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# **Standing Committee on Justice and Human Rights**

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**EVIDENCE**

**Thursday, March 9, 2017**

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**Chair**

**Mr. Anthony Housefather**



## Standing Committee on Justice and Human Rights

Thursday, March 9, 2017

• (1525)

[English]

**The Chair (Mr. Anthony Housefather (Mount Royal, Lib.)):** Ladies and gentlemen, we're going to convene this meeting of the Standing Committee on Justice and Human Rights.

[Translation]

I am pleased to welcome you all here today.

[English]

Today we will do our clause-by-clause review of Bill C-305, An Act to amend the Criminal Code (mischief).

I will be going through the amendments in the order they were received by line, so we're basically going to start from the top of the bill. We'll move down by line and then, if there are conflicting lines, I will give you guys the one that was received first and then let you know which ones are not receivable afterwards if we adopt the first amendment.

(On clause 1)

**The Chair:** Our first amendment is NDP-1. If NDP-1 is adopted, CPC-1 cannot be moved as both amend the same lines. Basically, if NDP-1 is adopted, it would knock off Conservative-1.

I will let Mr. MacGregor put forward his amendment.

Mr. MacGregor.

**Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP):** Thank you, Honourable Chair, and yes, I will move amendment NDP-1.

The purpose of this amendment is to add public spaces to areas where hate crimes can occur. I think it's important, based on the testimony we've heard on this bill, that we don't allow the definition of property in Bill C-305. We don't want it to be too specific, because I think it could cut off areas where some of these hate crimes can occur. I was thinking along the lines of the testimony indicating areas that are not specifically mentioned in Bill C-305, but where some of our witnesses have associated with an identifiable group.

I think with this kind of amendment, we could be covering areas like certain streets. We hear testimony that some areas in cities like Toronto and Vancouver are associated with an identifiable group. They have traditionally been places of refuge where friendly businesses and allies have been, and so have been well-known areas to members of the community. I think there are a lot of examples. Every city across Canada has a street or an area not

currently covered in Bill C-305 but is connected with an identifiable group.

The Criminal Code refers to “public place” in subsection 197(1), I think, and that's why we're using that wording.

With that, Mr. Chair, I move my amendment for discussion.

**The Chair:** Thank you very much.

Mr. Fraser.

**Mr. Colin Fraser (West Nova, Lib.):** Thank you, Mr. Chair.

Thank you, Mr. MacGregor, for putting forward the amendment.

I do not support the amendment, although I know it's well intentioned. My worry would be that, in opening it up to public places more generally than what I'm contemplating, it would make it overly broad. I really think that the provisions here for hate mischief are designed to meet certain specificity requirements in order to meet the high threshold for something's being considered a hate crime, mischief.

It doesn't mean that, of course, other types of mischief would not attract criminal sanctions. In fact, if they were motivated by hate, that could be considered an aggravating factor in sentencing. We're just talking about the degree of penalty here, and I believe that we're better served in this bill by being more cautious with regard to the broad nature or specificity of the buildings or structures that we're talking about, and “public place”, in my view, would go beyond that.

For that reason, I don't support the amendment.

**The Chair:** Are there other interventions on the amendment?

Mr. McKinnon.

**Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.):** I also appreciate Mr. MacGregor's amendment.

I think the thing that we have wrestled with throughout the course of our study of this bill is how to accurately define the places to which this applies.

I agree with Mr. Fraser that we want it to be expanded a little bit, but we have to be careful that we don't expand it too much. I think this amendment opens it far too widely.

Therefore, with regret, I can't support the amendment.

