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Chair: Mr. Kody Blois



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• (1630)

[*Translation*]

The Chair (Mr. Kody Blois (Kings—Hants, Lib.)): I call this meeting to order.

Colleagues, I welcome you to meeting number 75 of the Standing Committee on Agriculture and Agri-Food.

First, I'd like to welcome Mr. Garon and Mr. Epp.

We are delighted to see you again, gentlemen.

[*English*]

Colleagues, pursuant to the order of reference on Wednesday, June 21, 2023, the committee is meeting to proceed with its clause-by-clause consideration of Bill C-275, an act to amend the Health of Animals Act (biosecurity on farms).

[*Translation*]

I'd now like to welcome our witnesses, who are here to help us with the clause-by-clause study of the bill.

[*English*]

With us today from the Canadian Food Inspection Agency, it's great to see Dr. Mary Jane Ireland, who is the executive director of the animal health directorate and chief veterinary officer for Canada. We also have Joseph Melaschenko, who is the senior counsel for agriculture and food inspection legal services.

We also have, from the Department of Agriculture and Agri-Food, Donald Boucher, who is director general of the sector development and analysis directorate.

We also have, from our legislative procedural side, Émilie Thivierge and Jean-François Pagé.

[*Translation*]

Thank you for coming this afternoon.

[*English*]

Colleagues, I have to read a few reminders and then my clerk says to follow the agenda. As you know, I'm normally quite free-wheeling, but this is more procedurally pertinent, so I will make sure that I read all of this out for you.

I'd like to provide members of the committee with some instructions and a few comments on how the committee will proceed with the clause-by-clause consideration of Bill C-275. As the name indicates, this is an examination of all the clauses in the order in which

they appear in the bill. I will call each clause successively, and each one is subject to debate and a vote.

If there is an amendment to the clause in question, I will recognize the member proposing it, who may explain it. The amendment will then be open for debate. When no further members wish to intervene, the amendment will be voted on. Amendments will be considered in the order in which they appear in the bill or in the package each member received from the clerk.

Members should note that the amendments must be submitted in writing to the clerk of the committee. Yes, I think there is an ability to amend on the fly, but we have to have it in writing to the clerk.

The chair will go slowly to allow all members to follow the proceedings properly. Good luck with that.

Amendments have been given a number in the top right-hand corner to indicate which party submitted them. There is no need for a seconder to move an amendment. Once moved, you will need unanimous consent to withdraw it.

During the debate on an amendment, members are permitted to move subamendments. These subamendments must be submitted in writing. They do not require the approval of the mover of the amendment. Only one subamendment may be considered at a time, and that subamendment cannot be amended.

When a subamendment is moved on an amendment, it is voted on first, and then another subamendment may be moved or the committee may consider the main amendment and vote on it.

Once every clause has been voted on, the committee will vote on the title and the bill itself. An order to reprint the bill may be required if amendments are adopted, so that the House has a proper copy for use at report stage.

Finally, the committee will have to order the chair to report the bill to the House. I suspect that will be the case with this group. That report contains only the text of any adopted amendments, as well as an indication of any deleted clauses.

For many of you who have served in parliamentary committees, I know this is just a little refresher for you. You've heard that before.

I will move to my own package right here, and we can move forward on that basis.

Again, we have our witnesses, who are available for any testimony if you'd like to draw upon them. I have my good procedural folks to my right and to my left to keep me out of trouble.

(On clause 1)

The Chair: This amendment stands in the name of Mr. MacGregor. Go ahead, Mr. MacGregor.

Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP): Thank you very much, Chair.

I formally move NDP-1 as an amendment to clause 1 of the bill.

Essentially, it's a very simple change to line 6 on page 1. It would remove the phrase "without lawful authority or excuse" so that the new line 6 would read, "No person shall".

My reasoning behind this amendment is that we want to ensure that this piece of legislation stays firmly within the boundaries of being a biosecurity bill. The fact is that we have had multiple witnesses before this committee who demonstrably showed with clear evidence that many of the biosecurity failures on farms were the result of people who were there with lawful authority or excuse.

We need to change this bill so that the provisions within it and the overall amendment to the Health of Animals Act ensure that the provisions apply to everyone equally. We had a lot of testimony backing that up. I think we're all very familiar with it. We've all had the opportunity to review the Hansard testimony from the witnesses, so I think my reasoning is fairly clear.

I'll end it there and allow others to join the discussion.

The Chair: Thank you, Mr. MacGregor.

I've already gone afoul of my package. I was supposed to say, before you moved your amendment—but I'll inform committee members now—that if NDP-1 is moved—which you have done—PV-1, of course, is not applicable, as they're identical. That's for committee members.

I also want to recognize that if NDP-1 is adopted, LIB-1 cannot be moved because of a line conflict. That's just a procedural note for committee members to understand.

Mr. Drouin, you want to weigh in.

Mr. Francis Drouin (Glengarry—Prescott—Russell, Lib.): I'll ask a procedural question, and then I'll move on to just get some clarity on LIB-1.

On LIB-1, the entirety of the lines cannot be replaced. I know that we're replacing "9.1 No person shall...", which would be line 6. We'd be modifying line 6 with Mr. MacGregor's amendment.

Just so I understand, and for my colleague Mr. Carr, who could be moving LIB-1, he can't move LIB-1 as is; he would have to move a subamendment should Mr. MacGregor's amendment be adopted. Is that correct?

• (1635)

Legislative Clerk (Ms. Émilie Thivierge): Thank you, Mr. Chair.

One possibility is to move a subamendment to NDP-1 to include new ideas in NDP-1. If NDP-1 is adopted without any subamendment, then LIB-1 cannot be moved because line 6 will already have been modified.

Mr. Francis Drouin: However, amending lines 8 to 10 is still available, because we haven't touched line 6 yet.

Ms. Émilie Thivierge: It would be difficult. The changes to line 6 are different, and you wouldn't be able to add them after. You could still change lines 8 to 10, but if we look at what's in line 6, it can't be incorporated in lines 8 to 10, so there's a choice of words to make with regard to line 6.

Mr. Francis Drouin: I just have a comment on the overall amendment from my perspective. While we support the objective of what this would do, we don't think that potentially penalizing employees or temporary foreign workers on farms is the right way to go. I will not be supporting this amendment the way it is written—this includes PV-1, as well—simply because.... You know, during a pandemic, we didn't go and penalize nurses and doctors and say, "You're subject to a fine of up to x amount if you don't respect biosecurity protocols." This amendment brings a new constituency into the bill. While I respect the fact that we must do everything we can to promote biosecurity, I don't think that touching the employer-employee relationship is the way to go with this particular amendment, so I will not be supporting NDP-1 as written.

The Chair: Mr. MacGregor, I saw your hand, so if you would like to weigh in....

Mr. Alistair MacGregor: The other suggestion for lines 8 to 10 is that NDP-2 deals with those lines, so there may be opportunities on NDP-2 to entertain subamendments from LIB-1 or G-2, whatever the case may be.

In response to Mr. Drouin's point, in the last Parliament we passed Bill C-205 with exactly the same language. The Liberals seemed to be in agreement during that Parliament. I'm not sure why opinions have changed at this point.

I know there's an understanding that we don't want necessarily to target farmers or farm workers, but at the same time we have heard from witnesses that there needs to be some kind of national input on biosecurity measures on farms. A lot of them are volunteer-based—we've heard that—and we know that there are examples in which the biosecurity measures are simply not being followed. Either we make them apply equally to everyone who could potentially bring in a toxic substance or a disease, or we don't.

The Chair: I have Mr. Barlow. Then we'll continue if there is any other discussion.

Mr. John Barlow (Foothills, CPC): Thank you, Mr. Chair.

While I have the opportunity, I want to thank my colleagues for all the well-thought-out potential amendments and for putting some work into this. It is certainly appreciated.

As in the previous Parliament, we will not support amendment NDP-1. The reason is that we specifically chose that language to not include farm workers, farm family and those who have permission to be on farm. The idea for this is that if you are a farm employee or a farm family member and you see something that shouldn't be happening, you feel free to come forward. You are not included under the fines that are proposed not only in this change but throughout the Health of Animals Act.

To me, it really doesn't make any sense at all to make this change. This legislation that we're putting forward does not apply to whistle-blowers. We heard from many witnesses that we want to ensure that whistle-blowers and farm employees have the opportunity to say things. Well, that's exactly what this legislation does by excluding farm workers and family and people who have a lawful reason to be there. By taking that out, you are then including farm employees and "whistle-blowers" and leaving them open to those fines. I think it actually does the opposite of what those groups are trying to argue, that this is somehow going to encourage whistle-blowers. If I'm a farm employee and I'm now open to those fines, I think it would do the opposite.

With all respect to my colleague, there was one group of witnesses who wanted this language. Every other group, from stakeholders to people involved in agriculture to the legalese, did not want this amendment or did not ask for this amendment. It was one specific area of witnesses. I want that clarified. To say that there's overwhelming support to remove this language from the bill is actually not accurate at all.

