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

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**EVIDENCE**

**Wednesday, October 31, 2012**

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**Chair**

**Mr. Kevin Sorenson**



## Standing Committee on Public Safety and National Security

Wednesday, October 31, 2012

• (1550)

[English]

**The Chair (Mr. Kevin Sorenson (Crowfoot, CPC)):** Good afternoon, everyone.

This is meeting number 56 of the Standing Committee on Public Safety and National Security on Wednesday, October 31, 2012. This afternoon we are going to continue our consideration of Bill C-42, an Act to amend the Royal Canadian Mounted Police Act.

We are going to move now from hearing witnesses, as we have over the last number of meetings, into our clause-by-clause examination. We have senior officials from the Department of Public Safety and Emergency Preparedness on hand for reference.

Also, I want to remind all members that later on this afternoon, at a quarter after five, we will move to committee business, at which time we will go in camera to discuss future business.

We've gone through the process on clause-by-clause examination before. But a problem has arisen. I want to read from the Minutes of Proceedings.

It was agreed, — That, in regards to the study of Bill C-42, Enhancing RCMP Accountability Act: the Committee hear witnesses beginning with the Minister of Public Safety on [Wednesday] October 3rd, 2012; the Committee begin clause-by-clause consideration of Bill C-42 no later than Wednesday, October 31, 2012, and, if the clause-by-clause consideration has not been completed by 5:30 p.m. on Wednesday, November 7, 2012, that the Chair put all and every question necessary to dispose of this stage of the Bill forthwith and successively, without further debate, and the Chair then be ordered to report the Bill back to the House at the next available opportunity; and that amendments to Bill C-42 be submitted to the Clerk in both official languages before 9 p.m. on Monday, October 29, 2012, and that these amendments be distributed to members in both official languages before the end of [that] day.

I need to say that one of the most disappointing things that has taken place here is that we basically received no opposition amendments before nine o'clock.

I am instructed by the Table that these amendments then are not even allowed to come before this committee, because they did not comply with the motion that we had moved, passed, and were trying to live under.

If you remember the last meeting we had, I made it abundantly clear that these amendments must be in by nine o'clock, in both official languages.

When one party calls the Table and says “We are going to be late with our amendment” and they are told that then we cannot accept that amendment, and then they do the translation themselves for whatever they did and get the amendments in on time, it becomes

very difficult to allow other amendments that were not in on time to even be entertained at this meeting. My intent at this point is based on instruction from the committee.

That being said, amendments did come: 18 amendments came from the NDP, and 16 of them were marginally late—just a little bit late—while one came later and one came the next day. When we go by the Minutes of Proceedings and by the motions that we have agreed to that amendments to Bill C-42 be submitted to the clerk before 9 p.m. on Monday, if they come in the next day, they are not to be entertained.

Mr. Garrison.

**Mr. Randall Garrison (Esquimalt—Juan de Fuca, NDP):** Your statements I think are in some respects incorrect, but I don't wish to enter into a discussion about technicalities over two minutes. I don't think it is appropriate for us to have a “he said, she said” about staff notices.

We had every intention that these be in on time. The staff discussed the situation with the clerk before the nine o'clock deadline. We believed that we had complied and had agreement, but in the interests of fair consideration of what we heard from witnesses, I'm going to ask for unanimous consent from the committee to consider the amendments, since good-faith efforts were made to have them there by the nine o'clock deadline.

**The Chair:** I don't believe unanimous consent is actually needed in this case. I think a simple majority would suffice. But this is fairly extraordinary, to be quite frank. It's up to the committee. We're always masters of our own domain, or of our own destiny, I guess.

Ms. Bergen.

**Ms. Candice Bergen (Portage—Lisgar, CPC):** Here are a couple of things. First of all, I think all of us have to recognize the work that the clerk and the staff have to do. Part of it is that when they receive these documents within the deadline, they can deal with them. When they do not, they are put in a very difficult position. It's important that all of us recognize that.

We all had deadlines; we all recognized the deadlines; we all met the deadlines.

I must not fail to mention and to notice that the NDP managed to get out their press release criticizing this bill and saying that it wasn't sufficient, but they got their amendments in late.

Having said that, we have taken a lot of time to study this bill. I think that in the interests of all of us we'd like to hear the amendments, vote on them, and proceed. On this side, we don't know why they were late. As Mr. Garrison said, it's not necessarily a discussion we need to have, but we want to go through all of the amendments.

So we would say, Mr. Chair, that if it is within your discretion, we allow these amendments in. On this side, we would be in agreement with you.

• (1555)

**The Chair:** It sounds as though there is consensus to proceed with this, so I'm not going to call a vote on it. I will do that, but I also want to remind all sides....

I thank you for that, by the way, Ms. Bergen. I think it's a very good gesture on your part. Your party was also instructed that amendments that were late would not be accepted.

Anyway, we can proceed this way. But let me say that we will be seeing Bill S-7 very soon. The same deal is going. We will be going through Bill S-7 and we will....

When I looked at the amendments that came in, none of them, at least from what I could see, were from the witness we heard on Monday. I may be wrong on that—I stand to be corrected—but I didn't see the amendments that could have been from the Monday meeting.

That being said, we will proceed, and I thank you. We will move right into clause-by-clause.

There are some newer members here. We will work our way through. If you have your papers, you may want to follow along with them. On clause 2, there are no amendments that have been brought forward. We'll move through these clauses very quickly, but when we come to the amendments, you will have ample opportunity to debate the amendment that has been brought forward.

The first two that you see, the preamble and the short title, we will postpone. We will come back to those at the end.

(Clause 2 agreed to)

(On clause 3)

**The Chair:** We have one NDP amendment. Its reference number is 5792296.

Mr. Garrison, do you want to speak to that amendment?

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

The package of amendments we prepared has a number of themes. One of those is to protect the independence of the RCMP from political interference. The change we're suggesting here is to delete the phrase that says the Commissioner will be appointed at the pleasure of the government. It reverts to its original wording in the act, which would be for a period of good behaviour.

The difference between those two is important legally. "At pleasure" allows termination without giving reason for cause, whereas the original language, which this section is amending, says

it's for a period of "good behaviour", which means that there must be cause given for the dismissal.

This was from witnesses on Monday.

**The Chair:** So this was one of the ones that came out of the Monday deal?

Ms. Bergen, did I see a hand in the air?

**Ms. Candice Bergen:** Yes. I will speak just briefly. This may cover a few other of the NDP's proposed amendments.

We would not support this motion. It's true under the current act that section 12 indicates that all officers of the force hold rank during pleasure, including the commissioner. Because that section has been repealed, we believe it's necessary to indicate at subsection 5(1) that the commissioner's appointment is also at the pleasure. We would disagree with that proposed amendment.

