



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

43rd PARLIAMENT, 2nd SESSION

---

# Standing Committee on Canadian Heritage

EVIDENCE

**NUMBER 035**

Tuesday, May 18, 2021

---

Chair: Mr. Scott Simms





## Standing Committee on Canadian Heritage

Tuesday, May 18, 2021

• (1430)

[*English*]

**The Chair (Mr. Scott Simms (Coast of Bays—Central—Notre Dame, Lib.)):** Welcome back, everybody. Once again, just 22 hours later, here we sit once more with Bill C-10.

Today, we're doing witness testimony. With us today we have both ministers and officials. I'm just going to briefly introduce them for you.

We have the Hon. Steven Guilbeault, who is the Minister of Canadian Heritage and who has been here before.

We also have the Hon. David Lametti, the Minister of Justice.

From the Department of Justice, we have Nathalie Drouin, the deputy minister of justice and deputy attorney general of Canada; Sarah Geh, director general, human rights law section; and Michael Himsl, legal counsel.

Once again, and no strangers to us now by any means, from the Department of Canadian Heritage we have Thomas Owen Ripley, director general, and Drew Olsen, senior director.

We have an hour and perhaps a bit. I know we have an hour with the minister, but, Minister, bear with us. Sometimes we tend to go five minutes over. I say that with trepidation, but you can try to hold us to it.

That being said, we usually do four questions in the opening round and four questions in the second round. I'm hoping to accomplish that. If we have time left, we can do more. That would give an extra one spot for the Conservatives and then the Liberals. In the meantime, I'm going to try to hold to these eight speaking spots.

Mr. Guilbeault, you're not doing an opening statement, but we understand Mr. Lametti is.

Minister Lametti, welcome to the committee. You have up to 10 minutes. The floor is yours, sir.

**Hon. David Lametti (Minister of Justice):** Thank you very much, Mr. Chair. Good afternoon.

I wish to acknowledge that I'm speaking to you today from Ottawa on the traditional territory of the Algonquin people.

Thank you, Mr. Chair, for the invitation to appear before you to discuss the charter statement that was tabled for Bill C-10, as well as the explanatory document requested for the proposed amendments now before the committee.

As you can see, I'm appearing alongside Minister Guilbeault, who is the minister responsible for Bill C-10. I am accompanied by officials from my department.

[*Translation*]

I want to begin by discussing the duty I have under the law, as Minister of Justice, to prepare statements regarding the Canadian Charter of Rights and Freedoms for government bills introduced in the House of Commons.

I will discuss the purpose of charter statements and provide the context, including their history. I will explain what charter statements are meant to do and not do.

I will also gladly speak to the charter statement tabled in relation to Bill C-10, as well as the explanatory document provided to the committee concerning the potential effects of the proposed amendments on freedom of expression.

• (1435)

[*English*]

I should note at the outset that it is not my role as Minister of Justice and Attorney General to give legal advice to parliamentary committees. You have access to your own legal counsel and independent witnesses.

As you are aware, however, I do have obligations under the Department of Justice Act in terms of reviewing proposed government bills for inconsistency with the charter and preparing charter statements for government bills. This obligation was created by our government to be open and transparent with Canadians about the charter considerations of our legislation.

These two sets of obligations—examining bills and preparing charter statements—are both focused on the bill as tabled.

[*Translation*]

Section 4.2 of the Department of Justice Act requires the Minister of Justice to ensure that a charter statement is tabled in the House of Commons for every government bill. That obligation came into force in December 2019.

Examining bills for potential inconsistency with the charter, as set out in section 4.1, is one of my most important responsibilities. Rest assured that I also take very seriously the obligation to ensure charter statements are tabled in the House, as set out in section 4.2.

Now I will turn to the purpose of charter statements.

Charter statements are intended to inform parliamentary and public debate on a government bill. They foster transparency regarding the effects of a government bill on the fundamental values protected by the charter. They provide parliamentarians with additional information to further inform the important legislative debates they have on behalf of Canadians. Charter statements also provide Canadians with additional information to help them participate in these debates through their elected representatives.

The obligation to table charter statements is a testament to our government's commitment to respect and uphold the charter, as an integral part of the country's good governance.

We can never abdicate our responsibility as a government to ensure that our decisions—including those reflected in the reform of an act—respect our fundamental rights and freedoms. Section 4.2 of the Department of Justice Act strengthens the obligation this government and future governments have to respect this most basic of requirements.

[*English*]

I would like to take a few moments to explain the content of charter statements. In keeping with their purpose, charter statements are drafted at a high level. They set out in an accessible way the potential effects a bill may have on the rights and freedoms guaranteed by the charter. Charter statements also explain considerations that support the constitutionality of a bill.

In our discussion of the charter, it is also important to stress that, when Parliament legislates, it may have an effect on charter rights and freedoms. This may include limiting people's enjoyment or exercise when it is in the broader public interest to do so. This is entirely legitimate. The rights and freedoms guaranteed in the charter are not absolute, but rather subject to reasonable limits, as long as those limits can be demonstrably justified in a free and democratic society.

This means that, when identifying the potential effect of a bill that could limit a right or a freedom, it may also be necessary to consider whether the limit is reasonable and justified. A charter statement may therefore outline considerations relevant to the potential justifiability of a bill.

The fact that charter rights and freedoms can be limited, however, is not a licence to violate them. Rather, it is a reminder that any legislative limits to rights and freedoms must be carefully considered in the context of the shared values of Canada's unique, free and democratic society.

As parliamentarians, it is our responsibility to discuss and debate potential effects on charter guarantees. We exercise our judgment on behalf of Canadians as to whether proposed legislation strikes the right balance between rights and freedoms and the broader public interest. Charter statements are one more source of information to add to our deliberations.

[*Translation*]

I would also like to take a moment to explain what a charter statement is not.

A charter statement is not a legal opinion. It does not provide a comprehensive analysis of the constitutionality of a bill.

As I mentioned, a charter statement provides Parliament and the public with legal information relating to the possible effects of a bill on the rights guaranteed by the charter and to the considerations that support the consistency of the bill with the charter.

As we all know, bills often change when they are being considered by Parliament. A charter statement reflects the bill at the time it was introduced by the government in the House of Commons. Section 4.2 of the Department of Justice Act does not require that charter statements be updated as a bill progresses through Parliament.

Keeping that in mind, I will now turn to the proposed amendments to Bill C-10 in relation to social media, which are before the committee.

My fellow minister Mr. Guilbeault talked about the scope of the proposed amendments. He highlighted the key objectives underlying the amendments and discussed their intended effects on social media services and users.

In short, the proposed amendments are intended to empower the Canadian Radio-television and Telecommunications Commission to regulate a social media service in respect of programs uploaded by its unaffiliated users, strictly in relation to the following: payment of regulatory charges, such as to support the creation of Canadian programming; discoverability of Canadian creators; registration of the service; provision of information; and auditing of records.

● (1440)

[*English*]

In keeping with my obligations under the Department of Justice Act, I tabled a charter statement for Bill C-10 in the House of Commons on November 18, 2020. The charter statement for Bill C-10 identifies the rights and freedoms that may potentially be engaged by the bill, and relevant considerations that support the bill's consistency with the charter.

In considering the committee's recent discussions focusing on the impacts of the proposed amendments on social media, I understand there has been extensive debate on freedom of expression.

