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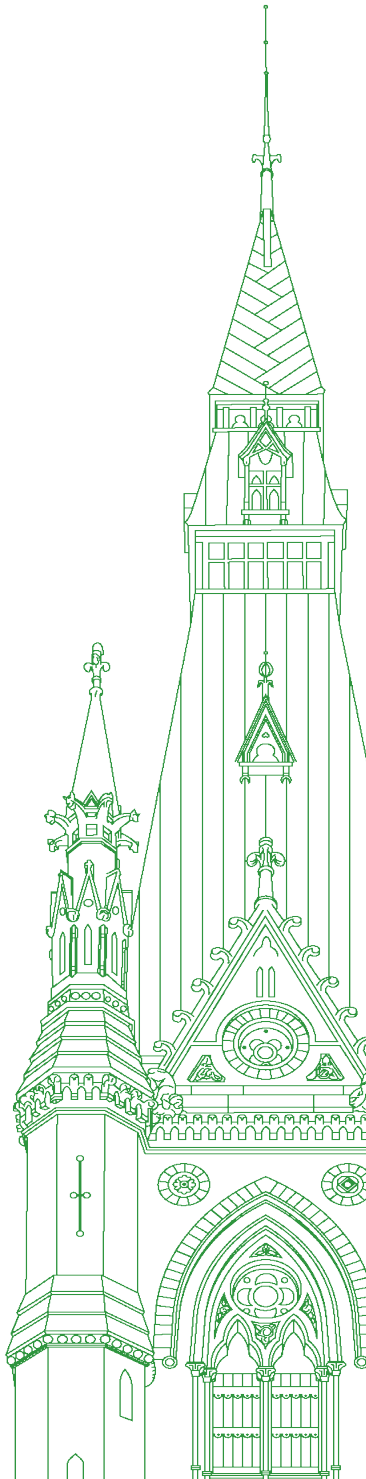

Chair: Ms. Lena Metlege Diab

Standing Committee on Justice and Human Rights

Thursday, May 2, 2024

● (0815)

[*Translation*]

The Chair (Ms. Lena Metlege Diab (Halifax West, Lib.)): Good morning, everyone.

Thank you for being here this morning.

[*English*]

I call the meeting to order.

Welcome to meeting number 103 of the House of Commons Standing Committee on Justice and Human Rights.

Pursuant to the order adopted by the House on February 14, 2024, the committee is meeting in public to continue its clause-by-clause study of Bill C-273, an act to amend the Criminal Code, Corinne's Quest and the protection of children.

Today's meeting is taking place in hybrid format pursuant to the Standing Orders. Members are attending in person in the room and remotely using the Zoom application.

I have a few instructions. I believe I read them last time, but I'm required to read again about avoiding audio feedback. Before we begin, I would like to remind members and other meeting participants in the room of the following important preventative measures. To prevent disruptive and potentially harmful audio feedback incidents that can cause injuries, all in person participants are reminded to keep their earpieces away from all microphones at all times.

As indicated in the communiqué from the Speaker to all members on Monday, April 29, the following measures have been taken to help prevent audio feedback incidents.

All earpieces have been replaced by a model that greatly reduces the probability of audio feedback. The new earpieces are black whereas the former earpieces were gray. Please only use a black, approved earpiece. By default, all unused earpieces will be unplugged at the start of the meeting.

When you are not using your earpiece, please place it face down in the middle of the sticker for this purpose that you will find on the table. Please consult the cards on the table for guidelines to prevent audio feedback incidents.

The room layout has been adjusted to increase the distance between microphones and reduce the chance of feedback from an ambient earpiece. These measures are in place so that we can conduct our business without interruption and protect the health and safety of all participants, including the interpreters.

Thank you for your co-operation.

For members in the room, please raise your hand if you wish to speak. For members on Zoom, please use the "raise hand" function. The clerk and I will manage the speaking order as best we can, and we appreciate your understanding in this regard.

I now want to welcome back our witnesses from the justice department who will help us with technical questions on Bill C-273 . We have Matthias Villetorte, senior counsel, criminal law policy section, and Ms. Isabelle Desharnais, counsel, criminal law policy section.

● (0820)

[*Translation*]

Thank you for being with us.

[*English*]

We're now ready to start clause-by-clause, and I will recognize Mr. Moore.

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

Just before we start, I want to quickly flag something. I just want to take a minute of our time.

We're experimenting with this new layout, and my feedback so far is that we have committee support individuals who are not at the table when they used to be at the table. Sometimes we want to talk about something, but we're three miles away from each other.

This is a dramatic change from what we are used to. I would say that witnesses are almost twice as far away as they were before. If, as we review this and we get feedback on it, there's any way to have it somewhere between where we were and where we are, if that would still accomplish the goals we have on audio feedback, I would certainly hope that we quickly provide feedback on this process.

To me, there may be an upside on the audio, but there's definitely a downside in the experience. Sometimes we have a number of individuals who want to watch committee proceedings. We've had some meetings where maybe four or five rows are taken up by individuals who want to watch. This format certainly limits that as well. I know we've only done it a couple of times. That's my initial feedback. I don't know if there's a process to provide that, but that's my two cents.

The Chair: Thank you, Mr. Moore.

This is the second time we've done it this way at this committee. It started on Monday. There is a process. I am a member of the liaison committee. They called a meeting yesterday, which was pretty quick, to get feedback from chairs. I'm sure they'll do it again because it is a new process.

As the chair of this committee, I appreciate feedback from members. When the liaison committee meets again, because they will, I'll be able to report what members are telling me.

I appreciate that you like all the members to be close together. That's how this committee has functioned since we started, two-plus years ago. That's very nice. Thank you.

I will say one thing, though. I asked about this today. For those who may not need translation—no English or French—if you don't plug this in, I guess you can put it wherever you want on the table. It's only when it's plugged in.

However, it's also good for volume. You're right. We are a bit more distanced, and sometimes I find it hard to hear, especially if there are members speaking over each other at the same time.

Thank you very much.

I have a list. To be quite honest though, is the list about this or is it about clause-by-clause?

Mr. Van Popta.

Mr. Tako Van Popta (Langley—Aldergrove, CPC): I'm on clause-by-clause.

The Chair: Thank you.

What about you, Mr. Jivani?

Mr. Jamil Jivani (Durham, CPC): I'm also on clause-by-clause.

The Chair: Thank you.

What about you, Madam Gladu?

Ms. Marilyn Gladu (Sarnia—Lambton, CPC): Yes. I'm on clause-by-clause.

The Chair: Thank you.

What about you, Mr. Garrison?

Mr. Randall Garrison (Esquimalt—Saanich—Sooke, NDP): For the sins in my past life, I'm a member of the liaison committee. The debate was quite fulsome yesterday, I can assure you. A lot of these problems were raised, including the ones you mentioned and including my pet peeve. As someone who uses my left hand and left ear, this is never getting way over here on my right. I can guarantee people that. There were other practical problems.

A number of those were raised, and it was acknowledged that this is an experiment to try to reduce the threats. We'll do our best to make sure that the interpreters are safe, but this is a work in progress. This is not the final solution.

The Chair: Thank you.

We will now commence. Let me give you some instructions, although I'm sure you're all very learned in how we do clause-by-clause.

