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Mr. Bob Zimmer

Standing Committee on Access to Information, Privacy and Ethics

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● (1535)

[*English*]

The Chair (Mr. Bob Zimmer (Prince George—Peace River—Northern Rockies, CPC)): Good afternoon, everybody.

Welcome to the Standing Committee on Access to Information, Privacy and Ethics, meeting number 77. Pursuant to order of reference of Wednesday, September 27, 2017, we are considering Bill C-58, an act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other acts.

Right now, we are at NDP-22.

Mr. Cullen.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): I thought PV-8 was first up. Is it NDP-22 or NDP-21?

The Chair: I have NDP-22.

Mr. Nathan Cullen: Okay. I just want to allow Ms. May a moment.

Have we done PV-8 already?

The Chair: I'm pretty sure.

Mr. Nathan Cullen: Yes. Okay.

As you have seen with the premise of many of our amendments to Bill C-58, they are based on the testimony we had, the witnesses who came forward and testified, particularly the Information Commissioner, who's most familiar with this act.

One of the things she brought forward in testimony was the need for an aspect of mediation. I'll quote her testimony on November 1: “The reason why I'm recommending that there be a formal provision for mediation is because sometimes some complainants particularly do not wish to participate in the mediation process. I think that the mediation process is extremely helpful in resolving complaints in a more timely way. I think that would be helpful. It also puts focus on the mediation process with institutions as well.”

Resolving things through mediation seems to me, especially when there's a conflict between the applicant and whatever ministry they are dealing with, a way to make real the duty to assist aspect of current access to information law. If there's a duty to assist, and there's a conflict of interpretation, then NDP-22, this amendment we've moved, new clause 13.1, would allow a formal mediation function in the course of an investigation.

That's essentially our amendment. I think it would help Canadians, and I think it would also help government in releasing information that's both helpful and appropriate.

The Chair: Thank you, Mr. Cullen.

In my duty as chair, under the advisement of our legislative clerk, the amendment would allow the Information Commissioner to appoint a mediator for certain purposes. As *House of Commons Procedure and Practice* , Second Edition, states on pages 767 and 768:

> Since an amendment may not infringe upon the financial initiative of the Crown, it is inadmissible if it imposes a charge on the public treasury, or if it extends the objects or purposes or relaxes the conditions and qualifications specified in the royal recommendation.

In the opinion of the chair, the appointment of a mediator would impose a new charge on the public treasury. Therefore, I rule the amendment inadmissible.

Mr. Nathan Cullen: Mr. Chair, I appreciate the advice, but through you to the clerk, as the government has heard this advice from the Information Commissioner, and it's essentially a technicality that we're relying on to be unable to amend the bill this way because it may invoke spending later on, if this is deemed a good thing for Canadians and is deemed a good thing by the Information Commissioner, and is the practice of Bill C-58 if it were to become law, the implication and the use of mediation would be at the purview of the government of the day. It doesn't have to be deemed in through act of law.

Thank you for your reference. We can move on.

The Chair: Thank you, Mr. Cullen.

We'll move on.

(Clauses 14 and 15 agreed to)

(On clause 16)

The Chair: We have LIB-5.

Mr. Erskine-Smith.

Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.): The idea behind this amendment is there is currently an exclusion from the Information Commissioner making an order in relation to an investigation that she commences.

I've put this in more for discussion because frankly, this wasn't flagged by the Information Commissioner. I had flagged it, and I had spoken to former information and privacy commissioners at the provincial level who seem to have order-making power in relation to investigations that commenced, but given it wasn't flagged by any of our witnesses, I have made this more of a discussion point and put it out there.

The Chair: Thank you, Mr. Erskine-Smith.

Mr. Cullen.

Mr. Nathan Cullen: It's entirely appropriate.

Through you, Mr. Chair, I'm wondering, Nathaniel, if you could explain those other conversations, because I think we can learn a lot from other jurisdictions in terms of their application of sometimes very similar law. What might be an example of further order-making powers that would enable better and more clear information to be released to the public?

● (1540)

Mr. Nathaniel Erskine-Smith: Very briefly, as it's pretty narrow, the idea is that where there's a complaint made under the act as drafted, and rightfully so, the Information Commissioner can now make an order, but where she commences an investigation based on reasonable grounds and finds merit, she is precluded from making an order. Other information and privacy commissioners at the provincial level have the ability to make such an order.

As I said, this wasn't flagged here. I don't want to dwell too long on it, but that's the explanation.

The Chair: Is there any further debate?

Mr. Nathan Cullen: No.

The Chair: We'll vote on LIB-5.

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

The Chair: We're on NDP-24.

Mr. Cullen.

Mr. Nathan Cullen: In a sense, we heard conflicting testimony over order-making powers, or the interpretation of orders that are certifiable. I believe it was Minister Brison who suggested that all was well and that the powers were sufficient, but I'll again refer to the testimony of our hard-working Information Commissioner, Madame Legault, on November 1. I think she was answering a question by Mr. Saini, who asked about this issue.

She said that was not her interpretation of the bill as currently drafted. Essentially, if the government institution sat on the order and did not provide disclosure when ordered, she would have to take a mandamus application in the Federal Court, which is part of the Federal Court legislation. However, her concern was that mandamus applications usually take around 18 months, and that's why she was recommending that there be an added provision that the Information Commissioner be allowed to get the order certified in the Federal Court. Her general counsel advised that those contempt of court proceedings usually take four months.

In the issuing of an order and directing a department to come forward with information that's deemed to be vital and does not infringe on the privacy of Canadians, we have learned through testimony from the various groups—first nations groups, civil society, and journalists—that if information is delayed, information is denied. The simple carrying forward and adding of months and sometimes years to the process, for some issues in particular, means that the public is never given satisfaction. Essentially, the issue has now moved on. We're so many years beyond this.

The amendment that we propose in NDP-24 would follow the advice of the Information Commissioner to be explicit, so that there's no interpretive wiggle room and it's simply the ability of the commissioner to turn to the Federal Court. Again, from her counsel's observation, this would be in the four-month range of delay, which is still a delay but not a year and a half or more.

I'm thinking of some of the information examples we have been given, from residential schools and missing and murdered women to sexual harassment in the government and Ms. Doolittle's work at *The Globe and Mail*. That part of the effort in revealing these important issues—some of which the government has acted on, by the way, in terms of their recent legislation yesterday on the murdered and missing inquiry—is based on evidence that was gained from access to information. In many cases, it was delayed significantly because of this back and forth with the Federal Court.

All this does is clearly give the Information Commissioner the tool that the minister, frankly, said she already has, but the evidence is borne out differently in terms of this notion—not being a lawyer, I'm trying to be careful here—of mandamus applications and the delay that seems to have been created.

