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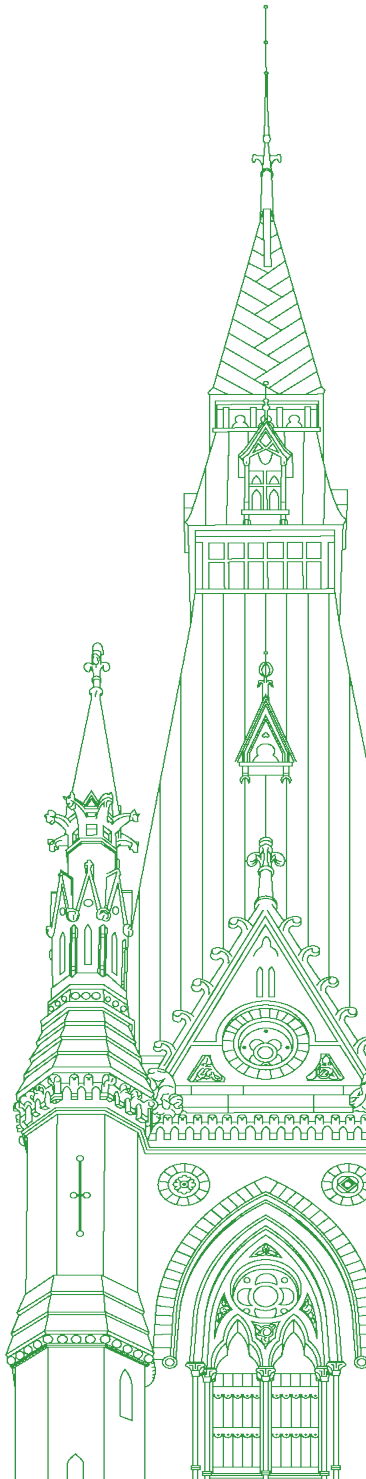

Chair: James Maloney

Standing Committee on Justice and Human Rights

Thursday, November 27, 2025

● (1535)

[*English*]

The Chair (Hon. Marc Miller (Ville-Marie—Le Sud-Ouest—Île-des-Soeurs, Lib.)): Hello, everyone. I call this meeting to order.

Welcome to meeting number 13 of the House of Commons Standing Committee on Justice and Human Rights.

Pursuant to the order of reference of October 1, 2025, the committee is meeting to proceed to the clause-by-clause study of Bill C-9, an act to amend the Criminal Code with regard to hate propaganda, hate crime and access to religious or cultural places.

Anna Roberts (King—Vaughan, CPC): There's no translation. I'm sorry.

I'm on English, but it's coming through in French.

The Chair: Okay. Maybe someone can help Anna out.

Okay, it works now.

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

[*Translation*]

I would like to inform the members that the sound tests were done and the results were conclusive.

I would like to ask all in-person participants to consult the guidelines written on the cards on the table. These measures are in place to prevent audio feedback incidents and acoustic shock and to protect the health and safety of all participants, including the interpreters. You'll also notice a QR code on the cards, which links to a short awareness video.

[*English*]

I have a few notes for the witnesses and members. Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mic, and please mute yourself when you're not speaking. For those on Zoom, at the bottom of your screen, you can select the appropriate channel: floor, English or French. For those in the room, you can use the earpiece and select the desired channel.

I remind you that all comments should be addressed through the chair. I will enforce that a little more rigorously during this clause-by-clause debate.

[*Translation*]

For members in the room, if you wish to speak, please raise your hand. For members on Zoom, please use the "raise hand" function.

The clerk and I will manage the speaking order to the best of our ability. We appreciate your patience and understanding in this regard.

[*English*]

I'm going to go over this slowly, in detail, because for some, this is their first clause-by-clause consideration of a bill.

Andrew Lawton (Elgin—St. Thomas—London South, CPC): I have a point of order.

The Chair: I'll give you the point, but I want to do the instructions.

Andrew Lawton: It's just a housekeeping note. I just thought it would be better to dispatch with it before the instructions start. If you'd prefer to continue, that's fine.

The Chair: Okay.

I'd like to provide members of the committee with a few comments on how committees proceed with the clause-by-clause consideration of a bill. As the name indicates, this is an examination of all clauses in the order in which they appear in a bill. I'll call each clause successively. Each clause is subject to debate and a vote. If there are amendments to the clause in question, I will recognize the member proposing the amendment, who may explain it. The amendment will then be open for debate. When no further members wish to intervene, the amendment will be voted on. Amendments will be considered in the order in which they appear in the package that each member received from the clerk.

In addition to having to be properly drafted in a legal sense, amendments must also be procedurally admissible. The chair may be called upon to rule the amendments inadmissible if they go against the principle of the bill or go beyond the scope of the bill—both of which were adopted by the House when it agreed to the bill at second reading—or if they offend the financial prerogative of the Crown.

During the debate on an amendment, members are permitted to move subamendments. Only one subamendment may be considered at a time, and that subamendment cannot itself be amended.

Once every clause has been voted on, the committee will vote on the title and the bill itself. An order to reprint the bill may be required if amendments are adopted, so that the House may have a proper copy to use at report stage.

I do thank the members for their attention, and I wish everyone a productive clause-by-clause consideration of Bill C-9.

Before I turn to Mr. Lawton, I'll just briefly introduce the folks from the Department of Justice who are here today.

We have Chantele Ramcharan, deputy director general and general counsel, criminal law policy section. We also have Joanna Wells, senior counsel with the criminal law policy section. Also with us is Marianne Breese, counsel from the criminal law policy section as well.

If there are no technical questions, I'll open the floor to remarks before going on to clause-by-clause.

Mr. Lawton.

Andrew Lawton: Thank you very much, Chair.

Thank you for recognizing me before we get into the first clause, because there is a significant issue right now in that this committee was supposed to have had six hours of witness testimony from witnesses who had a range of concerns about a variety of issues, from both the political left and the political right. There have been people raising civil liberties concerns, people raising religious freedom concerns and people raising concerns about how this would affect enforcement of the law.

What was interesting in all of this is that we should have had five full meetings. We had deliberately decided as a committee to extend the length of our meetings to three hours each. The reason for that was so that we could get through all of what we needed to get through to have a proper, fulsome and holistic understanding of this bill before we got to the point we are at now.

I will remind members and all invested in this where we are now. At the previous meeting of this committee, the Liberal members—I'm very grateful—whether by incompetence or cross-partisanship, supported a Conservative motion. Then, Chair, you suspended the meeting to deal with this and then abruptly ended the meeting two hours early.

We were told that we had a very short window of time to produce amendments for this. We had to rush this process, understanding that all amendments had to be written by legislative drafters, who do not work weekends. I'm very grateful that we had a very committed, dedicated set of drafters to help with our amendments. We did as good a job as we could, but the reason we were shortchanged on that crucial time to deal with Bill C-9 when we were supposed to is that Liberal members of Parliament on this committee were filibustering, because they couldn't just accept and support a very basic, very clean motion from Conservatives to condemn heinous sexual abuse of children and call for a reinstatement of mandatory minimum sentences. That was the motion.

This took three meetings. It took almost nine hours of this committee's time, and it showed that the Liberals were so unwilling to make a simple condemnation of lenient sentences and judicial leniency for heinous child abusers that they were prepared to blow up the time that we desperately needed for Bill C-9.

This is important because the motion I'll be introducing shortly realigns and resets this committee's priorities to what members have previously agreed to.

● (1540)

Anthony Housefather (Mount Royal, Lib.): On a point of order, Mr. Chair, the speaker is on a point of order. He can't introduce a motion.

Andrew Lawton: No, I'm not.

Anthony Housefather: You said “point of order” when he told you he was going to recognize you.

Andrew Lawton: It was a point of order at the initial interjection. Now I have the floor.

Anthony Housefather: I don't agree. You were on a point of order.

Andrew Lawton: I said “housekeeping”, and I was granted the floor, but I appreciate the effort.

The Chair: You have something to move.

Andrew Lawton: Yes, I will be, but I think it's important to set the stage for why we are moving what we're moving.

The motion that I will be tabling resets the committee priorities. It ensures that we are, first and foremost, giving the study of bail the priority that it deserves. This is also inclusive of our desire to prioritize the study of Bill C-14.

My Liberal colleagues have said that they are very keen to see Bill C-14 passed. I suspect that clause-by-clause on Bill C-9 is going to take a very long period of time, simply because we have been so shortchanged on hearing witness testimony. We don't have the adequate information we need. We will be prioritizing the study of Bill C-14. There is a Bloc Québécois study on judicial appointments that the committee has also agreed to proceed with. I think this is a very important one as well. We believe there needs to be concurrence on this.

I go back to the very beginning of Bill C-9, when we were graced with the presence of the Minister of Justice, Sean Fraser, and department officials. I asked a very simple question, which was, when did work on Bill C-9 by the department begin relative to work on Bill C-14? As in, when did the government decide to begin its work on changing the definition of hate versus cracking down on serious repeat violent offenders? There was no clear answer.

The government chose to put Bill C-9 forward. The government chose to make criminalizing what people say the priority. This is incredibly concerning. The Minister of Justice confirmed in his testimony before this committee that it will affect what people say online. The lower threshold of what constitutes hate means that we will see U.K.-style social media policing in Canada.

I'm also very aware of the fact that, as this committee has undergone its work on Bill C-9—work that was shortchanged by the Liberal members' desire not to take a strong position against sexual deviance and perverts, inexplicably—we heard a line of questioning from our colleague from the Bloc Québécois that seemed to be indicating support for removing the religious defence that is right now in section 319 of the Criminal Code. Also—

● (1545)

Patricia Lattanzio (Saint-Léonard—Saint-Michel, Lib.): I have a point of order.

The Chair: Ms. Lattanzio.

Patricia Lattanzio: Thank you, Mr. Chair.

It's becoming more apparent, Mr. Chair, that the will of the Conservatives is not to move to a clause-by-clause study today on Bill C-9. Interjecting and stating a testimony or a question being brought forward by a member on Bill C-9 could very well be dealt with as we move to the clause-by-clause study. If the objective today is to stall the study of clause-by-clause, I would invite the member to state so.

Andrew Lawton: I said very clearly, Mr. Chair, that the intention is to reset this committee's efforts. I will say candidly that I do not believe we are ready for clause-by-clause. It was an abrupt adjournment to our previous meeting, with an arbitrarily imposed deadline for amendments that forced us into this, when we should have six more hours of testimony. My intention—

Patricia Lattanzio: I have a point of order, Mr. Chair.

Andrew Lawton: —is to introduce a motion that will—

The Chair: Ms. Lattanzio.

Patricia Lattanzio: Mr. Chair, again, today was scheduled for a clause-by-clause study of Bill C-9. May I remind this committee that two meetings were not dedicated to the study because of the obstruction on the part of Conservatives? It is quite clear that the objective today is not to move to the clause-by-clause study.

I would implore my colleague to make his statements very quickly and to move very swiftly, because we are very anxious to move on with our work on clause-by-clause.

The Chair: Mr. Lawton, there are people here today who are watching—

Andrew Lawton: I agree.

The Chair: —and some have different views on Bill C-9 and would like to at least assist in the clause-by-clause. I'll let you continue briefly, but if you do have a motion—and you said you did—please introduce it.

Andrew Lawton: Okay. I will introduce the motion.

I will speak to it as well, because I think the context will become clearer when it's introduced. This is a motion that has been put on notice. The motion is as follows:

> That, in relation to the agenda of the committee for the remainder of 2025,
>
> (1) The committee prioritize the study of Bill C-14, the Bail and Sentencing Reform Act ahead of the study into Bill C-9, the Combatting Hate Act, and meet at least twice a week for the remainder of the Fall 2025 session to concurrently study Bill C-14 and other non-legislative studies agreed to by the committee, with at least one meeting per week scheduled for the purposes of considering legislation and at least one meeting per week scheduled for the purposes of undertaking other studies;
>
> (2) With respect to the non-legislative studies, the committee complete witness testimony on bail and sentencing, and begin to prepare a report that focuses on measures needed beyond those contained in Bill C-14, then proceed to the study on the appointment of federal judges, followed by a study into the impact of the supreme court decision in relation to mandatory minimum sentences for possession of Child Sexual Exploitation Material;
>
> (3) With respect to the oversight function of the committee, the Chair be instructed to reiterate the invitation it made to the Minister of Justice and Attorney General to appear on his mandate and priorities, and issue him a new invitation to appear in relation to the Supplementary Estimates (B) 2025-2026, provided that meetings for this purpose be scheduled before Dec. 4, 2025;
>
> (4) In relation to the study of Bill C-14, the following witnesses be invited to appear on separate panels for one hour each:
>
> a) Sean Fraser, Minister of Justice and Attorney General,
>
> b) Gary Anandasangaree, Minister of Public Safety,
>
> c) Ruby Sahota, Secretary of State (Combatting Crime), and,
>
> d) Dr. Benjamin Roebuck, Federal Ombudsman for Victims of Crime;
>
> (5) In addition to the aforementioned witnesses, at least 8 meetings be dedicated to receiving testimony from departmental officials, victims and survivors of crime or their advocates, law enforcement officials, provincial and municipal representatives, and other witnesses to be submitted by members of the committee, and;
>
> (6) The Chair may only schedule a meeting for the purposes of clause-by-clause consideration of Bill C-14 after all of the witnesses listed in point 4 have appeared, and the specified number of meetings in point 5 have occurred.

The reason this is so crucial.... I'll go back to the point made earlier by Ms. Lattanzio. It was not Conservative obstruction that prevented us from hearing from Bill C-9 witnesses. It was the unwillingness of the Liberal MPs on this committee to do the right thing and adopt a very simple motion, which was so over-complicated that it ended up taking up six hours of this committee's time when it should have been, as it ended up being, a motion that we agreed on unanimously, calling on the government to introduce legislation to protect children, to stand up for the rights of children, to reinstate mandatory minimums for those who peddle in child—

● (1550)

Patricia Lattanzio: I have a point of order.

Mr. Chair, I understood, when my colleague intervened at the very beginning, that he wanted to do housekeeping, but under the guise of a point of order. We are well over 20 minutes into this meeting, and I'm not too sure if this could be considered a point of order any longer.

Andrew Lawton: It is not a point of order.

Patricia Lattanzio: Well, you specifically said you had a point of order.

This is going way beyond a point of order, Mr. Chair. I'd like you to rule on the fact that this is really not a point of order. We are filibustering. It is quite clear that the Conservatives do not want to proceed on a clause-by-clause study. They sent in their amendments to be able to dispose of this today, but it is quite clear that they do not want to deal with this today.

Mr. Chair, I submit to you that this is not a point of order.

Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Mr. Chair, I have a point of order.

The member's point of order is not a point of order. She didn't cite any standing order. It has nothing to do with the rules. She's just trying to disrupt my colleague's comments.

