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—
Chair

Mr. Barry Devolin

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•(1555)

[English]

The Chair (Mr. Barry Devolin (Haliburton—Kawartha Lakes—Brock, CPC)): Thanks to everyone for being here today.

Today we are going to be continuing with our clause-by-clause consideration of Bill C-21.

As I'm sure all of you will remember, back in December we started on this project. Before Christmas you were provided with a package of potential amendments that members had brought forward to the committee staff. I'll remind you that none of these amendments is actually considered to be tabled until a member does so in this committee. These are here to help us work our way through this. I only say that because today, in a couple of cases, there are two or three amendments that deal with basically the same thing, and members may actually choose not to put their amendment forward. They don't actually need to withdraw something. They just need to avoid putting it forward if they don't want us to deal with it for any reason.

As a quick rehash, the first proposed amendment, NDP-1, was withdrawn after a circuitous adventure. It had been moved by Ms. Crowder. We then moved on to NDP-2. It was put forward by Ms. Crowder but was ruled inadmissible. Then we moved on to NDP-3, which was put forward by Ms. Crowder. There was an amendment proposed to that by a government member. The amendment was defeated and subsequently the proposed amendment NDP-3 was passed in its original form.

Now, in our package, we are at Liberal-1. Liberal-1 has not been moved. In fact, it deals with the same subject matter as does NDP-3. Therefore, we do not need to consider it.

That moves us on to Liberal-2. There are several amendments left before us. The first thing I need to do on amendment Liberal-2 is deal with its admissibility.

As committee members know, the chair rules on admissibility. The chair is not obliged to provide a rationale for that decision and it is not debatable by committee members. Having said that, all committee members have the right to challenge the ruling of the chair. Whatever ruling is made, they have a right to challenge it. A vote can be taken in terms of whether to sustain the ruling of the chair or whether to overturn it.

I feel I owe committee members a couple of comments here. What I'd like to say is that on all of the amendments that have been put forward, when I have received and sought advice on admissibility, except for one, there was a unanimous opinion in terms of whether

they were admissible or not. As they come forward, I'll deal with them as I deal with them.

I will share with you that on Liberal-2 there was not unanimous opinion from legislative people in terms of whether it was admissible or not. I have wrestled with this. I have questioned those who have provided me with advice and I have read what I could. On the basis of that, I am ruling that Liberal-2 is inadmissible in that it goes beyond the scope of the bill.

I'm getting ahead of myself here. I've just been reminded by the legislative clerk that in fact before we left at Christmas, Liberal-2 was not actually formally moved. So at this point I'm a little ahead of myself.

Ms. Nancy Karetak-Lindell (Nunavut, Lib.): In that case, I'll move the amendment Liberal-2 and then you can proceed.

•(1600)

The Chair: Liberal-2 has been moved by Ms. Karetak-Lindell. The chair is ruling that it is inadmissible because it goes beyond the scope of the bill.

Ms. Nancy Karetak-Lindell: I would like to challenge your ruling then.

The Chair: Ms. Karetak-Lindell is challenging the ruling of the chair regarding the admissibility of Liberal-2.

I'm a little rusty here, but the chair's ruling has been challenged on this. I'm told this is not debatable, but that we need to move to a vote on that.

Can you help me with the wording on that?

The Clerk of the Committee (Ms. Bonnie Charron): The question is, shall the ruling of the chair be sustained?

[Ruling of the chair overturned: nays 7; yeas 4]

The Chair: The chair's ruling has been overturned on the admissibility of Liberal-2. It is back on the table for discussion and consideration.

Ms. Karetak-Lindell.

Ms. Nancy Karetak-Lindell: I want to speak very briefly to the issue. I know you say we can't debate your decision to declare it inadmissible, but I firmly believe that unless there is special consideration for traditions and customary laws, there won't be enough of an impetus on the part of the Human Rights Commission to take those into consideration.

I don't believe we are asking for too much beyond the scope. As I've argued before, we already have situations where we have preferential treatment, whether it be for disabilities, women, or visible minorities. I don't see this as being any different from those very ones that I just mentioned. I want to take it into the House of Commons for further consideration and see how the ruling would be on that in the House of Commons.

Thank you.

The Chair: Mr. Bruinooge.

Mr. Rod Bruinooge (Winnipeg South, CPC): I welcome Madam Karetak-Lindell to bring this to the speaker for further ruling. Perhaps I'll give a short commentary in relation to our government's perspective on this specific amendment.

