



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **Standing Committee on Public Safety and National Security**

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SECU • NUMBER 091 • 1st SESSION • 42nd PARLIAMENT

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**EVIDENCE**

**Monday, December 11, 2017**

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**Chair**

**The Honourable John McKay**



## Standing Committee on Public Safety and National Security

Monday, December 11, 2017

• (1530)

[English]

**The Chair (Hon. John McKay (Scarborough—Guildwood, Lib.)):** I would like to bring to order the 91st meeting of the Standing Committee on Public Safety and National Security. This is a special meeting to review Bill C-66, an act to establish a procedure for expunging certain historically unjust convictions and to make related amendments to other acts.

We have, as witnesses, the Department of Public Safety and Emergency Preparedness, the Royal Canadian Mounted Police, and the Parole Board of Canada. I understand that if the committee wishes, Ms. Thompson is prepared to make a statement. If the committee doesn't wish a statement, then we can go directly to questions.

What is the will of the committee?

**Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP):** Let's have a statement.

**The Chair:** A statement it is, then.

Ms. Thompson.

**Ms. Kathy Thompson (Assistant Deputy Minister, Community Safety and Countering Crime Branch, Department of Public Safety and Emergency Preparedness):** Thank you, Mr. Chairman. I understand there's not a lot of time allocated this afternoon, so I'll be very brief.

Thank you very much for the opportunity to speak to you about Bill C-66. My name is Kathy Thompson. I am the assistant deputy minister for community safety and countering crime at Public Safety Canada. I'll very quickly introduce my colleagues with me today.

To my right is Angela Arnet Connidis, director general of crime prevention, corrections and criminal justice directorate at Public Safety Canada.

To my immediate left is Chief Superintendent Serge Côté, director general, Canadian real-time identification services at the RCMP, and Talal Dakalbab, chief operating officer at the Parole Board of Canada.

[Translation]

My colleagues and I are here today to answer your questions about our role in relation to Bill C-66, An Act to establish a procedure for expunging certain historically unjust convictions and

to make related amendments to other Acts. On November 28, this bill was introduced in the House of Commons.

On that same day, the Prime Minister made a formal apology on behalf of the Government of Canada to the LGBTQ2 community. As part of that apology, the Prime Minister spoke of Canada's history of criminalizing private and consensual sex between same-sex partners, leading to the unjust arrest, conviction, and imprisonment of Canadians. Bill C-66 was developed to provide recognition of this injustice and recourse to those affected.

[English]

The expungement of historically unjust convictions act would create a process that would allow for the destruction or permanent removal of records of convictions involving consensual sexual activity between same-sex partners that would be lawful today. It would deem a person convicted of an offence for which expungement is ordered never to have been convicted of that offence.

Under the act, there would be a schedule of offences eligible for expungement, which would immediately include the offences of buggery, gross indecency, and anal intercourse. This would apply to cases of the offences prosecuted under the Criminal Code, as well as military service members who were prosecuted for these offences under the National Defence Act.

Individuals convicted of an eligible offence would be able to apply directly to the national Parole Board of Canada, and there would be no application fee. If an eligible individual is deceased, appropriate representatives, including family, a common law partner, a loved one, or a trustee would be able to apply on their behalf. Applicants will be asked to provide evidence that the conviction meets certain criteria, three specifically, to demonstrate that the act is no longer criminal. Given the historical nature of these offences, if court or police records are not available, sworn statements or solemn declarations may be accepted as evidence.

For offences initially listed in the schedule, there are three specific criteria: that the participants of the sexual activity were of the same sex, that they consented, and that they were at least 16 years of age, or subject to the "close in age" defence under the Criminal Code.

If the expungement is ordered, the RCMP would destroy any record of the conviction in its custody, and it would notify any federal department or agency that to its knowledge has records of the conviction and direct them to do the same. Relevant courts, and municipal and provincial police forces would also be notified of the expungement order.

Expungement is distinct from the existing processes, including record suspensions. One of the primary differences is that expungement will be available posthumously, while record suspensions are not. A suspended record is set aside for most purposes, but it is not destroyed. The purpose of a record suspension is to remove barriers to reintegration for a former offender. Individuals with convictions that constitute historical injustice should not be viewed as former offenders.

