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Chair: The Honourable Hedy Fry



Standing Committee on Canadian Heritage

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• (1535)

[English]

The Chair (Hon. Hedy Fry (Vancouver Centre, Lib.)): I call this meeting to order.

Welcome to meeting number 144 of the House of Commons Standing Committee on Canadian Heritage.

Before I begin, I would like to ask all participants in the room to look at the decal on your table. It's very important to keep your devices on that decal, so that they don't interfere with the interpreters' ears. Please remember not to take pictures in the room. You can take them after the meeting. The meeting is going to be in a public format.

Please wait until I recognize you by name. Please ask your questions through the chair.

Pursuant to Standing Order 108(2) and the motion adopted by the committee on Wednesday, September 18, the committee is resuming its study of the protection of freedom of expression.

This meeting was originally slated to be a two-hour meeting. This is going to be a one-hour meeting.

I want to recognize two witnesses. In the room, from the Keewatin Tribal Council we have Walter Wastesicoot, grand chief. Online, from B'nai Brith Canada, we have Richard Robertson, director of research and advocacy.

Welcome to you both.

The witnesses have five minutes to make a presentation.

We will begin with Grand Chief Walter Wastesicoot, for five minutes, please.

Mr. Walter Wastesicoot (Grand Chief, Keewatin Tribal Council, As an Individual): Thank you.

My name is Walter Wastesicoot. I am the Grand Chief of the Keewatin Tribal Council. Here is my prepared statement.

In Canada's democracy, there is no freedom as my ancestors lived it. The shackles of Canada's democracy are visible in the scars of oppression that run throughout my body. My living memory does not include the freedom experienced by my ancestors.

Canada's democracy is a fallacy of attractive catchphrases that detract from Canada's racist roots. There is no room for the freedom experienced by my ancestors, as that freedom would mean returning the land and its resources to the first peoples. Canada will

remain an immature creature of the English Crown that tolerates the thorns of self-righteous France for as long as it buries the theft of the lands and resources within the doctrine of discovery and prioritizes its lust for God, gold and glory over integrity and fairness.

Freedom is with the animals that are not restrained by legislation, regulation and policies. Freedom is with the vegetation that naturally grows in the spring and rests in the fall. Freedom is with the water that runs as it was meant to from time immemorial. Freedom is not within the democracy of Canada.

I wrote the above statement on November 15, 2022. I shared it with my wife, Dr. Jennie Wastesicoot, who advised me to be careful whom I share it with.

Our experience with Canada's democracy has not been in our best interests. On the contrary, our experience has been as the recipients of Canada's colonial policies of forced relocation from ancestral lands and forced attendance at residential schools, day schools and boarding homes. In short, it's trauma.

I later shared the above piece with a lawyer, who is a partner at his firm, and two parliamentarians, one of whom leads his party while the other has ministerial responsibilities. I told the lawyer about my wife's warning, to which he replied, "What? Why? That should be shared anywhere with whomever because it's the truth." The parliamentarians used words such as "powerful" and "it is the truth".

In 1670, 354 years ago, Britain established the Hudson's Bay Company, which started commercial activity on the ancestral lands of the Ininev of the Hudson Bay region. The land occupied by the Hudson's Bay Company became known as Rupert's Land, which was then sold to Canada in 1869 for \$1.5 million. Three hundred and eight years ago, the Dene and Ininev of the region made a peace treaty that continues to be recognized to this day.

The early explorers, traders and settlers who followed brought their values, beliefs and institutions with them and collectively drew on the doctrine of discovery to colonize what is now Canada. They brought no land with them. Canada has an assumed jurisdiction on lands that are not from England or France.

What I share with you today is my truth. How are you going to protect my truth and my freedom of expression? I suggest that your educational curricula in this country can be one means. The education or training that immigrants receive with acknowledgement of this truth in their oath of citizenship can be another.

How will you protect my freedom of expression when you have a vested interest in upholding the fallacy of Canada's democracy?

In March 2023, the 11 nations affiliated with the Keewatin Tribal Council declared a regional state of emergency due to a system-wide failure in public safety, health and infrastructure. Of those 11 first nations, nine are remote and isolated. The northern Manitoba first nations are characterized by increasing gang violence, preventable deaths due to lack of access to needed services, misdiagnosis, drug overdose and suicide, a lack of infrastructure for clean drinking water, inadequate housing and no all-season road to the Manitoba network.

The Shamattawa First Nation and the Tataskweyak Cree Nation have had to go to court for clean drinking water. The Northlands First Nation has joined a class action on housing.

Canada's democracy is killing our people. The criminalization of those who walk in their truth to defend their lands and resources must stop. The marginalization of the first peoples must stop. The practice of denialism must stop.

• (1540)

Land acknowledgements are patronizing and meaningless without the action of giving title to the land. When Canada arrives at a point in its growth where title to these lands remains with the original peoples under—

The Chair: Can you wrap up, please?

Thank you.

Mr. Walter Wastesicoot: —a new fiscal regime, as it was in 1670, then Canada will have matured as a nation-state. Perhaps the persistent denialism of my experience—indeed, our collective experience—will inevitably cease.

The Chair: Thank you very much, Grand Chief.