All along we have argued, and I think correctly, that parts of this in particular will provide considerable trouble to the Canadian Human Rights Commission, especially in relation to customary laws. This wording, as I've said in December, will be a great challenge to the Canadian Human Rights Commission, and in my opinion it brings much of what section 67 was back into Bill C-21. So it is our opinion that this should not be part of the bill. However, as I have said at the subcommittee, we don't intend, as a government, to delay this bill any further. We've made our argument quite cogently, in my opinion, and we will simply end it at this point.

• (1605)

The Chair: Mr. Storseth.

Mr. Brian Storseth (Westlock—St. Paul, CPC): Thank you, Mr. Chair.

I want to ask a question of my learned colleague opposite, who challenged the ruling of the chair. I'll wait for Ms. Karetak-Lindell.

You mentioned how you feel there should be some preferential treatment and you challenged the ruling of the chair that this was beyond the scope of the bill, but you admitted in your comments that you believe this is a bit beyond the bill's scope. So you agree this is beyond the scope of the bill, but you believe it should be included within the bill anyway? Is that what your point is, Nancy?

I'm just trying to get some clarification on this.

An hon. member: Is this a question and answer session?

The Chair: No, he's free to say what he wants, and if somebody wants to respond....

Mr. Brian Storseth: I'm simply trying to give her a chance to clarify her statement.

The Chair: If there's no one else who would like to comment on this....

Ms. Nancy Karetak-Lindell: Mr. Chairman, do I need to respond to that, or do you want to leave the debate at that?

The Chair: You don't need to. You can if you like.

Ms. Nancy Karetak-Lindell: I just want to make one point, that every time we bring these arguments about collective rights, customary laws, and legal traditions, they're taken in a negative tone. I'm going to repeat that I don't believe the Conservative members should be looking at this only with a negative view that it

will revert, as Mr. Bruinooge says, to allowing discriminatory things to happen.

It could be as simple, for example, as always giving our elders preferential treatment, so that they are dealt with first, which is something you don't have in your customs. It does not have to be looked at only with a negative point of view; it could actually be a beneficial situation for the community. I want to make sure, and I know my colleagues do, that we give the opportunity to do these things.

I don't want them to look at it only from a negative point of view.

The Chair: Mr. Russell.

Mr. Todd Russell (Labrador, Lib.): Thank you, Mr. Chair.

Good afternoon, and happy new year to each and every one of you. I'm voting in favour of this particular amendment. It is, in my opinion, within the scope of the bill; it doesn't change the substance of the bill in any way, shape or form. It doesn't change the fact that we're going to repeal section 67. It is totally reflective of virtually 100% of the testimony we've heard from aboriginal leaders and individuals across the country. Therefore, I will be supporting this particular amendment.

As well, the amendment speaks to the cultural integrity of communities, the cultural uniqueness of communities, and in any law that is brought before Parliament, these types of considerations must be debated at times but also must be taken into account.

The Chair: Thank you, Mr. Russell.

Seeing no further comment, shall amendment L-2 carry?

An hon. member: A recorded vote, please.

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

(On Clause 2—*Review*)

The Chair: Amendment NDP-4 is next in our package, and it hasn't been moved yet.

Monsieur Lemay.

• (1610)

[*Translation*]

Mr. Marc Lemay (Abitibi—Témiscamingue, , BQ): Amendments NDP-2, L-3 and L-4 deal with the same thing.

[*English*]

The Chair: Sorry. I would agree that NDP-4 and Liberal-3 deal with the same thing. Liberal-4 actually deals with subclause 2(2), so it is different. But you're right that the first two do, and you could probably argue that one of the government ones does too.

[*Translation*]

Mr. Marc Lemay: So then, amendment L-4 does not deal with this point. I thought it did. I suggest that we examine amendment NDP-4. If the amendment passes, then we can set aside L-3 and L-4.

[English]

The Chair: Right. So if I can clarify, NDP-4 deals with both the first and second subclauses. Liberal-3 deals with the first and Liberal-4 deals with the second. What that means is that if we adopt NDP-4, we will not consider those other two because they would be dealing with the same thing. Having said all that, none of these has yet been moved or placed on the table. But your point is well made.

We'll go to Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis (Winnipeg North, NDP): Thank you, Mr. Chairperson.

I'd be happy to move NDP-4.

Let me first explain that I'll do my best at this committee. I'm following the good work of Jean Crowder, who couldn't be here today because, as you may know, her father passed away last week.

Shall I read the motion?

The Chair: I don't think it's necessary. I think we all have it.

Ms. Judy Wasylycia-Leis: Okay, then I'll just speak to it.