We're resuming debate on clause 1 and CPC-1, which was moved by MP Moore at the meeting on Monday, April 29.

Mr. Van Popta, it's over to you.

(On clause 1)

● (0825)

Mr. Tako Van Popta: Thank you, Madam Chair.

Just to put this in perspective, today at the justice committee we were supposed to be starting our study on anti-Semitism. That is an issue that is front and centre in Canadian society today, given the noisy, disruptive and even violent protests and encampments celebrating the atrocities of Hamas against innocent Israelis on October 7, 2023, and denying Israel's right to defend itself against an enemy dedicated to its destruction. That's a very important study and I thank Mr. Housefather for bringing that motion forward.

Instead today we are continuing our study on a private member's bill that would repeal the section of the Criminal Code that says teachers and parents can use reasonable force in limited circumstances to restrain, control or express symbolic disapproval of bad behaviour. This is not corporal punishment, as we heard from several witnesses, but that's what the topic is.

We would have finished this study, I think, at our last meeting if the Liberal members hadn't dropped a bombshell on us at the last minute by saying they would be introducing yet another bill which will be designed, apparently, to correct the deficiencies in the bill that is in front of us right now. They're recommending, I believe, that we approve this flawed piece of legislation and that they will fix it later. We don't know how much later or how they are going to fix it. I think they're just saying, “trust us.”

Madam Speaker, I, in good conscience, cannot support flawed legislation based on a promise that maybe things will get better in the future. The Conservative members of this committee have put forward what, I think, are some common-sense amendments to fix the flaws in the bill that is before us right now. We are supported in our proposed amendments by credible witnesses such as Daniel Zekveld and John Sikkema of ARPA, who gave testimony last week. Their recommendation was basically to codify the 2004 Supreme Court of Canada decision that upheld the constitutionality of section 43 of the Criminal Code. That court decision also gave further guidelines for teachers and parents, and our amendment is trying to capture that.

We also heard from Ms. Heidi Yetman, president of the Canadian Teachers' Federation, who stated that while her organization fully condemns any form of corporal punishment, it does not support the proposed legislation that is before us today in unamended form. She was worried about “the risk of unintended consequences that could make classrooms more unsafe.”

We also heard from Dr. Lisa Kelly, law professor at Queen's University. She looked at this issue more from a parent's perspective. She started her remarks, as the other witnesses did, by stating that she shared the goals of the bill, namely to "end the practice of physical punishment of children and to promote their best care at home and in school", but, having said that, she expressed concerns and she gave a hypothetical example of a mother striking a child twice across the shins, instructing the child to sit in the car seat and be tied into the car seat for safety. She worried about what the consequences would be in a hypothetical situation like that if police were to be involved, and she said that in an acrimonious divorce or a difficult family situation, one parent could weaponize criminal law against the other for extraneous purposes. That's why she was saying that section 43 needed to remain.

I think it's helpful to quote just one sentence from the Supreme Court of Canada decision. This is what Chief Justice McLachlin said about section 43, the section that this private member's bill would repeal. She said,

> The reality is that without s. 43, Canada's broad assault law would criminalize force falling far short of what we think of as corporal punishment, like placing an unwilling child in a chair for a five-minute "time-out".

● (0830)

That brings me to our amendment, Conservative motion number 1. It is essentially, as I said, a codification of this Supreme Court decision, something Parliament, in my opinion, should have done 20 years ago. Maybe that's what the Liberals' new bill is going to address. I would say, rather than wait for a future bill that may or may not come, I would urge all the members of this committee to vote in favour of Conservative motion number 1.

Thank you.

The Chair: Thank you, Mr. Van Popta.

I move now to Mr. Jivani.

Mr. Jamil Jivani: Thank you, Madam Chair.

I appreciate the opportunity as the newest member of the justice and human rights committee to share my perspective on why I will be voting against Bill C-273, unless we adopt amendment CPC-1.

CPC-1 addresses my primary concern, one that I've heard from many people, which is that Bill C-273 does not recognize or respect parental rights. Parental rights deserve recognition just as teacher safety does in any consideration of this bill and any consideration of section 43 of the Canadian Criminal Code. We have heard from many parents who are concerned about their place being completely excluded, undermined, disrespected and disregarded by the current Liberal government.

It's not hard to see why many moms and dads might feel that way. At the very top of the Liberal government there is a Prime Minister who has said quite clearly that he does not respect or recognize parental rights. In fact, last year in a conversation with Muslim parents, he said that parents who are concerned about their rights and parenting their children are being influenced by misinformation and disinformation by the American right wing. These comments could have been made just as easily to Christian parents, Jewish parents, Hindu parents or Sikh parents. It is a fundamental disrespect that the Prime Minister has for the rights of moms and dads.

It's not just the Liberal Party that has this chronic ideological problem. We have a member of our committee here from the NDP, Mr. Randall Garrison, who also said less than a year ago that there's no such thing as parental rights in Canada. This is not just morally incorrect; it is also factually incorrect. The most relevant Supreme Court of Canada decision on section 43 of the Criminal Code says quite clearly that the legislative purpose behind section 43 is parental rights. It is not an American right-wing idea. It is a Canadian idea recognized by our highest court in the land and recognized as an important objective behind section 43.

This is why we call the current government the NDP-Liberal government. It's quite obvious that these parties work together on ideological objectives that seem completely inconsistent with what the vast majority of Canadians actually want from their government. As a member of this committee, it is not hard for me to understand why so many moms and dads are concerned.

It's important we point out that without amendment 1 from the Conservative Party, we would actually be continuing the allowance of an ideological agenda that seems hell-bent on the marginalization of moms and dads in raising their children.

I'd also like to share a statement from a member of the Muskowekwan First Nation, a granddaughter of a residential school survivor, who responded to these concerns about parental rights when Liberal labour minister Seamus O'Regan was going on one of his famous tangents against Canadian parents. Ms. Mbarki said, "I am always very skeptical when the federal government gets involved in saying how parents should parent. Have we forgotten about residential schools? The 60's scoop? Off reserve child and family services? The system saw us as savages who couldn't/can't parent."

This ugly side of our history is precisely why so many people are bothered, why so many people are concerned when the federal government and politicians in Ottawa treat moms and dads like they know better. When moms and dads are marginalized in important conversations about child protection and raising children, it is completely unacceptable.

For that reason, I cannot support Bill C-273 unless amendment CPC-1 is adopted. I highly encourage all members of this committee to reconsider how they are treating parents in our country right now and to consider amendment CPC-1 as a way that we may restore the place of moms and dads in this important conversation.

Thank you.

● (0835)

The Chair: Go ahead, Madam Gladu.

Ms. Marilyn Gladu: Thank you, Madam Chair.

I've had a chance to reflect on all the information that was brought forward in the meetings but especially in the Monday meeting.

Let me share with you the conclusions I've come to.

First, I went back and read the truth and reconciliation report and recommendation 6. In there, it was clear that the concerns expressed were to make sure that children didn't experience violence and that they didn't experience abuse. Certainly they were opposed to corporal punishment. Those were the clear points.

The last residential school closed in 1996, so the 2004 Supreme Court decision narrowed to what I think is the balance that would prevent the exact things that people who experienced horrible things in residential schools were worried about. Violence is illegal already. Assault and abuse are already illegal.