I don't support removing it.

● (1640)

The Chair: I see Ms. Taylor Roy's hand, Mr. MacGregor. I will start with her and come back to you.

Ms. Leah Taylor Roy (Aurora—Oak Ridges—Richmond Hill, Lib.): I want to start by saying that not agreeing with this particular private member's bill that's been put forward doesn't mean that one's not supportive of the farming industry or farmers. I think we see this happening a lot today in a lot of different discussions. If you don't agree with one thing, you're kind of blankly put into a category of being anti-farm or anti-farm family or anti-farmers. I'd like us to be able to have a discussion about what this bill is really trying to do and the title of the bill, and then look at whether it's accomplishing that.

I agree with Mr. MacGregor that if this is really about biosecurity and the protection of animals, then there's no reason this wouldn't apply to any person who enters the space. Presumably, whistle-blowers or employees or anyone else there will follow the biosecurity protocol. They work there. If they're aware of this legislation, they have an even greater incentive to do that. I don't think this will somehow stop whistle-blowers or in any way endanger employees.

Additionally, it has to be reported or investigated. As we heard before, the CFIA does not do regular investigations or regular inspections of these facilities. It would then mean that somebody in the building or in the place of work would have to report someone else and say what they're doing, and I'm not even sure to whom, at this point, because trespassing is provincial jurisdiction. Expanding

this bill to include anyone who comes in is really much more in keeping with the title of the bill and the intent of the bill.

Additionally, I would say that we received a number of submissions over the last while to committee that have been put in the file. I'm not sure if Mr. Barlow has read them, but there are numerous references to this. It's not one witness or one person. In fact, the majority of the submissions that have been made have actually talked about the need to make this bill about protecting animals and about biosecurity. It is repeatedly mentioned in those submissions that most of the breaches happened due to farm workers and farmers, not animal activist groups.

I agree with what Mr. MacGregor is saying. Maybe there is another way of getting there, if this is not acceptable, but I do believe this should be broadened and be a true biosecurity measure as opposed to something that simply targets animal welfare activists. As well, if we're talking about biosecurity, include biosecurity in the actual language.

The Chair: Okay. I have Mr. MacGregor.

Mr. Alistair MacGregor: I would also just add that you have to place line 6. It's not just floating there by itself. We have to take it in the context of the whole clause here. It's in the context of the specificity that is present in lines 8 to 10 now, which go on to say, "knowing that or being reckless as to whether entering such a place or taking in the animal...could result...."

I think farm workers are protected. They should know. For example, if I visit a farm on which there is potentially an avian flu outbreak and I know that's there and I decide to visit another farm where chickens are kept, I know that I have the potential of transferring a disease.

Similarly, I made mention of the fact that back in the day, when I was a tree planter, when we were entering cattle lands, ranching lands in British Columbia, we were told of the danger of foot and mouth disease. We knew of that and we had to take the appropriate steps. It was on us to spray down our boots and spray down the wheels of our truck. If we had gone into those lands, we would have done so knowing that our presence there could have resulted in the exposure of animals to disease.

I think that even with the removal of "lawful authority or excuse", the rest of the clause still has language in there to say that farm workers, at the very least, should know about the dangers that exist in that region. They should know about the dangers of going from farm to farm, and they should be educated on what those risks are, so that if they take adequate measures, they are not going to run afoul of this law.

I think that this phrase, “lawful authority or excuse”, in line 6 steers this piece of federal legislation too far into provincial jurisdiction. We are getting into the murky waters of provincial jurisdiction over trespass. I think it's very important that we stay in our lane, that we amend the law that is specifically dealing with biosecurity measures, and that we not get into provincial jurisdiction.

If people are concerned about people being on private property without lawful authority or excuse, they can go talk to their MPP. They can go talk to their MLA or their member of the national assembly and tell them they want provincial laws to be strengthened. The federal government has no role in there. We have to stay in our lane.

• (1645)

The Chair: Thank you, colleagues. If there are no further comments or debate, we can call this provision to a vote, and we can go forward. Is there any further debate?

Go ahead, Mr. MacDonald.

Mr. Heath MacDonald (Malpeque, Lib.): I am just wondering whether it would be possible to have a comment from one of our guests here today on the effect of this. You've heard a bit of the debate. I'm just wondering if anybody is interested in making a comment.

Mr. Joseph Melaschenko (Senior Counsel, Agriculture and Food Inspection Legal Services, Canadian Food Inspection Agency): I've heard the comment about the effort to keep this bill within federal jurisdiction, but I can't speculate or provide legal advice to the committee on what the constitutional impact would be of removing these words.

The Chair: Go ahead, Ms. Taylor Roy.

Ms. Leah Taylor Roy: Could you give any comment on the constitutionality of it without removing those words? As it stands now, do you believe that it's infringing on provincial jurisdiction?

Mr. Joseph Melaschenko: I'm sorry, but my role here today is not to provide legal advice to the committee. I can provide technical legal information. That question really calls on me to give a constitutional opinion on the provisions, so I have to respectfully decline to answer it.

The Chair: Hold on, Ms. Taylor Roy. I'll go back to you for anything further. Then I have Mr. Barlow, followed by Mr. MacGregor.

Go ahead, Ms. Taylor Roy. It seemed as though you might have wanted to have a follow-up based on that answer.

Ms. Leah Taylor Roy: Without giving an opinion, could you comment on what this bill is doing technically in terms of trespassing law that is already in place on provincial books?

Mr. Joseph Melaschenko: I'm not quite sure I understand where we're going with that question. It's correct that trespass falls under provincial legislation. I understand that the committee is conceiving of this bill as possibly a biosecurity measure and possibly a trespass measure as well, or some combination of the two, which is what the committee is discussing right now. I couldn't give you much more than that.

Ms. Leah Taylor Roy: I have just one quick follow-up.

On the words “without lawful authority or excuse, enter a building or other enclosed place”, is that what is generally used to describe a trespass?

• (1650)

Mr. Joseph Melaschenko: I think it's correct to say that those words apply to trespassers, yes.

Ms. Leah Taylor Roy: Thank you.

The Chair: Thank you, Ms. Taylor Roy.

I'll go to Mr. Barlow. Then, Mr. MacGregor, I know you have some thoughts.

Mr. John Barlow: To answer Ms. Taylor Roy's question, every PMB or piece of legislation that comes through is vetted for jurisdictional and constitutional validity, as this one has been. The procedural clerk will confirm that, I'm sure, if we have any questions along those lines. To ask if this bill is impinging on provincial jurisdiction or is constitutional...that's already been vetted. It wouldn't have come here in this framework if that hadn't already been done.

The Chair: Mr. MacGregor...?

Mr. Alistair MacGregor: No. My question was answered. Thank you.

The Chair: Okay. Are there any further comments, colleagues?

I'm happy to continue to whet your appetite to the extent that you want in relation to questions or comments. Otherwise, if I don't see any other hands, I'm going to call to a vote this first provision that is moved by Mr. MacGregor.

(Amendment negated: nays 9; yeas 2)

The Chair: Colleagues, the proposed amendment was defeated. As we've already said, PV-1 had very similar language, so we will not cover that.

We will now head to LIB-1, which is in the name of Mr. Carr.

Mr. Carr, would you like to move that amendment?

Mr. Ben Carr (Winnipeg South Centre, Lib.): Yes, Mr. Chair. I'd like to formally move the amendment.

The Chair: The floor is all yours, if there are any comments that you want to follow up with, or you can simply move it. It's up to you.

Mr. Ben Carr: I just wanted to reflect on all the witnesses we've heard. I wanted to state for the record that there are a couple of things that have come to my attention in the discourse of this debate over the past several weeks that are not covered in the bill. I want to state them for the record because I think they merit further consideration.

One has to do with animal welfare. The other has to do with biosecurity standards.

I've tried to address the latter in the amendment that I've moved here today. The reason—if I may explain very briefly why I've put this amendment forward—is that I didn't feel as though the language in the legislation, as it was originally drafted, tackled the biosecurity measures in a clear enough way.

What I have tried to do here is to help alleviate—I hope—some of the concerns on the part of farmers we heard passionately and very justifiably from, who were concerned about the impact on their properties and, more importantly, on their animals, by virtue of a lack of biosecurity measures being in place. What I've intended to do here is to try to strengthen the language with the addition of the word “intentionally” abdicating. I felt that there was perhaps a bit of ambiguity that existed in some of our previous amendments that had been proposed and in the original legislation as drafted.

I'm certainly happy to answer any questions. That's the brief context in which I have approached this particular piece.

