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Chair

Mr. Paul Zed

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• (1535)

[English]

The Chair (Mr. Paul Zed (Saint John, Lib.)): Good afternoon, and welcome to the Subcommittee on Public Safety and National Security.

Today, pursuant to the order of reference of Monday, December 16, we're studying Bill C-26, An Act to establish the Canada Border Services Agency.

We're pleased to receive the Canada Employment and Immigration Union, and I'd like to welcome Jeannette, Janina, Nicolas, and Robin to our committee hearing today.

Folks, I guess you know the drill. We're looking for about a 10-minute opening statement, and then we'll give members an opportunity to ask some questions on Bill C-26.

Can I ask one of you to begin, please?

Mrs. Jeannette Meunier-McKay (National President, Canada Employment and Immigration Union): Thank you very much, Mr. Chairman and members of the committee.

I would like to thank you for allowing us to appear as witnesses today to further explain our proposed amendments to subclause 58 (1) of the CBSA Act, known as Bill C-26. We believe our proposed amendment is required to ensure that officers enforcing the Immigration and Refugee Protection Act are defined as peace officers and are protected under the Criminal Code of Canada, as are the co-workers and colleagues who perform similar enforcement duties.

These colleagues include employees applying the Correctional and Conditional Release Act, the Customs Act, the Excise Act, the Fisheries Act, and the Coastal Fisheries Protection Act. Our union, the Canada Employment and Immigration Union, represents 17,000 members, including immigration officers who are employed by the Canada Border Services Agency.

These immigration officers, previously with Citizenship and Immigration Canada, have a unique function within the agency. The majority are ports-of-entry officers and inland enforcement officers or investigators. These officers administer and enforce our immigration laws at the border and within Canada. The officers are equipped with use-of-force equipment, including bullet-resistant vests, batons, and pepper spray, in order to carry out their prescribed duties.

These officers interdict foreign nationals deemed to be inadmissible to Canada due to their criminal or subversive background, and they seek to detect, locate, arrest, and remove the same types of individuals who've made their way into our country illegally.

These officers made over 11,000 arrests and detentions in 2003 and 2004. We're here today to speak on behalf of these men and women who, in the execution of their duties, face risks and dangers on a daily basis to ensure the safety and security of the Canadian public.

Ports-of-entry immigration officers provide two basic functions: they facilitate admission to Canada and deny entry to those who are inadmissible. The latter function can include the arrest, detention, and removal of persons from Canada, and our members are facing an ever-increasing criminal element. As an example, during December, immigration officers at one of our ports of entry, in Sarnia, denied entry to 122 foreign nationals who were criminally inadmissible. These included persons convicted of the following: reckless homicide, carrying a concealed weapon, break and enter, aggravated assault, burglary, felony assault with a dangerous weapon, aggravated battery and resisting an officer, sexual battery, homicide, felony assault with a dangerous weapon, and registered sex offender, which usually means some degree of rape.

As mentioned, we also have members who apply the Immigration Refugee Protection Act within Canada. The role of these inland enforcement officers is primarily enforcement. They investigate, locate, and arrest habitual serious criminals under the immigration law, fugitives who find safe haven in Canada, and deemed war criminals and terrorists who use Canada as a place to hide.

In 2003 and 2004 these inland officers and investigators conducted 29,000 investigations relating to breaches of our immigration laws, including approximately 500 war crime investigations. They conducted almost 1,500 escorted removals of the most serious criminals. They issued and executed thousands of arrest warrants. Both port-of-entry and inland enforcement officers face assaults, injuries, and threats and may be required to use force in the execution of their duties.

As required by policy, our members complete enforcement incident reports. These reports detail officers being injured, officers being threatened, and incidents where use of force was required. There are other incidents. In 2003 and 2004, the number of enforcement incident reports increased by 60% from the previous year, confirming the increased risk and danger our members are facing. Some of these incidents resulted in injuries to our members in the execution of their duties.

• (1540)

Our members, who diligently perform their duties, serve to protect Canadians, and they do so in obscurity. They do not ask for accolades or rewards, but they do ask to be treated fairly and with dignity by the government they serve. I hope the background of the duties of these immigration officers has been helpful in understanding the nature of their work.

However, specifically, we are here today to further explain our proposed amendment under subclause 58(1) of the Canada Border Services Agency Act, known as Bill C-26. It should be noted that in our proposed amendment we are not seeking additional powers for those of our members who enforce the Immigration and Refugee Protection Act, but rather we are seeking to be given equal protection under the Criminal Code of Canada. We want to be on the same level as our custom counterparts within CBSA. We also seek to eliminate the ambiguity in the law to ensure that our members can carry out their current duties without legislative confusion.

It should be noted that our proposed amendment does not in any way change the spirit of Bill C-26, but rather brings it into harmony with the realities of the newly created Canada Border Services Agency. That is to say, all officers in the CBSA who administer and enforce the three main acts—the Customs Act, the Excise Act, and the Immigration and Refugee Protection Act— will be treated equally.

By not being included under section 2 of the Criminal Code of Canada, our members cannot arrest persons who either assault them or obstruct them in the execution of their duties. Furthermore, those same individuals cannot be charged with obstruction of a peace officer or assaulting a peace officer under the Criminal Code of Canada, because once again our members are not defined in section 2 of the Criminal Code. The offence of assaulting a peace officer is considered to be a more serious charge and reflects the very specific nature of the offence. Clearly, when one of our members is assaulted in the execution of his or her duties, it should merit the charge of assaulting a peace officer. Our members face risk and dangers every day and certainly deserve better protection under a law that accurately reflects those duties.