● (1555)

The Chair: You have not been recognized.

Garnett Genuis: Sorry, I'll wait to be recognized.

I have a point of order.

The Chair: Please take your seat.

Garnett Genuis: I'm in a seat.

The Chair: Has there been a substitution?

Garnett Genuis: No, Chair. I'm an elected member of Parliament for Sherwood Park—Fort Saskatchewan in Alberta. I've been here for about 10 years.

The Chair: I'm aware. We're office mates.

Garnett Genuis: Yes. It's nice to see you again.

Andrew Lawton: Can I speak on that point of order?

The Chair: Just a second.

Mr. Genuis, go ahead briefly, if it's to Ms. Lattanzio's point.

Garnett Genuis: Thank you, Chair.

My point of order is that her point of order is not a point of order. She didn't mention any standing order. It had nothing to do with the rules. She seems to be complaining about the perspectives of my colleague or aspects of his manner of speech. I suggest she get on the speaking list and comment on it, but her point of order is not an objection regarding the rules, and that's what points of order are. They are interventions in relation to rules and rules not followed, etc. Hers was not a point of order, and I think she should have been stopped much earlier.

Anthony Housefather: I have a point of order.

The Chair: Is it about what Mr. Genuis is saying?

Anthony Housefather: No.

The Chair: Okay. There are lots of people who want to substitute their thinking for the chair's right now.

Let me confer with the clerk.

Anthony Housefather: I was just going to add something, Mr. Chair.

The Chair: Go ahead briefly, please.

Anthony Housefather: I had raised a point of order initially saying that Mr. Lawton had said “point of order” before he began speaking. I would ask you to go back and listen to the tape for why you gave the floor to Mr. Lawton. He said he had a point of order. Moving a motion on a point of order is not permissible, and he should not have been allowed to move this motion. His motion should be ruled out of order.

Andrew Lawton: I'd like to speak to the same point of order. I can offer—

The Chair: We'll suspend briefly to check the record on that, Mr. Lawton, and get back to it shortly.

Andrew Lawton: Just to respond to that, the point of order I raised at the beginning was as to the timing of when I was recognized. I thought it might be more opportune to recognize me before you chose to proceed to clause-by-clause instructions. You dealt with that point of order very accurately and clearly, and then you gave me the floor after, and I think the audio will reflect that, Chair.

The Chair: We'll get to that. We'll suspend briefly.

● (1555)

_____(Pause)_____

● (1600)

The Chair: Thank you, members.

There were two separate times.... Mr. Lawton did indeed say “point of order”. I then recognized him to say that he should have his time, and I then recognized him, so he does have the floor.

Andrew Lawton: Thank you very much, Mr. Chair.

I feel that, after that suspension, it's important to recap to members what has happened so far. The reason we are debating this motion is that the Liberal government, in its desire to ram through legislation that, by its admission, will censor what Canadians can say and post on the Internet, has decided not to hear from witnesses who desperately wanted to share their thoughts on this to ensure that we get this legislation right.

I'll just point out that we put forward a number of suggestions for witnesses who, even within the five-meeting constraint that we initially set out for our study of Bill C-9, never received invitations. I do not impugn motive for this. I realize that you can only pack so many people into a meeting and so many people beyond that into five meetings. There were representatives of civil society groups with a range of political and religious backgrounds. They were people who approached Bill C-9 from different perspectives. Some of them never received invitations.

One of them was Lisa Bildy, who is a very accomplished lawyer from London, Ontario. She is the executive director of the Free Speech Union. One of the reasons that the Free Speech Union decided to submit a brief and had wanted to appear as a witness on Bill C-9 was the significant implications that Bill C-9 has for freedom of expression. As the Free Speech Union said in its brief, “Bill C-9 will criminalize expression that should enjoy constitutional protection”.

They refer to a number of sections here, some of which revolve around the way that hate symbols are defined in the bill. Another is the way that the definition of hate is actually redefined with a lower threshold—a threshold that would exist in the Criminal Code if Bill C-9 passed—than what the Supreme Court has already determined should be the threshold for hate. We have heard testimony on this before this committee in the few meetings we did have on the subject. Bill C-9 codifies the definition of hate as "the emotion that involves detestation or vilification"—that word "or" is very important—"and that is stronger than disdain or dislike".

When the Supreme Court has weighed in on this in the past in a couple of landmark cases that have enshrined freedom of expression in Canadian law, it talked about "extreme" and the extremeness of the emotion that activates hate. It also talked about the need for detestation "and" vilification, showing that this is not just some menu that authoritarians can look at when they want to censor what Canadians say.

I say this as someone who is very supportive of the arguments that have been put forward by members of the Jewish community in Canada, which are that there is a significant problem with hate and that Jews have been unfairly targeted by anti-Semitism, not just since October 7, but for decades and millennia. We have seen hate become a lot more brazen in this country since October 7. Many of the problems have been a failure by political leadership to deal with this.

When you speak to people who are in this space—members of law enforcement—they will say that there is an enforcement problem. The issue is not the need for new judicial powers. It's not the need for a lower threshold for hate. It is the need for existing laws to be enforced.

The Liberal government, for example in Bill C-9, has proposed removing mischief as an offence when it pertains to religious property. Why would they do that? Where has the leadership been from the Liberal Party on the hundred and some churches that have been burned and vandalized in the last five years? If we want to talk about hate against religious institutions, we said that there should be stronger penalties—mandatory minimum penalties, one might say—for vandalism and arson of religious property, whether it's churches, synagogues or mosques.

This is what would have come had there been genuine consultation on Bill C-9 with all groups affected by this. They wouldn't be removing a section of the law that has been regarded as a positive one.

We look at some of the other witnesses who were unable to testify. For example, we had put forward on our list the Right Honourable Beverley McLachlin, former chief justice of the Supreme Court of Canada. She is someone who has actually been a tremendous defender in past Supreme Court rulings on freedom of expression. I'm not sure whether Chief Justice McLachlin received her invitation and accepted or declined. It's impossible to know when we lost two full meetings of witness testimony because of the Liberals' desire to condemn something as basic as a mandatory minimum sentence for those who view and traffic in material they refer to in the decision as child pornography—obscene and quite despicable child sexual abuse and exploitation material.

● (1605)

We did have the opportunity to hear from Christine Van Geyn of the Canadian Constitution Foundation, and I was very grateful we did, because the Canadian Constitution Foundation is an organization that has done tremendous work in advocating for civil liberties for all Canadians. In her opening statement, Ms. Van Geyn spoke about the chilling effect that this will have. Not only will more people be captured by Bill C-9 than are captured under current laws when it comes to governments charging people under section 319 for hate speech, but more importantly, the government wading into this territory itself will actually send a chill that will make people less able to speak their mind.

This is such a critical discussion. Freedom of expression is a right that you could argue is the most important right. The reason I say this is that, if every other liberty and every other fundamental freedom were stripped away, except that one, you could use your freedom of expression to fight for all the others. You can use your freedom of expression to fight back for your property rights and for your democratic franchise, and any bill that engages this should be viewed with tremendous skepticism.

I do not take the Liberal government's position here that this change in the definition of hate was benign, that this change in the definition of hate was really just a grammatical issue and not one that was genuinely going on with a different definition. That was what the justice minister said. Again, when the justice minister, the person who is ostensibly Canada's lawyer, doesn't understand the importance of words in legislation, it actually explains a lot about the housing and immigration systems, which this minister was previously responsible for. I believe the Minister of Justice, Sean Fraser, has taken the same level of excellence that he brought to immigration and housing to justice, and Bill C-9 is a great reflection of this. This is a bill that has been condemned by.... I believe all the Abrahamic faiths have come out with criticisms of this bill. I believe Jewish groups, Christian groups and Muslim groups have all had a fair amount of criticism.

We have to look at this in the broader context of what the Liberal government has tried to do on speech. Remember, in the last two Parliaments, in both Parliaments, the Liberals tabled bills that they ostensibly said were about online harms, so specifically harms on the Internet. That was what the Liberals said they were targeting. These bills actually re-engaged the Canadian Human Rights Act, section 13, which was a section of law that had tremendous concerns and was actually itself subject to a wide number of high-profile cases.

Human rights codes have a lower threshold than the Criminal Code, because they fall under civil law. That's important because, under Bill C-9, the new definition of hate doesn't just affect the Criminal Code. As my colleague, Mr. Baber, has pointed out quite eloquently, it affects all federal statutes, which includes the Canadian Human Rights Act. Bill C-9 is actually a backdoor way into engaging the very same provisions that were so vehemently opposed by so many people in this country in the previous two Parliaments, with Bill C-36 in the 43rd Parliament, and then Bill C-63 in the 44th Parliament.

We still, by the way, do not know whether the liberals intend to bring back another version of that, but I fear that what they are doing in Bill C-9, under the guise of taking hate seriously—hate that they have allowed to fester—is telling the very people who have been failed by the government that it has their backs. In doing so, they're setting the stage for something that I do not believe Canada can afford and I do not believe Canadians want.

Then you have to address the question of timing. Why is this so needed at this particular meeting? Why were members given an abrupt deadline of not even two business days to submit amendments for a complex piece of legislation amending the criminal law, the Criminal Code of this country, and told on Thursday, at a meeting that was ended two hours early, that we need to submit these amendments by Monday so that we can deal with them today?

● (1610)

Now, we did that. We worked hard. If this bill is going to proceed, it needs to change. In this form, it absolutely cannot proceed, which is why we have been raising so many concerns about this, as have witnesses.

At the very least, as members of Parliament, we have a right to hear from witnesses who want to speak out. A committee that was truly responsive to Canadians would respond to all of the groups that have come forward and wanted to testify and have not yet testified: people like Lisa Bildy of the Free Speech Union; Mike Fegelman of Honest Reporting Canada; Arunesh Giri of the Hindu Canadian Foundation; David Granovsky of B'nai Brith Canada; Brian Doody of Doody Counsel Legal Services; and Aislin Jackson of the B.C. Civil Liberties Association, which, by the way, has never once in its history been confused for a conservative organization.

Mark Joseph of The Democracy Fund travelled all the way here from Toronto and was not able to testify, because the Liberals decided that they didn't want to send a strong message that we will not stand for child pornographers in this committee.

There's Dr. David Haskell, professor at Wilfrid Laurier University, where I had the privilege of teaching journalism very briefly, and Talia Klein Leighton with Canadian Women Against Antisemitism, again, an outstanding witness whom we did not get a chance to hear from.

There were witnesses proposed by other parties as well. This is not just asserting the Conservative-offered witnesses' right to testify. There is Stephen Camp, formerly of the Edmonton police hate crimes unit; Michal Jacob, Office of the Special Envoy on Preserving Holocaust Remembrance and Combatting Antisemitism; the Alberta Association of Chiefs of Police; the Canadian Association of Chiefs of Police; and representatives of the RCMP hate crime unit.

Again, you'd think that people who are going to be tasked with enforcing the provisions in Bill C-9 would be able to testify so that we understand the implications of the laws that we're proceeding with.

There's Deborah Lyons. She is a representative of the Liberal government's efforts against anti-Semitism, and I don't believe any Jewish person in Canada would say that she has managed to rein in anti-Semitism or that the Liberal government has had a desire to do this. There's Mark Neufeld, formerly of the Calgary Police Service with the hate crimes unit. Again, that's someone you would think would be top of mind to hear from as members of the justice committee.

There's Rabbi Daniel Mikelberg. He's the head clergy at Temple Israel in Ottawa. He's local. I believe he could have quite easily found time to come here if the committee had allowed time to hear from witnesses on Bill C-9. There's Mohammed Hashim of the Canadian Race Relations Foundation. Another potential witness was a former justice on the Supreme Court of Canada, Rosalie Abella. I know that her late husband was a tremendous scholar of anti-Semitism in Canada.

I'm not familiar with Brittan Hudson's work, but I believe they were on the witness list for a reason, and justice committee members would have been able to learn something, perhaps. There's The 519. I mentioned Dr. Benjamin Roebuck. That was someone I believed should be brought forward—and he is in the motion we're debating right now—as the federal ombudsperson for victims of crime. Given what Liberal bail laws have done over the last 10 years, I believe the number of victims of crime has ballooned to a point where we probably need to get a few more helpers for Dr. Roebuck.

Michael Levitt, with the Friends of Simon Wiesenthal Center, is another person who would have had a great deal to offer us, as well as Maureen Buchan of the British Columbia Assembly of First Nations. In fact, we have not really heard indigenous perspectives on this bill. There's Jackie Lombardi with the Chiefs of Ontario, again, another witness who was offered up but we did not get the chance to hear from. There's Jay Jayaraman of the Hindu Federation.

Now, we have heard from some witnesses in the Indian community who have raised some pretty key concerns about the way that the bill describes hate symbols, specifically representatives of the Indian community Hindus, Jains and Buddhists. They dislike the use of the word “swastika”. They also dislike the resemblance part of Bill C-9, because they're worried that this will be an assault on their religious freedom. Again, I don't think we can particularly trust this government to stand up for religious freedom.

There are others, such as Brian Sauvé with the National Police Federation. We had him on our bail study, and he would have offered a lot on this as well. This is the union that represents the brave men and women of the RCMP. We also have on the list Joseph Neuberger of the Canadian Jewish Law Association.

● (1615)

There is an association of local Crown counsel in Alberta. ALCCA is the acronym, and Rochelle Direnfeld was one of the witnesses who were put forward, as was Michael Polowin, who is a municipal lawyer. I don't know what municipality, but that might have been one of the things we would have learned had Mr. Polowin been able to testify, as well as how he believes Bill C-9 will affect civil liberties in Canada.

Ted Cohen, the CEO of Hillel Lodge, is a very key witness whom we have not had the opportunity to hear from. There's David Sachs, an anti-Semitism specialist with the Jewish Federation of Ottawa—again, someone else local. In fact, if we wanted to hear from witnesses, I bet we could call up Mr. Sachs and have him come down right now to testify. However, again, we cannot do that, because we have been shortchanged out of our right as members of Parliament to truly study Bill C-9, and that is because of the Liberal government's desire to ram something through that attacks civil liberties with as little scrutiny and accountability as possible.

Terry Teegee, another witness, regional chief of the British Columbia Assembly of First Nations, was eager, I bet, to travel across the country to testify because he thought that members of Parliament and Canadians would have the ability to hear what he has to say. My colleague from the Bloc suggested, from the Barreau du Québec, Marcel-Olivier Nadeau. I don't know what the Barreau du Québec's view on Bill C-9 is, and I never will, unless this government agrees to give Bill C-9 the proper study that it deserves and that we have a right to engage in as members of Parliament.