As I understand it, many of the witnesses to this committee actually expressed concern about first nations organizations having the resources to deal with human rights complaints. In that context, and in the spirit of those concerns, we have put forward a motion that tries to change the five-year period, which in the present bill is required before a review is done. We think, and I believe that many witnesses believe, that a review should happen much sooner than that. We're suggesting that it be done within 18 months. I see that the Liberal amendment is slightly different from that, but it is in the same spirit. We believe this is necessary to provide more resources to honour tribal decisions rather than having the first nations wait years for the funding they believe is their rightful due.

I so move.

The Chair: Thank you, Ms. Wasylycia-Leis. I appreciate that you're pinch-hitting today for your colleague.

If I can, I want to point something out that has been brought to my attention with regard to several of these following amendments. Thinking chronologically, at some point, if Bill C-21 is passed by Parliament and becomes law, there will be a transitional period during which it is implemented. I expect that at some point today we're going to have a discussion about how long that transitional period should be. The bill proposes six months, and there are potential amendments that would extend that to 18 or 30 or 36 months, I believe. What has been pointed out to me is that if the report back is to deal with what is happening with implementation, that report really can't be done until after the transition period. Prior to the transition period, it's not really in force.

So one of the suggestions put forward was that the period of time identified for this report should really commence at the end of the transitional period. If there's a three-year transitional period and you have an 18-month review process that starts at the beginning, the review would be completed before the act was even implemented.

So I think the committee is going to have to have a discussion about the transitional period. Once we've agreed on that... I put this on the floor for comment from committee members. I think it is

logical that the report, in terms of how it's working, can't actually be done until the act is actually implemented.

I'll go to Mr. Lemay in a minute. If the committee were to agree with me on that point, you may want to amend this with regard to however many months there would be from the point at which the transitional period is complete.

Go ahead, Monsieur Lemay.

•(1615)

[Translation]

Mr. Marc Lemay: With all due respect, Mr. Chairman, the lawyer in me disagrees.

Amendment NDP-4 proposes that within 18 months after the passage of the bill, the committee, working with the parties identified in subsection (1), undertake a review and report back on the effects of the repeal of section 67. This would not prevent the act from coming into force, even in the event of a three-year implementation delay. This would not change anything. The amendment proposes that after the act comes into force, those organizations identified by the Government of Canada meet and report back to us on the effects of repealing this provision. It calls for a report to be tabled to both Houses within 18 months.

That is what I understood and how this was interpreted. Later on, we will talk about the time frame involved. We can come back to subsection (2) later. I hope that I haven't lost anyone and that my translation is better than my legal mind.

[English]

The Chair: Monsieur Bruinooge.

Mr. Rod Bruinooge: Thank you, Mr. Chair.

I'm not a lawyer, but I am a conservative, and as such I have to disagree with everything the member from the Bloc has said, and usually—always—says; but today, anyway, for sure.

Mr. Chair, should the transition period remain as it currently stands, at six months or a year, then this will make sense. But if what has been suggested by multiple motions, including our own government's, extending the transition to 18 months...then this amendment becomes completely pointless, because there will have been no effect of the repeal to review. It will be a useless exercise of both Houses of Parliament.

I think it is important that we have a discussion in relation to transition before we pass this amendment; it would be irrational to do otherwise. If there is agreement to leave the transition period as it stands right now, then I think there is support, probably, for this amendment.

But I don't imagine that's going to be the case. Since it's likely not going to be the case, it would be irrational for us to support this amendment.

The Chair: Mr. Lemay, I listened to your explanation, but I still am not totally clear. If Bill C-21 passes, there's going to be a transitional period, which means it won't come into force for a period of time. The bill proposes six months, but we know by looking at our package that some may want it to be longer than that.

For argument's sake, let's say it's 30 months. If you had to do a review in 18 months, you could discuss what the potential impacts might be, but given that it's not in force yet, how would you actually have any impacts to study? It would seem to me that the study needs to take place after the transitional period ends.

Mr. Bruinooge, are you suggesting that maybe we should discuss the transitional period first, and then, once we've determined it, discuss this? Is that what you're saying?

• (1620)

Mr. Rod Bruinooge: That would be my suggestion, yes.

The Chair: The other option, which I had put forward, was that you could define the report period as beginning once the transitional period ends, so it could move around.

Is there anyone...?

Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: Just reviewing this material quickly, it's our understanding that the transitional period is to apply only to first nations communities and not to the federal government, and therefore it becomes more important than ever to ensure that you have a proper timeline in place to deal with complaints against the federal government, as opposed to waiting any lengthy period of time. If that is the case, then I think our concern rests and our amendment is in order.

Beyond being in order, the rationale for it makes sense and ought to be considered seriously, unless you have information otherwise suggesting that the transition period applies also to the federal government.

The Chair: Mr. Bruinooge.