Many of our members over the years have either been obstructed or assaulted in the execution of their duties, while the violators were never charged or the charge did not accurately reflect the offence committed—simple assault as opposed to assaulting a peace officer. We feel that this does not provide the dignity our members deserve and may also serve to create an officer safety concern for other law enforcement officers who may be required to deal with the same individual in the future, the safety concern being that the individual's criminal history would not accurately reflect the possible threat he or she poses to other law enforcement officers.

It should also be noted that there are many ports of entry in Canada where customs officers act as immigration officers in our members' absence. These customs officers, when enforcing the Immigration and Refugee Protection Act, would also not be afforded protection as peace officers under the Criminal Code of Canada should the current version of Bill C-26 be passed.

Additionally, our members, during the course of their duties, may be required to obtain search warrants pursuant to sections 487 through 492 of the Criminal Code of Canada. While the Immigration and Refugee Protection Act provides for these authorities, the ambiguity lies in the fact that to obtain and execute these search warrants, one must be a peace officer as defined in section 2 of the Criminal Code.

• (1545)

Our members can run into difficulty in explaining their status as peace officers to magistrates and judges. The former department our members belonged to had in the past assured our members that our status as peace officers had been established through common law and the Interpretation Act, despite not being specifically mentioned in section 2 of the Criminal Code. Our members can provide you with examples of where these assurances have fallen short in cases where officers have been assaulted. Local police forces have been reluctant to lay charges of assaulting a peace officer, because our officers are not included in section 2 of the code. Clearly, our officers are not being afforded equal protection under our Criminal Code, and the ambiguities that exist in the law make their duties much more difficult.

In conclusion, may I say subclause 58(1) of Bill C-26 must be amended, as we proposed in our earlier submission, in order that both our members and customs officers administering the Immigration and Refugee Protection Act are protected under section 2 of the Criminal Code.

On January 12, 2005, I met with the president of the Canada Border Services Agency, who indicated his full support for our specific amendment. The way subclause 58(1) of Bill C-26 is written, it only takes into account the customs legacy organization and not the new realities of the Canada Border Services Agencies, which now includes the legacy immigration organization.

I thank you for allowing us this opportunity to appear today and further explain our submission and the proposed amendment to Bill C-26, which we previously filed with the subcommittee.

I would like to answer any or all questions on this matter, but if I could be afforded the opportunity to speak very briefly on a couple of issues of concern with respect to our members' safety and security at our borders within Canada, it would be appreciated.

So before he says yes or no, I guess I'll just continue, seeing as he's busy.

The creation—

Some hon. members: Oh, oh!

The Chair: I'm just looking for the amendment, that's all.

Sorry, go ahead.

•(1550)

Mrs. Jeannette Meunier-McKay: The creation of the Border Services Agency has generally been met with enthusiasm by our members—that is to say, the bringing together of common border personnel databases and resources under one agency. However, there are areas of concern that need to be considered pertaining to border security and public safety.

First, the Canada Border Services Agency is for the most part managed by the legacy customs organization. Immigration concerns about border security and safety seem not to be heard by Customs.

For instance, we feel that the thorough screening of persons arriving at our border is the most important consideration. The CBSA seems overly focused on the goods first and then the person. This concept of focusing primarily on the goods and not the person is contrary to the way almost all nations around the world apply their customs and immigration laws. In most countries around the world, the first officer you see is an immigration officer. We think more scrutiny of the person is required.

Second, the CBSA is creating a single border officer. This may sound like a good and efficient concept, but in fact we believe it will reduce border security rather than enhance it. One officer will be responsible for what three separate officers did before: customs officers, immigration officers, and food inspection officers. What this will do is dilute the experience and expertise in those areas. This new single border officer will know a little about everything but will have expertise in only one function. It goes back to being a jack of all trades, master of none. Without that specific expertise, this will only serve to benefit those individuals who are seeking to enter Canada at our border points to conduct illegal activities.

This area needs to be addressed, as it is a matter of border security.

Another area of concern is the inconsistent application of laws within the Canada Border Services Agency. Specifically, today the customs officer at the border has the authority to arrest and detain persons under four specific sections of the Criminal Code: child abduction, possession of stolen goods, impaired driving, and persons subject to warrants in Canada. Our members who work as inland enforcement officers, conducting their normal investigative duties, have on occasion come across persons subject to those non-immigration warrants, which we call court or police warrants. Whereas a customs officer would arrest and detain these persons at the various ports of entry, our members who work within our borders cannot.

This creates an issue of public safety and security, because the laws administered and enforced by the CBSA are not being applied equally in the name of the public safety. At the border, the person subject to that warrant would be arrested, but inside Canada the same person, should he or she come to the attention of our members conducting inland enforcement security, would benefit from the inconsistencies in our laws and as a result could continue to commit further offences. Unfortunately, our members are powerless to stop them.

This area of public safety needs to be addressed, as it is putting the public at undue risk.

Although the aforementioned areas of concern were not part of our original submission, they are areas of border security and public safety that we feel should be mentioned here. I thank you for allowing me to speak briefly on those issues.

We'd be more than happy—Janina as an expert on immigration issues, and Percy, who is actually a field officer—to answer questions.

The Chair: Thank you very much for your submission.

We'll go to Mr. Sorenson for questions.

Mr. Kevin Sorenson (Crowfoot, CPC): Thank you, Mr. Chairman, and thank you for coming.

It was with some interest that we've watched the formation of this new agency. One of the last times we read about your union was last summer, when you were frustrated that you had not been included in the formation of the agency. Then in October you were brought in, and everyone seemed to be quite happy that they were now in there. You said at the time that not being in posed a clear danger to the security of Canadians.

I have about three or four questions. Why, first of all, do you believe there was the hesitancy, or why were you originally left out of the new agency being formed? That is the first question.

