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• (1105)

[*Translation*]

The Chair (Ms. Lena Metlege Diab (Halifax West, Lib.)):
Good morning. I call this meeting to order.

[*English*]

Welcome to meeting number 94 of the House of Commons Standing Committee on Justice and Human Rights.

Pursuant to Standing Order 108(2), the committee is continuing its study of the proposals for the 2023 corrective act.

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders. Some members are attending in person and others are attending remotely by using the Zoom application. There are no witnesses today for this meeting.

I believe the members who are attending on Zoom know the rules very well, so I won't go over them.

[*Translation*]

I just want to say that the sound tests were successfully completed with the members attending the meeting via the Zoom application.

[*English*]

With us today from the Department of Justice for our study on the proposals for the 2023 corrective act are Madame Riri Shen, deputy assistant deputy minister and chief legislative counsel of Canada in the public law and legislative services sector; Monsieur Philippe Denault, senior counsel, advisory and legislative initiatives services, public law and legislative services sector; and, from the same sector, Madame Victoria Netten, legal counsel.

They are present along with many other officials in the room who are all prepared to answer questions related to their respective departments.

To the additional officials who are at the back of the room, if there is a question posed that one of you wishes to answer or will be answering, there's an empty chair right there. Please take that seat with the microphone in front of you.

When we adjourned the meeting last Thursday, the officials had made their opening remarks. We're now ready to begin our study on the proposals.

Before we finish, I'll save about five to 10 minutes at the end of the meeting to discuss Thursday's meeting, and specifically whether the committee wishes to hear from witnesses in the second hour of

Thursday's meeting or simply wants to have only the sponsor of the bill for the whole two hours. I'm saying that we'll leave a few minutes at the end of that meeting just so the clerk knows what the intent is.

We can begin the questioning. I'll ask everyone to address their questions through the chair. Let us know you want to speak and we'll make a list.

Go ahead, Mr. Moore.

Hon. Rob Moore (Fundy Royal, CPC): Thank you, Madam Chair.

There was just recently an article in the Toronto Star newspaper about a human trafficking case that has collapsed as the latest casualty of a failure to appoint enough judges.

While it is important that we deal with today's topic, it's also important that we be attuned to what Canadians are concerned about.

Last year Richard Wagner, the chief justice of the Supreme Court, spoke about judicial vacancies and the challenges that were being caused by not having enough vacancies filled. We know that a few weeks ago, former minister of justice David Lametti blamed the slowdown in judicial appointments directly on the Prime Minister's Office, so I introduced a motion that we call on justice minister Arif Virani to appear at committee to discuss the issue of judicial vacancies in light of the concerns Canadians have with the justice system.

Because of the constraints we're under due to Supreme Court decisions, justice delayed can absolutely mean justice denied. In this case, it was a human trafficking case that collapsed because of an insufficient number of judges.

This is important. Canadians are concerned about the justice system. I think it's the responsibility of this committee to take a look at the issue of these vacancies, so I would like to move my motion at this time.

The Chair: I'm sorry; was there a separate motion?

Hon. Rob Moore: Yes. I had put forward a motion for the Minister of Justice, Arif Virani, to appear for one meeting, and I—

The Chair: Okay. This is the motion that you had already put forth. Thank you.

Mr. Moore, just for clarification of your motion, can you give us what you have in front of you? Can you give us what you read, please?

• (1110)

Hon. Rob Moore: Sure. It's in the motion log.

The Chair: That's what I thought.

Mr. Clerk, it's not this....

Mr. Moore, if I understand correctly, the motion that you've given me is one of the four submotions that I have already ruled on and that you have challenged. It is not admissible because it has already been ruled inadmissible.

Hon. Rob Moore: Madam Chair, if I may, taking your ruling to its logical conclusion, this committee, the Standing Committee on Justice and Human Rights, in spite of new evidence that is arising around the problems with vacancies in the justice system— could never consider this issue. I do think that it is a misinterpretation of the rules to suggest that somehow because we—

Mr. James Maloney (Etobicoke—Lakeshore, Lib.): On a point of order, Madam Chair, if I understood what you just said, you've ruled on whether the motion is admissible or not. I don't think it is for Mr. Moore, in light of that, to now argue why you were wrong.

Mr. Frank Caputo (Kamloops—Thompson—Cariboo, CPC): On the same point of order, Madam Chair, I don't believe you've actually told the committee why this motion is not to be debated, because I don't remember this motion being discussed or debated around this table. There was a Standing Order 106(4) meeting about it. There was a notice pursuant to Standing Order 106(4) that was given, but that is different than Mr. Moore's motion, so with the greatest of respect for the chair, if the chair is going to say that this motion is out of order, I would at least ask for articulation as to why that is.