**The Chair:** Are you ready for the vote?

(Amendment negatived [See *Minutes of Proceedings*])

(Clauses 3 and 4 agreed to)

(On clause 5)

**The Chair:** NDP-2, Mr. Garrison

• (1600)

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

This is the same question we raised in regard to the appointment of the commissioner—for deputy commissioners—and to get the language reverted to "for a period of good behaviour" rather than "a period at pleasure." It's exactly the same principle applied to the other offices.

**The Chair:** That's in regard to what you said. Your talk would cover this one as well. It's the same.

**Ms. Candice Bergen:** We would oppose it for the same reason that we would revert back to the original act.

(Amendment negatived [See *Minutes of Proceedings*])

(Clauses 5 to 10 inclusive agreed to)

(On clause 11)

**The Chair:** There is a government amendment on clause 11. I'll ask Ms. Bergen to speak to her amendment.

**Ms. Candice Bergen:** Thank you very much, Mr. Chair.

We heard testimony, and I'm going to ask my colleague Mr. Leef to speak on this as well. Further to what was approved in the drafting instructions, the bill was supposed to contain a provision that reservists are not deemed to be employed in the public service, regardless of the length of employment for the purposes of the Royal Canadian Mounted Police Superannuation Act. Currently, this provision is not in the bill. We want to correct that. We want to make sure that there is a provision that would allow retired RCMP officers to work as reservists for more than six months and continue to collect their existing public service pension. It's just making sure the bill lines up with the actual intent of it.

Mr. Leef, would you like to speak to it as well? You were here for some of the testimony.

**The Chair:** Mr. Leef.

**Mr. Ryan Leef (Yukon, CPC):** Mr. Chair, we did hear testimony on the value of being able to have retired members return as reservists for the purpose of mentoring. This is obviously a critical component, not only to implementing some of the provisions in this act, but also to the training and future development of new members of the Royal Canadian Mounted Police.

It's a particularly valuable service that the reservists are able to provide to remote and rural communities where backfill, leave, and medical needs need to be met, particularly given the time period it takes—six months—to train recruits in Canada. By the time you bring new recruits in, you are able to fill some of these positions. A little bit longer term would be helpful, without actually affecting the people who are coming out of retirement by affecting their pension terms or by unnecessarily interrupting that term of service. If it were a one-day break, it might not be too critical, but the two-week break can really change the structure of a detachment, the staffing needs in rural and remote areas, and the mentoring programs. The testimony from all sides was pretty positive to this change.

**The Chair:** Thank you both, Ms. Bergen and Mr. Leef.

Is there anyone else who wishes to speak to that? It doesn't look like it.

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

(Clause 11 as amended agreed to)

(Clause 12 agreed to)

(On clause 13)

**The Chair:** We have come to clause 13. We have three amendments that have been brought forward. Basically, we will look at each one of these independently. First of all, NDP-3.

Each one has received the amendments, is that correct, Mr. Chaplin?

Mr. Garrison.

• (1605)

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

We heard from groups who deal with harassment in Quebec, in response to a question from Mr. Leef, that they thought there should indeed be some specific reference to harassment training in the bill. All this does is insert a specific reference to harassment training.

Given the large problem we have inside the RCMP with the complaints of sexual harassment, we felt that to make this.... It still says the commissioner "may" do this, but to make specific reference to it would be reassuring members of the force and the public that the question would be dealt with.

**The Chair:** Did I see Ms. Doré Lefebvre's hand in the air on this one?

[*Translation*]

**Ms. Rosane Doré Lefebvre (Alfred-Pellan, NDP):** I just want to say that I will be supporting my colleague's amendment.

What witnesses told us at our last meeting was quite informative. We all know that training and education often help to improve things, and I think that we would be improving the bill if we were to add this reference to section 13.

So I support my colleague's amendment.

[*English*]

**The Chair:** Is there anyone else?

Ms. Bergen.

**Ms. Candice Bergen:** We will not be supporting this amendment. The commissioner already is and continues to be responsible for this. And we have heard testimony from the commissioner; he takes this responsibility very seriously and will make sure that training is provided. So we will not support this.

**The Chair:** Is there anyone else?

(Amendment negated [See *Minutes of Proceedings*])

**The Chair:** Next is amendment NDP-4.

Mr. Garrison.

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

We heard from some witnesses, including witnesses on Monday, that they were worried about this clause, which simply provides an unrestricted power to the commissioner to dismiss any individual member for reasons of economy and efficiency. So we're proposing deleting that clause.

Obviously the commissioner would still retain the power to prepare a plan for force reduction that might result in the dismissal of individual members, but we're not sure why there's a need to actually specify that the commissioner has the power to dismiss individual members for reasons of economy. Obviously he would still retain his general power over the size of the force and force reduction without this clause, so we see this as being unnecessary and as creating unnecessary insecurity among members of the force.

**The Chair:** All right. So it's the deletion of—

**Mr. Randall Garrison:** It's the deletion of the clause altogether.

**The Chair:** All right.

Ms. Bergen.

**Ms. Candice Bergen:** We would not agree with this or support it. This is an authority that already exists under the RCMP regulations. If we take it away, it would take away the commissioner's ability to deal with these matters within the context within which he or she needs to be able to work. We think it would be detrimental to remove this.

(Amendment negated [See *Minutes of Proceedings*])

**The Chair:** Next is amendment NDP-5.

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

We're moving this motion to delete lines 14 to 24 on page 11, which would delete the ability of the RCMP commissioner to delegate the authority to dismiss members. When people join the RCMP to make a commitment to a career, they put a lot of time and energy into it, and if for unfortunate reasons they eventually are dismissed, we believe the authority for that should rest with the commissioner alone. Although obviously the existing external review committee is the independent body that might review that decision, it should not be made by people in the hierarchy lower than the commissioner.

**The Chair:** Ms. Bergen.

**Ms. Candice Bergen:** This actually gives the commissioner the authority, under clause 13, that is basically the same as the human resources management and delegation authorities provided to deputy heads in the core public administration pursuant to the Financial Administration Act.

We would not support this motion because we believe it would very negatively impact on the ability of the RCMP and the commissioner to do the work that he or she needs to do.

(Amendment negated [See *Minutes of Proceedings*])

(Clause 13 agreed to)

(Clauses 14 and 15 inclusive agreed to)

(On clause 16)

**The Chair:** On clause 16 there is one amendment. The government has brought forward an amendment to their bill.

Ms. Bergen, would you please tell us a little bit about it?

• (1610)

**Ms. Candice Bergen:** This is actually a grammatical amendment. Probably some of my French-speaking colleagues would have recognized it even sooner than I did. The French version has a grammatical error. The current version has “*d'une*”, whereas it should read “*une*”. That's really the only... We have a number of those, Chair.

**The Chair:** Okay. A lot of it will be in the translation, to tighten up the translation a little bit.

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

(Clause 16 as amended agreed to)

(Clauses 17 to 20 inclusive agreed to)

(On clause 21)

**The Chair:** The official opposition has brought forward NDP amendment number 6.

Mr. Garrison.

