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Chair

Mr. Leon Benoit

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• (1535)

[English]

The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)): Good afternoon, everyone.

We're here today pursuant to the order of reference of Monday, October 18, 2004, on Bill C-11, An Act to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings.

We have as our witness today the Honourable Reg Alcock, President of the Treasury Board. We're certainly looking forward to Mr. Alcock's presentation today and to the questions and answers.

This committee has been working on this issue since October 2004. We've heard several witnesses, and of course on the previous version of this bill we heard witnesses over a period of months as well. Certainly this committee and the committee before have done a lot of work to prepare for good legislation, and we're looking forward to the minister's presentation today—particularly, of course, to what he has to say on establishing a completely independent office to house the whistle-blower body. We'll see in a few minutes what he has to say.

Mr. Minister, perhaps you could make your short presentation, and then we'll get to questions and answers.

Hon. Reg Alcock (President of the Treasury Board): Thank you very much, Mr. Chairman. I am indeed pleased to be back here.

Before I begin, the committee is familiar with Mr. Heintzman, who has been here before and is the lead on the official side on this particular bill. I don't know whether you've had the pleasure of meeting Mr. LeFrançois, but members who were on the committee when we were doing public service modernization will, of course, know that Mr. LeFrançois was the lead on that particular piece of legislation not too long ago.

I think I'll start by stepping back a little to some of the discussions that took place when we began on this. I have watched the work of this committee very carefully. I came here, you will recall, with a concept on this bill that accepted and supported the idea that an independent body should be the source of the leadership in this particular area, and that there should be a legislative framework. Mr. Martin and others had worked on that in the past, and I thought it certainly had a lot of merit.

My opinion at the time was that the Public Service Commission was the body in which this would most appropriately be placed. I was of that opinion for a number of reasons, not the least of which

was the fact that we had a body that had experience in the human resources area and that had been given a level of independence from the government. As well, I would not be President of the Treasury Board if I didn't have an interest in reducing complexity and building more efficient structures to deal with these important issues.

In that meeting I asked, because we put this bill to the committee at first reading, that there be what I think I called a vigorous or energetic or robust debate on it. I really believe this process is important, particularly when we're dealing with issues of the management of the public service. I argue that a lot of these are not filled with some of the political ideological baggage that too much of our debate carries, and that we should craft bills that represent a consensus.

In that very first meeting, a couple of concerns were raised with me about the Public Service Commission. One was that Mr. Lauzon just thought it was a discredited organization that couldn't do the job. In fact, Mr. Martin, you may recall that at that time there was a discussion on a concern you had raised about how the Public Service Commission could function with a foot in the administrative camp and a foot in independence. I said to you then that I thought it was an important issue and would be quite prepared to look at that and follow what the committee process showed us at that time.

I certainly heard some of the early debate and read the testimony from some of the groups that came before you. While you were doing your work, I also undertook to have some meetings. I met with Dr. Keyserlingk, who had very strong opinions on the nature of the independence of this organization. I met repeatedly with the Public Service Commission in an attempt to see if there were ways in which we could address this issue by relocating some of the executive functions of the Public Service Commission.

As this debate moved on, I was hearing from different members here. Certainly Mr. Martin has expressed a strong concern about getting this piece of legislation in. I understand Madame Thibault has recently had a death in the family, which I'm very sorry about; she worked very hard on aspects of this bill, trying to find that sweet spot that really marries the concerns, particularly the transitional concerns right now.

I must say that in my own discussions with the Public Service Commission I have been convinced...I have actually come to the position taken by this committee. I think the problems with the Public Service Commission are significant and that the work involved in changing them is simply a higher hill than we want for a bill of this importance.

I am prepared to create an administrative structure for this office that would parallel that of every other House officer—create an independent office for it that has all the attributes of a parliamentary officer.

• (1540)

I have here two documents that I will table with the committee. Because this is classically a machinery change and will require additional expenditure, it is not a change that the committee can make. We require a royal recommendation to do that. But I am here to commit to the committee that upon receiving this bill in the House, I will, at report stage, make the necessary amendments to create this committee as an independent parliamentary body. I have a document here, which is this bill that is before you—but it's not this bill; it's a draft of this bill as though it had been amended, to show you the kind and quality of amendments that we would make to give this officer that kind of independence. It's really to show you how I am prepared to amend this. So I will table that.

I have a second document here. As always in bills of this sort, there is a package of what are classically technical amendments—wording corrections, punctuation corrections, and the like. There are number of those in this bill. So I've provided a document that contains all of those, just for the guidance of the committee.

Beyond that, I think we can get into the details of this in questions. Rather than my spending too much time talking, I'd sooner go where members of the committee wish to go. But I would like to thank the committee for the hard work you've put in on this bill, the time you've put in on it, and the vigour.