We have prepared and shared with you an explanatory document that examines the amendments, and discusses their potential effect on the right to freedom of expression in section 2(b) of the charter. I'm confident that these considerations support the charter consistency of the bill, and that they remain as outlined in the charter statement. It is our position that the bill, as tabled, and these proposed amendments are consistent with the charter.

As the charter statement indicates, the bill's regulatory requirements have the potential to engage freedom of expression in section 2(b) of the charter. The following considerations support the continued consistency of the proposed regulatory requirements of section 2(b).

By virtue of clause 1, which would remain in the bill, unaffiliated users of social media services would not be subject to broadcasting regulation in respect of the programs they post. What remains is an updating of the CRTC's regulatory powers, and providing it with new powers applicable to online service. The bill maintains the CRTC's role and flexibility at determining what, if any, regulatory requirements to impose on broadcasting undertakings.

Regarding the proposal to give the CRTC new limited powers to regulate an online undertaking that provides the social media service in respect of programs posted by unaffiliated users, the relevant charter considerations include the CRTC's discretionary role and flexibility.

The proposed narrowing of the CRTC's discretionary powers to regulate its social media service in respect of programs posted by unaffiliated users, to only discrete members that I have mentioned, is an additional consideration. The CRTC is subject to the charter, and must exercise any discretionary powers it has in a manner that is consistent with the charter.

The act states that it must be interpreted and applied in a manner consistent with freedom of expression. The CRTC's decisions on matters of law or jurisdiction are subject to review by the Federal Court of Appeal.

In my view, the relevant considerations that are set out in the charter statement remain valid. These considerations are not impacted by the proposed amendments.

[*Translation*]

Once again, thank you for the opportunity to address the committee today.

I am at your disposal to answer questions.

[*English*]

**The Chair:** Thank you, Minister Lametti.

We'll now go to our questions and comments. As I mentioned earlier, we have four six-minute rounds from each of the parties.

We're going to start with the Conservative Party. Ms. Harder, you have six minutes.

• (1445)

**Ms. Rachael Harder (Lethbridge, CPC):** Thank you.

Minister, in the charter statement for BillC-10, clause 3, proposed section 4.1 is cited as grounds for the bill being in compliance with the charter. We know that section was removed. Experts in the industry now say that the removal of section 4.1 takes away the safeguards that were imperative to protect user-generated content.

Do you agree with that?

**Hon. David Lametti:** As I said in my opening remarks, I'm not going to give legal advice. That is not part of my role as Minister of Justice. I don't give legal advice to committees.

That being said, the Department of Justice has provided a further explanatory document that examines the amendments, and discusses their potential effect on the right to freedom of expression, section 2(b) of the charter.

As I said in my opening remarks, I'm confident that the conclusion of that explanatory document is that the bill remains consistent, and the original charter statement has not changed as a result.

**Ms. Rachael Harder:** I appreciate that you're calling it an explanatory document, because it's not a new charter statement, so thank you for acknowledging that. It is simply an explanatory document. This committee did request a charter statement, so we'll get to that later.

In the explanatory document, there's no acknowledgement of section 4.1 being taken out. Why?

**Hon. David Lametti:** Again, I won't go into the mechanics of the explanatory document—

**Ms. Rachael Harder:** No, no, I'm just wondering why.

**Hon. David Lametti:** It takes into account the changes. It's an explanatory document, because the law only—

**Ms. Rachael Harder:** But section 4.1 is the whole reason that it was requested.

**Hon. David Lametti:** —requires that I give a—

**Ms. Rachael Harder:** Why wouldn't you comment on that?

**Hon. David Lametti:** I do not have an obligation to give legal advice. I have an obligation to give a charter statement under section 4.2. I did that when the bill was tabled, as is envisaged in the law.

We have provided an explanatory document. It's not a charter statement, but it takes into consideration the amendments that were made, and the original import of the charter statement remains true, that is, in our view the proposed amendments are consistent with the charter.

**Ms. Rachael Harder:** It's interesting to me that in your opening statement, you said "the bill as tabled" supports the charter, again giving no acknowledgement to the fact that proposed section 4.1 has been removed. Even now, as I'm asking you questions, you're skirting the issue. You're refusing to address the fact that proposed section 4.1 has been removed and to give a statement as to whether or not the bill is still charter compliant.

Why are you avoiding my question?

**Hon. David Lametti:** I'm not avoiding the question. In fact, I've answered it. I answered it in my opening remarks. The explanatory document looked at the proposed amendments, and it is—

**Ms. Rachael Harder:** Did this include the removal of proposed section 4.1?

**Hon. David Lametti:** Yes, including.... Well, all the proposed amendments and the bill as tabled, according to the explanatory—

**Ms. Rachael Harder:** You're skirting again.

**Hon. David Lametti:** I'm not skirting anything. I'm answering the question.

**Ms. Rachael Harder:** Why won't you just address it? Why not just say, "Yes, 4.1 being removed still respects the charter"?

**Hon. David Lametti:** I have said that all of the proposed amendments, including that one, are consistent with the charter, according to the spirit of both the explanatory document and the charter statement.

Remember, Ms. Harder, I'm not here to give legal advice. I can't give you legal advice.

**Ms. Rachael Harder:** I'm not asking for legal advice. I'm asking for the reflections of a very qualified minister.

**Hon. David Lametti:** You have those reflections—

**Ms. Rachael Harder:** I certainly would expect you to be able—

**Hon. David Lametti:** —in the explanatory document.

**Ms. Rachael Harder:** —to answer my questions directly without skirting them.

**Hon. David Lametti:** I am answering the question directly and—

**Ms. Rachael Harder:** I'm going to move on to my next question here.

**Hon. David Lametti:** —I'm not skirting anything.

**Ms. Rachael Harder:** Dr. Geist makes things very clear when he says, "There is simply no debating that" by removing section 4.1, "the bill now applies to user-generated content, since all audiovisual content is treated as a program under the act."

Do you agree with that? Is that a correct statement?

**Hon. David Lametti:** I believe you're quoting Professor Michael Geist. I will defer to my colleague Minister Guilbeault to answer that question.

**Ms. Rachael Harder:** It's okay, Mr. Lametti, the question was for you. If you'd prefer not to answer, you can state that publicly.

**Hon. Steven Guilbeault (Minister of Canadian Heritage):** I'd be happy to answer the question, Mr. Chair.

**Ms. Rachael Harder:** The question was for Mr. Lametti, and it is my time, so I get to direct it to a witness of my choosing.

**The Chair:** Okay, everybody, could we pause for a moment?

**Hon. David Lametti:** Mr. Chair, I remind the honourable member that—

**The Chair:** Minister Lametti.

**Hon. David Lametti:** —I am here to answer questions with respect to the charter statement.

**The Chair:** Minister Lametti, can you hear me? I'll just be one second.

• (1450)

**Hon. David Lametti:** I can indeed hear you.

**The Chair:** Ms. Harder, as you know by now, you can direct a question to a particular member; that is true. However, that person is not compelled by anyone here to answer the direct question. They're not even compelled to be here, whether they are an MP or a senator, and it's the same practice we have in the House of Commons.

