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Chair

Mr. Anthony Housefather

Standing Committee on Justice and Human Rights

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● (1625)

[*English*]

The Chair (Mr. Anthony Housefather (Mount Royal, Lib.)): Hello, colleagues. Thank you very much for your patience everyone.

We will reconvene at this point. Given the room that we're in, we probably need to put in the earpieces. It's hard to hear in here.

(On clause 162)

The Chair: We are at clause 162, as we resume our study of Bill C-75, and we're at CPC-101.

Mr. Cooper.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you, Mr. Chair.

This amendment is in relation to a reclassification under Bill C-75. It would seek to maintain the offence of a threat against internationally protected persons as a solely indictable offence.

The Chair: Thank you very much, Mr. Cooper.

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

(Clause 162 agreed to)

The Chair: Amendment X-119 is not receivable anymore.

(Clauses 163 and 164 agreed to on division)

(On clause 165)

The Chair: On clause 165, we get to CPC-102.

Mr. Cooper.

Mr. Michael Cooper: Yes. This is another amendment on reclassification. Bill C-75 would make the serious indictable offence of arson for a fraudulent purpose a hybrid offence. It's very difficult to understand why such a serious offence would be treated as a hybrid offence, and this amendment would keep it as solely indictable.

The Chair: Thank you very much.

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

(Clause 165 agreed to)

(On clause 166)

The Chair: We're at clause 166, and CPC-103.

Mr. Cooper.

Mr. Michael Cooper: Chair, again this is an amendment dealing with reclassification in Bill C-75. It seeks to maintain the offence of arson by negligence as a solely indictable offence.

The Chair: Thank you very much.

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

(Clause 166 agreed to)

(Clause 167 agreed to on division)

(On clause 168)

The Chair: We're on CPC-104.

Mr. Michael Cooper: This is again a reclassification amendment to amend C-75 such that the offence of interfering with saving of a wrecked vessel would be maintained as solely indictable.

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

(Clause 168 agreed to)

(On clause 169)

The Chair: On clause 169, we get to CPC-105.

Mr. Cooper.

Mr. Michael Cooper: This again is a reclassification amendment that would maintain the subject offence as a solely indictable offence. That offence relates to everyone who wilfully alters, removes or conceals a signal, buoy or other sea-mark that is used for purposes of navigation.

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

(Clause 169 agreed to)

(On clause 170)

● (1630)

The Chair: On clause 170, we get to CPC-106 and LIB-9. They do not have a line conflict, if I'm correct. They both can be moved.

First, we'll go to CPC-106.

Mr. Cooper.

Mr. Michael Cooper: This is another reclassification amendment. This specific amendment would maintain the offence of removing a natural bar without permission as a solely indictable offence.

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

The Chair: We will move to LIB-9.

Mr. Fraser.

Mr. Colin Fraser (West Nova, Lib.): With respect to LIB-9, can I ask the department's interpretation—

The Chair: It's basically adding the word “property” back into the code. The word “property” was omitted and is being returned in two places. It will say “movable property” and “immovable property”, whereas the bill only had said “moveable” and “immovable” without the word “property”.

Mr. Colin Fraser: Thank you, Mr. Chair.

Given that it is a clarification, basically a technical amendment, I would be in favour of that amendment.

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

(Clause 170 as amended agreed to)

(On clause 171)

The Chair: We get to CPC-107.

Mr. Cooper.

Mr. Michael Cooper: This is another reclassification amendment. This specific amendment would maintain the offence of interfering with international boundary marks as solely indictable.

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

(Clause 171 agreed to)

The Chair: For clause 172, amendment X-130 is no longer receivable.

(Clauses 172 to 176 inclusive agreed to on division)

(On clause 177)

The Chair: We get to clause 177 and CPC-108.

Mr. Cooper.

Mr. Michael Cooper: Again, this is a reclassification amendment dealing with everyone who, without lawful justification or excuse, the proof of which lies on him, has in his custody or possession gold or sliver filings or clippings. This amendment would maintain that specific offence as a solely indictable offence.

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

(Clause 177 agreed to)

(On clause 178)

The Chair: Now we move to clause 178 and CPC-109.

Mr. Michael Cooper: We go on to CPC-109. This again is a reclassification amendment to retain the subject offence as a solely indictable one.

The Chair: Thank you very much.

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

(Clause 178 agreed to)

(On clause 179)

The Chair: On clause 179, we have CPC-110.

Mr. Cooper.

Mr. Michael Cooper: Again, it's a reclassification amendment. This amendment is relating to the offence of advertising and dealing with counterfeit money. This amendment would maintain that offence as a solely indictable offence.

The Chair: Thank you very much.

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

(Clause 179 agreed to)

(Clauses 180 to 184 inclusive agreed to on division)

(On clause 185)

The Chair: We're moving to clause 185, CPC-111.

Mr. Cooper.

● (1635)

Mr. Michael Cooper: Again, it's a reclassification amendment dealing with the offence of conspiracy to maintain it as a solely indictable offence.

The Chair: Thank you very much.

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

(Clause 185 agreed to)

(On clause 186)

The Chair: On clause 186, we have CPC-112.

Mr. Cooper.

Mr. Michael Cooper: This amendment would maintain the offence of participation in activities of a criminal organization to remain as a solely indictable offence.

The Chair: Thank you very much.

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

(Clause 186 agreed to)

(Clauses 187 to 191 inclusive agreed to on division)

The Chair: For clause 192, we've already dealt with the amendments in clause 192 as well. It's the clause that deals with the bawdy house.

(Clause 192 as amended agreed to)

(Clauses 193 to 211 inclusive agreed to on division)

(On clause 212)

The Chair: We will now move to clause 212, where there are various amendments.

We are now getting back into a substantive change. Can everybody turn to clause 212, please? It is on the end of page 65 and page 66 in the bill.

The amendment to clause 212 that we have in front of us is CPC-113. If CPC-113 is adopted, CPC-114 and PV-14 cannot be moved as there are line conflicts. We then have CPC-115, and if it's adopted NDP-1 can't be moved for consistency. We have three different ones. CPC-113 does not interfere with CPC-115 or NDP-1, but it does interfere with PV-14 and CPC-114, because the lines are the same.

I'll give Mr. Cooper a moment to sort that out and then—

Mr. Michael Cooper: I think what we'll do is withdraw CPC-113 and move forward with CPC-114, and in anticipation of the likely outcome, just vote against the clause.

The Chair: Perfect.

Are you moving forward with CPC-114 right now?

Mr. Michael Cooper: Yes.

Just to clarify, although we're withdrawing CPC-113, the issue we have is with the language that, as we see it, expands beyond the Gladue decision to incorporate undefined "other vulnerable populations" in addition to indigenous people. That was the basis upon which we proposed that amendment, and why we will likely be voting against the clause in its entirety.

With respect to CPC-114, this is an amendment, again, to clause 212. It would remove the word "primary" in the "primary consideration" being the release of someone in custody. This is already considered by the courts. It's already incorporated into case law. We object to its being incorporated into the statute, given that it's already taken into account by the courts.

It seems to us that this is a way of giving criminals a leg up.

● (1640)

The Chair: Mr. Rankin.

Mr. Murray Rankin (Victoria, NDP): I'm not sure this is in order because of the way these are grouped together in the lines. I'm not able to speak to NDP-1 because it covers the same lines. The issue, of course, is vulnerable populations—

The Chair: It shouldn't. Let me check NDP-1 immediately to see if—

Mr. Murray Rankin: It's the definition of "vulnerable population".

The Chair: That's line 14 on page 66. This is replacing line 34 on page 65, and then NDP-1 would be line 14 on page 66. I don't think that removing the word "primary" would interfere with NDP-1.

Mr. Murray Rankin: All right.

The Chair: I believe CPC-115 would interfere with NDP-1, because that changes the populations. CPC-115 would, but not CPC-114. The lines don't conflict. It just removes the word "primary".

Mr. Murray Rankin: This is about "primary consideration" as opposed to just whatever else—

Mr. Michael Cooper: It's "consideration", yes. It would delete that word, "primary".

Mr. Murray Rankin: Just explain, if you would, the logic of that. Why would you want to do that?

Mr. Michael Cooper: We don't see it as necessary. The release of an accused is already considered by the courts.

Mr. Murray Rankin: Could officials comment on the implications from their perspective of deleting the word "primary"?

Ms. Shannon Davis-Ermuth (Legal Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice): Sorry, I'm just considering that. This is CPC-114.

The Chair: Yes, it's CPC-114, which changes line 34 on page 65, to remove the word "primary", and it would just read, "consideration" instead of "primary consideration".

Ms. Shannon Davis-Ermuth: The principle is described as "primary" precisely because it is to be at the forefront of every decision that is made in the context of bail by police and the courts, in this part of the Criminal Code dealing with release of accused by police and courts. The policy behind it is that because of the overcrowding of individuals still awaiting trial—they are considered to be innocent—and although it is already in the case law and already required by the courts, this would give some more emphasis to it and put it as a forefront consideration.

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

The Chair: Then we move to Green Party-14.

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

This amendment would bring the Criminal Code in line with the change proposed for the Youth Criminal Justice Act, to prohibit imposing a bail condition on a situation where you're intending to use the bail condition to modify or punish undesirable behaviour, particularly in contexts where the person who's receiving the bail condition is really not in a position to adhere to it.

We know we have really significant problems, a disproportionate number of problems, with people who are incarcerated with issues of addiction, mental health issues. It follows the Supreme Court decision in R. v. Antic that terms of release imposed under subsection 515(4) may only be imposed to the extent they are necessary. To emphasize, they must not be imposed to change an accused person's behaviour or to punish an accused person.

I'd like to assist this committee in moving through the bill more rapidly, so I'm going to stop myself there. I will remind you, though, of Senators Pate, Cordy and Hartling, and the points that they made on this bill.

The Chair: Thank you so much.

Ms. Elizabeth May: It's an amendment that I hope will pass. Thank you.

The Chair: Thank you.

Does anyone else wish to comment on this amendment?

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

The Chair: Then we move to the conflicting CPC-115 and NDP-1. Since CPC-115 was submitted first, it will go first. Then we'll move to NDP-1, if CPC-115 is defeated.

We go to CPC-115.

● (1645)

Mr. Michael Cooper: Yes, it's in line with the previous amendment and I would submit it on the same rationale.

The Chair: Thank you so much.

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

The Chair: We move to NDP-1, the definition of "vulnerable population", which is receivable because the original definition that Ms. May proposed for the preamble was not accepted.

Mr. Rankin.

Mr. Murray Rankin: Thanks, Chair.

Many of the NDP amendments that are going to be coming forward in the next few minutes are derived from what I thought was persuasive testimony by Marie-Eve Sylvestre of the University of Ottawa.

Members will remember that it was her position that it was necessary to define the term "vulnerable population" in the bill. It doesn't do that in the current formulation. She was concerned about people experiencing homelessness, drug or alcohol users, people with mental health problems, sex workers, racialized minorities, all of whom are overrepresented in the criminal justice system and are placed at a disadvantage because they're overexposed to police surveillance and often the victims of profiling and discrimination.

The purpose of my amendment would be to follow her recommendations in that regard.

The Chair: Thank you very much.

Is there any discussion? We have Mr. McKinnon and Mr. Fraser.

Mr. McKinnon.

Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.): Thank you, Chair.

My understanding about the nature of these changes is that this is already encompassed in the principle of restraint that's incorporated into the bill. I would ask the officials if they would like to comment on that.

Ms. Shannon Davis-Ermuth: As you mentioned, it is already incorporated into the principle in the bill. In particular, there is a bit of a characterization put on what is meant by "vulnerable population" in terms of its seeking to address vulnerable populations that are overrepresented in the criminal justice system and that are disadvantaged in obtaining release under this part, so as characteristics related to their vulnerability would make it hard to obtain bail.

This is an example of—when we were discussing the Green Party amendment in relation to the definition of vulnerable population—the danger that defining it as a closed list like this risks leaving certain vulnerabilities out. One example that I don't see when I look at this definition is vulnerability due to racial minorities or cultural groups. That wouldn't be covered by this.

Mr. Ron McKinnon: Thank you.

The Chair: I guess only those who were overrepresented in the criminal justice system would be covered based on this.

Is there any further discussion?

Ms. Shannon Davis-Ermuth: Sorry, I meant they wouldn't be covered by the suggested definition in NDP-1.

