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**Chair**

**The Honourable Rob Moore**



## Standing Committee on Canadian Heritage

Thursday, February 2, 2012

• (1110)

[Translation]

**The Vice-Chair (Mr. Pierre Nantel (Longueuil—Pierre-Boucher, NDP)):** Good morning, everyone.

We are presently distributing the amendments. I believe that they are all available in English and in French. This will be a full session, I think. So we are going to start as quickly as we can.

In terms of the agenda, pursuant to the order of reference of Wednesday, February 1, 2012, today we will be talking about Bill C-288, An Act respecting the National Flag of Canada. We have with us Mr. John Carmichael, MP for Don Valley West. My thanks to him for joining us today. We are going to listen to his presentation on the bill for 10 minutes or so, after which we will be able to ask questions.

Mr. Carmichael, the floor is yours.

**Mr. John Carmichael (Don Valley West, CPC):** Thank you, Mr. Chair.

[English]

Good morning, members of the heritage committee and colleagues.

I'm delighted to be here with you today and for the opportunity to address my private member's bill, Bill C-288, an act respecting the national flag of Canada, and to move it forward this morning.

I'm delighted to present this bill on behalf of Canadians across this country who want to fly the Canadian flag proudly at their homes and residences. This bill was initiated and introduced because Canadians from all across this land are being restricted from flying the Canadian flag, not only residents in my riding of Don Valley West but Canadians from all across this great land.

There are countless Canadians who have faced the risk of eviction, hefty fines, and other punitive actions, not to mention large legal bills, associated with their deep desire to show their patriotism and their pride in our flag.

These are the stories of valiant veterans, such as Guy Vachon and Fred Norman of Ottawa, who served for more than two decades of their lives in our armed forces. Fred Norman travelled halfway around the world to fight in the Korean conflict. At that time, the Internet was a distant possibility. There were no Googles or Wikipedias to inform them of the land or the challenges they would face. These men went blindly to their destination in the name of democracy to proudly serve our country. They endured the harsh and

unimaginable conditions of war. They carry the heavy burden of having left many of their fellow soldiers on faraway battlefields.

Today these men have fought a different battle in their quest to fly the Canadian flag. They have had to put up an extensive fight for the right to fly the flag they love, something to which these veterans should never have been exposed. Surely enabling these men and women to exercise the right to fly our maple leaf on Canadian soil is the least we can do as a token of gratitude by this country.

The House is already familiar with other stories that I've spoken to earlier, such as that of Brian and Linda-Lee Cassidy of southern Ontario. This couple has proudly flown the Canadian flag for nearly 40 years, in four different homes, and recently had their homeowners' association demand that they remove their flag for fear of repercussions. Because of their non-compliance and their pride in flying the Canadian flag, their standing in the association has been downgraded. They have been left in bad standing.

You may also recall the story of Rose Wittemann, from Mississauga, who sought to fly the flag in honour of her brother, who was fighting in the war in Afghanistan, or that of Kirk Taylor, from Calgary, who simply wished to hang his flag outside in honour of all that the Canadian flag has represented to him and his family.

As you can see, these stories are from coast to coast to coast in our great country, and they reflect a common theme: a deep desire to fly our Canadian flag and a deep pride in doing so.

There are also the stories of new Canadians who wish to proudly fly the Canadian flag as a symbol of the adversity they have overcome to achieve citizenship in Canada.

All of these individuals should have the right to fly the flag at their homes. This bill serves to ensure that all Canadians, with their unique stories and motives for proudly flying the Canadian flag, are honoured. This bill ensures that they have the right to fly our flag without fear of eviction, financial penalty, bullying, or intimidation.

There has been much debate on this bill. Strictly focusing on the relevance of this bill, there are several issues I know we will discuss this morning that will lead to corrective amendments to ensure that this bill is acceptable to all parties.

Amendments to this bill will be made in an effort to ensure that citizens who wish to exercise their right to fly the flag will be able to do so. Further, this will ensure that strata boards, building councils, homeowners' associations, condominium boards, and others will all understand that restrictive protocols simply are not acceptable.

This bill was not initiated to be partisan or divisive. Throughout the debates in the House of Commons, while there was a good deal of straying from the focus at hand, there was a common theme that underlined all discussions, that being that all members, I believe, demonstrated and felt pride in our Canadian flag.

Further, we echo one another's sentiments in the deeply symbolic message that the flag represents, with ideals such as democracy, equality, and freedom.

I know that all here today are proud Canadians and that Bill C-288 serves to ensure that all citizens join us in their desire to have the right to fly the flag.

I thank you for your time today and I appreciate the opportunity to join you this morning.

Thank you, Mr. Chair.

**The Vice-Chair (Mr. Pierre Nantel):** Thank you, Mr. Carmichael.

[Translation]

Thank you.

Pursuant to Standing Order 75(1), consideration of the preamble and clause 1 is postponed because they may change as the result of modifications that arise from any amendments.

So I invite you to discuss clause 2 of the bill. I invite each of you to speak on it. On clause 2, do any members want to read amendments that they would like to propose?

•(1115)

[English]

**Mr. Paul Calandra (Oak Ridges—Markham, CPC):** Yes, there is an amendment. We distributed an amendment for clause 2, and I think you have that as well, Mr. Chair.

It reads:

That Bill C-288, in Clause 2, be amended by replacing the heading before line 19 on page 1 and line 19 on page 1 to line 3 on page 2 with the following:

DISPLAYING THE NATIONAL FLAG

2. (1) All Canadians are encouraged to proudly display the National Flag of Canada in accordance with flag protocol.

(2) Every person who is in control of an apartment building, a condominium building or building in divided co-ownership or another multiple-residence building or a gated community is encouraged to allow the National Flag of Canada to be displayed in accordance with flag protocol.

In your package, you have that in French, as well.

[Translation]

**The Vice-Chair (Mr. Pierre Nantel):** We can start the debate with that amendment. Do you want to take any more time to explain it? Do members on the other side have any comments on it?