**Ms. Rachael Harder:** Mr. Chair, may I speak?

**The Chair:** Is it related to my intervention?

**Ms. Rachael Harder:** It is related to your intervention.

**The Chair:** Okay, go ahead.

**Ms. Rachael Harder:** I do understand what you're saying. I know that Mr. Lametti doesn't have to answer my question. However, at the same time, when we have other witnesses here, one witness doesn't get to pass the question on to another. It is up to the speaker to determine which witness is being asked the question. If Mr. Lametti doesn't want to use my time to answer the question, he doesn't need to, but he doesn't get to pass it off to Minister Guilbeault.

**The Chair:** I understand that, Ms. Harder, but with all due respect, witnesses of the same organization pass questions to each other quite often, and ministers have always, at least in my close to 19 years of being here, looked to officials as well. It's just something we do.

I understand that you're frustrated. I used to get frustrated too; I know where you're coming from. However, I—

**Ms. Rachael Harder:** Chair, if I may—

**The Chair:** Just one moment.

What I'm going to do now—

**Hon. David Lametti:** Mr. Chair, may I clarify one thing?

**The Chair:** You can when I'm ready.

**Hon. David Lametti:** It is—

**The Chair:** Just one moment, please.

I want to make sure that everybody understands the rules about directing questions, before we get into something else. I've stated them now.

Ms. Harder wanted to make a point.

Do I proceed with your questioning, Ms. Harder?

**Ms. Rachael Harder:** I wish to clarify one more thing about the direction you're giving us right now, Chair.

**The Chair:** Go ahead.

**Ms. Rachael Harder:** Your ruling is different than what it has been in the past, and I'm not sure if that's because we have two ministers in front of us. In the past, you've given us the latitude to determine the witness to whom we are directing our question.

**The Chair:** That is correct, but if you direct it to a particular person, they can refer to someone else. You can talk to whomever you wish, but the person receiving the question can refer to someone else if they so desire. I can't compel them to answer, even if I wanted to.

I'm sorry for your frustrations, but I'm trying to make my way through this, and I'm hoping that nobody talks over anyone else.

Minister Lametti, you had something you wished to clarify as well.

**Hon. David Lametti:** It's a long-standing practice of the House of Commons and committees, Mr. Chair, that ministers speak to their own bills.

**The Chair:** I appreciate that. I understand.

**Hon. David Lametti:** I am here for that specific reason—to speak to the charter statement—and that's what I will do.

**The Chair:** You mentioned that in your opening statement, but now I have to proceed.

Ms. Harder, you still have the floor. Go ahead.

**Ms. Rachael Harder:** Minister Lametti, I think as I've already expressed.... I know you to be very capable and very competent. I know you to be a strong defender of free expression online. You've certainly written to that effect and made statements to that effect, so I am very glad that you are here today.

I do have a question with regard to discoverability and its requirements within this bill. Again, Dr. Geist said that, in his view, the prioritization or deprioritization of speech by the government through the CRTC necessarily implicates freedom of expression. Based on the charter statement that you produced, would you agree with that?

**Hon. David Lametti:** As I have stated, the conclusion in both the charter statement and the explanatory document is that the bill is consistent with the charter. If you have a question about the applicability or a particular point of interpretation in the proposed bill, I will turn over the floor to Minister Guilbeault.

**Ms. Rachael Harder:** I have a question with regard to the charter—as to whether or not section 2(b) of the charter is actually held up by this bill—so let me explain further.

If I go to an art exhibition owned by a private individual, I expect to walk in and the art to be curated for me. Some artists are going to be given the front room; other artists are going to be given a back room. The curators are going to choose which paintings come first and which are toward, maybe, the end of the exhibition. That curation is expected because I'm going into a private gallery, and

they've offered to do that for me. At the same time, however, if the government was to come in and dictate to that gallery how the art should be hung, where it should be hung or which artist should be promoted, that is censorship in its finest. The same thing is happening on our social media platforms with Bill C-10.

How does that fit within section 2(b) of the charter: to have what we post online carefully curated and censored by a government arm, the CRTC?

• (1455)

**Hon. David Lametti:** As I mentioned in my opening statement, both the charter statement and the explanatory document looked at the various provisions of Bill C-10 and found that section 2(b) might be engaged, but there were various reasons given—which I outlined in my opening—to conclude that this was in conformity with section 2(b) of the charter.

Again, if there's a substantive application question, I will turn it over to Minister Guilbeault.

**The Chair:** Thank you.

I have to turn it over to Mr. Housefather.

**Mr. Anthony Housefather (Mount Royal, Lib.):** Thank you, Mr. Chairman.

Minister Guilbeault, it's great to see you here again. Thank you.

Also, thank you to Mr. Ripley and the officials from Canadian Heritage.

I want to particularly thank Minister Lametti and express my personal appreciation to him, to Nathalie Drouin and to the team from the Department of Justice for being here today, which is outside the normal course.

Minister Lametti, this committee asked you to provide a document “focusing on whether the Committee's changes to the Bill...have impacted the initial Charter statement provided, in particular as relates to Section 2(b) of the Canadian Charter of Rights and Freedoms.” Somebody was trying to use a technical term in terms of what we're calling the document to tell us whether or not you have delivered. Do you believe the document you provided delivers exactly what the committee requested?

**Hon. David Lametti:** Yes, I do. It answers the question that was posed by the committee, which was whether the analysis contained in the original charter statement changed with the amendments. After the analysis, the explanatory document says that, no, that is not the case.

**Mr. Anthony Housefather:** Thank you.

At our meeting last Friday, a number of questions were raised about why the explanatory document was not on the Department of Justice website and why the initial charter statement had not been amended on the Department of Justice website. Can you explain to us why that's the case?

**Hon. David Lametti:** The legal obligation with respect to charter statements, according to section 4.2 of the Department of Justice Act, is that they be tabled around the time that the bill is tabled in the House of Commons. At that point, we put it up on the website. As the committee requested a separate assessment, we produced an explanatory document based on the amendments to C-10, and we gave it to the committee because it was the committee that requested it.

It's not the charter statement that was originally tabled, so there was no need to list it on the Department of Justice website.

**Mr. Anthony Housefather:** Thank you.

Some have claimed that the charter statement is a political document because it's been signed off by you, and you happen to be a Liberal minister.

Would the charter statement not be more accurately described as a non-political document prepared by non-partisan department officials at Justice Canada to provide Canadians and parliamentarians with a better understanding of how the bill may impact charter rights?

**Hon. David Lametti:** That is very true. Your second characterization is absolutely the case, and the first characterization of it as a political document is absolutely not the case.

It's an important responsibility, as I outlined in my opening remarks, for me to oversee the preparation of charter statements. These are done by non-partisan department lawyers who are tasked with preparing charter statements and doing the analysis. The charter statement has a specific role, as I outlined in my opening remarks. While it is a document that is finally reviewed by me, I do that in my role as Minister of Justice, and I do that very seriously in an non-partisan way.

The document itself was drafted in a wholly non-partisan way, so no, it's not a political document. It's meant to be a legal framework document, if you will. That's the best way I can describe it.

**Mr. Anthony Housefather:** I know that you've said this already, but I just want to make sure we're all clear on this. In reference to the explanatory document, is it accurate to say that you have determined that the bill, as amended and as proposed to be amended, does not change the relevant considerations in the original charter statement?

