



House of Commons
CANADA

Standing Committee on Canadian Heritage

CHPC • NUMBER 041 • 2nd SESSION • 40th PARLIAMENT

EVIDENCE

Thursday, December 3, 2009

—
Chair

Mr. Gary Schellenberger

Standing Committee on Canadian Heritage

Thursday, December 3, 2009

• (1130)

[English]

The Chair (Mr. Gary Schellenberger (Perth—Wellington, CPC)): Welcome to meeting number 41 of the Standing Committee on Canadian Heritage, pursuant to the order of reference of Friday, March 6, 2009, Bill C-302, An Act to recognize the injustice that was done to persons of Italian origin through their “enemy alien” designation and internment during the Second World War, and to provide for restitution and promote education on Italian-Canadian history.

Just before we start, I've been asked by the clerk to bring forth the budget for our witnesses. I would like to get it out of the way quickly, if I could.

The budget is for \$16,400. Witnesses' expenses are \$14,400, and \$2,000 is for miscellaneous.

The Clerk of the Committee (Mr. Richard Dupuis): For Bill C-302.

The Chair: Yes, this is for the witnesses for Bill C-302.

All those in favour of the budget?

Some hon. members: Agreed.

The Chair: Thank you for that. We now move back to the bill.

(On clause 3—*Apology*)

The Chair: The other day we were at amendment L-1.

Mr. Del Mastro.

Mr. Dean Del Mastro (Peterborough, CPC): Thank you, Mr. Chairman.

I appreciate the opportunity to continue to discuss this important matter.

The Chair: I'm going to interrupt one more time.

The meeting will be over at one o'clock. I have something I have to do and I know Mr. Angus has.

Go ahead, Mr. Del Mastro.

Mr. Dean Del Mastro: Thank you for that clarification, Mr. Chairman.

Subsequent to our meeting in which we were discussing the very significant legal ramifications of clause 3 of this bill, considerations I think this committee should be well apprised of because it seems that members are reluctant to consider the implications it could have for

all Canadians who were ever affected by the War Measures Act, I did get a legal opinion on Bill C-302, which I'd like to share with the committee. It deals specifically with this matter. I'd like to share that with the committee, because I think it's very important. I can share more of the letter if people would like more background, but I'm going to deal with the potential legal risks arising from Bill C-302.

This opinion I received from Mr. George Barry, counsel, legal services unit, Citizenship and Immigration Canada. He writes:

One area of legal risk that exists should the Bill become laws concerns the possible increased liability to the Crown in the context of the *Giacomelli* case. In *Giacomelli v. R.* the plaintiff, an Italian-Canadian who had been interned in World War II, brought legal proceedings against the government seeking damages based in part on an apology given in 1990 outside the House of Commons by then Prime Minister Mulroney to the Italian Canadian community. Since *Giacomelli* is still before the courts, the passage of Bill C-302, in particular its formal apology by Parliament could have an adverse effect on its outcome. While Mr. Giacomelli passed away 2 years ago, his estate is continuing the proceedings, but only on non-Charter arguments since the Courts have ruled that Mr. Giacomelli's estate cannot invoke Charter arguments in his stead.

As well, the Bill must be considered in the context of the Agreement-in Principle entered into between the government of Canada and representatives of the Italian-Canadian community. While this agreement did not create specific obligations on the part of the Crown with respect to compensation, it did arguably create an obligation on the Crown to negotiate. Bill C-302, at the least, creates a parallel obligation to negotiate.

Up to now Canadian courts have been reluctant to conclude that an apology is an admission of liability. This said, all court cases so far on this issue have been concerned with material or physical damages from motor vehicle accidents, commercial transactions and the like. In many cases the apologies were made verbally, and on the spur of the moment. No court has ever had to determine whether an apology contained in a statute or made by a Prime Minister in the House of Commons or by another representative of the Crown is akin to an admission of liability. It is consequently uncertain how the court in *Giacomelli* would interpret an additional apology, this time in a statute, when the case is actually pending before the court. But it seems safe to say that it increases the risk against the Crown.

It is also important to note that any risk represented by *Giacomelli* may be clarified in the near future as a hearing before the Ontario Divisional Court in this case took place on November 4th. The appeal here is by the Crown challenging the Ontario Superior Court's decision not to allow the Crown's motion to strike the plaintiff's claim. While our litigators view the Crown's chances of success in this appeal as good, an assessment of the ongoing impact of this case on C-302 will have to await the release of the Court's decision, which is anticipated in the near future.

Notwithstanding the courts' reluctance to link apologies to liability, there is concern about this in the legal and parliamentary communities. Evidence of this is that 2 years ago the Uniform Law Conference of Canada adopted a motion encouraging all provincial legislative assemblies and the Parliament of Canada to enact legislation which states that an apology is not an admission of liability and cannot be used in a court of law to prove liability. So far, 4 provinces have enacted such legislation (BC, Saskatchewan, Manitoba and Ontario). At the federal level, some discussions have taken place between the Department of Justice and the Department of Canadian Heritage with no outcome yet.

•(1135)

At this point, I would note that in the province of Ontario the provincial government did enact the Apology Act 2009. What the Apology Act does—and what the federal government is not protected from—is the act stipulates that in civil proceedings, administrative proceedings, or arbitrations, evidence of apology is inadmissible as evidence of fault or liability in connection with that matter. It's significant. The federal government has no such legislation. So an apology, especially one that's passed by Parliament, could very well bring the crown into a significant case of liability in all cases where the War Measures Act was in fact undertaken.

I'll continue on with the letter:

As well, and perhaps more significantly, the Bill appears to be seeking to alter the legality of things done in the past. The Crown has argued in the *Giacomelli* case that its actions were appropriate and measured, in terms of the situation that existed at the time, and that these actions were entirely within the law. This Bill seeks to reach back into the past and to retroactively render these acts illegal.

If C-302 is enacted, it would be the first time that an apology is provided to ethno-cultural communities in a federal statute. Apologies have been made by Prime Ministers in the House.

An example is given for the internment of Japanese Canadians during World War II, which was made in 1988, and there was one for the residential schools in 2008. Outside the House, prime ministers have apologized for the internment of Italians during World War II, in 1990, and the turning back of the *Komagata Maru* ship to India in 1914.

A number of court cases, initiated by ethno-cultural communities, followed the apologies and redress package provided only to the Japanese-Canadian community in 1988....

—the *Giacomelli* case in 2005 on the World War II internment, and the Ukrainian Civil Liberties Association in 2007 with respect to the World War I internment—

In order to mitigate risks, the Prime Minister's apologies for the Chinese Head Tax and for the *Komagata Maru* incident referred to the legality, at the time, of the measures taken.

This bill, as stated previously, seeks to rewrite history and deem these things as illegal, which is a problem.

Passage of C-302 could also expose the government to a significant risk of... litigation based on s. 15 of the Charter by members of other ethno-cultural communities who suffered comparable treatment as the persons of Italian descent in World War II.

The example given is German Canadians, or in "World War I (Germans, Ukrainians and other members of the Austro-Hungarian Empire) who would not benefit from C-302."

Risk of a successful s. 15 Charter challenge was mitigated in the case of the apologies and redress made to the Japanese- and Chinese-Canadian communities, in 1988 and 2006...because these two communities each suffered treatment that was deemed unique and unparalleled.

Legislation related to the internment of persons of Ukrainian origin during World War I received Royal Assent in 2005. This legislation was amended such that a number of legal issues identified above were addressed.

So they actually took time to deal with this and head off the potential legal implications for the crown prior to royal assent.

As well, while requiring the Government of Canada to undertake negotiations with the representatives of the affected community, it did not require that these negotiations concern restitution for unjust treatment. Considerable discretion was provided for with respect to the various measures that might be addressed in the

agreement (including that the parties "may request the Canada Post Corporation to issue a commemorative stamp").