**The Chair:** Mr. MacGregor, do you want to say anything to close?

**Mr. Alistair MacGregor:** I respect the comments made, but I guess, with your line of reasoning, Mr. Fraser, then Bill C-305 wouldn't be necessary because, if there are already provisions to allow for sentencing based on that, then what's the purpose of Bill C-305? Bill C-305's purpose is to identify specific areas and really list them. We did hear testimony that there could be streets or areas that are frequented by people but that are not listed in this bill. I think, by the very purpose of Bill C-305, we need to cover areas like streets. If there is mischief done, if it's under \$5,000 damage, or over, or whatever, I think those groups deserve to have the protection that goes along with the spirit and intent of this legislation.

I will close on that.

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

Just so we are clear on this amendment, if the bill deals only with a building or structure on the street and doesn't deal with the street itself, you're saying that they still have to get a building or structure used by or associated with an identifiable group found in a public place. I just want to be clear. If it is something that happened on a street, it would be the building on the street.

**Mr. Alistair MacGregor:** Yes. Again, you know that the Criminal Code is a vast piece of legislation. We had to keep it within the confines of an already defined term, "public place".

**The Chair:** Thank you.

I think at this point, since I'm not seeing further interventions, let's go to a vote.

Mr. MacGregor.

**Mr. Alistair MacGregor:** No, that's okay.

**The Chair:** Seeing no more interventions, let's vote on NDP-1.

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

**The Chair:** The next one we will turn to is CPC-1.

My feeling is that, if CPC-1 is adopted, all of the other amendments proposed, other than LIB-3, which would add a separate clause, would fall because, essentially, it's reversing the way the clauses read and amending everything, in my view. The way that I believe CPC-1 intends to deal with "identifiable group" is by amending the list of groups, the same way that NDP-2, NDP-3, and LIB-1 propose doing, and also amending the type of structures in the same way intended by NDP-4 and LIB-2.

I believe CPC-1 would essentially negate all of the other amendments proposed, except LIB-3. I'm willing to hear arguments to the contrary if CPC-1 is adopted.

• (1530)

**Hon. Rob Nicholson (Niagara Falls, CPC):** It would not necessarily negate, but include them. That's another way of putting that, if you know what I mean.

**The Chair:** Yes, that they would be—

**Hon. Rob Nicholson:** They would be unnecessary.

**The Chair:** —unnecessary by virtue of CPC-1.

**Mr. Ted Falk (Provencher, CPC):** They are actually consistent.

**The Chair:** Yes. What I'm trying to explain is that I couldn't receive the other amendments—

**Hon. Rob Nicholson:** Yes, fair enough.

**The Chair:** —other than LIB-3, which proposes adding a new clause.

I will let Mr. Cooper deal with CPC-1.

**Mr. Michael Cooper (St. Albert—Edmonton, CPC):** Thank you very much, Mr. Chair.

My amendment is fairly straightforward. It amends Bill C-305 to encompass properties of the identifiable groups set out in the bill to ensure that any property that is targeted by the crime of mischief, motivated by hate or prejudice towards an identifiable group, is covered.

In that respect, it in some ways expands Bill C-305, but in some respects, it narrows Bill C-305. It narrows Bill C-305 to the extent that it is specific to properties of that identifiable group. That's not the case with Bill C-305 as it is presently drafted. That is in essence my amendment.

The other thing that it does is remove the ambiguity around the terminology "primarily used", so that it would apply to any property that is used.

**The Chair:** Thank you very much.

Is there any discussion?

Mr. Fraser.

**Mr. Colin Fraser:** Thank you, Mr. Chair.

Again, I thank Mr. Cooper for bringing forward the amendment. Respectfully, I don't agree with the amendment and won't be supporting it.

The reason is again the rationale that I stated with regard to Mr. MacGregor's amendment, that we do recognize the higher threshold that the hate mischief is attempting to address. It doesn't mean that these other buildings—any property for any use—wouldn't necessarily be considered criminal activity. Obviously, it could be mischief and, again, it could be factored in during sentencing as an aggravating factor, if the mischief were motivated by hate.

My worry, though, would be about the overly broad aspect of it. Then, for example, if a religious group were the subject of hate speech or graffiti on somebody's primary residence, for example, or somebody's home that was used once in a while as a place of worship every month or something, it would have that use. I just don't know if that's where we want to go with this sort of criminal sanction.