Debate on that motion, as far as I understand it... Perhaps I stand to be corrected, but as I understand it, we haven't ever debated this motion that Mr. Moore has put forward. We did discuss this under the Standing Order 106(4) notice, but that is different from what Mr. Moore is doing.

I would just ask why the motion is out of order and when it has been ruled upon here.

The Chair: Thank you.

Are we ready for my decision?

Mr. James Maloney: I thought we already had it, but sure.

The Chair: We do have it. I'm going to restate it.

We've already discussed this. A decision has been made, and "A decision once made cannot be questioned again but must stand as the judgment of the House."

We did already deal with this. Unless you have other motions, I will continue with taking questions for the witnesses.

Hon. Rob Moore: Madam Chair, on that, we considered a larger study on judicial appointments that called on a number of witnesses. This motion is for a much narrower study, calling only the Minister of Justice, who I know would like to speak about this. It is our

role as a committee to look into this issue of vacancies, particularly around federally appointed judges.

I do, at this point, have to challenge the chair's ruling, because what it does is limit our ability as a committee. It binds our hands to study things as new discoveries are made. We could hear something tomorrow that might cause every one of us around here to say, "We want to study this", but your ruling would suggest we can't study judicial vacancies for a year.

I profoundly disagree with that interpretation of the rules and I challenge the chair.

• (1115)

The Chair: I respect that. It's not a problem. You can certainly have a motion, and you do, to call the minister, and the minister will come and you can question him, but on this one, the decision has been made, because we dealt with it previously.

Mr. Clerk, I will ask you to please take over and proceed with the vote.

(Ruling of the chair sustained: yeas 6; nays 5)

The Chair: Thank you very much.

I have a speaking list.

Go ahead, Madame Gladu.

Ms. Marilyn Gladu (Sarnia—Lambton, CPC): Thank you, Madam Chair.

I am disappointed, because I know this has been a chronic problem since 2015 under all three AGs. Even back in 2017, they were reporting that murder cases and sex assault cases were being let go because of Jordan's principle.

Anyway, we're here to talk about the 2023 MSLA proposals. These are supposed to be cleanup changes to make sure that the English matches the French and that the changes are not controversial.

Has there ever been an example in history of amendments brought forward and passed that subsequently resulted in somebody having a conviction that was controversial?

Ms. Riri Shen (Deputy Assistant Deputy Minister and Chief Legislative Counsel of Canada, Public Law and Legislative Services Sector, Department of Justice): I'm not aware of that, but we will undertake to look into it to see whether there is anything.

Ms. Marilyn Gladu: That's it.

The Chair: Thank you.

Go ahead, Mr. Caputo.

Mr. Frank Caputo: I was just going to speak on Mr. Moore's motion.

The Chair: Okay.

Go ahead, Mr. Garrison.

Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP): Thank you, Madam Chair.

I want to thank the officials for their work on this. When I went through this package, there were 11 sections where I had some questions. Then I turned to the explanatory notes, which I found excellent, and I was left with only one question. I have to say that I then consulted our Library of Parliament analyst, who pointed out what I had missed and saved me from embarrassment. I want to commend everybody for the strong staff work that went into this.

Also, I am a former member of the Standing Joint Committee for the Scrutiny of Regulations. I believe there are four clauses here that implement recommendations from that committee. I have to say that members of that committee often felt like we were shouting into the wind and that these things would never happen, so I'm quite pleased to see those clauses.

I have no questions on this package. I urge us to pass it and move it forward. Thank you.

The Chair: Thank you, Mr. Garrison.

Go ahead, Mr. Van Popta.

Mr. Tako Van Popta (Langley—Aldergrove, CPC): Thank you to everyone for being here.

We're talking about the MSLA program, the miscellaneous statutes law amendment program, which I understand has been around since 1975.

I'm reading the briefing notes prepared by the Library of Parliament. They say that the miscellaneous statutes law amendment program is "a periodic legislative exercise to correct anomalies, inconsistencies, outdated terminologies or errors that have crept into the statutes." They are all supposed to be "minor non-controversial amendments" that are not to "prejudicially affect the rights of persons".

I looked at quite a few of the sections, and I would agree that they are completely non-controversial. The name of a port has been changed or the name of a tribunal has been changed, and we need to make consequential amendments.

I was a little bit surprised to see in a couple of sections that the French version was not amended. I'm looking at section 154 of the act, on the Safe Food for Canadians Act. I'm looking at pages 55 and 56 of the report.

For example, subsection 154(1) of this act would amend subsection 31(1) of the Safe Food for Canadians Act to change the name from "Tribunal" to "Canadian Agricultural Review Tribunal". I have no argument with that. It makes sense to do that, but then subsection 31(2) in the English version does the same thing. It defines the "Tribunal" as the "Canadian Agricultural Review Tribunal", but in the French version there's no change, although in the French version of the previous paragraph there is that same change.