[English]

**Mr. Scott Simms (Bonavista—Gander—Grand Falls—Windsor, Lib.):** Which amendment are we looking at now?

**Mr. Paul Calandra:** It is the clause 2 amendment.

**The Vice-Chair (Mr. Pierre Nantel):** Go ahead, Mr. Simms.

**Mr. Scott Simms:** Is this a Q and A right now with our guest, or are we going straight into amendments?

**An hon. member:** We're doing clause by clause, Scott.

**Mr. Scott Simms:** I know, but there are times when we do Q and A as well.

[Translation]

**The Vice-Chair (Mr. Pierre Nantel):** Since an amendment has been presented, we are going to debate it. Afterwards, we will move to questions to Mr. Carmichael.

[English]

**Mr. Paul Calandra:** May I make a suggestion, Mr. Chair? Since we have an amendment, we'll deal with it, but perhaps before we move to the next amendments, which might spur more questions, we could have a round of questioning.

[Translation]

**The Vice-Chair (Mr. Pierre Nantel):** Certainly.

[English]

**Mr. Paul Calandra:** Is that agreeable? After we deal with this amendment, we'll each have one seven-minute round.

**Mr. Scott Simms:** Do you mean after the amendments?

**Mr. Paul Calandra:** I mean after this one particular amendment.

**Mr. Scott Simms:** It's quite agreeable, so yes, go ahead.

**Mr. Paul Calandra:** We'll have further amendments as well. We'll deal with this one, and then I think the NDP has an amendment.

Why don't we deal with this amendment and then go to a seven-minute round?

**The Vice-Chair (Mr. Pierre Nantel):** Exactly.

**Mr. Paul Calandra:** Does that sound good? Okay. There is no discussion on our part.

**Mr. Terence Young (Oakville, CPC):** Mr. Chair, on a point of clarification, I have three copies of amendments that say "Moved by", but the space is empty. I'd just like to clarify who these amendments were moved by.

**Mr. Paul Calandra:** The amendment to clause 2 was moved by me.

**The Vice-Chair (Mr. Pierre Nantel):** For clarification, the amendment that was just read is moved by Mr. Calandra.

**Mr. Paul Calandra:** Yes.

**The Vice-Chair (Mr. Pierre Nantel):** We will make the identification for the other amendments after the round of questions to Mr. Carmichael and after we speak about this first amendment.

**Mr. John Carmichael:** *Merci.*

**The Vice-Chair (Mr. Pierre Nantel):** Mr. Benskin...?

**Mr. Paul Calandra:** I think there's general agreement from the committee to just move on to voting on the amendment. I think we have agreement on it.

**The Vice-Chair (Mr. Pierre Nantel):** Okay.

**Mr. Andrew Cash (Davenport, NDP):** Just so we're clear here, we're cutting essentially all of the wording for clause 2 and replacing that wording with this amendment, correct?

• (1120)

**Mr. Paul Calandra:** Yes.

**Mr. Andrew Cash:** Okay.

**Mr. Tyrone Benskin (Jeanne-Le Ber, NDP):** Does that include paragraphs 2(a), 2(b), and 2(c)?

**Mr. Paul Calandra:** Yes. Clause 2 is replaced by what you have in the proposed amendment. The changes to clause 2 become more apparent, I think, in conjunction with your amendment, which you will probably be making shortly, I assume. I suppose we're doing it somewhat backwards, but the amendment you're proposing, which I believe we're supporting, facilitates a need for us to change clause 2 to reflect that amendment, so that's what we're doing.

**The Vice-Chair (Mr. Pierre Nantel):** Mr. Simms, do you have a comment?

**Mr. Scott Simms:** Yes, I think we're going a little backwards here. I'll tell you why. It's because there is a fundamental change here in what we're talking about, which from the language I read here is encouragement, as opposed to the penalty factor of it. Also, as a witness Mr. Carmichael said in his speech that he certainly agrees with the amendments that are being made.

Can we hear from Mr. Carmichael first about the amendments in question? If he agrees that the amendments should go forward, I think he's the best salesperson for them.

**The Vice-Chair (Mr. Pierre Nantel):** Does everyone agree with this proposition?

**Mr. Andrew Cash:** I do, but I just want to add that the amendments change the bill quite significantly. Mr. Carmichael spoke at length about this document we have here, which we've debated, so I agree that it would be worthwhile for us to understand the differences and have him explain them.

**The Vice-Chair (Mr. Pierre Nantel):** Are you fine with that approach?

**Mr. Paul Calandra:** The committee will put forward amendments, and we have an opportunity to question Mr. Carmichael, but once we get into the phase of talking about amendments, I don't know that the witness will be able to answer in advance questions about the amendments we're debating. He might be able to talk about what he has heard the committee is bringing forward in terms of amendments, but I don't know that he has actually seen all of the amendments that we're proposing as a committee.

If we want to continue talking about this amendment later but first go into a round of seven minutes of questioning of the witness, why don't we do that? We could do a round of questioning each, and then if we need to ask more questions of the member, we could do that. We'll just put this amendment on hold for a bit while we hear from Mr. Carmichael and all three....

**The Vice-Chair (Mr. Pierre Nantel):** Thank you, Mr. Calandra.

I will follow my gut feeling here and propose—everybody is going to start scratching their heads—that we read all the amendments now.

No? Oh, I'm being advised by the clerk not to do so. They're scratching their heads. Just a second, please.

[*Translation*]

Our counsel recommend that we proceed as follows. As the amendments have already been circulated to all members, we will move to a 10-minute question period. If no one objects to that procedure, let's begin.

Mr. Young, you have the floor.

[*English*]

**Mr. Terence Young:** Thank you, Mr. Chair.

Mr. Carmichael, thank you for bringing this bill forward. I wonder if you could just summarize why you feel the bill is important.

**Mr. John Carmichael:** That really is at the hub of the entire exercise.

I've heard from Canadians from across the country who are being restricted from flying the flag. As I've said in the House in answer to many of your questions and in debates we've had in different environments, our flag is a symbol of our own national pride, and we all feel that. We're not here to debate that issue.