**Hon. David Lametti:** That's precisely the conclusion of the explanatory document. The relevant considerations set out in the charter statement remain valid, and these considerations are not impacted by the proposed amendments.

**Mr. Anthony Housefather:** Some have criticized the explanatory document for not stating whether the potential discoverability requirements would breach section 2(b) and require a section 1 analysis.

Mr. Minister, would a charter statement ever contain section analysis?

**Hon. David Lametti:** It would very rarely, if ever, contain one. I certainly can't recall ever having seen one with a section 1 analysis.

The reason is that, when you get into a section 1 analysis, you're balancing the actual provisions in an act with a section of the char-

ter, and you're asking whether it's potentially justified as a limit that is reasonably and demonstratively justified in a free and democratic society.

That's something that puts you in the realm of doing a political analysis or giving an actual legal opinion, which, for either case, would not be something that would be in the neutral framework of a charter statement.

I personally think I would never see one, as I can't recall ever having seen one. Section 1 implications do not have their place in the charter statement, the goal of which, as I've already set out, is to articulate the articles under the charter that might be impugned by a potential piece of legislation and the considerations that are there that explain the law.

• (1500)

**Mr. Anthony Housefather:** Mr. Chair, do I have any time left?

**The Chair:** Yes, you have about 30 seconds.

**Mr. Anthony Housefather:** Mr. Minister, would you agree that the charter statement carefully considers that the CRTC, in making any regulations on the discoverability issue, including with respect to algorithms, would have to respect the charter, including section 2(b), as opposed to the social media companies themselves, which do not have to respect the charter in their use of algorithms?

**Hon. David Lametti:** Both the charter statement and the explanatory document took into account all of the various changes that went into the act, and we have concluded that there wasn't a change to the original conclusion of the charter statement.

If you would like a more precise answer on the content of the actual act, I will turn the floor over to Minister Guilbeault, who is responsible for explaining and defending the bill.

**Mr. Anthony Housefather:** I think I'm out of time, so I'm not sure if that will be the case, but thank you.

**The Chair:** I'm sorry Mr. Guilbeault, we'll have to get you to work that answer in at some point during the deliberation.

[*Translation*]

Mr. Champoux, you may go ahead. You have six minutes.

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

Thank you to both ministers for being here today.

Mr. Lametti, you said in your opening statement that the principle of freedom of expression was not absolute. Like it or not, it has its limits.

Can you give us examples of situations in which limiting freedom of expression would be justified?



**Hon. David Lametti:** I'd like to thank the honourable member for his question.

Although it's an important question, I must say that I am here to explain the purpose of charter statements and to discuss the explanatory document we provided.

I am not here to give lessons on the charter and certainly not legal opinions. Answering a hypothetical question could lead me into very dangerous territory, as justice minister.

If you have any questions about Bill C-10, I will defer to my colleague Mr. Guilbeault.

**Mr. Martin Champoux:** No, Minister. My question was about something you said in your opening statement. I was simply asking for specific examples of what you, yourself, said about freedom of expression not being absolute. Obviously, there are cases where freedom of expression has to be limited to a certain extent. I was simply asking you to clarify what you said. I wasn't asking you for a legal opinion or anything of that nature.

Can you give me some examples?

**Hon. David Lametti:** I am not going to give any examples, but as I said, rights and freedoms are clearly not absolute. In many areas of law, you can find numerous situations in which rights set out in a charter, be it a Canadian or Quebec charter, are limited by other acts or regulations.

What the charter statement does is examine the consistency of the bill with the charter, overall.

As per the statement and the explanatory document, we concluded that the issues.... The fact of the matter is that I can't provide you with a specific answer since the statement can't be specific.

• (1505)

**Mr. Martin Champoux:** It's more or less the principle that a person's rights and freedoms stop where another's start.

**Hon. David Lametti:** In some respects, yes.

**Mr. Martin Champoux:** I have a question for you. I'm not necessarily looking for a legal opinion, but I would like to draw on your expertise as a lawmaker.

Once Parliament passes a bill, as may soon be the case with Bill C-10, and once that bill comes into force, can people or groups of people turn to the Federal Court or another court to challenge specific sections of the legislation they find worrisome or unconstitutional? I'm thinking of provisions they feel jeopardize their freedom of expression.

**Hon. David Lametti:** That is always the case. In fact, that's one of the reasons why I don't give legal opinions publicly, either before committees or in the House.

As I have repeatedly said, if you have specific questions about the scope of Bill C-10, I will defer to my colleague Mr. Guilbeault.

**Mr. Martin Champoux:** No, the question was not directly related to Bill C-10, Mr. Minister. It could have been about any bill.

However, this is a good example. The bill before us is more complex than just the matter of freedom of expression. I am wondering whether, after the bill is passed, people will still have an opportuni-

ty to challenge parts of it if they want to, if they are concerned or uncomfortable.

This is simply a question about procedures and how the justice system works.

**Hon. David Lametti:** That's the case with any legislation.

**Mr. Martin Champoux:** Okay, thank you.

Perhaps this is a question I could ask your colleague Minister Guilbeault, who is also here today, but do you feel that we could add the wording to this bill right now that would reassure people who think that freedom of expression is currently being infringed upon? Do you have any idea what we could put in the bill to deal with this issue once and for all?

**Hon. David Lametti:** I'll turn it over to my colleague.

**Mr. Martin Champoux:** The question is more for Mr. Guilbeault, yes. Thank you.

**Hon. Steven Guilbeault:** Thank you, Mr. Chair.

I thank my colleague for his question.

Clearly, the committee is sovereign and has the power to propose amendments that it believes will improve the bill. I was the first to admit from the beginning that any bill could be improved.

As you know, we are a minority government. In that context, we have already worked extensively with the opposition parties on a number of amendments. We remain open to working with them throughout the committee's work, of course.

**Mr. Martin Champoux:** Thank you.

We will come back to that, because I think my time is up.

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

[English]

We will go to Ms. McPherson for six minutes, please.

**Ms. Heather McPherson (Edmonton Strathcona, NDP):** Thank you, Mr. Chair.

I would also like to take a moment to thank Minister Guilbeault, Minister Lametti and the department representatives from Heritage and Justice for joining us today in this important meeting.

Mr. Lametti, I'm very glad you're here. I have to say that I was worried when you initially chose not to testify at this committee. I was, of course, deeply concerned that your absence would cause continued delay and would continue to impede our work on creating good broadcasting legislation, so thank you for taking the time to be with us here today.

Mr. Lametti, some experts have stated that your latest update on the charter statement is very fragile, as it is more a political document to protect the mistakes of your government than a legal analysis, so, of course, by your declining the initial invitation, we felt that you were reinforcing this concern and the fears about threats to the freedom of expression. Again, thank you for making the time to be here with us today.

I have a series of questions for you, if you don't mind. First of all, I'd like to know if you can identify the sections of the bill that are intended to protect the charter principles. Could you identify clearly those provisions that are intended to protect the charter principles?

**Hon. David Lametti:** My absence was based in part on a principle that ministers defend their own bills in front of committee—

• (1510)

**Ms. Heather McPherson:** Pursuant to the different roles within this government.

**Hon. David Lametti:** Yes, but it would be a terrible precedent if a Minister of Justice were called to defend charter statements, in part because they are apolitically drafted, and in part because, as you have identified in your question, they aren't meant to be a legal opinion. There are going to be different legal opinions out there, and you, as a committee, you, as individuals, parties and other people for or against the proposed legislation can get access to legal opinions and go precisely into detail.