The Chair: Thank you, Mr. Cullen.

Is there any debate?

Mr. Nathaniel Erskine-Smith: I haven't made many mandamus applications, but I have made a few.

The Chair: More than I have.

Mr. Nathaniel Erskine-Smith: Yes, perhaps.

I shared a similar concern, but then the Information Commissioner clarified in a recent letter—I think it was today—that the 18 months was not correct. It's a much shorter period of time. It's still longer than four months, but it didn't seem as stark a problem as when we were talking about going from four to 18 months. I think it was four to seven, or something like that.

The Chair: Mr. Cullen, go ahead.

Mr. Nathan Cullen: I suppose this would then be one of those amendments where you would look at it and ask what harm might be caused by this, if the Information Commissioner's counsel now says that it's not 18 months but eight months, and we can reduce it through this. Again, this doesn't put any burden that we are aware of upon the federal bureaucracy in answering ATIP requests. This simply gives a clear path that the commissioner takes when there is some dispute about the information, which is a reliable three- to four-month delay. If this does that, which we believe it does from the counsel's interpretation, and it does no harm, then we would certainly see this as a worthwhile amendment, although I'm worried about the track record of voting so far. We'll see if worthiness is our only consideration here.

● (1545)

The Chair: Elizabeth, go ahead.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Thank you, Mr. Chair.

I don't think you mentioned it at the beginning of looking at the NDP amendment, but since mine is PV-10, I think that if Mr. Cullen's motion is voted down, then my motion is voted down.

At this time, I'd like to say why I've put this motion forward. It's for the reasons that Nathan just proposed. The Information Commissioner asked for this section to be amended so that we could certify an order of the Information Commissioner as an order of the Federal Court. I completely agree with the points that Nathan just made. There is no harm that comes of this, and it allows us to ensure expeditious use of the Information Commissioner's decision. There are a number of caveats in the way our identical amendments have been proposed. If there is no harm coming of it, if there is no other good reason why the filing of the Federal Court would serve no useful purpose.... We have enough conditions and caveats in this amendment to do no harm but potentially do quite a lot of good.

The Chair: Just to clarify what Ms. May is saying, PV-10 cannot be moved after a vote on NDP-24. There is also overlap with LIB-6. LIB-6 cannot be moved if NDP-24 is adopted, if that makes sense to anybody. I hope it does.

Ms. May has already spoken. Would anybody else like to speak to this?

We'll call the vote on NDP-24.

Mr. Nathan Cullen: Can we have a recorded vote, Chair?

The Chair: Yes.

There is one thing to note. I'd like a clear show of hands. If you are supportive, raise your hand. If you are against, please, when the vote is called, accordingly raise your hand so we can make a better record of what your voting record is.

(Amendment negatived: nays 5; yeas 4 [See *Minutes of Proceedings*])

The Chair: Therefore, we'll move past PV-10 and LIB-6.

Mr. Olivier Champagne (Legislative Clerk, House of Commons): No, LIB-6 we'll do.

The Chair: I stand corrected. We are on LIB-6.

Mr. Erskine-Smith, go ahead.

Mr. Nathaniel Erskine-Smith: I'm not going to waste the time of this committee. We just had the discussion. Let's move on.

The Chair: Is there any further discussion?

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

The Chair: Since PV-11 and NDP-25 have been dealt with previously, shall clause 16 carry?

(Clause 16 agreed to)

(On clause 17)

The Chair: Next is LIB-7.

Mr. Frank Baylis (Pierrefonds—Dollard, Lib.): The amendment is that Bill C-588, in clause 17, be amended by adding after line 24 on page 10 the following:

> (3.1) The Information Commissioner may publish the report referred to in subsection (2).
>
> (3.2) However, the Information Commissioner is not to publish the report until the expiry of the periods to apply to the Court for a review of a matter that are referred to in section 41.

● (1550)

The Chair: Thank you, Mr. Baylis.

Just for clarity, this vote will also apply to the consequential amendment LIB-8.

Mr. Cullen.

Mr. Nathan Cullen: I wonder if Mr. Baylis or others could give us an interpretation of that. I heard him read in the clause. The rationale is what I'm looking for in terms of understanding this prior to our vote.

Mr. Nathaniel Erskine-Smith: Regarding the rationale, you mentioned mediation previously, and the Information Commissioner has also indicated the importance of an explicit ability grounded in the legislation to publish her orders, and it's incredibly important.

We have talked about “frivolous” and “vexatious” and about some of the new language in the act. It's all the more important that there be a body of precedents we're going to see built up publicly over time. We're not going to see the decisions appealed to court all of the time, so the body of jurisprudence built up by the Information Commissioner is all the more important.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: Thank you for that. The one condition you have is only after the court review expires, so there's a review period. Forgive me again for not being familiar with how the court system works at this point, but is there anything in particular about that in the amendment?

The Chair: What's you answer, Mr. Erskine-Smith?

Mr. Nathaniel Erskine-Smith: You're requiring that it be a 30-day waiting period, I think, to ensure that the department isn't appealing. In most cases we've heard, even under the current system, rarely do these things go to court, so I think you're going to find that the Information Commissioner, in most cases, is the one who is publishing the order and making the determinations and findings. However, in a rare case, it's not going to be published right away, and a court will make the law.

The Chair: Is there any further debate?

We will vote on LIB-7.

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

The Chair: We're on NDP-26.

Mr. Nathan Cullen: Essentially, this is a recommendation that came from the ethics committee last time as well as from the Information Commissioner, so it would be weird for us to say no to both ourselves and the Information Commissioner all in one shot.

This is about the publishing of findings as well. It is similar to what Mr. Erskine-Smith and Mr. Baylis just moved with respect to building up a certain amount of jurisprudence. This is, I think, not only building it up for its own sake and making it public, but is also allowing departments to see what kinds of rulings came out that would then guide their own actions as to where the boundaries may or may not be, as opposed to having to essentially litigate these things over and over again.

I wouldn't say this is an enhancement, and it's not that LIB-7 that we just dealt with is not enough, but this certainly is an extension of that by amending clause 17.

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

(Clause 17 as amended agreed to)

(Clause 18 agreed to)

(On clause 19)

The Chair: On NDP-27, I'm going to read the note before we get any further along. “Identical to PV-12. PV-12 cannot be moved after a vote on NDP-27.”

Mr. Cullen.

Mr. Nathan Cullen: This goes back to that interpretation piece, where we had some distance between what the Treasury Board president and the Information Commissioner were saying was the reality. NDP-27, NDP-28 and NDP-29 hang together because it allows for the oversight model that was recommended by the Information Commissioner and the ethics committee, who had studied this before.

