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Chair

The Honourable Paul DeVillers

Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness

Wednesday, December 8, 2004

● (1540)

[*English*]

The Chair (Hon. Paul DeVillers (Simcoe North, Lib.)): I call the meeting to order. This is the meeting of the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness. We're here for the clause-by-clause review of Bill C-10, an act to amend the Criminal Code (mental disorder) and to make consequential amendments to other acts.

[*Translation*]

Mr. Richard Marceau (Charlesbourg—Haute-Saint-Charles, BQ): Mr. Chairman...

The Chair: Yes, Mr. Marceau?

Mr. Richard Marceau: You know that I have a great deal of respect for you and for the way you chair this committee. Before we begin the clause-by-clause study phase of our proceedings — we're reacquainting ourselves with that process — I'd like to suggest that we allow ourselves more time between the end of the testimony phase and the clause-by-clause study phase. I know that the Justice Department had to move very quickly on the amendments. We also had to act very fast. We worked with our team and wrapped up our work last Wednesday. The legislative drafters received the amendments over the weekend. I received a copy of them last night and I had to review them very quickly.

The Chair: The process took a full week, beginning last Wednesday.

Mr. Richard Marceau: One week is not much time.

The Chair: We can discuss this matter further during the meeting of the Subcommittee on Agenda and Procedure. Your concerns are duly noted.

[*English*]

We have with us, from the Department of Justice, Ms. Kane and Monsieur Dufour.

[*Translation*]

What is your position?

LCol André Dufour (Director, Legislative and Regulatory Services, Department of National Defence): My name is LCol Dufour and I'm the Director of Legislative and Regulatory Services with DND.

[*English*]

The Chair: And Mr. Macklin is sitting in as the parliamentary secretary for the Minister of Justice.

So we will commence with the clause-by-clause review.

(On clause 1)

[*Translation*]

The Chair: I see that Mr. Marceau of the Bloc Québécois is proposing some amendments to clause 1.

Mr. Richard Marceau: Mr. Chairman, give me a moment to sift through this mountain of paper.

The Chair: Clause 1 is at the very beginning.

Mr. Richard Marceau: Thank you, Mr. Chairman. However, I'm not going to present my draft amendments in this order. Can you give me 30 seconds to collect my somewhat muddled thoughts?

The Chair: By all means.

[*English*]

Mr. Comartin.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Mr. Chair, I have five amendments that I'm proposing.

I thought they had gotten here late this morning, but I'm told by the clerk that.... I just handed them to her—

The Chair: You just walked them in.

Mr. Joe Comartin: Yes, so I don't know what happened between my office and hers in the last few hours, but one of them is quite similar to Mr. Marceau's.

The Chair: Do you want to present that on clause 1?

Mr. Joe Comartin: I'm just wondering if we could stand clause 1 down until at least my copies for the committee get back here.

The Chair: Okay. I think we could do that. The problem is, there could be consequential amendments if we go out of order. Theoretically, there could be something changed...an amendment made to clause 1 that could affect something in clause 2. I think we should deal with them in the order in which they appear. I'm a little concerned; it's hopscotching around and we might create some—

[*Translation*]

Mr. Richard Marceau: Mr. Chairman, if I understand correctly, we're dealing with my first amendment which concerns the definition of "unfit to stand trial". So then, we're talking about the same thing.

This amendment concerns — and I presume my colleague, Mr. Comartin, will agree with me — recommendation 3 contained in the report of the Standing Committee on Justice dating back to the year 2000. The recommendation read as follows:

> The Committee recommends that the federal Minister of Justice review the definition of "unfit to stand trial" in section 2 of the Criminal Code to consider any additional requirements to determine effectively an accused's fitness to stand trial, including a test of real or effective ability to communicate and provide reasonable instructions to counsel.

I'm proposing this amendment in response to this recommendation, which the government rejected when it drafted Bill C-10. Although I can't speak for the government, I do know that it is still opposed to reviewing this definition. However, this amendment should nevertheless be put forward.

[*English*]

The Chair: Oui.

Mr. Comartin, is your amendment related to this part?

Mr. Joe Comartin: No, the first one will be the Bloc's third one.

The Chair: Okay.

So, Mr. Macklin, do you have any comment on the proposed amendment?

Hon. Paul Harold Macklin (Northumberland—Quinte West, Lib.): Yes. We would like to address this, because in fact this issue does raise a large number of federal-provincial concerns. In fact, there have been ongoing discussions between the provinces generally and the government, and it is proposed that this issue go forward as one of the issues of concern at the FPT meetings that are scheduled for January.

I can turn this over to Ms. Kane to give more details as to what has taken place and also what our expectations are.

● (1545)

The Chair: That's fine.

Ms. Kane.

Ms. Catherine Kane (Senior Counsel, Criminal Law Policy Section, Department of Justice): Thank you.

This particular amendment and some others relate to addressing persons who were unfit at the time of their sentence. The committee made that recommendation in 2002, and the government responded at that time indicating further that there were many implications to the sentencing laws, the mental disorder provisions, the role and the jurisdiction of review boards, the criteria that should apply where this new category of "unfit to be sentenced" person should receive some sort of disposition. There are many implications, and we have been working on those implications and options to address the issue of fitness at sentence.

We've also been trying to explore just how many people would be subject to not being fit at the time of sentence, yet they would have been convicted of their offence. So far, it seems it's a very small group of people, but the consequences of this particular amendment could be quite great and could be quite confusing, because the full regime that needs to apply to people who might be found unfit only at the time of sentencing hasn't been worked out.

We had research done by Professor Allan Manson at Queen's University. He also appeared before the committee a few weeks ago, and he does extensive work in sentencing and corrections. He traced the laws of fitness, and he also recommended that we address the issue of fitness at sentence. He proposed other options that are problematic from a practical point of view, but his paper has enabled the government to advance the discussion with provinces and territories.

The government would be able to perhaps bring forth draft legislation for the committee to look at later in the spring to see if it meets their concerns and would address the full range of issues that need to be addressed if we're going to change the law in this very significant way.

The Chair: Thank you.

Mr. Toews.

Mr. Vic Toews (Provencher, CPC): I have some questions on that. I'm concerned about bringing forward amendments if the government doesn't know what the ramifications of these are.

Specifically, as I understand it, then, someone would be found guilty and he or she comes to sentence and is unfit. This amendment is to address that. At present, if the person is unfit to stand trial at the time of sentencing, he or she would be sentenced in any event.

Ms. Catherine Kane: That's right.

Mr. Vic Toews: In regard to your concern specifically with Mr. Marceau's amendment, what ramifications...just so I know?

Ms. Catherine Kane: The three amendments together mean that a person who is found unfit at the time of sentence would fall under the jurisdiction of the provincial review boards that are currently constituted to deal with people who are found unfit or not criminally responsible, and not convicted offenders, and their criteria for disposition are those that currently govern the unfit and the NCR group.