We've seen, from the narrow definition that the Supreme Court has put in, which is in our CPC amendment, that you're not allowed to use instruments—belts, rulers, that kind of thing—to hit a child and all of these protections that I think people were looking for.

The second thing I would say is that it was announced that the Minister of Justice saw a problem if we removed section 43 and didn't put back protections for parents and teachers. He sees that as an issue, and he has promised to come with legislation where they will put that protection in a different part of the Criminal Code.

This is problematic to me because, first of all, we haven't seen that legislation. We don't know what the timing of that legislation is. I don't think we can remove protections that are key without putting them back in.

Certainly, there is no way that we could approve this bill and know that we are removing protections for parents and teachers, protections that I would say have served us well. Since the Supreme Court came with this narrow decision, there have not been a lot of frivolous cases brought, and there have not been people who hugely objected to the interpretation here.

Until such time as the government comes forward with a bill that would add that protection somewhere else and remove it in section 43, I cannot, in good conscience, support Bill C-273.

We've heard lots of testimony from teachers, and I've certainly heard from parents across the country who believe in the use of reasonable force in the raising of their children and in protecting children, one from the other, as they get into their various scuffles. This is where I've landed after sombre reflection.

Thank you, Madam Chair.

The Chair: Mr. Moore, you have the floor.

Hon. Rob Moore: Thank you, Madam Chair.

You know, I think my Conservative colleagues have said very well some of the really important reasons that, unless CPC-1 is passed, this would be an extremely dangerous direction to go in. If I had to sum it up, it's that government knows best. Families, teachers, they don't know what they're doing, but this Liberal government does.

I want to be very clear about a couple of things for Canadians who are interested in this legislation. Section 43 applies only to teachers and parents, so when we are talking about eliminating the defence contained in section 43, we're talking about eliminating it for only teachers and parents.

I have to mention, Madam Chair, that since 2015, murders are up 43% in Canada, which is the highest rate in 30 years; gang-related homicides are up 108%; violent gun crimes are up 101%; sexual assaults are up 71%; sex crimes against children are up 126%. With that as a backdrop, the crisis Canadians are facing with crime, in rural and urban areas, is affecting all of us. We're here today talking about a bill that would criminalize the actions of loving parents and caring teachers—teachers who are trying to have a safe classroom and parents who are trying to raise their children to be upstanding Canadians and citizens.

You don't have to take my word for it. We had witness testimony from the Teachers' Federation, from experienced classroom teachers, who said to us at this committee that, without the protection of section 43, when there is physical conflict in their classroom such as two students beating up on another student, the advice given to teachers would be to not intervene. Now, some teachers may intervene, but it will now be at their peril. Why? Because the passage of this private member's bill would eliminate a defence that is available to only parents and teachers.

When it comes to parents, individuals have tried to minimize the impact of repealing section 43. I will quote directly from the 2004 Supreme Court decision that specifically studied and dealt with a challenge to the constitutionality of section 43. In that leading Supreme Court of Canada decision, number one, the constitutionality of section 43 was upheld, so this measure in the Criminal Code, section 43, is no doubt constitutional; number two, it applies to only parents and teachers; and number three, the Supreme Court narrowed in and provided advice on what that defence includes.

It's extremely troubling to me that, when the proponent and sponsor of the bill was here at committee, all of the examples he used as to why this bill is necessary are not covered by section 43: They're outside the protections of section 43. He used the example of a student being punched in the face. The Supreme Court said specifically that hitting someone in the face is not protected by section 43. He used the example of someone being struck with an object multiple times. Again, the Supreme Court said specifically that hitting someone with an object is not protected by section 43. The example was used of pushing someone down the stairs. Again, these are ridiculous examples of clear abuse that all of us are against. I don't think there's anyone around this table who thinks someone should be able to push someone down the stairs. The Supreme Court of Canada doesn't believe someone should be able to push someone down the stairs. This is the basis on which this private member's bill was brought forward. It's completely based on misinformation, but the consequences are real.

I want to read directly from Chief Justice Beverley McLachlin, writing for the majority in this 2004 Supreme Court of Canada decision in which they warned Parliament 20 years ago that, if they remove section 43, parents would be criminalized and families would be ripped apart.

● (0840)

In that decision, and I'm quoting directly, this “risks ruining lives and breaking up families—a burden that in large part would be borne by children and outweigh any benefit derived from applying the criminal process.”

So the ruling of the Supreme Court is that if section 43 does not exist, it will lead to families being broken up. That's a pretty strong statement by the court. It is why CPC-1, our amendment, would fully implement and codify the ruling of the Supreme Court and the definitions they've applied to section 43, the parameters they've put around section 43, and the very constitutional findings that were made in that decision.

Madam Chair, myself and my colleagues stand against Bill C-273. It strips away the rights of teachers and of parents, it interferes in families and in classrooms, it's major government overreach and, in the words of the Supreme Court of Canada's leading decision, it risks breaking up families.

I would conclude my remarks there except to say what happened on Monday was extremely extraordinary. I've been a member of Parliament for quite some time. I can't recall a time before where we were dealing with a private member's bill that, if passed, would have the same effect in law as any piece of government legislation, and we find out at the last minute, as we're dealing with this bill: don't worry, we recognize there's a consequence to passing this bill and there's going to be government legislation. One, that may or may not happen. Two, what does the government legislation look like? We have no idea. Does it apply only to parents? Does it apply only to teachers? Is it expansive enough to protect teachers and parents from the impact and the fallout of the passage of Bill C-273?

This is not a proper way for us to conduct ourselves, as parliamentarians. I think we have to look at the legislation before us. We have to look at it and its impact in its entirety if we were to pass it. I urge members around this table, for the protection of parents and teachers, to pass CPC-1. But if we were to pass this bill without the Conservative amendment, it would put teachers and parents, and by extension children, at risk.

I'm speaking in favour of CPC-1 and speaking strongly against Bill C-273 unless it is amended.

Thank you, Madam Chair.

● (0845)

The Chair: Mr. Garrison.

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

I don't want to prolong the debate on this. I have heard from numerous stakeholders, I guess I'll call them, who are interested in this bill, since Monday. I think it's safe to say that somewhere around 90 letters have been directed to the committee. There are three themes in most of those letters. One of these is, of course, that this is recommendation number 6 of the Truth and Reconciliation Commission. Most organizations around this table and at the national level are committed to advancing truth and reconciliation and we are in danger in this debate of substituting our opinions about the effect of section 43 for those clearly stated opinions and understanding of the section that come from indigenous people. I think that's a danger here, and not passing this bill does not advance reconciliation.

The second thing is the Conservative amendment we're speaking to now actually says use of force can be used to educate and correct children. We know all the research on child psychology shows this is not an effective way of dealing with kids, and in fact what use of force with children does is teach them that, when frustration occurs, the proper response is violence or force. When Mr. Moore talks about the great trends in society, I would argue this section actually contributes to the increasing violence we see, rather than solving it.

The third thing they clearly say in most of these letters is children have rights and in Canadian law, especially Canadian family law, parents have a responsibility to support and affirm their kids, and use of force against children is not a way of supporting and affirming kids. It remains peculiar to me that the only debate we have in our society about use of force is whether we can use force against kids. We're not debating this about use of force against anybody else to correct or educate them. It's only children. That seems peculiar to me, and, frankly, it seems offensive.