The current government has claimed itself to be a government that will make policy based on evidence. This is the evidence before us in terms of allowing proper oversight when things essentially escalate. Let me quote one more time from the commissioner's special report to this committee:

> The Commissioner recommended adopting an order-making model where the Commissioner can issue an order disposing of the issues raised, with orders subject to judicial review by the Federal Court.

The minister, I think, attempted to say that this is exactly what Bill C-58 does. But in fact it doesn't do that. If the ethics committee prior to us recommended this order-making power, and made the recommendation very clear, if the Information Commissioner also recommended this as the power she needs to get information to Canadians, and if evidence is supposed to be what is guiding us as a committee and this government, then we strongly feel that NDP-27, NDP-28, and NDP-29, allowing for that to exist in the real world, is important. If it's not, I think we're sending forward a bill that at this point is becoming fatally flawed. The commissioner came before us and told us she doesn't have the proper powers to do her job sufficiently right now. The previous committee studying this made this explicit recommendation. So I just don't see how this committee can say that we somehow know better, because we don't.

I think these things hang together properly. They are based almost entirely on the experience of our Information Commissioner and the prior experience of the ethics committee in studying this legislation.

● (1555)

The Chair: Mr. Kent.

Hon. Peter Kent (Thornhill, CPC): I can only say ditto. I mean, the logic is powerful.

The Chair: Elizabeth May, and then Mr. Erskine-Smith.

Ms. Elizabeth May: Thanks again, Mr. Chair. As you said, when Mr. Cullen's motion is disposed of, then I won't be able to speak to this one.

I will speak, very briefly, to the difference between judicial review of the commissioner's order and what Bill C-58 presents, and why Bill C-58's dealing with judicial review, having a review not of the commissioner's order but of a government decision, is a regressive step, in the words of the Information Commissioner.

As someone who used to practise law, the difference is really clear to me. Judicial review of an order means the record that was there when the commissioner made her decision is the record that will be examined in the review. What's being proposed here is that the court will look at a situation *de novo*—clean slate, no record. It creates no incentive whatsoever for an institution, if they want to hide information and delay release, to move forward. In fact, with a *de novo* hearing, they can stall. They can provide new information and new arguments.

In other words, it's a significant regression over where we are now. The point of this bill, I thought, was to improve the situation for access to information. I do hope that the commissioner's recommendations around the orders being reviewed will be given serious consideration by the government.

The Chair: Mr. Erskine-Smith.

Mr. Nathaniel Erskine-Smith: I'm one of two members who was here when we made those recommendations. Certainly, we did recommend an order-making model that would have a reasonableness standard. I would disagree with my colleague Ms. May; this isn't a regression over the current system. The current system enables the commissioner to take the department to court, ultimately, with the consent of the complainant. It is an effective *de novo* process. There's not a reasonableness review. This is a similar *de novo* process, but it's an onus shift. The onus is now on the department to take the Information Commissioner's decision to court. I think it is an improvement.

The testimony we heard in the course of our committee study was actually from the Canadian Bar Association and from the commissioner in Newfoundland. They suggested this was a reasonable option, especially as a first step. If it's inadequate, then adopt a reasonableness standard approach that is in other jurisdictions, including B.C. and Ontario. While I preferred the reasonableness standard, for efficiency purposes, as a first step, I recognize that this *de novo* process is within a range of reasonable options.

I don't view it as a regression, I view it as a step forward. Perhaps it's not as far a step as our committee had recommended, but we certainly heard testimony that this was a reasonable option. So it's certainly not where I think.... I don't think it's worth fighting, this particular issue.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: I guess the question becomes, why not? Why not fight for something that this committee has previously identified as better, that the Information Commissioner has said is better, than simply saying this might be a slight improvement to a thing that has proven to be problematic over time? It's a technique or a tool.

There was some assurance given at one point. I think it was one of the government officials who said, "Well, departments aren't likely to go to court on this." That's no assurance at all, because they're not spending their money. This is taxpayer money going to court. If there's information, particularly of a sensitive nature, Chair, which is generally the stuff that we're talking about, which is important, of course, government will seek remedy in court as a way to make a process that could be three months or four months last three or four years. I take no assurance from any notion that no department or complainant is likely to take the commissioner to court. Of course they will, if that's a tool available.

To the question that we're not looking to sacrifice the good as we aim for the perfect, I don't think what we've offered here is some unattainable thing, so I put my question again to our Liberal colleagues. If the evidence that the previous committee, including Liberals, studying this put forward and recommended, if the Information Commissioner also put this testimony in front of us, and there's no condemning action against it, there's nothing saying if you were to do this, this would cause harm to the Canadian public.

I don't understand how my Liberal colleagues are voting. I honestly don't, because they ran on this. This is about open and accountable government. We have open and accountable recommendations in front of us, and the power to make this legislation significantly better. To not do it is to suggest that all of those were words, and the reality for Canadians seeking information from government is that their reality is going to be made much worse at the end of this process. That's unfortunate.

● (1600)

The Chair: Mr. Erskine-Smith.

Mr. Nathaniel Erskine-Smith: Very briefly, testimony from the Canadian Bar Association and the Newfoundland commissioner that this is a positive step forward is, I think, correct. This isn't a regression. We've put a suggestion and recommendation to the government in the course of our committee report. The government considered it, and also reviewed the testimony of the Canadian Bar Association and the Newfoundland commissioner, and frankly the Privacy Commissioner as well.

The Privacy Commissioner originally came to us and said a hybrid model is the best model, and he wasn't asking for.... Reasonable voices were pushing in this direction. One can reasonably disagree, but we are in a range of reasonable options here. Once I've put a recommendation to the government, and the government has considered it and opted for another reasonable option, I don't think playing ping-pong makes sense at this point. That's my view.

The government was certainly aware of the recommendations, and aware of the testimony when it was making this decision.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: I'm unaware of any testimony that came from the bar or anybody else who said this was a bad idea. I guess that's the point. Government may deem this unfavourable. It may dislike it. It may cause other concerns, but those are not my concerns. Unless somebody comes to the committee and says that this order-making power, this ability to give the commissioner this new power to get information from government is a bad thing, we should base our testimony on the best that we have available.

Sure, some witnesses said maybe one step down, maybe a hybrid is better, but this was told to us, and this is what this committee previously recommended. There has been no significant evidence—again, it's an evidence-based government I'm supposed to be looking at—that said this would be harmful.

Until I hear that, then I don't know how in good conscience the committee can recommend something that we have been told is good, have been offered a slightly watered-down version, so why not go for the one that's the best offer? "We can always improve", I think the Prime Minister said. Well, here's an opportunity. Let's take him at his word.