Also, I missed your second point. In your concluding statement you had the first point, that you felt customs personnel were not listening and were more concerned about goods than they were about people coming across the border. Your third point was inconsistent application of the laws by some of the customs officers. But your second point I missed. I apologize for that.

•(1555)

Mrs. Jeannette Meunier-McKay: The second point was about having a single border officer, moving three functions into one, the customs officer, the immigration officer, and the food inspection officer. Our view is that there are a lot of laws they deal with and there's a lot of expertise there already, and bringing all of those three into one is going to have, to us anyway, the effect of knowing a little bit of everything but not having the expertise. To us that will have a detrimental effect on the safety of the Canadian public.

Mr. Kevin Sorenson: Thank you.

In Canada we have 147 land crossings, and we have 13 marine ports where there are crossings. Are your personnel, or the people you represent, at every border? Out of the 160, or whatever it is, there are 103 that are work-alone sites. How many of these ports would your personnel be working at?

Ms. Janina Lebon (National Vice-President, Canada Employment and Immigration Union): The 103 working alone are Customs.

Mr. Kevin Sorenson: Would you be at any of them?

Ms. Janina Lebon: Not likely, no, but we are across Canada at most border points, from B.C. to the Atlantic. There are some specific work-alone sites from Customs, and that's a major issue for them.

If we can go back to why we were left out of the agency, on December 12 immigration intelligence went to the agency, but the port of entry didn't. Our question was, how can you have border services without immigration border? That was our major concern. The port-of-entry immigration did not go until almost 10 months later.

Mr. Kevin Sorenson: What were the reasons they gave for leaving you out initially?

Ms. Janina Lebon: The reasons have a lot to do with.... Enforcement with regard to CIC is not exactly a positive experience. Just recently we've been told, "we're really glad to see the dark side gone". That's how they look upon enforcement in CIC, and they always have.

The problem to do with the border has to do with the treatment of people coming into Canada. Because we do positive things, and we also do the arrests. There was major hesitation that it would not look good in the public eye. That's the feeling we got from the ports of entry.

Mr. Kevin Sorenson: It was an optics thing.

Ms. Janina Lebon: Yes.

Mr. Kevin Sorenson: I suggest that it was a poor plan to begin with, and just a lack of thinking this thing through.

I think all committee members received a letter from Pat and Deb McEvoy. When we read through this letter, we certainly understand why you should be deemed or referred to as peace officers. Could you tell me, in a very brief summary, what benefits, other than that you're doing the job already of a peace officer, would the immigration officer receive being a peace officer? I know that as a union you want to represent your constituency the best you can. Would they be moved into a different public service? How would it deal with their wages, benefits, and things like that? Would there be any difference?

Mrs. Jeannette Meunier-McKay: I can answer the question around the wages. I don't think that should come into question when we look at the public security. I think that if we're serious about what the public security is, I don't think that wages and classification comes into the picture. I think we need to look at what the issue is at hand, and that's the public safety.

Percy can answer as far as the benefits are concerned because he works as an enforcement officer.

Mr. Nicolas Percy (Immigration Investigator, Canada Employment and Immigration Union): It would eliminate any ambiguities in the law. Giving us peace officer status under the Criminal Code means that we wouldn't have to jump through hoops to try to explain to magistrates or judges that we are, in fact, peace officers even though we are not mentioned in section 2. Our peace officer authorities come from the Immigration and Refugee Protection Act, which is an act that a lot of magistrates and judges don't really have a lot of knowledge about.

We have to try to give them an explanation they can understand, that although we're not included as peace officers under the Criminal Code, we have peace officer authorities under our act, which would then relate to the Immigration Act.

There are a lot of ambiguities there. We would rather it not be there, so that we can just do our jobs effectively.

• (1600)

Mr. Kevin Sorenson: I'm trying to think of what the holdback might be, why the government or why others may...and perhaps they will in this legislation, in an amendment, deem you as peace officers. Is it that all of a sudden you're going to be in a different bracket as far as...? This can't be one of the things that would prevent them from rating you as being a peace officer.

Mr. Nicolas Percy: Are you asking why they haven't already included us?

Mr. Kevin Sorenson: Why haven't they?

Mr. Nicolas Percy: I think it has to do with the fact that they don't want us to be police officers enforcing Criminal Code sections. They want us specifically doing our duties under the Immigration Act.

Mr. Kevin Sorenson: Thank you.

The Chair: Thank you.

Ms. Lebon has something to add.

Ms. Janina Lebon: I have an additional point. CBSA intends to create a new position, which I have called the CIA position—the customs-immigration-agriculture position. It will be one officer doing all three functions. One day I may be doing a customs function, and I have protection as a peace officer under the Criminal Code; but the next day I'm doing immigration officer duties, and guess what—I'm not protected.

There is this dichotomy. There's a major problem here. You can't have an officer who can do one-third of the job as a peace officer and the other two-thirds not as a peace officer. And this is coming down the line.

The Chair: Okay, thank you.

Monsieur Ménard, s'il vous plaît.

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): I have no problem with your first suggestion. The term "peace officer" is defined as follows in the Criminal Code:

(a) a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer and justice of the peace,

(b) a member of the Correctional Service of Canada who is designated as a peace officer pursuant to Part I of the *Corrections and Conditional Release Act*, and a warden, deputy warden, instructor, keeper, jailer, guard and any other officer or permanent employee of a prison other than a penitentiary...

Of course, the definition includes: (c) a police officer...That goes without saying. Continuing on:

(d) an officer or a person having the powers of a customs or excise officer when performing any duty in the administration of the *Customs Act*, the *Excise Act* or the *Excise Act, 2001*.

