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# **Standing Committee on Aboriginal Affairs and Northern Development**

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**EVIDENCE**

**Tuesday, June 19, 2007**

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**Chair**

**Mr. Colin Mayes**

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## Standing Committee on Aboriginal Affairs and Northern Development

Tuesday, June 19, 2007

• (1110)

[English]

**The Chair (Mr. Colin Mayes (Okanagan—Shuswap, CPC)):** I'd like to convene this meeting of the Standing Committee on Aboriginal Affairs and Northern Development. It is Tuesday, June 19, 2007.

Committee members, the orders of the day are committee business. We have two motions that have been submitted to the chair. The first motion is from Madam Crowder.

Madam Crowder, do you still wish to forward this motion?

**Ms. Jean Crowder (Nanaimo—Cowichan, NDP):** Yes, I do, Mr. Chair.

**The Chair:** The chair would like to make a statement about the motion, as the chair feels that the motion is out of order. I'd like to give the reasons that follow.

The committee is at the pleasure of the House. The purpose of the committee is to review and suggest amendments to bills through debate based on relevant information supported by witness testimony. The action recommended by this motion does not relate to the substance of the bill, and the motion also recommends department expenditures, which is ultra vires to the committee's mandate.

Second, the motion does not specifically mention Bill C-44, so it is questionable if it is relevant to the legislative process.

Third, the chair also believes that the House is the appropriate body to debate the essence of bills. The committee is to debate the substance of bills. This motion, in my opinion, crosses the line and alters the integrity of the bill. The purpose of the bill is to amend section 67 of the Canadian Human Rights Act, not to define the duty to consult. The motion is addressing the principle of the duty to consult, yet that question is very abstract and, the chair determines, too vague to resolve.

For these reasons, the chair determines the motion is out of order.

Do you wish to challenge the chair?

**Ms. Jean Crowder:** I want to challenge the chair.

**The Chair:** Okay.

The chair is being challenged. We'll be taking a vote.

Shall the decision of the chair be sustained?

**Mr. Brian Storseth (Westlock—St. Paul, CPC):** I have a point of order, Mr. Chair.

Can we have a recorded vote, please?

**The Chair:** Certainly. We will have a recorded vote, please.

(Ruling of the chair overturned: nays 7; yeas 3)

**The Chair:** We'll move on to the motion as presented. Madam Crowder would like to speak to it.

**Ms. Jean Crowder:** Thanks, Mr. Chair.

At the last meeting I think I did present my case about why this motion is so important. Again, I will be very brief, because I do believe I covered the points, but I just want to reiterate that the duty to consult has been outlined in a number of court cases, and from witnesses and from a number of other statements we have heard that committee hearings do not negate the government's duty to consult. I feel that before adopting a motion that could have wide-ranging impact on first nations communities, it is very important that the issues raised by numerous witnesses be considered prior to implementing the legislation. I would urge the committee to take this very seriously.

We just saw, again, the Sharon McIvor case come out. It took 18 years before there was a Supreme Court decision. It would be unfortunate if we implemented a piece of legislation that could have that kind of impact, so I would encourage members to consider my motion very seriously and move forward with that respect and responsibility that I think all parliamentarians wish to bring to the table.

**The Chair:** Does the government have a response to that?

Mr. Bruinooge.

**Mr. Rod Bruinooge (Winnipeg South, CPC):** Thank you, Mr. Chair.

I appreciate the sincerity of the opinions of the member opposite. However, I'm sure she can also appreciate the sincerity of the actions that we, on the government side, are attempting to take, and that is, to offer the opportunity to people who are on reserve, who don't have access to the Canadian Human Rights Commission, to be able to bring forward their opinions and their views if they feel that their human rights are being violated. They need that option. They need that forum. That's why we're proceeding.

I can appreciate your arguments. I understand that they have value within the discourse, but at the same time, they are unable to reconcile with my argument, which is that it is essential that we bring this forum to those on reserve who aren't represented by the first nations leadership, who aren't represented by government. They are individuals in communities. And currently, they don't have the opportunity to say that their human rights are being violated.

This is something that we must do with haste, in my opinion, because it's been occurring for far too long in Canada.

I believe this is the opportunity now that we have before us as a committee. We've heard witnesses' testimony. We've heard a multitude of opinions. And I believe we can make this happen right now within the context of this meeting, if we so choose. So that's something the members on this side are going to continue to push for, all summer long, if need be.

I would just ask that we find a compromise and proceed to clause-by-clause.

• (1115)

**The Chair:** Are there further comments?

Mr. Storseth.

**Mr. Brian Storseth:** Thank you, Mr. Chair. I'll pass for Ms. Neville if she wants to respond.

**The Chair:** Madam Neville.

**Hon. Anita Neville (Winnipeg South Centre, Lib.):** Mr. Chairman, I listened very carefully to the member opposite. He and I have had conversations beyond this table over this bill. I guess where I differ from him.... He just commented now that we've heard a multitude of opinions. We have heard many, many opinions here, from legal experts to first nations leadership to individuals who have come before the committee. Overwhelmingly we have heard the need to consult with first nations, to talk about the impact that the repeal of section 67 would have into first nations communities, to deal with first nations communities with respect.

I don't believe that the majority of those who came before the committee are opposed to the intent of Bill C-44, which is the repeal of section 67, and that has been our position from the outset. We support the intent of Bill C-44, which is the repeal. But I sat on the committee, as did my colleague beside me, when we dealt with Bill C-7, where we also spoke about the repeal of section 67 and the importance of it. The major flaw of Bill C-7 is the major flaw of this process and this bill.

Bill C-7 was brought forward with only a token gesture to consultation in a meaningful way, and it didn't succeed. I would say that the same is happening with Bill C-44. I don't even think there has been a token gesture to consultation, and the processes of it. We know from all of the expert testimony we've had and we know from all of the individuals who have come before the committee, whether it's been from national leadership or local leadership, that this can't happen without understanding what the impact will be on collective versus individual rights, what the impact will be on the capacity of communities to respond to it.

I think it's important that we look at a delay. Members opposite have talked about 30 years of consultation. I would argue that it's not

been consultation. It's been discussion and it's been looking at the issue, but there has never been a meaningful consultation on this bill. If we've waited 30 years, what difference does a number of months more make to do it properly, so that it's not challenged in the courts?

I have here, and I've been carrying it around, the Supreme Court of British Columbia judgement on the Sharon McIvor case. We see the implications of bad legislation. We see the implications of people having to go forward and appeal. I can't help but say it: the McIvor case was done under the court challenges program. I despair for anybody else who wants to take an issue forward.

Six months, ten months, a year, I don't see what the difference is, and particularly in light of the McIvor decision and Bill C-31. We talk about protecting women and children. The minister indicates that he's going to appeal this decision, which is a protection of women and children. So there's no need to rush it, and I would certainly support some delay.

• (1120)

**The Chair:** Mr. Storseth, please.

**Mr. Rod Bruinooge:** Mr. Storseth is going to speak; I just want to quickly ask a question, though, and of course it's a rhetorical question.

