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## **Standing Committee on Veterans Affairs**

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**EVIDENCE**

**Thursday, October 21, 2010**

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**Chair**

**Mr. Gary Schellenberger**



## Standing Committee on Veterans Affairs

Thursday, October 21, 2010

• (1530)

[English]

**The Chair (Mr. Gary Schellenberger (Perth—Wellington, CPC)):** Welcome to everyone.

Today is the 24th meeting of the Standing Committee on Veterans Affairs, and we have before the committee, pursuant to the order of reference of Thursday, April 15, 2010, Bill C-473, An Act to protect insignia of military orders, decorations and medals of cultural significance for future generations.

Before we go into the meeting, I would ask for the consent of the committee to have Mr. Sweet assume the chair and chair this meeting, because this is my bill.

**Some hon. members:** Agreed.

**Hon. Judy Sgro (York West, Lib.):** We've missed him.

**The Chair:** Welcome back, Mr. Sweet.

**The Acting Chair (Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC)):** Good afternoon, ladies and gentlemen. It's good to be back, although my departure wasn't all that long. I hope I won't be revisiting this much, although I do enjoy it quite a bit.

Maybe right at the outset, because we have officials here who are going to give opening remarks, and of course we'll be allowing the usual rotation for questions, and also because we're going to be attempting to get through the bill today clause by clause and there are a number of amendments, could I have consent from the committee that if we're unable to complete our full agenda today—in other words, produce a report from the clause-by-clause—we will have the extension of 30 days on the bill?

**Some hon. members:** Agreed.

**The Acting Chair (Mr. David Sweet):** Now we'll go to the officials. Please let me don my appropriate optical help.

We have with us André Lévesque, director of honours and recognition, with the Department of National Defence; Tom Scrimger, assistant deputy minister, citizenship and heritage, from the Department of Canadian Heritage; Lyn Elliot Sherwood, executive director of heritage group; and Kathryn Zedde, senior policy analyst, heritage policy development.

I understand Monsieur Lévesque and Mr. Scrimger have opening remarks. I'll go with you, Mr. Scrimger, and then Mr. Lévesque.

[Translation]

**Mr. Tom Scrimger (Assistant Deputy Minister, Citizenship and Heritage, Department of Canadian Heritage):** Thank you, Mr. Chair.

Thank you again for inviting us to make this presentation to the committee. We are pleased to be here today to assist the committee in its consideration of private member's bill C-473.

We thought it would be useful to provide some context for the bill in terms of existing federal legislation. The Cultural Property Import and Export Act, which was enacted in 1977, protects objects of heritage value.

We have a few very brief comments, Mr. Chair.

I am going to give the floor to my colleague Ms. Elliot Sherwood, who will provide you with this information.

[English]

**Ms. Lyn Elliot Sherwood (Executive Director, Heritage Group, Department of Canadian Heritage):** Thank you, Mr. Chair and members of the committee.

I believe the clerk of the committee has circulated copies of the presentation in both official languages.

There are four areas that we would like to briefly review today. The first is the different approaches adopted by the Cultural Property Export and Import Act and Bill C-473 with respect to the retention of important heritage in Canada.

In keeping with federal jurisdiction over matters of international trade, the cultural property act controls export. That is the term that is used in that act. Export permits are required for all insignia that are defined in the Canadian cultural property export control list, which is a regulation under the cultural property act. Permits are required any time insignia leave Canada for any period of time, for any reason, and irrespective of who the owner or exporter is or who the recipient of the export will be.

In cases of permanent export, if insignia are deemed to be of outstanding significance and national importance, export may be delayed. It's essentially a time out in the export process. That delay is intended to provide an opportunity for designated Canadian museums and public authorities to acquire the insignia.

A grant program exists to assist institutions in the purchase of items threatened with export, and special tax incentives also encourage donations of outstanding insignia to public institutions.

Bill C-473, as we read it, would prohibit the transfer of insignia of cultural importance to non-residents unless the insignia are first offered for sale to the Canadian Museum of Civilization, the Canadian War Museum, or the Department of Canadian Heritage, but those provisions would not apply in cases of transfer to a near relative or an heir.

For consideration by the committee, we would note that the difference in language between the Cultural Property Export and Import Act, which uses the term “export”, and the language in the bill, which uses the term “transfer to a non-resident”, may result in questions about what sorts of transactions are covered by the bill, and we would note that there is also a risk that the phrase “transfer to a non-resident” in the bill does carry with it the risk that questions could be raised related to provincial jurisdiction over the regulation of trade and commerce involving property within a province.

The second issue that we would like to put before the committee is the approach to the definition of what insignia are covered. Under the Cultural Property Export and Import Act, military insignia that are controlled for export must be more than 50 years old and must have a fair market value in Canada of more than \$3,000. The value threshold is used in essence as the means, the proxy, for defining those insignia that are most likely to be of outstanding significance and of national importance, which are the criteria set forth in the act.

Bill C-473 covers insignia awarded by Her Majesty in right of Canada, which we understand therefore to be insignia awarded after 1967. Prior to 1967, Canadian insignia were awarded by Her Majesty the Queen in right of the United Kingdom, and legally there is a distinction. The bill would also require the insignia to be of cultural significance, with the concept to be defined in regulation.

For the committee's consideration, we note that the earliest of the insignia covered by the bill, those granted in 1967, will be 50 years old in 2017. At that point, depending on their value, they could be covered both by the Cultural Property Export and Import Act and by the provisions in Bill C-473. As a result, we believe there is some risk that Canadians could be confused about their legal obligations, which are somewhat different under the existing legislation and under the proposed legislation.

The third issue we would like to raise relates to the determination of “fair market value”. This is an exercise in obscure dictionary definitions and Revenue Canada definitions. Mr. Chair, I ask the committee to bear with me as I work through that.

• (1535)

The term “fair market value” is used in both the cultural property act and Bill C-473, but in very different contexts. It's used in the cultural property act in reference to the role of the Canadian Cultural Property Export Review Board in determining the importance and value of objects that are donated or sold to Canadian institutions and public authorities. It's used very specifically to determine the value for the tax certificate, the tax incentive.

A different term is used in the cultural property act for the board's role in relation to situations where an object is subject to export delay and there may be disagreement between the owner of the object and a potential Canadian purchaser as to what would constitute a fair offer. The term in that context used in the cultural

property act is “fair cash offer” rather than “fair market value”. The amount of a fair cash offer might be the same as fair market value, but it doesn't have to be. Fair market value is a larger concept that takes into account the purchasing power of foreign buyers—in essence, whatever anyone anywhere is prepared to pay for an object. The term “fair cash offer” is used to refer to what a fair offer would be within the Canadian context. So fair market value is anywhere in the world; fair cash offer is in the context of the Canadian market.

In clause 6, Bill C-473 sets out a role for the Canadian Cultural Property Export Review Board in assessing the value of an insignia that would be offered up for sale to the institutions that are listed in the bill.

The bill uses the term “fair market value” for the function that is described in the cultural property act as determining a fair cash offer. There is a risk of confusion concerning which meaning is intended and therefore what considerations of the Cultural Property Export Review Board would have to take into consideration in determining value.

Finally we'd like to draw the committee's attention to the issue of maximum fines for violations. The cultural property act and Bill C-473 take different approaches to the maximum fines for violations of their provisions. The act specifies a specific dollar amount for a maximum penalty. For illegal export, the maximum fine is \$5,000 on summary conviction and \$25,000 on indictment. Bill C-473 provides for a penalty for summary conviction in any amount up to five times the fair market value of the insignia in question, rather than specifying a dollar amount.

We would draw to the committee's attention that this provision in the bill could possibly result in a situation where the penalty for the illegal transfer of a modern medal could be greater than the penalty set out in the cultural property act for the illegal export of a historic model, such as the Victoria Cross. We would also note that the norm in federal legislation is a specific amount to provide clarity to Canadians as to what the penalties could be.

Mr. Chair, that concludes my presentation on behalf of the Department of Canadian Heritage. At the appropriate time we'd be pleased to answer any questions the committee may have.

• (1540)

**The Acting Chair (Mr. David Sweet):** Thank you, Madam Sherwood.

Now I'm going to introduce Mr. Lévesque.

Mr. Lévesque, are you simply going to introduce your colleague, Madam Zedde, or do you have opening remarks?