I have to admit that on reading this provision, I was surprised not to see immigration officers listed. I think you're quite right to ask that they be included. I need no convincing.

The following paragraph is of even greater interest as far as you're concerned:

(e) a person designated as a fishery guardian under the *Fisheries Act* when performing any duties or functions under that Act and a person designated as a fishery officer under the *Fisheries Act*...

I don't understand why game wardens aren't listed here, because game warden is a far more dangerous occupation than fishery guardian. Game wardens may have to deal with people who are armed. Perhaps this is one more change that could be made to the definition of "peace officer" that could improve the Act. I recall that I lobbied for this change when I was representing Quebec's game wardens. I remember an incident where one warden was killed by an arrow shot from a crossbow.

So then, you're quite justified in calling for this amendment, all the more so in that it makes no sense, as an officer called upon to enforce three very different acts — and here's where I would like your opinion — that you be considered a peace officer when enforcing the Customs Act, but not so when dealing with immigration issues. Therefore, you have no problem convincing me.

The Justice Department has to realize that this definition of "peace officer" comes up a little short. Clearly, there was an attempt made to provide as broad a definition as possible to include anyone who may be called upon to enforce the Act's provisions and whose orders must be obeyed. The definition also includes bailiffs for the service of civil process. It goes with saying that this definition should also extend to immigration officers.

However, of greater concern to us is the fact that we see a fundamental difference between the type of skills and the attitudes held by immigration officers and those of customs or excise officers. I can understand the desire to lump all of these officers together, but in my view, the duties they perform are quite different.

The second point I want to make is that we need to realize that ours is a country of immigrants, or of children of immigrants. I may be somewhat different in that I can trace my roots back to the French colonists, but I think just about everyone in this room has ancestors who immigrated to this land. In truth, only First Peoples were here 1,000 years ago. Fundamentally, Canada is a country of immigrants. Current global security concerns, which stem more from a fear of terrorist activities than from a fear of the other Bloc, mustn't allow us to forget that immigrants settled this nation. Consequently, we need to maintain an open-arms policy where immigrants are concerned.

Judging from your closing remarks, I got the impression that in your estimation, the duties of an immigration officer and those of a customs or excise officer cannot easily be reconciled and that these duties cannot easily be assigned to the same person.

●(1605)

Ms. Janina Lebon: In our opinion,

[English]

they're not compatible. And you have to remember that they're also going to add agriculture to that as well at the border.

Having talked this over with most of the members, I think there's a lot of unhappiness. They do not see how the three can mesh together. They can see a front line similar to what they have now, but they want to ensure that there are secondary lines where the specialists are, because customs primary right now refers people to either customs secondary, immigration secondary, or agriculture secondary.

I do know that in one office right now they are starting to cross-train people, but what can you do in two months' time? It takes almost two years to have a fully competent immigration officer. Customs sends theirs to Rigaud. I think the current course is nine weeks. I can't speak for the agriculture department at all, but I do know we don't see how you can mesh three separate functions in one person. There are training issues, and there is expertise that will be lost.

[Translation]

Mr. Serge Ménard: To my mind, it's comes down to attitude.

[English]

Ms. Janina Lebon: Right now there are major attitude problems. Immigration officers don't want to do customs and they don't want to do agriculture; agriculture doesn't want to do the other two. This I have found out recently. And most recently, there have even been some customs officers, particularly those who have been around ten or twenty years, having immense difficulty deciding that they will have to do immigration tomorrow.

To do immigration, from our point of view, is very difficult. If you look at the number of appeals, counter-appeals, and court cases in comparison to, say, customs cases in the federal courts, we have to be very careful how we do our work. We need to be very technically legally correct. And we're dealing with people.

Mrs. Jeannette Meunier-McKay: If we want to compare, how do you mesh a banana, an orange, and apple? The might all be fruits —

Mr. Kevin Sorenson: A fruit salad.

Mrs. Jeannette Meunier-McKay: Yes, so what do you have? It's a mixture, so how effective can you be for the security of the country?

Immigration deals with people, their livelihoods, their coming in. Customs deals with goods. And then how do you fit meat...food inspection, I guess. We always relate it to meat, but it's not just meat. But how do you relate food into the mix of this? In our view, when you want expertise—and we're there for the security of the public—how do you mesh three distinct functions?

Clearly, when we talked to our members across the country, they were all in favour of going into the agency. They thought that was a very positive move to bring everybody together, as you said, because we're all there for one purpose. But when you start talking about mixing the positions together and mixing all the acts together—because that's basically what's going to happen at the end of the day—they don't see that as a benefit to the safety of this country at all. As a matter of fact, they think it's a detriment and that we could face additional problems.

●(1610)

The Chair: Thank you, Monsieur Ménard.

Mr. Comartin.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you, Mr. Chair.

Thank you for coming.

I must admit that I'm a bit confused, so let me ask this first. If you were to remain as a separate agency—that is, simply as immigration officers—would you be asking for this designation?

Ms. Janina Lebon: We've been asking for this designation since 1985. In doing my research for this, I came across a letter from one of our former national presidents, Renaud Paquet. He was writing the department in those days, saying that we wanted to have peace officer status. In the 1990s, we had a very serious incident at Fort Erie. We thought we had an arrangement with NHQ, which was going to send in Justice to talk to the crown attorney, because it started off as "assault peace officer" and then it got downgraded.

So no, this has been a long ongoing request, for at least 20 years or more.

Mr. Joe Comartin: It's over that period of time? I'm not sure I got a clear enough answer.

Mr. Nicolas, maybe you should be answering this, but I'm not quite clear on the department's position on why, over 20 years, they've refused the designation.

Mr. Nicolas Percy: I don't have an answer for that.

