



House of Commons
CANADA

Standing Committee on Agriculture and Agri- Food

AGRI • NUMBER 046 • 1st SESSION • 38th PARLIAMENT

EVIDENCE

Thursday, June 2, 2005

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Chair

Mr. Paul Steckle

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• (1515)

[English]

The Chair (Mr. Paul Steckle (Huron—Bruce, Lib.)): Ladies and gentlemen, again we want to proceed with getting through Bill C-27. We have a lot of clauses to go, yet we've done reasonably well. If I don't look back and see what we've stood, we've done reasonably well, but we have to go back and review some of those other matters as we go on.

I think for the sake of getting through some of this preliminary work, we'll continue where we left off yesterday. We'll begin at clause 80 today and work our way through some of these clauses. These are unamended clauses for the most part, so if we can get those off the table today, it will go a long way towards getting us to our conclusion.

Therefore, we have clause 80 on the table at the moment, and it has no amendments. Any comments?

Mr. Anderson, you can't have any questions, you just walked in. You haven't had enough time to come up with a question.

Mr. Ritz

Mr. Gerry Ritz (Battlefords—Lloydminster, CPC): Why?

The Chair: Mr. Miller could have a question, but you haven't got a question.

Mr. David Anderson (Cypress Hills—Grasslands, CPC): The problem is there are questions but no answers.

Mr. Chair, I'd like to ask a couple of questions—it may surprise you, but I do have a couple.

The Chair: I am surprised.

Mr. David Anderson: As I went through most of this, I noticed we're taking out words like “penalty” and “tribunal” and “violation”. I'm just wondering, what is that changing? Why is the “tribunal” definition being taken out of every act?

The Chair: I'll refer that to the witnesses.

Mr. David Anderson: As we go through the next 40, or whatever it is, we're going to see in many places that the definition of “tribunal” and “penalty” is being removed, and I'm just wondering why this is being done. I can understand you may be changing things like “analyst”, “inspector”, and “minister”, but what is it changing in terms of the powers of the tribunal and what that does?

The Chair: Ms. Dudley.

Ms. Jane Dudley (Legal Counsel, Canadian Food Inspection Agency): Mr. Chair, the reason it's coming out of the individual

provisions is because it's being picked up in the enforcement bill, in Bill C-27. It's no longer necessary in the other bills, because it's being picked up.

Mr. David Anderson: It's being picked up. Is it just the one section? I think it's only mentioned once in our act now. Would that be at the beginning of section 55, or is it mentioned in other places?

Ms. Jane Dudley: No, it's only in the one section where we talk about the function of the review tribunal for AMPs purposes. Is that section 55?

Mr. David Anderson: I think so. That's seizure only, is that correct?

Ms. Jane Dudley: Oh, I'm sorry, I'm mistaken. “Tribunal” and “violation” continue to be defined by the AMPs act and the Canada Agricultural Products Act. Where the term appears in these other acts, it's no longer needed because it's not used anywhere in those acts. Once we've amended the other acts, the word won't appear, so the definitions aren't necessary, but where they're needed they continue to exist.

Mr. David Anderson: Okay.

Previously, then, when they were in the acts, I presume they were needed because there had to be some kind of an appeal process. This does not affect that in any of these areas?

The Chair: They would be stand-alone acts in their own right, whereas now they're covered by the broader....

Ms. Jane Dudley: It's in the Agriculture and Agri-Food Administrative Monetary Penalties Act. The AMPs act applies to the acts that are scheduled in the regulations, which is most CFIA acts.

Mr. David Anderson: I think maybe it's important that we take some time to understand, then, how does someone go about dealing with the review tribunal when it's found in a separate act and this is dealing with the CFIA?

Mr. Mark McCombs (Head and General Counsel, Legal Services, Canadian Food Inspection Agency): The review tribunal act is an overriding act; it's a procedural act. The review tribunal is established under the CAP Act. The administrative monetary penalties act establishes for all agri-food statutes, which are ones that originated from the original parent department, the Department of Agriculture. It's an overriding piece that establishes a separate procedure for ticketing, in effect. Within the AMPs act, there's a self-contained procedure for review. There's a ministerial review followed by a tribunal review, and then there's an option for an oral hearing process directly to the tribunal, when you wish to contest any of the tickets that are issued by the CFIA or PMRA.

•(1520)

Mr. David Anderson: Okay. The question would then arise on why you would bring it into section 55 if it's part of an entirely different act.

Ms. Jane Dudley: It has nothing to do with seizure or it doesn't cover only seizure. It's the language that's used. The review tribunal is seized of an application, which means it has authority over the application. It's not a question of seizure of a product.

Mr. David Anderson: My question is this. If it's a stand-alone separate act, why is it brought in here? Why are you talking about it? Are you saying that this act is under the Canada Agricultural Products Act? What's the point of section 55?

Ms. Jane Dudley: The review tribunal is under the CAP Act now. It previously existed under an earlier act but continued under the Canada Agricultural Products Act. It is there in respect to contraventions of agrifood acts. If you can contravene an agrifood act, you might have access to the review tribunal should you so choose.

The agrifood act is defined to include the individual acts, the Canada Agricultural Products Act, the Feeds Act, the Fertilizers Act, Health of Animals Act, Meat Inspection Act, Plant Protection Act, and the Seeds Act. Any violations of those acts could give you access to the review tribunal under the appropriate circumstances.

Mr. David Anderson: Are all those acts under the purview of the CFIA?

Ms. Jane Dudley: Yes.

Mr. David Anderson: Okay. I have another question on the tribunal, because in different places it basically talks about them having the power of conviction. I don't know if it goes quite that far, but I was under the impression that it was an appeal process and they would decide whether the convictions would stand or be removed.

Subsection 21(1) is one example, as well as section 17. It shows up in a number of places, but that was one of the places. It is a replacement where it's taking out clause 108. I would like to hear again what powers the tribunal has now and what it will have afterwards.

Subsection 17(1) says: "Where the Tribunal decides that a person has committed a violation...". Above that section, it talks about the power of the tribunal to basically impose whatever conditions it wants to impose. It sounds to me like it's more than just an appeal body.

Mr. Mark McCombs: There are no changes to the powers of the tribunal vis-à-vis this bill, to my knowledge.

Mr. David Anderson: That's what I suspected, but these powers seem to go beyond what I thought the tribunal had.

Mr. Mark McCombs: As I said yesterday, the tribunal is considered to be a court of record in an administrative tribunal. It's quasi-judicial, the highest form of the tribunal, and it has the full range of powers of the highest tribunals. It makes decisions with respect to administrative monetary penalties.

Its power is limited to reviewing the facts of a violation and deciding whether the violation was appropriately issued or not. It doesn't determine the level of the fine. All it can decide is whether

the ticket was appropriately issued and whether the individual violated the statute. That's it.

Mr. David Anderson: Actually, in terms of orders being returned, it says "...the Tribunal or court may order it to be returned to the applicant, subject to any condition the Tribunal or court may impose". That sounds to me like more than just an—

Mr. Mark McCombs: That's with respect to the goods that are seized pursuant to the CFIA section. If the CFIA seizes a good.... I'll back up.

The procedure for the Agriculture and Agri-Food Administrative Monetary Penalties Act is as follows. An individual is stopped with a load of turnips, for example, along the highway. It is determined that the tarp on his truck is not correct. He is stopped and the tarp is looked at. At that point, whether the tarp is on or off can either be considered for an administrative monetary penalty for a violation or it can take the other route, which would be prosecution under the act.

The inspector then takes it back to CFIA. The CFIA has an administrative procedure internal to the organization, where it decides whether to go along the prosecution route or whether to issue a ticket.

If it issues a ticket, the Agriculture and Agri-Food Administrative Monetary Penalties Act is engaged and the procedure is for the individual to be issued a ticket. The individual will have the opportunity to pay the fine, with a saving of 50% on the fine within so many days. The individual then can appeal to the minister or to the tribunal. Whatever product or article was seized at the time would follow that process.

•(1525)

Mr. David Anderson: What is the average cost to a person for an appeal to the minister or for a tribunal?

Ms. Kristine Stolarik (Executive Director, Liaison, Preparedness and Policy Coordination, Canadian Food Inspection Agency): It varies according to the severity.

Mr. Mark McCombs: In terms of...?

Mr. David Anderson: Their financial cost.

Mr. Mark McCombs: An individual who appeals a penalty on a ministerial review would pay the cost of a postage stamp on a piece of paper, because it's a very informal process. It requires the individual to contest by providing information with respect to the violation that the individual didn't commit the violation. That's reviewed by a delegate from the minister and then can be reviewed by the tribunal. The tribunal does those reviews, but on a paper basis. If the individual decides he wants an oral hearing, that process will cost more money for the individual, if he decides to engage a lawyer. As I understand it, most of those hearings are held by the individual, and they don't bring counsel. They do it on their own, so the costs would be the cost of transport to the tribunal and their time off from wherever they are.