It was the debate I called for at the beginning of this, and I believe this process has demonstrated that given these things at first reading and given the time to get involved with the expert community that surround issues like this, the committee can actually come to conclusions that are in the best interests of those we serve.

The one challenge I have put to those who are thinking about this is that we are going to create a piece of law. We're going to create a structure that will last for a very long time. It is a significant structural change in how we do business in the Government of Canada. I think it's a very important one, and I think it's one we should all be proud of. In a minority government, it's just nice to see that we can do it. So congratulations to all of you.

I'll take questions.

• (1545)

The Chair: Thank you very much, Mr. Minister. I have to say your announcement is very encouraging. I do know the members of the committee will want to hear the detail, and I'm looking forward to the questions and to your answers.

In the first round, we'll go to Mr. Lauzon, for seven minutes.

Mr. Guy Lauzon (Stormont—Dundas—South Glengarry, CPC): Thank you very much, Mr. Chair, and welcome, Mr. Minister.

You've tabled a document, and obviously we haven't had a chance to study it. Could you answer me directly as to whether you're prepared to set up an independent office to accept complaints from whistle-blowers? Will it be a totally independent person, a commissioner reporting directly to Parliament?

Hon. Reg Alcock: It will be constructed, managed, administered, and appointed in exactly the same way as the Privacy Commissioner, the Information Commissioner, and so on.

Mr. Guy Lauzon: In other words, if I'm hearing you correctly, Mr. Minister, when I asked you in the House less than an hour ago, you agreed that we do need and you will set up an independent commissioner reporting directly to the House, to Parliament.

Hon. Reg Alcock: That is exactly correct, Mr. Lauzon.

Mr. Guy Lauzon: Well, I want to thank you for finally.... I think it's since October that we on the Conservative side have been insisting on independence. You're right, minority governments can work, and I think this is an example. At the beginning you did not agree with that concept, and I must give you credit for accepting it after repeated.... Well, I guess it had come down to an ultimatum, but after repeated suggestions, you did agree. I might say, you listened not only to the Conservative Party, but to the 18 or 19 out of 20 witnesses who suggested that we should have that.

So I congratulate this committee. I'm extremely pleased.

Quite frankly, as a former public servant, when I first got on this committee—and I was even greener than I am now—I didn't know how we could effect change. I really believe in the parliamentary system after what I've seen happen today. If we can start there and make the other amendments that we're going to suggest to work on it, I think we're going to have a wonderful piece of legislation for all public servants in Canada and for the Canadian public. I will be proud to have been part of it, and just to toot my own horn, I'm proud to lead the Conservative charge on making those amendments.

So thank you very much. I have no more questions.

The Chair: Does anyone else from the Conservative Party want to finish the time?

Mr. Poilievre.

[Translation]

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Minister, thank you for being with us today.

[English]

I'd like to also congratulate Mr. Lauzon. He's been demanding that the minister reverse course on his position, and certainly this is indeed a very big victory for Mr. Lauzon, a former public servant who demanded this and had to go as far as issuing an ultimatum today in order to get it. I'd like to take the occasion to congratulate—

• (1550)

Mr. Paul Szabo (Mississauga South, Lib.): We thought of this in the last Parliament, when you were not even elected.

The Chair: Order.

Mr. Szabo, at the last meeting members from both sides were interrupting the speakers again and again and again. We simply have to have order at this committee to have it work properly. Mr. Szabo and everyone else, please, while someone else is speaking, keep the comments to a minimum or to nil. If you would do that, we'll function a lot better.

Sorry, Mr. Poilievre; please continue.

Mr. Pierre Poilievre: As I was saying before the interruption, I think the committee members would agree that a lot of the credit does go to Mr. Lauzon for his vigorous work on this issue. I thank the minister, as well, for reversing course and accepting this Conservative position.

Moving further into the bill, there have been 20-some witnesses before this committee. Almost all of them told us that the bill as you originally presented it would actually be worse than the status quo itself. This issue of an independent officer of Parliament was foremost among their concerns.

They have raised other concerns. Have you looked at the other concerns they have raised with respect to the legislation? One example is consequences for those in senior management who undertake retribution against public servants. Are you willing to accept amendments that would bring in some consequences for those who punish whistle-blowers?

Hon. Reg Alcock: Thank you, Mr. Chair.

It's interesting. Those who rush to put themselves forward in taking credit for change.... It's just an interesting observation. I do recall several meetings with Madame Thibault and Mr. Sauvageau and Mr. Martin and Mr. Szabo and my parliamentary secretary, and I don't ever recall a meeting with Mr. Lauzon. But maybe I should check my diary.

Having said that, I think serious concerns were raised. I did meet at length with Mr. Keyserlingk, who, as the committee will know, had strong opinions about the independence issue.