Mrs. Jeannette Meunier-McKay: We've asked many times, and let's be honest, the response was that in the department's view it was felt it wasn't necessary. Our officers have argued all along that they felt it was a necessary tool in order to carry out their duties effectively. Now that we're in the agency and all of these changes are coming about, we feel it's even more crucial. If they are going to start meshing some of these functions, then how can you take your hat off for one and put another hat on for another function?

Mr. Joe Comartin: Let me go to that in a minute.

Mr. Chair, I know this is somewhat unusual, but I wonder if I could ask the parliamentary secretary, when he addresses the delegation, whether he could enunciate the position of the department as to why historically there isn't the designation.

The Chair: I think he's hearing it.

Mr. Joe Comartin: Thank you.

Hon. Roy Cullen (Parliamentary Secretary to the Minister of Public Safety and Emergency Preparedness): I ask the questions, I don't....

Mr. Joe Comartin: You're allowed questions and comments. In your comments, if you wouldn't mind doing that, I think it would assist the rest of the committee.

Let me go to the blending of the three services. Is it likely that in the blending of the three services—I guess I can't see it so much on the agriculture side, but I can see it obviously on the customs side—that in fact the work that you would be doing in that area may and probably would be more dangerous than the work you do on a day-to-day basis in immigration. Is that a fair conclusion?

Ms. Janina Lebon: I would say no. Difficulties and dangers in the immigration service have been there all along. We know we have cases of port-of-entry officers being assaulted. The most recent was a year ago on the train to Niagara Falls. We know there are cases. We know that from our incident reports. The job is dangerous. It gets worse. We're talking both port-of-entry and inland. I work in the Greater Toronto Enforcement Centre, where Percy is as well, and we

know that they have gone on raids with the police. There's a joint task force. We find drugs. We find guns. All of this is there, and the reports, as they get documented, show that the criminals we're dealing with—the war criminals and all the guns and weapons—are there. Customs has always had a dangerous job, but so have we. Maybe we haven't been in the media as often. For the small port of entry of Sarnia that we listed, that's one month, and that's a slow month for them.

Mr. Joe Comartin: But I have to say to you, and I guess we have the busiest port in Windsor—

•(1615)

Ms. Janina Lebon: Yes, you do.

Mr. Joe Comartin: —that those numbers are fairly minor compared to what the customs officers face in Windsor. That may be just because of the much larger number of entries they have.

I don't want to belabour the point. Let me leave it at that. I guess I just don't totally accept it. It seems to me that the customs people have it more often. It may be at times just as dangerous as for the customs people, but it seems to me, with the impaired drivers and the guns they have coming across from Detroit on an hourly basis, they are at a greater exposure of risk.

But you feel the risk that you have now would justify the designation.

Ms. Janina Lebon: The designation was justified almost 20 years ago. This has been our position as a union all along. We wanted the designation. We fought for it. We never got there. The closest we had was an agreement after the Fort Erie incident when NHQ said yes, in the future they would step in. They would have the justice department talk to the crown attorney and ensure that the charges laid were for assaulting a peace officer. Then they ended up changing people, and somewhere along the line nobody could find the actual document.

Mr. Joe Comartin: Are there no cases on this issue? I've heard the argument that in fact you do have authority as a peace officer.

Ms. Janina Lebon: We have authority under the Immigration Act, but we don't have peace officer status under the Criminal Code.

Mr. Joe Comartin: Have there been any reported decisions where that has been determined, and in particular, have any of those ever been appealed in a higher court?

Ms. Janina Lebon: I don't know. The department has never been willing to proceed that far. I can give you the cases. There was a case in Windsor where an officer was assaulted and one in Niagara Falls. We know that this happens.

Mr. Joe Comartin: On the issue of blending the three, have you done any analysis of what type of training it's going to take for your members to be able to do the other two jobs?

Ms. Janina Lebon: We had this discussion on January 12 when we met with the president of the CBSA. They're reviewing and revising their entire training program. If you go to Rigaud, you have one week currently on immigration, and I believe eight weeks on customs, and they deal with 80 or 90 acts. I understand they're going to add two additional weeks to deal with immigration. We haven't heard what they're going to do with the agriculture part. Again, we have a developmental entry position, a PM-2 developmental, that takes up to two years to become fully trained and qualified to move on to becoming a PM-3. Customs takes just as many years. We have major concerns about how our staff is going to be trained.

Starting April 1, there will be a new position in place. I understand they may have a training program for the new officers. But what are you going to do with the other—

Mr. Joe Comartin: Will officers will be trained in all three categories?

Ms. Janina Lebon: That's what we understand. We haven't got anything finalized, but we know that at the meeting they were looking at training in that context.

What we're saying is, what about all of those who are out in the field—and we're talking about 6,000 customs and 800 port-of-entry officers in Immigration—how are you going to get them trained? You can't tell me on-the-job-training and cross-training and job shadowing are going to be sufficient.

Mr. Joe Comartin: Thanks.

The Chair: Mr. Cullen, I'm going to ask you to finish with some comments and observations you want to make as well.

Mr. Wappel, please.

Mr. Tom Wappel (Scarborough Southwest, Lib.): Thank you, Mr. Chairman.

Thanks very much for coming. What I want to thank you for is providing us in writing with the proposed amendment, which is very helpful. I want you to know that I support it. I'm mystified as to why it hasn't been done before; I certainly think it's high time in coming.

