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Chair

The Honourable MaryAnn Mihychuk

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● (0850)

[*English*]

The Chair (Hon. MaryAnn Mihychuk (Kildonan—St. Paul, Lib.)): I'd like to call the meeting to order and thank everybody for attending.

We have very important work to do today. We are going to go through a very significant bill related to child and family services.

We are on the unceded territory of the Algonquin people. It is part of the initial process of understanding the truth of Canada's history and moving toward reconciliation. I am privileged to be a resident on Treaty 1 and the homeland of the Métis people.

As is customary, are there any objections to moving the definitions and the preamble to the end? I see none, thank you.

I believe I've asked for printed copies be circulated.

Since we have no amendments in clauses 2, 3, 4, 5 and 6, shall clauses 2, 3, 4, 5 and 6 carry?

(Clauses 2 to 6 inclusive agreed to)

(On clause 7)

The Chair: We have a proposed amendment on clause 7.

Mrs. McLeod.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Madam Chair, we heard through the committee hearings that the degree of discussion with the provinces and territories was anywhere from minimal to, in some cases, non-existent.

This Liberal government prides itself in saying it is collaborative, that it's going to work in collaboration and build relationships. I believe all the provinces probably exceed the standards or are equivalent, but to take a piece of legislation and impose it on the provinces in an area of their constitutional jurisdiction is sort of.... It should have had agreement and sign-off by the provinces, as we also heard from some constitutional lawyers.

The amendment to clause 7 is meant to respect the provinces and territories. This government has work to do in that area.

● (0855)

The Chair: Mr. Bossio.

Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.): Based on what we heard during the co-development of this bill, the proposed legislation was meant to be binding on the provinces and territories. To proceed with such an amendment would reduce the impact of the bill, as its principles and provisions would not be applied by provincial and territorial service providers.

We do not recommend supporting this amendment.

The Chair: Mr. Amos.

Mr. William Amos (Pontiac, Lib.): I have a brief comment further to that notion that this is somehow trenching on provincial jurisdiction. It's very clear, and we've seen multiple academic journals and received testimony to the effect that it is fully within federal jurisdiction. To suggest otherwise would necessarily be suggesting that the indigenous peoples of Canada don't have these rights. That's not only incorrect, but bordering on offensive.

The Chair: MP Vandal, you are passing.

MP McLeod.

Mrs. Cathy McLeod: I take exception to that comment.

When you perhaps have someone who is living off reserve in Toronto, or another urban setting where the communities have not assumed responsibility, you have a provincial system that has responsibility under our Constitution.

This is not offensive. This is strictly about ensuring you have had that conversation with the provinces and territories. You talk about co-development. Co-development should have included the provinces and the territories.

The Chair: MP Waugh.

Mr. Kevin Waugh (Saskatoon—Grasswood, CPC): Madam Chair, I would agree with the last statement.

We heard from the Saskatoon Tribal Council, off reserve, where there are issues in my city of Saskatoon. There are issues in Manitoba. There are issues in Saskatchewan and Ontario.

I just want it on the record that there are issues off reserve, and this is why this statement is important.

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

(Clause 7 agreed to on division)

(On clause 8)

The Chair: On clause 8, we have an amendment LIB-1.

MP Bossio.

Mr. Mike Bossio: There were many requests made for Canada to incorporate, as a purpose to the bill, a reference to the UN Declaration on the Rights of Indigenous Peoples. We've heard that call and would recommend adding a third purpose to the bill, which would seek to clarify that the bill aims at contributing to the implementation of the UN Declaration on the Rights of Indigenous Peoples.

We will be supporting this amendment.

The Chair: If this amendment is adopted, then NDP-2 and Independent-1 cannot be moved. The concept of UNDRIP is already covered by the LIB-1 amendment.

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

The Chair: We have PV-5.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Thank you, Madam Chair.

I apologize that I need to put this on the record. I'm here because of a motion passed by this committee. I continue to object to its terms. It deprives me of my rights that I have under our process and procedures of Parliament.

Absent your motion, I would have the right to present this amendment at report stage, which would mean that I could be at one committee at a time. That's as opposed to yesterday, as an example, where there were two committees going through clause-by-clause at the same time, and I had amendments that I presented at both. It's an onerous provision, and I wish you hadn't passed that motion.

I'm here somewhat under duress, but I seize the only opportunity I will have to put forward these amendments.

This amendment was recommended on the advice of Cindy Blackstock and others. We want to change and improve the description of the purpose of the legislation.

The goal of the amendment is to ensure that the legislative purpose is acknowledged to:

> (c) prevent, as much as possible, the removal of Indigenous children from their communities; and
>
> (d) establish measures to facilitate the provision of adequate, equitable, sustainable and long-term funding for Indigenous groups, communities and peoples to enable them to exercise their legislative authority in relation to child and family services and to provide services that are comparable in quality to those offered to non-Indigenous children, while taking into account their unique cultural, social, economic, geographic and historical needs and circumstances.

What this is clearly attempting to do, I believe, is absolutely consistent with the intent of the legislation overall. It makes it clear that the purpose of the legislation is to respond to issues like the sixties scoop to make sure that sort of thing doesn't ever happen again, and that child and family services in indigenous communities have, as a purpose under this legislation, avoiding removing indigenous children from their communities.

I hope we can receive your support to improve the legislation.

● (0900)

The Chair: MP Bossio.

Mr. Mike Bossio: I feel that it's premature to determine what funding methodologies would be required for indigenous groups to exercise jurisdiction over child and family services. More discussions in funding need to take place with indigenous groups, provinces and territories in order to assess the funding needs of communities, as well as to identify the proper funding methodologies.

Funding requirements for each community will vary, depending on the child and family services model they wish to adopt, along with their distinct needs and priorities.

We do have an amendment later on, LIB-4, that's being proposed and that seeks to flag the importance of discussing fiscal arrangements in the context of coordination agreements in relation to the provision of child and family services by indigenous groups, services that would be sustainable, needs-based and consistent with the principle of substantive equality. If adopted, this amendment would be incorporated at clause 20.

That's what we'll be shooting to do later on. Therefore, we won't be supporting this amendment.

The Chair: MP McLeod.

Mrs. Cathy McLeod: We are prepared to support this particular amendment. I think it adds some valuable increased definition. I don't see the one line regarding funding as being prescriptive. I just see it as saying that it needs to be added to the framework.

The Chair: MP Blaney.

Ms. Rachel Blaney (North Island—Powell River, NDP): The NDP will be supporting this amendment.

I just want to draw the attention of the Liberals at this table to how much testimony we received on this very issue. We will be proposing more amendments.

The core issue is the resources and the acknowledgement of the need for those resources. I would hate for this to be a hollow bill. I hope that we see a tone in this place where we are really addressing the key issue, which is resources for those communities directly.

(Amendment negatived)

(Clause 8 as amended agreed to on division)

(On clause 9)

The Chair: We're now at clause 9. We have numerous amendments.

The first amendment received is IND-2.

Would you like to move your amendment and then give a brief opening comment?

● (0905)

Hon. Jane Philpott (Markham—Stouffville, Ind.): Yes, thank you.

This is a fairly straightforward amendment. It was received on the basis of feedback that I heard from indigenous peoples: that they want it to refer not to “a child's well-being is often promoted when”, but to “a child's best interests are often promoted when”. This is because the concept of best interests is a concept that I heard repeatedly, particularly from first nations with regard to the highest goal that they were seeking. It was more inclusive of considering cultural continuity, and we certainly heard that cultural continuity is something that is at risk when children are taken from their homes. I think that it would not take much to change that to say that it is a child's best interests that we are seeking.

The Chair: MP Bossio.

Mr. Mike Bossio: To change this paragraph of the bill as suggested would reduce the scope of this affirmation: “a child's well-being is often promoted when the child resides with members of his or her family and the culture of the Indigenous group, community or people to which he or she belongs is respected”.

The current version of the bill refers to “a child's well-being” instead of “a child's best interests”. Referring to “a child's well-being” is broader in scope than “a child's best interests”.

The Chair: Mrs. McLeod.

Mrs. Cathy McLeod: We certainly thought this was an appropriate change. If you look at the big title in clause 9, “Principle—best interests of child”, this has been consistent. If my colleague's argument is to hold any water, then perhaps the principle needs to be well-being of the child and that was an error, so the argument against this particular change does not make any sense.

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

The Chair: We are on NDP-3.

Ms. Rachel Blaney: This is an important change to make sure that there's gender neutrality, replacing “his and her” with “the child”. This just clarifies that. It is also to ensure that “peoples” is plural as some children have parents from different communities. We wanted to make sure the language was inclusive.

The Chair: Mr. Bossio.

Mr. Mike Bossio: As much as I personally agree with gender neutrality, the adoption of gender neutrality in federal legislation consists of a broader discussion that needs to take place outside of the conversation with regard to this bill. At this stage, modifying the bill, as suggested, would require a great amount of time which would lead to the bill not receiving royal assent before the House rises. The proposed approach is consistent with other recent bills, such as Bill C-97, which creates the departments of ISC and CIRNAC, as well as other bills. On this particular amendment, more work needs to be done outside the scope of the bill itself.

The Chair: Ms. Blaney.

Ms. Rachel Blaney: I'm rather disappointed to hear that. This is something that's fairly fundamental to what needs to happen. It's too bad the government isn't willing to take leadership on such an important issue.

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

● (0910)

The Chair: We are on NDP-4.

Ms. Blaney.

Ms. Rachel Blaney: This makes sure that “groups, communities and peoples” are plural, because children, like mine, have parents from different communities.

The Chair: For those who have amendments coming forward, you should actually indicate that you are moving the amendment and then begin to speak to it.

Ms. Rachel Blaney: I move this amendment with the reasoning and rationale, as I mentioned before.

The Chair: Once you move the amendment, you can begin your introduction to it.

Ms. Rachel Blaney: I move this amendment with the understanding that some children come from two communities, so this is really about making sure the language acknowledges that children often come from more than one indigenous community. We want to recognize and honour that.

The Chair: Mr. Bossio.

Mr. Mike Bossio: In paragraph 9(3)(e), when addressing the principle of substantive equality, the bill does state that:

> a jurisdictional dispute must not result in a gap in the child and family services that are provided in relation to Indigenous children.

In paragraph 11(d), it is stipulated that:

> Child and family services provided in relation to an Indigenous child are to be provided in a manner that...
>
> (d) promotes substantive equality between the child and other children.

Sorry, this is a substantive amendment, and that's why it's taking me a little while to get through it all.

While some indigenous partners have indicated the need for the inclusion of such reference within the bill, some others have requested that Jordan's principle not be referred to. In the context of Bill C-92, Jordan's principle does not apply to Inuit and Métis. Also, substantive equality is a legal principle guaranteed constitutionally by the Canadian Charter of Rights and Freedoms and by human rights legislation such as the Canadian Human Rights Act.

It is a fact and context specific that requires flexibility instead of a set of statutory definitions. What substantive equality requires will depend on many different circumstances and therefore should not be defined in this bill.

The bill addresses substantive equality in clauses 9 and 11, as has already been stated. Like I said, it goes on quite a bit, but I think that's enough to justify our position that we won't be supporting this amendment.

The Chair: In closing, we have MP Blaney.