Now I'm going to move to Richard Robertson of B'nai Brith.

You have five minutes, please.

Mr. Richard Robertson (Director, Research and Advocacy, B'nai Brith Canada): Thank you, Madam Chair.

Good afternoon, distinguished members of the Standing Committee on Canadian Heritage.

I am Richard Robertson, B'nai Brith Canada's director of research and advocacy. Our organization, which was established in 1875, is dedicated to eradicating racism and hatred in all of its forms and to championing the rights of the marginalized.

In exploring the protection of freedom of expression in Canada, this committee has the capacity to adopt recommendations that will ensure that the charter right to Canadians' freedom of expression is properly balanced and assessed in relation to other competing constitutional and quasi-constitutional rights. Such recommendations would accord with the spirit of the charter, align with the relevant jurisprudence and ensure that the Canadian public is sufficiently protected from new and emerging forms of hate.

Misunderstandings surrounding the limits of the charter freedoms have had a deleterious impact on Canada's Jewish community

and have had a significant impact on the rise in anti-Semitic incidents currently plaguing our country.

In response to the unprecedented levels of anti-Semitism compromising the well-being of Canadian Jewry, B'nai Brith Canada recently launched its seven-point plan for combatting anti-Semitism. The relevant provisions of our plan form the basis of our recommendations, which will be further detailed in our forthcoming submission to the committee.

Our first recommendation is that the committee explore how the Criminal Code provisions that sanction hate speech can be amended in a manner that does not unduly infringe upon the constitutionally protected right to freedom of expression in order to broaden the definition of hate speech to include modern forms of online and digital harassment.

Our second recommendation is that the committee explore how the Criminal Code can be amended in a manner that does not unduly infringe upon the constitutionally protected rights of Canadians to outlaw the display of the flags and emblems of listed terror entities. The display of such symbols undermines the efforts of Canadians to combat terrorism, both domestically and internationally.

Our third recommendation is that the committee explore the creation of legislation that creates a national prohibition on all rallies that glorify or promote hate speech, violence and extremism that is promulgated by listed terrorist entities, and that this legislation be adopted without compromising the constitutionally protected rights of Canadians. Such a prohibition would prevent the occurrence of rallies such as Al-Quds Day, an annual event that celebrates the actions of listed terror entities aligned with the Islamic regime in Iran. Such an event has no place in a society that values diversity, tolerance and the safety of all its citizens.

Freedoms are not absolute. The rights and freedoms enshrined in our charter were not designed to be absolute. Their existence should not prevent the federal government from amending or creating legislation to combat terrorism and to protect its citizens from racism and hatred. The existence of a rights regime that grants a right to freedom of expression cannot be utilized as a justification to sanction the dissemination of hate and the willful promotion and glorification of terror. Allowing this conflicts directly with the human rights and competing charter interests of the Canadians who suffer from such a callous interpretation and wanton abuse of our fundamental freedoms.

Thank you.

• (1545)

The Chair: Thank you very much.

Now I'm going to go to the question and answer portion of the meeting. The first round is going to be a six-minute round, and the six minutes includes questions and answers.

Because we only have a one-hour meeting, I would ask my colleagues around the table to please try to not do too much of a speech so that we can get through the questions.

I'll begin with Mr. Kurek for the Conservatives.

You have six minutes, please, Damien.

Mr. Damien Kurek (Battle River—Crowfoot, CPC): Thank you very much, Madam Chair.

Thank you to our witnesses.

Mr. Robertson, I have been astounded to see some of the rallies and whatnot that you referenced in your opening remarks, where there is the glorification of terror on Canadian streets. Something that has been highlighted, especially as we're dealing with a study on freedom of expression—of course, as Canadians we are guaranteed through the charter the constitutionally assured right to freedom of expression—is ensuring that this does not include the glorification of genocide, of terrorism, that we have seen.

Is it your opinion that mechanisms, Criminal Code and otherwise, that currently exist in Canada are not being properly enforced to ensure that these things don't happen on Canadian streets?

• (1550)

Mr. Richard Robertson: It is the position of B'nai Brith Canada that the unfortunate rise in anti-Semitism and such recent events as protests that glorify and celebrate acts of terror, as we have seen on our streets, present us with the opportunity to re-examine the provisions of the Criminal Code that have been designed to prevent terrorism. These Criminal Code provisions need to be amended to ensure that the groups we are listing as terrorist entities are not celebrated and glorified on Canadian streets.

Yes, we do have provisions designed to prevent terrorism and its occurrence here in Canada, but we need to amend those to acknowledge the realities that we are currently seeing on Canadian streets—the display of the symbols of listed terror entities and the occurrence of rallies and vigils whose sole intent is to glorify the actions of terrorists. The existing legislation does not presently encapsulate the events we're seeing. It needs to be amended in order to respond to the problematic conduct we are witnessing on our streets, which is actually making a mockery of our current efforts to combat terrorism.

Mr. Damien Kurek: I appreciate that. I've had many constituents who have reached out to me to ask: How is this allowed to happen? Are there not anti-hate speech provisions that currently exist? Are there not Criminal Code charges that could be levied against individuals, the organizers of these sorts of rallies, who clearly are hateful and are calling for, in some cases, genocide and so on?