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

What we're proposing here is to delete a prohibition that has been included in the bill and would prohibit the filing of grievances based on the grounds of equal pay. This was again raised by witnesses on Monday. We don't understand the necessity of prohibiting the filing of grievances based on equal pay. It would be the normal course of

workplaces; you don't legislate out certain kinds of grievances from the beginning.

Again, given the climate problems we have seen in the RCMP, it seems to provide a wrong signal to women serving in the RCMP that some grievances would automatically be ruled inadmissible by the law.

**The Chair:** Ms. Bergen.

**Ms. Candice Bergen:** Again, we can't support this amendment. We think these types of complaints are best dealt with under the Canadian Human Rights Act. Our concern would be that it would create unnecessary litigation, excessive costs, and the risks of conflicting results.

Again, we think this is best dealt with under the Canadian Human Rights Act, not in this legislation.

**The Chair:** All right. Seeing no other speakers to this, I will call the vote.

(Amendment negated [See *Minutes of Proceedings*])

(Clause 21 agreed to)

(On clause 22)

**The Chair:** Clause 22 has one amendment—NDP-7.

**Mr. Randall Garrison:** We did vote no on that one.

**The Chair:** Yes. I imagine all of these are kind of an on division type of thing, but...

We're on NDP-7 in clause 22.

Mr. Garrison.

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

There are many other sections in the bill that explicitly protect the right of judicial review of certain things that take place under the bill. We found it unusual that this one section did not; therefore, we suggested this amendment to protect the right, ultimately, of judicial review of grievance settlements.

**The Chair:** Ms. Bergen.

**Ms. Candice Bergen:** Again, we disagree with this amendment. The intent is to send a very clear message that the grievance process is to be the primary source for resolution of employment and labour issues within the RCMP.

By indicating that the commissioner's decision is final and binding, we hope the courts will grant a high degree of deference to the decisions of the commissioner that are within the scope of the employment relationship. This was done with that intent in mind. We want to make sure that it's very clear, that these issues are solved, and that the message is sent that it's a very clear and decisive decision.

**The Chair:** Mr. Scarpaleggia, please.

**Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.):** I would like you to clarify that.

On the purpose of your amendment, Randall, could you explain it again?

•(1615)

**Mr. Randall Garrison:** There are several places in the bill where it does state that except for judicial review under the Federal Courts Act.... So it reaffirms that right, which is constitutional, of courts to review—

**Mr. Francis Scarpaleggia:** To review, yes.

**Mr. Randall Garrison:** —those things. It was omitted from this clause and we're not sure why. In particular, I understand that the government is attempting to send a message about this being final. We felt that this amendment would really reaffirm the existing legal situation.

**Mr. Francis Scarpaleggia:** So there is a right to judicial review. I'm just wondering, if the right exists—

**Ms. Candice Bergen:** The right exists.

**Mr. Francis Scarpaleggia:** I just don't understand what the objection would be to including it, then. Could you restate your argument? It would send the wrong signal...? Is that...?

**Ms. Candice Bergen:** We want to send a very strong signal that these decisions would be binding and would be final. I think what we have seen is the reverse, where decisions sometimes take a long time, and that can cause problems within the RCMP.

It's about making sure that the commissioner has this ability and that everyone involved knows that his or her decision is final, still within, obviously, the ability to take it to a higher level of judicial review.

**The Chair:** I think those are all the speakers on that one.

(Amendment negated [See *Minutes of Proceedings*])

(Clauses 22 to 28 inclusive agreed to)

(On clause 29)

**The Chair:** There are three amendments to clause 29, both government and official opposition.

We'll entertain the New Democratic Party's amendment first.

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

The bill contains a section that several witnesses, including witnesses who appeared Monday, found problematic; that is, they believe this section of the bill that we are proposing to delete removes the protection that any other Canadian would have against unreasonable search and seizure. It creates a greater power for the government to subject RCMP members to search and seizure than would exist for other members of the public.

Based on that strong testimony from witnesses, we are proposing that this section be deleted from the bill. It would mean that RCMP members would be under the same regime as other members of the public when it came to the question of search and seizure.

**The Chair:** Ms. Bergen, go ahead.

**Ms. Candice Bergen:** Yes, this did come up. What we found is that both British Columbia and Ontario have provisions in their respective police legislation to allow for searches.

This legislation would go a little bit further by creating the ability for a production order, which is less intrusive than a search warrant. From the legislative point of view, there is a concern about investigating code of conduct issues without the ability to do a thorough search and get all the information.

We also heard testimony that the commission may not have access to all the information it needed. We heard that. I think this is making sure that all relevant information is able to be obtained in a legal manner and with the proper process. We support that.

Yes, we did hear testimony of some concern, but we think the provisions in this legislation and the provisions for that particular type of order provide enough protection. We think it's important that stays in so that the commission gets the information and the RCMP investigative team, if it's a serious incident, can do their work.

(Amendment negated [See *Minutes of Proceedings*])

**The Chair:** Government amendment number 3.

Ms. Bergen, go ahead.

**Ms. Candice Bergen:** It's to correct an inconsistency between the English and the French versions. The English provision states that the justice must be satisfied by information on oath, whereas the French does not have that requirement. We just want to make that consistent.

•(1620)

**The Chair:** All right, so it's a...

**Ms. Candice Bergen:** It's consistency between both languages.

**The Chair:** It's a correction.

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

**The Chair:** Government amendment number 4.

Ms. Bergen, on the same clause, go ahead.

**Ms. Candice Bergen:** The French version has a grammatical error. The current version reads *s'il y a contravenu*, whereas it should read *s'il y a eu contravention*.

**The Chair:** Very good. Now that's as clear as can be.

All in favour of the amendment on the translation?

(Amendment agreed to)

(Clause 29 as amended agreed to)

(Clause 30 agreed to)

(On clause 31)

**The Chair:** Government number 5.

Ms. Bergen, go ahead.

**Ms. Candice Bergen:** This is another French translation amendment from the government. We're moving this amendment to correct an inconsistency between the English and the French texts. The English uses the conjugation "and", whereas the French uses the conjugation "or". The French should be amended to use "and", so that it's "and" in English and in French. We should be consistent.

**The Chair:** All right. It's for consistency between the two languages.

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

**The Chair:** From the official opposition, we have NDP-9 on the same clause.

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

This is a substantive amendment that we are proposing. What we're asking here is that the commissioner be bound by the recommendations of the External Review Committee. The External Review Committee was created to provide an appeal mechanism for members and to escape from the rigid paramilitarism, as you might describe it, of the RCMP. This deals with things like dismissal from the force, direction to resign, or demotion. We think these are very serious matters for members of the RCMP, in terms of the future of their careers, down to and including demotion.

This would strengthen the External Review Committee, which was created at the same time as the first public complaints mechanism for the RCMP. It was created to create that kind of balance. If members are subject to complaints from the public and to special investigations as a result of that, they feel that having an external group to look at those conclusions, and to make sure they were fair, would be important.

