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# **Standing Committee on Public Safety and National Security**

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**EVIDENCE**

**Wednesday, June 7, 2017**

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**Chair**

**Mr. Robert Oliphant**



## Standing Committee on Public Safety and National Security

Wednesday, June 7, 2017

• (1530)

[English]

**The Chair (Mr. Robert Oliphant (Don Valley West, Lib.)):** I call this meeting to order.

This is meeting number 68 of the Standing Committee on Public Safety and National Security. Pursuant to the order of reference of Thursday, May 18, 2017, we are considering Bill S-233, an act to amend the Customs Act and the Immigration and Refugee Protection Act (presentation and reporting requirements).

We welcome Senator Runciman, the author of the bill in the Senate, and Mr. Brown, the sponsor of the bill in the House of Commons. It's a privilege to have you with us.

We'll begin with the committee having a chance to discuss the bill with its mover and its sponsor. My hope is that we get to clause-by-clause today and do a full consideration of the bill in one meeting.

We will begin with Senator Runciman. Each of the presenters will have 10 minutes, if you so desire, to explain the bill to our committee members.

**Senator Bob Runciman (Senator):** Mr. Chair, it's an honour and a privilege for me to appear before this committee. I want to thank you for the invitation. I'm pleased to appear alongside my long-time friend, Gord Brown, on the bill, because this is a file we've worked together on for a number of years.

The bill, which amends the Customs Act and the Immigration and Refugee Protection Act, is the result of significant consultation and co-operation with Minister Goodale's office and the Canada Border Services Agency. I want to thank them for their help, and in particular, thank the minister for supporting this legislation.

Amendments suggested by CBSA and passed in the Senate have, in my view, made the bill simpler and more cohesive, and will strengthen border security.

Bill S-233 was introduced to deal with an overly bureaucratic requirement for boaters who cross from the United States into Canadian waters, but who do not land, anchor, or moor. Right now, occupants of a boat on a direct route from one place outside Canada to another place outside Canada do not have to report to Canada Border Services Agency when they cross into Canadian waters. Someone out fishing or pleasure cruising and who crosses into Canadian waters is required to report, even if they have no intention of stopping or coming to shore.

We have two sets of rules, depending on whether you are travelling directly from one place to another, or travelling in a loop by starting and finishing in the same place. The absurdity of the current reporting requirements became obvious approximately six years ago, when a fisherman from New York State was charged with failing to report to CBSA while drift fishing in the Thousand Islands area of the St. Lawrence River. He was threatened with the seizure of his boat unless he paid a \$1,000 fine on the spot. Then he was driven to the border and had to phone relatives or friends to pick him up at the customs station on the Thousand Islands Bridge.

I have to tell you, as Gord and I both know, this caused an uproar on both sides of the border and has damaged cross-border relations. Although I don't agree with the approach that was taken in this case, I don't deny that the officers followed the letter of the law as it's currently written in the Customs Act.

That's why I introduced this bill, to bring Canadian law into line with the practice followed by United States officials, and to impose similar rules for those travelling directly from one place to another and those who might be just out sightseeing or fishing.

The current rules are confusing for both Canadians and Americans. Their enforcement in that infamous 2011 incident put a chill on relations between our two great countries and damaged the economy of the tourism-dependent region in which Gord and I live, the Thousand Islands.

Let me give you an example. According to Gary DeYoung, who is the director of tourism of the 1000 Islands International Tourism Council, the number of short-term and non-resident fishing licences sold by vendors in New York State's St. Lawrence and Jefferson counties—and these are the types of licences sold to tourists—was more than 18,000 in 2010, but dropped to less than 11,000 in 2015.

In the Thousand Islands area, the border isn't marked, and it zigzags around some 1,864 islands. It's not always possible to tell which country you're in, and a requirement to report to customs immediately after entering Canadian waters, if you have no intention of stopping or coming ashore, is impractical to say the least. Rather than risk arrests for unwittingly crossing the border, some tourists have decided to just stay away.

My area is not unique. The border intersects a number of other rivers and lakes across Canada.

●(1535)

My goal was to bring some common sense to the reporting requirements, but I knew that it was vitally important not to jeopardize border security while doing that. In my view, Bill S-233 finds the right balance between freedom of movement and security.

Clause 2 of the bill amends subsection 11(5) of the Customs Act to exempt boaters who cross into Canadian waters from reporting to customs as long as they do not land, anchor, moor, or make contact with another conveyance. In addition, they must remain continuously on board the conveyance while in Canada. This clause will offer a similar exemption from reporting to CBSA for Canadian boaters who leave and then re-enter Canadian waters, as long as they remain continuously on board while outside Canada, and the boat did not land, anchor, moor, or make contact with another conveyance while outside the country.