The charter statement isn't meant to do that; the charter statement is a framework document that is meant to show that the government is attuned to the fact that there is a charter and that proposed legislation needs to conform to that charter. Therefore, it forces the minister in charge of the bill, we, as the Department of Justice, and the Minister of Justice to take all of that into account.

If you wish to go through a more specific analysis of the various articles of the bill that are in question, I would turn the question over to my officials. I did identify the changes that were brought about that were considered in the explanatory document subsequently, and, again, the conclusion is that they fall within the original framework of the analysis that was done on the charter statement.

**Ms. Heather McPherson:** Thank you.

I don't think I'll go into more depth at the moment.

One of the concerns I have with this legislation, and I've articulated this many times at this committee, is that, if this initial bill is.... We know it wasn't crafted particularly well, and we have had 120 amendments come forward. If we don't fix this legislation, if we don't make sure this legislation, which we know is decades overdue, is done properly, it will be challenged in court. You just alluded to that potential in your last answer. If that happens, the im-

plementation of this bill will be delayed again and again, and, of course, the impact is going to be felt by the Canadian cultural sector. Those who this bill was meant to help will be hurt the most.

As you know, several experts have said that your department's analysis does not provide a clear answer regarding the bill and its compliance with the charter principles. If the protections are not clear, what would happen if the bill is challenged in court? Further, do you think that, without clear protections for the charter principles, there is a high risk that a legal dispute will undermine efforts to protect our cultural sector?

**Hon. David Lametti:** I support the bill. I'm a member of this government and cabinet, and I support the bill, so let's make that clear from the outset.

The charter statement is meant to help frame debate. It's meant to help identify articles in the charter that might be engaged by a piece of potential legislation and to identify the considerations that might be looked at as an explanation of the bill. It is not meant to be a legal opinion, so you're absolutely correct in your question to note that there are going to be legal experts who say there isn't enough in the charter statement to say that the bill is completely in conformity with the charter, and that's never the case with any charter statement. There will be different legal opinions, depending on the weight any particular legal scholar, commentator or lawyer puts on any particular factor. I leave it to the lawyers, legal scholars and other experts to do that weighing in the public sphere.

The court system is part of this process, but obviously, I certainly would like, as a legislator, this committee to help improve the bill and my colleague to put forth a bill that is a great bill.

As I said, I support this bill, and I want to make that clear.

**Ms. Heather McPherson:** Thank you, and as—

**Hon. Steven Guilbeault:** Mr. Chair, if I may add—

**Ms. Heather McPherson:** No, I have one quick question and I know I'm running out of time.

As a legal expert, with your own legal opinion, Minister, are you confident that the provisions of the bill are strong enough to ensure victory for the government in the courts?

**Hon. David Lametti:** As Minister of Justice—

**Ms. Heather McPherson:** What is your opinion? I realize there are different opinions, but I mean your opinion.

**Hon. David Lametti:** I thank you for the question, and I appreciate that it's posed as a compliment. I simply don't give legal advice in public, particularly not after having been made Minister of Justice. I appreciate the question, but I won't give an opinion.

**Ms. Heather McPherson:** Do you have an opinion?

**The Chair:** I appreciate the free flow of conversation, but unfortunately we have to be more rigid than that.

We're now going to a second round, and I'm going to be a little more strict because we're running out of time.

• (1515)

[*Translation*]

Mr. Rayes, you have the floor for five minutes.

**Mr. Alain Rayes (Richmond—Arthabaska, CPC):** Thank you, Mr. Chair.

Mr. Minister, thank you for finally agreeing to come and meet with us. I'm very pleased.

Let me first ask you a very simple question. Does section 2(b) of the charter protect users' freedom of expression and the content they put online, yes or no?

**Hon. David Lametti:** Thank you for the question, Mr. Rayes.

As I said at the outset, I am not here to give legal opinions or advice. That is not my role today. I never do that in public. It's true that, generally speaking, section 2(b) protects freedom of expression, but I'm not going to go into the details hypothetically. That is not my role today.

**Mr. Alain Rayes:** Mr. Lametti, with all due respect, you are the Minister of Justice. The Canadian Charter of Rights and Freedoms is a public document. My question is simple: I would like to know whether the Canadian Charter of Rights and Freedoms protects only individuals or whether it also protects the content they post online.

In your opening remarks, you said that there may be some limits to rights and freedoms, but you didn't want to elaborate on that, and you're perfectly entitled to refuse to do so.

I'm not asking you to give us a legal opinion or to prove any of this. I just want to know whether or not the Canadian Charter of Rights and Freedoms protects both individuals and the content they put online.

**Hon. David Lametti:** As I said, I won't give examples—

**Mr. Alain Rayes:** Can't you answer that question?

**Hon. David Lametti:** I can answer many legal questions, but as Minister of Justice, I cannot do so publicly.

**Mr. Alain Rayes:** That's fine. So you refuse to answer—

**Hon. David Lametti:** That's not my role today. I'm here to explain the charter statement, the role—

**Mr. Alain Rayes:** Mr. Lametti, I understand.

**Hon. David Lametti:** —of the minister in this regard and on the explanatory document.

**Mr. Alain Rayes:** That's fine. Thank you, Mr. Lametti.

The chair has made it very clear that you are under no obligation to answer our questions if you do not wish to do so.

My understanding is that you don't want to tell us whether section 2(b) of the Charter protects both individuals and the content they post online. I don't know whether that is true or not, but that is my understanding.

The statement that you submitted on November 18 explicitly included in its analysis the proposed section 4.1 of the Broadcasting Act. That section was removed on a Friday afternoon about three weeks ago. That is at the root of the conflict we find ourselves in. However, you, as Minister of Justice, do not want to give us a legal opinion or at least tell us, based on your expertise, what you think.

You said earlier that lawyers or experts could be consulted once the bill is passed. Experts have already come to speak with us. Yesterday, *Le Devoir* published an open letter supported by five experts, including several former senior CRTC officials. I am sure you have read it. If not, your advisors or political staff must have read it. Those senior executives explicitly said that this would be challenged. We already know that. We have heard concerns from university professors, experts and policy analysts. I think it is legitimate for members of Parliament, who have to make recommendations, to consider those concerns.

Originally, the bill proposed to add section 4.1 to the act to protect the content that users post online. Now that this section has been removed, how can we be sure that users' content will be protected?

As a member of the House of Commons, how can I make a decision on this issue if you, as Minister of Justice, cannot help me?

**Hon. David Lametti:** Thank you for the question.

I can tell you that, when the bill was introduced, the original charter statement concluded that the bill was consistent with the charter, subject to the considerations that I explained to you in my comments and my answers to questions. As a result of the amendments made to the bill, we have provided an explanatory document in which, after analysis, we reach the same conclusions.

If you have specific questions, you can ask Minister Guilbeault. It is his bill and he is the one responsible for answering such questions. If you wish, I can give him the floor.

• (1520)

**Mr. Alain Rayes:** That's fine, you have answered my questions.

[*English*]

**The Chair:** Thank you, Minister Lametti. I'm sorry, but the time dictates I can't give him that time right now.

Mr. Louis, you have five minutes, please.

