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Chair

The Honourable Paul DeVillers

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• (0905)

[English]

The Chair (Hon. Paul DeVillers (Simcoe North, Lib.)): I call to order this meeting of the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness. We're completing, hopefully, the clause-by clause review of Bill C-13.

We have with us again, from the Department of Justice, Mr. Michael Zigayer, Senior Counsel, Criminal Law Policy Section; and Mr. Stanley Cohen, Senior General Counsel, Human Rights Law Section. From the Department of National Defence, we have Mr. Dominic McAlea, Deputy Judge Advocate, Military Justice and Administrative Law; and Mr. André Dufour, *directeur, Services législatifs et de réglementation*.

At the last meeting, we got partially through this. We stood clause 3 for further consultations amongst the various members of the committee and officials. I understand that some of those consultations have taken place.

Mr. Toews, you have filed further amendments in relation to clause 3?

Mr. Vic Toews (Provencher, CPC): I have. I was just presented with a list of amendments by the Parliamentary Secretary to the Minister of Justice, and I'm wondering if I could have a few moments to consult with the parliamentary secretary and my colleagues in the Bloc and the NDP. If this is what I think it is, it might afford us an opportunity to deal with this unanimously.

The Chair: I will suspend for 10 minutes to allow those consultations to occur. Hopefully, it will save us a lot of time in the long run.

• (0907) _____ (Pause) _____

• (0922)

The Chair: Order. We'll now resume.

I understand that there have been further discussions and that we have a proposal before us. I would ask Mr. Macklin or officials to please give us the overview before we get into the technicalities of dealing with them.

Yes, Mr. Toews.

Mr. Vic Toews: Perhaps I could just outline my understanding in a few brief sentences, and then the officials, if I've been mistaken in any way, can correct me.

The Chair: Okay, that's fine.

Mr. Vic Toews: My understanding, as a result of the discussions we had with Mr. Macklin, is that the government proposal, which I'm inclined to accept at this point, is that there will be an A primary list, where the DNA-taking will be automatic. That list is found at subclause 1(5), if I can just refer you to that. Then there is a primary B list, where the onus will be on the accused to demonstrate why the DNA shouldn't be taken. Then, on the secondary offences, the onus will be on the Crown, which essentially is what the test is right now. And then, in respect of the not criminally responsible, the onus again will be on the Crown. That's my understanding of this.

We think these amendments are a step in the right direction, if I've characterized them properly. We're doing this in the interest that we achieve unanimity on this bill so that we can move it through as quickly as possible. I know there are some victims groups represented here today, who are concerned about some of the retroactive clauses that are part of this bill but that are not specifically part of these amendments.

I feel that if we can deal with this bill unanimously, we can move this bill through the House as quickly as possible. That's certainly been one of the considerations the Conservative Party is bearing in mind in agreeing to these particular amendments.

We also understand that there will be a full review of the DNA bill in the fall, and therefore some of these issues can be re-examined if there have been some problems.

That's essentially my understanding.

• (0925)

The Chair: Mr. Macklin.

Hon. Paul Harold Macklin (Northumberland—Quinte West, Lib.): Thank you, Chair.

Thank you to all for being patient with us this morning as we tried to come up with the appropriate result that seems to have been arrived at.

Let me start off by saying, in terms of reviewing this, for the record, that the current law gives a limited discretion to the trial judge to refuse to make a DNA order where a person is convicted of a primary designated offence in cases where the offender can satisfy the court that the impact on the offender's privacy and security of the person is grossly disproportionate to the public interest in the protection of society. Otherwise, the judge is required to make the order.

The Conservative motion that was put forward would have removed all of the discretion where the offender had been convicted of a primary designated offence at the same time that Bill C-13 was expanding that list of offences.

When we did a charter assessment on this, the Minister of Justice examined the proposed motion that was before us. It was the view of the Minister of Justice that this approach did expose the legislation to extremely serious charter risks, and would pose a number of practical problems as well.

