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—
Chair

Ms. Marlene Catterall

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• (1105)

[English]

The Chair (Ms. Marlene Catterall (Ottawa West—Nepean, Lib.)): Order, please. I'm calling to order this meeting of the Standing Committee on Canadian Heritage.

I hope you will indulge me for two or three minutes for a bit of an opening statement, because I feel strongly, as I know you all do, that we're taking part today in an historic event.

I really want to compliment Inky Mark and Bev Oda for bringing forward the two private members' bills we're dealing with today and for working with the minister and the communities to build a consensus that can now be reflected in these bills through amendments and hopefully be reported back to the House and passed with very little delay.

I call it historic because I think today we begin a process of reconciliation with thousands of our fellow citizens, Canadians of Chinese and Ukrainian origin, and we set a pattern for a similar resolution with others with longstanding grievances.

For decades, through generations, some have lived with a profound sense of injustice for wrongs that were done to them or their parents, grandparents, or great grandparents and never recognized by Canadians at large or by our government, or by Parliament. Despite their contribution, like that which all Canadians—and all of us come from immigrant backgrounds—have made to building this great nation of Canada, they have felt somewhat marginalized because of those past wrongs.

Today, we have two bills before us that will allow those communities to determine in their own way how they wish those past wrongs to be acknowledged and commemorated and how they wish Canadians to learn about the history of their communities. But our main purpose is to do our best to ensure that those things never happen again.

I want to repeat something that's become a bit of a mantra to me, as I consider public policy. My daughter was only nine years old when she learned about the terrible treatment of Japanese Canadians during the Second World War. Even at the age of nine she said, "You know, Mom, what really bothers me is that maybe, if I'd been alive then, I would have thought it was okay." I think, as we deal with these bills, we must try to carry forward the spirit of looking at things we're doing today and asking ourselves whether they'll stand the tests of time and of justice and of fair play and respect for others.

That's really all I wanted to say, but I really feel very powerfully that this is an extremely important step forward for our country and for many of its citizens.

Now, let's move on to the business of the day. I have been asked to read you some information about how we will be proceeding this morning. Some of you will have done bills before; some of you may not have.

We are here pursuant to the orders of the House of March 25 and October 4 respecting Bill C-331, the Ukrainian Canadian Restitution Act, and the orders of April 18 and October 4, 2005, respecting Bill C-333, the Chinese Canadian Recognition and Redress Act. We will be doing our clause-by-clause study of these bills and hopefully completing it today so that they can be reported back to the House.

First, here's a brief description of the process. We will be examining every clause of each bill, starting at the beginning and going line by line, if necessary, and if necessary, word by word. Amendments can be proposed and voted on. We have a package of amendments before us. Committee members may propose others during the course of the meeting.

The committee will vote on each amendment and on each clause of the bill, and when we have done that we'll go back to vote on the preamble, on the title, and finally on the bill as a whole, and then present a report to the House on what, if any, changes have been made to the bill.

• (1110)

As you know, you have a package of amendments that have been submitted by the clerk. They have been organized and numbered so that we can deal with them easily as we go through the clauses of the bill. The agenda for today also lists the amendments received and the votes to be taken.

If there are no further questions, we will begin with Bill C-331.

We are deferring consideration of the title and the preamble and clause 1, which will follow our clause-by-clause consideration. Therefore, government amendments G-1, G-2, and G-3 are also postponed until we come back at the end to do those.

Amendment G-4, then, is the first one with which we will be dealing. It's presented as an amendment to clause 2, but in fact it differs substantially from the content of clause 2. So what I would propose is that we consider the government amendment and see if we want that in fact as a substitute for what is there at clause 2. Having done that, we can then go back and decide that we're not adopting clause 2, but we would instead have the substitute clause 2, in the amendment.

If we can deal with government amendment G-4 on clause 2, is there any discussion?

Ms. Bulte, do you wish to move it?

Hon. Sarmite Bulte (Parkdale—High Park, Lib.): Yes, I do, and perhaps, Madam Chair, before we go through each one of these specific amendments, I just want the committee as a whole to know what the basis for these amendments is and why these suggestions are being made.

I think it's important to know that the main changes suggested to this current bill aim to transform the obligation of specific results being imposed on the government to an obligation for the government to negotiate an agreement with the committee. The agreement would include measures that may be taken to recognize the internment of persons of Ukrainian origin and at the same time take into account the 1994 Government of Canada decision on historical redress.

For those of you who may not be familiar with the 1994 decision, the Government of Canada's decision provides that no financial compensation will be awarded to individuals or communities for historical acts and that limited federal resources should be directed towards ensuring these practices do not happen again in Canada.

So with respect to amendment G-4, the paragraph has been revised to remove obligations imposed on the Government of Canada by Parliament and to create parameters within which the negotiations may take place, and indeed it does replace subclause 2 (1) of the current bill.

Again, I have to stress that it is important to remember that there is no legal obligation on the part of the government to negotiate with groups to come to an agreement on compensation or redress for what was legal in fact at the time.

We're also replacing "the Minister of Canadian Heritage" with "the Government of Canada", as the suggested measures touch upon several federal organizations.

Reference to the Foundation of Taras Shevchenko has been added at the request of Mr. Inky Mark, as it is also one of the three signatories to the agreement in principle between the Government of Canada and the Ukrainian Canadian community, as are the other two organizations mentioned in the current bill.

• (1115)

The Chair: Thank you.

Madam Bulte, are you moving amendment G-4 then?

Hon. Sarmite Bulte: Yes, I am.

The Chair: Thank you.

Is there any debate on the amendment? No debate.

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

The Chair: I will now ask, shall clause 2 carry, and you will all vote no to be consistent with what you just voted.

Shall clause 2 carry?

(Clause 2 negated)

The Chair: Thank you.

We have another proposed new clause, which is amendment G-5. Ms. Bulte, do you wish to move this?

Hon. Sarmite Bulte: Yes, I do, Madam Chair. Thank you.

The amendment is proposed clause 2.1. This takes into account some of the measures proposed in the current bill and removes the obligations imposed on the Government of Canada by Parliament in the wording of the current bill regarding the obligation to arrange for suitable ceremonies at time of installation of each memorial plaque and at the opening of the museum. The arrangement for suitable ceremonies, the detail to be discussed during the negotiations, does not have its place in a statute.

The Chair: Is there any discussion?

[*Translation*]

Ms. Meili Faille (Vaudreuil-Soulanges): I will be abstaining.

[*English*]

I am abstaining from this vote because in Quebec we have

[*Translation*]

the Quebec Charter of Rights and Freedoms.

[*English*]

which preceded the Canadian charter and is a lot more complete, so we would like to have our charter apply. For that reason, because of the way it's written here, we will abstain from the vote.

The Chair: You haven't moved an amendment to do that.

Ms. Meili Faille: No, because there seems to be a majority of people....

The Chair: It is adopted on division then.

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

The Chair: The next amendment is amendment G-6, Ms. Bulte.

Hon. Sarmite Bulte: Yes, I'd like to propose a new clause 2.2. This is a new clause that again takes into account some of the measures proposed in the current bill and removes the obligations imposed on the Government of Canada by Parliament included in the current bill—for example, the obligation to install and maintain plaques at any of the 24 concentration camps. The idea of installing plaques is contemplated under the suggested clause 2.2. The plaques would be installed only at specific places.

Regarding the obligation that these plaques be written in Ukrainian, English, and French, the language of the plaque is a detail again to be discussed during negotiations and does not have its place in a statute. In any event, a third language would usually be at the end, after the two official languages of Canada.

Regarding the obligation to establish a permanent museum, Madam Chair, as you know, per the Speaker's ruling on the points of order on the proposed Ukrainian Canadian Restitution Act and proposed Chinese Canadian Recognition and Restitution Act, the obligation to establish a museum would render this bill a money bill and would indeed require a royal recommendation. However, the proposed amendment suggests public education measures, such as the exhibition of information concerning internment and the contribution made by persons of Ukrainian origin to the development of Canada.

• (1120)

The Chair: Thank you.

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

The Chair: The amendment is carried unanimously. Thank you.