**Mr. Tim Louis (Kitchener—Conestoga, Lib.):** Thank you very much, Chair, and I thank Ministers Lametti and Guilbeault for being here. I appreciate that and also I want to thank the representatives from justice and heritage for being here in this important conversation.

We've heard lots of testimony already and numerous arts organizations have come out in support of Bill C-10. Our artists are among the most fierce defenders of free speech in our society. They understand that updating this Broadcasting Act in no way infringes on the freedom of expression nor does it represent any censorship of the Internet.

Minister Lametti, I would like to hear from you. Can you explain the balanced approach that this bill takes in supporting our arts and defending free speech? Specifically, the charter statement says, "In making regulatory decisions, the [CRTC] must proportionately balance the objectives of the act with protection of freedom of expression in light of the facts and circumstances."

Can you explain exactly what you meant by that? Is it your conclusion that the original import of the charter statement still applies and remains true?

**Hon. David Lametti:** Thank you for the question. Thank you for regaling us during late night votes with your musical skills and your voice.

Mr. Louis, the charter statement does discuss the regulatory decision-making process of the CRTC and does, as you have said in your question, cite the balance that it has to achieve. I would add, as part of the charter statement—and it's indeed quoted in the charter statement—that the commission is subject to the charter and therefore must exercise its discretionary power in a manner that is consistent with the charter and the act. It therefore provides that the act must be interpreted and applied in a manner consistent with freedom of expression.

That's contained in the charter statement. If you want to delve further, I'm going to give you the same response that I've given to our other colleagues around the table, which is that I will turn the floor over to Minister Guilbeault to give further precision.

**Mr. Tim Louis:** Thank you, Minister.

In that vein, I forgot to mention off the top that I'd like to share my time with Ms. Dabrusin. Maybe she can pick up the conversation from here.

**Ms. Julie Dabrusin (Toronto—Danforth, Lib.):** Perfect.

I don't know how much time I have, but I would like to be able to give some time to Minister Guilbeault to respond. I know that he has indicated a couple of times he wanted to say things. I think, given that it is so important to move forward to clause-by-clause and we've heard from so many of the people in the creative industries about the importance of this bill and from witnesses yesterday as well, the minister might have something that he would like to add.

**Hon. Steven Guilbeault:** Thank you very much, Mr. Chair and Ms. Dabrusin.

Earlier on in one of her questions, Ms. McPherson said that because the bill had around a hundred amendments, it was a flawed bill. That's a false premise. I know that, just like me, she's a new MP, so we're not used to this. It's not uncommon for bills to have 200 amendments. Going back in the previous Parliament, I can recall Bill C-69, which I followed closely in my previous career, had

around 200 amendments. There's nothing extraordinary about that. In fact, a hundred may not be so much after all.

She pointed out that we've heard about experts who have raised concerns. I think just yesterday this committee heard from a number of experts who have actually clearly said that they thought there were no issues regarding freedom of speech. We've heard from a previous director of the CRTC, Janet Yale, and from a law professor from the Université de Montréal, Pierre Trudel.

I could quote this because I don't think it has been done in this committee and I think it is important. It's in French, so I'll switch to French. It's the unanimous resolution from the National Assembly.

[*Translation*]

The motion recognizes that Bill C-10 "constitutes a significant step in protecting and promoting Quebec culture and..., therefore, [the National Assembly of Quebec] affirms its support for the measures proposed by the bill."

• (1525)

[*English*]

I think Bill C-10 actually has a lot of support across this country given the benefit it will bring to our artists as well as to the broadcasting ecosystem.

[*Translation*]

**The Chair:** Thank you, Ms. Dabrusin. You had 24 seconds left.

Mr. Champoux, you have the floor for two and a half minutes.

**Mr. Martin Champoux:** I will take two minutes and 54 seconds, then, since Ms. Dabrusin had 24 seconds left in her time. I will gladly use them.

Mr. Guilbeault, you are fully aware of the impasse in which we currently find ourselves and the reasons for this impasse. Whether it is justified or not, I think we are entitled to ask ourselves questions. Yesterday, the committee heard from experts, each saying the opposite of the other.

The committee ended up passing a motion to ask for a new charter statement and for the Minister of Justice and the Minister of Canadian Heritage to appear. We did not get a revised charter statement, but rather an explanation of the charter statement, and, a few days later, we are hearing from the Minister of Justice.

Mr. Guilbeault, do you feel that your caucus is taking this bill as seriously as you are?

**Hon. Steven Guilbeault:** I thank my colleague for his question.

I think we have done everything the committee has asked of us. Every time the committee has asked me, I have come to testify, even twice in the last two weeks. The committee asked for clarification of the original charter statement; that was submitted last week. My colleague the Minister of Justice is here with me today. We take this bill very seriously, as I think does the entire Quebec and Canadian arts community. You may have seen the petition launched by the Union des artistes and signed by Yvon Deschamps, Claude Legault and Ariane Moffatt, among others. I could talk about the letter published in the *Toronto Star* last week and signed by the great international artist Loreena McKennitt.

I could also talk about the unions. Again today, the Fédération des travailleurs et travailleuses du Québec issued a press release in support of Bill C-10. There is also the Confederation of National Trade Unions, and even Unifor, the largest union in Canada.

**Mr. Martin Champoux:** You don't need to convince me of the relevance and urgency of this bill. I think we are of the same opinion.

My fear is that I sometimes have the impression that you are rowing alone and that your colleagues are not following you.

**Hon. Steven Guilbeault:** I encourage you to get in the boat with me.

**Mr. Martin Champoux:** I think we are and we have demonstrated that quite well over the last few months.

Actually, my question was more about—

**Hon. David Lametti:** We have Adam van Koeverden in the boat.

**Some hon. members:** Ha, ha!

**Mr. Martin Champoux:** Thank you.

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

[*English*]

Ms. McPherson, go ahead for two and a half minutes, please.

**Ms. Heather McPherson:** Thank you.

I would like to thank the ministers and their staff for coming again.

Very quickly, I want to point out that while Mr. Guilbeault has said that many organizations have been supportive of this bill, I would also say that I met with hundreds of individuals and organizations, and not a single one said that this bill was strong as it was. Every single organization recognized the urgency, but every single organization also said that this was a flawed bill that needed to be fixed, so I did want to have that on the record.

Minister Lametti, I have a couple more questions for you—

**Hon. Steven Guilbeault:** Mr. Chair, may I respond to that?

**Ms. Heather McPherson:** No, you may not, actually, because I'm going to ask Mr. Lametti some questions, if you don't mind, with my very short time.

**The Chair:** No, Mr. Guilbeault, Ms. McPherson has the floor.

**Ms. Heather McPherson:** From the time of the drafting of the bill until now, have you used independent legal analysis of the gov-

ernment to ensure that the bill and the amendments your government has made are consistent with the charter principles?

**Hon. David Lametti:** In the justice department, our lawyers provide legal opinions both to me and to other ministers and ministries, and those are used in the drafting of legislation. The contents of those documents are protected by solicitor-client privilege.

