HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Canadian Heritage

CHPC • NUMBER 126 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Tuesday, October 23, 2018

Chair

Ms. Julie Dabrusin

Standing Committee on Canadian Heritage

Tuesday, October 23, 2018

● (1140)

[*English*]

The Chair (Ms. Julie Dabrusin (Toronto—Danforth, Lib.)): We're starting meeting 126 of the Standing Committee on Canadian Heritage. We're continuing our study today on the remuneration models for artists and creative industries.

I apologize for the late start, but we had a vote that we all had to attend. We do have this room available to us for a bit of time afterwards. We don't have a committee coming in here right after us.

Mr. Pierre Nantel (Longueuil—Saint-Hubert, NDP): That's good news.

The Chair: I was hoping to get a feel from the members as to whether you have any time, if you have availability.

Hon. Steven Blaney (Bellechasse—Les Etchemins—Lévis, CPC): I have a meeting.

The Chair: You have a meeting, Mr. Blaney.

[*Translation*]

Okay.

[*English*]

Mr. Gordie Hogg (South Surrey—White Rock, Lib.): So do I.

The Chair: Let's get started right away with the presentations.

We have with us the Writers Guild of Canada. I see only one person via video conference, and that's Neal McDougall.

Mr. Neal McDougall (Director of Policy, Writers Guild of Canada): That's correct, yes.

The Chair: We also have with us the Canadian Media Producers Association, with Erin Finlay and Stephen Stohn here.

We will begin with the video conference with the Writers Guild of Canada, please.

Mr. Neal McDougall: Thank you.

Good morning, Madam Chair, vice-chairs, and members of the committee. My name is Neal McDougall, and I'm the Director of Policy at the Writers Guild of Canada. Maureen Parker, WGC's Executive Director, cannot be here today due to illness. She sends her regrets. We would like to thank the committee for the invitation to appear before you today to discuss the Copyright Act.

The Writers Guild of Canada is the national association representing over 2,200 professional screenwriters working in English-language film, television, radio, and digital media productions all across Canada. These WGC members are the creative force behind Canada's successful TV shows, movies, and web series.

First, I would like to tell you a bit about how Canadian screenwriters under our jurisdiction work and get paid. Screenwriters in our jurisdiction work under our collective agreement, which is called the independent production agreement, or IPA. They enter into a contract with a producer for screenwriting services. This can involve various types of work, typically corresponding to various stages of writing and script development, from outlines and pitch documents to so-called bibles, which are reference documents that lay out a television series' characters, settings and other elements, to drafts of a completed script.

Under the IPA, screenwriters are paid what we call a script fee for any and all of these stages of work. If a script moves into production, the screenwriter is additionally paid what we call a production fee. Finally, the IPA provides for royalty payments to the screenwriter based on a percentage of profits from the distribution and exhibition of the production.

In addition, the WGC has established the Canadian Screenwriters Collection Society, or CSCS. The mandate of CSCS is to claim, collect, administer and distribute, on a collective basis, foreign authors' levies to which film and television writers are entitled under the national copyright legislation of certain countries.

A script and a production produced from that script are separate works under copyright, and as such, they each have their own copyright protection. Under the IPA, screenwriters retain copyright as the author of their script, and they license the producer the right to produce a cinematographic work based on that script. Producers aggregate that licence with whatever other intellectual property rights they may require to produce the cinematographic work. Producers then commercially exploit the finished production in the marketplace and remit a royalty to the screenwriter on profits, based on the terms of our collective agreement.

This leads to our primary request today. As we said in the summer to your colleagues at the Standing Committee on Industry, Science and Technology, we would like to ask for a simple amendment to the act to clarify that screenwriters and directors are jointly the authors of the cinematographic work.

Authorship is a central concept in the Canadian Copyright Act. The act acknowledges that authors generally create copyrightable works and states the general rule that "the author of a work shall be the first owner of the copyright therein". The authors of cinematographic works are jointly the screenwriter and the producer.

Screenwriters and directors are the individuals who exercise the skill and judgment that result in the expression of cinematographic works in material form. They start with a world of possibilities from which they make countless creative choices. Screenwriters create a world, choose the specific place and time in that world to begin and end the story, set the mood and themes, create characters with histories and personalities, write dialogue and map out a plot. Directors direct actors, choose shots and camera positions, and make choices that determine the tone, style, rhythm, and meaning as rendered in moving pictures.

Producers are not authors. Producers are the people with the financial and administrative responsibility for a production, which is defined in the current act as makers. While raising financing and arranging for distribution are important aspects of filmmaking, neither activity is creative in the artistic sense, and it is not authorship.

Moreover, copyright protects the expression of ideas, not the ideas themselves, so while producers may, on occasion, provide screenwriters and directors with ideas and concepts, it is screenwriters and directors who in turn express those ideas and concepts in copyrightable form.

A painter is the author of a painting. A writer is the author of a novel, and screenwriters and directors are jointly the authors of a film or television production. Art is made by artists, no matter what the medium.