I think we would be better served to have the higher threshold for buildings that are notoriously identifiable with that group and, therefore, to limit it to something that is primarily used by that group for that specific purpose as part of their worship, or any of the other identifiable groups for their meeting places. That's why I would not support this amendment.

**The Chair:** Are there any other interventions?

Mr. MacGregor and then Mr. Nicholson.

**Mr. Alistair MacGregor:** Mr. Fraser, what if a property that's only used occasionally by an identifiable group attracts the mischief because it is used occasionally by that group? Even if that group used the property once a month, what if the mischief is being perpetrated exactly because that group used it once a month, or once a year? What do you think about that line of reasoning?

• (1535)

**Mr. Colin Fraser:** I think the difficulty would be that the public would have to know that the building is being used for that specific purpose. I worry that if we make it overly broad, and it's somebody's house, for example, the person may not know it is being used for that purpose. The crown could then prove there was a prayer group there last Saturday and that it was thus used for a religious purpose that one time, and would therefore attract the higher sanction.

I don't think that's what this hate mischief is designed to do. It's designed already to cover buildings used for religious purposes—thus churches, and mosques, but also other locations now where people would gather for other purposes in the other classes that we're now expanding. But I do think we have to be careful in how broadly we define these buildings so we can be sure that the intention of the person was to target that group because of their religion or whatever other reasons we're talking about.

That's why I say again that it doesn't mean this wouldn't be criminal activity and wouldn't be factored in during sentencing. But to call it hate mischief, I think it has to be coupled with the building itself being used primarily for that purpose. I prefer that. I think it's easier for the public to recognize that type of hate mischief rather than opening it up to all uses.

**The Chair:** Mr. Nicholson.

**Hon. Rob Nicholson:** It seems to me that would be a question of fact in a case. Your example that if somebody creates some sort of mischief against the house and it's not directed toward the prayer group that's meets there every third Thursday or something, then it would be treated as mischief because there's no evidence that it was specific to that particular religious group.

I'm worried about the present definitions being so broad that—and I know of one case, a religious group that meets in a room in an office building every Sunday, but the building is not primarily used for religious purposes. It just happens to get rented. If somebody trashes the building on a Wednesday, okay, that's a crime; I agree with you. But for provisions of a hate crime, there would have to be something directing it specifically at that group that's holding their religious services there on a Sunday morning. It seems to me that's what we want to capture.

My colleague pointed out, as others have, that you say “primarily used”. In this day and age you can have religious services or any other services. This is very broad, and it would be a question of fact whether the damage, the mischief that was done, was specifically a hate crime toward that group. I think that would be covered in here. Otherwise you're going to have a situation.... For instance, the groups that I mentioned that rent a room because they can't afford to have their own religious building somewhere, wouldn't be covered by this. I'm hoping you will accept the amendment on this.

**Mr. Colin Fraser:** My only reply would be that if we proceed with the amendment, I don't see the linkage in the bill right now for

the crown to have to prove that the individual knew this group met there, for example.

**Hon. Rob Nicholson:** The way he has worded it is that the building is “used”, etc., or is “associated with” them. He's made it broad enough so that if someone goes after any of these identifiable groups he has listed, based on their religion, race, colour, national or ethnic origin, gender identity, or sexual orientation, and who are using the building, and if the facts pan out, that person has committed a hate crime. I think he was just making the definition of the building, the structure, clear enough so it would capture anything that goes against those groups.

**The Chair:** Can I just point out a couple of things, Mr. MacGregor? Then I want to ask Mr. Cooper a question, or whoever on the Conservative side.

Number one, in addition to what Mr. Fraser mentioned about aggravating factors, it could still be a hate crime if the police were able to set it out. The only difference between this section and other sections on hate crimes is that the maximum sentence is 18 months instead of six months on a summary conviction. Truthfully, this section is not the arbiter of hate crimes.