Last week the department officials indicated to the committee that there is strong authority to suggest that judicial discretion is a constitutional requisite. Jurisprudence since 1995 regarding DNA warrants, including the Supreme Court of Canada ruling of *R. v. S.A. B.* in 2003, confirms the need for prior judicial authorization by a decision-maker capable of balancing the interests at stake and acting judiciously. The DNA data bank order provisions in the Criminal Code share many common features with the DNA warrants.

In addition to this concern, there is also the question of overbreadth. Due to the expansion of the primary designated offence category, it would be possible for a young first offender to be convicted of a break and enter into a dwelling house and become subject to this scheme without any opportunity for the court to conduct an individualized assessment of whether he really ought to be.

So looking at the practical considerations here, it's quite likely that offenders caught by a mandatory scheme would appeal the making of a DNA data bank order. This would especially be likely in the case of young offenders convicted of break and enter into a dwelling house, which is to become a primary designated offence. Now, this would add a considerable burden to the criminal justice system in terms of volume of cases before the courts and the workload of prosecutors—and also in terms, of course, of the very pragmatic legal aid.

Courts might make the orders, and order that the samples not be analyzed until after the appeal has been resolved. This would have implications for the RCMP in terms of storage of samples.

Offenders who would have been the subject of constitutionally valid DNA data bank orders under the present legislation would become subject to a constitutionally fragile process. Should the DNA data bank order made under the new provisions be quashed, there would be a question as to what would happen to the samples taken and any subsequent match that occurred in the DNA data bank. Would the court read in a judicial discretion, as occurred in *Beare*, or would the court find the provision to be unconstitutional and simply result in the legislation not being applied?

Having reviewed all of these factors, the government believes Bill C-13 is an important bill that will improve on the existing DNA data bank scheme and will provide further protection to the safety of Canadians. For these reasons, the government obviously was not able to support the Conservative motion, but rather has proposed the amendment that has been put before us.

I think Mr. Toews did give a reasonable description of what the effect of this would be.

In fact, what we're really doing is only eliminating judicial discretion for what I would call the “worst of the worst” offences, which are now going to be in the primary A list.

What characterizes these? Again, as I say, they're the most egregious of the primary designated offences. They involve acts of terrible violence. While this approach is not free of a charter risk, we believe it is more defensible than the original amendment, and we believe we could marshal the evidence to demonstrate that it is both reasonable and necessary.

I appreciate, in making this policy change as we have, at this stage of the legislative process, that we haven't been able to make consultations with our provincial and territorial colleagues and other stakeholders. However, bearing that in mind, those who have appeared before the committee have at least given us some sense of their concern in this regard as it relates to these more violent offences.

So I think we're reasonably pleased that there appears to be a consensus here today and that in fact we will be able to move forward, hopefully, on the revised amendments.

•(0930)

That said, I hope each of you has before you the amendments.

The Chair: Mr. Macklin, I think we have a couple of other speakers before we get to the technical part. I think Mr. Marceau, Ms. Neville, and Mr. Comartin wanted to speak to the general topic.

Monsieur Marceau.

[*Translation*]

Mr. Richard Marceau (Charlesbourg—Haute-Saint-Charles, BQ): Mr. Chairman, my understanding of the government's proposed amendments is identical to that of my colleague Vic Toews. If my understanding is correct, then the Bloc will be supporting the government's proposed amendments this morning, as they represent a step in the right direction. We're pleased to see that this amendment will receive, if I'm not mistaken, the unanimous support of the House. While it still has to go to a vote this evening and other votes are always a possibility, I will undertake to ask my party's leader in the House to ensure that this bill is passed as quickly as possible and enacted just as quickly.

[*English*]

The Chair: Thank you, Mr. Marceau.

Ms. Neville.

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

I will not oppose this amendment, Mr. Chairman, but I do have a question for the officials. Is it appropriate to do so now?

The Chair: We're having a general discussion now. When we get to the actual amendments, if you have a specific question on one of the provisions—

Ms. Anita Neville: Well, it's an overall question.

The Chair: Go ahead, then.

Ms. Anita Neville: To the officials, can you comment on what Mr. Macklin spoke about, the constitutional fragility of this amendment as we have it before us?