So you could have a situation of somebody who was convicted of an assault, is found unfit at the time of sentence, and is under the supervision of the review board for a period of time, which could well exceed the maximum sentence for that assault.

The other issue that has to be addressed is—

Mr. Vic Toews: Excuse me, just on that point, that person could be under the supervision of the review board—let's say, for three or four years—then found to be fit to stand trial, and then in fact go back and be sentenced again, because there would be no bar against sentencing that individual.

Ms. Catherine Kane: That has to be sorted out—

Mr. Vic Toews: Oh, I see.

Ms. Catherine Kane: —what the consequence would be.

In the current scheme, those questions wouldn't be addressed without further amendments to say to the review board, what do you do with this person who has some sentence provided for under the Criminal Code? But the review board can't impose that sentence. They have to do something different.

Mr. Vic Toews: You're going to come back with something in the spring, you say, to address Mr. Marceau's concern.

Ms. Catherine Kane: That would be an option. If the committee were interested in that being pursued, we could explore all the issues, rather than pursuing something that might leave many questions unanswered.

Mr. Vic Toews: That's fine. Thank you.

The Chair: Monsieur Marceau.

[*Translation*]

Mr. Richard Marceau: Mr. Chairman, if the department undertook to come before the committee to discuss this very matter sometime between now and next spring, I would be willing to withdraw my amendment so that we could revisit the issue in greater detail. I don't have a problem with that.

[*English*]

The Chair: Mr. Macklin, are you in a position to give such an undertaking?

Hon. Paul Harold Macklin: I think the best I could do would be to undertake to bring back our position at that point, because in fact it might not yet be resolved. That would likely be the best we could do.

Also, this could be raised with an ongoing working group at FPT that is dealing with this. It meets quarterly. It could in fact deal with this matter. I'd certainly undertake to bring it to their attention and see if we can get a resolution.

When you're dealing with negotiated positions, it's very difficult for one to suggest that we can come back with certainty with a resolution. That's a concern I have.

But I'd certainly undertake to do all those things—in other words, to raise it with that working group and to bring back at least a progress report, if not a solution, by spring.

● (1550)

[*Translation*]

The Chair: Are you fine with that, Mr. Marceau?

[*English*]

Mr. Richard Marceau: A progress report by spring? Okay.

[*Translation*]

The Chair: The next item of business is amendment BQ-2.

Mr. Marceau.

Mr. Richard Marceau: We've had discussions with the department. The latter believes, on the basis of the Demers ruling, among others, that this amendment is unconstitutional. As I recall, this ties in with the proposed amendment to clause 33. However, the department was unclear about whether this amendment would still be unconstitutional if there was any possibility that the person suffering from a mental disorder might recover. Unless I'm mistaken, we were discussing that very point earlier.

[*English*]

Ms. Catherine Kane: That's correct.

[*Translation*]

Mr. Richard Marceau: As I was saying, Mr. Chairman, the proposed amendment to clause 1 goes hand in hand with the proposed amendment to clause 33, as they are connected. The purpose of this amendment is to put an end to assessments that can be ordered indefinitely by the Review Board with a view to assessing the accused previously declared unfit to stand trail. This amendment would spell out the consequences associated with staying proceedings. I understand and support the principle whereby such an amendment could be deemed unconstitutional according to the Demers ruling. Conversely, I would like the act to spell out clearly what happens when a person suffering from a mental disorders regains fitness.

The Chair: Any comments?

[*English*]

Mr. Macklin.

Hon. Paul Harold Macklin: I think we will be bringing forward another amendment in the course of government amendments that should address this concern.

[*Translation*]

Mr. Richard Marceau: Can we set this aside and see what kind of suggestions we receive?

The Chair: Yes.

[*English*]

I think we can do that. Or do you want to describe your amendment now? That might answer Mr. Marceau's concerns.

Ms. Kane.

Ms. Catherine Kane: The government is proposing to slightly modify the tests that are set out in clause 33 in the proposed new section 672.851 to make it more clear—it's already in there—that there are three pre-conditions before a person can get a judicial stay of proceedings.

First of all, in the English version, we will clarify the wording to say that the person remains unfit and is not likely to ever become fit. The medical evidence would have to look at the prognosis over the long term, almost to a state of permanence. They also cannot be a significant threat to the safety of the public. Then the court goes on to consider whether the stay is in the interests of the proper administration of justice.

There are several criteria to govern that determination.

There is an interpretive wording put in to make it clear that in determining whether the person is not likely to ever become fit, the court has to base its decision on clear evidence. This employs the language that the Supreme Court of Canada used in Demers, which some of our provincial colleagues have asked us to be more aware of. It also slightly elevates the criteria that the accused has to meet.

In our view, it's going to be a very high standard for the accused to get the judicial stay because there will have to be sound medical evidence, based on the current state of medicine at the present time, that says this person is not going to ever become fit to stand trial. The effect of the stay is that it's a stay; it's final and forever, and the proceedings can't be reinstituted. If there is a miraculous cure because the state of medicine this year is not the state of medicine five years down the road, and organic brain injuries and what not can be cured, then that person can only be dealt with by way of new criminal proceedings if he or she commits a new offence. There wouldn't be any way to go back and retry them for the offence in which they were originally found unfit to stand trial.

Based on all the evidence we've heard in this round and in 2002, and the consultations we've had with the review boards, the mental health professionals, and our provincial colleagues, there is a very small category of people who are found unfit in the first place, and an even smaller number who will meet this permanent type of unfitness. Doctors seem to be able to assess fairly well the group that can be treated and those who can't.

It may be difficult to respond to Mr. Marceau's concern, but we can't really state how significant the group of people might be for those who may regain fitness after the judicial stay is entered.

● (1555)

[*Translation*]

The Chair: Thank you.

Any further comments, Mr. Marceau?

Mr. Richard Marceau: No. I have nothing further to add. Nevertheless, I would like to see the wording of the proposal. I've voiced my concerns, in light of the process and the scant resources available to us. I stated very clearly to Paul that if my concerns could possibly be addressed, than I'd have no objections.

The Chair: Are you prepared to withdraw amendment BQ-2?

Mr. Richard Marceau: Yes.

The Chair: Now then, as for amendment BQ-3...

Mr. Richard Marceau: It's quite a simple matter, Mr. Chairman. We've already discussed the subject on numerous occasions.

The Chair: Fine then.

[*English*]

Sorry. Amendment NDP-1 is before amendment BQ-2.

Mr. Comartin.

Mr. Joe Comartin: Thank you, Mr. Chair.

Actually, this one and amendment NDP-2 are tied together, but I'm moving to amend the definition of assessment so that the wording "medical practitioner" is changed to "mental health professional".