[*Translation*]

Expungement under Bill C-66 would provide appropriate and permanent recognition of these historical injustices. Similar expungement schemes have been introduced in several different countries, including Australia, New Zealand, the United Kingdom and Germany. While there are no plans at this time to add any offences to the expungement scheme, the legislation does allow the government to do so in the future if it determines that the convictions for those offences were historically unjust.

•(1535)

[*English*]

Thank you. My colleagues are available, as I am, to answer your questions.

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

Ms. Damoff, you have seven minutes.

**Ms. Pam Damoff (Oakville North—Burlington, Lib.):** Thank you very much, Chair.

I want to thank all of the officials for being here.

It's a real privilege for us to be studying this bill and to see the support it has received, from all members of the House, to get it here as quickly as it has so that we can deal with this important issue in a timely manner.

I'm wondering if you could provide for us how victims of these historically unjust cases are going to be supported throughout the expungement process.

**Ms. Kathy Thompson:** Thank you for the question, Mr. Chairman.

The process is a simplified process. The application will be fairly simplified in terms of applying for an expungement.

Victims are asked to provide evidence that they meet the three criteria in terms of providing police records or court documents. We know these are offences that have been off the books for some time, so the convictions are quite dated. For that reason, we are also going to support the victims in terms of providing an opportunity for them to either come forward with a solemn declaration or an affidavit of evidence.

In addition, there are other measures that are being put in place. As part of the broader announcement that the Prime Minister put in place, there will be a toll-free number to help, for example, former members of the RCMP and National Defence, if they want to access support mechanisms.

**Ms. Pam Damoff:** How will all of this be communicated, because certainly in some cases we're dealing with people who are now elderly?

How will the information be communicated to make sure they know exactly what is required, so they don't hesitate in coming forward because they think they need information that they actually don't need?

**Ms. Kathy Thompson:** I'll maybe turn to the Parole Board for that response.

**Mr. Talal Dakalbab (Chief Operating Officer, Parole Board of Canada):** Sure, thanks for the question.

The Parole Board will have most of the information online. Nevertheless, we're going to have a guide that can be printed and sent to the communities where we believe they will be needing it. We have a 1-800 number as well.

A lot of the applicants might be older and they don't use computers necessarily, so they'll be able to call and we will provide them with the specific information we require for this application.

We have a few mechanisms in place to address multiple clientele, if need be.

**Ms. Pam Damoff:** Will that be available to family members as well?

**Mr. Talal Dakalbab:** As this bill is allowing for posthumous applications, obviously yes.

General information will be provided to everybody. Anybody who calls will be able to obtain the information or download it. If there's a question that is specific about an application, obviously we need to make sure we're speaking to the right applicant or trustee or family member.

**Ms. Pam Damoff:** It might be possible for a family member to get consent, then, to discuss a case with the appropriate person, if, for example, the mom or dad is in a nursing home and may not be able to make those phone calls and do the follow-up.

Is it possible for them to get a consent form and be able to deal with the bulk of the administrative side on behalf of a parent or a loved one?

**Mr. Talal Dakalbab:** At this point, we haven't gone into these detail for this bill—

**Ms. Pam Damoff:** Okay, that's fair.

**Mr. Talal Dakalbab:** —but I can reflect what we do with the record suspensions and pardons.

We have a consent form available to communicate information to a third party—family or someone else. The applicant will sign to allow them to have this information. As well, it could be an MP, or anybody the applicant would like to share their info with.

**Ms. Pam Damoff:** That's very helpful.

My next question is more general.

We know that other countries—Australia, the U.K., and some other countries—have undertaken a similar process to expunge criminal records. I'm wondering if you can explain how ours compares with some of these other countries that have already done this.

**Ms. Kathy Thompson:** The proposed legislation looks very similar to the ones that have been put forward in other countries. It's a simplified application. Most countries allow applications post-humously. There's only one jurisdiction—I think it's South Australia—that doesn't allow it. Most countries have waived the fee as well.

There are quite a few similarities between Canada's regime and the one that's been put forward in other jurisdictions. Only one of the jurisdictions, Germany, provides for automatic expungement. All of the other ones have criteria that need to be met, and evidence needs to be provided. I think all of them also provide for sworn declarations to be provided in the absence of any records being available.