The Chair: No, I understand.

Is there any further discussion?

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

(Clause 212 agreed to)

(Clause 213 agreed to on division)

(On clause 214)

The Chair: We have PV-15. Ms. May.

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

This amendment is, as you've said, to clause 214. What I'm proposing to do in PV-15 is to replace the discretionary "may" with an obligatory "shall" to ensure that a police officer is required to send the accused who is found in breach of bail conditions to a judicial referral hearing so long as there is no harm that's been done to any member of the public. Of course, the effect of this would be that it would no longer be at the officer's discretion whether this step was taken.

This was, again, recommended strongly in testimony before the committee by the Society of United Professionals who represent legal aid lawyers across Canada, as well as the testimony of Jane Sprott, Cheryl Webster and a number of others.

The question is really this. Our police officers are trained in many things, and they do a fine job in the things for which they are trained. They are not trained for this. They are not equipped to make this determination. By making it obligatory except if there is a significant threat of harm to a member of the public, it will enforce the direction the government wishes to go in this bill, and it would be an improvement and one that comes recommended from a group of legal professionals who deal with this client group more than anyone else.

Thank you, Mr. Chair.

● (1650)

The Chair: Thank you very much, Ms. May.

Is there any discussion?

Mr. Fraser.

Mr. Colin Fraser: While I appreciate Ms. May's intervention and rationale behind it, I respectfully won't be supporting the amendment because I do think it is important for police officers on the ground, who have the full context of each and every case coming before them, to use their best discretion in making these determinations. This takes away that discretion that they're exercising their best judgment when presented with the circumstances of the individual before them, so I think it's better to leave it with their discretion. Therefore, I won't be supporting the amendment.

The Chair: Thank you.

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

(Clause 214 agreed to)

(On clause 215)

The Chair: We move to clause 215, on NDP-2.

Mr. Rankin.

Mr. Murray Rankin: Thanks, Chair.

As I indicated in my last intervention, the basis of NDP-2, and NDP-3 and others that are following, is the analysis conducted by Professor Sylvestre in her empirical work. The number of adults placed in interim detention is significantly more than the number of persons sentenced to imprisonment in Canada.

The high interim detention rates have a disproportionate effect, she said, on groups like aboriginals and people with mental health issues. The decision to detain is first made, of course, by the police, and directly influences the continuation of the proceedings. Indeed, a detained person who appears before court is much more likely to plead guilty in the earliest opportunity, the research shows.

The purpose of NDP-2 is to address when a person may be denied from release only if they pose a real and substantial risk to the safety and security of any person—a victim or a witness. It thus brings clarity to the term “reasonable grounds”, and that is the purpose in doing so.

I would commend her work and the amendment to the committee.

The Chair: Thank you very much, Mr. Rankin.

Is there discussion?

Mr. McKinnon.

Mr. Ron McKinnon: I appreciate Mr. Rankin's perspective; however, I suspect this is also encompassed in the principle of restraint, as we saw in the previous amendment.

I would ask the officials to weigh in on this.

Ms. Shannon Davis-Ermuth: Thank you.

Subsection 498(1.1) of the Criminal Code, which would be amended by NDP-2, is in fact not amended currently by Bill C-75.

What is contained in subsection 498(1.1) are the grounds for which police can detain the accused. Bill C-75 actually does not amend the grounds of detention of either police or the courts. It maintains the existing case law and structure of the bail regime in Canada.

The principle of restraint does look to the grounds of detention and in fact refers to the grounds of detention, but it doesn't modify them. The effect of NDP-2 would be to depart from the existing bail regime and could have unintended operational impacts on the reasons for which police currently detain the accused.

Remembering that this decision is made hundreds of times daily throughout Canada, it could have very big operational impacts in terms of not allowing police to detain for reasons that it is currently done.

Mr. Ron McKinnon: Did I hear you correctly that subsection 498 (1.1) is not amended in Bill C-75 at all?

Ms. Shannon Davis-Ermuth: Correct.

Mr. Ron McKinnon: I would ask the chair if this is receivable.

The Chair: I believe it is receivable, yes.

Mr. Ron McKinnon: Okay, thank you.

The Chair: Coming back to Mr. Rankin, do you want to clarify something?

Mr. Murray Rankin: My objective is simply to try to record her evidence in the legislative amendment.

The peace officer has to agree to release the arrested individual prior to the court appearance if the accused is not a real and substantial risk to the safety and security of the person, particularly any victims or witnesses of the offence, or if they are unlikely to repeat the offence.

I think we have evidence of the mass over-incarceration of certain categories of people, many of whom don't go on to be convicted.

It seemed to me that her evidence, with all of the analysis and empirical work behind it, shows that it does need.... I want an operational impact. That is, of course, what is intended here, so I would stand by the proposal.

● (1655)

The Chair: Thank you very much.

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

(Clause 215 agreed to)

(Clause 216 agreed to on division)

(On clause 217)

The Chair: We have multiple amendments. In the amendments we have here, there are line conflicts between NDP-3, NDP-4 and PV-16.

Mr. Rankin, you may want to decide between NDP-3 and NDP-4, because you have line conflicts between them. Only one of them could be adopted, and if either of them is adopted, PV-16 cannot be. If NDP-3 and NDP-4 are defeated, we would then move to PV-16.

We'll then move to PV-18, PV-19, LIB-11 and NDP-5, which don't conflict with any lines of any of the others.

Mr. Rankin, the floor is yours to choose between NDP-3 and NDP-4, or to merge them in a way that doesn't....

Mr. Murray Rankin: I'm just going to need a moment to make that call.

The Chair: Of course.

Ms. Khalid.

Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.): I need a bathroom break.

The Chair: I can vote in your place to break ties while you're gone. Go ahead.

Ms. Iqra Khalid: Thank you. I appreciate that.

Mr. Murray Rankin: Chair, sorry for the delay. I'd like to go with NDP-4, I think, on that basis.

The Chair: Perfect.

We'll move to NDP-4.

Mr. Murray Rankin: There's a line item, and the purpose of NDP-4 is to remove certain parts of Bill C-75, lines 27 to 29 on page 70, which deal with abstaining from going to any specific place or entering any geographic area, and replacing it with:

> ing any geographic area, which condition must be:
>
> (i) delimited reasonably, having regard to the circumstances of the accused, including if the accused is an Aboriginal person or belongs to a vulnerable population, and
>
> (ii) reasonably necessary to ensure the safety and security of any person referred to in paragraph (d), except in accordance with any specified conditions;

This amendment, Chair, would ensure that the geographic limitations imposed on an individual, pertaining to an undertaking, are “delimited reasonably” and have ”regard to the circumstances of the the accused,” as I said, for aboriginal persons and vulnerable populations. It would ensure that the limitations are reasonably necessary to ensure the safety of the public, victims or witnesses.

I assume that members will remember the testimony she gave about how, in Montreal, these conditions were used in an absolutely ridiculous fashion. This would be to confine them more carefully. She said that the conditions are subject to considerable abuses and are widely used against marginalized individuals to banish them from inner cities' public spaces, where they have access to essential health and social services like food banks, shelters, and harm reduction services. In her judgment, the language needs to be stronger, to send a clear message to the police that they must restrict it to what is necessary to protect the safety of victims and witnesses.

I think the evidence she gave was overwhelming, to the effect that this has been abused to date. It results in ridiculous circumstances. This language would, I think, effectively correct those deficiencies.

● (1700)

The Chair: Thank you very much.

Is there any discussion?

Mr. Fraser.

Mr. Colin Fraser: My understanding is that this would effectively add the element of proportionality by specifying that police must also consider the seriousness of the offence. That would be unnecessary, because the police already take those things into consideration.

I wonder if the officials could chime in regarding proportionality and how this would be going beyond what is already the case.

Ms. Shannon Davis-Ermuth: I noticed that proportionality was in NDP-3, but I'm not sure I see it in NDP-4. I just want to make sure I answer the right question.

The Chair: NDP-4 repeats the language of NDP-3 and adds to it. If you look at the beginning—Mr. Rankin addressed it—NDP-3 is echoed in NDP-4, with additional clauses also being amended that Mr. Rankin spoke to.

The replacement of the language in lines 10 and 11, and 14 and 15 is still there in NDP-4.

Ms. Shannon Davis-Ermuth: First, the reasonable and necessary aspects are in the chapeau of the proposed subsection 501(3). Those requirements apply to each of the paragraphs (a) through (k).

In terms of proportionality, that is already required and it is something that police consider. That is part of the reasonableness. It says in the chapeau, “reasonable in the circumstances of the offence”, so that would bring in a proportionality requirement.

The other thing to recall is that the principle of restraint in proposed sections 493.1 and 493.2 applies as well, so those safeguards would be there.

The Chair: Thank you.

Mr. Colin Fraser: The term being inserted, “real and imminent”, is adding a threshold to public safety that would be inconsistent with the other principles of bail.

While well-intentioned, it would have consequences that are perhaps unintended. Therefore, I cannot support the amendment.

The Chair: Thank you.

Is there any further discussion? If not I'll move to the vote on NDP-4.

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

The Chair: Then we move to PV-16.

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

This deals with what's found as additional conditions on page 70 of clause 217.

My amendment attempts to restrict the kinds of conditions the police officer can impose on the accused in an undertaking, to ensure that the undertaking is one that is “reasonably practicable for the accused to comply with”.

It's a very straightforward amendment. It comes, as I referenced earlier, from a lot of testimony that would like to see the bill more consistent with the other changes being made in the Youth Criminal Justice Act, cognizant of the fact that a lot of people to whom these bail conditions apply are particularly marginalized and have a lot of difficulty meeting an onerous condition. If it's reasonably practicable for that accused to meet certain terms, that's something that should be considered, rather than setting them up for failure and violations.

The Chair: Thank you very much.

Is there any discussion? We will vote on PV-16.

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

The Chair: Next is PV-17, still with Ms. May.

Ms. Elizabeth May: Thank you.

This is just the next line down from where my last one was, on the proposed subsection 501(3). This is again looking at increasing the threshold for a bail condition from any amount of risk to public safety to a substantial likelihood of endangering public safety.

Again, this is consistent with a Supreme Court decision. Although it was some time back, we still remember the case of Morales making the Criminal Code compliant with the charter for the accused's right to a reasonable bail. In that decision they said bail is denied “only for those who pose a ‘substantial likelihood’ of committing an offence”.

This brings this section of Bill C-75 into compliance with the Supreme Court of Canada's decision in R. v. Morales.

● (1705)

The Chair: Thank you very much.

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

The Chair: We'll go to PV-18, which is also Ms. May.

Ms. Elizabeth May: As you can see, Mr. Chair, PV-16, PV-17 and PV-18 presented by the Green Party are all dealing with the same subsection around additional conditions for bail. This one would remove the peace officer's ability to set onerous conditions that would limit the accused's freedom, potentially violating their right to the presumption of innocence. This was again found in the evidence from the society that represents those lawyers who practise legal aid law, that a release on an undertaking occurs without the oversight of a justice of the peace or a judge and without the benefit of a defence lawyer at the side of the accused person. It leaves the vulnerable accused person at the whim of the officer writing the conditions of her release. Due to the power imbalance, accused persons will often agree to any condition, no matter how unreasonable or unlawful, simply because they are afraid of the prospect of being held for bail in a detention centre.

Again, I will foreshorten my presentation on this, but I hope everyone here remembers the evidence. The theme and the spirit of this bill are met by accepting this amendment.

Thank you.

The Chair: Thank you very much.

Is there any discussion on that?

Mr. Fraser.

Mr. Colin Fraser: Thanks.

Again, while well-intentioned, I think there are certain concerns with this proposed amendment. First, it removes the discretion of the police officers to release more accused persons. The proposal also raises a number of concerns in particular that would likely result in more people being held, which I know is not the intent of the amendment, but if they're not able to impose these conditions to ensure, for example, the accused's appearance at trial by not imposing certain conditions regarding same, then it would actually end up resulting in more people being held.

For those reasons, I would argue that it runs counter to the purpose of the bill. Therefore, I won't be supporting the amendment.

The Chair: Thank you very much.

Is there any further discussion?

Ms. May.

Ms. Elizabeth May: With all due respect, I appreciate the comment that you don't agree with the amendment, but I can't follow your logic. How would this result in more people being held when the point of it is to ensure that the release on the undertaking doesn't set conditions that are...? You can certainly set conditions, but the intent is to ensure that the conditions are not so onerous that you actually deprive people of their presumption of innocence.