If you go back to the exchange we had the first time, Mr. Martin had expressed concerns about the Public Service Commission having a foot in each camp and had challenged me then to think, right at that moment, if we could change that. I indicated I would work hard at it; I worked quite hard at it and ended up in agreement with Mr. Martin that it just wasn't mechanically possible.

Because I was intrigued by the lack of respect for the Public Service Commission, I talked to the members of the public service and met with the leaders of the major unions. I found that it was a lot stronger than I had perhaps been led to believe—

Mr. Pierre Poilievre: I'm just going to cut in here, because this is not addressing my question, Mr. Chair.

Hon. Reg Alcock: —and I was quite....

I'm sorry, Mr. Chairman, did you...?

The Chair: Mr. Minister, actually you had a question. Mr. Poilievre had asked you a question. If you could address the question, it would be much appreciated.

Mr. Pierre Poilievre: Are you willing to entertain the idea of consequences for those who exact retribution against whistle-blowers?

Hon. Reg Alcock: Oh, I see.

We are going to create this as an independent parliamentary officer, and they will have the powers of an independent parliamentary officer. They will have the same powers as the Auditor General, the Information Commissioner, the Privacy Commissioner, etc.

There is an issue about accountability of public servants, about sanctions—a whole range of issues that are part of the accountability review I am deeply engaged in right now. We will address issues of sanctions and consequences in those legislations.

Mr. Pierre Poilievre: You haven't included those changes yet, but you're open to them.

Hon. Reg Alcock: Not in this bill.

Mr. Pierre Poilievre: You're not open to seeing them in this bill.

Hon. Reg Alcock: No.

• (1555)

Mr. Pierre Poilievre: So you don't believe there should be any consequences if a member of senior management exacts retribution against a whistle-blower.

Hon. Reg Alcock: No, Mr. Poilievre, that is not what I said. What I said is that there needs to be a regime of consequences and sanctions in the accountability legislation.

If you were to speak to the Auditor General about this and ask how you create good legislation and what's the role of a parliamentary officer, what the Auditor General will tell you is that she does not have enforcement powers, because she believes it would be improper for her to have enforcement powers. So we are not going to put enforcement powers into the hands of the—

Mr. Heintzman is pointing out that in clause 9 of the bill there is in fact the statement about a public servant being subject to appropriate disciplinary action, including termination of employment, if he or she commits a wrongdoing.

Mr. Pierre Poilievre: Right, but you don't think it should be.

Hon. Reg Alcock: No, that should be in the bill. There was a question raised about the officer being able to act in the role of a manager and deal with disciplinary actions, as opposed to using the disciplinary actions that exist in the public service.

The Chair: Thank you, Mr. Poilievre. Your time is up.

Monsieur Sauvageau, for seven minutes, followed by Mr. Szabo.
[Translation]

Mr. Benoît Sauvageau (Repentigny, BQ): Minister, I want to thank you for being here today. I also want to thank you for your openness. Unlike my colleague and friend from the Conservative Party, I think we should celebrate your openness to the testimony we have heard, as well as the teamwork, across all parties, that has resulted in an improved bill, a better bill. I believe we have worked together on this and that there is no reason—and I'm using your own words—to take credit for personal victories. The desire for an independent and autonomous Integrity Commissioner for the public sector was unanimous. The Committee's role is simply to amend bills in order to improve them. We also hope that the Minister's role is to hear what is said in committee.

At the beginning of this process, Ms. Thibault and myself met with Mr. Heintzman. I also want to thank him. Our understanding of the bill was quite incomplete. He showed that he was open-minded, and that was very much appreciated.

I have a couple of questions for you. We have obviously not had time to read what you have just tabled. If the answer is clearly contained in that material, I hope you will excuse me. Ms. Thibault and other witnesses were adamant that the bill include transitional measures to protect persons who disclose wrongdoings. Are those transitional measures included in what you have tabled with us?

[English]

Hon. Reg Alcock: Thank you, Mr. Sauvageau. I appreciate your comments, but they're entirely reciprocal. I very much appreciated the diligence and the vigour with which people went at this legislation—everybody, including the witnesses.

You identify an area where Madame Thibault has been quite insistent all along that some transitional measures are needed that allow these protections. I have been working with the union leadership on some guarantees contained in letters and such for the interim, but what we are proposing—and Mr. Heintzman had discussions with Madame Thibault—are some amendments that we feel would address her concerns.

I was hoping she would be here today, simply to say that we will work with her to see that, when you do clause-by-clause, she can bring forward some amendments that would address that. We are quite prepared to accept the approach that she had worked on, and we certainly would be supportive of it. We will go further to help with the drafting to make sure it reflects the nature of the bill and her concerns.

[Translation]

Mr. Benoît Sauvageau: I am not asking you to tell us in which clauses they're found. You say that when we do clause-by-clause, we will find answers to what has been requested. Am I to understand that is not yet the case?