My second amendment, which will be coming to you shortly, defines "mental health professional". That will be in subclause 1(2) but on line 13. This amendment is simply changing the wording "mental practitioner" to "mental health professional".

The purpose of that, Mr. Chair, is to bring it in line with a good deal of the testimony we had that, especially in remote areas and rural areas of the country, finding a medical practitioner to do the assessments has become problematic, if not impossible on some occasions. Having to move the accused person or the patient some great distance in order to get the assessment done, I think from the evidence we heard, is a particular problem in the territories and certainly throughout the northern part of the country. It is becoming more and more of a problem as fewer and fewer psychiatrists seem to be available to do this work.

The Chair: So you're moving amendment NDP-1. We'd better deal with it first.

Mr. Joe Comartin: Perhaps I should make it clear, Mr. Chair. The reason I'm using the terminology "mental health professional" is that the definition of "mental health professional", which we're going to come to shortly, will be expansive. It will not be limited to people who have a medical degree.

The Chair: Okay.

So the one we're considering now is amendment NDP-1, which is to amend Bill C-10, clause 1, by replacing lines 9 and 10 on page 1 with the following:

> "assessment" means an assessment by a mental health professional of the mental condition of the

So that we're all clear, that's the one we're considering now.

Mr. Macklin, is there a response to that?

● (1600)

Hon. Paul Harold Macklin: Yes, we have a response. The first part of the response, which also deals with amendment BQ-3... because we're all trying to grasp what was brought forward in evidence in terms of a practitioner and who could properly form and complete assessments.

Now, I think there are a couple of issues, but one issue, of course, is that in this process we, as the federal government, would be establishing for provinces what their standards would be for this purpose. In some cases, this is not an appropriate way to go, especially based on the resources and what in fact they deem to be appropriate.

In discussions in looking at these, we've tried to come up with an alternative that might meet some of the concerns. The suggestion is something along these lines, that when we're defining practitioner, it be "practitioner or any other person who has been designated by the Attorney General as being qualified to conduct an assessment of the mental condition of the...", and so forth; in other words, getting the attorney general of the province or, in the case of the territories, the Attorney General of Canada to establish this standard.

Otherwise, if we look at what is being proposed by NDP-2, in terms of defining this, it says "a psychologist, social worker or medical practitioner who has a demonstrated expertise in the diagnosis and treatment of mental disorders". This calls for a judgment to be exercised by someone as to what those qualifications are.

The question for us is who should best decide. This is why we are suggesting that if the attorney general in the provinces or the Attorney General of Canada, in terms of the territories, made that decision based on what they understood to be the capacity of that territory or province to supply a practitioner that they would find acceptable, then we think you wouldn't have to go through this test of each individual who came forward being qualified at that time. The attorney general would already have set out that standard and approved of those who could make those assessments.

That's what we would like to find. It also allows the provinces to deal better, as far as I'm concerned, with the resourcing as it relates to this.

That would be our position, to see if we could come up with an amendment that would meet both BQ-3 and NDP-1 and NDP-2 on that basis.

The Chair: Mr. Comartin.

Mr. Joe Comartin: Mr. Chair, I just want to acknowledge the cooperation we've had from the parliamentary secretary, his office, and the department. Like Mr. Marceau, I have been feeling some frustration at not being able to get on top of this as much as we would like to. They've offered as recently as a few minutes ago to discuss this, and I wanted to talk to Mr. Marceau first. I think we're moving in the direction Mr. Marceau and I both want to go.

I have two issues that would cause me concern.

One is that we could end up with substantially different practices, province to province, as each attorney general worked that through. That's my initial concern, that if we don't have some guidelines or criteria for the attorney general, province to province, to work with from this level of government, do we end up with a real checkerboard right across the country of different ways of determining this?

The other point...and I wasn't clear, Mr. Macklin, because I didn't catch all the words. Would your definition still limit it to somebody who had a medical degree?

Hon. Paul Harold Macklin: No. Let me just run through it. It would read on the front “medical practitioner or any other person who has been designated by the Attorney General as being qualified to conduct an assessment of the mental condition of...”.

● (1605)

Mr. Joe Comartin: That would be satisfactory, and Mr. Marceau is indicating the same.

The other point is, how do we deal with ending up with substantially different results province by province? My concern is that some attorneys general would just not deal with it, so we'd be stuck with the existing situation. I'm looking at some way to ensure that they will all look at it and come up with alternatives for areas where, at this point, there are none.

Hon. Paul Harold Macklin: Right. I'll have Ms. Kane address that in detail.

Ms. Catherine Kane: There are a couple of ways we could encourage all provinces to look at that. There is this federal-provincial working group on mental disorders. It meets regularly to discuss issues such as that. But I think we also have to bear in mind that it is up to the provinces to administer justice the way they see fit. Some provinces may not want to let anybody but a medical practitioner do the assessments. They may have a sufficient roster of forensic psychiatrists who do it. However, I think the territories would certainly take advantage of that flexibility, as would other small provinces. Because the province is paying for whatever professional would conduct that assessment under their mental health budget, they would probably be quite interested in exploring the most cost-effective options.

So I think they would certainly turn their minds to the use of other professionals. We could encourage some standard criteria, but we certainly couldn't force that.

The Chair: Are you finished, Mr. Comartin?

Mr. Joe Comartin: No. Ms. Kane has raised a point. I'm not sure I would agree with her, but I'm not sure she's taking that position.

Just constitutionally, are you saying we could not impose criteria on the provinces?

Ms. Catherine Kane: I can't provide a constitutional opinion. We have a collaborative relationship with the provinces because the administration of justice is their responsibility and we make the law. There's always a back and forth, and usually a good working relationship. We wouldn't want to be seen as saying, “You must do it this way. You must have a group of people who are going to do assessments.” They would likely take that option up if they needed to, but if they didn't need to, it might take them a while to come around to using those other options.

Mr. Joe Comartin: That's all for now, Mr. Chair.

The Chair: Okay.

Mr. Toews.

Mr. Vic Toews: Constitutionally we have already mandated that the provinces accept a specific standard, and that is a medical practitioner. It's obvious we have already done that.

I actually prefer Mr. Macklin's approach to this issue. It reduces the disparity over what Mr. Comartin is talking about. When we talk about psychologists and social workers, there are differences between provinces. Social workers aren't even in a regulated body in many situations. Anyone could come forward and say, “Well, I've got an M.S.W., or a B.S.W., so I'm a social worker”. In fact, there is no professional recognition of that designation, so I'm concerned about that amendment. The issue is addressed by Mr. Macklin saying that it be a medical practitioner or someone else designated.

I think it also goes to the issue of resources. If there is a shortage of resources in the area of forensic psychologists, let's say, the Attorney General would then say, “I need somebody else and I will designate somebody else.” Political pressure would come from within that province to make the appropriate amendment.