**Ms. Heather McPherson:** So no independent legal analysis has been obtained?

**Hon. David Lametti:** Occasionally, there is independent legal analysis obtained for a variety of different purposes. Again, those documents are covered by solicitor-client privilege, as indeed is the fact that we may have asked for advice in the case of any particular bill. That is also covered—the actual asking and the solicitor-client relationship—by solicitor-client privilege, so I wouldn't—

• (1530)

**Ms. Heather McPherson:** So you can't tell us if you have any.

**Hon. David Lametti:** That's right.

**Ms. Heather McPherson:** Have you considered any proposed amendments that would strengthen the bill's compliance with the charter principles?

**Hon. David Lametti:** It is the minister in charge, Minister Guilbeault, and his team who would assess amendments and proposed amendments and who would go over their legality with justice lawyers, either embedded in the heritage department or within the justice department, as the case may be, but it is entirely up to Minister Guilbeault and his team.

**Ms. Heather McPherson:** Thank you, Minister.

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

Folks, that brings us to the end of this part. This is the witness testimony that we brought here today.

We want to thank both ministers for being here. We want to thank the officials who accompanied them for being here as well.

Is there any further discussion at this point about what we have heard?

I see none, other than Minister Lametti waving goodbye to us.

As you saw in the notice, tomorrow we're going to resume clause-by-clause on Bill C-10. I'm looking for input here. We're good to go, as the motion put forward by Mr. Housefather has been satisfied. Tomorrow we will proceed. We're going to be starting with proposed amendment G-11.1.

Go ahead, Monsieur Rayes.

[*Translation*]

**Mr. Alain Rayes:** Thank you, Mr. Chair.

I am wondering about something and I would like to share it with everyone.

Before me, I have the motion that Mr. Housefather introduced. The first point asks the Minister of Justice “to provide a revised Charter Statement on Bill C-10.”

The minister clarified in his speech and repeatedly in his responses to questions from the Conservatives and members of other parties that this was not a revised statement from his November 18 document, but rather an explanatory document.

I would like to know whether all members of the committee really understood what the minister said. If so, I would direct your attention to the third point of the motion, which is that the committee suspend clause-by-clause consideration of Bill C-10 until the completion of both points 1 and 2.

I am wondering. I don't know what our decision will be, but I need to have some good discussions with my colleagues on my side.

I would like to hear from the other members of the committee on this issue.

[English]

**The Chair:** Thank you for that, Mr. Rayes.

Mr. Housefather, go ahead.

**Mr. Anthony Housefather:** Mr. Chairman, I certainly hope we don't get into this semantic argument.

Under the Department of Justice Act, subsection 4.1(2), a charter statement can only be produced at the stage of the bill's being introduced into the House of Commons, so it can't be called a charter statement under law, because our law tells us what a charter statement is. It doesn't provide, as I have argued and explained before, for something called a new charter statement or a modified charter statement.

We asked very clearly for something that would explain to us whether the amendments we made to this bill impacted the original charter statement, particularly as related to freedom of expression, and we received it. If we're going to argue, because it couldn't be called a charter statement but rather is called a declaration or whatever, that we haven't fulfilled the motion, then at this point, it is a deliberate attempt to filibuster the work of the committee and a deliberate attempt to thwart the work of the committee, never to get back to clause-by-clause and never to finish the bill.

I will take great exception, having drafted the motion, to any argument that the motion was not fulfilled; it absolutely was fulfilled.

Thank you.

**The Chair:** Mr. Housefather, before we go to Mr. Champoux, as chair, I would like to have clear or at least good, solid direction from the committee as to where we go from here. We are in the middle of clause-by-clause. We're now fulfilling the motion of Mr. Housefather. I would like to ask the committee for direction from here as to whether we have satisfied what was put forward by Mr. Housefather, and we go ahead. I want to expand this conversation.

Let's go to Mr. Champoux.

• (1535)

[Translation]

**Mr. Martin Champoux:** Thank you, Mr. Chair.

That was sort of the point of my question to Minister Guilbeault earlier. Yes, we were asking for a revised charter statement.

That being said, despite this raised eyebrow, so to speak, I am still satisfied with the explanations we received. We have had an explanation of the charter statement that answers all of our questions. How about that! We have received the minister. We have also received experts who have shed a lot of light on the situation. Although the opinions that were expressed were not all along the same lines and were not unanimous, I think we were dealing with legal scholars who were each defending their point of view and who did so brilliantly on both sides.

Personally, I am absolutely satisfied and I hope that we can continue the work. I think that we have received the answers that we wanted.

[English]

**The Chair:** Ms. Harder.

**Ms. Rachael Harder:** Thank you. This is more than semantics, as Mr. Housefather would describe it. This is asking for specific information. It's the content of the statement that was created.

I think the Conservative Party members at the table could get over the so-called semantics, but what was requested—and I'll just read it back to the committee—was that we would:

Ask the Minister of Justice to provide a revised Charter Statement on Bill C-10, as soon as possible, focusing on whether the Committee's changes to the Bill related to content uploaded by users of social media services have impacted the initial Charter statement provided, in particular as relates to Section 2(b) of the Canadian Charter of Rights and Freedoms.

In other words, it's the acknowledgement that those amendments have potentially had an impact on the content. The motion is very specific. It says the impact on the content that users post on their social media platforms.

That being the case, the statement provided by the minister does not actually address that. I would liken what we have in front of us to an individual going to the doctor, getting a clean bill of health, going out, smoking 10 packs of cigarettes a day for the next 10 years, but still claiming that he has a clean bill of health, pointing back to what the doctor gave to him.

There are some very significant factors that have been changed since that original charter statement was granted. We can get over the wording, whether you want to call it a charter statement or an explanatory statement, whatever, but the content of that document needs to address the motion that we as a committee put forward. What we want to know is whether censoring the posts put on social media by an individual is charter compliant. The explanatory statement does not address that.

**The Chair:** Ms. McPherson.

**Ms. Heather McPherson:** Thank you, Mr. Chair. I believe, very similarly to my colleague Mr. Champoux that we have had ministers attend this committee and answer our questions. We have had experts come to answer our questions. We have had opportunities to reflect upon the statement that was provided.

I think this is completely a tactic being used to delay our doing the work we've been tasked with at this committee. I would deeply like to get back to work. I would deeply like to fix what I see as flawed legislation and to move forward. I do not want to spend the rest of this session filibustering and listening to certain members of this committee talk ad nauseam so that we can't get our work done.

The next step needs to be to continue our work. Thank you.

**The Chair:** Mr. Champoux.

[*Translation*]

**Mr. Martin Champoux:** Yes, it's me again, Mr. Chair.

I would like to remind you that I asked a few questions earlier about possible remedies after a bill has been passed. Minister Lametti said that, if there are still concerns about certain sections of the legislation after a bill is passed, Canadians, individuals or groups always have a process through which to challenge its validity or constitutionality.

In the last few days, the leader of the Conservative Party has been very clear that, if elected to power, he would repeal this piece of legislation. It is understandable then that our Conservative colleagues' support for Bill C-10 is non-existent.

However, since the beginning of the work, although they do not support the bill, the Conservatives have always been willing to not interrupt, block or slow down the work, and I am absolutely grateful to them for that. Moreover, despite their opposition to the bill, their input has often been very constructive.

