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Chair

Mr. Anthony Housefather

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• (1100)

[English]

The Chair (Mr. Anthony Housefather (Mount Royal, Lib.)): Hello, everyone.

I would like to call to order this meeting of the Standing Committee on Justice and Human Rights.

Of course, since this will be our last meeting before Remembrance Day, I know that every member of this committee would like to salute our veterans, and all the members of the Canadian Armed Forces, on this very solemn occasion.

Today we're going to start our agenda with a clause-by-clause review of Bill C-16, and afterwards the committee will go in camera for other discussions.

Mr. Falk.

Mr. Ted Falk (Provencher, CPC): Can I make a statement before we begin the clause-by-clause, or whenever you're at that stage?

The Chair: Yes, sure.

Mr. Ted Falk: Do you want to welcome our guests or not?

The Chair: Sure.

I'd like to welcome Mr. Mendicino, who is replacing Mr. Bittle.

Mr. Marco Mendicino (Eglinton—Lawrence, Lib.): Thank you very much, Mr. Chair. It's a pleasure to be here.

The Chair: Welcome, Mr. Garrison, who is replacing Mr. Rankin.

Mr. Falk has asked to make a statement before we begin clause-by-clause.

Mr. Falk.

Mr. Ted Falk: Thank you, Mr. Chair.

Before we begin, I thought it was important that I express some of my thoughts on the decision of this committee to move directly into clause-by-clause. In my three years as a member of Parliament—it's not that long—I don't recall any precedent of a bill moving directly to clause-by-clause when it has been referred to committee.

I respect all members of this committee, and I hope that each of you has felt that as we have worked together on various bills. We've always been able to work constructively and had good discussions and honest dialogue, even on issues that invoked a lot of passion on both sides of the table here. It's precisely because of my respect and appreciation for members of this committee that I'd like to make a few comments.

I believe that as a committee, we've failed to do what we need to do. I believe that Canadians expect us to conduct a thorough study every time a bill comes to committee, to examine it, and to improve it where possible, and then to send it back to the House for third reading before it moves to the Senate. And I think collectively, as a committee, we have failed to do that; we have failed to discharge our duties. Our job as a parliamentary committee is to give due consideration and thorough study to all bills that are referred to us. We don't do that just to fill the time allotted to us here by our caucus, but we do it because it's a responsibility and a trust that has been given to us by our caucus, by our fellow Canadians, and also by our constituents.

The mandate of our committee states that we will review proposed amendments to federal legislation relating to certain aspects of criminal law, family law, human rights law, and the administration of justice, with respect to—among other statutes—both the Criminal Code and the Canadian Human Rights Act.

As you're all aware, both of these statutes are set for amendment in Bill C-16, but I could just as easily have been speaking about any legislation referred to this committee.

I believe we all support initiatives that protect individuals from hate speech. We all believe that individuals deserve equal treatment under the law. Every one of us here condemns bullying or violence of any kind, but it really comes down to this: how do we know what we don't know? There has been much discussion in the media lately concerning the matter of free speech and the state of free speech here in Canada. Do we really know if this bill will have an impact on free speech? No, we don't.

Concerns have been raised about the impact on our immigrant and religious groups who have some deeply held convictions with respect to human sexuality. Have we explored whether there's a need for explicit safeguards to protect these groups? No, we haven't. And can we assure them that the concerns they may have been studied thoroughly and that they have nothing to worry about? I don't believe we can.

Can any of us answer the questions raised about whether there's room for abuse because of this legislation? For example, when it comes to something as simple as women's athletic scholarships, do we know if a male who identifies or expresses his gender as something other than male would insist on applying this new law so he could qualify for a scholarship expressly intended for a female athlete? No, we don't know that. Had we properly studied this bill, maybe there would have been some recognition that this bill needs to include certain safeguards. We're in no position to answer any of these questions because we just haven't done our job; we haven't had a chance to study and to get feedback from stakeholders.

I believe we have a duty and an obligation to listen to Canadians, not only informally as persons, or through messages by text or email, but formally before this committee, whether they are individuals who support the bill unequivocally, or those who want to see adjustments made, or those who see the bill as fundamentally flawed, we owe it to Canadians to listen, to make informed decisions based on the testimony we hear.

Mr. Chairman, I think that's what Canadians expect of us, and I'm sad to say that we've failed in this duty. For that reason, among others, I will be voting against the bill.

Those are my comments.

• (1105)

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

Mr. Garrison, you had your hand up to say something, and then we'll hear from Mr. Fraser, and then we'll move to the clause-by-clause consideration unless anybody else wishes to speak.

Mr. Garrison.

Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP): Thank you very much, Mr. Chair.