So I'm satisfied with Mr. Macklin's approach to this. I think it's a good issue, and I'm glad we had this discussion. I would like to see some kind of criteria developed. I don't think it's inappropriate to ask for some kind of criteria and encourage the attorneys general to establish some kind of standards. But I don't think I could support Mr. Comartin's motion at this time.

The Chair: Mr. Comartin.

Mr. Joe Comartin: Actually, I like Mr. Macklin's as well. I'm just concerned about the criteria factor.

On my assessment of this, it's a particular problem in the north part of the country and a particular problem for our first nations and Métis communities in those areas, in having to be moved great distances for the assessments. But I'm prepared—and I understand Mr. Marceau is as well—to go along with the government's suggestion on this point. I'd like to see it in its final term before we actually approve it. But I'm satisfied we'll deal with that, and I ask Ms. Kane to continue to work with the provinces to try to build that criteria.

● (1610)

The Chair: Mr. Macklin, do you have a specific amendment to move that would cover this?

Hon. Paul Harold Macklin: Yes. Using BQ-3 as the basic motion, delete "in the opinion of the court is qualified" and substitute therefor, "has been designated by the Attorney General as being qualified to conduct an assessment".

The Chair: —of the mental condition.

Hon. Paul Harold Macklin: Then it would go on. Yes, that's right. It just fills in the deleted portion I identified.

The Chair: I'm told that's in order. I think we were discussing NDP-1 and NDP-2. If we can deal with NDP-1 and NDP-2—

[*Translation*]

Mr. Richard Marceau: Mr. Chairman, let me start by saying that I support the proposed amendment. In fact, it's really a subamendment in that it ties in with amendment BQ-3. I think that if Joe Comartin were to withdraw NDP-1 and NDP-2 and if the committee were to opt for BQ-3 as amended by Paul Macklin, then the concerns I raised earlier would be assuaged. This would, in essence, accomplish what Mr. Comartin wants.

[*English*]

The Chair: If we're all in agreement, we'll withdraw NDP-1 and NDP-2 and move BQ-3, as amended by Mr. Macklin.

(Amendments withdrawn)

(Clause 1 as amended agreed to)

(On clause 2)

The Chair: We're on clause 2.

[*Translation*]

The next item of business in amendment BQ-4.

Mr. Marceau.

Mr. Richard Marceau: Mr. Chairman, I consider the work done by the committee in 2000 as sacred. I was not a member of the committee at the time, but I always have the utmost respect for the work done by my predecessors. Recommendation 4 contained in the committee's report reads as follows: The Committee recommends that the definition of "unfit to stand trial" in section 2 of the Criminal Code be amended by adding the words "and to be sentenced" to the title and the words "or sentence imposed" after the words "verdict is rendered" in the definition itself. As well, section 672.11(a) of the Code should be amended to allow the court to order an assessment in such cases. Finally, subsection 672.38(1) of the Code should be amended to give the Review Board jurisdiction in such cases.

My apologies to the interpreters.

[*English*]

The Chair: Is there any comment?

Mr. Macklin.

Hon. Paul Harold Macklin: My thought is that this is consequential, if I'm looking at BQ-4, and since we didn't adopt the original position with respect to a person to be sentenced as being an addition to the original definition, this should not go forward.

● (1615)

[*Translation*]

Mr. Richard Marceau: I made a mistake and I apologize for it. He's right. It does tie in with BQ-1. It's one of the issues that the government is undertaking to revisit with the committee between now and next spring. I'm very sorry.

The Chair: The amendment is therefore withdrawn.

The Chair: Mr. Marceau, you wanted to discuss some of the terminology used in BQ-5. Is that right?

Mr. Richard Marceau: Mr. Chairman, I have here several amendments and I do not know how they are numbered. When I arrived here in committee, they were not numbered. Therefore, I'll have to wing it a bit.

This amendment is further to a suggestion made by the Barreau du Québec. It calls for replacing the terminology used by the government in the French version, in this instance "suspension d'instances" by "arrêts des procedures".

A legal analysis was done and I was given assurances that the old term "arrêt de procédures" was patterned on the English expression. It was also explained to me that as the Code was undergoing a revision, the expression "suspension d'instance" was being substituted for "arrêt des procédures". At the time, the suggestion had been made by one of the department's jurilinguists.

In light of the explanation given to me earlier by the parliamentary secretary on behalf of the department, I am prepared to withdraw all of my amendments having to do with the expression "arrêt des procédures". The department is advising me that it is planning to review the Criminal Code sometime in the next few months to ensure that uniform terminology is used. This is a terminological, not legal, matter.

The Chair: Mr. Marceau, I believe that applies to amendments BQ-5, BQ-11 to BQ-15, BQ-18, BQ-20 and BQ-21 to BQ-31. We'll take the time we need to withdraw these amendments.

Mr. Richard Marceau: In point of fact, these amendments merely deal with terminological issues.

The Chair: All of these amendments are therefore withdrawn.

[*English*]

(Clause 2 agreed to)

(On clause 3)

[*Translation*]

The Chair: Next we have amendment BQ-6 respecting clause 3.

Mr. Marceau.

Mr. Richard Marceau: One moment, Mr. Chairman.I'm sorry, but I can't seem to find amendment BQ-6. Perhaps Ms. Kane could explain to us the impact of this amendment.

● (1620)

[*English*]

The Chair: Ms. Kane, could you assist us?

Ms. Catherine Kane: BQ-6, as I read it, seeks to make some changes to the new powers in Bill C-10 that would permit a review board to order assessments of the mental condition of the accused. In the current code the review board has no power to order assessments. The committee recommended that they have that power, and in Bill C-10 it was a fairly narrow power, crafted so they wouldn't order assessments all the time, but they would be able to order an assessment where no current assessment was available, the assessment in the last twelve months was not in their hands, they didn't have any assessment on file, or where the accused was being transferred from another jurisdiction. The amendment, as I read it, would open that power up completely for the review board and they could order an assessment for the purposes of making a disposition, without any limitations.

Mr. Marceau may want to indicate why he feels that would be better. Based on our experience with our provincial colleagues, I think they would have concerns about that wide open new power.

[*Translation*]

Mr. Richard Marceau: What concerns might your provincial colleagues have if assessments could be ordered?

[*English*]

Ms. Catherine Kane: We had that discussion after the government response was tabled and before the bill was drafted. This is a brand-new power for the review boards. As I said, they don't currently have the ability to order assessments.

The concern is—and I can't indicate how valid the concern is—that a review board would order an assessment when they were not satisfied with the one they had before them and wanted to get another opinion. You could end up with a bit of a battle of the experts, and that could delay things.

If you have an assessment that was done in the last six months, should another assessment be ordered, or can you rely on that? All these assessments have cost implications. I think our provincial colleagues were conveying to us that because this was such a departure from the current Criminal Code, the review board's power should be expanded incrementally. In future years it should be wide open, and that can be looked at in the future.