• (1540)

**Ms. Pam Damoff:** I just want to clarify that we've waived the fee as well.

**Ms. Kathy Thompson:** We have waived the fee. The \$631 fee has been waived.

**Ms. Pam Damoff:** There's no financial impediment to anyone coming forward who wants to get that.

**Ms. Kathy Thompson:** The fee has been waived.

**Ms. Pam Damoff:** That's wonderful. Thank you.

I'm not sure if you can answer this or not, but could you explain how this bill fits into larger measures? The Prime Minister apologized in the House. Obviously, this bill is an important piece of correcting historical wrongs. How does this legislation address the historical inequality faced by Canada's LGBTQ2 community?

**Ms. Kathy Thompson:** The Prime Minister did not only provide an apology. He also provided a number of measures that complement the apology. There is Bill C-66. There's also an agreement-in-principle that has been signed with respect to a class action. There will be initiatives to mark the 50th anniversary of the 1969 decriminalization of homosexuality, and through the Commemorate Canada program, there will be funding available for initiatives that increase awareness of people, actions, and struggles that led to the decriminalization.

I mentioned the toll-free number that's available for RCMP and National Defence staff to seek support. Also, there is funding that's being provided for a number of projects in anticipation of the increased demands for LGBTQ2 individuals through the ESDC program.

**Ms. Pam Damoff:** Thank you very much.

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

[Translation]

Mr. Paul-Hus, you have five minutes.

**Mr. Pierre Paul-Hus (Charlesbourg—Haute-Saint-Charles, CPC):** Thank you, Mr. Chair.

Good afternoon, ladies and gentlemen.

I have a question about information sharing. We currently don't understand this bill well, especially with respect to other countries. I will proceed in stages.

First, with respect to co-operation and information-sharing agreements with our international partners, could you confirm that crimes committed by Canadians, regardless of the nature of these crimes, are part of the exchange of information?

**Ms. Kathy Thompson:** I will ask my colleagues from the RCMP to answer your question.

**C/Supt Serge Côté (Director General, Canadian Criminal Real Time Identification Services, Specialized Policing Services, Royal Canadian Mounted Police):** Thank you for your question.

I would first like to ask for some clarification regarding your question.

**Mr. Pierre Paul-Hus:** I will proceed in stages. First of all, I want to know, with respect to information on Canadian citizens with criminal records, regardless of the nature of the crimes committed, if this information is sent to foreign countries.

**C/Supt Serge Côté:** The RCMP has different information-sharing agreements with some foreign countries. We have agreements with the United States and others through Interpol and Europol.

**Mr. Pierre Paul-Hus:** Currently, because of the information sent, have travel restrictions been imposed on members of the LGBTQ community, which was previously considered criminal? Have these people been refused entry to some countries?

**C/Supt Serge Côté:** I can't give you the RCMP's position in this particular case, but generally the RCMP does not have the mandate to forward this information about country entries and exits, and so on.

**Mr. Pierre Paul-Hus:** That brings me to the second part of my question. Given all this, and from the moment the records are expunged, is there a mechanism that will ensure that this information is passed on to other countries? Is there a way to do it, since it's not in the legislation?

**C/Supt Serge Côté:** The role of the RCMP and myself, as the director general of the National Criminal Records Repository, is to implement the decision of our colleagues from the Parole Board of Canada

Once a decision has been submitted by the board, we will have to notify the federal agencies and our police partners. With respect to federal agencies, people will be instructed to simply eliminate or delete this information from their records.

• (1545)

**Mr. Pierre Paul-Hus:** When you talk about your partners, are you talking about Interpol, for example?

**C/Supt Serge Côté:** No. Our partners abroad aren't subject to these federal legislative provisions.

With respect to pardons, we advise our police partners that the Parole Board of Canada has issued a decision. We simply advise them, and it is up to them to decide whether or not to expunge this information.

**Mr. Pierre Paul-Hus:** So, even if Canada establishes that the offence no longer exists, and it completely abolishes the decision taken at the time, other countries may consider that this offence still exists.

Do I have that right?

