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

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**Thursday, December 13, 2007**

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**Chair**

**Mr. Barry Devolin**

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## Standing Committee on Aboriginal Affairs and Northern Development

Thursday, December 13, 2007

• (1750)

[English]

**The Chair (Mr. Barry Devolin (Haliburton—Kawartha Lakes—Brock, CPC)):** I'd like to bring the room to order, please.

We'll begin meeting ten of the Standing Committee on Aboriginal Affairs and Northern Development. We'll just pick up where we left off in meeting nine.

I have one more speaker on the subamendment that Mr. Warkentin had put forward, which was to remove new paragraph 1.1(c) of NDP-3.

If Mr. Bruinooge is the last speaker, we will move to a vote on that subamendment and then move back to the main amendment itself. We have a speakers list of Ms. Keeper, Mr. Albrecht, and Ms. Crowder.

First of all, let's tidy up our subamendment discussion.

Mr. Bruinooge.

**Mr. Rod Bruinooge (Winnipeg South, CPC):** Mr. Chair, like a sports team that's down by a lot of points, I'm looking at the clock here and getting a little concerned that victory is not going to happen—victory being passing this bill. But in light of the fact that we do have time left on the clock, hopefully we'll be able to proceed quickly through a number of other amendments, some that hopefully won't even be brought forward because they don't need to be, in my opinion.

I want to make reference to something Mr. Lemay said when he was speaking to new paragraph 1.1(c).

I guess my point on this would be that the Canadian Human Rights Act can and in fact will be able to rule that certain customary laws or traditions of first nations people should be considered above and beyond a human rights case made. The Canadian Human Rights Commission will be able to adjudicate that. They will be able to rule that certain customary laws should be upheld. But if this passes, it will say to the Canadian Human Rights Commission that all of them will still apply. And that is the crux of my argument.

It's true—you're shaking your head, but I'm telling you, it's true—that they will be able to rule that individual certain customary laws are legitimate. They will say that we believe this customary law is for the benefit of collective rights, and it should be considered above and beyond this human rights case that is being brought before us. They will be able to rule that. But should you pass this paragraph, you'll be taking away their ability to adjudicate.

There are a number of other points I'd like to make—just quickly, because I know we're running out of time.

In relation to some of the testimony from Madam Keeper, speaking in relation to an interpretative provision, I just want her to state once again, perhaps, that she sees the language used within this amendment to in fact achieve what has been ruled inadmissible, which is in fact an interpretative provision. She sees this particular section as being able to achieve what the interpretative provision would have achieved. That is what I believe she was getting at through her testimony.

I just want her to perhaps speak to that again—but quickly, because I know we're running out of time.

• (1755)

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

Does anyone else want to make any comments before we call the question?

Apparently not.

Mr. Warkentin has moved a subamendment to NDP-3 that would remove new paragraph 1.1(c).

**An hon. member:** Could we have a recorded vote, Mr. Chair?

**The Chair:** Go ahead, Madam Clerk.

(Subamendment negated: nays 7; yeas 4)

**The Chair:** We now will revert back to the previous list. I just want to point out to members that if they choose not to take their turn and to move straight to the question, that would also be acceptable.

On the list I have Ms. Keeper, Mr. Albrecht and Ms. Crowder.

**Ms. Tina Keeper (Churchill, Lib.):** Mr. Chair, I will just pass for the moment. Thank you.

**The Chair:** Mr. Albrecht.

**Mr. Harold Albrecht (Kitchener—Conestoga, CPC):** Thank you, Mr. Chair.

Mr. Lemay earlier referred to the fact that all of the witnesses had recommended a non-derogation clause, and I would take exception to that, because there clearly were some who did not.

He also mentioned in his earlier remarks, as we dealt with the proposed amendment, that it should be all or none. Mr. Chair, I believe it should be none. I believe that existing aboriginal and treaty rights are currently constitutionally protected in section 35 of the Constitution Act in the same way that individual rights and freedoms are protected by the charter. So in my opinion there's no need to make reference to aboriginal and treaty rights in this bill for that constitutional protection to apply. That protection is automatic, so I would just ask the mover of this motion why we would want to include something that is redundant or already protected in the Constitution Act and the charter.

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

Coincidentally, the next speaker is the mover, and the last person on my list, Ms. Crowder.

**Ms. Jean Crowder (Nanaimo—Cowichan, NDP):** Thank you, Mr. Chair.

Of course, I'm going to speak in favour of this amendment.