Mr. Ralph Heintzman (Vice-President, Public Service Values and Ethics, Public Service Human Resources Management Agency of Canada): They are not yet included in the draft.

Mr. Benoît Sauvageau: I looked at this quickly. You say you are interested in including them. Why wasn't that done at the same time? I want to give you two or three examples that I was able to very quickly identify.

[English]

Hon. Reg Alcock: May I clarify this? What I didn't want to do, because this is a group bill, was cut off Madame Thibault by simply pre-empting her and taking over her amendments. Mr. Heintzman assured me the concerns she had were legitimate, and we could accomplish that through amendments, but we really felt, out of respect for her, that we should let her be the one moving the amendment. We will accept them, but it was her initiative. That's the reason for it. We're quite willing to accept them, and have some structures for those amendments to propose.

Would you like to speak to that, Mr. Heintzman? I want to be clear that this is not anything other than trying to respect Madame Thibault.

• (1600)

[Translation]

Mr. Ralph Heintzman: We carried out some legal analysis in order to see how we could meet the objectives advocated by Ms. Thibault. In fact, at the Minister's request, we tried to get in touch with her earlier this week. However, because of her family situation, that was not possible. The Minister asked his staff to work closely with Ms. Thibault in order to present something appropriate to the Committee.

[English]

Hon. Reg Alcock: In the interim, I understand there may be a possibility of doing clause-by-clause study next week. Should it turn out that Madame Thibault is not able to be back here for clause-by-clause consideration, we certainly would offer the same assistance to anybody—to you or any other member of your party, Mr. Gagnon.

[Translation]

Mr. Benoît Sauvageau: That's great.

We have suggested changes. It seems to me that they were based on a consensus. If I am mistaken, I certainly don't want my colleagues to jump all over me. For example, under the definition of “protected disclosure”, we suggested removing the words “that is not frivolous, vexatious”. And yet, they are still there.

We had also suggested adding to the definition of “public servant”, persons named by the Governor in Council, as well as former public servants, so that they, too, could avail themselves of this legislation. And yet, we do not see those additions in this bill.

To conclude, I just have one question about the Canadian Armed Forces and the Royal Canadian Mounted Police.

With the exception of the Public Sector Integrity Commissioner, what does this bill contain that could not be found in Bill C-11? Could you explain that to us?

[English]

Hon. Reg Alcock: This is always the confusion in tabling a bill, right? The items this committee cannot deal with, because they require a royal recommendation, are the items that restructure the independence, the machinery changes, in the areas of additional cost. That is all that I've reflected in this bill. What I'm saying is those are the things we will move at report stage. I didn't want to pre-empt the committee; the committee hasn't finished its work on this. It has to go through clause-by-clause study and look at all the amendments, so I didn't want to be presumptuous and move into those areas that are really the prerogative of the committee members.

I have opinions on some of them, as I always have opinions, but I am interested in hearing what the committee has to say on those and where that debate is taken, given that you just heard from the officials last week and you've done some other work on it.

[Translation]

Mr. Benoît Sauvageau: I see.

We have heard quite a divergence of opinion with respect to the definition of “public sector”. Towards the end of that definition, it says:

However, subject to sections 52 and 53, “public sector” does not include the Canadian Forces, the Canadian Security Intelligence Service, the Communications Security Establishment or the Royal Canadian Mounted Police in relation to members and special constables and persons who are employed [...]

I understand the idea with respect to national security, and I accept that. However, can you tell us why you are in favour of excluding the Royal Canadian Mounted Police and the Canadian Forces, as opposed to including them under a national security provision?

[English]

Hon. Reg Alcock: I don't think our reasoning on that has changed. They are four very unique organizations, in our reasoning, and we're not exempting them from them. We are simply insisting they have processes that parallel the processes and authorities in this process, but they will do it within the contexts of their unique organizations. The command structure of the armed forces is a unique entity and does not function in the same way, for very good reasons, so our position would be that we do not think it is appropriate.

We will look at what the committee has to say and we'll be guided, but I find that in managing a very large and complex organization, one has to recognize that there is more than one way to get to the same result and that we need to be cautious. We will live with this for a long time, so we need to get it right.

There is another element to this, Mr. Sauvageau, that I know you have been concerned about. There will be a review clause and a review opportunity in this bill also. This is not the only time we will visit this matter; we will come back to it, because it is brand new. After we have some experience with it, see how it operates, and let the person who is appointed to deal with this two years settle in and see how it's going, we may decide there are other amendments we want to make, and we'll afford the committee an opportunity to do so.

• (1605)

The Chair: Thank you, Mr. Sauvageau.

Next is Mr. Szabo, for seven minutes, followed by Mr. Martin.

Mr. Paul Szabo: Mr. Minister, thank you for the good news.