● (1145)

A Canadian court has already decided that the joint screenwriter/director is the author of a film and not the producer. The court held that the individual producer could not be considered to be the author of the film since his role was not creative. As such, our proposal does not change the law or the reality in Canada; it simply clarifies it and does so consistently with international norms such as those of the EU.

Why is this important? For one thing, the act defines the term of copyright based on the life of the author. If the identity of the author is uncertain, then the term of copyright may be uncertain; therefore, there can be uncertainty about whether a given work is still under copyright or is in the public domain. For another thing, recognizing screenwriters and directors as joint authors provides support for creators and the role they play in Canada's creative economy. It gives them a strong position in which to bargain and enter into contracts with others in the content value chain. It puts them on a more level playing field.

Since this clarification would not alter the legal reality in Canada, it poses no threat to existing business models. Producers and others seeking to engage creators for their work would simply contract for the rights in that work, the same as they always have. Nobody argues that novelists aren't authors of their novels or composers aren't authors of their music, and certainly nobody argues that publishers somehow can't sell books or recording companies can't sell music just because these authors are the first owners of their works. Indeed, screenwriters are already clearly the authors of their screenplays, and producers already contract for the rights to adapt those screenplays as a matter of course.

It is the same for sequels or series television, which are simply multiple works based on the same characters or other elements. Any number of films or TV shows have been based on Bible stories, Jane Austen or Batman, but each new production is a new and separate copyrighted work, and each has its own authors who wrote and directed that particular production. Each film or episode is a new and different story that drives the characters forward. This is how it has always worked.

Finally, in this fast-changing environment, in which disruption is the rule and not the exception, clarifying screenwriters' and directors' positions as authors provides the potential for further tools, such as equitable remuneration for authors—as is available in other jurisdictions, such as Europe—if and when that policy option needs to be considered. Clear authorship is an essential step toward getting there.

Thank you for your time, and we look forward to your questions.

● (1150)

The Chair: Thank you.

We will now go to the Canadian Media Producers Association, please.

Ms. Erin Finlay (Chief Legal Officer, Canadian Media Producers Association): Thank you.

Madam Chair, my name is Erin Finlay, and I'm the Chief Legal Officer of the Canadian Media Producers Association.

With me today is Stephen Stohn, President of SkyStone Media and executive producer of the hit televison series *Degrassi: Next Class* and all previous versions of that great show.

The CMPA represents hundreds of Canadian independent producers engaged in the development, production and distribution of English-language content made for television, cinema and digital media. The CMPA works on behalf of its members to ensure a bright future for media production and for Canadian content.

Do you have a favourite Canadian TV show? Those Canadian films that are getting all the hype on the festival circuit, chances are one of our members produced them.

From *Degrassi*, which Stephen will talk about shortly, to the Oscar-nominated feature film *The Breadwinner*, the adaptation of Margaret Atwood's *Alias Grace*, *Letterkenny*, and *Murdoch Mysteries*, we have a lot to be proud of.

Last year, $3.3 billion in Canadian independent film and television production volume generated work for over 67,000 full-time-equivalent jobs across all regions of the country. The directors, writers, actors, crew and producers who work in these high-value creative jobs make the programs that provide audiences with a Canadian perspective on our country, our world and our place in it.

Our successes are the direct result of a highly effective regulated system. From cable company contributions and the Canada Media Fund to Canadian programming requirements and intellectual property laws that protect and incentivize Canadian creation, our communications and copyright legislative framework is the backbone of our current, vibrant domestic market.

But we are now at a crossroads, a pivotal point in the digital economy. It's no secret that we have a cultural behemoth just over the border. Over-the-top foreign platforms like Netflix and Amazon are drawing Canadian audiences and subscribers away from our domestic broadcasters and cable companies. These foreign players are delivering U.S. content straight into our homes with complete immunity from the regulations that help build our strong creative industry. This not only has created an unfair competitive advantage, but is putting immense stress on our funding system for Canadian content.

Failure to regulate these foreign entities and how content now reaches audiences is an existential threat to Canadian artists and creative industries. We must level the playing field and give the CRTC the tools it needs to do so. Put simply, our system must be modernized to require foreign over-the-top services and the new distribution channels operating in our market to contribute to the production of Canadian content, or there will be no more Canadian copyright to review.

The CMPA would like to highlight three issues with the current Copyright Act that are negatively impacting remuneration for artists in the creative industries.

First, these new ways of delivering content will eventually make the retransmission regime in the Copyright Act obsolete. Since inception, this regime has generated approximately $600 million for the Canadian creative industries. The retransmission regime must be modernized and made technologically neutral to account for online and mobile uses of copyright-protected works.

Second, the current tools available under the Copyright Act are ineffective against large-scale commercial piracy. We ask that the act be amended to expressly allow rights holders to obtain injunctive relief against intermediaries, including by site-blocking and de-indexing orders.

Finally, we strenuously oppose the writers' and directors' efforts to be made joint authors of copyright in a cinematographic work. The market has long ago worked out this question, and no change is required to the Copyright Act regarding the authorship or ownership of a cinematographic work.

