to make sure we're in compliance with the convention against torture. It's not, as Steve would suggest, an attempt to allow for Canada to become a refuge for serious criminals. It's an attempt to ensure that we're taking every step to keep us in line with the convention.

The amendment is particularly in relation to the concerns we heard around 115(3), which allows for the minister to send a person back to a safe third country or to another country if the person's refugee claim was rejected in that third country without taking into consideration, as we heard, the possibilities for harm, or persecution, or torture in that country.

So it's a precautionary attempt to bring us in line with the convention.

Mr. Steve Mahoney: Same comments.

The Chair: Same comments.

NDP-51m.

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

(Clause 115 as amended agreed to)

(On clause 116—*Regulations*)

The Chair: We need G-44.

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

(Clause 116 as amended agreed to)

(On clause 117—*Organizing entry into Canada*)

The Chair: This is the enforcement section. I think we have G-45, G-46, and G-47—three government amendments. Can you take us through these government amendments, Steve or Joan?

Ms. Joan Atkinson: I'm going to ask Daniel to take us through these amendments because these relate to the offences relating to human smuggling and trafficking, and we have a series of amendments that add greater clarity to these sanctions, to these offences. This has been based very much, I would say, Mr. Chairman, on our experience with boat arrivals and so on, dealing with prosecution of some of the individuals who were involved with the smuggling and trafficking of the Chinese migrants.

So we're making some clarification—

The Chair: How about the representations we heard from legitimate cruise shipowners and people who say they're just trying to help on a humanitarian basis? We're not going to throw those people in jail, are we?

Ms. Joan Atkinson: No.

The Chair: Do any of the amendments clarify all of those, or am I reading something...?

Ms. Joan Atkinson: It's already there.

The Chair: Take us through ours anyway. They're G-45, G-46, and G-47.

Mr. Daniel Therrien: G-45 is intended to ensure the rules that are in the current act, which say that people who assist others in illegally smuggling people to Canada are committing an offence.... With the wording of the bill as introduced, it was only people who helped in the organization and not people who helped in the smuggling itself who are subject to a crime. This is inconsistent with the current act, and we feel the current act should be carried over.

The Chair: In other words, we're strengthening this.

Ms. Joan Atkinson: Yes.

The Chair: It will allow for the strengthening. Can you tell us what G-46 is all about, before I put them to a vote?

Mr. Daniel Therrien: G-46 is technical. It deals with language changes.

The Chair: And G-47?

Mr. Daniel Therrien: It is also technical. It's to clarify that it's crimes subject to indictment that are covered, which is already in the French version.

G-48 is a bit more substantive, but it's a different clause.

• 1035

The Chair: What's G-48? Oh, that's clause 119, okay.

Before I put G-45 to a vote, I have McCallum.

Mr. John McCallum: I guess this is coming up in the NDP amendment anyway, but since we're on subclause 117(1), we heard a fair amount of testimony in our hearings from people doing humanitarian work, reverends and saintly people, if you will, and the last people in the world we would want to prosecute. Yet, if you read that literally, it looks like some of these people who are helping refugees could be prosecuted. Or if my sister is in a bad country and I help her, it looks like I can be prosecuted. How does that work?

Mr. Daniel Therrien: The protection against such prosecutions is in subclause 117(4), which provides that no prosecution under the smuggling provision can occur without the consent of the Attorney General, who, obviously, in deciding whether to prosecute, will weigh the motives of the people who have assisted others to come illegally into Canada. This is, again, what the current act provides, and there are relatively few prosecutions on smuggling, certainly no complaints I've heard that under the current regime, which would be repeated in the new regime, people who acted on humanitarian grounds have been prosecuted for smuggling.

The Chair: NDP-51n deals with this one. Go ahead, Judy.

Ms. Judy Wasylycia-Leis: We heard from many groups a concern about being charged and penalized for helping refugees coming into Canada at the border, and I hear the officials saying that protections are provided in subclause 117(4) and that there are virtually no prosecutions as a result of someone acting for humanitarian reasons.

Mr. Daniel Therrien: There are none, actually, that I know of.

Ms. Judy Wasylycia-Leis: Okay, none. My argument would be that if such is the case and there still is this concern from groups, the way the act is now worded, you actually constrain them, make them think twice about helping people because of this provision. They do not want to end up where they're charged and have to go to the Attorney General of Canada to have their case dealt with humanely. Why not put it in the act? Why not add something to subclause 117(1) that actually says it doesn't apply to someone acting on humanitarian considerations. I would still move that.

Ms. Joan Atkinson: If I could speak to that, these offences on smuggling and trafficking are key elements of our contribution to the international fight to try to put an end to the smuggling and trafficking of human beings. We need to be able to have very strong offences, and I know everyone is very well aware of how we have highlighted these as being a part of the tools we need to deal with these issues of smuggling and trafficking.

It doesn't imply that you have to go and make a case or get consent. Subclause 117(4) is what's in the current act. No proceedings under these offences can be undertaken without the consent of the Attorney General. That is the protection. It is in place with the offences we have relating to the smuggling of individuals in the current act, and as Daniel has said, there has been no prosecution of anyone who was involved in trying to help refugees come to Canada. That is the safeguard. All the circumstances will be reviewed by the Attorney General to put in humanitarian considerations without defining what that means. It means you don't have the flexibility you need for the Attorney General to be able to consider all the individual circumstances in a case before any decision is taken to prosecute.

• 1040

The point I think we're making here is that these offences, as they are worded, are extremely important for our objectives here in being able to deal with this international problem of smuggling and trafficking.

The Chair: Okay. G-45.

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

The Chair: G-46.

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

The Chair: G-47.

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

The Chair: NDP-51n.

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

(Clause 117 as amended agreed to)

Mr. Steve Mahoney: We've got another request. Two people are requesting a five-minute break.

The Chair: Do I hear three? Three? Okay.

Mr. Steve Mahoney: Make it only five, right?

The Chair: Only a five-minute break.

• 1040

• 1052

The Chair: Order, please.

(On clause 119—*Disembarking persons at sea*)

The Chair: Okay. We have amendment G-48, a technical amendment. Daniel, do you want to speak to this?

Mr. Daniel Therrien: This relates to the offence of disembarking people at sea, obviously committing a crime, endangering the lives of people. The bill as introduced was directed only at the master of a ship or a member of the crew of the ship. To judge from comments we had from litigators, it is often difficult to prove the employment relationship of the people who may engage in the activity. So we think it is appropriate that if you are engaging in such activity as endangers the lives of people, it should not be restricted to the captain or a member of the crew, but should apply to anyone who is engaged in this activity.

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

(Clause 119 as amended agreed to)

(On clause 121—*Aggravating factors*)

The Chair: We have amendment G-49. Take us through this one.

Mr. Daniel Therrien: This is a clause that gives guidelines to the courts on the importance of a sentence to be imposed for the crime of trafficking. One of the guidelines is whether the offence involved, in the current bill, grievous bodily harm or death. The proposal is to change this simply to bodily harm, so that the court can, because of the simple fact that somebody was harmed, impose a harder sentence. Of course, simple bodily harm will result in a less serious offence or sentence than if it's grievous, if death has occurred. But we think it's important to give the guideline to the court that if harm was created, the sentence should be in accordance.

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

• 1055

(Clause 121 as amended agreed to)

The Chair: Clauses 122 and 123 have been done. On clause 124 we have a consequential amendment, but that has been done, that's not a problem, and clause 125 has been done. We'll go to 126.

(On clause 126—*Counselling misrepresentation*)

The Chair: There was a deferred amendment on 126, because we have a PC-25 and an NDP-51o.

PC-25, John or Judy.

Mr. John Herron: Can Judy go first, please?

Ms. Judy Wasylycia-Leis: My proposal is basically to deal with clause 126 by deleting the words "or withhold material facts". We have heard over and over the concern that withholding information is sometimes done for a very good reason. This is an attempt to address that issue.

Mr. John Herron: I'm rescinding mine anyway.

The Chair: Mr. Mahoney.

Mr. Steve Mahoney: The word "knowingly" is key. If you knowingly withhold information, it's the same as a lie.

Ms. Judy Wasylycia-Leis: No, no. We're talking about people who knowingly withhold information because it would have serious consequences for keeping their families together, or even for their lives. That information would have repercussions on their social lives within their culture.

The Chair: What would the effect of this be, Joan?

Ms. Joan Atkinson: It would create a distinction between those who lie about the information they provide and those who knowingly do not provide the required information. This is not a distinction we would want. Whether you're lying or withholding information, it should be the same.

The Chair: Steve.

Mr. Steve Mahoney: Could Joan envision a situation in which someone would withhold information from Canadian authorities for fear of their

lives?

Ms. Joan Atkinson: If you're making a claim for protection, then you need to put all your information forward. I think the amendments we've made through the pre-removal risk assessment process give people ample opportunity to put all information relevant to their situations before a decision-maker.