Clause 3 of the bill amends subsection 12(5) of the Customs Act to apply the same rules to goods on board a conveyance. However, and this is an important element for anyone concerned about security, Canada Border Services Agency officers have the authority to require reporting in individual cases, both under the Customs Act and the Immigration and Refugee Protection Act. This discretionary or residual power to require reporting when necessary is important to allow border services to fulfill their mandates and to maintain border integrity. For example, it will allow officers to require exempted persons to answer immigration questions.

When I introduced this bill, I recognized that adding an exemption to reporting required safeguards. That's why I included the provision that the exemption applied only if the boat did not anchor, moor, or make contact with another conveyance. As a result of an amendment at committee, those safeguards now have been extended to direct "point A to point B" travel, as well as to what are known as the loop movements, which I described earlier, when a boater is just out for a ride and starting and finishing from the same spot.

This not only strengthens border security, because direct travel faced no such restrictions before, but it also simplifies reporting requirements. Whether you're taking the shortest route between two destinations or whether you are fishing or pleasure cruising, you don't need to report unless, again, you anchor, moor, or land, or unless an officer makes a demand. The exemption would apply equally to an American entering Canadian waters or a Canadian re-entering Canadian waters, and it applies both to persons and to goods. The exemption is extended to include international waters, another element that was not in my original draft, but was added at the request of CBSA. This will solve a problem on the east and west coasts by eliminating reporting requirements for whale watchers who leave from Canada, enter international waters, and then return to Canadian waters.

In conclusion, Mr. Chair, I realize this legislation has no impact on many Canadians, but for folks in Gord's region and my region of Ontario, who share the St. Lawrence River and Lake Ontario with our American friends—I should say all the Great Lakes—it has a profound impact on lives and livelihoods. On their behalf, I ask for your support for Bill S-233 and encourage its speedy passage.

Thank you very much.

●(1540)

**The Chair:** Thank you, Senator.

Mr. Brown.

**Mr. Gordon Brown (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC):** Mr. Chairman, I would like to first thank the committee for moving this meeting up. I think it came very quickly. As many of you know, the House passed this bill a week or so ago, on a voice vote at second reading. A number of members spoke, including me, the member for Essex, and the member for Tobique-Mactaquac. It passed in less than an hour.

Thank you for the opportunity and the invitation to be a witness here today and to speak to this bill. I, in fact, had a parallel bill which I introduced in the House of Commons as a private member's bill, and Senator Runciman introduced this bill in the Senate at about the same time. He was able to move it through the Senate more quickly than I was able to move mine through the House, because we all know how one gets a private member's bill on to the order of precedence.

We were very happy that this went through the Senate very quickly. In fact, I attended as a witness over there a number of months ago.

I would like to briefly focus on my reasons for supporting this bill.

This bill will allow pleasure boaters from the U.S. to transit Canadian waters without checking in with the Canada Border Services Agency, if they do not stop or plan to anchor. It also amends other regulations, but from my perspective, this is the most important. Currently, boaters who cross the border on the river, where there are no markings to show that they have crossed the border, must report to CBSA.

Regardless of your political leanings, we all share the goal of promoting the best interests of the Canadian people and ensuring we put forward a positive image on the world stage. The bill at hand promotes tourism, updates Canadian laws, and protects the human rights of our American neighbours.

Our country has a proud history of protecting not only the rights of our own citizens but those of anyone who crosses our borders. Certain charter provisions even go so far as to extend constitutionally enshrined protection to everyone, including boaters who harmlessly drift or cross into our territory. Most important, these include the right to life, liberty, and the security of the person; the right to be secure against unreasonable search and seizure; and the right not to be subjected to any cruel and unusual treatment or punishment, including the excessive use or abuse of force by law enforcement officials. You don't need to look far to find examples of where the current legislation has caused violations of these rules.

Senator Runciman referred to the case of Roy Anderson. Mr. Anderson, an American citizen, was searched, severely fined, and detained in a humiliating fashion for breaking laws he never knew existed, even though he had fished in Canadian waters all his life. In this particular case, he in fact had an Ontario fishing licence to fish in Canadian waters. What's worse, actually, is that all this occurred after CBSA officials determined that he did not have a criminal purpose, that he was just fishing.

While the Simmons decision at the Supreme Court of Canada acknowledged our right to control who and what crosses our boundaries, it does not excuse the treatment some have received. Canada has long abided by the notion that a guilty verdict requires both a guilty action and a guilty mind. It is impossible to justify threatening, physically restraining, and fining individuals for laws that they were not even aware existed.