Mr. Stanley Cohen (Senior General Counsel, Human Rights Law Section, Department of Justice): There are constitutional considerations, as we went into the last time we discussed the bill, that revolve largely around the issue of judicial discretion. Of course, a portion of what is going forward will have no judicial discretion.

So to that extent, there still is a concern and an area of risk. But in fairness, any legislation that has the potential to impact on individual rights is going to carry some degree of risk. There is risk, as I pointed out, as a result of what has been said in a number of cases, particularly the S.A.B. case in the Supreme Court of Canada, and the case of Beare. That said, there are credible arguments to be said in defence of the measure as it's been crafted now, and I believe the government can make a case, especially after we have a chance to ventilate this again in the next chamber. It is capable of a reasoned defence and capable of being supported by the judiciary.

Ms. Anita Neville: Thank you.

The Chair: Thank you.

Mr. Comartin and then Mr. Cullen.

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

Likewise, I'll be supporting these amendments. I just want to make a couple of caveats here.

One, I still am concerned about the charter challenge that's coming, so for that reason have concerns about supporting this. I want to say, perhaps directly to Mr. Toews, that I think there may be some advantage, actually. It seems to me that if we're going to begin to use DNA samples in a real crime-fighting methodology, we've got to get the courts off dead centre, where they are now, in terms of the emphasis they've placed on privacy—which, in my opinion, is overblown. This may be in fact the first round of doing that. I think the amendment from that perspective, if the charter comes, may in fact give us the opportunity to begin to change the attitude of the courts, all the way up to the Supreme Court, if we have to take it that far.

So I think there's a real opportunity. However, there's also a significant risk that we won't be able to do that, and that these sections, with the lack of judicial discretion that we've put in here, will in fact be struck down. We may lose that one and then have to keep going at it. If we're going to move in the direction that England has gone, we're going to have to get the courts to change their position in this country. As it stands right now, there's no way we would be able to move down that road to any significant degree; they'll just keep striking down these sections. We're going to have to maybe wear them down over a period of time.

So as a message coming from Parliament to the courts, this may be the first round. I think it's good in that sense. And maybe it's good that we're only doing a partial route; somewhere down the road we can move it even further.

The second point I want to make in terms of, again, my concern about this process is that I'd feel a lot more comfortable if we were doing this after the full review. I know I've raised this a number of times, but as Mr. Toews has indicated, we'll get another round on this sometime. Assuming there's an election—or not—for those of us

who may be back—or not—this committee will get another round of this at some point, this year or next.

Thank you, Mr. Chair.

• (0935)

The Chair: Mr. Cullen.

Hon. Roy Cullen (Etobicoke North, Lib.): Thank you, Mr. Chair.

I suppose, given the discussion we had at the last meeting, I should indicate that I will be supporting these amendments as well.

I think you raise a good point, Mr. Comartin. Every now and then you need to push the envelope a bit, and I think this is a very reasonable compromise. I think it covers the heinous crimes that we're all especially concerned about. So I will be supporting this group of amendments.

I just wanted to pick up on Mr. Toews' comments and Mr. Marshall's comments about fast-tracking the bill. Certainly you have my undertaking. We're checking, as we speak, with our House leader's office, because we don't know, or I certainly don't know, the full spate of legislation that's before the leader and in the House. But certainly you'd have my undertaking, and maybe Mr. Macklin's—he can speak for himself, of course—to see what we can do to fast-track this through the House. We also have the Senate.

So it's hard for me to...but I just want to make sure we're clear on this, that I certainly will do everything I can in my power to move this bill as quickly as we can through the Parliament. It's not always our decision, it's the House leaders'. And of course, we don't know exactly how long we're all going to be around in this place, either.

But that's my undertaking, and I certainly will work very diligently on that file.

The Chair: Thank you, Mr. Cullen.

If that ends the general discussion, we'll get to the specifics.

I see that what's being proposed is an amendment to clause 1, which we've already dealt with. So we would need unanimous consent to reopen clause 1.

Some hon. members: Agreed.

(On clause 1)

The Chair: Mr. Macklin, would you like to present the amendment.

Hon. Paul Harold Macklin: And how have you described this particular amendment?

The Chair: The big one on the first page.

Voices: Oh, oh!