The Chair: Mr. Kent.

Hon. Peter Kent: Very briefly, if this was the only advice or recommendation of the committee, or the commissioner, that's been ignored by the government, we'd be in quite a different place.

Mr. Nathan Cullen: There's a pattern we're concerned with.

The Chair: If there's no further debate, I'll call the vote.

Mr. Nathan Cullen: I'd like a recorded vote, please.

(Amendment negatived: nays 6; yeas 3 [See *Minutes of Proceedings*])

The Chair: Amendments NDP-27 and PV-12 are defeated.

We're on amendment NDP-28. This vote will also apply to consequential amendment NDP-31.

Mr. Cullen.

Mr. Nathan Cullen: As I said previously, Chair, the three amendments, NDP-27, NDP-28, and NDP-29, hang together. You can sense my consternation.

It's not my first rodeo either. With no offence to the members of the previous government, this is *Groundhog Day* all over again, where the committee goes through the process of inviting witnesses; we hear their testimony; we make recommendations based on their testimony, and in lockstep, the government just votes them all down one by one.

● (1605)

Mr. Nathaniel Erskine-Smith: It's not always in lockstep.

Mr. Nathan Cullen: It's not entirely. It's with the occasional caveats, if I can put it that way.

I guess at this point I would say to my colleagues, with the caveat that was just mentioned, that some rationale as to why the government members are voting against these things would be really helpful for my understanding of where the government is actually headed on access to information, because this was a central part of the conversation leading to their election. If they're going to vote against these things, as the government does in lockstep nearly all the time, perhaps they could explain why. Perhaps they could indulge me and indulge Canadians who are wondering what happened to their promise and principles.

We can go through the process on both, Chair, but the notion of these things, again, is based on the Information Commissioner's testimony. It's based on the ethics committee's report.

I'll not apologize to my Liberal colleagues if this seems repetitious, but if we're not going to base our recommendations on evidence, then what are we basing them on? Instructions from the PMO don't count. What we should be basing our efforts on here is what we heard at the table; otherwise this entire thing was a bad-faith process and a sham with some other intention in place.

I'll move my amendment with support, and if someone from the government benches wants to tell me why it's such a terrible idea, I'd love to hear it.

The Chair: It looks as though Mr. Erskine-Smith is ready to answer your question.

Mr. Nathaniel Erskine-Smith: You mentioned evidence, but on this point in particular, we heard evidence from the Information Commissioner and evidence from the Privacy Commissioner, and it was different evidence. They were of directly contrary views on the point in relation to this particular amendment that you're moving.

You can disagree with the Privacy Commissioner and the government can disagree with the Information Commissioner on this point, but to suggest that there is an absence of evidence.... This is just a disagreement between two commissioners.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: This is a good point, because during the Information Commissioner's testimony, in her recommendations, we attempted, and I believe some Liberal colleagues did as well, to get her to give us her experience, the points at which access to information requests were frustrated, and how she thought her recommendations would resolve that. We had no similar experience in testimony from the Privacy Commissioner. An opinion was offered, which was, “I like this other process”, but we didn't have any ground truthing of the experience.

If I have two commissioners—and this sometimes happens, because there's a natural tension that we experience between the Access to Information Commissioner, who wants as much information as is proper out there in the public, and the Privacy Commissioner, who's generally charged with keeping things private. That's a normal and natural tension. But one watchdog came forward and said how this would improve the experience of gaining access to information, holding government to account, and having evidence-based decision-making. I take that, actually, to be of greater value than the value of somebody coming in with anecdote and opinion.

As much as I respect the Privacy Commissioner and value his work, I asked for real-world experience. I got it from one commissioner but not from the other, so I'm going to side with the one who was able to ground truth anything that came before us. It's with that deferential respect that we chose one over the other, and I think that's commonsensical. Where I come from, that just makes sense, but maybe other people have different life experiences.

The Chair: Mr. Erskine-Smith.

Mr. Nathaniel Erskine-Smith: I have nothing.

The Chair: Okay, I'll call the vote on amendment NDP-28, unless there's any further debate.

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

(Clause 19 agreed to)

(Clause 20 agreed to)

(On clause 21)

The Chair: We'll move to amendment NDP-29. This amendment is identical to amendment PV-13. Amendment PV-13 cannot be moved after a vote on amendment NDP-29, and so I'm assuming Ms. May would like to speak as well. I'll give the floor first of all to the NDP.

Mr. Nathan Cullen: Thank you, Chair.

Of course, because the three amendments, improvements to the bill, hang together, work together, I realize I'm not going to necessarily have the satisfaction of understanding why colleagues are voting against it, with a small caveat. The intention remains to give the Information Commissioner the power that she needs, in this case to get the information we need as policy-makers to make decisions.

I would again refer my colleagues to some of the legislation recently introduced around violence against women, which was entirely achieved under access to information, which under Bill C-58 could have been deemed as frivolous requests from Ms. Doolittle at *The Globe and Mail*. The reason that the national inquiry into murdered and missing aboriginal women actually has a figure as to how many murdered and missing women have disappeared in this country was also done only through access to information. This bill would also threaten the release of that information. There's also the transfer of Afghan detainees. These are things that matter.

I know that this is not a piece of legislation that we have natural and many constituencies to, yet all constituencies are affected by the ability to get information from government. That's the only way you can hold government to account. Otherwise, it is anecdote and conjecture.

I won't re-emphasize the point about the court's order-making powers. That was established in my previous arguments.

I will turn it over to Ms. May.

● (1610)

Ms. Elizabeth May: Thank you.

The amendment is identical, because, like Mr. Cullen, I'm very persuaded by the evidence of failing to strike the right balance for transparency and the recommendations of the Information Commissioner. These do hang together. They are found in her recommendations 18, 19, and 20.

This amendment speaks to the suggestion she made in recommendation 18. When we look at the actual precision of underscoring that for greater certainty, this application is *de novo*, is a new proceeding; that is, it goes to the heart of where she finds the problem in moving from the model we have now to a new model, which she has labelled—the result of what's being proposed in Bill C-58—as a regression.

In an effort to try to improve the legislation as.... I'm so impressed with the work that the Information Commissioner did. On so many points, as Mr. Kent has mentioned, she found that this bill, which was supposed to be improving our access to information in Canada, is actually going in the opposite direction.

I can see which way this is going to go, but I appreciate the chance to speak to it, Mr. Chair.

I would urge that the committee support deleting the clarity that insists this is *de novo* review.

The Chair: Mr. Erskine-Smith, do you have a response?

Mr. Nathaniel Erskine-Smith: No.

The Chair: Okay, we'll call the vote on NDP-29.