There were other witnesses who wished to appear. I have not read all of their briefs, so I don't know if all of them have.... They include the Assembly of First Nations; Husein Panju with the Canadian Muslim Lawyers Association; James Turk, director of the Centre for Free Expression; Garrison Settee, grand chief of Manitoba Keewatinowi Okimakanak; the Anishinabek Nation and the Union of Ontario Indians; Khaled Al-Qazzaz of the Canadian Muslim Public Affairs Council; and Louise Smith of Independent Jewish Voices. Now, I have a great many concerns with the rhetoric and tone of what Independent Jewish Voices says, but I also believe that we should be hearing from Canadians of all perspectives on this.

There is Pe'er Krut of the Canadian Union of Jewish Students; Jeremy Johnson, as an individual; Victoria Pruden, another potential witness whom we were not able to hear from, the president of the Métis National Council; Nadia El-Mabrouk, the president of Rassemblement pour la laïcité, another witness we do not get to hear from; and Imam Mohammad Tawhidi of The Global Imams Council, a man who has been an outstanding voice against radicalism and religious extremism, not just in Canada but around the world. I believe he's from Australia originally. There's also Jennifer Boyce, the director of communications for Egale Canada, another witness we do not get to hear from.

Again, we couldn't hear from all of these witnesses in the six hours when Liberal obstruction denied us the right to engage in witness testimony, but we could have heard from some of them. Had we done a proper study on Bill C-9, one that is more concerned about getting it right than about ramming it through quickly, we could have heard from a lot of these people. In fact, some of the ones I mentioned were not even invited to submit briefs. We had to proactively go to them and say that they should be submitting briefs if they want their perspectives to be heard. I have some of those briefs available. I don't know if they have been circulated to all members, so I will cite a couple of them as it gets up here.

The point of this is that, when we are talking about a bill that engages civil liberties, arbitrary deadlines for amendments that do not give anyone the opportunity to actually go through and thoughtfully go back and forth internally, to debate these things, to change wording.... We had to submit ideas, and we were just given from the drafters, “Here are the amendments.” There was no time to really make that many revisions. I'm not saying that there are issues with them; I'm just pointing out that when you have an arbitrarily imposed, accelerated timeline like this, it makes it impossible to do anything with it if you want to actually go through the process of getting this right.

I note that the Centre for Israel and Jewish Affairs came out with a statement this week in which they expressed their desire not to see Bill C-9 pass carte blanche with a rubber stamp, but to actually make it the product of cross-party consensus. Again, that is not—

● (1620)

Anthony Housefather: I have a point of order.

I don't believe the CIJA's position is that they don't want us to go to clause-by-clause. I think they do actually want us to go to clause-by-clause, and—

Garnett Genuis: That's not a point of order.

Anthony Housefather: Well, I don't know. I think it might be.

Garnett Genuis: I suspect you know it's not. Weren't you a chair once, Anthony?

The Chair: That's enough, Mr. Genuis. You don't have the floor. You are allowed to speak here, but you do have to maintain the decorum of this committee.

Mr. Lawton, try to stay accurate, please.

Andrew Lawton: Thank you, Chair.

I was incredibly accurate, and I can read directly from the statement here. I appreciate the opportunity to cite from this.

Again, all of us, I believe, should have been engaging with a number of stakeholders on this. However, what CIJA said in its statement was that this needs to be the product of cross-party consensus. They want targeted amendments. It is difficult to offer targeted amendments and work across party lines when we are given a two-business-day window to do this. Again, is it more important to get it right, or is it more important just to get this through so the Liberal government can do what it loves to do, which is claim a win without actually doing the work, and in some cases going beyond to make problems worse?

I am aware that we are sitting on the House of Commons Standing Committee on Justice and Human Rights here. I think that's tremendously relevant, because it is this justice portfolio that should have been engaged when the Liberal government previously invoked the Emergencies Act. Why that's relevant to the motion we are debating right now is that the Emergencies Act had the government taking a statute that was designed for a very good reason—and some would argue a necessary reason—to deal with eventualities and emergencies that might require extraordinary action. They used that to deal with a protest.

The Trudeau government—the Liberal government—used the Emergencies Act to deal with a protest of people who were saying unkind things about the Liberal government. In doing so, it violated the law. I don't mean that it violated some bylaw. I don't mean the government violated some minor statute. They actually violated the most supreme law in the country, which is the Constitution of Canada. This is not my opinion—this is a decision by the Federal Court, which said that not only did the Liberal government break the law in invoking the Emergencies Act, but they broke the law in the measures that they chose to use the Emergencies Act for, namely restricting mobility and freezing the bank accounts of political dissidents. How can we trust the government?

By the way, the Liberals are fighting that in court. They are appealing that decision in court. How can we trust a government that so brazenly violates the charter rights of Canadians to redefine hate and, in doing so, lower the threshold of what people can say on the Internet, lower the threshold of what people can say online?

After the Minister of Justice testified before our committee and admitted that Bill C-9 will, in fact, affect online speech and social media posts, I saw on social media that there were lots of people from the United Kingdom looking at examples of police literally knocking on people's doors because of their tweets, because they posted something on social media. These are not even people who were charged, necessarily. Some were, which was quite shameful, but some of them were logged as “non-crime hate incidents”, a term that has emerged in the United Kingdom to deal with these cases where no one's even arguing there's a law broken, but they want to send a message. The state, the authorities, want to send a message that you don't get to say things as a free citizen unless they tell you to.

It's interesting. The Liberals want to claim to be a united front. I know that Steven Guilbeault quit the Liberal cabinet today. This is news that has just come out, which is quite interesting. This is, again, another example where the Liberals have decided to ignore the Constitution of this country on energy policy. If they're ignoring the Constitution on energy policy, in which the federal government has the latitude to approve pipelines, how on earth can we expect them to follow the Constitution when it comes to freedom of expression? Now, I suspect we might see Mr. Guilbeault in an orange jumpsuit scaling the Peace Tower any day now, so if members want to take a suspension to go watch that, they may.

The reason we are talking about the trustworthiness of the government here is that their desire to ram through Bill C-9 is, in itself, a symptom of the issues that we've been raising and that witnesses have been raising.

Bruce Pardy, a very accomplished lawyer and law professor from Queen's University, testified before this committee. He said that the way the Criminal Code is written, misgendering could be a criminal act of hate under the right circumstances if the government decided to go down that way. By the way, this is not at all an endorsement of any particular expression. This is saying that, as free people in a country that values freedom of expression, we should be able to engage in rigorous debate on issues that there is a range of opinions on. We should be able to have debates about gender and sexuality. We should be able to have debates about religion. We should be able to have debates about anything.

● (1625)

This doesn't mean we as a country are all in agreement. In fact, it means quite the opposite. It certainly doesn't mean that the state has a right to decide what the correct positions are and what the incorrect positions are. I say this very aware of the fact that, where I stand on Bill C-9, there are going to be some forms of expression that make me very uncomfortable. I'm defending the right of people to say things I may find very hurtful and target beliefs I hold dear.

Roman Baber (York Centre, CPC): I have a point of order.

I am having difficulty hearing member Lawton because of all the noise on the other side of the room.

Would the chair please ask for some decorum here?

The Chair: People can have discussions. Let's just keep it down so Mr. Lawton can continue.

Mr. Baber, you are sitting beside Mr. Lawton. I assume you can hear correctly, but I get your point.

Go ahead, Mr. Lawton.

Andrew Lawton: Thank you very much, Chair.

As I said, I'm aware that in standing up for freedom of expression, I am actually defending the right of people to say things that are very hateful about me and about things that I value. For example, there's the right of someone to say that verses of scripture are hateful. I would defend that right. I would defend that right because I believe it's important. I believe we should be able to defend our views and do so in an open forum. I believe wholeheartedly in the marketplace of ideas. I do not believe the government is capable or legally entitled to make that determination.

On religion, I don't know what amendments to Bill C-9 are going to come forward in the course of our clause-by-clause consideration. I do know that there is a private member's bill from the leader of the Bloc Québécois, Monsieur Yves-François Blanchet, that would remove the religious exemption, or rather the religious defence, that exists in section 319 of the Criminal Code. This defence is crucially important, for two reasons. Number one, it protects religious freedom. It talks about how you can use a defence, if you are facing a charge under section 319, that you were speaking in a manner listed under paragraph 319(3)(b), which says, “if, in good faith, the person expressed or attempted to establish by an argument an opinion on a religious subject or an opinion based on a belief in a religious text”. I believe the private member's bill also engages paragraph 319(3.1)(b), which says, “if, in good faith, they expressed or attempted to establish by an argument an opinion on a religious subject or an opinion based on a belief in a religious text”. I'm happy to read that section in French, if members desire.

I bring this up because it was not only an attack on religious freedom to remove that, as the private member's bill from the Bloc would do and as has been suggested in testimony and discussion before this committee. More importantly, that was a critical part of the Supreme Court's decision to uphold the existence of section 319 in the first place. Even when the Supreme Court decided that it was justifiable to have a section dealing with hate propaganda, even when they did that, they understood that it was necessary to have these limitations on that so that it would not be unconstitutional.

I think the dissent from former chief justice McLachlin in the Keegstra decision is probably one of the greatest pieces, even though it was a dissent, of legal writing in Canada, certainly when it comes to freedom of expression. We saw that section 319 itself was only saved because it had these carve-outs and because it had these protections.

Again, I do not believe you should have the right to say anything and everything simply because you hide behind religion. That is not what I am saying. More importantly, that is not what the law says. That is not what the Criminal Code says. A critical part of paragraph 319(3)(b) is that it's “in good faith”. You cannot call for genocide in good faith. You cannot call for extermination of the Jewish people in good faith. You cannot call for the mass disenfranchisement of people and violence in good faith.

This idea that we need to erode religious freedom and jeopardize the constitutionality of a section of criminal law that has been working in Canada because the threshold is so high.... To say that we're doing that for an objective that isn't even connected to that removal is crucial. It was proposed on this committee. It was not an amendment, but it was proposed as an idea.

Of all the times we did speak to witnesses, Mr. Chair, that was the only time you saw fit to intervene. That is your prerogative. I'm not disputing that, but it was very concerning to Canadians, who are of a variety of religious beliefs. It engages why people are inherently distrustful of any desire by the government to reopen issues pertaining to hate, especially when there is a lower threshold, a lower definition.

My goodness, why have we forced something like this? What is the hurry when there are so many live concerns, so many very real concerns, that we have not yet had the opportunity to really engage with as members of Parliament?

Again, I do not accept the justice minister's view that there was no change to the definition, that omitting the word “extreme” and changing “and” to “or” was purely coincidental or that maybe it was autocorrected. I don't buy that, and I don't think Canadians do either.

● (1630)

That suggests one of two things has happened. Number one, the government is trying to sneak in a lower threshold for what constitutes hate speech and, by design, it would literally lower the threshold by which you could be charged, which then means it's expanding the scope of who can be charged for something. That's the first point. Number two, they're so sloppy that they don't see that as being relevant, and the brightest legal minds in the country, who Canadians would hope are the ones drafting and introducing legislation, don't actually understand the difference between extreme manifestation and not. They don't understand the difference between “and” and “or”.

I mentioned earlier that I'm not a native French speaker, but even I, in French, a language I do not profess to be fluent in, could tell you the difference between “*et*” and “*ou*”, between “and“ and “or”.

There is a sneakiness to what Bill C-9 is doing, and I go back to the applicability of Bill C-9 not just to the Criminal Code, but to the Canadian Human Rights Act, the law that would have been changed by the online harms act, section 13 specifically, had that gone forward in the previous Parliament.

I am glad, with the news of Minister Guilbeault's resignation from cabinet, that he won't be around to table that. I know that was one he was very keen on, but I suspect there are going to be others lining up behind him to do it, because we have seen a very transparent desire by this Liberal government to rein in civil liberties, to rein in the constitutional freedoms of Canadians and, specifically, to rein in freedom of expression, which is sacrosanct not just in Canada but in all free societies.

We've just passed Remembrance Day. I know that many members of Parliament, from all parties, did videos for Remembrance Day that we could share with our constituents. When I did my video and when I spoke to members of my community, specifically to veterans at a number of cenotaphs I went to, in St. Thomas, in Vienna, Ontario, in Port Burwell and all of these places, it was a very chilly day, but it was important to be there. There was a general sense that those who have fought and died in wars wearing a Canadian flag—or before that, a British flag—did so because they wanted to stand up for the freedoms we hold dear in Canada. That includes—maybe not chief among them, but certainly at the top—freedom of expression, freedom of speech.

Whenever we're talking about this, we often hear people say, especially when they want to defend Liberal government incursions on speech, “Well, freedom of speech is an American concept. We have freedom of expression here in Canada.” I would agree that “freedom of expression” is the term in Canada, but if you read jurisprudence on this, freedom of expression is actually broader than speech. Speech is what you say. Expression is what you say and what you do. Freedom of expression includes art. Freedom of expression includes speech. Freedom of expression includes song. I would not be so hurtful to the committee as to engage in song. I will not use my freedom of expression for that.

● (1635)

The Chair: It would be a legitimate point of order.

Andrew Lawton: Yes, there we go. It would be, Chair. I appreciate that.

It's important to have that freedom, and I go back to former chief justice McLachlin's ruling on this. It especially includes political speech, because we realize that the right to disagree, especially to combat and challenge authority, is so critical.

One of the fascinating things when you see this discussion unfold is that the speech that is most necessary to protect is the speech that is most jeopardized and threatened by censorship. You know, I could say with my time here that I love puppies, and it's true. I do. My wife is a cat person. I'm a dog person. We compromise by having neither, but puppies are cute. Why do I need a constitutional right to free speech to say that, when no one is going to try to censor me for it? When we start talking about contentious political ideas, however, that is when censorship is engaged, when you start saying things that people don't want to hear and that they want to deny you the right to say.

I think this is an interesting point here. The reason we are trying to introduce this motion is that we believe that if we are going to proceed with Bill C-9, it needs to be done properly. We cannot proceed with clause-by-clause analysis of Bill C-9.... By the way, it is not the most crucial justice issue facing Canadians. The first clause of my motion is to prioritize the study of Bill C-14, the bail and sentencing reform act. Conservatives ran a campaign on stopping crime. The Liberals were successful in the election, and I congratulate them. They said they were going to take very serious measures to deal with bail and sentencing issues. I expected, when I was appointed to the justice committee, that the very first thing we'd get to deal with would be a bail and sentencing bill. The only reason that on this committee we got to engage in a study of bail is that Conservative members initiated it. We demanded a study of bail. We have been doing this and are just about to finish it. We have our final meeting on this on Monday.