Mr. David Anderson: You're saying the average cost of appealing to the tribunal is probably in the hundreds of dollars, not in the tens of thousands.

Mr. Mark McCombs: Oh, for sure. Easily.

The Chair: Can we move forward?

I know I've allowed some of the discussions and we have some clarification going into some of these clauses. I think that was the reason for our having to do this.

(Clauses 80 to 82 inclusive agreed to on division)

(On clause 83)

Mr. David Anderson: Mr. Chair, I'd like to ask some questions on clause 83, please.

If we flip over to what it's replacing, do the powers reside with the president after the bill is passed here as well?

The second question is in terms of inspectors. Are they still required...or are they still given certificates that they have to produce if they enter any building?

Mr. Mark McCombs: That doesn't affect any of the amendments the committee made earlier. This is repealing those sections because the designation of inspectors for this particular act is covered by subsection 13(3) of the CFIA Act, and proposed new subsection 13(4) is added to the act requiring the veterinary inspectors be given the certificate, which is the certificate the committee has decided should be appropriately shown to all and sundry.

Mr. David Anderson: Okay. And then when we move over to subsection 9(2) on page 9a, it talks about "any article seized...shall not be detained after the provisions of this Act...and the expiration of six months after the day of the seizure". Is that time period still in place?

Mr. Mark McCombs: It's in clause 35 of the bill.

Mr. David Anderson: And is it still in place?

Mr. Mark McCombs: I'd have to go back and see whether the committee amended clause 35.

Mr. Gerry Ritz: I have a question too, Mr. Chair.

The Chair: Yes.

Mr. Gerry Ritz: At the end of that same section in clause 83, in what's required under paragraph 7(1)(d), there is mention that documents containing mixing instructions could be taken. Should that be a cause for our concern, that it would be shared with? I mean, there's quite a bit of angst out there that your recipes and so on—

Hon. Wayne Easter (Parliamentary Secretary to the Minister of Agriculture and Agri-Food (Rural Development)): Let's answer the first question before we get to the next one.

Mr. Gerry Ritz: Oh, I'm sorry, I thought—

The Chair: No, we're not finished with it.

Hon. Wayne Easter: No, but they were looking up information.

Mr. Mark McCombs: Well, we were asked to see whether clause 35 was amended.

Mr. David Anderson: Actually, it says 180 days or any longer period that's prescribed, so it's the powers of the agents that are being extended there, I take it. It's on page 19, in paragraph 35(1)(b).

Mr. Mark McCombs: It's 180 days in clause 35, I believe.

Mr. David Anderson: Or any longer period that's prescribed.

Mr. Mark McCombs: And any—

Mr. David Anderson: Later we talk about the powers of prescription, which are basically unlimited here.

Mr. Mark McCombs: Well, the prescribed process will be through a regulation process that will require the gazetting and consultation, and interested parties can indicate their being in favour or not of the regulation.

• (1530)

The Chair: Okay.

Mr. Ritz, do you have a point? No longer? Okay.

(Clause 83 as amended agreed to on division)

(Clauses 84 and 85 agreed to on division)

(On clause 86)

Mr. James Bezan (Selkirk—Interlake, CPC): I have a question, Mr. Chair, on clause 86. When we are changing all these definitions in these other acts, how does it affect the regulations that are underneath those acts?

Mr. Mark McCombs: The bill is continuing the regulations.

Ms. Kristine Stolarik: There's a provision in the bill to continue the regulations until they're amended.

Mr. Mark McCombs: I believe we passed that yesterday.

Mr. James Bezan: Okay. I wasn't here yesterday.

(Clauses 86 to 90 inclusive agreed to on division)

(On clause 91)

The Chair: Mr. Anderson, a question on clause 91?

Mr. David Anderson: Mr. Chair, I would like to move that we retain the section that's presently in the Fish Inspection Act. Clause 91 begins to add these prescriptions; you can see that "fish" means any fish, and you can see the added part, "anything prescribed as a fish" and "anything prescribed as a marine plant". I don't think we need to go there. We either have a fish or we don't, and we don't need regulations going beyond that.

I'm just wondering who prescribes these. You said that the process is going through the *Canada Gazette* and so on, but who makes the decision about prescription?

Mr. Mark McCombs: For the Fish Inspection Act?

Mr. David Anderson: Sure, for either fish or marine plants.

Mr. Mark McCombs: It's a Governor-in-Council regulation going through the gazetting process, consultation, etc.

Mr. David Anderson: I guess I'm not all that comfortable with that.

We just had an example of COSEWIC trying to recommend that prairie bison be placed on the list of endangered species, but fortunately the minister listened to the producers. There are 230,000 bison. COSEWIC basically wanted to prescribe that these bison be considered an endangered species.

So I have some concern about adding these prescriptions beyond the definition of what things actually are.

The Chair: Mr. Easter.

Hon. Wayne Easter: Mr. Chair, what we're talking about is a regulatory body in terms of safe food. Fish and other products related to fish are food. I don't think you can use the example of the Species at Risk Act and compare it with this act. What we're talking about here is giving the CFIA the abilities to do their job in changing circumstances.

I would strongly argue against Mr. Anderson's point.

Mr. Gerry Ritz: Mr. Chair, could the witnesses give me an example of something that would be prescribed as a fish? What would that cover?

Mr. Mark McCombs: I'd have to go back to the fish scientists. Honestly, off the top of my head, I can't give you an example.

Mr. Gerry Ritz: So it's pretty open-ended?

Mr. Mark McCombs: Well, let's say that we discover a new species and it turned out that the species was marketable. This regulation would allow the species to be prescribed as a fish, and then it could be marketed. Otherwise, it wouldn't be regulated, meaning there would be no effective way to do certification.

Mr. Gerry Ritz: Only in Canada; it doesn't mean anybody else in the world is doing this.

Mr. Mark McCombs: Well, in Canada we have discovered other species.

Mr. David Anderson: Mr. Chair, that's not entirely accurate, because the clause already says "any fish, including shellfish and crustaceans, and marine animals, any parts, products or by-products" thereof. Why do we need to go beyond that? It's the same with marine plants, where it lists "moss, kelp and other salt water plants, any products or by-products" thereof.

If you want to extend it to some other things, define them, but to say we'll let you prescribe anything you want to be a fish or a marine plant is going too far.

• (1535)

Mr. Mark McCombs: It was done to be consistent with the other legislation. If the committee decides that they're willing to cut back on what could be considered a fish, for the purpose of marketing, that would be the committee's decision, obviously. But it would exclude something like seal oil from consideration.

Mr. David Anderson: Is a seal a marine animal?

Mr. Mark McCombs: Yes.

Mr. David Anderson: Well, then it's covered.

Hon. Wayne Easter: Not the oil.

Mr. David Anderson: It is. If the present one says "marine animals", it includes it.

Mr. Gerry Ritz: It says "marine animals...or by-products" thereof, so it's in.

Mr. David Anderson: It already includes that.

Mr. Gerry Ritz: Unless you're going to develop tofu fish or something.

Mr. James Bezan: That's exactly what I was thinking.

The Chair: I'm prepared to listen to any arguments that could be a problem down the road. But are we splitting hairs here? Are we doing something here that is of no consequence? I don't know. Why is it such a concern?

Ms. Stolarik, maybe you want to comment.

Ms. Kristine Stolarik: I'm not a fish expert either, but I would like to have the opportunity to go back to the fish experts at the CFIA and see if they have some examples of Mr. Anderson's question, of anything else besides what's in the definition. Perhaps they could tell us why it was required.

The Chair: If this is a problem, let's stand it for today and have some explanation on this.

Ms. Kristine Stolarik: Yes, we'll get some explanation on that one.

The Chair: I'll take Mr. Angus' comments. Perhaps he has something that can help us here.

Mr. Charlie Angus (Timmins—James Bay, NDP): I haven't been able to find in the discussion what excessive powers this phrase "any fish" would give, how it would hurt anybody. To me it's just a clean-up, catch-all expression. I haven't seen anything here that would tell me this is a problem. It's going to take us forever. We haven't heard an argument yet. If there is an argument, I'm more than willing to listen to it, but I haven't heard anything.

Mr. Gerry Ritz: If someone develops a commercial strain of X, and CFIA will not designate it as a fish, and he wants to market it as that, then you have the reverse problem. Or, if they designate it as a fish and he wants to sell it as something else that doesn't fit the marketplace, then there's a concern. You're putting a round peg in a square hole.