Are you aware of whether or not charges have in fact been levied or brought against any of the organizers or groups, including some organizations that, up until recently, were allowed to operate legally in Canada but just changed to be a terrorist organization? Are you aware of any of the current provisions that have led to charges that we could point to?

Mr. Richard Robertson: We are aware of arrests that have been made specifically in reference to the leaders of the group you referenced. We are also aware of charges being laid against several individuals under section 319 of the Criminal Code, Canada's hate crime provisions. However, I think the evolving situation is evi-

dence that what has been done and the charges that have been laid are insufficient to handle the situation that is currently being inflicted on our country.

Whether or not it's through the creation of additional Criminal Code measures or whether or not it's through the examination of additional measures that will aid in the use of the currently existing measures, something needs to be done. That's why this study, this committee's role, is so integral. Something more needs to occur. It's up to our parliamentarians to decide what is best in order to combat the rising levels of hate and the current unrest and division plaguing our streets.

Mr. Damien Kurek: Thank you for that.

I'm curious; in any civil society, there's a social contract, and that's a concept that is often taught in high school social studies classes and in universities across Canada, but there's this tension between freedom and also responsibility. I'm wondering if in my last minute or so you could unpack a little bit of what that tension should look like for us as parliamentarians, members of the heritage committee studying freedom of expression, to ensure that freedom of expression is protected and that Canadians are also protected.

Mr. Richard Robertson: I think it comes down to reasonable limitations. Everyone should have the right to protest. Everyone should have the right to voice our opinion. That's made clear in our charter, and our charter jurisprudence has protected those rights.

However, on the glorification of listed terror entities and the promotion of caustic views that discriminate against and promote hate against other minorities, that seems to run afoul of the idea of what is reasonable within our democratic society and would seem to violate the social contract you have referenced.

• (1555)

The Chair: Thank you very much.

You have 13 seconds.

Mr. Damien Kurek: I would simply add that this could be expanded as well to ensure Canadians have the right to freedom of religion, and what that looks like in terms of the larger context, but since I'm out of time, maybe you'll have a chance to expand on that as the discussion goes on.

The Chair: Thank you very much.

Now I go to the Liberals and Anna Gainey for six minutes, please.

Ms. Anna Gainey (Notre-Dame-de-Grâce—Westmount, Lib.): Thank you, Madam Chair.

Thank you to both of our witnesses for being here today.

Mr. Robertson, I think I'll pick up a little bit on where my colleague was just a few moments ago, just noting that today the government registered the Houthis as a terrorist entity.

Do you have any more thoughts on what further steps the government can take to ensure this designation leads to meaningful consequences to prevent the celebration of terrorism?

Mr. Richard Robertson: I'd like to point to recommendation number two and recommendation number three from my opening statement. The listing of groups such as the Houthis is compromised if individuals are allowed to display the emblems of that group and the flag of that group without consequences. The listing of the Houthis is compromised if individuals are allowed to hold rallies and vigils that support the Houthis, that advance their ideology and that glorify their actions.

It's about taking our legislation, which enables the listing of groups that we deem to be evil and diabolical and that constitute a threat to Canadian security, and ameliorating it by ensuring that in Canada the promotion of these groups in the ways we've seen—through the display of emblems, the display of flags and the holding of vigils in protests designed to glorify the actions of terrorists—is outlawed.

Ms. Anna Gainey: I'm wondering, because you mentioned your seven-point plan, if that's something you could submit to the committee in writing, perhaps after the meeting, just so we have that in its full form. That would be helpful for us.

Could we talk for a minute about the online harms bill? It seems to align with the IHRA principles to combat hate online.

How do you see this legislation balancing the need to address anti-Semitism and online hate with ensuring that the platforms also remain spaces for free expression?

Mr. Richard Robertson: B'nai B'rith will be submitting a submission to the committee in advance of the deadline. Our seven-point plan will be contained within our submission.

In response to your query regarding the online harms bill, any legislation that is passed to combat online harms must confront the reality facing the Jewish community here in Canada—but other Canadian communities as well—which is that our digital space has become a toxic cesspool, for lack of a better term, which is enabling the promotion of hate online.

It is integral that any balancing act between freedom of expression and other competing constitutional and quasi-constitutional rights take into account this new sphere, which I consider to be the Wild West. We need legislation in place that will protect against the spread and dissemination of hate online.

Ms. Anna Gainey: Thank you. I agree with that.

Just looking back a bit on some of the commitments this government has made in terms of a heavy investment in funding a new Holocaust museum in my hometown of Montreal and the appointment of a special envoy on the preservation of Holocaust remembrance, combatting anti-Semitism and other roles, how do you see those sorts of commitments on the part of the government as contributing both to balancing the freedom of expression and to addressing the sharp rise in anti-Semitism and hate that we've seen more widely, in particular over the last year?

Mr. Richard Robertson: Certainly, they are noble efforts; however, the numbers speak for themselves. We are falling short as a society in our efforts to combat anti-Semitism. Anti-Semitism continues to be on the rise across the country.

More is needed: It's as simple as can be. We're seeing that we have a problem. We must continue to address it. We need stronger measures. We need measures that don't just contribute to education, such as the Holocaust museums. We need concrete measures that will outlaw and criminalize the actions of those who wish to spread hate, whether it's in person or online.