I will say that I was very surprised to learn that there is not so much a national legal standard for biosecurity measures in the country, but more of a haphazard, patchwork approach to this. I hope that regardless of where we end up with this particular piece of legislation, it can help serve as a catalyst to get us to a place where we're talking in more detail about animal welfare generally speaking, but we're also talking about biosecurity standards, because I think that merits further conversation. Although I understand that it perhaps wasn't the entire intention of Mr. Barlow's bill, I'm happy to work with him should there be a desire to tackle an enhancement of biosecurity measures standards, generally speaking, in farms across the country.

Thank you, Mr. Chair.

• (1655)

The Chair: Thank you, Mr. Carr. Ironically or not...well, I won't say ironically, but we are studying biosecurity in the name of a study that was proposed by Monsieur Lehoux. This committee has been examining it. In fact, we are scheduled to have another meeting, so maybe to your point, Mr. Carr, we can carry on that work you're talking about.

Mr. Ben Carr: That's excellent, Mr. Chair. Thank you.

When you're elected in the middle of a session and thrown into committee, you're not privy to all this stuff, so thank you for bringing it to my attention.

The Chair: We look forward to working together.

Go ahead, Mr. MacGregor.

Mr. Alistair MacGregor: Thank you, Chair. I wanted to ask a question of the CFIA. It's a technical interpretation.

When you look at the term “applicable biosecurity measures”, if this committee decides to adopt this amendment to Bill C-275 and we eventually get to a point where Bill C-275 becomes a part of the Health of Animals Act.... If the CFIA is investigating a disease outbreak on a farm and is going to have to pay attention to this section of the Health of Animals Act, can you provide the committee with your understanding of what your obligations would be on the farm with respect to the term “applicable biosecurity measures”?

Would that require the CFIA to look at the farm's biosecurity plan? Would this still be applicable to everyone on the farm—the farm workers and the farmer—including potential trespassers?

The Chair: Just before I turn it over to Dr. Ireland, colleagues, there is one procedural thing I forgot to mention. Of course, if Mr. Carr's amendment is adopted, NDP-2 and G-2 cannot be moved,

because of a line conflict, so those will be things we'll have to talk through.

I apologize. I should have said that at the start.

It's over to you, Dr. Ireland.

Dr. Mary Jane Ireland (Executive Director, Animal Health Directorate, Chief Veterinary Officer for Canada, Canadian Food Inspection Agency): Applicable biosecurity measures would be biosecurity efforts or protocols and practices that are in place on a particular premises. Biosecurity practices and measures can be simple, and they can be very complex. They can start from washing your hands, changing your footwear and walking through a disinfectant foot bath to wearing personal protective equipment as a more complex measure, but each premises would have its own unique protocols and practices in place that we hope are consistent with the national biosecurity standards and that address each individual premises' hazards and specific areas of risk.

Measures can be any of those practices or protocols that I just mentioned for a particular premises.

Mr. Alistair MacGregor: I have another question as part of that.

The Chair: Yes. Don't worry, Mr. MacGregor. I'll go back to you so you can finish your supplementary, and then I have Mr. Barlow.

Mr. Alistair MacGregor: My second question was whether the CFIA would regard this as applying to everyone equally.

Dr. Mary Jane Ireland: We would be looking at the particular measures that are in place via a premises to determine whether they had been followed or not—because they're not mandatory; they're voluntary—and each premises would have its own applicable protocols and practices in place. We would be looking to see whether those had been followed.

Mr. Alistair MacGregor: Is that a way of confirming...? If someone was there—borrowing from the previous amendment's phrase—with lawful authority or excuse, and following an investigation, they were found to have contravened the applicable biosecurity measures, no matter their status on the farm...?

Even if they were there with lawful authority or excuse, would this new amendment to the Health of Animals Act apply to them, no matter their legal status on the farm? I'm just trying to narrow that down.

Dr. Mary Jane Ireland: The CFIA would consider in their investigation whether the biosecurity measures on the premises had been followed. We would seek to have information about what was expected of individuals who went past a biosecurity zone or an area that was marked as having beyond it particular practices expected of the people within that biosecurity zone.

• (1700)

The Chair: I'll go to Mr. Barlow and then Mr. Carr. I know he'd like to weigh in as well.

Mr. John Barlow: Thanks very much, Mr. Chair.

I appreciate what my colleague Mr. Carr is trying to accomplish. I guess my concern is that it goes far beyond what we are trying to accomplish. We are trying to keep this very simple and focus on one aspect of the Health of Animals Act.

I appreciate your point here. If this is something we want to do later on as part of this study, and if Mr. Lehoux has put a framework around specifics on biosecurity, which, as Ms. Ireland said, are not mandatory but in many cases voluntary.... It depends on which industry you're in. They're all different, but they have their biosecurity protocols there. Maybe there's a way we can do this with another piece of legislation, but I think this expands too far on what we're trying to do.

The other issue is that some of the wording in here takes away the scope of what we were trying to accomplish. We wanted to include transportation and processing plants. In this you're very specific that it's only on farms. That also kind of changes it in that first line.

The third issue is that I believe we can find some consensus with NDP-2 and G-2. If we pass this as is, that eliminates that opportunity.

Again, I appreciate what you're raising here. I think there are opportunities for us in the future to focus on some of these other aspects in terms of the CFIA and the role with mandatory biosecurity protocols, if that's what the minister wants to do, but I would be unable to support such a massive change to what we're trying to accomplish here.

The Chair: Mr. Carr, I see Mr. Drouin's hand. I'm happy to go to you first, and then I'll go to Mr. Drouin and Mr. MacGregor.

Mr. Ben Carr: Okay.

Mr. Chair, I'm the newest member of the committee and of Parliament. Do I have the ability to ask Mr. Barlow a question in this particular format, to clarify some of his comments? I'm just not sure of the formality here.

The Chair: Yes. Certainly. We're in debate right now, so it's quite open. Mr. Barlow, of course, is not required to answer, but if you want to put out suggestions based on what you've heard from Mr. Barlow—

Mr. Ben Carr: I have a feeling he's in the mood to answer.

Voices: Oh, oh!

Ms. Leah Taylor Roy: Well, he answers if you ask him, so....

The Chair: Go ahead.

Mr. Ben Carr: Thank you, Mr. Chair. I'll try not to be too long.

Mr. Barlow, thanks for your feedback. In terms of the word "farm", certainly I'm open to an expansion of that in order to touch upon some different pieces here.

I have a quick question for Dr. Ireland. Then I have a question for Mr. Barlow. Once we get through other colleagues, perhaps we can come back to that.

Dr. Ireland, this is to Mr. MacGregor's previous comment on the bill as it's currently worded and "knowing that or being reckless as to". It confuses me in regard to how we determine, and who determines, what is reckless. If that can't be determined, then effectively the rest is moot. That's why in part I tried to replace "reckless" with a specific mention of biosecurity measures, regardless of whether they may vary across different properties.

If the bill were to be passed as is, who would be responsible for determining what reckless is? Would you be able to provide an example, if one comes to mind, about where one would be found guilty or in breach of this law for having been reckless, should it pass as is?

I also have a question for Mr. Barlow, but I don't want to monopolize. I'm sure Mr. Drouin wants to talk too. Perhaps I'll save my question for later.

Mr. Joseph Melaschenko: I'll try to take part of this question.

The words "knowing that or being reckless as to" would mean that the CFIA would have to prove a certain mental state of mind on behalf of the accused. Recklessness could be commonly understood as a failure to take appropriate care.

That's about as far as I can go in terms of speculating on how that meaning would play out.

The Chair: Mr. Carr, you can contemplate that one. Do you have a quick follow-up?

Mr. Ben Carr: I do. Perhaps I can ask the question of Mr. Barlow. If Mr. Drouin has something of equal wisdom to contribute, Mr. Barlow will then have many things to respond to.

You alluded a moment ago, Mr. Barlow, to some openness on the other NDP and government amendments that are on the table. If you could expand on what you are open to, should this amendment that I've put forward be defeated, I'd be interested to know what that is. It will help inform my willingness or not to determine a vote on this moving forward.

• (1705)

The Chair: Go ahead, Mr. Drouin.

Then, I know that Mr. MacGregor....

I might even have a question for our witnesses.

Go ahead.

Mr. Francis Drouin: Thank you.

I want to welcome my newest colleague, Mr. Carr. He's a good man. The intentions behind this are good. I know he has been a reasonable voice, and I support that reasonable voice.

The one issue, as I think the CFIA mentioned, is your assumption of "reckless" stops. The expertise you have is in animal care, so the assumption of proving for CFIA through the Health of Animals Act is whether or not an animal has been properly taken care of, but you wouldn't have the ability, necessarily, to provide whether or not a person's mental state is okay or not. Because you made some comments, I just want to make sure I understood what you said.

Mr. Joseph Melaschenko: It's not that it's an impossible thing to do, but it's a more difficult thing to do, of course, if you have to bring proof of a person's state of mind.