Mr. Mark McCombs: No, say somebody discovers something that is considered in Europe to be a fish, but that our 1943 legislation doesn't consider a fish. Remember the Fish Inspection Act has to tie in with the Fisheries Act, which is an old statute. There were things from that act that were outside.

So for consistency, to prepare for the future, we put this provision in the other acts to cover things that didn't fit. Remember, the definition will be whatever the lawyers giving you legal advice decide it is.

Mr. Gerry Ritz: That's the concerning part.

Mr. Mark McCombs: That's why it's in there: to make sure that future Canadians are not disadvantaged by old legislation.

The Chair: Mr. Thibault, do you have something to say?

Hon. Robert Thibault (West Nova, Lib.): Not really.

The Chair: I'm prepared to stand the clause, unless Mr. Anderson wants us to proceed.

(Clause 91 allowed to stand)

(On clause 92)

The Chair: Any comment on clause 92?

Mr. David Anderson: Is this an extension of the Governor in Council's powers? This comes back to the concern that many of us have had about lack of oversight on the agency. It seems that between the minister and the Governor in Council there is not any accountability, because they can basically do what they choose to do.

The Chair: Any comments from our witnesses?

Mr. Easter.

Hon. Wayne Easter: I am amazed that the point of accountability is continually raised. We're looking at the advisory board, the review board, the secondary inspection, which has already been put in. You have the president and all the operating procedures. You have the oversight of the minister, the standing committee on agriculture, and the department of health. There seems to be a fair bit of accountability. You also have the administrative penalties, which operate for concerns that people have. So there is a fair bit of accountability here, and we're trying to put more in.

• (1540)

The Chair: Mr. Angus.

Mr. Charlie Angus: I would ask for an explanation of "by regulation prescribe anything that is to be prescribed by this Act and make regulations". You talk about "by regulation prescribe anything that is to be prescribed by this Act and make regulations". Could you explain why that wording is the way it is?

Mr. Mark McCombs: In the act, the word "prescribed" appears and it doesn't tell you how to prescribe anything. The standard legal view from the Department of Justice is that where the word "prescribed" is used in legislation it requires a regulation. But it wouldn't be listed in this as a regulation. All this was doing was changing "The Governor in Council may, for the purpose of regulating the exportation and importation of fish and containers, make regulations" to "by regulation prescribe anything that is to be prescribed."

It is a simple cleanup or housekeeping amendment, that's all.

Mr. Charlie Angus: Okay, so it's to prescribe anything that is to be prescribed. Would that be standard language? Is it used in other bills?

Mr. Mark McCombs: Yes, it's standard language. You'll see it often in the last clause, a basket clause at the end of a regulation-making provision. It's standard drafting language. All it does is to clean it up.

Mr. David Anderson: Mr. Chair, it's a huge extension of the powers that have previously been in this act. If you take a look at the section it's coming out of, the two things being removed are "prescribing the manner in which samples of any fish may be taken" and "establishing requirements governing the seizure and detention...". They're coming back with regulations prescribing anything. So we need to be aware that this is a vast expansion of the powers there.

Secondly, to respond to Wayne's statement about accountability, if there were no questions around accountability, none of our witnesses who came—or virtually none of them—would have talked about it. We haven't changed anything structurally yet, Wayne, that would bring that in.

The Chair: Mr. McCombs.

Mr. Mark McCombs: Just to clarify the last point, when we're talking about the repeal of paragraphs 3(i) and 3(k), those are already being picked up by paragraph 25(1)(i) of the bill and by paragraph 56(x). So subclauses 92(2) and 92(3) are being picked up by the bill itself. Therefore, they're no longer required.

Mr. David Anderson: This includes them anyway.

Mr. Mark McCombs: Well, if—

Mr. David Anderson: It includes anything to do with exportation or importation of fish.

Mr. Mark McCombs: Yes, but they won't be necessary any more because they're now being picked up by Bill C-27. Subsections (2) and (3) are being repealed because the bill picks them up, so they become redundant.

The Chair: Okay.

(Clauses 92 and 93 agreed to on division)

(On clause 94)

The Chair: Yes, Mr. Anderson, on clause 94.

Mr. David Anderson: I have a question.

In section 8 of the existing text that has been taken out it states that anyone arrested shall not be detained longer than 24 hours without an order of the justice of the peace. Is that included in the new legislation?

Mr. Mark McCombs: There's no arrest power in the proposed CFIA Enforcement Act.

Mr. David Anderson: There was in the Fish Inspection Act. Was there an arrest power in any other acts, then, in the past?

Ms. Kristine Stolarik: Only in the Fish Inspection Act.

Mr. Mark McCombs: Fish Inspection is the only one being repealed.

Ms. Kristine Stolarik: They have peace officer powers.

Mr. David Anderson: So where are you leaving the arrest power, then, with the peace officers?

Mr. Mark McCombs: The only arrest power in all of the CFIA legislation, I believe, is in the Health of Animals Act.

Mr. David Anderson: What were the reasons for taking it out of this, then?

Mr. Mark McCombs: For policy purposes, there's no reason, in our view, to have an arrest power for fish inspectors.

The Chair: Okay.

Yes, Mr. Angus.

Mr. Charlie Angus: Mr. Chair, I wanted clarification on that last statement. Fish inspectors, would that mean fish inspectors like those on the Grand Banks? Would it be local fish inspectors or fisheries officers?

Mr. Mark McCombs: They're designated by the Minister of Fisheries. They are peace officers, and they are trained in different—

Mr. Charlie Angus: Okay. That's what I wanted to know.

• (1545)

Ms. Kristine Stolarik: This would refer to our fish inspectors in the plants.

(Clause 94 agreed to on division)

(Clauses 95 and 96 agreed to on division)

(On clause 97)

The Chair: Mr. Anderson, on clause 97.

Mr. David Anderson: I have a question. I'm just wondering, are the certificates being replaced by licences, or is a certification to be established there as well?

Mr. Mark McCombs: This is the same system we've spoken about all along. It's just taking it out of this act.

Mr. David Anderson: Okay.

Mr. Mark McCombs: This is section 17 on the designation of inspectors by the president. It's no longer required because it's covered in subsection 13(3) of the CFIA Act with the addition of subsection 13(4), with the amendment the committee has made with respect to showing certificates.

Mr. David Anderson: So it's the same as we crossed in whatever it was earlier today. Okay.

The Chair: Okay.

(Clauses 97 to 99 inclusive agreed to on division)

(On clause 100)

Mr. Gerry Ritz: Mr. Chair, can we just back up a bit? On the Health of Animals Act, we've got another bill that was just tabled by the justice minister. Is there going to be any overlap in that new legislation on cruelty to animals?

Mr. Mark McCombs: It is separate legislation.

Mr. Gerry Ritz: Okay, so there's no overlap coming in under the CFIA on that.

Mr. Mark McCombs: It's a different regulatory authority.

Mr. Gerry Ritz: Good.

(Clauses 100 and 101 agreed to on division)

(On clause 102)

The Chair: Mr. Anderson, clause 102.

Mr. David Anderson: Paragraph 45(1)(b) talks about animals or things seized that can only be held for "the expiration of one hundred and eighty days after the day of seizure". Is that in the new legislation as well? Do you know?

Mr. Mark McCombs: Clause 35 of the bill provides for detention. We just spoke about that.

Mr. David Anderson: Are the same time periods involved? Is there an obligation to return it?

Mr. Mark McCombs: Paragraph 35(1)(b) has 180 days, if I recall.

Mr. David Anderson: Where it says "or any longer period that is prescribed", does that fit with the animals as well?

It's the same. I think we talked about it before. It's 180 days.

The Chair: Is that cleared up? Okay.

(Clauses 102 to 107 inclusive agreed to on division)

Mr. Gerry Ritz: You're going too fast for me.

The Chair: We're doing well.

Mr. James Bezan: This isn't an auction sale.

Mr. Gerry Ritz: Somebody's going to holler bingo if you're not careful.

The Chair: I have to catch you when you're sleeping.

Mr. Angus, you have a question.

Mr. Charlie Angus: Do you speed up when you finally get out of a bottleneck in cards just to make up for lost time? I'd like to know.

On the definition of tribunal under the Meat Inspection Act, we've been covering this, but I just want to know how it's defined there, if it's being repealed.

Mr. Mark McCombs: Tribunal means "the Review Tribunal continued by subsection 4.1(1) of the Canada Agricultural Products Act".

Mr. Charlie Angus: So you're repealing that.

Mr. Mark McCombs: Just the definition.

The Chair: Does that solve your question?

Mr. Charlie Angus: I'm a happy man.

