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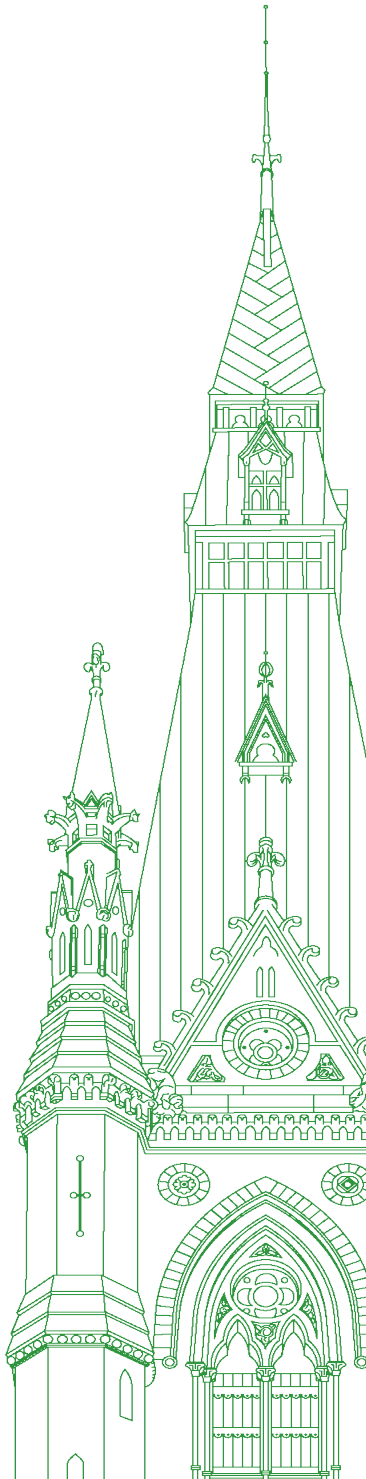

Chair: Ms. Lena Metlege Diab

Standing Committee on Justice and Human Rights

Thursday, February 1, 2024

● (0815)

[*English*]

The Chair (Ms. Lena Metlege Diab (Halifax West, Lib.)): I call the meeting to order.

Welcome to meeting number 92 of the House of Commons Standing Committee on Justice and Human Rights. Pursuant to the order of reference adopted by the House on June 21, 2023, the committee is continuing its study of Bill C-40, an act to amend the Criminal Code, to make consequential amendments to other acts and to repeal a regulation on miscarriage of justice reviews.

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders. We have members on Zoom and others are in person.

I believe we have a new member with us.

Marilyn Gladu, welcome to our committee.

I believe all members are knowledgeable about the technology and how it works and about interpretation. Just as a reminder, all comments are to be addressed through the chair, please. We have members in the room. For those on Zoom, with the help of the clerk and the Table, we will watch for hands going up on the screen to ensure that we don't miss anyone.

[*Translation*]

I wish to inform you that all the sound tests were completed successfully.

[*English*]

With us in person today is Madam Anna Dekker.

[*Translation*]

Ms. Anna Dekker is Senior Counsel and Deputy Director of the Public Law and Legislative Services Sector.

[*English*]

We may be joined by someone else, but right now we will continue with our study.

We will resume consideration of Bill C-40 and resume debate on clause 3.

NDP-1 was withdrawn by unanimous consent on December 14, 2023.

I will ask Mr. Housefather if he wants to move LIB-1.

(On clause 3)

Mr. Anthony Housefather (Mount Royal, Lib.): Yes. Thank you, Madam Chair.

We've had some extensive discussions already on this amendment. The essential purpose of LIB-1 is to allow the most vulnerable people who couldn't have appealed to the court of appeal to have the same right, as under the current version of the bill, that they would have had if they had not appealed to the Supreme Court. Essentially, it is entirely consistent with the language of the bill. It just adds a further avenue for those who didn't appeal the original judgment to appeal on the same grounds as allowed for those who didn't appeal their court of appeal judgment to the Supreme Court.

Given how much discussion we've had already about Mr. Garrison's amendment and this one, I don't think I need to prolong this. I would recommend that we support it.

Thank you.

● (0820)

The Chair: Thank you, Mr. Housefather.

Go ahead, Mr. Moore.

Hon. Rob Moore (Fundy Royal, CPC): Thank you, Madam Chair.

On this amendment, overall, the concern I have is that the drafters, in their wisdom, had a requirement that the decision be appealed. The reason is that to avail oneself of this process, it should be fairly extraordinary. These are wrongful conviction cases. While they happen, they are rare. Eliminating the requirement as drafted to have them appealed further lowers the threshold, and we'll get to that when we deal with CPC-1.

As to the threshold in this process, we heard that North Carolina, the United Kingdom and other jurisdictions that have a commission on wrongful convictions have a much higher threshold than what's proposed here. Eliminating the requirement that one appeals their decision makes the bill's floor, which is too low, even lower.

Without speaking too much to it in advance, CPC-1 is going to change the threshold from “may have occurred”, which is in the current draft, to “a real possibility that a miscarriage of justice has occurred”. I think it would be Canadians' expectation that a miscarriage of justice or wrongful conviction.... While Canada has an enviable system, it has its challenges.

We had a debate at the last meeting around resources for judges and judicial vacancies. There's no doubt there could be changes to the law. My concern in this.... We had a study on the federal government's obligation to victims of crime, and we heard over and over that the process revictimizes. They're already victims and then they go through the process. Whether it's the judicial process or the parole hearing process, victims told us at this committee that the process revictimizes them.

With this process, there is no doubt there will be claims that result in new trials. A new trial means that victims will have to relive a very painful process that they've already been through. That is why I think, in light of the fact that this is new to our country....

There are contemporaries that have dealt with this. In the case of the United Kingdom, even with their much higher threshold—"a real possibility that a miscarriage of justice has occurred"—we heard testimony that there was a literal flood of applications when going from the pre-existing rules to the new commission. We can expect the same here. That is why I do not think it's in the interests of victims or our system as a whole to have a threshold that is so low.

This amendment would probably make a possibly bad situation worse, so I'm unable to support it.

Thank you.

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

Mr. Garrison.

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

I'm happy to support this amendment. As we all know, I was trying to accomplish the same thing, but my amendment as drafted inadvertently removed a couple of other sentences from the bill. That was a drafting error.

I want to go back to the testimony we heard, virtually universally, from witnesses, which was that those who are least likely to have the skills and resources to exhaust appeals are exactly those who need to be considered by this commission. If you're looking at people with low levels of education, low levels of economic resources and low levels of information about the justice system, saying they must have exhausted all of their appeals requires them to know more about the legal system than most of us do. I think, in fact, this is raising the standard way too high.

To respond to Mr. Moore's concern that there will be a flood of cases, this allows the commission to look at those applications. It doesn't require them to accept those applications.