In s. 3 of the Bill the treatment of the persons concerns is said to be "unjust" and to represent "an infringement on their rights". While this language does not explicitly and retroactively alter the legality of what was done, it might, as noted above, be argued to have this effect. An amendment would be advisable to reflect...what...was legally authorized at the time and to clarify the current Bill is not making any retroactive change to the law in effect at the time. It should also be noted that, while the Bill (in terms of the apology and the acknowledgement of past wrongdoing) is aimed at individuals, the compensation referred to would not be individual in nature.

•(1140)

Therefore, by referring to individuals, and wrong done to individuals, it could well be interpreted that the compensation, or any kind of funding that would be forwarded, as the bill seeks negotiations, could be deemed to have been directed at the wrong individuals, representing, again, a significant liability for the crown.

The letter continues:

Therefore any argument that the Bill is intended to address all issues with respect to the right to compensation is diminished by the fact that the Bill speaks in terms of wrongs done to individuals but compensation that is not to be provided on an individual basis.

As well, the Bill identifies the wrong Minister: the Minister of Canadian Heritage. If this Minister were given the authority set out in this it is unclear that the negotiations could be carried out under the current authority of the CIC Minister. The most straightforward method to address this would be to amend the Bill to name the correct Minister.

In addition, as noted above, the Bill as currently drafted runs the risk of being viewed as a money bill. Even if this were not the case, and as also noted above there is an argument to the contrary on this point, the fact that the Bill would require a pay out of funds still creates a problem. Parliament's approval of a negotiated agreement by any mechanism other than enacting a money Bill would have no ability to unlock the consolidated Revenue Fund so as to enable payment to be made.

I could continue, because the letter does continue, but it's very important. I understand that several members opposite feel that we should just vote on this, we should get it done, we should move it through. That's all we should do, because it's a short bill, and you know, what harm can be done by a short bill? But the reality is—as I stated at the last meetings—the ACE agreements specifically limited the liability of the crown, and this bill does not do that. It simply does not.

As I indicated earlier, by indicating that measures, as undertaken through the War Measures Act, which was repealed by Brian Mulroney, then Prime Minister, in 1988.... His government repealed the War Measures Act, specifically citing experiences of cultural communities, including the Italian Canadian community, as a reason for repealing the War Measures Act. The actions taken under it were just at the time. They may not have been right, but they weren't illegal in Canadian society. And when the previous government undertook its ACE agreements, it said, again—I just want to find it—that this "this Agreement-in-Principle, premised on the principles of 'no compensation' and 'no apology'". The reason they did that specifically was because of the potential liability, into the billions of dollars, that can be created by literally rewriting history in this fashion. It's irresponsible, and it's not expected by Canadian society.

Thank you, Mr. Chair.

The Chair: Mr. Angus.

Mr. Charlie Angus (Timmins—James Bay, NDP): Thank you, Mr. Chair.

I've been on this committee for five years. I come to this committee in good faith to provide the perspective that I think we can move forward with good legislation. I do my time on this committee doing my research so that I'm prepared for issues.

We've been on this bill on November 19, November 24, November 26, and December 1—not to mention the fact that we knew this bill was coming up for months in advance. At no time did the parliamentary secretary bring forward any information. At no time did he offer witnesses, not until we were in clause-by-clause. It seems to me—and I take this as a matter of great seriousness—that either the government had this information, knew this information and withheld it from our committee as part of an obstructionist pattern, which has been, unfortunately—

Mr. Dean Del Mastro: I have a point of order.

The Chair: On a point of order, Mr. Del Mastro.

Mr. Dean Del Mastro: Thank you, Mr. Chairman.

The clerk well knows that we did in fact bring witnesses, including the Minister of Immigration, before the committee—

• (1145)

Mr. Charlie Angus: The Minister of Immigration did not speak on this issue at all.

Mr. Dean Del Mastro: He did speak about the viability—

Mr. Charlie Angus: Can I continue? You will have time to speak.

Mr. Dean Del Mastro: —but we also brought other witnesses. Pal Di Iulio was a government witness on this bill.

Thank you.

The Chair: Okay. Let it be recorded—

Mr. Dean Del Mastro: I just want to correct the record.

Mr. Charlie Angus: Well, let's correct the record, Mr. Chairman.

The Chair: —that there were some government witnesses.

Mr. Charlie Angus: They brought witnesses who spoke nothing of this issue. If this were the seminal issue, those witnesses would have spoken about it. They spoke nothing of it. I asked the government witnesses whether they had a problem with this bill. They shrugged; they didn't say a single word. So now, at clause-by-clause on a private member's bill, when the clock is ticking, they bring this forward, and suddenly they're accusing the opposition of not doing our work.

I would say that either the government had this information and withheld it from our committee, which I take as very serious, or they were incompetent and didn't know, which I find hard to believe.

When the member first raised this on Tuesday, I said that if there are problems, then I'm certainly open to amending the language. If the issue is restitution, we can deal with it. But I have not seen a single move from the members across at any point to try to amend language so that this can be addressed. They have obstructed, they have talked out the clock, and now they're in a position in which they know that if we continue to talk this out without amending the bill, it will go back to the House without any amendments. So if there is

any issue of risk or liability, I would say it lies squarely on the shoulders of the parliamentary secretary for not bringing it to us in advance.

And it's certainly hard for me as a member on this committee to take it seriously. If this were the fundamental reason for opposition, it would have been raised as a fundamental reason for opposition. I heard none of that from Minister Kenney; I heard none of it from the government witnesses. I find it very unfortunate that when I made the offer... And I made the offer in good faith. This is not my private member's bill; I have no stake in the bill whatsoever. If there's language that has to be amended, I'm willing to amend it. That's what we do at clause-by-clause. What we don't do at clause-by-clause is start waving around a paper saying that if we go forward in any way the end of the world is nigh.

I would like it on the record that if this member and his party were serious about this, they would stop the filibustering games, stop playing with the clauses, and go through it, and we can talk about language that would have to be amended in order to bring this forward. Otherwise, I say they've acted in bad faith.

If we continue to talk the clock out, this bill will go back to the House unaltered.

The Chair: Mr. Calandra.

Mr. Paul Calandra (Oak Ridges—Markham, CPC): Thank you, Mr. Chair.

I would note to Mr. Angus that we're actually talking about the amendment; we're not talking about the bill just yet. I hope he has this same feeling when Canada-Colombia comes back up for debate.

It's ironic that we are talking about this a couple of days after the town of Ortona in Italy was paying tribute to Canadian soldiers who sacrificed a tremendous amount in the Second World War. The town was actually thanking Canada for all it had done.

Mr. Charlie Angus: My uncle was there.

Mr. Paul Calandra: To get back to the amendment, Mr. Chair, I've done some research, because I took to heart what Mr. Angus said about maybe getting down into the bill a bit further. As you can tell, I've done a little bit of research on this and I'm going to go through some of this over the next little while, and hopefully that can lead to some friendly discussions and we'll see how it goes from there.

Initially, on some of the background I was looking at, we had heard a lot about the agreement that was signed in principle by the previous government. I did find in an article of October 14, Angelo Persichilli said, "Prime Minister Martin confirmed that \$2.5 million has been earmarked" in this agreement in principle, and it was signed by Raymond Chan in the presence of Pierre Pettigrew, and signed by the Prime Minister, and the heritage minister was there. The article goes on to say "However, PM Martin—unlike then-PM Brian Mulroney did in 1990—offered no apology from the Federal Government to those who suffered those injustices."

I note that simultaneously, when the announcement was being made, there was another announcement being made by the immigration minister in Toronto, Minister Volpe, with respect to that particular agreement. Minister Volpe decided he would focus more on the importance of the Italian community to Canada and all of the successes that they brought to Canada. But there was something I read: "Satisfaction has been expressed by NCIC President Dominic Campione"—you'll remember him as one of the witnesses who we had here in front of us. He said, and I quote:

"This is a historic date for our community, the day when the important task of educating this and the future generations on the evolution of our community in Canada." The internment of Italians during World War II "is a dark page in Canadian history, and the agreement in principle," maintained Campione, "gives our community an opportunity to make sure that such events are never forgotten and, most of all, never repeated."