On amendment G-7, Ms. Bulte.

I'm sorry. I'm being reminded that we have now moved to clause 3. This is an amendment to clause 3.

Hon. Sarmite Bulte: That is correct, Madam Chair.

We are replacing the current clause 3 with a new proposed clause 3. It's a new clause, which again takes into account some of the measures proposed in the current bill, and removes the obligations imposed on the Government of Canada by Parliament and included in the current bill—for example, the obligation to arrange for suitable ceremonies at the time of installation of each memorial plaque and at the opening of the museum. The arrangement for suitable ceremonies is, again, a detail to be discussed during the negotiations and does not have its place in a statute.

The notion of payment of restitution has been deleted, as the 1994 government position on historical redress provides that no financial compensation will be awarded to individuals or communities for historical acts, and that limited federal resources should be directed toward ensuring that these practices do not happen again in Canada.

The Chair: While this is presented as an amendment, it really is a substitute for clause 3 in the bill before us.

Hon. Sarmite Bulte: That's correct.

The Chair: Again, if we approve this, we can go back and not approve clause 3 in the bill.

Let's clarify that. We are basically leaving subclause 3(1) as is—

Hon. Sarmite Bulte: No, we are deleting subclauses 3(1) and 3(2) and substituting therefor new paragraphs 3(a) and 3(b).

The Chair: Ms. Davies.

Ms. Libby Davies (Vancouver East, NDP): I did want to make one point, because with the previous clause, and this one as well, we're dealing with more than amendments; we're dealing with very substantive changes to the bill. I just wanted to make the point that while I'm agreeing to it in this particular case, it doesn't mean that we

agree to it in all cases. In the next bill you'll see that I will have objections to that.

I just wanted to put that on the record. In this case, we're okay with the substantive changes, but it doesn't mean that you're always okay with it. I just wanted to put that out there.

The Chair: Thank you very much, Ms. Davies.

Madam Oda, and then Madam Faille.

Ms. Bev Oda (Durham, CPC): I just have one question, more for clarification.

It seems to me that the amendments introduced on clauses 2 and 3 in some ways—certainly in clause 3—are giving some specific possible measures that could be undertaken. I just want to make sure that does not preclude anything else that may be negotiated. If I could be assured that the wording does not limit the possible negotiated measures, as long as they're negotiated....

I think if that were the case, then under clause 3 we have the possibility of an exhibition and the preparation of related educational materials, and I'm just wondering what happens with those educational materials. It seems to me that if we could be very clear that in both of these cases.... I would suspect the negotiations would be on the distribution, etc., of educational materials.

Can I just get a clarification from Ms. Bulte?

Hon. Sarmite Bulte: If I may, I'd have you look at amendment G-9. I think that would answer your question. It's a proposed amendment to clause 5, which clearly states:

The Government of Canada and the Ukrainian Canadian Congress, the Ukrainian Canadian Civil Liberties Association and the Ukrainian Canadian Foundation of Taras Shevchenko may consider any other measure that promotes the objective described in section 2.1.

• (1125)

Ms. Bev Oda: Thank you.

The Chair: Ms. Faille.

[*Translation*]

Ms. Meili Faille: I have exactly the same concerns. The government's ninth amendment, which refers to proposed clause 2.1, does not refer to clause 3. Proposed clause 3 says the measures "may also include". I would not like it to be limited to that, as additional measures could be negotiated. I just want to be sure I understand the intent of the amendment.

The Chair: Perhaps I could refer you to amendment G-9, that Ms. Bulte just discussed:

5. The Government of Canada and the Ukrainian Canadian Congress, the Ukrainian Canadian Civil Liberties Association and the Ukrainian Canadian Foundation of Taras Shevchenko may consider any other measure that promotes the objective described in section 2.1.

Ms. Meili Faille: I see. That reassures me to hear you say that it is not restrictive.

The Chair : Exactly.

Ms. Meili Faille: Do you share that opinion?

[English]

Hon. Sarmite Bulte: That is correct.

[Translation]

Ms. Meili Faille: Very well. Thank you.

[English]

The Chair: Shall the amendment carry?

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

The Chair: Shall clause 3, as amended, carry?

(Clause 3 as amended agreed to)

(On clause 4—*Commemorative postage stamps*)

The Chair: We come now to clause 4, and amendment G-8.

Hon. Sarmite Bulte: I would like to propose government amendment G-8. It changes slightly the current clause 4.

We replace “The Minister of National Revenue shall” with

The Government of Canada and the Ukrainian Canadian Congress, the Ukrainian Canadian Civil Liberties Association and the Ukrainian Canadian Foundation of Taras Shevchenko may request the Canada Post Corporation to issue a commemorative stamp or set of stamps.

The Chair: Is there any discussion?

(Amendment agreed to)

The Chair: Shall clause 4 as amended carry?

(Clause 4 as amended agreed to) [See *Minutes of Proceedings*]

The Chair: Amendment G-9 proposes a new clause. It is not actually connected with clause 5, which would normally be the next clause we'd be considering, so we will deal with this as a new clause to be added after clause 5 is decided.

Is that satisfactory to the committee?

(On clause 5—*Review of Emergencies Act*)

The Chair: Ms. Bulte, on amendment G-9.

Hon. Sarmite Bulte: We are proposing to amend the bill by deleting the current clause 5, which deals with the Emergencies Act. The Emergencies Act preamble states that

...the Governor in Council, in taking such special temporary measures, would be subject to the Canadian Charter of Rights and Freedoms and the Canadian Bill of Rights and must have regard to the International Covenant on Civil and Political Rights, particularly with respect to those fundamental rights that are not to be limited or abridged even in a national emergency

Consequently, it is our position that in light of the current Emergencies Act, no such review needs to be undertaken.

We have substituted a new clause that allows for other measures that have yet to be determined or cannot be listed under a statute.

So we're deleting clause 5 and putting in a new clause 5.

The Chair: Madam Davies.

Ms. Libby Davies: I don't have a problem with the new clause, but I do have a problem with the deletion of the existing clause 5. I feel that on both of these bills there's been a real attempt to strip things away. I frankly don't see the problem, because of the historical significance of what took place, with making it clear in this bill that

there will be a review of the Emergencies Act with a report to Parliament to make sure the kind of unjust treatment that took place never happens again.

Why would we take it out here? We're being told by Madam Bulte that it already exists in that legislation. Fine; then let's reinforce it. Let's keep it in this bill. I can't see that it would detract from anything. If anything, it strengthens the resolve of what we're saying here, that we don't want this ever to be repeated again.

So I would argue that it should stay in.

• (1130)

The Chair: Maybe in fact we should go back and deal with whether we want to keep clause 5 in or not. It was my thinking that the committee might prefer to deal with what is essentially a substitute clause 5, a new clause 5, before doing that. We can adopt this and then we still have to deal with clause 5.

Ms. Libby Davies: That's fine.

The Chair: Okay.

On the amendment—as a new clause, not an amendment to clause 5—

Ms. Libby Davies: Which is G-9?

The Chair: Yes, G-9.

Does the amendment carry?

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

The Chair: Now on clause 5 itself, shall clause 5 carry?

Is there discussion?

Ms. Libby Davies: Is it clause 5 as you've now amended it? That's the proper—

The Chair: It's clause 5 as in the bill. We've essentially added a new clause rather than an amendment to clause 5.

Ms. Bulte.

Hon. Sarmite Bulte: Can I speak to the deletion of clause 5?

Section 4 of the Emergencies Act states, for those of you who don't know, that:

Nothing in this Act shall be construed or applied so as to confer on the Governor in Council the power to make orders or regulations

(a) altering the provisions of this Act; or

(b) providing for the detention, imprisonment or internment of Canadian citizens or permanent residents within the meaning of subsection 2(1) of the Immigration and Refugee Protection Act on the basis of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Consequently, it is our position that it is not necessary to include the clause 5 which we are proposing to delete.

The Chair: Can I understand? What you're saying is that the act already provides that you cannot intern people—

Hon. Sarmite Bulte: Correct.

The Chair: —on the same basis as people have been interned in the past.

Hon. Sarmite Bulte: Correct.