Just briefly I think this bill is unusual in that it was twice blocked by the Senate. So this is a bill that has already been approved twice by the House of Commons, and as Mr. Falk is well aware, there were three sets of hearings on Parliament Hill within the last four years, one in the previous justice committee and two in the human rights committee and the Senate Standing Committee on Legal and Constitutional Affairs. The minutes of those hearings—and more than 35 witnesses appeared—are fully available to the members of this committee. In fact, they were brought to his attention. I would differ with him on whether committees have done their due diligence on this bill. That material is certainly available publicly and to all members. That's why this bill is somewhat different. When he says there's no precedent for bills going directly back, I would say two things. One is that of course it didn't. The minister was here and answered questions about the bill. So the committee did hold a session on that, but there are precedents for bills that have had no debate at all going back to the House of Commons.

I think the information is broadly available. Mr. Falk has his concerns. Those were canvassed in the previous hearings extensively, and that material is freely available to members of the committee. I know that I certainly reviewed that material before coming again to this bill.

Thank you.

The Chair: Thank you very much.

Mr. Fraser.

Mr. Colin Fraser (West Nova, Lib.): Thank you, Mr. Chair.

I thank Mr. Garrison for his comments. He basically said much of what I was going to say, and I have great respect for all the members of this committee, and I do think that we have worked well together. I totally appreciate and respect differences of opinion on the substance of bills, but I don't think this is a matter of this bill having gone through without thoughtful consideration. There has been testimony. We have all of the precious testimony from all of the other committees that have met on this. This is relatively straightforward proposed legislation amending the Criminal Code by adding basically one clause. Another enumerated head, which Mr. Falk himself indicated, is already covered by the current law, so there's no need for it. At least it was my understanding from his questions to the minister that this would be his reason for being against it. While I respect that, I do think it is an important thing to add as an enumerated head, but to suggest for a moment that we have no idea what impact this will have on hate speech in Canada, and we don't know what impact this will have on the freedom of speech...the same could be said for any of the other enumerated heads. I don't think that is in fact a problem at all. I think we have examined this thoroughly in many of the ways that Mr. Garrison has already indicated. I feel very confident that this committee has done its job, and I look forward to clause by clause.

Thank you.

• (1110)

The Chair: I want to thank everybody for their comments. Obviously it's unusual to have these interventions, because they should have been part of the debate, but it's totally fine; we're more of an informal committee. I'm not going to take any position. The one thing I do want to say is to reaffirm to my friend Mr. Falk that actually the International Olympic Committee and international sport standards actually set out who can compete in women's athletic events. There is a hormone-level test, so I think that would cover who was eligible, because someone wouldn't be eligible to actually compete if the hormone-level test showed that they were a man based on the lower hormone levels.

In any case, more importantly, we're now on clause-by-clause. The first clause we're going to look at is clause number 1. My question is, shall clause number 1 carry?

This would be the appropriate time, members, if you had amendments to put them forward, or alternatively if you wish to debate clause number 1, you would put up your hand and make comments on clause number 1. By the way, while everybody is thinking about that, because I now recognize that I failed to do so, I'd like to introduce Ms. Laurie Sargent, Mr. Glenn Gilmour, and Mr. Eric Nielsen, who are here from the Department of Justice to offer us any guidance should we so require.

Welcome.

Now we go back to clause number 1. Are there any comments on clause number 1?

Ms. Khalid.

Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.): Thank you, Mr. Chair. I'm very much in support of clause number 1. I think it's very important to identify the term "gender identity". It's very necessary, and I fully support this clause. I think it will be a great step forward for protecting the rights of the vulnerable group that we are trying to protect.

The Chair: Thank you very much.

(Clauses 1 to 3 inclusive agreed to on division)

(On clause 4)

Mr. Randall Garrison: May we have a recorded vote on clause 4?

The Chair: We will have a recorded vote.

(Clause 4 agreed to: yeas 8; nays 1) [See *Minutes of Proceedings*]

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill carry? Is there any discussion?

Mr. Garrison.

• (1115)

Mr. Randall Garrison: I just want to again extend my thanks to the minister for bringing the bill forward expeditiously, given, as I mentioned earlier, that it was passed in the House of Commons twice before. It is a daily struggle for transgendered people across the country. It's going to be very much appreciated by the community

that the House of Commons has acted expeditiously, and again, I thank you for allowing me to participate in the committee as we dealt with the bill.

The Chair: Thank you.

Mr. Mendicino.

Mr. Marco Mendicino: While I'm sure it has been expressed many times before, the committee should commend the efforts of Mr. Garrison and all those who worked with him to bring this issue to the fore.

Thank you, Mr. Garrison.

The Chair: Shall the bill carry?

Mr. Garrison would like a recorded vote.

(Bill C-16 carried: yeas 8; nays 1 [See *Minutes of Proceedings*])

The Chair: Shall I report the bill to the House?

Some hon. members: Agreed.

The Chair: We don't need to order a reprint of the bill because there were no amendments. So that ends the discussion on Bill C-16.

Mr. Clerk, will you be able to get that to me to report back tomorrow?

Thank you very much.

We'll now go to an in-camera session. We'll take a five-minute break while everybody else leaves the room.

[*Proceedings continue in camera*]

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