**Mr. André Lévesque (Director, Honours and Recognition, Department of National Defence):** I have a statement, and that will be it, sir.

**The Acting Chair (Mr. David Sweet):** Good. I felt that I didn't give the appropriate introduction because it was a kind of transfer.

Go ahead.

[Translation]

**Mr. André Lévesque:** Thank you, Mr. Chair.

Good afternoon, ladies and gentlemen. My name is André Lévesque. I am the Director, Honours and Recognition, for the Department of National Defence, and I am responsible for administering honours and recognitions for members of the Canadian Forces.

The Department of National Defence supports the spirit of the proposed bill, but would like to make the following observations.

As we all know, recognition is one of the key factors in building morale in the military. It promotes esprit de corps and provides models that can inspire others. Maritime, land and air personnel wear the insignia of their military order and the decorations and medals on their uniforms proudly, because they represent official recognition by the Crown of their outstanding service and the gallantry, courage, merit and loyalty they have exhibited.

Insignia themselves, which are the physical representation of the recognitions bestowed, have important symbolic power. They become historical artefacts that are of interest to many people in addition to the individuals on whom they are bestowed. Insignia of military orders, decorations and medals have always had a monetary value. They are often made of precious metals, and they are art objects of high quality and great beauty.

In addition, because they represent part of our heritage, these articles have been collected, bought and sold since the beginning of time, in the same way as stamps and coins. This is a good thing, in some respects, since if these objects had no value, it would be much less worthwhile to conserve them, and so many of them would certainly have been lost, destroyed or thrown out over the years.

• (1545)

[English]

Having said that, there are regulations within the National Defence Act and the Queen's Regulations and Orders that prevent the sale of insignia by serving members of the Canadian Forces. However, once military personnel retire, they're no longer covered by the Code of Service Discipline, and they or their families are free to dispose of the awards as they see fit. With the exception of the insignia of orders, such as the Order of Military Merit, which remain by regulation property of the crown, insignia of decorations and medals, once presented, become the sole property of the individual.

The Department of National Defence supports the spirit of the bill, as it seems to strike an appropriate balance between the protection of our heritage and the rights of individuals to dispose of their personal property. It also has the advantage of avoiding the creation of additional structures and processes, as these are already in place under the Cultural Property Export and Import Act. This bill proposes to extend existing export rules to cover any historically significant insignia that is less than 50 years old. This change would go a long way to help keep our heritage in Canada, while remaining effective and enforceable.

Despite the good basis of the bill, I would like to bring four considerations to the attention of the committee.

[Translation]

First, as we said earlier, subclause 2(1) of the bill, in its present form, excludes the spouse or common-law partner from the list of people to whom an insignia may be given without consequences, regardless of their place of residence. That situation could prompt forceful objections from the parties concerned, who are ordinarily the legal beneficiaries and the first-degree heirs, who ordinarily inherit the medals belonging to a member of the military when they die.

Second, although the public institutions referred to in subclause 3 (1) could certainly help play a role in the proposed legislation as potential purchasers of insignia with historical importance, I would like to inform the committee that the Canadian Forces have a network of 68 museums whose mission is to preserve, protect, exhibit and interpret part of our military heritage. These accredited national institutions could also play a crucial role in relation to the proposed legislation, alongside the institutions already listed.

[English]

Third, it is noted that the bill does not set a required minimum value associated with the medals for the legislation to be applicable. This would mean that if someone were to sell a medal worth as little as \$10 to a buyer overseas, the entire approval process described in the proposed legislation would have to be followed. This would cause an immense administrative burden for objects of very low significance.

The Cultural Property Export and Import Act, on the other hand, applies only to objects that have a minimum value of \$3,000. It would seem appropriate and practical that the same amount could be applied to this bill. In effect, this would mean that the proposed bill would not apply to hundreds of thousands of medals that have low cultural or historical value but rather focus on those that have a truly significant heritage value.

Fourth, while we do appreciate this effort to protect our valuable military heritage, it should be noted that honours, in particular the modern Canadian honour system, are not the exclusive realm of the military. To illustrate this, I would like to give the example of the Cross of Valour. It is the second highest decoration in our honour system, immediately below the Victoria Cross, which has only been awarded on 20 occasions since its creation in 1972. Of these, five members of the Canadian Forces—Sergeant Garrammone, Master Corporal Mitchell, Chief Warrant Officer Partanen, Master Corporal Pierce, and Sergeant Stringer—received Canada's highest honour for bravery, recognizing their acts of the most conspicuous courage in circumstances of extreme peril. If this civilian decoration were coming onto the market and being bought by a foreign collector, there might be a considerable amount of negative reaction to the export of such a rare and prestigious Canadian honour. By removing the word "military" before the word "insignia" within the bill, it would broaden the intent of the legislation to cover all insignia of orders, decoration, and medals in our modern honours system. This would not only help us honour our men and women in uniform who have acted selflessly in a civilian setting; it might also serve us even better to protect our wide Canadian history and heritage.

In closing, I would like to reiterate that the proposed bill is welcomed by the department I represent, but the committee may wish to consider the four areas I have highlighted with a view to further strengthening the intent and effect of the resulting legislation. We feel the bill is a practical resolution that will enable us to better protect our heritage while respecting the rights of property owners. Other, perhaps more drastic measures might invariably prove more difficult to impose and enforce, giving rise to a number of unintended consequences.

Thank you.

• (1550)

**The Acting Chair (Mr. David Sweet):** Thank you, Mr. Lévesque.

We'll go on to questions regarding the concerns of members before going to clause-by-clause.

Because we're going to try to keep this to an hour and then go to clause-by-clause in the second hour, we'll start with five-minute rounds. When they're exhausted, we'll go right to clause-by-clause.

Madam Sgro, for five minutes.

**Hon. Judy Sgro:** Thank you very much.

And thank you all very much for coming today. We appreciate the information.

We have a variety of amendments that have been put on the table, and Mr. Kerr or Mr. Lévesque, I don't know if you've had a chance to look at those amendments.

**Mr. Greg Kerr (West Nova, CPC):** They cover some of them.

**Hon. Judy Sgro:** They cover some of the issues you raised.

I also have to say that we had the Legion here on Tuesday, and clearly they feel that whatever insignia or medals they have were given to them.

Has there ever been a discussion about presenting those medals and saying, "We are presenting you with these medals but these are the following conditions", and have them sign the contract? Has that ever been done?

Are you aware of that, Mr. Lévesque?

**Mr. André Lévesque:** There's no such contract. However, in the constitution for orders it basically says that the medals belong to the crown, so that's very clear to everyone. In terms of medals and decorations, it has always been, from our very early roots when we received medals from Britain, that declarations and medals presented to you were your personal property. But no one has ever been asked to sign a piece of paper, other than saying they received the medal. That's about it.

**Hon. Judy Sgro:** Certainly many of us are very supportive of what Mr. Schellenberger is trying to accomplish. I think most of us feel very uncomfortable with the idea that medals are being sold for profit. It gives us all an uncomfortable feeling. The question becomes how we best make those changes.

The Legion is suggesting that changes to the Cultural Property Export and Import Act would be a more appropriate way of achieving the goals that many of us would like to see done.

Can I get some comment on that?

**Mr. Tom Scrimger:** Without knowing all the precise recommendations put forward by the Legion, I will have to comment that if we are looking to control or to have an opportunity to have oversight before medals or insignia of cultural and national importance leave the country, then there may be some consideration given to using the export act or a structure like the export control act.

It really becomes a matter of what we are trying to accomplish. I understand there is a continuum of viewpoints, going from the opinion that no medal should ever be allowed to be sold to—what I think was a viewpoint expressed by the Legion—the opinion that unless there is a precondition that a medal belongs to the honour system, it is a piece of personal property.

I understand the difficulty the committee faces in trying to reconcile those two viewpoints while at the same time trying to ensure that insignia medals that are truly important to Canada's history—and that is significant—are not leaving the country.

I'm afraid I can't be much more help to you than that.

• (1555)

**Hon. Judy Sgro:** Just how many export permits would be issued on an annual basis for this kind of insignia that would have to be transferred or taken out of the country?