I wonder why that is. I looked up the French version of subsection 31(2) of the Safe Food for Canadians Act. It has the same intent and purpose, but the wording is completely different.

Why would you not have taken the opportunity to amend the French version to align more closely with the English version?

• (1120)

Ms. Riri Shen: I'm just looking at the proposal.

I'm advised that in the French title, the word is not there, so it's not required to amend the name of the tribunal.

Mr. Tako Van Popta: That is precisely my point. The wording is really quite different, although I believe that the purpose and intent of the French version is similar to that of the English version, at least with my limited knowledge of the French language.

Why wouldn't you have just taken the opportunity to rewrite all of subsection 31(2) of the French version to align more closely with the English version? How it ended up being so different in the first place, I suppose, would be a relevant question as well.

Ms. Riri Shen: Maybe I can respond. First of all, maybe I will see if we have a colleague from....

Mr. Philippe Denault (Senior Counsel, Advisory and Legislative Initiatives Services, Public Law and Legislative Services Sector, Department of Justice): Before we perhaps get a colleague to explain, the word "jurisdiction" is used in French in subsection 31(2), and it would be the equivalent. It's a different notion, but it captures the institution itself, which we changed from "commission" to "tribunal".

Perhaps my colleague here would have something to add.

Ms. Shawna Noseworthy (Senior Counsel, Agriculture and Food Inspection Legal Services, Agriculture and Agri Food Legal Service Unit, Department of Justice): Good morning, Madame Chair.

My name is Shawna Noseworthy. I'm not with the Canadian Food Inspection Agency. I am counsel with Agriculture and Agri-Food Canada in food inspection legal services.

My understanding of the various acts that are administered by the Canadian Food Inspection Agency that are part of this package is that the intent was in fact to change the name of "Tribunal" to "Canada Agricultural Review Tribunal" and also, to correct any anomalies in the translation from English to French, to change "commission" to "tribunal".

If there is in fact an omission, I would be happy to take it back to my clients and bring it to their attention.

Mr. Tako Van Popta: Thank you.

Thank you, Chair.

• (1125)

The Chair: Mr. Van Popta, is there anything else?

Mr. Tako Van Popta: I do have something on a different matter. I'll pass while I collect my thoughts.

The Chair: Then I have Madame Brière next.

[Translation]

Mrs. Élisabeth Brière (Sherbrooke, Lib.): Thank you, Madam Chair.

Welcome, everyone.

I'd like to comment on the first proposed amendment, which pertains to the Aeronautics Act.

You want to eliminate the definition of "*directeur*" in the French version. However, in the current English version, at the end of the definition of the word "authority", there is a reference to the term "*directeur*" in French. I think the word in parentheses should be changed so that the two versions match.

Mr. Philippe Denault: Could you repeat the section number?

Mrs. Élisabeth Brière: In the amendments, it's section 3, with respect to the Aeronautics Act.

You are proposing to eliminate the definition of "*directeur*", but in the English version, at the end of the definition of the term "authority", there is a reference to the term "*directeur*" in French. The word "*directeur*" should be removed in the English version.

Ms. Riri Shen: Allow me to clarify. English words or French words in parentheses were inserted there by our software from the other language version. It will be modified accordingly.

Mrs. Élisabeth Brière: Thank you.

The Chair: You have the floor, Ms. Gladu.

Ms. Marilyn Gladu: Thank you, Madam Chair.

Further to Mr. Van Popta's comments, I'd like to clarify that the name "Canadian Agricultural Review Tribunal" is in the title. So I don't think there's a problem. The same goes for the English and French versions. The name is changed in the title.

[*English*]

The Chair: Ms. Shen, were you prepared to answer?

Ms. Riri Shen: I'm advised that what appears in the text is a marginal note, which is not technically part of the legislative text, but it would be modified administratively when we are updating the law. The marginal notes are a guide, but they are technically not part of the legislative text itself.

The Chair: I will go to Monsieur Fortin and then come back to anyone else who has any other questions.

[*Translation*]

Mr. Rhéal Éloi Fortin (Rivière-du-Nord, BQ): Thank you, Madam Chair.

Good morning and welcome to the witnesses. Thank you for being here with us.

I have a general question. I believe that many of the proposed corrections are necessary for reasons pertaining to the transcription of the French and to the adaptation of English versions into French. I am wondering why this is the case, given that prior to their adoption, the wording of the provisions has already been examined in the House and studied clause by clause in committee by the members. Staffers for the various parties also examine them.

Why do you think so many translation mistakes make their way into legislation?