We heard from the External Review Committee chair herself that she would like to see the recommendations made binding. We heard the same thing from additional witnesses on Monday. This would increase the sense of fairness and the confidence in the fairness of decisions made within the RCMP.

**The Chair:** Ms. Bergen.

**Ms. Candice Bergen:** We would disagree with this on a couple of levels. First of all, it's very important that the bill is clear that the commissioner is responsible for the RCMP—the management, the conduct—and to ensure that the commissioner has the authority to do that.... There are a number of checks and balances and processes whereby if the commissioner overturns a decision, it has to be explained, and again, accountability would be provided.

I do want to read for members something the minister said—I think it's important that we remember this—when he testified. He said:

...the RCMP commissioner is held accountable for the operations of the RCMP and must decide whether to act on the findings and recommendations of the commission. The commissioner is accountable and responsible for the operations of the RCMP, and we will not undermine that accountability by making recommendations binding. However, consistent with the existing legislative requirements, it's also clear that whenever the RCMP commissioner decides not to act on commission recommendations, he must explain, in writing, the reasons for doing so to the new commission and to me [the minister].

It's very clear that this bill clearly outlines, reiterates, and affirms not only the authority and the responsibility of the commissioner, but also that he has the ability to be the person who's accountable for the RCMP. For that reason, we will not be supporting this.

(Amendment negatived [See *Minutes of Proceedings*])

(Clause 31 as amended agreed to)

(Clauses 32 to 34 inclusive agreed to)

(On clause 35)

• (1625)

**The Chair:** Now we come to clause 35, and we have many different amendments to clause 35.

We'll begin with amendment NDP-10, please.

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

One of the themes in our amendments is to make sure that the new commission that's created is truly independent. We think this is very important to having the process of restoring public confidence in the RCMP proceed, and we also think it's very important for serving members of the RCMP to believe that this commission can review things without undue influence either from the commissioner or from the government.

In this section, we are removing clauses that place two restrictions on the commission launching its own independent investigations. These are highly unusual for civilian oversight bodies. We did some checking around. I have some previous experience with these. I've never seen these kinds of clauses in any other sections of the legislation setting up a civilian oversight or review body. One says that the commission may not launch investigations unless it's sure it has resources, and the other says it may not do so if there's any other "entity" investigating the same matter.

Certainly, we heard from the previous police complaints commissioner that he felt that sometimes matters arise whereby having the commission proceed to investigate would actually save a lot of money, rather than having to set up an independent commission to look into those matters. However, had he been under this restriction, he might not have been able to launch such an investigation.

We also heard from Mr. Mukherjee on Monday that he sometimes felt that oversight bodies investigate different aspects of the same matter. He pointed to the investigations of the G-20 matters in Toronto, which were investigated from several different perspectives because they were joint operations of different police forces. What he said very clearly to us on Monday was that it might be useful sometimes to have different aspects investigated by different oversight bodies, and that he would not like to see this ruled out from the beginning in the legislation.

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

Ms. Bergen, go ahead.

**Ms. Candice Bergen:** I think it's really important to point out that under this clause the commission is not asked to obtain approval from the minister to initiate a review. Rather, it requires the commission to merely give notice that they are satisfied that certain conditions have been met, for example, that sufficient resources exist for conducting the review.

I know there are a number of other amendments, but this might be a good opportunity to hear from some analysts here who might be able to provide greater clarity on what implications this might have.

Therefore, we would not be supporting these series of amendments, but for that one, particularly, that's the reason.



**The Chair:** Because you've made a reference to them, we will go to the officials.

The commission isn't required to obtain ministerial approval for such a review—I think that was part of what Ms. Bergen was suggesting. Do you want to elaborate on this amendment?

**Ms. Anita Dagenais (Senior Director, RCMP Policy Division, Law Enforcement and Policing Branch, Department of Public Safety and Emergency Preparedness):** I'd be happy to, Chair.

The policy intent here is to have the commission not undermine its work in the complaints area, so just to assure.... It's an attestation that sufficient resources are there to conduct a review that won't take away from the complaint and that other reviews on the same matter aren't under way.

The member mentioned the G-20 review. That was really about an incident.... We're talking about policy reviews here—very broad policy reviews. They're quite in-depth and comprehensive, and we wouldn't want various parties all looking at the same thing. I think there are enough reasons to have a focused review without diverting those interests among various groups looking into it. That was really the policy intent for it.

**The Chair:** Mr. Garrison, go ahead again.

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

We accept that it is a good feature of this clause that it does not require prior approval of the minister. We simply feel these two restrictions are not necessary.

We're obviously appointing a very senior person in Canadian public life to occupy this position. What we're saying by deleting these two is that we have to trust their judgment. One of the things that both Mr. Kennedy and, if memory serves me right, Mr. Mukherjee pointed out is that sometimes this bill directs that individual complaint investigations take precedence. But both of them said that it may be necessary sometimes to do a more general policy review in order to avoid a lot of future complaints that would be very similar.

I appreciate your intervention, but it does not change our position on the overall question of granting the independence to the chair of the commission.

(Amendment negated [See *Minutes of Proceedings*])

• (1630)

**The Chair:** NDP amendment 11.

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

We're still on clause 35. One of the peculiar things here is that the bill says that when there's a contract for policing between a province and the federal government, if a provincial minister wishes to have an investigation under that contract, they would have to go through the minister they have the contract with in order to get that investigation.

The purpose of our amendment is to remove the requirement that provincial ministers go through the federal minister to request an investigation by the commission. In other words, what we're doing here is strengthening the equality between the parties under the

contract by allowing either of them to ask for an investigation from the commission, without the permission of the other.

**The Chair:** Ms. Bergen, go ahead.

**Ms. Candice Bergen:** Again, we wouldn't support this. The CRCC obviously falls under federal jurisdiction. There is a mechanism in place whereby provinces can ask, but it would be through the proper channels, which is the minister. So we think it's important, and again, under jurisdictional powers and....

This bill is a pretty big bill, and if we start adding components like this—again, maybe the legal team wants to talk about it, but it would add unnecessary complications. The provinces can ask for these reviews, but it would be through the proper channel, which would be the minister.

(Amendment negated [See *Minutes of Proceedings*])

**The Chair:** On NDP-12.

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

The tight timelines meant that I ended up moving all these amendments, and I'm now beginning to regret that because I'm sure my colleagues could do an equally good.... But the tight timelines mean that I am presenting all of these today.

**The Chair:** You're doing a very good job. Don't let the result deter you.

**Mr. Randall Garrison:** As you can see, I'm not about to let the result deter me.

As the honourable member notes, we have been supporting the government amendments. We had hoped there would be at least one in this batch of amendments to improve the bill that might see support on the other side.

**The Chair:** It's NDP 12. Let's get to 12.

**Mr. Randall Garrison:** The bill sets up a rather complicated process in disputes over access to information between the commission and the RCMP commissioner. We heard very strongly from Paul Kennedy, as the former commissioner. We also heard from Mr. McPhail, if I remember his testimony correctly, and also from Mr. Mukherjee, from the Canadian Association of Police Boards, that it's necessary for commissions to have access to all information.