(Clauses 108 to 110 inclusive agreed to on division)

(On clause 111)

The Chair: Mr. Miller, on clause 111.

•(1550)

Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC): I just had a check mark there and I was wondering what it was for. It's okay.

(Clause 111 agreed to)

(On clause 112)

Mr. Larry Miller: On clause 112, on the inspector, we had much the same thing under clause 99. Could you just explain it? It seems to be the very same wording.

Mr. Mark McCombs: It's a different act. All of these are repetitive because we're doing ten, or whatever.

(Clause 112 agreed to on division)

(On clause 113)

The Chair: Mr. Anderson, clause 113.

Mr. David Anderson: I have a question. I'm wondering what the provisions of section 32 are in the existing text. The text that's going to be replaced refers to "notwithstanding section 32". The new text says "under this section". I'm just wondering what section we are in. Will I have to go to the Plant Protection Act to find out?

Mr. Mark McCombs: I believe—

Mr. David Anderson: It says "seizure and"....

Ms. Kristine Stolarik: Yes, this one here.

Mr. Mark McCombs: Section 32 is repealed.

Mr. David Anderson: Repeal of...? I think you need section 32 of the Plant Protection Act. Is that right? That's the act you're amending. You said it's repealed.

Mr. Mark McCombs: Yes.

Mr. David Anderson: A repeal of what?

Mr. Mark McCombs: Excuse me...?

Ms. Jane Dudley: It's an inspector's power.

Mr. Mark McCombs: It's being repealed.

Mr. David Anderson: It's being replaced by this. I'm wondering what the section is about.

Mr. Mark McCombs: Section 32 from the Plant Protection Act deals with detention.

Mr. David Anderson: I see, and seizure.

Mr. Mark McCombs: It's about a page long. It deals with detention, how you would get a return from detention, and the order of the tribunal or court.

Mr. David Anderson: This is basically just fitting that in; if they don't remove it, then—

Mr. Mark McCombs: It's forfeited.

Mr. David Anderson: —it's forfeited. All right. Thank you.

The Chair: Mr. Miller.

Mr. Larry Miller: Yes, on that same one, on proposed subsection (3), where it says “If a thing is not removed from Canada as required”, I presume this is under something that would be imported or coming into the country. It would be—

Mr. Mark McCombs: A thing?

Mr. Larry Miller: Yes.

Mr. Mark McCombs: A thing from the Plant Protection Act includes a plant or a pest. So essentially, it's a plant or a pest.

Mr. Larry Miller: Yes. It's forfeited to Her Majesty, what have you, but my question here is about the disposal costs. Would they be added, or could they be added to any fine that the company or individual who was trying to bring it in or who was the owner of it would have to pay? Would that be added to the fine or penalty?

Mr. Mark McCombs: Section 44 of the Plant Protection Act allows Her Majesty to recover from any person any “prescribed fees or charges and any costs incurred by Her Majesty in relation to anything required or authorized under this Act”. So, yes. That's the current provision under the Plant Protection Act.

Mr. Larry Miller: All right.

(Clauses 113 to 117 inclusive agreed to on division)

(On clause 118)

The Chair: Mr. Angus, on clause 118.

Mr. Charlie Angus: Mr. Chair—

The Chair: I just did that one, did I?

Hon. Wayne Easter: No, you didn't do clause 118.

The Chair: Mr. Angus.

Mr. Charlie Angus: For this one, again it goes back to the question of making sure that somewhere in the bill we have the language ensuring that a person who's innocent is not liable for every single cost thrown upon them by the CFIA.

•(1555)

Mr. Mark McCombs: We're at section 37?

Hon. Wayne Easter: I think on that point—

Mr. Mark McCombs: What clause are we at?

Mr. Charlie Angus: Proposed subsection 44(1). We're at clause 118, aren't we?

The Chair: I'm sorry, clause 118. Yes, you're right.

Hon. Wayne Easter: I think on that point we were looking at a couple of options to deal with that. I think you have those.

Mr. Charlie Angus: I didn't want to flag that. I'm willing to support this part, this placement, but we have to still—

The Chair: We have a lot of work to go back on.

Mr. Charlie Angus: Yes.

The Chair: Are you okay with that?

Mr. Charlie Angus: Yes.

The Chair: All right.

Yes, Mr. Anderson.

Mr. David Anderson: I have a question—that is, I need a clarification. I didn't hear something. What did you say, Wayne?

Hon. Wayne Easter: We agreed yesterday we would look at trying to come up with a clause that would accommodate what Charlie said.

Mr. David Anderson: That would protect people who were innocent. All right.

Mr. Mark McCombs: Perhaps I can also clarify what the change is. It removes inspection, seizure, and detention as they relate to the recovery of costs. They're now found in section 44, which is what we've been discussing, as Mr. Easter mentioned. Those fees and charges are in a separate section.

Mr. David Anderson: I have a question, though. If we make this change, which is to the Plant Protection Act, and then we come back and say in Bill C-27 that we're going to protect innocent people, are we going to have some way of amending this after the fact, or is it going to be standing in a separate bill that the government has the power to recover?

The Chair: Ms. Stolarik.

Ms. Kristine Stolarik: It will be in the enforcement act if we make that amendment, as it relates to all agency acts, the Plant Protection Act being one of them.

Mr. David Anderson: So even though this may contradict what we have in Bill C-27—

Ms. Kristine Stolarik: It will be repealed from here and the new power will be Bill C-27.

Mr. Mark McCombs: No.

Ms. Kristine Stolarik: No? Then you do it.

Mr. Mark McCombs: No, this only takes out the inspection, seizure, and detention pieces. Proposed section 44 is the one you see in front of you, as clause 118, and it does not now refer to inspection, seizure, and detention as related to recovery costs, which is what the committee has indicated concern about.

Mr. David Anderson: If we pass it, it also does not give any...

Hon. Wayne Easter: It doesn't undermine what we're trying to do.

Mr. David Anderson: No, I think it does undermine, because it doesn't give any exception to people who are innocent. I guess what I'm suggesting is that perhaps we should stand this, come back after we've dealt with what Wayne is proposing, and then fit this into that.

The Chair: Okay.

Do you want to stand it? You're agreed...?

Mr. Larry Miller: I have a question.

The Chair: Yes, Mr. Miller—unless you want to wait until later, when we come back to it.

Mr. Larry Miller: The reason I think I probably could ask it now... If it's relevant, they could come back to it, but I'm not sure it is relevant.

The Chair: Okay.

Mr. Larry Miller: We've talked about recovering costs for quarantine, storage, that type of thing, if a person is found guilty. In the event that a product—let's go back to the load of carrots that Mark talked about the other day, just for lack of anything else—was perhaps not fit for food but might be declared safe for, say, animal food, and the CFIA was able to recover costs, is that a possibility, through this?

Mr. Mark McCombs: If something came in as a food and it was able to be recycled as, say, pet food—

Mr. Larry Miller: Partially, with some of its value recovered through animal feed. Is that possible? And if it is, would the CFIA use whatever value was received out of that—

Mr. Mark McCombs: It's happened in the past that grain, for example, has come in and been unfit for human consumption. However, if they restored it, for lack of a better term, it would be fit for animal feed. In those circumstances, the agency would give the option to the importer to say, okay, we're not prepared to certify this as human food; however, here are your options: you could send it through to be cleaned and restored, or you could send it through for animal feed. That would be the option given to the importer, who could then make a decision as to whether they want to remove it from Canada or put it through a reconditioning process, which would allow them to sell it.

Those are the options the agency gives them.

The Chair: Mr. Eyking.

Hon. Mark Eyking (Sydney—Victoria, Lib.): Thanks, Mr. Chair.

I know a situation where a guy shipped a load of potatoes to Newfoundland, somebody did an inspection, and the potatoes didn't pass the grade; they were detained. The grower figured, well, instead of hauling them all the way back and regrading them, and having to transport them, it would be a good idea to give them to the food

bank. But in that instance, the CFIA wouldn't give him the release to take that product to the food bank.

Is there any way in which, to be reasonable, they can release that product?

• (1600)

Mr. Mark McCombs: It depends on the process. Each of the acts has a different process with respect to disposition, and each province regulates what can be given to food banks.

For example, in Ontario there is a statute that permits food to be given to food banks and alleviates from liability anybody who does. So if you have a big party and you decide to give away all of your banquet leftovers to the food bank, and people get sick as a result, the Ontario government has decided, in their legislation, that you're not liable.

To answer your question more directly, you would have to put in here the provision to allow you to dispose of it to a food bank, a charity, or what have you. And each of the operational acts would have to be amended to be the same. Some of the acts allow more latitude; others don't.