I know we don't want to get into protracted debates on every section, but I didn't follow your logic.

Mr. Colin Fraser: My understanding is that the amendment would actually remove seven conditions that police would be able to impose on an accused person under proposed subsection 501(3), and therefore, by not having those conditions available on which to release somebody, it would increase the likelihood, for example, that somebody may not be able to meet the threshold of appearing for their trial or in court, and lead to more bail hearings and more grounds to hold the person. That runs counter to, I think, with great respect, even the suggestion you're making that the idea here is to make it less onerous and for fewer people to be held.

Ms. Elizabeth May: We'll have to agree to disagree, but I think it's not just the intent. I think the way the law actually operates, given the advice from the legal aid lawyers, is that the release on undertaking occurs without the oversight of a justice of the peace or a judge or without the benefit of a legal aid lawyer there, and we're trying to avoid that happening as something that would inevitably disproportionately negatively affect people who are marginalized.

(Amendment negatived [*See Minutes of Proceedings*)

The Chair: LIB-11 is removing a comma. Is that an administrative one, or is it one that requires a...?

● (1710)

Mr. Colin Fraser: LIB-11 is a technical amendment, removing a comma that's in the bill. Removing it will add clarity.

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

The Chair: Then we move to NDP-5.

Mr. Rankin.

Mr. Murray Rankin: Thanks, Chair.

We're still back with the peace officer during the undertaking period, and the objective here is adding proposed subsection 501 (3.1) as an additional condition. There already are others. This one would deal with the issue of an accused's level of dependence on a substance or alcohol, and it would say that, if the undertaking contains a condition about consuming alcohol or drugs, the consideration must be given to the level of dependency on the substance, and priority given to harm reduction measures rather than abstinence, to the extent that it is possible to do so without compromising the safety and security of a victim, a witness or the public.

It takes into account the very compelling testimony, again, that we heard about how people who are addicted to alcohol or drugs are reacting when these undertakings restrict their consumption but there's just no way they're going to ever be able to meet them.

There's a case in Alberta that has been referred to called R. v Omeasoo, a 2013 Alberta case where the judge said:

> It is trite to say that conditions in an undertaking which the accused cannot or almost certainly will not comply with cannot be reasonable. Requiring the accused to perform the impossible is simply another means of denying judicial interim release.

The objective of NDP-5 is to address that reality.

The Chair: Thank you very much.

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

(Clause 217 as amended agreed to)

(Clause 218 agreed to on division)

(On clause 219)

The Chair: On clause 219, we have Green Party-19, Ms. May.

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

This deals with the sections that relate to the threshold for bail conditions and release orders. This amendment would increase that threshold for bail conditions and release order from what the judge or justice considers to be “desirable” to what they consider “necessary”.

Again, this is to bring this section of Bill C-75 more closely aligned with the Supreme Court of Canada's decision in R. v. Antic, in which the Supreme Court has said that they should impose terms of release only “to the extent that they are necessary”.

This will provide a clearer directive, with the principle of imposing the least onerous conditions of bail to achieving the purposes of justice.

The Chair: Thank you very much.

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

(Clause 219 agreed to)

(Clauses 220 to 226 inclusive agreed to on division)

(On clause 227)

The Chair: We have many amendments to clause 227, starting with Green Party-20.

I will advise you if and when we get to an amendment where there's a line conflict with another amendment.

On Green Party-20, we have Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

As noted, there are a lot of amendments to this section. This one deals with the issue of the threshold that a prosecutor must meet in order to satisfy a justice that a release order with conditions is justified for the accused. It moves from “shows cause” to “establishes to the satisfaction of the” court.

Again, this is an amendment that flows from the testimony of the Canadian Civil Liberties Association. It again attempts to ensure that this bill is in line with the Supreme Court decision in R. v. Morales.

All of my amendments in this section are for a similar purpose, but of course, I'll speak to each one separately. I hope that the committee will seriously consider accepting this one.

Thank you.

The Chair: Thank you.

Is there any discussion on PV-20?

Mr. Colin Fraser: Can I ask the officials for their understanding of this, and their thoughts?

Ms. Shannon Davis-Ermuth: The concept of a prosecutor showing cause is a concept that is repeated throughout the bail provisions. It's not just in this one subsection. It's highlighted in the bill a bit, because this is a new provision that has been moved in the bill.

However, if you look in the Criminal Code at section 515, as well as other sections, this is the language of the bill provisions. Changing one instance of it would establish a new test or a different test, or different wording, possibly meaning the same thing and possibly causing some confusion.

Where the standard has been established in cases like Morales, that will apply to what's in the code, and the justices will know that. The department's concern would be with changing just one instance of it.

● (1715)

Mr. Colin Fraser: I suppose with changing terminology that's known to the law and to judges, it would likely end up being litigated and causing even further court delays.

Ms. Elizabeth May: I appreciate that Colin is adding thoughts to what the analysts provided, but it was deliberate that I only amended “shows cause” in this one place. It's deliberate, to ensure that the normal course of showing cause is the way it will go through most of the bill.

I don't think that the notion of establishing to the satisfaction of the court is a foreign concept, nor.... It just creates an additional burden to specifically consider in the circumstance. If we've met the test that had been essentially set down by the Supreme Court in Morales, I don't think it would be unworkable.

Any section of this bill, even the ones that have been supported by a government side, will lead to litigation. I think this is good drafting and I hope you'll consider it.

The Chair: Thank you very much.

Is there any further discussion?

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

The Chair: We have Green Party-21.

Ms. May.

Ms. Elizabeth May: Thank you.

This is again making a change to proposed subsection 515(2.021) to ensure that:

> Before making an order requiring that the accused have a surety, the justice shall cause notice to be given to the accused and be satisfied that the condition to have a surety is necessary.

This two-step process must be determined by a justice before the accused is required to secure one. It was strongly recommended by the Canadian Civil Liberties Association that by bifurcating the bail hearing it would better implement the latter principle in bail courts. In some jurisdictions, defence counsel is often required to call for a potential surety before the Crown even establishes that one is necessary. The effect of this is to disproportionately impact accused from remote communities, particularly indigenous accused.

I hope you will consider having this two-step process to ensure it's really necessary.

(Amendment negatived)

The Chair: We have Green Party-22.

Ms. May.

Ms. Elizabeth May: In similar spirt, this amendment proposes to increase the threshold for a justice to impose a surety condition from the threshold test of "shall be satisfied" to "satisfied, on a balance of probabilities" that the condition is necessary.

Certainly assessments on the balance of probabilities is a well-known concept in law, and it injects into the decision-making a real analysis of whether this is an appropriate decision related to this particular accused, and particularly considering the disproportionate impact that setting these bail conditions have for people from remote communities.

The Chair: Thank you very much.

Ms. Elizabeth May: I'm shortening my defence of this. I'm acclimatizing myself to the ritual slaughter of my amendments, and I do recognize that you want to proceed apace, and there are reasons. We have a lot of amendments to get through.

Honestly, these are amendments that are in the spirit of what the government wants to do and in the spirt of R. v. Morales.

Thank you.

The Chair: Thank you very much.

Mr. Fraser.

Mr. Colin Fraser: Can I ask one quick question of Ms. May?

The balance of probabilities test that's being stated is already the standard that's used. That seems unnecessary to me.

Can you help me understand that?

Ms. Elizabeth May: It was strongly argued particularly by Dr. Nicole Myers and others who appeared before this committee that by directing the mind of the justice to satisfy himself or herself on the balance of probabilities, that maybe the test that's being used...but by strengthening it.... De facto perhaps is that the test is being used, but we don't know because it's not explicit, so if you say explicitly, "satisfied, on the balance of probabilities," that this condition is necessary....

There is no place on Vancouver Island for women to be held awaiting trial so women from indigenous communities are not just held in detention, they are held in detention a substantial distance from their families, and they can be held in detention for a very long time. What kinds of conditions do you need to put on people to ensure that they are able to stay in their community, that there's not a surety that's overly onerous, that's very restrictive?

I think injecting the test on the balance of probabilities in these circumstances directs the mind of the decision-maker to all the factors and to the notion of whether it is actually necessary.

● (1720)

Mr. Colin Fraser: Thank you.

I respect my colleague, of course, but I respectfully disagree with that point because I think it's well known to the courts that it is the standard of balance of probabilities that is used, and this would just add unnecessary language to a section that's already well known.

The Chair: Thank you very much. I really appreciate that.

We will move to a vote on PV-22.

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

The Chair: Ms. May, Green Party-23 and Green Party-24 have line conflicts. Would you decide which one you want to move forward with?

Ms. Elizabeth May: I think under the circumstances I will withdraw.... I can't withdraw anything because these are deemed to have been moved by the committee.

My preference would be to move to PV-28, which is the strongest. In the circumstances, it is the one that doesn't have line conflicts and isn't unclear. It's my strongest.

The Chair: Okay, so let me suggest that I will allow you to not move anything you don't want to move.

Ms. Elizabeth May: I'm not allowed to move anything.

The Chair: No, but I will allow you to tell the committee that these are not deemed moved, and we will withdraw the ones you want to withdraw.

Ms. Elizabeth May: You have to do it by unanimous consent. I have no role in it. I'm merely suggesting a way forward.

The Chair: I understand, but I'm just asking you which ones. You want to withdraw PV-23, PV-24—

Ms. Elizabeth May: Yes. PV-25, PV-26, and PV-27, and keep PV-28.

The Chair: We'll move to PV-28.

Is everyone okay with doing that? Does the committee unanimously agree?

Some hon. members: Agreed.

(Amendments withdrawn)

Mr. Murray Rankin: Are we still going to go back to NDP-6?

The Chair: We will do NDP-6, NDP-7, and we'll move to Green Party-28 at that point.

Mr. Murray Rankin: Certainly.

The Chair: Thank you very much.

Thank you very much, Ms. May. We'll come back to you for Green Party-28.

In the meantime, we'll move to Mr. Rankin for NDP-6.

Mr. Murray Rankin: Thanks, Chair. These next two are essentially the same as I moved before, but rather to first court appearance bail, if you will, rather than the undertaking in which the context was different before.

Again, the interviews that Professor Sylvestre and her team undertook with legal stakeholders showed that the conditions that are often imposed just don't work. They're arbitrary. They're unreasonable. They're excessive. For example, the one about the condition prohibiting a person being found in a designated area is often too wide and exaggerated. Others are too restrictive on freedoms, like when you have a curfew imposed on someone in the context of vandalism, or unrealistic like the one I talked about earlier, consuming alcohol when you're alcoholic or the like.

Imposing unreasonable and potentially disruptive conditions is just another way of denying bail. The purpose of these amendments would be to try to reasonably limit the geographic location and reasonably ensure security and safety, but taking into account the issues of abstinence that I talked about earlier.

The Chair: Thank you very much. You talked about NDP-6 and NDP-7.

Mr. Murray Rankin: I did. I won't need to talk about NDP-7 when the time comes. NDP-6 is on the floor.

The Chair: Yes, given that you lumped them together, does anybody wish to speak to either NDP-6 or NDP-7?

Then we'll move to a vote on NDP-6.

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

The Chair: We'll vote now on NDP-7.

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

The Chair: Green Party-28 and NDP-8 are essentially identical, so I'll leave both Mr. Rankin and Ms. May to speak to it in whatever order they prefer.

● (1725)

Mr. Murray Rankin: I'll defer to Ms. May.

Ms. Elizabeth May: Okay.

Green Party-28 would remove the reverse onus on the accused with prior records of intimate partner violence. This received a lot of testimony, from the association of legal aid lawyers, from the Canadian Bar Association, etc. The concern was that subsection 515 (3) already requires the consideration of factors related to intimate partner violence in consideration of release.

The concern was the proposed change in Bill C-75 would likely lead to litigation. Previous court decisions upholding the constitutionality of reverse onus do not offer features that could be held in common with these.... The intention is clearly a good one: that there would be a reverse onus. But in testimony from women's advocacy groups, Aboriginal Legal Services, the Society of United Professionals, which is the legal aid lawyers group, practising lawyers spoke of this phenomenon of dual charging, where a partner in intimate partner violence, usually the man, is accused of domestic assaults and insists that the partner who has been assaulted is also charged and should be charged because they started or are implicated in the offence.