**Mr. Tom Scrimger:** We have that number somewhere, if you'll just give us a moment.

**Ms. Lyn Elliot Sherwood:** I'm sorry, we don't have the export number. We do have information on the number that are certified for donation or sale for the special tax incentives every year. It's not an outrageously high number. The number of export permits overall is a few hundred for all categories of material that are covered. There are a relatively small number of historic medals that have a value of more than \$3,000, which is the threshold at which the requirement for an export permit would apply for medals that are more than 50 years old.

I think we can certainly research that information, but I'm sorry, I don't have it today.

**Hon. Judy Sgro:** That's fine. Thank you very much.

I don't have any further questions. If my colleagues do.... Lise, do you have any questions?

**The Acting Chair (Mr. David Sweet):** Be very brief.

**Ms. Kirsty Duncan (Etobicoke North, Lib.):** I'll be brief. Thank you, Mr. Chair.

Very quickly, is it possible for you to outline...? It's not a short answer. What is currently unprotected in terms of the military cultural heritage? What are the current gaps? Does this legislation address those current gaps?

**Ms. Lyn Elliot Sherwood:** The Cultural Property Export and Import Act requires that to be protected, to come under export control, objects must be at least 50 years old. In the case of military insignia and accoutrements, there is a minimum threshold of \$3,000. So under the existing legislation, for medals less than 50 years old, if my esteemed colleague would help my mental arithmetic, I believe that would take us back to approximately 1960. Any medal since 1960 would not fall under the export controls, nor would any medal for which the current market value is less than \$3,000.

The value of cultural property at any given time will vary according to market conditions, so I couldn't say all of these medals are therefore excluded from that and all of these are included. A medal that belonged to somebody of extraordinary recognition in Canada, because of the association with that individual or because there was a group of insignia belonging to a particular individual, might very well hit the threshold, whereas the same medal awarded to somebody less well known might not.

So I really can't give you a precise answer in terms of categories of medals that would be reliable over time.

**The Acting Chair (Mr. David Sweet):** Thank you, Madam Sherwood.

Madam Duncan, if we go around, we can return back if you have some follow-up.

Monsieur Vincent, for five minutes.

[*Translation*]

**Mr. Robert Vincent (Shefford, BQ):** Thank you, Mr. Chair.

Good afternoon, everyone, and welcome to the committee.

I'm going to start with you, Mr. Lévesque, because I was a little struck by your presentation. You said that medals had been issued to members of the Canadian Forces because of the quality of their service, their courage, and so on. Do you think those medals were given to these people by the government in good faith?

**Mr. André Lévesque:** Can you explain what you mean by the words "in good faith"?

**Mr. Robert Vincent:** Because of the quality of their service or the courage they showed on a battlefield, for example, to reward them for doing what they had to do properly, the government issued them a medal. At that point, if I'm not mistaken, the decoration is issued in good faith to tell the individual they have done proper work. If the government has given a medal in good faith, then it belongs to the person who received it. There's no elastic attached to the medal that means that when the person who received it wants to dispose of it, they have to give it back to whoever gave it to them. It was given to them; it belongs to the person who received it.

In the existing regulations, I see that insignia, decorations and medals become the property of the person to whom they were given. So the medal belongs to the person who received it, it doesn't belong to the government.

• (1600)

**Mr. André Lévesque:** Yes. There are two parts to the answer. First, when a person has performed an act of courage, bravery, valour

or merit, it is the chain of command that decides that the person should be recognized. That is a very important effect.

When the chain of command, through the system, initiates the process for obtaining government approvals, the government accepts the recommendations by the Canadian Forces, and the medal, decoration or order will be issued, very probably by the Governor General, at an appropriate location. At the time of presentation, the medal, and we're talking about a generic medal, is presented in good faith. It really is a tangible gesture to reward individuals and recognize what they did. It is precisely a symbolic sign of recognition for what they did.

So in terms of ownership, awarding a medal means it has been given to the individual.

**Mr. Robert Vincent:** So I would like to know how this can be explained:

The fine for exporting illegally or attempting to export illegally is \$5,000 on summary conviction and \$25,000 on conviction on indictment.

So the medal is given in good faith, but the person who receives it can't do what they want with it. It's given to them, but it doesn't really belong to them. They must not export it, and if they do they are fined.

There seems to me to be a paradox. Either you give it or you don't. It seems extreme to me to fine people, people who have risked their lives, or been wounded or performed an act of courage, simply because they have decided to do what they like with their medal and it breaks the law. Don't you agree with me that it's a bit extreme?

**Ms. Lyn Elliot Sherwood:** If I may, Mr. Chair, I would like to answer that question.

The purpose behind the Cultural Property Export and Import Act is really to keep our heritage in Canada. Exporting objects of value is allowed, but for certain things considered to be of national importance, there is a pause in the process to give public institutions in Canada the opportunity to buy the objects. If there is no offer at the end of that pause in the export process, the person is free to export their property.

**Mr. Robert Vincent:** The main issue is that the person is not free to do what they want with their decoration or medal. In a way, we are telling them not to do it because we want to conserve heritage. If we give a medal, we should not go back on it. We can't say that we are giving it and we are not giving it. If we give it, the person who receives it can do what they want with it.

If you want to protect heritage, there should be something more concrete somewhere. For example, a letter could be sent that determines the fair market value of the decoration. At present, minimal amounts are given. For the Victoria Cross, I have heard the value is \$250,000 or \$270,000. I'm not sure the government or museums have that kind of money to buy those medals. Museum representatives have testified before the committee. They will not buy all the Victoria Crosses that have been issued, to conserve our heritage; it would be a little too expensive.

So what can we do to keep them here, in your opinion?

• (1605)

**Ms. Lyn Elliot Sherwood:** You're right. In protecting our heritage, we try to strike a balance between the public interest and the rights inherent in personal property. That is the reasoning on which the present legislation is based.

For medals of great significance, like the Victoria Cross, to my knowledge, none have left the country because of a lack of funds. The grant program for protecting these medals is offered to national museums and institutions in Canada. A contribution has been made to buying these medals, which are of national importance, and the export of which is subject to a delay imposed by the commission responsible for exports.

[English]

**The Acting Chair (Mr. David Sweet):** *Merci, madame Sherwood et monsieur Vincent.*

Now we'll move on to Mr. Marston, whom I've seen quite a bit of today, for five minutes.

**Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP):** Thank you, Mr. Chair.

Mr. Schellenberger, I think this is a wonderful initiative on your part. I'm kind of struggling with how to approach it, though.

Mr. Lévesque, you were talking about Her Majesty and the right of Canada and taking the word "military" out. Were you talking about the Star of Military Valour and the Medal of Bravery? The reason I ask that question is that I received the Medal of Bravery in 1987, and I'd like to know if it's still mine.

My father-in-law just passed away. He was a navy veteran who had two ships shot out from under him. If anybody tried to tell him those weren't his decorations, you would have had your hands full.

I was just curious, because the day in 1987 when I received my award, there were two Star of Courage medals given posthumously. An individual had walked through a burning house to save children and got them out but ultimately died. They were for things of that nature. Would this apply in cases like that?

**Mr. André Lévesque:** The answer is that, again, within the constitutions for orders—that's the Order of Canada, the Order of Military of Merit, and things like that—it's written within the constitutions that the decoration belongs to the crown. That's for orders. In the case of bravery decorations, which is yours, medals and decorations basically belong to the individuals, once presented.

What I was trying to say was that military people, like all Canadians, receive all kinds of medals. If you're a military person, you don't necessarily receive just military medals. You receive other national honours given by our government for things you've done in a military environment, but the medal may not necessarily be considered a military medal per se. That was my only point.

**Mr. Wayne Marston:** Going back to the Star of Courage and the Medal of Bravery, there's no problem if I want to send that to my son, who lives in the U.S., at some point. It's not an issue at all, then, from what I'm hearing.

**Mr. André Lévesque:** It is not a sale.

**Mr. Wayne Marston:** It is not a sale; it's a transfer.

Ms. Sherwood, you referred to "fair cash value". In a dispute on that, who resolves it? Who decides? Is there any role of the government in that decision?

**Ms. Lyn Elliot Sherwood:** Under the Cultural Property Export and Import Act it is the Canadian Cultural Property Export Review Board that is responsible for that determination.

**Mr. Wayne Marston:** For brevity I'll end there, Mr. Chair.

**The Acting Chair (Mr. David Sweet):** Thank you, Mr. Marston.

Mr. Kerr.