However, when Canadians are being restricted from flying the flag for whatever their pride level is, or their purpose, their history, whether they're veterans, new Canadians, or families who just feel great pride in this country and want to fly our flag, I don't think that's terribly Canadian.

This bill has been accused of a number of different things over the course of its short life. Let's keep in mind that, number one, it's a private member's bill. It was an issue that I heard about from Canadians over the course of my early tenure after being elected in May, and it struck me as absolutely and fundamentally wrong that people could intimidate, bully, or otherwise restrict Canadians from flying our flag. I felt it was something important that we as Canadians had to stand up for.

We believe in free speech. We believe in democracy. To that end, I think it's incumbent on us as parliamentarians to make a statement that all Canadians have the right to fly the flag any day of the year without bullying or intimidation.

•(1125)

**Mr. Terence Young:** Can you speak to your priorities for Don Valley West with regard to this bill?

**Mr. John Carmichael:** There we strayed from our debate.

My background is in business. I come from a business background. Creating jobs and economic growth are fundamental to what I believe in and do every day. As a parliamentarian, I represent all the residents of my riding of Don Valley West, which, as some of you from neighbouring ridings know, is probably as diverse a riding as it gets in this country in terms of ethnic diversity, financial diversity, etc. I see people who love and believe in this country being told that they simply cannot fly the flag, and it's not that they are just simply being restricted: they're being charged, they're being castigated, and they're being put in bad standing in their homeowners associations or condo boards.

That, to me, is wrong. That's something that has to be fixed. It's fundamental to our Canadian belief in freedom and democracy, and something that I felt was incumbent on me to take to Ottawa.

**Mr. Terence Young:** Thank you.

I'm sympathetic in a number of ways. One is that I remember the 2006 election. As you know, the Canada Elections Act stipulates that no one can prevent campaign teams or candidates from going to the doors of voters. I was in a condominium in my riding at about eight o'clock, and a man answered the door with his pyjamas and housecoat on. It wasn't that late; it was only about eight o'clock, and he asked me what I was doing in the building. I said that there was a federal election, and I was a candidate.

He said, "Do you realize that goes against our condo rules?" I said, "With respect, sir, I think the Canada Elections Act supersedes your condo rules", and he closed the door rather impolitely. I think there's a fundamental principle of democracy here.

I wanted to ask you this: some of the opposition members in the House are saying we should only be spending our time dealing with crises, whatever they are; do you feel that the right to fly the flag is a crisis for Canadians?

**Mr. John Carmichael:** No, I wouldn't say it's a crisis. A crisis to me is facing the storm clouds of economic concerns that we have on the horizon right now. That's something we have to pay close attention to.

This is about personal rights, Canadian rights, and the freedom of people to express their pride in their country. I've served on many boards, and one of the ones I was very proud to serve on was the board of the Canadian Olympic Committee. As a result I've attended many Olympic Games, and at those games you witness the pride Canadians feel in standing up and cheering and waving the flag. It's usually when we're winning, but we're all proud to attend the Olympics or watch them on TV, and nowhere was it more evident than the past winter Olympic games in Vancouver. The streets were lined with Canadian flags. In fact, I feel there was a fundamental shift in this country in the pride Canadians felt at having the Olympics here, winning 14 gold medals, and having the wonderful experience of watching our athletes perform at a high level.

It's not a crisis, but there's enough of it out there, and I have many examples that tell me it should be a concern and is something we need to fix. We need to enshrine it. You know our flag is one of the most powerful symbols of our own identity, and that's something we should be able to express whenever we want, in a respectful way.

•(1130)

**Mr. Terence Young:** Thank you.

What is your hope on how this bill might affect Canadians' lives directly?

**Mr. John Carmichael:** My hope is that if you own a condominium or a house or rent an apartment, and for whatever reason you share that mutual pride and desire to fly our flag, you will be able to do so without anybody putting a roadblock in front of you.

You talked about a condominium experience, and clearly condominium boards are made up of volunteers who have the best intentions for their organizations. My hope is that we as a government will express that it is wrong to stop people from flying the flag and that we will encourage people to support such an initiative.

**Mr. Terence Young:** I have to tell you I've had people express concerns in my riding as well, especially around Canada Day. Their condo board or the people who own their apartment building said they couldn't display the flag on their balconies or in their windows, so I think you are really on the right track here.

**The Vice-Chair (Mr. Pierre Nantel):** Thank you, Mr. Young.

Go ahead, Mr. Cash.

**Mr. Andrew Cash:** Thank you, Mr. Chair.

Thank you, Mr. Carmichael, for coming here today. I thought my riding of Davenport was the most diverse riding in the country, and now we'll have to go mano-a-mano on that one.

When you started to think about this bill and craft it, did you talk to municipalities and provincial officials—in other words, those in other jurisdictions?

**Mr. John Carmichael:** No, I didn't go outside of Don Valley West.

**Mr. Andrew Cash:** I mean just generally—

**Mr. John Carmichael:** Do you mean officers, etc.?

**Mr. Andrew Cash:** Yes.

**Mr. John Carmichael:** I talked to my local councillors about the issue, but this to me was more about the Canadian flag. Did I take it to the level of trying to determine who had jurisdiction over flying a flag in a particular area? No, I didn't go that deeply into it. I went to the extent that if somebody wants to fly a Canadian flag, as a federal representative it's my opinion that they should have that right.

**Mr. Andrew Cash:** Forgive me if that surprises me, because your party and the government are very much sticklers about jurisdictional rights. They are constantly telling the opposition that the government can't do something because it's going to infringe on provincial rights or it's a municipal issue and they can't touch it.

It strikes me that the issues we are bringing up in the House of Commons every day are very weighty and significant issues, yet here you're presenting a bill for us to debate when there has been no thought about the jurisdictional impact of it.