In fact, you, I, and Mr. Martin actually were there when it started, back in the last Parliament, after the George Radwanski incident spawned a subcommittee of our government ops committee to look into the whistle-blower question. We dealt with a previous bill in the last Parliament on this, and built upon it.

I think the most significant decision made at that time, though, was your decision to pass this bill on to this committee after first reading. Instead of a bill that was locked into a model and had approval in principle and would be very difficult to amend, you gave us your trust and good faith to work collaboratively with all colleagues around the table to make this a good bill.

I think we all believe the public service, as defined, will be well served by this legislation. It's almost like a present to be able to be this far; its seeds were planted, certainly, in the last Parliament. We thank you for that.

We understand the information you've given us reflects how the bill would have been presented to us had you brought forward that model. I think the committee was fortunate to have good advice from all the stakeholders. We listened. As you know, it was basically a unanimous view of the committee that the testimony—which is what we should be listening to, because we're not all individual experts in the public service—provided compelling evidence to lead us to the decision that we would recommend what the witnesses had told us. I know it is quite unusual, quite a rarity, to create a new officer position, in the sense that it has to go to the highest levels of cabinet to get approval, and that you were able to present it through the process and secure that approval, so we're quite delighted that the people in the public service were heard at the cabinet level. That's ultimate; we were simply the conduits. I'm not going to take credit for anything other than trying to do my job as a member of this committee, and I think we all worked very well.

Mr. Minister, we are going to make a few other amendments. I'm not aware at this time of any others. We wanted to be able to deal with the independence issue, which we have. We wanted to deal with the efforts to deal with anonymity as much as possible. We also wanted to make sure the mechanics were efficient and cost effective, and if necessary could be shaped in the future without major disruption. I think we've achieved that.

There will not be some of the exemptions. I think we've decided we'd like to recommend that there not be, and I know your staff has been following it, so I'm not going to deal with it.

I could talk a lot about this, because it's a very important bill. Are there, in your view—or have you received from cabinet colleagues—any concerns we should be aware of, or any caveats or instructions as to how we should move forward in terms of the implementation and the timing? I think the public service, as defined in the bill, is going to be anxious to know what the plans are, should we complete our clause-by-clause study and get it back to the House. I presume we should be able to get speedy passage at third reading; I also presume that this implementation would be done in a way that is respectful of the transition needs of the public service and of others who are outside the formal public service.

•(1610)

Hon. Reg Alcock: Thank you, Mr. Szabo.

You've included a lot in that. I want to particularly focus on the last part of your remarks, because I do have something I would like the committee to consider.

You made a point at the beginning. It was the unanimity of this committee that really began to have an impact on me. I couldn't understand, frankly. I thought the PSC was a pretty elegant solution. That was my personal opinion.

Dr. Keyserlingk, for whom I have a lot of respect, disagreed with me. I argued with him in the beginning, went back afterward, and kept hearing this. I continued to argue it with him. He began to make me think about it. Then just trying to figure out how I could meet Mr. Martin's goals of restructuring the PSC to make it fit—it was just too much like a camel. It was that classic thing of trying to get something that just wasn't going to fit. Frankly, I didn't think the PSC, in the end, was ready for it. I have other concerns about the PSC.

The other thing I should say is that this is one act in a larger play. The members who work with the public accounts committee will know that I'm working with all House officers to restructure their accountability and funding mechanisms, so that will have an impact on how they function together.

But there is one thing. It's interesting that we decided today to live in a world of ultimatums. I don't know that it's a particularly useful thing to do, but if we're serious about this, and you go to clause-by-clause consideration on Tuesday—it's not a huge bill, so I would anticipate we could get through that on Tuesday—and there's unanimous consent, if we are serious about getting it through the House, it would be quite simple to put it into the Senate before the House rises. It would take unanimous consent, though. Assuming we're out in the next week or two, you're not going to get it through the processes, so all parties would have to give consent.

If we want to get this thing to the point at which we can actually start to work on the implementation side, having ended clause-by-clause study, and there was an undertaking by all the parties in the House to walk this through the rest of the processes by consent, I have committed. I will make it report stage. The amendments are reflected here to make it a parliamentary officer. If we could have this thing in the hands of the Senate before the end of next week, I think we would be doing everybody a big service.

Mr. Lauzon, in the world of challenges....

Mr. Paul Szabo: Is time up?

The Chair: You have five seconds.

Mr. Paul Szabo: Five seconds.

Mr. Minister, thank you. You have support, I suspect, from all members around the table to try to make that happen.

The Chair: Thank you, Mr. Szabo.

Mr. Martin, you have seven minutes. Mr. Preston will follow.

Mr. Pat Martin (Winnipeg Centre, NDP): Thank you, Mr. Chair.

Mr. Minister, welcome, and thank you for being here.