Ms. Riri Shen: Thank you very much for your question.

First of all, I'd like to reassure you by pointing out that we do not translate legislation. We draft both language versions at the same time, simultaneously.

● (1130)

[*English*]

Given that it's a parallel process, errors do happen from time to time. It's a human endeavour. We're not machines. There will be things that are identified as discrepancies. As many of you are lawyers, you can also understand that there may be disagreement about whether there is actually a discrepancy or not between the two versions.

The proposals are drafted not only by the legislative services branch, by legislative counsel, but we also have revisors and jurilinguists, so there are many levels of review.

[*Translation*]

Having said that, from time to time some errors or discrepancies slip through. That's also the case in Parliament.

[*English*]

We do our best. I am confident that we maintain a very high level of quality.

[*Translation*]

Mr. Rhéal Éloi Fortin: Thank you.

I acknowledge that Parliament's legislative counsels do extraordinary work. I'm not about to criticize what they do. I simply want to understand the process.

Here in committee, when we are studying a bill clause by clause or revising a report, it strikes me that the translation doesn't look quite right. I understand what you said and you are perfectly correct in saying that to err is human. We all make mistakes.

Be that as it may, I am wondering whether there is something inherently wrong about the way we work. Why do we find errors like that so often? Once again, I'm not blaming you. I simply want to understand. How can we reduce the number of mistakes? Is the review process being skipped or being done too quickly? As experts in the legislative process, what's your view?

Ms. Riri Shen: My view is that even the parallel writing process, which respects both language versions and both legal traditions in Canada, is not perfect. As we are not machines, it's not always easy to find the right way of wording things. There are often lively disagreements between legislative counsels who are working together.

I acknowledge that in today's world things are done increasingly quickly and that there is perhaps not enough time to find every mistake. That's why we use this particular corrective action process. On the other hand, the process was introduced in 1975.

Mr. Rhéal Éloi Fortin: I have a final question.

In response to a question from my colleague Ms. Brière about the parallel between the words "*directeur*" and "authority", you said that this review was not something done by you, but rather by a software application.

Am I to understand that the translation is being done by software?

Ms. Riri Shen: No. It's not a matter of translation. I was talking about our database's drafting and consolidation software. The word that appears in parentheses is the word that matches the definition in the other language version when a provision receives royal assent. It is taken from the other version. It is therefore not necessary to make the amendment in the English version because as soon as the correction has been made, the right word will also be inserted into the other version.

Mr. Rhéal Éloi Fortin: Excuse me for perhaps being a little slow on the uptake, but I'm not sure I understand.

You mentioned an application that addresses the issue we were talking about, namely using the term "*autorité*" instead of "*directeur*".

What does the software do? Does it translate words? Does it suggest words?

• (1135)

Ms. Riri Shen: No, that's not it at all.

As the two versions are written at the same time, the word used in one language is inserted into the other version by the software to show the equivalence.

Mr. Rhéal Éloi Fortin: In Ms. Brière's example, didn't the software come up with the term "*autorité*" instead of "*directeur*"?

Mr. Philippe Denault: That's because it's not considered part of the statute as such. It's like a marginal note. The word is placed at the end of the definition in the other language to indicate that it is the equivalent term in that language.

It's corrected when the final version of the bill is being prepared. After that, it's all inserted into the coding and done automatically.

It's not really a proper legislative amendment. It's the term that indicates, as a guide, the equivalent term used in the other language version, which in this instance is French.

It's a drafting application that uses the XML language. Everything in the statute is coded. The coding indicates what non-legislative changes need to be made in the other version.

Mr. Rhéal Éloi Fortin: Do you use translation software?

Ms. Riri Shen: No.

Mr. Rhéal Éloi Fortin: You said that the drafting was done in parallel. How does that work? Are there two law clerks, one a francophone and one an anglophone, who do the drafting?

Ms. Riri Shen: That's right. They do the drafting at the same time. We always have them working in pairs, one anglophone and one francophone, who are responsible for their respective versions. They need to work closely together to ensure consistency between the two versions.

We also have other professionals who revise all the legislative texts. For example, we have legistic revisors who revise each of the two versions. We also have jurilinguists who compare the two versions to ensure consistency and equivalence.

Mr. Rhéal Éloi Fortin: I would agree that it must be very difficult work.

You were saying earlier that legislative drafters sometimes disagree and argue over it. One of the two will no doubt end up winning the argument. So am I to understand that when you make legislative corrections like the ones we are currently looking at, it means that the other drafter comes out on top, not the one who initially won the argument. It's a form of ongoing debate, if I've understood correctly.

Ms. Riri Shen: That's right.

Mr. Rhéal Éloi Fortin: Thank you.

The Chair: Ms. Gladu, you have the floor.