Mr. Rod Bruinooge: I'd like to speak to that for a moment. The transitional period will prevent anyone from lodging a complaint, a first nations citizen or anyone living under the Indian Act. So there would not be a complaint to consider before the commission.

I don't see how this could make sense as it is currently written, unless of course we leave the transition period as it currently stands at six months. Then I think you could make an argument that after 18 months we'll have had a year to look at the bill and the transition period and how it's having an effect on the community.

So if there is a consensus amongst the opposition parties to remain at six months, then, like I said, there is government support for this motion.

Ms. Judy Wasylycia-Leis: Sorry, could I ask a question for clarification? If we accept the six-month transition period as is, you would accept changing the five years to 18 months coming into effect as of the end of the six-month transition period?

Mr. Rod Bruinooge: Yes, without question.

Ms. Judy Wasylycia-Leis: I think I'd be willing to...but only if this was something that was sent to the House, and involved the House and the Senate, and was thoroughly reviewed on that basis.

Mr. Rod Bruinooge: It doesn't sound like your vote is going to help us on this matter, because of the fact that we're outnumbered over there.

The Chair: Mr. Bruinooge, I have a speaker...

Ms. Judy Wasylycia-Leis: Could I get some clarification on that, though, if that is the case, in terms of the levels of government? Have you gotten any advice in terms of the first nations—

The Chair: I'm going to ask the analyst to very quickly specify one point, and then I'm going to move back onto my speakers' list. It is the point that Ms. Wasylycia-Leis made about whether the passage of this legislation would have an impact during the transitional period or whether there would be no impact until afterwards.

Ms. Mary Hurley (Committee Researcher): The one point I can make is that it's clear that clause 3 only applies to the decisions and actions of aboriginal authorities and not to the decisions and actions of the federal government.

My understanding of this is that it means—and I believe this is in the material that was distributed by the department—that there is no transition period for complaints under the CHRA against the federal government and against the Department of Indian Affairs.

If you read clause 3, it says, “Despite section 1, an act or omission by an aboriginal authority that was made in the exercise of powers”, etc., “shall not constitute the basis for a complaint under Part III of the *Canadian Human Rights Act* if it occurs within six months”.

So that clause applies to decisions of the aboriginal authority and not to decisions of the federal government.

• (1625)

The Chair: Monsieur Lemay.

[*Translation*]

Mr. Marc Lemay: As you will see, I am a conciliatory lawyer, Mr. Bruinooge. I am capable of keeping an open mind.

If I understand you correctly, you would like us to discuss the transitional provision and then the scheduled review and report. The longer the transitional period, the less time the committee will have to do its work. Have I understood you correctly?

If that is the case, Mr. Chairman, and if the government agrees, we will agree to discuss the transitional provision immediately, in this case, amendments G-2 or NDP-5.

[*English*]

The Chair: I will tell you, from a procedural point of view, my understanding of what Mr. Bruinooge has suggested and the process that would be required. Currently we have on the floor amendment NDP-4. What's being suggested is that we take all of the amendments regarding clause 2 and set them aside so that we can first deal with the different amendments that deal with clause 3, which is the transitional period. Once the committee has decided whether to accept the bill as is or to make an amendment to it, then subsequently we would return to discussing clause 2. I think Ms. Wasylycia-Leis makes some good points and Monsieur Lemay makes some good points, but I think it will make the discussion simpler to do it in the order that is being suggested. I think most would agree that the transitional period is a more substantive issue than the reporting issue is.

So in order to do that, I would seek, and I will seek, the unanimous consent of the committee to stand amendment NDP-4 at this point and to proceed with the amendments regarding clause 3, which is transition, and to return to these afterwards to make sure the dates work and line up.

Do I have the unanimous consent of the committee to do that?

(Amendment allowed to stand)

(On clause 3—*Indian Act*)

[*Translation*]

Mr. Marc Lemay: Mr. Chairman, we are setting aside for the moment NDP-4, L-3 and L-4. Alright? Fine then.

Let's move on now to amendments L-5, G-1, G-2 and NDP-5. Alright then, Mr. Chairman? Fine.

[*English*]

The Chair: Mr. Bruinooge.

Mr. Rod Bruinooge: I would like to move that we extend the transition period to within 18 months after the day in which amendment G-2....

The Chair: I am told that an opportunity needs to be given to the person who proposed the amendment in terms of whether they want to move it or not in the order in which they've been presented to the committee, in the order in which they appear in the bill. So within that package, amendment L-5 would be the next one we would consider if it was moved.

I also want to point out that if we were to deal with amendment L-5, that creates a line conflict with amendments G-1, G-2, and NDP-5, given that they all deal with the same issue in different ways. And if amendment L-5 is adopted, amendments G-1, G-2, and NDP-5 cannot be proceeded with.