Ms. Anna Gainey: I assume you've been following some of the discussions around the legislation, which perhaps was inspired by the bubble legislation during the pandemic, with regard to health care spaces to allow health care workers to come and go freely from their places of work. This idea of bubble legislation has come up regarding community spaces as well, whether they be mosques or synagogues, in terms of trying to prevent what we saw, for example, in my neighbourhood around the Shaar the other night and the kind of protest that was there.

Does B'nai Brith have thoughts on that type of legislation, whether that would be effective, or potentially, on the pitfalls there with the tension around freedom of expression as well?

● (1600)

Mr. Richard Robertson: B'nai Brith is open to any remedy that will help to protect the rights of Canadians, including their right to freedom of religion, to access their religious institutions without threat of violence, coercion or intimidation. However, going specifically back to the Shaar instance, there was an injunction in place, and there was a legal measure preventing the obstruction of entry into the Shaar, but that was insufficient. Therefore, bubble legislation, or similar legislation, is just one avenue that we need to explore. We need to take a “full-court press”, to use the term, in our efforts to combat anti-Semitism.

Ms. Anna Gainey: Thank you very much.

The Chair: I will now go to Martin Champoux.

Martin, you have six minutes, please.

[*Translation*]

Mr. Martin Champoux (Drummond, BQ): Thank you, Madam Chair.

I too want to thank our witnesses for joining us today to talk about this subject, which can give rise to considerable debate. I'm delighted we have two very interesting witnesses.

Mr. Robertson, I too am going to ask you some questions, if I may. You talked about terrorist groups being glorified at rallies. Lately, I'm hearing a lot about the rise in anti-Semitism, but we're also seeing a rise in Islamophobia.

Since October 7, 2023, do you believe there are as many anti-Israel protests as there are anti-Palestinian, Anti-Arab or Islamophobia demonstrations per se? What's your opinion as an interested observer? Do you note a rise, too, in anti-Semitism and Islamophobia in Quebec and Canada?

[English]

Mr. Richard Robertson: To begin, it's my appreciation that, no, there haven't been as many anti-Palestine demonstrations as there have been anti-Israel demonstrations.

The recommendations that we've put forth before the committee today would work to combat all forms of hatred and discrimination, including anti-Semitism and Islamophobia. It's important that any recommendations endorsed by this committee are able to impact and are able to combat all forms of racism and hatred, and are able to confront the rise, in all forms, of racism and hatred. That's why we stylized our recommendations in a way that would enable this legislation to be used to protect all minority groups here in Canada and to protect the rights and freedoms of all Canadians.

[Translation]

Mr. Martin Champoux: I completely agree with you. No form of racism is tolerable, acceptable or less serious than any other. On that note, we completely agree. However, I still feel uncomfortable when I hear, for example, that shots were fired on a Jewish school in Montreal. I have a lot of difficulty hearing about demonstrations in residential areas known for having a high Jewish population in Toronto or Montreal. I'm trying to find similar anti-Palestinian or pro-Israel incidents, for example, in other kinds of neighbourhoods.

I come back to what you said in your opening statement. We hear that Hamas is being glorified at demonstrations and that really upsets me because I know that most people who demonstrate go with good intentions. They aren't taking part in them because they have hostile intentions towards Jews, they're going to condemn a situation they find very troubling. Those rallies are all too often plagued by extremist groups or troublemakers. The police seem to find it very difficult to control that, but society also seems to believe that propaganda, which is quite unhealthy, if we want to hold a fair debate on the fight against intolerance and racism.

Do you think that some police forces are doing their job with less rigour than others? We've heard criticism about the Montreal police, following demonstrations at the convention centre last week. In Toronto too, the police are heavily criticized. The Quebec City police went out of their way, this week, to tell people not to demonstrate because they would be arrested.

If it's that easy, do you think it's because the Montreal and Toronto police forces are slacking on the job a little?

• (1605)

[English]

Mr. Richard Robertson: Police forces across the country have done an admirable job in responding to an unprecedented situation. Parliament needs to further equip our police forces with additional tools to help them combat the nefarious actions that we're seeing, as you properly characterize them, infiltrating these protests.

The right to freedom of expression of all Canadians who are attending these protests is compromised by the actions of a few who wish to corrupt these protests and use them as an opportunity to glorify terrorism. That's why it's so important that we take urgent redress in order to outlaw that, so we can continue to have protests, and some of the strain that is being put on our police forces can be removed.

[Translation]

Mr. Martin Champoux: Under section 319(3)(b), a Criminal Code provision you're familiar with, an individual can willfully promote hatred, inciting violence and even murder under the guise of religion, because that's their religious belief. This is protected under the Criminal Code.

Canada is not criminalizing organized hate groups fast enough. Do you think that the government is dragging its feet? Do you think that section 319(3)(b) should be abolished, as a Bloc Québécois bill proposes to do? Do you think we should quickly and systematically criminalize groups that infiltrate peaceful demonstrations to spread hate?