He described that agreement, which gave them \$2.5 million, as historic. I searched and searched and I could not find anywhere where the NCIC and Mr. Campione were suggesting that an apology was actually needed. I really did a lot of searching for that, Mr. Chair. I couldn't find anywhere where they suggested that an apology was required.

I did some additional research, and I'll share it with you because I know you're interested, Mr. Chair. "In November 2005, Italian Canadian representatives signed an agreement-in-principle with the federal government..." Again \$2.5 million. Who signed? "A representative of the National Congress of Italian Canadians", and it goes on to tell the others. Again, to quote, "This is an historic day for our community," said Dominic Campione of the \$2.5 million that they received.

I was able to find, going back, some of the press releases at the time.

• (1150)

Mr. Dean Del Mastro: A point of order.

I just want to clarify the record. No \$2.5 million was in fact ever paid to the NCIC. It was a contract that was signed, an unfunded contract to establish an endowment that was never actually established. I just want to correct the member on that.

The Chair: Thank you for that correction.

Mr. Paul Calandra: He is quite right. It was actually just an agreement in principle that was never fulfilled.

On November 12, 2005, Citizenship and Immigration stated:

The Government of Canada and the Italian Canadian Community have developed this Agreement-in-Principle, premised on the principles of 'no compensation' and 'no apology'...It is the intention of both parties that a final agreement...will be concluded as soon as possible.

It adds that the Government of Canada plans to provide \$2.5 million. This is from a government press release. Sorry, I'm not sure if I said it was November 12, 2005, from a previous government press release. It goes on to say:

This Agreement-in-Principle shall not be interpreted as a full and final agreement nor as constituting an admission by the Government of Canada of the existence of any legal obligation of the Government of Canada nor as foregoing/limiting any person(s) right to advance or initiate an action/claim against the Government of Canada, nor shall this Agreement-in-Principle be interpreted by any of the signatories as representing the interests of all Italian Canadians.

I'll read that again. It says, "nor shall this Agreement-in-Principle"—the one they're talking about is the one by the previous government—"be interpreted by any of the signatories as representing the interests of all Italian Canadians." So what they're saying is that the NCIC does not speak for all Italian Canadians.

I found another article, actually, that was in an Italian Canadian magazine. Again it expresses the \$2.5 million that was provided as part of the initial framework. They were excited because they were "looking for worthy projects that will fulfil our mandate", Campione said. The timetable: a detailed and approved program ready for project submissions.... The money will be used, he went on to say, to acknowledge and educate people with respect to what happened during the internment.

I found another one about Italian Canadians in history. It's from a magazine called *Fusion*. Again it talks about the \$2.5 million that was part of that potential agreement, and again, I quote from Mr. Campione:

"This is an historic day for our community: we begin the important task of educating present and future generations about the evolution of the Italian community in Canada," says Dominic Campione, president of the National Congress of Italian Canadians. "The internment of Italians during the Second World War is a dark page in Canadian history, and this agreement-in-principle allows our community the ability to ensure not only that these events will never be forgotten, but that they will never be repeated."

I will skip these pages. I won't table them. They're about donations to the Liberal Party, but I'll skip over that.

Canadian Heritage had a press release again on November 12, 2005, and again there is a quote from Mr. Campione for the NCIC that suggests that it was an historic day to have received an acknowledgement and some potential to have \$2.5 million from the Government of Canada—an historic day that did not include an apology of any kind.

There's another one again on Saturday, November 12. This was in a Halifax paper. It said that Dominic Campione, president of the National Congress of Italian Canadians, said that the internment of Italians during the Second World War "is a dark page in Canadian history, and the agreement in principle" allows "our community" the ability to ensure not only that these events will never be forgotten, but that they will never be repeated.

Again, that was based on no apology, no compensation, and \$2.5 million, as opposed to the \$5 million that our CHRP program has actually put forward.

Then all of a sudden on March 23, the new president of the NCIC suggested that the original agreement—the \$2.5 million—was what they were looking for. He said, of the government's new approach, which would see \$5 million to community historical recognition, "The Italian Canadian community cannot accept a settlement that is less, both in monetary terms and in the modalities of implementation, than what was agreed upon through the ACE program."

• (1155)

Again, there is no mention of an apology. So the new president was very specific. I disagree with him, because I think the \$5 million that was announced through our CHRP program is more reflective than the \$2.5 million. I think it can give us a lot better recognition than the—

The Chair: Mr. Calandra, could you give me the date on that particular...?

Mr. Paul Calandra: It was March 23, 2009.

I notice too, Mr. Chair, that the heritage committee in the 38th Parliament was also seized of this. At the time, it was Minister Chan who stated for the record that the government would not apologize because he had legal opinions that suggested that it opened the government up to legal liability, and therefore there would be no apology forthcoming from the previous government.

If you'll bear with me, I'll read you some of the things Mr. Chan said: "We cannot compensate people. That would be opening the taxpayer to unlimited liability, for...future generations." He also said "that while it's important to honour those who were subject to racist policies of the past, it would be irresponsible to open the door to compensation." "However, Chan argues that once the door to compensation is opened, anyone can take the government for whatever they...can get."

Chan argued that there was an issue of liability because the government of the day had formally apologized. He was talking about another apology, actually, at that point.

The CRRF, the Canadian Race Relations Foundation, commented on November 15, 2005, on the previous agreement. They noted that the package announced by the government of the day, the Martin government, does not include an apology or compensation. The quote was, "If the Italian-Canadian community, and particularly those who were interned, is satisfied with the agreement-in-principle and the eventual provisions of an agreement, then the CRRF celebrates with them.... Our policy is to support the wishes of the community in this manner." That was from Paul Winn, talking about the \$2.5 million previous agreement and the fact that there would be no apology and no compensation.

I found some pictures from the signing ceremony a number of years ago for that agreement, which had no apology, no compensation, and was for \$2.5 million. There were a lot of smiling faces, including that of the member who has sponsored this particular bill. He doesn't seem to be too frustrated about the lack of an apology or compensation. There are a lot of smiling faces there, but again no apology, no compensation. That seems to have been fine at the time.

I'll skip over that. There are some more pictures of the happy, smiling faces at that meeting.

But then later, on January 5, I found that it would appear that Prime Minister Martin had also offered an apology to Italian Canadians, believe it or not, Mr. Chair.

On January 5, 2005, "Martin's...apology appeared to also include Italian-Canadians interned in the Second World War, and Ukrainian-Canadians interned during the First World War." He said:

"Sadly there are examples in our history, including the Ukrainians and the Italians. They all had terrible experiences," Martin said while discussing the head-tax issue.

However, the Prime Minister was rebuked by Minister Chan, who then said, "I commend the Prime Minister for apologizing" and added:

"My reason for not apologizing is because of the legal position that was given to me by my department.... And as a minister I rely on my department for advice. And if it's not the case, if there's no legal consequences, then I would...apologize."

But his department had told him that there was an issue. I searched and I searched late into the night last night, Mr. Chair, to see remarks of individuals who were parliamentarians in January 2005 expressing their outrage that Prime Minister Martin had given a second apology to the Italian people outside of the House, and ironically I just couldn't find them.

● (1200)

I couldn't find anything from any member of the then-government. I think there was a statement from a Conservative, though; it was just about their timing.

One thing I did find was when that agreement in 2005 was announced, there was a Canadian who had been interned, who was there, a Mr. Capobianco, who declared that it was too much, too little, too late, and that he intended to vote Conservative. So he's a very insightful guy of that particular agreement.