I also want to go back to testimony we heard from victims, because the Conservatives often like to cite it. One thing we heard universally from victims was that they'd like the right person convicted and would not like the wrong person still at large in society. Part of the benefit to society of a miscarriage of justice commission is to make sure the right people pay the price for their crimes and that we don't let people "off the hook" because we convicted the wrong person. We've seen some very dramatic examples of that in the past.

I would say the importance of this amendment is to make sure that those who most need the benefit of this commission actually get considered by the commission.

Thank you.

● (0825)

The Chair: Thank you, Mr. Garrison.

Mr. Caputo, please go ahead.

Mr. Frank Caputo (Kamloops—Thompson—Cariboo, CPC): Madam Chair, may I deviate a bit? I'd like to ask Mr. Housefather a question about the intent of his amendment. Is that permissible?

The Chair: Sure. You can ask him through me. I don't think I have an issue with that because I don't believe he has an issue with responding.

Go ahead, Mr. Housefather.

Mr. Anthony Housefather: I haven't heard the question.

Voices: Oh, oh!

Mr. Frank Caputo: Mr. Housefather is talented, although not telepathic.

My question is this: Is the intent of this amendment to address historical wrongful convictions? If somebody was convicted 10, 15 or 20 years ago and didn't go through the court of appeal or the Supreme Court of Canada, now they have an additional leap. Is that your intent, Mr. Housefather?

The Chair: I will only allow you to ask it because I think he has no issue in responding to you.

Mr. Anthony Housefather: No, I have no issue at all.

The Chair: Please go ahead, Mr. Housefather.

Mr. Anthony Housefather: We heard Mr. Moore cite North Carolina and the U.K. In neither of those cases does the commission have an impediment where it's not allowed to consider cases because of failure to appeal. My intention, as Mr. Garrison's was, is to remove that impediment because it is the most vulnerable defendants who wouldn't have the legal resources or the legal advice to necessarily appeal a case.

If somebody was wrongfully convicted and whatever burden of proof we agree to in this bill is met, it shouldn't be that the commission can't even consider the case because the person didn't appeal to the court of appeal. We left in the bill an ability, if you appeal to the court of appeal and not to the Supreme Court, to allow the commission to consider it. All this does is remove that impediment if the person didn't appeal the case to the court of appeal. However, it's on exactly the same terms and the same grounds as was in the bill to begin with.

Mr. Frank Caputo: Okay. I think I understand your point.

I understand Mr. Housefather's point, and I get where he's coming from. I listened carefully to Mr. Garrison's point and to Mr. Moore's point. I think the two are actually quite reconcilable.

I know that Mr. Garrison, somewhat in contradiction to Mr. Moore's point, spoke about how we want to put the right people in jail. I believe Mr. Moore's point is that, generally, our system does get it right. It gets it right almost always, and that's the whole point: When there is a wrongful conviction, it does strike at the heart of the justice system because it is meant to be rare. Frankly, I think it is rare.

Mr. Moore's point is that in most cases where the right person was convicted, the victim is reliving it. Mr. Garrison's point is that we want to get the right people in jail. The two are there; the two are reconcilable.

My concern is this. Let's say a person is convicted by a jury on May 1, and on May 2 that person is applying for a wrongful conviction. I don't know if that's your intention, Mr. Housefather, but that is what is permitted by this amendment. That is my concern.

That's why I asked whether Mr. Housefather's intent was to look at somebody who didn't have the resources. I think that almost everybody would get funding for a meritorious appeal through legal aid. I can't say that with one hundred per cent certainty, but that's my impression anecdotally.

I am concerned that somebody who is convicted on May 1 can then turn to this legislation on May 2. If that's not your intent, then I believe we should be looking at a subamendment. I am happy to put one forward, but I don't know. Again, that's why asked you for your intention.

Mr. Anthony Housefather: Can I...?

The Chair: Do you know what? I'll put you on the list. How's that?

Mr. Anthony Housefather: Put me on the list. Thank you.

The Chair: Mr. Van Popta, please go ahead.

Mr. Tako Van Popta (Langley—Aldergrove, CPC): Thank you, Madam Chair.

I have the same concern as my colleague Mr. Caputo. I don't think any of us want this judicial review commission to become an alternative court system.

Mr. Garrison was saying just a few minutes ago that those who are least able to hire a competent lawyer—for example, those who don't have the resources to do that—are the ones we want to help out. In response I would say those are good arguments for improving our traditional trial court system, maybe with better legal aid funding and by ensuring that every person who's charged with a serious offence has competent counsel. I think we're all very interested in our criminal trial system functioning properly and coming to the right decision.

Our system is an adversarial system. The judge's job is to hear the evidence, to give direction to the jury and to allow the jury, then, to make the decision. This is not an inquisitorial system. It's an adversarial system.

The judicial review commission will be more inquisitorial and will have the resources to do investigations. That's a good thing, but what we don't want to happen is that it becomes an alternative or parallel criminal justice system so that a person convicted can decide whether they go through the appeal process or go directly to judicial review. I think that's what we want to avoid.

Whatever amendments my colleague Mr. Caputo might come up with, I'm certainly interested in hearing them.

● (0830)

The Chair: Go ahead, Mr. Housefather.

Mr. Anthony Housefather: Thank you very much.

I think we all do not want this to simply replace the appeal system. That is already in the criteria the commission would use in order to determine whether or not to receive a case. One of the criteria is related to whether or not an appeal could still be made. I'll pull out the legislation if I need to, but I think you need to look at the already established criteria for whether or not the commission should grant leave to discuss a case or not. That is already included. That would be my point.

I agree with you that it shouldn't replace the appeal system, but I believe that's already in the bill and that is one of the grounds. All this does is say that if you appealed a case to the court of appeal, it's the same as if you appealed it to the Supreme Court. You didn't exhaust your appeals. The commission can still look at it, but it's not meant to replace, as I think the bill is drafted, the current appeal system.

The Chair: Go ahead, Mr. Caputo.

Mr. Frank Caputo: Well, if this isn't meant to replace the current appeal system, I think we should say that, because I think on a reading of it, one could certainly make the argument that it is doing so. As I said earlier, somebody who is convicted on May 1 can avail themselves of this stream in the legislation on May 2. To me, that is unpalatable. Frankly, that is not the point of this legislation. I was thinking about this as I grabbed a coffee, but if Mr. Housefather wants to rebut, go ahead.

Mr. Anthony Housefather: No, I was just going to ask, Madam Chair, if—

The Chair: Just hold on. Hold your thoughts. I will get back to you.

Go ahead, Monsieur Fortin.

[*Translation*]

Mr. Rhéal Éloi Fortin (Rivière-du-Nord, BQ): Thank you, Madam Chair.

I think amendment LIB-1 is a good one, and, like Mr. Garrison, I think we need to ensure that no one is deprived of legitimate remedy solely because he or she can't afford to challenge a ruling in an appellate court or the Supreme Court. Having said that, I also think Mr. Caputo and Mr. Moore's argument is valid. I admit I hadn't seen that.