Hon. Paul Harold Macklin: Have you given it a designated number? It would likely be G-15, would it, in keeping with the former numbering?

The Chair: Madam Clerk.

Ms. Susan Baldwin (Procedural Clerk): We haven't numbered it at all. It would be the new government amendment to clause 1, which amends clause 1 at page 2.

The Chair: Our clerk, having just received these, obviously has some questions. Maybe we could deal with those right now.

Ms. Susan Baldwin: We passed, I believe, at least three, maybe four, amendments to this clause already.

Hon. Paul Harold Macklin: And those are satisfactory.

Ms. Susan Baldwin: I wanted to talk a little bit about the interaction between them.

This amendment doesn't appear to have anything in it that was also agreed to in BQ-2, BQ-3, and G-1. However, I noticed that BQ-1 is in...you're redundant; it's in this amendment. But are you changing where it goes?

In other words, what I'm asking is should we by unanimous consent—if that should be the will of the committee—withdraw BQ-1, and then simply adopt your large amendment here?

That's just so that when we come to do a reprint of the bill, we actually have some idea of what we're really doing.

[*Translation*]

The Chair: Mr. Marceau.

It's just a matter of reiterating that it's included in this amendment.

Mr. Richard Marceau: Yes. Since BQ-1 contained a reference to “attempted murder” and this expression happens to be included in proposed subparagraph a.1)(iv) of the definition of “primary offence”, I'm satisfied with this.

[*English*]

The Chair: So by unanimous consent, we will remove amendments BQ-1, BQ-2, BQ-3...?

● (0940)

Ms. Susan Baldwin: No, no, just BQ-1. We're going to keep BQ-2, BQ-3, and G-1. Is that the...?

The Chair: They stand, yes.

Ms. Susan Baldwin: Okay. So we're just withdrawing BQ-1.

The Chair: By unanimous consent, we are withdrawing BQ-1. It's agreed?

(Amendment withdrawn [See *Minutes of Proceedings*])

The Chair: The new government amendment to clause 1 would be passed then.

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

[*Translation*]

Mr. Richard Marceau: Ms. Zigayer, if I understand correctly, the offences listed in amendment BQ-2 are now part of what was referred to earlier as the B list of primary offences. Last week, the offences were considered to be primary offences. Since they are not included in the proposed list of offences in paragraph (5) of the bill, they are still considered primary offences, but are included in the B list. Therefore, the onus is on the accused person to prove or explain why a sample of his DNA should not be taken. That's my understanding of this provision.

Mr. Michael Zigayer (Senior Counsel, Criminal Law Policy Section, Department of Justice): We're not changing subparagraphs (xxi), (xxii) and (xxiii) that were adopted last week. If I understand

correctly, it would appear that people want this offence to be included in the original “primary offence” list.

Mr. Richard Marceau: I see. There will always be room for some discretion. That's fine with me. I just wanted to be certain that I understood.

[*English*]

The Chair: Does clause 1 as amended carry?

(Clause 1 as amended agreed to)

(On clause 3)

The Chair: I understand that four proposed amendments that were before us are now going to be withdrawn. That's G-2—

Hon. Paul Harold Macklin: No, G-2 would stand. The original designation in the bill as drafted was to have those mental disordered accused included in the primary offence group in terms of the way in which they would be dealt with. In fact, G-2 moves them to the secondary group, and that still is appropriate.

In other words, even though they may have committed all the acts of a primary designated offence, they in fact now would be approached on the basis that the Crown would have to make an application for a DNA sample under secondary offence rules.

The Chair: Does G-2 carry?

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

● (0945)

The Chair: Then C-1, C-2, and C-3 would be withdrawn?

(Amendments withdrawn [See *Minutes of Proceedings*])

The Chair: There's a new amendment to clause 3. It is the second new government amendment.

Does the second new government amendment carry?

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

(Clause 3 as amended agreed to)

(On clause 12)

The Chair: We had stood down clause 12 last time. There were government amendments G-5 and G-6.

What's the status of those, Mr. Macklin? They're on page 14 of the original package.

Hon. Paul Harold Macklin: These are consequential amendments to G-2. Therefore, these should go forward.