I took a section about Italians from the *Encyclopedia of Canada's Peoples*, and for a number of pages it talks about all the good things the Italian people have brought to this country. It talks about the internment. In the encyclopedia it says:

The Congress also took up the issue of wrongful treatment and internment of Italian Canadians during World War II, for which it received an official apology from the Prime Minister in 1990, and a promise to redress the damages suffered by the community. Although it is relatively young in comparison with organizations...in a short time the National Congress of Italian Canadians has proven to be an effective vehicle....

So they did get an apology. Again I searched and I couldn't find an addendum or an amendment to that insert in the Canadian encyclopedia that suggested the NCIC or the Italian community was upset at that apology by the Prime Minister of Canada, or the subsequent apology of Prime Minister Martin.

Then I found something in the *Toronto Star*. We all know the *Toronto Star* is not usually the paper that individuals such as I, a Conservative, would read, but they had an article about apologizing. It is by Bruce Campion-Smith. He talks about landmark apologies in Canadian history. He talks about Prime Minister Harper's landmark apology to thousands of Chinese Canadians and he also talked about November 4, 1990, when Prime Minister Mulroney issued a formal apology to Italian Canadians.

He goes on to talk about the apology that the Prime Minister...he called it a landmark apology in Canadian history, Mr. Chair.

The reason I brought all that up, Mr. Chair, is because we have to know what an apology is all about. I had to do some research. How do we accept apologies? What are apologies? What is the definition of an apology? When should an apology be given?

I was able to find a very extensive report tabled on December 11, 2007. The title of the paper is *A Time for Apologies: The Legal and Ethical Implications of Apologies in Civil Cases*. It's a very good research paper, Mr. Chair. I'm going to read some of the aspects of an apology because it gets to the heart of what Mr. Angus was saying. If we're going to be discussing potential amendments, it's important to set the stage with what happened before and understand what the appropriate elements of an apology are, what needs to be included in an apology if it's going to be accepted by people, so that in the future we don't have to go down the same road, and some people accept the apology and others don't. Clearly, two Prime Ministers have apologized, and that hasn't been enough for some people.

• (1205)

I've done some research. This is some riveting stuff, Mr. Chair, which I'm sure you'll find will be very interesting to you and other members of the committee for when we decide on our amendments—if there are going to be any.

As much as possible I'll reference the people who wrote it. She, the author, writes:

In order to ensure that an apology satisfies both the needs of victims and wrongdoers, this Paper proposes that the parties engage in an "apology process" that involves four fundamental steps: determine the needs and expectations of the victims in relation to an apology; determine the needs and expectations of the apologizer; mediate the apology between the parties; and support the delivery of the apology.

I'll read it again, just because I know this is pretty important stuff here.

Mr. Dean Del Mastro: It's not in this bill.

Mr. Paul Calandra: This is the important point:

Determine the needs and expectations of the victims in relation to an apology; determine the needs and expectations of the apologizer; mediate the apology between the parties; and support the delivery of the apology.

This bill says nothing about it. It doesn't fulfill any of those elements in any way, shape, or form. I would suggest to you, Mr. Chair, that the apology given by Prime Minister Mulroney in fact did meet all of these four elements. I would also note that it was the NCIC at the time that invited the Prime Minister to speak in front of them so he could deliver this apology, after they had negotiated and talked about what they expected in the apology.

Professor Nicholas Tavuchis, a Canadian sociologist reduces an authentic apology to two fundamentals: being sorry for harm done to another, and then saying so.

And Prime Minister Mulroney fulfilled those two qualities.

Law Professor Daniel Shuman, drawing on the works of others, concludes: "Minimally, to be meaningful, an apology must express regret for the occurrence of a harmful event and acknowledge responsibility for it."

Again, the apology of Mr. Mulroney did that.

Dr. Aaron Lazare, a psychiatrist and author of the influential book *On Apology*

—he wrote a book on apology—

cites four principal components of an apology: acknowledging the offence, communicating remorse, providing explanations, and making reparations.

Of course, the Mulroney apology did that, and again through the CHRP we've made reparations and we can go on.

She goes on in this paper to talk about the seven core elements of an apology. Now who would have ever thought, Mr. Chair, that there

would be so much involvement with respect to an apology? When you're talking about emotional issues and you're talking about asking the Prime Minister of a country or the government of a country to apologize for something, clearly we have to know what we're apologizing for and we have to know that the apology contains all the elements of an appropriate apology.

I would note that the opposition is led by a professor, so he might want to also review some of these elements in helping draft some amendments for the member. I guess it would have been a lot easier had our motion for a 30-day extension been actually granted, but I note it wasn't, so we're going to have to flesh this out here.

The seven core elements of an apology are: recognition which involves identification of the wrong, acknowledgement of the violation of a norm, and appreciation of the extent of the harm done to the victim; remorse which includes genuine expressions relating to regret for the harm that occurred; responsibility which acknowledges that the wrongdoer did harm to the victim; repentance which includes attitudes and behaviours including regret, shame, humility...; reasons which are explanations...; reparation or restitution...; and reform.

Again, all of that was done by the Prime Minister. Indeed, many of the elements, including the withdrawal of the War Measures Act and all the other elements were done by Prime Minister Mulroney.

Prime Minister Mulroney has met all of those. Granted, Prime Minister Martin did not. He didn't meet all of those criteria, but his was done in a different context.

I must say this about Prime Minister Martin. I don't doubt his sincerity when he was making that apology. I assume he was being very sincere to the Italian people, and I have a great deal of respect for the office of the Prime Minister. When a Prime Minister apologizes for something, I tend to believe.

Now it goes on. There's also something here called the response to harm continuum:

The Response to Harm Continuum comprises the following responses: validation in which the speaker acknowledges/confirms the victim's experience...; expression of benevolence which is an empathetic expression to the victim about the harm; expression of sympathy by which the speaker is affected by feelings consistent with the victim's or shows compassion; statement of belief in which the speaker expresses belief in the victim's story and confirms the victim's integrity; acknowledgement of fact that includes both acceptance of what a victim has described as well as acceptance of information from other sources; an explanation...; an expression of regret...; sorry statement...; commemoration...; acknowledgement of responsibility....

• (1210)

Those are all important elements in leading up to creating an appropriate apology, which of course were all done by Prime Minister Mulroney, with the NCIC, before he was invited to speak to them and issue this apology. I did mention that the NCIC at the time invited Prime Minister Mulroney to offer the apology to them after they had negotiated for some time with respect to what the apology would say.

The following questions, though, Mr. Chair, are very important.

The following questions should be asked when formulating an apology:

These are very important.

Who are the givers and receivers of apologies? Apologies have the greatest potential impact if they are delivered by the actual wrongdoer or wrongdoers.

Mr. Capobianco, who I referenced earlier, who had been interned, rejected the assertions by the previous government that they close the book.

Here are some other questions:

What are actual circumstances surrounding the harm? The apology must articulate these clearly.

Why is the apology being offered? The reasons must be...articulated.

When is the best time to apologize? Apologies offered within a reasonable time have the best chance of meaningful impact.

As you know, in my speech in the House, and earlier, I noted that it's been over 60 years, and there were six previous prime ministers who had an opportunity to apologize and they refused to do that. So there's been a lot of time in between. But thankfully, Mr. Mulroney did make his apology in 1990.

Where should the apology be offered - in private or in a public forum? Survivors usually call for two kinds of apologies: a personal, private apology, and/or an official, public apology.

How should an apology be offered? Whether it is oral or a written statement should be determined by the needs of the victim.

So the victims themselves should be deciding how an apology should be provided.

Unfortunately, right now there are no victims. I could be wrong on this, but I don't think there are any survivors of the internment around.

The concern that apologies are withheld because of concerns about *legal liability* has prompted the passage of apology legislation in various jurisdictions around the world.

—including here.