Mr. Stephen Stohn (President, SkyStone Media, Canadian Media Producers Association): Canada fought hard to exempt the cultural industries in the recent renegotiation of NAFTA, now the USMCA. Prime Minister Trudeau said that waiving the exemption for cultural industries would be tantamount to giving up Canadian sovereignty and identity.

The exemption preserves and supports Canada's diverse cultural voices. It is key to the continued health of our creative industry, but we are in significant danger of a backdoor gutting of the cultural exemption in the film and television industry. If global digital behemoths like Apple, Google, Netflix and others are allowed to continue to broadcast in Canada in a totally unregulated manner, then our fight to maintain the cultural exemption and the jobs of creators and broadcasters of cultural content will have been for naught.

As Erin noted, we are now at a crossroads, a time when legislation and regulation either matter, or they don't. If we follow one fork in the road, we can continue to be part of the upward momentum of the domestic industry, and digital platforms and distribution channels, both foreign and domestic, can contribute to building a healthy domestic industry. If we follow the other fork in the road and fail to act, we essentially throw up our hands to foreign content and foreign platforms and capitulate to the behemoths lurking just over the border.

I'd like to turn back to an issue that was raised by our friend Neal just now, namely their quest to have the screenwriter and/or the director named as the author of a television show or film. For practical purposes, there is no question. For decades, the producer has been treated as the author throughout the Canadian and, importantly, United States industries. Fair rights and equitable remuneration for writers and directors have been successfully settled over those same decades through the extensive negotiation of industry-wide union and guild agreements by all industry participants.

Television and filmmaking are collaborate endeavours. Producers bring together all the creative elements to get a project from concept to screen. We hire and work closely with all the key creative roles. We work with the screenwriters—we love the screenwriters—to turn ideas into scripts. We hire directors, whom we equally love, to help turn scripts into projects. We also love and work with the actors. Who can imagine a show without the actors and their creative input? We hire the production designers who make the sets, the wardrobe designers, the composers and the musicians. Who can imagine a show without music? It's vital. We work with editors and crews, among many others, to shape the project and bring our collective vision to the screen.

Screenwriters, directors, and all the other contributors are important partners of producers, and we value all those relationships tremendously. After all, television programs and feature films are the ultimate collective works.

I'll put this in context. As you know, I produce *Degrassi*. We have now delivered 525 episodes over nearly 40 years. The most recent four seasons have been licensed originally to Netflix, where they're seen in 237 territories, in 17 different languages. It has been a success story.

To suggest that, for example, a screenwriter we hired to write episode 487, long after the characters, settings, formats, scenes, plot, storylines and music have already been in place for years and years, ought to be considered the author of that episode is simply wrong. However talented that screenwriter may be, she is working off a foundation—an ongoing foundation—and creative expression that has been built up over many years by many different contributors.

A producer's copyright is the foundation for all private and public funding sources for film and television projects in this country and in the United States. Authorship and ownership of copyright in the cinematographic work is what allows the producer to commercialize the intellectual property. Ultimately, we cannot do our jobs as producers if we are not considered, as we are today, authors of the cinematographic work.

● (1155)

Thank you, all, for this opportunity to discuss these issues with the committee.

Erin and I would be very pleased to answer any questions you may have.

The Chair: Thank you, both, for your presentations.

Because of our late start, we're at the end of our hour for the witnesses. Because we can't extend our time, I'm going to suggest that each of the groups at our table submit some questions in writing. I expect the witnesses will also have some extra comments they may want to write in response to each other's presentations.

Mr. Nantel, go ahead.

● (1200)

[*Translation*]

Mr. Pierre Nantel: Madam Chair, I understand the situation. There is no doubt that these two witnesses have a lot to say. It is very interesting to see that they agree on some points, but not on another. That's life, and it is up to us to pay attention to it all. I would add that it is very important for us to be able to ask them questions.

Furthermore, I fully agree with you on how important it is to follow the agenda. We are actually late and we still have two bills to consider. In that respect, I think it is particularly important to discuss the bill proposed by Mr. Casey, because reconciliation with indigenous peoples is paramount. Romeo Saganash, whom several of our witnesses have mentioned, was sick over the weekend and I couldn't talk to him about it. He is certainly a key person in this process.

Since time is of the essence, I propose that we devote ourselves today solely to the consideration of the bill to designate the month of April as Sikh Heritage Month. If the committee agrees, I would like us to postpone the clause-by-clause consideration of Mr. Casey's proposed bill.

Thank you.

The Chair: Does anyone want to comment on Mr. Nantel's proposal? I have to ask whether everyone agrees to follow up on his suggestion.

Mr. Randy Boissonnault (Edmonton Centre, Lib.): Madam Chair, I would like to take a five-minute break.

The Chair: Okay.

● _____ (Pause) _____ ●

[*English*]

We're back from our pause.

Mr. Boissonault, go ahead.

[*Translation*]

The Chair: Since we don't have a lot of time, I'll ask everyone to come back to the table.

Mr. Boissonnault, you have the floor.