**Mr. Greg Kerr:** Thank you, Mr. Chair, and welcome to you all. It's a helpful process.

I'll start by indicating, as the chair noted, that we are quite prepared to extend our activities because we are still learning as we go and we don't want to rush the final outcome. But I would point out a couple of comments about suggested amendments that cover two or three of the items of concern that were raised today. We appreciate the additional ones as well.

I think one should also point out, as a reference, that the Legion was here, and we talked about the potential conflict of principle, but it should be back on the record that the Legion did indicate they are quite okay if you looked at amending the act to include it. So it continues to be a contradiction as to the right of ownership and the right of disposal, as it were.

I go to Mr. Lévesque's point in that the intended principle of what Mr. Schellenberger brought forward was to try to close some of the gap in the more modern era. I'm quite aware that when your bill was first introduced there was quite a bit of debate and discussion about similar sorts of things and there was some very strong feeling. So I think there is a modest opportunity here to bridge some of that gap, and that's certainly our intent to try to do that. So we welcome the input.

When you talked about the cash question, I guess I go there for the value. I'd like to understand a little bit more, in helping us, because we want to deal with that particular issue. We don't want to create an undue burden. What would the suggestion be to simplify that so that it does become more in line with what is done nationally?

• (1610)

**Ms. Lyn Elliot Sherwood:** The transaction and consideration that are described in Bill C-473 match the term used in the Cultural Property Export and Import Act, determining a fair cash offer. The term "fair market value" is used in an entirely different context in the Cultural Property Export and Import Act. Having terminology mean the same thing, in my view, is generally clearer than two different terms that mean the same thing.

**Mr. Greg Kerr:** Therefore, we are talking terminology to make sure there's not a contrast in outcome. Is that the main concern?

**Ms. Lyn Elliot Sherwood:** Yes.

**Mr. Greg Kerr:** Okay.

And it's also the sense of where these medals or honours or whatever do move on.

I know one of the concerns that first came through was the identification of the institutions they should go to. As Mr. Lévesque just pointed out, there's a lot of opportunity within the military museum. We also know within the Legion and many other recognized organizations that there are places where these would quite rightly end up. I know it's the intent both of the author and I'm sure most of the members, and we have no problem in looking at broadening that. It was not to exclude anybody; it was just trying to recognize where we started.

So I think you raised a good point that there is a network out there now that can probably receive quite a few of these. That was part of the concern; we don't want to jam the system or make this untenable. I do appreciate that.

Generally speaking, Mr. Chair, I don't have a number of questions. As I say, they brought some valuable information, and I think it probably adds to our continuing to look at it. But I do appreciate the fact and the sense that I get that this bill would fit quite nicely in the context of what we're attempting to do to protect our decorations and precious medals and honours.

I do respect and thank you for bringing that forward today.

**The Acting Chair (Mr. David Sweet):** Thank you very much, Mr. Kerr.

The Liberal Party has advised me they have exhausted their questions. So we'll go to Mr. André.

[*Translation*]

**Mr. Guy André (Berthier—Maskinongé, BQ):** Before moving on to another stage, I have a brief question to ask. Not all medals are wanted for the purposes of public cultural heritage. I assume you have an inventory of the medals that have been issued and that are of interest from the heritage perspective.

When people received those medals, were they informed of the provisions of the Cultural Property Export and Import Act? Was it clearly explained to them that in the event of their death, the decoration could go to the family, of course, but if they wanted to dispose of it, they could not do that at their own convenience, because then they would be exported to consequences, to fines and so on? Is that point clearly explained and clearly understood when an honorary medal is awarded?

**Mr. André Lévesque:** Mr. André, I can answer you, because by virtue of my position I am the official liaison between the Department of National Defence and Rideau Hall. I have an opportunity to attend the ceremonies where decorations are awarded to members of the military by the Governor General. I can tell you that instructions, as such, are not given to the recipients, telling them whether or not they may sell their decoration. All they are told is how the ceremony will proceed. The presentation is then made, and that's that. It's as simple as that.

• (1615)

**Mr. Guy André:** So they aren't informed. There is a transaction between the government and the people who receive a medal for an honorary mission, but there are no discussions about this. They receive a medal, and as we can see, they wear it with pride.

What kind of follow-up is there?

**Mr. André Lévesque:** Honestly, whether medals are presented to members of the military or to civilians, neither one of them is given any details about the federal legislation governing medals generally.

So it is up to each member of the public to follow up for themselves and to be familiar with the laws; that is their duty. That is how it's handled.

**Mr. Guy André:** Have penalties been imposed on soldiers who have received medals, under the Cultural Property Export and Import Act? Have people suffered consequences for exporting a medal or not offering it to a museum or another institution?

**Ms. Lyn Elliot Sherwood:** To my knowledge, since this act came into force, in 1977, there have been no prosecutions involving medals.

**Mr. Guy André:** Right.

**Ms. Lyn Elliot Sherwood:** There was one, 10 or 15 years ago, relating to an illegal export, but the medal was repatriated from the country in question.

**Mr. Guy André:** And yet these medals circulate on eBay. They are on sale and there are medal collectors.

**Ms. Lyn Elliot Sherwood:** Most of the medals currently circulating on eBay or elsewhere date from the First World War or the Second World War.

**Mr. Guy André:** So they aren't governed by—

**Ms. Lyn Elliot Sherwood:** It isn't necessarily the person who received the medal who is selling it. It may be a family member, a third-generation descendant, someone who does not have a sense of belonging.

**Mr. Guy André:** So you can't intervene, because you can't penalize the person to whom the medal was given, who is now six feet under.

**Ms. Lyn Elliot Sherwood:** At present, most medals don't have a value of more than \$3,000; their value is ordinarily lower than that.

**Mr. Guy André:** Right.

[*English*]

**The Acting Chair (Mr. David Sweet):** Thank you, Mr. André

I'll take one more check and see if there are any other questions for the officials before we get to clause-by-clause consideration.

Go ahead, Madam Zarac.

[*Translation*]

**Mrs. Lise Zarac (LaSalle—Émard, Lib.):** Have soldiers from other countries ever been honoured by awarding them Canadian medals?

**Mr. André Lévesque:** Yes. In fact, the Canadian Forces are currently making recommendations to the Governor General to recognize troops from allied countries. That includes the United States of America, France, the Netherlands, Germany and several other countries. We are thinking of decorating them for what they have done for Canada.

**Mrs. Lise Zarac:** So there are already Canadian medals outside Canada.

**Mr. André Lévesque:** They are presented in Canada, but to members of the military of allied countries.

**Mrs. Lise Zarac:** They are members of allied militaries who are not necessarily in Canada. So the medals don't stay in Canada.

**Mr. André Lévesque:** Exactly.

**Mrs. Lise Zarac:** And that doesn't conflict with the law?

**Mr. André Lévesque:** I sit on the Canadian Decorations Advisory Committee (Bravery). I can tell you that some medals for bravery have been presented. For example, the Medal of Bravery has been awarded to several Americans. We also have meritorious service medals. These decorations have lesser value. It is the decorations for bravery and valour that are more difficult to obtain. I think there is a minimal number of those medals.

• (1620)

**Mrs. Lise Zarac:** But it's a bit conflicted, isn't it? Ultimately, what's been said is that this law protects a minimal number of Canadian medals.

**Mr. André Lévesque:** The difference is that it isn't mandatory to be a Canadian citizen to receive a medal of valour or bravery and so on. The only medals for which you have to be a Canadian citizen are commemorative medals, like the Jubilee Medal. That is in the Constitution, in the order in council, that you have to be a Canadian. For the others, no.

**Mrs. Lise Zarac:** Thank you.

**Mr. Robert Vincent:** Mr. Chair, I'd like to ask another question. [English]

**The Acting Chair (Mr. David Sweet):** Mr. McColeman first, then Mr. Vincent, and then yourself.

**Mr. Phil McColeman (Brant, CPC):** Mr. Lévesque, I'm happy that you're here in your capacity. Thank you for being here.

I have this one debate going on in my mind, and I'd like you to comment on it more than me asking you a question. I think it came out the other day when we were discussing this with the Legion people. Yes, medals are objects. Many of us have difficulty with dealing with the fact that they take on a commercial value because we see them as symbols of what the individuals received these medals for; they are symbols of what they did. We've learned through our witnesses that the Order of Canada, for example, has to be returned upon the death of the recipient.