**Ms. Kathy Thompson:** I would like to make a clarification. The agreements we have in place govern the sharing of information and databases. When the RCMP makes changes and deletes these documents, this information will no longer appear in the database. It is possible that, for one reason or another, a partner has a copy of the old database. We can't say absolutely that it is impossible, but the database that we will share with our partners won't contain this information, since it will have been expunged.

**Mr. Pierre Paul-Hus:** Meaning that there may be a small gap in the bill as it is currently worded, since this situation isn't mentioned anywhere.

**Mr. Talal Dakalbab:** I would like to add that in the case of pardons and criminal record suspensions, the situation is the same today. We can't demand that other countries remove this information from their systems.

Applicants who have gone through customs in the past and whose passage was mentioned by customs officials normally carry with them the Parole Board of Canada decision. This document shows that their offence has been expunged or that they have obtained a pardon or a record suspension. This is usually how this information can be removed from the systems of other countries.

Be that as it may, we don't have the power to require these countries to remove it from their systems.

**Mr. Pierre Paul-Hus:** Right.

Clause 23 amends a detailed schedule of offences to be expunged. In Bill C-66, everything that needs to be expunged is made clear. That is why I would like to know what the purpose of clause 23 is. *[English]*

**Ms. Angela Connidis (Director General, Crime Prevention, Corrections and Criminal Justice Directorate, Department of Public Safety and Emergency Preparedness):** The schedule mentioned in clause 23 specifies which kinds of former criminal activity would be included and covered by this legislation. It's anticipated that there may be a desire in the future to add other activity to this act, where the criminal record can be expunged. This clause provides the mechanism for introducing that into the schedule.

*[Translation]*

**Mr. Pierre Paul-Hus:** Is it possible in this context that offences not related to the LBGTQ community be expunged?

Is it instead an open provision that makes it possible to expunge any other offence?

*[English]*

**Ms. Angela Connidis:** Yes. The preamble of the act refers to the possibility of capturing activity that is considered a historical injustice, including those activities that are considered to violate the Canadian Charter of Rights and Freedoms.

**The Chair:** Thank you, Mr. Paul-Hus.

Mr. Garrison, welcome to the committee. You have seven minutes, please.

**Mr. Randall Garrison:** Thank you very much, Mr. Chair. Having spent the entire last Parliament on the public safety committee, it feels a bit like home.

I have to say I have a particular interest, of course, in this bill as a gay man of a certain age. Apart from twists of fate, I could be in a position where I'd have to seek an expungement. I could have been one of those who suffered deployment discrimination because of this, or difficulties in volunteering with vulnerable people, or an inability to travel. I was very fortunate, and I'm not in that situation.

I thank the parties for getting this here expeditiously, but whenever people say this has happened rapidly, I just have to point out that people have been asking for this for decades. Parliament moving expeditiously is not the same thing as the process happening rapidly. There are those who have been working for an apology and expungement, and working for more than 10 years to try to get this to happen.

I have no criticism today of the officials, but I do have to say some consultation in the drafting process, or before the drafting process, may have helped allay some of the concerns that had been raised over the weekend by some of the groups that had been looking forward to this legislation. However, I don't believe that is the responsibility of anybody here.

I also have to say that I talked a lot with them over the weekend, and I believe this bill is drafted anticipating that there may be those concerns, and that they can be dealt with later because of clauses 23 and 24. I want to ask my questions in that context. I think the things that are perceived to be wrong are fixable. The example of the fee is one of the first ones that was raised with me because it's not explicitly addressed in the bill, and I thank officials for being very clear that the fee will be waived.

The first one of these concerns is the list of offences. The Prime Minister's apology includes a larger number of offences than those included in the schedule. He makes specific reference to bawdy house provisions and bathhouse raids, and those are not included in the schedule. I guess my question really belongs to the cabinet, which will have discretion to add, but it would seem to me that the list of offences ought to match those things that were mentioned in the apology.

I wonder if there was a reason, for instance, that bawdy house offences were not included in the bill, when they were included in the apology.

● (1550)

**Ms. Kathy Thompson:** The three offences that are currently included—gross indecency, buggery, and anal intercourse—are the ones that were most clearly used to discriminate against members of the LBGTQ2 community, and it's for that reason that we included those as an initial start in the legislation. I think, as already mentioned by Angela, the act does provide, by schedule, that new offences can be added to the schedule provided they constitute a historical injustice.