The Chair: Do amendments G-5 and G-6 carry?

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

(Clause 12 as amended agreed to)

The Chair: Clause 23 had been passed. We'll need unanimous consent to reopen clause 23.

Some hon. members: Agreed.

(On clause 23)

The Chair: Mr. Macklin, originally we had government amendment G-10. Is it impacted by the third new government amendment to clause 23 that we had before us? Is there any conflict there?

Hon. Paul Harold Macklin: It would appear that we can withdraw G-10, because we've incorporated the requirements into clause 23.

The Chair: Okay.

So amendment G-10, which was passed, is now withdrawn by unanimous consent?

(Amendment withdrawn [See *Minutes of Proceedings*])

The Chair: We're now proposing the third new government amendment, to clause 23.

Mr. Macklin.

Hon. Paul Harold Macklin: A couple of corrections need to be made in the French version of the amendment to clause 23. Two of them are just issues of the use of upper and lower case: the word “*Infraction*” should be lower-cased, as in “*infraction*”, in both paragraphs (a).

A greater change would be in subclause 23(1). When you arrive at “*de la définition de « infraction primaire », à l'article 487.04 du Code criminel,*” that should be left there, but that phrase should also be inserted in place of “*de la même définition*” in the next paragraph.

In other words, take out “*de la même définition*” and insert the definition above, that includes the reference to the *Code criminel*.

We'd do the same thing in (b), extracting “*de la même définition*” and inserting the other definition in its place.

The Chair: Okay, Mr. Macklin, read (a.1) as you're proposing it to be further amended.

Hon. Paul Harold Macklin: Which part?

The Chair: The part where you're making the change, where you're removing “*de la même définition*”.

Hon. Paul Harold Macklin: Okay.

After it says, “*infraction visée à l'alinéa a.1) de*”, then we'd put in “*la définition de « infraction primaire », à l'article 487.04 du Code criminel,*” and then we would pick it up at “*qui est punissable*”, and so on.

La même chose in (b), the next paragraph.

The Chair: Does the third new government amendment, as amended by Mr. Macklin, to clause 23 carry?

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

(Clause 23 as amended agreed to)

(On clause 24)

The Chair: There's a new amendment to clause 24, Mr. Macklin?

Hon. Paul Harold Macklin: Just bear with me for a moment.

The Chair: We had G-11 before the committee and now we have a new one, the fourth new government amendment. Does the new amendment replace G-11, so that G-11 can be withdrawn?

Hon. Paul Harold Macklin: Yes, we withdraw G-11.

The Chair: Okay.

Does the amendment to clause 24 that's before us now carry?

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

(Clause 24 as amended agreed to)

The Chair: That deals with the new amendments.

(On clause 31—*Order in council*)

The Chair: I see that we have amendment G-14 to deal with, Mr. Macklin. That's in the original package, the last one.

● (0950)

Hon. Paul Harold Macklin: I'm just going to double-check to make sure that nothing needs to be changed here.

Mr. Chair, it is appropriate that we go forward with amendment G-14.

The Chair: All right.

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

(Clause 31 as amended agreed to)

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

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

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint...?

I don't see why we would, with hardly any changes....

Some hon. members: Oh, oh!

An hon. member: Sorry.

The Chair: I think it's a forgone conclusion that we will order a reprint of the bill as amended for the use of the House at report stage.

Some hon. members: Agreed.

The Chair: Mr. Toews.

Mr. Vic Toews: Just one question, for perhaps Mr. Macklin or the officials.

In terms of secondary offences, what's now the quickest way of being able to describe which ones are secondary offences? Is there some kind of catchphrase we have—for the record, so to speak, if somebody is ever reviewing our comments here?

Mr. Michael Zigayer: The secondary offences remain as defined in the Criminal Code. What we've done is we've created two categories of primary designated offences.

Mr. Vic Toews: Yes. So the secondary offences remain as is in the Criminal Code, and they are, in your characterization, what—less serious, less violent...?

Mr. Michael Zigayer: They're serious offences in their own right. Certainly what distinguishes them from what we have now under the scheme, where you have no discretion, is that you can see extreme violence in that list. The secondary designated offence list includes offences where it might be appropriate to seek or use DNA in an investigation.