The Chair: Monsieur Marceau.

[*Translation*]

Mr. Richard Marceau: That ties in well with what I was trying to accomplish by granting powers to the Review Board.

The Chair: Then you'll withdraw BQ-6?

Mr. Richard Marceau: Fine then.

● (1625)

[*English*]

The Chair: Okay.

(Clause 3 agreed to)

(Clauses 4 to 13 inclusive agreed to)

The Chair: We're on clause 13.1 and amendment BQ-7.

[*Translation*]

Mr. Richard Marceau: Mr. Chairman, the purpose of the amendment is simply to spell out the composition of a provincially established Review Board. It corresponds to one of the recommendations —don't ask me which one, because I'm also trying to follow along at the same time — made by the committee in the year 2000.

[*English*]

The Chair: Mr. Macklin.

Hon. Paul Harold Macklin: I believe that once again this is only a consequential amendment that flows from the adding of a person who is found unfit to be sentenced. If it followed in the normal course, it would be one that we would withdraw.

[*Translation*]

The Chair: Do you agree, Mr. Marceau?

Mr. Richard Marceau: Yes, provided the government undertakes to revisit the subject next spring.

[*English*]

The Chair: Next we have amendment G-1.

Mr. Macklin.

(On clause 14)

Hon. Paul Harold Macklin: I will let Ms. Kane bring that forward.

Ms. Catherine Kane: This amendment is basically just to shift the wording of the provision around. The notion here is that the review board should receive copies or originals of transcripts, material, and exhibits in the possession of the court before they conduct the disposition hearing. As it's drafted, there is some confusion whether copies could be provided in all cases or whether courts would have to provide material that wasn't already in their possession. So the drafting has just been tightened to make it clear that copies are fine, and they're only required to transmit to the review board what's already in their possession. There's no substantive change; it's just to make the language better.

The Chair: Is this amendment consequential to G-11?

Ms. Catherine Kane: It's not consequential; they're two separate clauses that need the same type of an amendment.

The Chair: Okay.

Are there any comments on G-1?

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

(Clause 14 as amended agreed to)

(Clause 15 agreed to)

The Chair: New clause 15.1

[*Translation*]

Next we have amendment BQ-8.

Mr. Richard Marceau: In light of the discussions over the noon hour with PWGSC, this amendment is withdrawn.

The Chair: Thank you, Mr. Marceau.

Our next item of business is BQ-9 which concerns clause 16.

Mr. Richard Marceau: Mr. Chairman, I'd still like to put forward this amendment which again follows up on recommendation 6 in the 2000 report. It is my understanding that the government would be prepared to give its support now that some changes have been made to the wording of this provision. I'll let either Mr. Macklin or Ms. Kane discuss this matter with you.

[*English*]

Hon. Paul Harold Macklin: We're just going to get the wording here.

The Chair: BQ-9.

[*Translation*]

Mr. Richard Marceau: These recommendations affect victims' rights.

[*English*]

The Chair: Ms. Kane.

Ms. Catherine Kane: We would propose that the wording be very similar, but with some changes about the term “victim's rights”, for example, so that it would read:

> At the victim's request, notice of the hearing and of the relevant provisions of this Act shall be provided to the victim within the time and in the manner fixed by the rules of the court or Review Board.

We can provide similar wording in French if that's helpful.

The Chair: Could you please repeat that?

Mr. Macklin, I guess you're moving a subamendment, are you?

Hon. Paul Harold Macklin: Yes, a subamendment.

The Chair: Could you read that subamendment again, please?

Ms. Catherine Kane: It reads:

> At the victim's request, notice of the hearing and of the relevant provisions of this Act shall be provided to the victim within the time and in the manner fixed by the rules of the court or Review Board.

The Chair: Fixed by “the rules” or fixed by “rules”?

Ms. Catherine Kane: By the rules.

The Chair: We've heard the subamendment. Is there any discussion?

(Subamendment agreed to)

(Amendment agreed to)

(On clause 16)

● (1630)

The Chair: We have BQ-10 to deal with as well.

[*Translation*]

Mr. Richard Marceau: Mr. Chairman, in light of amendment BQ-10, the government has pledged to raise the issue at a future federal-provincial meeting. It has also undertaken to return and revisit the issue and address the problems that amendment BQ-10 was attempting to resolve. Consequently, the amendment is withdrawn in exchange for the government's undertaking to consult with us.

[*English*]

The Chair: Okay.

We have an NDP amendment to clause 16 as well, but we can't move it.

Mr. Joe Comartin: I'm withdrawing NDP-3. It's been dealt with by the exchanges that just occurred.

The Chair: Now we have NDP-4, clause 16. Is NDP-4 a further amendment, Mr. Comartin?

Mr. Joe Comartin: Mr. Chair, what I'm attempting to do here is to alleviate the problem of individuals who wish to provide a victim's impact statement having to come, year in year out, when there is no likelihood that the person is going to be discharged or the file altered at all, when all that is happening is that the 12-month or the 24-month review is up and it has to be brought back before the board. What I'm attempting to do here—and I do want to hear comments from the government in this regard—is to provide a framework where the victim, or the person who wishes to make a victim impact statement, will be given notice that there is some possibility that the individual is going to be dealt with, as opposed to it just being put over once again. That's the reason behind this. I'm not sure I've accomplished it, and again, as I said earlier, it's been very difficult to deal with this in the short period of time we had. I really would like to hear the government's response on this.

The Chair: Ms. Kane.

Ms. Catherine Kane: Thank you for the clarification, and it's certainly a very well-intentioned amendment, but I'm wondering if some of the concerns haven't already been dealt with by the previous amendment, the Bloc amendment that was subamended by the government to basically require that victims would get notice in accordance with rules that are established. In that case they would have notice of all the hearings, and they could exercise the rights they have accordingly.

It's not quite the same as putting them on notice that in this particular case there's likely to be a change, so they might want to be there more than they would otherwise want to be there. But it appears, based on the discussions we've had both in the many consultations we've done in the department with victims and victim advocates and also with victims of mentally disordered offenders, although they are fewer in number, that they want to be there all the time no matter what is going to happen. And as hard as it is for them to be there to hear the terrible details of what happened in the past, they feel compelled to be there. So they would likely be there regardless of whether the accused was going to be released or not. They want to be there at every annual disposition hearing as an observer, and then more recently, since 2000, when they've been able to submit a victim impact statement, they've done so. Maybe we're helping them in a way that they don't need to be helped, because they want to be there anyway.

The Chair: Mr. Comartin.