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

(Clause 21 agreed to)

(Clauses 22 and 23 agreed to)

(On clause 24)

The Chair: Once again, amendment NDP-30 is identical to PV-14, and PV-14 cannot be moved after a vote on amendment NDP-30.

We'll start off with Mr. Cullen and then Ms. May.

Mr. Nathan Cullen: I may have a bit of a misunderstanding that might take a moment. Could we suspend this piece, Chair?

My understanding was that if amendment PV-8 failed, which I believe it did, that this was paired with it. While maybe not being identical, it wasn't my expectation, as amendment PV-8 had failed... unless the clerk will correct me that it didn't—

The Chair: I will check with the clerk now.

We don't see that conflict, Mr. Cullen, so with advice from the legislative clerk—

Mr. Nathan Cullen: My understanding, in checking with Krystal, is that the two pieces hung together. I'm not sure, without a bit more of a review of the one amendment without the other, that it would even be sensible to move this one.

I don't know about the procedure, but I would like to—

● (1615)

The Chair: Well, Ms. May can also speak to this, so we can proceed on either ground.

Mr. Nathan Cullen: Why don't we allow that? My initial instinct is that if the two hang together, then I'm not sure if moving this one on its own would be a good idea.

The Chair: For the record, the clerk doesn't see it that way.

Mr. Nathan Cullen: It's the way the legislation works.

The Chair: Go ahead, Ms. May.

Ms. Elizabeth May: The purpose of the amendment that I'm proposing, which I guess is identical to.... Which NDP motion is PV-14 identical to?

Mr. Nathan Cullen: It's NDP-30.

Ms. Elizabeth May: Okay. I'm on two different agendas, so I apologize.

The purpose of this amendment is based on recommendations from the Information Commissioner to amend these sections to reflect that it is the commissioner's order that is under review before the Federal Court, as opposed to the government's decision that is under review.

Again, there are deletions, but it's replacing lines 5 to 7 so that the "record is on the government institution concerned" as opposed to the current language, which is "the decision or take the action that is the subject of the proceedings is on the government institution concerned".

The effect is to ensure that it's the commissioner's order that's under review.

The Chair: Is there any debate?

Mr. Nathan Cullen: Yes, Chair, if I may. I'm not comfortable with this, because while the clerk has one interpretation, we have advice another way. In that battle of interpretations on this, I'm going to withdraw it rather than seek something that I'm not confident in.

The Chair: Okay. That's fair.

You can do that, Mr. Cullen.

Mr. Nathan Cullen: Thank you.

The Chair: In that case, we're voting on.... Just a moment, please.

Ms. Elizabeth May: I'd just as soon have a vote on PV-14, even though I can't vote.

Some hon. members: Oh, oh!

The Chair: I've just been consulting with the legislative clerk. It would need unanimous consent to be withdrawn before committee.

Do we have unanimous consent to withdraw?

Mr. Nathan Cullen: It will save you time, so put it that way.

The Chair: Do we have unanimous consent?

It looks like we do, so it's been withdrawn.

(Amendment withdrawn)

The Chair: Now we will go forward and vote on PV-14.

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

The Chair: Now we'll go to NDP-31.

Mr. Olivier Champagne: It's been dealt with.

The Chair: My apologies; it's already been dealt with under NDP-28, so we'll move on.

Mr. Nathan Cullen: NDP-31 has been dealt with?

The Chair: Yes, under NDP-28.

Mr. Nathan Cullen: Are you saying that NDP-28 is too similar to NDP-31?

The Chair: That's what we're saying.

Mr. Nathan Cullen: I don't know if it's appropriate, Chair, but I see that differently. Could we have some interpretation of that? This is about the onus and where the burden goes in terms of getting a judicial review.

The Chair: We'll give the clerk a minute to prepare what he's going to say.

Mr. Nathan Cullen: Okay.

Mr. Nathaniel Erskine-Smith: While you're figuring that out, assuming this is defeated, can we, just for efficiency, start doing them in blocks where there aren't amendments?

The Chair: That would be an assumption that I would not make, that it would be defeated, but once this is voted on, we can vote in blocks. It depends on what the room wants to do but, as chair, certainly I would entertain that.

Mr. Nathan Cullen: I don't have a ton of them after this.

Do you have a lot more?

Mr. Nathaniel Erskine-Smith: The faster it goes, the better.

Mr. Nathan Cullen: Oh no, man. The serious consideration of legislation is the job.

Mr. Nathaniel Erskine-Smith: True.

Mr. Nathan Cullen: Being legislators and all....

Mr. Nathaniel Erskine-Smith: Where there are no amendments, though, we might as well, right?

Mr. Nathan Cullen: Oh, if there are no amendments—

Mr. Nathaniel Erskine-Smith: That's what I'm saying. We'll vote in blocks in between, where there are no amendments.

Mr. Nathan Cullen: All right. Sometimes it's tricky to do if [*Technical difficulty—Editor*]

The Chair: We have some clarity. We can proceed. I can explain it, actually, or....

Go ahead.

● (1620)

Mr. Olivier Champagne: I saw a relationship between the two. My idea was that if NDP-28 were to be adopted, then NDP-31 would be adopted as well, but I think that since NDP-28 has been rejected, NDP-31 could live by itself, so I think it would—

Mr. Nathan Cullen: That was our question.

Mr. Olivier Champagne: It could exist independently.

Mr. Nathan Cullen: It's where the burden of judicial review falls. Does it fall on the person making the request or does it fall on the institution denying the request, or having a conflict of request?

The Chair: We can ask for legal advice at that end, if you wish, Mr. Cullen, but now we'll—

Mr. Nathan Cullen: Sure, have legal advice.

The Chair: NDP-31 is back on the floor.

Mr. Nathan Cullen: Yes, I'm certainly happy if counsel has any advice on this, but our understanding on NDP-31 was a simple—you can call it simple or not, but shifting a burden about seeking judicial review, whether it was on the institutions themselves, as we're seeking it to be, and not on the requesters themselves, which is a burden on the Canadian who's trying to seek the information from government. I wasn't made aware of any testimony that said that would be a legal problem. It's an onus question, whom do you want to put the burden and the onus on. We thought it was appropriate with the institution denying the information as opposed to the person seeking it.

The Chair: Mr. Cullen, who would you like to respond to that?

Mr. Nathan Cullen: I don't know if anyone has any advice or interpretation.

Ms. Naylor?

Ms. Ruth Naylor (Executive Director, Information and Privacy Policy Division, Chief Information Officer Branch, Treasury Board Secretariat): Bill C-58 currently puts the burden on the government institution.

Mr. Nathan Cullen: But we saw clause 24 as not allowing that and that the amendment we sought to make would clarify that. Are you reading it differently?