Instead, the first justice legislation that the Liberals put forward was Bill C-9. The departmental officials could not say when they began working on Bill C-9 relative to when they began working on bail and sentencing. In fact, at the time we had those officials, I'm not even sure that Bill C-14 had a number. We were just being told that it was coming, that something was coming. Then, what we saw was a bill that addressed a lot of the concerns that Canadians have been talking about—certainly the Conservatives have been talking about them—but it did not go far enough, specifically in dealing with the principle of restraint. We will hopefully have an opportunity to hear from witnesses about the shortcomings of Bill C-14, but, again, we can't do that, because the Liberals have decided to make censorship their first priority. They've decided to make Bill C-9 their first priority.

Again, they're going to say that Conservatives are the ones obstructing, when what we are saying is that we cannot pass through, wave through and green-light bad law just because of arbitrary deadlines imposed by the Liberals.

There is no way we would have gotten through clause-by-clause consideration of Bill C-9 today, which is why we've put forward this motion, resetting this committee's work and putting an end to Liberal obstruction of real justice issues that need to be addressed. Where I think there is going to be more cross-party consensus than there is on Bill C-9 is on the bail and sentencing reform act.

I believe the Bloc Québécois also put forward a very important study, which we were proud to support as Conservatives, on judicial appointments. When judges are appointed, you can often look up their names in Elections Canada and find that, coincidentally, many of them are past Liberal donors. There is a little bit of a problem in the judicial appointment system. More importantly, in some of the heinous decisions we've seen from judges on bail and on sentencing, there are clearly competence issues emanating from the judiciary that need to be addressed, and I would hope would be, in this study on judicial appointments. For example, I'd be keen to know why a judge in Quebec thought that someone who had hundreds of images of children as young as three being raped deserved a 90-day sentence. I would love to know why and how a judge who would make such a decision was appointed.

● (1640)

Unless this motion goes forward, between Bill C-9 and Bill C-14 and other justice legislation coming before this committee eventually, whether it's private members' bills or perhaps something dealing with child sexual exploitation and abuse material, which this committee has called on the government to put forward before the end of the year, there's no way we'll be able to do this study. Again, it's almost as if we have given this authorization to proceed with a study that the committee, by which I mean the Liberal members of the committee, have no intention of actually proceeding with.

I remember also that we were expecting to engage in this committee's work on Tuesday and never received a notice of meeting. I don't know why. It doesn't matter for the purposes of what we're discussing here, but that would have been an opportunity. We would have been discussing bail, and it was yet another obstruction that prevented us from doing our work as members of Parliament on this committee.

We have invited Minister Sean Fraser to appear before us to discuss his mandate and priorities. He did come forward on Bill C-9 and was very eager to come forward on Bill C-9. I know when we were debating in this committee, it was interesting how that was a priority—to get him to only talk about Bill C-9—and we still have not had the opportunity to talk to him about his mandate and priorities. Paragraph (3) of this motion is that you, Chair, be instructed to reiterate the invitation. I believe you passed it along. I believe the minister received it. I don't know if he put it in the filing bin that looks and sounds like a shredder or if he was planning to make it to us at some point. I think he should be reminded that he has an opportunity—not an obligation, I understand, but an opportunity—to appear before us to discuss his mandate and priorities.

There are a number of priorities that I think are very interesting and that I'd be keen to explore, such as why censoring what Canadians see and say online was more of a priority for him than dealing with bail and sentencing. I'd love to hear his response to some of the witnesses we've had from police associations and police services, including OPP commissioner Thomas Carrique, who's also with the Canadian Association of Chiefs of Police. He came before us and said that the Liberal government's gun confiscation scheme was a waste of police resources when the actual problems that police need to be dealing with are repeat violent offenders.

Where the priorities of this government are is something I'd be very keen to hear from the minister, if he graces us with his presence on his mandate and priorities. I just want to make sure he is aware that he has an outstanding invitation. I'm a new member of Parliament. I realize that sometimes an email can linger in your inbox for a while, which is why I think sometimes you need to bump it to the top there. This motion, which I'm sure will have cross-partisan support, will reiterate that invitation, and I hope Minister Fraser will join us soon.

On Bill C-14, we will need to hear from the minister on that specifically. I hope that, when he testifies to that, he will address why he is trying to tweak the principle of restraint instead of getting rid of it and why he is trying to skirt around the edges of the core problem that has been identified by so many people in this country who have come before this committee and other stakeholders and communities all over: that you can draw a direct line between the principle of restraint and the revolving-door bail system that has resulted in criminals getting released on the streets over and over again, sometimes hours after they've been arrested.

It is interesting that in the last week, the Ontario government came out with an approach that I think is important—and I would actually love to hear testimony from the Ontario Solicitor General on this—which would reimpose cash bail. This was identified by a couple of our witnesses on the bail study, and I suspect it would come up during Bill C-14, because one of its major shortcomings is not dealing with the surety system. It actually makes no changes to the surety system, in which you have criminals vouching for criminals and you have unenforceable bail conditions. It does not change that at all. That would be important to hear, because bail conditions and sureties are a crucial part of the bail system. I would actually say that we could learn a little bit from what various provinces are doing.

Again, it's a cross-partisan consensus. Wab Kinew, who's the Premier of Manitoba, is a New Democrat, so I suspect he and I disagree with each other on a lot of things. He had a harder line on what we should do with people who peddle in child sexual abuse and exploitation material. I believe his exact line was that they should be buried under the jails.

● (1645)

From the Liberals, we got six hours of obstruction and handwringing instead of passing a very simple motion. I said, Chair, that we should actually invite or reiterate our invitation to the justice minister. He's apparently watching, because he's tweeting about this committee meeting right now. Minister Fraser says, “Conservatives are...obstructing the Justice Committee to prevent it from advancing laws to address hate crimes”. It's interesting. The minister has time to watch this committee, but he doesn't have time to visit the committee and testify on his mandate and priorities.

We are not obstructing. We are making an important point here, which is that we cannot stand for censorship shoehorned in under the name of expediency and under the guise of combatting hate, when this is a Liberal government that has no moral authority to do anything connected to freedom of expression. It certainly has no moral authority to take a stand against anti-Semitism when the Liberals have been criticized by members of the Jewish community for allowing anti-Semitism from within the party. I remember when Irwin Cotler, a lion of Canadian politics and one of the most vocal advocates for Jewish rights and human rights in the world, argued that Mr. Anthony Housefather, who's been very engaged in the Bill C-9 study, should leave the Liberal caucus over his position on these critical issues. I think there are a number of things that show that we should not, to quote the finance minister, take any lessons from the Liberals on these issues.

If we are to engage in a genuine discussion of what Bill C-9 seeks to do, it must be responsive to the witnesses we've already heard from, who have been talking about the assault on civil liberties embedded in Bill C-9. That's a very important part of this. More importantly, we need to hear from other witnesses who have wanted to come forward and share so many crucial things. Again, the calls have been coming from indigenous groups, from Muslim groups, from LGBT groups, from Jewish groups, from individuals, from legal scholars and from civil liberties activists.

Mark Joseph from The Democracy Fund came here and submitted a brief on Bill C-9, which was authored alongside Adam Blake-Gallipeau, who is a senior litigation counsel for The Democracy Fund. Mark Joseph is the litigation director there. They offered some positions that I think were very important to have heard regarding the section of Bill C-9 dealing with wilful promotion of hatred, terrorism and hate symbols.

What's interesting here—and we heard similar testimony from the lawyer who joined us from the Canadian Civil Liberties Association about this—is that there is already a provision of the Criminal Code that can prosecute someone for displaying a hate symbol. I believe it was when I was questioning Minister Fraser, I can't recall precisely, that I mentioned there was a case in my own riding, just outside of St. Thomas, Ontario, in which a man was charged with hate propaganda—with incitement, rather—under section 319 of the Criminal Code. One of the reasons he was charged was that he had a swastika mowed into his lawn, which was very distressing to the community, so police laid a charge. Not only did they lay a charge, but they would have done so with the Crown's consent. Because it was a section 319 charge, they had to lay that with the consent of the Attorney General.

This tells us two things that are very important about Bill C-9. Number one is that hate symbols can already form the context that is used to lay a charge against someone for hate. Number two is that the Attorney General consent requirement is not a veto on these charges. The Attorney General consent requirement actually is part of a necessary stopgap that prevents abuse. It gives law enforcement an opportunity to get some counsel on this that they may need before they lay a charge, knowing how high the stakes are when you're charging someone for what may be political expression, when you're charging someone for what they say, what they do or, in this case, what they mow into their lawn.

We already have authorities under criminal law in Canada that have been underenforced. We have authorities that prevent people from being able to block access to a synagogue or a school. We have mischief against religious property. We have charges that deal with incitements to genocide. I know we've heard from witnesses about some of these incitements to genocide when people have gotten up and called for intifada, which is very violent rhetoric against Jewish people. People have chanted “from the river to the sea”, which is literally calling for the eradication of Israel—the only Jewish state in the world. The questions we should be asking are about why law enforcement has not been laying charges that they are legally authorized to. A lot of that comes back to political leadership.

● (1650)

To return to the brief that we received from The Democracy Fund on hate symbols, I shared that bit of context just to establish that hate symbols are already things that can attract charges under section 319. What they say in this brief is that individuals have been charged under section 319 for the display of a hate symbol. They weren't referring to the case in St. Thomas. They were referring to another case, in January of last year, where a man who held what police called a “terrorist flag” at a protest was charged with hate crimes under existing laws before Bill C-9 was even a twinkle in this government's eye, before this government even existed, a government that so often tells us it is a new government. On the display of the Nazi hakenkreuz, I realize there is some contention around whether one can or should call it a swastika, but that is, again, something that can be and is often informative to the decision by police with the Attorney General's consent to laying a hate charge.

The Democracy Fund raised what I believe is one of the most crucial objections to Bill C-9, which is the way it redefines what hatred is. This is when we can go far beyond, and we must go far beyond, the Liberals simply saying that they are trying to just clean up some laws and trying to add some more clarity. There is no clarity given. This is a new definition. It departs significantly, The Democracy Fund writes, from the definition used by courts since Keegstra, and I would note that the Keegstra definition has been reaffirmed in subsequent cases. In the bill, hatred “means the emotion that involves detestation or vilification and that is stronger than disdain or dislike”. In Keegstra, it is an “emotion of an intense and extreme nature”—not just “extreme”, as I mentioned earlier—“that is clearly associated with vilification and detestation.” We have the and/or distinction, and we have “intense and extreme” versus simply the emotion.

I realize these are emotional subjects. I realize it's emotional when we're talking about people who are saying things that are incredibly hurtful. I do not take the position I do on this because I'm defending calls to genocide. Quite the contrary, I want people who break the existing laws to be enforced to the fullest extent of those laws. But what I do not support, and no Canadian who values freedom of expression could ever say they support this, is trying to cast a wider net on political expression that may be offensive but is also what freedom of expression means.

Again, freedom of expression does not exist for the benign. It does not exist for things that are not controversial. Freedom of expression protections exist precisely for things that are. I look at how we have changed, how society has changed on so many social norms. There was a time when Tommy Douglas, who was a lion of socialism in Canada, a lion of the New Democrats, said in a prime ministerial debate that homosexuality was a mental illness. That was a progressive view at the time, and now we have a situation in which we all realize the importance of equal rights for people of all sexual orientations.

This is something that shows how what is controversial in one era is a norm in another, and we only get there when we have the ability to engage in debate and discussion. Again, courts have reversed themselves as well. I mentioned Beverley McLachlin. It was about 30 years ago or so that the Supreme Court ruled there was no right to die by MAID. Then you fast-forward from the Rodriguez decision to the Carter decision and the court has a different view because norms change over time. We should not be stymying debate and discussion when that is arguably the most important freedom and liberty that we have in this country.

I'll move to my second point now. Where we go from there is that if we do not take a stand now, an unequivocal stand, and draw our line in the sand and defend freedom of expression, we are going to allow a government that has shown a reckless disregard for civil liberties to offer more unchecked power. These erosions happen gradually, but they are very difficult to reclaim. I note what was argued by Christine Van Geyn of the Canadian Constitution Foundation, whose testimony I mentioned earlier.

● (1655)

It isn't just that more people will be charged under section 319, or potentially under the Canadian Human Rights Act or potentially under the Canada Labour Code. My colleague Mr. Baber has pointed this out—the incredible risk of applying this definition to all federal statutes. That, in and of itself, is quite interesting. This is not a case where we should ever put the power to government and just hope that they won't abuse it. I believe this was from an interview with Maya Angelou: “when people show you who they are, believe them”. The Liberal government has shown us who they are time and time again, including with the Emergencies Act.

I had the great privilege of interviewing Dr. Maya Angelou, back when I was in radio, and I'm having some déjà vu today. The late poet Maya Angelou had an incredible view about the human spirit and artistic freedom. It's interesting that when you look at artistic freedom, some of the most vocal critics of the online harms act when it came up were people on the left. Margaret Atwood is someone I would put right up there with the British Columbia Civil Liberties Association. I don't think anyone has ever confused Margaret Atwood with being a Conservative. If she were ever to run for office, I do not believe I would be sitting anywhere near her on our side of the aisle.

Margaret Atwood understands a thing or two about authoritarianism. She wrote *The Handmaid's Tale*, a book that was adapted into a TV series, which I believe they filmed in Cambridge, the riding held by my colleague Connie Cody. *The Handmaid's Tale* shows an extreme example of what happens when an authoritarian state expands its power. As we saw in that, it did not happen immediately; it happened gradually, so we have to be very careful about things that look like they are inconsequential, things that look like they are benign but actually are not.

I'll go to our point on—

Anju Dhillon (Dorval—Lachine—LaSalle, Lib.): On a point of order, Mr. Lawton has been continuing with this Conservative filibuster, and I'd like to point out that we have members of the very communities—

Garnett Genuis: I have a point of order, Chair.

Anju Dhillon: —he is talking about sitting in the audience—

Garnett Genuis: I have a point of order, Chair.

Anju Dhillon: —wanting this bill to go forward. There are—

Garnett Genuis: Chair, I have a point of order. This is not a point of order.

Anju Dhillon: —officials here who are ready to help us proceed with clause-by-clause, and everything he—

The Chair: I can't determine whether it's a point of order if I can't hear it, can I, Garnett?

Park it for a second, and I'll get to you.

Ms. Dhillon.

Anju Dhillon: This is out of respect for our audience members who are here wanting this bill to go forward and not comprehending what is going on right now. It's a Conservative filibuster to block the clause-by-clause so that this bill can't go forward.

The very organizations and communities you've mentioned are all in the audience looking at you. They're all here. They've left their work, left whatever, to assist this committee and to see this bill move forward. We have officials here who would like to see the clause-by-clause go forward. Please, can we do that? I think this is going nowhere. What you're saying is just circular reasoning.

Can we move forward, please, with clause-by-clause?

Thank you.

The Chair: Mr. Genuis, you'll have a point.... If my ruling is not what you think it should be, you can ask me to change that.

Ms. Dhillon, that's not a point of order, technically. I do realize there are witnesses here who came in to listen to clause-by-clause, and we should, as a committee, be respectful of that. Again, while your point was respectful, it's not a point of order.