Ms. Rachel Blaney: I just want to point out, and I apologize, because I read the wrong part. I understand now that I made a little bit of a mistake in talking about the rationale to this, but I think it's important that we recognize that the Assembly of First Nations, the Saskatchewan First Nations Family and Community Institute, the Canadian Bar Association and the Nova Scotia Mi'kmaq all brought forward that they supported these kinds of steps being taken. Again, the legislation does not reflect what I would like to see, which is the reflection of the testimony we heard in this place.

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

The Chair: Now we have Green Party amendment 6.

This appears to be—and I see that Ms. May is gone—inadmissible as it goes beyond the scope of the bill.

We have Green Party amendments 7, 8 and 9, but there needs to be a vote on every one. Green Party amendment 7 is deemed moved because it's independent.

MP Viersen.

● (0915)

Mr. Arnold Viersen (Peace River—Westlock, CPC): I'm happy to move that one.

The Chair: Would you like to discuss it? It's deemed moved, I understand.

Would you please explain that?

Mr. Philippe Méla (Legislative Clerk): The committee adopted a routine motion about three and a half years ago for independents, and all amendments proposed by independents are deemed moved. Even though they are not present in the room, their amendments are going to be put to the question.

The Chair: MP Viersen.

Mr. Arnold Viersen: This looks like it deletes the whole "best interests of the child" principle, lines 19 to 23. It's an interesting one.

I can't remember what her name is right now, but she talked about the fact that the "best interests of the child" is defined by the Government of Canada and not by indigenous communities, and that's why they would like to be able to define what "best interests of the child" is, and they're worried about this being in this bill.

The Chair: Ms. McLeod.

Mrs. Cathy McLeod: Not that it happens frequently, but I will disagree with my colleague.

The Chair: That seems healthy.

Mrs. Cathy McLeod: I perceive that when agreements are being made with the groups that definition will be very much a part of the agreement, so I think to be silent on that issue right now would not be good. I see that there is opportunity, as I indicated, as the agreements are reached between particular nations and the government.

The Chair: I have on the speaking list MP Vandal and then perhaps a closing by MP Viersen.

Mr. Dan Vandal (Saint Boniface—Saint Vital, Lib.): This is a simple deletion of five lines that is proposed by the Green Party. That's it, and there is no replacement.

I think it speaks for itself. They're important lines, they should be in there. We heard them from witnesses.

The Chair: MP Viersen.

Mr. Arnold Viersen: I just remembered Pam Palmater saying that the scariest words in Canada are, "we're the government and we're here to act in the best interests of the child". That's all I'm going to say about that.

The Chair: On this amendment, those in favour of Green Party amendment PV-7?

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

The Chair: Now we're on PV-8. It is deemed moved.

MP McLeod.

Mrs. Cathy McLeod: Again, I will not be supporting this particular amendment. I think they are absolutely critical concepts, but they need to be done in conjunction with the agreements that are made as the services are assumed.

The Chair: Is there further discussion?

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

The Chair: PV-9 is deemed moved.

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

(Clause 9 agreed to on division)

(On clause 10)

The Chair: The NDP have amendment NDP-5. If NDP-5 is adopted, NDP-6 cannot be moved due to the line conflict.

● (0920)

Ms. Rachel Blaney: I move it.

This is about changing the language from saying "a primary consideration" to "the primary consideration", because that is simply what it should be.

The Chair: MP Bossio.

Mr. Mike Bossio: Removing the reference to the best interests of the child being the paramount consideration when making decisions or taking actions related to child apprehension could be found inconsistent with the United Nations Convention on the Rights of the Child, and Bill C-78 amending the Divorce Act.

As a result, we won't be supporting this amendment.

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

The Chair: Now we go to MP Blaney on NDP amendment number 6.

Ms. Rachel Blaney: I move this amendment.

I want to reiterate something that was said here in this place during the testimony. It looks at the issues of practice, including the word "apprehension". I will point out again that this is really a dated word. It is not used in B.C. legislation. It is not used in Ontario legislation. It's not used in Nova Scotia.

We need to make sure we do this right. It needs to be replaced with language that is more modern that really supports and works with other legislation across the country. I hope this will be seriously considered.

The Chair: MP Bossio.

Mr. Mike Bossio: The term “apprehension” is still generally used throughout Canada in child and family service matters. To avoid creating any uncertainty that could result from adopting new terminology, it would be recommended that the term “apprehension” be used within Bill C-92.

The Chair: MP Blaney.

Ms. Rachel Blaney: I am just pointing out again that it's not in Ontario or B.C. legislation. You just have to look at the population of this country to understand that the majority of the language.... It's not in Nova Scotia either.

This is using old-fashioned language. It doesn't make sense.

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

The Chair: Now we're on LIB-2.

MP Bossio.

Mr. Mike Bossio: This proposed amendment is put forward in response to the comments made by witnesses on the bill so far, which call for the clause on the best interests of the child to be revisited.

If adopted, the amendment aims to make sure that when determining the best interests of an indigenous child, primary consideration is to be given to the child's physical, emotional and psychological safety, security and well-being, as well as the importance for that child of an ongoing relationship with his or her family and community and preserving the child's connections to his or her culture.

Also, the amended clause would now clarify that clause 10 on the best interests of the child is to be construed, to the extent it is possible to do so, in a manner that is compatible with a provision of an indigenous law.

● (0925)

The Chair: MP Blaney.

Ms. Rachel Blaney: I have concerns about this, so I will not be supporting it. One of the challenges is that it doesn't allow for the diversity of experience that some indigenous children have, and we need to recognize and honour that in this place. This amendment does not support that, so I will not be supporting the amendment.

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

The Chair: Next is CPC-3, an amendment from the Conservative Party.

Mr. Arnold Viersen: I'll move that.

We heard from the Assembly of Nova Scotia Mi'kmaq Chiefs and from Mr. Morley Watson about the fact that the circumstances of the child should be determined by the inherent indigenous, legal and community standards. I'm trying to clarify who determines what the best interest of the child is in this particular case.

I'm hoping we can adopt this amendment so that the best interests of the child are determined from the perspective of the indigenous community, not by some bureaucrat in Ottawa.

The Chair: MP Bossio.

Mr. Mike Bossio: We will not be supporting this amendment because such an amendment to the bill would be in contradiction to the purpose of the bill, which is to establish national principles to help guide the provision of child and family services in relation to indigenous children.

Making such a change to the bill would also go against the TRC call to action 4, which called for the federal government to enact indigenous child welfare legislation establishing national standards for indigenous child apprehension and custody cases.

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

The Chair: We are on NDP-7.

Ms. Rachel Blaney: I'm happy to move this.

Again, this is an important part about language and making sure every child in this country, including indigenous children, has a right to live free of maltreatment. This is something we need to look at. Of course, in the definition part we also have another amendment that adds this to it, just for context.

The Chair: MP Bossio.

Mr. Mike Bossio: Once again we will not be supporting this amendment, as this amendment could be seen to be unduly encroaching on the jurisdiction of indigenous peoples over child and family services. The objective of the bill is to have them decide if and how they want to address maltreatment in their regimes. The bill aims at establishing national principles to help guide the provision of child and family services as it relates to indigenous children. It is not meant to create a detailed child and family services regime, which should be left to indigenous groups to create.

The trigger for apprehension, such as maltreatment, should be determined by indigenous groups and not by the federal government.

The Chair: MP May.

Ms. Elizabeth May: Thank you. I'm jumping in at this point because if this amendment from the NDP is defeated, my next amendment, Green Party 10, would be immediately also defeated. No? Can we still make the argument on the next amendment?

All right, then. In that case, thank you. I take the clerk's advice. I shall wait. Perhaps this amendment will be carried.

The Chair: If it does carry, then your amendment would become moot.

Ms. Elizabeth May: Yes, but I saw a gathering momentum.

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

The Chair: Now we go to the Green Party for amendment 10.

● (0930)

Ms. Elizabeth May: Thank you, Madam Chair. I appreciate the opportunity to present this.

This is, as colleagues in the NDP have mentioned as well, that “the child's right to live free of maltreatment” should be incorporated into the legislation. This was in the evidence from many witnesses, but particularly Dr. Blackstock as well as the Carrier Sekani Family Services brief, which pointed out that in the essence of the bill the best interests of the child must include the factor that, in any proceeding, it be considered how we ensure that this child's right to live free of maltreatment is recognized in the application of the legislation.

The Chair: MP Bossio.

Mr. Mike Bossio: For the same reasons that we did not support the last amendment, we will not be supporting this amendment.

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

The Chair: We have Conservative amendment 4.

Mr. Arnold Viersen: I'll move this amendment.

This would add:

> (f.1) the importance for the child of ensuring a continuity of care through the provision of child and family services;

We heard this on numerous occasions. Specifically, it's outlined as a recommendation in the Canadian Bar Association's brief. I think it would be important to definitely put this in there as a piece of the framework, the piece of legislation, to ensure that. This whole piece of legislation is to ensure that children don't fall through the cracks. I think this amendment definitely clears that up. It's probably the most crucial piece for that. Thanks.

The Chair: MP Bossio.

Mr. Mike Bossio: We will not be supporting this amendment. The objective behind the proposed amendment is already captured within paragraph 10(3)(b) of the bill. This paragraph expresses that when determining the best interests of the child, the following have to be taken into consideration:

> the child's needs, given the child's age and stage of development, such as the child's need for stability;

This language resulted from our extensive engagement sessions held with our partners.

We will not be supporting the amendment.

(Amendment negatived)

The Chair: : Now we're on to amendment NDP-8.

MP Blaney.

Ms. Rachel Blaney: I'm very pleased to move this motion.

Again, this goes to something that was discussed multiple times during the testimony. It really is important, because it gives individual nations the ability to define best interests of the child themselves but still keeps the framework that was originally there. We have heard multiple times about making sure that the indigenous community has the power to define that, knowing that this has been defined externally to those communities for many years. I just hope that we remember that this was brought forward by the Association of Iroquois and Allied Indians, the Assembly of Nova Scotia Mi'kmaq Chiefs and the Chiefs of Ontario. Multiple groups have talked about how important it is that they define the best interest of the child themselves.

The Chair: MP Bossio.

Mr. Mike Bossio: For reasons already stated previously with regard to other amendments to this clause, we will not be supporting this amendment.

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

(Clause 10 as amended agreed to on division)

The Chair: Green Party amendment PV-11 proposes adding a new clause 11.01.

Ms. Elizabeth May: Thank you very much, Madam Chair.

This is to insert an entirely new clause that would appear just before the existing clause 11. It's, again, in relation to a great deal of evidence we have heard before this committee showing that we really should create a stronger sense that the primary objective of the provision of child and family services in relation to indigenous children must incorporate the best interests of the child, cultural continuity and substantive equality under Jordan's principle to ensure access without financial barriers.

This has been recommended by, to mention just one witness, the Yellowhead Institute, and using the primary objective clause found in the Canada Health Act as a template has been suggested to us. That's the basis on which this particular amendment has been drafted to try to draw on the Health Act as a template and precedent and on the advice of numerous witnesses to ensure that the provision of child and family services has an overarching primary objective found in this legislation.

● (0935)

The Chair: MP Amos.

Mr. William Amos: Thank you, Chair.

We, on this side, don't agree in terms of this creating an encroachment upon the jurisdiction of indigenous peoples to come up with their own objectives. At the end of the day, the purpose of this is to provide that broad framework, but to establish objectives and define them so specifically will ultimately cause more hurdles and constrain the indigenous partners from delivering on their opportunities.