Ms. Neville, you talk about bad legislation. In essence, what you're saying is that the Canadian Human Rights Act is bad legislation.

**Hon. Anita Neville:** That's not what I'm saying, not at all.

**Mr. Rod Bruinooge:** Well, that's what you're insinuating. You're saying a rush—

**Hon. Anita Neville:** No, I'm not saying that at all.

**Mr. Rod Bruinooge:** —towards implementing bad legislation. That's all we're doing here is extending the Canadian Human Rights Act.

**The Chair:** We're to stay on the topic of the motion.

**Hon. Anita Neville:** Well, let me just say, on the record, that I am not saying that at all, whatsoever.

**The Chair:** Mr. Storseth, please.

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

First of all, I want to express my concern with the opposition's apparent lack of parliamentary procedure. There's no way, at this stage of the legislative process, that they can put forward a motion that simply delays it because, as Ms. Neville said, there's no rush to get this done.

I would absolutely disagree with her. I have first nations people in my communities who want to see action on this, and when you delay this a year on the front end, a year on the back end, you're delaying human rights to human beings, and that's wrong any way you put it.

We're talking to the motion here, and I feel that the motion, while clearly out of order, as the chair has ruled, which the opposition has overruled.... It's very clear that with this motion the opposition is simply trying to do what the Canadian public would not do for them, and that is give them a mandate to put forward government legislation in this House.

They continually try to subvert what we are trying to do here as a government. They have been desperate to stay away from clause-by-clause on this, because they have no amendments that can be dealt with in a constructive manner. If you have amendments, perhaps we should move to clause-by-clause so you could put those forward and we can get on to governing. That's what the negotiating process is supposed to be.

Unfortunately, what the opposition is trying to do with this motion, quite simply, is stay away from clause-by-clause, which is the direction the House has given this committee to move in. This committee does not have the authority to overrule the House on that.

Mr. Chair, I will be voting against this, and I would suggest that it's time the opposition members do what the witnesses have asked. The witnesses have overwhelmingly asked that we continue with the repeal of section 67, but there are amendments they would like to see. That is the next stage, the clause-by-clause, that's where amendments come in. If the opposition has some amendments they would like to work on with the government, I suggest we get to that point and move forward with this.

**The Chair:** If you want to speak, please wait until you're recognized by the chair.

Madam Crowder.

**Ms. Jean Crowder:** Mr. Chair, I think that last statement was a distortion of the facts. What we heard from witnesses and are hearing from opposition members, certainly New Democrats, is that we absolutely support the repeal of section 67. It's the manner in which it is done.

When you talked about the witnesses asking for the repeal of section 67, it was always in the context of appropriate consultation. When the member talks about putting the amendments forward, what we have had some opinions on, in terms of Marleau and Montpetit, is that, by and large, the amendments that are needed would be ruled out of order, because they're outside the scope of the bill.

So I would suggest that if the government were truly interested in pursuing the repeal of section 67 in a respectful manner, they would agree to withdraw the bill and bring forward a bill with the amendments that I'm sure many of us could put forward fairly quickly.

There are some avenues out of here that would allow us to move forward in an expeditious way. It really, truly is in the government's hands in terms of their willingness to withdraw the bill and resubmit a bill that's more palatable.

• (1125)

**The Chair:** Thank you, Madam Crowder.

What I said in my statement about my concerns about this motion—you used the words, Madam Crowder, “appropriate consultation”. How would you define “appropriate”? That's the issue the chair brings forward. Who is that going to be determined by? What is appropriate?

Quite frankly, I've said this before at this committee, I'm duly elected to represent my constituents. I have five bands in my constituency. I talk to them and I consult with them. I'm duly elected

to govern for those constituents. I do that for non-aboriginal people in my constituency also.

There's no way you can go to every constituent to find out a yea or a nay on every issue. There's election day, and they elect people who they feel will represent them well at the table to make decisions on their behalf. I think we have followed a process here, that we have listened to the leadership of the aboriginal people. They represent their people and their opinions and they brought that forward. I believe we've done that true consultation to the level that we need to do it to function as a committee and make decisions on behalf of Canadians, including aboriginals.

Mr. Bruinooge.

**Mr. Rod Bruinooge:** I have a quick interjection in relation to Madam Crowder's comment about having the government bring back new legislation, which would be unprecedented.

This bill arrived at committee because of the very reason we already talked about—all the parties consented to it. So it's bizarre to now hear that the parties that brought the bill here through unanimous consent now want the bill done away with and put aside, and a new piece of legislation brought forward. What guarantees are there that a new bill wouldn't be turned aside? This is without precedent, as far as I can tell.

We have no choice but to proceed to clause-by-clause. I don't see how this motion would stop us, even though the chair has ruled it out of order. If the opposition parties are going to pass it, I have to put it out there right now that we don't see this as something that's going to stop us from calling for clause-by-clause on a daily basis.

If that's the route you want to take, so be it. But we have our position and will continue to put it forward.

**The Chair:** Madam Neville.

**Hon. Anita Neville:** We all have our own realities, because we've clearly sat here and heard very different things from the witnesses.

I would recommend that all members review the testimony of Chief Rose Laboucan from the Driftpile First Nation. I've highlighted a number of her comments, but in light of what we just heard I want to read one to you. She says:

As for the principle of Bill C-44, the repeal of section 67 I don't have a problem with, but let's talk about the process and what has to occur prior to that, instead of ramming something down my throat again. I say that as a first nations person who has had to live under the Indian Act all my life.

This is what we're doing. We're once again saying we know best, or the government knows best. We're not listening. I found her testimony quite compelling.

There is overwhelming support for the repeal of section 67, but there is overwhelming disregard and disappointment and a real problem with the process we're undergoing here. I think we have to correct the process and move forward.

• (1130)

**The Chair:** Is there any more discussion on this motion?

Mr. Albrecht.

**Mr. Harold Albrecht (Kitchener—Conestoga, CPC):** I think we have to come back to the basic principle of what we're trying to accomplish here in Bill C-44 and ask whether we are in favour of repealing section 67 or not. We've agreed around this table that this needs to happen, and the majority of the witnesses have said that. So I think we need to answer whether we're ready to end discrimination against a particular group of citizens that's been going on for at least 30 years.

We've also had individuals approach us, either by letter or in person, asking us to please pass Bill C-44.

Back to the question of consultation, I agree with your statement, Mr. Chair—and almost every witness agreed—that it would be almost impossible to have a degree of consensus, as it's referred to in this motion, or any degree of consensus.

Another point I'd like to make is that the motion we're dealing with right now is longer than the bill, yet we're expected to deal with it within a committee meeting or two.

There is no definition of consultation, and there is no definition of what is meant by degree of consensus. As I mentioned last time, even the Canadian Human Rights Commission does not agree with the inclusion of a non-derogation clause. There are no costs indicated here, so it would be out of order for us as a committee to approve a motion that would add unknown costs to the House.

So there are multiple reasons why I cannot support this motion before us today.