Mr. Joe Comartin: I understand the mindset. I've had a number of clients over the years who would have had that. On the other hand, I also had a lot of clients who only wanted to be there when the matter was of some substance but felt compelled to be there every time because they never knew. Part of this, I have to say, is a lack of trust in the system, which we heard from a number of witnesses, which is unfortunate. When you have been victimized in this way, you lose your sense of security, but as part of that you lose trusting authority and the system. So I know there will be a number of people who will go every time.

I'm trying to facilitate the process for those who want to be there only when they can make a meaningful contribution, and that would be at the time when the case is going to be dealt with on its merits in some substance, as opposed to it just being an automatic, almost rubber stamp that it's coming up again next year. I'm looking for wording that will do it. I think this is a way of doing it, but I'm certainly open to other alternatives.

I want to say back to Ms. Kane that I really do understand what she's saying to me, and I'm not doing this out of a sense of doing something for people who don't want something done for them. There are a certain number of them, a certain percentage of them, who would in fact not come if they knew the matter was simply going to be adjourned for another 12 months.

● (1635)

The Chair: Mr. Macklin, and then Mr. Toews.

Hon. Paul Harold Macklin: I have one concern in a general way that is raised by Mr. Comartin's amendment, and that is, how do you anticipate in advance what the review board findings are going to be, in other words, if there is going to be a possible release? Not always would you have that indication in advance, and therefore it would be very difficult to anticipate that disposition.

Mr. Joe Comartin: I don't accept that. The reality is if there's a recommendation coming from the assessment and the hospital, somebody is moving for a recommendation to the board that the board consider that this person be allowed to be discharged or dealt with.

That report has to be in, obviously, before the hearing starts. So at that point the board would know, the prosecutor would know, or the Crown would know, that in fact there is a recommendation coming forward for this to be of some substance.

Once that is made known, the victim, or the family of the victim, or whomever is wanting to make the statement, should be given notice. That would be the triggering event.

The Chair: Mr. Toews.

Mr. Vic Toews: My concern was similar to Mr. Macklin's. How do you know that?

I appreciate that this is not like a regular trial. It's more in the nature of an administrative hearing and many of the determinations are made at least on a prima facie basis ahead of time. There would be an indication then that the odds are that this individual is not getting out based on the various recommendations.

What I see Mr. Comartin's amendment doing is simply giving additional information, not to say that the individual may not attend, but that the individual may not want to attend given that this appears to be the evidence on hand and there doesn't seem to be anything of substance to the contrary.

So I don't see that as being a bad thing. I think it's not exactly the same as the government amendment. I think there's some merit to it, and I think those individuals who may not want to attend, or want to only attend where there is a substantive involvement, should be given that notice.

The problem I see is what if you advise them that this person is not going to get released and of course the individual does get released? That's the only situation I can see. I don't know if there can be a safeguard in that respect, that in any event no one shall be released without the victim being given the opportunity to be heard.

The Chair: I think I see a bit of a consensus developing.

Mr. Macklin.

Hon. Paul Harold Macklin: I think maybe we would be prepared to go forward with this and see if it works and how it works.

The Chair: For clarification, Mr. Comartin, there's a handwritten piece here, and I just want to make sure we have it right. It reads, after 13.2:

> On receiving an assessment report, the court or Review Board shall determine whether, since the last time the disposition in respect of the accused was....

Is that “made” or “reviewed”?

● (1640)

Mr. Joe Comartin: “Made” is the additional word that has to go in.

The Chair: “Made or reviewed”.

Mr. Joe Comartin: Yes, “or reviewed” .

The Chair: Does that amendment carry?

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

The Chair: I believe that was the last of the amendments to clause 16. No, there's one more. NDP-5 also applies to clause 16.

Mr. Comartin, NDP-5.

It's consequential, I am told. Is that right?

Mr. Joe Comartin: It's consequential, yes.

The Chair: Mr. Comartin, NDP-5.

Mr. Joe Comartin: I'm sorry, I thought Ms. Kane wanted to make a comment.

Ms. Catherine Kane: I wondered if it was consequential or if there's something more intended there.

Mr. Joe Comartin: I'm sorry. I'm struggling to find the wording. It's to ensure there's a provision in this section that differentiates between a written presentation or in fact a verbal one. So this is to ensure that in this section they would be allowed to do it verbally if that was their determination.

For the person providing the statement, I want to ensure that they have the choice as to whether it is going to be in writing or they could attend and do it verbally. I saw it as consequential.

The Chair: Do you have any comment, Ms. Kane?

Ms. Catherine Kane: That is the general thrust of all the other amendments that are already in the Criminal Code as well as these, that the victim has the choice to just submit it in its written form or they can choose to read it aloud.

When they want to do it some other way, for example, by video or have somebody else read it on their behalf, that's when they have to have an agreement with the review board. But they do already have the right to read it aloud if they so choose. So there's no harm in adding that amendment, but it should already be the norm.

Mr. Joe Comartin: I'm just not finding the wording, Mr. Chair, and when I did it I thought it was necessary to do it.

The Chair: I'd ask the researchers, maybe you could explain that there could be a restrictive effect to it. Could you explain it?

Mr. Wade Raaflaub (Committee Researcher): As I read the proposed amendment, it says:

> The court or Review Board shall, at the request of a victim who has been notified under subsection (13.2)

So now only victims who have been notified of a possible change will be able to present their statements at the review board hearing. That's restricting it.

The Chair: Is that really the intention, Mr. Comartin?

Mr. Joe Comartin: I'll withdraw it.

The Chair: NDP-5 is withdrawn.

That being the last of the proposed amendments to clause 16, shall clause 16 as amended carry?

(Clause 16 as amended agreed to)

(Clauses 17 and 18 agreed to)

(On clause 19)

The Chair: We have G-2.

Mr. Macklin or Ms. Kane.

Ms. Catherine Kane: This is another technical amendment that's similar to G-1, basically just to make sure the wording is clear so that originals or copies can be provided of material that's already in the possession of the court and transmitted to the review board.

The Chair: Is there any discussion on amendment G-2?

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

(Clause 19 as amended agreed to)

(Clauses 20 to 26 inclusive agreed to)

(On clause 27)

The Chair: Clause 27 has amendment G-3.

Ms. Catherine Kane: Again, this is a small change, quite technical. This whole regime governs the extension of hearings from 12 months to 24 months. And when there's an extension, notice has to be provided to certain parties. As currently drafted, Bill C-10 didn't specify that notice be given to the prosecutor. This was because we assumed the prosecutor would be present when that decision was rendered. However, to be extra certain that the prosecutor received notice, the amendment is to include “prosecutor” in the list of persons to receive notice.

● (1645)

The Chair: Is there any discussion on the proposed amendment G-3?

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

(Clause 27 as amended agreed to)

[*Translation*]

The Chair: No amendments have been proposed to clauses 28 through 31.

(Clauses 28 to 31 inclusive agreed to)

(On clause 32)

The Chair: Next we have amendment G-4 to clause 32.