It is a symbol of what their service was to this country, just as a medal—any medal, and I don't care whether it's worth \$2 or \$200,000—is a symbol of what it is the individual did. It has significance to this country because of that.

I have this debate in my mind going on. I don't like the idea of seeing medals on tables at flea markets, fairs, and such. As the generations pass them down, ultimately someone sees it as a commercial object. It may not be the son of the person who received it... Ultimately what's happening, what the reality is, is that they become commercially traded objects. That's where I think we diminish the value of this national heritage, but heritage not having a monetary sense, in my mind.

Does any of that resonate with you in terms of your understanding of what insignia medals mean?

**Mr. André Lévesque:** It does, because of the job I have. I work with the men and women of the Canadian Forces every day all over the country and all over the world. That includes our veterans, by the way, because I'm also responsible for issuing medals to our recent veterans—modern medals, not Second World War or Korea medals—from over the last 20 years or so.

The thing we have to remember is that medals are absolutely a power symbol of what they've accomplished. The thing, too, is that when we look at our Canadian military heritage, some symbols are more powerful than others. As I explain it, I can't give everyone a Victoria Cross, because then there would be no value to it.

As much as we think it's a bad thing to have people selling medals, from my point of view, when medals are being sold, you know that they're in front of you. If they had no value and were in the garbage, they would be gone forever.

A lot of collectors collect medals because they're passionate about keeping military history alive. I'll just elaborate a little more. Some people who collect medals have a concept or an idea. Some belong to a certain unit in a certain city and want to collect, say, all the medals that belong to the Royal Newfoundland Regiment. And good for them, because that means that every medal they collect they're able to bring back to the museum, as an idea.

The other thing is that, unfortunately, we don't all live forever. We get old, families eventually get rid of medals, and as well, families become extinct, which means they're gone forever.

Also, you'll find a lot of collectors not only collect and purchase them but go back to the national archives and look up the history of some of these men and women and basically make sure that this part is alive.

I'll give you two examples of collectors who have made significant contributions. In the 1930s, there was a French gentleman who purchased a huge collection of all kinds of medals in France, and everyone was wondering what the heck was going on. Eventually he donated the whole collection, worth millions of dollars, and it became *le musée la Grande Chancellerie* in Paris.

There was another gentleman in Britain, again, First World War, named Lord Ashcroft, who purchased something like 20 VCs, a huge number of VCs. They were saying, this is crazy, everyone's buying the VCs and we don't know what's going on. At the end, Lord Ashcroft basically donated his entire collection, all of these VCs, and they became the basis of the Imperial War Museum's collection of medals. And on top of that, he donated £5 million to build the exhibit.

Collectors are a niche. The fact that they're collecting them means that they're helping save military history. There is value in that. I think when you look at a simple service medal, a campaign medal, and those who are decorated for gallantry, bravery, and other things, these are the important, highly significant medals that we want to keep track of.

For example, the Canadian Forces Decoration was created in 1949, and 350,000 of them have been issued since then. I've just indicated that there were 20 Cross of Valour medals issued versus 350,000 long-service medals. Again, you have to look at the value of each one and protect those that are more important and maybe have less coherence than those that have lesser value.

Does that help you, sir?

• (1625)

**The Acting Chair (Mr. David Sweet):** Thank you, Mr. Lévesque. That's a very fulsome answer.

**Mr. Phil McColeman:** Thank you.

**The Acting Chair (Mr. David Sweet):** Now we'll move on to Monsieur Vincent.

[Translation]

**Mr. Robert Vincent:** I will come back to you, Mr. Lévesque. Earlier, you said that when a medal is awarded, no instructions are given about what can be done with it after that. You used that maxim that ignorance of the law is no excuse.

So the Cultural Property Export and Import Act applies to members of the Canadian Forces who receive medals from Canada and ignorance of the law is no excuse for them. However, if we also award medals to people from another country who are not subject to our laws, we have a double standard. We can't give someone from another country the same medal we give a Canadian and apply the law to the recipient who is a Canadian citizen but not to the one who lives somewhere else.

Why, in this case, would we have a law that prohibits Canadian recipients from selling their decorations without first approaching Canadian institutions? And we don't tell them they aren't entitled to sell them, we don't tell them anything, but ignorance of the law is no excuse for them. However, we can fine them if they sell and export their decorations. The others can do what they want with them, for example sell them on eBay or anywhere.

Why is there a double standard?

**Mr. Tom Scrimger:** I'm going to try to answer briefly.

First, I want to do away with the idea that we are taking away a person's right to sell their medal. As Ms. Elliot Sherwood explained, for medals and insignia that have cultural importance for Canada, what is done is to call a pause in the process to give Canadian institutions a chance to buy the medals and keep them in Canada. It isn't necessarily to prohibit someone from selling a medal. It's a pause that gives Canadian institutions and buyers a chance to buy the medals and keep them in Canada.

On the second part of the question, it relates to the fact that, of course, our laws don't apply to someone who is not a citizen of Canada, who doesn't live here. To my mind, the country is deciding to honour these people for an act or a service they performed for Canada. These cases are very rare. If we really have a general desire to protect Canadian medals, we have to agree that these people, of whom there are very few, have the opportunity to sell those medals if they wish, without being subject to the same constraints as Canadian citizens.

In my view, it doesn't happen very often that a person from somewhere else receives an honour from our country.

• (1630)

**Mr. Robert Vincent:** I'd like to ask you one last question.

When you give these medals, would it not be easier to provide a letter with them informing the recipients of the procedure to follow if they want to dispose of a medal some day? It isn't up to them to make the effort to try to find a Canadian buyer, whether it be a museum or someone else. People who want to dispose of them should be able to dial a telephone number, and the people at the other end should inform them of the market value of the medals and initiate the process for them. The medal owners should not have to make the effort.

**Mr. Guy André:** We would need a more proactive government.

**M. Robert Vincent:** That's right, the government needs to be more proactive, if it wants to keep the medals. The person themselves who has received the decoration, and who is liable to a fine, should not have to make the efforts to try to find a taker for the medal. The same thing applies to the third generation of recipients. Those people should be told that if they want to dispose of them, they have to dial this telephone number and the government will try to find a taker. If it doesn't find anyone, it will call them back and they can do what they like with them. It would be much simpler that way, rather than fining people who don't know the law and who are not informed, and saying too bad for them.

Don't you think that would be the best solution?

**Mr. André Lévesque:** I have two comments to make.

First, I think it is very difficult to assign a value to a medal. Ordinarily, in the course of a person's military career, they will receive first a long service medal, at the end of 12 years, and they will take part in other campaigns. The number of medals a person will receive in the course of their career may range from 1 to 10, for example. Separately, they have a particular value, but the total value of a person's collection will be different. So it isn't that simple.

Second, you are only talking about informing the recipient at the time the medal is presented. The bill proposed also deals with medals given to family members, for example. At what point are we going to start giving instructions to everyone: the father, the mother, the son? We have no idea who the medals will be given to later.

**Mr. Robert Vincent:** It is then the responsibility of the individual.

**Mr. André Lévesque:** Exactly.

**Mr. Guy André:** It's the responsibility of the individual, but that person may also be deceased.

[English]

**The Acting Chair (Mr. David Sweet):** *Merci, monsieur Lévesque.*

Do we have any further questions, colleagues?

Okay. We'll move on to clause-by-clause. Please ensure that you have the right package. There were some changes in the amendments. You'll know that you have the right package if one of your pages says "4.1".

**Mr. Phil McColeman:** Do we dismiss the witnesses?

**The Acting Chair (Mr. David Sweet):** Officials, are you staying or leaving?

Colleagues, are you certain you don't need access to the wisdom of these officials while we go through clause-by-clause?

I didn't dismiss the witnesses.

We'd like to have you here for clause-by-clause, please.

**Mr. Brian Storseth (Westlock—St. Paul, CPC):** What a wise chair!

**The Acting Chair (Mr. David Sweet):** He's not as good as our new one but still pretty good.

**Mr. Brian Storseth:** I might as well suck up to the new guy, not the old guy.

•(1635)

**The Acting Chair (Mr. David Sweet):** You don't have to endure me much after this week.

So if you're certain that you have the new package, colleagues, I will point out that G-4.1 is replacing G-3 and G-4.