As a progressive nation, we have a responsibility to ensure that we change laws like these, which have become outdated, ineffective, and discriminatory. While current legislation might have had an important purpose in the days of prohibition, that is no longer the case. Those who are aware of the laws are required to report to the CBSA without delay. They are allowed to do so by phone or in person at one of the border security checkpoints. While this may not seem like a particularly onerous request, it is often much more difficult than it seems. Cellphone signals, especially on the water, are often unreliable. In the case of the Thousand Islands, where the Canada-U.S. border intersects, many Canadian cellphone users are caught up in accessing AT&T, or other U.S. providers. Sometimes this is difficult to do.

Beyond this, the only other option available to foreign citizens, is to physically check in with CBSA. This can be done at one of their checkpoints, which often exist at locations which are not accommodating to those who wish to visit our waters. Physical reporting often involves U.S. citizens boating a great distance out of their way to check in, then returning to their intended trip. The check-in can often cause a lengthy delay. It is costly in both time and money, and some have even reported having to spend multiple hours in order to meet this requirement.

● (1545)

Unfortunately, it has caused a number of our visitors to conclude that cruising through Canadian waters is simply not worth the hassle. This is a troubling conclusion given the importance of the tourism industry in Canada. While boaters who are simply transiting Canadian waters are not essentially tourists, they easily become

tourists when they decide to stop to check out a restaurant or marina that they may have seen on shore.

The success of international tourism is largely based on the effect of marketing the destination services and experiences that a country has to offer, and first impressions matter. We must work hard to ensure that our laws do us justice on the world stage. Canada tries to maintain the reputation of being welcoming, fair, and trusting toward our friends in the United States and, in fact, across the world. That reputation, coupled with our many beautiful destinations, such as the Thousand Islands, has helped us grow a tourism industry we can be proud of and should aim to protect.

In fact, the UN World Tourism Organization estimates that the number of international tourists will reach 1.6 billion by the year 2020. This is a promising prediction, given that 1.7 million Canadians rely on the tourism sector for employment, according to 2012 statistics.

These statistics show that these positions are often held by demographics which have historically had difficulty in seeking and maintaining employment. In 2012, more than half were occupied by women, 22% were occupied by immigrants, and 589,000 jobs were occupied by youths, ages 15 to 24, accounting for more than one-third of youth employment in Canada. Tourism not only provides jobs to Canadian citizens, but also promotes the growth of communities through its support of small businesses.

In fact, approximately 98% of Canada's tourism industry is made up of small and medium-sized businesses that rely on the patronage of international travellers to keep their doors open. Beyond these direct benefits to Canadian citizens, the tourism industry also generated \$21.4 billion in tax revenues in 2011.

In order for Canada to reap these benefits, we must be perceived as a valuable destination and must demonstrate that we can offer more than a cheap vacation. This means teaching our history, sharing our culture, and being seen as a friendly and welcoming destination.

Although it's our closest neighbour, these messages seem lost on the United States. The Canadian Tourism Commission's 2014 U.S. summary report found that relatively few visitors from the United States would recommend visiting Canada on vacation. These travellers cited poor perceptions of Canada based on what they had heard from friends, family, and the media. Stories of American boaters being detained, fined, and forced to lie on the decks of their vessels have caused bad press in the United States. News stories discourage travel near our water borders due to unclear regulations, severe punishments, and prohibitively difficult check-in requirements.

What's worse is that some articles even state that our outrageous regulations indicate that we do not want American visitors at all. This is not the message that Canada should be sending. We need to modernize our legislation to ensure that our image is positive, inviting, and reflective of Canadian values, not only for our own citizens, but for anyone who happens to pay us a visit.

Briefly, on another note, it has been pointed out that it is really a waste of CBSA's resources to be checking every boat that is merely transiting our waters. This bill also clears up regulations for air travel and will help the whale-watching industry where currently those leaving Canadian waters and returning without getting off the boat have to check in with the CBSA.

My primary focus, as I have explained before, is on the effects on my region along the St. Lawrence River. In debate at second reading in the House, we heard from members from along the St. Clair River and from along the main New Brunswick border. We have similar issues up in northern Ontario and on the west coast of Canada, so I encourage the committee to move this along to the House. There is a great hope and anticipation, I know, among the folks in my riding that we could see this through the House of Commons and through third reading before the boating season gets into full swing this summer.

Thank you very much.

• (1550)

**The Chair:** With a little co-operation from the other side, I'm sure we can. It's our job to move the agenda along.

[*Translation*]

Mr. Picard will start the first round of questions. You have seven minutes.

**Mr. Michel Picard (Montarville, Lib.):** Thank you, Mr. Chair.

Mr. Senator, Mr. Brown, thank you very much for your visit and for introducing a bill that I think is quite interesting.

I would like to say something first. I don't think that when customs border officers apply the act and impose fines in the course of their work, they intend to humiliate people who report to customs. I understand the frustration that some travellers have.