We stopped our study for several meetings when it would have been very important for the cultural industry and the community to move forward. We have repeatedly expressed the urgency of this bill for the cultural industry. I sincerely believe that the questions have been well answered and I am quite convinced that we will never reach a consensus. We will not agree, but, as they say,

• (1540)

[*English*]

“let's agree to disagree”,

[*Translation*]

and move on with the job we have to do. There will always be remedies available afterwards, if you feel that any of the sections of this piece of legislation actually infringe on freedom of expression.

The most important thing we have to do right now is to do our best to improve this bill and send it back to the House of Commons. We need to do this for the cultural industry, which is watching us, listening to us and pleading with us to put an end to this stalemate and move forward with the work. I think it's crucial for that industry. We must get out of this impasse.

Thank you.

[*English*]

**The Chair:** Mr. Manly, you are next.

**Mr. Paul Manly (Nanaimo—Ladysmith, GP):** Thank you, Mr. Chair.

I want to see this bill get moving along, as well. I was surprised that when we hit clause 3, proposed section 4.1, there was a Conservative Party amendment to it, and after the amendment failed, there was a move to remove section 4.1. There was no debate. There was no call for a recorded vote. We didn't deal with that section at that time, and we're stuck in this ongoing filibuster.

The minister has given an explanation. We should get through the rest of these amendments. There is a stage at report stage where section 4.1 can be added back in. If enough parliamentarians think that it's an important thing to have added, then that's what we should do.

I believe in freedom of speech as much as the next person, but I find that the whole system of algorithms with these private platforms doesn't really lend to freedom of speech at all. I get countless emails from constituents who say that there is no freedom of speech on Google, YouTube or Facebook, and that their comments are being blocked or that things are being blocked, so that's another issue we need to deal with.

We're dealing with private platforms that are censoring people, and determining what gets bumped up and what gets bumped down. It's mostly for commercial interests and advertising, and to inflame people, to weaponize our anger at each other. I think we need to look at this.

We're coming up to Bill C-11 where we're going to be talking about these things, but we should get this Broadcasting Act done. If there's an amendment at report stage to fix and bring back section 4.1, that would be the time to do it. Let's get the rest of the amendments through.

**The Chair:** Mr. Aitchison, please go ahead.

**Mr. Scott Aitchison (Parry Sound—Muskoka, CPC):** Thank you, Mr. Chair.

I'm hearing people talk about the motion Mr. Housefather put forward, and I think I could probably accept that, at the bare minimum, we have scratched the surface of meeting the terms of our motion. I accept Mr. Housefather's explanation of what can and can't be called a charter statement. I'm fine with that.

As we get back into clause-by-clause for this bill, which we're destined to do, I hope that everybody keeps in mind something Minister Lametti did in fact say in his statement—and I guess this is the crux of it for Conservatives and for me in particular—when he said that some limits to the charter freedom of expression may be justifiable. We know that the removal of 4.1...we've heard that it does actually implicate some limits to freedom of expression, and I don't think we've ever truly had, as Mr. Manly said, a healthy discussion specifically about 4.1 when it was removed.

I would hope that everybody goes away from this meeting and thinks very seriously about how much freedom of expression they are prepared to limit. This is an ambition to make sure that the government regulates what Canadians see online with some policy to try to promote what they deem as most “Canadian” versus what Canadians actually choose. To me, that's a fundamental question worth debating. How many limits? How much of our freedom of expression should we be prepared to give up to make sure that Canadians are forced to see what we have determined should be Canadians' first choice online?

I hope we have that discussion as we go forward because I don't think we have adequately had it.

• (1545)

**The Chair:** Mr. Rayes.

[*Translation*]

**Mr. Alain Rayes:** Thank you, Mr. Chair.

Mr. Housefather, I saw you turning red; I wondered if you had eaten some lobster just before you spoke. By the way, I say that with a sense of humour; it's not an insult. I certainly don't want to upset you. I was just responding to the chair's question about what's next.

I asked the question to hear the opinion of the committee members, and I gave my own opinion. I feel that my opinion is as good as yours, members of the committee. I believe that the three points of the motion have not been fully met. You say otherwise, and that is your right. But for some of us to imply things, I think that's a little uncalled for. I understand that the debate is emotional and very frustrating. We are tired, we are at the end of the session. This is an important issue. Heaven knows the Conservatives are under attack from all sides. However, I want to remind everyone in this room that prior to the removal of the proposed section 4.1, everything was running smoothly at this committee.

Also, the motion that Mr. Housefather has put forward is virtually identical to the motion that the Conservatives put forward two and a half weeks ago. Everything we have done in the last three or four days could have been done two and a half weeks ago, and our work would not have been delayed. I wanted to put things back in perspective.

With that, Mr. Chair, I think you have the answer to your question. In any event, we will meet again tomorrow. On our side, we will talk to each other and make our own decision in our organization. You will make your own decisions in your organizations.

I would ask that the meeting be adjourned, if possible, if there are no further comments. I don't want to stop anyone from speaking, but once we have gone around, I think today's meeting has been long enough. In any case, we'll see each other again tomorrow with great pleasure.

[*English*]

**The Chair:** To clarify, Mr. Rayes, are you moving an adjournment?

[*Translation*]

**Mr. Alain Rayes:** That's right, but only after everyone has had a chance to speak. I don't want to cut anyone off again like I did last time with Mr. Champoux.

[*English*]

**The Chair:** I'm sorry, Mr. Rayes, I can't accommodate both. I can only do one or the other.

I'll assume that you did not move the motion because, just out of the corner of your eye, you saw Mr. Housefather with his hand up.

Mr. Housefather.

[*Translation*]

**Mr. Anthony Housefather:** Thank you, Mr. Chair.

I would just like to reassure my colleague Mr. Rayes, whom I like, that I wasn't angry at him, or at the Conservatives, or at anyone.

I totally agree that we have worked very well together until we reached clause 3 of the bill, and we should continue to do so.

Mr. Chair, I think you would agree that a majority of the members of the committee believe that we should continue with clause-by-clause consideration of the bill tomorrow.

• (1550)

[*English*]

I hope we can then do that. Everybody can reflect over the night on how we can best get through clause-by-clause, starting with the amendment that Ms. Dabrusin had on the floor when we left clause-by-clause.

I wish everyone a good evening. Thank you for listening.

**The Chair:** I appreciate your closing remarks, but I still have Mr. Champoux.

Mr. Champoux.



[*Translation*]

**Mr. Martin Champoux:** I thank Mr. Rayes very much for his thoughtfulness in not cutting me off again as he did last time. I wanted to speak last to reassure him and to take the initiative to move to adjourn the meeting.

I so move.

[*English*]

**The Chair:** That sounds to me like an actual motion to adjourn.

If anybody has an issue with adjourning, please raise your hand or say no.

(Motion agreed to)

**The Chair:** The meeting is adjourned. See you tomorrow.

---





Published under the authority of the Speaker of  
the House of Commons

---

### SPEAKER'S PERMISSION

---

The proceedings of the House of Commons and its committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the Copyright Act. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the Copyright Act.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

---

Also available on the House of Commons website at the following address: <https://www.ourcommons.ca>

Publié en conformité de l'autorité  
du Président de la Chambre des communes

---

### PERMISSION DU PRÉSIDENT

---

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la Loi sur le droit d'auteur. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre des communes.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la Loi sur le droit d'auteur.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

---

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante :  
<https://www.noscommunes.ca>