Ms. Kristine Stolarik: Another example would be the amnesty bins we have. A lot of times, when people go shopping in the States, they find two-for-one turkey sales around usually Thanksgiving or Christmas. When they come across the border and realize that they have to pay a 190% tariff or whatever, they'll leave one turkey behind in the turkey bin. We're always accused of not donating those turkeys to the food banks. However, because of the food safety aspect, we can't do it. We don't know how long those turkeys have been sitting in the bins, and there could be issues of salmonella or listeria.

That's just another flip side of the coin.

The Chair: Mr. Angus.

Mr. Charlie Angus: The example I would provide was one that actually happened in New York City, when I was working at an inner-city soup kitchen. The entire south side of New York smelled of brie cheese, because a huge shipment had come in from France. I mean, you're talking one-tonne slabs of brie. The brie did not have proper labelling and it did not have proper authority to enter the port of New York, so it was seized. They basically gave it out to the homeless. I'll tell you, on a hot August day, there's nothing worse than the smell of brie everywhere you go. I mean, these were big slabs.

Is that something the CFIA does? Or would you just destroy it?

Mr. Mark McCombs: If I recall, and I have to go back, some of the statutes allow for disposition to charity, but I'd have to go back.

The Chair: Okay?

Mr. Charlie Angus: Okay.

Mr. Mark McCombs: The Fish Inspection Act.

Ms. Jane Dudley: Who disposes, the minister?

The Chair: I'm going to have this clause stood, according to direction a couple of moments ago. We'll come back to it.

(Clause 118 allowed to stand)

(On clause 119)

Mr. Gerry Ritz: Clause 119 would speak to Larry's point on things that have been forfeited or confiscated under the act. Are we going to put in the act, or does the CFIA, just in good conscience, give the producer the option you talked about, Mark, or is it actually in the act that it can be downgraded and disposed of as animal feed as opposed to...?

Mr. Mark McCombs: My understanding and my experience is that if producers come up with another option for a product, the agency will accommodate them as long as they don't violate another statute.

Mr. Gerry Ritz: But the producer does it of his own volition; you don't make that offer.

Mr. Mark McCombs: Often it depends on the relationship between the inspector and how creative the producer can be vis-à-vis the inspector.

Mr. Gerry Ritz: How quick they are. Okay.

The Chair: Okay.

(Clause 119 agreed to on division)

(On clause 120)

The Chair: Mr. Anderson, on clause 120.

Mr. David Anderson: I just have a question on that, and that is, what is the completion of the sentence? What is the context and what are they guilty of?

Ms. Jane Dudley: All this has done is remove the reference to section 30, because that's been—

Mr. David Anderson: Yes, I'm just wondering, what's the context of that section of legislation?

Mr. Mark McCombs: Section 49: Every person who fails to comply with a notice communicated to the person under section 6, 8, 24, 30 or 36...is guilty of
(a) an offence punishable on summary conviction and liable to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding six months, or to both; or...

Paragraph 49(b) is an indictable provision.

Mr. David Anderson: When you read it, I assumed you skipped over “the regulations”, because I think that's in both the parts we're taking out and the part that's being put in.

•(1605)

Mr. Mark McCombs: That's the completion of—

Mr. David Anderson: That was in there before.

Mr. Mark McCombs: No, the regulations are now dealt with by a separate provision in the bill.

Mr. David Anderson: So should that be...?

Mr. Mark McCombs: You recall we had the discussion the other day about violations of the regulations and penalties.

Mr. David Anderson: Then I'm asking, I guess, why “or the regulations” is being put in here, then.

Mr. Mark McCombs: Because regulations are now being dealt with in the bill.

Mr. David Anderson: I'm not arguing, I'm just asking, for once.

Hon. Wayne Easter: We should mark it on the wall.

Mr. Larry Miller: The wall would fall down.

Mr. Mark McCombs: Did I miss a piece of phrase, perhaps? Maybe I went too fast: Every person who fails to comply with a notice communicated to the person under section 6, 8, 24, 30 or 36 or the regulations is guilty of...

Mr. David Anderson: Okay. That's what's here. That's what's going in.

Mr. Mark McCombs: So I must have missed it.

Mr. David Anderson: Your point about the regulations being dealt with elsewhere is—

Mr. Gerry Ritz: There's no section 30.

Ms. Kristine Stolarik: No, there are still regulations under the Plant Protection Act.

Mr. David Anderson: Okay, so that's why this needs to stay here, then?

Ms. Kristine Stolarik: Yes.

The Chair: You mentioned section 30. I don't have section 30 in mine.

Mr. Mark McCombs: It's in section 30 of—

The Chair: Okay, sorry.

Mr. Mark McCombs: The only change in there is we take out section 30.

The Chair: Okay, we have clause 120.

(Clauses 120 to 127 inclusive agreed to on division)

(On clause 128)

The Chair: Clause 128, and we move to an amendment, G-15. Does anyone know what page that's on? Page 82.

Hon. Wayne Easter: No, that's the one I have.

The Chair: This is a government amendment. Would you move that, Mr. Easter, please?

Hon. Wayne Easter: I will do.

The Chair: It's in the book on page 82.

Hon. Wayne Easter: I'll just wait till people get it.

Do you have it?

It's fairly lengthy, Mr. Chair. I'm assuming—

Mr. Larry Miller: You weren't writing a book, were you?

Hon. Wayne Easter: It's good bedtime reading.

I'll just give the rationale, unless you want me to read it, Mr. Chair.

The Chair: No, give us the short—

Hon. Wayne Easter: Everyone's read it, three times for a week.

The Chair: We'll likely have a long version before we're finished.

Hon. Wayne Easter: It's basically a coordinating amendment that provides the precedent of the Canadian Border Services Agency with the authority to designate the Canadian Border Services Agency officers as inspectors or veterinarian inspectors for the purposes of enforcing this legislation at airports, marine ports, and other Canadian border points other than import service centres.

It also addresses the situation of whether the Canadian Border Services Agency Act, which is Bill C-27, comes into force first.

It's a long amendment, but it's pretty simple.

The Chair: Can you give us a consoling explanation?

Ms. Kristine Stolarik: It's not consoling, but I just want to remind committee members that in December 2003 there was a decision that was taken to transfer 95 of our CFIA inspectors over to the border agency as it was being created. Those animal, plant, and food inspectors who basically worked at border points and points of entry in our airports are now CBSA employees.

I guess one of the purposes of doing this is to make sure that they do have the authority to designate them to enforce our acts. I just wanted to remind committee members of that.

The Chair: Mr. Angus, then Mr. Anderson.

Mr. Charlie Angus: I'd just offer a friendly amendment. The language would be more in keeping with the previous amendment, basically "any qualified person", just so that's in there. We talked about that previously in the bill. It's a minor detail, but it provides us with assurance, and we've already had that in other clauses.

• (1610)

The Chair: We've used that term before. Is that a problem, Ms. Stolarik?

Ms. Kristine Stolarik: No, that brings consistency. Thank you.

Hon. Wayne Easter: Where would you insert it?

Mr. Charlie Angus: It's in proposed new subclause 128(2.1), "... the President may designate any person, or person within a class of persons...".

The Chair: It's one word there—

Mr. Charlie Angus: It seems to be in there the first time, and it's a catch-all.

The Chair: Okay, let's deal with that. It is a subamendment because we've changed one word. It's been moved by you, Mr. Angus. You've moved the subamendment words.

Then we'll move on to other aspects of this.

Mr. Gerry Ritz: This is on the "qualified" person?

The Chair: Yes, the word "qualified", the subamendment. Do we have concurrence?

Some hon. members: Agreed.

Mr. Gerry Ritz: I have a point of clarification.

Kristine, you talked about almost 100 CFIA-trained folks going over to customs. It's probably a good idea. What about ongoing training? Are we assured that they're going to be kept up to date with CFIA standards and changes that come through? How are you going to do that? It's not something to put in the legislation, but just as a bit

of a comfort, how are these folks going to be kept up to speed with the changes that are coming at them?

Ms. Kristine Stolarik: Actually, I was just reminded that there's a detailed MOU between CFIA and CBSA, and training is a big component. Whenever there's a legislative regulatory change in one of our acts, basically there's a training obligation to make sure they're aware of it and that they are trained properly to ensure that they do apply the act in accordance with how it's scoped out.

Mr. Gerry Ritz: Just to go one step further, whose budget does that come out of, CFIA or customs?

Ms. Kristine Stolarik: The training budget went with them.

Mr. Gerry Ritz: Okay.

The Chair: Mr. Bezan.