You said that it's important not to send the wrong message and, in my opinion, the approach should also include sending a message of flexibility and rigour in the application of the legislation. In the past, this was recognized in customs officers, and it's still recognized today.

That said, given the frustration that seems obvious to me when people travel, I would like you to deepen your thinking and reassure us about certain aspects, to avoid grey areas and something falling between the cracks.

How will the back and forth of boaters and anglers be managed? During their trips, they don't anchor or land on the other side, at a fixed point; some bodies of water are still quite large. How are we going to prevent them from coming into contact with people and jeopardizing our borders? We think of illegal immigration, trafficking, smuggling, or any other activity covered under the act.

How can this bill reassure the committee on control measures, both commercially and with respect to security?

[*English*]

**Mr. Gordon Brown:** Thank you very much for that question.

First of all, I think there was something that I don't think we brought forward in our presentation. It was that this will harmonize

regulation with the United States. Currently, this bill brings in the same regime that is in place for a Canadian boater who goes into U. S. waters and does not land or anchor. This is just harmonization. Over the last number of years, the Government of Canada has worked closely with the United States on the Beyond the Border initiative and harmonization of regulations, attempting to work closely with our U.S. neighbours.

In terms of dealing with potential criminal activity, this in no way precludes our law enforcement from being able to take whatever action they deem necessary to ensure that things that potentially are criminal don't happen. This in no way takes away any enforcement rights of CBSA or the RCMP or any other law enforcement agency.

• (1555)

**Hon. Bob Runciman:** I'm sorry, I missed your question while unravelling the earpiece. I gather you're talking about security issues.

**Mr. Michel Picard:** Allow me to summarize, then. The concern is about how we control the uncontrolled back-and-forth trips for those cases in which they might have been in contact with someone who is smuggling something. Those types of activities would exist. You present yourself voluntarily at the border, and now, with this, you don't have to. How, therefore, do we explain to Canadians that there are certain controls applicable, regardless of the fact that they don't present themselves to the customs office?

**Hon. Bob Runciman:** In the case of Canadians, the practice... Both of us have grown up in the Thousand Islands, and there has never been an understanding of a requirement for Canadians... although the current law places the same requirement on Canadians who enter American waters and then come back into Canadian waters. We haven't bumped into a situation in which a Canadian boater has been confronted like the American fisherman whom we were both referring to earlier.

If you look at the amendment that was proposed by CBSA with respect to the residual power for CBSA officials to confront, they retain that power. If they stop you to ask you a particular question about immigration, for example, that's fine; they retain the power to do that. You, however, are not committing an offence, and currently you would be committing an offence by simply not reporting. We're removing that reporting obligation, but they retain the ability and authority to stop individuals.

Also, we had through CBSA and the Ministry of Public Safety an indication that the RCMP have no concerns with respect to the implications of this legislation in terms of any security issues that might arise.

**Mr. Michel Picard:** Mr. Chair, that will be the only question I will ask. Thank you.

[*Translation*]

**The Chair:** Mr. Arseneault, you have a minute and thirty seconds left.

**Mr. René Arseneault (Madawaska—Restigouche, Lib.):** I'll be brief, then.

Mr. Senator, Mr. Brown, thank you for being with us.

The way I understand it, the purpose of this bill is to make the life of boaters a little easier.

So we're talking about people who make a return trip by boat, don't set foot on land, don't anchor and don't moor. Perhaps I'm nitpicking by raising this issue, but some boaters dock. To return, they can wait until the rising tide unhooks the boat. Basically, these situations don't seem to have been anticipated.

Does that concern you?

Every aspect has been covered except that one. Mooring has been covered, meaning, attaching the boat to a mooring buoy, dropping anchor, and cases where people cross the border—on the water—but not docking.

[English]

**Mr. Gordon Brown:** Thank you for the question.

Any one who lands on Canadian land must report. This does not change that.

[Translation]

**Mr. René Arseneault:** What I mean is that boaters can dock without landing.

[English]

You can beach your boat right there and wait for something from somebody else on the ground—on land—and just put the reverse....

**Hon. Bob Runciman:** My interpretation was that even if your conveyance touches land, you're required to report. It's not a question of trying to find a loophole here. I don't think there is a loophole in that respect.

[Translation]

**Mr. René Arseneault:** I would like you to reassure me.

How can I be certain that your interpretation corresponds exactly to what is in the bill?

[English]

**Hon. Bob Runciman:** Well, I personally have been comforted by the assurances of the Canada Border Services Agency and the RCMP.

I have to tell you, I was surprised when I introduced this legislation that we were approached by the minister's office and by CBSA. They liked the intent of this legislation, because they were on the receiving end of a lot of the furor a few years ago, and this gave a way out, if you will, an answer to that concern.