Mr. Francis Drouin: Practically, if the bill were to pass as is, what would CFIA do? Would you consult with psychologists? You'd have to go outside the organization, I suppose. I rarely get calls at the constituency office asking if the CFIA can do an assessment on a person, but I suppose that.... I'm just trying to determine the expertise that you guys have versus the expertise that you don't under the act that we're trying to amend.

Mr. Joseph Melaschenko: Yes. This type of offence that requires proof of a mental state of mind is not uncommon in the Criminal Code, for example. In that case, as opposed to recourse to a psychologist or what have you, there are simply inferences that are made about the person's state of mind based on the available evidence.

The Chair: Thank you, Mr. Drouin.

I have Mr. Barlow.

Now you have questions and comments. If you want, you can respond, and then I'll go to Mr. MacGregor.

Mr. John Barlow: Yes. I'll just respond to Mr. Carr's question.

I think, as I had mentioned, that to try to get us to where we can all reasonably agree, I'm willing to take out the word "reckless". I understand the concerns around that and maybe the proof of that. That's in G-2, I believe, as well as adding some language from NDP-2 in there in terms of the capability of "affecting or contaminating". I'm certainly open to coming to some compromise that I hope allows all of us to agree on the framework of the legislation.

The Chair: Okay.

Go ahead, Mr. Drouin. I think it was on that point.

Then I'll come back to you, Mr. MacGregor.

Mr. Francis Drouin: Yes, I'm just going to ask a question on procedure.

If we adopt the subamendment, I'm supposing that G-2 now becomes moot, or I can't present it afterwards. Nobody remembers who presented a subamendment or an amendment, so I don't necessarily care, as long as it gets done.

The Chair: Wait just one second, Mr. Drouin. I'll get an opinion, and then we'll come back to you in a second.

Colleagues, the piece of paper that Mr. Barlow's team distributed is not truly a subamendment.

Mr. Drouin, to answer your question, what we would have to ask Mr. Barlow.... If this is the desire of the majority of the committee or we think this is a pathway forward, what Mr. Barlow would have to do is officially move this. It would actually have to be the last thing we consider, but at least if it's on the record it would then be applicable and, of course, if we were to adopt NDP-2 or G-2, then this wouldn't be able to be moved, so it would be up to the committee to say that we could consider this last.

Procedurally, that's how we would have to go.

Ms. Taylor Roy, I think it's on procedure, so I'll go to you.

I'm going to go to you, Mr. MacGregor. You've been waiting patiently.

Then I will come back to you, Ms. Taylor Roy.

• (1710)

Mr. Alistair MacGregor: Thank you, Mr. Chair.

I'll lay all my cards out on the table here.

I cannot support this bill until we fix line 6. Now, I understand that we've had a vote on my first amendment. I think what Mr. Carr has put forward here is something I can accept in the way it's trying to amend line 6 using the term "applicable biosecurity measures". I'm prepared to accept that, but if we don't fix line 6, I can't support this bill. Those are just my cards on the table.

Mr. Barlow has done some good work with this handout that's just come out, so maybe what we can do is use the language here as a subamendment to amendment LIB-1. That's my suggestion, but I need to see line 6 of this bill fixed.

The Chair: I'm going to go to Ms. Taylor Roy.

However, colleagues, just to instruct, based on what I hear—again, as your chair—there are a couple of things.

As you know, Mr. MacGregor, what Mr. Barlow has presented wouldn't be able to be moved right now as a subamendment. I agree that what you're talking about are the principles that perhaps could be looked at. I think the committee was very clear on its most recent vote on line 6. I appreciate that this might mean that you won't be able to support the bill, but I think it's important to understand that this seems to be a line that the committee is not willing to move on.

If I could—

Mr. Alistair MacGregor: There's an amendment to line 6 in this amendment, so we're still dealing with line 6 in LIB-1.

The Chair: I understand, but what I'm saying is that it's been very.... Again, my comments are that I don't have a vote in this and that I'm just trying to help inform the debate. It seems as though it's been very clear that, as proposed on line 6 in what you were talking about, Mr. MacGregor.... I don't know if that's going to move forward.

Ms. Taylor Roy, you have, perhaps, a comment and a procedural question, so I'm going to turn to you. We will choose how we want to move forward from there.

Go ahead.

Ms. Leah Taylor Roy: I just have a question again.

I'm fairly new at looking at bills. Can the person who puts forward the bill amend it? They can. Okay. That's great. I didn't realize that. I thought that you couldn't amend your own bill. That's good to know.

Thank you.

The Chair: I'm going to go to Mr. Drouin and then to Mr. Steinley.

Mr. Francis Drouin: Again, I'm just going back to our first procedure, our first vote. If we can't amend line 6 anymore, then I'm just wondering how LIB-1 can come forward. How could we have debated LIB-1? I asked that at the beginning. You said that, no, we couldn't, because the committee voted on line 6.

The Chair: That was if the NDP amendment was adopted. That was the question you asked me. It was not adopted, so that's why we're here.

Colleagues, again, in the interest of trying to help inform and shape the debate, Mr. Barlow has put forward something that is a bit forward-looking to where we're going. We can go to a vote on this and vote now. I don't want to further delay the debate or the vote if necessary. However, what I think Mr. Barlow is trying to get at is that he is looking down the line at NDP-2 and G-2. There are some things there that I think he's expressing that he'd be willing to support. That's the piece of paper. It has not yet been moved, but you have it for your consideration. We need to decide how we want to proceed on LIB-1.

I have Mr. Steinley, Mr. MacGregor and then Mr. Carr.

Mr. Warren Steinley (Regina—Lewvan, CPC): This is just a process question.

We have to vote on G-1. If we vote in favour of G-1, then we can't go to NDP-2.

Oh, it's LIB-1. If we vote in favour of LIB-1, then we can't go to NDP-2 or to G-2. If we vote in favour of this, then what Mr. Barlow sent out isn't on the table anymore. We do have to figure out what we're going to do here to get to where there is a point at which we can find agreement on NDP-2 and G-2, so we might as well call the vote here.

The Chair: Yes, absolutely.

Mr. Steinley, if LIB-1 is passed, then NDP-2 and G-2 are moot, as well as what Mr. Barlow could potentially move and what he shared with the committee.

Go ahead, Mr. MacGregor.

Mr. Alistair MacGregor: Thank you, Mr. Chair.

I'd like to formally move a subamendment to LIB-1. With regard to the part of LIB-1 that is replacing lines 8 to 10, I formally move as a subamendment that we take the language that was just handed out by Mr. Barlow and instead insert that language into LIB-1 as a subamendment.

• (1715)

The Chair: Okay.

Mr. MacGregor, what's being explained to me is that what you're proposing works just fine on the English copy in terms of your being within order to do that. There are complications because of how the bill is written in French. I think what I'm understanding from my procedural team here is that you need to move that on the English copy, and then the intent in the English copy would be reflected in a French translation that would be slightly different.

Are you good? Okay.

That has now been moved, colleagues. That is what we are now debating. To be clear, basically what Mr. MacGregor is saying is that the secondary portion of what Mr. Carr is moving, so "(b) by replacing lines 8 to 10...", be replaced with what Mr. Barlow circulated. Let me find that.

Mr. Ben Carr: Can I ask, for the sake of my sanity, that you or the clerk read it aloud? It's moving so quickly that trying to scramble the pieces together of how it would read is a bit confusing as I'm trying to determine my position. If someone could read the proposed bill as amended and subamended, that would be helpful.

[Translation]

We should also read the French version.

[English]

The Chair: Obviously, as we mentioned, it won't be in French, because there is further translation, but as Mr. MacGregor said, the intent of what he is doing would then be translated and moved.

It would read that Bill C-275, in clause 1, be amended by replacing line 6 on page 1 with the following:

9.1 No person shall, without having taken the applicable biosecurity measures,

Then, of course, we go to line (b), replacing lines 8 to 10 on page 1 with the following:

are kept, or take in any animal or thing, if their entering such a place or taking in the animal or thing could reasonably be expected to result in the exposure of

You want me to read the entire paragraph of the bill. Okay.

Mr. Ben Carr: Thank you, Mr. Chair. I'll sleep better tonight.

The Chair: Mr. Carr, I'll get you to listen intently. I have good procedural folks who will help me, who are much quicker than I am.

Ms. Émilie Thivierge: Thank you, Mr. Chair.

It would read as follows:

9.1 No person shall, without having taken the applicable biosecurity measures, enter a building or other enclosed place in which animals are kept, or take in any animal or thing, if their entering such a place or taking in the animal or thing could reasonably be expected to result in the exposure of the animals to a disease or toxic substance that is capable of affecting or contaminating them.

• (1720)

The Chair: Go ahead, Mr. Drouin.

Mr. Francis Drouin: To clarify, should this subamendment be accepted, it means, because we've modified lines 8 to 10, that we can no longer modify lines 8 to 10—or can we? When there is a subamendment, can we?

The Chair: No. You can't.