**The Chair:** Thank you, Mr. Albrecht.

Mr. Lemay, I'm going to allow Madam Crowder the last say before we go to vote.

Are you going to speak, Mr. Lemay?

[*Translation*]

**Mr. Marc Lemay (Abitibi—Témiscamingue, BQ):** Mr. Chairman, you do realize that I have already tabled a motion that we will need to debate today.

However, while I find Ms. Crowder's motion to be complete, I must tell you that everyone who has appeared before us has been in agreement about the need repeal section 67. They all agreed that Bill C-44 should be passed, except that—and this is the difference between the government and those of us who are here at this table—the vast majority of witnesses who appeared before us asked for consultations, within the meaning of Supreme Court rulings, before this bill is passed.

I don't want to go over the list of witnesses, but if you look at the blues, the testimony, you will see that the vast majority said that they wanted adequate consultations to be held before Bill C-44 is adopted.

[*English*]

**The Chair:** Thank you.

I'm going to finish with Madam Crowder.

Do you want to summarize your motion?

**Ms. Jean Crowder:** Actually, just to address the issues around, for example, the non-derogation clause, it does say “options for a non-derogation clause”. And if I recall the Canadian Human Rights Commission's testimony, it wasn't that they were not supportive or in favour of a non-derogation clause; it was outside of the scope of their responsibilities and their authority. So the non-derogation clause is a separate issue from the Canadian Human Rights Commission.

I actually want to propose a couple of minor wording amendments on this. Under point number 1, where it says “to engage in transparent consultations”, I want to add the word “directly”. I actually have a copy for the clerk.

**The Chair:** The motion is to amend the wording and after “consultations” to insert the word “directly” “with First Nations”, and then after the words “First Nations” to add “organize with the assistance of”.

Do you want me to go through all of these?

● (1135)

**Ms. Jean Crowder:** There are two more amendments. They're minor wording changes.

**The Chair:** Do you want to go through all of them or do them individually?

**Ms. Jean Crowder:** No, do it as one block, because the intent is the same with it all.

**The Chair:** Committee, I have to ask you whether you would allow the change in the wording of the motion, because the mover of a motion cannot amend their own motion. So either somebody else has to move to amend or else the committee must allow the mover to amend the wording of the motion. What is the pleasure of the committee?

**Mr. Rod Bruinooge:** On principle, we disagree with the motion, so if the mover would like to find one of her cohorts to bring forward these amendments, she should feel free.

**The Chair:** First of all, we have to answer whether it is the pleasure of the committee to allow the mover to at this point change the words in the motion.

**Mr. Rod Bruinooge:** And as I said already, Mr. Chair, we're not going to consider that, so she can find one of her colleagues to bring

**The Chair:** There's no consensus, Madam Crowder, so you'll have to have somebody move that amendment.

There is nobody, so we'll deal with the motion as is.

**Mr. Rod Bruinooge:** Mr. Chair, could I speak one last time in relation to this motion?

**The Chair:** Mr. Russell asked that, and I'd summarize that unless it's...

Can I ask, Madam Crowder, would you like to hear more debate on this? The chair wants to give you the last word on your motion, which I think is appropriate.

**Ms. Jean Crowder:** If necessary, I'd like more debate.

**The Chair:** Okay. We'll go to Mr. Storseth.

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

I think this is a very substantive motion. The mover has already admitted that the amendment is poorly worded. Nonetheless, I think it's important that everybody gets a chance to speak on this until we feel that debate is fulfilled. If Mr. Russell has a pertinent point he'd like to make, I've always found his points to be quite interesting.

**The Chair:** The chair did make a statement that I would finish off with the mover of the motion, and that would be the end of the debate.

The chair is going to end the debate. I feel that there has been opportunity, so we're going to move on to the question.

**Mr. Brian Storseth:** Can I ask for a recorded vote, Mr. Chair?

**The Chair:** Certainly.

(Motion negated: yeas 3; nays 4) [See *Minutes of Proceedings*]

**The Chair:** We'll move on to the next motion, by Mr. Lemay.

Mr. Lemay, would you like to speak on your motion?

[*Translation*]

**Mr. Marc Lemay:** I think that everyone has received the copy of the motion we are tabling today and which follows on numerous consultations we have held. I don't know whether you have distributed it, Ms. Charron.

[*English*]

**The Chair:** Do all members have Mr. Lemay's motion?

Supply one to Madam Keeper, please. Everyone else has the motion.

Thank you.

[*Translation*]

**Mr. Marc Lemay:** Mr. Chair, the motion that we will be debating is the result of numerous consultations that we have had in recent weeks with the First Nations of Quebec and Labrador. This motion is a direct result of our consultations with Grand Chief Ghislain Picard and representatives of the Quebec and Labrador First Nations who appeared before us in the past few weeks.

Mr. Chair, I said earlier that this motion focusses on problem that was strongly condemned by the vast majority of the witnesses who appeared before us.

They told us that they all supported the repeal of section 67 of the Canadian Human Rights Act, and I think that everyone here is also in agreement on this point. However, before the bill to abolish section 67 is passed, the vast majority want consultations to be held, within the meaning of the Supreme Court decisions.

Mr. Chairman, I think that everybody has read the motion that we have tabled and I don't want to spend much more time on it. I think that it is quite clear. It is direct and clearly asks the question. Ten months from now, if the government does its part, if the First Nations participate in the consultation process as they say they will, we should be able to come back before this committee and adopt, with full knowledge of the facts and with the backing of the vast majority, if not all, of the First Nations in Canada, specifically in Quebec, but Canada in general, this bill to abolish section 67.

I am done, Mr. Chairman, and I am prepared to answer any questions you may have.

• (1140)

[*English*]

**The Chair:** Mr. Bruinooge.

**Mr. Rod Bruinooge:** Well, Mr. Chair, I know that a number of the opposition members have highlighted the fact that some people who have come before us have called for a repeal of section 67, yet they believe they haven't been as interested in Bill C-44.

The argument I had hoped to make in the previous round was that there isn't a bill that is more in tune with a repeal before the government currently. This is the repeal of section 67; that's exactly what this bill is. It isn't something grander than that. It's simply the repeal of section 67. So it's illogical, in my opinion, to suggest that it's anything but a repeal of section 67, which everyone has universally called for. That's what we're delivering here in this committee.

I know that the member opposite has received various viewpoints and is calling for this suspension, but this is outside of our ability as a committee. We can't just put off work on this important bill for ten months. I just can't see how this is possible.

We need to proceed. We've been commanded by our House. The parties all agreed, sent this bill to committee. Mr. Lemay's party sent this bill to committee to be worked on, amended, sent back for a vote. Send it back to the House, and then you can vote it down and you'll have a longer delay of the implementation of this section of human rights to first nations people.

That's where I'll leave it.

**The Chair:** I'll let Mr. Lemay answer the question, since it's his motion.

Mr. Lemay, please.