I should just indicate that simply the fact that a crime is no longer a crime does not constitute a historical injustice. It may help contribute to the consideration of it, but just that in and of itself does not constitute a historical injustice.

We did look at bawdy houses. However, bawdy houses were intended to capture a broader range of sexual acts, including between opposite sex partners, and also often were targeting what was deemed to be immoral at the time, including sexual acts in brothels and sexual acts for which payment was being made for sexual services. We did not include these at this juncture.

**Mr. Randall Garrison:** Should cabinet make a decision to add to this schedule, as clause 23 says they may add by order in council, is it, by implication, true that they could remove offences by order in council from this schedule?

**Ms. Kathy Thompson:** They can add offences to the schedule by Governor in Council, and they can define the criteria through order in council. I imagine the same is true for removing, but I'm just going to confirm that with Ms. Connidis.

**Ms. Angela Connidis:** I don't think it will be as easy to remove through order in council. I think that would require a legislative amendment. The criteria are in the act for this. The offences are in the act at this point.

**Mr. Randall Garrison:** Thanks very much. I don't have a lot of time.

There's some concern about presenting proof, and you've addressed that by allowing declarations. I think there's some concern that it mixes up administrative procedures with court procedures, and people start talking about the onus of proof.

I just want to test what I think I heard from you. In the absence of documents or evidence that proves non-consent, a statement is anticipated to be sufficient evidence that it was consensual. Would that represent something like you were saying?

• (1555)

**Ms. Kathy Thompson:** Because those offences are historical offences—as I said, buggery and gross indecency have not been part of the Criminal Code in over 30 years—it may be difficult for individuals to obtain court or police records. In some cases, it may not be, but if that is the case, as part of their application they would have to demonstrate that they did try to obtain those records and provide an affidavit or a solemn declaration that those records don't exist. Also, the act provides authority for the Parole Board to conduct their own verifications as required.

**Mr. Randall Garrison:** There seems to be a bit of a problem in that for most of the offences consent wasn't germane to the conviction. Even if there were a conviction record, it might not ever have dealt with the question of consent, because these offences weren't about consent. That's just a concern that I raise.

Again, it seems that clause 24 would allow the Governor in Council to actually fix criteria that would deal with those kinds of questions.

**Ms. Kathy Thompson:** Also, if I may add to this, when providing for the application, in addition to the records—because that is a very good point that often the charge record doesn't indicate whether it was consensual or not—as part of their application, they would have

to provide evidence and demonstrate and indicate that it was consensual.

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

Mr. Fragiskatos, please, you have seven minutes.

**Mr. Peter Fragiskatos (London North Centre, Lib.):** Thank you, Chair.

Thank you to the witnesses for being here today.

I was at an event on the weekend in London, back in the riding. It was a Christmas choir event put on by the Pride Men's Chorus in London, Ontario, and there was a great deal of excitement about what's moving along here.

I also want to commend my colleague across the way, who I don't know terribly well, but I do know that he has worked on these issues for most of his life.

Thank you very much, Randall, for what you've done.

My first question has been touched on already in terms of international experiences. Australia is mentioned, as are New Zealand, the United Kingdom, and Germany. These initiatives have really taken off in these countries very recently as well, with all of them in 2017, if I'm not mistaken. To the extent that we are now moving along with Bill C-66, can you comment on how we have looked at those experiences in terms of legislation and have sought to build into this approach best practices and lessons learned from their very early approach?

**Ms. Kathy Thompson:** Yes, we absolutely have looked at those fairly recent experiences of other countries and particularly, as I've said, all those you've mentioned: Australia, New Zealand, the U.K., including England and Wales, and Germany. We've tried to understand how they approached the expungement scheme from their perspective. It helped to inform this, for example. I should also mention and give credit to the Egale report, which also helped inform how we set out to address the objectives for the proposed legislation.

We were looking at how most of these regimes dealt with providing for posthumous expungement, recognizing the very historical nature of most of these convictions. We also looked at and tried to understand some of the challenges related to providing or obtaining evidence. We therefore looked at how they provided for individuals to provide solemn declarations or sworn affidavits to ensure we understood how they met the criteria.