The Canadian Civil Liberties Association in particular said, and I'll just read this because it makes it quite clear:

> Mandatory or pro-charging and prosecution policies, while effective in increasing the number of abusive partners brought before the criminal justice system, can also have the effect of criminalizing victims who are caught in an abusive relationship.

The effect of the bill before us—and we have a lot of expert evidence—is that as much as it might initially seem counterintuitive, abusive partners can use the reverse onus provisions to discourage the victim from reporting and the reverse onus might also discourage victims from coming forward if they are trapped in a relationship where they are financially dependent on their abuser.

Again, there's a lot of evidence and testimony on this point. I agree it's a very difficult one. You've already had a prior record of abuse of your partner, and a reverse onus would increase the burden on the accused to defend their actions. However, the threat that can be used, and in real life can happen, to criminalize the victim, and thus discourage reporting and increase the risk of mostly women being trapped in an abusive relationship, is a very serious one. Obviously, that's why Mr. Rankin brought forward a similar amendment. Even if it takes time to struggle with this one, I hope the committee will find a way to remove the reverse onus in the interests of protecting women at risk.

The Chair: Mr. Rankin.

Mr. Murray Rankin: I agree. The evidence of Jonathan Rudin of Aboriginal Legal Services, as was said, was counterintuitive. I would never have thought I'd be in favour of his perspective, the idea of removing the reverse onus, but he said the following, and I just want to read it into the record:

> One of the impacts of dual charging is that women end up with convictions for assault that they should never have had. If these provisions go through and their partner once again alleges abuse then they may have trouble meeting the reverse onus. This means that they will be detained, they will likely plead guilty and the cycle will continue and continue. Over 40% of women in custody today are Indigenous—this provision of the bill will make a shameful situation even worse.

That's Jonathan Rudin, who deals with this issue day in and day out. I found his testimony overwhelmingly powerful. I hope the members of this committee will see fit to reverse this injustice.

The Chair: Thank you very much.

Mr. Fraser.

Mr. Colin Fraser: I'll be brief.

I appreciate the points made by both my colleagues. This isn't an easy one, but we know there is reverse onus on bail conditions now for a number of circumstances. The problem I have with the amendment is that it would undermine protections for vulnerable victims. As Ms. May rightly said, these are in situations where there has been a prior record, a prior instance where there has been intimate partner violence. Research shows these victims in particular are at an increased risk of violence in the aftermath of reporting to the police. I totally understand the concerns that have been expressed, but I believe there may be unintended consequences if it's proceeded with in that fashion.

I would note as well that just because it's a reverse onus doesn't mean the person doesn't have the opportunity to be granted bail. That is still the principle that should be adhered to when they can show there is no risk to the public or to their domestic partner.

For those reasons I will not be supporting this amendment.

● (1730)

The Chair: Ms. Khalid.

Ms. Iqra Khalid: Thank you, Chair.

I echo the words of Mr. Fraser in saying that it's important to protect those who come forward and report intimate partner violence. I think the reverse onus provisions would definitely do that.

We did hear testimony questioning whether this would impact the number of people who report, but we also heard testimony saying that it really doesn't impact the people who are reporting it. It does not deter people from reporting, just dealing with the aftermath of the situation. With that, I will not be supporting this amendment.

Thank you.

The Chair: Does anyone else wish to speak on this?

Mr. McKinnon.

Mr. Ron McKinnon: I think part of Mr. Rankin's argument was that, because of dual charging, spouses often end up with convictions that they should not have had, and therefore, the reverse onus is a problem; however, I think the problem here isn't the idea that they have convictions that they should never have had. The problem is not the reverse onus in this case. It's whether or not they should have had these convictions in the first place.

Mr. Rankin's argument asks us to discount the finding of a previous process of a court, which found this person guilty of an offence. Whether they should have been convicted or not is really not up to the process at this point. It's a problem of the previous conviction. In any case, I can't support this amendment.

The Chair: Mr. Rankin.

Mr. Murray Rankin: I'd like a roll call, please.

The Chair: Sure.

We're going to do a roll call vote then, please, Mr. Clerk.

Ms. Elizabeth May: Mr. Chair, will we be voting on each separately, Parti Vert and NDP?

The Chair: NDP-8 and PV-28 are exactly the same amendment. PV-28 was submitted before NDP-8, so we would essentially vote on PV-28, but NDP-8 would be the same because they're tied together. They're the same words.

Ms. Elizabeth May: I just wanted to clarify which amendment.

Thank you.

The Chair: I always try to make sure that everybody feels included. It's both amendments because they're the same, but the actual one is PV-28.

(Amendment negatived: nays 8; yeas 1 [*See Minutes of Proceedings*])

The Chair: That's defeated so now we move to Green Party-29.

Ms. May.

Ms. Elizabeth May: We're in a different section, but we're still dealing with the concept of reverse onus. Green Party amendment 29 would restrict the type of prior offence that would trigger reverse onus if the accused is charged with an offence under subsections 145 (2) to 145(5), which are the sections that deal with escape and being at large without excuse, to those prior offences that are processed as indictments only.

The advice we had here was from the Society of United Professionals, those lawyers who do legal aid work. Current reading of the code would place a reverse onus on any accused person who commits a hybrid offence while on release from another hybrid offence, regardless of whether those were summary convictions or indictments. The application of the reverse onus should never be overly broad, and if we don't amend this, that would leave the application of the reverse onus overly broad.

Thank you very much.

The Chair: Thank you very much for that succinct explanation of a very complex provision.

Is there any discussion? Not seeing any we will vote on PV-29.

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

The Chair: Now we move to PV-30, which I think is changing “desirable” to “necessary” again.

Ms. May.

Ms. Elizabeth May: That is exactly what it does. It increases the threshold for judicial discretion in release of conditions where a reverse onus has been met.

Again, looking at R. v. Morales and the notion that we should only do these things when they are necessary, we'll get rid of the word “desirable” and replace it with the word “necessary”.

● (1735)

The Chair: Thank you very much.

Is there any discussion? If not, we'll vote on Green Party-30?

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

The Chair: We move to NDP-9.

Mr. Rankin.

Mr. Murray Rankin: This is the same principle in terms of release orders by specifying the detention of the accused must only be used if necessary to ensure the attendance in court and in regard to the seriousness of the offence. Why? If the offence of the accused is not serious, then measures of detention should not be taken to ensure that they'll appear in court, as the accused does not pose a security risk to the public.

It's pretty straightforward and I think pretty practical.

The Chair: By the way, just so that you can have that chance... I don't have it here but NDP-9 and NDP-10 are amending the same line. I'm presuming that you want to go with NDP-9 first.

Mr. Murray Rankin: That's right.

The Chair: Perfect.

Sorry, I should have mentioned before that if NDP-9 is adopted NDP-10 can't be because they conflict.

Is there any discussion on NDP-9?

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

The Chair: Now we have NDP-10.

Mr. Murray Rankin: I think the implication is that.... Does this go forward or not?

The Chair: You're amending the same lines but because NDP-9 was defeated, NDP-10 can go forward.

Mr. Murray Rankin: The objective was to have the two work together, designed to avoid long pretrial detention. If the judge doesn't think the person who committed the offence has any likelihood of conviction, they shouldn't be kept in pretrial detention. This particular section would apply to indictable offences, so it's a similar principle to the last one, as you said.

The Chair: Thank you very much.

Is there any discussion? If not, let's have a vote on NDP-10.

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

(Clause 227 agreed to)

(On clause 228)

The Chair: Then we move to clause 228. We have LIB-12. LIB-12 adds in form 12.

Mr. Fraser.

Mr. Colin Fraser: This is just a clarification amendment, so that it makes it clear that form 12 is the correct form to be used.

The Chair: Thank you very much.

Is there any discussion?

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

(Clause 228 as amended agreed to)

(Clause 229 agreed to on division)

(On clause 230)

The Chair: On clause 230, we have LIB-13.

Mr. Fraser.

Mr. Colin Fraser: I think Mr. Boissonnault wants to speak to that one.

Mr. Randy Boissonnault (Edmonton Centre, Lib.): Thanks, Mr. Chair.

This would amend clause 230 to add new paragraph (c), which would make non-communication a condition of a release order, effective from the moment it is made by the judge or justice. This amends provisions to non-communication orders. There's really a gap right now in the provisions. Specifically, a court cannot prohibit an accused from communicating with the specified persons during the time between when a release order is made and when the accused is released from custody. This motion proposes closing this gap, and that's why I support it.

The Chair: Thank you very much.

Is there any discussion on LIB-13? Not hearing any, we'll move to a vote.

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

(Clause 230 as amended agreed to)

The Chair: It is carried but with me voting in favour.

(Clauses 231 to 235 inclusive agreed to on division)

(On clause 236)

The Chair: We move to PV-31 and clause 236.

Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

This amendment is similar to the one that was submitted as PV-15. It's to eliminate the possibility of triggering a judicial referral hearing where a charge has been laid for a failure to comply with release conditions. If charged, it should go through a bail hearing system. As a corollary to that, the judge's powers under proposed subsection 523.1(4) to dismiss a charge after a judicial referral hearing would then be moot.

This deals with the risk of confusion or redundancy if a judge or justice must dismiss the charge, no matter what decision they make in the judicial referral hearing. This is similar to the government's intent in the summary of this bill, that the goal of the referral hearing was to provide “an additional tool to direct certain administration offences to a hearing, as opposed to laying new charges”.

This is one that I think actually clarifies C-75 to more perfectly meet the government's intent as described in the summary.

● (1740)

The Chair: Thank you very much.

Is there any discussion? If not we'll go to a vote on PV-31.

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

The Chair: We now move to PV-32.

Ms. May.

Ms. Elizabeth May: Again, this is one that will allow the accused the chance to trigger a judicial referral hearing. It will provide a way for an accused's defence counsel to pursue a way of diverting individuals who are currently likely to be criminalized as a result of administrative breaches into a non-criminalized system.

The Chair: Thank you very much, again. That was very succinct.

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

The Chair: On PV-33, we have Ms. May.

Ms. Elizabeth May: Just to remind you of the testimony that led to this amendment, Dr. Myers, of Queen's University and the Canadian Bar Association found that this section in the bill, as currently drafted, is overly broad.

According to the Canadian Bar Association, this notion of emotional harm is vague and an unfamiliar concept to criminal law outside of a victim impact statement regime. It could work against the government's intention of reducing low-level administration of justice offences by capturing cases in the bail system that should have been diverted to the judicial referral hearing.

My amendment would remove “emotional harm, property damage or economic loss”, as experienced by a victim, as disqualifiers for people on bail.

The Chair: Thank you very much.

Is there any discussion?

Mr. McKinnon.

Mr. Ron McKinnon: I would just like to ask the officials about “emotional harm” and whether that is a well-understood and sufficiently well-defined term.

Ms. Shannon Davis-Ermuth: Thank you.

That is a term that is defined for the purpose of the Canadian Victims Bill of Rights. The Canadian Victims Bill of Rights does deal with harm to victims, and specifically includes physical or emotional harm, property damage and economic loss.

In terms of emotional harm, we know that can be quite damaging to victims and could cover stuff like non-communication orders for victims who are living in fear of somebody who has harmed them. In that case, emotional harm could involve a breach of a non-communication order.

The Chair: Thank you very much.

Ms. May.

Ms. Elizabeth May: I worked on the Victims Bill of Rights when it went through committee at the time. It has no application to the rights of a defendant who has been charged with a criminal.... With all due respect, this is not an application of emotional harm that has any relevance whatsoever to this situation or these hearings.

I would also say that the previous government's victims rights bill failed to protect the rights of victims. It should have been much stronger. It should have broadened some of the provisions that we have in other jurisdictions, that a victim has the right to be informed of certain things. To transport the idea of emotional harm from the Victims Bill of Rights into this legislation is egregious. I am very surprised to hear that being put forward by our technical experts here.

The Victims Bill of Rights is to give victims the opportunity to participate in the hearings, to know what their rights are and to show up at a certain time. The concept of emotional harm has never been used in assessing how to treat someone who is accused, and it goes quite against the notions of our basic concepts of criminal law and the presumption of innocence.

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

The Chair: We'll move to PV-34.

Ms. May.