My question for Mr. Cooper is a little different.

• (1540)

In the event that the wording, “identifiable group”, is adopted, none of the other amendments can be adopted, so I want to make it clear to everyone what I see as the difference between this list of identifiable groups versus those in subsection 318(4), which is referred to in the other amendments.

Here, what is missing is “sex”, “age”, “mental or physical disability”, which is found in other amendments and in other sections of the Criminal Code. Now, “gender identity” is here, but not “gender expression”. “Gender identity” would not come into effect in other sections of the Criminal Code until Bill C-16 is adopted.

I'm just pointing out that I see some inconsistencies that you may want to consider, if indeed the committee wants to proceed to adopt this.

**Mr. Michael Cooper:** Yes. Addressing that point, Mr. Chair, your point is taken. The identifiable groups that are included reflect what the mover of the bill had incorporated as identifiable groups.

**The Chair:** Right, and just in case we move to a vote, you may want to consider those lists of groups.

Mr. MacGregor.

**Mr. Alistair MacGregor:** Mr. Chair, you took the words out of my mouth with your question.

**The Chair:** Mr. McKinnon.

**Mr. Ron McKinnon:** I have a question as well.

I've also wrestled with the concept of “primarily” and with trying to find some alternative wording that would be suitable here. The bare word “used” seems to me to be very broad. Does it constitute one use in a decade or one use ever, or is it some sort of regular, continuing use? I have a problem with that.

I don't know whether Mr. Cooper or Mr. Nicholson or Mr. Falk wants to respond to this. Or perhaps we could ask Mr. Gilmour whether he can give us any guidance from the Criminal Code as between the use of "used" versus "primarily used".

**The Chair:** Mr. Gilmour.

**Mr. Glenn Gilmour (Counsel, Criminal Law Policy Section, Department of Justice):** Well, there is a difference, of course, between a building being "primarily used"—that means, presumably, the main reason that the building is being used is for that particular purpose—versus just "used". "Used" could be someone using that particular building several times, infrequently, or just one time; whereas, "primarily used" means that the purpose for which that building has been built or established is primarily that use alone, and not other uses.

**The Chair:** Just to clarify, Mr. Gilmour, in Bill C-305 as proposed, and in the various amendments, we're not talking only about the building itself, but we're referring to portions thereof of a building. So if a portion thereof were primarily used, that would also... Even if the rest of the building were used for something different, if you had a shopping centre and one portion was a church and it was primarily the church, that would also be covered.

**Mr. Glenn Gilmour:** That's correct, yes.

**The Chair:** Does that answer your question, Mr. McKinnon?

**Mr. Ron McKinnon:** Yes, thank you.

**Mr. Michael Cooper:** Can we move to a vote?

**The Chair:** Yes, we certainly can.

I just noticed that one of our members is getting coffee.

**Hon. Rob Nicholson:** That's all the more reason to have a vote.

**Voices:** Oh, oh!

**The Chair:** I appreciate that.

Is there anybody else who wants to intervene? If not—

**Mr. Colin Fraser:** [*Inaudible—Editor*]

**The Chair:** It not's a question of... But I just want to ask, Mr. Cooper, whether you want to consider anything concerning the list of groups. Otherwise—

**Mr. Michael Cooper:** I'm prepared to take a friendly amendment, but I guess—

**The Chair:** I just want to point out to you again that some of them aren't here and that you won't be able to further amend this to either remove "gender identity" or to add "gender expression" or to add "age", "sex", "mental or physical disability".

I'm just pointing out that you guys are the ones to do this: I can't amend it.

**Hon. Rob Nicholson:** "Gender expression" would be fine. The problem is that it becomes too broad after awhile. You know what I mean: you get hate crimes against, I don't know, older people, younger people.... You know what I mean.