[*Translation*]

**Mr. Marc Lemay:** Mr. Chair, I want to respond to my colleague. When we began our study of section 67, my initial impression was that everything had already been said and done, and that we would quickly pass the bill. In all sincerity, I admit that my first surprise was seeing Phil Fontaine, the National Chief of the Assembly of First Nations, representatives of the Human Rights Commission, the Assemblée des Premières nations du Québec et du Labrador, and the Native Women's Association of Canada appear before us. They came to tell us that certain steps had not been taken and that they were not ready.

I had a long discussion with representatives of the Assemblée des Premières nations du Québec et du Labrador. They told me that even though we've been hearing about this for 30 years, nothing had ever been done to prepare First Nations for the repeal of section 67.

However, I do not want—and I say this in all sincerity—the House of Commons to oppose a bill that has the support of First Nations. They want section 67 to be repealed, but they are telling us that the groundwork must be laid and consultations must be held.

I will conclude on that note, because I want my other colleagues to have an opportunity to speak. The last person who testified before the committee was Grand Chief LaBoucane-Benson, who was from Saskatchewan, I believe. I will remember this for some time to come. She confirmed what I feared: today, June 19, 2007, First Nations are simply not ready for section 67 of the Act to amend the Canadian Human Rights Act to be repealed until such time as mechanisms are put in place to deal with the situation.

• (1145)

[English]

**The Chair:** Mr. Storseth, please.

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

I just want to reiterate once again that the House has given us a mandate. The consensus of all four committees gave this committee a mandate on what we had to do. We have to report something back to the House in this regard. I believe the chair made the correct ruling before. I don't mean to be procedurally wrangling here, but I would ask the chair to make a ruling as well if he sees this motion as being in order, unlike the previous one.

I also just want to make one comment. I have followed some of Mr. Lemay's career, and he has been an excellent parliamentarian who for many years has fought for human rights. It is very disappointing to see this motion, from this member, proposing to hold off human rights to human beings for what could be an indefinite period of time. We're in a minority Parliament. He has an opportunity to do something ground-breaking here. I would hope this member would opt to remove his motion and continue forward in a constructive manner, to try to bring some amendments to this legislation that he sees the first nations people want, so we can move forward and get something done on this, rather than putting this legislation off for an indefinite period of time.

**The Chair:** Thank you.

We will move on to Madam Neville, and then Madam Crowder after.

**Hon. Anita Neville:** Thank you, Mr. Chair.

I just want to respond before I go in the direction I originally intended. First of all, I want to indicate we're not commanded by the House to report. The bill was referred by the House for review, discussion, comment. There is no command by the House to deal with it.

**An hon. member:** We have to report back.

**Hon. Anita Neville:** We have to report back, yes, but we're not commanded to approve the bill.

And we talk about human rights and human beings. When you want to talk about human rights and human beings, let's talk about water, let's talk about housing, let's talk about children with disabilities, let's talk about educational opportunities for aboriginal people, let's talk about building capacity in communities, let's talk about treating people with respect and courtesy and honouring their traditions. What I see is what Rose Laboucan says is a real effort to ram this down without any due process, any due respect for them.

I have a pile of amendments, and to say we're not acting in good faith is far from the truth. We have been advised that these amendments will be ruled out of order, that they are beyond the scope of the bill.

If the government had been genuinely interested in moving forward on the repeal of section 67, they would have crafted a bill that would have allowed for an interpretive clause, that would have allowed for a non-derogation clause, that would have allowed for capacity-building in it, that would have allowed for respect for aboriginal and treaty rights. It would have talked about first nations legal traditions and customary laws, particularly the balancing. This is the key to it, the balancing of individual rights and interests against collective rights and interests.

So we are not prepared to ram this down anybody's throat. We believe there should be a comprehensive bill. Last week I made the suggestion that the bill be recrafted in a manner so that it could be amended, so that it could include the interpretive clause, so it could include the issues of collective and individual rights, so it could include legal traditions and customary laws. I haven't seen the government come back with anything.

I spoke with the parliamentary secretary, who indicated to me yesterday that he would be coming back with some proposal. We haven't received any proposal. We've been prepared to work in good faith. We support human rights. We are a party of human rights. I don't believe there's anybody around this table who doesn't support human rights. But we also are respectful of first nations people, and we will not be party, without knowing the implications, to ramming something down their throats that they are so vocal and insistent is wrong for them.

• (1150)

**The Chair:** Thank you.

Madam Crowder, please.

**Ms. Jean Crowder:** Thank you, Mr. Chair.

I have a couple of comments.

One comment was that this bill was sent to committee after second reading. My understanding of parliamentary process is that when a bill comes before a committee, we as responsible parliamentarians are obliged to then hear from people about the consequences of the proposed legislation. My understanding, as well, is that as responsible parliamentarians, we need to listen for impacts and consequences, whether they are intended or not. After hearing from so many different witnesses who talked about those impacts and consequences, I don't see how we can responsibly proceed with the bill as it is.



I would argue that part of our role as elected representatives is to look at those anticipated consequences. When we've heard, almost without exception, that people are concerned about the impacts on their communities, I don't see how we can disregard that testimony. I just don't see how we can do it. What we would be doing in fact is discounting all of those people who came before us and said please do not implement this legislation without appropriate consultation. We would actually be saying to all of those witnesses who came before us that their words didn't matter. We would say to all those witnesses who came before us, who know their communities, who live in their communities, who work with people day to day, that their words didn't matter. So I don't see, as a responsible elected representative, how we can completely disregard testimony that comes before us.

We know that our hands are virtually tied in terms of amending this piece of legislation in order to reflect the testimony that we heard from people. So we are truly boxed in. We either support a piece of legislation that the people who would be directly impacted by it are telling us could have consequences that we don't know about, or we can defeat the legislation and still be in limbo, because we all support the repeal of section 67 as long as it's done in a respectful or appropriate manner, or we can proceed with Monsieur Lemay's motion.

I would argue that out of the options that we have available to us at this point in time, the most respectful way to proceed would be to support Monsieur Lemay's motion and to have that appropriate consultation happen so that we can help stave off some of the consequences that we've seen in Bill C-31, that we've now seen with the Sharon McIvor case, that we've seen with other cases, like Ipperwash, in which people's rights have been violated. So I argue that in order to be respectful, we do need to take into consideration the passionate testimony that we often heard from some witnesses.

Thank you, Mr. Chair.

•(1155)

**The Chair:** I guess the chair would just like to respond to that by asking if you will ever really know all of the implications. It doesn't matter how long you consult with the aboriginal community, there are always going to be unknown implications of acts in this country, no matter what the topic is. So that is the issue. You can go into clause-by-clause, deal with it, and then move on to your amendments, and then change the length of time for implementation, and deal with it in that respect.

We will move on to Madam Karetak-Lindell, please.

**Ms. Nancy Karetak-Lindell (Nunavut, Lib.):** Thank you.

Just to comment on what you said about how we'll never know all the implications of any policy or legislation, that doesn't mean that we don't go with what we know. We've heard from enough witnesses using Bill C-31 as an example of what can happen when you don't try to mitigate some of the consequences that are going to definitely come about, and you know that hasn't been done.