Unless Mr. Housefather can explain to me how this isn't the case, I think we would be surreptitiously inserting wording that would enable people to decide, following an unfavourable judgment at the trial level, whether they wish to appeal from the court's decision or file a miscarriage of justice application. We all agree that's not what we want, and we have to find a way to make sure people don't have that option. It's the appellate courts' job to review trial-level judgments. I don't think the Miscarriage of Justice Review Commission should have to do that work.

Consequently, I wonder if Mr. Housefather would have anything to propose to prevent that, without necessarily requiring that people have first challenged a ruling in an appellate court or the Supreme Court before filing a miscarriage of justice application.

● (0835)

The Chair: Go ahead, Mr. Housefather.

Mr. Anthony Housefather: Thank you.

I entirely agree with Mr. Fortin, but I believe that what he's proposing is already in Bill C-40. As I told Mr. Caputo, I agree with him too, but no one can file an application with the Miscarriage of Justice Review Commission the day after a superior court renders a decision.

I encourage you to consider the exception provided for in the new paragraph 696.4(4) proposed in clause 3 of the bill.

[*English*]

If you don't mind, Madam Chair, I'll read it out so everybody has it. Right now it says:

> Despite paragraph (3)(b), the Commission may decide that the application is admissible even if the finding or verdict was not appealed to the Supreme Court of Canada.

Then it would say:

> ...was not appealed to the court of appeal or the Supreme Court of Canada. In making the decision, the Commission must take into account
>
> (a) the amount of time that has passed since the final judgment of the trial court..."

Basically, the day after would not.... Nobody's going to say that it just happened yesterday, so now they should take it. It should be that you should appeal.

Then it says:

> (b) the reasons why the finding or verdict was not appealed...
>
> (c) whether it would serve a useful purpose for an application to be made for an extension of the period within which a notice of appeal or a notice of application for leave to appeal...may be served and filed...

To me, it already says the intention is that you should have exhausted your appeals if you still could have done so. It would only be a matter of the appeal no longer being permissible. That's when they would even look at this. They would generally say to go back and appeal. I think it's taken care of.

The issue Mr. Moore raised is different. It's what the threshold should be overall. However, on the question of whether or not you should be allowed to hear a case that, let's say, happened 15 years ago and there are no appeal rights, I don't think it should matter whether you appeal to the court of appeal or the Supreme Court if you believe that whatever standard the law has has been met. That's my feeling.

Thank you.

The Chair: Go ahead, Mr. Moore.

Hon. Rob Moore: I didn't have my hand up.

The Chair: I'm sorry.

Go ahead, Mr. Maloney.

Mr. James Maloney (Etobicoke—Lakeshore, Lib.): I'm okay. The point has been made.

Thanks.

The Chair: Thank you.

Go ahead, Mr. Caputo.

Mr. Frank Caputo: Briefly in response to Mr. Housefather's statement, I understand his line of reasoning. It says it right there, but it still permits the application to be admitted. That's my point. It says, “the Commission must take into account”. It doesn't mean the commission must dismiss it.

Let's face it. We've all been here long enough. We are generally all called to the bar here, as far as I know. Mr. Garrison, I believe, is very learned.

I'm sorry. She was called to a different—

Ms. Marilyn Gladu (Sarnia—Lambton, CPC): It's a higher calling.

Mr. Frank Caputo: Yes, it's a different professional credential, equally as noble.

My point is that we've all seen laws—Mr. Mendicino was a minister—where we've said one thing and we've seen it interpreted. That's why sometimes we have to work, in my view, with the utmost clarity, because it still says that the application can be accepted.

Do we even want to flood the commission with applications that they have to dismiss? That's a very important point, in my view. Someone could say, “Hey, I can still apply.” They still have to go through the process. I think we should make very clear what our intent is here. If it is historical, we can put a five-year threshold on it. We're catching a lot of convictions there. Let's put something in there saying that if they didn't exhaust their appeal, they're not applying unless a certain amount of time has gone by.

I'm prepared to move that subamendment. I want to hear the rest of the interventions, because I think it's an eminently reasonable subamendment in the circumstances.

[*Translation*]

The Chair: Go ahead, Mr. Fortin.

Mr. Rhéal Éloi Fortin: Thank you, Madam Chair.

In paragraph 696.4(4)(a) as proposed by amendment LIB-1, we could add that the deadlines for appeal must have expired. The provision would read as follows:

> (a) the amount of time that has passed since the final judgment of the trial court, provided that the deadlines for appeal have expired;

If the deadlines for appeal have expired, no further right of appeal is possible, and the commission could then consider an application for review. If the deadlines for appeal have not expired, the commission would not consider the application.

What do you think of that?

The Chair: I think your question is intended for the committee.

Mr. Rhéal Éloi Fortin: It's actually a suggestion.

Mr. Caputo said that a subamendment would be necessary and perhaps that my proposal is along those lines. Based on our discussion, I think we could agree to avoid the trap of filing an application for review the day after an unfavourable verdict on the ground that the deadline for appeal must first have expired. It would be automatic: a person whose review application is taken up by the commission would not be able to appeal. The idea is that a person who has been convicted must first exhaust his or her appeal rights. A person who decides to apply to the commission would not then be able to challenge a decision in appellate court. What I'm proposing could be viewed as a compromise.

It's also a question that we could put to Ms. Dekker or a suggestion for the committee.

● (0840)

The Chair: You may respond if you wish, Ms. Dekker. Is this a question for her?

Mr. Rhéal Éloi Fortin: It's a suggestion, Madam Chair, but, yes, I'd like to hear from Ms. Dekker.

The Chair: Go ahead, Ms. Dekker.

Ms. Anna Dekker (Senior Counsel and Deputy Director, Public Law and Legislative Services Sector, Department of Justice): Thank you, Madam Chair.

With your permission, I'm going to turn the floor over to my colleague, Ms. Besner.

The Chair: All right.

Before I give you the floor, Ms. Besner, we have to complete some sound tests.

Since everything seems to be working, the floor is yours.

Ms. Julie Besner (Senior Counsel, Public Law and Legislative Services Sector, Department of Justice): Thank you.

If my understanding of the question is correct, the member wants to know whether it's possible to provide in Bill C-40 for the commission to take into consideration the amount of time that has elapsed since the deadline prescribed by the court for filing an appeal has expired. That could definitely be taken into consideration, and if the committee wished to adopt such a provision, paragraph 696.4(4)(a) would be the best place to insert it.

I'm going to switch to English because that's the language I use to frame this in my mind.

[*English*]

It could say, “the amount of time that has passed since the time within which to file an appeal has expired.” A different formulation to get at that point might be possible.

[*Translation*]

The Chair: Thank you very much, Ms. Besner.