Mr. Genuis, do you want to say anything about that?

● (1700)

Garnett Genuis: Chair, as you correctly said, it's not a point of order, but also, Ms. Dhillon has really insulted our guests today by claiming that they don't know what's going on. She has also imputed opinions about the legislation to the officials, claiming they want something or other to happen.

Anju Dhillon: No, they don't understand why we're not moving forward. That's why they're here. You're just—

Garnett Genuis: Ms. Dhillon, I think the folks in the audience are very sophisticated people. I think they—

Anju Dhillon: —making things up as you go along. You were sitting in the back. You don't know.

Garnett Genuis: —have been at these parliamentary committees before.

The Chair: Order, please, both of you. That's enough.

Garnett Genuis: Mr. Chair, you chastened me for speaking during her point of order. I suspect you will now chasten her—

Anju Dhillon: You still kept talking, though, so I'm going to do the same thing now.

Garnett Genuis: —for doing the same.

The Chair: Ms. Dhillon, that's enough.

Just finish your point, please, Mr. Genuis.

Garnett Genuis: As I was saying, Ms. Dhillon has been very disrespectful to our guests—

Anju Dhillon: No, I'm not. You have been disrespectful. Your whole Conservative caucus right here has been very disrespectful.

Garnett Genuis: —by suggesting that they are not sophisticated enough to understand how parliamentary committees work. She has also suggested that they want certain things or don't want certain things. I don't think that's fair to them. I don't think it's fair to the officials. The officials are here to do their jobs, to answer questions. They're not here to express opinions.

Anju Dhillon: They're not here to be abused.

Garnett Genuis: I think Ms. Dhillon should apologize for the comments she made about the guests who are here at the committee.

The Chair: Thank you, Mr. Genuis.

We'll cede the floor back to Mr. Lawton.

Andrew Lawton: Thank you.

Again, it was quite interesting hearing Ms. Dhillon use people as political props for that point she was making. There were a number of stakeholders who—

Anju Dhillon: On a point of order, that's not what I'm doing. I'm trying to show respect to our audience members who are here. I just acknowledged them being here.

Andrew Lawton: That's not a point of order, Chair. That's a matter of debate.

Look, the reason I bring this up is that we have members from a variety of communities here whom I have not actually seen testify before this committee. If these witnesses are so invested in Bill C-9, and I hope they are—I hope all of us are—why have the Liberals not allowed us to do a proper study on Bill C-9? Bring these people here who have not testified. It includes some of them, although I can't see everyone over there. Bring them to testify as witnesses and have the consultation on Bill C-9 that we were supposed to have. This is precisely the point we're discussing.

Now the Liberals have invited all of these stakeholders for a clause-by-clause, which they themselves forced, before this committee finished the work it needed to do on Bill C-9. While I definitely understand the circumstances that have led to the bill, I don't actually believe I have gotten a single constituent email urging the speedy passage of Bill C-9. I have had emails from more constituents than I can count—as an MP, not as a member of the justice committee—saying that we must stop this bill. They understand what the Liberal members choose not to: This bill will attack freedom of expression.

When you want to force something through quickly that does not have cross-party consensus, it's only because you are concerned about what will be revealed when proper scrutiny and study are actually at stake. I believe if you went back to the three meetings we were allowed to have on Bill C-9, you would hear from our witnesses very little support for what Bill C-9 has actually done. Even witnesses who were conceptually supportive of Bill C-9 believed it needed changes—changes that are so fundamental they would alter what the bill actually is.

If the Liberals believe this bill needs to be passed immediately, then they have to replace it with a bill that does not do what has been so alarming to people from left and right and from religious groups representing a range of religions. You have members of the Indian community who feel very personally targeted by this bill and feel that their religious freedom will not be protected. In the course of debate, we have talked about changing the Criminal Code—by the way, even beyond what Bill C-9 seeks to change—to remove the religious defence under section 319. In the course of discussion, when people see a member of Parliament refer to verses of scripture as potentially hateful, then all of a sudden religious people in Canada feel like they're going to be targeted by Bill C-9. I don't understand how the government believes that a bill designed to attack hate against religion can do so by inciting hate against religion and, more importantly, against people who themselves are religious, which is the majority of Canadians.

You know, we often heard Justin Trudeau talk about how diversity was our strength as a country. If you read through census data, not just in any of the constituencies we represent but across the country, you'll see a range of religious backgrounds and belief systems. You'll see denominations you never knew existed. That's because we have such a diverse array of political and religious beliefs and cultural backgrounds and languages. If we take a stand for religious freedom, then we take a stand for all religious freedom. People's religious beliefs influence their political beliefs, including their beliefs on, in some cases, geopolitics. We've seen this at issue with regard to what's been happening since October 7. We should be able to, in a free society, have these discussions and have these debates. We should be allowed to engage in the dialogue we need to have in order to reach the political conclusions we need or the societal standards we want to employ.

Look, John Stuart Mill wrote *On Liberty*, one of the most seminal pieces on freedom of expression. Mill was far more of a utilitarian than I am, but one thing he did so eloquently in *On Liberty* was talk about what freedom of expression gives us and the value of speaking with someone with whom you disagree. What Mill wrote was that you speak to someone you disagree with, and then what they do is perhaps tell you that you're wrong. Maybe you go over to their perspective. Maybe you find a middle ground that you didn't know existed. Maybe the act of debating and defending your position reinforces your beliefs. No one loses when we have the freedom to engage in that dialogue.

● (1705)

It's interesting that, ironically, we're talking about freedom of expression here, about free speech and the right for people to speak their minds, and Ms. Lattanzio is tweeting about how she doesn't want me to have a right to speak. She doesn't want me to speak about these issues, issues that have been raised by Canadians from far and wide about concerns they have on Bill C-9.

The Liberals may wish to do what they're doing for social media clicks here, but the point is that we cannot take at face value what they are telling us, because, to go back to the Emergencies Act, they have shown an unwillingness to accept a Federal Court decision that told them that they broke the law. They have been found to have violated the most supreme law in this country, the Constitution of Canada.

Bill C-9, cloaked in noble intentions, is the gateway to U.K.-style social media policing. We've heard from the minister that it applies to what you see and say online. We saw the Liberals try to ram forward clause-by-clause consideration while denying us two crucial meetings, six hours of witness testimony and, by their own admission, plenty of witnesses here, engaged in the bill, who have not had the opportunity to testify yet. I read through the list of some of them—dozens and dozens of witnesses, witnesses proposed by Liberals, witnesses proposed by Conservatives.

There is an internal incoherence. One of these prospective witnesses we didn't get to hear from, Brian Doody, who I believe is a lawyer, talks about the “internal incoherence”. He says that we would have sections in this law that belong in other sections of the Criminal Code. He doesn't believe it was properly done.

From the Hindu Canadian Foundation, we had concerns regarding the use of the word “swastika”, a word that appropriates a very sacred symbol for them, an ancient Sanskrit word, and concerns they have about things that resemble other things.

We had also, from Canadian Women Against Antisemitism, a written submission on Bill C-9 by Talia Klein Leighton. She submitted this brief in which she talks about the “ever-growing crisis of antisemitism and antizionism.” She says these have “found amplification in schools”.

In one of those three meetings when we were doing witness testimony, we had a witness here who represented the Canadian Teachers' Federation. I hadn't read a brief from the Canadian Teachers' Federation, so I didn't know at first why they wanted to testify about Bill C-9. I was quite surprised when I learned it was because they were worried that teachers were subject to hate right now, and that this was going to be answered by Bill C-9. That witness had never heard of a report by the federal government talking about hate in schools, some of which comes from schools themselves, and in some cases from teachers. The witness hadn't heard of that.

There is no objection from Conservatives to the idea that hate is a scourge in society. There are some very different beliefs on how to handle it. There are proposals from the Liberals to actively expand what the state is permitted to censor, and there are proposals from the Conservatives to enforce the law: Do not stand for people calling for violence on the streets. Do not stand for people who believe inciting genocide is their freedom of expression. Do not stand for people who are repeatedly terrorizing Jewish community members in this country.

As someone who's been to Israel twice, as someone who has always been a supporter of the Jewish people, a supporter of the Jewish state, I'm very aware that there are members of the Jewish community who believe Bill C-9 should pass, not because they think it's a good bill but because they are desperate for something from this government. That has been a message that I've heard, not just from stakeholders at the national level but also from people I've spoken to in my riding, people who are incredibly concerned and realize that the community is reeling.

Again, they are not trusting this government. They do not trust this government. They simply believe that something needs to happen, and they're taking this little bit of breadcrumb that the Liberals are throwing them because the Liberals are trying to mask their failure to deal with this issue substantively.

● (1710)

You know what, I applaud my colleague Mr. Baber, who I believe is next to speak on this motion that is before us right now. He has tried to deal with this issue in a responsible, targeted way with Bill C-257, an act to amend the Criminal Code pertaining to “promotion of terrorist activity or group”. This bill is one that the Liberals should get behind. Unlike Bill C-9, Bill C-257 does not change the definition of hate speech. It does not allow for this incredible mission creep by people who may have authoritarian impulses to rein in freedom of expression. It specifically narrows itself to those who wilfully promote terrorist activity, terrorist groups or the activity of terrorist groups.

It's shocking that in 2025 such a bill is necessary. It's shocking that there has been such a blind eye turned in communities across the country to open, overt support for terrorists, for terrorist groups and for terrorism.

I was speaking to a witness on this committee. I forget the name of the organization, but he acknowledged a flaw in Bill C-9. I didn't agree with his characterization, but I thought he had a right to express his opinion on this. He was speaking about the issues with tying hate symbols that are banned to the list of terrorist entities. On that list of terrorist entities, he said that it was a very flawed process. I asked him if Hamas belonged on the list, and he wouldn't give an answer. He wouldn't say whether Hamas was a terrorist group or not.

We do have some belief systems that we need to combat, but the way we combat this is by engaging in debate, engaging in discussion and engaging in dialogue.

It's interesting. The Liberal government is trying to shame us into passing bad, dangerous legislation. We are not going to back down on standing up for civil liberties. We are not going to back down on standing up for freedom of expression. We are not going to back down on standing up to a bill that does the very thing it claims to stop, especially if amendments, which I suspect will be forthcoming given the dialogue that has happened on this committee, come forward that further erode religious freedom.

I go back to former prime minister Justin Trudeau, who, interestingly, said it was understandable that someone might want to burn a Christian church in Canada. That was echoed by his former principal secretary, Gerald Butts. I believe his line was “fully understandable”. I do not believe anyone in this House of Commons would ever say the same thing had a synagogue been burned or had a mosque been burned—nor should they—to justify people who want to inflict significant harmful damage to religious institutions and, by extension, terrorize people who adhere to those religions. Some of those ideas are embedded in the discussions we hear about how to combat hate.

I believe the Liberals need to shed the partisan games on Bill C-9. Do not force something through that we are clearly not ready for. Allow the proper study of it. Also, align the priorities with the mandate of this committee.

The reason we were denied witness testimony on Bill C-9, and the reason we were not able to hear from witnesses for six hours—and I'm actually shocked by this—is that the Liberals decided to filibuster on a motion condemning the Supreme Court decision that condemned a mandatory minimum sentence of one year for people peddling child sexual abuse and exploitation. My goodness, if I had told anyone ahead of time that motion was going before this committee, they would have said, “You know what, that should take 90 seconds. You can read the motion, everyone will throw their hand up and support it, and you can move on to Bill C-9.”

I am a new member of Parliament. I'm still learning the ropes of how some of the rules and regulations around this place work. I realize that you have only a finite amount of time in the House of Commons and in committee to deal with certain things. I realize it's frustrating when you have an agenda that's scheduled for one thing and you need to deal with another thing that has come up.

We didn't know when we started our study of Bill C-9 that the Supreme Court was going to decide to stand with pedophiles in the way that it did. By extension, we didn't know that the Liberal government was going to similarly decide to stand with pedophiles, but that's what happened. As a committee dealing with justice, we had to deal with that. I had hoped we could do it across party lines expeditiously. It was the Liberals' refusal to stand for a mandatory minimum sentence of one year on child sexual exploitation and abuse that led to blowing up the calendar for two meetings on Bill C-9: three meetings total and nine hours that we could have been dealing with genuine justice issues. Instead, we were dealing with procedural wrangling, and ultimately it ended with—if anyone saw the last meeting—the Liberals supporting it because they thought they were voting on the amendment. It's not even like they could filibuster all that effectively.

● (1715)

This is where we look at our priorities as a country, our priorities as a party, our priorities, frankly, as Canadians who care about justice, who care about law and order, who care about the Constitution and the freedoms it protects, and who understand that victims have rights as well. Children have rights. Victims of crime have rights.

In my motion—the Liberal government, I hope, will adopt this motion when it goes before a vote, and I suspect there may be some others who wish to speak to it—we are arguing for prioritizing Bill C-14. I've spoken to police in my riding and across the country, and when they say what are the crucial public safety issues they need action from this committee on to protect the streets and protect communities, they don't say, “We are worried about what people are saying online.” They say, “We're worried that we're arresting people and they're getting released on bail by a justice of the peace, and then we're rearresting them hours later.”

Bill C-14 should have been the very first justice bill. In fact, I'd say it should have been Bill C-2. Bill C-2, interestingly, on civil liberties, was the bill that the Liberals decided was supposed to be about border security, but in the end was about banning cash transactions, allowing warrantless search of letter mail, and all of these other bizarre things that had nothing to do with border security. Bill C-2 should have been the bail bill.

That's what the priority should have been, but again, the government gets to set the agenda. The government has decided to set an agenda that does not at all align with where Canadians are. We cannot and will not pass bad law that censors what Canadians do simply because the Liberals are saying, just trust us. Because of this arbitrarily imposed calendar, clause-by-clause consideration, which was imposed without discussion, without debate, without an opportunity to debate, because the meeting was adjourned two hours early on Thursday, and with limited time to hear from witnesses....

By the way, I'm allowed to reveal this because it was going to be one of our motions. We had issued notice of a motion that we were going to table to extend the Bill C-9 study. When you put a motion on notice, it doesn't become public, but all members of the committee see it. I have to wonder if the reason we adjourned early was that the Liberals didn't want to have to say no to that motion, which would have been tabled, and vote against allowing more testimony on Bill C-9. I've been hearing from witnesses who have been very concerned that they didn't get the opportunity to have their say. As early as this morning, I had a phone call from a stakeholder who was hoping to be able to testify and was wondering if there might be a last-ditch chance to get in, and could not because, again, of this artificially imposed deadline.