While I understand some of the concerns the Conservatives have raised, I believe it's incorrect to say teachers opposed repealing. They said very clearly they supported repeal. They had concerns, and the government has agreed to address those concerns. That's how we got to where we are today.

I'm hopeful, in the spirit of advancing reconciliation, we can finish our work on this bill today and we can pass this bill and move onto other important things, which other members have mentioned this committee needs to deal with. But there is a broad national call for action to implement the Truth and Reconciliation Commission's call to action number 6.

● (0850)

[*Translation*]

The Chair: Mr. Fortin, the floor is yours.

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

I would like to ask the witnesses some questions, if that's possible.

I understand that Bill C-273, the purpose of which is to repeal section 43 of the Criminal Code, is a response to call to action number 6 of the final report of the Truth and Reconciliation Commission of Canada. That's virtually the only reason we have this bill before us.

Would you please explain more clearly the purpose of the final report of the Truth and Reconciliation Commission?

Ms. Isabelle Desharnais (Counsel, Criminal Law Policy Section, Department of Justice): The report focuses solely on the physical and sexual abuse that occurred at institutions. So it isn't about the residential schools per se; the 2015 report addresses all matters pertaining to physical and sexual abuse.

Mr. Rhéal Éloi Fortin: So you're saying that call to action number 6 is a response to the finding that physical and sexual violence was committed. Do we have an exact idea of the extent of the physical and sexual violence we're talking about? Who committed that violence? Against whom, at what time and in what place was it committed? Can we specify that?

Ms. Isabelle Desharnais: It's essentially a report that establishes all the physical and sexual abuse that indigenous people have suffered in the past. So the report is quite broad in scope, and its call to action number 6 concerns physical and sexual abuse.

Mr. Matthias Villetorte (Senior Counsel, Criminal Law Policy Section, Department of Justice): With your permission, I'd like to add something. The purpose of the report is essentially to examine the use of corporal punishment in the residential schools, but also more broadly. Section 43 actually normalizes the use of violence in the form of corporal punishment, which has an impact. That's what's being condemned here. Call to action number 6 focuses on that, at least as I understand it.

Mr. Rhéal Éloi Fortin: I'd like you to tell me the exact period we're concerned with. We're talking about physical and sexual violence; I understand that. However, you referred to incidents that occurred in the past and were quite widespread. So I imagine we're talking about incidents that occurred at any time from 1867, when Canada was founded, to the present, in 2024, or rather until the report was released.

In what year was the report released?

Ms. Isabelle Desharnais: It was 2015.

Mr. Rhéal Éloi Fortin: So as I understand it, we're talking about physical and sexual abuse suffered by indigenous children at the schools from 1867 to 2015. Is that correct?

Ms. Isabelle Desharnais: Yes. We're talking about the abuse that was inflicted on indigenous children by teachers and guardians at the residential schools.

Mr. Rhéal Éloi Fortin: Does the Truth and Reconciliation Commission's report concern anything else?

Ms. Isabelle Desharnais: Call to action number 6 may be understood as a call for the government to repeal section 43 of the Criminal Code because it permits corporal punishment, as my colleague said, and such punishment is still permitted in schools and elsewhere as a result of the Supreme Court judgment in Canadian Foundation for Children, Youth and the Law.

Mr. Rhéal Éloi Fortin: You may not be able to answer my next question, and I'll understand if you can't. I don't know how closely you followed the proceedings and reports, but was there any indication that physical and sexual violence was committed against children in those schools across Canada, in a broad and widespread manner, or are we talking specifically and solely about physical and sexual violence committed against indigenous children at the residential schools?

I don't mean to downplay the situation; I obviously consider it serious and unacceptable. I just want to be sure I understand what we're talking about.

● (0855)

Ms. Isabelle Desharnais: The report of the Truth and Reconciliation Commission solely concerns indigenous children at the residential schools. The issue wasn't explored more broadly.

Mr. Rhéal Éloi Fortin: All right, thank you.

Now I'm going to ask another question.

Both you and I have listened to the debate that we've had on this matter in the past two days. Our Liberal Party colleague told us that the minister will be working hard to table a bill to correct the deficiencies of Bill C-273 by restoring some power to persons who exercise parental authority so they can make reasonable use of force in the control and upbringing of children. I imagine there are various ways to do that.

As you can see, the idea of repealing section 43 is a concern for the moment. Parents and teachers fear they may be put in the somewhat awkward position of not really knowing what will happen to them. I would like to try to clarify that with you if I may.

First of all, when we refer to a person who exercises parental authority, we're talking about a teacher or a parent. If a teacher or parent intervenes in a fight between two children, and, obviously, uses force to separate them, could that person be subject to criminal charges?

Mr. Matthias Villetorte: Since the offence of assault is quite broadly defined, that situation could definitely result in criminal assault charges. Of course, that would depend on the facts of the matter. It would have to be determined what had actually happened and whether the individual had simply tried to separate two quarrelling children. The decision to bring such charges would theoretically be left to the crown attorney. Authorities could also proceed differently in other cases, through disciplinary measures, for example. However, a teacher in that situation could definitely face criminal charges.

Now to answer your question, I can't tell you whether a teacher in that situation would necessarily be convicted if section 43 were repealed. As I told you, that would depend on different facts, and they vary from case to case. So I won't venture an opinion on that point.

However, as I said in my testimony before the committee on Monday, common law defences could also be used. *De minimis* and the defence of necessity are two defences that were mentioned in the Supreme Court judgment in Canadian Foundation for Children, Youth and the Law. There's also the defence of implied consent. Since these defences are available, I can't tell you with any certainty whether the teacher would be convicted in all cases in circumstances such as those you mentioned.

Section 43 would of course apply, but, as Judge Arbour held in the Supreme Court's judgment in Canadian Foundation for Children, Youth and the Law, the common law defences I just mentioned could be developed.

Mr. Rhéal Éloi Fortin: Let's suppose that a teacher wants to expel an unruly child from the classroom, that the child refuses to leave and that the teacher takes the child by the arm and physically removes him or her from the classroom. If section 43 were repealed, could that teacher be charged criminally?

Mr. Matthias Villetorte: My answer will be virtually the same, Mr. Fortin: It will depend on the facts. I won't repeat myself, but the situation will be almost the same.

You mentioned persons who exercise parental authority. That's a term that currently isn't used in section 43. I'm a civil lawyer myself, from the Barreau du Québec, so I can tell you that it's a term specific to Quebec. There are also other descriptions. However, I understand what you're saying. You're referring to situations in which certain aspects of parental authority fall to the teacher, in monitoring and protecting children, for example. Absent the defence provided for in section 45, certain common law defences could be developed and applied in certain cases, depending on the facts.

● (0900)

Mr. Rhéal Éloi Fortin: So you could take some other defence and substitute it for the one currently available under section 43. Is that a correct understanding, Mr. Villetorte?

Mr. Matthias Villetorte: I'll answer that, and then my colleague may want to clarify a few points. I can see she wants to speak.