Mr. Francis Drouin: Okay.

The Chair: Colleagues, Mr. MacGregor is talking about his time on public safety and all the dynamics at play. A lot of information has changed hands. I know there are conversations. I can allow people to continue to ask questions if they feel....

Go ahead, Mr. Epp.

Mr. Dave Epp (Chatham-Kent—Leamington, CPC): I have a quick comment. I think the stumbling block here in trying to put this into amendment LIB-1 is, as with other speakers, we've all heard, "One cannot do indirectly what one is not allowed to do directly." That's what the concern is around the committee right now, and that is with regard to line 6. It's not so much lines 8 to 10.

Ms. Leah Taylor Roy: We're just voting on the subamendment right now. It's just lines 8 to 10 that we're voting on. That's the subamendment.

The Chair: Colleagues, are we ready for a vote on the subamendment that Mr. MacGregor has moved? Keep in mind that the result of that will dictate how we move forward.

Mr. Drouin, I'm looking to all my committee members. Are we all good for this particular vote? Okay.

Madam Clerk, over to you.

(Subamendment negatived: nays 8; yeas 3)

The Chair: Colleagues, the subamendment has failed. We are now back on the original amendment, LIB-1, in Mr. Carr's name. If there is no further discussion, I would be happy to call that particular amendment to a vote if you would like.

Go ahead, Mr. Carr.

Mr. Ben Carr: Mr. Chair, I have one more question for Mr. Barlow, if I may.

Mr. Barlow, perhaps you could come back to your response from a couple of moments ago. You felt that the amendment expanded the scope of the bill beyond what you had originally intended. I take the point and I can appreciate that. Can you help me understand, however—notwithstanding that expansion—in what ways it does not help you meet the objective and the original intent of the bill you put forward?

• (1725)

Mr. John Barlow: To Mr. Carr's question, we went through a lot of work—and I know that some other amendments may come forward—to try to keep this away from the Criminal Code and to keep it just on the Health of Animals Act. Everything we have in this proposed legislation specifically puts biosecurity into existing portions of the Health of Animals Act. In my opinion, what you have proposed in your amendment greatly rewrites a massive part of what we've proposed in the legislation, which we did not have in front of witnesses or testimony to that point.

Again, in my opinion, you are putting a lot of emphasis or an unknown amount of emphasis onto what the biosecurity protocols are for every single industry that is out there. That's chicken. That's pork. That's cattle. As we heard from CFIA, those protocols are there but in many ways are not mandatory. Although the stakeholder groups for the most part put that framework in place—not the CFIA—in my opinion, with your changes to this legislation you are now putting the focus not on our role as the federal government, on what we have control over, but rather on the specific biosecurity protocols that the industry groups, for the most part—Dr. Ireland can correct me if I'm wrong here—put in place and that CFIA in many cases plays a part in maintaining or overseeing, although that's probably the wrong word. They have inspections on farms, as

we heard from stakeholders. Vets do as well. That's not what we're intending to do here.

The Chair: Go ahead, Ms. Taylor Roy.

Ms. Leah Taylor Roy: Thank you, Mr. Chair. I just have a question for Dr. Ireland.

Are the different biosecurity standards in place for the different farms—chicken, dairy and the different groups—enforced by the CFIA? I think that's what Mr. Barlow was saying.

Mr. John Barlow: No, that's not what I said.

Ms. Leah Taylor Roy: Okay. I'm sorry. Can you explain? I thought you were saying that was what they were doing.

Right now we have no biosecurity measures that are enforced at all. Am I correct in saying that?

Dr. Mary Jane Ireland: Mr. Chair, may I?

The Chair: Go ahead.

Dr. Mary Jane Ireland: Thanks very much.

The national biosecurity standards are voluntary. They were developed collaboratively with CFIA, provinces and territories, academics and producer associations. There are about eight of them, so they cover the major species.

Those national standards are the gold standard upon which producers' associations can develop their own, tailored to their own needs. We know that the Dairy Farmers of Canada, Turkey Farmers of Canada and Chicken Farmers of Canada have included elements of the national biosecurity standards in their mandatory on-farm programs, so members would need to follow certain elements of biosecurity that are consistent with elements of the national biosecurity protocol. We do not mandate or require compliance with the national biosecurity standards. They are voluntary and they are tailored by associations and producers to their own risks and their own needs.

Ms. Leah Taylor Roy: To clarify on the inspection question, you do no inspections regarding the specific voluntary biosecurity standards that the chicken farmers, dairy farmers or anyone else has.

Dr. Mary Jane Ireland: The Canadian Food Inspection Agency... As Dr. Rick James-Davies pointed out in the last appearance, there are not inspectors on farm routinely to determine whether biosecurity measures are in place, because they're voluntary. However, producer associations and their on-farm programs would have oversight to make sure that their members are following their own programs.

We are not on farms to decide whether biosecurity protocols are being complied with.

Ms. Leah Taylor Roy: I see. Thank you.

The Chair: Go ahead, Mr. MacGregor.

Mr. Alistair MacGregor: I also have a question for the CFIA.

From your technical understanding of the two different proposals we've had for line 6, if the CFIA is conducting an investigation and believes there has been a contravention of the Health of Animals Act under the new proposed section 9.1, how does the term "with lawful authority or excuse" compare to the term "applicable biosecurity measures"?

How do the differences between that language inform your investigations on the farm?

• (1730)

Mr. Joseph Melaschenko: Thank you, Mr. Chair.

The presence of the words "without lawful authority or excuse" means that the provision would be limited to trespassers.

Perhaps I could pass it over to you, Dr. Ireland, for the second part.

Dr. Mary Jane Ireland: Mr. Chair, the CFIA's role in enforcing these new rules would be to use the existing authorities under the Health of Animals Act. These would include inspection, seizure, the detention of animals or things and investigation of non-compliance, and recommending prosecution to the Public Prosecution Service of Canada.

If we had alleged non-compliance, first of all, we would triage the complaint, taking into consideration all the other matters at hand. Is there a risk of foreign animal disease? Is there a finding of highly pathogenic avian influenza? We would then inspect to determine whether non-compliance had occurred; we would determine what enforcement action, if any, was appropriate; we would investigate to gather and secure evidence and determine penal liability, and, if warranted, we would recommend prosecution to the Public Prosecution Service of Canada. It would be the PPSC that actually determines whether or not to pursue charges.

That is how we would enforce a new rule under the Health of Animals Act, similar to the existing rules under the Health of Animals Act.

Mr. Alistair MacGregor: As a quick follow-up, Mr. Melaschenko, you just used the word "trespassers". One version of this bill is going to take you down a trespass-related avenue of investigation, whereas, as Dr. Ireland said earlier, the term "applicable biosecurity measures" would force the CFIA to look at whether the on-farm biosecurity measures had in fact been followed.

Colleagues, I'm sorry, but we are looking at two different avenues here. One version of this bill is taking us down the road of trespass. The other version, which I think Mr. Carr has moved, is keeping us firmly within our federal jurisdiction on biosecurity.

It's been laid out there. If we choose to ignore it as a committee, so be it, but it's out there.

The Chair: I have Mr. Carr, and then I have Mr. Barlow.

Mr. Ben Carr: Thanks, Mr. Chair.

I wanted to ask Dr. Ireland for clarification. I was a little confused about one thing.

You laid out what the process would be should there be amended rules, but with the language in the amendment I've put forward, it

specifically says, "the applicable biosecurity measures". Where my confusion lies is in how you would know what the CFIA's response would be unless you knew what specific biosecurity measure was being breached.

Dr. Mary Jane Ireland: Mr. Chair, I would say that is part of the inspection of the particular incident. What were the protocols in place? What were the biosecurity measures in place on the premises, and were they followed or not?

It would be part of our investigation—gathering all the facts of what occurred.

Mr. Ben Carr: When you drew a reference a moment ago, for example, to influenza, you were using that as an example of something, as opposed to what would happen in each specific case.

Dr. Mary Jane Ireland: Mr. Chair, I'm sorry if I've caused confusion. What I am trying to say is that we would triage a complaint. We would take into consideration all of the other complaints currently in our queue and the region base. We would also look at our resources at that time.

Triaging the complaint is something that we do routinely under the Health of Animals Act and regulations in terms of whether we are concerned about an animal disease entering into premises.

The avian influenza was really just a reference to the agency having a number of priorities right now, including addressing highly pathogenic avian influenza, as an example.

• (1735)

Mr. Ben Carr: I appreciate that clarification.

I have one last follow-up.

Maybe I missed it, but Mr. MacGregor asked something. Is the answer you gave to his question the same if the legislation reads "reckless" versus if it reads the language that has been included in my amendment? I just want clarity on that. Would your response be the same in both instances?