[English]

Ms. Marilyn Gladu: Thank you, Madam Chair.

Out of all the different amendments that are in here, I want to draw attention to clause 35, which is modifying the Farm Products Agencies Act. This is the only place where I find that the change is actually a substantive change.

The old text refers to a person "who is engaged in the marketing of any regulated product". Now that has been changed to any person "who is engaged in the growing, production or marketing of any regulated product". It is a huge creep in scope to extend those regulations to people who are growing and people who are producing and not just to those who are marketing, which was the intent, I think, of the legislation.

Could I hear some commentary on that?

Ms. Shawna Noseworthy: This is Shawna Noseworthy with the agriculture and food inspection legal services.

Basically, this is one of those provisions on which there was agreement for amendment, pursuant to a recommendation of the Standing Joint Committee for the Scrutiny of Regulations. The intention was to have consistent definitions throughout the same piece of legislation, and for that reason, the wording was added to paragraph 22(1)(g) to reflect what was in paragraph 22(1)(f).

• (1140)

Ms. Marilyn Gladu: What is it forcing the marketers to do, and what will that change in terms of what growers and producers then have to do to comply with the legislation?

Ms. Shawna Noseworthy: I would have to look into that question and come back to you, please. I'm sorry.

Ms. Marilyn Gladu: That would be great.

The Chair: Now we have Mr. Van Popta, followed by Mr. Moore, unless Mr. Moore wishes to speak on the same point. Is it on the same point, Mr. Moore?

Hon. Rob Moore: It is.

The Chair: Go ahead, Mr. Moore.

Hon. Rob Moore: Thank you, Madam Chair.

My understanding of what we're doing here is obviously to correct things, to bring things in line, to coordinate between English and French, and to change Queen to King where necessary. I think anything should be flagged if it would have any substantive impact, but we're not in a position to know if that broader definition doesn't change the scope.

Regarding what Ms. Gladu just raised, we're not in a position to know whether that broader definition is just reconciling two different provisions and has no impact, or whether passing this broader definition here would mean that someone who is not currently subject to some rule or regulation would now, by virtue of the broader definition, be subject to that broader rule or definition.

If in fact it's the latter, and if in fact by a change that we're making in this legislation someone is impacted by some law who currently isn't impacted, we would have to remove that provision and not pass that provision, because this committee is not in a position to pass judgment on farm products or the impact of that legislation or who would be impacted by the legislation.

We would need some clarity on that, on whether there's any individual anywhere in Canada who would now be subject to something they're not currently subject to under the act by virtue of passing this legislation.

Ms. Shawna Noseworthy: I absolutely understand the issue. Thank you.

Hon. Rob Moore: I do have a specific question about the definition change that Ms. Gladu just mentioned. I think Mr. Van Popta was ahead of me, but I do want to come back to another change that I'm flagging.

The Chair: Mr. Van Popta is next.

Mr. Tako Van Popta: I don't want to belabour this issue about the French versus English versions, as Mr. Fortin was alluding to, and which I had talked about in my earlier question, but I want to go back to subsection 154(1) on the Safe Food for Canadians Act. I pointed out that in subsection 31(2), the English and French versions are quite different.

Mr. Denault pointed out correctly that the French version doesn't actually have the words "tribunal" or "commission" in French, and therefore no change was required. That's exactly my point. It's a substantial difference in drafting style.

Should it be my understanding that under the miscellaneous statute law amendment program, you're not going to make a substantial change like that? Is it at least on somebody's radar that it's going to be looked at some point in the future?

Ms. Riri Shen: I want to clarify that one of the tests for being part of this program is not necessarily that it's not substantial but that it's not controversial. To my mind, there can potentially be amendments that are substantive in nature but wouldn't be controversial, because the stakeholders are aware there is a clear oversight or omission.

I don't remember the details of, for example, the other issue, but it does seem that the words were omitted from that provision but not other provisions. That oversight was brought to our attention through the Standing Joint Committee for the Scrutiny of Regula-

tions. Again, it's not necessarily not substantial; it's just not controversial.

• (1145)

Mr. Tako Van Popta: I have nothing to add.

The Chair: Thank you for that.

Before I go to Mr. Moore, I just want to say that I think the explanation Madam Shen gave was very helpful for me and the committee in understanding the differences between English and French, the fact that legislation is prepared at the same time, and that these are not translations.

A lot of times, the members or the public think you prepare it in one language and then translate it, so why are there inconsistencies if you're translating it? However, the fact is that both languages are prepared at the same time by different people, with the aim of trying to produce the same kind of document. As you said, we're not machines. Sometimes a different word here or there is not exactly perfect.