Well, actually, now we've gone to a four-part definition. We have a generic, which is all indictable offences or all offences that can be prosecuted, and have a maximum penalty of five years imprisonment. And where they are prosecuted by indictment, that's part of the definition. We've done the same with the drugs, taken the same approach there. We've kept those offences from the original secondary designated offence list that wouldn't have made that threshold of five years maximum penalty. And I think we've kept the historical offences, that don't exist any more.

Mr. Vic Toews: Okay. Thank you.

The Chair: Thank you.

I would like to thank the officials and thank our legislative clerk and everyone for the work they've done here. I think it's been very fruitful, under trying circumstances.

Under other business, we have Mr. Breitreuz' motion to deal with.

Do we do it in camera, or do you want to do it in public?

• (0955)

Mr. Garry Breitreuz (Yorkton—Melville, CPC): I don't think it's going to take long. We don't have to do it in camera.

The Chair: So we'll continue on the record.

We will suspend for a few minutes.

• (0954)

_____ (Pause) _____

• (0956)

The Chair: We'll resume.

Mr. Breitreuz, you have a motion to present?

Mr. Garry Breitreuz: Thank you, Mr. Chair.

The motion is quite straightforward:

That the committee write to the Auditor General of Canada asking her office to investigate the conflicting testimony and evidence presented to this committee on the effectiveness and efficiency of the RCMP Forensic Laboratory Services and on the status of DNA cases and service requests.

Mr. Chair, I think this is quite self-explanatory. For those of you who heard the testimony this last week, and previous to that from the RCMP, we have had conflicting evidence. I don't want to get into a he-said-she-said, who's right, and what the situation actually is at the labs. I'd rather have the Auditor General review the situation and report back to Parliament to resolve what's going on here, to determine what actually is the case.

That is what my motion simply does. It just asks that we send a letter to the Auditor General asking her to review the situation at the labs, to determine what it is. I think we need that kind of accurate information, and I don't see any other good mechanism to do that.

The Chair: Mr. Cullen.

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

I don't know why we would support this. First of all, we have conflicting testimony at this committee all the time. Are we then going to say that we have to bring in the Auditor General to referee conflicting testimony? We have testimony...and with respect to the two gentlemen who came here, they have not been directly involved for some time in the operation of the lab, and in fact the labs were all reorganized subsequent to their departure.

By the way, I should say that, as it's been pointed out, they were not in favour of the reorganization. Frankly, over time, I think, they've not been terribly satisfied with a number of things in their area of operations.

We've had testimony from the people who know what's going on over there, who are currently involved, and we know that on the urgent requests, they're turning them around in 15 days. On the non-urgent, that's negotiated with law enforcement or the various agencies involved. And for people generally who use this service, there's a 90%-plus rate of satisfaction with the service they're getting. In fact, when benchmarked against other services around the world, RCMP DNA forensic laboratory services actually stacks up quite well.

The Auditor General, I know, has a lot of priorities, and does a lot of good work. To ask her to get into an area like this, where we've had perhaps conflicting testimony, I think is a misuse of resources; we're asked to deal with conflicting testimony all the time.

So I certainly will be voting against this, and I would urge my colleagues to do the same.

The Chair: Mr. Breitreuz.

• (1000)

Mr. Garry Breitreuz: I didn't want to get into a long discussion here.

These gentlemen still have contacts at the labs, and it was only a little more than a year that they left. We don't have really effective whistle-blower legislation, so how else can we get that information other than these people coming forward? They still have good, close contacts at these labs. So to say that they don't know what's going on any more is really not accurate.

To the charge that they weren't in favour of the reorganization, in fact they were going along with it until they lost some top-notch people, biologists, who went to the U.S. Their feeling is that the service we now have is inferior, and because of the reorganization. So they had some very serious concerns about what's going on.

I didn't want to get into this he-said-she-said kind of thing, but why not let the Auditor General examine this? It's not like other things that come before this committee. This directly impacts on the work of the police and public safety. If we've got a 120-day turnaround time for these samples to be analyzed and given back to the police....