**The Chair:** It's just that this is what is there now.

**Hon. Rob Nicholson:** I know. It's supposed to be very specific to what—

**The Chair:** Yes. It's just that when all these other sections in the Criminal Code have this list, it would be odd, I think, to have a different list.

**Hon. Rob Nicholson:** I guess so, yes—a hate crime against....

**Mr. Colin Fraser:** Consistency is rather important with these things; I take your point.

•(1545)

**Mr. Michael Cooper:** All right. I guess I left it based upon—

**Hon. Rob Nicholson:** I'll make the movement that it be expanded to include everything—

**The Chair:** Including age, sex, mental or physical disability, and gender expression.

**Hon. Rob Nicholson:** —the works.

**The Chair:** Perfect. That at least means that we don't have to worry about those other amendments, if this....

I'll just consider that the mover has changed his motion. The mover has basically changed his motion; it's not an amendment, because he's putting it on the floor.

Basically, just for the purposes of the mover, he has now added "age", "sex", "mental or physical disability", and "gender expression" to this list. That follows groups under paragraph (b) of the amendment, and that's what we are now going to vote on.

Let's move to a vote.

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

**The Chair:** Now, I understand, Mr. MacGregor, that you're not putting forward amendment NDP-2—

**Mr. Alistair MacGregor:** That's right. I'm not.

**The Chair:** —which would mean we should skip to amendment NDP-3, if you're bringing it forward.

I'll wait and give you the chance to decide.

**Mr. Alistair MacGregor:** Yes. It will be amendment NDP-3.

It's a pretty straightforward amendment. As you can see, it seeks to replace, in clause 1, line 11 on page 1 with the following:

or ethnic origin, gender identity, gender expression or sexual orientation.

I just refer to my party's main critic, Randall Garrison, when he gave his second reading speech in the House. His main point was to make sure that we add that important "gender expression" here to make the wording consistent with that of Bill C-16. We feel that adding "gender expression" does that to this bill.

That's what I have to say about it, Mr. Chair.

**The Chair:** Mr. Bittle.

**Mr. Chris Bittle (St. Catharines, Lib.):** Thank you very much, Mr. Chair.

I'd like to thank Mr. MacGregor for bringing forward this amendment. It's a goal that I want to see, and I want to see it eventually in the legislation, but I think it can be better accomplished through the coordinating amendment that's being proposed later. The same outcome will be achieved when Bill C-16 eventually makes its way through the Senate.

That's the only reason I would be opposing this. It is something that I expect will be there, and I think most of us agree it should be there.

**The Chair:** Mr. Falk.

**Mr. Ted Falk:** I think too that the coordinating amendment that's coming addresses this issue.

**The Chair:** Are we okay to go to a vote, Mr. MacGregor?

**Mr. Alistair MacGregor:** Yes.

**The Chair:** Let's go to a vote.

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

**The Chair:** Next we move to amendment LIB-1.

Mr. McKinnon.

**Mr. Ron McKinnon:** I don't have a lot to say about this. I just want to add these groups that were missing from the original bill, with the expectation that it will be fleshed out further once the coordinating amendment comes along.

**The Chair:** Is there any other discussion?

Mr. Bittle.

**Mr. Chris Bittle:** This section initially seems bizarre to me, and Mr. Nicholson brought this up as well. Maybe it's appropriate for Mr. Gilmour to talk about the importance of continuity throughout the Criminal Code, of having similar language in drafting these types of amendments.

**Mr. Glenn Gilmour:** This would propose to add the concepts of age, sex, or mental or physical disability to what had been proposed originally in Bill C-305. It makes no reference to the concept of gender identity, but for a particular reason. This amendment would make the hate-motivating criteria in Bill C-305 consistent with the current hate-motivating criteria in the present definition of "identifiable group" for the hate propaganda offences in the Criminal Code.

All of these criteria are found in the hate sentencing provision of the Criminal Code as well. It would ensure that the list of factors is updated to reflect the hate-motivating factors that occur in the definition of "identifiable group" for the Criminal Code.