The Chair: MP May.

Ms. Elizabeth May: Well, I just want to push it a little bit. I find it hard to imagine that this language—that is to protect, promote and restore the well-being in accordance with principles of the best interests of child, cultural continuity, substantive equality—could possibly constrain the exercise of indigenous jurisdiction. It's to guide the federal jurisdiction in implementing the legislation to ensure that we really are focused on the needs of indigenous children. Obviously, I would love you to change your minds on this, but I don't find that objection to be particularly credible. I don't want to insult you by saying that, but I really can't see how it encroaches on indigenous jurisdiction to say that we want to protect indigenous children in a way that is focused on their particular circumstances and all that we've learned through the development of substantive equality through Jordan's principle.

Mr. William Amos: No offence taken.

It's a new principle, a new section you're proposing. The primary objective here is to enable indigenous peoples to come up with their own objectives. To establish a primary objective necessarily imposes upon them a particular frame.

I note that a number of the notions that are advanced in the proposed section 11 would engage a conversation between other sections. There are all sorts: cultural continuity, substantive equality, and reasonable access without financial and other barriers. There are a whole series of concepts that have to be interpreted in relation to the other provisions. I think it creates a web of complications, whereas the idea is to keep it as simple and as open as possible. This only introduces complexity.

The Chair: Mr. Bossio.

Mr. Mike Bossio: The comment I would like to make—and it reflects many of the reasons why we've been opposed to many of the amendments—is the fact that the greatest strength of this bill is that it is a framework. A framework that indigenous people can then define in their own terms, and to move away from the paternalistic view that the federal government should be defining these things and these concepts. It's up to indigenous communities.

The varied approach that needs to be taken across the country by each and every one of those communities is to determine what the best interests of their children are. What I love about this bill is the fact that it is a framework. It provides the full strength of indigenous communities to define these things for themselves.

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

(On clause 11)

The Chair: We are on Green Party amendment number 12.

Ms. May

● (0940)

Ms. Elizabeth May: Thank you, Madam Chair.

This amendment, like previous amendments that I presented, would ensure that a child has a right to live free of maltreatment.

By the way, years ago, in the previous Parliament, the government of the day used G for a government amendment. It didn't want to give me G for Green, so it gave me PV for *Parti vert*.

[*Translation*]

That's why we're currently discussing PV-12.

[*English*]

This amendment incorporates in section 11 the safety, security and well-being of the child. It would, again, ensure the child's right to live free of maltreatment that would jeopardize his or her safety and security. A brief summary and recommendation came from Dr. Cindy Blackstock with the First Nations Child & Family Caring Society.

The Chair: Mrs. McLeod.

Mrs. Cathy McLeod: I have a question for our legislative clerk.

I know we kept the definitions until the end. Where I struggle is with the “chicken and the egg”. If this particular amendment passes, we've introduced the concept of maltreatment without a definition. Could I have your opinion on whether that create challenges legislatively?

The Clerk: I don't know.

The principle would be the following. It's better to amend the bill first and then add a new word in the bill undefined. If the courts want to define the term maltreatment afterwards, it's up to the courts. Rather than having a definition added to the bill and the word not appearing in the bill later on, once we arrive at the definition section, if maltreatment has been added to the bill, you will be able to define it as you wish.

The Chair: Ms. May.

Ms. Elizabeth May: Thanks to Cathy for that.

I do have pending, when we get back to definitions, a definition of maltreatment. A lot of this is consistent, of course, with UNDRIP, in the way that we want to tie this bill in with UNDRIP. The right to live free of maltreatment is one of those considerations.

The Chair: Mr. Amos.

Mr. William Amos: I appreciate the intent of the amendment here. I think the issue, as far as we see it, is that the removal of the notion of physical, emotional and psychological safety, security and well-being brings us into a space where there's inconsistency with Bill C-78 addressing the Divorce Act, so with a view to ensuring consistency across legislation, I think it would be important not to amend it in this fashion.

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

The Chair: Now we go to NDP-9.

Ms. Rachel Blaney: I move this again and appreciate the fact that this is still continuing to push forward the idea of moving towards gender neutrality and honouring the testimony that we heard here. I'm excitedly awaiting the response.

The Chair: MP Amos.

Mr. William Amos: As previously articulated by MP Bossio, this isn't, in our opinion, the venue to engage in this kind of discussion around gender neutrality. That's for another occasion; it would take too long.

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

The Chair: Shall clause 11 carry?

(Clause 11 agreed to on division)

(On clause 12)

The Chair: On clause 12, we have IND-3.

Hon. Jane Philpott: I propose this amendment to clause 12. This and my following two amendments all have to do with the fact that children are often taken from their parents without proper warning to the parents, without proper preventative measures being put in place and without information about what's being done.

This particular amendment in clause 12 has to do with adding some clarity of language so that there's a requirement for the service provider to give information as to exactly what measure is being contemplated for the child, and there would be advance notice of such.

There is also a part of this amendment that speaks to the privacy provisions in here so that there's no personal information about the child in the notice that's given unless it's necessary to convey information about the measure and that there should be a privacy officer to ensure that information is treated in the manner that is respectful. I heard stories of people where their privacy was not protected when children were taken from them. Unfortunately, the privacy of the child and family was not respected.

● (0945)

The Chair: MP McLeod.

Mrs. Cathy McLeod: We will be supporting this amendment. We see it as adding some positive scope to this particular piece of legislation, especially the language around privacy protection.

The Chair: MP Bossio.

Mr. Mike Bossio: We won't be supporting this amendment. The reason was already stated. Once again, it's not for the federal government to make that determination. It's for indigenous communities to appoint a privacy officer should they determine that it's needed. It's not for the federal government to do so.

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

The Chair: On NDP-10, we have MP Blaney.

Ms. Rachel Blaney: I was certainly hopeful that I wouldn't have to vote on this one because Jane's would have been passed. I'm sorry that this happened. It's a similar idea of looking at some of the concerns that were brought forward. Here we are again. I understand that this is framework legislation, but the framework has to be strong, or everything that comes within it will not be recognized.

My concern in moving this and many of the amendments is that this legislation, this framework, has to be strong and recognize that, if it isn't strong, it's going to make the indigenous communities not get the support they need; therefore, it's the same rationale. We need to change the language. I look forward to the response.

The Chair: MP Bossio.

Mr. Mike Bossio: We agree. This amendment is recommended as it is consistent with the intent of the bill and will allow indigenous groups to receive the necessary information with regard to significant measures being taken about children from their communities. This amendment also clarifies that, in the context of coordination agreements, parties can agree as to the content of this notice.

We will be supporting this amendment.

The Chair: MP McLeod.

Mrs. Cathy McLeod: No.

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

The Chair: It was unanimous.

Mr. Arnold Viersen: Well, kind of.

The Chair: Oh, sorry. It was a majority.

(Clause 12 as amended agreed to)

(On clause 13)

The Chair: We'll go to NDP-11.

Ms. Rachel Blaney: Again, this is an important part of moving forward. This is really about making sure we support the communities. We do a little bit of work here, again, making sure that “parent” is plural, looking at how representatives' status in civil proceedings will be reflective of what we heard in the community. There's a lot of support behind this by multiple organizations.

I look forward to hearing the response.

● (0950)

The Chair: MP Bossio.

Mr. Mike Bossio: We will not be supporting this amendment, as this amendment would result in the introduction within the bill of a new concept known as “familial provider”. Adding such a concept would bring uncertainty as to what is currently meant by the terms “family” and “care provider” as defined by the bill. Indigenous governing bodies can always designate another person or entity to make representations on their behalf in court. A power of delegation is not needed in this context.

With regard to the participation of children in matters affecting them, the bill speaks to the taking into consideration of the child's views and preferences, giving due weight to the child's age and maturity. This approach was preferred to an approach based on a specific age, to allow for a more individualized assessment to take place when determining the weight to be given to the child's views and preferences.

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

(Clause 13 agreed to on division)

(On clause 14)

The Chair: On clause 14, we have an amendment, IND-4.

Hon. Jane Philpott: I move this amendment to clause 14. I feel very strongly about this amendment. Every single day in this country, a child is taken from the parent in the hospital at the time of birth. A birth alert is put on the chart; there is no requirement currently for the family to be notified about that and there is no obligation on the care providers to show that they have tried to do something else other than to take that child away.

This would put an onus on the service providers to, first of all, make sure there was advance notice given to the family about a potential removal of a child. They would also be required to say that they had tried other measures: they had looked for an aunt or a grandmother or they had tried to solve the economic challenges that the family was facing.

This, in itself, would absolutely save lives. This would prevent children from being apprehended. I put it to my colleagues—find it in your hearts to support this amendment.

The Chair: MP Bossio.

Mr. Mike Bossio: Once again, the bill itself is not meant to create a detailed child and family services regime, which could be left to indigenous groups to create. The necessity to establish procedural rules such as the one suggested should be determined by indigenous groups and not by the federal government. Until that time, provincial standards will continue to apply. Imposing a delay of 24 hours before an apprehension can occur may be too long in some instances while it may be too short in some others. Situations should be assessed on a case-by-case basis when it comes to determining when an apprehension can occur.

The Chair: MP McLeod.

Mrs. Cathy McLeod: I do want to acknowledge and recognize that this is a really important measure. As for where my concern is, it's on the issue I've expressed before in terms of provincial jurisdiction. I think that if we had tripartite agreements...those should be in place. I think that would be in the best interests of the child. Certainly, as this legislation is enacted, I hope those tripartite agreements go into place and that this is a key element within them.

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

The Chair: We now have Green Party amendment 13.

Ms. Elizabeth May: Madam Chair, I'm just going to say parenthetically that so many of these amendments that some of us in this corner feel very strongly about came to us from indigenous communities that were asking us to bring them forward. It's particularly sad to see that last defeat.

This amendment is similarly related to prenatal service and the unborn in looking at the extent to which a voluntary prenatal service is consistent with what's likely to be in the best interests of the child after the child is born. This service should be provided to an indigenous mother with concern for a child not yet born. It asks for a voluntary prenatal service that's consistent with the best interests of the child to be incorporated into the legislation as proposed, as part of clause 14.

● (0955)

The Chair: MP Bossio.

Mr. Mike Bossio: I have to disagree with the member—not disagree—I have to say that this legislation was co-developed with indigenous communities as well, with the express purpose of establishing it as a framework for indigenous peoples to define for themselves once and for all what is in the best interests of their community and their children within that community.

Yes, you have some individuals who have opposed it, but it was co-developed with indigenous communities in the first place, so I take exception to the comment that keeps coming back that Cindy Blackstock defines and speaks for all indigenous communities, but in a sense, that's what seems to be happening at the table. I'm sorry, but this was co-developed to be a framework for the express purpose of ensuring that indigenous communities once and for all define what is in their best interests.

Thank you.

The Chair: MP Jolibois.

Ms. Georgina Jolibois (Desnethé—Missinippi—Churchill River, NDP): Thank you.

I take offence at MP Bossio's comment on Dr. Cindy Blackstock. She is one of the persons in the—

Mr. Mike Bossio: I'm not denying that.

Ms. Georgina Jolibois: However, it is very offensive the way you said it and how you said it in just not giving her the credit she deserves.