Mr. James Bezan: I just went down to the end of the amendment, and in proposed new subclause 128(2.2), the proposed new subsection 9(3) is in French. I understand it is referring only to the French part of the act, but shouldn't there be a corresponding English translation?

The Chair: Is there a reason for that, Mr. McCombs? Would you like to speak to that?

Mr. James Bezan: It's French on both sides.

The Chair: Mr. Easter, do you have a comment on that?

Hon. Wayne Easter: That's under certificate of designation?

The Chair: No.

Mr. James Bezan: It was in the last paragraph of your amendment.

Mr. Larry Miller: You know, the amendment you wrote.

Hon. Wayne Easter: He said subsection (2.2).

Mr. Gerry Ritz: It's page 83.

The Chair: It's the heavy print.

Mr. Gerry Ritz: In the last paragraph, right at the bottom.

The Chair: We're going to need a cheat sheet.

[Translation]

Mr. Roger Gaudet (Montcalm, BQ): There's subclause (2.2) which only amends the French version of subclause 9(3) of the other act.

[English]

Mrs. Rose-Marie Ur (Lambton—Kent—Middlesex, Lib.): It's French on both sides.

Hon. Wayne Easter: Oh, what is the...?

Mr. Charlie Angus: I thought that was your amendment.

Hon. Wayne Easter: I'm trying to get those magic mushrooms in there, Larry. I'll lighten the inspection in that field.

Mr. Mark McCombs: Mr. Chair, I understand there's an error in the motion. Could we ask that the committee stand the portion that is French and French? There should be an English version of that portion.

The Chair: We'll stand the clause with the amendment until we get some clarification—with the committee's approval, of course. Is it unanimous?

(Amendment allowed to stand)

(Clause 128 allowed to stand)

The Chair: Mr. Easter.

Hon. Wayne Easter: Yes.

The Chair: Do you understand?

Hon. Wayne Easter: I do understand.

The Chair: You have to come back with better amendments. Remember your amendments when you....

Mr. Gerry Ritz: The amendment is...?

The Chair: It's stood. The clause has been stood, with the amendment that's already in there.

I call clause 129.

(On clause 129—*Order in council*)

The Chair: We're on clause 129. Come on, let's get with the program here.

•(1615)

Mr. James Bezan: Just going back to that clause 128, what about that whole section?

Mr. Larry Miller: It's being stayed.

Mr. James Bezan: Oh, it's stayed anyway? The whole section is stayed, right?

The Chair: The whole of clause 128 was stood.

Mr. James Bezan: The whole thing?

The Chair: We're on clause 129.

Mr. Mark McCombs: We're just going to clarify with the appropriate legislative drafters whether this is right, wrong, or what.

The Chair: We'll come back to that. Clause 129 is what we're on now.

Mr. David Anderson: Just before we get to clause 129, I maybe shouldn't be, but I am confused about what pages 41, 42, and 43 are in the context of this bill. Are they part of clause 128? Are they separate from clause 128?

The Chair: It's all clause 128.

Mr. David Anderson: Okay.

The Chair: That whole area has been stood. We're at clause 129.

Mr. David Anderson: So what does proposed section 22.1 have to do with anything else in this legislation, the Canada Border Services Agency? How does it fit in there? Is it just something taken from their act, or what?

Hon. Wayne Easter: Are you at page 42 of the bill?

Mr. David Anderson: I'm on page 41 right now. We go to subclauses 128(1) and 128(2), and then all of a sudden we're at proposed section 22.1. I'm just wondering how it fits in.

[*Translation*]

Mr. Roger Gaudet: It's on pages 41 and 42.

[*English*]

Mr. David Anderson: Is it part of subclause 128(2), or what?

Hon. Wayne Easter: It relates to the Canada Border Services Agency.

Oh, I see what you mean.

Mr. David Anderson: Then you have subclauses 128(3) and 128(4), and actually, going all the way through to subclause 128(13) we're taking big chunks of other acts out and repealing them, without having any understanding of what they are.

Mr. Mark McCombs: These are what are called coordinating amendments. They depended on which bill passed first and which context....

Can you explain which is which?

Ms. Dudley is prepared to explain to you "other Act" and how that all works.

The Chair: Ms. Dudley.

Ms. Jane Dudley: The Canada Border Services Agency bill has, I guess, had second reading now and has been referred to committee. We're not sure which act is going to pass first. The Canada Border Services Agency, or CBSA, performs a lot of the functions of inspectors in exercising powers for the CFIA; the powers of inspectors are divided between CFIA inspectors and CBSA inspectors. They're the same powers, just in different locations. The CBSA inspectors do it at the border.

If the CBSA Act goes ahead first, which is what we anticipate, we want to make sure they have the same powers as our inspectors so that our inspectors don't have to go in and replace them where they don't go any longer.

This provision authorizes the president of CBSA to designate to his own employees—to CBSA inspectors—the authority to enforce CFIA legislation. That's instead of the CFIA president having to do it. Currently, the CFIA president designates CBSA employees as inspectors for the purposes of CFIA legislation, although I understand he's recently done a letter of delegation to permit the CBSA president to do the work.

This is going to put in legislation what we now have in a letter.

Mr. David Anderson: I guess, referring back to Wayne's suggestion, which has been stood, it refers to the president of the CFIA designating Canada Border Services people as CFIA, correct? The president is designating customs officers to perform the functions of the CFIA. You're saying you have an opposite agreement?

Ms. Jane Dudley: No. What has happened is the president of CFIA has designated as inspectors those people who are no longer his employees. These people moved over and they're continuing to do the same functions. Their designation died when they moved, so they had to be redesignated by the president of CFIA. But now we're giving the authority to the president of CBSA because CBSA has that authority at the border now. We're giving the president of CBSA the authority to designate his inspectors to do the work.

Mr. David Anderson: It's a transfer. I understand that change, but it just seems like this runs contrary to what you're suggesting.

We've stood it, and we can come back to it and ask the question then.

The Chair: Let's stand that and perhaps move on.

We're going to move to clause 129 and discuss that and move it.

Mr. Gerry Ritz: Mr. Chair, I just had a couple of questions.

The Chair: On which one?

Mr. Gerry Ritz: Well, it hasn't even been talked about yet, this truth in dairy terms. You had this huge amendment—

The Chair: Let's do clause 129.

Mr. Gerry Ritz: Yes, but if we close the bill, how do you do an amendment? How do you add it in?

The Chair: The bill isn't closed yet. We have all kinds of work left.

Mr. Gerry Ritz: Oh, I understand that, but I thought you would want to put this in before we did clause 129.

• (1620)

The Chair: The thing on dairy terms is not going there. It's going back in a previous section of the bill.

Mr. Gerry Ritz: So we can go back and revisit it somewhere along the way.

The Chair: Oh, absolutely.

Mr. Gerry Ritz: Good. I didn't see anything in my paper to show that.

The Chair: Is there anything on clause 129?

Yes, Mr. Easter.

Hon. Wayne Easter: I have somewhat the same question as Mr. Ritz, and we do have a dairy terms amendment.

The Chair: With your permission, I'd like to bring that forward before Mrs. Ur has to leave, which is very shortly. I'd like to have her introduce that thing.

Hon. Wayne Easter: But we can deal with that whether we deal with clause 129 or not?

The Chair: Yes.

Mr. Miller, quickly.

Mr. Larry Miller: I was just going to say, Mr. Chairman, I never like to disagree with the chairman, but I don't think we should be passing clause 129. It will only take seconds to do.

The Chair: I'll stand it, then, with your permission.

Some hon. members: Agreed.

The Chair: We'll stand clause 129 and we will defer to what you will find in your material today. I would have Mrs. Ur introduce it, which is L-3.

Mrs. Rose-Marie Ur: L-3? I have L-1.1.

The Chair: That's the one, but it's a different number now.

It goes on page 32 of the bill, just before clause 66, "Section 19 of the Act is repealed". We're on page 73.1 of the amendment package now, and the language we're using in the amendment today would be introduced here.

This is important. This is a very important measure in this bill.

Mrs. Ur, do you want to introduce that amendment?

Mrs. Rose-Marie Ur: It is with great pleasure that I'm allowed to introduce this amendment. It's something we've been working on in committee. Clause 65.1, "The Act is amended by adding the following after section 18...". You have it in front of you. The witnesses drafted it in legal form. I don't think I need to read it. Everyone probably has read it already. There were areas we wanted to make sure were included in the section.

Mr. Easter will speak to it, but I will speak to proposed paragraph 18.1(3)(e), under "Exceptions". This paragraph addresses some of the concerns that have been brought forth, quite often from the dairy farmers.

I will leave the pertinent discussion to be carried on by my honourable esteemed parliamentary secretary.

The Chair: Mr. Easter.