The Chair: I think the whole intent of the government is that the more cooperative you are in the front-end screening process, the better it is for you—not the reverse. I understand where you're coming from, Judy, but some people will do desperate things during desperate times, to get the protection. Again, we're back to debating what balance we're trying to achieve.

Judy, a last comment.

Ms. Judy Wasylycia-Leis: Well, I know we've made a few changes to try to deal with this, but we're talking about a separate section that deals with counsels. There will be times, particularly in the case of women, when it would be absolutely detrimental to a person's life or well-being to reveal everything, when some withholding of information is necessary until the proper protections can be offered. I think if we acknowledge that situation and believe that there are times when that will happen, then we've got to put it into the act every place we can.

The Chair: Okay.

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

The Chair: PC-25 was hoisted, so it's not there.

(Clause 126 agreed to)

(On clause 127—*Misrepresentation*)

The Chair: The two amendments are the same.

John, you get to go first this time.

• 1100

Mr. John Herron: Withdrawn.

The Chair: PC-26 is withdrawn.

How about you, Judy? Your partner's abandoning you.

Ms. Judy Wasylycia-Leis: I know, I've noted this, and I don't understand why. With the impassioned plea we heard on clause 101, and the whole issue of second claims and the need to take into account circumstances that would lead to withholding information, I don't know why I don't have the support of my honourable colleague from the Conservative Party for an amendment that does exactly what he earlier said was so important.

Mr. Steve Mahoney: Do you want us to leave the two of you alone for a while?

Ms. Judy Wasylycia-Leis: A meeting in the bathroom with the guys, I see.

Mr. John Herron: Judy and I need a moment, if you guys don't mind....

Some hon. members: Oh, oh!

Ms. Judy Wasylycia-Leis: Of course I'm sticking with this motion, and I would have hoped my colleague would support it.

The Chair: Okay, NDP-51b. Any further discussion?

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

(Clause 127 agreed to)

The Chair: Clauses 128, 129, and 130....

(On clause 130—*Possession of property obtained by certain offences*)

The Chair: Clause 130 has a technical government amendment, G-50.

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

(Clause 130 as amended agreed to)

The Chair: Clause 131 has been done. Clauses 132, 133, 134, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147....

(On clause 148—*Obligation of operators of vehicles and facilities*)

The Chair: We've got BQ-29a, BQ-29b, NDP-50a, and NDP-51a.

Just hang on a second. Let's get everybody to the right point here. BQ-29a.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: According to this clause, owners of airplanes, ships and even buses are required not to bring into Canada

people without proper documentation. But how could such an operator check whether passengers have proper travel documents? How could he know somebody got on board in a clandestine fashion? If somebody can answer this question, I will withdraw my amendment.

[*English*]

The Chair: Joan.

Ms. Joan Atkinson: When carriers transport stowaways into Canada, for example, or people who are not properly documented—to exempt those carriers from any kind of sanction would certainly undermine our efforts to deal with smuggling and trafficking.

On the issue of stowaways, it would exempt the companies from exercising their due diligence to ensure that there are no people who could put their lives at risk by stowing away in containers on board vessels coming to Canada. It's important to remember that the transportation companies have obligations to verify that any passengers they carry to Canada are properly documented.

We do not ask or require transportation companies to assess whether people have a need for protection before allowing them on a plane or a boat. All we ask is that they verify that the passengers they carry have the appropriate documentation to enter Canada.

That is consistent with what every other country around the world does, in terms of ensuring that the transportation companies live up to their obligations to ensure that they only carry passengers to Canada who have the proper documentation. As I said on the stowaway issue, we need to ensure that carriers are exercising their due diligence.

• 1105

The Chair: There were a lot of representations. Obviously, we don't want to punish law-abiding companies that help in trade and commerce. What if one introduced the word "knowingly"? That would suggest complicity, that they were knowingly bringing people on board who weren't properly documented—as opposed to essentially saying that they couldn't carry anybody. Sometimes they do perform all those checks you indicated, Joan. Wouldn't "knowingly" cover that?

Ms. Joan Atkinson: I'm going to get Dick to respond.

Mr. Dick Graham (Acting Director, Legislative Review, Enforcement, Department of Citizenship and Immigration): First of all, the term "knowingly" would remove the concept of due diligence when carriers check to make sure improperly documented people aren't getting on board. As long as they don't know, they can't be found responsible for their actions.

"Knowingly" would not work, because the courts wouldn't support it—it's difficult to prove. If a ship has a container full of people, and the captain says he didn't know they were there—we wouldn't be able to prove whether he knew or not.

I might point out that we have undertaken to assist the transportation companies in dealing with people who either use fraudulent documentation or are smuggled into the country as stowaways. We have people stationed around the world who assist the companies in checking for these people, and we do a lot of training people on how to do it.

In the case of stowaways on ships, we have actually given shipping companies long-term loans to purchase carbon dioxide detectors. These detectors can be lowered down inside containers to detect carbon dioxide, to indicate if there's someone hiding inside.

We put a lot of effort into helping the transportation companies. We offer training; we sign agreements with them to assist them. So it's not as though we're just telling them they're responsible and leaving them to it. As Joan pointed out, this is only in terms of checking documentation, or checking to see whether people are hiding on board. It isn't as if the companies are out there on their own.

The Chair: But if they've done all those things, and you're satisfied of that, then there shouldn't be any additional liability or charges.

Mr. Dick Graham: That's right, and that's where the agreements we sign with the transportation companies are important. We have these agreements with the airlines, and if they meet certain standards—and that doesn't even mean that no one gets through—then they're allowed a certain latitude. That means they don't get fined if people do get through.

The Chair: Mark or Steve.

Mr. Mark Assad (Gatineau, Lib.): Have the carriers who operate in good faith ever complained that it takes a lot of time or expense to go through this?

Ms. Joan Atkinson: As I said, we're not the only country in the world that does this. In fact, almost every other country in the world has some kind of mechanism for sanctions against carriers that carry improperly documented passengers.

Our particular model, as Dick indicated, was the airlines. We have a graduated fee system, so that if they do a good job, we don't fine them if a few do get through. But if they do a very poor job, then the fees are higher. This is a model that the airline companies wish every other country would follow. The transportation industry appreciates our approach on these issues and holds us up as a model compared to other countries.

The Chair: Steve, and then Judy.

Mr. Steve Mahoney: I appreciate that, Joan, but it's not really the evidence we heard from them. They're concerned that these powers are so broad that they might get caught in the draft.

Dick, in response to your comments, I'm assuming these are companies with which we have pretty good relations and work with regularly. So is it possible to exempt transportation companies when there are reasonable grounds to believe that all due diligence was used?

• 1110

Mr. Dick Graham: I guess the thing is that's the basis of the agreements that we signed with the airlines.

The Chair: Those agreements aren't mandatory, are they?

Mr. Dick Graham: No, they're not mandatory. We don't force them to sign them, but we certainly do encourage them. All the major airlines flying in and out of Canada have signed those agreements with us.

Ms. Joan Atkinson: Or shipping companies.

Mr. Dick Graham: Yes, shipping companies.

The Chair: Steve.

Mr. Steve Mahoney: You didn't really answer my question. If that's the intent, does it weaken our position if you use terms like "reasonable grounds to believe"?

Mr. Dick Graham: It does weaken our position, because it puts us in a situation where we would have to get into it with the company on a case-by-case basis, and we're talking about thousands of people here.

Mr. Steve Mahoney: Thousands of companies?

Mr. Dick Graham: No, we're talking about thousands of people coming into Canada illegally. So if we had to get in a battle in each case about due diligence, we would find ourselves—

Mr. Steve Mahoney: In court all the time.

Mr. Dick Graham: —bogged down in a bureaucratic nightmare.

Mr. Steve Mahoney: I don't have any other suggestion.

The Chair: So what's the effect of this net, then? Are you suggesting that as paragraph 148(1)(c) would prescribe, shipping companies, for all of those undocumented thousands of people coming in that nobody can seem to control—and the good shipping companies obviously don't want to do it—are going to have to pay the bill for medical and all that?

I'm trying to find out what this net is. We all agree that we want to stop trafficking and smuggling, and we have to look at all kinds of tools and mechanisms to do this. But now you cast a net that essentially would say if they're on your ship, you're going to be totally responsible for them medically, for their return—and I understand they all have to post bonds now—and so on, in order to ensure there's going to be a return of people. Is that what you're trying to do?

Mr. Dick Graham: That is the status quo.

The Chair: Yes, I know.

Mr. Dick Graham: Strictly speaking, in a sense, we are saying that. We're giving them equipment to check the ships, we're training them on how to find people, we're explaining to them how the Canadian law works—we're trying to work with them, but they are basically making a profit coming into Canada. We think about it in terms of the profits that are made—

The Chair: Illegally.

Mr. Dick Graham: That's right. And I guess the problem we have is that we can't tell whether the shipping company is complicit or not, or whether they're doing due diligence overseas in every case. What we're trying to do is to provide them with an incentive to work with us. That's really what we have been doing, and for the most part, it has been working. I understand they don't like it.