The Chair: Thank you.

Is there any other discussion on clause 5?

The motion, then, is shall clause 5 carry?

(Clause 5 negated) [See *Minutes of Proceedings*]

The Chair: Now, amendment G-10 is again a new clause.

Madam Bulte.

Hon. Sarmite Bulte: Thank you, Madam Chair.

We are proposing adding a new clause 6. It is an interpretation clause that has been added to ensure that this act does not provide a basis for any claim against Her Majesty. It reads, as people can see:

Negotiations undertaken pursuant to section 2 shall not be interpreted as constituting an admission by Her Majesty in right of Canada of the existence of any legal obligation of Her Majesty in right of Canada to any person.

The Chair: Is there any discussion?

Madam Davies.

Ms. Libby Davies: I'd like to actually ask the officials something about the legal ramifications of this particular clause. My understanding is that this is put in here to protect the government from any future legal claim or liability or anything.

What would happen if this clause were not included? Presumably, the government of the day, if something came forward, would consider whatever came forward and would make a decision on that basis. I just would like to know what the implications are of not having this kind of clause—not necessarily from the government's point of view, but from a broader public interest point of view of members of the community who have brought this issue forward.

Mr. Michel Francoeur (General Counsel and Director, Legal Services, Department of Canadian Heritage): Essentially, the answer is the following. The position of the Government of Canada is that in the current state of the law, the Crown does not have any liability with regard to measures taken during the First World War, in this particular case, with members of the Ukrainian community. However, this bill, if it is adopted by Parliament, creates a new duty, a duty to negotiate, which doesn't exist right now. There's no duty as we speak for the Government of Canada to negotiate with any community regarding measures taken during the two wars.

Because of this new duty, which doesn't exist at this time, because this statute creates a new legal duty to negotiate, it's important for the Crown to specify that this new duty imposed by Parliament on the government should not in any way be interpreted as an admission by Her Majesty, by the Crown, of any legal obligation over and above the duty to negotiate.

That's the reason the government is of the view that this clause is important, because this statute changes the state of the law. It creates a duty that does not exist at this point in Canadian law. Thus, it's fundamental to make it clear for all readers of this bill, if it is enacted by Parliament, that the only duty created is that to negotiate. No

other duty, no other liability, no other legal duties flow from this new duty to negotiate.

• (1135)

Ms. Libby Davies: So presumably, if this clause were not agreed to or if it were defeated, that would still be an open question. It would mean that an individual or an organization could come forward with a claim at a future date that would be dealt with at that time. This basically closes off that possibility.

Mr. Michel Francoeur: That's right.

Ms. Libby Davies: I have some concerns about that. Obviously, there are organizations that have worked very hard within the Canadian Ukrainian community, but it's hard to know what may happen in the future, in terms of claims we're not aware of. They would now be precluded from coming forward on the basis of this particular clause.

Am I correct?

Mr. Michel Francoeur: They'd be precluded from making an argument on the basis of this duty to negotiate. This clause talks about the negotiation, and the duty to negotiate, but it doesn't talk about other arguments that communities may make.

As we know, some arguments have been made in courts of law—for example, by an individual of German origin, in the Mayrhofer case, before the Federal Court. There was another case more recently by an individual of Chinese origin, on the basis of the head tax. They took the case all the way to the Ontario Court of Appeal. We now have a case, Giacomelli, where a person of Italian origin detained during one of the two wars is taking the Government of Canada to court. In the three cases, legal arguments of a different variety were made by counsel for these organizations, for these individuals.

Now, in each case the Attorney General of Canada, on behalf of the Government of Canada, disagreed with the arguments made, on the basis that what was done during the two wars—under the War Measures Act in the case of the Germans and Italians, and under a variety of immigration acts in the case of the Chinese—was perfectly legal.

My point is that this clause will preclude anyone from going to court on the basis of an illegal duty that some would see as flowing from the negotiations, or flowing from this duty to negotiate. But it's not precluding them from making other arguments, which have already been made in court—Mayrhofer in the German case, Mack in the Chinese case, and now Giacomelli in the Italian case. This clause will not preclude members of communities affected to make other arguments—

Ms. Libby Davies: On other situations.

• (1140)

Mr. Michel Francoeur: Exactly.

Ms. Libby Davies: No, I understand that, but let's say in ten years a new organization formed in the Ukrainian Canadian community. If, based on new information—and I don't know this, I'm just hypothesizing—they came forward and said, “You know what? We just found this out, and we want to make a claim against the Government of Canada on the basis of the internment of Ukrainian Canadians”, they would be precluded from doing that because of this clause. Is that correct?

Mr. Michel Francoeur: They'd be precluded from arguing or making a legal argument that flows from this statute. They could bring other arguments, be creative in bringing other legal arguments, but not arguments that would flow from this piece of legislation, not arguments that would flow from the negotiations undertaken by the government or by this legal duty, this statutory duty, of the government to negotiate.

For example, in the Mack case—

Ms. Libby Davies: Perhaps we could just stick to Ukrainian Canadians.

Mr. Michel Francoeur: Okay. I'm just trying to use analogies to demonstrate that this clause does not preclude the making or the presenting of other legal arguments that are not related to this statute, that are not related to a duty to negotiate, or negotiations undertaken. They may be related to the charter, they may be related to international instruments, they may be related to how the War Measures Act was actually applied—but they have nothing to do with this statute. Even when this statute has the force of law, the only thing the clause says is that no legal liability or no legal obligations flow from this particular statute and the duties it creates in terms of negotiations between the Government of Canada and the Ukrainian organizations.

Ms. Libby Davies: Okay, thanks. I think that's a very important distinction.

Mr. Michel Francoeur: It's a good question.

The Chair: Mr. Silva, Ms. Oda, and then Ms. Faille.

Mr. Mario Silva (Davenport, Lib.): Thank you, Madam Chair.

I first would like to say that we should support this recommendation, given the fact that in the negotiations with our parliamentary secretary she mentioned that the clause does have the unanimous support of all the other organizations.

In fairness to the question raised by Ms. Davies, the reality is that nobody is going to be precluded in any way, shape, or form. Even if this law particularly binds the government, there's nothing stopping the government in ten years from just saying, “We want to change the legislation”, and bringing that forward. If new facts were found and there were valid arguments being made, it's up to the government of that day to decide whether they in fact would like to stick to the letter of the law as it is now or bring amendments forward.

So changes can happen in the future. It's not binding forever. There's no such thing as forever in politics. Things can change.

Mr. Michel Francoeur: I can add to that very rapidly. Parliament is sovereign. We're dealing here with a statute of Parliament; this is not part of the Constitution. Parliament can amend bills and can

amend laws as it wishes, as long as it complies of course with constitutional parameters. So I would agree.

The Chair: Thank you very much.

Ms. Oda and then Ms. Faille.

Ms. Bev Oda: I just want a clarification, because I understand it's the act of negotiating as outlined in clause 2 as amended that we're talking about being used as an argument. Am I understanding what you've just said?

Mr. Michel Francoeur: Yes.

Ms. Bev Oda: So amended clause 2 would be the opening paragraph, which says that we'll undertake negotiations toward an agreement concerning measures that may be taken to recognize the internment.

Mr. Michel Francoeur: Yes.

Ms. Bev Oda: And then clause 2.1, as amended, is referencing the measures themselves, not necessarily the act of negotiations.

Mr. Michel Francoeur: Yes.

Ms. Bev Oda: I just wanted to make sure I understood it.

Thank you.

The Chair: Ms. Faille.

[*Translation*]

Ms. Meili Faille: In fact, what I wanted to know does not necessarily relate to this bill; rather it relates generally to this type of clause.

In the hypothetical case of Canada being censured by the international community for its involvement, would having this clause in the bill in any way delay government action to redress the wrongs or provide compensation for whatever it is accused of doing? Would this limit Canada's intervention? And would the way to correct this problem be to introduce a new bill, with all the steps that this would entail, providing that the government would be free in such a case to go forward and offer compensation? I simply want to understand the international impact of this clause.