**Mr. John Carmichael:** Let's just deal with the foundation of this issue. This is for people primarily in their residences, at home. My goal is that if I have a home and live in a neighbourhood where I want to fly my flag, I should have that right. I doubt there is a lot of municipal interaction on that, but it all has to be taken into consideration and should be part of the discussion. We should talk about how we can do this in a way that doesn't create division, but unity.

**Mr. Andrew Cash:** As I've said before, in my riding people love to fly the flag. One of the many joys of this job is to have a supply of them that I can give out to my constituents. It is a really good feeling, and I think all of us would agree with that.

Over 50% of the people in my riding either weren't born in Canada or are first-generation Canadians, and what the Canadian flag represents for them is very important.

I have to say that in your preamble today you gave an example of veterans who have sacrificed enormously and were not able to publicly display their pride by flying the flag. I think we need to take that seriously, but I keep coming back to homeless veterans in the city of Toronto. You're a colleague of mine in Toronto, and I haven't heard you say a word about that. It strikes me that if we're talking about the pride of the flag, we have to talk about what the flag means. If we're hanging veterans out to dry by not providing them with housing, I'm just wondering where your priorities are.

• (1135)

**The Vice-Chair (Mr. Pierre Nantel):** Mr. Cash, just a second; there's a point of order raised.

**Mr. Paul Calandra:** I have a point of order. We're talking about a private member's bill on the display of the national flag. We're not talking about veterans' issues. I would encourage the member, if he has concerns with veterans' issues, to ask his party to transfer him to the veterans affairs committee.

Could we possibly deal with the private member's bill and give the member the respect he deserves by talking about his bill? If you could bring the member back on track to the substance of the bill, I'd appreciate it.

**The Vice-Chair (Mr. Pierre Nantel):** Mr. Cash, I will ask you to stay focused on the flag issue.

**Mr. Andrew Cash:** Well, I thought I was, Mr. Chair.

My friend did bring up some egregious issues around veterans and the treatment of veterans, and I actually agree with him on this point, so I don't think I was straying at all, but I will try to focus a little more narrowly. I just wanted to bring that up.

You spoke about being on condo boards. I, as well, have been on co-op boards, and other people I know have been on residents' associations in apartment buildings. Essentially they're tasked with making sure that their building complies with municipal codes. Trying to balance the idea that they can't prevent anyone from flying the flag against the responsibilities of their roles on these boards puts a heck of a lot of pressure on what is essentially a volunteer board. How do you balance that out?

**Mr. John Carmichael:** Clearly, these boards are made up of volunteers who have the best intentions for the residents they represent. I don't have an axe to grind in that regard. I think they're doing the best they know how, given that they live within municipal constraints, fire regulations of some sort, or whatever the issue might be, and I think they have to observe those.

I'm talking more about how sometimes when these boards get organized, they start to build rules on rules. Then you have turnover on these boards; new blood comes in, new people come along, and they try to improve on the old solutions that were in place earlier. Sometimes they stray off course, and with regard to flying your Canadian flag on your balcony in an appropriate way and meeting all of the jurisdictional requirements within the condominium, I'm saying that with dialogue and with reasonable people and reasonable minds coming together, there has to be a way that we can respect the pride and the desire of Canadians to fly the flag in such an environment.

Right now when you talk to those issues, I think they stray offside. I think they stray beyond their original intent. I think the good intentions get superseded by the desires of others, and I'd like to see that corrected. I also think it's incumbent on us as parliamentarians to express to condo boards and the like that this is important, and that it's the intent of this government to encourage people to exercise that privilege.

**The Vice-Chair (Mr. Pierre Nantel):** Thank you, Mr. Carmichael.

Go ahead, Mr. Simms.

**Mr. Scott Simms:** Mr. Carmichael, first I'm going to commend you for the principles that you brought forward here. I enjoyed your speech in the House of Commons. I really did. I thought it was heartfelt. I was once a brand new member of Parliament too, and now I'm starting to sound like a senior, but I'd just like to say I was impressed with it. It certainly was heartfelt.

The situation that you've described in your riding doesn't happen much in my riding because I don't have a lot of condominiums, but from time to time it happens, and usually measures are taken at the time to alleviate the situation so that people can fly their flags.

The bill you intended to pass here obviously carries with it a huge penalty. I'm assuming today that your intention is to take the penalty aspect out of the bill, and that you want it to become more of an encouragement. Would that be correct?

• (1140)

**Mr. John Carmichael:** That's correct.

**Mr. Scott Simms:** One of the problems that we may have here has to do with the standing orders. The standing orders dictate that when you accept a bill on second reading, you accept the principle of the bill itself, and it seems to me that a lot of the bill is weighted toward the penalty phase and toward forcing people not to behave in a certain way. Clause 3 outlines that; it's a big part of the bill.

When you bring a bill back to the House, if the Speaker—not only we, but also the Speaker—finds that you've gone beyond the principle and scope of the bill, he will say that he has to rule these amendments out and that the bill must therefore be put to the House as it currently sits, with the penalty phases in place.

I appreciate what you're doing here, which is to make this more of an aspirational type of legislation, but what happens if the Speaker says that you've gone beyond the principle and scope of the bill and that the penalty phase, or in particular clause 3, must remain in this bill? How would you recommend to proceed at that point?

**Mr. John Carmichael:** Clearly, from the beginning of the bill's introduction and in the debate and discussions we've all had at different points in time, the intent of this bill has always been to create inclusion, not exclusion. I hear your point clearly, and I have done a bit of research on it myself to determine whether a change of this nature, in fact, still falls within the confines.

My goal was never to put people in jail. My goal was to create a dialogue and an environment in which people would come together. My goal was also that we could all agree, as I think we did in one of the interviews that we experienced together, that this is about the flag, so let's find a way that we can agree to take this bill forward on an encouraging basis to create more inclusion.

My understanding is that the amendments we are contemplating today still permit this bill to move forward within its original intent.

**Mr. Scott Simms:** Okay.

Can I characterize it by saying that with all the penalties that you've imposed in clause 3, you really wanted to be tough with this in the beginning? You were an angry man, were you not?

