



MINUTES OF PROCEEDINGS

OTTAWA, Monday, June 13, 2022

(14)

[English]

Pursuant to the order of the Senate of May 5, 2022, the Standing Senate Committee on National Security and Defence met this day in room B45, Senate of Canada Building, and with videoconference, at 2 p.m. ET, the chair, the Honourable Tony Dean, presiding.

Members of the committee present: The Honourable Senators Boehm, Boisvenu, Boniface, Dalphond, Dasko, Dean, Gold, P.C., Jaffer, Richards and Yussuff (10).

Members of the committee present by videoconference: The Honourable Senators Anderson, Dagenais and Wells (3).

Other senators present by videoconference: The Honourable Senator Deacon (*Ontario*) (1).

Participating in the meeting: Mark Palmer, Procedural Clerk and Natacha Umugwaneza, Administrative Assistant, Committees Directorate; Ariel Shapiro and Anne-Marie Therrien-Tremblay, analysts, Library of Parliament.

Pursuant to the order of reference adopted by the Senate on Wednesday, May 11, 2022, the committee continued its consideration of Bill S-7, An Act to amend the Customs Act and the Preclearance Act, 2016.

WITNESSES (by videoconference):

Public Safety Canada:

Randall Koops, Director General, International and Border Policy Directorate.

Canada Border Services Agency:

Julia Aceti, Director General, Traveler, Commercial, and Trade Policy;

Scott Nesbitt, General Counsel, Department of Justice, Canada Border Services Agency, Legal Services Unit.

Julia Aceti, Scott Nesbitt and Randall Koops answered questions from time to time.

It was agreed that the committee proceed to clause-by-clause consideration of Bill S-7, An Act to amend the Customs Act and the Preclearance Act, 2016.

It was agreed that the title stand postponed.

The chair asked whether clause 1 shall carry.

The Honourable Senator Wells moved that Bill S-7 be amended in clause 1, on page 1, by replacing line 12 with the following:

“about to be exported, has had its network connectivity disabled and is in the custody or possession”.

After debate, the question being put on the motion in amendment, it was adopted.

The Honourable Senator Jaffer moved that Bill S-7 be amended in clause 1, on page 1, by replacing line 13 with the following:

“of a person if the officer has reasonable grounds to suspect”.

After debate, the question being put on the motion in amendment, it was adopted, on division.

The Honourable Senator Dalphond moved that Bill S-7 be amended in clause 1, on page 2, by adding the following after line 10:

“(4) Despite subsection (1), an officer designated under subsection (2) may not examine any document that contains information that is subject to any privilege under the law of evidence, solicitor-client privilege or the professional secrecy of advocates and notaries or to litigation privilege unless the examination is authorized by an order from a court of competent jurisdiction.”.

After debate and with leave, the amendment was withdrawn.

It was agreed that clause 1, as amended, carry, on division.

The chair asked whether clause 2 shall carry.

The Honourable Senator Dalphond moved that Bill S-7 be amended in clause 2, on page 2, by adding the following after line 14:

“(a.01) respecting measures to be taken by an officer if a person asserts that a document to be examined under subsection 99.01(1) is subject to a privilege under the law of evidence, solicitor-client privilege or the professional secrecy of advocates and notaries, or litigation privilege;”.

After debate, the question being put on the motion in amendment, it was adopted, on division.

The Honourable Senator Yussuff moved that Bill S-7 be amended in clause 2, on page 2,

(a) by replacing line 11 with the following:

“2 (1) Section 99.4 of the Act is renumbered as subsection 99.4(1).

(2) Paragraph 99.4(1)(a) of the Act is replaced by the”;

(b) by adding the following after line 16:

“(3) Section 99.4 of the Act is amended by adding the following after subsection (1):

(2) In making regulations under paragraph 99.4(1)(a), the Governor in Council must consider providing for

(a) specific record-keeping requirements for searches on personal digital devices, including obligations to document indicators justifying a search;

(b) technical procedures and requirements — including in respect of disabling network connectivity — to limit the scope of a search to only items stored on the personal digital device; and

(c) limitations on password collection and retention.”.

After debate and with leave, the amendment was withdrawn.

It was agreed that clause 2, as amended, carry, on division.

It was agreed that clause 3 carry.

It was agreed that clause 4 carry.

It was agreed that clause 5 carry.

It was agreed that clause 6 carry.

It was agreed that clause 7 carry.

It was agreed that clause 8 carry.

The chair asked whether clause 9 shall carry.

The Honourable Senator Wells moved that Bill S-7 be amended in clause 9, on page 5, by replacing line 3 with the following:

“bound for the United States and that has its network connectivity disabled if the preclearance officer”.

The question being put on the motion in amendment, it was adopted, on division.

The Honourable Senator Jaffer moved that Bill S-7 be amended in clause 9, on page 5, by replacing line 4 with the following:

“has reasonable grounds to suspect that”.

The question being put on the motion in amendment, it was adopted, on division.

It was agreed that clause 9, as amended, carry, on division.

It was agreed that clause 10 carry.

It was agreed that clause 11 carry.

The chair asked whether clause 12 shall carry.

The Honourable Senator Wells moved that Bill S-7 be amended in clause 12, on page 6, by replacing line 8 with the following:

“a traveller bound for the United States, that has its network connectivity disabled and that is to be”.

The question being put on the motion in amendment, it was adopted, on division.

The Honourable Senator Jaffer moved that Bill S-7 be amended in clause 12, on page 6, by replacing lines 10 and 11 with the following:

“6(2)(a) if the preclearance officer has reasonable grounds to suspect that”.

The question being put on the motion in amendment, it was adopted, on division.

It was agreed that clause 12, as amended, carry, on division.

It was agreed that clause 13 carry.

It was agreed that clause 14 carry.

It was agreed that clause 15 carry.

The chair asked whether clause 16 shall carry.

The Honourable Senator Dalphond moved that Bill S-7 be amended in clause 16, on page 7, by adding the following after line 22:

“(c.2) respecting measures to be taken by a preclearance officer if a person asserts that a document to be examined, searched or detained under section 20.1 or 28.1 is subject to a privilege under the law of evidence, solicitor-client privilege or the professional secrecy of advocates and notaries, or litigation privilege;”.

The question being put on the motion in amendment, it was adopted, on division.

It was agreed that clause 16, as amended, carry, on division.

It was agreed that clause 17 carry.

It was agreed that the title carry.

It was agreed that the bill, as amended, carry, on division.

It was agreed that the Law Clerk and Parliamentary Counsel be authorized to make necessary technical, grammatical, or other required non-substantive changes as a result of the amendments adopted by the committee, including updating cross-references and renumbering of provisions.

It was agreed that the chair report Bill S-7, with amendments, to the Senate, at the earliest opportunity.

At 3:16 p.m., the committee adjourned to the call of the chair.

ATTEST:

Ericka Dupont

Clerk of the Committee