• (1145)

Mr. Michel Francoeur: In fact, both internationally and here in Canada — under what is called the domestic law or “*droit interne*” in French — the impact as per the wording of this clause would be that no legal obligation or liability flows from the negotiations that may occur.

However, the government has the prerogative to take action if, for policy reasons, it decides that it is appropriate to provide monetary compensation to certain individuals because the circumstances are such that it believes it to be appropriate to do this for a given community.

In some cases, these are called *ex gratia* payments — in other words, payments made by the government when it in fact has no legal obligation to make such payment to an individual or a group, but where the government, in spite of there being no legal obligation, decides that it's appropriate to do so. In other words, this clause would not prevent the current or any future government from taking steps which are not provided for here.

Ms. Meili Faille: I see.

So, this bill simply states that the government is not including any form of financial compensation.

Mr. Michel Francoeur: The proposed amendments to the bill are clear — namely that the bill creates no obligation on the part of the government to provide financial compensation, either to individuals or groups.

Ms. Meili Faille: I understand, but since it isn't mentioned in the bill, basically this clause limits the bill to negotiations dealing with promotion of the historical facts, and things like

Mr. Michel Francoeur:

... commemorative plaques...

Ms. Meili Faille: ... commemorative plaques or the recognition that racist or discriminatory events occurred. It would be limited to that.

Mr. Michel Francoeur: Yes. The government's current policy is not to provide financial compensation. However, nothing would prevent the government, at some point in time, from changing that policy. However, that does not mean its legal obligations would change in any way.

In other areas, the government has responsibilities and legal obligations that it must meet. In many areas, however, the government is free to decide to go beyond its actual obligations and specific liability, because it may feel it is appropriate and fitting to do so from a policy standpoint.

Thus the bill does not prevent the government from taking measures other than those referred to in the bill. What is very clear, however, is that the bill does not require the government to do anything.

Ms. Meili Faille: I understand. Consistent with its mandate to negotiate, it is under no obligation whatsoever. However, in the course of the negotiations, if it deems it appropriate to do so, the government may offer financial compensation.

Mr. Michel Francoeur: Well...

Ms. Meili Faille: By means of *ex gratia* payments.

Mr. Michel Francoeur: The legislation does not, strictly speaking, prevent that from happening.

Ms. Meili Faille: Right. So it does have some flexibility.

Mr. Michel Francoeur: It is purely discretionary.

[*English*]

The Chair: Merci, Madame Faille.

If I can put this very simply, Mr. Francoeur, what I understand is that the purpose of this amendment is not to diminish in any way any rights that somebody has now, or might have in the future, under Canadian law. It's simply to make sure this law doesn't create any new rights.

Mr. Michel Francoeur: It does not create new legal obligations or liabilities or legal duties for the Crown.

The Chair: Thank you.

On the amendment, then, Madame Faille.

[*Translation*]

Ms. Meili Faille: The point of my comments was not that this group should be given additional rights. I simply want to ensure that the government would have the discretion or flexibility to improve its offer during the negotiations, and that it couldn't rely on this bill to limit the scope of those negotiations if it decided that was appropriate from a political standpoint. This is really a political decision.

• (1150)

[*English*]

The Chair: Merci.

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

The Chair: We go back to working backwards through the first three. We start with G-3, and that has to do with the short title of the bill.

Madam Bulte.

Hon. Sarmite Bulte: address I would like to propose an amendment to the short title by replacing “restitution” with “recognition” to incorporate the suggested change from Mr. Mark. The change also reflects the proposed amendments to the title of the act.

The Chair: May I point out that we're dealing with clause 1 of the bill.

Hon. Sarmite Bulte: I'm sorry. I thought you said G-3.

The Chair: Yes, you're right. My apologies.

Hon. Sarmite Bulte: Which is clause 1

The Chair: It is clause 1, yes. “This Act may be cited as...”

Hon. Sarmite Bulte: “...the Internment of Persons of Ukrainian Origin Recognition Act.”

The Chair: Thank you very much.

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

The Chair: Shall clause 1 carry as amended?

(Clause 1 as amended agreed to)

The Chair: Now we go to the preamble, and that is amendment G-2.

Madam Bulte.

Hon. Sarmite Bulte: Thank you very much, Madam Chair.

There are a number of proposed amendments in the preamble, as set out in government amendment G-2. The expression “without just cause” should not be used as past legislation. The War Measures Act allowed these actions to take place and is not reflected in the proposed amendment.

We would replace “imprisoned” with “interned”, as the word “imprisoned” is not used in the War Measures Act.

We would replace the “idea of regrets” of paragraph 2.1(a) of the current bill with an expression of “deep sorrow”. In the government's view, an expression of deep sorrow, which does not entail a particular role of the government, would be more appropriate than an expression of regrets and excuses in the French version, which are more subjective, since they do entail a role of the government that could potentially be read as an admission of liability.

We'd also replace “present day Canadians” by “Parliament”. It would be more accurate to say that the expression of deep sorrow comes from “Parliament” instead of “present day Canadians”.

We would replace “it is beyond time that public recognition be made of this injustice” with the words “Parliament acknowledges that these events are deserving of recognition”.

The fact that both Houses of Parliament would dictate to the government that it is beyond time to provide for appropriate commemoration would limit considerably the royal prerogative given to the Crown to decide how and when measures such as *ex gratia* payments in the form of commemoration are given.

Note also that a general acknowledgement was provided in the 1994 Government of Canada position on historical redress read in the House by the Honourable Sheila Finestone, then Secretary of State for Multiculturalism and Status of Women. I quote:

In the crisis atmosphere of war, some Canadian ethnocultural communities found their loyalty questioned, their freedom restrained and their lives disrupted. ... As Canadians we are proud that our citizens trace their origins to every part of the world. Together we have built this country on the principles of fairness, generosity and compassion. ... We honour the contribution of all those communities whose members, often in the face of hardship, persevered in building our country.

The Chair: Thank you.

Is there any discussion on that amendment to the preamble?

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

The Chair: Shall the preamble carry as amended?

(Preamble as amended agreed to)

The Chair: Thank you.

Now to the title and back to amendment G-1. Ms. Bulte, please.

Hon. Sarmite Bulte: We are proposing a number of amendments with respect to the title. We are replacing the current title to again reflect the 1994 Government of Canada position on historical redress. The two expressions “education” and “the promotion of tolerance” should not be included in the title and are addressed, indeed, in the proposed amendments to the preamble, which state that:

Parliament acknowledges that those events are deserving of recognition through public education and the promotion of the shared values of multiculturalism, inclusion and mutual respect.

Similarly, Madam Chair, the term “restitution” is not used in the proposed amendments, as this suggests compensation, which is not in line with the 1994 position.

We're also replacing the word “recognize” with “acknowledge”. And again, Madam Chair and members of the committee, this is consistent with the royal proclamation on the Acadian declaration.

We are replacing the word “descent” with the word “origin”. The word “descent” usually refers to a person who has inherited something from a parent. So a person of Ukrainian descent would be a second-generation Canadian born of Ukrainian parents and not a person who emigrated from the Ukraine.

We're adding the word “Canada” for clarification purposes and we're replacing “public commemoration” with the word “recognition” to incorporate a suggested change by Mr. Mark himself.

● (1155)

[*Translation*]

The Chair: Ms. Faille.

Ms. Meili Faille: The tone of this title is a concern to me. By changing the title, we are minimizing the event. It talks about providing “for recognition of this event” but does not state that this constituted discrimination. In my opinion, the title has been watered down too much.

Would it be possible for the Committee to come up with a title that more accurately reflects the events that occurred?

[*English*]

The Chair: Further discussion, Madam Bulte.

Hon. Sarmite Bulte: Madam Chair, through you, for the purposes of clarification, when the internment took place it was legal at that time. The law allowed for that internment. So saying it was discretionary.... It wasn't discretionary at that time. It was quite legal under the current law at that time. Again, it's not a question of liability we're using; this is simply the title that puts together the fact that we are looking at the internment that happened and then setting out the objectives of how to deal with that internment.

[*Translation*]

The Chair: Mr. Kotto.