• (1630)

Ms. Nancy Karetak-Lindell: Are you asking us then to agree to go to amendment L-5 now and go back to the other ones later?

The Chair: We've already agreed to stand the NDP motion. Now there's nothing on the floor, but the next thing that could potentially be moved is amendment L-5, given that it comes next in the bill.

Mr. Todd Russell: I move amendment L-5.

The Chair: All right. So amendment L-5 has been moved. Would the mover like to comment on amendment L-5?

Mr. Todd Russell: I think it speaks clearly for itself, Mr. Chair, and I'll be voting in favour of amendment L-5.

The Chair: Does anyone else have any views on amendment L-5?

Mr. Bruinooge.

Mr. Rod Bruinooge: I would like to put forward an amendment to L-5 to change 36 months to 18 months. I can't do that?

An hon. member: It's a friendly amendment.

The Chair: It's a subamendment. There are no friendly or unfriendly amendments; there are only subamendments.

Again, in terms of context for the discussion, as I said a minute ago, now we're dealing with L-5. If we pass L-5 it would mean that we will not deal with G-1, G-2, or NDP-5. I want to draw committee members' attention to the fact that one of the issues involved in L-5, G-1, and NDP-5 is the number of months, the length of the transitional period. The bill says six months; the amendment we are considering says 36 months, among other things.

Mr. Bruinooge is suggesting that we ought to consider 18 months, which is what G-2 would suggest.

Mr. Lemay, and then Ms. Karetak-Lindell.

[*Translation*]

Mr. Marc Lemay: Right now, Mr. Chairman, our attention is focused on L-5. There are amendments G-1, G-2 and NDP-5 to consider as well.

Mr. Bruinooge does not need to move an amendment. Amendment G-2 proposes an 18-month transitional period. Right now, we're looking at amendment L-5 which we will be putting to a vote. The outcome of the vote will settle the matter. We cannot amend amendments at this stage. They have been tabled and must be voted on. Once we do that, the issue will be resolved.

[*English*]

The Chair: Someone can propose a subamendment to one of these amendments. If the amendment passes, then we cannot revisit the same portion of the bill with another proposed amendment.

Ms. Karetak-Lindell.

Ms. Nancy Karetak-Lindell: I think you said pretty well what I was going to verify, plus by allowing us to move this motion, that means it's admissible, right?

• (1635)

The Chair: Yes.

Ms. Nancy Karetak-Lindell: I just want to make sure that's clear.

If Mr. Bruinooge is asking to make a subamendment, he has to move the motion, right? So I'm assuming that step has been taken.

So the debate now is just on the subamendment of 18 months. Since we seem to be going all over the place, I just want to make sure that's what we're dealing with.

I have to speak against the 18 months, because we have heard from so many witnesses who feel they need the 36 months to have that transition time long enough for them to make changes within their communities to deal with the changes that are going to be fundamentally more than I think we think they are. These communities have been living with this legislation or the lack of the ability to appeal for anything under the human rights code, and we have to give them the adjustment time.

All the arguments we've heard said they do not have enough resources, they do not have the capacity, that we need to give them the 36 months. We're going to stand firm with the 36 months. We will not be supporting the 18 months amendment.

The Chair: We're on the topic of the proposed subamendment, which would be to change 36 months to 18 months.

I have Mr. Albrecht and Mr. Storseth on my list.

Mr. Albrecht.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Thank you, Mr. Chair.

I certainly am in favour of this amendment to shorten the period to 18 months. We have discussed this.

Mr. Rod Bruinooge: Lengthen the period, actually.

Mr. Harold Albrecht: I'm shortening the period in this motion by supporting your motion.

We've heard from so many witnesses who are calling for this change to be made. By leaving it at 36 months, it's just lengthening the time for which first nations communities will not have the right to mount human rights challenges.

We keep hearing that we don't have adequate time and resources. The Human Rights Commission, in January 2008, in principle number 5, page 17, indicated they're not even recommending 36 months, they're saying 18 months to 30 months. If they feel they can do it in 18 months to 30 months, I think we're silly to be saying we need to give them 36 months.

I strongly support this motion. It's time for action, and 18 months is adequate, even in the eyes of the Canadian Human Rights Commission.

The Chair: Go ahead, Mr. Storseth.

Mr. Brian Storseth: Thank you very much, Mr. Chair.

I fundamentally disagree with extending this to even 18 months. It opens the government's liability up even further.

The other issue is that we've talked about this ad nauseam. First nations people need to have equal rights as soon as possible, and delaying this by 18, 20, 36, or 37 months I just feel, with all this.... It should be as soon as possible.