The Chair: Dr. Ireland, if I may, because what I heard, Mr. Carr... I appreciate the comment you're making, but the testimony I heard from our witnesses—and they can clarify with a yes or no—is that their job would be to look at the legislation. What you have proposed here is "applicable biosecurity measures", which I think we've heard vary depending on the circumstance in question.

They would provide recommendations and then perhaps even be a witness if the Public Prosecution Service decided it wanted to move forward on the basis of what is there.

Dr. Ireland, can you confirm if that's the case? It would be different. You would go in, look at the circumstances in question and then provide recommendations and advice based on that. Is that what I heard as the committee chair?

Dr. Mary Jane Ireland: Yes, I think that's correct.

As part of our investigation, we would ask a producer, for example, what are your biosecurity measures in place? What is expected when someone enters into your biosecurity zone? Is it expected that they shower in/shower out? Is it expected that they change their footwear? Is it expected that they wash their hands? We would gather information about the incident and the applicable measures that a particular premises has in place and expects individuals who enter it to adhere to.

The Chair: Thank you.

Very quickly, we have Mr. Carr.

Mr. Ben Carr: I'm sorry, Mr. Chair, but it still doesn't answer... My question is, is that answer the same if the bill is passed with the word "reckless" in its current form versus if it were to be adopted with my amended language? I'm asking if that answer would be the same in both instances.

The Chair: I think, Mr. Carr, it comes down to a legal interpretation of how the judges would view this.

Again, I'm not in a position to offer legal advice either, but from my time at Dalhousie law school, "reckless" is a higher threshold than "reasonable" in terms of that. I can let perhaps the legal counsel provide—

Mr. Ben Carr: That's right. In this case, it's "applicable". Perhaps I'm missing the legal nuance in it. Mr. MacGregor asked a question that I was curious to know the answer to, and I didn't feel that I got it in the response.

The Chair: I'm going to go to Mr. Barlow, Mr. Drouin and then Ms. Taylor Roy,

Mr. John Barlow: Thanks, Mr. Chair.

I appreciate my NDP colleague's concern, but again, when we did the language of this legislation, it's not that we were just inventing things that weren't already in the Health of Animals Act. Subsection 7(2) of the Health of Animals Act has language about "Notice forbidding entry without permission". Also, the act says, "No person shall knowingly enter a building or other enclosed place in contravention of a notice affixed under this section", and so on.

There is already language in the Health of Animals Act regarding this. That's why we wanted to remain as consistent with it as possible. I truly appreciate what Mr. MacGregor is trying to accomplish here, but this isn't something that we put in just to try to focus on trespassers. This is language and function that are already within the Health of Animals Act. We want to make sure it remains consistent.

To say that we're just talking about trespassers... That's not the case. We are talking about protecting farm employees and farm family members as well, and again, this is language that's already in the Health of Animals Act.

Also, thank you, Dr. Ireland, for outlining the fact that CFIA does have an active role with the farm organizations in terms of animal protocols on farms. I appreciated that.

The Chair: I have Mr. Drouin and then Ms. Taylor Roy.

Mr. Francis Drouin: I just wanted to touch on a couple of points related to this amendment.

Dr. Ireland, obviously CFIA doesn't have the resources to inspect farms every day. I don't think any government has the resources to go on farms and inspect whether a certain protocol...and that's even veering off biosecurity protocols. While this act may not necessarily address preventive measures that CFIA is working on with industry, whether it's on ASF or when outbreaks happen, what's the role of CFIA when outbreaks happen?

For instance, in the Fraser Valley, what was the role that you guys were playing in there in terms of helping farmers either depopulate or respect strict protocols? They do vary. In the Fraser Valley it's really tight. In my riding it's not tight. It's not as strict. If we asked for a depopulation within a one-kilometre radius, I might hit just one farm. If we asked for the same protocols in the Fraser Valley, we could hit two or three or four or five farms.

I just wanted to get your comments on that.

• (1740)

Dr. Mary Jane Ireland: The situation changes drastically around biosecurity when there is a reportable disease found on a premises. The day-to-day biosecurity is voluntary, but when we find a disease like the highly pathogenic avian influenza, the biosecurity becomes a requirement. A facility or premise may be put under quarantine. Things don't leave and they don't go in. We have a primary control zone. It controls movement of things into the zone, through the zone and out of the zone.

All these efforts are to ensure that the disease that is significant in nature, which all reportable diseases are, is contained and eliminated. Biosecurity measures become mandatory to some degree. That includes quarantine and not allowing things to move out unless they are properly monitored and approved. It's a different situation around biosecurity when there is a reportable disease.

Mr. Francis Drouin: Thank you.

The Chair: I have Ms. Taylor Roy.

Ms. Leah Taylor Roy: Yes. I'm also just trying to clarify something. I think we're hearing different things, which might be dependent on confirmation bias.

You said that right now biosecurity is voluntary and the CFIA is not involved unless there is a reportable disease on the premise. Then it becomes mandatory. When you were talking earlier about going in and seeing whether compliance had occurred, were you talking about what would be the case if the amendment that my colleague put forward was passed? If it said, "without having taken the applicable biosecurity measures", then the CFIA would have a role in actually seeing whether those measures had been in place. If it weren't amended this way, it would remain the way it is now, where you do not inspect for biosecurity measures unless there is a reportable disease on the premises.

Am I correct in that summary?

Dr. Mary Jane Ireland: The enforcement of this rule would be consistent with our authorities under the Health of Animals Act and regulation. As I outlined, we would triage, inspect, investigate and recommend prosecution, or give the details of our investigation to the Public Prosecution Service of Canada.

Biosecurity in the day-to-day operations on a farm is voluntary. When we become aware of a suspected or confirmed reportable disease—it's mandatory to report it to the CFIA—that is when the CFIA would take action to prevent the spread and eliminate the disease on a particular premises. Our responses to this bill or to rules under the Health of Animals Act are largely the same. We would follow the same process we do for other suspected non-compliance under the Health of Animals Act and regulation. If there was a reference to biosecurity measures, then we certainly would have to ascertain what the biosecurity measures were with regard to what was in place and what might have been breached or not conformed to.

Ms. Leah Taylor Roy: Just to be clear, what I heard, then, is that if this amendment were put in place, you would then actually investigate what the biosecurity measures were on that farm and whether or not they'd been breached.

Dr. Mary Jane Ireland: It's my understanding that if the language were there, we would need to find out whether biosecurity measures had been breached.

The Chair: Go ahead, Mr. MacGregor.

Mr. Alistair MacGregor: I have a quick question. I have been looking through the Health of Animals Act.

Mr. Barlow, was it section 7 from which you were reading those parts that deal with a notice forbidding entry and other areas that are similar? It was subsection 7(2)? Okay. I just wanted clarification on that.

The Chair: Mr. MacGregor, while you're contemplating that, I have one point of clarification, from my point of view, for CFIA, with respect to Ms. Taylor Roy's line of questioning about applicable biosecurity measures as being the threshold. The bill as proposed right now says, "could result in the exposure of the animals to a disease or toxic substance that is capable of affecting or contaminating them".

That is the language, in terms of the threshold, regarding the class of individuals if they were to expose the animals to a disease. I presume you would still have to be able to look at that through an analysis and that the local biosecurity rules in question would still inform your opinion to the Public Prosecution Service as to whether or not that could reasonably have resulted.

Do you follow my line of questioning, Dr. Ireland? It's about you, CFIA, as an agency, under the bill as it reads right now, being asked whether the persons' having entered the building or enclosed place could possibly result in exposure of the animals to disease or toxic substances that are capable of affecting or contaminating them. Would that be an analysis your agency would actually do? I presume one of your baseline criteria as you go in is whether the entry into an enclosed space could contaminate the animals. You would look at the biosecurity question on the local farm. Is that a fair comment?

• (1745)

Dr. Mary Jane Ireland: Mr. Chair, I think that's a fair comment. I would also say we would take into consideration a number of things about whether visitors or individuals might have introduced something or could have introduced a disease.

This is a very complex area. Have the visitors been to another farm in the last while? What is the disease we're concerned with? Is it a virus? Is it feed-borne? Is it water-borne? Is it airborne? We would certainly have to ask a lot of questions to determine whether they could have introduced or presented a risk of introduction of a disease.

The Chair: I think, Mr. MacGregor, we'll come back to you and then Mr. Steinley. Then, if there are no further comments, colleagues, we'll take it from there.

Mr. Alistair MacGregor: I found the section. I appreciate my Conservative colleagues' pointing it out. Under section 7 of the existing act is the heading "Notice forbidding entry". The Conservatives are correct in that there are provisions under section 7 that allow for controlling the entry of people into certain areas, but we have to put those provisions in the context of section 7 as it is written—and I'm going to ask if I'm correct in my reading of this—if there exists an area in which a disease or toxic substance has been reported. There is a special notice that an inspector would have affixed to the door because of the circumstances. I think we're kind of moving from trespass to an actual biosecurity containment zone because of the danger. Am I reading section 7 correctly? It seems to apply to everyone equally, as I read subsections 7(2) and 7(3) of the existing Health of Animals Act.