Now, I'm not done yet. I also want to clarify. When I go across Canada and into my riding about indigenous groups and the concerns, we have organizations that don't necessarily deal with child welfare legislation and they're making decisions. There are huge concerns about that.

I do find it very offensive the way you've described Dr. Cindy Blackstock.

The Chair: MP Bossio.

Mr. Mike Bossio: Yes, I'd like to clarify. I'm not trying to be offensive towards Dr. Blackstock at all. I have respect for Dr. Blackstock, but she's not the only voice, and that's the voice that has been expressed many times at the table as being representative.

I'm saying that there are many communities that came into co-developing this legislation for the express purpose of ensuring that indigenous communities define what is in their best interests—not the federal government. That's all that was meant by it. I meant no disrespect whatsoever to Dr. Blackstock. I'm just saying that if we're going to keep referring to that, then let's also please remember that there were a great number of other indigenous communities that went into helping to define this legislation in the first place.

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

The Chair: Now we have amendment NDP-12.

Ms. Rachel Blaney: Here we try again, for a third time.

The Chair: I'm so sorry. Pardon me, MP Blaney. This is twice now that I've had to interrupt you on a procedural matter that was my mistake.

As noted by the legislative clerk, if PV-13 is moved, NDP-12 cannot be moved, as they are identical.

Would you like to clarify that, Clerk?

The Clerk: PV-13 is identical to your amendment. The committee has already decided once on the amendment, so there's no need to move it twice because the committee cannot pronounce itself twice on the same question.

Ms. Rachel Blaney: So then the process has ended.

The Chair: It's moot.

Ms. Rachel Blaney: Well, then, I'll take this opportunity just to remind this space that “co-development” was certainly not what we heard repeatedly from the witnesses, so it's unfortunate that it is being used as if it were true.

(Clause 14 agreed to on division)

(On clause 15)

The Chair: I've had a request that after clause 15 we suspend for 10 minutes, which we will do.

We do have amendments for clause 15, so let's get down to work.

We have Green Party amendment number 14.

● (1000)

Ms. Elizabeth May: Just as a comment on where we're disagreeing, many amendments coming from opposition parties are looking at creating more of a positive duty on behalf of the federal government to ensure that there is protection for children and that they not be subjected to removal because of, for instance, socio-economic situations, and that there actually be more of a responsibility on the part of the federal government.

I understand what I'm hearing from my friends on the other side, which is that, well, this is a framework and all those other things can be determined. I guess philosophically where it comes down for me is that the framework is still there and the negotiations of agreements can still happen, but this gives us a chance to create a clear legislative direction to the federal government that there's a positive duty to ensure that socio-economic inequalities not lead to children being placed in situations that are unequal, unfair and amount to maltreatment, particularly in terms of removal of children from families because of socio-economic conditions, including poverty, lack of adequate housing and so on.

Rather than read out my whole amendment, which is a lengthy one, I just provide that summary. This is again in the interest of creating language that says this legislation is to ensure that those inequalities not lead to removal of children.

The Chair: MP McLeod.

Mrs. Cathy McLeod: I notice that we have three amendments on this particular clause. I know that we're dealing with PV-14, but of course we look at it in the context of all three amendments, knowing that if one passes.... We will be voting against it, but we do believe that there is some language around this particular clause that can be approved, and we see that in other amendments.

The Chair: MP Bossio.

Mr. Mike Bossio: For reasons already stated, we will not be supporting this amendment.

The Chair: MP Philpott.

Hon. Jane Philpott: Yes, I wanted to speak to this amendment because my amendment following is very similar, and I'm afraid that if it gets voted down I won't be given an opportunity.

Again, I just want to implore colleagues to consider what happens in reality, which is that a child is taken from its family, and the reason given is that the family doesn't have enough money or doesn't have an adequate house. Then somehow we manage to find hundreds of dollars per day, adding up to thousands of dollars per month, to go to a non-indigenous foster family to care for that child. It seems absurd to me that we would take a child away because of socio-economic challenges the family has, but that somehow we can magically—we or the provinces—find enough money to put thousands of dollars into the hands of non-indigenous families to pay for that child.

We have a chance right here at this table to be able to say that is wrong. You cannot take a child away from its family because of poverty. Poverty is not neglect. Poverty is not within people's control. We have a chance, right now, to be able to say that positive measures have to be taken to remediate the inadequate housing, to remediate the economic opportunities and to make sure, for goodness' sake, that the Canada child benefit gets into the hands of the indigenous family, and not into the hands of the province never to see that family benefit.

The Chair: MP McLeod.

Mrs. Cathy McLeod: I would like to ask the legislative clerk about the sequencing. I know the language is not identical, so I believe that, if this one is voted down, we will still have the opportunity to debate the following two. Is that correct?

The Clerk: If PV-14 is adopted, you will not be able to deal with the two others. but if it's defeated, then we will go to IND-5. Also, if IND-5 is adopted, the same principle will apply, and NDP-13 will fall.

The Chair: MP Vandal.

Mr. Dan Vandal: I want to read what's in clause 15, on socio-economic conditions:

> the child must not be apprehended solely on the basis of his or her socio-economic conditions, including poverty, lack of adequate housing or infra-structure or the state of health of his or her parent or the care provider

I would argue that the words in the amendments are substantially already in the bill. Also, we have heard several indigenous organizations, including the Manitoba Metis Federation, speak in more detail in support of this particular clause.

That's all I wanted to put on the record.

● (1005)

The Chair: MP Blaney.

Ms. Rachel Blaney: Again, this is one of these changes that need to happen because the poverty in indigenous communities is sometimes overwhelming. As a person who spent multiple years living on a reserve, being part of it, and whose home was a foster home to keep children in that community who were sometimes taken specifically due to poverty....That may not be what was in the report, but that was the outcome of it.

This really engages the federal government to take leadership and say that there is something bigger happening here. Rather than removing the child, what do we need to do better as a federal government and as the people who are responsible for looking at the process of funding, at housing criteria, and so on?

Again, I'm going to say it. The framework must be strong. If the framework is not strong, then it continues to do what has happened in this country since it started, which is put the onus on the people who are struggling the most. This is an opportunity to take that and say that we are part of the strategy, and we owe it because we created the problem in the first place.

I encourage the members on the other side to consider that.

The Chair: MP Amos.

Mr. William Amos: Because Member Philpott has engaged the discussion around her motion, I feel like it's better to continue that flow of discussion.

I would like to understand better. If the legislation was co-developed and celebrated as co-developed—I was at the announcement of the legislation of the bill, as were you and as was Member Bossio—what is it specifically about the original formulation, which you and your team worked on previously in the co-development process, that is so grossly inadequate?

The Chair: MP Philpott.

Hon. Jane Philpott: I would say that, yes, there was co-development, and in fact I think it was quite good. It's not perfect. I think we have a lot of work to do as a country to figure out what co-development looks like and how you make sure all the voices are heard.

There were changes made after all of the information was gathered, and sometimes things were weakened in that process. After I left the portfolio, I know that there were further changes made.

I would say that PS Vandal has already talked about the fact that, yes, there already are some provisions in there around socio-economics, but they're aspirational. I think the amendment that I have proposed—and that both the Green Party and the NDP have proposed similarly—puts the onus on the positive measures that have to be taken.

What ends up happening is that these laws are then something that, for example, first nations or Inuit families have so that they can go and say, with the help of those around them, “Look, you have a positive obligation to be able to help me in my financial circumstances or with my housing need, and you can't take the child away simply because I am poor.” None of us around the table want children to be taken away from their families simply because they are poor. We want to solve that underlying problem first.

I would say, then, that the co-development led to a piece of legislation that got some of the strength taken out of it in the process. This is trying to add that strength back into it.

I will just say, while I have the floor, that I would prefer to change one word in my amendment. I don't know how it slipped by me, but the word “neglect” is in there.

The Chair: We'll get there soon.

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

The Chair: On IND-5, MP Philpott, it is deemed moved, so if you wish to speak to it, now's the chance.

● (1010)

Hon. Jane Philpott: As I was saying earlier, I think I've already spoken out for putting the positive obligation on service providers to address the socio-economic challenges the family may be facing.

If this were to be passed, I would like to see if there would be a way to change the word “neglect”. I feel it's a very offensive, pejorative term to say that families are neglecting their children just because they don't have an adequate house, or due to poverty. This is not in the parents' control in most cases. I would simply change my amended clause 15(2) to say, “...being placed on this basis, positive measures must be taken to remediate the conditions related to the lack of financial means of the child's parent or care provider” so as not to make accusations that are unfair.

The Chair: Can she amend her amendment?

Perhaps we can get clarification on the rule from our clerk.

The Clerk: The mover cannot amend his or her own amendment, but somebody else can.

Ms. Elizabeth May: In the context of the motion I mentioned earlier, we are actually here—Jane Philpott, Jody Wilson-Raybould and I—with no ability to move our own amendments; they're deemed moved. We can't withdraw our own amendments; they have to be withdrawn by someone else. We can't amend our own amendments or amend each other's amendments, because this motion was designed to deprive us of rights, not increase our rights.

The Chair: MP Blaney.

Ms. Rachel Blaney: Well, thank you for explaining that, Ms. May.

I would be happy to make a motion to amend this amendment to change the word “neglect” to “conditions”.

The Chair: First we have to deal with the amendment to the amendment. The word “neglect” is changed, replaced with the word “conditions”.

(Subamendment agreed to)

(Amendment as amended negatived [*See Minutes of Proceedings*])

The Chair: We'll move to NDP-13.

Ms. Rachel Blaney: I'm happy to move this.

Again, it's very similar. You've heard all of the arguments. This is about recognizing that there's a bigger issue here, that children of indigenous communities should not be asked to pay for that and that it should be something that the government is willing to work with and support the nations in the way that they need to go forward.

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

(Clause 15 agreed to on division)

The Chair: We will suspend for a 10-minute break.

● (1010)

(Pause)

● (1025)

The Chair: We will resume. We're moving through the bill. I believe, overall, we all want to do what's best, so I really appreciate everyone's co-operation.

(On clause 16)

The Chair: We're on clause 16 and we have four proposed amendments, beginning with NDP-14.

Ms. Blaney.

Ms. Rachel Blaney: I'm happy to move this amendment.

This is an important issue that was brought up by multiple witnesses who live in more remote communities. This is an amendment that says that when children have to be removed—hopefully, as the very last choice—they are not taken too far away from their community, and that the placement be acknowledged. This is really about honouring those rural and remote communities, so that the children are not taken so far away that family and loved ones can't be part of their lives on a day-to-day basis.

The Chair: We know that's challenging in a place like Manitoba.

Mr. Bossio.

Mr. Mike Bossio: We will not be supporting this amendment. If this amendment were adopted, it could have unintended consequences on the bill as currently written. For example, it could create confusion as to which rules prevail between one, the order of placement; two, placing the child with his or her siblings; and three, with non-indigenous families located closer to the communities. This amendment could result in more placement occurring with non-indigenous peoples, if located close to the indigenous communities.

Once again, the bill aims at affirming the jurisdiction of indigenous peoples over child and family services, and at establishing national principles to help guide the provisions of child and family services as they relates to indigenous children.

The Chair: Ms. Blaney.

Ms. Rachel Blaney: I want to clarify that, within the amendment, it's acknowledging a placement with a non-indigenous family or a non-indigenous adult. Some of the arguments that were made don't quite answer the intended impact. I wanted to clarify that for the record.