The Chair: Okay. Is there something we can do in the regulatory aspects of this when it comes down to doing that, or whatever?

Judy.

Ms. Judy Wasylycia-Leis: This relates to my amendment as well, so maybe we'll do it all together.

First, I have a couple of questions. I think we had heard—or I had heard, at least—that Air Canada has complained about the amount of money this represents for that airline and talked about it being fairly costly in terms of their overall budget. What are we talking about in terms of money? What revenues are brought in, in total, on an annual basis as a result of these sanctions against carriers?

Ms. Joan Atkinson: I don't know. I'm not sure we have that information. I don't know whether any of our officials here have any information on the amount of fines we collect from the airlines on an annual basis. I'm not sure we have that information with us.

Mr. John Herron: Do you collect any?

Ms. Joan Atkinson: Oh, yes, we collect fines.

Mr. John Herron: You do collect fines.

Ms. Joan Atkinson: Yes, I just don't think we have the information on how many.

The Chair: I think the CUPE federation provided us with some of that information. I'm not sure we heard from the airlines this time around.

Ms. Judy Wasylycia-Leis: No, I don't think we heard. I think I heard through another source about Air Canada. It would be good to get that figure at some point, although it would be too late for this bill.

My other question has to do with these agreements that you try to sign with carriers, like big shipping companies. Obviously one of the concerns of this committee is to try to avoid another situation like the *Maersk Dubai*. That company obviously didn't meet the criteria you set out or that happened before these steps were taken, but if there's a possibility that this kind of situation should happen again, then we need to find a way to amend the bill or deal with it through regulations to prevent a situation where a company knows they're going to face heavy financial penalties

and so they dump the stowaways overboard and they're dead.

Mr. John Herron: Yes. Their doing their due diligence at sea is not exactly what we have in mind.

The Chair: No, of course not.

• 1115 

BQ-29b and the representations made also talk about this additional liability that 148(1)(c) would put on these shipping companies and everything else, that they would be in charge of arranging for medical examinations, medical treatment, for people who they may not know are on board.

Ms. Judy Wasylycia-Leis: Or who may turn out to be genuine refugees in the final analysis.

The Chair: Jerry.

Mr. Jerry Pickard (Chatham—Kent Essex, Lib.): Mr. Chair, I think the suggestion here is to protect those who might be a little bit innocent. To relate the argument for somebody who might be a little bit innocent to those who dump people overboard seems to me a total overkill on that argument, and I don't see how it fits.

Ms. Judy Wasylycia-Leis: The example of the *Maersk Dubai* is directly related to this article we're talking about in this bill and in earlier provisions that are in place.

Mr. John Herron: If you know you're going to get in trouble and you know there's a fine—

Ms. Judy Wasylycia-Leis: If a company unknowingly brings stowaways into this country and discovers those stowaways before they dock and they know they're going to be fined—in the case of *Maersk Dubai* they dumped them overboard. They died.

It's trying to find a way to deal with that situation. I think there are two ways to deal with it. One is to insert either the word “knowingly” into the clause or have a clause that exempts a carrier who unknowingly brings a stowaway into Canada.

Mr. Jerry Pickard: But you see the argument I see, Judy, and I have a problem with that. You're saying proclaim everybody innocent or give them an escape hatch so they won't take action on somebody else. That just isn't feasible. It doesn't seem to me a legitimate and logical argument.

The Chair: Mark, and then that's it.

Mr. Mark Assad: If a carrier is acting in good faith, and let's say he discovers he has stowaways and he reports them on arrival, I'm sure you're not going to fine them.

Ms. Judy Wasylycia-Leis: Yes, they do.

Mr. Mark Assad: Yes?

Ms. Judy Wasylycia-Leis: Yes.

The Chair: They might not necessarily do all of the medical—

Mr. Dick Graham: If they haven't performed due diligence in loading up in the first place—

Mr. Mark Assad: No, I'm assuming they did do due diligence, but for some reason or other they didn't—

An hon. member: But if it's a thousand times that this happens.

Ms. Joan Atkinson: Exactly.

Again, according to the agreements we have with transportation companies, and this applies to shipping companies as well, the fines are applied based on the performance of that company in terms of exercising their due diligence and verifying in terms of stowaways and in terms of verifying that their passengers are carrying the documents.

So a company where this happens once is not going to be fined at the highest level.

Mr. John Herron: But they will be fined. No problem.

Ms. Joan Atkinson: I'm not sure.

Mr. Dick Graham: They may or may not be fined.

Ms. Joan Atkinson: They may or may not be fined.

Mr. Dick Graham: It depends on the nature of the number of people they're bringing in annually or the number of trips they're making to Canada, what their level is to start with. It's a negotiation that goes on between us and them, but—

The Chair: I have a point.

I wonder whether or not those kinds of matters.... Obviously we would encourage that for those shipping companies, just like we have with airlines, those who cooperate with us, sign agreements, do all of the due diligence and are to the best of their knowledge doing this, they should be given some consideration. I think we can deal with that in regulations and get an agreement—and make it mandatory. I don't care, but at the end of the day we're trying to keep the good people who are coming in to our borders from being thrown in with those who are bringing rust buckets to our borders, obviously knowingly bringing in human cargo. And that's the difference.

On that basis, I'll just go through amendments BQ-29, BQ-29b, and NDP-51.

BQ-29a.

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

The Chair: BQ-29b.

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

The Chair: NDP-51q.

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

(Clause 148 agreed to)

(On clause 149—*Use of information*)

The Chair: There's a government amendment on this one. G-51 is technical.

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

(Clause 149 as amended agreed to)

(On clause 150—*Regulations*)

The Chair: There's an amendment, NDP-52.

• 1120

We're on clause 150, but this is on a gender-based Parliament. I think this relates to another clause, if I'm not mistaken.

Mr. John Herron: Clause 94.

Ms. Judy Wasylycia-Leis: Right. We were going to put this back under subclause 94.1. You left it open for that purpose and we can come back to it.

The Chair: Yes, let's just leave it on that one then.

(Clause 150 agreed to)

The Chair: Clause 151 has been done.

(On clause 152—*Composition*)

The Chair: On clause 152, Inky, you have amendment CA-22. This all has to do now with the Immigration and Refugee Board.

Mr. Inky Mark: Right. We heard a lot of witnesses indicate that the whole process and the composition should be more transparent and should be in the bill. That's what it talks about, the composition of the board and their functions. I think there's a whole bunch of amendments that come later as well on the same topic.

The Chair: Could I ask what the effect of that would be?

Ms. Joan Atkinson: The effect of this amendment would be to have a more cumbersome process in a sense in terms of the selection of board members and wouldn't allow for any flexibility for the periodic enhancement and upgrading of our selection process that currently exists.

The Chair: I'm looking at this thing and it says:

> The Minister shall ensure

—ensure—

> that the selection process of Board members is open and transparent, that the appointment of Board members is based on merit, and that all Board members receive the necessary training to fulfil their position.

What's wrong with that? In fact, that's what everybody was talking about, even our government. Is there something wrong with saying that in a bill?

Ms. Joan Atkinson: I would say, first of all, that we have a rigorous selection process in place right now.

The Chair: I know that. I believe you.

Mr. Inky Mark: Is there even a philosophy—

Mr. Steve Mahoney: If you're going to do something like that, and I'm not saying I would support it, it would probably be under clause 153, not clause 152.

I'm talking about what Joe just read in regard to "ensure the selection". All clause 152 says is that it's composed of a chairman and other members as required.

Mr. Inky Mark: I agree.

The Chair: That just talks about composition. Maybe properly put—

Mr. Steve Mahoney: Put it on clause 153 so we—

The Chair: I know clause 153 talks about this whole issue of how we appoint meritorious people and so on. So why don't I move this to clause 153 for you?

Mr. Steve Mahoney: Yes, and we can defeat it there.

(Clause 152 agreed to)

(On clause 153—*Chairperson and other members*)

The Chair: We are on clause 153 then. Let's do amendments CA-22, BQ-30, CA-23, CA-24, CA-31, and BQ-31. They're all related to a certain extent, so why don't we just go at it.

Inky.

Mr. Inky Mark: I would say amendment CA-22 is probably the most general in nature out of the amendments in terms of the membership and the general philosophy of that clause.

The Chair: Yes, John.

Mr. John McCallum: I didn't quite understand, Joan. This amendment CA-22 about open and transparent process and so on seems like things that no one could really object to. What is the harm done by putting it into the bill?

Ms. Joan Atkinson: I would go back to the minister's statements when she appeared in front of this committee before we started clause-by-clause. Her points were that the current selection process is subject to rigorous standards and is a competency-based process that does ensure we are selecting the most qualified candidates to be members of the board. We don't think this is necessary because we have made improvements and will continue to make improvements to the selection process based on administrative procedure and processes.