Does that answer your question, Mr. Fortin?

Mr. Rhéal Éloi Fortin: If I understand you correctly, Ms. Besner, the commission would then take into consideration the amount of time that has passed since the time within which to file an appeal has expired. However, would the expiration of the time within which to file an appeal be made a condition for allowing the application? Unless I'm mistaken, that's actually what the committee is concerned about.

Ms. Julie Besner: If it were included in this paragraph, it would become a factor that the commission would have to consider in deciding whether an application is admissible.

With your permission, I would add that the factors set forth in the exemptions are based on the relevant case law in this matter. Ontario's Superior Court of Justice rendered a decision in the McArthur affair that was appealed to the Court of Appeal for Ontario; the Supreme Court declined to hear the appeal. The Superior Court had explained that certain cases at times required an investigation:

[*English*]

“when considering whether or not an [accused] has exhausted his or her rights of judicial review or appeal, a flexible approach must be taken, albeit one that is consistent with the intention of Parliament”.

[*Translation*]

Essentially, the purpose of the courts isn't to conduct investigations but rather to decide issues of law. Consequently, if an issue of law has to be decided in the case, the appropriate path is definitely to file an appeal.

However, according to the Superior Court, when relevant fresh evidence is required to establish that a wrongful conviction occurred as a result of a miscarriage of justice, it is the responsibility of the Minister of Justice, and potentially the new commission, to conduct investigations in order to gather that fresh evidence so it can be considered in the context of the entire case.

If an individual hasn't already exhausted an initial appeal, this is a relevant factor to be taken into consideration.

● (0845)

Mr. Rhéal Éloi Fortin: Thank you, Ms. Besner.

I'm pleased to see I'm not the only one who has to remove my glasses in order to read.

The Chair: Thank you very much, Mr. Fortin and Ms. Besner.

[*English*]

I have a list now of many, so bear with me.

I have Mr. Moore now.

Hon. Rob Moore: I'm certainly sympathetic to the objective that Mr. Housefather has. Perhaps my decision would be different if we were dealing with our amendment first and his amendment second, but we have to look to the remedy section of this legislation. This, in many cases, will involve a new trial or the court of appeal hearing an appeal that it hadn't otherwise.

The commission doesn't decide whether someone is guilty or innocent. It restarts the process or continues the judicial process. I have to go back to the evidence we've heard around victims and victims' families being revictimized by the process. That's why I feel that with the passage of this legislation, we are going to end up with a flood of applications. It makes abundant sense to me not to require someone to avail themselves of an appeal to the Supreme Court of Canada before availing themselves of the wrongful conviction process. My concern is that Mr. Housefather's amendment is going to further open up what will be a floodgate and a very painful time for victims of crime and their families.

I'll just quickly make the point that before the decision from the Supreme Court found unconstitutional the consecutive sentencing requirement for those convicted of first-degree murder, if they had convicted multiple murders, they would have had consecutive periods of parole ineligibility. We heard testimony at this committee from victims' families, who said they thought the process was over, that this was horrifying for them, that they had begun to heal and now a scab had been ripped off. We heard from Tim Bosma's widow. She said the one good thing that came out of this was knowing that her daughter would never have to face the convicted at a parole hearing. Now with this decision, her daughter will have to face her father's killer at a parole hearing.

I hope you can understand my concern about flooding our already overstressed justice system with potentially frivolous cases. Who among the convicted wouldn't want a second shot? Everyone would want it. Then we turn to the legislation and ask how we can prevent frivolous applications. What are we as parliamentarians telling the commission to look at? If we look at the current law, the Minister of Justice has to feel that a miscarriage likely occurred. If we look at the U.K., they have to feel there's a real possibility of a miscarriage of justice. If we look at North Carolina, they have an even higher threshold of factual innocence, so it's not fair to compare their non-requirement to appeal to ours, because our thresholds for someone to avail themselves of this process are so dramatically different.

I think Mr. Fortin's suggestion is a good one and I would support it. It would make what could be a bad situation a little better. However, overall, as to Mr. Housefather's amendment, I still can't support it because of how flawed I feel the system as a whole will still be unless we amend our threshold.

● (0850)

The Chair: Madam Gladu, go ahead.

Ms. Marilyn Gladu: Thank you, Chair.

Thank you to the committee. I'm very happy to be here.

Obviously I don't have the same depth of legal experience that many of you have, but what I have seen at my office is numerous inquiries from people who do not like a judge's decision and who are militant about wanting to pursue every avenue they can to possibly get it overturned. I share the concern of Mr. Moore that this may open up a flood of applicants. How do we make sure there are enough criteria in place so you're not getting these frivolous complaints? I think the amendment Mr. Fortin has recommended is better, but it might be an idea to park this clause and talk about the CPC amendment and see whether or not we can come back to this one and agree.

[*Translation*]

The Chair: Go ahead, Ms. Brière.

Mrs. Élisabeth Brière (Sherbrooke, Lib.): Thank you, Madam Chair.

Actually I would like to hear the witnesses' opinions on the amendment generally.

[*English*]

The Chair: Go ahead, Mr. Mendicino.

[*Translation*]

Hon. Marco Mendicino (Eglinton—Lawrence, Lib.): First I'd like to say that I liked Mr. Fortin's remarks. However, I entirely agree with Ms. Besner's interpretation of the bill.

I would note that amendment LIB-1 would insert the following words: “or verdict was not appealed to the court of appeal or the Supreme Court of”.

In addition, another provision concerning the independent commission reads as follows:

> 696.4(3) The Commission must dismiss the application as inadmissible if
>
> (a) the court of appeal has not rendered a final judgment on appeal of the finding or verdict; or
>
> (b) an appeal of the finding or verdict lies to the Supreme Court of Canada on a question of law.

I believe that provides some clarification of what Mr. Fortin raised.

[*English*]

In response to the comments that have been made by my colleagues Mr. Moore, Ms. Gladu and others from the Conservative benches, I would simply say that I think we all share the concerns of families and victims who have been traumatized by a trial and who may be indeed traumatized by an accused who exhausts their rights of appeal. They need to be at the forefront of our concerns. No one diminishes that, especially those of us who have grieved with families in various tragic cases. Certainly I keep that top of mind as I think about this law.

On the other hand, I would hope that my Conservative colleagues recall that for many years, the individuals who were the inspiration for this bill were themselves victims of miscarriages of justice. I think that is precisely the point Mr. Garrison was making. In our effort to ensure that those miscarriages are corrected, we have put forward a piece of legislation that sets a standard that does not aim to open the floodgates, as has been characterized, but rather sets the bar in a way that allows those who have exhausted their appeals or who choose not to appeal to come before this commission to ensure that wrongs are righted. For that reason, I do support my colleague Mr. Housefather on LIB-1, and I would urge all colleagues to vote in support of it.

● (0855)

The Chair: Thank you very much.

I'm going to turn back to Madam Brière.