Mr. Maka Kotto (Saint-Lambert, BQ): That does not mean we can't question the spirit of that legislation, which was discriminatory. Apartheid was imposed across South Africa by means of legislation. And in the United States, again it was legislation that imposed it. The political scope of what we are dealing with is such that we should recognize this discrimination. I believe that is what Ms. Faille was getting at.

[*English*]

Hon. Sarmite Bulte: Through you, Madam Chair, I think, again, if we look at the preamble and if we look at the purpose of the bill and the objectives in this bill, it's all set out in the bill. The bill is not just simply referenced by the title itself. We've gone through the substantive parts of the bill, and I think they are, through the preamble, recognizing what has happened and also recognizing what the objectives should be to deal with what has happened in the past.

The Chair: Ms. Bulte, I also refer other members to amendment G-5, which we have just carried. I think, also, the measures in this bill have as their objective a better public understanding of the consequences of ethnic, religious, or racial intolerance and discrimination, and the important role of the Canadian Charter of Rights and Freedoms. We know our slight disagreement on that.

Ms. Davies.

Ms. Libby Davies: I would just like to add to the comments of the colleagues from the Bloc, because I think what's really of concern is this. What's going on here is it's being stripped down to the lowest common denominator. All of the language, in both of the bills, words around "injustice", "disenfranchise", "dispossess", "discrimination"—they've all gone, right? I think this is why there's a really unsettled feeling that somehow you're going to have a one-size-fits-all, so you take this stripped-down language, you bring it down to the most common level you can and you just slap it on.

In this case, the organizations are in agreement with it. At the last committee meeting I went up to them specifically and asked, are you okay with this? Because it's their community. They are okay with it, and I think, okay, fine, if they're all right with it then so be it. I think that's why you're getting some of these comments, because the bill as it was does not exist, really. It's gone, and we've got these very generic....

Of course we're in favour of a better public understanding of the consequences of ethnic, religious, and racial intolerance, but somehow the spirit has gone of focusing on what happened to these individuals at that time...and our saying today, it was unjust and it was wrong. So I think that's why maybe there's a difference of opinion here.

• (1200)

The Chair: Ms. Faille.

[Translation]

Ms. Meili Faille: In the community where I grew up, I lived alongside people from the Ukrainian community. As Ms. Davies said, I would not like this bill to reflect the lowest common denominator in terms of the impact of what occurred. When they came to this country, we welcomed them. They went through every step of the process. When they came to Canada, they wanted to make a positive contribution to our society and to Quebec. And they did in fact make a remarkable contribution to the development of Canada and Quebec; so, I would not like to see this bill minimize their contribution through the government's refusal to recognize what occurred back then.

As Maka Kotto was saying, the fact that it was legal changes absolutely nothing. We have only to think of the boat people in Victoria, British Columbia, and everything we have heard about the treatment they received. The fact that the government was acting legally doesn't excuse its actions. I realize the government had to have a legal framework in which to take this action at the time. However, many years after the fact, we should not be minimizing the impact of what occurred.

The community does not seem to be opposed and is anxious to resolve this matter as quickly as possible, but I still find it regrettable that there is this desire to minimize what happened in the past. I don't

think that was the community's understanding at the time that it agreed to this legislation. However, because the clause limits the future scope of the bill, I think it is appropriate to recognize that we are at the same time minimizing the impact of the events that occurred and bringing them down to the lowest common denominator.

The Chair: Unfortunately, Ms. Faille, G-1 is the only amendment we have.

Ms. Oda.

[English]

Ms. Bev Oda: I just want to make sure there is an understanding here. To me, this does not necessarily foreclose, as the legal expertise has advised us, the community from pursuing any other avenues that it may choose in the future. It's a fact that this is a step forward. There's recognition now, and it's being made in a positive way, that the degree of hardship brought on the families, the degree of displacement, etc., can be negotiated very well with the government by the communities on appropriate measures they feel should be taken. Consequently, I don't necessarily agree that the bill, which is a piece of legislation, has to make the emotional statements in the legislation itself. Certainly the communities that are willing to support this will demand full measures that reflect the degree of impact the communities feel the actions have had on their communities.

Consequently, I don't see that the way the amendment is being put forward—any of these amendments—necessarily takes away from recognizing the full extent of the impact on this community or their families, etc. They just want to make sure.... That's my understanding of it, and that's why I would support the amendment as proposed.

The Chair: Thank you, Madam Oda.

Madam Bulte, can we wrap up the discussion?

Hon. Sarmite Bulte: Thank you very much, Madam Chair.

I just want to make clear for the record that at no point do I condone what happened, whether it was legal or not. What is important to know here is that this community has been working for 20 years to try to get this recognition. What we have here is an example of listening to that community and accepting the hardship in which they were placed. Nobody is minimizing anything whatsoever here. It is a huge tribute to the community that if government didn't feel that injustice had been done, it wouldn't have proceeded at this point.

To say that it's minimalist is totally unfair. In fact, we should see it as an example of community working with government to address important issues that are outstanding to that community, a community that has been integral to the building of this country.

• (1205)

The Chair: Thank you, Ms. Bulte.

Are you ready for the question then? Shall the amendment to the title carry?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: There is one opposed and two abstentions. It is on division then.

Shall the title as amended carry?

Some hon. members: Agreed.

The Chair: Shall the bill, as amended, carry?

Some hon. members: Agreed.

The Chair: That is unanimous.

Shall I report the bill to the House?

Some hon. members: Agreed.

The Chair: Thank you.

Shall the committee order a reprint of the bill?

Some hon. members: Agreed.

The Chair: Thank you. I would love to see a copy myself.

Thank you very much.

We have two minutes for pit stops and coffee, and then we'll move on to Bill C-333.

• (1205) _____ (Pause) _____

• (1210)

The Chair: We'll come back to order on our consideration of Bill C-333, currently called an act to recognize the injustices done to Chinese immigrants by head taxes and exclusion legislation.

We have comparable amendments to what we dealt with on the Ukrainian bill. We've left less than half our meeting to deal with one that may be a little more complex because we do have now amendments from Ms. Davies. So perhaps we could focus on those things that are new, and if possible, avoid a re-discussion of the same fundamental issues that we discussed in terms of the other bill. This is just a suggestion, of course. It's up to the committee entirely.

Pursuant to Standing Order 75.(1), consideration of the preamble in clause 1 is postponed. Therefore we are also postponing G-1, G-2, and G-3 amendments. We'll come back to those after we have finished a review of each of the clauses.

The first amendment is a proposal by Ms. Davies. Do all members of the committee have that? That's page 5. It's an interpretation clause related to later subamendments. What I would recommend is that the committee stand the amendment until we've dealt with the other substantive amendments, because this really has to do with a definition that reflects what's further on in the bill.

Could we deal with the substance in other amendments and then come back and help with the other amendments there?

Ms. Libby Davies: Yes. We have some subamendments, NDP-5, NDP-7, and NDP-8. If those were carried, then the legislative branch has suggested that we would need this amendment in new clause 1.1 to close the loop in terms of what's referred to in NDP-5, NDP-7, and NDP-8.

The Chair: Can I assume that Ms. Davies is moving to stand her amendment NDP-1, and we will come back to it as we deal with the others from which this arises?

Some hon. members: Agreed.

• (1215)

Mr. Mario Silva: My apologies, Madam Chair. What motion are we dealing with?

The Chair: NDP-1 is in your package at page 5. You have this package of amendments, with G-1 at the top. We've just agreed to stand that until we deal with other NDP motions throughout the bill.

So we move on now to G-4, which is on page 6 of your package. This is again a new clause. It's unrelated to clause 2. So I would propose that we consider G-4 as a new clause, and then presumably if we adopted that we would then not adopt clause 2 in the bill as it stands. It's the same process we followed for Bill C-331.

Ms. Bulte.

Hon. Sarmite Bulte: Yes, thank you very much, Madam Chair.

You're correct that government amendment G-4 in fact does delete the current clause 2 of the current bill and replaces it with a new clause 2. It removes obligations imposed on the Government of Canada by Parliament and creates parameters within which the negotiations may take place—to wit, the contribution of immigrants of Chinese origin is acknowledged in the preamble.