Dr. Mary Jane Ireland: I'm sorry, Mr. Chair, but I don't have that in front of me. I'd have to look at that carefully.

The Chair: Okay.

Mr. Steinley, go ahead.

Mr. Warren Steinley: I appreciate all of the interventions, but I'm wondering if we could have a vote on this at this point in time. I think it's been pretty exhaustive.

The Chair: Ms. Taylor Roy, go ahead.

Ms. Leah Taylor Roy: Before we vote, I just want to summarize it and say that it's pretty clear from the discussion we've heard that the way this bill is being presented right now... Even though the title references biosecurity, there's no reference to biosecurity in the actual text of the bill. The amendment proposed by my colleague would actually introduce biosecurity into the bill. It would actually give the CFIA an opportunity—if there is someone who enters into a space and does that in a such a way, having taken the applicable measures—to look at what the measures are and then to actually address that. I think that, with the title of the bill referencing biosecurity, it would actually at least address biosecurity.

I'm speaking in favour of this because I think it does, then, what we all want, which is to try to protect farm animals and farmers from the horrible possibility of a huge biosecurity event that could wipe out their animal population. As I said before, I believe that for farmers—again, having been around farmers and been in a family of farmers—that is one of the most traumatic events that can happen on a farm: to find a disease and then have to kill all your animals.

I would say that this addresses that very well, and it actually addresses the mental health of farmers and helps keep people and animals safe. I think it's a brilliant amendment, and I'm in support of it.

• (1750)

The Chair: Go ahead, Mr. Steinley.

Mr. Warren Steinley: The entire Health of Animals Act is about biosecurity. This is an amendment to the act. The whole act talks about biosecurity. Just because it doesn't have the word "biosecurity" in the amendment.... The whole act talks about that. This is just an amendment to that act. It's a bit of a red herring to say that the amendment doesn't talk about biosecurity.

The Chair: Is there any further discussion, colleagues?

Go ahead, Ms. Taylor Roy.

Ms. Leah Taylor Roy: I just want to point out to Mr. Steinley that the title of the act, the Health of Animals Act, does not have a parenthesis behind it that says "biosecurity of animals". It just says "Health of Animals Act".

The Chair: Okay, colleagues. Is there any further discussion before we call this to a vote?

Seeing none, Madam Clerk, I will turn to you to conduct the vote.

(Amendment negated: nays 8; yeas 3 [*See Minutes of Proceedings*])

The Chair: Colleagues, that brings us to NDP-2.

One thing I want to point out in the discussion that we should be aware of by now is that if NDP-2 is adopted, then G-2 cannot be moved. What Mr. MacGregor has passed around on paper—if, in theory, he presents it—could not be moved either.

I've heard comments about Mr. MacGregor's language around "reasonably be expected". That's something that Mr. Barlow, at least, seems to be in favour of. Mr. Drouin's G-2 talks about eliminating "reckless" from that provision. That is something that Mr. Barlow has tabled on paper to the committee. However, again, procedurally, colleagues, there is a dynamic here.

Mr. MacGregor, I'll turn it over to you. Ultimately, it's your prerogative if you want to move NDP-2. Then we can talk about how we're going to proceed.

Mr. Alistair MacGregor: I won't spend too much time introducing it. I think we already talked a lot about lines 8 to 10. I will formally move it. I'm sure there are opportunities to take language from other amendments, maybe G-2 or LIB-1, and move a sub-amendment if we're not happy with how the language is in this amendment.

I'll leave it there, Mr. Chair.

The Chair: Mr. Drouin, would you like to speak on this? Again, I think there are elements of NDP-2 that you might be in favour of. There's also your G-2, which procedurally can't be moved if we adopt NDP-2. Would you be willing to move a sub-amendment, or would you like to support what Mr. Barlow has on paper?

I'll turn it over to you.

Mr. Francis Drouin: Yes. If Mr. Barlow moves his amendment, I'll be happy not to.... Well, obviously, G-2 is going to become inadmissible anyway, but I'm happy to support what Mr. Barlow put forward, as we've all seen an advance copy.

The Chair: Colleagues, procedurally, this is how it would happen. If Mr. Barlow were to present what he has shared on paper, it would go in the order of precedence, so we would have to vote on NDP-2 and G-2. To be honest, colleagues, we would have to vote those provisions down until we get to what Mr. Barlow has presented. That would follow amendment NDP-3 and what Ms. Taylor-Roy has tabled in terms of a proposed amendment on the penalty piece, and then we would get to what Mr. Barlow could propose to us and then vote on that.

Am I correct in saying that?

Ms. Émilie Thivierge: No.

The Chair: Pardon me. I'm wrong. It would actually be after G-2.

Mr. Barlow, do you want to move this, or at least signal your intent to move it?

Procedurally, is he allowed to move this when I turn it to him?

We have a Canadian standoff here. My understanding is that Mr. Barlow is not able to move his motion as presented now. We would have to vote down NDP-2, vote down G-2 and then entrust Mr. Barlow to his work.

Colleagues, the way it's being explained to me is that Mr. Barlow would not be able to move what he's tabled until after we vote on both NDP-2 and G-2. Mr. Barlow would then be in a position to table what he has on paper, but there's no way to pre-emptively put that on the table.

Go ahead, Mr. Drouin.

• (1755)

Mr. Francis Drouin: If we are modifying lines 8, 9, 11 and 12, and NDP-2 modifies line 8, if we adopt NDP-2, I don't see how Mr. Barlow...once we've adopted or modified a line, I don't see how we can remodify a line.

The Chair: That's what I just said.

Mr. Francis Drouin: Vote it down.

The Chair: Yes.

Mr. Francis Drouin: I'm sorry, Alistair.

Mr. Alistair MacGregor: It's all right.

Mr. Francis Drouin: We then vote down amendment G-2....

The Chair: Or we just don't move it.

Mr. Francis Drouin: Don't move it, for simplicity.

The Chair: Okay, colleagues. Let's test how resilient we are here in terms of procedure.

Is there any further discussion on NDP-2?

Seeing none, I call the vote.

(Amendment negated: nays 10; yeas 1 [*See Minutes of Proceedings*])

[*Translation*]

The Chair: All right, that's done.

[*English*]

That brings us to G-2.

Mr. Drouin, would you like to move or not move that motion?

Mr. Francis Drouin: No.

The Chair: Okay.

Mr. Barlow, I think you have something you want to say.

Mr. John Barlow: I will formally propose and table our amendment, which everyone has in front of them. This is a compromise on everything we've spoken about—except, maybe, for one of Alistair's—and it does a good job of bringing NDP-2 and G-2 together. It removes the word “reckless” and addresses some of the questions we had.

I hope to have everybody's support for this amendment.

The Chair: The procedural folks have told me that this is reference number 12615484 on the paper copies in front of you. Mr. Barlow and his team brought this around earlier in the meeting.

Is there any discussion, or shall we move to a vote on this? We will move to a vote.

(Amendment agreed to: yeas 11; nays 0)

The Chair: That's great. We'll move to NDP-3.

Mr. MacGregor, it's on paper, but it's your prerogative. It's over to you.

• (1800)

Mr. Alistair MacGregor: Mr. Chair, I am not going to move this amendment.

The Chair: Shall clause 1 carry as amended by the various pieces we've discussed this afternoon?

(Clause 1 as amended agreed to [*See Minutes of Proceedings*])

(On clause 2)

The Chair: You're up, Ms. Taylor Roy. You shared on paper that you might want to move an amendment to clause 2. We'll go to you.

Ms. Leah Taylor Roy: Yes, I would. I've submitted it.

What I would like to do is amend the section of the act that deals with the penalties for contravention of the act. You can see the amendment in front of you. It basically reduces the—

An hon. member: On a point of order—

The Chair: It's being shared right now.

Ms. Taylor Roy, why don't we wait just a couple of minutes for that to be shared, and then we'll let you carry on?

• (1800)

(Pause)

• (1800)

The Chair: I'm sorry about that, Ms. Taylor Roy. I think everyone now has a copy. We'll go over to you to continue to talk about the amendment.

Ms. Leah Taylor Roy: Thank you.

They are two separate amendments. I separated them because I thought one might have a chance of getting passed and the other probably not, but I think they're both appropriate amendments to make, because with the way it is reading right now, in my mind, given testimony and actually the discussion from the member who put forward this private member's bill, this is really about making sure animal activists do not trespass onto farm property.

Given that, and that it is basically a trespassing bill when you keep in the clause “without lawful authority or excuse”, I felt the convictions and the penalties imposed were much greater than even the penalties that have been imposed in the legislation in Ontario and Alberta, which are similar to this in their intent. These are still higher than trespassing fees, but they're much more in line with the other legislation that's already in place, and if we're going to be adding our federal legislation onto provincial legislation, I felt that it should at least be consistent.