I want to tell you how very happy I am to have you come before this committee today and revive what I thought was a corpse. Essentially, you've breathed life into something I had pretty well written off. I'll be perfectly honest with you—I thought it was done like dinner, as they say.

It's to your very great credit. You brought this to us at first reading and asked us to have that robust debate. I was so enthused, or so eager, to have any kind of whistle-blowing protection for workers that I did commit to you at that time to accept your vision of it if you could demonstrate clearly that you could separate the administrative from the very minor executive function of the Public Service Commission. We heard witness after witness say they didn't think it could be done to their satisfaction, so you've moved a long way. I say it takes a big man to change like that—

Voices: Oh, oh!

Mr. Pat Martin: —obvious observations notwithstanding.

•(1615)

Hon. Reg Alcock: You're embarrassing me, Pat.

Mr. Pat Martin: Well, no, I appreciate it.

I come from a trade union background. This is dear to my heart. This is one of the real priorities I came here in 1997 to try to fight for and achieve, and it honestly does my heart good to think we're within striking distance. Even if it's not perfect, frankly, to establish the principle that there will be a legitimate officer of Parliament in charge of whistle-blowing—what does that say about Canada? I would be proud as hell to see that happen.

I won't waste time talking about other amendments we may seek to achieve. I would ask you some of the technical things about a new officer of Parliament. I don't even know how big an officer of Parliament's office is. What does that really look like, physically? In your vision, what would this officer of Parliament's office look like?

Hon. Reg Alcock: Well, at the risk of presuming upon the next bill I want to put in the House, the first thing I should say, Mr. Martin, is that I obviously very much appreciate your comments. In fact, you, along with Madame Folco, created the structure in that subcommittee report you wrote. As you say, I certainly endorse everything you say. You've been a champion of this right from the day you walked into the House. Not only that, I appreciated your coming to me at different times and saying you were more worried about our losing this and ending up, because of the silly political battles, not actually getting anything.

On this process of first reading, I said something in front of this committee and I continue to hope...I despair at times, frankly, but we have a responsibility. We are the leadership, so described, in this country. We have a responsibility to focus on the products we're creating and to try to ensure that we're not just winning a political point but are actually creating something better, something that is going to last a long time and that is going to produce an improvement. I'm going to come back before this committee and challenge you every time on that question. I'd like to have a frank discussion with this committee sometime about committee processes, because I think there are things we could do better.

Having said that, I also learned. There's no monopoly on wisdom at this end of the table, either. I came here quite legitimately, quite sincerely, believing we could do this with the Public Service Commission. I was persuaded, not because there was any sense of... Unanimity persuaded me, in the sense that I did not appreciate, frankly, the disrepute that surrounds the Public Service Commission. I think there are serious problems there, and this committee might want to challenge itself to look at them, because we've got a dysfunctional organization.

Having said that, though, I know you will recall, Mr. Martin, that when we did the business with the Privacy Commissioner, one of the issues was the administrative structure and how variable it was. Some were appointed for one length of time; others were appointed for another. Others were overseen by the House and the Senate. Others were only overseen—

Mr. Pat Martin: I was surprised to see there was no real template. There was no real one formula.

Hon. Reg Alcock: Right, and you remember when we went through that exercise. We also, when we had a situation with a Parliamentary officer, had a serious concern about how to discipline this individual. The mechanisms were so clumsy.

Anyway, we put forward a recommendation—Mr. Chairman, you were part of this also—to the House. We don't manage all the House officers, but we put forward a recommendation as a committee that the House should examine clarifying the legislative underpinnings of all House officers to make them the same—similar method of appointment, similar term of appointment, similar process. The Auditor General, for example, has expressed concerns about it.

And it came up in Radwanski. Why wasn't Radwanski given greater oversight? Well, it was because he was an oversight mechanism. You get Treasury Board trying to exercise oversight, but he oversees them. It was confusing. So I'm working with the Auditor General and with the House on a new mechanism for providing the kind of rigorous oversight we want to have on all government spending, but in a structure that respects the independence. These are very unusual offices.

In terms of your question about structure, there is the variability, as I've said, and I think we should come back and challenge ourselves to create a call for this legislation. Inside that, though, the size of the office varies. For example, the Auditor General has quite a large operation, because she has to provide the external audit verification for a \$180-billion budget, whereas the Privacy Commissioner and the Official Languages Commissioner are somewhat smaller, but the administrative structure for this office at the head of this will be the same—the method of appointment, all of those kinds of things.

Exactly how large a staff is required—

Mr. Pat Martin: We won't know.

Hon. Reg Alcock: We won't know until the officer is in place and starts working. We have some sense from Dr. Keyserlingk's work, and he will offer us advice on that. I believe he has some very talented people there. We would probably want to draw on them to staff this office, should they wish to do so.