Going back to some of the comments that Mr. Storseth made about being procedurally correct, I'm not a lawyer and I don't follow court cases, but sometimes a case can go exactly by the book, all the right procedures, the people in the courtroom following everything.

But is justice done at the end of the day when you don't take into consideration the people who are involved?

Let's use child custody cases as an example. I sat on a special committee on child custody cases. Talk about hearing painful witnesses' stories. It's never easy when parents are fighting over children. But if the court just said parent A gets the child without any conditions whatsoever, do you then feel justice is done, because it was a very simple statement—parent A gets the child? That's as simple as you can get. Mr. Bruinooge talked about the very simple—This is just stating a fact. Well, just stating a fact like that does not take into consideration all the conditions you should apply, whether it's visitation, whether there's money for child support, whether the grandparents can visit, whether the children can travel outside the province or state they live in. There are so many other situations that you have to take care of that making just a simple statement like that does not take care of the people who are affected by that decision.

This is the same. You can't just say this very short bill is going to take care, if you don't look at how it's going to impact the people. Again, as Ms. Crowder said, how can you as a member, including myself, not listen to 99% of the people who said there have to be other considerations? There have to be resources. There has to be a longer time to implement this. You can't take any of those and just disregard them and say this will solve everything, because that is being irresponsible.

I go back to what I used to say when I used to be chair of this committee. Don't do things for the wrong reasons, because the consequences are too high. If the members opposite want to be able to say over the summer that they took care of human rights for people on reserve as far as the Indian Act is concerned, then they should want to be able to do it feeling good that they did everything possible to make sure that it did not result in dire consequences for people who are affected by it, not because they just want to be able to say they passed Bill C-44.

Let's not do it for cheap political points, because that is going to have such serious consequences, as we've already seen with our history. Why add more to the list of things that have caused aboriginal people grief and despair? Why add to that? This is what passing Bill C-44 will do, because we don't know what the consequences are going to be. We don't have any resources to go with it. I just can't see how we can not listen to all these people saying that Bill C-44 does not take care of them because it doesn't take care of all the possible consequences after that.

•(1200)

**The Chair:** Mr. Bruinooge.

**Mr. Rod Bruinooge:** Responding to Ms. Karetak-Lindell first, we're not drafting a new Canadian Human Rights Act. We're simply extending what people in Canada see as a very important piece of legislation—what people around the world see as a great piece of legislation. It gives the opportunity for anyone in Canada who feels that their human rights are being violated to showcase that before a tribunal.

You said that somehow this is going to have negative consequences on individuals. I don't understand. If an individual within a first nations community feels that their human rights are being violated, they can bring this before a tribunal and argue their case. Now they can have an opportunity—

**An hon. member:** With what?

**Mr. Rod Bruinooge:** —to highlight the fact that their human rights are being violated. I see that as a good thing.

This is an opportunity. This is the Canadian Human Rights Commission. It's something that everyone in Canada takes for granted. I can't understand why you would see this as a negative consequence for individuals and communities.

If you're talking about other groups, leadership perhaps, there might be some issues, and those have been presented. But for individuals—and that's who I'm talking about, individuals on reserve—this is their opportunity to be able to bring forward their cases.

That's why we are interested, and it's not for cheap political points, I assure you. None of us here are doing that.

**An hon. member:** You said it.

**Mr. Rod Bruinooge:** No, you guys said it. You think that's what we're doing here? That's just unbelievable.

**The Chair:** Okay.

Mr. Lemay.

[*Translation*]

**Mr. Marc Lemay:** Mr. Chairman, I fully understand the position of the department, the Conservative Party and those who will vote against this motion we tabled. I do not agree with it, but I can understand it.

Over the past few weeks, members of the Assembly of First Nations told me that they had waited 30 years and that they were prepared to wait another 10 months. The ten-month period mentioned in my motion isn't an arbitrary thing. I wasn't the one who thought of it and who said that if everyone displayed some good will, 10 months from now, the consultation process with First Nations will have been completed. If we comply with subsection 1 (a), (b) and (c), if my motion is passed, the ball will be in the government's court.

The problem is that the department has not done any study of the impact of Bill C-44. This has been clearly stated to us on two occasions: at the beginning of the hearings, when representatives and the minister appeared, and at the end, when representatives of the Department of Justice and the Department of Indian Affairs and Northern Development informed us that an impact assessment had not been done.

I think that we can move forward, but we will need to show some good will. I am here to pass legislation that will make things better in Canada and especially in Quebec. If we were to pass Bill C-44 today as written, I do not think I could face First Nations in my riding and tell them that I have properly represented them.

However, if we adopt the motion that I tabled today—and I swear that I will not score election points with First Nations—I could tell

them that the ball is now in their court and in the government's court as well, and that they have 10 months as of today. I am prepared to say “as of today” to show that real consultations on Bill C-44 and on the repeal of section 67 of the Canadian Human Rights Act have been undertaken.

● (1205)

[*English*]

**The Chair:** Thank you, Mr. Lemay.

Madam Keeper.

**Ms. Tina Keeper (Churchill, Lib.):** Thank you, Mr. Chair.

I'd like to just add that I'm really appalled by the accusations that we on this side do not support human rights. And I think this discussion we have about the duty to consult has been taken out of context as well.

I'm sure you all know that aboriginal and treaty rights are entrenched in the Constitution of this country, and that the Supreme Court rulings on the duty to consult were not made because there has been an equitable history here for first nations in comparison to Canadians. There has been a call for these measures within the Constitution and in Supreme Court rulings because there has been inequity, and that inequity is best played out or displayed in the living conditions of first nations.

Mr. Bruinooge should know, as well as anybody else, that this is in the Churchill riding. Many of us represent people here, and the duty to consult is not simply about the representation of your constituency. If we want to talk about the representation of our constituency, I don't think we should confuse that with the duty to consult. I think that representing our constituents is what we're here for, certainly, but it is also to uphold the law and to impact the law so that we do our best to ensure that this country becomes a stronger and greater country.

I have a riding that has been, in terms of my representation as their member of Parliament, very clear and has articulated to me and to this committee. And I believe there has been an overwhelming majority of first nations representation here that has clearly stated that they are not against human rights. They're not against the repeal of section 67, but there are these rulings, there are these rights within the Constitution of Canada, because there is a responsibility that we have to move forward to ensure that we can right historical wrongs, and those historical wrongs play out every single day in the lives of first nations people in this country.

We cannot simply say that we want to extend human rights and ensure that they are there. We need to be looking at the living conditions of first nations people, and we need to be participating with first nations people to ensure that 25 years down the line we are not still dealing with a piece of legislation that has not had a positive impact on their lives.

For me, it is reprehensible that we even consider the idea, that we move ahead and that 10 or 20 years down the line the living conditions are worse. The reason we are here is to ensure that we have frameworks in place that represent Canadians. One of the basic tenets in terms of health and well-being is self-determination, and if we undermine self-determination by our processes and what we think is right without listening to people, then we undermine the well-being. I see that every single day in my riding.