I would say you're essentially right in that section 43 provides a defence in a situation where a parent or teacher, in certain circumstances, makes a reasonable use of force against a child under his or her responsibility. Consequently, in certain circumstances, there could indeed be some similarities with common law defences.

Ms. Isabelle Desharnais: I'd just like to add that what we're seeing in judgments involving the application of section 43 across the country are alternative grounds. In other words, section 43 will be used as a main defence. If that doesn't work, a party may then consider that the *de minimis* defence may apply in the circumstances. There's also the lawful defence, under section 34, which may apply in a case in which an individual is protecting a child involved in an altercation with another child.

What we're seeing is really a kind of escalator defence, in which section 43 is, in a way, the first step, the main defence. If section 43 can't be argued, there are other means such as provincial statutes and school services regulations. So defences can be viewed as constituting a kind of escalator, as it were.

Mr. Rhéal Éloi Fortin: If I correctly understand what you two are saying, section 43 covers all those situations, and one would try to compensate for the absence of section 43 by relying on other rules in effect in the Criminal Code or common law. The principle of section 43 would thus be upheld, since the protection it's designed to grant in certain situations would still be provided by other sections. Is that what you're telling us?

Mr. Matthias Villetorte: Yes, one could rely on other sections or common law defences. However, we can't answer your question in an absolute manner given the existence of section 43.

In a way, this is the point that Judge Arbour made in Canadian Foundation for Children, Youth and the Law. Other defences might apply, but, since section 43 exists, it's hard to know how far it would actually be read down. As my colleague explained, this is an escalator defence: If section 43 doesn't work, you look for other defences. However, since there's been little development in the case law, it's hard to know to what extent other defences might apply. It's relatively clear in the case of the *de minimis* principle, for which there's a test. The same is true of the necessity principle. In addition, as I said, the implied consent defence, which is used in common law, could apply in certain cases, but that would require further case law developments.

Mr. Rhéal Éloi Fortin: I have a lot more situations I could submit to you, but I don't want to extend the debate needlessly. I imagine your answer would be the same in the case of a teacher getting an unruly student to sit down in his seat.

Ultimately, every physical act by a person exercising parental authority, whether it be a teacher, parent or guardian, will be subject to the same principles as those we're now discussing. Is that correct?

Ms. Isabelle Desharnais: Yes, that's it.

In addition to that, there are the contradictory versions and factors that will be submitted to the court. For example, one witness may say he or she barely grazed the student's shoulder in removing the student from the classroom, whereas other witnesses will say that the student was callously escorted from the room in a fit of anger. Other means, in addition to the possible defences, may be employed to apply the act more fairly or to interpret the use of force against a child more correctly.

● (0905)

Mr. Rhéal Éloi Fortin: In other words, Ms. Desharnais, a teacher or parent who would angrily try to stop a fight between children or to remove a child from a room using greater force than necessary wouldn't be protected by section 43. Is that a correct understanding?

Ms. Isabelle Desharnais: Yes, that's it. That's what the Supreme Court said in Canadian Foundation for Children, Youth and the Law: Outbursts of anger and frustration and excessive force are among the things that are excluded from the application of section 43.

Mr. Rhéal Éloi Fortin: I just described the example of a teacher who had acted with violence against one of two quarrelling students in order to separate them or to remove one from the room. Are there any case law examples where a court has recognized that section 43 afforded protection in situations where similar excessive acts, driven by violence or anger, had been observed?

Ms. Isabelle Desharnais: No, there are no similar cases where the defence provided under section 43 was selected and applied.

However, there have been situations in which the defence claimed that the force used wasn't that excessive. I can even use the example that you cited and that occurred in the Ontario Court of Justice in December 2023. It was a case of contradictory testimony. Some witnesses claimed that the child had been aggressively grasped by the wrists, that they had seen a wave of frustration cross the accused's face and that he seemed to be angry. Other witnesses, including the accused, claimed he had acted appropriately and properly.

I may not have seen all the judgments, particularly since many of them aren't written down. However, in all of the ones I've seen, anger and frustration levels never exceeded the limit prescribed by section 43.

Mr. Rhéal Éloi Fortin: First you told me that Bill C-273 was based on the report of the Truth and Reconciliation Commission. That report, and particularly call to action number 6, concerned situations at indigenous residential schools. You explained that to me, and I understand it. The concern is that section 43 will normalize—and I'm using the expression you employed—cases of violence against indigenous children.

No one doubts this has happened; that's not my point. However, I'd like to know if there are any case law examples of courts that, relying on what's permitted under section 43, found that it was proper and acceptable for a teacher or a person exercising some sort of authority at a school attended by indigenous children to act in a physically or sexually violent manner toward them. Are there any examples where those kinds of acts were held to be acceptable as a result of the existence of section 43?

Ms. Isabelle Desharnais: As far as I know, no.

Mr. Rhéal Éloi Fortin: Mr. Villetorte, I imagine your answer is the same.

Mr. Matthias Villetorte: We'd have to take a look and see if there are any such examples in the specific case of indigenous residential schools. We might find some if we look.

Having said that, I would encourage you as well to look at the examples that Judge Arbour cited in dissent in the Canadian Foundation for Children, Youth and the Law case. She explained how section 43 had previously been applied in situations where we would now consider that excessive force had been used and where section 43 could not apply. Since that judgment was rendered, such acts, in situations as extreme as those we've heard, have clearly constituted excessive force, and section 43 has not applied. Those cases now result in assault charges and guilty verdicts.

Mr. Rhéal Éloi Fortin: As I understand it, Bill C-273 would repeal section 43 for fear that it might permit violence that has never previously been allowed. In fact, the Supreme Court has previously held that section 43 did not permit violence such as that committed in these dramatic cases from the dark history of Canada. I'm talking here about violence committed in schools against both indigenous and other persons, although call to action number 6, in particular, concerns indigenous persons.

The purpose of Bill C-273 is to repeal section 43, but, and I apologize for speaking bluntly, it would be pointless for us to do so because, at any event, what we fear may occur isn't even possible, from what I can understand. What's more, that would then leave persons who exercise parental authority in a situation where, based on your testimony, they would have to offset the absence of section 43 by using common law defences or other sections of the Criminal Code. Once interpreted, those sections could offset the absence resulting from the repealing of section 43. That's roughly the case, isn't it?

● (0910)

Ms. Isabelle Desharnais: You're actually referring to a very broad range of acts. Here we're focusing on the most serious situations and the most obvious cases of violence and excessive frustration.

However, we also see that section 43 is still applied to acts that, as the Supreme Court has correctly held, are insignificant or transitory. Consequently, at this other end of the spectrum, section 43 is still applied in order to acquit persons—teachers, professors or other persons standing in the place of a parent—in cases where their acts weren't motivated by anger and they acted as they did in order to discipline the child, didn't use objects, didn't aim for the child's head and so on.

In fact, what's apparent from the case law is a fair application of section 43 to acts objectively less serious than those committed in the examples you mentioned.

Mr. Rhéal Éloi Fortin: I understand that both of you are employed by the Department of Justice and that you can't offer me any political opinions. However, how much can you tell me about the benefit of repealing section 43? Do you think it's a problem? I can understand that it may have been a problem in 1920 or 1930, but is that still the case today, in 2024?

Ms. Isabelle Desharnais: I will obviously be offering no legal advice this morning. However, I can tell you about what we're hearing in the various tribunals.