Now, the discussions for this agreement would involve the National Congress of Chinese Canadians. I think it is important to underline that there is another Chinese community organization, called the Chinese Canadian National Council. The Chinese Canadian National Council supported the Mack decision, and still asks for individual financial compensation. This means that even if an agreement is negotiated with the National Congress of Chinese Canadians, the Chinese Canadian National Council may still ask the government for individual financial compensation.

The Chair: Thank you.

We have a subamendment to this amendment, in the name of Ms. Davies, and that is on page 7 of your package of amendments.

Ms. Davies, would you like to present this subamendment?

Ms. Libby Davies: Is that subamendment 2?

The Chair: Subamendment 1.

Ms. Libby Davies: In this subamendment, we want to add in “the Chinese National Council and other representative groups”. I think it's very unfortunate this bill has become so limited that basically it singles out one organization. I think we heard very clearly at the committee last week that there are different perspectives in the community. For us not to recognize and reflect on that and ensure this is reflected in the bill would be very unfortunate. At least we should be ensuring that all parts of the community are represented here. To narrow it down to the one organization—and it's a legitimate organization—cuts out other organizations. I don't accept that, and I think it would be most unfortunate if this happened.

From that point of view, I would hope the committee would agree to add in this one other organization specifically. In fact, there are other representative groups. We've heard from some of them, but not all. I think it's keeping the door open; it's a broader process. What we're interested in here is trying to find whether or not a reasonable solution and negotiation can take place. To cut people out is not helpful to that process.

The Chair: Thank you very much.

Madame Oda.

Ms. Bev Oda: As we all know, Mr. Mark has been working on this for a number of years, and the communities themselves have been working on this for a decade. Mr. Mark's advice to me, which I would support, is that this does not necessarily preclude any other action—as we've discussed with the other bill. We've been told there are some court cases under way, etc., relating to the different positions different parts of the community may take.

Mr. Mark has suggested this is the organization that's willing to move forward, at least on a recognition basis, concerning the educational and similar measures he believes would be appreciated by the community. Consequently, he and I are very concerned that if we follow Ms. Davies' suggested amendment, nothing will happen. It now would have an act there that says the government would negotiate, but then cannot get the groups to come to consensus within themselves. Nothing will happen, as has nothing happened in the past decade. Consequently, in order to move this bill forward at least on recognition—and particularly of importance to me are the educational measures, the public awareness measures, etc.—the longer that part is not moved forward, nobody benefits.

• (1220)

The Chair: If I may, I think all members of the committee have received an e-mail from Mr. Mark on this very issue. It is Ms. Oda's bill, and it's worth reminding people that these are private members' bills, not government bills. For that reason, the views of the proponents of the bill on these matters are extremely important. Mr. Mark has supported to us the position Ms. Oda has just expressed.

Is there any other further discussion?

Ms. Davies.

Ms. Libby Davies: I would point out that in the bill we just dealt with, Bill C-331, dealing with Ukrainian Canadians and what happened there, there didn't seem to be a problem—both from the Conservative member and others—recognizing there may be other groups that come forward and wouldn't be precluded. Why is it okay in that instance, yet in this instance we're categorically and

consciously ruling out an organization that has been very involved in this issue, and in fact represented head-tax payers? I find it absolutely astounding we would consciously delete one organization and other possible representatives. It does not make sense to me.

This is a very political stance that's being taken here. In terms of how this will be looked at in future years, I think people will wonder why on earth members of Parliament decided to do it in this fashion. I have real problems with other members who say they can't support this amendment.

The Chair: Ms. Bulte, Ms. Oda, and then Mr. Silva.

Hon. Sarmite Bulte: Madam Chair, to reply to Ms. Davies' last comment, three Ukrainian communities were included because they were indeed united, and they also signed the memorandum of agreement in the first place. There's no division among them.

To again remind you, the Government of Canada's decision in 1994 on historical redress provides that no financial compensation would be awarded to individuals or communities for historical acts and that limited federal resources should be directed towards ensuring these practices never happen again in Canada.

The difference, as Ms. Davies well knows, is that the council is indeed calling for financial compensation and an apology. There's an unwillingness to compromise on their part. That's why, if we put them in, we would never have an agreement.

As I said when I introduced the amendment, if there is an agreement negotiated with the congress, the council may still ask the government for individual financial compensation. It doesn't preclude it. We are in fact going to move forward and will still be in line with the 1994 policy.

The Chair: Mr. Silva.

Mr. Mario Silva: I think that we need to move forward and recognize there was a very tragic event that happened in our history.

A lot of work has been done by members of the House to move this legislation forward. We could debate ad nauseam to get the perfect bill, but we're not going to get the perfect bill. The community is also not always going to agree on the best way to move forward on this.

I think that we have a responsibility. For some, we're not going far enough. Maybe we're not, but I think something has to be done. I think the fact that it has taken this long to even get to where we are shows how difficult this issue is to deal with.

Let's move forward, instead of waiting for that perfect legislation. It's not going to happen, and we'll never get that.

•(1225)

The Chair: Thank you, Mr. Silva.

I think we're ready for a vote on this.

Ms. Meili Faille: Ms. Chair, I'd like to make a comment.

The Chair: Ms. Faille, I'm sorry.

[*Translation*]

Ms. Meili Faille: I tried several times to make a comment. I was given the signal to wait, but then I was forgotten.

There is opposition both to this bill and to the government's position. You have selected the group asking for the least and the one prepared to accept a compromise. The Committee seems to want to take the line of least resistance. Once again, I want to emphasize that we should not be minimizing what occurred if we really want to recognize the harm that was caused, and provide compensation.

In the case of the Chinese community, decades have gone by. A number of substantial measures have been put in place. I represent a group from Quebec. I consulted the Chinese community in Quebec, and I have both the resolution from the City of Montreal as well as the support of survivors and the affected communities in Toronto and Vancouver.

Is the Government of Canada sure that the National Congress of Chinese Canadian can legitimately represent the victims? I would like to be reassured in that regard, because the community is opposed to this bill. I am in contact with survivors, and the bill doesn't discuss that at all. There were demonstrations last week. I want to be given some explanation by the department. Departmental representatives contacted me last summer to negotiate my support for this bill. At the time, I explained why I oppose it. A commitment has been made to the community to represent the victims and obtain compensation. If we water down this bill, that will not be possible. I want to be sure the Committee doesn't move in the wrong direction.

The case of the Ukrainians is different. With the Chinese community, it's a matter of restoring their honour. People felt as though they had been discriminated against, and it's only since 1947 that the communities have had the feeling that there was some redress. However, the fact remains that these events went on for several decades.

[*English*]

The Chair: Ms. Ratansi.

Ms. Yasmin Ratansi (Don Valley East, Lib.): Thank you, Madame Chair.

I think there has been some confusion here. It is a private member's bill. It is not a government bill. It has been brought forward by Mr. Inky Mark and Ms. Bev Oda. I think the consultation has taken place, and what they are looking for.... This has been a

long process. This is the first time there has been some way of moving, of recognizing it.

The redress you're addressing will make it a money bill, and we will never move forward. The Chinese themselves want to move forward. Mr. Inky Mark has done a lot of consultation. I think we cannot go around distorting the facts. The fact remains that it is a private member's bill. There has been a consultation. It's not a government bill. I believe we should vote for it.

The Chair: Thank you very much.

Ms. Oda, I ask you to be very brief. And then we'll have Ms. Davies. I think one way or the other we all want to see these bills get back to the House.

Ms. Bev Oda: I just want to be clear as far as I am concerned. An injustice is an injustice, discrimination is discrimination, and we shouldn't be weighing the degree of the thing. It's something we have to recognize that's happened historically, and I don't think we put one over the other. Consequently, the impact is different for every community—the different communities—we're discussing today.

I would suggest that because this is the only organization that is willing to work with the government under the terms being proposed in this piece of legislation, that is the rationale. Unless other groups are willing to work under the terms of the legislation as proposed, and hopefully passed, we are not going to have any progress at all.

•(1230)

The Chair: Ms. Davies, one minute please.