The Chair: Right.

Does anybody else want to comment before we...?

We'll go to Ms. Keeper.

Ms. Tina Keeper (Churchill, Lib.): I'd like to just respond to some of the comments. Consideration of this transition period is really critical, because the members throw this term around—you know, that people need human rights—without any consideration of the lack of equity in funding for services, which we have heard about time and time again from people who have presented here.

First nations have inequitable funding, and we all know, after voting on Jordan's Principle in the House, that the spectrum of services that are lacking is devastating.

So to make these comments that this is a simple transition period is completely inappropriate. In fact, even when the charter was being implemented, there was a 30- or 36-month transition period for provincial and territorial governments. I think it is absolutely not unacceptable to expect that we would have a transition period that is

at least equitable in terms of time, because the resources are so limited in terms of delivering services.

Nobody has mentioned, from the government side, that they are willing to provide those financial resources, to provide these services to meet the human rights needs of first nations people.

I am saying that I'm completely in support of the 36-month transition period, and I'm against the 18 months.

The Chair: We'll go to Mr. Bruinooge.

Mr. Rod Bruinooge: Well, to respond to Ms. Keeper, if she supports that extension to 36 months, it'll just be 36 months longer that first nations people won't be able to make these claims against whatever organization they wish. So if she wants to extend that period of lack of access for first nations people, that's her choice.

In light of what I've heard from all the opposition parties, I don't expect my subamendment to pass, and as such, I will withdraw, provided, of course, that we call the question on the actual amendment soon.

• (1640)

The Chair: Okay.

I'm informed, Mr. Bruinooge, that you require unanimous consent to withdraw the subamendment on 18 months. So can I have unanimous consent?

I have to call the question on the subamendment. All right, let's do it that way, then.

All in favour of Mr. Bruinooge's subamendment to change the period from 36 months to 18 months?

(Subamendment negated)

The Chair: Okay, so we're back to talking about L-5 again.

Seeing no further comment, I'll call the question on L-5. You want a recorded vote.

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

The Chair: Some members of the committee may not know that in Thunder Bay, no means yes! It's a little quirk of northwestern Ontario.

An hon. member: It worked, though.

The Chair: Well, it seemed to work.

By passing L-5 we have taken G-1, G-2, and NDP-5 off the table.

Now we can go back to NDP-4.

I thought this was really clear before I started here today, and even I'm a little bit confused now.

Do I need some sort of process to get NDP-4 back on the table? No? Okay, it's on the table.

NDP-4 is on the reporting period. Now that we know that the transitional period will be 36 months, are there any concerns or comments about NDP-4?

Pardon me, I need to back up a second here. I need to call the question on clause 3 as amended by L-5.

(Clause 3 as amended agreed to)

(On clause 2—*Review*)

The Chair: We're back to clause 2, and we have NDP-4 on the floor.

As I say, I just remind colleagues that with our changes to clause 3, we have now set the transitional period at 36 months.

Go ahead, Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: Having listened very carefully to our analyst from the parliamentary library, I think my position at the outset has been reinforced, and nothing has changed to dissuade me from the significance of this amendment.

As we just heard, it was clarified for all of us that in fact the transition period applies to first nations communities. It does not apply to the federal government and Indian and Northern Affairs Canada. It is therefore more important than ever that we have a review period that allows for concerns vis-à-vis complaints against the federal government that is as short as possible and that allows for some action based on what can only be described as the vast majority of complaints in this area of human rights.

I would urge committee members to continue to support NDP-4 and to recognize that it has nothing to do, in effect, with the transition period and everything to do with justice for first nations people.

•(1645)

The Chair: Thank you, Ms. Wasylycia-Leis.

If I can draw my colleagues' attention to one thing, NDP-4 includes two subclauses, right? There is a date in the first subclause of 18 months, which we've been discussing. But also, in the second subclause, there is a date that refers to when there would be a report back to the House.

If you look at L-3 and L-4, L-3 deals with the same subject matter as subclause (1), and L-4 would actually deal with subclause (2). So if we were to pass NDP-4 as is, L-3 and L-4 would both be out, because that would already be dealt with.

We'll have Ms. Karetak-Lindell.

Ms. Nancy Karetak-Lindell: I would like to propose an amendment to NDP-4. If it would be agreeable to the other members, after "the Government of Canada", could we insert back in "any committee of the Senate, the House of Commons" or "both Houses of Parliament", and then continue on as is?

The Chair: The middle says "shall be jointly undertaken by the Government of Canada", and at that point you want to insert....

Ms. Nancy Karetak-Lindell: I want to insert "any committee of the Senate, the House of Commons, or both Houses of Parliament"—which is what is already in the legislation—but I want to reinsert it into subclause 2(1).