So I think, in all good conscience, these types of accusations should cease. I think we have a responsibility to be very clear about the law and that we have a responsibility to respond to people and hear what they're saying. Petty arguments or petty politics do not have a place when we're discussing something so precious as human rights. I think we should try to move along in a way that we do what we believe is best without making these types of accusations across the floor, and if we have a difference of opinion, for whatever reason, then we do so.

We have a responsibility, as you said, to respond to what we believe is driving this agenda, and for us, on this side of the House, we accept the overwhelming majority of the witnesses and what they said.

• (1210)

For me, as a first nations person, aboriginal and treaty rights as entrenched in the Constitution are paramount.

We understand human rights as being part of our aboriginal rights. We had a very healthy, very good lifestyle. To discredit first nations people as not having human rights is absolutely appalling.

I think we've been very clear, first nations and aboriginal people who are in the House, that our success is largely due to our culture and to the way our cultures have lived. I think one of the things, as aboriginal people, we have very clearly said is that we don't want to and we don't have to—legally, we do not even have to—give up who we are as aboriginal people to participate in Canada.

I think this is a very important discussion. So thank you for the opportunity to participate in this discussion at this table. Thank you.

**The Chair:** Thank you, Ms. Keeper.

We'll go to Mr. Storseth, please.

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

Thankfully, Ms. Karetak-Lindell, I'm not a lawyer either.

I just want to make the point right off the bat that we are obliged, as parliamentarians, to follow the rules of the House. As Marleau and Montpetit, chapter 16, page 659, clearly outlines: "The committee is bound by its Order of Reference—the bill—", in this case, "and may only report the bill with or without amendment to the House. Consequently, the committee may not include substantive recommendations in its report." This is exactly what this motion is.

I do want to say, though, after sitting here for something like 80 days and listening to the opposition say how listening to these witnesses is not consultation, that you can't have your cake and eat it too, or your dinner and eat it too.

Monsieur Lemay considers a meeting with the AFN to be consultations with first nations on how many months they want this thing pushed back. I listened to Ms. Keeper talk about the witnesses and how important it is for us to listen to witnesses, yet they're not actually here, because these are not consultations.

You can't ride the fence on this. You can't. This is about human rights. You have to get off it and be on one side or the other. You cannot just continue to try. I at least respect Mr. Russell's position. He has taken a firm stance on this. You cannot continue to try to do what you did in government for 13 years, and that's just ride the fence right down the middle and not accomplish anything at the end of the day.

This is a golden opportunity for this committee and the people sitting around this committee to actually do something tremendous for first nations people and for Canadians in regard to human rights. If we put this off for ten months in a minority Parliament, we may never have this opportunity again.

**The Chair:** Thank you.

We'll go to Mr. Albrecht, please.

**Mr. Harold Albrecht:** Thank you, Mr. Chair.

I share my colleague's concern with the procedural correctness of what we're doing. However, we haven't had a ruling on that at this point.

I just want to go back to a comment Ms. Karetak-Lindell made. I think she said something to the effect that 99% of the people who were here were not in agreement with Bill C-44 in its current form. I just want to remind all of us that the Congress of Aboriginal Peoples represents a very large constituency of aboriginal peoples. Just to quote directly from their statement: "Does the Congress of Aboriginal Peoples support the repeal of section—"

**An hon. member:** Now he's going through the same thing.

**The Chair:** Please allow the witness to speak.

**Mr. Harold Albrecht:** "Does the Congress of Aboriginal Peoples support the repeal of section 67? Absolutely, unequivocally. The fact that the Indian Act has substantially escaped human rights scrutiny"—which is what we're dealing with—"for three decades is unacceptable in a country that is otherwise held up throughout the world as an example of a successful and prosperous democracy."

He goes on. These are his words:

How can we permit these grievances to perpetuate? How we, as aboriginal leaders, and you, as parliamentarians, cannot be morally moved to remedy this situation with speed, conviction, and precision is quite frankly beyond me. Sadly, at this point in our history, we know that Canada has failed to address a significant source of real and potential discrimination against aboriginal peoples in Canada. Thankfully, the repeal of section 67 from the Canadian Human Rights Act will begin to deal with this pressing issue.

Finally, he concludes:

We live in a nation that enjoys almost boundless prosperity. We in Canada are indeed the true north, strong and free. We need to move quickly and sincerely to ensure that our first nations sisters and brothers, be they youth or elder, living both on and off reserve, enjoy the full freedom, benefit, and protection of the provisions afforded by Canada's Human Rights Act.

So to go to the motion, Mr. Chair, the motion is asking us to wait for another ten months. I don't think I need to remind this committee, because I've done it a number of times already, of the numerous attempts there have been to repeal section 67. At least three of those attempts failed because Parliament was either prorogued or it adjourned or there was an election called.

So if I could be 100% guaranteed that ten months from now we would be here and this bill would proceed, I might be more amenable to considering your motion, Mr. Lemay. But with the uncertainties of our history, our historical track record on trying to repeal section 67, the uncertainty of minority governments, and the speed with which this could move forward, I cannot support this motion in its current form.

•(1215)

**The Chair:** Mr. Lévesque.

[*Translation*]

**Mr. Yvon Lévesque (Abitibi—Baie-James—Nunavik—Eeyou, BQ):** Thank you, Mr. Chairman. I remember that as soon as the press release came out from the minister announcing the introduction of Bill C-44, the Assembly of First Nations of Quebec and Labrador, the Assembly of First Nations of Canada and the Native Women's Association of Canada immediately responded, saying that they agreed that section 67 be repealed and that Bill C-44 be passed.

However, since that time, some people have said that the lack of consultation was unacceptable. I understand the principle that one nation should demonstrate respect towards another. It is not up to us to shove something down another person's throat that we wouldn't want to have shoved down our own throats. So I don't believe that delaying the bill would be bad for Canada, in terms of our standing at the United Nations or internationally, contrary to what the government fears. Perhaps a delay would even be more favourably received. In our capacity as parliamentarians, perhaps we have found all the solutions to truly implement the bill in a respectful manner. However, it is not up to us to decide by ourselves whether or not to consult people. They will perhaps come to the same conclusions that we did. At least, we will have respected the First Nations. They are entitled to such respect. Then, even if there is not unanimous agreement, we could propose the repeal of section 67 in the most reasonable manner possible. There will no longer be protests that people were not consulted. And so, Mr. Chairman, the consultations would be justified.

[*English*]

**The Chair:** I'm going to go to Mr. Bruinooge and then Mr. Russell. Then I'll finish with Mr. Lemay and Ms. Neville.

**Mr. Rod Bruinooge:** Thank you, Mr. Chair.

I will go back to a few of the comments. Speaking to consultation, clearly we have heard from a number of witnesses. In hearing Ms. Karetak-Lindell speak to it, 99.9% of them were carrying her position. Obviously that wasn't the case. We heard from a number of individuals who in their testimony talked about how we could proceed with the bill with some amendments. Many called for a longer transition period, and this is an amendment that can be brought forward.