Again, we could have had more information. We could have had more witness testimony. We could have had more insights had the Liberals not decided that one year was too cruel and unusual a punishment for people who traffic in child sexual exploitation and abuse material. I find it shocking that that was what they decided was their hill to die on. My hill to die on is freedom of expression. This Liberal government has shown reckless disregard for that. When we engage in work as a committee, we are the gatekeepers between law that has not been scrutinized, has not been vetted, has not been analyzed, and things that are passed by this House of Commons. When you try to aggressively and wrongfully accelerate the committee process, what you are doing is denying Canadians the opportunity to improve bad law or, in some cases, to gut terrible law. When you try to speed up that process, it is either because you do not care what Canadians have to say or, more importantly, because you know what they're going to say. This is precisely what's happening on Bill C-9. We have an artificially imposed deadline that we cannot meet and will not meet, because we do not have the adequate information.

● (1720)

Where we go from there, I don't know. I hope that we can agree to this programming motion that we have put forward, a motion that will allow us to reset this committee's priorities. I hope that we will be able to prioritize the study of Bill C-14, the bail and sentencing reform, which itself will need a considerable amount of work. I'm hoping we can, in the spirit of collaboration, proceed with that and with the Bloc's study on judicial appointments. In doing so, run them concurrently, reiterate to the Minister of Justice his outstanding invitation to appear to discuss his mandate and priorities—not just the one priority he wants to discuss, which is Bill C-9, but all of his priorities.

I believe we had also issued an invitation to the public safety minister, who has not yet taken us up on that offer. We know public safety and justice are very intertwined. There are a number of things that I think we need to hear from the public safety minister on. One of them is whether he has managed to figure out, in the last few months, what a firearms licence is. These are crucial questions that I think should be asked of the minister responsible for confiscating firearms from law-abiding gun owners, and, by extension, directing police resources to do anything other than uphold bail conditions.

We are here at this committee because the Liberals could not make a very simple yes vote to denounce, in no uncertain terms, the Supreme Court decision that found that a mandatory minimum for someone who uses child sexual exploitation and abuse material is cruel and unusual punishment. That should have been almost an instantaneous, unanimous decision by this committee—and it was not.

Anthony Housefather: I have a point of order.

Mr. Lawton ignores the fact that the reason that people couldn't vote for it was that he demanded to use the notwithstanding clause—the clause that takes away the rights of Canadians for no apparent reason when you could have legislative solutions that don't.

An hon. member: That's debate.

Anthony Housefather: He's mis-characterizing the entire thing. I know that's not a point of order, but I'm not going to let him get away with mis-characterizing what happened when the Conservatives filibustered Bill C-9, and continue to filibuster Bill C-9.

The Chair: Thank you, Mr. Housefather. There can be debate.

Mr. Lawton, you have the floor.

Andrew Lawton: There could have been consensus on this. The reason we put forward a motion that invoked the notwithstanding clause, or called on the government to do it, was that we need to protect against judicial activism, as was clearly the case in the initial trial court decisions in Quebec, and then the ultimate decision that came from the Supreme Court.

This is a crucial issue. We are not going to stand for a government that wants to hijack what Canadians care about, hijack the country's agenda to put forward its own attack on civil liberties. That is what this is about. That is why we are introducing this motion and why I have introduced this motion to reset the committee's work.

I seek support from members on this motion, but I realize I've gone a couple of moments over where I was going to with my remarks, so at this time I would move to suspend this meeting.

● (1725)

The Chair: Is everyone in favour of suspending?

Some hon. members: Agreed.

The Chair: We're suspending, with apologies to witnesses and guests here today.

[*The meeting was suspended at 5:25 p.m., Thursday, November 27*]

[*The meeting resumed at 3:34 p.m., Tuesday, December 2*]

The Clerk of the Committee (Christine Holke): Honourable members of the committee, I see a quorum.

Pursuant to Standing Order 106(3)(a), as the clerk of the committee I will preside over the election of the chair.

I must inform members that the clerk of the committee can only receive motions for the election of the chair. The clerk cannot receive other types of motions, cannot entertain points of order and cannot participate in debate.

[*Translation*]

We can now proceed to the election of the chair. Pursuant to Standing Order 106(2), the chair must be a member of the government party.

I'm ready to receive the motions for the chair.

Ms. Lattanzio, you have the floor.

Patricia Lattanzio: Madam Clerk, I would like to nominate my colleague, James Maloney, for the position of chair of the committee.

[*English*]

The Clerk: Are there any further motions?

[*Translation*]

I'll now put the motion to the committee. It has been moved by Ms. Lattanzio that Mr. Maloney be elected chair of the committee.

[*English*]

Is it the pleasure of the committee to adopt the motion?

(Motion agreed to on division)

The Clerk: I declare the motion carried and Mr. Maloney duly elected chair of the committee.

Some hon. members: Hear, hear!

The Clerk: I invite Mr. Maloney to take the chair.

[*Translation*]

Thank you.

[*English*]

The Chair (James Maloney (Etobicoke—Lakeshore, Lib.)): You will have to bear with me. It's been a few years since I've chaired a committee.

I see that we have some hands up over here. Mr. Housefather and Ms. Lattanzio, I will put you on the list.

First of all, I do thank you. I've had the good fortune of chairing a committee in the past. It's a privilege I take most seriously. I think, or I hope, that the people I have served with on the committee in this capacity before will tell you that I've gone out of my way to be fair and reasonable. That is my approach to everything. I will continue to do that. You have my commitment to work with all of you on the same terms, regardless of party. I look forward to continuing the good work of this committee on the cordial basis that we have had for some time.

Before I get to the speakers list, I would like to call this meeting to order. Welcome to meeting number 13 of the House of Commons Standing Committee on Justice and Human Rights.

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders. Members are attending in person in the room and remotely using the Zoom application. I would ask all in-person participants to consult the guidelines written on the cards on the table. These measures are in place to help prevent audio feedback incidents and to protect the health and safety of all participants, including and especially the interpreters. You will also notice a QR code on the card, which links to a short awareness video.

I'm going to have to take a lot of direction from the clerk. It's been a while, as I said.

The meeting agenda provided only for the election of the chair.

Mr. Housefather, I saw that you had your hand up, so I will go to you.

Andrew Lawton: I have a point of order.

Anthony Housefather: [*Technical difficulty—Editor*] to clause-by-clause consideration of Bill C-9, Mr. Chair.

The Chair: Thank you, Mr. Housefather.

That's a dilatory motion, as I recall the rules.

Andrew Lawton: I have a point of order, Chair.

The Chair: I heard you, Mr. Lawton. You will be heard.

Andrew Lawton: A point of order requires immediate consideration.

The Chair: I'm familiar with that rule too.

Andrew Lawton: Do I have the floor, then?

The Chair: No, you don't. You'll have the floor when I give you the floor.

We'll get along just fine if we both respect each other's opportunity to speak.

Andrew Lawton: If you respect the rules, sir, we'll get along a lot better. I have a point of order.

The Chair: If you're going to start challenging my integrity right out of the gate, Mr. Lawton, we are not going to get along very well. As I said at the outset, I intend to be fair. I will always be fair. Comments like that are not going to help.

Mr. Housefather has tabled a motion. It is a dilatory motion, which, as I understand the rules, is required to be voted on with no debate.

I'm going to call that motion for a vote—

Andrew Lawton: Chair, you are actually ignoring the rules of this committee right now.

The Chair: I am not ignoring the rules, Mr. Lawton.

Andrew Lawton: Chair, if you will acknowledge the 44th Parliament Standing Committee on Foreign Affairs and International Development meeting of May 16, 2022—

The Chair: Mr. Lawton, I have called the vote. That is my ruling.

We're going to take the vote, and I'm going to ask the clerk to do that right now.

Thank you.

[*Translation*]

Rhéal Éloi Fortin (Rivière-du-Nord, BQ): Mr. Chair, could you read the motion before we proceed to the vote?

[*English*]

The Chair: Hold on, Mr. Fortin. Just bear with me.

I'm sorry. Go ahead, Mr. Fortin.

[*Translation*]

Rhéal Éloi Fortin: Thank you, Mr. Chair.

First, let me congratulate you on your election as chair. Welcome.

I wanted to know whether it was possible to read the motion that we're about to vote on.

[*English*]

The Chair: I think the easiest thing to do is to get Mr. Housefather to repeat it, since it's his motion.

Anthony Housefather: Yes, Mr. Chair.

I moved that the committee move to clause-by-clause consideration of Bill C-9.

The Chair: Thank you.

(Motion agreed to: yeas 5; nays 4)

The Chair: The motion passes, so we'll now move to clause-by-clause consideration of Bill C-9.

Andrew Lawton: I have a point of order.

The Chair: We're going to suspend for a moment to allow our legislative people to come and our witnesses to attend.

Mr. Lawton, I will hear you at that point.

● (1540)

_____(Pause)_____

● (1545)

The Chair: I call this meeting back to order, please. If you could take your seats, I'd be grateful.

Pursuant to the order of reference of October 1, 2025, the committee is meeting to proceed to the clause-by-clause study of Bill C-9, an act to amend the Criminal Code regarding hate propaganda, hate crime and access to religious or cultural places.

Andrew Lawton: I have a point of order.

The Chair: Just bear with me.

I would like to provide the members of the committee with a few comments on how committees proceed with the clause-by-clause consideration of a bill. I know that most of you are familiar with it, but there are some new members.

Roman Baber: I have a point of order, Mr. Maloney.

The Chair: I'm taking note. Thank you, Mr. Baber.

Roman Baber: That's not how a point of order works, Mr. Maloney.

The Chair: I'm familiar with how they work, Mr. Baber.

Roman Baber: Well, then you would grant the floor to my friend Mr. Lawton.

The Chair: Once I finish the opening remarks, I will get to you.

As the name indicates, this is an examination of all the clauses in the order in which they appear in the bill. I will call each clause successively, and each clause is subject to debate and a vote.

If there are amendments to the clause in question, I will recognize the member proposing the amendment, who may explain it. The amendment will then be open to debate. When no further members wish to intervene, the amendment will be voted on. Amendments will be considered in the order in which they appear in the package that each member received from the clerk.

In addition to having to be properly drafted in the legal sense, the amendments must also be procedurally admissible. The chair may be called upon to rule amendments inadmissible if they go against the principle of the bill or beyond the scope of the bill, both of which were adopted by the House when it agreed to the bill at second reading, or if they offend the financial prerogative of the Crown.

During debate on the amendment, members are permitted to move subamendments. Only one subamendment may be considered at a time, and the subamendment cannot be amended.

Once every clause has been voted on, the committee will vote on the title and the bill itself, and an order to reprint the bill may be required if amendments are adopted so that the House has a proper copy for use at report stage.

I thank the members for their attention and wish everyone a productive clause-by-clause process.

I would also like to welcome our witnesses back, as the case may be, from the Department of Justice. We have Chantèle Ramcharan, deputy director general and general counsel, criminal law policy section; Joanna Wells, senior counsel, criminal law policy section; and Marianne Breese, counsel, criminal law policy section.

Thank you for being here today, and I will thank you in advance for your indulgence for what will likely be an interesting meeting.

We are into clause-by-clause now, but as I told Mr. Lawton, I will hear his point of order.

Andrew Lawton: I hope that the clerk can provide you a reference on how to acknowledge points of order, Chair.

This was, as you acknowledged in your opening remarks, the resumption of the 13th meeting of this committee. We suspended at our last meeting, and that means there was an item under consideration, which was a programming motion on this committee's work. I realize we had to elect a new chair, and I congratulate you on winning that race. However, there is precedent. If you consult the previous ruling from the Standing Committee on Foreign Affairs and International Development meeting of May 16, 2022, the election of a chair does not constitute a substantive motion; thus, after the chair is elected, the previous matters of business continue.

The dilatory motion that Mr. Housefather moved and that we voted on was out of order. We are still on the programming motion introduced at the last meeting. There is precedent to that effect, pursuant to the rules of this committee, and under that I would have the floor as I did when the meeting was suspended.

The Chair: Thank you, Mr. Lawton.

In fact, the ruling is that debate on your motion was adjourned because of the resignation of the chair and the election of a new chair, which is why I opened the floor for motions.

Andrew Lawton: That is not what the precedent says.

The Chair: I am familiar with precedent, Mr. Lawton.

I'll say this one last time: You are free to challenge my rulings, as is your right, but don't challenge my integrity.

Andrew Lawton: I'm not challenging your integrity; I'm challenging your knowledge of the rules, but I will challenge the chair's ruling.

The Chair: You're free to do that.

Roman Baber: I have a point of order.

The Chair: There's a challenge to the chair, Mr. Baber. We'll deal with that and then we'll move on.

The Clerk: The question is that the chair's ruling be sustained.

(Ruling of the chair sustained: yeas 5; nays 4)

The Chair: We'll move to clause-by-clause.

Garnett Genuis: On a point of order, Mr. Chair, Mr. Lawton mentioned a precedent, and I wanted to share that this precedent actually involved me. It involved a chair who resigned as a member of Parliament, and it was in the middle of a meeting when the meeting was suspended.

Mr. Spengemann was the chair at the time, and Mr. Ehsassi was elected to the chair. My view previously had been that, effectively, the election of the chair led to the adjournment of the previous item—

The Chair: Mr. Genuis, I'm going to interrupt you.

This is the same point of order.

Garnett Genuis: Chair, it is—

The Chair: No, Mr. Genuis, just hear me out.

I've ruled on it, and an objection was noted. We voted on it, and it was upheld.

We're not going to hear the same point of order again, and you're certainly not going to re-argue something that we've already decided. We're going to move to clause-by-clause.

Garnett Genuis: Chair, it's a different point of order. Will you allow me to finish, Chair?

The Chair: It's not a different point of order, because you're arguing the same point that Mr. Lawton just did.

Garnett Genuis: Chair, you got a little bit hot when you thought people were challenging your integrity. I'm not challenging your integrity yet, but I would encourage you to be fair to all members and let me finish my point of order.

The Chair: I'll give you a very short leash, Mr. Genuis.

Garnett Genuis: Thank you, I think.

The ruling was made by Mr. Ehsassi, who is still a member of Parliament. The ruling specified—and I'm quoting directly from the minutes of the meeting.... I mean, we certainly wouldn't want a situation where Liberal chairs made contradictory rulings in different meetings based on what they considered their partisan interest.

The ruling by Mr. Ehsassi was this. I am reading from the minutes: “The Chair ruled that the election of a Chair does not constitute a new substantive question before the Committee, and that therefore the committee remained seized with the motion and amendment previously under debate.” This was the ruling of Mr. Ehsassi in exactly the same situation.

I just want to clarify—and maybe the clerk can address the committee on this—the role of precedent in the committee. Is this precedent relevant? Is it relevant that you have invented an approach that is completely opposite to what a Liberal chair did in exactly the same situation? I wonder if the clerk can address the relevance of precedent as a matter before the committee, which is, I think, a distinct issue.