As has been mentioned, in Bill C-16, which is currently before the Senate, we propose to add the concepts of "gender identity" and "gender expression" both to the definition of "identifiable group" and to the hate crime sentencing provision in the Criminal Code.

I believe mention has been made of a motion for a coordinating amendment to ensure consistency, so that at all times the list of hate-motivated criteria for this expanded hate crime mischief offence—if that is the choice of the committee—would be identical with the list of hate-motivated criteria for the definition of "identifiable group".

• (1550)

**The Chair:** Thank you.

Is there any further discussion?

Mr. MacGregor.

**Mr. Alistair MacGregor:** I have a question for Mr. Gilmour. My amendment NDP-3 made that specific reference to "gender identity, gender expression", but it was voted down because that was going to be covered in the coordinating amendment. This particular amendment, LIB-1, includes those expanded references because of section 318, but doesn't include gender identity or expression. I'm just wondering, how do both NDP-3 and LIB-1 work with the coordinating amendment? Are they necessary, given the coordinating amendment?

**The Chair:** I'll ask Mr. Gilmour. LIB-1 puts in all the criteria that are currently in section 318. The coordinating amendment would say that when Bill C-16 is adopted and this bill is adopted, then gender identity and gender expression will fall into this clause, in the way that Bill C-16 will already put them in section 318—and that's basically it. Until both bills are adopted, if this bill were somehow adopted first, gender identity and gender expression would not be there until Bill C-16 is adopted and receives royal assent. I don't know if Mr. Gilmour has anything to add on that.

**Mr. Glenn Gilmour:** That's essentially what would happen. The principle behind both this amendment and the coordinating amendment is that, at all times, there would be consistency with the definition of "identifiable group" as it exists in the Criminal Code, either as it currently is right now or as it may be amended by Bill C-16. Once, and if, Bill C-16 were passed, that would happen.

**The Chair:** Is everybody good to go on a vote on LIB-1? Let's go to a vote on LIB-1.

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

**The Chair:** It's adopted unanimously.

The next one is NDP-4.

Mr. MacGregor.

**Mr. Alistair MacGregor:** Thank you, Mr. Chair.

During the course of a lot of the testimony by witnesses during our consideration of the bill, there were references made on repeated occasions to the phrase "primarily used". I want to move this particular amendment so that, for all of the four proposed paragraphs that describe property, it makes sure that the language "primarily used" is changed. I feel that language could limit the instances where hate-based mischief could take place. Through this amendment, I'm proposing to broaden the legislation a bit so we can catch areas in buildings or parts of buildings that are used for religious worship, or a meeting place that's associated with an identifiable group.

I'll just quote a few of the witnesses we heard.

Mr. Gilmour, in your previous testimony, you mentioned that the way the bill is currently worded, if someone went to a bar and mischief were committed against the bar because there were members of, say, the gay community inside, you didn't see, in the current reading of the bill, that being covered.

We had Mr. Gardee, the executive director of the National Council of Canadian Muslims, who said:

Even if a building is not primarily used...but used on an occasional basis, then there is an indication there that the crime was committed directly targeting a particular community. It would seem to make sense to look at that very seriously.

We had Mr. Mostyn, who said:

I had just suggested changing the wording from “primarily used for”, which are the three words that are in the paragraphs, and suggested an alternative description, because I don't think this is where you want to get really narrow. I think this is where you want to be broad.

Then, of course, Mickey Wilson, the executive director of Pride Centre of Edmonton, said:

...I think there are a lot of limitations when we include the word “primarily”, because that business might not have anything to do with our community other than that it is supportive and is indicating we are welcome, and yet it could be targeted just because it has that symbol there.

With that, Mr. Chair, because of the testimony that we heard, I feel it's important to move this particular amendment. I'd welcome comments and feedback.