Ms. Ruth Naylor: We're taking a look at it.

Mr. Nathan Cullen: Okay. If that's what Bill C-58 overarchingly seeks to do, then this is what our attempted amendment clarifies, unless we have the amendment wrong, which sometimes happens.

The Chair: For the sake of the committee, we will suspend for two minutes.

● (1620)

(Pause)

● (1625)

The Chair: I will call the meeting back to order.

Ms. Naylor, have you had a chance to sort things out?

Ms. Ruth Naylor: Yes.

The Chair: Please proceed.

Ms. Ruth Naylor: Our understanding of the effect of this amendment would be to delete a reference to the Privacy Commissioner's right of review in the section that describes burdens of proof in relation to the Privacy Commissioner or third parties' rights of review. It's related to the previous discussion around NDP-28, which would have removed the Privacy Commissioner's right of review. This would be consequential to that, to remove a subsequent reference to the right of review, if that had been deleted. Is that clear?

The Chair: Mr. Cullen.

Mr. Nathan Cullen: Just to clarify, Ms. Naylor, are you suggesting that this is the piece that hangs with the other section in right of review, just in its application to the Privacy Commissioner?

Ms. Ruth Naylor: That's correct. It makes sure that if the previous amendment had been approved/supported, the appropriate consequential amendment would have been made as well.

Mr. Nathan Cullen: Okay, thank you for the clarification.

Thank you, Mr. Chair.

The Chair: Are there any comments or debate?

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

(Clause 24 agreed to)

The Chair: There are no amendments from clauses 25 to 30. We can do these in a block if you wish. This isn't our first rodeo. We need unanimous consent to deal with clauses 25 to 30 in a block.

Some hon. members: Agreed.

(Clauses 25 to 30 inclusive agreed to)

The Chair: LIB-8 was dealt with under LIB-7.

(On Clause 31)

The Chair: We have LIB-8.1.

Mr. Picard.

Mr. Michel Picard (Montarville, Lib.): It was my understanding that this was consequential to LIB-7. Therefore, if LIB-7 was accepted then this was—

The Chair: That was in reference to LIB-8, the one that I just mentioned. This is LIB-8.1.

Mr. Michel Picard: For the new clause 30.1. Is that right?

The Chair: Yes, you're right.

Mr. Michel Picard: Okay.

Mr. Nathaniel Erskine-Smith: Just to get some clarity, LIB-8 creates clause 30.1, as I understand it. Did we then approve clause 30.1?

● (1630)

Mr. Olivier Champagne: With LIB-7.

Mr. Nathaniel Erskine-Smith: Okay, it's assumed to be approved as a clause. So we are now on clause 31.

The Chair: Go ahead.

Mr. Michel Picard: I have something to say.

[*Translation*]

This amendment clarifies an issue relating to confidentiality. When information is public and the request is legitimate, the request cannot be denied. However, if the information is public and information is requested to support this public information, the request can be made and the information can be disclosed. We are talking about documents that support information that is already public.

[*English*]

The Chair: To be clear, I want to confirm that we're on LIB-8.1.

Mr. Michel Picard: LIB-8.1?

The Chair: We're on clause 31.

[*Translation*]

Mr. Michel Picard: Yes, it's a matter of amending section 31.

[*English*]

The Chair: Mr. Cullen.

Mr. Nathan Cullen: I heard the argument, but I haven't heard the rationale. Was this based on testimony where information was given over to the public in an inappropriate way? I guess I'm looking back to LIB-8 and seeing some of the rationale in your amendment.... Forgive me, Chair, but these are connected and I'll bounce a little bit, but "the Information Commissioner and any person acting on behalf or under the direction of the Information Commissioner shall take every reasonable precaution to avoid the disclosure of, and shall not disclose".... I'm trying to recall. Was there some—

[*Translation*]

Mr. Michel Picard: Let me give you the example of some public information that was disclosed proactively, but about which a reader has doubts. The reader then requests documents that support what has been proactively disclosed. The request cannot be denied. The information was public, but as with any public information, there is a certain screening and a certain format to comply with. If a doubt is expressed and you want to know what supports the information that has been disclosed proactively, the request makes the information accessible.

Mr. Nathan Cullen: I understand, but this happened before. There is no indication that the information publicly disclosed had a negative impact on anyone's privacy.

[*English*]

That's all. If there isn't one, that's fine if it's just a precaution. My curiosity was, has this happened, is this a concern, and why are we putting it in the legislation if we don't have any experience with it?

The Chair: Would you like to respond?

[*Translation*]

Mr. Michel Picard: That's one of the concerns raised by the Commissioner.

[*English*]

The Chair: If there is no further debate, we will vote on LIB-8.1

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

(Clause 31 as amended agreed to)

(Clauses 32 to 36 inclusive agreed to)

(On clause 37)

The Chair: We have PV-15.

Ms. Elizabeth May: Thank you, Mr. Chair.

Again, this is advice from the Information Commissioner. I do want to say that I think the practice the Prime Minister has adopted of publishing mandate letters is really a positive step forward. I'll note that it was without any legislation required. It set a good example, and the new Premier of British Columbia, John Horgan, published all the mandate letters. It's beginning to catch on as a practice, and that's great. I'm glad to see legislated here that we will continue to see that from future prime ministers.

The Information Commissioner noted that there's no time limit attached to this, and that this might be a good idea, so that's my amendment here, and I do appreciate the gender neutrality with which we refer to a prime minister, whether "he or she establishes the mandate of any other minister within 30 days after the issuance of the letter."

I think it's quite likely that, in the normal course of things, with a requirement like this, a prime minister would make the mandate letter public, but there's nothing that would cause the prime minister under this legislation, imagining a future prime minister who didn't want to publish a mandate letter, to do so when there's no time limit.

Thank you.

● (1635)

The Chair: Thank you.

If this is adopted, NDP-33 cannot be moved as there's a line conflict.

Mr. Cullen.

Mr. Nathan Cullen: That's too bad, because the NDP agrees in a hurry. We wanted to do it in 15 days, but, you know, 30 or 15....

I thought we could have moved a friendly amendment to suggest that they also have to follow their mandate letters, but that's maybe too much to ask in one piece of legislation, so maybe next time around.

Ms. Elizabeth May: It's outside the scope.

Mr. Nathan Cullen: Outside the scope.

Some hon. members: Oh, oh!

Mr. Nathan Cullen: You can publish it, but you don't have to do it, or you can change it with a new mandate letter. That's a good trick.

This is clear that, if you had this Prime Minister or a future prime minister issue a mandate letter that had no time on it, they could simply never publish it, so why not put a date on it? Thirty days, while a little long, is reasonable, so we'll support this.