I do want to ask you a question about arrest, but before I do—and this is not my usual habit—I'll recount an anecdote with respect to blending. My ex mother-in-law was an agricultural officer at Pearson. She worked very hard at that job and had manuals coming out of her yingyang, whatever that word means, which she dutifully studied daily because of the variety of plants and animals that were encountered. She found it very stressful to keep up with that information, to keep up with the constant reviews and things that were going on. She's an intelligent woman, and I would have found it highly stressful for her to have had to deal not only with all of the things that are under Ag Canada and the Canadian Food Inspection Agency, but then also have to worry about the rules and regulations of the immigration act, whatever it's now called, and the customs and excise acts.

I'm not saying it's impossible and that there aren't people out there who might be able to do it, but at first blush, I tend to agree with you that it's probably not a wise thing to do, and I think it would probably be very difficult for people to be masters of all, as you put it. I think it will in fact be, masters of none. And that's at first blush.

Of course I'm prepared to hear evidence to the contrary, but I tend to agree with you. So as far as I'm concerned, clause 58 should be amended.

I am curious, madame, but I believe you said in your opening remarks that immigration officers cannot arrest; I think that's what you said, but I don't have your opening remarks in front of me. This is curious. I'm not challenging it, but it's only curious because when the minister was here last week, we were told that immigration officers do have the power to arrest. I asked for the authority for that, and I believe they directed us to the Immigration and Refugee Protection Act.

Could you just help me out. First of all, am I wrong? Did you say that immigration officers cannot arrest or didn't you?

• (1620)

Mrs. Jeannette Meunier-McKay: No, I think I said they can do arrests, but they can't do arrests in Canada.

Ms. Janina Lebon: They can't arrest Canadian citizens?

Mr. Nicolas Percy: They can't arrest under the Criminal Code of Canada. We can always make an arrest as a citizen—

Mr. Tom Wappel: I'm not talking about a citizen's arrest, because all of us can do that—but all of us don't wear an immigration uniform.

Mr. Nicolas Percy: As peace officers under the Criminal Code of Canada, we cannot execute criminal warrants, unlike customs officers at a border point.

Mr. Tom Wappel: Let me just be clear on this. If a Canadian citizen—and I can't think of an example—breaches the immigration act somehow, can you not arrest them?

Mr. Nicolas Percy: No, not as a peace officer.

Mr. Tom Wappel: As what?

Mr. Nicolas Percy: We don't have authority to arrest that Canadian citizen.

Mr. Tom Wappel: So if a Canadian citizen is aiding and abetting someone at Toronto airport to breach the Immigration and Refugee Protection Act, you currently have no jurisdiction, other than a citizen's arrest, to arrest them. Is that correct?

Mr. Nicolas Percy: That's correct.

Mr. Tom Wappel: Is that because you're not deemed to be a peace officer under the Criminal Code of Canada?

Mr. Nicolas Percy: Correct.

Mr. Tom Wappel: Have I got that straight now?

Mr. Nicolas Percy: Yes.

Mr. Tom Wappel: All right.

By the way, Mr. Chairman, I did ask for the department to provide us in writing their authority for saying that immigration officers could arrest, and I would like to expand that question to under what circumstances, just so we have that clear. I'm presuming, since we haven't seen it, that we haven't received an answer to that question yet.

On behalf of the committee, Mr. Clerk, could you perhaps follow up on that? It seems like a relatively simple question to answer, and it's been a week.

The Chair: No problem.

Mr. Tom Wappel: Thank you.

I think I have everything clear I want to get clear, and you answered that. So that's it for me. Thank you.

The Chair: Mr. Cullen, if I could go to Mr. MacKay and let him ask some questions, then as parliamentary secretary perhaps you could deal with other comments you hear around the table. Is that all right with you?

Hon. Roy Cullen: I just don't want to raise expectations. Is there going to be a big wrap-up?

The Chair: No, no. We're not looking for the wrap-up. It's your bill.

Hon. Roy Cullen: I don't care about the order, that's fine. It's not wisdom from the mountain or something. I'm happy to do that.

The Chair: Okay, thanks.

Mr. MacKay, if that's okay with you—

Mr. Peter MacKay (Central Nova, CPC): We were actually hoping he'd take us all out to supper and we could ask questions of him all night.

I want to thank all of you for coming. I appreciate your testimony very much. I think you made it crystal clear what you're requesting here. To paraphrase some of my colleagues, it seems this is a long-overdue initiative that I dare say, for reasons unknown to us, has been overlooked, or at least hasn't been given proper attention.

I had a couple of specific questions involving training and whether you have students working with you from time to time. This is something we'd heard about with respect to customs officers. There were concerns expressed from time to time about the training for students and potentially putting them in harm's way in circumstances that might be deemed dangerous. Perhaps you could address that issue.

Ms. Janina Lebon: Immigration hires summer students at the ports of entry under the FSWEF program, and there are concerns about minimal training. They're supposed to work with someone at all times, but they don't. I can think of the smaller ports of entry in particular. I know this issue comes up in Landsdowne year in and year out. Just by the stroke of the pen, they're delegated to do certain things, but with no training and no understanding of what is meant. The larger ports of entry—Pearson, Vancouver, Montreal—hire summer students as well, but at least there's another officer with them there. It is a concern, not as much as with Customs because Customs has them on the primary inspection line. But we do have the same concerns: insufficient training, improper training, and no explanation as to the delegations they're entitled to do.

• (1625)

Mr. Peter MacKay: In terms of equipment that customs officers or peace officers are issued, is there additional need for protective equipment, whether it be batons, vests, or pepper spray? I wouldn't go to the extreme of suggesting you'd be looking for firearms or

sidearms, but is this part of the move towards the designation of peace officers?

Ms. Janina Lebon: Immigration had all of that, actually, five years prior to Customs. Right now the department is looking at a harmonization of the use of force policy in Immigration and in Customs. That's when they realized that the customs officers did not realize we'd been there for a good ten years.