First of all, there's the Truth and Reconciliation Commission of Canada, which we're discussing today. It's one of the tribunals.

The UN Committee on the Rights of the Child has also issued numerous recommendations on the subject over the years. That committee requested that Canada repeal section 43 of the Criminal Code in 1995, 2003, 2012 and, more recently, 2022, I believe.

In addition, many papers and considerable research in the social and medical fields indicate that corporal punishment has a harmful effect on children's cognitive and emotional development.

So there are collateral factors that also support the repealing of section 43.

I don't know whether my colleague would like to add anything.

Mr. Rhéal Éloi Fortin: I also want to hear what Mr. Villetorte has to say on this, but, before that, I want to be sure we understand each other.

You referred to the United Nations and other states, and you mentioned corporal punishment. The checks I've done reveal the same thing. What we're aiming to abolish is corporal punishment, the act of striking a child because he or she hasn't been good. As for the reasonable use of force to control a child, however, nowhere do I see that prohibited, except here, perhaps, and that's why we're now having this discussion on section 43. That being said, we all agree that corporal punishment is an obsolete practice. It may have been okay a century ago, but no longer. If we confuse the two notions, that is to say corporal punishment and the reasonable use of force, we may find it hard to separate the wheat from the chaff. So we have to draw that distinction.

In addition to corporal punishment, does the United Nations prohibit or recommend prohibition of the use of force to control a child? I don't think that's the case, but I'm going to listen to what you have to say.

Ms. Isabelle Desharnais: The United Nations is also considering section 43. Despite the way the Supreme Court construed it in 2004, as we know, and even though the UN has spoken on the subject, the fact remains that this section refers to corporal punishment. There is of course the somewhat separate aspect that you're referring to: the use of force for other reasons. However, when force is used to punish a child for bad behaviour and that force causes pain or discomfort, we are now on the corporal punishment spectrum.

● (0915)

Mr. Rhéal Éloi Fortin: The United Nations is basically telling us we have to eliminate corporal punishment, isn't it?

Ms. Isabelle Desharnais: Yes, that's correct.

Mr. Rhéal Éloi Fortin: In that connection, the amendment that the Bloc Québécois moved and that was negatived would have met the UN's demands. And those demands are based on good old common sense, if you'll allow me to use an expression that's quite popular these days. We want to prohibit corporal punishment because that's obviously right, but the reasonable use of force isn't the same thing.

Mr. Villetorte, would you like to answer that question as well?

Mr. Matthias Villetorte: No, I agree with my colleague and have nothing to add.

Mr. Rhéal Éloi Fortin: All right.

My next question is for both of you.

We're in a situation where the bill will probably be adopted, for numerical reasons. The Liberal and NDP members of this committee decided to join forces in support of Bill C-273 and told us that the Minister of Justice would be introducing something to reassure us.

What do you think we can expect? How can the minister bring back the dead, or salvage something from the wreckage? Where in the Criminal Code could we insert a provision to put the pieces back together—that's perhaps the appropriate expression—by re-establishing the fact that it's legitimate for persons who exercise parental authority to make reasonable use of force to control children in the context of their upbringing? Could we do that? Do you have an idea how?

Mr. Matthias Villetorte: Mr. Fortin, I can't speak to that subject. As for what the limits of the changes that should be considered might be, how they could be made and when that would be done, those are questions that I think should be put to the minister.

Generally speaking, however, section 43 is situated in the part of the Criminal Code where certain defences are enumerated. If that defence doesn't appear in section 43, I suppose we can try applying the sections dealing with assault. However, I don't want to say anything more than that.

Mr. Rhéal Éloi Fortin: I imagine it's pointless to ask you whether you're optimistic.

Mr. Matthias Villetorte: We can't answer that question.

Mr. Rhéal Éloi Fortin: All right.

I have no further questions, Madam Chair.

Thank you.

The Chair: Thank you, Mr. Fortin.

[*English*]

Mr. Moore, please go ahead.

Hon. Rob Moore: Just quickly, Madam Chair, those were very interesting questions from Mr. Fortin.

I wouldn't want people to be left with any illusion about this. On the common-law defences sometimes referred to by some witnesses, it's almost like, “Don't worry; if we take out section 43, there are other common-law defences and other defences in the Criminal Code.” An even bigger worry is statements like, “Don't worry, we're going to bring in some new amendments to the Criminal Code at some future point.”

Those common-law defences and other possible defences that are in the code were there in 2004 when the Supreme Court ruled that removing section 43 “risks ruining lives and breaking up families—a burden that in large part would be borne by children and outweigh any benefit derived from applying the criminal process.”

Therefore, any suggestion that there are other defences in the code that, should we recklessly remove section 43, would somehow pick up the slack is refuted by the Supreme Court itself, which highlighted in the majority decision the very high risk to families and teachers of removing section 43.

I just wanted to point that out because, to my knowledge, there have been no new defences added to the code that would somehow apply and that didn't exist prior to that Supreme Court decision.

● (0920)

The Chair: I believe that exhausts the list of members who wish to speak on this. Is that correct?

Shall CPC-1 carry?

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

[*Translation*]

The Chair: Mr. Fortin, go ahead.

Mr. Rhéal Éloi Fortin: Thank you, Madam Chair. I don't know when it would be possible to do so, but I have a question for my colleagues here present. May I ask it now?

The Chair: I believe so. Well, that depends on your question, but I'll let you speak.

Mr. Rhéal Éloi Fortin: Considering the answers I've just received from the witnesses, I'd like to hear from the Minister of Justice on the subject. We're preparing to make what I think will be a difficult a decision. We're told that the minister is working on something that should reassure us. I hope he is, and I want nothing more than to be reassured. I want to vote, as does everyone who's in favour of this, but I don't feel I can do so right now.

Could we ask the Minister of Justice to come and meet with the committee for 30 to 45 minutes at our next meeting, before we vote on Bill C-273?

At this stage, the minister's intentions are a decisive factor in our vote on Bill C-273. The bill concerns one part of the problem, whereas we're told that what the minister is preparing to do concerns the essence of what section 43 protects and what we wish to protect. The committee might vote unanimously if the minister came and explained to us what he's working on.

I don't know if that's possible, but that's my proposal. I propose that we suspend the vote until our next meeting and that the minister come and meet with us for half an hour at the start of the meeting to explain to us what he's working on and to attempt, if possible, to reconcile us all.

The Chair: Thank you, Mr. Fortin.

Is there unanimous consent among the committee colleagues on this proposal?

Some hon. members: No.

The Chair: We don't have unanimous consent.

Then I will continue.

[*English*]

Shall clause 1 carry?

Mr. Moore.

Hon. Rob Moore: I agree 100% with Mr. Fortin on the need to hear from the minister. There's recognition by the Supreme Court that simply eliminating section 43 puts teachers and parents at risk. There's an acknowledgement from the Minister of Justice, apparently. We've heard through Mr. Maloney and the parliamentary secretary that he, too, recognizes there is risk in eliminating section 43. He has, we understand, suggested he would be bringing in legislation. For us to properly proceed on this private member's bill requires us to know what that legislation looks like. It also requires us to know the timing around the coming into force of this legislation and the other legislation, should they both pass.