Mr. Randy Boissonnault: Thank you, Madam Chair.

By the way, colleagues, I would like to say that Mr. Saganash delivered what was perhaps one of the best speeches I have ever heard from a parliamentarian on Friday evening to members of the Association canadienne-française de l'Alberta (ACFA).

Given our very tight agenda, we would like to support the chair's proposal to present our questions in writing. We also support further consideration of both bills. It is not out of disrespect for our colleague, it is just that we want to follow the agenda.

The Chair: Mr. Blaney, do you have a comment?

Hon. Steven Blaney: Yes, Madam Chair.

I support Mr. Nantel's proposal. Witnesses have nevertheless travelled here, which costs money. Other witnesses have also joined us by videoconference. The committee has the opportunity to gather a lot of information, and if we are short of time, it is always possible to ask them additional questions. I would find it a little disgraceful on the committee's part to turn away the representatives who have travelled here. I am also thinking of taxpayers' interests.

I have some questions for the witnesses, as does my colleague. We think this is an important issue and it would be a shame to overlook it. The Liberals talk a lot about cultural exemptions, and for goodness' sake, that does not necessarily mean revenue for our artists. That is why we have important questions to ask and we support Mr. Nantel's proposal on the issue.

I would also add that the repatriation of Aboriginal cultural property is important; many amendments have been proposed and we are already running out of time. Instead, we could take the time to look at the bill on this issue with a clear head—there are people who have not necessarily had time to review the entire bill—and to study it at a subsequent meeting.

We therefore have no objection to focusing on the proposed legislation to designate April as Sikh Heritage Month. We could certainly study it very quickly.

● (1205)

The Chair: I'll give the floor to Mr. Nantel first, followed by Mr. Breton.

Mr. Pierre Nantel: I very much appreciate the support of my Conservative colleagues on this issue.

When we studied the issue of the repatriation of Aboriginal cultural property, I repeatedly said how surprised I was—well, not really surprised—to see the sacred dimension of those artifacts. I had not actually considered the magnitude or the importance of indigenous peoples' rights at the United Nations. So I think it is imperative that I be able to have this validated properly by Mr. Saganash. I've said that before and I don't want to waste any more time, but I clearly think our witnesses are interesting and they have things to say. Their views are particularly opposed on some points, which I would like to clarify. That is why I think we should continue along those lines.

Thank you.

The Chair: Thank you.

Mr. Breton, the floor is yours.

Mr. Pierre Breton (Shefford, Lib.): We have some very interesting witnesses, that's for sure. We must be able to talk to them, ask them questions and receive answers. We can do this by email, through our clerk. It is always preferable to welcome witnesses and be able to discuss with them in person or by videoconference, I agree. Under the current circumstances, however, we have an agenda and I propose that we follow it.

The Chair: Okay.

[*English*]

Why don't I put this to a vote to see how we should proceed? I believe the proposal from Monsieur Nantel that we'll be voting on is that we continue with oral questions for the witnesses we have before us.

(Motion negatived [*See Minutes of Proceedings*])

The Chair: Seeing that the motion failed, what I will propose is that everyone who has questions they would like to submit in writing to our witnesses can provide that to us.

As well, as I mentioned to both sets of witnesses, given that you have some positions that you might want to comment upon regarding each other's testimony today, if you would like, you can also provide written submissions to us.

We're going to suspend briefly while we allow people to leave, and then we will start with our review of the private members' bills.

● _____ (Pause) _____

●

● (1210)

The Chair: We are going to start back.

The first private member's bill we have before us today is Bill C-376, An Act to designate the month of April as Sikh Heritage Month. We have not received any amendments for this bill. I will proceed straight to clause-by-clause consideration as no one has proposed any amendments.

Pursuant to Standing Order 75(1), consideration of clause 1, the short title, and of the preamble is postponed.

I will go to clause 2.

Mr. Randy Boissonnault: Madam Chair, can I make an amendment now on clause 2?

The Chair: Is that an amendment to clause 2 of the Sikh heritage month bill?

Mr. Randy Boissonnault: My apologies, colleagues. I'll go to the right bill.

The Chair: Thank you.

(Clause 2 agreed to)

The Chair: Shall the preamble carry?

Some hon. members: Agreed.

The Chair: Shall the short title carry?

Some hon. members: Agreed.

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill carry?

Some hon. members: Agreed.

The Chair: Shall the chair report the bill to the House?

Some hon. members: Agreed.

The Chair: That disposes of that bill.

I thank Mr. Dhaliwal for coming today.

Mr. Sukh Dhaliwal (Surrey—Newton, Lib.): I also thank you, Chair and committee members, and the parliamentary secretary, for all the support that I got. I'm looking forward to working with you all again.

The Chair: Thank you.

Pursuant to the order of reference of Wednesday, June 6, 2018, we'll now go to Bill C-391, An Act respecting a national strategy for the repatriation of Aboriginal cultural property.

We do have amendments to this bill. We'll be going to clause-by-clause consideration.

Pursuant to Standing Order 75(1), consideration of clause 1, the short title, is postponed.