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

The Chair: We are on LIB-3.

Mr. Bossio.

● (1030)

Mr. Mike Bossio: I will move this amendment, but I would like to pass it over to Mr. Ouellette to speak to it.

Mr. Robert-Falcon Ouellette (Winnipeg Centre, Lib.): We did hear in some testimony that customary adoption is still practised in many indigenous communities, but currently, in a number of locations and jurisdictions across Canada, in fact, there is no mention of it in law. This introduced significant challenges to indigenous peoples when they tried customary adoption. This is a traditional form of child-rearing. When it's used in ceremony with elders, and done in an appropriate way, it confers responsibility on new parents. It's often used in communities.

Often, the courts have found that, because it's not mentioned in Canadian law at any level, except perhaps in Quebec or in the Far North, this represents significant challenges for them to understand, and represents significant costs to legalize, in the western way, customary adoption. The purpose of this is to ensure that it is mentioned somewhere in some federal statute, that it actually does exist and it is important.

The Chair: Mrs. McLeod.

Mrs. Cathy McLeod: This would appear to be consistent with some of the testimony, as Mr. Ouellette said. Certainly, we're pleased to support this amendment.

The Chair: Mr. Amos.

Mr. William Amos: I would agree. There is ample testimony to bring us down this road. However, I see an issue in the inclusion of references to concepts that aren't defined, in bringing in new concepts into the legislation, specifically “guardianship”, “minor”, or “adoption”. I would suggest a subamendment. I'll read that into the record and it could be assessed by members.

“(2.1) The placement of a child under subsection (1) must take into account the customs and traditions of Indigenous peoples, such as with regard to customary adoption.” That is a pared-down version that—

The Chair: I see it's a friendly amendment.

Mr. William Amos: It's a friendly amendment, yes.

The Chair: MP Viersen, are you objecting to that friendly amendment?

Mr. Arnold Viersen: I'd like to speak to it.

I actually like this amendment a lot, particularly because it uses the words “customary adoption”.

It was interesting, Robert, that you said we have to recognize customary adoption, and then it didn't say “customary adoption” there. I was going to make that point. I very much like this amendment to the amendment.

The Chair: It's a friendly amendment, but the friendly amendment has to be in black and white, says our expert.

Mr. Robert-Falcon Ouellette: Would you like me to write it down?

The Chair: Yes, we need a written copy.

MP McLeod.

Mrs. Cathy McLeod: Madam Chair, I just have a point of order.

I noted when we had an independent motion with a word change, there was no requirement for a written copy. I'm wondering if this is a consistent interpretation.

The Chair: Mr. Clerk.

The Clerk: It was one word, and this is a bit more extensive. It's just to make sure that I have the whole subamendment all together.

The Chair: Thank you.

It's exactly the same until after the words “Indigenous peoples”.

● (1035)

Mrs. Cathy McLeod: On a point of order, Madam Chair.

It looks like it's done, but I was going to suggest we move on and allow them to provide a written copy and then come back to it if necessary.

The Chair: A written copy has been provided and the clerk will read it out to all of us.

The Clerk: The amendment, once amended, would read as such: “The placement of a child under subsection (1) must take into account the customs and traditions of Indigenous peoples, such as with regard to customary adoption.”

Mr. Arnold Viersen: Perfect.

The Chair: Mrs. McLeod.

Mrs. Cathy McLeod: To go back to the original concerns expressed by my colleagues regarding introducing concepts that weren't defined, I have a technical question to the clerk.

Have we actually done the same thing here in terms of introducing a new concept that has not been defined?

The Clerk: I'm not sure what the question is.

The Chair: Is it this first time we've used the words “customary adoption”?

Mr. Robert-Falcon Ouellette: In common law, from my research when I was a professor at the University of Manitoba, there is precedent in common law where judges do refer to it, and it is referred to in a few cases. The issue is often judges who are less experienced with indigenous law, especially in child and family law, are not always aware of some of that common law and so it becomes problematic for people then to.... Because there's no reference, they have a reticence or a lack of an ability to approve something, so it takes many court dates and lots of funds on the parts of parents in order to legalize themselves, because there is absolutely no reference.

The Chair: I see that we have a roomful of experts. Would the committee perhaps like to hear from a person who could clarify whether this changes the scope of our bill? Would that be acceptable? Thank you.

We would ask you to introduce yourselves, please.

Ms. Isa Gros-Louis (Director General, Child and Family Services Reform, Department of Indigenous Services Canada): I am Isa Gros-Louis. I'm the Director General for Child and Family Services Reform at Indigenous Services Canada.

Mr. Marcus Léonard (Social Policy Researcher, Child and Family Services Reform, Department of Indigenous Services Canada): I am Marcus Léonard. I work for Indigenous Services Canada with Ms. Gros-Louis.

Ms. Isa Gros-Louis: You are right that the concept of customary adoption would be a new term if adopted in this amendment. However, the concept of it is captured in the definition of family and “care provider”, so it is within the intent of the bill.

Mr. Marcus Léonard: If I may, during our engagement last summer and fall, this was a request we heard throughout, that there should be at least some sort of reference to customary adoption. As a result of this, we added the notion of care provider, which talks about a “person who has primary responsibility for providing day-to-day care of an Indigenous child”. That captured the idea of customary adoption and customary adoptive parents.

Going further in the definition of care provider, it says that it's “including in accordance with the customs or traditions”. To us, it was clearly in the intent and the scope of the bill to have a reference to customary adoption.

The Chair: It looks like that satisfies. Thank you very much for your expert advice.

All in favour of the friendly amendment?

Some hon. members: Agreed.

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

The Chair: Now we go to Green Party amendment 15.

● (1040)

Ms. Elizabeth May: This is again in the context of children who have been taken into care already. The legislation as currently drafted in subclause 16(3) says that there will be a decision to have a reassessment on an ongoing basis of whether it's appropriate to place the child in different circumstances. My amendment seeks to place the standard of regular reassessments in the context of what's in the best interests of the child as opposed to the threshold of what is appropriate. The language here is that there must be “regular reassessment of whether it would be in the best interests of the child” and also that the reassessment “may be conducted at the request of a child's family member”.

This comes come from a lot of the testimony that was heard before this committee—the Yellowhead Institute, the director general of child and family services reform, Isa Gros-Louis—that we want to incorporate the fundamental concept here that when there is a child in care, away from his or her family, there be a regular reassessment, with the structure and framework being around the best interests of the child, and the family members having an opportunity to request that reassessment.

The Chair: Mr. Bossio.

Mr. Mike Bossio: We feel that this amendment should not be recommended. We believe it imposes a lower standard than the one currently imposed by the bill. The bill currently provides for an ongoing reassessment, which is an obligation to continually reassess the possibility of returning the child to his parents and family. The proposed amendment would instead provide for regular reassessment to take place, which could potentially take place following longer intervals.

We will not be supporting the amendment.

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

The Chair: Now we have NDP amendment number 15.

Ms. Rachel Blaney: I move this again with the hope that we update the word “apprehension” and make the clause gender neutral.

I'm going to keep doing it so that we have to say no, no and no, again and again.

The Chair: MP Bossio might want to say no, no, no.

Ms. Rachel Blaney: Yes, he's good at that.

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

(Clause 16 as amended agreed to on division)

(On clause 17)

The Chair: We now have amendment NDP-16.

MP Blaney.

Ms. Rachel Blaney: I say it again. I've moved it.

The Chair: The issue is apprehension.

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

(Clause 17 agreed to on division)

The Chair: We have a new clause 17.1. It's from the Green Party amendment number 16.

Ms. Elizabeth May: In amendment number 16, we propose clause 17.1. It says:

> 17.1 For greater certainty, nothing in subsection 16(1) or 20(1) restricts the ability of an Indigenous group, community or people to exercise its legislative authority in relation to child and family services by placing an Indigenous child with a family that is comprised, in whole or in part, of persons who are not members of the Indigenous group, community or people, as long as the family agrees to promote the child's culture, language and family origins, to the extent that doing so is consistent with the child's best interests.

This comes from a very clear recommendation that is again from Dr. Blackstock. It's important that we know how attachments and emotional ties take place. If the child is placed in accordance with 16 (1)(a) or (b), but the parent or family with whom the child is placed is non-indigenous, how does that then work in the best interests of the child? This amendment attempts to deal with that particular question of cultural continuity obligations, even where a child is in a non-indigenous home.

(Amendment negatived)

● (1045)

The Chair: If PV-16 is moved, NDP-17 cannot be moved, as they are identical.

We have Conservative motion number 5.

Mrs. Cathy McLeod: Madam Chair, this new clause is very consistent with what is often federal legislation as it relates to Quebec or other provinces. I have already talked about my concerns in terms of some of the constitutional jurisdiction issues and the fact that the government has not done an adequate job, in my mind.

We heard from the minister from Ontario that she has concerns that this is creating a lesser standard, so we thought it appropriate to put in this particular clause—again, respecting provincial jurisdiction and the ability, goodwill and the desire of provinces. In British Columbia, I'm very proud of a lot of the important work they're doing. I think that to some extent we've been very dismissive of what is the important work they're doing and the jurisdictional issues.

The Chair: MP Bossio.

Mr. Mike Bossio: Based on what we've heard during the co-development of this bill, the proposed legislation was meant to be binding on provinces and territories. It doesn't stop any of the provinces to the tripartite negotiation to establish higher standards. We don't agree with this.

To proceed with such an amendment would reduce the impact of the bill, as its principles and provisions would not have to be applied by provincial or territorial service providers. We will not be supporting this amendment.

We heard from a number of constitutional experts that it's perfectly within jurisdiction. It is best to have indigenous communities define what is in the best interests of their families and children.

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

(On clause 18)

The Chair: We'll go on to clause 18 and amendment NDP-18.

Ms. Rachel Blaney: I move this amendment. This is to add the word “exclusive”. I think that's important to add to this bill. It's the exclusive jurisdiction.

I wait to hear what the answer is, probably from my friend Mike Bossio.

The Chair: MP Bossio.

Mr. Mike Bossio: We feel that such an amendment would not be accurate, as child and family services is in an area of shared jurisdiction. As affirmed by the bill, indigenous groups can determine to exercise their jurisdiction should they choose to do so. We will not be supporting the amendment.

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

The Chair: We'll go to PV-17 and MP May.

● (1050)

Ms. Elizabeth May: This amendment falls at line 15 on page 10, and is part of an effort to ensure that the inherent right to jurisdiction over child and family services includes the authority to confer decision-making powers to independent indigenous bodies or to judges empowered to decide similar matters under provincial legislation.

This was part of the recommendation by Justice Sébastien Grammond in the article “Federal Legislation on Indigenous Child Welfare in Canada”, which I'm sure all of you have reviewed.

I hope this amendment would be well-received because I think it does a substantial amount to prepare the ground to ensure that indigenous decision-making governs child and family services, which is the goal of the government, as we've heard throughout this committee hearing. The inherent right to jurisdiction being acknowledged in this legislation, at this point, in this clause, would move us substantially in that direction.

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

(Clause 18 agreed to)

(Clause 19 agreed to)

(On clause 20)

The Chair: Now we're on clause 20. We have an amendment, which is NDP-19.