I want to make one thing 100% clear: This bill is extremely problematic. There has been much concern raised by committee members and especially by witnesses and the Supreme Court. We had a big surprise dropped on us on Monday when we heard that the Minister of Justice acknowledges that this is a problematic bill and will be bringing in, presumably, government legislation. I agree that we should, as we scheduled, quickly move to our study on anti-Semitism on Monday. This bill is not ready. The committee has not heard from the minister. The committee has not heard from departmental officials on the content of the new justice legislation that may be coming to respond to the fallout from this bill.

I want to make it extremely clear that we should be moving on, on Monday, regardless of what happens with Bill C-273, which is a flawed bill that's out of touch with teachers and parents in this country. Regardless of what happens with it, we need to move on with our agenda. Our agenda should be that, on Monday, we begin Mr. Housefather's study on anti-Semitism. Look at your phone, look at the headlines and turn on the television. You will see that this is a massive issue across the country right now. That's why we have agreed as a committee, unanimously, to study Mr. Housefather's motion. I believe we should be studying Mr. Housefather's motion on Monday.

I think we should all be in agreement on that.

Madam Chair, I am moving a motion at this time that we begin our study on Mr. Housefather's motion on anti-Semitism on Monday and Thursday of next week.

Thank you.

● (0925)

The Chair: Mr. Moore, I think we have to complete what we're completing first, before I can entertain a motion on another topic, so just allow me to—

Hon. Rob Moore: I don't think so.

The Chair: I think so, but let me hear from Mr. Maloney. He also has his hand up.

Mr. James Maloney (Etobicoke—Lakeshore, Lib.): Thank you, Madam Chair.

I was going to make that very point. We are doing clause-by-clause. This motion that Mr. Moore is proposing is out of order.

There's a very simple path forward to get on with this study, which we all agree is top priority—very important—and which is why Mr. Housefather brought it forward in the first place. The only thing between us and that study is ongoing Conservative obstruction and filibustering this piece of legislation.

We can vote on this bill now. We're on clause-by-clause. We are two votes away from getting to that study.

I also want to clarify for the record. A number of times Mr. Moore and others...at no time did I say on Monday, when I made reference to the minister's intention, that the passage of this bill created a void or created a situation that was problematic. What I said was that the minister was committed to working towards a goal of achieving something in the spirit of what the “teachers” had proposed. I want to set the record clear on that.

A number of comments were made today by members of this committee. To suggest that any member of Parliament, any member of this committee, does not support parental rights is outrageous.

I ask that we rule Mr. Moore's motion out of order and that we immediately move to continue dealing with clause-by-clause, and then we can move on to the other matters this committee needs to deal with urgently.

The Chair: I've already said I can't entertain that motion until I finish with the clause-by-clause. There's really nothing to rule.

Thank you for all kinds of advice here beside me. I've already asked, shall clause 1 carry? Until that is determined, I can't entertain any other motions.

Mr. Moore.

Hon. Rob Moore: On that, I think your ruling is that we have to deal with clause 1 before you can deal with the motion, not that we have to deal with clause-by-clause. We could have a 300-clause bill, and not being able to entertain motions until it's over would be problematic.

I have to respond to what Mr. Maloney said. We mentioned the gap in the law. If the Minister of Justice is committing to responding to the teachers' concerns.... The teachers' concerns are with a gap in the law that's created by section 43 being removed. What they've said is that section 43 will put teachers and students at risk. That is their testimony. Their testimony is that the Teachers' Federation will advise teachers not to intervene—

● (0930)

Mr. James Maloney: I have a point of order, Madam Chair.

The Chair: Mr. Maloney.

Mr. James Maloney: Mr. Moore can repeat the same comments over and over again. This has nothing to do with what we're talking about. He's trying to characterize my comments and put words in the mouth of others.

We've heard from the witnesses. We've heard these submissions.

This has nothing to do with what we're talking about right now, and I think we should move forward.

Hon. Rob Moore: That's not a point of order.

Can I finish my remarks?

The Chair: Could you give me a minute? Then, yes, I will come back to you. Thank you.

Okay. Please go ahead.

Hon. Rob Moore: Madam Chair, I'm responding to Mr. Maloney's comments that the minister obviously feels that this will leave a gap in the law. Why else would he feel compelled to commit to bringing in legislation? That is the point, that is the concern and that's the foundation for why this bill is not ready to be passed.

The other thing that's extremely troubling for me—Mr. Maloney basically said the quiet part out loud—is that somehow the Liberals and NDP are using the passage of an extremely problematic and controversial private member's bill, which is completely irrelevant in the context of the Supreme Court decision, to hold up Mr. Housefather's study on anti-Semitism, which is urgent and timely. That's what's happening.

I want to be crystal clear: If we do not study the motion on anti-Semitism, which should begin on Monday, we're not going to allow members to use this extremely flawed private member's bill to delay that study.

If we're not studying the motion on anti-Semitism on Monday, it's because the Liberals and NDP don't want to study the motion on anti-Semitism on Monday. It is that clear. There is no rule. If members would like to point me to the rule that says we have to complete our study on this before we can study the anti-Semitism motion on Monday, I would love to see it.

The fact is, everyone around this table knows that there is nothing preventing us from starting that study. This is an attempt to blackmail committee members into moving on to a study by passing an extremely flawed bill.

Mrs. Élisabeth Brière (Sherbrooke, Lib.): Madam Chair, it's out of order.

The Chair: Mr. Maloney, was there anything else on that point?

I do want to move on. I've already made my decision. If somebody wishes to challenge me, please go ahead. I welcome that.

This committee has agreed, unreservedly, a number of times that the study on anti-Semitism will commence when we finish this clause-by-clause. Nobody is not agreeing to that. We never put a specific date. In fact, I was trying to figure out a date last time, when nobody was able to agree. We want to finish this clause-by-clause on this bill that we are doing because we do have important work to do other than the bill.

I'm looking for everybody's attention here to continue so that we can do that. I've already made my decision. If anybody wishes to go against it, please say so. I have no problem. As the chair, I welcome it. I will continue, again, now.

Shall clause 1 carry?

(Clause 1 agreed to: yeas 7; nays 4)

The Chair: Thank you very much.

I'm going to ask the member to move G-1.

Mr. Moore.

● (0935)

Hon. Rob Moore: Subject to and in compliance with your ruling, we've dealt with that amendment.

I would like to now move a motion, irrespective of any misunderstanding of decisions that were made in the past, that this committee begin our study on anti-Semitism on Monday and on Thursday of next week.

Mrs. Élisabeth Brière: Madam Chair, you already ruled on that. It's out of order.

Hon. Rob Moore: No, it's not.

The Chair: I have. I'm not going to allow this particular motion on specific dates, because I know from speaking to committee members that I cannot give a specific date for the study. This is because there are things we have to decide—

Ms. Marilyn Gladu: I have a point of order.

The Chair: —before we can start the study and call the witnesses.

Hon. Rob Moore: Madam Chair, that's not how....

Madam Chair—

Ms. Marilyn Gladu: On a point of order, Chair, you correctly ruled that the motion was out of order while we were in the middle of voting on a clause-by-clause thing, but now that we've completed that task, the motion is not out of order.

The Chair: Mr. Moore.