Madam Zarac.

**Mrs. Lise Zarac:** I am sorry, Mr. Sweet, I'm not used to this. We will be voting and there are other people in.... Is this normal procedure?

**The Acting Chair (Mr. David Sweet):** For clause-by-clause, to keep the officials here in case we need questions and answers, absolutely, yes....

**Mrs. Lise Zarac:** Okay.

**The Acting Chair (Mr. David Sweet):** Listen, I've said many times here and at any other committee I've chaired, I'm at the behest of the committee, so if it's with the consent of the committee to dismiss them, I will, but I think as we go there might be some questions regarding some of the minutiae of the amendments that we might need to inquire of them.

[Translation]

**Mrs. Lise Zarac:** I knew it.

[English]

**The Acting Chair (Mr. David Sweet):** So, colleagues, just to let you know, with the new package of amendments—so I can help you find out what the changes are—G-4.1 is replacing G-3 and G-4 in your old package, and G-5.1 is replacing G-5 from your old package.

**Hon. Judy Sgro:** Why don't we all have the same package?

**The Acting Chair (Mr. David Sweet):** You all do have the new package. I was simply trying to assist you. I know you all do your homework and have probably memorized the whole bill and all those amendments. I just wanted to make sure that you knew the changes.

So we'll go clause by clause now. Pursuant to Standing Order 75 (1), we'll postpone clause 1, which is the short title. I'm going to ask if you'll have clause 2 stand.

Because of the nature of the amendments here, I'm going to ask for your patience. The complexity of them means that we'll have to

stand some items in the bill because the interpretation of the bill can't be changed unless other amendments that are proposed are accepted.

So could I have agreement to stand clause 2, then, and we'll return to it?

**Some hon. members:** Agreed.

(On clause 3—*Prohibition against transfer*)

**The Chair:** Okay. We'll move to clause 3 and we'll be dealing first with amendment G-5.1.

Page 6.1 of the package is G-5.1.

I've been away too long; it used to be a lot easier than this.

Mr. Kerr, do you want to speak to this, your G-5.1 amendment?

**Mr. Greg Kerr:** Is it appropriate that the sponsor make a comment as well?

**The Acting Chair (Mr. David Sweet):** No, you moved the amendments.

**Mr. Greg Kerr:** Yes. First of all, and this was raised today, this is trying to broaden the consideration of whether the spouse or others are involved as part of the consideration. That's the main gist. It was mentioned today by the witnesses that that should be included. I'm looking for a little guidance on subclause 3(1).

Again, the intent overall is recognizing—as we heard both today and also from the Legion—the separation in what the terms were. It's not in there, but as we go through this we recognize the difference between honour and a medal, etc., so this is dealing more with the spouses. But I just want to keep that as a background. Obviously, the medals were the most contentious part of it.

**The Acting Chair (Mr. David Sweet):** Any questions on G-5.1? No.

Then I'll put the question.

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

**The Acting Chair (Mr. David Sweet):** Okay. The second amendment for clause 3 is G-6, and that's on page 7. Again, Mr. Kerr, do you have any comment on your amendment G-6?

•(1640)

**Mr. Greg Kerr:** Mr. Chair, some concern came up about inconsistency or tying in. This regulation is to make it clear under the provisions of the regulations and orders for the Canadian Forces that indeed it is consistent with any other legislation. It's a very small technical change, and it's the tone you heard today from witnesses who want to make sure that we are keeping in line with the intent of other legislation.

That's all that does.

**The Acting Chair (Mr. David Sweet):** I believe our witnesses addressed this issue as well.

**Mr. Greg Kerr:** Yes.

**The Acting Chair (Mr. David Sweet):** I'm just going to look to my colleagues. Are there any questions on amendment G-6?

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

(Clause 3 as amended agreed to)

(On clause 4—*Offence*)

**The Chair:** That's amendment G-7, which is on page 8.

Go ahead, Mr. Kerr.

**Mr. Greg Kerr:** That's not to be confused with G-20.

Mr. Chair, it was pointed out by witnesses, and it became very clear both to the sponsor of the bill and committee members, that putting a value of five times the fair market value was going to become very expensive and unwieldy. This clause basically changed it so that the maximum fine is no more than \$5,000. It gets out of the five times the market value of the medal. It makes it a specific maximum, as opposed to the market value.

Witnesses raised concern over that particular clause today.

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

(Clause 4 as amended agreed to)

(Clause 5 agreed to)

**The Acting Chair (Mr. David Sweet):** Clause 6 is another item that I'm going to ask you to stand, because until the short title is adopted, this has to stand.

(Clause 7 agreed to)

(On clause 2—*Definitions*)

**The Acting Chair (Mr. David Sweet):** This is amendment G-4.1 and it's on page 4.1, as astonishing as that might sound.

Mr. Kerr, would you like to speak to this amendment?

**Mr. Greg Kerr:** Yes, Mr. Chair. The big question there was.... We talked about extending it to a spouse and so on, but a common-law partner was excluded. This recognizes the common-law partner as an equal recipient. I believe it also better clarifies the meaning of the word "insignia", its being less than 50 years old.

If I could just comment, as pointed out today, 1967 is a benchmark for modern recognition. There was conversation on what happens to medals between 1967 and, I think you said, 1960. That hasn't been totally cleared up. That's why I said we need more time to talk about that, because it does recognize that the intent was to go back, picking up from the time of the legislation. But as pointed out today, some of that 1967 was a benchmark. I'm not sure I have the exact answer. If we do it this way, then 1967 becomes automatic, but the 50 years would go back to 1960.

It's not a major matter, but it does need some clarification, so that's an area that we're not quite finished dealing with today.

• (1645)

**The Acting Chair (Mr. David Sweet):** Are you saying that if the bill passes today, then the benchmark is 1967?

**Mr. Greg Kerr:** The bill intends it to be 50 years, but because of the actual intent of....

What was it—1967? What was the wording of that?

Could you please help me out here?

**Ms. Lyn Elliot Sherwood:** May I?

**The Acting Chair (Mr. David Sweet):** Absolutely, Ms. Elliot.

**Mr. Greg Kerr:** Bail me out here, will you, please?

**Ms. Lyn Elliot Sherwood:** The issue we raised in our presentation was that right now the Cultural Property Export and Import Act covers medals that are 50 years old and older.

**Mr. Greg Kerr:** Yes.

**Ms. Lyn Elliot Sherwood:** Some of the medals covered under this bill will soon be 50 years old, and at that point you will have to ask whether they fall under the new law that will be passed as a result of this bill or under the cultural property act. The proposed amendment here would assure that the modern medals were covered under the legislation that would be passed as a result of the bill. Up until the point they were 50 years old, they would be governed by its provisions. Once they were 50 years old, they would fall under the existing provisions of the Cultural Property Export and Import Act, and that would solve the problem of the missing seven years for medals between 1967—

**Mr. Greg Kerr:** So you're comfortable that it does cover that seven-year period? That was my concern.

That's fine then. Good. Thanks.

**The Acting Chair (Mr. David Sweet):** Mr. Marston.

**Mr. Wayne Marston:** Mr. Chair, I have a question on the policy decision made that the cohabitation period be one year. Is that standard law elsewhere?

**Mr. Greg Kerr:** The cohabitation period of one year is standard, isn't it?

**A voice:** Yes, it is.

**The Acting Chair (Mr. David Sweet):** Thank you to our researchers who are always on the ball here.

It should also be known that if this is agreed to by my colleagues, then this negates the Bloc Québécois amendment number 1, because it's obviously the same line.

[*Translation*]

**Mr. Guy André:** Their proposal is a good one. That's fine.

[*English*]

**The Acting Chair (Mr. David Sweet):** Okay. I just wanted to be transparent, sir.

Mr. Storseth, did you have a comment or question, sir?

**Mr. Brian Storseth:** Yes, I just had a question actually, in regard to subclause 2(1), which says "near relative", in respect of the owner of an insignia, means the father, mother, grandfather, grandmother, child, grandchild, brother or sister of the owner."

What we're talking about here is inserting "common-law partner", but we still haven't put "spouse" in there.