Traditionally, lawyers for both plaintiffs and defendants in civil cases have been resistant to apologies because they perceive that apologies may result in monetary settlements unfavourable to their clients.

In...common law jurisdictions in North America, the basic *rule of evidence* is that apologies may be used as admissions against interest and may be used as evidence to establish liability on the part of the wrongdoer.

It's very important. This bill here, Mr. Chair, asks for an apology but doesn't limit liability in any way, shape, or form. It opens the door to all kinds of things that clearly we're going to need to tighten up.

She goes on to say in her report that:

Apologies have not traditionally played a leading role in adjudicative processes. It is feared that apologies and other statements of regret will be treated as admissions of liability in Court. The conventional wisdom is that any statement that expresses or implies responsibility may be treated in litigation as an admission of liability.

She goes on to talk about government apologies. She says:

Government public apologies often fall short. Such apologies are rarely spontaneous, are too formal and insincere and are often too generic. Governments tend to resist apologies for the actions of past governments and distant historical injustices and are concerned about the legal implications.

So basically what she's saying here is that the apology offered by Mr. Mulroney going to the people after having negotiated with the NCIC, and being invited by them, was a much more personal apology and something that fits better with how an actual apology should be done.

I'll go on. There are some other very important elements here.

That was just in the executive summary. Now I'm getting to the actual report itself, Mr. Chair.

The Chair: It's exhaustive. It's very good work being done here.

Mr. Paul Calandra: Just bear with me. I just want to get to the pages...because I know how important it is that we actually do this. I wish we would have had those extra 30 days, Mr. Chair, but we don't, so we'll see what we can do.

● (1215)

In simple terms, "an apology is a speech act, a form of oral communication from one party to another designed to carry out several specific simultaneous communicative and moral functions."

That's what she initially says is a definition of apology.

I really took to heart what Mr. Angus said over the last couple of days.

● (1220)

Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ): Are you going on?

Mr. Paul Calandra: I am, and I know you're interested.

Mrs. Carole Lavallée: [*Inaudible—Editor*]

Mr. Paul Calandra: I know, Mr. Chair, the members opposite talked about my parents, and I will get into that because I think I can summarize what I'm saying by explaining some of the experiences of my own family. So I appreciate the honourable member asking me to share some more of that.

I've downloaded some pictures to my BlackBerry that Mr. Angus had asked for, because when I saw these other pictures I thought—

Mr. Charlie Angus: It's not relevant to why we're here.

Mr. Paul Calandra: I think explaining an apology is very relevant, because that's what we're doing here.

Mrs. Carole Lavallée: What you are doing is filibustering.

Mr. Paul Calandra: Here we go:

There are obvious shortcomings associated with people other than the perpetrator issuing apologies.

This is important. I'll read it again, because I'm not sure everybody heard it.

There are obvious shortcomings associated with people other than the perpetrator issuing apologies. The person in authority may not have been in power at the time of the wrongdoing and may have no or little connection with the events in question.

I take it by this statement that any bill that doesn't include a formal apology by the leader of the Liberal Party at the time, for the injustices of six previous Liberal prime ministers, would be insufficient in actually living up to all of the terms of a real apology. How can you have an apology that doesn't include an apology by the Liberal Party for having first interned Italian Canadians and identifying them as enemy aliens? And how can you then excuse Prime Ministers St. Laurent, Pearson, Trudeau, Turner, Chrétien, and...I'll take Prime Minister Martin off the list, because he did apologize actually. I thought he hadn't, but research tells me he has, so I'll take him off that list for now.

Still, this bill is going to have to be changed, if we go forward, to have an explicit apology, I would suggest, by the current leader of the Liberal Party to the Italian people for the injustices and for ignoring the Italian people for over 60 years with respect to an apology.

It goes on further and says:

An apology delivered from someone who is remote from the events may be more susceptible to a poor reaction. Expressions of sympathy or regret, for example, may be viewed as being strategic rather than sincere.

Now, that's interesting, because I've talked about the "strategic-ness" of this bill and how it splits the community and how it probably would have been better done when there was a majority government as opposed to a minority government. As is so often the case.... I sometimes feel bad for the Liberals that they only had four majority governments and they didn't get the fifth, because I know this is something they would have brought forward if they had only gotten that extra majority government.

I did note, and I will say this for my friend Mr. Angus, that the NDP did bring forward a motion in 2007. So they actually were seized with this. I could find no evidence of something like this ever having been brought forward by any Liberal members before this time, but as Tavuchis, who is a professor I talked about earlier, suggests:

The principal function...of all collective apologizing...has little to do with sorrow or sincerity but rather with putting things on the public record.

That's what he talks about when sometimes you bring an apology in a format that doesn't fit the test of an apology, unlike the apology that was given by Prime Minister Mulroney to the people at the request of the NCIC, who invited him to attend and speak. In fact, I'm told they brought in a lot more people at that function, a lot of other agencies and a lot of other groups that represent Italians. They felt that was an historic moment, so they wanted a lot of Italians to hear that.

Now, Martha Minnow cautions:

Forgiveness is a power held by the victimized, not a right to be claimed. The ability to dispense, but also to withhold, forgiveness is an ennobling capacity and part of the dignity to be reclaimed by those who survive the wrongdoing. Even an individual survivor who chooses to forgive, cannot, properly, forgive in the name of other victims. To expect survivors to forgive is to heap yet another burden on them.

So what Ms. Minnow, who is an acclaimed scholar in apologies, is suggesting is that nobody can claim to speak for all communities. Only the wronged do; only the victims can speak or accept an apology. So it would be absolutely impossible, as was suggested here by some of the witnesses, to suggest that they speak on behalf of all Italians, because that, certainly, would not meet the test of an appropriate apology that would stand the test of time and that would actually heal the wrongs.

•(1225)

Indeed, if there are no survivors—and I think there are none—this apology or any apology, as not really outlined in the bill, won't meet the test of time and will be open to future claims.

Professor Lazare describes the healing process and how an apology can promote healing. The professor said:

[W]hat makes an apology work is the exchange of shame and power between the offender and the offended. By apologizing, you take the shame of your offense and redirect it to yourself. You admit to hurting or diminishing someone and, in effect, say that you are really the one who is diminished—I'm the one who was wrong, mistaken, insensitive, or stupid. In acknowledging your shame you give the offended the power to forgive. The exchange is at the heart of the healing process.

Now, it is unfortunate that for 60 years the Liberals ignored the survivors and refused to make the apology, so we can't now have that level of forgiveness that will be needed, because there are no victims. But thankfully, Prime Minister Mulroney, in 1990, took the initiative, negotiated with the NCIC, was invited to address them and to apologize, so we could have that level of healing that is so essential if any apology is to actually be effective.

And clearly we're asking the Parliament of Canada, the Prime Minister of Canada—the office of the Prime Minister, it doesn't matter who fills the seat—to make an apology, and so far I haven't seen that this bill meets any part of the essential elements of an effective apology.

Thankfully, Prime Minister Mulroney has met all of these obligations.

The author went on to talk in this report.... And I'm not going to read, because I think my honourable friend did a great job the other day of explaining why other apologies were different. The author goes into the Canadian residential schools, and she talks about our first nations and the head tax and why they are different and why they required a different type of an apology. She goes into great depth. I can read it if the members would like me to. But I might reference that a bit later, because I don't want to take up all the time. I might reference it a little bit later, but I'll put it aside for now, and if I have time left at the end when I summarize about my family, then I'll get back to it.

But there are some other elements here that I think are so important in how we're going to amend or change or maybe even defeat the bill so that we can come up.... Again, Mr. Chair, I do leave an olive branch open. I wish the member had come to one of the two Italians who are actually on the government side and talked about this first, because we might have avoided a lot of the problems with this if we had taken it seriously and had a thoughtful approach, as Prime Minister Mulroney had, as opposed to rushing something through and trying to separate the community between Montreal and Toronto and Liberals and Conservatives. But anyway, we can talk about that in a bit.