Ms. Libby Davies: I have just two points. First of all, yes, technically speaking this is not a government bill; it's a private member's bill. But it has been changed so radically that for all intents and purposes the outcome of this will make it, in effect, a government bill.

Anyway, that's no big deal. It's just where it's at. But to say that somehow Liberal members are not going to vote for this amendment because it's a money bill.... That's not what this amendment is about. This amendment simply says that we should be adding one other key organization and other representative groups.

I take it that if this amendment is defeated, the Liberal member who spoke is quite happy, then, that half the community doesn't count. Because that's the impact of what's being said here. It has nothing to do with whether it's a money bill. That's not what this amendment is.

As far as saying we can only name one organization because it's the only one willing to work with the government under the terms set by the government, I mean, what is that about? Is that how we do our business? This is what Ms. Oda has just said. The National Congress of Chinese Canadians is the only organization willing to work with the government under the terms, she said, that they have put out. Is that the way we do our business? Only if you agree beforehand that these are the terms do you get to participate in the process. That's not my understanding of parliamentary democracy.

I'm very disturbed about how this is turning out and how people are being cut out. I know everybody wants to send this back to the House. I know it's a big day today, but this is important too. I think we have to put this on the record in terms of what's going on here. People are being cut out, and it's not right.

The Chair: Madame Davies, I have to intervene here to make it clear that this is not a government bill. The amendments here are here with the agreement, certainly, of the movers of the motion.

Ms. Libby Davies: Yes.

The Chair: And there are four parties that will be voting on these amendments, not just one. Thank you.

Ms. Ratansi asked for a brief response.

Ms. Yasmin Ratansi: I just want to basically be very clear. The intent was to recognize injustice. That was the intent of the private member's bill. They had the intent of consulting. If we did not move forward, I guess we would never recognize the injustices done to the communities. This is a step forward.

I guess the only reason I say that redress was going to turn it into a money bill is because that was the thought process of the parliamentary secretary. I guess that's the reason we are moving forward with it.

I want to stand on record on that.

The Chair: Thank you.

Ms. Ratansi, Ms. Faille, and Ms. Oda.

I think everybody has already made up their minds, so I hope we can proceed to a vote.

Ms. Bev Oda: I just want to clarify the record. Ms. Davies alluded to the fact that I made a statement, which I want to clarify, if I can, Madam Chair.

It is not the intent, certainly, of the members here representing the opposition to just fold to whatever the government wants. We want ultimately to move forward on the recognition part. That is not to say that I put this bill forward as a private member's bill to capitulate to any position the government would take. What we are trying to do today here is find consensus so that we can move this recognition forward. As we've said, we've waited two decades, 20 years, to get something going; consequently, this is why this private member's bill is being put forward, for the recognition part.

The Chair: Thank you.

Ms. Faille, you have one minute.

[*Translation*]

Ms. Meili Faille: Is it possible to move an amendment or a sub-amendment?

The Chair: No, I'm sorry.

We have to vote on this sub-amendment before another one can be moved.

Ms. Meili Faille: I see.

I simply want to add that according to a special UN report, Canada must hold consultations with the Chinese community before

determining the compensation to be provided. This report, prepared by Mr. Doudou Diène, goes back to 2003.

At this point, the desire is to be content with a single organization which does not in fact represent the community in Quebec. When the bill was tabled, I told Mr. Mark that we were reluctant to support it because the number of people that will be consulted is too restrictive. He replied that he had not held consultations all across Canada.

Given that groups in Quebec were not consulted with respect to this bill, I think we should include the name of a representative group in Quebec, namely the Alliance de la communauté chinoise.

● (1235)

[*English*]

The Chair: May I suggest that we move to a vote? I think anything further would be redundant.

All those in favour of the subamendment of Ms. Davies please signify.

An hon. member: May we have a recorded vote?

The Chair: We may.

Mr. Clerk.

(Subamendment negatived: nays 7; yeas 3) [See *Minutes of Proceedings*]

The Chair: We have another subamendment, by Mrs. Davies, to amendment G-4; this is on page 8. It's to replace the word "imposition" by the word "impact".

Ms. Davies, would you like to speak to that?

Ms. Libby Davies: In the amendment that's being put forward by the government, I think there is a question of language. I really feel that the word "imposition" is very much a colonial term: something was "imposed". This is really what's taken place in this bill. All the descriptions about the impacts of what happened are being taken out, and it's being brought down to saying yes, we recognize that there was an imposition of these exclusionary measures. I think it's very much reflecting an attitude that belongs to that era.

What we need to be talking about is the word "impact". The reason this bill is coming forward is because of the impact, not only upon those immigrants at that time, but also upon subsequent generations. This is not something that just ended at that particular time. It had an impact, as we heard very powerfully from the witnesses last week. It had an impact on other family members who weren't allowed to come to Canada; it had an impact on children who were born here.

So I think it's a language thing. It's a small change, but I think it's an important change, to include the word "impact" as opposed to "imposition".

The Chair: Are there any further comments on that?

Ms. Bulte.

Hon. Sarmite Bulte: Thank you.

I think the wording we had proposed in government amendment 4, “imposition of exclusionary measures”, actually denotes the facts of what indeed occurred. Using words such as “impact” has the potential to denote liability for compensation, and also, I don't think we want to create a hierarchy of historical experiences. Why is one situation different from the other? I think Ms. Oda already in her previous comments echoed this.

I would be voting against the amendment. I think “imposition of exclusionary measures” reflects the historical facts at that time.

(Subamendment negatived)

● (1240)

The Chair: We're on government amendment G-4 on page 8 of your package. Discussion?

Ms. Davies.

Ms. Libby Davies: There are two points I'd like to make. First of all, amendment G-4 removes the existing clause 2. I'm opposed to amendment G-4 as it's written because it spells out the one organization only and it includes the word “imposition”, but I fail to see why we need to delete clause 2. Now, maybe we'll come to that in a separate vote, but I think clause 2 as it's written is very important because it recognizes and honours the contribution of those Chinese workers in the construction of the railways. There's no reason to knock that clause out with this new amendment G-4.

I would make that point, and in addition I have a further amendment, and that is NDP-2 on page 12. I would like to make an amendment to amendment G-4 that NDP-2, as written here on page 12, be added on to amendment G-4, that it follow amendment G-4.

The Chair: Can I ask everybody to turn to page 12 of your amended package? You will see amendment NDP-2.

Now, I will just point out—and I might ask for some advice from our officials on this—the Speaker's ruling was very clear: if the bill includes an obligation on the government, this cannot be voted on at third reading. Now, does that mean that this amendment is out of order in terms of making the bill unvotable at third reading? I think we'll maybe want to get some legal advice on that before we debate and vote on it.

My mistake. It does not need a royal recommendation because it simply suggests negotiating.

I'm sorry, Ms. Bulte, but the Speaker ruled on this with respect to the Ukrainian bill, where similar wording was used in the original bill. He ruled that this would not put it out of order.

Hon. Sarmite Bulte: Would not?

The Chair: I can't understand it, but that is the legal advice I'm getting.

Hon. Sarmite Bulte: Could we see a copy of the Speaker's ruling?

The Chair: Sure.

I'm confused, I must admit, by this.

Hon. Sarmite Bulte: Madam Chair, before she went into NDP-2, Ms. Davies asked why clause 2 is being replaced. In fact, I did say at the opening of my comments that we were deleting clause 2 and

putting in a new clause, so there was no attempt to deceive anyone or not say we were deleting it. I was clear about that. It's because it's in the preamble. If you look at the preamble, which is G-2, you'll see it incorporates that in the preamble, in the first paragraph.

Again, Madam Chair, I just wanted to clear up one thing before we moved on to another.

● (1245)

Ms. Libby Davies: Madam Chair, I don't see it in the preamble. You've changed the wording. Government amendment G-2 changes the wording. It doesn't talk about recognizing or honouring. I don't know what's the matter with clause 2 as it is. It was perfectly fine.

The Chair: I don't know that there's any more need for debate on this. I think we all know what the fundamental principles are. We are now talking about NDP-2 on page 12, which Ms. Davies has moved as a subamendment to G-4. In other words, it adds another section to the clause.