**The Acting Chair (Mr. David Sweet):** That was covered under a different amendment.

**Mr. Brian Storseth:** It was covered. So the earlier amendment we have would cover that?

**The Acting Chair (Mr. David Sweet):** That's correct.

**Mr. Brian Storseth:** Okay.

It's just because it wasn't in the definition of a "near relative", but it's in the other one?

**The Acting Chair (Mr. David Sweet):** It is, absolutely.

All in favour of the amendment?

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

**The Acting Chair (Mr. David Sweet):** Thank you.

Does clause 2 carry as amended?

Madam Sgro.

**Hon. Judy Sgro:** When you finish this and want to vote on the overall clause, I want to speak to it.

**The Acting Chair (Mr. David Sweet):** Do you mean the overall bill?

**Hon. Judy Sgro:** I mean the overall bill, yes. I'm sorry.

**The Acting Chair (Mr. David Sweet):** Okay.

(Clause 2 as amended agreed to)

**The Acting Chair (Mr. David Sweet):** There's an amendment to the short title. It's amendment G-2 and it's on page 2.

Mr. Kerr, would you like to speak to amendment G-2 on the short title of the bill?

**Mr. Greg Kerr:** Yes, Mr. Chair.

It's, again, clarification of the actual terminology. There was a previous question about recognizing that it included orders, insignia, and medals, and this I think makes it consistent with other legislation.

**The Acting Chair (Mr. David Sweet):** Very good.

I think our witnesses mentioned that as well.

Madam Zarac.

[*Translation*]

**Mrs. Lise Zarac:** I would simply like to check something. Did the witnesses not recommend that we not use the word "military", because some of the medals are not awarded?

**Mr. André Lévesque:** In fact, the bill doesn't refer to military medals. What I said was that members of the military receive other medals, like the cross of courage. So it wouldn't be covered. Do we want to preserve military heritage or military medals? It's one or the other.

**Mrs. Lise Zarac:** Thank you for that clarification.

• (1650)

[*English*]

**The Acting Chair (Mr. David Sweet):** Okay. Very good.

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

**The Acting Chair (Mr. David Sweet):** Shall clause 1 as amended carry?

(Clause 1 as amended agreed to)

**The Acting Chair (Mr. David Sweet):** Mr. Storseth.

**Mr. Brian Storseth:** I realize I'm coming to the party late with this. It's just a question. We've already passed the amendment.

It's on paragraph 3(2)(b). I was reading the amendment that we did. Paragraph 3(2)(b) reads as follows:

Subsection (1) does not apply to the transfer of an insignia to

(a) a near relative of the owner of insignia; or

(b) to an heir of the owner of the insignia upon the death of the owner.

Would it still read that way in the bill, Mr. Chair?

**The Acting Chair (Mr. David Sweet):** Sorry, could you clarify what you are talking about?

**Mr. Brian Storseth:** I'm in paragraph 3(2)(b). Would it still read that way? We sped through it quickly.

**The Acting Chair (Mr. David Sweet):** No, it would not. If you look at G-5.1, you'll see the actual wording of (2). There is no (a) and (b) anymore. There is (1)(a) and (b) and then (2).

**Mr. Brian Storseth:** So then "heir" would be taken out of there?

**The Acting Chair (Mr. David Sweet):** No, it's there. It's just in the complete section of (2).

**Mr. Brian Storseth:** Can you read it to me then, Mr. Chair?

**The Acting Chair (Mr. David Sweet):** I certainly will.

(2) Subsection (1) does not apply to the export of the insignia to a spouse or common-law partner, father, mother, grandfather, grandmother, child, child of the spouse or common-law partner, grandchild, brother, sister or heir of the owner of the insignia.

**Mr. Brian Storseth:** Thank you.

**The Acting Chair (Mr. David Sweet):** You're quite welcome. Any time, Mr. Storseth.

**Mr. Brian Storseth:** I appreciate it.

(On clause 6)

**The Acting Chair (Mr. David Sweet):** Amendment G-8.

**Mr. Greg Kerr:** Thank you, Mr. Chair.

Again, since we have the value of our witnesses here, you have expressed what might have been a concern with the wording of this... or have you actually seen the wording of this?

**Ms. Lyn Elliot Sherwood:** The wording that is proposed in this amendment addresses the concern we had raised in respect of the different language between the bill, as it had been presented, and the language of the Cultural Property Export and Import Act. The transaction "fair cash offer" is the transaction that mirrors the current "fair cash offer" role of the Canadian Cultural Property Export Review Board in case of a disputed price. The term is "fair cash offer". The change is from "fair market value" to "fair cash offer", and the amendment addresses that.

**Mr. Greg Kerr:** So we did cover the concern that you raised?

**Ms. Lyn Elliot Sherwood:** Yes.

**Mr. Greg Kerr:** That's as well as I could have explained it, but it was to make sure that we weren't in conflict with the pricing, and that it's "fair cash" and not "market". That's the change this makes.

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

(Clause 6 as amended agreed to)

**The Acting Chair (Mr. David Sweet):** Our last amendment, I believe, is G-1.

Mr. Kerr, did you want to make a comment on that, or is it self-evident?

I think it's rather self-evident with the title.

**Mr. Greg Kerr:** I just wanted to be sure.

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

**The Acting Chair (Mr. David Sweet):** Shall the title as amended carry?

**Some hon. members:** Agreed.

**The Acting Chair (Mr. David Sweet):** Before I go any further, I know that Madam Sgro had a concern, because we are just about ready to adopt this bill.

**Hon. Judy Sgro:** I supported the amendments because I think you're making the bill better. Clearly, from listening to some of our witnesses today, that was important. In the event that the bill passes, I think it has probably been cleaned up and it has probably helped Mr. Schellenberger.

But I have to go back to Tuesday's witnesses and the comments they made about their medals. We heard today that they are given to them. If a medal were given to me, it belongs to me. If it's supposed to come back to Canada, or in some other form, then in the future they should have them sign some sort of contract to say that in the event they pass on this must come back to the Government of Canada.

But they were very clear: those medals are theirs and they have every right to do whatever they want with them. I supported getting Mr. Schellenberger's bill here because of the same thing as everybody: I feel uncomfortable with the idea of people selling these things; they're too priceless.

Again, a lot of that has to do with collections that are gathered. I don't know what I thought people were selling them for; I probably thought they were selling them because we're not giving them big enough pensions and they need \$50. We've heard those stories.

The reality is that they're really selling them because people are collecting them, so they are staying within the family of people who respect and appreciate those medals. The fact that I don't like it and I would rather they didn't do that is secondary to what our Royal Canadian Legion folks said the other day: "These are our medals."

We gave them, they earned them, and they have a right to do what they want with them. I feel very bad to go against that. I support the intent of what Mr. Schellenberger is trying to do, but from my perspective I'm going to vote against the bill.

You've cleaned it up a bit, so you probably have a little bit stronger bill, but I can't look those legionnaires in the face and know that I said those medals don't really.... "You can have them for a while. Even though you risked your life on behalf of our country to earn them, you really shouldn't have them forever; they should come back to us." I don't agree with that.

If there's another way of amending the cultural property act that helps to achieve some of what you want, then maybe that's the avenue to go—I don't know. But they were very clear the other day that the men and the women in the Legion do not support this, and for that reason I'll be voting against this bill.

• (1655)

**The Acting Chair (Mr. David Sweet):** Thank you, Madam Sgro.

Monsieur André, then Mr. Kerr.

[*Translation*]

**Mr. Guy André:** To agree with Ms. Sgro, we in the Bloc Québécois are also going to vote against this bill. That position, of course, is based on meetings we have held with veterans and various other witnesses.

There is one question about this bill that disturbs me considerably. When a medal is awarded, a contract is made. The person who receives the medal believes it belongs to them, but in a way it does not really belong to them. That is fine up to a certain point, the problem is that we don't tell them this. There is no agreement, either oral or written. So there is no real contract.

So under this bill, as under the Cultural Property Export and Import Act that is currently in force, what is being done is to penalize people who break it by doing something they were never told broke the law. They weren't told it was breaking the law, they weren't informed of the conditions on which the medals were awarded. That is what disturbs me.