Also, they worked extensively with us. For a significant portion of this bill I'm being credited with authorship, but I have to say that really, the authorship to a significant degree was from the government and from CBSA and the Department of Public Safety. They feel comfortable with respect to the language here, and I accept the comfort level of the experts in this area, so I've been assured about it myself.

• (1600)

**The Chair:** Thank you, Senator.

I should have welcomed Mr. Oliver on his joining our committee.

Welcome to you and Ms. McLeod.

Mr. Clement.

**Hon. Tony Clement (Parry Sound—Muskoka, CPC):** I welcome the newcomers too. It's a very friendly committee.

I'm in favour of this piece of legislation, Chair. I want to state that for the record. I have a couple of questions, picayune ones perhaps, but I just want to make sure I understand exactly how this works in practice.

One of the requirements is that the boater remain on board. I have a lot of boaters in Parry Sound—Muskoka, with 8,000 lakes and a great river, so we share some things on this. People are always wakeboarding and waterskiing. How does that work? Does that still count as being on board because you're tethered to the boat, or the minute you wake-board for a few minutes, does that mean you have to check in?

**Hon. Bob Runciman:** It's not my understanding, if you're not anchoring or mooring or doing what they call rafting—I think you're familiar with that from the lake areas as well. As long as you're not putting down an anchor or tying up to some mooring spot in the river, you can conduct those kinds of activities.

I know there are areas where you have very calm water, for example, outside Rockport, Ontario, between islands, where many people like to do what you're suggesting. As long as they're not, for whatever reason, putting down an anchor or tying up to another conveyance, they won't be in violation.

**Hon. Tony Clement:** Okay.

The second question relates to anchoring, because as an angler myself, sometimes when you're fishing you do lay an anchor to keep the boat in the same secret fishing zone, which I cannot reveal to this committee.

**Some hon. members:** Oh, oh!

**Hon. Tony Clement:** Does that constitute anchoring, if you're anchoring for the purpose of angling?

**Hon. Bob Runciman:** Sure.

**Mr. Gordon Brown:** Yes.

**Hon. Tony Clement:** Then you have to report?

**Hon. Bob Runciman:** Yes.

**Hon. Tony Clement:** Okay, so that's the dividing line. Gotcha.

Okay. That's it for me.

**The Chair:** That's it? You have five minutes left.

**Hon. Tony Clement:** No, I don't want to share my time.

**Some hon. members:** Oh, oh!

**Hon. Tony Clement:** Of course I do.

**Ms. Dianne L. Watts (South Surrey—White Rock, CPC):** On the British Columbia coast we run into a problem, and I hear about it from constituents all the time, because we border with the United States. They'll leave B.C. from the marina, and will go out to an island that is Canadian, but because we're so close to the U.S., the boat crosses U.S. water. They're not stopping. They're not doing anything. They're merely crossing through to get to the island, and they have to check in now with CBSA.

**Hon. Bob Runciman:** If it's a direct route, they do not have to check in.

**Ms. Dianne L. Watts:** But they're going through U.S. waters.

**Hon. Bob Runciman:** It's my understanding that if it's a direct route rather than a loop route, they do not have to. If it's the shortest distance, then you can pass through international waters without being required to check in, but if you're doing a loop route, which is what we're talking about as a major concern in the Thousand Islands, a loop route—

**Ms. Dianne L. Watts:** They may be doing that.

**Hon. Bob Runciman:** If they're doing that, then they would be required to check in.

**Ms. Dianne L. Watts:** Okay, so this legislation will fix that. As I said, I get many complaints in which they're saying, "We're just going from one place to another place, but going through U.S. waters, and then we're forced to stop and check in with CBSA, and then we have to wait, if there is nobody there", and all of this other stuff.

**Hon. Bob Runciman:** They won't have to do that anymore.

**Ms. Dianne L. Watts:** Perfect. Thank you. I will have many happy constituents.

That's it.

**The Chair:** Monsieur Dubé.

[*Translation*]

**Mr. Matthew Dubé (Beloeil—Chambly, NDP):** Thank you, Mr. Chair.

When we all agree, the last one to ask questions has even fewer of them.

My question is about raising awareness among the individuals affected by the regulations. It's a big problem, both in terms of the current act for Canadians who go to the United States and in the case of the proposed bill.

Could you tell me if you have received information or assurances from the minister's office or elsewhere about how the information will be shared so that it is properly understood, in order to maximize the benefits of the bill?

•(1605)

[*English*]

**Mr. Gordon Brown:** Thank you, Mr. Dubé.

We got a lot of really negative media in the United States when this incident happened, and there has been ongoing media interest about this bill moving through Parliament.