The Chair: Mr. Lemay.

[*Translation*]

Mr. Marc Lemay: Mr. Chairman, I have a problem with one thing here.

Before striking a committee, or deciding on its make up, it is important to agree on the transitional period. Otherwise, amendment NDP-4 makes little sense. We have just agreed to a 36-month transitional period. Therefore, it would have to be a certain number of months later, if we want to go along with what we've been saying since the start of the afternoon. With all due respect, I think we should actually go with section 2 of the bill as worded.

If there is a three-year transitional period and we start to see the effects after this period of time, we won't be able to do anything for another two years. Therefore, that would bring us to the government's original time frame, namely five years after the passage of the bill.

Before discussing how the committee will be struck and who will serve on it, we have to decide on the transitional period.

[*English*]

The Chair: Thank you, Monsieur Lemay.

Before I go to Ms. Wasylycia-Leis, amendment NDP-4 is on the floor. Members, your suggestion that in your view it would be logical to deal with the period of time first before dealing with who would be on the committee notwithstanding, members of the committee have the right to bring forward an amendment on any portion of it they wish. It doesn't necessarily have to be in that order.

Having said that, I suspect we will get to that question, but at this point we're still dealing with Ms. Karetak-Lindell's suggestion that we take part of the wording from the original bill and actually insert it into amendment NDP-4. It refers to who would be involved in that review as opposed to dealing with the length of it.

Ms. Wasylycia-Leis.

•(1650)

Ms. Judy Wasylycia-Leis: It might take too long to sort all this out. I think we need to stand my amendment NDP-4, go directly to amendment Lib-6, and then come back to outstanding questions.

The Chair: Amendment Lib-6 is the last one, isn't it?

Ms. Judy Wasylycia-Leis: Yes.

The Chair: If amendment Lib-6 were moved, it would actually be adding a new clause that would go at the end. If it is the will of the committee, we will do the same thing again and set aside our discussion on clause 2 to deal with clause 4. Amendment Lib-6 is the only amendment that would deal with adding another clause.

What's your rationale, Ms. Wasylycia-Leis?

Ms. Judy Wasylycia-Leis: Key to this issue is the question of resources. I think if we can resolve that question, which is dealt with in amendment Lib-6, then we could make some different decisions around clause 2.

The Chair: Mr. Bruinooge.

Mr. Rod Bruinooge: I have just a quick point. I know the opposition parties are taking great pleasure in rewriting much of this bill, but we could set aside this glee for revision by just sticking with the existing clause, which sets it at five years. The transition period is already three years. An additional two years after that for review makes logical sense to me. We can set aside the mentality to rewrite everything and stick with this current clause. I think it's a good one. We could simply do that. I'll leave that suggestion there.

Ms. Judy Wasylycia-Leis: Except that doesn't address the concern that in fact this bill pertains to first nations communities and not to the federal government, about which are most of the complaints. To suggest that we leave this go for five years, when the federal government needs to be held to account, would be a dereliction of duty on our part.

The Chair: Perhaps I will intervene here.

I thought I saw another hand over here. It was Mr. Bruinooge again.

Sorry. The observation has been made—if you look at the original bill—that the reporting period is five years, which conveniently happens to be two years more than the transitional period that now stands at 36 months. We have amended it to be 36 months.

Ms. Wasylycia-Leis's point is, to paraphrase, (a) that it's too long, and (b) because the federal government is potentially affected by this even during the transitional period, that that is too long.

Ms. Wasylycia-Leis, I don't sense there's unanimous support to set this aside and to move to amendment Lib-6.

I guess I can formally call that. Is there unanimous support to set aside this discussion and to move on and deal with amendment Lib-6, which actually proposes a new clause? No? Okay. So we don't have that.

We're back to dealing with amendment NDP-4. More specifically, we're back to dealing with Ms. Karetak-Lindell's suggestion that we change the wording.

Ms. Karetak-Lindell.

Ms. Nancy Karetak-Lindell: The other suggestion is that I could withdraw my subamendment if we were to deal with amendment Lib-4 first, which is a lot simpler. But that would be asking the NDP to have our amendment in instead of theirs. That's up for debate.

The Chair: I'm told we can't amend the same part of the bill twice. So if we were to deal with that, we couldn't go back to amendment NDP-4. I'm told you could withdraw your subamendment if there were unanimous support for you to do that. You could, effectively, move amendment Lib-4 as a subamendment to amendment NDP-4 and insert it in there before it gets passed, as opposed to dealing with it first, which would then mean you would not be able to come back.