● (1555)

**The Chair:** Thank you very much.

Mr. Nicholson, and then we'll move on.

**Hon. Rob Nicholson:** I agree with my colleague here. I think the use of the word “primarily” is a problem in the present wording. I agree with my NDP friend that we should be more specific, in the sense that if it's used occasionally, if it's identifiable, then the word “primarily” is not necessary. That's what he is proposing in his four amended paragraphs in the bill. We support it.

**The Chair:** I should have pointed out earlier that NDP-4 would cancel out LIB-2, because LIB-2 is amending the same lines. I just note that NDP-4, if adopted, no longer ties to a building used by an “identifiable group”, because it goes back to the wording of Bill C-305, unless it's amended. I'm just pointing that out.

Are there any comments on that side?

Mr. Fraser.

**Mr. Colin Fraser:** Again, I appreciate the point and the fact that you brought it forward.

But I would only reinforce the point I made earlier regarding “primarily”. I'm putting forward LIB-2. For that reason, I'm not going to support this amendment.

**The Chair:** Are there any further comments?

**Mr. Alistair MacGregor:** Out of respect for the witness testimony, I think that the “primarily used” subsection is problematic. I go back to that example. If it's a business, a bar, or some kind of a building that's not listed within the definitions of Bill C-305 but is clearly identified with an identifiable group—they congregate there—it's known as an ally, and it's targeted specifically for that reason.

Are you saying it's more important to protect the building, or is our intention here to target the crime that's taking place? To me, it's the action, because it's targeting a building that is associated with a group. Whether it's a school or a business, the crime took place, the action took place because people knew it was associated with the LGBTQ community, or with a Jewish group, or with a Muslim group. That, for me, is the crux of the issue in this particular amendment.

**The Chair:** Thank you.

Any further discussion?

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

**The Chair:** This means we move to LIB-2.

Mr. Fraser.

**Mr. Colin Fraser:** Thank you, Mr. Chair.

This amendment replaces line 23 on page 1 with the following:

structure, that is primarily used by an *identifiable group* as defined in subsection 318(4)

It then goes on to make further amendments.

I believe this accurately characterizes what I believe is the proper way to address the buildings, which is that they be for the primary use. It's the wording that's currently in the act now with regard to religious buildings—that the buildings be primarily used for that purpose. I believe this is a proper way to ensure that the buildings we're talking about for this higher threshold be identified and readily identifiable by the public as primarily used by the class, and for the reasons that make this a more serious situation with regard to the mischief.

I take the points made earlier by the members opposite, but reiterate the fact that this doesn't mean those types of activities would not warrant criminal sanction or would not be considered as being motivated by hate. That's not the issue here. The issue here is regarding the notoriety of the building to ensure that we are not making it overly broad. For that reason, I'm putting forward LIB-2.

**The Chair:** Thank you.

Is there discussion?

● (1600)

**Hon. Rob Nicholson:** I don't think it's as good as yours, Mr. MacGregor, but nonetheless, I think it improves the issue in the bill.

**The Chair:** Is there any further discussion?

Mr. McKinnon.

**Mr. Ron McKinnon:** For the record, I don't like either choice. The language without the word “primarily” is way too broad, and the language with “primarily” is kind of narrow. I think it's better to be a little conservative in this way.

**An hon. member:** I'm here for you.

**Some hon. members:** Oh, oh!

**The Chair:** That's the smartest thing you've said all day.

**Mr. Ron McKinnon:** Without some other language being put forward that I could get behind, I think we have to stick with “primarily”.

**The Chair:** Mr. MacGregor.

**Mr. Alistair MacGregor:** I can understand your concerns about being too liberal with our definitions.



I just want to say that I will vote in favour of this. I respect the will of the committee and that the majority rules. I still want to put on the record my earlier reasons that I think we're in danger of excluding some people because of the language. But if this is the best that we can arrive at, so be it.

**The Chair:** Thank you very much.

We have finished our debate.