The Chair: How about Madeleine? Amendment BQ-30 says essentially somewhat of the same thing, but it's a little different.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: The amendment of the Bloc Québécois is close to that of the Canadian Alliance. Indeed, it seems contrary to common sense that an appointment should be made for a term of seven years without any possibility of removal and without a probationary period. The employer always has the right, for any position, to require a probationary period. So I do not see why members of the commission who are making extremely important decisions regarding individuals who find themselves in a difficult situation should be exempt from a probationary period. Even if standards are very rigorous, we all know than an impressive curriculum vitae does not ensure that the quality of the work will be of the same caliber.

• 1125

I feel it is important to have a probationary period and I hope that my colleagues opposite will share my view, especially if they do not want to write into the bill that we need the best members possible.

[*English*]

The Chair: All these subsequent amendments get into the details of clause 153 in terms of training, interim appointments, and so on and so forth. They concern different stages of clause 153. As you know, subclause 153(1) has paragraphs 153(1)(a) to (h). I don't know. I can treat every one of these amendments separately because they are all a little different.

Mr. Inky Mark: Mr. Chairman, since I have one, two, three, four, five, I would negotiate with the committee and trade off on all of them for this general one, CA-22. The other ones are pretty specific in nature.

Mr. John Herron: That is very judicious.

The Chair: Thank you, Inky, for doing that. I think we're dealing with the spirit of where we want to get to. The other amendments are all very specific, including Madeleine's and some others.

Let me deal with CA-22 right off the bat. It depends on what happens there. We can see.

Steve.

Mr. Steve Mahoney: I just want to be clear that this is not about horse trading. This is about writing. I want to make it clear that it's not about making deals here; it's about putting in place the best legislation possible. In my view, to adopt CA-22 is to somehow admit that the people who have been appointed to date by former Conservative governments and by Liberal governments were somehow not appointed on merit. I reject that and therefore cannot support the amendment, regardless of how much you're prepared to offer in a trade.

Mr. Inky Mark: That's not the purpose of the offer, Mr. Chairman. This whole business of appointments based on merit is in your committee report from the last session. Just remember that.

Mr. Steve Mahoney: It is. It's based on merit.

Mr. Inky Mark: We're just saying that the committee report recommends that merit be the basis—

Mr. Steve Mahoney: And it is.

Mr. Inky Mark: Then this amendment just validates what's happening in the system today.

Mr. Steve Mahoney: No, it doesn't.

Mr. John Herron: It's our fault. We should have done it sooner.

Mr. Steve Mahoney: Oh, go ahead. Stab yourself. Go ahead.

The Chair: All right. Let me deal with CA-22.

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

The Chair: We will deal with BQ-30.

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

The Chair: We're on CA-23.

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

The Chair: We're on BQ-31. It's a little different. It's about paragraph 153(1)(c) and concerns psychologists, psychiatrists, and anthropologists.

Mr. Steve Mahoney: A bunch of anthropologists are going to make that decision.

The Chair: You'll notice that she didn't put economists in. Right, Madeleine?

[*Translation*]

Ms. Madeleine Dalphond-Guiral: An economist who would also be trained in sociology would be useful. Do you want to apply, John?

• 1130

I will choose my words. I know the government party is unhappy that we would dare to target areas of competence. Somehow, it bothers me because I believe we should never be uncomfortable targeting areas of competence for future members of the commission who will be making decisions more weighty than picking peanuts out of a bowl. It bothers and concerns me when I see this refusal to target skills, to make competence a condition of appointment.

I would like to be shown I am wrong and that the government party wants to do better, but I am not sure. So I ask all those who see this as plain common sense, as I am sure all do, to do some thinking. It will certainly not show in the way they raise their hands, but I am sure they all recognize it. So I am asking them to reflect a little bit on this and maybe we will be front page news tomorrow. Don't you think?

[*English*]

The Chair: Steve.

Mr. Steve Mahoney: My only comment is that Madeleine said it's reflected in common sense. It's exactly the opposite. If you used common sense, frankly, you would see that by restricting in this area.... I can think of several people who are currently excellent members and people in the future who would make excellent members who would be excluded, because they are not covered, they don't have those qualifications.

The Chair: John, and then Anita.

Mr. John McCallum: I was going to say something similar.

[*Translation*]

I agree this appears to make sense, but the problem is too many people who might be qualified, including most of us around this table, would be excluded. I believe this is too restrictive.

Ms. Madeleine Dalphond-Guiral: Look at sub-paragraph(ii).

[*English*]

Mr. Steve Mahoney: You should make this a requirement to be an MP.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: Look at sub-paragraph (ii). It says:

> (ii) at least ten years of relevant prior professional or volunteer experience with exiles, immigrants or persons requiring assistance, in Canada or abroad, at the service of a non-governmental or international organization or a government agency;

This is really broad and opens the door to many people. Why not go out and seek the best qualified people, based on what they have in their brain or in their heart, which is not necessarily incompatible?

[*English*]

The Chair: Okay, BQ-31.

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

The Chair: CA-24.

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

The Chair: CA-25.

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

The Chair: CA-26.

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

The Chair: BQ-32 has been withdrawn. BQ-33 is a bit different. Now we're talking about lawyers.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: I am sure they will agree with this. There are enough lawyers in the government party...

[*English*]

The Chair: God forbid.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: You should be laughing, Mr. Chairman.

[*English*]

The Chair: BQ-33.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: How many lawyers do we have here who would become eligible? Someday you are going to lose your seat.

[*English*]

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

Mr. Steve Mahoney: Some good comes of everything.

The Chair: BQ-34 and CA-27 are exactly the same thing. Madeleine.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: May I say a few words on this one, Mr. Chairman?

We heard an excellent presentation and I am happy to say to my friend Steve that it was made by people from Quebec. The expertise of Quebec regarding selection of appointees to positions at a high level of responsibility should be taken into account. It would not be the first time the Parliament of Canada recognized common sense.

• 1135

One has to start somewhere and there is no shame in using a model that is proven to work. In the case of some bills, it does not work. In relation to the Young Offenders Bill, it did not seem to work. If we did it here, it would be an excellent step in the right direction, in view of the well documented study presented by qualified people, all university professors. I am sure my friend John will not oppose this.

I am still under the illusion some people might decide the time has come to make a move towards common sense and fairness.

[*English*]

The Chair: Inky.

Mr. Inky Mark: I have just one point, and it's common sense. The quality of the selection board will determine the quality of the membership of the board itself.

Mr. Steve Mahoney: Vote Liberal.

The Chair: Okay, BQ-34 and CA-27 are exactly the same.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: I will ask for a registered vote, Mr. Chairman. Why not?

[*English*]

(Amendment negatived: nays 6; yeas 5—[See *Minutes of Proceedings*])

(Clause 153 agreed to on division)

(On clause 159—*Chairperson*)

The Chair: We have amendments CA-28, BQ-34a, CA-29, and BQ-35.

Mr. Inky Mark: Again, Mr. Chairman, this will put in the bill what I understand is happening already in the system, and that is training programs for the board members to develop their skills. It's pretty general.

The Chair: Joan, do you have any comments?

Ms. Joan Atkinson: Training of any decision-maker under this act is totally an administrative process. In other parts of the legislation, we don't make reference to the very extensive and comprehensive training that is provided to immigration officers, visa officers, and all those who are involved in making decisions under all of the parts of this act. It would seem a little curious to make specific reference in the bill to training for board members. It goes without saying that board members receive comprehensive and ongoing training.

The Chair: We just wanted it for the record. Now that you've said it....

Mr. Inky Mark: Well, paragraph 159(1)(g) alludes to the same action.

An hon. member: So it's okay.

Mr. John Herron: Can we get a comment on that?

Ms. Joan Atkinson: Training is provided, of course.

The Chair: Okay, CA-28 and BQ-34a are exactly the same.

(Amendments negatived—[See *Minutes of Proceedings*])

The Chair: Turning to CA-29, Inky, it's a little different, although it and BQ-35 are exactly the same.

Mr. Inky Mark: Again, it makes the process more transparent.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: You voted down the probationary year. Really...

[*English*]

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

(Clause 159 agreed to on division)

• 1140 

(On clause 161-*Rules*)

The Chair: For clause 161, there is a government amendment, G-52. It's technical.

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

(Clause 161 as amended agreed to)

(On clause 163—*Composition of panels*)

The Chair: For 163, we have amendment BQ-36.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: I am quite willing to agree that all members are exceptional people, but if we have two, it will be twice as extraordinary. Since members of the commission are political appointees, I think matters should be heard before at least two members.

[*English*]

The Chair: Do you have any comments, Joan?

Ms. Joan Atkinson: The use of single-member panels is one of the key components of making the refugee determination system more efficient and more streamlined. The use of single-member panels is balanced by the introduction of the appeal.

The decisions of one-member panels are reviewable by the refugee appeal division. In addition to reviewing those individual cases, one of the primary objectives of the refugee appeal division is to provide for some consistency in the decision-making by the single-member panels, because the refugee appeal division will be able to issue precedent-setting decisions that will guide the subsequent decision-making of cases at the refugee protection division.