The other thing you said was that these texts were prepared a few decades ago. The language changes and gets modified. That's in any language, not just English or French or whatever language it is. I think that was very helpful to hear.

We're now on a different topic, but I did want to make that comment and also, quite frankly, to thank you and all the team who've come here to help us with what's in front of us. I think it was last done in 2017, which was many years ago, so I thank you for that.

I will now go to Mr. Moore.

Hon. Rob Moore: Thank you, Madam Chair.

I do have a question for our witnesses, but I'll maybe turn back to you too with regard to the process.

If we as a committee flag a particular clause that we wish to not advance, what is the amending process on that? How do we pull that clause and say that we will pass the bill except for that clause?

Clauses 13, 33 and 34 have been flagged.

First, clause 13 relates to the Canadian Dairy Commission Act:

A member of the Commission ceases to hold office on reaching the age of seventy years.

That would be repealed.

Likewise, clause 33 relates to the Farm Products Agencies Act:

A person who has reached the age of seventy years is not eligible to be appointed a member of the Council and a member thereof ceases to hold office on reaching the age of seventy years.

Clause 33 and 34 remove that requirement.

Our witnesses said that they can be substantive. That's substantive. To say that someone has to retire upon turning 70 or 71, or that they can continue on in their role, is a substantive change. I'm not saying we couldn't make that substantive change, but it's up to us to balance what is substantive and what isn't and what is controversial and what isn't. If you're someone who's waiting for someone's mandatory retirement before your appointment to one of these commissions, and then we change the rule or don't change the rule, it has an impact on that individual.

If the explanation is that removing this requirement around age is the direct result of perhaps a court case—maybe someone challenged the mandatory retirement and the court struck it down and now we're just simply reflecting the decision of the court—that's one thing, but to me, these three particular amendments are substantive, number one, and they could also be controversial. Mandatory retirement in many different fields can become a controversial subject. Even here, we have mandatory retirement for senators at age 75.

Unless there is an explanation, Madam Chair, I think that crosses the line. The amount of time we're focusing on this is just one day. I would want to consult here more broadly, with experts, unless it's simply a matter of reflecting what is currently the case. Otherwise, if it's changing the law, I think we would have to reject it.

The Chair: Thank you.

Are there any comments on that point? If there's anything further to clarify on that specific point, I would say that it would be very helpful for the committee.

I believe I said this last time, but this is just to be clear and to answer your question on the process. I want to remind you that what we do here has to be adopted unanimously, meaning unanimously, by all committee members in order to be carried in the bill and introduced in the House. If any change is not unanimous, it will be reported to the House and it will not be in the bill to follow.

• (1150)

Hon. Rob Moore: That's on a clause-by-clause basis.

The Chair: No. It's that whatever is not unanimous in here will not be part of the bill.

Hon. Rob Moore: Someone would have to move a motion that we adopt this unanimously, save—

The Chair: Save exactly what is not.... That's correct.

Ms. McAteer, perhaps you have some clarification or something to help us.

Ms. Julie McAteer (Director, Parliamentary Relations and Portfolio Coordination, Department of Agriculture and Agri-Food): Good morning. Thank you for the question.

My name is Julie McAteer. I'm the director of parliamentary affairs and portfolio coordination with the Department of Agriculture and Agri-food Canada.

It's the department's position that the mandatory age requirement that is currently in the legislation isn't compliant with the Canadian Human Rights Act, given that the section that previously allowed

mandatory retirement as an exception to discrimination in employment was repealed in 2011.

The Chair: Is it only in that one section? What about other sections?

Ms. Julie McAteer: It's currently in the Farm Products Agencies Act as well as the Canadian Dairy Commission Act, although I do understand the one pertaining to the Canadian Dairy Commission was brought up in the Senate. From what I understand, it has been removed. Today we are specifically speaking of only the Farm Products Council.

The Chair: Go ahead, Mr. Moore.

Hon. Rob Moore: That raises the question of... The Senate considered this. I didn't watch the Senate hearings, believe it or not, but somehow they chose to pull the mandatory requirement for dairy and yet left it in for the Farm Products Agencies Act. Senators who may not be involved in either of those areas at all—in dairy or farm products—somehow made the decision to pull this change for the dairy side.

Do you know what rationale there was for them to pull one and allow the other? Was it just an oversight because they were focused on the dairy aspect and didn't focus on the other?

I understand what you're saying, which is that it's in compliance with the Canadian Human Rights Act, or it may be in compliance with it, but to me, this one is a bit more substantive.

There are a lot of changes in law that a department could make, purporting to stay in line with human rights legislation or judicial decisions, etc., but they are pretty substantive for us to deal with. There was a rationale at some point for why that was put in there. There's a rationale for why we have a mandatory retirement age for senators and for airline pilots. Why it applies to the dairy commission, I don't know.