The Chair: If there is no further debate, we'll vote on the amendment.

(Amendment agreed to)

Ms. Elizabeth May: A Green amendment has passed. Thank you.

The Chair: Yes, thank you.

As PV-15 carries, NDP-33 cannot be moved.

Now we go to amendment LIB-9.

Mr. Erskine-Smith, or whoever your designate is.

Mr. Nathaniel Erskine-Smith: Mr. Dubourg.

[*Translation*]

Mr. Emmanuel Dubourg (Bourassa, Lib.): Thank you, Mr. Chair.

This amendment corrects a drafting error in the bill. So that's why we want to change it, if it's in fact a fourth quarter. That's what I propose.

[*English*]

The Chair: Thank you, Mr. Dubourg.

Mr. Cullen.

Mr. Nathan Cullen: To be clear, are we on amendment LIB-9.1, or are we on amendment LIB-9?

The Chair: We are on LIB-9.

Mr. Nathan Cullen: Okay, I have a similar request to last time. I'm just curious. I can read the amendment, but I'd just like to know the rationale for it and on which testimony it is based, if any.

[*Translation*]

Mr. Emmanuel Dubourg: It's not necessarily based on testimony, as you say. It is rather the way the clause was written. In the bill, it says: "Within 30 days after the end of the quarter in which a contract... is amended...". We want make it clearer by adding "or within 60 days after the end of that quarter if that quarter is the fourth quarter". You see the nuance. Right now, it only says: "Within 30 days." By adding the fourth quarter, we are extending the deadline.

[*English*]

Mr. Nathan Cullen: Are we talking to amendment LIB-9 or LIB-9.1? I'm a bit confused.

The Chair: With respect, Mr. Dubourg, we're still on amendment LIB-9. I think you were speaking to amendment LIB-9.1.

Mr. Nathan Cullen: It deals with *quatrième trimestre* and all those things.

Mr. Emmanuel Dubourg: Yes, exactly.

Thank you. It's a drafting error.

The Chair: That's fine, thank you, Mr. Dubourg.

If there's no further debate, we'll vote on amendment LIB-9.

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

The Chair: Who would like to speak to amendment LIB-9.1?

Mr. Picard.

Mr. Michel Picard: Can I have a 45 seconds just to clarify something?

The Chair: Yes, you can do that.

● (1640)

Mr. Picard.

[*Translation*]

Mr. Michel Picard: The purpose of this amendment is to correct an error in the alignment of proposed subsections 86(1), 86(2) and 86(3). They should be aligned, to be part of the same section.

[*English*]

The Chair: Thank you, Mr. Picard.

Are there any comments or debate on amendment LIB-9.1?

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

The Chair: We have amendment PV-16, as well as a note saying it is identical to amendment LIB-10 and amendment LIB-10 cannot be moved after a vote on PV-16.

Ms. May.

Ms. Elizabeth May: Thank you, Mr. Chair.

This is again based on recommendations from the Information Commissioner, and I just want to read from her text. This one sentence distills very clearly why this amendment is being made. This is a quote:

> Proactive disclosure requirements, where the government chooses what is disclosed, are not the same as subjecting these entities to the right of access, where requesters can choose what is requested and are entitled to independent oversight of government's decisions on the disclosure of information.

What I am proposing to delete here, I gather, is identical to another motion to delete. The purpose of this deletion is to remove what's found at section 91, which removes from the Information Commissioner any jurisdiction over those identified pieces of information, such as spending limits, grants and contributions, briefing materials, and so on. The government under Bill C-58 is proposing that it will automatically disclose such information, but without allowing the Information Commissioner to check on what it's doing.

This provision and my deletion would allow the Information Commissioner to have oversight over the proactive disclosure requirements that the government is bringing forward.

I see no harm in it. I certainly hope I'm on a roll here. Thank you.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: Dare to dream. I think it's good. I hope you are on a roll too, simply because if the government—the ministers who appeared—saw the importance of the proactive disclosure piece and of their efforts, simply allowing the Information Commissioner access to those similar files shouldn't be a problem, because they're all meant to be public anyway.

The Information Commissioner asked for this. It is certainly reasonable to grant it to her and to future commissioners.

The Chair: Is there any further debate on PV-16?

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

The Chair: We'll move to LIB-10.1.

Who's the spokesperson?

[*Translation*]

Mrs. Mona Fortier (Ottawa—Vanier, Lib.): I am, Mr. Chair.

[*English*]

The Chair: Ms. Fortier.

[*Translation*]

Mrs. Mona Fortier: We are proposing this amendment given the concerns expressed about this part of the bill. It is one of the amendments that we are introducing today. I would like us to adopt this amendment.

[*English*]

The Chair: Is there any debate?

Mr. Cullen.

Mr. Nathan Cullen: I don't want to keep asking the same question, but I heard it put forward and not necessarily a particular reason why. If there was testimony we could reference, it would help me understand whether I should be voting for or against. Why this, and based upon—

[*Translation*]

Mrs. Mona Fortier: It's still related to the Commissioner's proposals. We thought it was a good idea to make this amendment, in relation to the Information Commissioner of Canada's proposal.

[*English*]

Mr. Nathan Cullen: Some of the things she recommended we take, and some of the things we don't, but that's okay.

Thank you for that explanation.

The Chair: Is there any further debate on LIB-10.1?

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

(Clause 37 as amended agreed to)

(On clause 38)

The Chair: Next is LIB-10.2.

Who would like to speak to that?

Mr. Baylis.

● (1645)

Mr. Frank Baylis: We heard testimony from the judiciary about the concern they had with respect to having some of their expenses made accessible. They had suggested some changes where, instead of having it judge by judge, we could aggregate it all. That sounded like a good suggestion to me when I heard it. Then when we had the Information Commissioner come in, she corroborated and agreed with that concept, that it was the right balance to be struck.

So LIB-10.2 followed by LIB-10.3 and LIB-10.4 are in line with that change, with that suggestion from the judiciary.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: Just so I have it right, through you to Mr. Baylis, this amendment would essentially compile the information on the spending rather than delineate line by line, hotel by hotel, out of concerns over safety, essentially.

Mr. Nathaniel Erskine-Smith: It is by court rather than by judge.

Mr. Nathan Cullen: I see. I'm trying to understand what the impact would be.

Mr. Frank Baylis: It would line itemed, but just not assigned.

Mr. Nathan Cullen: Line itemed by the court rather than by the judge. The Information Commissioner, I think, had suggested something where it was given as a broader figure rather than detailing it.

Mr. Frank Baylis: Yes, an aggregated figure, that's correct.