So the single-member panel is a key element of our streamlining of the system, so that people who are in need of protection get through more quickly—as will those who are not in need of protection—and it's balanced by the refugee appeal division.

The Chair: John.

Mr. John Herron: I actually agree with the issue of going to one person, balanced with the additional appeal. The problem is that the added appeal that we have—and this is why I want to get back to clause 110 later on—is only looking at a file again.

The Chair: That's okay.

All those in favour of BQ-36...?

Mr. John Herron: No, I have a question.

The Chair: Yes, and I'm going to deal with it right after this one.

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

(Clause 163 agreed to)

(On clause 110—*Appeal*)

The Chair: Can we just go back to clause 110? I told John I would do that, because I think he has one. I think we left it open for.... It's on appeals to the refugee appeal division.

Did we have an amendment from you, John? Can you just tell us which one it was?

Mr. John Herron: It's reference number 12666. There were two, but one was not supposed to be put in. I never corrected it. The one numbered reference 12660 is not what I want. I want the other one.

The Chair: So it's PC-23, and it's on page 195 of the amendment book.

Go ahead, John.

Mr. John Herron: I apologize, Mr. Chair. I just had it right in front of me when we did that shuffle there, but I need my talking points, too.

A voice: I don't have those.

Voices: Oh, oh!

The Chair: Elizabeth, that's why I put you there. It was to scoop those talking points of John's.

Voices: Oh, oh!

Mr. Steve Mahoney: Do you want mine?

Mr. John Herron: Here we go.

• 1145

While Bill C-11 does introduce a new appeal process for failed refugee claimants, which is very good, the proposed appeal is only in writing based on the record of the original hearing. Many claims are rejected on the basis of credibility, which is hard to challenge in a written submission. Many appeals are rejected on the basis of credibility because you cannot revisit it in the same manner in a written submission. I've said before that refugee rights are indeed human rights.

The minister is introducing a paper trail, which is, I think, glorified as an appeal, but really we need to provide the proper opportunity for people to be heard effectively.

This is a balance. We have talked about this balance throughout the entire bill. If we're going to streamline it and go to one adjudicator at the IRB, an oral appeal as opposed to a mere file is the balance. That's the balance. That's the issue. Given that we don't have "second" appeals per se, the evidence that was brought forth the first time around makes it that much more imperative.

I don't know if I have my group here with me.

Ms. Judy Wasylycia-Leis: We're all with you.

Mr. John Herron: This is one of the larger ones we battled.

If we're going to go to one adjudicator, that's okay, and if we're going to introduce a second appeal for balance, then it has to be an oral appeal. Otherwise, we're really letting people down, and we're going backwards from the Singh case.

The Chair: Steve.

Mr. Steve Mahoney: The implication of what John is saying is that there's not an opportunity for an oral appeal, and that's simply not the case. It's where it happens. If it's at the refugee protection division, it's oral. It then goes to RAD. It's written, and RAD can refer it back to the protection division, which once again is oral.

Mr. John Herron: "Can".

Mr. Steve Mahoney: Can and "may". So you already have one oral, followed by a written, potentially followed by a second oral, and then PRRA is oral, if it gets to that.

Mr. John Herron: The balance here is—

Mr. Steve Mahoney: I think it's balanced.

Mr. John Herron: We've now gone from a group of individuals who made this call.... You cannot have the same kind of judicial scrutiny of a file by one adjudicator as you can with an oral appeal. That's a point of fact.

Mr. Steve Mahoney: In your opinion.

Mr. John Herron: No, I think that's a fact.

Mr. Steve Mahoney: It's not a point of fact. It's your opinion.

The Chair: By the way, BQ-24 is on exactly the same issue, Madeleine. Did you want to make a point?

Mr. John Herron: Could we hear from the staff?

Mr. Steve Mahoney: Let's have an oral response from the staff.

Ms. Joan Atkinson: As Mr. Mahoney has indicated, RAD has the authority and will and can refer cases back to the refugee protection division. Subclause 111(2) says "The Refugee Appeal Division shall make the referral". It can refer cases back to the refugee protection division if an oral hearing is required, particularly if we're talking about cases where credibility is an issue and the RAD makes a decision that there needs to be another oral hearing to review that decision or to make that decision again.

I would also point out that the issue you talk about, Mr. Herron, with regard to fairness—

Mr. John Herron: It's John. We're friends now.

Mr. Steve Mahoney: Let's stick with Mr. Herron.

Mr. John Herron: I get the message.

Some hon. members: Oh, oh!

Ms. Joan Atkinson: It's precisely what judicial review is for. Judicial review is to ensure that fairness, due process, and natural justice have been followed and that the individual has been given ample opportunity to make their case. So not only do we have an appeal division that can refer cases back to the protection division for an oral hearing, but we also have judicial review of those decisions.

• 1150

The Chair: Okay, I'm going to allow them, because the BQ one deals with the same issue.

And by the way, NDP-51j is also on the same issue, so if you both want to get in on this, I'll let you do it now.

Judy.

Ms. Judy Wasylycia-Leis: Well, it's hardly the same issue.

The Chair: It's the same intent, though.

Ms. Judy Wasylycia-Leis: Well, the further intent of amending subclause 110(3), particularly from my vantage point, is to deal with the concern we heard from many groups about the kind of power given to the minister in this section, and to reflect the feeling that the right of appeal to the RAD should be given only to the refugee claimants and not to the minister. The proposal is to rework the wording of that section so that it's clear this is the intent. You can see we've moved the words "submissions from the Minister" into a different order, which should take care of that concern.

The Chair: Let me just deal with PC-23 so that there's no confusion, then, and then I'll get back to yours.

Those in favour of PC-23 and BQ-24...?

(Amendments negatived—[See *Minutes of Proceedings*])

The Chair: You're right, Judy. Amendment NDP-51j is different.

Can I just have a response from you, Joan, on Judy's NDP-51j?

Ms. Joan Atkinson: The minister's right of appeal to the RAD allows for intervention when very complex and precedent-setting issues are being determined. Again, as we've talked about before, the RAD serves the purpose of trying to give some consistency to the decision-making of the refugee protection division.

When we are dealing with very complicated refugee protection decisions, it's important that we be able to utilize the capacity that's there in the RAD to ensure that we have all the issues being considered. That way, we will get rulings from the RAD that are going to assist in terms of making refugee protection decisions that are cogent and comprehensive and are consistent between the different board members. It's important that not only does the applicant have an opportunity to make the appeal to the RAD, but that the minister does too, for the purposes of trying to ensure that consistency when we're dealing with very complicated issues.

The Chair: Thank you.

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

The Chair: We have a government technical amendment on that. It's called G-37. Can I have that put forward?

Mr. Steve Mahoney: I so move.

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

An hon. member: Did you do NDP-51h? It was immediately before G-37.

The Chair: Okay, there's an NDP-51h and an NDP-51i, both related to clause 110.

Ms. Judy Wasylycia-Leis: We started talking about these yesterday. One of the amendments has to do with the concern about ensuring access for people appealing from overseas, as well as within Canada. That's the one that amends line 6 on page 48.

The other one, which deletes lines 9 to 11, has to do again with the question of withdrawal...from my colleague from the Conservatives.

The Chair: So NDP-51h would replace line 6 on page 48 with:

Protection Division or against a decision of a visa officer to allow or reject the

What would be the effect, Joan?

• 1155

Ms. Joan Atkinson: The effect of that amendment would be to give a refused refugee seeking resettlement overseas an appeal right. I think I would emphasize "refugee seeking resettlement", because the difference between the in-Canada determination process and the refugee resettlement program overseas is very significant.

In Canada we are talking about protection issues. The person is on our soil and we need to make a decision as to whether they stay in Canada or whether we remove them to the country from which they have allegedly fled.

The overseas refugee resettlement program is about resettlement as being a durable solution to their particular ongoing protection needs. When we talk about all the refugees around the world, the number of refugees where resettlement from where they are currently, which is normally in a country of first asylum, and resettling them from a country of first asylum to a third country is a very distinct issue. In fact, the proportion of refugees around the world where the UNHCR, for example, determines that resettlement in a third country outside of the region is the most durable solution and the best solution to that particular protection need is actually quite small.

So we're talking about a very different sort of program with very different objectives in that sense between the in-Canada process and the overseas process.

I don't know whether Gerry might want to add something.

Mr. Gerry Van Kessel: If I may.

There's an additional element in this. Of the people abroad who come to our attention who seek resettlement, very few of them are refused as refugees because they're not eligible as refugees. If we have them as government-assisted or -sponsored refugees, there's a cap on the total number, which we publish annually in our levels report and so on. So that issue comes at stake.

As I understand this, if the visa officer were to say, no, you're not a refugee, there's an appeal that comes here and says, yes, you are a refugee. The other issues around resettlement still aren't dealt with.

To expand a little bit on what Joan says, it's a bigger issue than just whether or not you are a refugee. It's also an issue of: Do you fit within the targets? Is there a sponsorship in the case of privately sponsored refugees?