**Some hon. members:** Oh, oh!

**Mr. John Carmichael:** Mr. Simms, I don't get angry.

**Some hon. members:** Oh, oh!

**Mr. John Carmichael:** I am not an angry man—

**Mr. Scott Simms:** Well, in that case, you're certainly trying to get even.

**Some hon. members:** Oh, oh!

**Mr. John Carmichael:** —and in fact, I was bringing something forward that I thought was a positive bit of legislation. To that end, my goal, as I've told you before, was to find a way that we could all agree.

**Mr. Scott Simms:** Okay.

When I look at this bill right now, I agree that your intent is a good one. However, I look at the penalties as well, because I remember the situation in Newfoundland and Labrador when Danny Williams took down the flag. According to this bill, he would be in a lot of trouble.

Now, I wouldn't want to be the one who had to chase down Danny Williams and arrest him, God knows.

As well, if you look at the rules of the House of Commons, you could even put the Speaker there, because we're not allowed to fly the flag outside of our own offices. We went through all of this, I know.

**Mr. John Carmichael:** We did, and I told you at the time that I thought you were really stretching.

**Mr. Scott Simms:** You have to stretch when you look at this, because clause 3 is really like a heavy hammer coming down on an individual whose intent may not be to prevent other people from being patriotic. By using these egregious examples, don't you think we've convinced you that this bill needs to change?

**Mr. John Carmichael:** I think what we've agreed on is that there need to be amendments to the original bill that will take the extremely unlikely possibility of any of those egregious examples out of play.

**Mr. Scott Simms:** Yes, but you've done it by taking away a lot of the bill. This is a big difference here.

● (1145)

**Mr. John Carmichael:** My goal is to find an agreement in the House whereby we can come back and universally agree that the bill is a good one to encourage all Canadians about everyone's right to fly the flag.

**Mr. Scott Simms:** Okay, I'm done. That's good for me.

Thank you, Mr. Carmichael, for doing this.

**Mr. John Carmichael:** Thank you.

[*Translation*]

**The Vice-Chair (Mr. Pierre Nantel):** Does anyone want to ask Mr. Carmichael another question or do you agree with my proposal to take two minutes to carefully read the amendments we all received this morning?

First, I would like everyone to take two minutes to read the amendments before us. Then we will continue and we will see if there are other questions. So I am suspending the session for two minutes.

● (1145)

\_\_\_\_\_ (Pause) \_\_\_\_\_

● (1150)

**The Vice-Chair (Mr. Pierre Nantel):** Let's resume.

Mr. Carmichael has moved. But if committee members want to ask him any questions, we can continue, of course. Are there other questions for our witness this morning?

There being no further questions, we are going to follow the agenda and move to the amendment on clause 2 proposed by Mr. Calandra. Does anyone want to speak to this amendment?

Mr. Aubin?

**Mr. Robert Aubin (Trois-Rivières, NDP):** No, sorry. I was adjusting the volume.

**The Vice-Chair (Mr. Pierre Nantel):** Okay.

Mr. Cash.

[English]

**Mr. Andrew Cash:** I'd like to get some clarification on flag protocol. What does "in accordance with flag protocol" mean?

**Mr. Paul Calandra:** You can visit the Department of Canadian Heritage website and get a detailed list of flag protocols—where you would display it, how you would display it, and so on. It's the same as when the flag is at half-mast; there is a flag protocol written down. I don't have it handy, but you can get it from the Department of Canadian Heritage website.

**The Vice-Chair (Mr. Pierre Nantel):** Go ahead, Mr. Young.

**Mr. Terence Young:** It deals with such things as public gatherings, where the Canadian flag should be the most prominent if there are provincial flags, and a number of things like that. It's not a lengthy document. It's just a guideline on how the flag should be positioned and displayed at public meetings or celebrations or events.

**Mr. Paul Calandra:** Mr. Chair, I have a copy of the flag protocol. I'll hand that over, and members can take a look at it.

**The Vice-Chair (Mr. Pierre Nantel):** Thank you.

Go ahead, Mr. Benskin.

**Mr. Tyrone Benskin:** In the province of Quebec—or in the nation of Quebec, as we have designated ourselves and as we have been recognized—when the Canadian flag is prominent at certain events, especially events that are particular to Quebec, that is an issue in Quebec.

In this context, would the federal government feel it has a right to insist that any province change the protocol of that particular province, and in particular Quebec, through this legislation?

**Mr. Paul Calandra:** Amendment 2 to this bill doesn't speak to what the mandate of the provinces or the federal government should be for the protocol for flying the flag. It talks about what the established flag protocol is at this time.

Right now the established national protocol is what we've handed over. Provinces may have their own protocols, but it's in accordance with established protocol. We're not mandating what that should be.

**The Vice-Chair (Mr. Pierre Nantel):** Mr. Young is next, and then Mr. Cash.

**Mr. Terence Young:** If you read this section of the amendment, you will see, as Mr. Carmichael said, that it refers only to people's residences—condominium buildings, gated communities, or multi-residential buildings.

**Mr. Andrew Cash:** We are planning to look at protocol of some sort. Could the chair or the clerk remind us what that is?

**Mr. Paul Calandra:** The committee has authorized a study on protocol to provide a fuller understanding to our provincial and municipal partners and agencies on what Canadian protocol is for things such as a state funeral or the funeral of a slain police officer so that Canadian traditions are used, rather than the traditions of other nations.

We're going to be studying how can we bring together those Canadian traditions; presumably we'll be advising the Department of Canadian Heritage.

● (1155)

**Mr. Andrew Cash:** I don't want to make too big a point, but could the flag protocol potentially change as a result of that study and discussion and whatever flows from it?

**Mr. Paul Calandra:** No. It changed—

**Mr. Andrew Cash:** No? I was just clarifying.

**The Vice-Chair (Mr. Pierre Nantel):** Are there any more questions concerning amendment 2? Otherwise, potentially I will ask to see

[Translation]

if this amendment passes. Then we will vote on whether clause 2 carries as amended.