New York State Senator Patty Ritchie attended the Senate committee meeting when Senator Runciman and I appeared. There is a lot of interest in this bill right now. That's why the hope is that it could be resolved prior to the boating season's getting into full swing in the next number of weeks.

In fact, we have high water levels which I think have slowed down the boating, at least in the Thousand Islands region. There is a lot of debris in the river.

I know you're going to be hearing from some departmental officials after Senator Runciman and me. You might ask them how they might promote this fix being done when, hopefully, the bill passes third reading in the House. I can assure you there will be significant media interest in upstate New York, and quite possibly in the other border regions across Canada, when this legislation passes through the House.

**Hon. Bob Runciman:** I think there is a role to play here with CBSA and perhaps the government—I'm not sure what that role would be—to make people more aware of what the law is.

I know that all of us were surprised when this individual was detained and fined. I think, if we were to talk to Canadian boaters in our region, very few of them knew that this law could apply to them as well, that they could very easily have been charged and fined. There has not been a lot of information out there for folks boating.

Certainly, in terms of west and east coast whale-watching, I would think the private sector would have a role to play here in making sure that the operators of those tours would do their job to make people aware. Marina operators and all sorts of folks in the private sector and in the tourism sector have a role to play in making sure folks are aware of what's happening here, and what is happening is very positive.

[*Translation*]

**Mr. Matthew Dubé:** That's fine, thank you.

**The Chair:** Thank you.

Go ahead, Mr. Di Iorio.

**Mr. Nicola Di Iorio (Saint-Léonard—Saint-Michel, Lib.):** Thank you, Mr. Chair.

I have a number of questions.

Let's talk about the situation in Quebec, with Lake Champlain and Lake Memphrémagog. Think about a Canadian who leaves Canada, goes to the United States and returns to Canada. He hasn't disembarked, hasn't touched anyone or anything. He doesn't need to report to the United States. Right?

[*English*]

**Mr. Gordon Brown:** That's correct. That boater would not have to report to the U.S. officials, but would have to report to the Canadian officials upon return.

[*Translation*]

**Mr. Nicola Di Iorio:** Yes, but he has to choose. He has to report to Canada.

[*English*]

**Mr. Gordon Brown:** Yes.

[*Translation*]

**Mr. Nicola Di Iorio:** With the bill, he won't have to report to Canada anymore. Is that right?

[*English*]

**Mr. Gordon Brown:** Exactly.

[*Translation*]

**Mr. Nicola Di Iorio:** I have a second question.



Wouldn't a minister's directive be enough in the circumstances? Let me explain. He is the boss of the customs officers. Can't he tell them not to bother people who are only crossing and coming back? The customs officer isn't forced to intercept everyone and require them to do something.

[English]

**Mr. Gordon Brown:** When we first inquired about how to fix this, we were told that it needed legislation. That's why we are going through the legislative process to fix this. However, I think it was last year that there were some CBSA officials who went over to Clayton, New York, and explained that the law was the law, and that there was no turning a blind eye to it. After the 2011 incident, we did hear that there were other incidents that happened, but they never received the media attention that the Anderson case did.

It did need to be fixed in the legislation. CBSA did not go tackling fishermen after the 2011 incident, but this clearly needed a legislative fix.

[Translation]

**Mr. Nicola Di Iorio:** Thank you.

So when Canadians go to the United States and come back, they need to report to the customs post. Do they have to show a passport?

• (1610)

[English]

**Mr. Gordon Brown:** You have to show ID, a passport, a NEXUS card, or whatever you would need to return to Canada under any other circumstance. If you are a Canadian boater going into U.S. waters and then returning to Canadian waters, even if you never landed, you still need to go through that whole process. It's frustrating a lot of people.

[Translation]

**Mr. Nicola Di Iorio:** Allow me a few quick questions about the wording of the bill.

The purpose of clause 2 of the bill is to amend subsection 11(5) of the Customs Act. When you read the proposed text, you see that it applies to certain persons if:

(a) they enter Canadian waters ... on a conveyance directly from outside Canada ...

Obviously, someone who enters Canada does so from outside the country. I never understood how you could enter any way other than from outside Canada, but I won't go into that.

Now, subparagraph 2(5)(a)(i) reads: "or make contact with another conveyance".

[English]

In English it is written "make contact with another conveyance".

[Translation]

Does making contact mean physical contact must be established?

[English]

**Hon. Bob Runciman:** That's right.

[Translation]

**Mr. Nicola Di Iorio:** If my boat is here, and the boat of my colleague Mr. Oliver is next to it, and he throws me a bag of potatoes, does that constitute contact?

[English]

**Hon. Bob Runciman:** I would think it was contact, yes. It could be up to the courts, ultimately.

[Translation]

**Mr. Nicola Di Iorio:** I'd like to know what you had in mind. Would you consider that kind of situation? Or, was it simply when boats touch and attach to one another?