I can quote one of the most senior professors in Canada, Larry Chartrand, in relation to aboriginal issues. He was very supportive of the bill. I'll note that he did call for a longer transition period. But he talked about how an interpretive provision would in fact water down the very treaty rights that are so essential to be maintained in Canada. Those are entrenched in the Constitution, so there is another argument on the front of the interpretive provision. We're talking about something that is entrenched in the Charter of Rights and Freedoms. As a learned professor from my home city, his argument was that an interpretive provision would very likely be watered down. When you put finite words on describing someone's rights, you are not taking into account any evolution that might occur in the jurisprudence subsequent to that. I think that was a valid point.

We live under the Constitution in Canada. Nobody here is arguing that this bill we're bringing forward is going to trump the Constitution. It won't. It's not going to. As such, I believe we can go to clause-by-clause. I agree with the arguments that were made in relation to how this motion should be out of order.

Mr. Chair, if I could conclude, it would be on the topic of the individual. The individual is often the minority. It's the minority for which human rights are essential. We have minority groups that have brought their case before the Canadian Human Rights Commission and have had rights extended to them. Everyone before this committee can look back into our history and see multiple situations....

It is individuals who might not share the opinion of leadership in first nations communities who are the very individuals we need to offer the opportunity to voice their complaints. That is the biggest reason I am such an advocate for this legislation.

•(1220)

**The Chair:** Thank you, Mr. Bruinooge.

We'll go on to Mr. Russell, please.

**Mr. Todd Russell (Labrador, Lib.):** Thank you, Mr. Chair.

I want to speak to the motion, and in favour of the motion.

The motion is predicated on the fact that we will repeal section 67. The motion speaks to consultation. On those two very basic premises I support this particular motion. It is based on repealing section 67 and it's based on consultation.

It should be noted, I believe, that when we talk about consultation, the government seems to have the notion that we could never come out of consultation with any positive impact or any positive recommendations, that consultation is some process that leads nowhere, but in fact that is not the case. The Supreme Court of Canada has said that this is the law and the government has a duty to consult. In fact, I would say that the government is a bit hypocritical on this particular point, because they say we don't need consultation on Bill C-44 but we will consult in the drafting of new legislation when it comes to specific claims. That announcement was made last week.

Without having an argument about the two pieces of legislation, or the two directions we're going in, I would think that this particular bill or this repeal requires consultation just as much as consultation is required on the drafting of a bill to deal with specific claims or a specific claims tribunal and process.

At the end of the day, if we're going to respect human rights, we have to respect the duty to consult. We have to respect self-government. We have to respect the impact it's going to have on communities. If you don't, you're in essence trampling on human rights themselves when you don't do that. You can't separate the individual from the aboriginal community and the duty that the Crown owes to both the community and individuals. You can't separate them in such stark contrast.

This is why we are in the conundrum in which we find ourselves after just a few short months of the Conservative government. The relationship with aboriginal people has been very tense. We all know that. We have had a number of blockades already. There is a call for a day of action. The government is trying to put in place some mechanisms to cool this down, but the essence of this, Mr. Chair, is a relationship issue. It is a relationship issue. If the government proceeds in the way they want on this particular bill and in other venues, the relationship will only deteriorate.

What we're asking in Mr. Lemay's motion is to try to heal that relationship in some way by respecting what the aboriginal voices have said at this committee table and in public, and ten months seems to me to be a reasonable amount of time in order to hold a consultative process.

What I like about this particular motion is that it's not too prescriptive in terms of how that consultation process would take place or what would be involved in the consultative process because, again, if we're going to be respectful, and if the government would honour the direction the committee may give today, then they would sit down with the respective organizations and design a consultative process that is, in itself, respectful and doesn't prescribe too much.

For all those reasons, I would certainly support this motion.

• (1225)

**The Chair:** Madam Neville.

**Hon. Anita Neville:** Mr. Russell has pre-empted some of what I wanted to say, Mr. Chair, but I too am struck by the fact that the government chooses to do one thing on the one hand and something else on the other.

Mr. Albrecht mentioned the possibility that we will not be here over a period of time to deal with this. I hope we'll be here to deal with the legislation that's been brought out of the land claims thing, and I hope the government introduced that process in good faith with an idea of introducing legislation to address the specific claims. As part of that process, the minister has recognized the importance of the consultation. He has already begun a consultation process with the leadership of the aboriginal communities, and he understands—I was at the announcement—that the consultation on the land claims issue will take place over the next number of months. I don't understand why he can't acknowledge the importance of the consultation over this issue, so we understand the consequences of it.

Mr. Chair, I'm repeating myself, but I think it's important. We came in good faith, we worked in good faith, we developed amendments. What we have subsequently learned is that the only amendment we can bring forward to this bill is to extend the time period from six months to whatever. That is not sufficient, based on what we've heard from the Human Rights Commission, from the aboriginal leadership, from the individual communities. It's not sufficient.

If the government had chosen to bring back another piece of legislation, we certainly would have been open to it. Mr. Bruinooge advised me last week that they were looking at bringing forward some proposal. We waited for it. Nothing has come forward. The only thing we can do with the legislation as it is at the present time is to extend the period of time.

So I want to reiterate, we will work in good faith to repeal section 67; we support the intent of doing so. If we are here in ten months, we will do everything in our power, speaking for our party, to move the agenda forward, but we believe strongly that a consultation process has to take place. We have to look at the whole issue of balancing individual versus collective rights. We cannot, as one of the presenters suggested to us, amend the Indian Act through the back door to do what we can't through the front door, by chipping away at it through the back door.

I will be supporting this motion put forward by Mr. Lemay. Should it pass, we will continue to work in good faith with the consultation process and with the ultimate repeal of section 67.

**The Chair:** Madam Crowder, and then I'm going to—

**Mr. Rod Bruinooge:** Mr. Chair, if I could just respond to some of the aspersions that were made....

**The Chair:** I've got a list and I've got to stay with this.

**Mr. Rod Bruinooge:** Okay, if you can get me on the list at some

—

**Ms. Jean Crowder:** And I'll be very brief.

A couple of points have been raised. One is the notion that a repeal of section 67 will have human rights occurring on reserve. Of course what we know is it will allow people to file a complaint, but it has no guarantee of any remedy, and that's part of the problem. The International Convention on the Elimination of All Forms of Racial Discrimination itself noted the fact that without remedy, there is no guarantee of human rights.

Of course we know that with the 2% funding caps and all the other challenges facing first nations on reserve, it's important to look at the whole package. That's why the consultation process is also important, because that consultation process can talk about some of the shortcomings currently facing people on reserve, which could end in potential human rights complaints.

So it's part of the whole deal, and to imply that a section 67 repeal will provide human rights on reserve is a simplistic notion, without the other factors being considered.

I will be supporting this motion.

Thanks, Mr. Chair.

• (1230)

**The Chair:** Thank you, Madam Crowder.

Mr. Bruinooge, quickly.