The first amendment is simply to reduce the amount of the fine, given also that this offence, if someone were to be convicted, I suppose, of this, does not at all entail that there was any disease or that anything happened on the farm. It was simply that they trespassed on the farm. I felt like those penalties were really out of line with that particular offence, especially since it has no element of biosecurity, breaking any prior security regulations or anything else.

This basically brings it back in line with the legislation that has already been passed in Ontario and Alberta for the same type of thing, so I'm suggesting we just reduce these penalties so that this is more in line with trespassing and with provincial legislation, although it's still more than normal trespassing.

That would be the first one. I think we should probably debate that one first before we move to the second one.

• (1805)

The Chair: Go ahead, Mr. MacGregor.

Mr. Alistair MacGregor: First of all, I have a question for the CFIA.

If clause 2 of Bill C-275 did not end up surviving committee deliberations, am I correct in understanding that the currently written subsection 65(1) of the Health of Animals Act would then apply to Bill C-275? It says, "Every person who contravenes any provision of this Act, other than section 15".... I won't read the rest. Basically, it has the exact same punishments: \$50,000 for a summary conviction and \$250,000 for an indictable offence.

Am I correct in interpreting that? Subsection 65(1) of the existing Health of Animals Act would apply if we did not include clause 2 of Bill C-275.

Mr. Joseph Melaschenko: Yes. I agree with that interpretation.

Mr. Alistair MacGregor: Thank you.

Now I have just a comment for my colleagues. I appreciate what Ms. Taylor Roy is trying to do, but for simplicity's sake, I think, we already have some pretty hefty offences and punishment in the existing act, and I think clause 2 in its entirety is just a redundant piece of legislation, so I would humbly suggest that rather than trying our best to amend it, we just vote it down in its entirety.

The Chair: Mr. Barlow, I know you signalled. I'll turn it over to you.

Mr. John Barlow: Thanks, Mr. Chair.

Alistair pretty much said exactly what I was going to say, but maybe with a different conclusion.

Yes, the reason that we have the fines and the penalties that are in this amendment is that they match exactly what's already in the Health of Animals Act, but the reason we had to bring this forward as part of this clause was that we added the fines and penalties to the corporations part, which is not in the Health of Animals Act at this time. For consistency's sake, I suggest we keep the fines as they are proposed in this amendment, because they match up with what's already in the Health of Animals Act.

The Chair: Go ahead, Ms. Taylor Roy.

Ms. Leah Taylor Roy: I had read that, and I had understood that it was there as well, but I don't believe that this offence is.... In my mind, the way this is written right now, this is a trespass offence. Those fines are for actual biosecurity violations. If there was a posting on a wall already that there was a biosecurity event, and someone went in when they saw the notice and they weren't supposed to go in, that would be different, in my mind. The way this bill is currently written, it really is just about people unlawfully going in. It

doesn't mention biosecurity. There's no reference to a disease being spread or anything happening.

I felt that those particular penalties were actually out of line with this piece of legislation that you're putting forward. That's why I suggested this. I went back to the provincial legislation. This is much more akin to what the provincial legislatures have passed. It's higher than the \$10,000, which is the normal trespassing penalty, but in both the Alberta legislation and the Ontario legislation, it's \$25,000 in their bills that are comparable to what you're trying to do here. That's why I suggested that it should be brought down to that level.

In fact, though, the second piece, the second one I brought forward, was to eliminate proposed subsection 65(1.2), in which case Mr. MacGregor's recommendation that we just go with what's here already would have been appropriate. However, I understand that you do not want to eliminate proposed subsection 65(1.2), so I would suggest that the penalties for individuals be brought more in line with the existing legislation.

• (1810)

The Chair: Okay, colleagues. I have one question for the CFIA. Mr. Barlow made the comment that there was an explicit rationale for including the personal penalties that I guess are duplicated, to Mr. MacGregor's point, in section 65 of the act.

Is that the section of the act, Mr. MacGregor?

Mr. Alistair MacGregor: It's subsection 65(1).

The Chair: Okay, so there's a replication of that. Mr. Barlow explained the rationale for wanting there to be specific fines on corporations that are involved in the type of activity being discussed before Bill C-275. If the committee were to remove the personal penalties to keep in line with what Mr. MacGregor is suggesting on subsection 65(1), do you know if that impacts the corporate piece, which Ms. Taylor Roy is...or that we will discuss next, I guess, in terms of keeping or not keeping that in the bill?

Can you follow my convoluted path, Mr. Melaschenko?

Voices: Oh, oh!

Mr. Joseph Melaschenko: I'll try.

I'm sorry. I don't have the amendment in front of me, so I can't speak to the technicalities of how we're all going to work this out. It's certainly possible to have a stand-alone provision that deals with every person other than an individual—in other words, corporate entities.

The Chair: I understand.

Is there any further debate, colleagues? We can vote on Ms. Taylor Roy's first piece, which is around replacing the fines in the penalties to a different level.

Seeing no further comment, I'll call the vote, please.

(Amendment agreed to: yeas 6; nays 5 [*See Minutes of Proceedings*])

The Chair: Thank you, Ms. Taylor Roy.

We'll now move to the second piece, which I think was well documented. This is about removing lines 9 to 15 in clause 2 on page 2. That's in relation to the corporate penalties that were discussed by Mr. Barlow.

Go ahead, Ms. Taylor Roy.

Ms. Leah Taylor Roy: Yes, I do want to speak to that.

The penalties for individuals are applicable to each individual who trespasses, in this case, or who violates the provisions in this private member's bill. It's not simply the \$25,000. If there are more people there, each of them would be subject to that fine.

One thing I want to say is that if we had passed either Mr. MacGregor's amendment or Mr. Carr's amendment, which extended this to all people who basically endangered animals by not adhering to the proper biosecurity measures, would we want a farmer—the entity of the farm—to be responsible for an individual farmhand, employee, family member or visitor, if they did this?

If we had this bill really talking about biosecurity and being broader, what this second clause would have done would be to say that a farmer, or the corporation of a farm, whatever the entity is, would pay a half-million dollar fine if a visitor or an employee or someone entered and violated biosecurity regulations.

I don't believe that it's appropriate to put that kind of a penalty on a person, or an entity other than a person, in this case, given that this is really about individuals who are trespassing.

That would be my argument on it.

The Chair: Colleagues, is there any further debate?

Seeing none, I'll get my trusty madam clerk to call the vote.

(Amendment negatived: nays 7; yeas 4 [*See Minutes of Proceedings*])

Thank you, colleagues. Thank you, Ms. Taylor Roy.

Colleagues, that brings us to the end of clause 2 considerations. My question to you is on whether clause 2 should carry as amended.

Okay, Mr. MacGregor, would you like to have a recorded vote?

• (1815)

Mr. Alistair MacGregor: I would.

Mr. Ben Carr: I don't know what we're voting on. I missed it.

The Chair: We are voting on clause 2 as amended.

This is the second portion of the bill. It is amended in Ms. Taylor Roy's name in relation to a reduction in penalties for individuals. Her second amendment was not successful, so we are now moving on whether you support clause 2 of this bill.

Mr. Ben Carr: I'm against it.

The Chair: Madam Clerk, we'll go over to you.

(Clause 2 agreed to: yeas 8; nays 2)

The Chair: Colleagues, clause 2 carried with amendment.

Shall the title carry?

Some hon. members: Agreed.

The Chair: On division, if we want, Mr. MacGregor.

Mr. Alistair MacGregor: [*Inaudible—Editor*]

The Chair: There you go.

Shall the bill as amended carry?

Mr. Alistair MacGregor: I'd like a recorded vote on that.

The Chair: Okay.

Colleagues, we are voting on the bill as amended through all the different processes. I can give you a minute to reflect on that if you'd like, but we've gone through clause 1 and clause 2 as amended.

I will now ask the clerk to call a recorded vote.

(Bill C-275 as amended agreed to: yeas 8; nays 3)

The Chair: Shall the chair report the bill as amended to the House? This should be relatively straightforward.

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Shall the committee order a reprint of the bill as amended for use of the House at report stage? Of course, this is procedural. I think we can all agree on that.

Some hon. members: Agreed.

The Chair: Colleagues, that was great work today. There was obviously a lot of nuance and there were a lot of different amendments, so I appreciate....

First, let me say thank you to our witnesses for joining us here today.

I want to thank our procedural clerks, who were able to join.

To our translation team, and to our team who is normally here, thank you.

Just to give a quick sense of what we're going to be doing on Thursday, colleagues, the first hour is going to be consideration of the third version of the environmental report, "Environmental Contribution of Agriculture". I have then reserved the second hour for committee business. There are a number of motions that have been presented, and different ideas, so we will litigate that on Thursday and decide our pathway forward as a committee.

Thank you so much. We'll see you Thursday.

The meeting is adjourned.

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