I apologize, but I think you had a question for Madam Besner and I neglected to let her respond to it. Perhaps you could ask it again.

[*Translation*]

Thank you very much.

Mrs. Élisabeth Brière: Thank you, Madam Chair.

I'd like to know the witnesses' general opinion of the amendment.

[*English*]

The Chair: That's for Madam Besner or Madam Dekker, whoever would like to start.

[*Translation*]

Ms. Julie Besner: I believe I mentioned at a previous meeting that Mr. Housefather had described the amendment very accurately. Consequently, I have nothing to correct on that score. What he describes is an exception to the general obligation for applicants to have exhausted their appeal rights. That will still be a requirement, but the amendment provides that exceptions may be contemplated if the commission takes into consideration the factors enumerated in subsection 696.4(4) of the bill. They are the relevant factors that, according to the case law, are to be considered on this specific issue.

I would add two more factors in response to the comments made and questions asked by other members of the committee.

As regards frivolous applications filed with the commission, the bill contains two provisions that include the concept of the interests of justice. This measure must be applied in order to enable the commission to refrain from using its resources to conduct an investigation or to refer cases for new appeals if it isn't really in the interests of justice to do so. Scotland has included this idea in its act and uses it for that purpose. It should be considered.

Similarly, one of the factors that the commission must take into consideration in reaching its final decision and that appear further on in the bill, on page 6, already exists in the present statute. It has been carried over to Bill C-40: the application must not be intended to serve as a further appeal and the remedies set forth must be extraordinary remedies. That's already in the present act, and will remain so, to reflect the fact that the concept of miscarriage of justice review must be limited to cases in which new evidence calls into question the reliability of a verdict rendered by a court. It's a safety valve, an extraordinary remedy. The idea is not to question all the evidence considered or issues decided by the courts.

I hope that will assist you in your discussions.

The Chair: Thank you very much, Ms. Besner.

[*English*]

Go ahead, Mr. Garrison.

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

While I appreciate the intent of Mr. Fortin's possible subamendment, I think we're getting into an area here where the bill as originally drafted already describes these as exceptions. I think we're also hearing a contradiction from my Conservative colleagues, who tell me that the justice system gets almost everything right—I agree with them on that—but then suddenly we'll have a flood of wrongful appeals. I just don't see how those two things operate at the same time.

My concern with Mr. Fortin's possible subamendment is that we'll get into unintended consequences by adding that wording. The bill as drafted allows the commission to say they're not looking at a case because the appeal period hasn't expired, and you have every ability to appeal. That's certainly allowed by the wording of this bill as it stands. I don't think there's any need for us to fetter the commission by saying, “Absolutely you can't do that.” It's already there. We're only dealing with exceptional circumstances, as we just heard from our expert witness.

Like Mr. Mendicino, I would urge people to always keep in mind the victims of crime, but we've also had some very dramatic outstanding cases of families who are trying to make sure their loved ones are released from jail because they've been wrongfully convicted. That's exactly what this commission is designed for. The current process that goes through the minister has been found by everyone involved, including the ministers who have dealt with it, to be too restrictive and to be too subject to political timetables, I would say. Rather than whims, it's timetables. Ministers are busy people. How many cases can they deal with? Very few people have gotten through the existing system when there's clearly a miscarriage of justice.

I would hope that as LIB-1 is now drafted, it does take into account those very few cases where the commission will be given the ability to examine the applications. It does not require them to do so. The commission will very clearly establish within the legal community what those parameters are.

I would urge us to not delay this further.

Thank you.

● (0900)

The Chair: Thank you, Mr. Garrison.

I will now move to Mr. Housefather.

Mr. Anthony Housefather: This is going to be very fast.

I agree entirely with what Mr. Garrison and Mr. Mendicino said. I think the combination of what's in proposed subsection 696.4(4) and proposed paragraph 696.6(5)(c) makes it very clear that the commission is not going to frivolously entertain claims that should have been appealed. I believe in the good faith of the people on this commission to make good and wise decisions.

Nobody can stop frivolous applications, but the commission is not going to entertain them. I understand the Conservatives' perspective that there should be a different threshold, but I don't think this deals with that. This deals with who can make an application, and I really think the subamendment being proposed wouldn't add anything of value and might indeed have bad consequences.

I would urge people to vote on the amendment as is. If you like it, vote for it; if you don't like it, don't vote for it and move on.

The Chair: Thank you, Mr. Housefather.

Shall LIB-1 carry? We'll have a recorded vote.

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

The Chair: Thank you very much.

Is there a member who would like to speak to CPC-1?

Hon. Rob Moore: Believe it or not, Madam Chair, I'm not going to belabour the point on this because I've had the opportunity to speak to CPC-1 in the context of some of the other bills.

I think it's important. Some mention has been made of other systems, and I would quickly like to talk about our own system. The current system deals with scenarios where the Minister of Justice evaluates applications and can move forward with remedies if he or she feels that a miscarriage of justice likely occurred.

The United Kingdom has had a commission for some time now and, as I mentioned, experienced a flood of applications once the commission opened its doors. They have the threshold of a real possibility that a wrongful conviction or miscarriage of justice occurred.

In North Carolina, from where we heard testimony, factual innocence plays a part in the application and remedy. In this legislation, Bill C-40, factual innocence is not required. What is the threshold being proposed in Bill C-40? It's that a miscarriage of justice or wrongful conviction may have occurred. In my opinion, one, that threshold is too low, and two, it's a fact that it's lower than any other threshold in any jurisdiction we looked at, including our own.

CPC-1 would change the threshold in Bill C-40 at the investigative phase from “that a miscarriage of justice may have occurred” to “a real possibility that a miscarriage of justice has occurred”. We're replicating a peer country's wording, the United Kingdom's standard phrasing of “real possibility”.

Why do I suggest this? We want to have a system where a miscarriage of justice application would be exceptional. The process we have is strenuous. The accused can avail themselves of legal aid and all the charter rights to which they're afforded. I've mentioned before that I look at everything we do at this committee through the lens of the victims who have appeared before our committee. The victims and their families who have appeared at this committee have said that the judicial process itself revictimizes them. I remember one of them very clearly saying that we do not have a justice system in Canada; we have a legal system. That's how she felt coming out of the other end of the process.

In light of what we've recently heard from former minister Lametti about judicial vacancies, in light of what the chief justice of the Supreme Court has said about judicial vacancies, in light of the Jordan principle, in light of what all of us are hearing from our constituents about delays in the system and in light of the extreme stress that's put on victims and their families going through the process, the threshold whereby we say that someone is going to get another crack at the whole thing, they're going to get a new trial or they're going to go to the court of appeal has to be higher than a miscarriage of justice. That is why CPC-1 mirrors the U.K. standard that there's a real possibility that a miscarriage of justice occurred.

Thank you.

● (0905)

The Chair: Go ahead, Mr. Van Popta.