We have a different method of training. We have an expert trainer, one who can testify in court. We have vests, pepper spray, batons, handcuffs—everything is there. The guns issue is another issue, and we won't go there right now.

A voice: We could be back here, though.

Mrs. Jeannette Meunier-McKay: Yes, we could be back here.

Mr. Peter MacKay: Following up on Mr. Wappel's issue with respect to arrests, if we're going to allow and expect arrests, the use of force—God forbid it gets to that point, but I suspect you may very well be back.

I have a final question, Mr. Chair, with respect to information sharing with officials on the other side. There were a couple of recent public musings by the minister, one with respect to having offshore agencies and having officials designated overseas. Has that entered into the lexicon of your discussions? With respect to sharing information and computer systems—watch lists, for example—there has been criticism coming from certain areas about jumbled indexes and having the inability to red-flag persons designated of interest coming into Canada and those we would be concerned about leaving the country, and about whether that information is being shared, whether there's computer synergy, whether there is a proper system in place to ensure that information is flowing.

Ms. Janina Lebon: When you're referring to offshore, you're referring to the immigration department, for example, which has immigration control officers overseas working in various visa posts doing the intelligence gathering. I think there may be 50 out there. They are the officers we contact when we're doing a removal as well. The information is shared.

They have also been doing a lot of training of the airlines to identify people with fraudulent passports, and things along that line. This information gets shared, and I can say that my understanding is that in intelligence, for example, immigration and customs intelligence will be moving together and working more closely with each other.

As for the sharing of information at PAU, passenger analysis units are in place at most of the large ports. Customs and Immigration are working side by side on that information. The passenger lists, all the manifests, and all of that do come in, which means that they can give a heads up to the customs officers on the primary line to say, this person's coming in, watch for him.

If you want to talk about the computer systems, the GCMS, government case management system, is currently in development. There are major problems with it. The first phase went through, and phase two, I regret to say, has been postponed and put off to go with phase three. Phase one was very simple; it was only about transferring the citizenship data, and it's still causing major problems.

When we get to doing all the other programs, we have major concerns that the systems could crash. We've been assured that our old relic called FOSS—the field operational support system—will not be removed until everything else is in place. But we're hearing that there are problems. A report I read from the Senate public security committee indicates that the interfaces aren't there. For example, the primary inspection line isn't getting all the necessary information.

I'm not looking for miracles, but it would be nice to have something that works. We went through a previous techie initiative a couple of years ago that cost hundreds of millions of dollars, and we're very cynical about this one. We'll believe it when it happens. And having seen that phase one went down the tubes and is barely functioning, it concerns us. What is going to be done about the enforcement stuff and all the other programs in between?

• (1630)

Mr. Peter MacKay: I appreciate your frankness very much. Thank you.

The Chair: Thank you, Mr. MacKay.

Mr. Cullen.

Hon. Roy Cullen: Thank you, Mr. Chairman.

Thank you, Mrs. Meunier-McKay and all your colleagues, for being here.

I'll come back in a moment to your specific amendment proposal. But before I do that, will your presentation today be circulated? You said some things there that I'd like the opportunity to read more carefully, and perhaps study more carefully.

Mrs. Jeannette Meunier-McKay: Yes, we have it. Our translation service is on holiday. It might be at the office by tomorrow. We'll forward both the English and French copies. Then you can use them at your will.

Hon. Roy Cullen: Thank you.

I'd just like to explore a couple of ideas. Your union, as you've indicated today, was anxious to be part of the Canada Border Services Agency as it relates to the enforcement, intelligence, and interdiction. You wanted to be part of the Canada Border Services Agency. At that time, did you envisage or think about whether there would be any attempts to sort of integrate functions or deal with functionality? I'm thinking about it from the point of view of a business case or an organizational merit where you have these different silos.

We do know that when you have customs issues, immigration issues, and food issues, there are some advantages for people to be able to operate in these areas and integrate some of this information and knowledge. My information is that this can be quite beneficial, and from my experience in business and government it would seem to me that this probably has some merit.

Did you anticipate that there would be no integration in terms of the functions? How did you view this at the time when you wanted to be part of this organization?

Mrs. Jeannette Meunier-McKay: At the time it happened, how could we have envisioned anything when we weren't privy to

anything until December 12? That's when the announcement was made and it was, this is it, here's how it's going to work.

Hon. Roy Cullen: But you said you wanted to be part of it, right? When did that come?

Mrs. Jeannette Meunier-McKay: That came later on, because our ports-of-entry members were not included, and yet they were doing the same enforcement function. You had inland enforcement officers doing the same function as those at the ports of entry, but they were not included in the agency when it was created on December 12. At that time we really had no knowledge or any preconceived ideas as to how this was going to look and what their vision was. Throughout some meetings—

Hon. Roy Cullen: Can I interject? What was your motive, then, for trying to be part of the organization if you didn't have a vision of how it was all going to work?

Mrs. Jeannette Meunier-McKay: Well, I don't think you need a vision to know where you feel it might be best. We're going to have CIC enforcement inland, yet you had CIC enforcement at our ports of entry and CBSA at customs ports of entry. It only made sense to make that marriage to have one organization where all the enforcement functions were.

At the time we put the proposals forward in our request, we saw it as a benefit to have all the enforcement functions in one agency. We were told that CIC was going to retain the training programs and that they were going to retain the implementation of the legislation so there would be consistency for immigration legislation.

In our view, our CIC members who went to CBSA were going to keep their corporate identity as immigration officers. That's what we felt was going to happen. Now we're just starting to hear a little differently, that they want to mesh all of this together.