[English]

Mr. Richard Robertson: There should be no ability for anyone to escape prosecution under section 319 under the guise of their position as a religious authority here in Canada. That's something that B'nai Brith Canada has been quite clear about. We need to revisit section 319 of the Criminal Code to ensure that the exemptions under the provision are not being used as a "get out of jail free" card. This is part of the balancing act. It's important that we—

The Chair: Thank you, Mr. Robertson.

I'm sorry, Martin, but time is up.

I will now go to Niki Ashton, for six minutes, please.

Ms. Niki Ashton (Churchill—Keewatinook Aski, NDP): Thank you very much, Madam Chair, and thank you to our witnesses.

Grand Chief, you spoke powerfully about your experience, the experiences of indigenous peoples, and the experiences of first nations that you represent here in our region. I know that on many occasions you have also spoken very powerfully about your experience as a survivor of the residential school system. You've spoken in the past about the trauma and abuse you and so many survivors were subjected to. You've talked about the need for Canadians to know this dark history, and its impacts today.

However, we know there are many who seek to downplay this. My colleague, Leah Gazan, has put forward a bill to make it clear that residential school denialism is a form of hate. Unfortunately, there are many who are troubled by that proposal. For those who seek to downplay or deny the devastating impacts of residential schools, the way in which it was used as a tool of genocide, can you use your freedom of expression to talk some sense into them?

Mr. Walter Wastecioot: Thank you.

I was listening to the discussion going on here just now and reflecting on the legislated racism that exists in this country.

You can start with the Indian Act. An effort to amend the Indian Act was Bill C-31. That in itself is a legislated genocide. Someday, if my daughter or granddaughter decides to marry somebody of a different race, their children will lose their identity. That's racism. It was supposed to respond to the Charter of Rights and Freedoms. However, in effect, it is legislated genocide in this country. Nobody speaks about these issues because they have become normal for Canadian society.

You talked about terrorism. I was terrorized at an institution in this country for many years. Everybody turned a blind eye to that. When will our people stop having to go to court to be heard and respected? You're sitting around here talking about terrorism in this country, and for certain groups to be put on a list and recognized as terrorists. Well, that's happening to our people, too. When we advance our interests, all of a sudden we're criminalized. We're turned into boogeymen. There is something wrong with that picture.

When I talk about the scars on my body, I'm talking about scars from these institutions of racism and genocide.

Thank you.

• (1610)

Ms. Niki Ashton: Thank you so much, Grand Chief, for these powerful words you've shared, for your ongoing, powerful advocacy on behalf of first nations, and for what you've shared with respect to the threat of free expression here in our committee.

I want to ask a quick question of Mr. Robertson.

Recently, Library and Archives Canada, which reports to the Minister of Canadian Heritage, decided to continue to shield the names of the Nazis identified by the Deschênes commission who were let into Canada in the years following the Holocaust.

Do you support this committee calling on the Minister of Canadian Heritage to instruct Library and Archives Canada to release the names of the Nazis in the Deschênes report?

Mr. Richard Robertson: Library and Archives Canada must release the names from the Deschênes commission report. All documents related to Canada's Nazi past must be released to our public so we can learn and educate ourselves about the trauma inflicted by Canada on the survivors of the Holocaust, and so that, as a society, we can grow and learn from the mistakes of our past.

Ms. Niki Ashton: Thank you very much, Mr. Robertson.

Hearing that, I would like to revisit a motion that I presented two weeks ago with respect to this very issue.

I want to begin by talking about how it's ironic that we're talking about freedom of expression when it comes to one of the most fundamental issues that this committee has had to deal with, which is Library and Archives' refusal, under the Minister of Heritage, to publicize the names of Nazis in the Deschênes report. This deliberate policy to not release the names of known Nazis who were consciously and directly admitted to Canada in the early 1950s must be repealed.

I cannot think of what this ongoing refusal to release the names means to survivors and the families of survivors. I think of the experience of my own family and the people who fought the Nazis, and how historic Jewish communities in Greece and across Europe were entirely wiped out, not just by Nazis, but also by collaborators.

I cannot believe that in Canada in 2024, we are still discussing whether or not the Canadian government should bring to light the names of Nazis who engaged in the Holocaust and the systematic murder of Jews, Poles, Roma and many others.

With International Holocaust Remembrance Day coming up, what better time than now for Canada to own up to its dark history? This is about freedom of expression. This is about freedom of information. We need the Government of Canada and, particularly, the Minister of Heritage to change course and direct Library and Archives Canada to release the names.

I would like to revisit this motion, and I hope all members of all parties will support it.

I move that, given that the Standing Committee on Canadian Heritage regrets the continued protection given by the Minister of Canadian Heritage to the estimated 900 Nazis who were allowed to enter Canada after the Second World War by refusing to release their names and refusing to listen to organizations representing victims of the Nazis, the committee invite the Minister of Canadian Heritage to instruct Libraries and Archives Canada to release the names of the 900 Nazis before International Holocaust Remembrance Day on Monday, January 27, 2025, and that this motion be reported to the House.

• (1615)

The Chair: Ms. Ashton, as you know, this motion was brought before this committee and the debate was adjourned. In order to put this motion back on the table and be considered by this committee, I have to call a vote of the committee asking if it wishes to bring back a motion on which debate was adjourned.