I want to be cognizant of that also, but there are other things. This is an interesting position because it's not unifunctional. The Public Service Commission focuses on HR issues and the Auditor General focuses on financial issues, right? In this case, a whistle-blower may actually have been in a financial area. Well, rather than recreating the expertise that exists in the Auditor General's office, should this officer have the ability to bring in the Auditor General? Remember, we did that when we had the concerns in the past. We didn't say we would go and investigate the financial issues. We had the Auditor General there; we had her do that. If it's an HR issue, if it's official languages whistle-blowing—I suspect we won't have a lot of them, but it's conceivable—

•(1620)

Mr. Pat Martin: Whenever there's money being managed, it's something that could be—

Hon. Reg Alcock: What am I thinking of? There are official languages, privacy, access, and...elections.

Mr. Pat Martin: I keep forgetting elections.

Hon. Reg Alcock: You get the point.

Some of that operational stuff will sort itself out as we get people in place. I suspect we'll look closely to Mr. Keyserlingk for some preliminary advice. This committee will then presumably review the budget and the operations. Right now, this committee has oversight responsibility for the Privacy Commissioner and the access commissioner. But it's not clear. The House will have to decide which committee this officer reports to.

The Chair: Mr. Preston.

Mr. Joe Preston (Elgin—Middlesex—London, CPC): Who makes the decision about which committee this office will report to?

Hon. Reg Alcock: That's a decision of the House of Commons. It's made through the Standing Orders process. If you look in the Standing Orders right now, you'll see each officer is directed to a particular committee. But the House will have to make the decision.

Mr. Joe Preston: So the interviewing and appointment process for that person would be—

Hon. Reg Alcock: No, there's two different things. The first has to do with where the office comes to have its budget estimates dealt with. If there are issues, each officer is assigned to a committee. For example, the Auditor General goes to public accounts.

For appointment, though, there's a process described in the legislation. Candidates are proposed in all Houses. This committee actually interviewed the Privacy Commissioner.

Mr. Joe Preston: That was partially my question: who's interviewing, who's responsible?

Hon. Reg Alcock: It would be the assigned committee in that case.

Mr. Joe Preston: Okay.

You've given out two pieces of paper today. One has a date of June 16, and it's the proposed government amendments. The other is June 14, and it talks about the creation of the new office as part of this legislation. The one dealing with the amendments still talks about the Public Service Commission. I'm assuming that's because you were dealing mainly with the amendments.

Hon. Reg Alcock: Is that right, Ralph?

Mr. Ralph Heintzman: The changes to create the public sector integrity commissioner would be made, as the minister said, after this committee reports the bill to the House. The draft dealing with the public sector integrity commissioner would then be changed so that all the language would say "commissioner" instead of "president".

Mr. Joe Preston: So there's no confusion between the two, one is what we asked for first, the other is the other?

Hon. Reg Alcock: We wanted to give it to you in the form that you'd see in the bill, as opposed to something disconnected from the

bill that said, we're going to make these 18 amendments, and here they are.

Mr. Joe Preston: Clause 5 in this bill calls on the Treasury Board to establish a code of conduct for the public service. It says that you will start that process by talking to the bargaining groups you deal with. Is that process already under way?

Hon. Reg Alcock: Yes and no. There is a code of conduct within the public service now. There's a large process going on in this whole area of integrity and conduct. The answer is that we're preparing for it. We're in that discussion, and we're doing work on it. But in the end we've got to get the bill.

Mr. Joe Preston: I know it's a cart-and-horse situation. You've challenged us to do this very quickly too. This theme comes up throughout the bill—it is a wrongdoing if you break the code of conduct, but we haven't seen the code of conduct. So to establish what needs to be written, there is a wait-for-you-and-you-wait-for-us. Who's going to wait for whom first?

Hon. Reg Alcock: I will rely on you, Mr. Preston, to move very quickly to get this in front of you. There's another whole exercise going on around accountability. Inside it, there's a concept for codes of conduct and enforcement and penalty structures. There's a whole piece there. But let's put it this way: we will not be the delay.

Mr. Joe Preston: All right, I will accept your challenge if you'll accept ours.

•(1625)

Hon. Reg Alcock: Absolutely.

Mr. Joe Preston: I want to touch on some of the organizations excluded from this. You mentioned that the armed forces had its own command structure, and that it might be better to set up a whistle-blowing piece within it. We've also heard from some witnesses that this command structure might be the biggest barrier to the whistle-blowing piece. In the military command structure—as in the structures of CSIS and the RCMP—there is an esprit de corps that might prevent whistle-blowers from feeling comfortable about going to their commanding officer. It seems that this might be a hurdle too.