It goes back to the Canadian Human Rights Commission itself. And there was some conflicting information even in their own suggestion—unless I've misinterpreted it—but one of the things they do note in their own document is that the commission and tribunal have neither the capacity nor the expertise to interpret sections 25 and 35. So it would seem important that people acknowledge the fact that if we took section 25 of the charter—which obviously is valid and relevant—and restated it here in this piece, it would just seem to be a reaffirmation of those rights. And if people agree that the charter stands, then I'm not sure what the argument there is against including it here. I think we heard sufficient testimony from a variety of witnesses that there would be some assurance for people in having this included and showing that these rights are recognized. So I think it's important that we include this clause in the proposed piece of legislation before us.

• (1800)

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

Seeing there are no further people who want to speak, I will call the question.

**Ms. Nancy Karetak-Lindell (Nunavut, Lib.):** Could we have a recorded vote, please?

**The Chair:** Yes.

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

**The Chair:** In our package, the next piece is amendment LIB-1, but we had decided that if NDP-3 carried, it would be unnecessary, and Ms. Neville agreed.

The next—

[*Translation*]

**Mr. Marc Lemay (Abitibi—Témiscamingue, BQ):** Mr. Chair, I move that the committee adjourn until January 29, 2008. I so move.

[*English*]

**The Chair:** Before I move to your point of order I would like to point out to Mr. Lemay that if he moves a simple motion of adjournment, it is non-debatable. If he moves a motion of

adjournment that is substantive, meaning that it refers to a specific date that we reconvene, it is debatable.

[*Translation*]

**Mr. Marc Lemay:** I am moving that this committee adjourn.

[*English*]

**The Chair:** Mr. Storseth.

**Mr. Brian Storseth (Westlock—St. Paul, CPC):** The honourable member opposite clearly stated a date that the committee would adjourn to. That makes it a debatable motion. I would therefore plead to the chair that he allow us to have debate on this, as it is a substantive motion. This is once again the opposition members trying to filibuster and delay human rights to Canadians. This is not acceptable. This is the same stunt they have pulled time and time again. This is the same thing they continue to do—

**Hon. Anita Neville (Winnipeg South Centre, Lib.):** I have a point of order, Mr. Chair.

**Mr. Brian Storseth:** It needs to be plain to Canadians that they are doing this, and we should have the ability to debate it.

**The Chair:** Mr. Storseth, I have three points of order. One from Mr. Bruinooge, and then the next one from Mr. Lemay...

**Mr. Rod Bruinooge:** Mr. Chair, I was wanting to start debate on the motion that was put forward.

**The Chair:** I'll move to the point of order then.

I heard another point of order over here—a female voice.

**Hon. Anita Neville (Winnipeg South Centre, Lib.):** It was me, saying this was debate.

**The Chair:** Sorry.

Monsieur Lemay.

[*Translation*]

**Mr. Marc Lemay:** Mr. Chair, I want to be clear.

You asked me what my position is: I do not want any debate. So I am moving that this committee adjourn. That is my motion.

[*English*]

**Mr. Brian Storseth:** I have a point of order, Mr. Chair.

You cannot withdraw a motion that's been on the floor unless you have unanimous consent.

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

According to the legislative clerk, a motion is not considered to be moved until the chair accepts it. I did not have the opportunity to accept that motion. I was explaining the options that Mr. Lemay had. As such, I will allow Mr. Lemay to restate his motion. He has restated it in its simplified form, that this committee now adjourn, period.

Mr. Bruinooge.

•(1805)

**Mr. Rod Bruinooge:** We've all taken time to be here late into the session. Should we vote for this motion, we will be undoing what we're trying to accomplish today. We'll be setting aside human rights for first nations.

We should be ashamed to end our session this way.

**Mr. Todd Russell (Labrador, Lib.):** I have a point of order.

**The Chair:** Mr. Russell first, and then Mr. Lemay.

[*Translation*]

**Mr. Marc Lemay:** A point of order, Mr. Chair.

A motion for adjournment cannot be debated. It must be put to a vote.

[*English*]

**The Chair:** Excuse me, I appreciate that there's some difference of opinion at this table. Mr. Lemay made an attempt to move a

motion of adjournment. In that motion he attached a condition to it. I did not accept that motion. Prior to accepting the motion I pointed out to him the implications of making it substantive rather than superceding. At that point he decided to make it a superceding motion. I will not entertain any further points of order. I will call a vote on this motion by Mr. Lemay to adjourn.

**An hon. member:** I want a recorded vote.

(Motion agreed to: yeas 7; nays 4)

**The Chair:** With that, I want to wish everyone, including the staff who stuck around late tonight, our witnesses, and others in the room a happy holiday season. Merry Christmas and Happy New Year.

I'll see you back sometime soon.

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