(On clause 2)

[*Translation*]

Hon. Steven Blaney: Madam Chair, I have a question.

[*English*]

The Chair: Could we wait one second? I have to review it.

The legislative clerk will be distributing amendments packages. We'll just take one second as we review that.

Everyone has a package. We will start with—

Yes, Mr. Blaney, go ahead.

● (1215)

[*Translation*]

Hon. Steven Blaney: Madam Chair, in the documents that were sent to us, I noted that we had received comments from the Canadian Museum of History. It is a fairly extensive document, almost seven pages long. It reviews all the aspects of the bill, and the recommendations seem constructive to me.

Were those considerations taken into account before the amendments proposed today were drafted?

[*English*]

The Chair: Does anyone want to comment on that?

Monsieur Nantel, go ahead.

Mr. Pierre Nantel: I'm thinking about how I'm going to comment on this to take as much time as I can. But I don't want to play the game. I appreciate Mr. Blaney's intention, and I think it's very collaborative of him to name the rush that's going on on the government side here. We know all the procedures to put wooden sticks in your wheels; we could do it. I don't see why you're rushing so much, why you guys get so nervous about it. All I know is that I went public saying that I think Romeo.... Of course, we've consulted him on all these issues and the amendments we've given are inspired by all this. I would not improvise something on such a delicate topic.

Clearly, you guys are rushing to get this stuff out. I don't see why. I think this is such an important thing. Everything that touches first nations reconciliation is super delicate. I think it's the wrong thing to do. I don't want to capitalize on the fact that Romeo is on antibiotics, on Tylenol or just sick; I don't know. I couldn't speak to him. I'll leave it up to you, and of course you'll go, because you have orders. If Mr. Blaney wants to uncover all the rocks, I appreciate that, but they have majority and they'll vote us down if they want to go further, and to go further than one o'clock.

Thank you, Mr. Blaney, and let them have their way.

The Chair: Mr. Blaney, go ahead.

[*Translation*]

Hon. Steven Blaney: Madam Chair, my thanks to Mr. Nantel for his comments. We are doing constructive work. This bill has received the support of three parties and of a number of members in the House of Commons. We are in favour of the bill. However, I come back to the point I made earlier. The Canadian Museum of History, which we can consider to be the steward of heritage, has provided comments, clause by clause, on the clauses of the proposed bill.

As Mr. Nantel just mentioned, the intent of the bill is good, but as is often said, the devil is in the details. Let us take, for example, clause 3, which is in the document presented to us. The Canadian Museum of History has proposed two changes to the original text.

● (1220)

[*English*]

The Chair: Mr. Blaney, we're still on clause 2, so you will have to keep your comments on clause 2.

[*Translation*]

Hon. Steven Blaney: Madam Chair, I actually do have comments on clause 2. The Canadian Museum of History has also sent some comments about that clause.

Madam Chair, I asked you whether the recommendations from the Canadian Museum of History had been considered before these amendments were drafted. Were the texts submitted in advance so that parliamentarians from various parties could familiarize themselves with them and include them in the proposed amendments? I had no reply from you. There was a comment from Mr. Nantel, however.

I feel that we all have a common objective: to make sure that the bill achieves its goal, meaning that it is the best it can be.

I repeat that the museum submitting recommendations to us is a steward of our heritage, and you are giving me no assurance at all that its recommendations have been considered in the proposed amendments. As a result, I can only conclude that we are going to ask the House of Commons, at third reading, to study a botched bill that has ignored some particularly appropriate comments.

Madam Chair, I must inform you that it is my intention to consider the recommendations and the amendments proposed by the Canadian Museum of History, because that is our objective for today. We want a bill that is the best it can be and that accommodates the comments that witnesses before the committee have provided, those that we have not gratuitously dismissed even before we have been able to ask them a single question. Forgive me for using that expression, but that is what happened just now. We are told that the topic of copyright is important, but the government has showed us today that its bulldozer is never far away.

I come back to the issue that concerns us today, the bill on the repatriation of Aboriginal cultural property. We feel that this must be done properly, and that the committee would be failing in its duty if, before it passes amendments, it does not consider the recommendations from the Canadian Museum of History. They are one of the major players in protecting Aboriginal heritage, for goodness' sake. It will be one of the major players when we come to develop a strategy. The Canadian Museum of History will be involved in that strategy, of course, given that it holds substantial Aboriginal collections.

Madam Chair, let me ask you again. This is basically to do with time. When was this text submitted to parliamentarians? Did it give parliamentarians enough time to consider the recommendations of the Canadian Museum of History before submitting amendments to be studied in the clause-by-clause consideration of the bill?

If not, I can only conclude that we have an important document, but that the committee members have not had the opportunity to express their views on it. If we take an approach that does not consider these factors, which seem appropriate and important to me, we may well be missing the boat.

[*English*]

The Chair: To answer your question, I'm going to ask the clerk to confirm the date of distribution, and then we'll go to Mr. Nantel.