Ms. Rachel Blaney: I move this amendment. I think it speaks to the reality that we hope the transition is very successful, but there are some key elements such as regional and national technical support, data collection and so forth, which are not there. That will impede the goal of universal success. We want to make sure that this addresses the issue that there's some flexibility to move with the communities to ensure success as things unfold.

The Chair: There is a suggestion this may go beyond the scope of the bill.

MP Bossio, did you want to speak to it?

Mr. Mike Bossio: That's fine. If the legislative clerk feels that it goes beyond the scope of the bill, then that would deal with it.

The Chair: There's no question because it goes beyond the scope of the bill.

We'll go to amendment NDP-20.

Ms. Rachel Blaney: Again, this is around making sure that there are more concrete dates, which need to be set out, and assuring that there's support for those communities as we move forward.

It is so moved.

The Chair: MP Bossio.

Mr. Mike Bossio: This amendment would not be consistent with what indigenous groups have been requesting throughout our engagement. Some indigenous groups have requested that they be able, under the bill, to exercise their jurisdiction as soon as they wish to do so. Imposing a 10-month notice before being able to exercise jurisdiction would not respect the spirit of subclause 20(1). Indigenous groups should be free to exercise their jurisdiction as they see fit, and the bill should not unduly impose limitations as to how they can choose to exercise their jurisdiction, so we will not be supporting that.

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

The Chair: Next is Green Party amendment number 18.

Ms. Elizabeth May: This is to add regulations to prescribed measures for the negotiation of coordination agreements. This is to open up the scope for regulations that will help with the negotiation of coordination agreements. I think it works particularly well with Jane Philpott's amendments to section 32, which are also coming up, so that we can detail the aspects of the coordination agreements and the negotiations process that could be regulated by order in council, by the Governor in Council.

● (1055)

The Chair: MP Amos.

Mr. William Amos: Clearly this kind of amendment would expand the scope of the bill's legislative authority to matters such as education or health. What testimony are you pointing to that would justify the expansion of this bill in such a manner?

Ms. Elizabeth May: I don't see it as an expansion. We know that the bill's focus is going to be on ensuring that there are negotiated agreements. In moving forward in negotiated agreements, you may in fact need to have regulations. If you don't have the empowering section here in the legislation for such regulations, you'll have to go back and amend the act later to be able to bring in regulations that may be needed.

I'm afraid I can't point to testimony. It just seems to me that a way of ensuring the bill can function well in the future is to have the authority to bring in regulations if you need them. If you don't need them, you never need to have this section, but if you do need regulations in relation to coordination of the different agreements that are being negotiated, you won't have that power.

The Chair: MP McLeod.

Mrs. Cathy McLeod: Madam Chair, I would like the officials to come up and speak to that particular issue. Do they perceive that there is a gap that needs to be filled by this amendment?

The Chair: Yes. Maybe they could provide information as to whether this would actually extend the scope of the bill as well.

Ms. Isa Gros-Louis: Good morning once again.

The general regulatory power already exists in the bill under clause 32, but it doesn't go into detail in terms of what exactly those regulations could look like. The intent of the bill was to leave it to the indigenous partners to discuss, in the transition, what areas would require regulations. Some of the items—tools other than regulation, like guidelines—may be useful. In other instances, it may be found that regulation is required, but we left it open so that, during the conversation, those items that are deemed appropriate to be regulated could be identified.

Ms. Elizabeth May: Am I allowed to ask the officials a question?

The Chair: Yes.

Ms. Elizabeth May: If my amendment is accepted, I don't see any downside to having that as a further fleshing out of the ways in which we might be wanting to use the regulatory powers in section 32 by providing some additional guidance around that. From the point of view of officials, is there anything negative that occurs as a result of this amendment?

Ms. Isa Gros-Louis: From our perspective, the area where we may be outside of scope is with the terminology of “any matter”. This legislation is specific to child and family services. This amendment would open the scope to any issue: education, health. Therefore, in the way it is proposed, it would appear to us to be outside of scope.

The Chair: Ms. McLeod.

Mrs. Cathy McLeod: If a subamendment specified the legislative authority respecting child welfare, first nations, Inuit and Métis children, youth and families, would that create the barriers around maintaining it within scope?

Mr. Marcus Léonard: Thank you for this suggestion.

The officials' position would be that what we heard throughout our engagement was that, yes, there is a need for regulations and these regulations need to be co-developed. What was decided to respond to this request was to incorporate a general regulation-making power. We would see that amendment as unnecessary as there is already clause 32, which provides for a general regulation-making power and which already would allow those kinds of regulations.

● (1100)

Mrs. Cathy McLeod: Thank you.

The Chair: MP May.

Ms. Elizabeth May: Thank you, Madam Chair.

Just for clarity, if you look at section 32, we are talking only about regulations in the context of any matter that may be provided for in regulations made under section 32, so I don't see how that expands the scope. I'm sorry. I just wanted to bring it back to that section, because the way we've drafted it is to say “in the regulations made under section 32”.

Anyway, I think we don't have support for it, but this wasn't an attempt to expand the scope but to make sure we have the regulation powers when we need them.

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

The Chair: We are on PV-19, MP May.

Ms. Elizabeth May: This again goes back to an effort I have been consistently making to ensure that the legislation includes the concept of the right of a child to live free of maltreatment. I have already cited the various witnesses who made this point: Carrier Sekani Family Services, Dr. Cindy Blackstock.

The amendment inserts the language around:

> safety, security and well-being of Indigenous children at risk of, or experiencing, maltreatment;

The Chair: MP Amos.

Mr. William Amos: Madam Chair, my comment goes in the vein of previous ones. I think that any trigger for apprehension—for example, maltreatment—ought to be contemplated in the context of bilateral discussions between the indigenous group or community and the federal government. I don't think this should be defined in the legislation. I think it should be left to those who are looking to define their own regime.

I would also reiterate that the co-development process has led us to the point of seeking this breadth of framework. I appreciate that the members opposite are receiving input from certain specific groups and individuals, and that's great and appropriate. However, the government has also gone through a rigorous process, engaging with many different partners, and the breadth that has been arrived at in that co-development process is deemed to be the optimal outcome.

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

The Chair: We are on LIB-4.

Mr. William Amos: I would like to move this motion. We've heard ample witness testimony flagging the importance of fiscal arrangement. I think this issue was one topic that was most important and most regularly raised.

In the context of coordination agreements in relation to the provision of child and family services by indigenous groups, the sustainability issue has been front and centre.

I think the core we need to incorporate here is that it be “sustainable, needs-based and consistent with the principle of substantive equality”. I think that gets to the core of the advice witnesses across the spectrum have provided us, so I would submit this to the committee as an amendment.

The Chair: MP Blaney.

Ms. Rachel Blaney: I appreciate this. I asked a lot of questions on this issue, because we heard repeatedly that this was the core issue.

I want to ask the legislative clerk something. I have an amendment coming up later that talks to this, specifically. If this goes through, will that take away the ability for me to talk about the amendment? I don't have the number for it. I'll have to look.

The Chair: Is it 21? We will get to it.

Ms. Rachel Blaney: Thank you.

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

The Chair: We are now on NDP amendment 21.

MP Blaney.

● (1105)

Ms. Rachel Blaney: This amendment is a significant and important one. It provides clarity for indigenous groups or communities that have existing arrangements regarding child and family services. This is something that came up from a couple of different witnesses. We want to ensure that what is working continues to be supported, while making room for those who need to make changes to have the capacity and the ability to do it.

It's so moved.

The Chair: Those in favour of amendment NDP-21? Those opposed?

We need you to vote.

It was a vote.

Mr. Kevin Waugh: We never voted.

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

The Chair: There were two members who didn't vote.

Now we go to Green Party amendment number 20.

Ms. Elizabeth May: Thank you.

This comes from evidence, and the brief from the Chiefs of Ontario:

> It is helpful that s. 20(5) anticipates the need for “dispute resolution mechanism”[s], to be developed in the regulations.
>
> It is odd, though that it requires, as a precondition for accessing ADR, that all three parties to the negotiations have already made “reasonable efforts”. This seems counterintuitive, since the failure of one or more parties to make reasonable efforts is exactly what may drive the need for dispute resolution.

If you look at the existing text of the legislation 20(5), the section in the brief the Chiefs of Ontario were referencing starts with:

> If the Indigenous governing body, the Minister and the government of each of those provinces make reasonable efforts to enter into a coordination agreement but do not enter into a coordination agreement, a dispute resolution mechanism provided for by the regulations made under section 32 may be used to promote entering into a coordination agreement.

The effect of my motion is to have a very straightforward section that simply says:

> a dispute resolution mechanism provided for by the regulations made under section 32 may be used to promote entering into a coordination agreement.

It removes the precondition of failure after best efforts, as recommended by the Chiefs of Ontario. I know the way this was drafted had good intentions, but you really have an unintended consequence that an alternative dispute resolution is outside the reach of people who need it most, if any one of the three bodies hasn't yet made good, reasonable efforts, and hasn't yet reached a point of failure. You need an alternative dispute resolution at exactly that moment, to get things to work. It may be outside of your reach.

The Chair: MP Blaney.

Ms. Rachel Blaney: I have a quick question on this.

I have an amendment that's very similar, with one addition.

If this one goes through, does that mean the next one—

The Chair: Does not....

Ms. Rachel Blaney: Mine gets cancelled out.

I'm going to hear what Mike has to say, and then I might ask Elizabeth if she doesn't mind a friendly amendment.

Mr. Mike Bossio: This amendment would modify the criteria necessary for the parties to benefit from the dispute resolution mechanism. As a result, the amendment would expand its mandate unnecessarily. The dispute resolution mechanism can only be truly helpful if parties demonstrate reasonable efforts to resolve their issues. The current version of the bill provides that the dispute resolution mechanism will be available:

> if the Indigenous governing body, the Minister and the government of each of those provinces make reasonable efforts to enter into a coordination agreement but do not enter into a coordination agreement,

With the proposed amendment, such a requirement would be removed, so we won't be supporting that amendment.

The Chair: MP Blaney.

Ms. Rachel Blaney: Well, I'm sad to hear that.

My friendly amendment would be asking to just make sure it's an independent mechanism. I am going to move a subamendment to add that language about an independent process.

You can look at the other amendment and see what I mean. I just want to make sure that when we look at the response, it is an independent mechanism as opposed to—

● (1110)

The Chair: MP Blaney, if the Green Party amendment is defeated, your motion then becomes valid.

Ms. Rachel Blaney: Okay, so I will leave it at that.

Although I just want to add that—and I'm going to say it again and again—multiple times testimony has said that this needs to be in here. It's unfortunate that we're seeing this movement towards.... It's not about widening the scope; it's about making sure the mechanisms are in there to support the community going forward.

I look forward to speaking to my amendment.

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

The Chair: Now we're on NDP-22.

MP Blaney.

Ms. Rachel Blaney: I'm happy to move this amendment, looking at the key issue that needs to be addressed, which is the independent dispute resolution process. The Canadian Bar Association talked about that. Pamela Palmater talked about this as well. It's really about making sure that the Canadian court interpretations that have been a part of this problem for so long should not be used in these situations.

I think it's an important amendment, and I certainly hope to receive some support.

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

(Clause 20 as amended agreed to on division)

(On clause 21)

The Chair: On clause 21, we have NDP-23.

Go ahead and make the motion, and then I'll make note that it's inadmissible.