Ms. Yasmin Ratansi: Can we hear the ruling of the Speaker?

The Chair: We can if we want, but I'm not sure that's necessary, given the views of the committee as I'm aware of them. Our legal adviser here tells me that in fact the Speaker ruled that the duty to negotiate does not put us in a position of requiring a royal recommendation.

I'm wondering if we might just proceed to a vote on this. Can we just deal with the vote on this? It's because we have other business we need to deal with today as well.

Ms. Libby Davies: I'd like a recorded vote, please.

Hon. Sarmite Bulte: Madam Chair, I thought we were going clause by clause. Why are we going on to clause 4 now when we're still dealing with clause 2?

The Chair: Madam Bulte, Ms. Davies has now moved her amendment on page 12 as a subamendment to G-4. We're dealing with it as a subamendment to G-4, adding another section to the clause proposed by the government.

Does everybody understand what we're doing here?

Hon. Sarmite Bulte: Yes, but I have a number of problems with that amendment as well. It shouldn't be "The Minister of Canadian Heritage"; we talked about that. It should be the government. I have a lot of problems with that amendment as it is proposed.

Ms. Libby Davies: I'd be happy to change it to "The Government of Canada".

The Chair: I've had several requests to call the vote on the subamendment.

(Subamendment negated: nays 7; yeas 3) [See *Minutes of Proceedings*]

The Chair: We will proceed now to G-4.

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

The Chair: Now we have to go back and deal with clause 2, and we're aware that the amendment we've just carried was proposed as a substitute for clause 2. I will call the vote as we normally would.

I'm advised that it is not an amendment because it's not linked closely enough. Having dealt with this, we have now proposed a new clause for the bill. Those who supported that I presume will want to vote against the adoption of clause 2, and that's the way we'll dispose of that. That's exactly what we did in the previous bill.

(Clause 2 negated)

•(1250)

The Chair: Now we can move on to amendment G-5.

Again, I'm told that G-5 is, strictly speaking, not related to clause 3. If we wish to include G-5 as a clause in the bill, we should dispose of this, and then we should go back and dispose of clause 3. In other words, G-5 basically represents a replacement for clause 3. If we deal with G-5, we have a new clause. Those who support that, presumably, will want to go back and not adopt clause 3.

Ms. Bulte.

Hon. Sarmite Bulte: Yes, thank you, Madam Chair.

You are absolutely correct. We are proposing to delete the current clause 3 and replace it with a brand-new article. The current clause 3 of the bill as it is drafted is not in line, as I have said time and time again today, with the 1994 Government of Canada decision. An acknowledgement of the events is addressed in the preamble.

I would ask members to look at government amendment G-2. It replaces the word "apologizes" in clause 3 of the current bill by an expression of deep sorrow in the preamble, and it takes into account some of the measures proposed in the current bill. It has been revised to remove the obligations imposed on the Government of Canada by Parliament, and this approach, Madam Chair and members of the committee, is also consistent with the proposed amendments to Bill C-331.

Again, for those of you who may have forgotten, the 1994 Government of Canada decision on historical redress provides that no financial compensation be awarded to individuals or communities for historical acts. Any limited federal resources should be directed towards indeed ensuring that these practices never occur again in Canada.

The Chair: Ms. Davies.

Ms. Libby Davies: Thank you.

I think this government amendment G-5 is a very good illustration of the problems some of us have with this bill, because it will, in effect, delete the existing clause 3, which reads that the Parliament of Canada hereby acknowledges the unjust treatment of Chinese Canadians as a result of the head tax, etc., and "apologizes, on behalf of Parliament, the Government of Canada and the Canadian people of earlier times and of today, for the suffering it caused".

Basically, what the government is seeking to do here is replace that with a similar clause that we saw in the Canadian Ukrainian bill with just some very generic measures about better public understanding, the consequences of racial intolerance, etc., and the importance of the Canadian Charter of Rights and Freedoms. I don't disagree with that. That's a given—that's a given—but I think because this bill is about the head tax, it needs to talk about the injustice that happened, and we're removing that.

Now, the parliamentary secretary says that's all covered off in the preamble where we talk about deep sorrow. Well, I'll bet you if you ask most Canadians, when you feel deep sorrow about something, most people would think that you would apologize. So to take out this commentary, to take out the words that are actually giving substance to what happened here, I think is really wrong. I don't agree with it. It's bringing it down to the lowest common denominator.

Therefore, I won't be supporting G-5 and I won't be supporting the deletion of clause 3.

The Chair: Thank you.

Madame Faille, quite briefly—we've been through this discussion before.

[*Translation*]

Ms. Meili Faille: I agree with Ms. Davies: the federal government has the moral obligation to make an apology and offer compensation. I therefore urge the National Congress of Chinese Canadians, as it is the only group empowered through this bill to negotiate with the government, to request financial compensation.

[*English*]

The Chair: Merci.

Mr. Silva.

Mr. Mario Silva: Madam Chair, I think it's also important when we're relaying the message to the public that we're also honest with the public. If we ask the public, tell them what happened and ask should the government apologize, I think most people would say yes, we should apologize. But if we're also honest with the public and say that this apology would also mean compensation and liability to the government, I think other people will have different views on the issue.

So let's be honest with the public. Don't say it's a question of just apologizing. There are also implications to those apologies. If you have to lay the message in front of the public, lay the whole message in front of the public; then you'll get the response of the public. Don't just tell them half the message.

• (1255)

The Chair: Thank you, Mr. Silva.

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

The Chair: Now we return to clause 3. Presumably, if you voted against G-5 you want to vote for clause 3, and vice versa. So shall clause 3 carry?

Ms. Libby Davies: I'd like a recorded vote, please.

The Chair: Yes, a recorded vote.

(Clause 3 negatived: yeas, 3; nays 7)

The Chair: May I remind committee members it's virtually one o'clock? There are two things that we importantly have to resolve. I think we understand that we are not going to complete this bill right now. I presume the committee would like to take it up in the first half-hour of our next meeting. What we have scheduled for Thursday is a briefing on the film study, basically the work that was done during the summer, the responses that came in to our questionnaire, work that the Library of Parliament did at our request, and a number of other issues all in preparation for a round table.

Do we want to then take the first half-hour of our meeting on Thursday to complete Bill C-333—I hope it will take no more than half an hour—or to proceed with our briefing and then to—

Hon. Sarmite Bulte: Legislation always take priority, Madam Chair. I think we should proceed and take whatever time it takes; if it takes the whole time, so be it.

The Chair: Okay. Thank you. I have my instructions from the committee.

The other thing we need to resolve is the date of our round table on the film study. Ms. Bulte, you are not available on November 21. There are three of us who are available on either November 14 or 21. There are three more who are available....

May I have some direction from the committee? Ms. Bulte is absolutely not available in the evening. In fact, you have to be back in Toronto by 5:30, I think, Sam, so you wouldn't even be available for the afternoon even if we started at around three o'clock, right after question period.

Okay, what is the wish of the committee? We have myself, Mr. Kotto, and Bev Oda who are all available November 14 as well as November 21, but that would leave us with only four members of the committee.

Do it when we have a majority?

Hon. Sarmite Bulte: Do it when we have a majority. Yes, that's fine.

The Chair: The greatest number of people, okay. I haven't heard from Gord Brown. Gord, November 14 or November 21?

Mr. Gord Brown (Leeds—Grenville, CPC): I'm not available on November 14 but I am available on November 21.

The Chair: Yasmin, November 14 or 21?

Ms. Yasmin Ratansi: I think I'm available both times.

Mr. Gary Schellenberger (Perth—Wellington, CPC): I think I'm available.

The Chair: I hope to hear from you, and I'll get the majority of people then, but I'll....

Hon. Sarmite Bulte: It's not a problem—whatever works for the committee.

The Chair: Thank you.

Do we have anything that we need to resolve? Oh, Mr. Angus has asked that his motions be put off till after next week's recess. I think, Ms. Oda, you're agreeable to that as well.

Ms. Bev Oda: I would be agreeable to that.

The Chair: Thank you.

This meeting is adjourned.

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