We were very much informed by these other regimes that have gone forward and developed expungement regimes.

**Mr. Peter Fragiskatos:** Thank you very much.

In your statement, Ms. Thompson, you noted, "Given the historical nature of these offences, if court or police records are not available, sworn statements or solemn declarations may be accepted as evidence." Is there an estimate at this point of the number of court or police records that might not be available? For example, in looking at the situation in Germany, Australia, New Zealand, and the U.K., has this been a significant challenge?

**Ms. Kathy Thompson:** We know that in RCMP repositories there are more than 9,000 records of convictions, so it's difficult to know how many will still have records in local jurisdictions available to them. Sometimes it's at different levels, for example, or police stations may still have those records. It's difficult to know how many records will be available. We know that there are more than 9,000 for these charges in RCMP repositories, so that's what we have prepared and built the regime for.

With respect to other international regimes, I might ask Angela to speak to that.

•(1600)

**Ms. Angela Connidis:** Sorry, I don't have anything to add. I think Kathy has actually covered what we have with that.

**Mr. Peter Fragiskatos:** That's fine.

With the remaining time, I know my colleague Mr. Spengemann has some questions.

**Mr. Sven Spengemann (Mississauga—Lakeshore, Lib.):** Thanks very much, Mr. Chair. How much time do I have?

**The Chair:** You have about three minutes left. We actually will get into a second round, but it is my intention to cut the questioning off at around 4:15 or 4:20 to give time for clause-by-clause consideration.

**Mr. Sven Spengemann:** Okay. Thanks very much, Mr. Chair.

Thank you for being with us today.

I have two fairly precise and hopefully quick questions. Have you had an opportunity to consult on the bill with stakeholders in the LGBTQ2 community?

**Ms. Kathy Thompson:** We did have an opportunity to consult with the Treasury Board office responsible for liaising with the LGBTQ2 community. Also, we had an opportunity to consult with one of the LGBTQ2 historians to understand the historical nature of some of these offences and some of the context with respect to the charges that were laid.

**Mr. Sven Spengemann:** Okay.

Have any concerns been raised or have any views come to your attention specifically from transgender Canadians, perhaps specifically with respect to the first criterion of the tests that have to be met?

**Ms. Kathy Thompson:** Not that we're aware of.

Also, with respect to consultations, we undertook an online consultation with respect to the Criminal Records Act, and as part of that broader consultation, there was a question targeting the issue of historical injustice, and circuitously, expungement as well.

**Mr. Sven Spengemann:** Is it your view that the bill as it's currently framed is flexible and sensitive enough that if there were concerns raised by transgender Canadians specifically in an application process, those circumstances could be addressed well enough and effectively enough?

**Ms. Kathy Thompson:** In my view, it would be, because we have allowed for that solemn declaration. As we said earlier, a lot of the convictions do not indicate the specific nature of the conviction, whether it was, for example, consensual or non-consensual. That's

why we're asking for a little more information. I think there is enough flexibility in the regime we've built to allow for that information to come forward.

**Mr. Sven Spengemann:** That's helpful. Thank you.

With respect to the actual application process, is it your sense that the three-part test generates any kind of burden of proof akin to the bounds of probabilities or even beyond that?

What I'm getting at is the potential of some type of fee creeping in, even though there's no application fee per se, so that if somebody has to go through extensive steps of proving eligibility under the three criteria, they might actually have to retain counsel or some type of advisory process or services; or is it user-friendly enough that the applicant could establish the three criteria easily without onerous expense?

**Ms. Kathy Thompson:** That was certainly the intention in developing the legislation. I'll ask Talal to speak to the process.

**Mr. Talal Dakalbab:** When we speak about the fees, we're speaking about federal government fees, because we can't really waive other fees. I just want to be clear about that aspect.

**Mr. Sven Spengemann:** Sure. Of course.

**Mr. Talal Dakalbab:** From our perspective, we're going to have a guide online and available on paper to help them, but there will be obviously some documents that they'll have to provide in order for the board to do the inquiries and verify the information. It doesn't totally remove the burden of providing documents or providing solemn declarations or statements. I can't speak to it, because it's really out of the jurisdiction of the federal government.