(Amendment agreed to)

**The Chair:** Are there any other proposed amendments to other lines of clause 1? I ask because LIB-3 would be create clause 2, a new clause.

(Clause 1 agreed to as amended)

(On clause 2)

**The Chair:** Now we will move to the new clause 2, which LIB-3 proposes to create.

Mr. Boissonnault.

**Mr. Randy Boissonnault (Edmonton Centre, Lib.):** Mr. Chair, we had a discussion about where we should have the expression of gender diversity and it was important to make sure that we have "gender identity" and "expression" in the final law, and the coordinating amendment makes sense if we assume that the Senate will pass this. We don't know. It's an independent body. I would encourage my honourable colleagues across the way, as elected officials, to work with the counterparts of their party in the Senate to make sure that this human rights legislation passes in the Senate. We are doing our work with both independents and Liberals and so if we can get Bill C-16 across the goal line in the Senate, then this coordinating amendment would put the new legislation in line with Bill C-16, and that is the spirit of this clause.

**The Chair:** Thank you very much.

Are there other comments?

Mr. Falk.

**Mr. Ted Falk:** Mr. Chair, as you know, I'm not a supporter of Bill C-16, but as it's in the Senate, and if it finds its way successfully through the Senate and receives royal assent and becomes law, this just makes sense.

**The Chair:** Thank you very much.

I don't think there is much more debate.

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

**The Chair:** Is there any other proposed amendment to create any other proposed new clause in this bill?

Because clause 1 as amended carried, and the new clause 2 was amendment LIB-3, we don't need another vote on clause 2 because it was carried by amendment LIB-2.

Shall the title of the bill carry?

**Some hon. members:** Agreed.

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

**Some hon. members:** Agreed.

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

**Some hon. members:** Agreed.

**The Chair:** Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

**Some hon. members:** Agreed.

**The Chair:** We have now finished our work on this bill. I'd like to congratulate the members of the committee for their excellent work,

May I ask that we have a short in camera session to talk about our upcoming agenda, if that's okay?

Mr. MacGregor, before we go in camera.

**Mr. Alistair MacGregor:** Before we go in camera what is our progress in getting the minister to come before the committee to talk about the supplementary estimates? I know there was some discussion on that. I would just appreciate having an update from you on that.

**The Chair:** Thank you very much. That's an excellent question.

We have the minister coming on May 4.

**Mr. Alistair MacGregor:** What will she be discussing at that time specifically?

**The Chair:** The minister will come on the main estimates, but you can feel free at that point to ask her questions on the supplementary estimates as well, and I will receive them.

**Mr. Alistair MacGregor:** Okay, Mr. Chair, can we ensure that when the minister appears before the committee to discuss the main estimates, she also comes with her plans and priorities, because I would like to see what the Department of Justice's plans are as we go forward. There are a lot of big things heading our way. I'd like to see what their plans are for implementing the legalization of and regulatory framework for marijuana. That issue is very important to me on the west coast. I want to ensure that the minister comes with those plans and priorities, and not just the main estimates.

● (1605)

**The Chair:** Okay, I will be liberal with the type of questions you can ask the minister. What the minister is able or chooses to answer, I can't control, but we will certainly ask the minister. We will pass on that message.

**Mr. Alistair MacGregor:** Will May 4 be too early for those to be ready?

**The Chair:** I can't answer that question. It's the date the minister has given us to discuss the main estimates, and at that point, again, I will be pretty liberal with the questions you ask. As our former justice minister would say, they answer as best they can.

I want to congratulate the committee in one respect. We did send that letter about zombie clauses in the Criminal Code, and legislation is now at least tabled to deal with some of those clauses, including the one that interested Bret McCann, the constituent of Mr. Cooper. I'm happy about that.

Now we'll pause the meeting briefly to go in camera. I would ask everybody who is not a part of the committee to exit as soon as you can.

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*[Proceedings continue in camera]*







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