The Chair: I've just consulted with the clerk. This is exactly the same point of order—

Garnett Genuis: Would you allow the clerk to address the committee on the relevance of precedent, Chair?

The Chair: Would you allow me to finish?

This is the same point of order. It's already been ruled on.

Garnett Genuis: No, it's not the same point of order, Chair.

The Chair: It's already been challenged, and it's already been upheld.

My ruling is that this point of order is out of line—

Garnett Genuis: What is your ruling on the relevance of precedent, Chair? Does precedent matter? The Standing Orders—

The Chair: We're moving to clause-by-clause, Mr. Genuis.

Thank you.

Garnett Genuis: Can I cite the Standing Orders, Chair, which very clearly say that in unprovided-for cases...? It's in the Standing Orders. Will the clerk be allowed to address the committee? In unprovided-for cases—

The Chair: Mr. Genuis, I have ruled. You're now getting into the realm of debate, which is inappropriate because you've already been ruled inadmissible and out of line.

Garnett Genuis: I have a point of order, Chair.

Have you been a chair previously? I think you have.

The Chair: So, we're going to move on to Mr. Baber's first amendment.

Pursuant to Standing Order 75(1), consideration of clause 1, the short title, is postponed.

The chair calls new clause 1.1.

Mr. Baber, I'll give you the floor.

Roman Baber: Thank you, Chair.

I'd like to put on the record that Mr. Housefather did not have the floor to move his amendment, but it seems as if the chair has decided, and any prosecution of process going forward is probably not a good use of our time.

Chair, for the last two years, members of the North York community have been subjected to unprecedented events, including harassment, threats, interference with their enjoyment of property, and more. We fully understand that the events of October 7 have given much to think about, much to discuss and much to argue about, politically and otherwise, but under no circumstances should the conflict in the Middle East spill onto Canada streets. Regrettably, that's what we've been witnessing for the last two years.

I'll formally move amendment CPC-1, reference number 13768114.

Several weeks ago, I introduced a private member's bill, Bill C-257, to amend the Criminal Code, prescribing a new criminal offence, a new section 83.171. It's about the wilful promotion of "terrorist activity or terrorist group, or any activity of a terrorist group".

The first four amendments that are put before the committee today are all my amendments that essentially seek to incorporate Bill C-257 into Bill C-9.

I'd now like to make an unusual request of a friend on the committee, namely Mr. Housefather, to waive privilege with respect to one of his amendments that he will introduce later today, to enable us to have a full discussion.

Anthony Housefather: I am fine to discuss LIB-2, which is similar to Mr. Baber's amendment, and to allow the justice officials to comment on the two. I have no problem with that.

Roman Baber: Thank you, Mr. Housefather.

I hope that our Liberal friends will afford the same co-operation and spirit with which I bring these amendments.

The original Bill C-51, which made it into the Criminal Code as part of the Harper government, had already provided for some form of criminalizing the promotion of terror. Nonetheless, in 2017, the Justin Trudeau government repealed vast parts of Bill C-51, therefore creating a gap in Canada's criminal law that effectively permits the wilful promotion of terror.

I think that quite often, when we see this on Canada's streets, we confuse it for what is clearly incitement to violence. Members of this committee have previously heard me say on the record that when someone chants "viva viva intifada" or "globalize the intifada", in effect what they're doing is inciting violence. However, it appears that law enforcement is reluctant to press such charges.

However, we see terrorist headbands. We see flags. I note that on at least two occasions charges were laid in the GTA with respect to flags—those of listed entities—and later those charges were stayed.

At the same time, we hear open encouragement on the streets, at the University of Toronto and at McGill University inviting students and residents to glorify terrorism and to glorify the events of October 7. In my view, that is incompatible with Canadian society and that should be incompatible with Canada's criminal laws.

That's why I'm proud to have introduced Bill C-257 to criminalize the wilful promotion of terrorism, specifically the wilful promotion of terror, terrorist activity, a terrorist group or the activity of a terrorist group.

Before Mr. Housefather interrupts me, I have been pleasantly surprised to learn that LIB-2, brought by my friend Anthony Housefather, seeks to do something similar, and that is to criminalize the wilful promotion of terrorism or terrorist activity. I thank my friend for liking my idea and perhaps for sharing his own sentiment that wilful promotion of terrorism should not be permitted on Canada's streets.

I'd now like to turn to a technical discussion. I'm grateful to the officials for being here, as my friend and I have some questions and concerns with respect to how such legislation should be advanced in Bill C-9. It appears that both sides agree that it should proceed in one form or another.

I have sought diligent advice from the legislative drafters who drafted Bill C-257, which was first read on November 17. There are a number of key distinctions between Bill C-257 and what are essentially amendments CPC-1, CPC-2, CPC-3 and CPC-4.

In fact, if the chair would permit me, I would effectively move amendments CPC-1, CPC-2, CPC-3 and CPC-4 all together. I'm not sure if that is the right process. If it's the will of the committee, then I believe we can do that.

The Chair: We can do it. We'll have to vote separately.

I just want some clarification from Mr. Housefather, without you ceding the floor, on how that might affect the first amendment.

Anthony Housefather: I think they're consequential from one to the other: CPC-1 through to CPC-4.

I personally have no issue if Mr. Baber moves all four, because they all tie together.

I think what he wants to do, Mr. Chair, is have a discussion on the way he's constructed it versus how LIB-2 constructs it.

The Chair: If you're comfortable with that, it's fine.

Then Ms. Lattanzio has some questions.

Go ahead, Mr. Baber.

Roman Baber: Thank you.

At least for the purposes of discussion, we now consider the first four CPC amendments moved.

To the officials and to the committee, to set the stage, when we look at Bill C-257 and when we look at the amendments before the committee, the key amendment that does what I seek to do, and what arguably LIB-2 seeks to do, is contained in CPC-2. That's the Baber amendment incorporating the key provisions of Bill C-257 to create a new offence, the wilful promotion of terrorist activity or a terrorist group, and changing the heading of the relevant section in the Criminal Code terrorist framework by including the word "Promoting" at the outset of the heading. That specific amendment to the heading is contained in clause 2 of Bill C-257.

Do the officials have a copy of Bill C-257?

A voice: We do.

Roman Baber: Ms. Breese, are you the one vested with the expertise here?

Marianne Breese (Counsel, Criminal Law Policy Section, Department of Justice): Yes.

Roman Baber: If you look at clause 2 of Bill C-257, you will see that the bill imports the word "Promoting" into the heading that begins the terrorist section. That's the key provision. CPC-2 is effectively doing what we intend to do with the heading.

CPC-1 is an ancillary or consequential provision of Bill C-257, adding proposed section 83.171 to the definition of a terrorism offence in section 2 of the Criminal Code. We know that section 2 of the Criminal Code, like most federal statutes, is a section that prescribes the definitions used through the act. CPC-1 amends the definition in the Criminal Code of specifically the phrase "terrorism offence" to include the newly created offence of proposed section 83.171.

CPC-3 is also an ancillary consequential amendment. It's consequential to the main provisions of Bill C-257, amending the definition of section 183 of the Criminal Code by adding proposed section 83.171. That is another provision in the Criminal Code that deals with definitions. Specifically, it codifies how investigations are run. The intent of the section is not to prescribe anything new. I want to be very clear. We're not inventing anything new here. We're simply saying that given that we have a terrorist offence here, it should be treated like all other terrorist offences under the Criminal Code.

Specifically, this is the one that deals with sentencing. I'm not proposing that sentencing be reformed in any way. All I'm saying in CPC-3, and what Bill C-257 is saying, is that, just like all other offences within Canada's terrorist framework are treated by consecutive sentencing, the new section will be treated in the same way. Again, I suggest that this is a necessary consequential amendment to the key operative amendment, which is really CPC-2.

Finally, CPC-4 is also a Baber amendment, ancillary or consequential to Bill C-257, amending the definition in section 83 of the Criminal Code by adding proposed section 83.171. That, I believe, is the one that deals with investigations of terrorist offences. Again, I don't venture to redefine how Canada security services investigate terrorism. All I'm saying is that this is the framework. Proposed section 83.171 is now a terrorist offence, and it therefore must be imported into the existing framework.

I think that is basically it, in terms of what I'm trying to do.

LIB-2 amends Bill C-9 by amending the hate framework and specifically creating subsections 319(2.4) and 319(2.5), adding to them, but again, does this within the hatred framework of the Criminal Code.

I would also note that there are a few key differences in the section proposed by my friend, which can be found on page 12 of the package. I note that there is no page 11 subsequent to the amendments. New LIB-2 does a couple of things. It amends the hate regime to include the wilful promotion of terrorism, but with three key distinctions.

Number one, Bill C-257 specifically omitted the phrase "other than in private conversation", whereas Mr. Housefather's amendment maintains that phrase. This is something that Bill C-257 did deliberately because, if we think about it, we're trying to criminalize the wilful promotion of terrorism. What happens if it's a private conversation? One person approaches another person and tries to promote the activities of a listed entity. Just because it happens in a private conversation, in my view, respectfully, that does not make it excusable or defensible, given the environment we're living in.

I specifically distinguish this from the wilful promotion of hatred. It's very much worth bearing in mind that, to survive constitutional scrutiny, Bill C-257 imports the framework of wilful promotion of hatred and includes the same defences to avoid some of the criticism we had on Bill C-51.

I understand how private conversations involving hatred may be outside of the scope of the state, but I very much suggest that wilful promotion of terrorism in private conversations should not be excluded from the purview of the state.

The second difference—and there are a bunch of them that I'm seeing, but at least these jump out at me—is that Mr. Housefather's amendment prescribes a maximum penalty of two years for the offence he is creating, whereas Bill C-257 and specifically CPC-2 prescribe a maximum of five years. I suggest, regardless of the outcome, that we need to stick with five years, because all of the terrorism offences in section 83 of the Criminal Code prescribe a maximum punishable sentence of five years, so to remain consistent, I propose that we stick with five years.

Finally, in giving consideration to how this should be drafted, legislative counsel was very mindful of the fact that Bill C-257, or CPC-1 through CPC-4, need to survive constitutional scrutiny, which is why CPC-2 tracks the language of wilful promotion of hatred and prescribes for various defences.

I understand that my Bloc friend may have difficulty with one such defence; however, the balance of the defences, I suggest respectfully, should be maintained. Whether the statements are true or the statements were relevant to any subject matter of public interest or in good faith, they were intended to point out the wilful promotion of terrorism and for it to be removed, so I am concerned that what my friend is proposing is weaker in terms of its ability to survive constitutional scrutiny.

Finally, a fourth difference is that Bill C-257 and the CPC amendments prescribe that it would be criminal to wilfully promote terrorist activity, a terrorist group or the activity of a terrorist group, whereas the Housefather amendment, LIB-2, would only criminalize the promotion of terrorist activities or the activities of a terrorist group. Perhaps by omission or by inadvertence, my friend would not criminalize the promotion of a terrorist group on its own but just the activity of a terrorist group or terrorist activity, which I think is an oversight in his amendment.

I apologize that I was lengthy, but I'm glad that everybody understands what we're facing here. We're going to dispose of a lot of amendments if we give this due consideration.

The key question for the officials is this: Where are we doing this? I suggest respectfully that we're dealing with a terrorism offence and, therefore, we need to be doing this within the terrorism framework of the Criminal Code.

I understand that there are scope issues, and I don't concede the scope issues, because we're talking about terrorist symbols and we're talking about what's happening on the streets. This is what's happening on the streets in North York. However, my friend's amendment deals with the hate section that is otherwise already amended in this bill; that's something I concede to. Just because my friend Anthony Housefather wishes to include this amendment in the hate section, that doesn't make this a hate section. You can call a spade a club or a heart, but it's still a spade. It's still a terrorist offence.

Thank you.

The Chair: I'm not going to stop you. We're going to suspend for a second. There's something going on that I need to address. It's not committee-related.

We'll suspend for a second.

● (1615)

_____(Pause)_____

● (1615)

The Chair: Thank you for that, members.

Mr. Baber, were you finished?

Roman Baber: I was finished.

Now that we have MP Dhillon back with us, I wonder if I should repeat all of that.

I'm just kidding. I'm glad you're feeling better, and I'm glad you're back with us.

The Chair: Thanks.

I'm going to go to Ms. Lattanzio and then, I think, Mr. Housefather.

Before, you mentioned page 11. There is a page 11, but it's blank, because there's no LIB-2 on it anymore. There's a new LIB-2, which is on page 12. Rather than renumber the whole packet.... I think that's the explanation.

Ms. Lattanzio, it's over to you.

Patricia Lattanzio: Thank you, Mr. Chair.

I have a few questions for our officials here today. I wanted some clarification with regard to the terrorism definition and activity.

Can you confirm to us whether the Criminal Code already encompasses and captures the counselling or promotion of terrorist activity under the existing terrorism counselling provisions?

Marianne Breese: I'll take a step back, if I may. On this motion, I can share some observations, but I can't provide legal advice. If we look at the wording of the motion and the word “promotes”, I can say what the court has said “promotes” means, which is “active support or instigation”; it is more than simple encouragement or advancement. Then the courts have said what “counselling” is: “deliberate encouragement or active inducement of the commission of a criminal offence”.

I guess the committee would have to consider whether in fact we are creating, through this motion, a new terrorism counselling offence; that is step one. The Criminal Code already has counselling offences. The one specific to terrorism is at section 83.221, and that's the offence of counselling the commission of a terrorism offence.

Against that backdrop, if this motion is considered and if the committee considers it to be more of a counselling offence, then the committee might want to consider whether or not it aligns with the existing counselling offence, and maybe I can share a few observations on that.

With respect, for example, to the mental fault requirement, the committee might want to consider here the motions' proposing “wilful”, which means intentional. Other counselling offences in the code include recklessness, and recklessness means the person is aware that there's a danger or risk in their conduct that could result in the crime in question and they nevertheless take the chance.

The committee may also wish to consider the penalties. The existing terrorism counselling offence is, I believe, a max of five years' imprisonment, so that would align with what the motion is proposing.

In terms of defences, again, this motion is proposing to merge two existing offences: a wilful promotion offence and a counselling terrorism offence. It's actually section 83.18, which deals with participating in an activity of a terrorist group.

The committee may want to consider whether importing hate propaganda and hate speech defences is a right fit with a terrorism counselling offence. For example, is the intent to shield someone from criminal liability who counsels a terrorist activity if the statement is true?

Those are general observations on some of the points the committee may wish to consider.

Patricia Lattanzio: Okay. I have more questions.

The Chair: Go ahead.

Patricia Lattanzio: Thank you.

With regard to the new terrorism promotion offence in the definition of terrorism, in your opinion, would that create inconsistencies with the existing terrorism framework that we find in part II.1? Do you see any inconsistencies there?