I'm going to ask the question. It's not a debate. I'm going to ask the question of the committee.

Hon. Mike Lake (Edmonton—Wetaskiwin, CPC): I just want clarity on what we're voting on right now. We're not voting on that motion.

The Chair: The motion was brought before this committee and the debate was adjourned. In order to bring it back, we have to get the committee to agree that it can come back to the table. It's the same motion.

Hon. Mike Lake: If someone were to disagree with this motion right now, it wouldn't kill the motion. It would just mean that we don't discuss it right now. Is that correct?

The Chair: It would mean we don't discuss it right now. Ms. Ashton is free to bring it back any time she likes, and the committee is free to decide whether it wishes to listen to the motion.

(Motion negatived: nays 6; yeas 5)

The Chair: Now we'll return to the question and answer session. I think Ms. Ashton has finished, so we'll go to the second round.

The second round is a five-minute round.

I'll begin once again with the Conservative Party and Monsieur Gourde.

[*Translation*]

Mr. Jacques Gourde (Lévis—Lotbinière, CPC): Thank you, Madam Chair.

Mr. Robertson, first, I'd like to go back to comments Mr. Champoux made when he talked about the heads of the Toronto, Montreal and Quebec City police services. The Quebec and Lévis police services have a special way of operating and are extremely proactive. I want to congratulate them. In the Quebec City region, there's no problem with freedom of expression; the problem stems from the mayhem caused in the name of freedom of expression. That's not tolerated in the Quebec and Lévis metropolitan region.

The chief of police signalled to demonstrators that they will undoubtedly be arrested and charged if they cause chaos. I think that's right and proper since they have had fair warning. In our region, mayhem isn't an issue during rallies because the police are doing their jobs. They warn demonstrators and the latter demonstrate respectfully because they know that, otherwise, there will be consequences.

Mr. Robertson, do you think that freedom of expression comes with the freedom to cause chaos? Do you believe that it's more acceptable when the police set guidelines?

[*English*]

Mr. Richard Robertson: No, I do not think that all the conduct we have seen on Canadian streets would be considered protected under the charter right to freedom of expression. That is why we've put forward our recommendations to this committee, in an effort to have this committee work to ensure, when balancing and exploring the right of freedom of expression, that our legislation properly delineates what is acceptable conduct and what is not. Hopefully, the outcome of that will be providing clarity to law enforcement across the country as to what conduct is criminal and what conduct is not acceptable or not protected under the Canadian Charter of Rights and Freedoms.

• (1620)

[*Translation*]

Mr. Jacques Gourde: Mr. Robertson, when police cars are burned and windows smashed, it seems obvious that the line has been crossed. When only one, two or three people are arrested, even though 10,000 to 15,000 demonstrators took part in the chaos,

do you consider that to be complacency by police forces or fear of the crowd's reaction?

[*English*]

Mr. Richard Robertson: I believe we can remove any debate of that by strengthening the provisions in the code surrounding terrorism and surrounding these rallies. If the impetus of a rally is to glorify acts of terror and to support those who engage in terrorism, whether domestically or abroad, then we can provide additional clarity to our law enforcement. It would be sort of cutting things off at the head.

[*Translation*]

Mr. Jacques Gourde: I think that, in Canada, there are professional demonstrators. For example, those individuals can be arrested up to five times; they are repeat offenders.

Should professional demonstrators get harsher sentences? Currently, they're arrested and, often, released the very same day. Ultimately, there are no arrests and no consequences.

[*English*]

Mr. Richard Robertson: Yes, as I intimated in the previous answer to this committee, I believe there are certain elements within our society who are jeopardizing the right to freedom of expression of all Canadians by abusing that privilege. It's important that we separate those who are wishing to abuse and take advantage of our fundamental freedoms from those who are trying to lawfully exercise their fundamental freedoms.

[*Translation*]

Mr. Jacques Gourde: How much time do I have left, Madam Chair?

[*English*]

The Chair: You have one minute.

[*Translation*]

Mr. Jacques Gourde: Mr. Robertson, your testimony is really quite interesting.

Would you like to add anything that the committee could include in its report? Would you have a recommendation for us?

[*English*]

Mr. Richard Robertson: I'd like to go back to the question posed to me by your colleague about freedom of religion. It's important when exploring the freedom of expression that we appreciate that there needs to be a balancing act. One freedom cannot infringe upon the rights of others. The right to freedom of assembly and freedom of expression cannot be guaranteed in a manner that impacts the right to freedom of religion or to life, liberty and security of a person or other individuals.

[*Translation*]

Mr. Jacques Gourde: Thank you very much.

[*English*]

The Chair: I now go to the Liberals and Ms. Lattanzio.

Patricia, you have five minutes, please.

Ms. Patricia Lattanzio (Saint-Léonard—Saint-Michel, Lib.): Thank you, Madam Chair.

My first question will be addressed to the Grand Chief.

Thank you so much for your opening remarks. I was wondering if you could tell us how the indigenous perspectives on freedom of expression enrich the broader Canadian understanding of this fundamental right.

Mr. Walter Wastesicoot: Our people have always had the opportunity to speak and to be heard. I work with leaders today who, when they come around the table, tell me I need to take this home; I need to talk to our people and see what they think about this. There are so many things our people have to offer that Canadian society can learn from and can benefit from.