Ms. Elizabeth May: PV-34, again, is based on the testimony that the committee heard from Dr. Myers from Queen's University. This amendment would bring the Criminal Code in line with the proposed change. I have referred to this a number of times with other amendments that I have brought forward, but this is very specifically in relation to the proposed change to the Youth Criminal Justice Act in clause 366 of this bill to require the Attorney General to determine whether the administration of justice charge should be pursued in any case where the substantive charge has been dismissed, withdrawn or stayed, or the accused acquitted.

This is the place where we can break the cycle where people are entering and remaining in the criminal justice system as a result of administration of justice offences only.

● (1745)

The Chair: Thank you very much.

Is there any discussion?

Mr. Colin Fraser: Just briefly, my concern with this amendment, and the reason I respectfully can't be supporting it, is that this takes away the discretion from the Crown to proceed in the appropriate cases where those charges should be proceeded with for breaches.

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

The Chair: We'll go to Liberal-14.

Mr. Randy Boissonnault: Mr. Chair, it is an administrative change.

I have learned a lot at committee: that a comma matters, that “may” and “shall” matter. Today it's “and” and “or”. This is to swap one word for the other.

In clause 236, an "and" separates proposed paragraphs 524(2)(a) and (b). Since the hearing in question should be held in any of the circumstances listed under proposed subsection 524(2), the appropriate term to be used is “or”.

This amendment replaces “and” with “or” to ensure that the hearing can be held in any of the circumstances. That's why I am proposing LIB-14.

The Chair: Thank you very much.

Is there any discussion on LIB-14?

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

(Clause 236 as amended agreed to)

(On clause 237)

The Chair: Now we move to clause 237. We have four amendments: PV-35, PV-36, PV-37 and NDP-11.

With regard to Green Party-35, if adopted, we could not move PV-36, PV-37 and NDP-11, for consistency.

On Green Party-35, we have Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

This proposes to add a subsection to require that the judge or justice consider whether the accused is likely to serve time in prison upon conviction. If the judge or justice determines that there is little or no prospect of that, they would be required to release the accused pending trial.

This again comes from testimony from a number of witnesses. It is really derived from a key quote in the Supreme Court of Canada decision in R. v. Antic, that, “An accused is presumed innocent and must not find it necessary to plead guilty solely to secure his or her release”.

That evidence was brought forward by the Canadian Civil Liberties Association and Dr. Myers of Queen's University, among others.

Thank you, Mr. Chair.

The Chair: Thank you very much, Ms. May.

Mr. Fraser.

Mr. Colin Fraser: Again, I'll be brief.

I have several concerns with this amendment, the first being that basically you'd be asking a judge, on bail, to consider what considerations should be made on sentencing. Also, there are good reasons why there are conditions on bail, such as to ensure the attendance of the accused, to take into account whether or not there's a risk to public safety, irrespective of what the principal offence they're charged with would be.

I believe that this amendment would be contrary to the principles of fundamental justice, and I won't be supporting it.

The Chair: Thank you very much.

Ms. May.

Ms. Elizabeth May: I appreciate the fluidity with which the words rolled off your tongue, Colin, but this is not against fundamental principles of justice. It's the Supreme Court of Canada that said, “An accused is presumed innocent and must not find it necessary to plead guilty solely to secure his or her release”.

There are other ways to ensure people show up for trial, which I mentioned in previous debate before this committee.

I find it bizarre, and I happen to have been wondering for some time why it is that when we demand sureties, the custom and the tradition.... I think that a lot of the general public would assume that if someone puts down bail and then someone bolts and doesn't abide by their conditions, that the people who put down the surety are out the amount of the surety. The reality is that the criminal justice system almost never goes after the people who posted bail to say, “Sorry, mom, your son bolted. You've lost your house.” The number of ways you can put conditions on bail could include actually treating these sureties seriously.

In this amendment, we're talking about whether they would be sent to custody pending trial. Judges have a pretty good sense of whether somebody's offence is going to lead to jail time or not; whereas the amount that you can, pretrial, be held in custody, can go into years.

It's pretty straightforward. I only reacted, because you said it offended the fundamental principles of justice. Clearly, it does not.

Thank you.

● (1750)

Mr. Colin Fraser: All I'll say is that I was referring to the seriousness of the offence, which is already taken into account on bail.

I'll leave it at that. Thank you.

The Chair: Thank you very much.

Let's move to a vote on PV-35.

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

The Chair: Then we get to PV-36.

Ms. Elizabeth May: This is similar, in that it would guide the judge or justice to consider the likelihood that the accused would receive a sentence of more than 30 days if convicted. If that were not the case, the judge would suggest that it might be an occasion when the accused should be released from pretrial detention.

The Chair: Thank you very much.

Mr. Rankin.

Mr. Murray Rankin: I think the spirit of this PV-37 and NDP-11 are very similar, yet the wording is different. I accept that.

Would the defeat of PV-37 still...?

The Chair: We're on PV-36, Mr. Rankin.

Mr. Murray Rankin: I'm sorry. I thought we were on PV-37.

The Chair: No. We'll be there in a second, and then I will mention that the wording is similar to NDP-11. I promise and I'll try to figure out which one we use.

Mr. Murray Rankin: Sorry, my apologies.

The Chair: We're on PV-36 right now.

If there is no one else, can we have a vote on PV-36?

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

The Chair: Now we get to PV-37, and if adopted, NDP-11 cannot be moved.

Because PV-37 was the first submitted, it's the first one in the package. Ms. May would go first, and then you could bring in NDP-11, if PV-37 is defeated.

Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

We have seen this happen over and over again in Canada, that someone's pretrial detention exceeds the amount of time that they would spend in jail if they were convicted when they eventually got to trial. Delays in timely hearing lead to this problem.

My amendment and, as Mr. Rankin said, NDP-11 would deal with this issue by saying that the accused would be allowed to bring an application for immediate release, if they can establish that they have already been detained for longer than the likely sentencing range that would be considered upon conviction.

It's a satisfactory response to a real-life situation. People spend a long time languishing in pretrial detention for crimes which, even if they had gotten a timely trial and been convicted and given a serious sentencing, wouldn't amount to as much time as waiting to get to trial.

The Chair: Thank you very much.

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

The Chair: Then we move to NDP-11.

Mr. Murray Rankin: I have a feeling this isn't going to go well, Chair.

It sounds like exactly the same argument. The language is a bit more robust in NDP-11, but the principle is exactly the same.

It's really irrational and frankly unjust for an accused to be in detention for security reasons while awaiting a trial, if the crime they're charged with is not even serious enough to lead to imprisonment or would lead to imprisonment for only a very short time.

The amendment would remove unnecessary restrictions on the liberties of the accused. That's the purpose of the amendment. It seems like a common-sense amendment to me.

The Chair: Thank you very much.

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

(Clause 237 agreed to)

(Clauses 238 and 239 agreed to on division)

(On clause 240)

The Chair: Clause 240 is the first where we get to the issue of preliminary hearings. There are two amendments that, if anybody wishes, they can propose. These came from the committee's original discussions.

One of them in X-144 changes the term “life” to “10 years”. In X-145 it's changing the term “life” to “five years”.

It's up to anyone on the committee if they wish to move these. If not, we'll move on.

I'll give Mr. Rankin a second.

● (1755)

Mr. Murray Rankin: I'm fine.

The Chair: We have nobody moving these amendments. Therefore, there are no amendments to clause 240.

(Clause 240 agreed to on division)

(On clause 241)

The Chair: On clause 241, X-146 and X-147 are different options with respect to preliminary hearings. One of them would have been, had “10 years or more” been passed in the previous...and the other would be, had “five years or more” passed in the previous....

I would rule that it would be inconsistent at this point, because we didn't change “life” in the previous two. To change 10 years or five years in this section, I think would create an inconsistency in the Criminal Code that we couldn't have.

That would be my ruling. If anybody wants to challenge that, please let me know.

Not hearing any, I'll rule those two out of order.

We will move to PV-38, Ms. May, which retains “life” and has other options, so that one is not inconsistent.

Ms. Elizabeth May: Thank you, Mr. Chair.

This again deals with evidence from the Canadian Bar Association and the Criminal Lawyers' Association, looking at the reality that we should expand the eligibility criteria for preliminary inquiries. They very rarely take place.

The effect of this, according to the evidence that the committee has heard, is that preliminaries are useful in eliminating weak charges, focusing the issues and closing cases earlier. It was submitted that:

> ...without a preliminary inquiry, the Crown will have often unfettered access to ask questions of witnesses prior to trial, and the defence, in most cases, will have no ability to do the same, further tilting the already significant power imbalance between accused and state.

My amendment attempts to redress that imbalance, at least slightly, by increasing the opportunity for the accused to seek preliminary inquiries expanding eligibility criteria.

Thank you.

The Chair: Thank you, Ms. May.

Is there anybody who wishes to intervene on Ms. May's amendment?

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

(Clause 241 agreed to)

The Chair: On clause 242, again, I would rule that X-148 and X-149 are inconsistent with previous defeated resolutions because they seek to change.... Wait. Let me just check that.

X-148 and X-149 are different. X-148 is inconsistent because it says “10 years”. X-149 is inconsistent because it's “five years”.

I would say PV-39, with the defeat of the previous PV-38, becomes inconsistent with a different section of the code as well. Unfortunately, I think I have to rule that one out of order as well.

(Clauses 242 agreed to on division)

(Clauses 243 to 252 inclusive agreed to on division)

The Chair: On clause 253, we have LIB-15. Who is speaking to Liberal-15?

Mr. Colin Fraser: Mr. Boissonnault was supposed to, but I see he's not here.

Sorry. One second....

Ms. Iqra Khalid: This is routine police evidence.

The Chair: This is related to routine police evidence, so we should move to clause 278. This would then come into effect if clause 278 were voted down. That is my understanding.

Folks, this is a change to this clause that would be consequential to the voting down of clause 278, on routine police evidence, so we should move, I believe, to clause 278 on routine police evidence, to determine if the committee wishes to support it or vote it down. Does everybody understand that?

● (1800)

Mr. Murray Rankin: Are you asking us to vote on clause 278 now?

The Chair: The change in LIB-15 is consequential to clause 278, meaning LIB-15 should only be adopted if we vote down clause 278 on routine police evidence.

Mr. Murray Rankin: I see.

The Chair: I would prefer that we do the routine police evidence discussion before going back to LIB-15, if that's okay with everybody.

(On clause 278)

The Chair: Mr. Fraser, did you want to speak to clause 278?

Mr. Colin Fraser: Yes.

The Chair: Then I'll ask anybody else who wishes to speak....

Mr. Cooper...? Mr. Rankin...?

Mr. Colin Fraser: We did hear from—I think it was—almost all witnesses who appeared before our committee, with respect to the problems associated with routine police evidence. The Canadian Bar Association was very strong on this point in particular, regarding evidence going in without an automatic right to cross-examination.

The idea here, that we would be putting in place a scheme where there could be an application for a defendant to have the right to cross-examine on routine police evidence, is problematic, I believe, because the scope of what is routine police evidence is not understood clearly.

We heard evidence, as well, that it would likely result in any judge saying yes any time a defendant wanted to have cross-examination on this—whatever it is—routine police evidence. If the accused is self-represented, for example, they would have perhaps no knowledge of the right to even ask for cross-examination on that evidence. I think the compelling testimony has caused me to decide that having routine police evidence going in without the automatic right to cross-examination would be problematic and would be the subject, I'm sure, of a lot of litigation that would add to delays and be counter to the thread throughout this bill, which is to address court delays and deal with the principles of justice in a fair manner.

For those reasons, I'm voting to remove the routine police evidence parts of this bill.

The Chair: Thank you very much.

We'll have Mr. Rankin and then Ms. Khalid.

Mr. Murray Rankin: I'd just like to thank Mr. Fraser. He articulated his reasons very well. I feel the same way and would wish to remove routine police evidence from the code.

Thank you.

Ms. Iqra Khalid: I agree that Mr. Fraser really articulated it well. The inclusion of routine police evidence would lead to delays and possible abuses and violations of rights of individuals, specifically the accused. For this reason, I think it should not be part of Bill C-75.

The Chair: Thank you.

Mr. Cooper.

Mr. Michael Cooper: Just to reiterate the position of Conservative members, we agree with Mr. Fraser and the reasons he set forth as to why this aspect of the bill is problematic. It's something that on the surface sounds attractive, but the evidence was overwhelming that there really is nothing routine about routine police evidence.