Ms. Rachel Blaney: I move this amendment. I'm sad to hear that it's being perceived that way.

This is really key. Almost every single witness sat in front of this committee and talked about the challenges they are faced with if there are not proper resources. We understood and the folks who testified understood that a dollar amount didn't make sense. It really was about making sure that the capacity was there and that there would be principles to the funding within the legislation.

This is important. I could list the very many.... I think almost all of the people testified that this was a key part of the legislation.

The Chair: The advice from the legislative clerk is that this amendment is inadmissible as it requires royal recommendation.

(Clause 21 agreed to on division)

(On clause 22)

The Chair: On clause 22, we have NDP-24.

Ms. Rachel Blaney: Again, this is an important one that talks about clarifying jurisdiction in the event of a dispute regarding conflict among federal and provincial and indigenous nations' law. This is very important, and again, we had many supporters of this during the testimony.

The Chair: The interpretation of this amendment is that it is indeed inadmissible as it goes beyond the scope of the bill.

(Clause 22 agreed to on division)

(Clause 23 agreed to [*See Minutes of Proceedings*])

(On clause 24)

The Chair: On clause 24, we have NDP-25.

Ms. Rachel Blaney: I move this motion. It speaks for itself.

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

(Clause 24 agreed to on division)

(On clause 25)

● (1115)

The Chair: We are on NDP-26.

Ms. Rachel Blaney: I move this amendment. “Reasonable” is not clearly defined and will have to be fought in the court system. It just doesn't make sense, so we're hoping this amendment will be supported.

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

(Clause 25 agreed to on division)

(On clause 26)

The Chair: We are on NDP-27.

Ms. Rachel Blaney: I move this amendment, understanding and recognizing that, as we move forward in the world of reconciliation, we acknowledge that the language of the indigenous community group or people should be honoured. We're asking not only to have both official languages but that of the indigenous community be represented in the Canada Gazette.

The Chair: Mr. Bossio.

Mr. Mike Bossio: The manners in which the law will be made accessible will be assessed by each indigenous group. Some groups will want their laws made accessible by the minister, but others will not want to have their laws published in the Canada Gazette. A similar memo was proposed in the context of Bill C-91 on indigenous languages, and such a memo was not supported. We will not be supporting that.

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

(Clause 26 agreed to on division)

(On clause 27)

The Chair: We are on PV-21.

Ms. May

Ms. Elizabeth May: This amendment was recommended by the Yellowhead Institute. The current language is permissive. It says the minister may gather information respecting child and family services, and so on. In the Truth and Reconciliation Commission's calls for action, action number 2 called on the federal government to collaborate with the provinces and territories in producing annual reports specifically on the subject matter of this legislation, and producing reports on the number of indigenous children in care compared with non-indigenous children, the reasons for apprehension, total spending on preventative and care services, and the effectiveness of interventions.

My amendment creates a positive duty on the minister to gather information in order for the minister to fulfill the obligations the government has previously said it has committed to delivering, which is the recommendation for calls for action of the Truth and Reconciliation Commission. A simple change from “may” to “must” makes this provision in section 27, the role of the minister, much more effective in meeting the TRC's call to action number 2.

The Chair: “May” and “must”, it's a world of a difference.

Mr. Bossio.

Mr. Mike Bossio: The federal government will not be providing the services directly to indigenous children. As a result, the minister should not be imposed to gather the information with regard to child and family services being provided in relation to indigenous children. Further discussions need to take place between indigenous groups, the federal and provincial governments, to determine who should gather information and how it should be shared.

Some indigenous groups have already expressed their desire to collect this information. We feel, jurisdictionally, it should be up to them to do so.

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

(Clause 27 agreed to)

(On clause 28)

The Chair: We are on IND-6.

Ms. Philpott.

Hon. Jane Philpott: I move this motion as a follow-up to the member of Saanich—Gulf Islands in terms of the importance of responding to the TRC call to action 2, so that we will get the kind of information that's required about how many children are in care and how they're doing.

My amendment includes a number of provisions. One would be that this information-gathering would be performed according to the best practices of established research ethics. The Inuit would like to make sure that when an Inuk child is taken into care there is more detail and that their land claim organization is specified. There's more clarity here on the privacy policy that needs to take place around the gathering of information. It also adds in some of the most important pieces of information that need to be made available, which are the number of placements, the amount of money that's spent and who's spending it on child and family services.

This is taking what is in the bill and expanding it, so that we can actually respond appropriately to call to action 2.

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

● (1120)

The Chair: We're now on NDP-28.

MP Blaney.

Ms. Rachel Blaney: I move this motion. I thank Ms. Philpott for her amendment prior to mine. I continue to be a little sad about where we're going with this bill. It's unfortunate.

This amendment does something similar, but not as powerfully as hers. I wait to see what the response will be.

The Chair: MP Bossio.

Mr. Mike Bossio: I'm very happy to say that we are in support of this amendment.

In order to better achieve one of the objectives of the bill—which is to keep indigenous children within their communities—it is important that this aggregated data be made available with regard to child and family services provided to indigenous children. For this reason, it is important that the bill specify that there is a need for agreements on data collection to be concluded, which would allow for the gathering of disaggregated data. Mainly, the bill, as suggested, would respond to comments made by witnesses both at the INAN and APPA committee.

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

The Chair: LIB-5 cannot be moved due to line conflict, so that one is out.

(Clause 28 as amended agreed to)

(Clause 29 agreed to)

(Clause 30 agreed to)

The Chair: We're now on the new clause 30.1 and amendment IND-7.

Hon. Jane Philpott: I propose an amendment that would add an additional clause 30.1. The initial desire here was from the cries that I heard from indigenous peoples to create an office of the commissioner of indigenous child well-being or a commissioner of the best interest of the child.

I recognize that that would be out of scope and it's unfortunate that it wasn't included in the bill in the first place.

I think the closest that we would get that would not be deemed out of scope would be to include the requirement for the minister to establish an advisory committee to assist the minister and submit reports to the minister on a regular basis about the implementation of this bill. A national advisory committee on indigenous child welfare already exists, but this would put that advisory committee into legislation and would support making sure that the work of this bill would see follow-through.

The Chair: MP Bossio.

Mr. Mike Bossio: As I stated earlier, C-92 is co-developed with partners and so will its implementation. If the bill is adopted, the discussions will take place with indigenous partners, provinces and territories to determine if there is a need for such an advisory committee and to determine what its role should be. These discussions will take place when the distinctions-based transition governance structures are established to provide recommendations on the implementation of this bill.

We will not be supporting this amendment.

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

(On clause 31)

The Chair: We're now on clause 31 and NDP-29.

Ms. Rachel Blaney: This, again, I am happy to move. It reflects multiple witnesses' testimony that the bill should be reviewed every three years as opposed to, I believe, five. I think it speaks for itself and it was exceptionally supported by the testimony that we heard.

● (1125)

The Chair: MP McLeod.

Mrs. Cathy McLeod: Madam Chair, there was testimony that talked about three years. Having witnessed legislation with review periods, I also acknowledge that it can be a challenge with the many priorities, although this is absolutely critical.

I do know there is the ability to initiate review processes early if it is necessary, so I think the minister obviously would have the ability, if she was concerned or thought that there was some necessary work that needed to be done in terms of review; but to actually mandate it.... I think if things are going well, then perhaps we're creating some challenges for the government.

The Chair: MP Vandal.

Mr. Dan Vandal: I was simply going to say that I agree with MP McLeod. Also it could be that three years is too soon to actually do a complete review. There's always the possibility through the minister's office and I think it's also something that should be discussed with indigenous nations.

The Chair: MP Bossio.

Mr. Mike Bossio: I'd like to call on officials to come up to the table. Could they please come up to answer a question as to whether this is possible?

I think this would actually make more sense, Rather than having a three-year review where you could end up interrupting tripartite negotiations in that review or some other measures, could the department not provide a report on an annual basis on the progress of implementation? It could be made public. That way, we're aware of where things are progressing, how far we've gone and what agreements are happening, so that we're not going to cause any unintended consequences by reviewing things too early. Do you know what I'm saying?

Ms. Isa Gros-Louis: Absolutely. It would be within the power of the department to decide that we could do a status report on the implementation of this legislation, and to determine if such a report would be on an annual basis, or another period of time.

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

The Chair: We have amendment Independent-8.

Hon. Jane Philpott: The first part of my motion that I move now I gather will not be supported in terms of moving to every three years rather than every five years; but the second part of my amendment I would still like to be considered. It is that when undertaking the review, the minister must specifically study the adequacy and method of funding. This is, again, one of the only tools that we have to get around the issue that was raised most consistently by first nations, Inuit and Métis—the adequacy of funding.

In lieu of the better option of statutory funding, at least this would allow a tool so that we would be able to say that a future government would get the information and there would be a requirement on the minister to report on that.

This is something that I believe is very important and I would seek your support.

The Chair: MP McLeod.

Mrs. Cathy McLeod: Madam Chair, I would move a subamendment that we delete (a), and that we are dealing specifically with (b).

The Chair: That basically indicates that when undertaking a review, the minister must specifically study the adequacy and methods of funding.

(Subamendment negatived)

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

● (1130)

The Chair: We are on NDP-30.

Ms. Rachel Blaney: I move it.

The Chair: Analysis indicates that it's inadmissible as consequential to NDP-23.

We're moving on to NDP-31.

Ms. Rachel Blaney: This is moved. This goes back to the reality that if Canada wants to see equality for indigenous children, then it is important that necessary increases in funding continue to happen.

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

(Clause 31 agreed to on division)

(On clause 32)

The Chair: Clause 32 has several amendments.

The first is Green Party amendment 22.

Ms. Elizabeth May: There are a number of witnesses whose evidence went into the formulation of this amendment. We have spoken briefly in the rubric of another one of my amendments about section 32 and the regulation-making powers.

The current legislation states:

> If affected Indigenous governing bodies were afforded a meaningful opportunity to collaborate in the policy development leading to the making of the regulations, the Governor in Council may make regulations

It was pointed out by a number of Justice Dawson's references to significant cases, particularly in terms of the Mikisew Cree case and the Haida Nation case, that meaningful consultation is more than a process of exchanging information. The language in the current draft, “If affected indigenous governing bodies were afforded a meaningful opportunity to collaborate”, is quite different than meaningful consultation, particularly given the jurisprudence around that language and what it conveys.

My amendments replace the existing subclause 32(1) with a positive duty on the minister to ensure that there is meaningful consultation with affected indigenous governing bodies in policy development leading to the making of these regulations. Then, of course, it ties it back into the Constitution Act and ensures that there's scope for provincial governments collaborating within their own areas of jurisdiction.

I think it strengthens the regulation-making powers, and it certainly ensures that discussions or “opportunity to collaborate” language, which is pretty flimsy, are replaced with significant meaningful consultation within the context of existing court decisions and our Constitution.

The Chair: MP Bossio.

Mr. Mike Bossio: The notion of consultation has been defined by the courts and should not be specifically defined in this bill. Incorporating such a reference to the term “consultation” could modify the understanding of this term and would have broader implications than this bill only.

As a result, we will not be supporting this amendment.

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

The Chair: Next is Green Party amendment 23.

Ms. Elizabeth May: I'm sorry, Madam Chair. This was withdrawn so it shouldn't be popping up now. We emailed the committee on May 15 to withdraw it, because the one we just went through, which was rejected, was more to the point.