Mr. Nathan Cullen: So this would still allow for the publication of that spending. It would detail hotel bills, restaurant bills, etc., but by court rather than by the individual judge.

Mr. Frank Baylis: Yes. It's a finding of balance. That's what the judges had suggested, and the Information Commissioner agreed with that in her last testimonies.

Mr. Nathan Cullen: So no more Trump Towers when they're travelling abroad is what you're saying.

Mr. Frank Baylis: You'll have to ask the judges about that.

Mr. Nathan Cullen: We'll find out who stayed at the Trump Towers, won't we though?

The Chair: Okay.

Mr. Frank Baylis: I don't know if we can aggregate LIB-10.2, LIB-10.3, and LIB-10.4. They go together as one objective.

The Chair: We need unanimous consent to do that.

Do we have unanimous consent to put in one block LIB-10.2, LIB-10.3, and LIB-10.4?

I'm not seeing LIB-10.4.

A voice: It's being circulated.

The Chair: Do we have unanimous consent?

Mr. Nathan Cullen: Are we going to clump them?

The Chair: We are waiting for you to read it, and then if we have unanimous consent—

Mr. Nathan Cullen: Yes, we can clump them, if I can just ask a question before—

The Chair: Do we have unanimous consent to deal with them in a block?

Some hon. members: Agreed.

The Chair: Mr. Cullen, go ahead.

Mr. Nathan Cullen: In regard to LIB-10.4, these carve out provisions for Prince Edward Island, Yukon, Northwest Territories, and Nunavut. Is there any particular reason for this? The assumption I want to make is that the courts are so small that the entire jurisdiction is clumped together.

Mr. Frank Baylis: Yes, the north will be clumped as one, and then with respect to Prince Edward Island, the Court of Appeal and the Superior Court.

The numbers are too few, exactly.

Mr. Nathan Cullen: Okay.

The Chair: Is there any further debate on LIB-10.2, LIB-10.3, and LIB-10.4?

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

The Chair: We'll move to LIB-11. Who is speaking to LIB-11?

Mr. Erskine-Smith, go ahead.

● (1650)

Mr. Nathaniel Erskine-Smith: I'm not going to move LIB-12. I'm just going to stick with this.

We heard testimony from the judges association in relation to judicial independence, who should be the final arbiter of judicial independence, and that it should lie with the chief justice of the affected court and not with a member of the executive. I think that's correct, so I'm putting this forward.

The Chair: Is there any further debate on LIB-11?

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

Mr. Nathaniel Erskine-Smith: That was my worst effort so far.

The Chair: LIB-12 has been pulled back.

Mr. Nathan Cullen: Is LIB-12 not...?

The Chair: Mr. Erskine-Smith just retracted it.

Mr. Nathaniel Erskine-Smith: Yes, LIB-11 was a stronger version of that.

Presumably, I was going to be the only vote for LIB-12 as well.

Mr. Nathan Cullen: Don't assume.

(Clause 38 agreed to)

(Clauses 39 and 40 agreed to)

(On clause 41)

The Chair: We are on LIB-12.1.

Ms. Fortier, go ahead.

Mrs. Mona Fortier: I would like to move that clause 41 be amended by deleting line 26 on page 48, please.

The Chair: Is there any debate?

Mr. Nathan Cullen: I may have missed this one. Was this dropped recently as well?

It's very straightforward. Before we have a vote, my question is, what does that amendment do?

The Chair: Go ahead, Ms. Fortier.

Mrs. Mona Fortier: This is a consequential amendment related to the new subsection 11(1), which makes paragraph 41(v) redundant as the phrase “this act” has already been replaced by the phrase “this part” in section 26 of the act.

Mr. Nathan Cullen: Very good, thank you.

The Chair: Is there any further debate on LIB-12.1?

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

(Clause 41 as amended agreed to)

(Clauses 42 and 43 agreed to)

(On clause 44)

The Chair: Now we move to LIB-13.

Mr. Erskine-Smith, go ahead.

Mr. Nathaniel Erskine-Smith: This was a recommendation from the Information Commissioner.

We had a fairly lengthy discussion here a little while ago about reasonableness and different standards. There is an important onus shift that is happening with the new order-making power.

Frankly, I do think it's important, and it should be in the purview of the Information Commissioner to administer complaints as efficiently as possible, and in doing so, there shouldn't be a dual track system where some complaints are not subject to the new order-making power and new complaints are.

I don't think there's any particular downside in ensuring she can use one model for all complaints with which she's currently dealing. That's the rationale.

The Chair: If there's no further debate, we'll vote on the amendment.

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

(Clause 44 agreed to)

(On clause 45)

The Chair: We have amendment LIB-14.

Mr. Erskine-Smith.

● (1655)

Mr. Nathaniel Erskine-Smith: I'm not moving it. It's the same as the last one.

The Chair: Are you pulling it back?

Mr. Nathaniel Erskine-Smith: Yes.

The Chair: Very well.

(Clauses 45 to 47 inclusive agreed to)

The Chair: Now we're on LIB-15.

Mr. Picard.

[*Translation*]

Mr. Michel Picard: Clause 47 of the bill introduces the definition of “ministerial adviser”. Since it's a new definition, it's just a technical amendment stating that the effects are not retroactive. As a result, if people were previously included in the definition of what has just been created, they will not be affected by the new effects of the legislation. This amendment therefore states that the effects are proactive, not retroactive.

[*English*]

The Chair: Is there any further debate?

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

The Chair: If I receive unanimous consent, we're going to go from clause 48 to clause 52 as a block.

Some hon. members: Agreed.

Ms. Elizabeth May: What about the amendments?

The Chair: They were dealt with under previous amendments.

We had dealt with PV-8 under PV-17, and NDP-35 was dealt with under NDP-21, as noted previously.

Mr. Nathan Cullen: Are we going up to 53?

The Chair: Clauses 48 to 52.

Mr. Nathan Cullen: That's fine.

(Clauses 48 to 52 inclusive agreed to)

The Chair: I'm seeking unanimous consent to deal with clauses 53 to 63 as a block.

Some hon. members: Agreed.

(Clauses 53 to 63 inclusive agreed to)

The Chair: NDP-37 was also dealt with under NDP-8.

Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

Mr. Nathan Cullen: Can we have a recorded vote?

The Chair: We'll have a recorded vote.

(Bill as amended agreed to: yeas 6; nays 3)

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

Some hon. members: Agreed.

● (1700)

Mr. Michel Picard: I was going to ask for that as soon as possible.

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

Some hon. members: Agreed.

The Chair: Thank you, everybody, for moving it along. It looked like we were going a little slower there for a while, but thank you for all your input and your feedback, and thanks to all those who are watching.

The meeting is adjourned.