The Chair: We seem to have great unanimity.

Ms. May, go ahead.

Ms. Elizabeth May: Because I don't get to vote, I just want to add hallelujah. Thank you.

The Chair: If you could sing it like Leonard Cohen, it would be even better.

Ms. Elizabeth May: I can, actually, but I don't think you want that right now.

The Chair: You're correct. For those who want to vote down routine police evidence, you vote against clause 278.

(Clause 278 negatived)

(On clause 253)

The Chair: Then we move back to LIB-15 on clause 253.

Mr. Colin Fraser: My understanding, Chair, is that this is a technical amendment consequential to our voting down clause 278, so I'm just asking Mr. Taylor, probably, for clarification of this amendment.

● (1805)

Mr. Matthew Taylor (Acting Senior Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice): Yes, you're correct. This is a consequential amendment that would be necessary as a result of your decision to vote down the routine police evidence clause. This was a provision that wanted to allow case management judges to hear things related to routine police evidence. Since routine police evidence is no longer part of this bill, this amendment would no longer be necessary.

Mr. Colin Fraser: Thank you.

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

(Clause 253 as amended agreed to)

The Chair: On clause 254, LIB-16 was dealt with under LIB-4, so there's no vote here.

(Clause 254 as amended agreed to on division)

(Clauses 255 to 269 inclusive agreed to on division)

(On clause 270)

The Chair: We move to clause 270, where we have PV-40.

Ms. May.

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

This deals with the situation where the accused is not a citizen. Given the incredible pressures on non-citizens—and this could be, of course, permanent residents—they may not understand the impacts of accepting a plea bargain or the conditions the court has put in place for accepting a guilty plea, as it's more legalistically known. This could have serious implications under the Immigration and Refugee Protection Act.

The effect of my amendment is therefore to ensure that any accused in that situation is fully informed of the other repercussions that are outside the Criminal Code, and of accepting a plea bargain that could have the consequences of denying them citizenship. They could then be seen as inadmissible on the grounds of serious criminality, because any sentence of more than six months is considered serious criminality even though in a common-sense understanding, an accused person who's not a citizen might not understand that.

That comes out of a lot of the evidence we heard, particularly the Association for Canadian Clinical Legal Education submission.

Thank you.

The Chair: Thank you very much.

Is there any discussion on PV-40?

Mr. Fraser.

Mr. Colin Fraser: Briefly, Mr. Chair, I totally understand the rationale that Ms. May has put forward, and I understand the importance of ensuring people understand the consequences of guilty pleas.

My concern, however, is that once you start listing certain things to determine whether or not people are actually making a voluntary plea based on all of the facts, it starts to throw into question the general application. Therefore, I won't be supporting this amendment.

Thank you.

The Chair: Thank you very much.

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

The Chair: Next is PV-41.

Ms. May.

Ms. Elizabeth May: Yes.

The Chair: This is identical to NDP-12, by the way.

Ms. Elizabeth May: This amendment comes from the testimony of someone who—I know him personally—has an amazing legal mind, Professor Kent Roach, who looked at the situation and said in his own evidence:

> ...I spent a lot of time this summer looking at all of the jurisprudence from the courts of appeal and the Supreme Court on jury selection. Frankly, judges are somewhat conservative on these issues. My worry is that, as the amendment is now written—which, as you noted, simply adds "maintain confidence in the administration of justice"—it doesn't guide the exercise of judicial discretion. Different judges will exercise the discretion differently.
>
> Just as we saw with the sentencing provisions, and as we see in other parts of Bill C-75 relating to bail, it behooves Parliament to give judges a signal that we are concerned about the overrepresentation of indigenous and other groups in our criminal justice system.

That is why it is highlighted here, to ensure that the judiciary in applying Bill C-75 has strong consideration of the fair representation of our aboriginal people and other vulnerable populations over-represented in our criminal justice system.

The Chair: Thank you very much.

Is there any discussion?

Ms. Elizabeth May: I just realized I spoke to Green Party-42. I'm so sorry. I spoke to the aboriginal issue. It's Green Party-41 that I meant to be speaking to, which is also Professor Kent Roach, but deals with repealing a provision on the validity of the plea, looking at whether this new provision, which will add new requirements for the failure to determine whether the facts support the charge before accepting the guilty plea, could affect the validity of the plea.

I apologize for speaking to the wrong amendment at this time.

● (1810)

The Chair: It's really fine. I was looking at Green Party-42 also.

Ms. Elizabeth May: Sorry about that. It's amendment Green Party-41, which is also based on the testimony of Professor Kent Roach.

The Chair: Thank you very much.

Is there any discussion on PV-41?

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

The Chair: The NDP amendments in my package are not numbered, but my understanding is that NDP-12 was identical to PV-41. Is that correct?

Mr. Jacques Maziade (Legislative Clerk): Yes.

The Chair: Then that one falls as well. We'll have a vote on clause 270.

(Clause 270 agreed to)

The Chair: Now we get to a proposed new clause 270.1. There are X-150 and X-151, related to juror panels and challenging jury panels. These are from the committee's original discussions. Is there anyone here who wishes to move X-150 or -151?

Not seeing anybody, we would then move to NDP-13.

Mr. Murray Rankin: It's an excellent one. We should just go for it, Mr. Chair.

The Chair: I love that way of defending it.

Mr. Murray Rankin: It's maybe not as nuanced as you might like. NDP-13 is derived from Professor Kent Roach, who testified before the committee. It's about the selected jury, not the jury pool. The idea is to be able to challenge if it's not representative of a particular community, and the challenge has to be submitted in writing.

This amendment would allow the prosecutor or the Crown to challenge the composition of the panel of prospective jurors not only on the grounds of partiality, fraud, and wilful misconduct, but also on the grounds of significant under-representation of aboriginal peoples or other disadvantaged groups that are overrepresented in the criminal justice system.

There was a similar amendment you'll recall proposed by the Canadian Bar Association and the Criminal Lawyers' Association as well. The Colten Boushie trial, I think, captivated the attention of the country, and there's a significant under-representation of indigenous people on our Canadian juries despite the fact that they're overrepresented both as accused and as victims. It's only logical, Mr. Chair, that persons who are the most affected by our criminal justice system be represented on the juries of that same system.

Kent Roach made the following statement: “Juries are here to stay. They are a symbol of the community that we are, and they are a symbol of the community we want to be.”

That is the motivation of NDP-13.

The Chair: Thank you very much.

Ms. Khalid.

Ms. Iqra Khalid: Thank you, Chair.

While I find our colleague's amendments very laudable in terms of addressing the under-representation on juries, I think this amendment may lead to some unintended consequences and may possibly create some practical challenges.

I think we heard in testimony some really great ideas as to how to deal with the under-representation, and that could include the actual pool from which jurors are selected. I think that may be a better way to address the issues that my colleague is trying to get at. I'm concerned that these changes could possibly lead to delays, where additional jury panels have to be summoned.

We can address what Mr. Rankin is trying to get at through other measures. I believe we are writing a letter to our provincial and territorial counterparts by way of the minister, to see how we can address the crux of the issue we're trying to get at here.

The Chair: Thank you very much.

Mr. Rankin.

Mr. Murray Rankin: I appreciate the first point in particular that my friend Ms. Khalid made.

The issue of jury pools was one that Justice Iacobucci, doing a report for the Ontario government, spent a great deal of time on. I concede immediately that the administration of justice, and hence the selection of jurors, is entirely a provincial matter.

I'm not prepared, Mr. Chair, to leave this to the provinces. I'm not prepared to believe that Premier Ford is going to run with this particular amendment any time soon. I think the travesty that we saw in Saskatchewan this past year led a lot of people to do some sober soul-searching on what to do in the circumstances. Now, I'm not convinced either—as to her second point—that delay would necessarily occur. As soon as we have a system in which this kind of provision is in place, I'm sure the people responsible for the administration of justice—prosecutors, sheriffs, etc.—will rise to the occasion.

That's the reason I'm not prepared to simply say that the provinces will fix it. They haven't, and I don't think they will any time soon.

● (1815)

The Chair: Thank you very much.

If there is no further discussion, let's move to a vote on NDP-13, please.

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

The Chair: Just to note, NDP-13 applies to consequential amendment NDP-17. It would only make sense if this NDP one was adopted.

(On clause 271)

The Chair: We move to clause 271 and CPC-116.

Mr. Cooper.

Mr. Michael Cooper: Thank you, Mr. Chair.

What this clause would do is strike down the language eliminating peremptory challenges. The reason we're introducing this as an amendment rather than simply voting against the clause is that the clause does more than one thing. We support part of the clause, but we object to the other part of the clause that would eliminate peremptory challenges.

While I certainly recognize the sensitivity around the representativeness of the composition of juries, there was a fair bit of evidence that peremptory challenges are an important tool to increasing the representativeness of juries. Moreover, there was a fair bit of evidence before the committee that the system isn't broken.

On that basis, we think that, at the very least, further study and further consideration is required before eliminating peremptory challenges.

The Chair: Thank you very much.

Is there any discussion?

Ms. Khalid.

Ms. Iqra Khalid: We've spoken on this before.

The Chair: Okay.

We'll move to a vote on CPC-116.

Mr. Murray Rankin: Hold on, Mr. Chair—

The Chair: Sorry, Mr. Rankin.

Mr. Murray Rankin: I need a moment.

The Chair: Of course.

This amendment basically leaves in section 634.

Ms. Iqra Khalid: In the meantime, then, I guess I will speak to it.

I think that one of the main objectives of Bill C-75 was to address the issue of juries, and peremptory challenges are a big part of that. We had a really fulsome discussion with our witnesses with respect to how we could have a better representation on juries. The removal of this would address the issue of maybe perhaps unconscious bias, etc.

I believe that a fulsome approach, including the provinces and territories, as well as the elimination of peremptory challenges, would address that issue of diversity and inclusion on our jury pools.

I cannot support this motion. Thank you.

The Chair: Do you need more time, Mr. Rankin?

Mr. Murray Rankin: I'm ready to vote.

The Chair: Mr. Cooper, did you want to say something?

Mr. Michael Cooper: I would simply say, in conclusion, that I would have preferred the route that Mr. Rankin was proposing to the route the government is proposing, which is to eliminate peremptory challenges. I would note that there was a considerable body of evidence before the committee that was quite critical of this aspect of the bill, including numerous lawyers who appeared before the committee. In any event, the evidence was voluminous in opposition to this bill. It's unfortunate that the government has not heeded that evidence.

● (1820)

The Chair: Thanks very much.

Ms. Iqra Khalid: I'd like to make a quick point, and thank you for patience, Mr. Chair. I know we have a lot to get through.

I want to note that challenge for cause would still be a part of the process. Perhaps that would address my colleague's concerns with respect to the selection of the jury.

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

The Chair: Then we move to PV-42.

Ms. Elizabeth May: We can save some time now, Mr. Chair, because I accidentally spoke to it when I was supposed to be on PV-41.

This is the one that would ensure that we create, in this section, some direction to judges in the exercise of discretion, so that the concerns of the overrepresentation of indigenous peoples and other marginalized groups is emphasized in this section.

Thank you.

Mr. Murray Rankin: Right.

The Chair: Thank you so much.

Is there any discussion? Not seeing any, let's move to a vote on PV-42. It's identical to NDP-14.

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

(Clause 271 agreed to)

(Clause 272 agreed to on division)

(On clause 273)

The Chair: Then we move to clause 273, where we have the identical PV-43 and NDP-15. I'll leave it to whichever one of you wants to speak to that.

Mr. Murray Rankin: Go ahead, Ms. May.

Ms. Elizabeth May: Thank you

For this, again, there was evidence from Professor Kent Roach. What we're trying to get at here, as a matter of policy, is that we do have a problem that juries tend to under-represent the very groups that are overrepresented in our prison system. That may be a coincidence, but it does seem that the principle that one faces a jury of one's peers is undermined when the juries, just through the structure of our society and the way our jury system is organized, are not necessarily likely to be the peers of those who are in the groups that are overrepresented. The proposal in PV-43, which is identical to NDP-15, again follows the advice of Professor Roach that we should amend this to allow permanent residents to serve on juries. Allowing permanent residents to be jurors could help with the problem of the under-representation of marginalized people who are recent Canadians.