Hon. Wayne Easter: I'm not going to say a word now.

Mr. Gerry Ritz: We were with you.

Mrs. Rose-Marie Ur: I have boots, have you?

Hon. Wayne Easter: I need boots.

The Chair: Any other words of wisdom, Mr. Easter?

Hon. Wayne Easter: We had a number of witnesses before us, Dairy Farmers of Canada and others, who were concerned about dairy ingredients and substitute products. I think you had an amendment proposed as well.

The Chair: I took mine out.

Hon. Wayne Easter: Yours was withdrawn as a result of working on this amendment. There's been considerable work with Dairy Farmers of Canada to try to negotiate an amendment that would meet their needs as well as the intent you've tried to meet in your amendment. That's what's basically proposed here.

Carla Barry is here. She is involved in the dairy end with CFIA. She might have additional input if there are questions.

• (1625)

The Chair: There will likely be some questions.

Mr. Angus has withdrawn what he had, so as to help make a compromise, to make it workable for everybody. The Conservative Party has brought forward bills relating to this on a number of occasions. This is something all parties have attempted. I know the Bloc has supported this. We've tried to accommodate Madam Poirier-Rivard's concerns. We've done that. I think we've found great accommodation. The dairy people are supportive of it. So basically that's where it's at.

I know that Mr. Ritz has a question or a comment. We'll begin there.

Mr. Gerry Ritz: I think it's great. I don't really have any problem with it. Under "Definitions", one of the sectors of dairy that is quite concerned is the ice cream base, any proteins or caseins. Will this fall under "any other thing prescribed", or do we actually want to name it?

The Chair: Ms. Barry.

Ms. Carla Barry (National Manager, Fair Labelling Practices Program, Bureau of Food Safety and Consumer Protection, Canadian Food Inspection Agency): Thank you.

Those kinds of definitions would be better prescribed in regulations. The proposal is that we would be discussing amendments or clarification in the dairy product regulations.

Mr. Gerry Ritz: So it's not covered under this. We're going to have to amend or change something else.

Ms. Carla Barry: There are currently prescriptions under the food and drug regulations that prescribe what can be allowed, a standard of identity for ice cream, etc.

Mr. Gerry Ritz: Right. So we're not able to fix this particular loophole with this regulation at this point. So we still have a problem. I just want to clarify. If there's any way we can do it, it'd be great.

Hon. Wayne Easter: A fair bit of work has to be done on the regulatory side to deal with a number of other issues. This has been discussed with Dairy Farmers of Canada. I think they're agreeable. Some of those points are better done on the regulatory side.

Mr. Gerry Ritz: So we're closing the door, but not all the way.

Hon. Wayne Easter: No, we're not.

There's a commitment here to deal with those. We made a commitment to Dairy Farmers of Canada that we would deal with this in the regulations and standards.

Mr. Gerry Ritz: Do we have a timeframe for that?

Hon. Wayne Easter: It's as soon as possible. That's all I can say, to be honest with you.

There's no 30 days, 60 days, but there is a commitment to get it done. If we go beyond where we've gone here, it's certainly felt that the regulatory and standard side would be the best way to deal with those other points.

The Chair: Okay.

Mr. Miller, and then Madame Poirier-Rivard.

Mr. Larry Miller: Some of mine has been partially answered, I think, but first of all, I generally support this. I think it's great.

Is there any part on the dairy side of it that hasn't been satisfied?

Ms. Carla Barry: As far as I'm aware, with this labelling amendment here and the proposal to make amendments to the dairy product regulations, we would be moving in the correct direction.

Mr. Larry Miller: Okay, that's good.

The other side of it is again with the trade part of it. Are we putting ourselves in any bad position, I guess, from a legal standpoint, with what people wanted to...?

Hon. Wayne Easter: From our understanding, no. That's certainly not to say that there might not be challenges. I think we're certainly giving the dairy industry the tools they need to prevent those who might want to use substitute products in order to undermine our supply management system. I think we're giving the tools to the dairy industry. Whether it's challenged or not, or

somebody else.... I think it's our view that this would meet those challenges.

• (1630)

Mr. Larry Miller: Good.

The Chair: Madame Poirier-Rivard, then Mr. Angus, then back to Mr. Anderson.

Madame Poirier-Rivard.

[*Translation*]

Ms. Denise Poirier-Rivard (Châteauguay—Saint-Constant, BQ): Subclause (2) which pertains to labelling reads as follows:

No person shall market an agricultural product that has a dairy term on the label if the agricultural product is intended to substitute for a dairy product.

Butter oil could be one such product. This contradicts WTO and GATT rules concerning substitute products and applicable tariff lines.

[*English*]

Ms. Carla Barry: Perhaps I may speak in English.

The intent of that particular new section is to address substitute products for dairy products. A substitute product would be, for instance, an edible oil product or a soy product, specifically. Other products that are dairy products would not be prohibited or be considered a substitute, as far as the intent of that particular section is concerned. That would be the way I would read it. I'm not aware of any other possible contradictions to that.

The Chair: Madame Poirier-Rivard.

[*Translation*]

Ms. Denise Poirier-Rivard: As a rule, the first ingredient listed on a product label should be the one that is of the greatest quantity by weight. For instance, in the case of ice cream, the first ingredient listed would be milk.

Ms. Carla Barry: That's correct.

Ms. Denise Poirier-Rivard: Will this be reflected on the product label? If not, this would constitute a violation of article 28 of the GATT. In this case, the substitute product is butter oil.

Ms. Carla Barry: Butter oil?

[*English*]

This is in respect to the Canada Agricultural Products Act. I'm not aware of what that would mean as far as other CITT or other trade implications are concerned.

Mr. Easter, has there been an agreement by the CITT with respect to the butter-oil blend?

Hon. Wayne Easter: I'm not exactly sure right at the moment where that's at.

We do have Richard Doyle in the room.

The Chair: I wonder, with the committee's permission, if I could bring Mr. Doyle to the table to perhaps answer that question or give some clarity on this issue, because I think it's important that we understand before we move....

Mr. Doyle, do you want to come to the table? I know you have an interest in this matter.

Who raised the question? Yes, Madame Poirier-Rivard did.

Hon. Wayne Easter: Yes, on butter-oil....

[Translation]

Mr. Richard Doyle (Executive Director, Dairy Farmers of Canada): I'll answer the question in French, Mr. Chairman.

I understood your question clearly. It's important to understand that the proposed amendment does not affect product labelling. It will have no effect whatsoever on international trade. There is no relationship article 28. That's a parallel discussion.

Ms. Barry alluded to that fact. There is no relationship, however, even in the case of a substitute product, namely a blend of butter oil and sugar used as a dairy ingredient as a substitute for cream or milk in the making of ice cream, which is also a dairy product. That would be the same as saying that cheese can be produced with milk or cream. Is milk a substitute for cream? Since we're dealing with dairy products, this does not apply. As for the tribunal's decision, one must understand that according to the classification, butter oil blends have not been recognized as substitutes for butter.

I believe Carla mentioned the ruling. According to the ruling, even if other ingredients can be used in the making of ice cream, subclause 18.1(2) would apply only to such products as soy milk, for instance. There is in fact a product called soy cheddar cheese. The product doesn't contain any real cheddar. A dairy term could not be used on the label, because soy cheddar is intended to substitute for cheddar.

That's more the intended purpose of this provision than the scenario you were talking about.

•(1635)

[English]

I don't know if they follow me. It's a little bit complicated. But there's no relationship between the butter oil and sugar blends, the article 28, and what we're trying to do in this. This is really in line with the Codex Alimentarius. So from an international standpoint, on a labelling standpoint, there is no contradiction to this in terms of the GSUDT, the general standard for the use of dairy terms.

So the butter oil issue, as a substitute, because of the wording of proposed subsection 18.1(2)—which is what Madame Poirier-Rivard is asking—cannot be taken into account when you're talking about a dairy product substituting another dairy product in the making of a dairy product. That is not the intent and wouldn't apply in this particular case. You're really talking about a case where the finished product is trying to be presented to the consumer as an alternative for the consumption.

The Chair: Thank you very much, Mr. Doyle. That settles that.

[Translation]

Ms. Denise Poirier-Rivard: Regarding paragraph 18.1(3)(e), I'd like to propose the addition of a few words, so that the provision would read as follows: (e) where, in the case of an animal product that is derived from the normal lacteal secretion obtained from the mammary glands of any animal other than a cow, goat or lamb, the product is labelled so as to identify that animal.

[English]

The Chair: That's taken care of. That's included.

[Translation]

Ms. Denise Poirier-Rivard: All right.

Mr. Roger Gaudet: That's included. The reference is to the lacteal secretion obtained from the mammary glands of any animal.