So, if there are no further questions, we will move to a vote on whether the amendment carries as presented and whether clause 2 carries, as thereby amended. Are there any further questions? Mr. Cash, you have the floor.

[English]

**Mr. Andrew Cash:** I'm just trying to understand the whole idea of needing a bill that encourages the flying of the Canadian flag, because we encourage people to fly the Canadian flag all the time and everywhere.

We have funds through our federal government to encourage the flying of the flag. We as MPs encourage it in our constituencies, so I'm a little unclear here about what this bill is going to do. Are we not already doing this? Isn't part of the job that we do here to instill pride in our country and facilitate the flying of the flag?

It strikes me that this amendment nullifies the need for this bill in the first place, because we encourage this in all manner of ways. I can't see how this bill is going to change that or how it is going to enhance it. It's already there. We have programs. We have a lot of infrastructure already in place. I need some clarification here.

Individuals in condos, co-ops, and multi-residence buildings are already encouraged to be proud of our country, which undoubtedly just about everyone is. They are encouraged to fly the flag if they can at their residence. If they can, then they will. How does this change anything around the ability of Canadians to fly the flag?

**The Vice-Chair (Mr. Pierre Nantel):** Go ahead, Mr. Young.

**Mr. Terence Young:** Thank you.

This is very significant for all the reasons Mr. Carmichael stated. It's our hope that the bill will pass unanimously in the House, and if and when the bill passes, it will make a statement—not just to Canadians in general, but to property owners, people who own apartment buildings, people on condominium boards, and owners of multi-residence buildings—that the Government of Canada is encouraging and allowing Canadians to fly the Canadian flag.

Were a dispute ever to end up with any judge at any level, there will be a statement from the Parliament of Canada saying that Parliament encourages and supports flying the flag. That could easily be, and would likely be, a considerably important deciding factor in such a dispute.

It's very important.

**Mr. Andrew Cash:** Let me get this straight. You're saying that—oh, sorry.

**The Vice-Chair (Mr. Pierre Nantel):** I'm always asking for advice, of course. Mr. Armstrong asked for the microphone first.

• (1200)

**Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC):** Just to try to provide some clarification, in clause 2 the first sentence discusses how the flag should be not only be proudly displayed but displayed in accordance to protocol. There is concern among some people across the country—and I've heard complaints—about how the flag is sometimes displayed. People could choose to display it upside down. They could choose to display a flag that had holes in it or was ripped. I think the flag protocol takes care of some of that.

We're not just encouraging people to proudly fly the flag; we're also encouraging them to fly the flag according to a protocol. This would clarify the situation if I put a flag up that had holes all through it but felt that I was just displaying a flag and showing pride in the country; other people might criticize that, so this clears it up a bit. As a government, we're encouraging the flag to be flown not only for pride but in accordance with the flag protocol.

I think that might clear up a bit of the concern about the first sentence.

**The Vice-Chair (Mr. Pierre Nantel):** Go ahead, Mr. Vellacott.

**Mr. Maurice Vellacott (Saskatoon—Wanuskewin, CPC):** It's not a question so much as a response to Mr. Cash.

I don't know his family situation or whether he has children, but we know in life that you often will require positive reinforcement and negative reinforcement. That's just the nature of life, all the way through life.

Certainly, as you have well suggested, as MPs we should encourage the proud display of the flag, but sometimes, when people have different ideas, there are also negative reinforcements to be sure that others have permission to do so. I think he would well know and reach into his own experience of life to know that you sometimes require to have positive reinforcement combined with the negative reinforcement to be sure there is follow-through and that what you would prefer to happen is possible.

**The Vice-Chair (Mr. Pierre Nantel):** I'll go to Mr. Cash, and then Mr. Simms right afterward.

**Mr. Scott Simms:** On that point, if I may share, if this is a free-flow discussion, I apologize—

**The Vice-Chair (Mr. Pierre Nantel):** Excuse me, Mr. Simms. No, I meant Mr. Cash first, and then Mr. Simms. I'm sorry about this. Don't be mad at me. I am sorry.

**Mr. Scott Simms:** It's a reflection on me, is it?

**Mr. Andrew Cash:** I just have a quick rebuttal.

I'm really unclear what you're saying about negative reinforcement and positive reinforcement. What we're trying to do here is make a positive impact, something that's actually going to make a difference. We have a lot of positive reinforcement around the flag, and I'm all for more. That's going to work, but again, I strain to find any teeth in this bill that make a difference. What you're talking about is a

statement that if somebody actually has to take this thing to court with their own money, they can present this bill as some kind of solace.

I don't know. I'm curious as to what Mr. Carmichael has to say about it. It seems to go against a lot of what you were initially intending in the first place.

**Le vice-président (M. Pierre Nantel):** If I may, and if the committee agrees, I invite Mr. Carmichael as a witness to answer Mr. Cash's question.

**Mr. John Carmichael:** Mr. Cash, to your point that this country does a lot—and we do, as a country—the assumption that every Canadian can fly the flag is just that: it's an assumption. It's something we've all been raised with. To your point, I think that's really your point, that it is just that. It's an assumption that we have the right to fly the flag. This bill merely enshrines it. That's really the goal of this bill: to enshrine the right of all Canadians to be able to fly the flag at their discretion.

For all the programs we provide, etc., with the few examples I brought today, clearly this isn't the case. The assumption is that as long as a condo board or others determine they don't want a flag flown on their property, that's the ruling that's going to rule the day. This bill encourages a change in that direction.

**The Vice-Chair (Mr. Pierre Nantel):** Go ahead, Mr. Simms.

**Mr. Scott Simms:** It seemed to me during debate in the House that it was all about the penalty phase. Why did you change your mind?

**Mr. John Carmichael:** I really didn't change my mind, but when we got into the debate and some of the extremes were pulled out of left field, it became apparent that we had a bigger issue in terms of wanting to put people in jail, which wasn't the case at all.