We should also remove language barriers for indigenous jurors. If there are interpretive services available, and a juror who doesn't speak English or French can participate fully in the jury, that would also be a way of ensuring that juries are not composed of people who are extremely likely not to be the peers of the people who appear at the prisoners' bench.

The accused and the jurors who judge them should have a chance, under this amendment, to actually have some small chance at not a full jury of one's peers but at least some representation of under-represented groups on juries that are overrepresented in prison.

The Chair: Is there any discussion? Not hearing any, we'll move to a vote.

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

(Clause 273 agreed to)

(Clauses 274 to 277 inclusive agreed to on division)

The Chair: We defeated clause 278.

(Clauses 279 to 289 inclusive agreed to on division)

(On clause 290)

The Chair: For clause 290 we have LIB-17. All the rest of the amendments we have are technical amendments, so hopefully we can go really fast and get this done.

Mr. Hehr.

Hon. Kent Hehr (Calgary Centre, Lib.): Thank you very much, Mr. Chair.

We're amending clause 290 to replace a reference to a release order with "recognizance, with or without sureties", in proposed section 706. It replaces the term "release order" with "recognizance, with or without sureties." An order that is used to bind a witness to appear in court is not part of the bail regime and should continue to be referred to as "recognizance".

● (1825)

The Chair: Thank you very much, Mr. Hehr.

This ties into other amendments we've already adopted.

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

(Clause 290 as amended agreed to)

(On clause 291)

The Chair: We have LIB-18 on clause 291. Who is going to speak to that one?

Mr. McKinnon?

Mr. Ron McKinnon: Thank you, Chair.

This amends clause 291 to replace a reference to a release order in proposed subsection 707(3), again, with "recognizance, with or without sureties".

The Chair: It ties into the other amendments.

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

(Clause 291 as amended agreed to)

(Clauses 292 to 294 inclusive agreed to on division)

(On clause 295)

The Chair: On clause 295, we have PV-44.

Ms. Elizabeth May: Thank you very much.

In three difference places found within clause 295, I'm suggesting deleting the sections that require a judge give reasons that.... They're very strangely worded sections, but the effect of proposed section 715.23, for example, is that "the court may order an accused to appear by audioconference or videoconference, if the court is of the opinion that it would be appropriate".

The way it's worded may inadvertently create the default position that it's expected that the accused in very remote geographical situations are expected to show up in person.

The deletions that are proposed here came at the suggestion of the Canadian Bar Association to say that we ought to have more of a presumption that those who are remote have that opportunity to participate by audio conference or video conference. Right now, these proposed sections reverse the presumption of personal appearance in suggesting remote appearance should be the norm, unless the court otherwise orders and records a statement of reasons to that effect.

The view of the Canadian Bar Association is that, at worst, this contradicts the general principle found in proposed section 715.21, and at best, it is confusing.

That's why amendment Green Party-44 suggests amending the proposed section by deleting those references to providing reasons.

The Chair: Thank you very much.

Is there any discussion?

Mr. McKinnon.

Mr. Ron McKinnon: It looks to me like this is the Green Party's last amendment on this bill. I would just like to comment that I appreciate the interventions of Ms. May and the considerable work that she obviously does and has done on this bill.

Thank you.

Ms. Elizabeth May: That's very kind of you.

I think I still have one more, but I appreciate the thoughtfulness of the remark.

The Chair: Let's move to a vote on Green Party-44.

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

(Clause 295 agreed to)

The Chair: NDP-16 in clause 296 is consequential to NDP-1, which was not adopted, so that one falls.

(Clauses 296 to 303 inclusive agreed to on division)

(On clause 304)

The Chair: We've moved to clause 304. We have CPC-117.

Mr. Michael Cooper: Thank you, Mr. Chair.

This amendment proposes to increase the victim surcharge by a nominal $25. We consider this to be a very reasonable proposal. It is well known that the victim surcharge is an important source of funding for many programs that support victims, and we think this is an entirely reasonable thing to ask, increasing the sum by a very nominal amount of $25.

The Chair: Thank you very much.

Is there any discussion?

Mr. Fraser.

Mr. Colin Fraser: Just to point out that Mr. Cooper says it's a nominal amount. It is an increase of 25%.

Mr. Michael Cooper: Sorry, it's 25% but I kept saying $25. However, $25 is 25%.

Mr. Colin Fraser: Yes, but 25% in my view wouldn't be nominal.

Mr. Michael Cooper: If you increased something from one dollar to two dollars, it would be doubled. Again, we're talking about a relatively small amount.

● (1830)

Mr. Colin Fraser: I just wanted to challenge the word “nominal”, that's all. Thank you.

Mr. Michael Cooper: I've never been good at....

The Chair: It's all good. You're good at a lot of other things.

We'll have a vote on CPC-117.

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

(Clause 304 agreed to)

(Clauses 305 to 309 inclusive agreed to on division)

The Chair: In clause 310, amendment X-152 is consequential, and therefore it doesn't move forward because clause 319 was not defeated.

(Clauses 310 to 312 inclusive agreed to on division)

(On clause 313)

The Chair: On clause 313, we have Liberal-19.

Hon. Kent Hehr: Bill C-75 proposes amendments to the bail regime to streamline and modernize...including its documents, and clause 313 amends sections 763 to 768 of the Criminal Code to reflect these changes.

The Chair: Thank you very much.

How long are the bells? Are they 30 or 15 minutes?

Folks, we have much less than 30 minutes left of this bill. All the rest of the amendments are nominal, technical amendments. We haven't done our four hours. Can I ask everyone to come back after the votes? It will take less than 30 minutes, I promise you, because we have only technical amendments left, essentially. Is that all okay?

Some hon. members: Agreed.

The Chair: Thank you, everyone, again so much. We'll see you after the votes.

● (1830)

(Pause)

● (2015)

The Chair: We are reconvening our meeting on Bill C-75 clause-by-clause consideration. Again I want to thank the staff, the members of the Justice team, the members of the committee and everyone who's here on all sides for your incredible patience to get through this.

We have very little left. We should be finished in the next 25 minutes.

We were on LIB-19. It had been moved, but I had not called the vote on LIB-19.

Does anybody wish to speak to Lib-19? Mr. Hehr had already spoken to it and explained it.

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

(Clause 313 as amended agreed to)

(Clause 314 agreed to on division)

(On clause 315)

The Chair: That moves us to LIB-20 in clause 315.

Mr. McKinnon.

Mr. Ron McKinnon: Thank you, Chair.

Bill C-75 proposes amendments to streamline and modernize the bail regime, including its documents. Clause 315 amends the schedule to part XXV of the Criminal Code to reflect these changes. In doing so, it inadvertently added the term “undertaking” to the document, over which the Ontario Court of Appeal has jurisdiction.

The proposed amendment would remove the term “undertaking” to maintain the current state of the law.

The Chair: Thank you very much.

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

(Clause 315 as amended agreed to)

(Clauses 316 to 318 agreed to on division)

Clause 320 agreed to on division)

The Chair: Then we have the proposal for a new clause 320.1, for which there are three options. As we discussed before, the committee asked that two options be prepared related to section 802.1 of the Criminal Code, and then there's LIB-21, which is another option for new clause 320.1, which would be, again, an amendment to section 802.1 of the act.

Since X-153 and X-154 were submitted first, only one could be adopted because they would contradict one another. Does any committee member wants to move either X-153 or X-154?

Not seeing anyone, we'll move to LIB-21.

Mr. Boissonnault.

● (2020)

Mr. Randy Boissonnault: Thanks, Mr. Chair.

This addresses the issue of allowing agents to appear in summary conviction proceedings where the maximum term of imprisonment is greater than six months, in a case where the agent is authorized under a program under the lieutenant governor in council of the province, or the accused is a corporation.

In the first place, this amendment would give provinces and territories the power to establish criteria governing agent appearances—law students, articling students, paralegals—in addition to their current power to approve programs.

Second, it would allow any person to appear for adjournments on any summary conviction.

I believe this addresses the issue we had with those members of the legal system not being able to participate, so I'm putting forward this amendment.

The Chair: Thank you very much.

Could the members of the justice panel talk about the consultations with the provinces on this issue and where the provinces are with respect to moving forward to designate either programs or people?

Ms. Carole Morency (Director General and Senior General Counsel, Criminal Law Policy Section, Policy Sector, Department of Justice): The issue has been discussed through FPT forums leading up to the introduction of Bill C-75 and since, as a result of criticism being raised after the tabling of the bill. They're still working through this issue from their perspective in the sense that they now have the power under section 802.1 to create and adopt a program.

A number of years ago there had been support through FPT forums to do something very similar to what this motion proposes in a bill that had been introduced but had not advanced. We remain hopeful that this will provide sufficient flexibility to provinces and territories going forward if they want to adopt a formal program, as some do now, for example, for indigenous court workers, or if they want to go with something that's less onerous and adopt criteria that will enable them to move forward with this.

We've talked about the timing, about how they may be able to do that. The committee will know that provision would come into force 90 days after royal assent, so there would be time for them to make some choices. Of course, in the interim we will continue to discuss with our PT counterparts, based on how the bill proceeds through Parliament.

The Chair: Thank you very much.

Does anybody have any comments? Not hearing any, we'll move to the vote.

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

(Clauses 321 to 328 inclusive agreed to on division)

(On clause 329)

The Chair: On clause 329, we have LIB-22.

Mr. James Maloney (Etobicoke—Lakeshore, Lib.): Thank you, Mr. Chair.

By now I think everybody is well acquainted with the purpose of Bill C-75, so I won't go through that again.

Clause 329 is amending subsection 828(3) of the Criminal Code. However, the proposed subsection incorrectly no longer refers to "recognizance" and this amendment proposes to remedy that and put the word back in.

The Chair: Thank you very much.

Is there any discussion on this?

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

(Clause 329 as amended agreed to)

(Clause 330 agreed to on division)

(On clause 331)

The Chair: We now move to LIB-23.

Ms. Khalid.

● (2025)

Ms. Iqra Khalid: Thank you.

Bill C-75 proposes amendments to streamline and modernize the bail regime, including its documents. Clause 331 amended the schedule to part XXVII to reflect these changes. A reference to "undertaking", which deals with fees that summary conviction courts or justices may charge, has been incorrectly added in item 8 of the schedule, and this amendment would remove that term, "undertaking", from there.

The Chair: Thank you very much.

Is there any discussion on LIB-23?

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

(Clause 331 as amended agreed to)

(Clause 332 agreed to on division)

(On clause 333)

The Chair: We now move to LIB-24.

Mr. McKinnon.

Mr. Ron McKinnon: Thank you, Chair.

Clause 333 amends form 5.03, which should have replaced the term "offender" with "person" to more accurately reflect individuals who may be subject to the order in this form. The word "offender" should be replaced with the word "person". That's what this amendment does.

The Chair: Thank you.

Is there any discussion on this? If not, we'll move to a vote on LIB-24.

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

(Clause 333 as amended agreed to)

(On clause 334)

The Chair: We now move to amendment LIB-25.

Mr. Boissonnault.

Mr. Randy Boissonnault: This is a similar change. It's important in this amendment to replace the term "offender" with "person" so that it more accurately reflects the individuals who may be subject to the order in this form.

The Chair: Thank you very much.

Not hearing any discussion, we'll move to a vote.

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

(Clause 334 as amended agreed to)

(Clauses 335 and 336 agreed to on division)

(On clause 337)

The Chair: We now have clause 337 and LIB-26.

Mr. Maloney.

Mr. James Maloney: Subclause 337(3), which amends form 6, inadvertently refers to section "512.2" instead of section 512.1. The French version has it right. The proposed amendment just makes it consistent in both languages.

The Chair: Thank you very much. If there's no discussion, we'll move to the vote.

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

(Clause 337 as amended agreed to)

(Clauses 338 to 342 inclusive agreed to on division)

(On clause 343)

The Chair: This takes us to clause 343 and LIB-27.

Ms. Khalid.

Ms. Iqra Khalid: Thanks, Chair.

This proposes to replace the term "justice of the peace" with "justice". It would align the language in form 19, which clause 343 refers to, with the provisions to which it refers within sections 516 and 537.

The Chair: Thank you very much.

Not hearing any discussion, we'll move to a vote on LIB-27.

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

(Clause 343 as amended agreed to)

(Clauses 344 to 346 inclusive agreed to on division)

(On clause 347)

The Chair: This takes us to LIB-28. Note that LIB-44(b), is consequential to LIB-28.