Are you asking for unanimous consent to withdraw your subamendment dealing with the listing of who it would affect, or would you like us to get a vote on that?

• (1655)

Ms. Nancy Karetak-Lindell: Give me a few seconds, because Ms. Neville has just come back.

The Chair: One moment, Monsieur Lemay.

If I could have everyone's attention, before I go back, I'd like to attempt to explain where we are, and then I have a list: Monsieur Lemay, Mr. Warkentin, and Mr. Bruinooge.

We're dealing with NDP-4. There seem to be three different components of NDP-4 that we are discussing. The first component is in the first paragraph, which is the period of time. The bill proposes 18 months.

The second component, which is also in the first paragraph, has to do with the listing of which public entities would be involved in this process, comparing the language that's in NDP-4 back with the language that was in the original bill. The original bill actually had a longer list. The NDP-4 has a shorter list. One of the ideas was to reinsert that longer list.

If you look at Liberal-4, it is actually dealing with the period of time that is dealt with in the second paragraph.

Personally I think we're dealing with the right one here. I think if we want to make changes, we should make them within this, as amendments to it, so that when we're done here, NDP-4, either as it currently stands or as amended, actually represents what the committee would like. Then we can vote on that.

Ms. Karetak-Lindell.

Ms. Nancy Karetak-Lindell: I want to ask for unanimous consent to withdraw my subamendment.

The Chair: Ms. Karetak-Lindell has asked for unanimous consent to withdraw her subamendment.

That is withdrawn.

We're back to talking about NDP-4.

Monsieur Lemay.

[*Translation*]

Mr. Marc Lemay: Since we have agreed on a three-year, or 36-month, transitional period, I would like to propose a sub-amendment to NDP-4. I propose that the reference to 18 months in the first sentence be replaced by 60 months. That way, there would be no need to re-write the bill in its entirety. That would give the results the NDP were looking for, in terms of the composition of the committee and how the review of the effects of repealing section 67 would be conducted.

• (1700)

[*English*]

The Chair: Monsieur Lemay is proposing a subamendment, where, in the first paragraph, "18 months" would be replaced with five years, "60 months".

Ms. Judy Wasylycia-Leis: Could I just solve this problem by seeking unanimous consent to pull NDP-4 right off the table, which would go back to what you have?

Mr. Marc Lemay: No, no, no. Let me explain to you—

The Chair: Ms. Wasylycia-Leis' request for unanimous consent to withdraw the whole thing was not granted. We're still on amendment NDP-4. Mr. Lemay has proposed that in the first paragraph "18 months" be replaced with "five years".

Mr. Bruinooge.

Mr. Rod Bruinooge: I would ask Mr. Lemay to call the question, as we would support his subamendment.

The Chair: I can call the question.

Mr. Lemay has moved that "18 months" be replaced with "five years" in the first paragraph of amendment NDP-4.

All in favour of the subamendment?

(Subamendment agreed to)

The Chair: Amendment NDP-4 has been amended to say "five years" instead of "18 months", which, I point out, is 24 months after the transitional period ends.

Are there any other comments that need to be made before I call the question on amendment NDP-4?

Seeing none, I call the question on amendment NDP-4 as amended. All in favour?

(Amendment agreed to)

(Clause 2 as amended agreed to)

The Chair: Amendment NDP-4 is done. Amendments Lib-3 and Lib-4 are out. We have already dealt with a bunch of these.

We have two left in our potential package.

Ms. Judy Wasylycia-Leis: Could I have unanimous consent to withdraw amendment NDP-6?

The Chair: Amendment NDP-6 is not on the table. If you're not moving it, it's effectively withdrawn.

The last thing in our package would be amendment Lib-6, if a member of the Liberal Party chose to move that.

Hon. Anita Neville (Winnipeg South Centre, Lib.): I so move it.

The Chair: Ms. Neville moves amendment Lib-6. Amendment Lib-6 is on the floor. You can take a minute to read it. We haven't actually talked much about this one, but we expect it would create a new clause 4.

Ms. Neville, would you like to speak to it?

Hon. Anita Neville: I would, very briefly, Mr. Chair.

We believe this to be a very important clause. We have had no discussions whatsoever around this committee and no information on the capacity of first nations communities to deal with the implementation of this bill. This clause would address that issue.

• (1705)

The Chair: Does anyone else want to speak to this before I call the question?

Seeing none, I'd like to call the question on amendment Lib-6.

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

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

Some hon. members: On division.

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

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill in its amended form?

Some hon. members: Agreed.

The Chair: We have 20 minutes to spare.

That's a good afternoon's work. We all needed that six-week rest over Christmas to get the energy together to ram this through the obstacles.

As there is no further business, the meeting is adjourned.

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