**Mr. Rod Bruinooge:** With haste I'll just quickly respond to the argument that was put forward by Mr. Russell and Ms. Neville in relation to the consultation that's being called for on new legislation being brought forward to bring about independence at the Indian Specific Claims Commission. This was something the minister has been calling for for a number of years. There's no question he had; it's been on the records for years when he was a commissioner at the Indian Claims Commission. That's an argument we don't need to make.

The point I will make, though, is that this is new legislation that hasn't been debated in the past. This is a new piece of legislation that will make an important change to the Indian Specific Claims Commission, and he has suggested that he's going to be consulting with the Assembly of First Nations and others. That's something he's going to be doing over the summer.

However, in relation to Bill C-44, and this is where I argue your point, there's been a multitude of debates, discussions, consultations, a word that is without definition—there is no definition to the word “consultation”. I know Ms. Neville just suggested there wasn't consultation. Unfortunately, there isn't a definition of “consultation”, on what that is. I'm arguing that it was consultation and you're arguing that it's not, but there's no arbiter who's deciding what the word is. So as such my argument is that over 30 years there was consultation, and that's the difference. We now have the opportunity to move forward with legislation. We have heard a multitude of opinions.

Again, I will offer up that we must go to clause-by-clause. We need to put this behind us, because, as was mentioned by Mr. Albrecht, this House might not sit forever. We are on ground that we can't say is strong, because this is a minority government. It could go to an election at any time. Priorities change.

**Hon. Anita Neville:** Why didn't you bring in another piece of legislation?

**Mr. Rod Bruinooge:** If I could finally respond to Ms. Neville, she has suggested that there was no proposal made. I did indicate to her that there can be a change on the transition period. She knows that she can make an amendment. The opposition members can make an amendment.

My proposal was that the Canadian Human Rights Commission, a body that is mandated by the Government of Canada to adjudicate human rights—One could argue that they are the experts in Canada on human rights. I think that's an argument I can make quite safely. Our proposal was that the interpretive language that they put forward be something that they incorporate into their policies at the commission itself.

**Hon. Anita Neville:** You didn't give us a proposal.

**Mr. Rod Bruinooge:** That was the proposal that I offered up to you, and it was the way we could proceed forward.

**Hon. Anita Neville:** Then give it to us in writing.

**The Chair:** Please let him finish.

**Mr. Rod Bruinooge:** I'm verbalizing it. I verbalized it before, and I'm verbalizing it again.

**Hon. Anita Neville:** With cooperation of the AFN? Did they agree with such a proposal?

**Mr. Rod Bruinooge:** They are supportive of the language. They did indicate support.

**The Chair:** Please do not address each other back and forth. The chair is trying to keep the meeting in order.

I'm going to allow Mr. Lemay to wrap up. I'd like to make a few comments first, if you don't mind, Mr. Lemay.

It would be interesting to know the people who passed Bill C-31, because some of the discussion has referenced Bill C-31, and there is this one case that is being challenged right now. We also have to look at the number of people who were reinstated and given Indian status. That benefited a huge number of people.

The fact is, as I've said before in this committee, sometimes you have to know when the talk stops and the action begins. We have to move ahead. I'm sure there was some anguish when they passed Bill C-31. I'm sure there was debate and some people argued they needed more time and needed to consult more, but eventually somebody had to make a decision and move forward. Quite frankly, I believe that's where we are now.

Madam Crowder, when you talk about remedies for potential human rights complaints, service delivery, and level of service delivery, those types of things are going to be determined by the courts anyway and will be dealt with through those complaints that are brought forward. There are unknowns when you are working in this environment. That's the challenge. But we need to have faith that those who are implementing the laws we enact will be able to react to those challenges and come up with solutions.

The department sat here and told us they will work with first nations to implement the challenges, meet those needs, and resolve the issues. We heard that statement from Mr. Watson. I have confidence in what he said, and I believe the department is working in good faith to meet those challenges.

I'm going to leave it at that. I really believe that ultimately we can't sit on the fence. Bill C-31 was passed in 1985 by a Conservative government in order to move ahead. It is typical of a Conservative government to move forward, instead of prolonging the issues and never taking action. I believe we should start thinking seriously about moving forward.

Mr. Lemay has the last comment on the motion.

• (1235)

[*Translation*]

**Mr. Marc Lemay:** Mr. Chairman, I have a great deal of respect—and I have always had a great deal of respect—for chairmen. However, I disagree with you on this matter.

The First Nations and I would very much like to trust the department. Unfortunately, the First Nations have been greatly disappointed on many occasions. I would even go so far as to say that they have been had by the department—I look forward to seeing how that is going to be translated—yes, they have been had by the department.

Mr. Chairman, I'd like to respond to Mr. Albrecht. Unfortunately, I do not agree with him when he cites the Congress of Aboriginal Peoples, representatives of which testified before us. I disagree for one very simple reason. The Congress of Aboriginal Peoples can say what they want and can think what they want, but they have no power in aboriginal communities. They cannot speak on behalf of the First Nations whose members live on reserve. Section 67, which we want to abolish as quickly as possible, applies only to Indians living on reserve pursuant to the Indian Act. That solves the first problem.

As for the second problem, there is nothing in Marleau and Montpetit that sets a deadline for a committee to study a government bill. I stress, a government bill. Like him, I too have read page 656 in English and in French. I can tell him that we have...

[English]

**Mr. Harold Albrecht:** I can't read French.

**Mr. Marc Lemay:** I can read it in English, no problem.

[Translation]

Marleau and Montpetit does not set any deadline for consideration of government bills. So we can take more time, as First Nations are asking us to.

They have made this request of us, and the motion that I have tabled today will reveal who was right. I hope to be here 10 months from now. Mr. Chairman, if I am still here 10 months from now and nothing has been done regarding consultations on the repeal of

section 67, several people in the department and from the First Nations will have to answer some serious questions.

I think that once this motion has been passed, all the arrangements could be made to have a true consultation, to set deadlines and to approve funding. Like you, Mr. Chairman, I heard the officials from the Human Rights Commission tell us, when they last appeared, that no funding above what they already had for implementation of Bill C-44, if it were passed, had been provided for. So we will give them a chance to get ready by passing this motion.

In conclusion, Mr. Chairman, please note that my motion makes no mention anywhere of Bill C-44. That was done deliberately. In fact, if the government decides to prorogue the House, I want to avoid a situation whereby we are told that Bill C-44 died on the *Order Paper* and we must halt the consultations. With this motion, the government could proceed and nothing would keep them from holding a true consultation. The same thing would hold for the First Nations that will be participating in a consultation process.

They have told us on several occasions that they were ready to be consulted and I think that is what will happen starting this afternoon, in approximately 15 minutes, if the motion is passed. Arrangements for cross-Canada consultations will be made. First Nations would then need to come to the table, the department would have to make some decisions and if necessary, set up a crisis centre to prepare immediately for a genuine consultative process.

• (1240)

[English]

**The Chair:** Thank you. We're going to end the debate there.

Mr. Lemay, I respect your opinion.

(Motion agreed to: yeas 7; nays 4) [See *Minutes of Proceedings*]

**The Chair:** We don't have any further business, so the meeting is adjourned.







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