Ms. Patricia Lattanzio: What measures would you recommend in order to ensure that freedom of expression is protected while, at the same time, safeguarding the indigenous heritage and dignity?

• (1625)

Mr. Walter Wastesicoot: It's a difficult question that you ask. It's difficult because of what I stated in my introduction. How are you going to protect my freedom of expression if you have a vested interest in upholding the fallacy of Canada's democracy? Democracy is supposed to be a good thing, but it's not, in our experience.

We have the Indian Act that regulates everything that we do.

Ms. Patricia Lattanzio: How do you propose that we break down these walls?

Mr. Walter Wastesicoot: To break down these walls, we have to take a look at the truth. We have to walk in truth. Sometimes it is difficult to do that. Sometimes it's difficult to look at oneself. Today I came here not to make friends. Your opinion of me today is your business; it's not my business. At the same time, I know that in each and every one who is here, you have loved ones who you care for, just as I do. We have the capacity for love. If we walk in truth and share some compassion, I think we can go a long way, but we cannot get there by legislating us away and legislating us into silence.

All of these measures that you have in Canada—the Indian Act, Bill C-31 and others—will not pave a way to reconciliation. In order for there to be reconciliation, we would have had to have a good relationship at some point. In my introduction, I talked about 1670. There was a period of non-interference. Our people lived freely. Your people learned from our people. They learned how to survive in the harsh environments that were here. They learned how to harvest what was available to them. They were after the pelts, and they got those pelts. The company that started that continues to exist today.

Ms. Patricia Lattanzio: Madam Chair, I'm going to be moving along to Mr. Robertson.

Mr. Robertson, you spoke extensively in terms of making recommendations for changing, perhaps, the Criminal Code.

The Chair: You have 15 seconds for him to answer the question.

Thank you.

Ms. Patricia Lattanzio: I'm wondering if you have any recommendations on the Canadian Human Rights Act. Do you have any

recommendations on changes to be made, or is the way that it is stipulated today sufficient?

Mr. Richard Robertson: When it comes to the Canadian Human Rights Act, I think it's the application of the act. It needs to be applied in a manner that coalesces with Canada's anti-racism strategy. When you talk about anti-Semitism and the Canadian Human Rights Act, it must be interpreted in relation to Canada's definition of anti-Semitism, the IHRA definition of anti-Semitism.

The Chair: Thank you very much.

I'm asking the Liberals and the Conservatives if they will allow the final round to be two and a half minutes and two and a half minutes.

An hon. member: We're good.

The Chair: I'll go now to Mr. Champoux for two and a half minutes.

[*Translation*]

Mr. Martin Champoux: Thank you, Madam Chair.

I want to come back, with Mr. Robertson, to a subject that Ms. Ashton raised earlier, which is the list of suspected Nazis.

Mr. Robertson, in 1985, Justice Deschênes examined 883 cases. During his inquiry, which, I believe, was done by the book—I hope you'll agree—he found that there were reasonable grounds for a more in-depth investigation in only 20 cases. That's 20 names out of 883.

Mr. Robertson, I don't see how disclosing those names...

Madam Chair, on a point of order. There's noise on the line. Could you please stop the clock?

Ms. Lattanzio, I don't know if your microphone is on mute, but I'm hearing computer noises.

• (1630)

[*English*]

The Chair: Please check your mics and make sure they're muted. That's especially for the people online.

Thank you.

[*Translation*]

Mr. Martin Champoux: Madam Chair, I ask that you rewind my clock a little. It was extremely distracting.

[*English*]

The Chair: Yes, I will, Mr. Champoux.

[*Translation*]

Mr. Martin Champoux: Thank you.

Mr. Robertson, I was talking to you about the inquiry by Justice Deschênes in 1985, the conclusions of which were provided to government in 1986. There were 883 cases, and Justice Deschênes determined, after examining the evidence, that only 20 of them merited further investigation, because there may have, in fact, been acts that deserved further investigation as possible war crimes.

Nonetheless, how can disclosing a list of 883 names of individuals who were deemed apparently beyond reproach, for whom no evidence of war crimes was found, do more good than harm to those named on that list and their descendants? I'd like to hear your reasoning.

The last time the committee discussed this issue, I was attacked on social media. I was accused of keeping the secret and protecting the names of Nazis on that list, which I find absolutely abhorrent and disgusting.

Mr. Robertson, I'm asking whether you support that argument or whether you can enlighten me as to how it would benefit people to learn the names of the 883 individuals who were presumably found innocent.

[English]

Mr. Richard Robertson: I think the rationale can be seen as dual-fold. First, without the release to the public of the Deschênes commission, it's impossible for us to assess the full scope of the information contained within the findings of Justice Deschênes. It's important that we allow for Canadian historians and Canadian academics to have access to this information to further determine the scope of what might be relevant within the information.

However—

[Translation]

Mr. Martin Champoux: I have very little time left. According to that logic, Mr. Robertson, it would mean that a group of sexual assault victims, for example, could ask for a list of names of people accused but acquitted of sex crimes. I'm trying to understand the logic of publishing the names to appease the Jewish community.