[English]

The Chair: We have taken care of that in proposed paragraph 18.1(4)(c), when we talk about milk:

"milk" means the normal lacteal secretion obtained from the mammary gland of an animal.

So that includes all animals. We had to do that in order to get language that was complementary to other acts and that type of thing. But this includes everything you've asked for.

Believe me, it has to do that, because I wouldn't want it here if it didn't do that. Mr. Doyle knows that. I fought very hard for this.

Mr. Angus.

Mr. Charlie Angus: I have a couple of things to address.

In terms of the WTO, I would imagine—and I could be wrong on this—this is basically equal treatment, whether we'd be dealing with a domestic industry that is providing a milk substitute or a foreign industry. So I wouldn't see that it would be subject to any kind of WTO action.

I imagine we will get action, perhaps, if we're cutting out maybe some imports that might be coming in otherwise, but it seems to me that we're providing equal treatment here, because we're just saying in the labelling, whoever provides that. We're not saying whether it's domestic or international. So I would ask for a comment on that.

Secondly, it seems to me that the wording here is fairly strong and clear. I just want to make sure we have the tools to do what we need to do, that

18.1(1)
No person shall market an agricultural product using a dairy term on the label unless that product contains the dairy ingredient represented by the dairy term.

Under "dairy term", we do identify ice cream and cheese. So it seems to me that a lot of our market that we've lost has been in ice cream and in cheese. Do we have the power with this act to say from now on cheddar will be made with actual cheddar? Does it extend to that? Does it give us the power to ensure that ice cream is made with cream, as opposed to sawdust shavings or anything else?

The language seems to give us that authority. That's why I'm wondering why I'm hearing two different things here.

Ms. Carla Barry: Well, if I may, the dairy product regulations and the food and drug regulations provide the standards of identity for various dairy products. The intent is that we will proceed with amendments to the dairy product regulations to be consistent with those in the food and drug regulations. The food and drug regulations, right now, have varying degrees of what kinds of inputs can be used, for instance, to make cheese. A variety cheese can only be made with cream and milk. Section B calls for other cheese products, for instance cream cheese, and in there it has a list of what kinds of milk products can be used in the manufacture of those products, and section C identifies what can be used in the making of ice cream, for instance.

So the intent would be to harmonize the dairy product regulations to be consistent with the food and drug regulations.

•(1640)

Mr. Charlie Angus: Okay, but you can make cheddar without milk.

Ms. Carla Barry: Well, in the current dairy product regulations, that is the case. That is why we're making them consistent with the food and drug regulations. The food and drug regulations specifically define what kind of a milk product can be made in the manufacture of cheese—cheddar cheese, for instance—and in those regulations they're restricted to cream and milk.

Mr. Charlie Angus: Okay.

The Chair: Now we have Mr. Gaudet, then Mr. Ritz.

[Translation]

Mr. Roger Gaudet: Continuing in a similar vein, I thought the aim of Bill C-27 was to protect our producers. It's all well and good to protect the Canadian Food Inspection Agency, but we want to protect our producers. If we allow any product to be imported into the country, we'll be facing the same kind of situation that we have with cheese sticks and all of these food products which contain no dairy ingredients at all. Who will suffer? Our producers.

We've reached the point where 52 per cent of our ice cream contains no milk whatsoever. We have a problem because all by-products are being allowed into the country. Give the Agency more clout, by all means, but if we fail to protect our producers, we might just as well throw this bill in the trash bin, because we're likely to be trashed as well.

[English]

Hon. Wayne Easter: Roger, it does protect our producers from substitute products. I think some of the issues you're raising are more trade issues.

It protects our producers from using products that are not really a dairy ingredient but are called a dairy product, basically. So it does extend a fairly substantial amount of protection to producers.

[Translation]

Mr. Roger Gaudet: It provides a modicum of protection.

[English]

Hon. Wayne Easter: In terms of the labelling end.

[Translation]

Mr. Roger Gaudet: However, some products are still getting in.

[English]

Hon. Wayne Easter: Or in terms of how it's sold on the shelves.

[Translation]

Mr. Roger Gaudet: If we rely on the latest recommendations of the dairy producers, it seems that many such products are coming into the country. This cuts into their net profits.

[English]

Hon. Wayne Easter: I don't disagree with you, in terms of some of the products that are coming in, but there's no way we can't deal with them under this particular act. We're taking fairly substantial

liberty here in going as far as we are, I think, to try to accommodate the concerns about substitute products and artificial products.

The Chair: I think Mr. Doyle would like to comment a bit on your questioning.

[Translation]

Mr. Richard Doyle: Thank you, Mr. Chairman.

I'd like to clarify the point raised by Mr. Gaudet. If in fact cheese sticks containing no cheese were being imported, they could not be labelled "cheese sticks", under this legislation. This particular amendment would stop the importation of a product that has a dairy term, such as "cheese sticks" on the label, when in fact the product does not contain any cheese.

As for butter oil, which is quite another matter, current legislative provisions respecting product composition state that ice cream in Canada can be made with milk, cream, butter oil and so forth. The other debate concerning article 28 has no thing to do with this provision, which only pertains to labelling. As Ms. Barry explained, this whole other matter concerning standards for Canadian dairy products is currently being discussed in parallel with this debate on labelling and term protection. There are approximately 50 to 60 pages of regulations and standards for 42 cheeses. This involves a fairly extensive review process.

Mr. Roger Gaudet: Then we should hear from the Department of International Trade.

[English]

The Chair: Yes. We have to understand that we have two things, really, being discussed here. We have the international trade issues, which are trade issues, and we can't put into this act something that would become a detriment to us in trade talks. We're here to clarify products being used as, for instance, "buttery" ice cream or "buttery" popcorn when there's absolutely no butter used in popcorn. That no longer would be permitted. That's what we're doing here in this bill.

We have some more people who wanted to speak. Mr. Anderson, I think, was the last one. Then we're going to put it to the vote.

•(1645)

Mr. David Anderson: Just for clarification, proposed subsection 18.1(2) there basically overrides everything else; you're right. We're talking about these substitute products not being...subject to the exceptions in proposed subsections 18.1(3), (4) and (5). That's correct.

Ms. Carla Barry: So, for example, the other exemptions would not apply to soy-based materials or edible oil products.

Mr. David Anderson: I'm just wondering—and maybe this is more for the future—why there isn't a designation or exception for a product that's known by area. We don't have many of them now, but other people do, and it would allow the development of an industry. Do you think that fits under paragraphs (c) or (d) of proposed subsection 18.1(3)?

Ms. Carla Barry: I understand that.... For instance, we recently had introduction in the Senate of the product designation for alcoholic beverages. That's considered to be a separate issue from standards of identity or from compositional or labelling requirements. It's more related to protection of a product, and it doesn't fall under the trademark.

That's how that has been decided. I understand there may be discussions at the international level to expand this from alcoholic beverages to other kinds of foods.

Mr. David Anderson: I guess I was wondering whether it's appropriate to try to put it in here. Do you think not?

Ms. Carla Barry: I think it wouldn't be appropriate. Right now the legislation the CFIA enforces would be related to labelling, not related to geographic origin or—

Mr. David Anderson: Well, you have labelling related to nature and the name by which a product's known and the sensory characteristics, and those kinds of things, so I wouldn't think location would be much different. Anyway, we can leave that alone.

I'm wondering—I don't know whether this is a question we want to ask, but this has been discussed lots—how widely you consulted before this particular presentation was presented.

Ms. Carla Barry: With this, I haven't consulted. This is not a government proposal.

The Chair: Go ahead, Mr. Easter.

Hon. Wayne Easter: Mr. Chair, there have been extensive discussions over about a three-week period with Dairy Farmers of Canada on this, trying to come to an agreement that would meet their needs, and certainly yours and others'.

The Chair: I think it's also fair to say “extensive” to the point that it's been on the government agenda for the last three or four years, and probably on the dairy people's agenda for much longer than that. I guess we've determined that this is one way we can accommodate their concerns, and I think it's an appropriate place to do it. I think we have the parties affected by the details of this particular matter accommodated, and I would like to see it passed this afternoon.

So if I could put the question—everybody understands what we're doing here—can we have support? Do we see support to pass this amendment?

Some hon. members: Agreed.

The Chair: Unanimously? Unanimously.

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

The Chair: Thank you very much.

Mr. Gerry Ritz: We thank Rose-Marie for this one.

The Chair: Yes, we'll thank Rose-Marie.

I think basically we're all smiling. Why don't we see the clock as at five o'clock and take an early adjournment?

Have a great weekend. Then, for next week, keep next Wednesday night open.

We're adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

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