So it's quite a bit broader than the in-Canada one, which is simply restricted to the issue of protection.

Ms. Judy Wasylycia-Leis: Withdrawn.

(Amendment withdrawn)

The Chair: Amendment NDP-51i is a little different; it's on the abandonment. Do you want to withdraw it?

Ms. Judy Wasylycia-Leis: No, that one I'd like to go through with, being consistent.

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

The Chair: I did amendment G-37, didn't I?

Some hon. members: Yes.

(Clause 110 as amended agreed to)

(On clause 164—*Presence of parties*)

The Chair: We have BQ-37 and NDP-52a.

Madeleine, BQ-37.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: This is taking us back to the hearings. The amended clause would read:

164. Every hearing held by a division shall be conducted...

[*English*]

The Chair: That's exactly the same thing as NDP-52.

Do you want to say anything, Judy?

Ms. Judy Wasylycia-Leis: I'd like clarification.

The concern we heard was around the use of video conferencing as a way to hear these cases. The feeling was that is an intimidating way and not a fair way to hear human cases. I know the other side might be the processing and the speed by which one is able to deal with these concerns, so I think we need to hear to what extent video conferencing is necessary to process and how harmful it might be.

The Chair: Joan.

Ms. Joan Atkinson: Video conferencing is used not just by the refugee protection division, but is also used by the adjudication division, which

does inquiries and does detention reviews, and it would be used by the refugee protection division as well.

• 1200

Video conferencing allows us to be able to hear cases where it is difficult, if not impossible, for us to get the board members to where the individuals are. So it allows us to be able to deal with cases more efficiently and effectively, including those cases where it's necessary that we give a protection decision quickly.

It allows us, in the case of detention reviews, to be able to deal with people, for example, who are incarcerated in institutions that are not readily accessible, or easy to get to, by the adjudicators who are required to do detention reviews. And again, it allows us to be able to hold those detention reviews in a timely manner.

We would not want to lose the ability to hold video conferencing. Obviously, the decision on whether to do video conferencing takes into account all of those sorts of situations, but it's a necessary tool for us to have.

The Chair: Amendment BQ-37.

Ms. Judy Wasylycia-Leis: I'd like to withdraw mine.

(Amendment withdrawn)

The Chair: Yours too, Madeleine? No?

[*Translation*]

Ms. Madeleine Dalphond-Guiral: Absolutely not.

[*English*]

The Chair: Amendment BQ-37.

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

The Chair: Amendment NDP-52a has been removed.

(Clause 164 agreed to)

(On clause 165—*Powers of a commissioner*)

The Chair: Clause 165 has an amendment G-53 that's technical in nature. It has been moved.

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

(Clause 165 as amended agreed to)

The Chair: Clauses 166, 167, and 168 have all been done.

(On clause 169—*Decisions and reasons*)

The Chair: We have amendment PC-27 and amendment G-54.

In amendment PC-27, John, you want something added in writing.

Mr. John Herron: And something deleted as well, not only something "in writing".

The Chair: Yes, hang on a second.

Mr. John Herron: I'm finding that the intent of what my note says doesn't make sense at my end.

The Chair: Decisions and reasons..."in the case of a decision of a Division other than interlocutory decision".

Mr. John Herron: It must be rendered in writing to be considered in a court of appeal.

The Chair: It says on lines 26 and 27, "which must be rendered in writing". I don't know what you want to do with that. It does say "writing".

Mr. John Herron: Do you know what this is referring to? Can you help me out?

Ms. Joan Atkinson: By indicating that all decisions must be rendered orally, you would have a situation where in the RAD, which is a paper process, a decision would have to be rendered orally.

Mr. John Herron: That would be face to face for an oral appeal, because you have to bring me into the room to say no to me.

Ms. Joan Atkinson: It's a decision. What you're asking for are the decisions to be in writing.

Mr. John Herron: I'll rescind.

The Chair: Pull amendment PC-27. Amendment G-54 is just a technical amendment.

Amendment G-54 has been moved.

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

(Clause 169 as amended agreed to)

(On clause 170—*Proceedings*)

The Chair: Clause 170 has amendment NDP-52b.

Ms. Judy Wasylycia-Leis: I should let John present this. It seems to reflect, more accurately, his concern about the need to have oral hearings. And that's the intent. It ties into the video conferencing one. I pulled my video conferencing one, so I'm prepared to pull this one, unless John feels strongly about it.

The Chair: I don't see the glimmer in his eye, so I'll just say he's pulling amendment NDP-52b.

(Clause 170 agreed to)

The Chair: Clauses 171 and 172 have been done.

(On clause 173—*Proceedings*)

The Chair: Clause 173 has amendment G-54a, with regard to proceedings. It says the immigration division "must give notice of the proceedings to the Minister and to the person who is the subject of the proceeding and hear the".

It has been moved.

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

(Clause 173 as amended agreed to)

The Chair: Clauses 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, and 185 are all carried.

(On clause 186—*Rights not affected*)

The Chair: And on clause 186 we—

Ms. Judy Wasylycia-Leis: Before you go too far make sure you go back to 94.1.

• 1205 

The Chair: Yes.

(Clause 186 agreed to)

The Chair: Amendment NDP-53, dealing with the ombudsman, would add new clause 186.1.

Ms. Judy Wasylycia-Leis: We dealt with that already, when we dealt with the two together. The Alliance had one earlier on. We lumped the two together and voted on them together.

The Chair: Yes. They were exactly the same thing.

Clauses 187, 188, and 189 were already dealt with.

(On clause 190—*Application of this Act*)

The Chair: Clause 190 has CA-29a with regard to transition.

Mr. Inky Mark: It just calls for a transition period of one year in enacting this. We heard a lot of commentary during the hearings about this.

The Chair: We're reviewing the act in a year's time. We're going to come to that one. That may essentially do what you want it to do. Do you want to deal with this one?

Mr. Inky Mark: I think the reason for this is that with regard to the cases that are pending an outcome or a decision, people are concerned that the new act will perhaps change the parameters around the old cases.

The Chair: I think this retroactivity is a fundamentally important question. Assuming that this act gets passed by both Houses, the regulations come back to this committee and they eventually get passed. Then everything's proclaimed. With all of those applications that are in the mill, what's going to happen to those? Will they be processed under the old bill or do we start to move into assessing them on the basis of the new bill?

Ms. Joan Atkinson: Let me start, and then I'll ask Daniel to give some more explicit information.

The clauses that follow make explicit reference to cases that are at various stages of the process in the refugee determination system, and the transition from the convention refugee division to the new refugee protection division, and of course the creation of a refugee appeal division. So some rules around that are outlined here.

Generally speaking, what clause 190 says is that any application or proceeding that is in process when the bill comes into effect will be subject to the new rules. Now, if we had provisions such as those being suggested in the amendment, where the old legislation would apply for a year to applications that are under process, we would have parallel processes going on at the same time, because we'd have to deal with new applications under new processes and old applications under old processes. This would certainly be a bureaucratic nightmare and would be extremely resource-intensive for us. We'd have to maintain old systems while trying to put in new systems. We'd have to be training people on new systems while we still have old systems. Bureaucratically, it would be a real nightmare for us.

Just as importantly, however, many of the provisions in this bill are more favourable toward family class applications, skilled worker immigrants,

refugee claimants, and refugees seeking resettlement. Those people would be denied the opportunity to benefit from those provisions that are more beneficial to them.

The Chair: John.

Mr. John Herron: Is there a way in which the immigrant or the refugee, the claimant, can actually have a choice for a one-year period?

Ms. Joan Atkinson: Mark, do you want to speak to that?

Mr. Mark Davidson (Deputy Director, Economic Policy and Programs, Department of Citizenship and Immigration): I'm just trying to imagine how we would explain all of that to the client, to all of our hundreds of thousands of clients, in process.

The Chair: Just to be fair, though, whenever we get into this question of retroactivity, the government does not usually get into retroactive legislation. Yes, we understand the transition, but based on what you just said, Joan, are we going to give the benefit to the client? In other words, we believe this bill is better than what we have in many, many ways. Will the benefit of the doubt go to the client who has submitted an application under the existing act rather than just moving to Bill C-11 and the whole process and everything else? Because that's what clause 190 says, that they all will be moved to Bill C-11.

• 1210 

You've indicated that in most cases...and it gets back to the question John was asking. Will the benefit go to the applicant, or at least will the case be considered under Bill C-11? If not, retroactivity does cause some difficulties. You can't change the rules in the middle of the game.

Ms. Joan Atkinson: There are some situations where, for example, when we talk about the appeal to the refugee appeal division, a case that has been determined by the convention refugee determination division will not then go to the refugee appeal division because it is a brand-new construct. I guess what I'm saying is, it depends.

Do you want to add anything to that, Daniel?

The Chair: Well, a lot of people are going to have to do a lot of work in the next nine months by the time this thing gets enacted.