**Mr. Sven Spengemann:** Thanks very much.

**The Chair:** Mr. Motz, you have five minutes.

**Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC):** Thank you, Mr. Chair. I will assure you that I will not take five minutes.

I just have clarification on one question that my colleague Mr. Paul-Hus asked. It's around clause 23. With respect to the preamble and what's talked about in clause 25 regarding the list and the schedule of offences, I know it has been suggested that clause 23, specifically subclause 23(2), might still have some ambiguity on the expansion of offences that might be included at some point down the road with the Governor in Council.

I just need clarification around how you would interpret the current language and whether this is more of a closed offence type of expungement, which is listed here, the family of offences being listed, or is there the possibility with this language that it can be opened up to almost anything that current governments, however they might change, can expunge records on beyond this?

•(1605)

**Ms. Angela Connidis:** The intent was not to limit it to this nature of offence, issue, or circumstance. The emphasis is really on the fact that it should be considered a historical injustice, and part of that is considering whether or not that criminal activity or that criminalization of an activity is considered to violate the Canadian charter of human rights, as an example.



The context is really looking at any crime that is now considered to be a historically unjust crime, and whether or not we should be providing the option of expungement.

**Mr. Glen Motz:** Thank you. That does open us up to some potential overreaching government power at some point down the road, as opposed to what the intent here is with Bill C-66. I just want to make that statement.

Thanks.

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

Mr. Spengemann, you wanted to ask a final question.

**Mr. Sven Spengemann:** I think Mr. Ruimy has one as well.

**The Chair:** Okay, go ahead, Dan. Again, welcome to the committee.

**Mr. Dan Ruimy (Pitt Meadows—Maple Ridge, Lib.):** Thank you.

Thank you for coming in today.

I just have one question, and I'm hoping it doesn't apply here, but in a lot of cases, seniors who have been forced to go into seniors' homes, for instance, have been forced back into the closet, because they have a fear of being outed where they are. If they choose to go ahead and get this, is it public in any way if they don't choose to make it public?

Is there a public record of this?

**Mr. Talal Dakalbab:** No. There was a decision made to make sure that the decisions are not accessible in a decision registry or through any other process, obviously, except for the applicant or whoever the applicant assigns to work with him or her. This is going to be pretty confidential if the person wishes.

Obviously, we will be informing our colleagues, and notifications will be sent out, but that's it. The public cannot request a copy of the Parole Board of Canada's decisions.

**Mr. Dan Ruimy:** Thank you.

**The Chair:** Sven.

**Mr. Sven Spengemann:** Thank you very much.

To close out my exchange with Mr. Dakalbab, very briefly, because time ran out on us, is it your sense that this application process is structured in such a way that an applicant would not have to retain outside counsel to be successful in the application? Is it user-friendly enough and simple enough that there's no cost that's going to come in by having to retain a lawyer to prove status or prove eligibility?

**Mr. Talal Dakalbab:** Obviously, this is our intention. Experience says that sometimes people will still seek support, whether for a simple part of the application or other reasons, but that will be their decision. We will have, as I mentioned, staff available by phone and online to provide them with all the services so that they don't need to do that.

**Mr. Sven Spengemann:** That's helpful. Thank you very much.

Thanks, Mr. Chair.

**The Chair:** We still have a bit of time for any other questions.

Mr. Garrison.

**Mr. Randall Garrison:** Thank you very much, Mr. Chair.

I had one last area where I know that some concerns had been raised, in particular, by historians—I'm a recovering historian and political scientist—about the destruction of records. The act to me seems to say that judicial records will be destroyed, not all records. Some historians are concerned that the record of government activities in hunting down gays and lesbians and making sure they were fired, or campaigns by the police—we had some recent ones that have taken place even in Toronto—would be destroyed.

My understanding, from a reading of the law, is that it's simply the judicial records, and not all records of the activity. I just wonder if we could have some clarity on that.