Go ahead, Ms. Kane.

[*English*]

Ms. Catherine Kane: In Bill C-10, we had attempted to provide some flexibility so that review boards that don't convene regularly could summon a person to appear as soon as practicable. However, on further reflection, and based on comments by the bar and others, that is too vague. So we have to provide that the summons for an accused to appear be at a fixed time and place. So the amendment will restrict it to where it can be specified where to show up and when to show up. Otherwise, the accused would not have a clue what was required of him.

The Chair: Any discussion on amendment G-4?

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

(Clause 32 as amended agreed to)

(On clause 33)

[*Translation*]

The Chair: Next we have clause 33 and amendment G-5.

[*English*]

Hon. Paul Harold Macklin: This is the amendment that we spoke to earlier dealing with when one is likely not to become fit to stand trial. This is the amendment, Mr. Marceau, that we were referring to in G-5.

[*Translation*]

The Chair: Mr. Marceau, does this affect any of the amendments that you have put forward?

Mr. Richard Marceau: It's similar to what the Parliamentary Secretary said.

The Chair: Let's move on to amendment BQ-11.

Mr. Richard Marceau: Amendment BQ-11 has been withdrawn.

[*English*]

The Chair: Does amendment G-5 carry?

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

The Chair: Is this one consequential to amendment G-8?

Ms. Catherine Kane: It builds on amendment G-8.

The Chair: Okay. We'll wait until we get there.

Amendments BQ-12 and BQ-13.

[*Translation*]

Mr. Richard Marceau: They have been withdrawn.

[*English*]

The Chair: Amendment G-6.

Ms. Catherine Kane: Amendment G-6 is related to G-5. When we clarified the test for a person to ever become fit, this is the companion to that. When the court is coming to the determination of whether an accused remains unfit and is not likely to ever become fit, we're requiring that this be on the basis of clear information.

This is to better reflect the language the Supreme Court of Canada used in the Demers case.

The Chair: Thank you.

Any discussion? Mr. Toews.

Mr. Vic Toews: Just on that issue, is that imposing some kind of standard of proof that I'm not familiar with? I mean, we have beyond a reasonable doubt, we have on a balance of probabilities, and now we have on a basis of clear information.

Ms. Catherine Kane: No, it's not meant to impose a different standard of proof. It's still basically a balance of probabilities that the person is not going to ever become fit to stand trial. It's just turning the court's attention to the type of information that has to be before it.

Mr. Vic Toews: So the Supreme Court came up with this wording?

Ms. Catherine Kane: As you can appreciate, it's difficult to incorporate Supreme Court language into a codified provision. The Supreme Court used language such as that there should be clear evidence that capacity will not be recovered. But in our scheme we don't talk about capacity; we talk about fitness. We've had to adapt it. This is basically to convey that notion, that they need something before them, which will be medical evidence, to indicate that the person is not likely to ever become fit.

Mr. Vic Toews: I can see all kinds of confusion coming up. Mark my words, there will be confusion over this. What's clear evidence? What's not clear evidence? Information or evidence is never clear. You balance it off. Does clear evidence mean uncontradicted evidence?

The lawyers are going to have a field day with this. I'm not surprised the Supreme Court would come up with this kind of thing.

● (1650)

Ms. Catherine Kane: We do also assume that this provision will be interpreted using Demers. People will argue the Demers case in interpreting this provision. Some of us share some of your concerns about what is clear evidence, but we're doing our best to meet the comments that have been brought to our attention, that the test has to be closer to what the Supreme Court of Canada suggested.

Mr. Vic Toews: And what is that test?

I just want to put this on the record so that somebody arguing this in a number of years is going to at least turn to the record on what our intention is here. Quite frankly, though, I'm not clear what our intention is here. There are things like clear and compelling evidence. There is beyond a reasonable doubt, to a moral certainty. Now the Supreme Court is monkeying around with a new standard.

If what you're saying is that on a balance of probabilities that's basically what the test is, I don't know why we just can't say that. If we're all agreed that this is on a balance of probabilities, and that's what the Supreme Court meant, then I guess I'll just let my words stand on the record and let the lawyers argue when this comes before the courts again.

The Chair: Any further comments on amendment G-6?

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

[*Translation*]

The Chair: BQ-14 and BQ-15 have been withdrawn.

Mr. Richard Marceau: BQ-15, BQ-16 and BQ-17 have been withdrawn.

The Chair: Has BQ-16 also been withdrawn?

Mr. Richard Marceau: Yes, the problem is the same.

The Chair: Amendment BQ-16 has been withdrawn.

[*English*]

(Clause 33 as amended agreed to)

(Clauses 34 and 35 agreed to)

(On clause 36)

The Chair: Clause 36 has proposed amendment G-7.

Mr. Macklin or Ms. Kane.

Ms. Catherine Kane: The amendment to this part appears quite complicated, so I will try to make it as simple as possible.

In Bill C-10 we had set out some new enforcement provisions and new options for police so that they had some flexibility where they arrest accused who are in contravention of their disposition.

The intention was that the police wouldn't necessarily have to lock up those accused. In the appropriate circumstances they could return them to the place where they should be, whether that's the hospital or a group home or another residence, or whatever, and then they would appear before the review board.

Several witnesses who appeared before the committee said that was just too vague. It's well intentioned, but the police have to know what to do with people they arrest for contravening a disposition.

So in the redrafted part of clause 36 we will end up with a new proposed section 672.92. What it will do is the following. The police officer who arrests the accused, if that accused is under a conditional disposition, will have the option of releasing them with a summons or a promise to appear, but that summons or promise to appear will be before the justice of the peace. So they can release them, but they're required to attend before the court at the next opportunity. They also have the option of returning them to the place where they should be after they've issued the summons or promise to appear.

The accused would then appear before the justice of the peace, who would either determine that there hadn't been a contravention of the disposition, in which case the accused would be on his way, without any other consequences.... If the justice of the peace determines that there has likely been a contravention of the disposition, they would impose whatever order they deem appropriate to govern the accused until the review board holds their next disposition hearing. In both cases they would provide notice to the review board that this is what had occurred, so the review board knows that there has been a contravention and can then convene a hearing as soon as possible to get the accused back before them.

Where the accused is in contravention of a custodial disposition, the police won't have the option of releasing them. They'll have to detain them, and they'll have to appear before the justice of the peace, who will determine what the order should be, pending the review board hearing.

● (1655)

The Chair: Mr. Toews.

Mr. Vic Toews: So where they choose to release the accused from custody, then they must issue a summons or appearance notice and deliver. So they have to do both of those things. It's not an option.

Ms. Catherine Kane: No, and that guarantees that they're not perpetuating their contravention by being where they shouldn't be.

Let's say they found somebody at the casino who shouldn't be at the casino.

Mr. Vic Toews: Right.