I mean, there was a report in the papers yesterday of a provincial lab. There are some real and serious problems with DNA analysis. I think we should check this out.

The Chair: Mr. Cullen, again.

Hon. Roy Cullen: I just want to add something that I meant to say earlier, and that is, I will concede, there has been some confusion around terminology. If you put something into the process, you could argue that it's in process or it's backlogged. I agree that there's been some difficulty around the terminology. That's why I would encourage members to come back to performance generally.

If you in your office, say, hand out a bunch of files to assistants and others, you could say, by virtue of handing it off, that...and I'm sure we've all done that. I'll go to my assistant and ask where we're at with such-and-such, and I'll hear, "I've called, and they haven't returned my call". Well, you know, in terms of results, that's not exactly getting results. We've all gone through that, I'm sure.

So you could say, well, it's in process, but the point is that all these DNA samples, once they're put into the system, are continuously worked on. Could you say that they're all backlogged? I think that's a stretch. In fact, I know it's a stretch.

So the terminology, I agree, has been confusing, but I'd ask members to focus on results. On the urgent cases, there's a 15-day turnaround; that's being met in all cases. On the rest, it's 120 or 130 days. The lab wants to do better, and will do better, but in terms of benchmarking against other forensic labs around the world, the results are pretty good. To have the Auditor General muck around in this for a while and use her resources.... I'm sure she has other priorities.

The Chair: Mr. Maloney.

Mr. John Maloney (Welland, Lib.): Thank you, Mr. Chair.

I did sit through the testimony, and there were parts, certainly, that were conflicting. Quite frankly, though, I think this motion is a little premature. I would like to see the forensic labs respond to it, as in, "Here are the criticisms, and I'd like to hear what you've got to say about it".

Certainly an investigation of this nature is within the purview of this committee, but to run off to the Auditor General every time there's conflicting testimony doesn't make sense. I think there is enough there, but I'd like to hear more about it before I ask someone else to take away what I feel is perhaps one of my responsibilities.

The Chair: Any further discussion before I put the question?

Mr. Cullen.

Hon. Roy Cullen: That's a good point. We actually did sort of leave open the possibility that if there was conflicting testimony, we might bring back the people from the lab and maybe go through, blow by blow, the testimony, the brief that was presented by the two gentlemen, and get the lab's response. There can be a critique and a debate and a discussion at that point.

•(1005)

Mr. Garry Breitkreuz: Sure, but then we'd still have conflicting testimony. We'd still be in the same situation we're in now.

The Chair: Seeing no further discussion, I'll put the question. I think we're going over old ground, at this point.

(Motion agreed to)

The Chair: There's one other issue. I guess we were supposed to have the Minister of Justice before us today on the estimates, but there's a death in the family, and he wasn't able to make it.

We have two dates, Mr. Macklin, the 19th or the 17th.

Hon. Paul Harold Macklin: The 19th, Mr. Chair.

The Chair: So the 19th is the preferred date.

Is that agreeable, that he'd come on the main estimates next Thursday, May 19?

Some hon. members: Agreed.

The Chair: Any other business before we adjourn?

[Translation]

We have received your motion, Mr. Marceau, but we won't get to it until Thursday.

Mr. Richard Marceau: If we could possibly do that on Thursday, then...

[English]

The Chair: Mr. Comartin.

Mr. Joe Comartin: What does that do to the schedule on Bill C-2 in terms of clause-by-clause?

The Chair: We are planning to do clause-by-clause on Bill C-2 on the 19th.

Are we ready on that, do we know?

Mr. Joe Comartin: We can't do both, unless we're going to do four hours.

The Chair: We were supposed to do four hours today.

Mr. Vic Toews: Is it possible to do Bill C-2 sooner?

The Chair: It depends, I guess, on the status of amendments, if members are proposing amendments or not.

You're going to need time to get amendments?

Okay. We'll do a four-hour meeting on the 19th—two hours with the minister, and then we'll do clause-by-clause on Bill C-2.

Thank you. We'll adjourn.

[Translation]

Thank you, everyone.

(The meeting is adjourned.)

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