There are ways that are parallel to those done in SIRC where you can make sure sensitive information is not subsequently released to the public, but the commission needs to see the information before it can determine the relevance. This sets up a process where a third party, probably a retired judge, would make recommendations on those disputes. The comment was then made by officials, I believe it was Mr. Potter, that if the parties still don't agree, they can go to court.

Our purpose in suggesting this is that we don't see why—if we've brought in the third party, a neutral party with expertise to give a recommendation—we shouldn't avoid those future court costs and delays by simply making those recommendations binding on the two parties. Either we have confidence in this third party's recommendations or we do not. We don't see the point of subsequently having a court dispute between the commissioner and the commission when we've had a third party look at this and make recommendations. This would make the recommendations of the third party binding in disputes over access to information.

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

Ms. Bergen.

**Ms. Candice Bergen:** We would disagree, and again, what we would see is that the former judge or other person would be a resource to provide information to both parties. Then both parties would be able to come to their own conclusion. If it's binding, it could be very difficult. Both parties, once they receive all the information, might not want it to be binding. They may actually be able to come to their own conclusion outside of the information provided by the former judge or other person, as is in the legislation.

As soon as something is made binding it can automatically create more judicial reviews. We think if we give more flexibility—and I might ask for some legal opinion on this—within the advice the former judge would be providing, and the advice and information is given to both parties, with obviously the hope that the end result would be the parties coming to an agreement, that creates more flexibility. That creates probably a better atmosphere to come to the agreement without having to go to litigation.

• (1635)

**The Chair:** You made reference to the officials.

Ms. Lévesque, you have a smile on your face, like you're ready for this one.

**Ms. Agnès Lévesque (Counsel, Legal Services, Department of Public Safety and Emergency Preparedness):** Not necessarily. Actually, she has explained all of the elements that were considered when this provision was drafted. The intent was to assist both the RCMP and the commission in identifying the documents that would be relevant and necessary, in a manner that takes into account the sensitivity of the information and the need for an investigation on a complaint to proceed in a timely fashion. Ideally, because there is an ongoing relationship between the commission and the RCMP, it's so they can discuss these matters in a non-adversarial situation.

**The Chair:** Thank you very much for that clarification.

(Amendment negated [See *Minutes of Proceedings*])

**The Chair:** We are on government number 6. This is still part of clause 35.

**Ms. Candice Bergen:** It's another correction. We're moving this amendment to correct an inconsistency between the English and the French languages. We've been advised that having the term “accessed” in English and “obtained” in French could be an issue. One implies physical possession, whereas the other does not. This amendment will clarify that the commission must only use the information that it has accessed for the purpose under which it was accessed.

**The Chair:** Again, it's more of a wording and a translation deal.

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

**The Chair:** On G-7, the same.

**Ms. Candice Bergen:** Sorry, just give me one second.

**The Chair:** This is....

**Ms. Candice Bergen:** Okay. I just wanted to make sure this wasn't a French language one.

We want to ensure immunity to every member, officer, and employee of the commission. We heard testimony that the chair needed immunity. That was very clear, so that's the intent of this.

**The Chair:** I think we all agreed at the meeting, initially.

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

**The Chair:** NDP-13.

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

In this, we're proposing to change the reporting process. One of the important things we think about any civilian oversight body is that its conclusions be transparent—not all of its work, obviously, because sometimes there are matters that cannot be made public. We're suggesting here that the annual report of the commission be tabled with the Speaker in the House of Commons, rather than passing through the minister first. We think it would create a greater sense of independence for the commission and a greater confidence in the transparency of its recommendations and its work.

**The Chair:** Ms. Bergen.

**Ms. Candice Bergen:** I won't be able to support this motion. The chairperson will report through the Minister of Public Safety, who reports to Parliament on their behalf. This is common practice for these kinds of review bodies, so we will be supporting the current legislation.

(Amendment negated [See *Minutes of Proceedings*])

**The Chair:** Next is G-8.

**Ms. Candice Bergen:** Again, this is to correct an inconsistency between the English and French provisions. The French refers to the conduct of a member, whereas the English refers to conduct in general. The French should be corrected, as the conduct could be from anyone employed by the RCMP, not just a member.

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

**The Chair:** Next is G-9.

**Ms. Candice Bergen:** This is to clarify that the Civilian Review and Complaints Commission should refuse to deal with any complaint concerning an internal RCMP discipline decision or how they are made in order to fully capture the policy intent of the legislation.

We want to clarify that it's not within the commission's mandate to review disciplinary decisions of the RCMP, as this is a function that's already performed by the RCMP External Review Committee. We want to clarify that to make sure that the spirit of this legislation is captured and not missed by not having this amendment.

• (1640)

**The Chair:** Mr. Garrison.

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

We appreciate the intent of this and we will be supporting this amendment. We would be much happier if you had previously supported our amendment to make the recommendations of the External Review Committee binding. It deals with the same issue, but we do understand. It's never been the intent on this side to suggest that the commission should interfere in discipline matters within the RCMP. We will be supporting this.

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

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

**The Chair:** Next is G-10.

**Ms. Candice Bergen:** Again, this is to correct an inconsistency between the English and French texts.

When providing the authority of the chairperson to self-initiate a complaint investigation, the English text introduces the concept that the chairperson must have reasonable grounds to investigate the investigation, whereas the French text does not have the concept of reasonable grounds.

We want to amend the French text to ensure there is consistency between the French and the English.

**The Chair:** It looks as if people are nodding their heads.

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

**The Chair:** Next is G-11.

**Ms. Candice Bergen:** Again, it's an inconsistency. The English states that the report must be sent to all listed individuals, whereas the French implies that the commission can send it to just one of them. The French text should be amended to clarify that the commission should send the report to all of them.

**The Chair:** It's for consistency between the translations then.

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

**The Chair:** Next is NDP-14.

**Mr. Randall Garrison:** We are still in clause 35. Thank you very much, Mr. Chair.

We heard from a number of witnesses, including those on Monday, that once again members were being subjected to a measure in this bill that would infringe on their right to protection from self-incrimination in a way that would not be imposed on other members

of the Canadian public. We're suggesting deleting the section that would compel testimony from members in disciplinary inquiries.

We do not think this would impede the ability of the RCMP to investigate, and it would go a long way toward ensuring balance in the human relations policy within the RCMP.

**The Chair:** Mr. Leef.

**Mr. Ryan Leef:** Mr. Chair, I think there was a lot of confusion around the questions that were asked last week around the Charter of Rights and Freedoms and how that applies to labour disputes and conduct issues. Because the right around labour disputes and conduct issues doesn't fall under the provisions that were being highlighted, which are essentially under the Charter of Rights and Freedoms for people under criminal investigation or upon arrest and detention, not around code of conduct reviews, I don't see supporting this. There are certainly safeguards in place to protect members when they're compelled to provide evidence. The bill specifically says that evidence won't be used in other proceedings, such as criminal proceedings or civil proceedings, so that should alleviate any concern.