Mr. Tako Van Popta: Thank you.

I do speak in support of CPC-1.

We had a person from the U.K. commission give testimony. I thought that his testimony was very helpful to this committee. Mr. Curtis was his name.

When he was asked by one of my colleagues what the U.K.'s threshold was for directing its commission to conduct a review and to refer the case back to the trial system, to the court of appeal, this is what he said. It's a short piece of his testimony:

> Our test is if there is a real possibility that the appeal courts would quash the conviction and if our case law tells us the real possibility is below the balance of probabilities—that it's less than a 50% chance in that respect. It has to be real, so it's reasonable rather than fanciful.

Then he went on to say, “We've got some helpful case law and decisions that guide us on that.”

Mr. Curtis didn't cite any specific case, but I did research and came across their leading case, which is Pearson. Pearson was convicted of murdering her husband's new girlfriend. She had gone through the whole appeal procedure and then applied to the commission. It was just a new commission in the United Kingdom at that time, so this was their first case.

The judicial review court had to decide what a “real possibility” meant. I am going to quote from the Pearson case, and I think this is what their law is. This is what they said:

> The “real possibility” test prescribed in...the 1995 Act as the threshold which the Commission must judge to be crossed before a conviction may be referred to the Court of Appeal is imprecise but plainly denotes a contingency which, in the Commission’s judgment, is more than an outside chance or a bare possibility but which may be less than a probability or a likelihood or a racing certainty. The Commission must judge that there is at least a reasonable prospect of a conviction, if referred, not being upheld. The threshold test is carefully chosen: if the Commission were almost automatically to refer all but the most obviously threadbare cases, its function would be mechanical rather than judgmental and the Court of Appeal would be burdened with a mass of hopeless appeals; if, on the other hand, the Commission were not to refer any case unless it judged the applicant’s prospect of success on appeal to be assured, the cases of some deserving applicants would not be referred to the Court and the beneficial object which the Commission was established to achieve would be to that extent defeated.

When I listen to the members of this committee argue their points, I think they agree with this. I think that's exactly what we are trying to do, so I think that's a very strong argument in favour of adopting the U.K. language. We will then have the advantage of 25 years of jurisprudence coming out of the U.K. The Pearson case was only the first case. Many other cases refer to it, so it is still the leading case.

I would argue very strenuously in favour of adopting the U.K. language. It captures exactly what I think we are intending to do. If, on the other hand, this committee goes with the lower threshold, the question will be what Parliament's intent was in doing that. I would certainly argue, if I were acting for a person who felt they were wrongfully convicted, that Parliament's intent was to not adopt the U.K. standard but go to a lower standard. That's what I am concerned about.

I will just wrap up with this. With the Milgaard case, it was never the problem that the threshold was too low. The problem was that the dysfunctionality of the review group was too political, as Mr. Garrison pointed out. That's the problem. That is already being remedied without playing around with the threshold.

Thank you.

● (0910)

The Chair: Go ahead, Mr. Garrison.

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

With respect to my Conservative colleagues, I think they're missing a piece of this clause. It doesn't say that the standard is “that a miscarriage of justice may have occurred”. It says, “If the Commission has reasonable grounds to believe that a miscarriage of justice may have occurred”. I'm not certain that's not a narrower standard than what the Conservatives are proposing here. I don't think it's obvious that the language from Britain is narrower. I think it may be broader than what's already in this bill. This requires the commission to have “reasonable grounds to believe”, which is a well-established Canadian legal concept. We know in law what that means in Canada.

Again, with all due respect, I think you may be misjudging the impact of adopting the British standard. It may in fact be broader than what's adopted in the bill. The advantage of what's in the bill is that it's very clear, and it comes from Canadian legal traditions. We know what “reasonable grounds to believe” actually means. There is a lot of Canadian jurisprudence on that point.

I would urge us to leave this wording as it is. The intent of Parliament here.... The reason we're dealing with this is that grounds have been too narrow. Yes, we are trying to open the door a bit farther to those who have suffered miscarriages of justice. I don't think there's any question about what our intent is here, but I think there's some question about whether the British standard is a much broader standard than what's in the bill.

The Chair: Thank you very much.

Go ahead, Mr. Caputo.

Mr. Frank Caputo: Thank you, Madam Chair.

I respectfully disagree with Mr. Garrison on this point. Reasonable grounds to believe and an actual belief, in my view, are two different concepts. One is an actual belief. One is you have a reason and basis to believe.

In fact, I'll put that question to our experts. They would probably have to look at the bill as a whole, but based on this clause, are we narrower than the U.K. standard or are we broader than the U.K. standard? I would like to hear their positions on that, please.

● (0915)

The Chair: Are you asking a question of staff?

Mr. Frank Caputo: Yes, and I may have an intervention after that with more to say.

The Chair: Ms. Besner, did you get that?

Ms. Julie Besner: Yes, I did.

Indeed, the language in the investigative threshold here really relies on what we find elsewhere in the Criminal Code. We're talking about when the commission can invoke its investigative powers. We do see this elsewhere in the Criminal Code. It was definitely an intentional choice.

With respect to the U.K., the “real possibility” standard figures in their referral powers back to the courts. That's just how their criminal code is structured, with a real possibility that the court of appeal will not uphold the appeal. Our statute here in Canada is different. Definitely, we incorporated the concepts that are familiar in the Criminal Code.

I want to elaborate on another aspect of this provision. There's an “or” here. It's that there are “reasonable grounds to believe that a miscarriage of justice may have occurred” or that “it is in the interests of justice” to conduct an investigation. There's an alternative there that's being introduced, because a lot has been heard in the past about the idea that the minister's powers to conduct an investigation in this context already require that there are reasonable grounds to believe a miscarriage of justice occurred, yet there's no evidence to substantiate that.

Some case law has pointed out the catch-22, if you will. How can that even be determined unless there's some ability to seek out some relevant information to look into the matter to see if there are real merits in continuing with a review? That's why the language is changing a bit here to provide that alternative. I'll also point out that when it comes to the final referral back to the courts for a new trial or a new appeal, it's a bit higher: It's “reasonable grounds to conclude”, not believe, “that a miscarriage of justice may have occurred” and “in the interests of justice to do so”. That, too, will get at not sending back to the courts frivolous matters or ones that don't have merit.

The Chair: Thank you very much.

Mr. Frank Caputo: Okay, thank you.

I think Ms. Besner answered my question in her last thought there about reasonable grounds to believe versus actual belief. It seems as though it is a more narrow concept.

I don't disagree with Mr. Garrison. The whole reason we're here is that people have told us the current legislation is unduly restrictive. The debate we're having right now is about to what degree we open it up. It's fairly plain. I don't know that we can simply say, “Well, they've said it's too restrictive; therefore, let's open it up.” As parliamentarians, our role is to question how far we open it up. What threshold are we looking at?