I'll just get on to some of the other important points of this. As I said, if you guys want me to read some of this, I can. It mentions ethical implications—

Mr. Pablo Rodriguez (Honoré-Mercier, Lib.): Please, of course.

Mr. Paul Calandra: I don't want to disappoint my friend.

Mr. Charlie Angus: It's all going back to the House.

Mr. Paul Calandra: Actually, I'll get back to the ethical implications of inappropriate legislation and apology in a bit.

•(1230)

Mr. Charlie Angus: On a point of order, can the member just admit that this is a filibuster and that they're trying to walk the clock down so this will go back to the House unamended, unchanged, and the Conservatives will be standing to vote?

The Chair: I don't think that's necessarily a point of order, Mr. Angus.

Mr. Charlie Angus: Well it's a suggestion.

An hon. member: It's a suggestion of order.

Mr. Charlie Angus: A suggestion of order.

I've seen some good filibusters, but there are just way too many pauses in this one, so I'd ask him to at least pick up his game.

Mr. Paul Calandra: It's important, and the member came to the last meeting and asked to get some in-depth understanding. He criticized the parliamentary secretary a short time ago for not having some specifics. I've taken his request to heart and have done an extraordinary amount of research with respect to an apology. This bill is about an apology. Forgive me if I am wrong, but this bill is all about an apology.

Mr. Charlie Angus: On a point of order, then, does the honourable member actually have any language that we could see, or is he just going to go through an entire history of *Dr. Phil*? I wouldn't mind seeing some language to be amended, because we are on clause-by-clause now.

The Chair: Mr. Calandra has the floor.

Mr. Charlie Angus: If he has some language, I'd be more than willing to see it.

The Chair: Mr. Calandra, continue, please.

Mr. Paul Calandra: I'll continue, Chair.

Of course I'll have some information.

She goes on to say:

This apology-liability conundrum has a number of unfortunate consequences. Parties who are unaware of the risk that an apology could be taken as an admission may offer an apology and thereby unwittingly increase the chance that liability will be found. Parties who genuinely believe they have no legal liability may forsake an apology, even when they feel that an apology is ethically warranted, for fear that it could lead to unwarranted liability. And parties who know that liability is highly likely may still avoid an apology, so as not to damage the possibility, however slim, that they may escape liability. If the apology is given after the Court has rendered its decision, the passage of time may reduce its effectiveness. Worse, if an early apology was warranted and one is only provided after a finding of liability, the apology may be met with a reaction of "too little, too late."

Now that was ironic, because those are exactly the same words that Mr. Capobianco, who was a survivor of the internment camps, said of the 2005 agreement in principle that was brought forward by the previous Liberal Prime Minister. What Mr. Capobianco I think was indicating was that over 60 years there was an opportunity to provide an appropriate apology. It never came. A couple of weeks before an election, or two weeks into an election, is not the time to be giving that type of apology, because it won't stand the test of time.

To reference back to what Mr. Angus said, one of the reasons why we have to go so in-depth with respect to an apology... Why I respect the work of this author so much is because she has devoted a

heck of a lot of time to the importance of an appropriate apology. You can't have an apology bill that isn't appropriate because we don't want to insult the Italian community; we don't want to insult the memory of those who worked so hard; we don't want to insult the people of Ortona. Ms. LaSorda, 89 years old, every single day goes to the Canadian Italian monument and puts flowers there. Every single day she goes to the monument, puts flowers at the monument for Canadian soldiers who sacrificed so much to save that town, and that's why it's very important, when we're talking about the amendment put forward, that we really understand what the essential elements of an apology are.

I know my honourable friend who authored the bill is probably reconsidering some of those things, in light of some of the shortcomings I've been addressing.

This is another thing she said:

Because of their shortcomings, public apologies do not lead to forgiveness as frequently as interpersonal apologies do.

I found that very interesting. Again:

Because of their shortcomings, public apologies do not lead to forgiveness as frequently as interpersonal apologies do.

What the author is suggesting is that in essence the apology that was given by Prime Minister Mulroney, done in a very sincere way, invited by an organization to the NCIC to personally go to the community, was an effective form of apology.

There's another article here, from another professor, Professor Bilder is his name, and he summarizes arguments that suggest:

...apologies for historical injustices have the following frailties:

- are without responsibility since the wrongdoers are dead;
- are too late;
- incorrectly apply present day values of the past;
- are one-sided and lack reciprocity;

I have been saying all the time, from my first speech in the House to now, that 60 years was a long time to be waiting for an apology. Thankfully, Prime Minister Mulroney didn't wait those 60 years. He, on behalf of the people and the Government of Canada, apologized.

•(1235)

I agree with the honourable member that an apology has to come from the Liberal Party to Italian Canadians. I have no disagreement with that. The leader of the Liberal Party should apologize directly to Italian Canadians for ignoring them for over 60 years. Perhaps we can amend the bill to suggest that, since I'm sure it was an oversight, because I know he knows that government and the Prime Minister of Canada have already apologized.

To go on, Bilder says:

...apologies for historical injustices...

- will not satisfy victim groups and will instead foster a sense of victimhood;
- are empty gestures since they are too easy and mere words;
- cannot in any case satisfy the potential demand since there are simply too many past wrongs which could be addressed.

While the circumstances underlying these demands are varied, the motivating factors are often the same. When systemic historical actions are challenged, the Government in question has typically been out of office for decades or generations and the individual perpetrators are generally no longer alive.

That's one of the shortcomings of an apology, and that's obviously one of the shortcomings of this particular amendment to the bill.

I'll skip over the differences with the apology to Japanese Canadians, but we can get back to that in a bit.

This is talking about Prime Minister Mulroney, who also acknowledged that:

No amount of money can right the wrong, undo the harm and heal the wounds.

With reference to Japanese Canadians, he apologized, there were survivors still around, and they provided compensation.

The same thing was done when our Prime Minister apologized to the Chinese Canadian community. There were survivors, we apologized, and we provided compensation at the time.

I know you're taking notes, and I don't want to go too fast, so you can catch up. I don't want to speak too fast, because in previous committees I know the translators have been upset that we go too fast. I'm trying to be courteous.

Mrs. Carole Lavallée: You can just repeat what you said.

Mr. Paul Calandra: I can.

Mr. Charlie Angus: Then start over. You have to read it backwards.

Mrs. Carole Lavallée: Yes, that's a good idea.

Mr. Pablo Rodriguez: What about the—

Mrs. Carole Lavallée: Or spell it. Spell your text.

The Chair: A little order. I know Mr. Calandra is having a hard time getting through the papers. Let's get to the....

An hon. member: We have 20 minutes.

Mr. Paul Calandra: Mr. Chair, I will be more than happy to continue my discussions.

Mr. Charlie Angus: What did Sister Mary Margaret say—

Mr. Paul Calandra: I know that the honourable members across the way—

Mrs. Carole Lavallée: Perhaps I could give you *Le Devoir*?

Mr. Paul Calandra: It's noted here, Mr. Chair, that:

On his last day as prime minister, Trudeau refused, apparently heatedly, a request that he apologize to Japanese Canadians for wartime removals and internments. "I cannot rewrite history," he said. "It is our purpose to be just in our time and that is what we have done in bringing in the Charter of Rights."

So he suggests that the Charter of Rights helps to undo some of those wrongs, as Mr. Mulroney did when he withdrew the War Measures Act.

This is another report by Michael R. Marrus from the Munk Centre:

With minor variations, complete apologies include the following four features:

1. an acknowledgement of a wrong committed, including the harm that it caused,
2. an acceptance of responsibility for having committed the wrong,
3. an expression of regret or remorse both for the harm and for having committed the wrong,
4. a commitment, explicit or implicit, to reparation and, when appropriate, to non-repetition of the wrong.