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

The Chair: You know, after this thing gets done, we may want to talk a little bit about it as a committee. I know we're going to get into the regulatory stuff, but the administrative stuff I think we're going to have to spend a little time talking about—how to ease things administratively for the employees, yes, but also how to help people understand and know what may happen. I think we're going to have to spend a little time on that and show that we are sensitive to the transitional issues, the administrative and human issues, that might or might not occur.

At any rate, let's move on.

(Clause 190 agreed to)

The Chair: Clauses 191 to 200 inclusive have already been carried.

(On clause 201—*Regulations*)

The Chair: Amendment G-55 is technical. It's been moved.

Ms. Judy Wasylycia-Leis: You're not forgetting about new clause 94.1?

The Chair: No.

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

(Clause 201 as amended agreed to)

The Chair: Clauses 202 to 226 inclusive have already been carried.

(On clause 227)

The Chair: There is a technical amendment, G-56.

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

(Clause 227 as amended agreed to)

(On clause 228)

The Chair: We have two government amendments, technical ones, G-57 and G-58.

(Amendments agreed to—[See *Minutes of Proceedings*])

(Clause 228 as amended agreed to)

(On clause 229)

The Chair: We have another technical amendment, G-59.

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

(Clause 229 as amended agreed to)

The Chair: Clauses 230 to 241 inclusive have already been carried.

(On clause 242)

The Chair: There's a technical amendment, G-60.

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

(Clause 242 as amended agreed to)

The Chair: Clauses 243 to 248 inclusive were carried previously.

(On clause 249)

The Chair: We have amendment G-61.

Mr. Steve Mahoney: It's a technical change.

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

(Clause 249 as amended agreed to)

The Chair: Clauses 250 all the way through to 272 have been carried.

(On clause 273)

The Chair: There is a technical amendment, G-62.

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

(Clause 273 as amended agreed to)

The Chair: Let me just stop here and go back to where, Judy?

Ms. Judy Wasylycia-Leis: To new clause 94.1.

• 1215

(On clause 94—*Annual report to Parliament*)

The Chair: Right. We're at page 39 in the bill, following clause 94. What are we going to call this one, NDP...?

A voice: "Z".

The Chair: Okay, NDP-Z.

Have we dealt with Madeleine's BQ amendment, the one that was part of this one, or was that stayed?

A voice: We dealt with that.

The Chair: Yes, we had a discussion as to the report, but we'd asked for something to make sure that.... Oh, I can't remember.

Judy.

Ms. Judy Wasylycia-Leis: This is a different matter from the one pursued earlier by Madeleine. However, I think the general sense is the same, that we try to have, in addition to the overall report to Parliament, a specific report in two years' time around the impact on women and the impact on race. There were a lot of concerns around the fact that this bill may have a disproportionate impact on women and on some races. I think the best way for us to handle it at this point, given that we're not going to make any more changes to the bill, is to, in two years' time, have those analyses done and reported to Parliament.

I think that's consistent with the federal government's intention to make sure that every law of the land undergoes a gender-based analysis. This would do that. It adds one element around racism and I think it would help us follow this bill, understand its implications, and deal with any problems that may arise.

Mr. John Herron: Good amendment.

The Chair: Joan.

Ms. Joan Atkinson: I think the first thing I'd like to say is that gender-based analysis is as much a process as it is a product. As you've pointed out, the government is committed to gender-based analyses in all of its public policy-making processes, including in the immigration area. All of the policies leading up to the tabling of this bill, the policies leading up to the tabling of the regulations, and the regulatory draft proposals that you've seen are subject to gender-based analyses.

Our gender-based analysis within Citizenship and Immigration Canada happens throughout the policy-making processes of the department. We have set up and resourced a specific unit. We are working and have been working with Status of Women Canada to set up gender-based analysis training so that all of our policy officers have the training necessary just normally in the context of their policy work to help them take into account the gender issues and do an analysis of the gender issues while they are developing their policy.

So in terms of having a specific product, this implies that gender-based analysis is a static thing. It's not static. Gender-based analysis is an ongoing process that we are engaged in through policy development, through the evaluation of our policies, and through the amendments and changes that we will be continuing to make to our policies as this bill is being implemented, and in the future. So it's not an appropriate

requirement, in that sense, that there be some kind of static document. It would simply be some kind of a snapshot, but it is an ongoing process within the department.

I should also point out that when we prepublish the regulations, a portion of the regulatory impact analysis statement is prepublished in the *Canada Gazette*. Of course all of the documentation that has a specific section on the impact on gender of any of the regulations that are being proposed will be shared with the committee.

The Chair: Madeleine, Inky, and then Judy.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: Thank you, Mr. Chairman.

A whole lot of things in Bill C-11 are implicit. There are so many that if we were to spell them all out, we would have a document that thick.

We are now in 2001 and all over the world we see the rise of fundamentalism. The lives of women are deteriorating, in particular. If their situation has improved in some countries, the reverse is true in some others.

• 1220

Is it not incumbent on us, somehow, to spell out explicitly what is implicit in this bill? This is a signal we could send out. Canada claims, sometimes rightly so, to be exceptional in every regard. I don't think it would be going overboard to write into the bill a commitment to half of human kind. I don't think it would threaten our present government. I do not think there would be an outcry against it. This is the last clause we are going to discuss. I would like us to listen to the voice of the heart as well as the voice of reason. They are not incompatible.

[*English*]

The Chair: Well, it isn't the last section. We've got a couple of other issues to discuss, but it is not the last one.

Inky.

Mr. Inky Mark: Thank you, Mr. Chair. I'm not in total agreement with the wording, but again, you say this is happening. If so, what's the problem with acknowledging that this should be part of the reporting from the minister? You've just told us you're doing this, so what harm is there in acknowledging it?

The Chair: Judy.

Ms. Judy Wasylycia-Leis: I'm not denying that the government did no gender-based analysis of this bill. I accept what's been said to us about the work that was done, and obviously we've heard some concerns about the impact on women and race. We've tried to address them through the process and through this amendment.

However, what we are saying is that there should be an ongoing process in place to keep a check on the act and to deal with any unforeseen impacts of it on women and different races.

In fact, I think the suggestion validates the idea that gender-based and race-based analyses must be dynamic. They aren't static. So let's ensure that the dynamic process is working. Before it goes to Parliament, we should have an opportunity to review, to have a say, to make recommendations based on impacts that we may not even be able to envisage at this time.

The Chair: Steve.

Mr. Steve Mahoney: Perhaps I can suggest a compromise—Joan, maybe you could give me your reaction to this. We could add a section to 94, call it (2)(f), requiring that when the minister brings in her annual report, she should include a section on the gender-based analysis—but not including your (b). The gender-based analysis can be part of the minister's annual report.

I'd be prepared to put that on the table. Maybe Joan can respond, if she has any concerns about that.

Ms. Joan Atkinson: A lot of the analysis we do, and that we've done in the lead-up to the bill, indicates that some issues require ongoing monitoring and analysis. But I'm not sure that will really provide a lot of explicit information.

I'm struggling with what we'll really achieve by having an annual section in the plan that indicates, yes, we're doing the gender-based analysis, and here are the areas where we need to do some ongoing monitoring and analysis of the impacts. I think that's what we would get.

The Chair: Mr. Mahoney.

Mr. Steve Mahoney: With respect, I think what we're talking about here is how the report would be written and what would be in it. What I think we're looking for is some kind of regular analysis that would be required as a result of the bill. The minister will make an annual report on the bill, so let's just include the gender-based analysis. If that doesn't go as far as committee members might like it to, they can comment on that when it comes before them.

• 1225

The Chair: To clarify here, paragraph 94(2)(f) starts with the phrase "the report shall include a description of". So we're not talking about a full-blown.... So if this asked for a gender analysis, it would be a description that the government—

Mr. Steve Mahoney: Of a gender-based analysis.

The Chair: —has in actual fact gender-based analysis.

Jerry.

Mr. Jerry Pickard: Mr. Chairman, every committee has an opportunity to put forward requests of any department officials at any time. To build certain things into reports may not be the wisest move. When we are dealing with this legislation and the regulations, in six or seven months we can demand that a gender-based analysis be brought forward at that time. In other words, they would have to show what things have happened and what steps have been taken, in order to balance Judy's question. I think that's very legitimate for the committee. I really think it is the responsibility of the committee as things progress. What the committee is focusing on at this time may not be exactly what the committee sees as the most important part of reports that have come forward.

So when we start specifying what we want in a report a year from today, I think we're overlooking the fact that there are going to be many issues and changing issues as we move down. My view, Mr. Chair, is to leave the committee's power as it is, and they can ask at any time for those reports to come forward. I just think we're trying to build something in that is already a privilege of every committee in Parliament.

The Chair: You're right. I've just double-checked, because I remember last night demanding that this committee or the future committees actually do this report, analyse it. You're right, a committee can do whatever it wants. There's going to be a motion prepared, and unfortunately, Jerry, you weren't able to come with us, but in a lot of the discussions we heard there was this sensitivity, because this is an important piece of legislation. I kept hearing that a gender-based analysis is being done or should be done, and from what I understand, it's government policy to do a gender-based analysis on every piece of legislation.