Marianne Breese: Again, I can't provide legal advice. I can say that the motion is proposing a different *mens rea* than what is currently in section 83.221. That can be a policy decision for the committee to discuss.

When you look at the terrorism provisions, there is no defence akin to what is being proposed. Those defences model the hate propaganda defences. Therefore, the committee may wish to consider whether that's the right fit. What is being proposed is not a hate speech offence; it's more akin to a terrorism counselling offence.

Patricia Lattanzio: Speaking of the wilfulness and the *mens rea*, do you see any charter risks with regard to introducing a higher degree of proving the wilfulness or the *mens rea* than the existing terrorism counselling offences that rely on, let's say, recklessness.

Marianne Breese: Unfortunately, I cannot provide legal advice, including charter advice.

Patricia Lattanzio: Would this type of change require consultations with national security partners, given that it rewrites the terrorism scheme?

Chantele Ramcharan (Deputy Director General and General Counsel, Criminal Law Policy Section, Department of Justice): Hi. Chair, may I speak?

The Chair: Please go ahead.

Chantèle Ramcharan: Thanks so much.

There are various elements, and you heard my colleague take you through some of the elements. There would be charter considerations because of the change in the *mens rea*. There are elements of the terrorist counselling offence, as my colleague explained, merged into this proposed offence, which is closer to a counselling offence.

I would say that the committee might wish to consider—in addition to the mental element, the *mens rea*, in addition to the potential charter risks, and in addition to duplication and perhaps some overlap—a consistency and coherence with the existing provisions. There may be unintended consequences. We can't really necessarily speak to all of the specifics right here in this answer off the top. It would require an analysis, an assessment and further consideration to ensure the coherence and the consistency, and to perhaps dig down into what the implications would be in the Criminal Code.

Patricia Lattanzio: I have one last question, if I may, Mr. Chair.

Would this amendment be within the scope of the proposed bill, addressing and tackling the hate crime reforms?

Chantèle Ramcharan: In answering this question, I'm mindful of my role here at the committee. I would say that it is perhaps a question that might be best dealt with.... In terms of an opinion, I can't really provide an opinion on scope.

I can say that the counselling element, the terrorism counselling offence, is essentially what we talked about. It's not included as any clause in the bill.

Patricia Lattanzio: This is my last question.

Would you say that this amendment would extend the scope and the definition that we have in the proposed hate crime bill?

Chantèle Ramcharan: It's a different part of the code, essentially. There's no proposal in Bill C-9 to amend the terrorism provisions in the code.

The Chair: Mr. Housefather.

Anthony Housefather: First of all, I want to thank my friend, Mr. Baber, for these amendments, because I share his desire for a Criminal Code clause that includes the wilful promotion of terrorist activities or the activities of a terrorist group. I share his view that this should be in the Criminal Code. I share his view that it should be a specific offence, and I appreciate his leadership in putting forward a private member's bill on this subject, but I think we all, on both sides of the aisle, who care about having this as an offence, want to put it in Bill C-9, a government bill, to ensure that it becomes law even more quickly. Then we can give Mr. Baber due credit and allow him to put forward a different private member's bill if needed.

The goal is to make this law. I think we should agree on that. I think we differ on just a couple of issues that I would consider the two major issues.

One is that we don't want any amendment that this committee may pass to be struck down by the Speaker as being outside the scope of the bill. Using clauses that are outside of what the bill originally intended to do makes the danger of that much greater. I totally understand why my colleague is rightly saying that this is a terrorist offence and it should go in the terrorist section of the bill, but there was no terrorist section of the bill. To me, adding this as a clause in that section creates a risk that, regardless of how this committee votes.... The Speaker today struck down amendments from a different committee. I would rather see it in the sections of the act that we're amending, to remove or mitigate that risk.

The other question we both have.... I'm sure we all agree that we want this to be upheld constitutionally. I think there are two differences in how we treated the issue. One is that “communicating statements” incorporates private conversations in CPC-2, and LIB-2 does not incorporate private conversations. I think incorporating private conversations creates a charter risk.

I don't know if you folks would want to opine on the potential charter risk of incorporating private statements, but at least in my view, it does. I'll let you come back and let me know if you have a position on it or not, if you're allowed to speak on it. I don't know if you are or not, because if that's legal advice, I understand you can't.

A voice: We can't speak to that.

Anthony Housefather: Okay, understood. That's how I would take it.

By the way, let me give due credit to Mark Sandler, who worked with Mr. Baber, who worked with me and who has been a leading voice in this fight against hate in Canada, along with members of an alliance who are all doing exemplary work.

I was originally going to do what Mr. Baber did, which was incorporate the same hate defences in what is essentially a terrorism provision, because that's what was suggested. In the same way that Mr. Baber feels strongly that it should still be an offence, I feel strongly that the defences that are listed as hate defences aren't terrorist defences. Regardless of whether someone thought it was okay on a religious basis, I don't think you're allowed to commit a terrorist act because you have a religious good-faith basis for it.

I think we've drafted it a bit differently. I think we could choose to amend one or the other to try to make it more.... What I am definitely concerned about is the way CPC-1 to CPC-4 are in a section of the act that doesn't come into the bill originally and I'm afraid it would be thrown out. As a result—with great respect to my colleague, whom I truly respect and give him due credit, whichever version passes—I believe it is better to go with the version where we're amending clauses that are already in the bill.

That's my thought, and I'll leave it there. I appreciate the collegiality on this discussion.

The Chair: It's back to you, Mr. Baber.

Can I just comment? I'm so pleased to see how well everybody is getting along right now.

Roman Baber: Thank you, Chair.

My colleague's comments are noted and appreciated.

If I may, perhaps I could substitute my humble view for the officials' for the benefit of Ms. Lattanzio. At least in my view, counselling a terrorism offence is already in the Criminal Code. Promoting is not. Promoting does not come to the level of counselling. We clearly see a gap with respect to the wilful element and the *mens rea*. We're talking about speech. I am open to Mr. Housefather's suggestion that we don't need to go there. At the same time, I would hate it if this provision were struck down a block west of here.

Finally, with respect to the scope, I would say.... Look, you have to look at the spirit of the bill. You're talking not just about hatred but about terrorism and terrorist symbols within a hate speech section of the Criminal Code. I would think that this would work by extension. However, in the interest of saving the committee some time, I would think, Chair, that it would be advisable if we briefly suspended to allow for a conversation between my friend and me.

Thank you.

The Chair: We'll suspend.

● (1630)

_____(Pause)_____

● (1655)

The Chair: We are resuming the meeting.

Where are we, Mr. Baber?

Roman Baber: We've had some discussions with my friend Mr. Housefather. I understand that my friends on the other side of the aisle are going to do some thinking, which is why, at this time, I'm going to move to pause, to park the debate on CPC-1 through CPC-4.

I therefore move to stand consideration of new clause 1.1 and clause 2.

The Chair: We'll have a vote on it.

(Amendment allowed to stand)

(Clause 2 allowed to stand: yeas 5, nays 4)

(On clause 3)

The Chair: That takes us to CPC-5.

Go ahead, Mr. Housefather.

Anthony Housefather: When you stand it like that, does it mean that the we would go through every other one of the amendments and then come back to it at the end?

The Chair: My understanding, and I stand to be corrected, is that we're just postponing the debate and the vote on those proposed amendments.

Anthony Housefather: Would it be the last thing we do, after the other amendments?

The Chair: We would do that before we adopt the title and the bill and all that, yes. We're changing the order.

Okay, so we'll move to CPC-5, which is also Mr. Baber.

Roman Baber: Well, since we're doing so well, why stop now?

Could we entertain a very quick suspension? I'll confer with my friends on the other side and with the Bloc, too. If I may, we have three or four similar amendments on the floor before the committee.

Specifically, we have a variation of dealing with the business of removal of the consent of the Attorney General to the commencement of hate-related prosecutions. CPC-5, the Baber amendment, proposes that you cannot lay a hate speech offence, essentially, by private prosecution within the framework of section 504 without the consent of the Attorney General.

Now, I went through the amendments very carefully. I have been able to identify all of the amendments that deal with Attorney General consent, whether it's to all public-related prosecutions, hate speech prosecutions, or just private prosecutions. I have identified them to be CPC-5....

I need to ask to waive privilege of amendments that have not been introduced yet.

Is it okay with you, Monsieur Fortin?

Rhéal Éloi Fortin: It's okay.

Roman Baber: Ms. Lattanzio, is it okay with you if I speak to your amendments that propose to deal with that, just so we lump them all together?

Patricia Lattanzio: You can.

Roman Baber: Thank you.

Chair, my understanding is that we're dealing with CPC-5, BQ-1, CPC-8, LIB-3, BQ-4 and CPC-11. There are various proposals on the floor, but I believe that, if we take a quick break, we'll be able to arrive at a fairly quick resolution.

The Chair: Okay, we'll suspend again.

● (1700)

(Pause)

● (1725)

The Chair: Mr. Baber.

Roman Baber: Thank you, Chair.

I hereby advise that the CPC will withdraw CPC-5, CPC-8, and CPC-11.

Patricia Lattanzio: This is just to advise the committee members that we're going to be pulling back on LIB-3.

Andrew Lawton: Just to confirm, is that the new LIB-3?

Patricia Lattanzio: It's the new LIB-3, sorry. That's why you didn't have it.

The Chair: You're withdrawing the new LIB-3.

Patricia Lattanzio: Yes.

Anthony Housefather: LIB-3 is about the Attorney General and the distinction between private and public prosecutions.

Patricia Lattanzio: Let's make sure that you have the right one. The theme here is the AG consent.

Actually, there's only one.

Anthony Housefather: There was never a new LIB-3. It was always the same LIB-3. It's fine.

Mr. Chair, again, with the indulgence that Mr. Baber asked for before, I think that you have an agreement among the committee to move to the Attorney General-related amendments, all of them, before we go to the next thing that's not an Attorney General-related amendment. I think there's BQ-1 and BQ-4.

[*Translation*]

Mr. Chair, I propose that we vote on amendments BQ-1 and BQ-4 before moving on to the next one. I believe that you can adopt them.

Patricia Lattanzio: We can dispose of them.

[*English*]

Anthony Housefather: Basically, it's that we do BQ-1 and BQ-4.

We've removed the other Attorney General-related ones, so we can finish with the issue of the Attorney General consent before we move to other amendments.

The Chair: When you say “we're going to do them”, let's use precise language.

Anthony Housefather: We treat them, BQ-1 and then BQ-4, before going back to the next one in order of sequence.

The Chair: All right.

Patricia Lattanzio: Mr. Chair, we just want to deal by themes. This would be specifically on the AG consent, the amendments on AG consent.

The Chair: I understand. We've been doing a lot of things. I want to make sure I have the word “do” defined properly in this context.

Mr. Baber.

Roman Baber: If I may, I thought I heard the legislative clerk say that there is no new LIB-3. There is a new LIB-3 by Mr. Housefather. The number ends with 153. That's the LIB-3 that I believe my friend pulled. Thanks.

The Chair: I'm told we can vote on BQ-1, but we can't vote on BQ-4, because there's a line conflict with the NDP amendment, which in sequence comes first, so I don't know if that changes anything.

[*Translation*]

Rhéal Éloi Fortin: We can dispose of the NDP amendment, if you like. If this is an issue, let's proceed.

Rhéal Éloi Fortin: Mr. Chair, I move—

[*English*]

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

[*Translation*]

Rhéal Éloi Fortin: Thank you, Mr. Chair.

I move that amendment BQ-1 be adopted.

[*English*]

The Chair: That's my kind of submission, just for the record.

Okay, we can do this by show of hands, or we can have a recorded vote.

It will be a show of hands.

(Amendment agreed to)

The Chair: The amendment is carried.

We're voting on clause 3 as amended by BQ-1.

(Clause 3 as amended agreed to)

(On clause 4)

The Chair: Now we'll go to clause 4 and NDP-1.

NDP-1 is deemed moved, pursuant to the routine motion adopted by the committee on June 17, 2025.

I'll give the floor to you, Ms. Idlout.

Lori Idlout (Nunavut, NDP): *Qujannamiik*.

NDP-1 is an amendment on which I've consulted with civil liberties associations here in Canada. If approved, it would remove the portion of the bill dealing with symbols. This portion of the bill is problematic for several reasons.

First, it requires a defence for not being aware of the association with the symbol.

Second, the words “principally used by” or “principally associated with” are a problem because we don't know who needs to be having that association. The association of symbols can vary from community to community. The best example of that is the kaffiyeh, the traditional scarf worn by Palestinians.

The third reason this portion of the bill is problematic is that it relies on the terrorist list, which allows for potential political misuse by future governments.

To conclude, I would like to share very quickly that the organizations that expressed concerns about the symbols portion of this bill include the Canadian Civil Liberties Association, the International Civil Liberties Monitoring Group, the National Council of Canadian Muslims, Independent Jewish Voices and Egale.

While I have the floor, I wanted to share very quickly that because this bill was expedited the way it was, it was quite difficult to make sure we heard from as many people as possible. I've heard a lot of opposition to this bill. Preferably, it would be a bill that we can't support, but the only way to ensure that the NDP voice was heard and that the NDP could amplify the voices of these organizations was to submit this amendment.

Qujannamiik.

The Chair: Thank you, Ms. Idlout.

Are there any other speakers on this?

I should let the entire table know that if NDP-1 is adopted, BQ-2, LIB-1, CPC-6, CPC-7, new LIB-2, BQ-3 and CPC-8 cannot be moved due to a line conflict, and BQ-4 cannot be moved due to incoherence. I'm just letting you know.

Is there any further discussion on this proposed amendment?

Patricia Lattanzio: Can you repeat them one more time?

The Chair: Yes, I'll read that again.

If NDP-1 is adopted, BQ-2, LIB-1, CPC-6, CPC-7, new LIB-2, BQ-3 and CPC-8 cannot be moved due to a line conflict, and BQ-4 cannot be moved due to incoherence.

Patricia Lattanzio: Okay, that's fine. We can vote now.

The Chair: Can we do a show of hands?

(Amendment negatived)

Anthony Housefather: Mr. Chair, may I now propose that we move to BQ-4, as I think everybody had agreed, so that we can deal with it now?

The Chair: Sure.

On BQ-4, we have Mr. Fortin.

[*Translation*]

Rhéal Éloi Fortin: Thank you, Mr. Chair.

I move that amendment BQ-4 be adopted.

[*English*]

The Chair: Thank you.

Are there any other comments?

(Amendment agreed to)

The Chair: Ms. Lattanzio.

Patricia Lattanzio: I move to adjourn.

The Chair: Is everyone in favour of adjourning?

Rhéal Éloi Fortin: Can we suspend for a moment, Mr. Chair?

The Chair: It's a dilatory motion. I can't suspend when the motion is on the table.

(Motion agreed to)

The Chair: The meeting is adjourned.