[English]

**Mr. Gordon Brown:** Right.

**Hon. Bob Runciman:** Yes, that's my understanding. You have to have that contact, not just throwing a beer from one boat to another or something like that.

[Translation]

**Mr. Nicola Di Iorio:** Mr. Chair, I have another question.

[English]

**The Chair:** Just before you do—and I'll give you a little more time—because we're getting into some technical questions, I'm going to suggest that if the officials want to join the witnesses at the table, that may be helpful for the witnesses.

It's a fairly technical bill, and if that's helpful for you, we'll invite them to join you.

**A voice:** When we're getting into the potato chips.

**The Chair:** Yes, when we're getting into the potato chips, that's technical.

We invite you to join us at the table.

If the witnesses want to turn to the officials for help at any time, they should feel very free to do so.

I don't know who you are, but you might want to introduce yourselves.

[Translation]

**Mr. Sébastien Aubertin-Giguère (Director General, Traveller Programs Directorate, Canada Border Services Agency):** Good afternoon.

I'm Sébastien Aubertin-Giguère, and I'm the director general of the Traveller Programs Directorate at the Canada Border Services Agency.

**The Chair:** Thank you very much.

**Ms. Madona Radi (Director, Program and Policy Management Division, Canada Border Services Agency):** My name is Madona Radi, and I'm the director of the Program and Policy Management Division at the Canada Border Services Agency.

**The Chair:** Thank you for being with us today.

We are going to continue the meeting.

**Mr. Nicola Di Iorio:** I was wondering if you wanted to add something to the answer that was given.

**Mr. Sébastien Aubertin-Giguère:** Yes, if I may. I would like to come back to some of your questions.

The Immigration and Refugee Protection Act does not set out that a Canadian returning to Canada must present any documents. The person must simply convince the Border Services Agency officer that he is a Canadian citizen. So there is no obligation.

The minister's intervention won't be enough, given that the act will impose presentation and reporting requirements on travellers. By the same token, someone who doesn't report will be breaking the law. It's not an authority vested in the agent, but an obligation on the traveller. The legislative process is necessary in the case of this amendment.

**Mr. Nicola Di Iorio:** You have the text of the bill. As for the "make contact with a conveyance" component, you didn't have to apply it?

**Mr. Sébastien Aubertin-Giguère:** No. I agree with the interpretation. It would be constitutional.

**Mr. Nicola Di Iorio:** The French version says "n'a ni amarré, ni mouillé l'ancre, ni établi de contact avec un autre moyen de transport". But the order is different in the English version.

Why should a person who only drops anchor, enjoys some sun, swims and returns have to report?

The role of tourism—to pick up on what you've raised—is to allow people to have fun. So we don't want to discourage people from engaging in recreational activities.

Why should people have to report in this case?

•(1615)

[English]

**Mr. Gordon Brown:** Let's look at the Thousand Islands National Park as an example. There are many islands where boaters would come and anchor and moor for a number of days. That's not what we were trying to deal with in this legislation. We were trying to deal with the boater who just entered into Canadian waters but did not stay, who was basically transiting or fishing. That was sufficient enough; they were moving through.

If they in fact were going to be staying—and I'm using the example of an island in the Thousand Islands National Park, where someone may stay for a number of days—that wasn't what we were trying to get at with this legislation, but more the boater who was just moving through.

[Translation]

**Mr. Nicola Di Iorio:** Those were the questions I wanted to ask.

[English]

**The Chair:** You have one more minute.

[Translation]

**Mr. Nicola Di Iorio:** Thank you, Mr. Chair.

[English]

**The Chair:** Conservatives, do you have any more questions?

**Ms. Dianne L. Watts:** I don't think so.

**The Chair:** Go ahead, Ms. Damoff.

**Ms. Pam Damoff (Oakville North—Burlington, Lib.):** I don't have any questions.

**The Chair:** Okay.

**Ms. Pam Damoff:** Well, I have a comment. It would have been nice if we could have done this on a boat, given the weather.

**Voices:** Oh, oh!

**Ms. Pam Damoff:** I just had to get that on the record.

No, I don't have any questions.

**The Chair:** Go ahead, Monsieur Arseneault.

[Translation]

**Mr. René Arseneault:** My question is for Mr. Aubertin-Giguère or Ms. Radi. I would like to come back to subparagraph 2(5)(a)(i) of the bill.

From the perspective of maximizing the pleasure of boaters, who can dock without disembarking, would that be a way of covering everything, for example if someone was being nitpicky about a boater?

**Ms. Madonna Radi:** The way we see things is that, when docking, if the boat touches the ground, it's as if it were touching Canadian soil, or Canada, in other words. In that case, the person must report to the Agency.