Hon. Roy Cullen: Obviously there is a training component here and a training challenge, and you've been working with the CBSA on that. If there were adequate training and each officer were provided the opportunity to upgrade their skills and be more of a generalist—if I could call it that—would you still have concerns? Or is there a fundamental disagreement? Or is it just a matter of your being uncomfortable? We never like change, and maybe your members feel threatened in that they won't get the right training.

• (1635)

Mrs. Jeannette Meunier-McKay: Well, I'll answer the thing around feeling threatened because of change. If you've been around very long as a government employee or as a union representative of government workers, you'll know that change is our life. Every time there's a new government or a new budget, we face changes and our members face changes, so I don't think it's a fair comment to say there's a fear of change.

Hon. Roy Cullen: I didn't say that. I asked you if that was the case.

Mrs. Jeannette Meunier-McKay: No, it isn't.

Ms. Janina Lebon: This is on the issue of training. If you want a generalist on the primary inspection line, that's fine. However, you're not going to be able to adequately train 8,000 employees in the next six months to get them up to speed to be able to do it. You still need the secondary line of specialists, the secondary line of referrals, and that's where the concern comes in. We have officers who know what they're doing in all three fields, and all of a sudden you're saying okay, tomorrow you're going to do customs. Then who backfills you in immigration?

But there is the issue of the loss of an immigration identity. In this whole process, if you look at the structure, you'll see it's predominantly customs management driving it. There is very little immigration recognition. There's a long history here of times when customs at the front line didn't do the best for us for secondary referrals. There's history here.

Hon. Roy Cullen: So it's not just a timing issue, then, or an implementation issue. You're seeing it as something more philosophical in basis.

Ms. Janina Lebon: There is a difference in cultures.

Hon. Roy Cullen: I'd like to come back to a question Mr. Sorenson asked, and I don't think he got an answer. I don't mean to imply that it's an issue, because I don't think it is. I think he asked a very simple question, that if you are designated peace officers, do you anticipate that would have any effect in terms of classification or pay scales?

I think that was your question, was it not? Just a simple answer to that would be useful.

Ms. Janina Lebon: Let me answer that very simply. Right now CBSA is in the process of establishing or devising a new classification standard for the agency. That's being done through the new Public Service Human Resources Management Agency of Canada, acronym PSHRMA. They have a new standard in place. CBSA wants to do it. We're still waiting for final results.

So I don't anticipate that there will be a difference in classification level or pay. There will be a whole new standard, and that means negotiations again for salary and whatever.

Hon. Roy Cullen: Okay, good, that's clarified. It's not an issue that I'm aware of. It was left hanging that it might be an issue.

Coming to the particular amendment, as you pointed out, Mrs. Meunier-McKay, you've the meeting with the CBSA—Mr. Jolicoeur. In fact, I think the matter is on the national health policy and safety committee; you have a committee that examines these matters. I think it's fair to say that in concept the government is generally supportive. I think, though, that we're going to be going at it clause by clause. You have put forward an amendment, but it will have to be either a government amendment, or a member's amendment during clause-by-clause.

I always like to think that we look at amendments in their totality. In other words, there might be other amendments, and I'd like to see—and I'm sure the government would like to see—the totality of the amendments, so that we can deal with them all as a whole. If there are other amendments, I would encourage the members to get them in, so that we can try to be as helpful as possible.

I know that from the agency's point of view, there are a couple of wording things that may be a bit of a problem. I don't think they would be a problem for you, but they're still examining that. That's why I'm not quite ready yet; in fact, the time to comment on the amendments is when we have the amendments and we're going through clause-by-clause, but I can say that conceptually the government is generally supportive of what you're trying to accomplish.

The Chair: We'll put you down as a maybe.

Mr. Tom Wappel: Strong maybe.

The Chair: Thank you, colleagues.

Mr. Comartin, did you want to ask a question?

Mr. Joe Comartin: I just wanted to follow this point up. I don't want to put Mr. Cullen on the spot, quite frankly, but if there is a reason the department doesn't want to put this amendment through, I'd like to hear it, so that this delegation could respond to it, so that we as members could make a reasoned decision.

• (1640)

The Chair: Okay, you're putting your caution on the record, but I don't think Mr. Cullen is in a position to offer that, as I heard it.

Hon. Roy Cullen: Well, I think it depends. I understood, Mr. Comartin, that you were going to put an amendment forward. No?

Mr. Joe Comartin: I might move this one.

Hon. Roy Cullen: That's why I'm saying, I don't know whose.... When we get to the amendments, we'll look at it. We'll be prepared to move one way or the other, assuming that the government is on side; as I say, at this point it would look as though we're generally supportive. I'd like to see all the amendments, so that we can look at them in totality, and that's what clause-by-clause is all about.

To just say this particular piece, and then someone comes in with another amendment that might have an impact....

The Chair: Today's whole purpose was to have the opportunity to listen to these folks, which we have done, and to give you the opportunity to interface. They've made a very good point, a strong case, and what you need to know is that we're about to do a clause-by-clause review, presuming that there are no other issues that this committee wants to consider on Bill C-26.

I have just one clarification question. In the 103 entry points where you told us there's only one person, does that person do other functions, such as immigration, customs and food? That one person in the 103 spots in Canada performs all functions, correct? Am I right on that?

Ms. Janina Lebon: Currently they're customs primary. They will also do customs secondary. If they need immigration, they'll have to find immigration, or they'll have to find agriculture.

But down the line that one person could become this new three-pronged—

The Chair: Like a super—

Ms. Janina Lebon: Super-officer. I've been calling it the CIA officer because it covers the acronyms quite nicely.

The Chair: Thank you very much. We appreciate your taking the time to share your concerns with us. We hope to be considering it very shortly. Thank you very much.

We'll suspend for five minutes.

[Proceedings continue in camera]

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