Hon. Rob Moore: Madam Chair, my motion is absolutely in order. We could decide as a committee....

Boy, there are a lot of—

Mr. Randall Garrison: On a point of order, Madam Chair, you've ruled on it. If the members wish to challenge your ruling, they can. Your rulings are not debatable by committee members, but they can be challenged.

I am completely confident that the committee will uphold your ruling, but we can't debate your rulings each time you make one.

The Chair: I agree with that.

Hon. Rob Moore: Madam Chair, what is your ruling?

The Chair: My ruling is that I cannot entertain a motion on studying.... No. We've already had the motion that we will be studying...on the date to start that. We are not prepared to do that until we've finished this clause-by-clause.

Hon. Rob Moore: Madam Chair, if I may, you're saying we are not prepared to do that, yet I have a motion.... You're not speaking for us, because we are not prepared to do that.

My motion—

Mr. James Maloney: I have a point of order, Madam Chair.

Hon. Rob Moore: —is that we begin the study on Monday. I understand why the Liberals and NDP don't want to vote on my motion, because they're using the start of that study to leverage the passage of this terrible bill.

Madam Chair, my motion is 100% in order. There's no rule that says we can't adjust our schedule at any time.

The Chair: Mr. Moore, listen. I respect what you're saying—

● (0940)

Hon. Rob Moore: Do you?

The Chair: I do, because I know you're a learned member of the committee. I respect you, so that's pretty good.

I can cite for you at least three legal reasons why I am ruling you out of order. If you would like me to do that, let me suspend for a minute. I'll write them down and I'll read them.

I have reasons why I can do what I'm doing. You've not given us 48 hours' notice. This is a substantive motion. It has nothing to do with what I'm dealing with here. I can go on and on.

If you'd like me to quote sections or you'd like me to give you more facts or evidence, I'm happy to do that. I just need to collect my thoughts and consult with the team here.

Otherwise, I will say let's continue, or challenge and you can vote on it. I'm certain in my ruling.

Hon. Rob Moore: Madam Chair, is it your ruling that this committee could not decide to study the anti-Semitism motion on Monday?

Mr. James Maloney: I have a point of order, Madam Chair.

The Chair: I think we've dealt with this. I will be moving on.

I'm moving on. Was there something else?

Mr. Maloney.

Mr. James Maloney: The issue at hand is as simple as this: He's asked for something and you've ruled on it. We don't sit and debate the reasons after the fact. You don't have to justify it. You've made your decision. It's as simple as that.

We need to move on. Otherwise, we could be here all day, listening to what amounts to nothing more than griping and disagreement. We have a process. There's a procedure in place. Let's follow it.

The Chair: Mr. Maloney, I'm asking if you would please move G-1, as you're the one who brought it in.

Mr. James Maloney: Thank you, Madam Chair. It is so moved.

The Chair: Do you have anything to say on it?

Mr. James Maloney: It's self-explanatory, Madam Chair.

The Chair: Perfect.

Shall G-1 carry?

Hon. Rob Moore: Madam Chair....

The Chair: Yes, Mr. Moore.

I think I see Ms. Gladu's hand up too.

Hon. Rob Moore: I've never heard a less enthusiastic explanation of a motion than that it's self-explanatory, as with G-1

Madam Chair, I mention this because we have a bill that the government is now acknowledging is flawed. The minister is committing to making amendments, so I would ask why one amendment, amendment G-1, was put forward and the other amendments were not. The answer is that the government feels that what's necessary to address the fallout of passing this legislation might fall outside the scope of the bill and be ruled out of order.

I think it would still be of benefit to committee members to hear about amendment G-1, but also, more importantly, to have some kind of indication of what is going to be in the government legislation that Mr. Virani has said will be necessary to address the fallout of this bill, which attacks teachers and parents.

Teachers have raised a number of concerns about this bill. Mr. Virani has, I'm told, heard some of those concerns, but this might be a good opportunity, when the government has the floor on amendment G-1, to flesh out a bit more of what's going to be in this government legislation. We're eagerly awaiting any kind of detail regarding what is in that legislation, because obviously the government feels that's necessary if this bill is to pass.

Apparently the government is asking us to pass this bill today, this NDP private member's bill, which criminalizes parents and teachers, or else we will not study our own member's anti-Semitism motion.

That's what committee members are faced with today.

The Chair: Go ahead on a point of order, Mr. Garrison.

Mr. Randall Garrison: Madam Chair, I've let this go several times, but it is against the rules of the House, which apply in this committee, to impugn the motives of other members.

Mr. Moore has used the word "blackmail". He's used other things to imply what the motivations of other members are in supporting this bill. I unreservedly support this bill. I have no other motivations. I would very much like to move on to the study of anti-Semitism and Islamophobia. It is out of order and a breach of privilege for Mr. Moore to imply that we have motives other than those we have stated in this committee.

The Chair: Mr. Moore, go ahead.

● (0945)

Hon. Rob Moore: Madam Chair, I'm not impugning the motives of any individual around this table who wishes to support this legislation. If you want to support extremely flawed legislation that targets parents and teachers, that is your right. As a member of Parliament, you're accountable for your decisions.

I'm not impugning the motives of someone who would support this legislation.

I'm saying it's very clear that passing this bill is being used—

Mr. Randall Garrison: On a point of order, Madam Chair, he's repeating exactly the same breach of the rules that I have complained about previously.

The Chair: He has a point, Mr. Moore.

Hon. Rob Moore: If my point is wrong then there should be no problem with agreeing that we begin the study on anti-Semitism on Monday. If we're all in agreement on that then I will drop this line of argument.

Irrespective of what happens with this private member's bill today, we should begin our study of anti-Semitism. I'm not framing that as a motion; I'm asking members to agree that we will begin our study on anti-Semitism on Monday. If members around the table agree to that then there's nothing to prevent it from happening on Monday.

The Chair: Thank you for that, Mr. Moore.

Ms. Gladu, go ahead.

Ms. Marilyn Gladu: Thank you, Chair.

Amendment G-1 says that the act will come into force 30 days after it has received royal assent. I don't think that is the right timing for the coming into force on this, because the Minister of Justice has clearly said that he will bring legislation forward to address the concern the teachers expressed about how, if we remove section 43, they won't have any protection until he puts it back in somewhere else.

I don't really think this bill should come into force until that other protection is in place. I would be prepared to make an amendment if there is agreement to do that, but that's really what I'm thinking. You can't take away the protection and not have it there for some period of time. They don't want section 43 to come out until Minister Virani has had a chance to bring in legislation to address the teachers' concerns.

The Chair: Shall G-1 carry?

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

The Chair: Shall the title carry?

(Title agreed to: yeas 7; nays 4)

The Chair: Shall the bill carry?

(Bill C-273 agreed to: yeas 7; nays 4)

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

Some hon. members: Agreed.

Some hon. members: On division.

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.

Some hon. members: On division.

The Chair: Thank you very much. That concludes clause-by-clause.

First let me thank all the witnesses for coming here to provide us support during the last two days.

Members, thank you, and I'm asking you not to move.

We will now adjourn this meeting, and I'm going to go in camera for business for those members who wish to stay. For those on Zoom who are members, if you would like to come back, a new link will be sent to you.

[*Proceedings continue in camera*]