For example, under the Civil Code of Quebec, when there is a sale, a contract of sale or a contract of exchange is made. Here, there's no contract of exchange or contract of sale, there's nothing. When a person receives a medal, it is presumed that they are informed of the procedure, the right way to pass the medal on to the next generations, or what they can do with it in future. They are presumed to know the law. If I were a soldier and I received a medal, I don't know whether I would find out about all the laws there are.

As well, I think that the Canadian public service, which we in the Bloc Québécois consider to be relatively well equipped, should be more proactive and do the follow-up itself. If there are concerns about certain medals that have been awarded and there is a desire to see them be part of the cultural heritage, it is up to the public service to be more proactive, as my colleague said earlier, and stay up to date on what happens to those medals. Knowing that a particular person has received a medal with a particular value, there has to be the ability to follow up on that medal. For example, when the person dies, they should be able to call the family, find out about their intentions, and inform them of the desire that the medal be returned, to contribute to Canadian heritage. There should be discussion. I think the public service should be more proactive, and not simply engage in enforcement and applying consequences, for example, when it is found that a medal we would have liked to see be part of the heritage has been traded, given away or exported.

I did vote in favour of a fine. Certainly \$5,000 is still lower than five times the value of the medal in question. But we in the Bloc Québécois are having a hard time supporting this bill, in view of all this. We are going to vote against the bill. We voted for amendments, yes, to improve the content of the bill a little in the event it is passed, but we are going to vote against it.

• (1700)

[English]

**The Acting Chair (Mr. David Sweet):** Next is Mr. Kerr, Mr. Marston, and Mr. Vincent.

**Mr. Greg Kerr:** Thank you, Mr. Chair.

I think I'd point out that, first, in terms of our witnesses, and including today, there was recognition that the intent is a good intent. It's an honourable intent, and I don't want to see that intent cherry-picked away. I think it's extremely important that we don't lose that.

Secondly, the Legion, which was a very strong mixed opinion, made the point after saying those are their medals. And by the way, the amendments recognize that: all the family, right down through—we're not interfering with any of them. The family of the owner, the recipient, and the one awarded the medal—no one is being interfered with. That was part of what we'd tried to consider here.

But remember also that the Legion said they would prefer we go back and amend the act. That means they had recognition that they didn't want them sold, but by the way, they do recognize they're sold and protected under existing legislation, and therefore an amendment was conflicted in terms of what the message was.

What we're saying is we think it honours that whole concern—and we all want to make sure we do the right thing. This bill is, if you want to call it that, an introductory attempt. It certainly is an effort by the proponent to recognize that there are certain circumstances whereby... It's not at all interfering with protecting, preserving, looking after, and honouring the rights of the award recipients, but rather where those fall through the cracks and no one seems to care, if we do nothing, nothing happens. Those disappear and we make no effort to keep them in Canada. That's the intent here, and to say it's on the high level that we're interfering with the award recipients I think is a false argument because that's not in this legislation. Certainly we believe the amendments have made an effort to try to close those gaps as much as possible.

I don't think for a moment that anybody working under this piece of legislation is going to try to do anything to interfere with the recipients of those awards, medals, and honours. None of us over here would ever want that to happen.

I think it's important, though, that we understand that when we started this effort with Mr. Schellenberger's proposal, it was agreed pretty well by everybody that it was a good intent to try to recognize that there are problems out there. That's why we strongly support what was put forward here, and we certainly brought forward amendments that we thought closed some of those gaps, made it more palatable, if you like, recognizing that nothing is perfect. But if we do nothing and simply shoot it down, then we've walked away from the issues that are still out there. I think that's the wrong way to go.

I think we make this effort, we start forward, we recognize that nothing is perfect. As I said, I remember debates over the original act were pretty heated at the time. I think it's kind of a bold step forward to say it's not perfect out there, but we're trying to help. Certainly this side, our government members are going to support it, and I hope it does pass.

Thank you, Mr. Chair.

• (1705)

**The Acting Chair (Mr. David Sweet):** Thank you, Mr. Kerr.

I would just encourage members—it's 5:05—to keep your comments poignant and brief.

Mr. Marston.

**Mr. Wayne Marston:** Being new to the committee and just dropping in—of course, I talked to our critic prior to coming here. Our critic indicated support for the amendments.

Listening to both sides of the table...I certainly can have empathy for what's being said by the opposition here, but I would accept Mr. Kerr's explanation, so I will be supporting it.

**The Acting Chair (Mr. David Sweet):** Thank you, Mr. Marston.

Mr. Vincent.

[Translation]

**Mr. Robert Vincent:** Thank you, Mr. Chair.

I think this is a government intrusion into the lives of veterans of the Canadian Forces, soldiers who have demonstrated their courage and supported this country before receiving a medal. Now we're trying to tell them what they must do with their medal. The Canadian Legion and all the other legions and veterans' associations have told us that this law should not be enacted. We have no respect for these people, we aren't listening to them. First, we ask them what they have to say about this. We are talking about them, we are telling them we are going to make a decision for them about their medals. We hear witnesses who tell us to abandon this bill, but then we don't even listen to them.

Is that the respect we have for our veterans? Is that the respect we want to show these people? We want to tell them that we have no respect for veterans, but we do have respect for their medals. The medals are important. The people who earned those medals in combat, on a battlefield, them we don't respect. We don't respect their decision to do what they want with their medals. I think this is a lack of respect for veterans, in the aim of keeping the medals here, in Canada.

Think about this twice: you are disregarding all the veterans who earned these medals, veterans from the maritime and air forces as well as the land forces, and all those who came to testify that they disagree with this. You are going to disregard their opinion and say that the medals are more important than the people who earned them, who defended their country. Some of them lost life or limb in doing that.

If that is how you see it, fine, there's no problem, but on this side, we disagree with it. I think the important thing is the human being.

[English]

**The Acting Chair (Mr. David Sweet):** Thank you, Mr. Vincent.

Mr. McColeman.

**Mr. Phil McColeman:** I have no comments.

**The Acting Chair (Mr. David Sweet):** Mr. Storseth.

**Mr. Brian Storseth:** Thank you, Mr. Chair.

I was a little torn after meeting with the Legion, because I'm a big believer in personal property rights. But I believe the amendments we made today really strengthen this bill and address the crux of what the Legion was talking about. The members from the Legion were concerned about being able to pass on their medals to whomever they wanted. It wasn't about money, because we all agree that these things shouldn't be currency.

Changing it so you can pass your medals on to an heir before you pass away means that a veteran like my uncle can pass them on to anybody he wants, as long as he makes them an heir and he's not selling them. So I think the amendments have strengthened this bill, and that's why I will be supporting them now.

I just wanted that on the record because I thought it was important.

**The Acting Chair (Mr. David Sweet):** As a point of information—because I've sat back through the debate—they can still be sold. It's simply that the first right of refusal—

**Mr. Brian Storseth:** In Canada—we're talking about non-residents here.

**The Acting Chair (Mr. David Sweet):** Madam Duncan.

**Ms. Kirsty Duncan:** Thank you, Mr. Chair.

While I appreciate the intent of the bill, I cannot support this. The Legion, the largest veteran organization in the country with almost 360,000 vets, doesn't support it. I believe this committee's job is to respect the veterans. We are not hearing their views that were spoken last week.

They explained the process for reviewing the bill. They said it was a bottom up organization. They urged us not to pass the legislation,

that it would violate Canadian rights and they should not be violated lightly.

The army, navy, and air force vets do not support it, along with the Canadian Naval Air Group, the Naval Officers Association of Canada, and the Royal Canadian Naval Association. The fundamental issue is the right of individuals to determine their private property. When we asked if this could be overcome, both representatives last week very clearly said no.

● (1710)

**The Acting Chair (Mr. David Sweet):** Thank you, Madam Duncan.

Seeing no other members wanting to take the floor, I'll move to show the bill as amended carrying.

Do you want a recorded vote?

**Mr. Greg Kerr:** No.

**The Acting Chair (Mr. David Sweet):** Shall the bill as amended carry?

**Some hon. members:** Agreed.

**The Acting Chair (Mr. David Sweet):** Shall I report the bill as amended to the House?

**Some hon. members:** Agreed.

**The Acting Chair (Mr. David Sweet):** Shall the committee order a reprint of the bill?

**Some hon. members:** Agreed.

**The Acting Chair (Mr. David Sweet):** We've dealt with the bill then.

Is there any other business to be had?

Thank you, members.

The meeting is adjourned.





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