The fact that this committee wants to include it as part of its report, to highlight it, is essentially to reassure those people who brought it forward that in fact we are being vigilant on this point.

You're right, the committee can do whatever it wants. I guess we just want to highlight it, and again it's a description.

So I'm going to accept the motion as proposed by Steve on paragraph 94(2)(f). Can you read it?

Mr. Steve Mahoney: Mr. Chairman, subclause 94(2) would read "The report shall include a description of" (a), (b), (c), (d), (e), and in (f) would use Judy's exact wording, a description of:

> (f) a gender-based analysis of the impact of this Act.

The Chair: It's been so moved.

(Amendment agreed to)

The Chair: NDP...do you want me to deal with this one, Judy? For all intents and purposes we've taken half of yours. Shall clause 94—

Mr. Steve Mahoney: Sorry, there was something that I recall you set aside, which was Madeleine's amendment that there should be hearings on the minister's annual report within 90 days.

The Chair: I did set it aside, and I was asking the clerk again. I still haven't got an answer as to whether or not the Standing Orders require every report to come to this committee. I don't know that yet. Nobody has told me. I think it is the view of this committee that we should get that report and have public hearings on it. So I don't know whether or not we can insert it—just to be on the safe side.

Madeleine.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: Having been a member of the Liaison Committee, I know how difficult it is for committees to obtain funds. I think that including this in the bill would put us ahead. We would not have to beg for funding to bring in witnesses to talk about the impact of the new Act.

• 1230

I believe writing this into the bill would be a safeguard for the committee.

[*English*]

The Chair: Steve, did you have something to say on this one?

Mr. Steve Mahoney: Yes. If it's statutory, that's fine, but I wouldn't want to put this in this bill, mainly because I think you're predetermining the work the committee may be involved in. For example, presumably we're going to get back to the citizenship bill at some time in the future, and I would hate to think that we were in the middle of public hearings or clause-by-clause, trying to get a new bill approved, and we've got to suspend operations so we can hold hearings on the annual report. We may all get the report in Parliament and decide that it's fairly inconsequential and there's no need to beat it to death, thank you very much, or we may decide we want to take a section out of it. Maybe we want to take the gender-based analysis section only and hold some hearings on that.

The committee has to have the ability to make those decisions. Frankly, in my four years sitting on this committee I find it to be the most productive group on all sides of the House that I've ever witnessed. I can tell you it was rather dysfunctional in years one and two, with Mr. Mark's predecessor, not to name names. The initials are Leon Benoit.

The committee is working well, and if we decide we want to bring something forward, then we should. But if you want to vote on this, I'm opposed to putting it in the bill.

The Chair: I think I made myself clear. As I understand it, the Standing Orders pretty well guarantee that the committee must deal with this particular item. Maybe we're all going to be here a year, a year and a half, or two years from now, when in fact this same committee may demand it. If it is referred to the committee, what the committee does with it becomes a matter for the committee to decide. In order words, if it comes here—

[*Translation*]

Ms. Madeleine Dalphond-Guiral: So this is a formal commitment of the members of the committee around this table?

The Chair: Yes.

[*English*]

(Clause 94 as amended agreed to)

The Chair: Clause 25 needed to be done and that with regard to the regulations needed to be done too. And clause 21—

Mr. Steve Mahoney: We did clause 21, Mr. Chairman.

(On clause 25—*Humanitarian and compassionate considerations*)

Mr. Steve Mahoney: I have an amendment on 25.

The Chair: This is fairly significant. I'm just waiting for it to be distributed.

Steve.

Mr. Steve Mahoney: Mr. Herron, you'd be interested to know, has read it, and he said, thank you very much. He's happy with it.

The Chair: Have you got his proxy vote on that too?

Mr. Steve Mahoney: I have his proxy vote, yes.

The Chair: On the whole bill?

Mr. Steve Mahoney: Yes, on the entire bill.

The Chair: Oh, you do. Let's see that.

Mr. Steve Mahoney: Mr. Chair, you'll recall the issue was "may" or "shall"? What we've done is to have wording where subclause 25(1) will read:

> The Minister shall,

—and then this was added—

> upon request of a foreign national who is inadmissible or who does not meet the requirements of this Act, and may, on the Minister's own initiative, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status.

So if it's on request, then the word is "shall".

(Amendment agreed to)

(Clause 25 as amended agreed to)

The Chair: Fine. Let's take a break.

• 1235

• 1247

The Chair: Steve, as you moved the amendment to 25 that included "shall upon request", I need to make sure that it pretty well looked after PC-5, BQ-8, NDP-24, and PC-6, all of which had the same intent of making sure that on the humanitarian and compassionate considerations, the minister "shall, upon request," and so on.

Mr. Steve Mahoney: I have John Herron's proxy, as you know, so I can withdraw the PC amendments on his behalf—and Judy gave me hers.

The Chair: We have a one-person committee.

• 1250

So I'll withdraw PC-5, BQ-8, NDP-24, and PC-6.

(Clause 25 as amended agreed to)

The Chair: Before I move to schedule 1—you'll have to trust me on this—when we changed the definition, as you remember, of foreign national, there were a number of consequential clauses that needed to be put in place. I think the administration provided us with all of them. I think I indicated before that those consequential amendments required by virtue of the change in definition of foreign national were put forward. I just want to make sure everybody understands that, so there are no surprises. Are there any objections to that? None.

(Schedule 1 agreed to)

The Chair: Shall clause 1 carry?

Some hon. members: Agreed.

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill carry?

Some hon. members: Agreed.

An hon. member: On division.

An hon. member: As amended.

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

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint for use at the report stage?

Some hon. members: Agreed.

The Chair: Okay.

Yes, Anita.

Ms. Anita Neville: I don't know whether it's appropriate at this time or not, Mr. Chair, but I want to go on record as thanking you and those who have supported us, and the officials most certainly, through this process. This is my first experience with a clause-by-clause as a member of Parliament—and it's not the first and last, Mr. Mark. It's been quite singular, and I very much appreciated your guidance and the help of everybody here to get us through it. Thank you.

The Chair: Thank you very much, but I can tell you a committee and the work it does only succeeds if you've got people on both sides of the committee who are prepared to work in a spirit of cooperation and constructively. We're doing public business and public work. We may have some differences of opinion on particular aspects, but at the end of the day, I think we've done some very good public work on behalf of Canadians.

Mr. Steve Mahoney: Hear, hear.

The Chair: I want to take this opportunity to thank each and every one of you. You've all contributed immensely and we've all had to work very hard. So thank you very much.

I don't want to say goodbye until I find out whether or not.... I'm supposed to have another technical amendment. Sue, am I getting something, do I need it, or what?

Ms. Susan Baldwin (Legislative Clerk): We need it and we don't have it.

The Chair: What is it? Maybe somebody can remember what it's supposed to say.

• 1255 

Ms. Susan Baldwin: I'll explain what the problem is, and I think I have a solution.

An hon. member: Then just explain the solution.

Some hon. members: Oh, oh!

The Chair: Colleagues, apparently this is only technical. For maybe one or two or three clauses, there may be a conflict between some of the amendments that we in fact have passed for others. If there was more than one amendment to a particular clause, the wording technically may not jive and be grammatically correct in form. I think the clerks are asking if I could have unanimous consent from the committee that they only do that job of being able to make some technical adjustments for maybe one clause or three clauses. The intent of everything else won't be changed. It's just the grammar, the wording, the technicalities of those clauses, and how they work when put together. If you allow that to happen, that's fine.

Some hon. members: Agreed.

The Chair: Just to be on the clear side, perhaps you can tell me formally which ones they are. I will then convey that information to the committee members so that, when the bill is reported to the House, they can make sure that what has been done is consistent with some of the things we've done.

[*Translation*]

Ms. Madeleine Dalphond-Guiral: So we will be clearly told to which clauses adjustments are being made.

[*English*]

The Chair: If you could do that for me, Jacques....

The Clerk of the Committee: We will provide it.

The Chair: Thank you.

Is it moved that we have unanimous consent so that we can make those technical adjustments to those one or two clauses?

(Motion agreed to)

Mr. Steve Mahoney: Mr. Chairman, not to prolong things, but as someone who perhaps challenged you a little bit from time to time during this process, I just want to add my congratulations to you. I think you did a terrific job of leading us through an enormously difficult situation.

To the clerk and his staff, who I'm sure were burning the midnight oil, I want to say we appreciate their work, knowing the pressure they were under.

I particularly want to thank Joan and all the staff for a tremendous job in clearly telling us the impact, and for allowing us, I think in a spirit of cooperation, to be able to finish this bill in a timely way.

And I extend that to the minister's staff as well, for certainly helping me in many areas.

But congratulations to you, Joe. You did a great job and I'm proud of you.

The Chair: Thank you very much.

Thank you, all. To everyone, I mean it. I'll see you in the House, debating this bill in about a week and a half.

We're adjourned.