Ms. Catherine Kane: They say, you have to appear before the justice tomorrow and we're going to take you back to the Royal Ottawa Hospital. At that point he's no longer in the breach position. He's where he should be.

Mr. Vic Toews: Okay.

The Chair: Is there any further discussion on amendment G-7?

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

[*Translation*]

The Chair: Our next item of business is BQ-19.

Mr. Richard Marceau: Mr. Chairman, since amendment G-7 has been adopted, I withdraw BQ-19.

(Clause 36 as amended agreed to)

(Clauses 37 to 39 inclusive agreed to)

(On clause 40)

The Chair: Moving on to clause 40, have BQ-20 and BQ-21 already been withdrawn?

Mr. Richard Marceau: They have, Mr. Chairman.

(Clause 40 agreed to)

[*English*]

(Clauses 41 to 48 inclusive agreed to)

(On clause 49)

[*Translation*]

The Chair: BQ-22 has been withdrawn.

Mr. Richard Marceau: That's correct.

[*English*]

The Chair: We have amendment G-8.

Mr. Macklin or Ms. Kane.

Ms. Catherine Kane: I think I will let Lieutenant-Colonel Dufour speak to this, if he so chooses. This is a parallel amendment to amendments previously carried to the National Defence Act.

[*Translation*]

The Chair: I will now turn the floor over to Lieutenant Colonel Dufour.

LCol André Dufour: We're on clause 47. Correct?

The Chair: In fact, we're on clause 49.

LCol André Dufour: Regarding clause 49, the proposed change is similar in nature to the proposed amendment to the Criminal Code in clause 33.

The Chair: Are there any comments?

Shall amendment G-8 carry?

[*English*]

I'm informed there are line conflicts.

Perhaps you could explain.

Ms. Susan Baldwin (Procedural Clerk): It appears to me that there are line conflicts in paragraph (c) of amendment G-8 and also on amendment G-10. Normally in a committee you can only amend a line once. Perhaps we could have some subamendment made to one or the other of these amendments so you could get both of your amendments done. They need to be amalgamated, is what I'm saying.

The Chair: That's amendment G-8 and amendment G-10.

Hon. Paul Harold Macklin: Could we get clarification on the line amendment that is required, based on the clerk's advice?

Ms. Susan Baldwin: It appears to me that paragraph (c) of amendment G-8 amends line 20 on page 26 and amendment G-10 amends lines 18 to 23 on page 26. So you have a conflict in line 20.

● (1700)

Ms. Catherine Kane: I appreciate what you mean—they will overlap—but if one follows the other, then paragraph (c) will not be necessary.

Ms. Susan Baldwin: So we could just strike out paragraph (c) of amendment G-8 and then there will be no line conflict and you will have the amendments you desire to the bill.

Ms. Catherine Kane: We'll just have to take a moment to see what the impact would be.

Ms. Susan Baldwin: Certainly.

LCol André Dufour: I have a clarification with respect to this clause in G-8. If we remove paragraph (c) but accept G-10, it will be all right.

The Chair: So we'll do a subamendment to G-8 to remove paragraph (c).

(Subamendment agreed to)

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

The Chair: We're on G-9.

[*Translation*]

LCol André Dufour: The purpose of the proposed amendment is to make the French version conform to the English version. The latter notes the following:

[*English*]

"conduct an inquiry to determine".

[*Translation*]

The French version, on the other hand, says: "examiner l'opportunité de". The amendment proposes to delete these words.

The Chair: Are there any comments on G-9?

(Amendment agreed to)

The Chair: The next item of business is amendment G-10.

LCol André Dufour: This is the same amendment as the one made to the Criminal Code. The proposed amendment to clause 49 should therefore be adopted as well.

The Chair: Are there any comments on G-10?

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

(Clause 49 as amended agreed to)

(Clause 50 to 54 inclusive agreed to)

(On clause 55)

[*English*]

The Chair: We're on clause 55 and government amendment G-11.

Mr. Macklin.

Hon. Paul Harold Macklin: It's the same technicality we've had dealing with the provision of copies and clarifying the provision of copies.

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

(Clause 55 as amended agreed to)

(On clause 56)

The Chair: For clause 56 we have amendment G-12.

● (1705)

[*Translation*]

LCol André Dufour: The purpose of this amendment is to make clause 56 similar to the provision in the Criminal Code. However, the current French version needs to be amended. The words "du Code criminel" need to be added after the words "l'alinéa 672.54*b*) in proposed subsection (2.1).

The Chair: These words are missing in the French version?

LCol André Dufour: That's correct, Mr. Chairman.

The Chair: To what provision are you referring?

LCol André Dufour: To proposed subsection (2.1). The words "du Code criminel" need to be added after the words "l'alinéa 672.54*b*)"in line 8.

The Chair: I see.

LCol André Dufour: The same change is called for in proposed subsection (2.3) in line 8, that is the words "du Code criminel" should be added after the words "l'alinéa 672.54c)".

Lastly, in the proposed subsection (3.2) of the French version in line 3, "cour martiale" is obviously spelled with an "e".

The Chair: Fine then. The word "martiale" should be spelled with an "e". Any other comments?

(Subamendment agreed to)

(Amendment as amended agreed to)

(Clause 56 as amended agreed to)

(Clause 57 and 58 agreed to)

(On clause 59)

The Chair: Next we have clause 59. Is BQ-29 being withdrawn?

Mr. Richard Marceau: Yes.

(Clause 59 agreed to)

(On clause 60)

The Chair: Our next item of business is clause 60. Have amendments BQ-30 and BQ-31 been withdrawn?

Mr. Richard Marceau: Yes.

(Clause 60 to 65 inclusive agreed to)

[*English*]

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill carry?

Some hon. members: Agreed.

The Chair: Shall the chair report the bill as amended to the House?

Some hon. members: Agreed.

The Chair: Now there's the question of reprint. I think we have enough amendments here that it would be in order.

Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Chair: Thank you.

Monsieur Marceau.

[*Translation*]

Mr. Richard Marceau: Mr. Chairman, the government has made a number of undertakings. Would it be possible to have them in writing? Either the Clerk or the government could arrange to have that done. It's important to know what the government has undertaken to do and to have a clear picture when we do get an answer, to avoid having to review everything.

The Chair: Do you agree, Mr. Macklin?

[*English*]

Hon. Paul Harold Macklin: Agreed.

[*Translation*]

The Chair: You can send a letter to our clerk and it can be distributed to committee members.

[*English*]

Thank you very much, everyone. It was very interesting.

[*Translation*]

Mr. Marceau, we'll raise your question at a meeting of the Subcommittee on Agenda and Procedure.

● (1710)

Mr. Richard Marceau: Thank you very much, Mr. Chairman.

The Chair: Thank you.

I'd also like to thank our interpreters.

[*English*]

The meeting is adjourned.

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