[*Translation*]

The Clerk of the Committee (Mr. Graeme Truelove): The document was distributed yesterday.

The Chair: Very well.

Mr. Nantel, the floor is yours.

Mr. Pierre Nantel: Thank you, Madam Chair.

First of all, it was in a sort of spirit of collegiality that I said I was happy that the Conservatives see the fact that we are rushing to pass this bill as a problem. I was surrendering given the majority, but, frankly, I thank my colleague very much for pointing this out.

We did receive information yesterday from the Canadian Museum of History. We also received something yesterday, or maybe it was this morning, from the Royal British Columbia Museum, if I'm not mistaken. While I'm talking to you, I'll check it. I received an email at 10:14 a. m.

[*English*]

It was "Written responses to questions on Bill C-391".

[*Translation*]

We received it this morning at 10:14 a.m.

Mr. Blaney, I'll give you time to eat. I'm not going to ask you to make comments with carrots in your mouth. They're good, by the way. It's often the same menu.

[*English*]

The Chair: Okay, keep it on clause 2, not carrots.

Mr. Pierre Nantel: Yes, well, you want me to keep it on clause 2. The point is that, to tell the truth, I'm mesmerized to see that we are....

[*Translation*]

We are in the process of passing a bill, while there are witnesses from museums to be heard. They are not First Nations, but these witnesses certainly care about the repatriation of Aboriginal cultural property and reconciliation with indigenous peoples. No one here can look me in the eye and tell me that the recommendations, the bill and the amendments take into account the information that was sent to us by the Royal British Columbia Museum this morning at 10:14 a.m. That's impossible.

As my colleague said, isn't that a little insulting to all these people the committee is asking to appear? This morning, I'm more interested in doing the right thing, no matter what the government thinks. And the right thing is to ensure, as a representative of the New Democrats, that my First Nations colleagues can support the amendments. We've talked a lot about people, like Mr. Saganash, who has often been quoted. This is certainly my main concern.

Honestly, there is a major procedural flaw in rushing right away to pass the bill just like that, when we have important witnesses to hear. We cannot dispute the importance and professional expertise of the people from the Royal British Columbia Museum.

I see you wish to speak, Madam Chair. I'll let you do so and then we'll continue afterwards.

Can someone please clearly explain this procedural flaw in ignoring the views of experts such as the Royal British Columbia Museum and the Canadian Museum of History before passing this bill?

● (1225)

The Chair: Mr. Boissonnault, you have the floor.

Mr. Randy Boissonnault: Thank you, Madam Chair.

I would like to propose an amendment to clause 2, which all members of the committee have received. It's amendment LIB-1.1.

[*English*]

LIB-1.1 pertains to making a change in the original bill to amend the word "aboriginal" to "indigenous". Instead of "aboriginal cultural property"—

The Chair: Can I interrupt you for one second?

I was speaking with the legislative clerk, who mentioned that LIB-1 has to go before LIB-1.1.

[*Translation*]

Mr. Randy Boissonnault: Who has amendment LIB-1?

Mr. Breton?

Mr. Pierre Breton: I have clause 2, to which I would like to propose an amendment.

Mr. Pierre Nantel: Why don't you wait your turn?

[*English*]

Mr. Randy Boissonnault: I cede my time to Monsieur Breton.

[*Translation*]

Mr. Pierre Breton: I move that amendment LIB-1 be passed.

[*English*]

The Chair: I need to confirm with the legislative clerk, because we're trying to figure out the order. While LIB-1 must go before LIB-1.1, if LIB-1 is adopted, LIB-1.1 and NDP-1 cannot be moved, as they amend the same lines. I'm going to ask the legislative clerk how this has to be done properly.

If I can clarify the issue that has been raised, Monsieur Breton and Monsieur Boissonnault, as you're sharing your time on this one, the issue is that LIB-1—

Mr. Randy Boissonnault: Madam Chair, let's just suspend for three minutes.

I move to suspend.

The Chair: All right. We're going to suspend.

● _____ (Pause) _____ ●

● (1230)

The Chair: Let's start again because we have everyone at the table.

Thank you.

[*Translation*]

Hon. Steven Blaney: I would like to talk to the members opposite a little. Can we suspend the meeting for a moment or do you want us to start again?

[*English*]

The Chair: Yes.

I'm going to do a two-minute suspension as we've already been suspended for a bit.

● _____ (Pause) _____ ●

The Chair: All right.

I am going back to Mr. Boissonnault. You were sharing your time with Mr. Breton.

● (1235)

[*Translation*]

Mr. Randy Boissonnault: Yes, I'll turn it over to Mr. Breton.

Mr. Pierre Breton: Thank you, Madam Chair.

The amendment proposes to delete the definition of "Aboriginal cultural property". It's quite simple. We propose that the communities establish the definition, not us. Furthermore, the definition does not exist in the—

[*English*]

The Chair: I just want to clarify one thing.

I'm sorry. I'm speaking in English because sometimes I think faster in English.

We're on LIB-1, which deals with the definition of "minister".