[English]

Mr. Richard Robertson: No, it's to enable the Jewish community to recover from the trauma of the largest genocide committed against a group in modern times. The clearance of the disinformation will help us to form a better understanding of our nation's complicity in the harbouring of Nazis after that.

I believe that it's something that all Canadians would benefit from. It will allow us to learn from our past, and it can be used to formulate guidelines for the release of information such as that related to the victims of historical sexual trauma or the victims of the atrocities committed against our first nations peoples.

[Translation]

Mr. Martin Champoux: We're in agreement there, Mr. Robertson. However, what you're saying is that you're—

[English]

The Chair: You've gone well over time. I've given you a lot of leeway.

Now I'm going to go to Ms. Ashton for two and a half minutes, please.

Ms. Niki Ashton: Thank you, Madam Chair.

I'm astounded at what we're hearing in this committee today and frankly shocked that Liberal and Bloc members refuse to get to my motion directing the Minister of Heritage to call on Library and Archives Canada to release the names in the Deschênes report, a report that was put together in 1986 about—

• (1635)

Mr. Taleeb Noormohamed (Vancouver Granville, Lib.): I have a point of order, Madam Chair.

I just want to be clear that the motion was to resume debate and was not on the motion itself. It's important to make sure we are providing people with information and not misinformation.

The Chair: Yes, indeed, Ms. Ashton, the motion was to resume debate and was not on the substance.

Ms. Niki Ashton: Let me be clear on my end that the Liberals and Bloc said “no” to resuming debate that would allow for a vote on releasing the names in the Deschênes report. I think everybody can see through what's happening here.

What I find shocking, in the year 2024, when we are acknowledging 79 years since the end of the Second World War, a war in which tens of thousands of Canadians were killed by Nazis, a war in which six million Jews were exterminated by Nazis, where Poles, Roma, gays, the left and members of communities were targeted by Nazis and—

Ms. Anna Gainey: Madam Chair, I have a point of order.

I'm just wondering about the relevance to our study and the witnesses here on freedom of expression.

The Chair: That's a reasonable question. What is the relevance?

Ms. Ashton, we voted not to reintroduce the debate, and you are reintroducing debate on this.

Ms. Niki Ashton: I'm using my time to speak to something. If, in a study on freedom of expression, I cannot express my views because Liberals are getting defensive about their position, we have a real problem on our hands. I would argue that the biggest problem is the way in which they blocked further debate and a vote on this critical motion.

Are we forgetting our history? What is critical here is that we recognize the responsibility we have as parliamentarians to uncloak and remove from under the veil of secrecy these Nazis who were protected years after Jews fleeing Europe were not allowed to enter Canada. Canada did not allow Jews to come to Canada to flee what was almost a sure death but instead allowed Nazis to come in.

We are hearing from a chorus of voices, including from B'nai Brith today, that it is time for Canada—for the Liberal government—to release the names identified in the Deschênes commission. It is absolutely time to do that.

I want to end off my time by sharing the words of a 96-year-old Holocaust survivor, Hedy Bohm, who said the following:

They let in those Nazis, even at a time when they refused Jewish survivors, but even right now to protect them? Wow. Whose interest is it? Justice doesn't seem to have much success.

Another survivor, Joseph Gottdenker, said, "It's hypocritical. It's not anything more than empty words of government officials who say, 'never again' in public speeches."

I say never again. I commend the Conservatives for voting with us, and I'm appalled by the Liberals and the Bloc for blocking debate and a vote on releasing the names of the Nazis in the Deschênes commission. Shame....

The Chair: Thank you, Ms. Ashton.

Let's come to order, please.

Before I thank the witnesses and let them go, I have one question to ask as chair.

Mr. Robertson, you talked about recommendations to amend the Criminal Code or to expand the Criminal Code, and you talked about groups, flags and symbols that are hate motivated.

I'd like to ask you this. During the convoy that was in Ottawa a while ago, a year ago, there were swastika flags and Confederate flags being flown. What would your proposed recommendation in amending the Criminal Code do with this in future if this should happen?

Mr. Richard Robertson: The recommendation we put forward stems from a joint letter signed by my organization, the Centre for

Israel and Jewish Affairs, and the Friends of Simon Wiesenthal Center. It dealt solely with the emblems and the flags of listed terror entities. However, B'nai Brith would unequivocally support the construction of additional legislation that would prevent the display of Nazi iconography.

Just because the Nazi party is not a listed terror entity here in Canada, it does not mean that the flying of the Nazi swastika or the display of Nazi iconography should be permitted. That is, certainly, something that we believe would fall under the reasonable limitations of the freedom of expression, as enumerated in the charter.

The Chair: Thank you very much.

I want to thank Grand Chief Wastesicoot, and you, Mr. Robertson, for being here as witnesses, and for your testimony. It was helpful. Thank you very much.

Before I adjourn the meeting, I want to remind all members to submit recommendations to the clerk by the end of the day on Wednesday, December 4, with regard to our CBC study. Remember, we have to have that ready to take back to the House before December 17. You have until the end of the day, Wednesday, December 4, to submit any recommendations and any concepts you have for the report.

Thank you very much.

The meeting is adjourned.

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