That penalty was measured opposite other penalties in the court system. As I said to you at the time, I would prefer to see that aspect removed altogether. That wasn't the goal of what we were doing. The goal was to give people the right to fly the flag, pure and simple, but the debate exclusively pursued the penalty phase. That was unfortunate, because I think we missed the tenor of what was being presented.

• (1205)

**Mr. Scott Simms:** Yes.

**The Vice-Chair (Mr. Pierre Nantel):** Mr. Calandra is next.

**Mr. Paul Calandra:** I'm hoping we can get to a vote soon, but if it's the desire of the opposition to retain the penalty clauses...

I understand that another amendment is coming forward. I thought that during debate in the House of Commons there was some discussion from the opposite side expressing great support for the Canadian flag and what the private member had brought forward, but that some of the penalties couldn't be supported by all members of the House. We're trying to work together to bring amendments forward, but if the opposition or the members of the committee as a whole would rather see the penalty clauses remain, perhaps we can vote this motion down and move on with the bill.

I'd like us to call the vote.

[*Translation*]

**The Vice-Chair (Mr. Pierre Nantel):** Your request is noted.

Mr. Aubin, followed by Mr. Cash.

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

I am walking on eggshells here, but I cannot seem to grasp the relevance of this bill because in its original form, it talks about preventing forbidding. I am no mathematical genius, but I was always taught that two negatives give a positive. So if we are talking about preventing forbidding, what we are saying is “allowing”.

This bill would allow Canadians to fly the Canadian flag, which they are already allowed to do. In Quebec, we like flags too. We even have them in different colours. We have permission to fly them as well, and everyone does so with no problem.

It seems to me that passing legislation to allow what is already allowed is going overboard. If I put myself in the shoes of a member of the board of directors of a co-op building and I have to handle a situation like that, the only question that I should be asking myself is about what the law says. This bill provides me with no additional answer to that question.

If we want to encourage certain behaviour, it seems to me that that does not belong in the law either. If we want to encourage the behaviour, we have promotional campaigns, awareness campaigns, and we organize events. It seems to me that if we pass a law to encourage behaviour, we are deluding ourselves a little. I would like to have more clarification about this, because it does not seem to be relevant to me.

**The Vice-Chair (Mr. Pierre Nantel):** Mr. Cash has the floor.

[*English*]

**Mr. Andrew Cash:** Thank you, Mr. Chair.

We come up against this issue around apartment buildings all the time, particularly at election time, when we ask them to put signs up on their apartment balconies and they say they're not allowed to, so I understand the issue here. However, as I read this, I doubt that the flag protocol allows people, if they follow the protocol properly, to hang a flag over their balcony and be in compliance with it.

We're against criminalization, but you're also asking us to vote on an amendment, and no one here can actually say whether this will encourage, help, or solve the problem you initially brought forward, which is that people in apartments and condos who want to hang a flag on their balcony should be able to do so. When I read the flag protocol, to me it's a little up in the air. I think we need to understand what the flag protocol means.

Can you actually tape a flag up? It says here,

Nothing should be pinned to or sewn on the National Flag of Canada.

As well, it says,

The National Flag of Canada should always be flown on its own mast - flag protocol dictating that it is improper to fly two or more flags on the same mast

Then there are a variety of other prescriptions.

In other words, in our attempts to simplify and correct a problem, the problem got more complicated. Do we understand this issue? Do

we know what it means? It strikes me that we'd have to actually understand and know what this means before we can vote on it.

● (1210)

**The Vice-Chair (Mr. Pierre Nantel):** Mr. Benskin is next.

**Mr. Tyrone Benskin:** In an effort to find a way to make this bill work, I'm going to jump back to what Mr. Simms brought up earlier.

From our point of view, because it was as extreme as it was with the penalty situation, and because that was such a significant part of the bill, we're now looking at striking those elements, which means that clauses 1 and 2 have to conform. I understand that's the process we're going through.

I go back to the question Mr. Simms asked. There seem to be grounds for the Speaker to choose not to accept those amendments, and if the Speaker chooses not to accept them, we will be put in a position of voting on this bill pretty much as is. That is a concern. How do we address it?

[*Translation*]

**The Vice-Chair (Mr. Pierre Nantel):** Your turn, Mr. Young.

[*English*]

**Mr. Terence Young:** Thank you, Chair.

I appreciate that we've had a very full discussion. I wonder if we can call the question, please.

[*Translation*]

**The Vice-Chair (Mr. Pierre Nantel):** Are committee members ready to move to the vote on this amendment? Mr. Cash, you have the floor.

[*English*]

**Mr. Andrew Cash:** Could we have a very small adjournment while we have a small conversation?

[*Translation*]

**The Vice-Chair (Mr. Pierre Nantel):** As it was explained to me, I am pointing out to everyone that the committee has the right to delete a clause completely.

[*English*]

**Mr. Tyrone Benskin:** Do you mean without its being rejected by the House, or by the Speaker?

[*Translation*]

**The Vice-Chair (Mr. Pierre Nantel):** That is correct.

I propose a suspension, Mr. Calandra. I am suspending for two minutes to give members time to read the amendments.

● (1210)

\_\_\_\_\_ (Pause) \_\_\_\_\_

● (1215)

**The Vice-Chair (Mr. Pierre Nantel):** Let's continue with the session.

We are on clause 2, and dealing with Mr. Calandra's amendment.

Are we ready to vote on that amendment? Is there any further discussion on it?

•(1220)

[English]

**Mr. Paul Calandra:** Mr. Chair, could we suspend for another minute to allow members of the official opposition more time to consult with one another?

**The Vice-Chair (Mr. Pierre Nantel):** That is so nice.

**Mr. Paul Calandra:** In the spirit of cooperation, why don't we allow a moment to them, and to the Liberal caucus as well? I move that we suspend for another minute so that they can—

**The Vice-Chair (Mr. Pierre Nantel):** Thank you, Mr. Calandra—

**Mr. Paul Calandra:** —talk about it among themselves.

**An hon. member:** That joke never gets old, does it?

**The Vice-Chair (Mr. Pierre Nantel): The Vice-Chair (Mr. Pierre Nantel):** All right, then.

[Translation]

Once more, we are suspending for 60 seconds.