**Ms. Kathy Thompson:** I think the RCMP probably can respond to that.

**C/Supt Serge Côté:** Yes. Thank you. I can obviously speak to that.

We were talking earlier about best practices. To make a comparison, this process, this legislation, is very similar to what we are currently doing with respect to record suspension of pardons. The difference is that under a records suspension decision by the Parole Board of Canada, we sequester the information, and in doing so, federal agencies and police partners are directed that we will communicate with them with the view of sequestering the information they have that would make reference to that charge, to that conviction, whether it's on a local records management system or whatnot. As part of the RCMP, in my duty in terms of being responsible for the national repository of criminal records and fingerprints, my role will be to ensure that this information is deleted from our databases, from the national repository as well as from RCMP databases.

It is the judicial record, but it's also information relating to that record that we're going to direct federal agencies to work on.

• (1610)

**Mr. Randall Garrison:** But it isn't necessarily all the records that dealt with arrests around these kinds of issues.

**C/Supt Serge Côté:** If we are looking at the pardon or record suspension regime, it is the information in relation to.... If it was going to be disclosed in a way where it makes reference to that record suspension, or in this case the expunged decision, then that record would be deleted as well.

**Mr. Randall Garrison:** There's just a concern from some who want to preserve the history of what happened. Most of the individuals I talk to are quite happy to have everything destroyed. There is a kind of tension between those two views in the community.

I would just go back to Ms. Connidis for one last clarification, if I could.

You said that it would take legislative change to remove things from the schedule. Would that include things that were subsequently added to the schedule? If cabinet, by order in council, can add, say, the bawdy house offences, what is the process...? How secure is that once they're added?

**Ms. Angela Connidis:** Thank you for the question.

The legislation was drafted to allow an addition and not to allow a removal. It can't be removed in the same way it can be added.

**Mr. Randall Garrison:** I just wanted to be absolutely clear on that.

Thank you very much, Mr. Chair.

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

I believe Mr. Paul-Hus has a brief question.

[*Translation*]

**Mr. Pierre Paul-Hus:** Thank you.

Someone mentioned earlier—I'm not sure, but I think it was Mr. Côté—that 9,000 people might be affected. It isn't a huge number, but I would like to know how far back we can go. If we're talking about 50 years, the total number of people subject to these provisions is about 9,000.

How far back do you plan to go?

[*English*]

**C/Supt Serge Côté:** I can take that question, Ms. Thompson.

[*Translation*]

As part of its internal policies, the RCMP keeps the information in the National Criminal Records Repository for 125 years. This is because various government agencies frequently request information from the RCMP for statistical research. It does not have any impact on

[*English*]

in terms of enforcing the law.

[*Translation*]

**Mr. Pierre Paul-Hus:** Since the number of cases isn't very high, responding to these requests shouldn't be a huge workload for you.

**C/Supt Serge Côté:** We support this bill, and we will be ready to implement the decisions of my colleague here, once they have been made.

**Mr. Pierre Paul-Hus:** Thank you.

[*English*]

**The Chair:** I don't see any other questions. Shall we go to clause-by-clause?

I have no amendments before me. Can I group clauses 2 through 30?

(Clauses 2 to 30 inclusive agreed to)

**The Chair:** Shall the schedule carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the short title carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the preamble carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the title carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the bill carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the chair report the bill to the House?

**Some hon. members:** Agreed.

**Mr. Michel Picard (Montarville, Lib.):** As fast as possible....

**The Chair:** Maybe that's possible, 10 o'clock tomorrow morning.

**Ms. Pam Damoff:** Mr. Chair, does the record show that it's unanimous when you ask questions like that? Just for the official record, it might be nice to get something that shows that it was. If it doesn't, it's not a big deal.

**The Chair:** It shows no dissent; let's put it that way.

**The Clerk of the Committee (Mr. Jean-Marie David):** The way it was done, it doesn't show. However, if the committee was to adopt a motion instructing me to reflect that, it could be done.

• (1615)

**Ms. Pam Damoff:** I would.

**The Chair:** We can move that after we finish this.

**Ms. Pam Damoff:** Yes.

**The Chair:** Shall...? We don't need a reprint because we didn't amend anything. I'm sorry.

Ms. Damoff, do you wish to move your motion?

**Ms. Pam Damoff:** I would move that the record show that the bill was adopted unanimously at committee.

(Motion agreed to)

**The Chair:** The motion carries, and the bill carries.

Thank you. We'll see you tomorrow morning at 8:45.

The meeting is adjourned.







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