Do you know why the one was pulled and the others were allowed to advance? Was it really considered at all?

Ms. Julie McAteer: Unfortunately, I can't speculate as to the motive behind that motion that was put forward by the Senate.

The Chair: I'm still confused.

Ms. Gladu, go ahead.

Ms. Marilyn Gladu: Thank you, Chair.

I'm back on clause 35. I understand from the response that you were going to get back to me.

I went to look into section 2 of the Farm Products Agencies Act, which is the reasoning behind this change from people "engaged in the marketing of any regulated product" to anybody who is "engaged in the growing, production or marketing of" the product.

Under section 2 of the Farm Products Agencies Act today, a “marketing plan means a plan relating to the promotion, regulation and control of the marketing of any regulated product” including the following: “the determination of those persons engaged“ in the regulated product, “the specifications of those acts that constitute the marketing of the regulated product” and “the marketing of the regulated product on a basis that enables the agency” that is implementing the plan, etc.

To me, it's clear that this is focused entirely on marketing and marketing agencies, an agency that markets, an office of commercialization. All of these references don't include growing. I think that's a huge creep in scope.

I think the reference to producing is also potentially problematic. I think the packaging of things can be considered part of marketing, but producing things is not. I'm not comfortable at all with clause 35 and I would make a motion that we not include it.

• (1155)

The Chair: Do any other members, virtually or in person, have any questions?

Go ahead, Mr. Fortin.

[Translation]

Mr. Rhéal Éloi Fortin: Thank you, Madam Chair.

I am in fact in favour of what our colleague Mr. Moore was asking about.

I also think that the bill that would enable us to make the requested corrections would apply to those on which we managed to agree unanimously, as you said, Madam Chair, because they are not on substantive issues.

As for amending the retirement age, I too understand that the charters are a good reason to make this correction. However, shouldn't it go through the usual legislative process, meaning the introduction of a bill that goes through all the reading phases in the House, the review in committee, and so on?

I understand from Ms. McAteer's testimony that we don't have any explanation of why the mandatory retirement age was repealed in one instance but not the other, and yet we're prepared to make this correction. Isn't that a little reckless? Shouldn't we take the time to do things properly, even though there is a 95% likelihood that at the end of the exercise, we would agree to the amendment you moved this morning?

I'm somewhat ill at ease with making the change simply because it appears to make sense on the surface. I'd like to hear arguments both for and against this correction.

What do you think?

[English]

The Chair: Welcome back, Madame McAteer.

Ms. Julie McAteer: Thank you.

[Translation]

Thank you for the question.

[English]

Given that it wasn't compliant with the Canadian Human Rights Act, we asked that it be included. However, we will respect the wishes of the committee should it be seen that it is better placed elsewhere.

[Translation]

Mr. Rhéal Éloi Fortin: Thank you for your answer, but that wasn't exactly my question. In your opinion, would it not be a little careless of us to agree to this amendment before it was studied at all phases of the process to ensure that we understand the situation?

The courts often strike down provisions on various grounds, such as being contrary to the Canadian Charter of Rights and Freedoms. In fact, that's precisely what courts do. Our role is to be legislators. If we decide to change the retirement age simply because we think that a court might at some point order such a change, then it seems to me that we're not doing our job.

Don't you think we should be able, in our legislative capacity, to understand why we have ended up with a change to one statute but not another, to ensure that we come to the right decision?

Am I being overly cautious about this?

Ms. Julie McAteer: I wouldn't ever comment on whether you're being cautious or not. As a public servant, I can't necessarily give you my opinion. What I do is present facts, which is what we have been doing here.

Mr. Rhéal Éloi Fortin: Thank you.

[English]

The Chair: Madame Shen, I think you were trying to...

[Translation]

Ms. Riri Shen: I'd like to add that this is precisely why the process exists. If there is an objection to a proposal, it will be withdrawn. It's up to the legislator to decide whether a proposal should be discussed in greater depth.

• (1200)

Mr. Rhéal Éloi Fortin: Thank you.

[English]

The Chair: Is there anyone else?

Go ahead, Mr. Moore.

Hon. Rob Moore: I think this is the last one for me.

On page 8, there's an amendment to the Criminal Code regarding prohibited devices. I understand the reason for this provision is to allow a firearm that would otherwise be prohibited to be legally held if a person is participating in international sporting competitions. It says, "governed by the rules of the International Shooting Sport Federation", which is the new name. The previous name was the International Shooting Union.

What I want to be clear about is substantive. If the definition of the firearms they use for their organization stays the same, this amendment would simply reflect that this organization has changed its name from the International Shooting Union to the International Shooting Sport Federation, and that's fine. That's all well and good. However, my question is this: Does anyone know whether the definition they use that we're importing into the Criminal Code has changed as well, or is it simply the name of the organization?