[*Translation*]

Mr. Pierre Breton: Amendment LIB-1 proposes that Bill C-391, in clause 2, be amended by replacing lines 6 to 12 on page 1 with the following:

> Definition of Minister
>
> 2 In this Act, *Minister* means the Minister of Canadian Heritage.

[*English*]

The Chair: Which lines is it replacing?

[*Translation*]

Mr. Pierre Breton: Nothing is replaced; the rest is removed.

[*English*]

The Chair: I just want to clarify that LIB-1 refers to replacing lines 6 to 11 on page 1. If that is done—

[*Translation*]

Mr. Pierre Breton: Lines 6 to 12.

[*English*]

The Chair: Right. The reason I'm flagging this is that if lines 6 to 12 on page 1 are replaced in LIB-1, then LIB-1.1 cannot be moved.

Okay, why don't we go back?

Monsieur Breton is moving LIB-1. It's making a change to lines 6 to 12. Is that right?

[*Translation*]

Mr. Randy Boissonnault: In English, it's lines 6 to 11, and in French, it's lines 6 to 12 because of the translation.

The Chair: Right, I understand.

[*English*]

Monsieur Breton has moved LIB-1.

Is there any discussion about LIB-1?

[*Translation*]

Mr. Randy Boissonnault: There is subamendment LIB-1.1, Madam Chair. Before we vote on the amendment, the subamendment must be proposed.

[*English*]

The Chair: I wasn't going to a vote yet.

I'm going to Mr. Blaney. We're just discussing LIB-1. We're not voting on it.

[*Translation*]

Hon. Steven Blaney: First, I would like to ask a question of Mr. Breton, who is proposing the amendment.

Mr. Breton, you want to remove the definition of "indigenous cultural property" from the bill. I think that's what your amendment says, but you want to leave the definition of "minister" as is?

Mr. Pierre Breton: Yes, exactly.

Hon. Steven Blaney: Mr. Breton's amendment is relevant and concerns what I argued earlier. I just discussed it with Mr. Boissonnault. We have observed that sometimes the Liberals are afraid to include definitions in a bill. Yet definitions are the foundation of a bill. We are talking about the repatriating indigenous cultural property, but people want to remove the definition. I find that, from the outset, this has the effect of radically watering down the bill, especially since the Canadian Museum of History recommends that we make a distinction between indigenous cultural property that comes from Canada and property that comes from outside the country.

Why is the museum making this recommendation? Because it would clarify which items in public collections outside Canada the legislation applies to. This is an extremely important issue, which has been set aside, but is contained in the document that was presented to us yesterday, after the deadline for tabling amendments in committee. That's why I recommend that the committee establish a new deadline for the submission of recommendations and that we choose to adjourn. We would have time to review the new information that has been brought to the committee's attention that will allow us to make informed decisions, including on the proposal to remove a definition. We think it's better to have a definition, or even to make the definitions clearer.

I just want to clarify that there is both public and private property. There is also indigenous property in Canada and other property outside the country. This has important consequences for the owners of these items as well as for museums. In this case, we are also talking about indigenous communities that wish to repatriate these items. It is important that our approach be open, but that it not infringe on individual rights to private property.

That is exactly what recommendations of the Canadian Museum of History are about. As I have already said, this is why it seems important to me at this time that we have more time to consider the recommendations of the Canadian Museum of History, more specifically with regard to Mr. Breton's amendment, which proposes that the definition be removed. I find that starting by removing the definitions is a curious way to start a bill.

● (1240)

[*English*]

The Chair: We're going to Monsieur Boissonnault now.

[*Translation*]

Mr. Randy Boissonnault: With regard to the amendment, I think it is important to give communities the opportunity to define the extent of their indigenous cultural property. That is what is at stake. As Mr. Nantel made clear, it is important to show respect for indigenous peoples. As we know, a tenuous definition, like a very broad definition in a piece of legislation, can cause problems later on. It is therefore important to give indigenous peoples the necessary flexibility to define terms properly. It is with this in mind that we have tabled the amendment.

[*English*]

The Chair: All right.

Monsieur Nantel, go ahead.

[*Translation*]

Mr. Pierre Nantel: I have heard the comment of Mr. Boissonnault, who is defending himself, but the amendment I am presenting is the opposite. We are talking about 12 more lines to define these terms. The definition is intended to be broad and is intended to open up opportunities in line with the United Nations Declaration on the Rights of Indigenous Peoples. They are also in keeping with the very sincere feeling that excited me when I asked people about the spiritual and sacred dimension of these artifacts. In any case, my amendment is of a completely different nature. However, in order to debate your amendment, I would like to tell you that my amendment goes in the opposite direction by adding 12 lines. Needless to say, I am opposed to your proposal.

[*English*]

The Chair: Monsieur Breton, go ahead.

[*Translation*]

Mr. Pierre Breton: I won't repeat what Mr. Boissonnault mentioned. It's exactly where I was going. There may be variations from one community to another. We're talking about respect for indigenous peoples and communities. So let these people tell us what is meant by the term "indigenous cultural property".

[*English*]

The Chair: Mr. Blaney, go ahead.