—which of course Mr. Mulroney did very specifically when he apologized to the Italian Canadian community. Again, as the parliamentary secretary pointed out, he also replaced the War Measures Act, so something like that couldn't happen again.

I know there might be some questions from the members opposite because of the volume of research we have here. I think we're going to at least have to look at the amendment a bit further. But for now, while I organize my notes and get prepared to talk a bit more on some issues, I will conclude there, Mr. Chair.

● (1240)

The Chair: Thank you. I learned a lot about apologies there.

Mr. Paul Calandra: I appreciate that, Mr. Chair.

The Chair: Mr. Del Mastro is next on the list, and then Mr. Pacetti.

Mr. Dean Del Mastro: Thank you.

I have a subamendment to the motion that reflects the legal concerns I brought forward, and I think it would also reflect a lot of the evidence we've heard at this committee. The subamendment would read as follows, picking up on the amendment proposed by the member for Saint-Léonard—Saint-Michel. It says that Bill C-302 in clause 3 be amended by adding after line 16 on page 2 the following:

The Prime Minister shall, in the House of Commons, offer

—striking the words “the apology”—

his thoughts referred to in subsection (1) on behalf of the Government of Canada and the Canadian people.

Then I've added:

These remarks should specifically comment on the wrongs committed to the Italian Canadian community at that time and be made within the context that what occurred at the time is regrettable, but consistent with the laws of the nation at that time. The Prime Minister should also thank former Prime Minister Mulroney for his understanding in ensuring that history would not repeat itself by repealing the War Measures Act.

I referenced several times, and I think it's critically important, that this bill does not recognize the facts of what occurred at the time. In fact, I read legal opinion this morning that indicates the bill seeks to rewrite history. That's a problem, because Canada's history is not perfect. No nation's history is perfect. In fact, we have become, I think everyone would agree, a more civilized society. We have more rights. We have more privileges, and our Canadian Forces today continue to fight for our freedoms and to protect that democracy. But we can't rewrite history. We can't change what's been done.

In the days following the apology for residential schools, I remarked specifically that there is nothing I can do about the past, and the only thing we can hope for moving forward is forgiveness. It's the same thing with the Italian community. If we don't have forgiveness at this point, after what has already been done, then it's unlikely it will ever occur, because what's missing is not the apology. We cited many times that this event has been referenced. It was referenced in 1988. That's why this subamendment is important, because in 1988, when Prime Minister Mulroney repealed the War Measures Act, he did so specifically referencing the internment of Italian Canadians. Again, in 1990, when he addressed the National Congress of Italian Canadians in Toronto, an event organized by them, as outlined by Mr. Calandra, he specifically referenced the fact that they had repealed the War Measures Act, that we had learned from our history, that we would ensure that it would not occur again. Mr. Pomerleau indicated at some time previously in the committee that the War Measures Act was enacted in Quebec in 1970. While I disagree with the premise wholeheartedly that there's any similarity, Prime Minister Mulroney did in fact repeal the War Measures Act.

Mr. Pomerleau and I can have a conversation someday as to whether then French Canadian Prime Minister Trudeau was right for taking the actions that he took. We can have that discussion, that debate, someday. I'd love to hear his thoughts on it, but it's not material to this matter.

Clarifying this amendment with the subamendment is critically important, because as I've indicated previously—and I can get an awful lot more legal opinion that will back me up on this—the word “unjust”, the word “restitution”.... I typed those words into a legal database yesterday because I wanted to get legal definitions of the words “unjust” and “restitution”. What I found is that while there may be definitions in a dictionary, in law they mean something quite different. A definition in law is established by precedent. And the precedent with respect to these issues is incredibly unclear.

•(1245)

In government we're expected to do due diligence. We are legislators. We write laws. That's what we do. We should be responsible when we're passing bills and when we're suggesting that actions be taken by the government that could, whether intended or not, open the crown to significant liability under the War Measures Act. That could involve everyone who has ever been affected by the War Measures Act. If you can rewrite history on this, you can rewrite history on any wrong that has ever been carried out by the crown.

At the time, the crown may have acted in what it thought was the best interests of the people. Today, we may think the decision was wrong. I've maintained from the outset that what happened to my family in 1940 was wrong. They didn't deserve it. Nevertheless, I don't think anyone in my family wants the crown, the taxpayers of Canada, open to billions of dollars of liability. There is no way we can contain it. We live in a litigious society.

Mr. Charlie Angus: I have a point of order. If we're going to deal with a motion, I'd like to see it. I'm not sure if he's bringing it forward for examination or if we're just going to keep talking. I'd like to see the motion.

Mr. Dean Del Mastro: I can read it again. I will provide it to the clerk, but I'd be happy to read the subamendment again. It's not a motion; it's a subamendment to the proposed amendment. It reads:

The Prime Minister shall, in the House of Commons, offer his thoughts referred to in subsection (1) on behalf of the Government of Canada and the Canadian people. These remarks should specifically comment on the wrongs committed to the Italian Canadian community at that time and be made within the context that what occurred at the time is regrettable, but consistent with the laws of the nation at that time. The Prime Minister should also thank former Prime Minister Mulroney for his understanding in ensuring that history would not repeat itself by repealing the War Measures Act.

The Chair: Mr. Del Mastro, it's just been brought to my attention that that subamendment goes beyond the scope of this bill. Am I correct?

Mr. Dean Del Mastro: How could that be?

[*Translation*]

Mrs. Carole Lavallée: That took 10 minutes, it's fine.

[*English*]

Mr. Dean Del Mastro: All right, then, I'll have to continue to address the amendment.

Mr. Paul Calandra: Do you have any clarification of why that would be?

The Chair: It's a reference to....

Mr. Charlie Angus: Let's deal with the parts. I want to see if this amendment is in good faith or not.

The Chair: You want to deal with Prime Minister Mulroney and the War Measures Act being mentioned.

•(1250)

Mr. Charlie Angus: So if we take that out...?

The Chair: It's beyond the scope of the bill.

Mr. Charlie Angus: All right.

Mr. Dean Del Mastro: So remove the last part of the subamendment and then it is in order.

The Chair: My legal counsel would like to see the text as written.

Mr. Dean Del Mastro: Okay. I'll provide that to him.

The reason for the amendment is that all apologies that have ever been issued by the Government of Canada have been consistent. They have always referenced the fact that these actions were undertaken within the context of the law at the time, though we may view it differently today. The government did not act unjustly.

Yesterday I looked at legal definitions of “unjust” and “restitution”, and I found over 2,200 precedents where the definition of these words had been established. You can't narrow that definition down to the point where you could say with any degree of certainty what the ramifications would be for the Government of Canada.

I've made it clear in the past. Nobody can doubt my sincerity. I'm certain that I'm the only Canadian of Italian descent in this Parliament whose family was actually here during this time. I've also openly admitted that my mother is of French Canadian descent. It was a mixed marriage, and my mother and father were not allowed to see each other because my father happened to be of Italian descent. He was born in Parry Sound, but of Italian descent. This was wrong.

But a formal apology without a framework opens the government to considerable liability. That's why I referenced the Apology Act earlier.

Mr. Charlie Angus: We're down to eight minutes, so if we're serious, let's get on to this discussion.

Mr. Dean Del Mastro: The clerk is working on it.

[Translation]

Mrs. Carole Lavallée: There was no motion in English only.

[English]

Mr. Charlie Angus: I'd like to hear input from people.

[Translation]

Mrs. Carole Lavallée: I am going to ask for a written copy in French.

[English]

The Chair: Madam Lavallée, one second, please—

[Translation]

Mrs. Carole Lavallée: Mr. Chair, I just want to say that I imagine...

[English]

The Chair: Mr. Angus asked for some clarification, and I'm trying to get that through my counsel.

[Translation]

Mrs. Carole Lavallée: Point of order, once again.

[English]

Mr. Pablo Rodriguez: Is that acceptable in just one language?