I take Mr. Moore's comments as apposite here. The threshold has been too high, but does that mean we make the threshold what could be unduly low? Then we could be looking at a flood of applications that are not themselves meritorious and were not the intent of the legislation, which is to say that too many people who were wrongfully convicted have not been able to avail themselves of the process. That is a problem. We want to remedy that. That doesn't mean we want to let people who are simply dissatisfied unduly avail themselves of the process. I worry that we are going too far.

I know this amendment is likely to be defeated, but I wanted to place my concerns on the record.

Thank you.

The Chair: Thank you very much.

Go ahead, Mr. Housefather.

Mr. Anthony Housefather: I want to come back to and echo what Mr. Garrison said. When we change words that have an established concept in our Criminal Code and in Canadian law to words that have a foreign context and don't exist here, there are unintended consequences. I would point out exactly the flaw in amending proposed subsection 696.5(1), as is being proposed in this amendment by Mr. Moore. Further down, in proposed subsection 696.6(2) under “Remedies”, we're coming back to “If the Commission has reasonable grounds to conclude that a miscarriage of justice may have occurred and considers that it is in the interests of justice to do so, it must”, and there's no amendment proposed to change that.

Essentially, we're not going through the whole bill. We're sporadically changing things in one place that are mentioned in other ways in other places, and in the end, we have a bill with sections that don't work together. If, in the end, you're changing the concept once, you have to change it throughout the entire bill, and there are multiple places in the bill where it would have to be changed again.

I want us to consider here that I think the drafters used an established concept in Canadian law, and I'm not entirely sure whether it's less or more restrictive because I have absolutely no idea what a “real possibility” means in Canadian law.

Thanks.

● (0920)

[*Translation*]

The Chair: Go ahead, Mr. Fortin.

Mr. Rhéal Éloi Fortin: Thank you, Madam Chair.

I have to admit that Ms. Besner's answer has convinced me. I wouldn't have raised my hand if I had heard her earlier.

I understand the argument that a real possibility may be interpreted as being less restrictive than reasonable grounds. However—and I say this respectfully—I don't agree with Mr. Housefather or Mr. Garrison on this point. I think the requirement of having reasonable grounds to believe that a miscarriage of justice may have occurred could result in more investigations than what amendment CPC-1 proposes.

What Ms. Besner's telling us is really interesting. At the stage where you decide whether to conduct an investigation, you ask yourself whether there are reasonable grounds to believe that a miscarriage may have occurred or whether it's in the interests of justice to conduct an investigation. Those are the two conditions that must be considered before looking into the case.

However, that doesn't mean you order a new trial. Proposed paragraph 696.6(2) provides that both conditions must be met for the commission to remedy the situation following an investigation. It's not “or in the interests of justice”, but rather “in the interests of justice”. Furthermore, the first condition is then that there must be reasonable grounds to conclude, not to believe, that there has been a miscarriage, which is also more restrictive. Consequently, it seems to me that the objective of our Conservative colleagues' amendment CPC-1 is already met by proposed paragraph 696.6(2), which would help prevent abuses.

If we retain the present wording of Bill C-40, we will hear more cases in which miscarriages of justice may have occurred, which I think is wise. Consequently, I'm going to vote against CPC-1.

The Chair: Thank you, Mr. Fortin.

[*English*]

Go ahead, Mr. Mendicino.

Hon. Marco Mendicino: Briefly, I agree entirely with Mr. Garrison's intervention. I also echo Mr. Housefather's point about introducing new legal standards that are unknown to Canadian jurisprudence. I suggest, rather, that we stick with the threshold proposed by this bill.

If anything, I would add one more reflection. Rather than be preoccupied with the phrase “reasonable grounds” versus “real possibility”, as my Conservative colleagues have proposed we adopt from the United Kingdom, the real operative change being proposed in this bill is going from reasonable grounds to believe that something was “likely” to “may have”. Going from “likely” to “may have” is the material change.

That is a very conscious, deliberate intent on the part of the government to create a less stringent standard precisely because of the concerns that have been expressed by the current Minister of Justice and Attorney General, by his predecessor and by the community of victims of miscarriages of justice, who suggest that the new standard being proposed will ensure that this issue is properly addressed.

For that reason, I intend to vote against CPC-1.

● (0925)

The Chair: Go ahead, Madam Gladu.

Ms. Marilyn Gladu: Thank you, Chair.

Obviously I'm late to the party on this one, but what I would say is that we're trying to change the system to get a better outcome. I'm not sure why we wouldn't take the learnings of 25 years of jurisprudence from the U.K., which they seem to be quite satisfied work.

That's why I support CPC-1.

The Chair: Shall CPC-1 carry? We'll have a recorded vote.

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

(Clause 3 as amended agreed to on division)

The Chair: We're going to take a two-minute break.

● (0925)

_____(Pause)_____

● (0930)

The Chair: I'll call us back to order.

We hope to continue and finish this bill in the next 25 minutes.

(On clause 4)

The Chair: We're on NDP-2.

Mr. Garrison, would you like to move it?

Mr. Randall Garrison: Thank you, Madam Chair. Yes, I would like to move NDP-2.

What we're trying to do here is not create new powers for the commission with this amendment, but take advantage of the expertise the commission will inevitably acquire by doing its work. This amendment would allow the commission to make recommendations to address any systemic issues it sees arising in the cases it looks at.

What would be better placed in our legal system than this commission to identify those systemic problems? The government has certainly made a commitment, and the NDP has made a commitment, to try to address systemic racism and the systemic discrimination against indigenous people in our legal system. It would seem to me to be foolish to pass up the opportunity to get advice from this commission.

I want to stress again that it's not creating a power. The commission is not allowed to do anything new here, other than offer the benefit of its experience to the rest of the legal system and to Parliament in the future.

That's my reason for moving this motion. I think it probably should have been there from the beginning. Maybe it was inadvertently overlooked. Certainly, the whole process we're going through here is to try to address and prevent future miscarriages of justice, not just to correct individual cases.

Thank you.

● (0935)

The Chair: Is there any discussion?

Go ahead, Mr. Fortin.

[*Translation*]

Mr. Rhéal Éloi Fortin: Thank you, Madam Chair.

I understand the objective of amendment NDP-2, and I think it's laudable to prevent miscarriages of justice from occurring, but, with all due respect to my colleague Mr. Garrison, I don't agree with him.

The Law Commission of Canada already has a mission to make recommendations to the government. We would also be adding that mission to the commission we're now constituting. Its mission would not only be to respond to miscarriage of justice applications but also to work toward improving the judicial system. Rather than make the process more efficient, we would be weighing it down by duplicating the commission's mission.