Mr. McKinnon.

Mr. Ron McKinnon: Thanks, Chair.

Clause 347 creates two versions of form 25. This form is used to permit a witness convicted of contempt for having failed or refused to attend court to appear as required by a subpoena or a recognizance.

The second version was created to refer to a witness being bound by an undertaking or a release order to appear and give evidence. Under the new streamlined bail terminology, the document used to bind a witness to appear in court is a recognizance.

The terms "undertaking" and "release order" are reserved for bail. The proposed motion removes the second unnecessary version of the form in subclause 347(2).

The Chair: Thank you very much.

Not hearing any discussion, let's move to a vote on LIB-28.

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

(Clause 347 as amended agreed to)

(Clauses 348 to 350 inclusive agreed to on division)

(On clause 351)

The Chair: That takes us to LIB-29 and clause 351.

Mr. Boissonnault.

● (2030)

Mr. Randy Boissonnault: Thanks, Mr. Chair.

Subclause 351(3) mistakenly removed references to sections 706 and 707 in the Criminal Code from form 32. The motion adds references to sections 706 and 707, and it also amends subclause 351 (3) to include a paragraph on the conditions in effect.

The Chair: Thank you very much.

Not hearing any discussion, I'll move to a vote on LIB-29.

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

(Clause 351 as amended agreed to)

(Clause 352 agreed to on division)

(On clause 353)

The Chair: We move to clause 353 and LIB-30.

Mr. Maloney.

Mr. James Maloney: Clause 353 creates two versions of form 38. This form is used for the purposes of a conviction for contempt.

The second version was created to refer to a witness being bound by an undertaking or release order to appear and give evidence. Under the new streamlined bail terminology, the document used to bind a witness to appear in court is a recognizance. The terms "undertaking" and "release order" are reserved for bail. The proposed amendment would remove the second unnecessary version of the form by removing subclause 353(2).

The Chair: Thank you very much.

Not hearing any discussion, all those in favour of LIB-30?

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

(Clause 353 as amended agreed to)

(Clause 354 agreed to on division)

The Chair: The three amendments proposed to create clause 354.1 have essentially already been dealt with and not supported. They would have been tied to NDP-17, X-155 and X-156. I will presume that clause 354.1 will not exist.

(Clauses 355 to 360 inclusive agreed to on division)

(On clause 361)

The Chair: That takes us to LIB-31 on clause 361.

Mr. McKinnon.

Mr. Ron McKinnon: This is a consequential amendment to LIB-1.

As a result of LIB-1, clause 361 needs to be amended to remove the reference to “section 83.29” to ensure that the provision retains the use of the term “recognizance” after the coming into force of Bill C-75.

The Chair: Thank you very much.

Not hearing any discussion, we'll move to a vote on LIB-31.

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

(Clause 361 as amended agreed to)

(On clause 362)

The Chair: That takes us to clause 362 and LIB-32.

Mr. Boissonnault.

Mr. Randy Boissonnault: Thanks, Mr. Chair.

This a cleaning up of the number of days in a time frame in which accused persons who elect to be tried by a provincial court judge, or who do not request a preliminary inquiry under section 536.4 may... from “not later than 14 days before the day first appointed for the trial” to “not later than 60 days before the day first appointed for the trial”.

It's cleaning up “15 days” to “14 days”. This amendment would make sure that the correct number of days, 14, is reflected.

The Chair: Thank you very much.

Is there any discussion on that?

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

(Clause 362 as amended agreed to)

(Clause 363 agreed to on division)

The Chair: There is a proposal for a new clause 363.1 in LIB-33.

Mr. Maloney, go ahead.

Mr. James Maloney: This motion reconciles amendments proposed in Bill C-75 and Bill C-59 to section 83.3, the provision governing the imposition of a terrorism recognizance with conditions. It also takes into consideration the fact that section 83.3 of the Criminal Code will sunset in October.

If C-59 is passed, it would re-enact section 83.3. As such, the motion would deem clause 26 of our bill to never come into force if section 83.3 sunsets and is not otherwise re-enacted through Bill C-59. If section 83.3 is re-enacted, this motion would ensure the new police release terminology is included in it.

The Chair: Is there any discussion on LIB-33?

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

(On clause 364)

The Chair: We can now move to LIB-34 and clause 364.

Ms. Khalid.

● (2035)

Ms. Iqra Khalid: Thanks, Chair.

LIB-34 is really addressing a technical issue. Clause 364 incorrectly uses the word “deemed” instead of “presumed”. This amendment just cleans that up to ensure consistency and minimize confusion.

The Chair: Thank you very much.

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

(Clause 364 as amended agreed to)

(Clauses 365 to 381 inclusive agreed to on division)

(On clause 382)

The Chair: That takes us to clause 382 and LIB-35.

Mr. McKinnon.

Mr. Ron McKinnon: Thank you, Chair.

Clause 382 proposes a consequential amendment to subsection 110(2) of the Youth Criminal Justice Act as a result of the proposed repeal of section 75 of the act. Clause 382 incorrectly uses the word “and” at the end of paragraph 110(2)(a) rather than the word “or”.

This amendment would clarify that the exception to the publication ban in subsection 110(1) arises whenever a young person receives an adult sentence or whenever the publication occurs in the course of the administration of justice, and not both.

The Chair: Thank you very much.

Is there any discussion on amendment LIB-35?

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

(Clause 382 as amended agreed to)

(Clause 383 agreed to on division)

(On clause 384)

The Chair: We move to LIB-36 and clause 384.

Mr. Boissonnault.

Mr. Randy Boissonnault: Thanks, Mr. Chair.

We talked about and's and or's and may's and shall's. Now we have some the's that are missing. We need to add a couple. Clause 384 would be amended to add the word “the” before the word “court” in the phrase “transmission to clerk of court” and before the title “Criminal Code” in proposed subsection 135(6).

The Chair: Thank you very much.

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

(Clause 384 as amended agreed to)

(Clauses 385 and 386 agreed to on division)

The Chair: We move to PV-46 for a proposal for 386.1.

Ms. May, go ahead.

Ms. Elizabeth May: This, Mr. McKinnon, is my last amendment, but thank you for your comment earlier for my penultimate amendment.

This act has a lot of novel provisions. It's appropriate in such legislation to have a review. This amendment proposes two time frames: that within one year of royal assent, the Minister of Justice provide a report to the House of Commons on how the bill is progressing and how the new provisions are being used; and that within five years, a full review be conducted of the operation of the amendments made to this act in C-75. A five-year review isn't unusual and I think it's very wise in view of the number of changes that have been made in this bill.

The Chair: Thank you very much.

Is there any discussion on PV-46?

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

(Clauses 387 and 388 agreed to on division)

(On clause 389)

The Chair: We will move to LIB-37.

Mr. Maloney.

Mr. James Maloney: Thanks, Mr. Chair.

I think everybody will agree with me that if we're going to amend legislation, we amend the right one. Clause 389 incorrectly proposed to amend section 5 of "An Act to amend the the Criminal Code". The correct legislation references "An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts" in Bill C-75.

This amendment would correct that error.

The Chair: Thank you very much.

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

(Clause 389 as amended agreed to)

(Clauses 390 to 399 inclusive agreed to on division)

(On clause 400)

The Chair: We'll now go to LIB-38.

Ms. Khalid.

● (2040)

Ms. Iqra Khalid: Thank you, Chair.

Clause 400 amends subsections 50(4) and (5) of the Contraventions Act to reflect these changes. In doing so, it inadvertently omits from these provisions the concept of failing to attend court in accordance with a summons, appearance notice, undertaking or release order.

This motion would address that oversight in drafting.

The Chair: Thank you very much.

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

(Clause 400 as amended agreed to)

(Clauses 401 to 403 inclusive agreed to on division).

The Chair: We now go to LIB-39, which proposes new clause 403.1.

Mr. McKinnon.

Mr. Ron McKinnon: Thanks, Chair.

This amendment creates new clause 403.1 to amend the Cannabis Act to no longer require that warrants be endorsed by a justice for out-of-province execution of warrants. Under the Cannabis Act, a warrant issued in one province that is to be executed in another must be endorsed by a justice of the second jurisdiction before it is executed. This amendment would align the requirements for warrants issued under the Cannabis Act with those issued under the Criminal Code and the CDSA.

The Chair: Thank you very much.

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

(Clauses 404 and 405 agreed to on division)

The Chair: On clause 406, amendment LIB-40 was dealt with under LIB-4. That's again removing numbers, so that's okay. It's already adopted pursuant to our earlier discussion on the principal provision.

(Clause 406 as amended agreed to on division)

(On clause 407)

The Chair: Our next amendment is LIB-41.

Mr. Fraser.

Mr. Colin Fraser: Thank you, Mr. Chair.

The amendment modifies the coordinating amendment in subclause 407(5) to reflect the changes made by the Standing Committee on Public Safety and National Security to section 83.221 in Bill C-59, the national security act, 2017. This amendment ensures that the amendments made to section 83.221 during committee study of Bill C-59 are reflected in Bill C-75.

The Chair: Thank you very much, Mr. Fraser.

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

The Chair: Amendment LIB-42 relates to the deletion of clause 25.

Mr. Fraser.

Mr. Colin Fraser: The amendment repeals subclause 407(6). It's a coordinating amendment.

In making the amendment, clause 25 inadvertently replaced the term "recognizance" in subsection 83.29(3) with the term "release order". This amendment deletes the coordinating amendment in subclause 407(6), which would no longer be necessary if amendment LIB-1 were carried. It was carried, and therefore this amendment is put forward for that purpose.

The Chair: That's correct.

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

(Clause 407 as amended agreed to)

(Clause 408 agreed to on division)

(On clause 409)

The Chair: Amendment LIB-43 is not consequential to anything we've done yet, is it?

This is a new amendment that is consequential, but it's not adopted by virtue of earlier decisions. I think those are the words I wanted to find.

Mr. Maloney.

● (2045)

Mr. James Maloney: Clause 409 specifies which clauses would come into force 90 days after the day on which the bill receives royal assent. The list of clauses should be amended to reflect the changes made to Bill C-75 by the motions to amend. This motion updates the list accordingly.

The Chair: Thank you very much.

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

(Clause 409 as amended agreed to)

(On clause 410)

The Chair: In amendment LIB-44 we have coming-into-force changes consequential to other amendments. Again, it has to be dealt with because it's not adopted by virtue of previous decisions.

Mr. Boissonnault.

Mr. Randy Boissonnault: Thanks, Chair.

Exactly to that point, clause 410 specifies which clauses would come into force 180 days after the bill receives royal assent. This list would amend to reflect changes made to Bill C-75. I can go through the list, should any members require.

The Chair: Thank you very much.

As I understand it, if LIB-44 is adopted, LIB-45 would not be moved. I believe it was an option in case clause 25 was not repealed.

First we'll deal with LIB-44, and then we'll come back to the question of LIB-45.

Is there any discussion on LIB-44?

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

The Chair: Then there's the question of LIB-45.

To the officials, my understanding of LIB-45 is that it was an option if clause 25 had not been repealed, and I should not be receiving it if clause 25 was repealed.

Mr. Matthew Taylor: Correct, that was LIB-1.

The Chair: Basically, we're now at a point where clause 410 as amended by LIB-44 would be voted on.

(Clause 410 as amended agreed to)

The Chair: Amendment X-157 is related to a previous amendment related to the juries. That was not adopted or even moved, so this falls.

We're now at the point of voting on the bill itself.

Should the title of the bill carry?

Some hon. members: Agreed.

Mr. Murray Rankin: On division.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

Mr. Murray Rankin: On division.

The Chair: May the chair, one of the vice-chairs, or another member of the committee report the bill as amended to the House?

Some hon. members: Agreed.

Mr. Murray Rankin: On division.

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.

Mr. Murray Rankin: On division.

The Chair: I want to thank everyone, including the department, for their incredible patience.

I want to let everyone know that Wednesday, even in my absence, the meeting will be on the trafficking report, to go through it line by line. The draft was circulated a couple of weeks ago. It will be an in camera meeting to start work on that report.

On Monday the minister will be here on Bill C-78. We'll go through the witnesses on Bill C-78 after that. I imagine the analysts will then have time to distribute the list of witnesses that everybody has proposed.

Thank you, everyone. The meeting is adjourned.