● (1135)

The Chair: All right.

Next is amendment IND-9.

Hon. Jane Philpott: I move this amendment. It follows along on the issues raised by my colleague, the member from Saanich—Gulf Islands, about the need to ensure that these regulations will in fact be put into place and that this will support the implementation of the bill. I have heard what officials have said before about the fact that regulatory-making provisions are already in the bill, but the problem that will arise is that one may be forced to return and amend the bill because the provisions already there are interpreted as being too narrow. This gives us an opportunity to broaden the regulatory-making ability, including such things as the procedures for consultations and what that will look like.

I would argue that this is where we will be able to see the bill have its effect and not be simply a piece of legislation that's passed without having an impact. I urge further clarity around the obligations on regulations, through this amendment.

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

The Chair: Next is amendment IND-10.

Hon. Jane Philpott: You'll see, as I move this motion, that I'm quite determined to try to find ways to make sure that regulations are actually done. One of the parts of this amendment speaks to a review of what's taken place on amendments every three years and that the minister must, in collaboration with indigenous governing bodies, review regulations to make sure they're adequate and sufficient. One of the provisions says that the Governor in Council must make at least one regulation. They only have to do one, but they have to do a regulation within two years. That will have the effect of revving up the system, as soon as the bill is passed and has royal assent, to get partners working together on making sure there are regulations put in place. If we could just make the requirement of one single regulation within the first two years beyond royal assent, I think that would be a great way to ensure that the work gets done.

I know that our wonderful public servants are always good at getting things done when they are written in law. I think if we put this requirement in law, it would be very helpful in terms of making sure the bill is as effective as it could be.

The Chair: Ms. McLeod.

Mrs. Cathy McLeod: I think this is supportable from certainly our perspective. The argument from the government in the past would be about co-development. I think in this amendment we have created really a very modest expectation but, as articulated, an important one. Certainly we can support this.

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

(Clause 32 agreed to)

(Clause 33 agreed to)

(Clause 34 agreed to)

(Clause 35 agreed to)

(On clause 1)

The Chair: We're back to clause 1 and we're on amendment PV-1.

Ms. Elizabeth May: This is the preamble. Of course, the preamble is helpful. It's not the operative part of the bill, but future courts will have reference to the preamble for determining—

● (1140)

Mr. Arnold Viersen: We're not in the preamble, we're in clause 1.

Ms. Elizabeth May: Oh, we're back in definitions. I'm sorry; I thought we were following in order and doing definitions last.

This definition as currently found in the definition section says, “child and family services means services to support children and families, including prevention services, early intervention services and child protection services.” The amendment I'm proposing is based on recommendations from Dr. Blackstock and Carrier Sekani Family Services to say that it means services to protect children from maltreatment, to assist families in safely caring for their children, including primary, secondary and tertiary prevention services, etc. It strengthens the definition of what child and family services means, to be beyond supporting families and children and to be about primarily protecting children and assisting families.

The Chair: MP McLeod.

Mrs. Cathy McLeod: I do, first of all, want to state that the issue of post-majority care, I think, is hugely significant and was talked about. I want to give a quick shout-out to both my riding and the local provincial government, both former and current, in terms of creating a facility where elders and post-majority foster children will live together, but I have continually expressed concerns that it's clear that this bill will be imposed on the provinces without their conversation. I think they recognize this issue also, but I think we are creating another obligation to the provinces that needs to be done in conversation with them, and that it should not be created, as important as it is, without adequate conversation.

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

The Chair: We are on NDP-1.

MP Blaney.

Ms. Rachel Blaney: I'm happy to move it. I'm interested to hear what the clerk has to say about the definition of “maltreatment”, which is something I think is absolutely important, and which in later clauses was not supported.

I also just want to say that it's very important that definitions be here. They are key to the interpretation of the act, when you look at things like the “parent” not being properly described. We have a definition here, as well, of “prenatal care”. There are some specific things.

How an act is interpreted is very important. If things are left up to other people to define, there can be a lot of problems, so I am waiting to hear what the legislative clerk has to say.

The Chair: You would like a definition from the legislative clerk?

Ms. Rachel Blaney: No, what I would like to know is with the other clause around maltreatment—

The Chair: It has failed.

Ms. Rachel Blaney: It has failed, so I just don't know what happens now with the definition, and I'd like to understand better.

The Clerk: If this amendment were to be adopted, it would create an inconsistency in the bill, because you would have a term that would be defined, but not used, in the bill. That would create an inconsistency and, therefore, that makes the amendment inadmissible.

● (1145)

Ms. Rachel Blaney: Thank you.

I understand that my amendment is reflective also of the “child and family services” definition, which was just voted down, but it also includes definitions of “parent” and “prenatal care”. Maybe we'll just hear what Mike has to say. He will tell us how the government's going to move.

Mr. Mike Bossio: I'm not going to support it.

The Chair: It introduces a new word. Although I don't have a note saying it's specifically impossible to move, I have a sense that it's going to fail, but we can have a vote on it.

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

The Chair: We are on CPC-1.

Mr. Arnold Viersen: I'd like to move this motion. This amendment would add the term “customary adoption” into the “family” definition. We heard this on several occasions and this would add the words “customary adoption practices” into that line 20.

The Chair: MP Bossio.

Mr. Mike Bossio: This could be supported. “Customary adoptive parents” were already captured by the definition of family, but it could be a good idea to refer more specifically to them in this definition, so we are in support of this amendment.

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

The Chair: We have PV-2.

Ms. Elizabeth May: I can anticipate the clerk is going to say there is a problem, because as many of my amendments that have now been defeated attempted to use the word “maltreatment” I also proposed to amend the definition section so the word “maltreatment” would be defined.

I'm going to stop there and say that since every attempt to insert the word “maltreatment” has been defeated, it is likely not going to be acceptable to insert the word “maltreatment” now in the definitions.

The Chair: That would definitely cause a problem.

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

The Chair: We are at PV-3.

Ms. Elizabeth May: Again, this may have the same fate because I'm attempting here to provide a definition of “meaningful consultation”. I've made other attempts in other amendments to ensure that we remove words like “collaborate”, “enter into conversation”, whatever it was and use the legal term required by our Constitution, “meaningful consultation”, so that definition is likely also to be unacceptable at this point because “meaningful consultation” isn't used in the legislation.

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

The Chair: We have PV-4.

Ms. Elizabeth May: This definition is to add the words “parent”, “prenatal” and “substantive equality” into the definition as found. You can see it in my amendment that amends the bill, after line 36 on page 3, and provides a definition of “substantive equality”. Now this is a term used in the legislation and I would hope that we could provide this definition.

Again, this was provided by Dr. Cindy Blackstock, whose work on substantive equality and Jordan's principle.... She is acknowledged as a leading expert. I'm sure she would agree that she doesn't speak for all first nations people.

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

(Clause 1 as amended agreed to)

(On the preamble)

The Chair: What happened to amendment PV-9? I have a note, “only admissible if PV-9 was adopted”.

It was not, so MP May, on amendment PV-24.

Ms. Elizabeth May: This is part of the reference in the preamble to the Canadian Human Rights Tribunal decision in the First Nations Child & Family Caring Society. The Government of Canada will affirm that decision as part of the preamble of this legislation. Of course, that was Dr. Cindy Blackstock's organization's ongoing efforts to ensure that indigenous children received substantially equal treatment to non-indigenous children.

The Chair: I am sorry, MP May, it's inadmissible.

MP May, on amendment PV-25.

Ms. Elizabeth May: In this amendment, it's important to include the word “exclusive”. The current legislation just says “right of self-government...includes jurisdiction”, so by replacing just that one word it would be “right of self-government, which includes exclusive jurisdiction”, which is also a recommendation from Dr. Blackstock.

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

● (1150)

The Chair: : We have Conservative amendment 6.

Mr. Arnold Viersen: I'll move that one.

This one and the one that comes up subsequently—I think it's my number 7—for both of them, insert the word parents so it's "needs of indigenous elders, parents, youth, children”, that their needs all be established in this as well, because children belong to their parents. I felt that was overlooked in this.

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

The Chair: Next we have PV-26. It's only admissible if PV-9 is adopted, so it's inadmissible.

PV-27 is also inadmissible. It's only admissible if PV-9 is adopted.

Conservative amendment 7 is a substantive change to the preamble and inadmissible.

PV-28 is a substantive change to the preamble and inadmissible.

Shall the preamble—

Mr. Arnold Viersen: Madam Chair, before we go to the preamble approval, I have a bunch of preamble amendments that I was interested in having a conversation with the committee about putting some of these in.

When Arlen Dumas was here, he talked about his “bring the children back” bill they had drafted, and he was quite disappointed it has not been adopted.

I had a chance to look that over as it was submitted here, and I found a bunch of things in there that were pretty interesting. With the indulgence of the committee, I would love to have a bit of a discussion about inputting some of those concepts into them. I wouldn't expect us to chose them all.

I understand this is a little unprecedented.

I'd like to read what I've prepared here. I have distributed some copies.

I'm not exactly sure where we should put all of these, and some of them could be amendments within—

Thanks for indulging me, Chair. I'll take this as making up for all those short minutes you've given me along the way here.

I would love to have in there a recognition that the administration of child and family services is an inherent use of force. I think that's an important piece that isn't necessarily recognized here so when people are administering child and family services, they recognize that.

I'd also like the Government of Canada to recognize that parents are the reason that children exist. It's obvious, but I'd like it clearly stated there.

I'd also like the government to recognize that they should protect children for their families and not from their families. I think it would be nice to have that explicitly stated in there.

This one comes right from Arlen Dumas' bill, that the Government of Canada recognize that the Creator gave indigenous people the ability and responsibility to sustain human life through their children.

Finally, that the Government of Canada recognize that the holistic responsibility of a child's day-to-day well-being is the responsibility of parents or customary caregivers.

If we could put some of these concepts into the preamble, that would be much appreciated.

● (1155)

The Chair: The chair has been consistent in allowing the mover to make a few comments, even when they're inadmissible, which these are.

It was a good pitch.

Mr. Arnold Viersen: Could I ask why they are inadmissible?

The Chair: They are substantive changes.

Mr. Arnold Viersen: How do I appeal this decision?

Mr. Mike Bossio: It'll be voted down anyway.

The Chair: In the election in October.

Mr. Arnold Viersen: I think I've made my point.

The Chair: The clerk says I could be challenged. I'm sure I am being challenged in more ways than one.

MP Vandal.

Mr. Dan Vandal: I want to put on the record that the work brought forward by the Assembly of Manitoba Chiefs is substantial. If we approve this bill on indigenous child welfare, it will do nothing but help the Assembly of Manitoba Chiefs and Grand Chief Arlen Dumas to bring forward their own laws on indigenous child welfare for their jurisdiction and for their nation.

I commend Mr. Viersen for his attempt to incorporate it into our bill, but our bill will do nothing but help what Mr. Dumas and the Assembly of Manitoba Chiefs are trying to do.

The Chair: We're all hoping this is going to help the situation, for sure.

Shall the preamble carry?

Some hon. members: Agreed.

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

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

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Chair: That was a very good job. Thank you to everybody for slogging through that. There was a lot of substantial discussion and a lot of amendments. I want to thank everyone for participating in a collegial manner.

We are adjourned.

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