[*Translation*]

Hon. Steven Blaney: Madam Chair, the greatest mark of respect we can show towards indigenous communities is to call things by their name and define them well.

I am surprised to see that the Liberals will often express great intentions, but when it comes to making them a reality, taking concrete action, that fades away.

The definition proposed in the bill by Liberal MP Bill Casey is that "Aboriginal cultural property" involves "objects of historical, social, ceremonial or cultural importance to the Aboriginal peoples of Canada." This seems to me to be a rather broad and inclusive definition.

I come back to what I was saying earlier: there are objects that are outside Canada and others that are here in Canada.

I come again to the proposed definition of an "object of historical, social, ceremonial or cultural importance to the Aboriginal peoples of Canada". What the Canadian Museum of History is asking us to consider is whether the object is kept in collections outside Canada or in public collections in Canada.

We see that there is a distinction between collections that are held outside Canada and collections that are held in Canada. If the law applies to objects kept in Canada, it is recommended that we write a more complex, dense text than a summary may contain.

The museum told us that consultation with senior officials of the Department of Justice and with Indigenous and Northern Affairs Canada is strongly recommended, as the current wording has important implications, particularly with respect to negotiations on comprehensive land claims between Canada and indigenous peoples, self-government negotiations and individual constitutional rights to private property.

We are therefore talking about rights recognized in the Constitution, individual rights to private property.

It is also important to note that, in the definition of “indigenous cultural property”, we have not yet considered what has been raised several times by witnesses, in other words, human remains.

In this regard, the inclusion of ceremonial objects and human remains is consistent with Article 12(2) of the United Nations Declaration on the Rights of Indigenous Peoples, to which Canada is a signatory.

Madam Chair, one element that seems fundamental to us, and that is raised in the brief presented to us yesterday, is that it is important that the legislation apply only to public collections so that it doesn't infringe the rights of persons who own a private collection. I would remind you that we didn't have time to read the brief or the opportunity to propose amendments related to the recommendations of what I call the “heritage guardians”.

There are important issues at stake, Madam Chair. I remind you that we are open to the spirit of the bill, but we want it to be done well. We don't want to end up with what I would call “a bill that has been emasculated from its very essence”, for example, by removing the fundamental definition of what constitutes indigenous cultural property. Instead, we want to come up with a bill that provides a good framework for what we want to do. We want to give communities the opportunity to repatriate their cultural property, but taking into account the legal context and rights that are enshrined in the Constitution.

In this regard, we cannot support a proposal to remove a definition. On the contrary, this definition must be much more elaborate.

Madam Chair, I hope you will tell me how I should proceed, once we have debated this amendment, to ensure that we can have more time, really, to read the recommendations that have been submitted to us, not only by the Canadian Museum of History, but also by a museum in British Columbia.

There are important elements to consider. We don't want to rush the work, which is why it seems essential to us to have more time.

● (1245)

[*English*]

The Chair: You've talked about the timing piece, but I want to clarify that what we are debating is LIB-1, which is replacing lines 6 to 11 on page 1 with “In this Act, Minister means the Minister of Canadian Heritage.”

We're not debating the other aspects. We're debating this amendment.

[*Translation*]

Hon. Steven Blaney: What we're debating, Madam Chair, is the removal of the definition of “indigenous cultural property” and keeping the definition of “minister”. That's what Mr. Breton told me earlier.

[*English*]

The Chair: Well—

[*Translation*]

Hon. Steven Blaney: Madam Chair, I hadn't finished what I was saying when you interrupted me.

I was saying that it was important that we have a schedule so that we can propose new amendments in light of the documents provided to us yesterday. These are documents that were provided to us after the deadline by which we, as members of Parliament, can propose amendments. This bill and these amendments are important.

All we want is not to rush the work and not end up with a bill that has a good title, but that ultimately gives First Nations peoples no tools to repatriate indigenous property.

[*English*]

The Chair: We have Mr. Yurdiga and then Mr. Boissonnault.

Mr. David Yurdiga (Fort McMurray—Cold Lake, CPC): Thank you, Madam Chair.

I find it very insulting that we get all this information last minute. We're not doing any service to the aboriginal people who want to have a bill that's relevant, and will be relevant for years to come. We're jumping around from clause 2, back and forth. It's very confusing. If we had time, we would be able to analyze what we're looking at. We want to ensure that we do it right. By pushing this along, we're not doing service to anyone.

For example.... Everybody's jumping around, so I will, too.

● (1250)

The Chair: I'm not inviting people to jump around. We are keeping our discussion on clause 2. The amendment is LIB-1.

Mr. David Yurdiga: Thank you for that, but it does affect the rest of the report. We're changing definitions. Quite frankly, we should spend more time on this. Rushing to a decision is not what we should be doing.

The Chair: Mr. Boissonnault, go ahead.

Mr. Randy Boissonnault: Madam Chair, I move that the committee adjourn.

The Chair: I'll put the question that the committee adjourn.

(Motion agreed to)

The Chair: The meeting is adjourned.