I think for the most part, when the testimony was being discussed, there were intermingling issues where members were getting involved in criminal activity and then were facing a code of conduct review, in which case criminal conduct would still afford them the right of the Charter of Rights and Freedoms in that investigation. Where it's just a behavioural issue that would otherwise be minor in nature, there's no need, and actually it would be detrimental to the intent of this bill, to allow a member to invoke authorities that are provided under the Charter Rights and Freedoms that are really specifically designed in this case for criminal investigations. When criminal behaviour is involved, the members will absolutely have the right to invoke sections of the Charter of Rights and Freedoms that all Canadians enjoy.

**The Chair:** Yes, Mr. Garrison.

**Mr. Randall Garrison:** I appreciate your comments, Mr. Leef, but I believe that's exactly the concern that serving members were expressing. Often in disciplinary matters it's not clear at the beginning of that investigation whether that will result in criminal charges at some later date, because of the very nature of the kind of work the RCMP does, and especially in cases involving use of force and those other kinds of inquiries. I think it is their concern that at the beginning of investigations, those things sometimes are not clearly distinguished.

I take the point, in general, but I think their point was that it isn't clear at the beginning of disciplinary hearings what the outcome of that might be, and that this might sometimes include criminal charges and therefore they ought to enjoy that same protection.

• (1645)

**Mr. Ryan Leef:** I can just say in response, Mr. Chair, that as soon as an officer of the law knows or has reasonable and probable grounds to believe that an offence has been committed, at that very moment they're required, by law, to read the Charter of Rights and Freedoms rights: the right to retain and instruct counsel, the right to remain silent, the duty to notify them that anything they say can and will be used in evidence against them.

A good number of investigations start in Canada where a police officer is just gathering information. Your average citizen in this country doesn't know what the outcome of those queries will be. A lot of times police will question a person wholeheartedly not knowing what the result of those queries will be. But the very moment a police officer knows they're talking to somebody and they have reasonable and probable grounds to believe an offence has been committed, the charter automatically kicks in. And this will be absolutely no different.

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

(Amendment negated [See *Minutes of Proceedings*])

**The Chair:** We have amendment G-12, and it's another translation.

**Ms. Candice Bergen:** Yes. And again, this was required on proposed section 45.71. The English implies that the report must be sent to all listed individuals, whereas the French implies that the commission can send to one of them. So we're just making the same amendment as previously, Mr. Chair.

**The Chair:** Thank you.

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

**The Chair:** We have government amendment G-13.

**Ms. Candice Bergen:** Okay. Again, we're correcting a grammatical error in the French. I'm actually not sure this word, *celle-ci*, is making a reference to the complaint, whereas it should be making reference to the commission. Our understanding is that this was inconsistent. We needed to correct that and clarify the purpose of the provision and just make it read a bit better.

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

**The Chair:** We have G-14. It's another translation, I believe.

**Ms. Candice Bergen:** Yes. Again, we're correcting an inconsistency in order to protect solicitor-client privilege. Information that is shared between an officer and his or her legal counsel in relation to a hearing must be deemed privileged.

The French should be read to understand that it's only information that is exchanged at a hearing that is privileged. Sorry, the French *could* be read that way, so we're moving this amendment to clarify that all information exchanged in relation to a hearing...it's just to clarify which information should have that protection. I guess the French is a little more ambiguous. That's what this amendment does.

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

**The Chair:** Government amendment 15.

**Ms. Candice Bergen:** Again, there is another inconsistency.

A member may be represented by any person and proceeding before a board in accordance with the commissioner's rules. The French could be read to understand that the commissioner may make rules prescribing the circumstances under which only a member may not represent or assist a member or conduct authority, not which person may not assist or represent a member or conduct authority.

I'll reread that if we need me to.

We're moving this amendment to clarify that the commissioner may prescribe rules for circumstances under which a person may not represent or assist a member or conduct authority.

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

**The Chair:** Now we have amendment NDP-15.

**Mr. Randall Garrison:** We are still in clause 35. The bill does a peculiar thing as it's currently drafted. In the previous subsection, it says that the commissioner shall suspend an investigation if in his opinion he believes—and I've lost the actual section—that it would interfere with an ongoing criminal investigation.

The next section says the commissioner may request in writing... and that the chair of the review commission then must suspend any investigation.

Again, I guess we would stress on this side that we're appointing someone to be chair of a police complaints commission. It's a very high and responsible position, and certainly the commissioner can make the argument to that person, but if they are to be an oversight and review commission, they have to have the power to make the decision on the basis of whether it serves the broader interests of the public and the investigation to go ahead.

One of the examples of an investigation going on for a long time was obviously Air India, where criminal investigations were open for 25 years or more, and there may have been some specific aspect of investigations or procedures that went on that needed investigation by a complaints commission and could have been done without interfering with the overall criminal investigation. Again, we heard that, I believe twice, from witnesses before the committee.

That's our reason for the suggestion. If we remove the section that allows the commissioner to force the suspension of those investigations, once again, I think it undermines the public perception of the independence of the commission and creates a public perception that the RCMP is somehow able to protect itself against investigations when complaints have been filed. We think this helps increase public confidence, and that it actually does a service to the RCMP in that sense to remove this section.

• (1650)

**The Chair:** Go ahead, Ms. Bergen.

**Ms. Candice Bergen:** We actually would see it in the opposite way. We think the ability and the necessity for criminal investigation to take priority instills confidence in the public and certainly in the RCMP. It's important to note that the commissioner would not have the ability to terminate an investigation, only suspend it, which I think is an important differentiation.

I'm wondering whether Mr. MacMillan or one of the experts have anything they would like to say in terms of criminal investigation, as well as suspending versus terminating.

**The Chair:** We'll hear from Ms. Lévesque, please.

**Ms. Agnès Lévesque:** Thank you.

The proposal in Bill C-42 is, as you mentioned, for a duty to suspend, but the suspension of an investigation would only occur if there is a risk of compromising or seriously hindering the criminal investigation. The commissioner must make this request in writing, so there is an exercise that is expected to be done and there is a very high threshold to be met before an investigation can be suspended. As Ms. Bergen was mentioning, it's a suspension and not a termination of the investigation.

**The Chair:** Go ahead, Mr. Garrison.

**Mr. Randall Garrison:** Thanks very much for the assistance. I think on our side we tend to see a suspension without any date, which it would be in this case, as equivalent to a termination in practice. It may in fact terminate, because it is not a suspension for a period of time; it simply says suspension.

In response to Ms. Bergen, I would say that the previous subsection requires—requires—the chair of the commission to suspend any investigation that he believes would interfere with a criminal investigation. That principle is still enshrined as the primary principle here in terms of the complaint commission. The question is, who makes the judgment call about whether that is in fact the case? We're arguing in this case that it should be the chair of the commission.