If it's the definition of a firearm that's changed, it would impact individuals who are currently legally possessing these firearms for shooting sports. They would no longer be in compliance with the law if the definition being used by the International Shooting Sport Federation is different from the definition used by the International Shooting Union.

The Chair: Thank you, Mr. Moore.

Do we have somebody with a bit of expertise on that particular clause?

Welcome, Mr. Giammaria.

Mr. Sandro Giammaria (Counsel, Department of Justice): Thank you.

My name is Sandro Giammaria and I am counsel with the criminal law policy section at the Department of Justice.

To clarify, the clause referred to speaks about a particular component of a handgun, not the firearm itself. What we're talking about is the barrel of a handgun, not the entire completed firearm. It would help to know that a barrel that measures 105 millimetres or less is a prohibited device in Canada because it forms part of a firearm that is itself prohibited, a barrel being a part that you can swap out or otherwise create a firearm with. Back in 1998, the barrel itself was deemed to be a prohibited device.

This speaks to a carve-out or an exception to that with respect to firearms used for international sporting competitions, but it pertains only to the barrel. The issue you identified—a discrepancy between the sport federation's definition of a firearm and the Criminal Code's definition of a firearm—is not engaged here.

To put a final point on this, it is just the nomenclature of the organization that's changing here. That's the long and short of it.

Hon. Rob Moore: Thank you.

The Chair: Thank you very much.

Members, are there any further comments, questions or clarifications you would like to have addressed by our expert panellists and staff in the room?

No? That's fabulous.

Let me then ask this: Shall I report clauses that are not agreed to unanimously to the House? If so, which ones?

I think, Madam Gladu, you had one.

Ms. Marilyn Gladu: Indeed, clause 35 is the only one I object to. Otherwise, I support the rest.

The Chair: Go ahead, Mr. Moore.

Hon. Rob Moore: Yes. What I took note of as discussion around substantive versus non-controversial are clauses 13, clause 33, clause 34 and clause 35, but someone else may have another.

The Chair: Thank you, Mr. Moore.

There are four clauses.

Is there anyone else? Speak now.

Okay.

Thank you very much, panellists. We'll ask you to come back another time a few years down the road.

[*Inaudible—Editor*] three minutes, or would you like me to go through what we would like to do Thursday and conclude that?

On Thursday, we have the—

Go ahead, Mr. Garrison.

• (1205)

Mr. Randall Garrison: Do we not have to pass the motion?

The Chair: I think that's what we passed.

Mr. Randall Garrison: Everybody has agreed to that. I'm sorry. Maybe I was asleep.

An hon. member: It was just head nodding.

The Chair: That's how it goes. I guess—

Mr. Randall Garrison: It was just head nodding? Okay.

The Chair: Yes, for this particular process, that is the only thing that I have to ask.

Mr. Randall Garrison: Can you state which clauses are being removed?

The Chair: There are four clauses that are being reported to the House as not agreed to unanimously—clauses 13, 33, 34 and 35.

Mr. Randall Garrison: Thank you, Madam Chair.

The Chair: Thank you.

Committee, on Thursday we have the sponsor of the bill appearing. The clarification that I as the chair and the clerk are seeking is whether or not you would like to have witnesses for the second hour, or if not, would you like the sponsor for two hours or one hour?

Hon. Rob Moore: I would suggest that I think what we've done in the past would be one hour for the sponsor and then witnesses in the second hour.

The Chair: Okay. That was completely heard. That is the norm. Thank you very much.

If anybody has any specific witnesses, can we ask you to contact the clerk? I don't think we need to—

Go ahead, Mr. Garrison.

Mr. Randall Garrison: I have submitted two witnesses.

The Chair: That's fine. You've submitted two already.

The reason we're asking is that the submission of witnesses is not due until Friday. We will have meetings on this topic next week. However, when we came to review all of this on Friday and on the weekend, we realized that the normal practice was not for the sponsor to appear for two hours. Then we had the second hour. That's why we're seeking clarification.

Hon. Rob Moore: Madam Chair, I would suggest that if there are witnesses available for the second hour, I think we should

schedule them. If there are not, I don't think there would be a huge benefit to having one witness, the sponsor, for a full two hours. I would just have a one-hour meeting.

The Chair: Okay. Thank you very much.

The flexibility is with the clerk to schedule witnesses for the second hour. Thank you very much.

Hon. Rob Moore: We could study judicial appointments—

Some hon. members: Oh, oh!

Hon. Rob Moore: —but that's up to the committee.

The Chair: Thank you very much.

Having no other witnesses and no other business to conduct, I call the meeting adjourned.

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