**Mr. René Arseneault:** Wouldn't it have been more complete if it had been worded this way or is that the interpretation with the words "not anchor, moor"?

**Ms. Madonna Radi:** We worked with the senator. We felt that these terms could adequately meet all these criteria.

**Mr. Sébastien Aubertin-Giguère:** Similarly, if someone crosses into Canada in a vehicle without leaving the vehicle, the person is considered to have touched Canadian soil through the vehicle.

**Mr. René Arseneault:** With respect to the water, it isn't a question of touching the ground or the coast, but rather mooring, anchoring—

**Mr. Sébastien Aubertin-Giguère:** Anchoring is covered in the bill.

**Mr. René Arseneault:** —and mooring. That's all.

**Mr. Sébastien Aubertin-Giguère:** Anchoring is covered in the bill.

**Mr. René Arseneault:** We're talking about grounding.

**Mr. Sébastien Aubertin-Giguère:** In this case, it's the same thing as for vehicles, like cars, that enter Canada.

**Mr. René Arseneault:** That's fine, I understand. Thank you.

**The Chair:** Are you done?

It's always like this with lawyers.

[English]

Are there other questions before we conclude?

We thank our witnesses. You're very welcome to stay through our clause-by-clause consideration of the bill.

**Ms. Dianne L. Watts:** Are we going to vote on it?

**The Chair:** We are. We're a little early. We have 10 more minutes, but I think we can start our clause-by-clause consideration if all of you agree.

**Ms. Dianne L. Watts:** No, I meant your legislation.

**The Chair:** I'm not understanding. It's clause-by-clause consideration on this bill, Bill S-233. That's what we're doing.

**Ms. Dianne L. Watts:** Okay.

**The Chair:** We're going to do that. Luckily you're dealing with a committee that is very experienced at clause-by-clause. They're very effective at it. Also, as we begin our clause-by-clause, Justin is with me. He is our procedural clerk who does legislation. He's here to make sure that I don't make mistakes.

We'll go to the clause-by-clause consideration of Bill S-233.

Pursuant to Standing Order 75(1), we will postpone consideration of the short title, which is clause 1, and move to clause 2 of the bill.

(Clauses 2 and 3 agreed to)

(On clause 4)

**The Chair:** On clause 4, are there questions or concerns?

• (1620)

**Ms. Dianne L. Watts:** I'm wondering if they have enough resources in terms of implementing this.... Never mind. That's okay. I'm good.

**The Chair:** You're good?

**Ms. Dianne L. Watts:** Yes.

(Clause 4 agreed to)

(On clause 5)

**The Chair:** Are there questions or concerns?

**Mr. John Oliver (Oakville, Lib.):** Is the coordinating amendment part of clause 5 or is it separate?

**The Chair:** It is part of clause 7, I believe.

(Clauses 5 and 6 agreed to)

(On clause 7)

**The Chair:** Clause 7 is a coordinating amendment.

Mr. Oliver.

**Mr. John Oliver:** Proposed paragraph 95(1.1)(a) has an extra "as". I don't know if that's a committee detail or whether that's corrected later. It reads "as long as as". I don't know if that's committee work or clerk's work.

**Mr. Michel Picard:** Is that all you have?

**Voices:** Oh, oh!

**Mr. John Oliver:** That's all I have; otherwise, it's perfect.

**The Chair:** That is in line 17 on page 4 in the English version. It is correct in French.

I will ask the officials if they would like to strike "as". Is there any drafting reason why you want it? There's just an extra "as".

**Mr. Sébastien Aubertin-Giguère:** It's just an accident.

**The Chair:** You will make an amendment to delete—

**Mr. John Oliver:** I will make an amendment to delete the second "as".

**The Chair:** —the second "as", not the first one.

**Mr. John Oliver:** The second one is the one that offended me the most.

**The Chair:** We have an amendment to clause 7 to strike the second "as" in line 17 on page 4.

(Amendment agreed to)

(Clause 7 as amended agreed to)

**The Chair:** We turn to the short title in clause 1. Shall the short title carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the title carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the bill carry?

**Some hon. members:** Agreed.

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

**Some hon. members:** Agreed.

**The Chair:** Do I suspect we'll have the same ability to get through C-23 next week?

**Ms. Dianne L. Watts:** Not on your life.

**Some hon. members:** Oh, oh!

**The Chair:** On behalf of the committee, to both Senator Runciman and Mr. Brown, thank you for your work on this bill. Also, on behalf of the House of Commons, thank you for initiating it there and bringing it to us. I will be happy to report it back to the House as quickly as possible. I suggested to the clerk that I could do that tomorrow, which should allow it to get done before a significant birthday arrives.

Is there any business to bring forward to the committee?

The meeting is adjourned.





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