[Translation]

Mrs. Carole Lavallée: The way I see it, Mr. Chair, this motion is out of order if it is written in only one language and there is no paper copy. I will definitely vote against it.

Furthermore, I will do the same thing the Conservatives are doing in the House, in other words, I will raise a point of order saying they are moving motions in English only and do not even want to give us a hard copy in French.

Mr. Pablo Rodriguez: It shows a lack of respect for official languages.

[English]

Mr. Dean Del Mastro: On a point of order, Mr. Chair.

The Chair: Mr. Del Mastro.

Mr. Dean Del Mastro: The context of this is that I've only just written the subamendment, based on—

Mr. Pablo Rodriguez: So.

Mr. Dean Del Mastro: I apologize, but my privilege as a member is to be able to communicate at this committee.

Mr. Pablo Rodriguez: Yes, but you asked somebody else to translate it.

Mr. Dean Del Mastro: It's based on evidence brought at the committee that I brought this subamendment.

I apologize to all members that I cannot write in French.

Mr. Pablo Rodriguez: But you asked somebody else.

Mr. Dean Del Mastro: We will be happy to table it in both—

Mr. Pablo Rodriguez: It's a lack of respect for Madame Lavallée.

Mr. Dean Del Mastro: It is not a lack of respect. It was given verbally, and the clerks are providing French translation of everything I'm saying. We will have the motion properly scripted for the next committee meeting.

This is common. I've been on committees now for almost four years in this House. I have often proposed amendments in English during clause-by-clause. It has never been raised that I needed to bring that subamendment or amendment in both languages.

I apologize. I don't have the ability, just like Mr. Gourde—

• (1255)

[Translation]

Mrs. Carole Lavallée: I am going to ask for it.

[English]

Mr. Dean Del Mastro: —does not have the ability to bring an amendment in English. But I would respect his ability to bring an amendment, as I would respect any member in this House to have the ability to bring an amendment—

[Translation]

Mrs. Carole Lavallée: We will wait until it is translated.

[English]

Mr. Dean Del Mastro: —during clause-by-clause in the language they are—

The Chair: We will go to Mr. Angus in one second.

Mr. Charlie Angus: It's on this point, Mr. Chair.

The Chair: It is a verbal subamendment. No one has received a copy, other than my counsel, who is looking at the document right now to see whether it is justified or not. So there has been no distribution in English. It has just been made. The translation must have come through to you on what Mr. Del Mastro put forward.

That has been done.

Mr. Angus.

Mr. Charlie Angus: Thank you, Mr. Chair.

It has been the practice of this committee, since I've been on this committee, that when we are going clause-by-clause through a bill, someone can bring forward an amendment. It is brought forward to the chair, read out, and either agreed upon or not.

I think the problem is that we're down to three minutes and 30 seconds left on the clock, and we had to sit through Mr. Calandra's entire history of apologies going back to Sophocles. The opposition is wondering what's going on, because the clock is ticking down. I am serious about dealing with the amendments. That's why I asked Mr. Calandra about three times if he had the language.

So certainly on this side there's a great deal of skepticism, but I think Mr. Del Mastro is within his rights as a member to bring forward something, even if it was at 11 hours and 59 minutes...three seconds to midnight.

The Chair: Okay.

It has been explained to me that there has to be some work....

Madame Lavallée.

[*Translation*]

Mrs. Carole Lavallée: It means that if you do move to vote, I will vote against the subamendment because I do not have a paper copy in French. I will vote against it, no matter what it says.

[*English*]

Mr. Dean Del Mastro: I'm still speaking to it anyway.

The Chair: Mr. Del Mastro is speaking to the subamendment.

Mr. Dean Del Mastro: To begin with, I will ensure that Madam Lavallée gets her copy of the subamendment.

Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.): Mr. Chair, a point of order.

The Chair: Mr. Pacetti.

Mr. Massimo Pacetti: I'm not a regular member. I'm here to try to facilitate movement of this bill. But if the amendment is not receivable, I'm not sure how we can have a discussion.

This is taking way too long. We can just cut it short. If the amendment is not receivable, let's vote—it won't take long—on my amendment. It was put forward by the Minister of Immigration—

Mr. Dean Del Mastro: This is debate.

Mr. Massimo Pacetti: —when he was here the other day. If we go quite rapidly, we can vote on the rest of the bill. There's another minor amendment. I sought consultations with members across the table. I think we can get this done in the next two minutes, Mr. Chair.

The Chair: You might want to speak on your subamendment, because there have to be some changes to make it qualify. You can carry on or—

Mr. Dean Del Mastro: I'll be happy to. I'll withdraw your—

Mr. Massimo Pacetti: Just call the question, Mr. Chair.

Mr. Dean Del Mastro: No, he can't just call the question—

Mr. Massimo Pacetti: Yes, he can.

Mr. Dean Del Mastro: —because I'm recognized to speak right now. As a former chair of the House of Commons—

Mr. Massimo Pacetti: Mr. Chair, he can. He'd like to.

The Chair: There's been an order made. Mr. Del Mastro has the floor.

Mr. Massimo Pacetti: The chairman can do whatever he likes. If he wants to call the question, he can call the question.

Mr. Pablo Rodriguez: He's doing what he likes—

The Chair: Mr. Del Mastro has the floor.

Mr. Dean Del Mastro: Thank you, Mr. Chairman.

The Chair: There's a point of order.

[*Translation*]

Mr. Roger Pomerleau (Drummond, BQ): Point of order, Mr. Chair. I do not object to Mr. Del Mastro moving the motion, but I am against him discussing it as long as we do not have a copy of the French translation.

Mr. Massimo Pacetti: It is out of order, in any case.

Mr. Roger Pomerleau: Regardless, the principle is there. I do not understand why we are talking about a motion when I do not have the text in front of me.

[*English*]

Mr. Pablo Rodriguez: It's one o'clock anyway.

[*Translation*]

Mr. Roger Pomerleau: It is totally unacceptable by this committee.

Mrs. Carole Lavallée: I want to add that it should be more respectful than his last motion.

Mr. Roger Pomerleau: Mr. Gourde should explain it to us.

Mrs. Carole Lavallée: The last time, we could not understand his French, really.

[*English*]

Mr. Paul Calandra: When this happens on the immigration committee we read it very slowly, and the translation is provided to the best of their ability.

[*Translation*]

Mr. Roger Pomerleau: That is not the issue, sir. We want it in French.

Mrs. Carole Lavallée: It is a matter of principle; we want it in French.

Mr. Massimo Pacetti: It is out of order in English; we are wasting time.

[*English*]

Mr. Paul Calandra: I wonder if I can finish my point of order.

[*Translation*]

Mrs. Carole Lavallée: We don't know, we don't have it.

[*English*]

Mr. Paul Calandra: Respect is something that doesn't come easily to the people opposite.

I wonder if that might be an option, Mr. Chair.

The Chair: Seeing that it's one o'clock—

Mr. Pablo Rodriguez: You should be ashamed, guys.

The Chair: —the meeting is adjourned.

MAIL  POSTE

Canada Post Corporation / Société canadienne des postes

Postage paid

Port payé

Lettermail

Poste-lettre

**1782711
Ottawa**

If undelivered, return COVER ONLY to:
Publishing and Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5

*En cas de non-livraison,
retourner cette COUVERTURE SEULEMENT à :*
Les Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Additional copies may be obtained from: Publishing and
Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5
Telephone: 613-941-5995 or 1-800-635-7943
Fax: 613-954-5779 or 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Also available on the Parliament of Canada Web Site at the
following address: <http://www.parl.gc.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

On peut obtenir des copies supplémentaires en écrivant à : Les
Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5
Téléphone : 613-941-5995 ou 1-800-635-7943
Télécopieur : 613-954-5779 ou 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Aussi disponible sur le site Web du Parlement du Canada à
l'adresse suivante : <http://www.parl.gc.ca>