**The Chair:** I don't hear anything there that is so much a question to the officials. It's more of a statement towards the debate.

Is there anyone else who wanted to speak to this?

(Amendment negatived [See *Minutes of Proceedings*])

**The Chair:** Next I have NDP....

A point of order.

**Ms. Candice Bergen:** My understanding is that one of the amendments we proposed is not in the package. It was recognized as just an oversight. I'm wondering if at this point we want to clarify. We had it in before the deadline.

**The Chair:** The other gentleman sitting here has already said they missed it, and it was in. He's going to go see if they can get a copy of it and give it to each member. That was on clause 35 as well, correct?

**Ms. Candice Bergen:** It was, yes. It would be our amendment 16.

**The Chair:** I don't have it here. Do you have it there? Is it a translation one?

**Ms. Candice Bergen:** Let me see. I have it here, but do we have it in this format?

**A voice:** No. He's printing it right now.

**The Chair:** He has gone to print it. Is it a translation issue or is it a substantive...?

**Ms. Candice Bergen:** No, it is a substantive amendment.

**The Chair:** Perhaps then what we will do....

Would it fall in line before amendment NDP-16, or should we do amendment NDP-16?

• (1655)

**Ms. Candice Bergen:** We could do amendment NDP-16.

**The Chair:** All right. We will defer it and insert it when our table brings it here so that you have an opportunity to see it. We will then....

Can we move to clause 36 and come back to this? There are no amendments there. You are all right with that?

(Clause 36 agreed to)

(On clause 37)

**The Chair:** On government amendment 16.... What are we going to call this other amendment?

**Ms. Candice Bergen:** Why don't we call it government amendment 15A?

**The Chair:** It could be 15A or 16A.

**The Clerk of the Committee (Mr. Andrew Bartholomew Chaplin):** May I suggest that we stick with the numbering in the package? When the other one gets here, it could be renamed as something else.

**Ms. Candice Bergen:** Right. I have them numbered differently. Right now, what we're calling government amendment 16 I would consider government amendment 17, because I had already—

**The Chair:** No, it's 16.

**Mr. Randall Garrison:** The numbering is off for them.

**Ms. Candice Bergen:** I am off one number, because I had it in my package.

**The Chair:** All right.

**Ms. Candice Bergen:** Again, this is just to correct wording. "The Commission" in French needs to be capitalized.

**The Chair:** So it's the capitalization of a letter in French.

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

(Clause 37 as amended agreed to)

**The Chair:** Folks, I will tell you what we're going to do here. We have clauses 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, and all the way down to and including clause 59. We're going to do these as a package. There are no amendments.

(Clauses 38 to 59 inclusive agreed to)

(On clause 60)

**The Chair:** We're going to go back to clause 35 when we get it.

On clause 60 there is a government amendment. According to my number, it is government amendment 17.

**Ms. Candice Bergen:** Sorry. One moment, Mr. Chair.

**The Chair:** This is another translation or—

**Ms. Candice Bergen:** [Inaudible—Editor] I just want to make sure I'm on my right amendment here.

**The Chair:** I think this is the capitalization again, isn't it?

**Ms. Candice Bergen:** Let me just make sure I'm on the right amendment now that—

**The Chair:** It's on clause 60. That's what you have to refer to—the clause and the amendment.

**Ms. Candice Bergen:** We have it here, if you don't mind just giving me one moment.

**The Chair:** Yes.

**Ms. Candice Bergen:** We're going to correct a capitalization. The word "Commission" needs to be capitalized.

**The Chair:** All right, then, again in the French it's the capitalization of one word.

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

(Clause 60 as amended agreed to)

(Clauses 61 to 76 inclusive agreed to)

(On clause 77)

**The Chair:** We have three amendments, all from the government.

**Ms. Candice Bergen:** Yes. This is the one I was referring to, G-18.

The first amendment is to correct a grammatical error. Using the feminine word *elle* to describe any individual is incorrect, and it should be replaced with a neutral *un*. That's my French lesson.

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

**The Chair:** Government amendment 19.

**Ms. Candice Bergen:** Again, we want to correct an inconsistency. The English text makes reference to subsection (3), which is the power to create regulations, whereas the French text makes reference to subsection (4), which is a duty to comply with the regulations. Therefore, the English text needs to be amended to state that it is an offence to fail to comply with subsection (4).

We are making it consistent.

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

• (1700)

**The Chair:** Government amendment 20.

**Ms. Candice Bergen:** Again, this is correcting a grammatical error. It is using a singular to describe two sections. It should be amended to use the plural form.

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

(Clause 77 as amended agreed to)

**The Chair:** I think it's easier if we go back. Then we know where we are.

(On clause 35)

**The Chair:** Clause 35 is on the government "no name" amendment.

**Mr. Ryan Leef:** It's amendment 15A.

**Ms. Candice Bergen:** This is a substantive amendment, Mr. Chair. We heard testimony that the commissioner should not be able to refuse to investigate a chair-initiated complaint. We heard that from the current chair. In this bill, the commissioner could refuse, and we agree it's important that it be changed.

We want to address the concerns that were raised by Mr. McPhail and move this amendment to clarify that the commissioner cannot refuse to investigate a chairperson-initiated complaint.

We think the opposition would probably agree with this.

**The Chair:** Mr. Garrison, it looks like I see your head nodding.

**Mr. Randall Garrison:** Yes, we do agree.

**The Chair:** Mr. Hiebert.

**Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC):** Are we referencing this document that was just passed around?

**The Chair:** That's correct.

**Mr. Russ Hiebert:** There must be a typographical error. In the version I have, the first word is "tigation". Oh, it's a hyphenated word.

**The Chair:** "Investigation"—the other part, "inves", is on the other page.

**Mr. Russ Hiebert:** Later in the sentence, shouldn't it read "complaint initiated"? Is that not misspelled in this version?

**Ms. Candice Bergen:** It's just that "initiated" is not spelled properly.

**The Chair:** Okay, then we need to amend the amendment.

Can you make an amendment to spell the word correctly?

I think there is a space in there. The word is spelled correctly; there's an extra space in there.

**Mr. Russ Hiebert:** It's not spelled right. It's "in" and "tiated". You have to take a space out to make it a word.

**Ms. Candice Bergen:** I think you're right, there is a space.

It should read, "other than a complaint initiated under subsection 45.59(1)". So it's "in", space, "it", and you just need to bring those spaces together.

**The Chair:** Are we all right with taking that space out—"initiated"?

(Subamendment agreed to)

**The Chair:** Shall the amendment carry as amended?

I don't know the legality of that one.

(Amendment as amended agreed to)

**The Chair:** Now NDP amendment 16.

I should tell you, Mr. Garrison, that if NDP 16 is adopted, NDP 17 fails, but I wouldn't worry about it.