•(1220)

(Pause)

•(1220)

**The Vice-Chair (Mr. Pierre Nantel):** Are we ready to vote on the amendment to clause 2, presented by Mr. Calandra?

I suggest that we move to the vote.

(Amendment agreed to)

**The Vice-Chair (Mr. Pierre Nantel):** Now we move to the vote on clause 2, as amended. Those in favour of the clause?

[English]

**Mr. Paul Calandra:** It's on division.

[Translation]

**The Vice-Chair (Mr. Pierre Nantel):** So it is

[English]

on division.

[Translation]

Bilingualism is a wonderful thing.

(Clause 2 as amended agreed to on division)

We now move to the amendment to clause 3.

Can Mr. Benskin read us the amendment to clause 3 that he is proposing?

[English]

**Mr. Tyrone Benskin:** Quite simply, it's an amendment to strike the enforcement portion of the bill, which is the most contentious portion. The bill itself was meant to be an encouragement of Canadians, even in its original form, but one can not encourage people by threatening to throw them into prison. In my response to Mr. Carmichael's very eloquent speech, I said that patriotism cannot be legislated, but that is what this section of the bill, in my opinion and in our opinion, seeks to do.

For that reason, I'm looking to amend Bill C-288 by striking clause 3 in its entirety.

•(1225)

[Translation]

**The Vice-Chair (Mr. Pierre Nantel):** You have all read the amendments to clause 3 proposed by both sides. My wise counsel are suggesting that I remind you of a passage from *House of Commons Procedure and Practice*.

It says that an amendment that attempts to delete an entire clause is out of order, since voting against the adoption of the clause in question would have the same effect. So the amendment you are proposing, according to that document, would be inadmissible. Just voting against clause 3 is the same thing.

I feel that Mr. Calandra's amendment is similar, because it deals with removing the title and the heading, which is also the same as voting against clause 3.

[English]

**Mr. Paul Calandra:** Presumably we can deal with it the same way. We can reject both of our amendments and just vote the clause down, right?

Okay, we'll do it that way. That's fine.

[Translation]

**The Vice-Chair (Mr. Pierre Nantel):** Since the amendment is withdrawn for the same reasons, we are going to move to the vote.

Those in favour of clause 3 as written in the bill?

(Clause 3 negated unanimously)

**The Vice-Chair (Mr. Pierre Nantel):** We now go back to the title. Shall the short title now carry? Does anyone want to comment on that?

[English]

**Mr. Tyrone Benskin:** The title refers to an act respecting the national flag of Canada.

**Mr. Paul Calandra:** It's on division.

**Mr. Tyrone Benskin:** When I read that, it still seems to carry the weight of a law demanding that people respect the flag.

**Mr. Terence Young:** Excuse me; on a point of order, you're referring to what's written under "Bill C-288" at the top.

**Mr. Tyrone Benskin:** It's "An Act respecting the National Flag of Canada". Is that the title we're referring to?

**Mr. Terence Young:** No; if you go down to clause 1, the short title is listed there. I think it's acceptable to you.

**Mr. Scott Simms:** Are you talking about the summary?

**Mr. Tyrone Benskin:** Oh, the short title may be cited as "This act may be cited as the National Flag of Canada Act".

**Mr. Terence Young:** Okay.

[Translation]

**The Vice-Chair (Mr. Pierre Nantel):** For your information, you can find it under "SHORT TITLE", two-thirds down the page.

[English]

**Mr. Paul Calandra:** It's on division.

[Translation]

**The Vice-Chair (Mr. Pierre Nantel):** So we will vote now.

Shall clause 1, the short title of the bill, carry?

[English]

In English, under “Short Title”, it is “This Act may be cited as the National Flag of Canada Act”.

• (1230)

[Translation]

(Motion unanimously agreed to)

**The Vice-Chair (Mr. Pierre Nantel):** We will now go to the preamble of the bill. I think Mr. Calandra proposed an amendment.

Could you please read it to us?

[English]

**Mr. Paul Calandra:** Everybody has a copy of the proposed amendment that Bill C-288, in the preamble, be amended by replacing lines 12 and 13 on page 1 with the following:

interest to encourage the displaying of the National Flag;

It strikes me that if we have voted on clause 2 and eliminated clause 3, we have to change the preamble to reflect that. That's what this amendment does.

[Translation]

**The Vice-Chair (Mr. Pierre Nantel):** I am being told that the amendment is in order. Does anyone have anything to say about it?

Since no one does, we are going to proceed with the vote.

(Motion unanimously agreed to)

**The Vice-Chair (Mr. Pierre Nantel):** We are now going to vote on the title of the bill as written. That is what Mr. Benskin was referring to earlier.

[English]

**Mr. Tyrone Benskin:** That title is “An Act respecting the National Flag of Canada”.

As I started to say, I find the term “respecting” the national flag of Canada, although there is not a desire to disrespect, has a heavy-handed sound, tone, or image to it. I suggest that something along the lines of an act “supporting” the national flag of Canada be entertained.

[Translation]

**The Vice-Chair (Mr. Pierre Nantel):** Do the members agree with Mr. Benskin's suggestion?

(Motion negated)

**The Vice-Chair (Mr. Pierre Nantel):** So we will vote on the title of the bill.

(Motion agreed to)

**The Vice-Chair (Mr. Pierre Nantel):** This brings us to the following question.

Shall the bill as amended carry?

(Motion agreed to)

**The Vice-Chair (Mr. Pierre Nantel):** I must ask the next question. Shall the chair report the bill as amended to the House?

(Motion agreed to)

**The Vice-Chair (Mr. Pierre Nantel):** Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

(Motion unanimously agreed to)

**The Vice-Chair (Mr. Pierre Nantel):** Great. We have finished our study of the bill.

We now move to the second order of business.

We are going to suspend the sitting for two minutes before moving in camera.

[Proceedings continue in camera.]

• \_\_\_\_\_ (Pause) \_\_\_\_\_





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