Furthermore, it would be easy to interpret the wording of the amendment as requiring the commission to make recommendations, even though it doesn't necessarily have a reason to do so in every case in which there's a hearing. If we were to adopt such a provision, it would be important to indicate that it could make recommendations should it deem that useful. The making of recommendations shouldn't be part of its mission. Furthermore, on the basis of the amendment, once again, it seems to me this is in addition to the mission that the commission would be assigned. I'm saying very respectfully that I think that would be inappropriate.

[*English*]

The Chair: Shall NDP-2 carry?

(Amendment agreed to on division [*See Minutes of Proceedings*])

The Chair: We're on BQ-1.

[*Translation*]

Mr. Rhéal Éloi Fortin: The purpose of amendment BQ-1 is to correct a defect in Bill C-40, which fortunately prescribes certain requirements for the commissioners who would be appointed to the commission but unfortunately omits the requirement to ensure that those commissioners are clearly able to speak and understand both official languages.

The Barreau du Québec raised this point in the brief it submitted to the committee. I think this is an important argument that must be taken into consideration. We propose that it be included in the bill.

I believe the amendment is self-explanatory.

[*English*]

The Chair: Go ahead, Mr. Garrison.

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

I certainly appreciate the dedication the Bloc always shows to protecting language rights in both official languages and I share that concern. However, I think there's an unintended consequence there when we're dealing with the miscarriage of justice commission. The draft legislation we have before us says that the appointment of commissioners should take into account diversity and take into account those who are overrepresented in the justice system. I think Mr. Fortin's amendment inadvertently excludes, for instance, unilingual francophones. In the case of Quebec, we have many indigenous nations that speak French or, for instance, Cree, and they would be excluded from serving on this commission. I think there is an unintended consequence by applying the very narrow requirement of being able to function in both official languages in this case. I would hate to see indigenous lawyers who, as in my example, are Cree- and French-speaking not being able to serve on such a commission.

The commission, elsewhere the bill, requires bilingual services and requires translation services, so this will be a commission that functions in both official languages. However, when we're appointing nine commissioners, some of them full-time and some of them part-time, I think this narrows the field too much. Certainly, if I also apply it to British Columbia, there are very few indigenous lawyers to start with and there are very few who are fluent in French, English and their indigenous language. There are many who are fluent in their indigenous language and English and, in Quebec, many who are fluent in their indigenous language and French.

With respect, I think Mr. Fortin's amendment in this particular case creates an unintended consequence and therefore I will vote against it.

● (0940)

The Chair: Go ahead, Mr. Fortin.

[*Translation*]

Mr. Rhéal Éloi Fortin: Thank you, Madam Chair.

I want to thank my colleague for his comments. First of all, I agree with him that there are many litigants and lawyers who speak only English or French or who write in English and speak another language, whether it be an indigenous or other language. That's all true. However, we're talking here about appointing commissioners who will play a quasi-judicial role. If we want all these people to whom Mr. Garrison refers, lawyers and litigants who are unilingual English or French, or people who speak several languages but neither official language, to have access to a fair judicial review, we at least have to ensure that the commissioners can work effectively in both official languages.

If a commissioner speaks Cree in addition to English and French, so much the better. Whether it's Italian or any other language, that's desirable—

Hon. Marco Mendicino: Did you mention Italian?

Mr. Rhéal Éloi Fortin: Yes. It could be Portuguese too. I love Italian, as you know, Mr. Mendocino. I don't speak it, but I love hearing it.

In short, in Canada, we've been given two official languages. Hundreds of languages are spoken in Canada, and we have to respect them all, but there are two official languages, and our courts, even if they are quasi-judicial tribunals, must necessarily reflect this principle of linguistic duality.

While I respect Mr. Garrison's argument, I think we need to ensure, first of all, that the commissioners are highly proficient in both official languages.

[*English*]

The Chair: I'm going to suspend for 60 seconds.

● (0940)

_____(Pause)_____

● (0950)

The Chair: We are back. Thank you so much.

The committee normally would conclude at 10:15, but if need be, we can go 10 minutes extra. We hope we don't need to, but that's just in case we do.

I'm not sure who was speaking last. We were at BQ-1.

Were there any other speakers or is there a vote?

Ms. Marilyn Gladu: Let's vote.

The Chair: We'll have a recorded vote, please.

(Amendment negatived: nays 6; yeas 5 [*See Minutes of Proceedings*])

[*Translation*]

Mr. Rhéal Éloi Fortin: You counted six nays and I counted five. Four Conservative members plus Mr. Maloney; that makes five.

Pardon me, I forgot Mr. Garrison.

We're abandoning bilingualism in Canada. I'm sorry about that.

● (0955)

[*English*]

The Chair: Next is NDP-3.

Can I ask the member...?

Mr. Randall Garrison: Madam Chair, I'd like to move the motion.

I just want to say briefly that it was the Canadian Association of Elizabeth Fry Societies that brought to our attention a dilemma that's created for those who believe they're wrongly convicted, because in order to avail yourself of services in the Canadian correctional system, you have to take responsibility for your actions, as it's called. Those who continue to say “I'm innocent” are often denied privileges and programming within the correctional system. All this intends to do is let the commission advise or notify Corrections Canada so they know a case is being seriously considered, in the hope this will not cause people to suffer additional penalties while they're waiting for an adjudication of their application.

I know a subamendment has been suggested. I'm completely supportive of the amendment. I think it's better wording, perhaps, than my original. I hope to see us deal with this expeditiously.

Thanks.

The Chair: Mr. Maloney, I will go to you. You've submitted a subamendment to NDP-3.

Mr. James Maloney: Thanks, Madam Chair.

I believe the subamendment has been circulated in both languages—

The Chair: Yes.

Mr. James Maloney: —so I won't take the time to read it. As Mr. Garrison has already indicated, he's supportive of the subamendment.

I'll just leave it there.

The Chair: Thank you to both of you.

Shall the subamendment to NDP-3 carry?

(Subamendment agreed to on division [*See Minutes of Proceedings*])

The Chair: Shall NDP-3 carry as amended?

Go ahead, Mr. Fortin.

[*Translation*]

Mr. Rhéal Éloi Fortin: That went quite quickly. I'd like to correct something. I agreed on the subamendment, but I'll vote against NDP-3.

[*English*]

The Chair: Shall NDP-3 carry as amended?

(Amendment as amended agreed to: yeas 6, nays 5 [*See Minutes of Proceedings*])

(Clause 4 as amended agreed to on division)

The Chair: There are no amendments to clauses 5 to 20. I will group them together for the vote with unanimous consent.

Some hon. members: Agreed.

The Chair: Shall clauses 5 to 20 carry?

(Clauses 5 to 20 inclusive agreed to on division)

The Chair: Shall the short title carry?

Some hon. members: Agreed.

The Chair: Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: Shall the chair report the bill as amended to the House?

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Chair: Thank you very much, everyone.

That concludes our meeting for today. It's exactly 10 o'clock. Thank you very much for all your co-operation.

Just before you leave, I'll note that our next meeting is Monday.

The meeting is adjourned.