**Mr. Randall Garrison:** That's what I was trying to....

**The Chair:** If NDP-16 is adopted, NDP-17 fails.

**Mr. Randall Garrison:** Excuse me, Mr. Chair, I was trying to say, politely, that it wasn't something I lost sleep over.

**The Chair:** All right. On NDP-16, Mr. Garrison.

**Mr. Randall Garrison:** We're not trying to challenge the authority of the commissioner to run the RCMP, but when there have been complaints, and findings and recommendations are made by an oversight commission, we believe those recommendations should be binding on the RCMP. That's the change that we've suggested in this section.

We are not optimistic that it will be adopted by the government.

**Ms. Candice Bergen:** Again, we're not just of the belief, but it's a fact that the commissioner is responsible for the RCMP, so to that end, the commissioner has to be the final accountable individual and his or her actions have to reflect that. We think it's important that at the end of the day, the commissioner has the ability to make those decisions.

Again, if recommendations are rejected, there is a process whereby reasons have to be given and they have to be reported. There will be accountability. There can't be frivolous reasons or there will obviously be consequences of all kinds of measures. Within this legislation, it's important that the commissioner has the authority and the ability to do his or her job. That's why we would say it's important that they can reject or not comply with any kind of possible recommendation by the commission.

Legally, it would be important to hear the authority that's needed by the commissioner to do his or her job.

• (1705)

**Ms. Agnès Lévesque:** I'm not sure I necessarily have much to add, except maybe that it is common for review bodies to make non-binding findings. The RCMP will be in the best position to determine the measures that should be taken after an investigation by the commission. If there are issues, then, as Ms. Bergen mentioned, there is a reporting and communication scheme established so that the commission and the RCMP communicate in order to implement proper measures after an investigation.

(Amendment negated [See *Minutes of Proceedings*])

**The Chair:** On NDP-17.

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

One of the things we heard quite often is concern about delays in dealing with matters, both internal discipline and complaints. I believe that both the former and the current police complaints commission chairs said they would be supportive of a measure that provided some timeline for response by the RCMP to interim reports from the commission.

There might be some debate about whether 30 days or 60 days or 90 days is the appropriate time, and we would be quite willing to discuss with the other side a different time limit, but we believe it's important that when the commission operates under timelines when it must commence investigations, the RCMP be under the same obligation to have at least some deadline. It has quite often taken a very long time for the RCMP to respond to recommendations.

We're simply trying to establish some balance there that would ensure things are dealt with in a timely manner.

You might disagree with 30 days, that being too short. We would certainly be prepared to entertain other lengths of time, but the concept of having a time is important.

**Ms. Candice Bergen:** I don't think we would disagree. Obviously it is important that there are service standards, but it's where those service standards are laid out. In the case of the CRCC, it is within the legislation, and that's probably because the minister obviously doesn't have the ability to direct this group.

If it's laid-out legislation, it's done, whereas with the RCMP, it's best done through ministerial directives and regulations to allow for greater flexibility. With the RCMP, the complexity of what they're doing—not only the investigations, but the information. I think it's important that they have some flexibility with time. Certainly, service standards in terms of time is an important concept. Where we would disagree is where those service standards are, how they are applied, and how they are regulated. We don't think, for the RCMP, they should be in legislation.

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

(Amendment negated [See *Minutes of Proceedings*])

**The Chair:** On NDP-18, the counsel we've received is that it is an inadmissible motion because it needs a royal recommendation, so we can skip over NDP-18. I'm ruling that one inadmissible on the advice of the Table here. We don't really need to discuss it because it's inadmissible—

**Mr. Randall Garrison:** Could we—

**The Chair:** —unless you challenge the chair.

**Voices:** Oh, oh!

**The Chair:** Mr. Garrison.

**Mr. Randall Garrison:** It would become part of a government bill, and government bills expend funds, so I don't see how an amendment to a government bill would require a royal recommendation any differently than the entire legislation....

**The Chair:** I'll refer that to our legislative clerk.

Do you want to speak to that, Clerk, or...?

Basically, the counsel here again is that when you bring forward a bill and it's passed, it receives a royal recommendation. There is a royal recommendation set out for the government bill, but any amendment to that bill that involves the expenditure of money would need another royal recommendation, and consequently that would make the amendment inadmissible.

Do you think that's a sufficient explanation?

Mr. Garrison.

• (1710)

**Mr. Randall Garrison:** Mr. Chair, if I may, I'll just say that at first glance, and without legal advice, this seems to me to be an overly broad interpretation, but obviously we respect the ruling of the chair.

**The Chair:** Thank you.

If you would move back to clause 78.... I think we've done up to clause 78.

**The Clerk:** Did we adopt clause 35?

**The Chair:** Oh, I'm sorry.

(Clause 35 as amended agreed to)

(On clause 78—*Bill C-38*)

**The Chair:** Now we'll move to clause 78. Actually, it's clause 78 all the way down to.... Where are we? Are we done?

**Ms. Candice Bergen:** I think so.

**Mr. Ryan Leef:** Yes, but clause 78 has amendments.

**The Chair:** Clause 78 has two amendments. After that, we are finished.

Now, I've said at a quarter after the hour...but if we can move through these fairly quickly, we could actually be finished here today. We will go to committee business; I'm committing to that. We have a budget to pass.

We're at government amendment number 21.

**Ms. Candice Bergen:** If I could, Mr. Chair...?

**The Chair:** Yes.

**Ms. Candice Bergen:** Both G-21 and G-22 are grammatical amendments. For G-21, the policy of the clause is to have all subsections apply in the event that the former Bill C-38, the Jobs, Growth and Long-term Prosperity Act, receives royal assent. This has to do with clarifying that.

This clause indicates "Subsections (2) to (7) apply", yet there's no subsection (7). It should be listed as (6) rather than (7), in both languages.

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

**The Chair:** Ms. Bergen, on amendment G-22, please.

**Ms. Candice Bergen:** This is one more attempt at my French. We're going to move this to correct a grammatical error in the French text. The current provision has an improper conjugation of the verb *valoir*. This amendment corrects the improper conjugation. Maybe someone can enlighten me....

**The Chair:** That sounds pretty good to me. Thank you for that lesson.

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

(Clause 78 as amended agreed to)

(Clauses 79 to 87 inclusive agreed to)

● (1715)

**The Chair:** We now go back to the beginning. Clause 1 is the short title. I haven't heard any amendments on that.

(Clause 1 agreed to)

**The Chair:** Shall the preamble carry? I don't believe there were any amendments there.

**Some hon. members:** Agreed.

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

**Some hon. members:** Agreed.

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

**Some hon. members:** Agreed.

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

**Some hon. members:** Agreed.

**The Chair:** Shall the committee order a reprint of the bill?

**Some hon. members:** Agreed.

**The Chair:** I think that is actually amazing. Thank you very much.

We are going to suspend, and I'm going to ask that all other visitors here, guests, if they would take their exit. We are going to move in camera and discuss future committee business and a budget that needs to be discussed.

[*Proceedings continue in camera*]









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