Hon. Reg Alcock: In response to that, Mr. Preston, one thing that's always a problem in trying to deal with the Government of Canada is that we're the largest organization in Canada. I always like to say BCE has 11 lines of business; we have 463. Right? So a one-size-fits-all model creates too many problems at the margins if we do it that way.

What we're saying in this is that the RCMP should absolutely have a whistle-blowing regime, as should the armed forces, as should CSIS, as should the CSE, the Communications Security Establishment. But having said that, because they are unique organizations, we have a concern about bringing them into this arrangement in this way.

If you are not satisfied with that, I would simply encourage you to really spend some time with those organizations, because—

Mr. Joe Preston: We have had some of them as witnesses.

But I guess my question isn't so much that we want to lump them in together, but that we don't want to exclude them. If someone from those organization wants to come to our new whistle-blowing office to whistle-blow and talk about wrongdoings, the door won't be closed on them and they won't be sent back to their commanding officer. I'm just asking if we can include it in this way, or are we writing them off completely?

Hon. Reg Alcock: Thank you, Mr. Preston.

You raise an interesting point, and Mr. Heintzman informs me—and Mr. Keyserlingk is sitting there, so he can nod his head if this is correct—that the RCMP currently has an administrative arrangement with you, so there's already an accommodation within this and there's no reason to say such an accommodation could not occur within this organization. I think it's fair to say that the command structures are concerned about it, and the RCMP has obviously moved a way on that.

So I would encourage you to look for those kinds of solutions rather than imposing them, and if you think there are clauses in this bill that are not robust enough in insisting that they have whistle-blowing, I would encourage you to strengthen them. But I would caution you about making that very large change, affecting these unique organizations, without very careful consideration.

Mr. Joe Preston: Thank you.

I'm looking for ways to protect the public servants of Canada, sir.

Hon. Reg Alcock: Exactly.

The Chair: Thank you, Mr. Preston.

Madam Marleau, for seven minutes.

Hon. Diane Marleau (Sudbury, Lib.): If we can get this bill through committee and the House, how much time would it take before you actually got it working? And then, how much time would it take to recruit and set up an office? I'd like to have some timeline as to how much time it will take before we can have an active office up, running, and prepared to receive complaints and to act on them.

Hon. Reg Alcock: Well, you know, this is my parliamentary secretary. She's put more pressure on me about this damn bill than most have.

Some hon. members: Oh, oh!

• (1630)

Mr. Paul Szabo: Did you say “is” or “was”?

Hon. Reg Alcock: Oh, no, she most definitely “is” and will remain so!

It's an exceptionally good point, Madam Marleau, and as you know, given your long experience here, there can be a considerable gap between legislative action and reality on the ground. However, in this case I did not come equipped with an ability to give you a precise date, but I can simply note that we already have the foundation in place with Mr. Keyserlingk's office. Right? So it is reasonable to assume that as we go through the process of identifying and appointing a person—and presumably the House will be involved in that, whether it's this committee or another committee, as is up to the House to choose.... But having done that, we could move relatively quickly to have the office in a position to accept complaints.

Is that a fair statement from your perspective, Mr. Keyserlingk?

Dr. Edward Keyserlingk (Public Service Integrity Officer, Public Service Integrity Office): Yes.

Hon. Reg Alcock: So it's hard for me to say it'll be by November 1, or whatever, but certainly I'd be prepared to come back with more detail once we've got the bill.

Hon. Diane Marleau: Would you be prepared to allow some of the ongoing cases that the office is perhaps now examining to be transferred out, or would they have to start over again? These are all technical questions, but I think there may well be some merit to that, because there is going to be a whole new body, and you want to make sure the work that's been done on a case doesn't get put aside.

Hon. Reg Alcock: Absolutely, and that particular issue is contained within the body of the bill as it currently stands—although I believe that some of these transitional issues are ones that Madame Thibault was also raising. We've indicated that we're prepared to accept some additional amendments in that area.

Hon. Diane Marleau: Do you think the commissioner will be able to look at past cases? There is a body in place, but I'm not sure...I'm wondering whether the commissioner could actually accept a case that happened in the past?

Hon. Reg Alcock: There's a question of retroactivity here that I'm a little unclear about. Did you ask whether he could go back to a case that happened many years ago?

Hon. Diane Marleau: Yes, a case where there was nothing done.

Hon. Reg Alcock: Mr. Heintzman makes a point in that laws are not normally seen as retroactive. Certainly, though, there is a provision in the act for continuing investigations already under way. I suppose any new cases that came forward, even if they referenced events that took place beforehand, would be selected and adjudicated by the commissioner in the same way as any other case.

Hon. Diane Marleau: I'm thinking of the Gomery inquiry and the famous whistle-blower there.

Hon. Reg Alcock: Are you going to whistle-blow on Judge Gomery now?

Hon. Diane Marleau: I didn't want to hear that, okay?

Hon. Reg Alcock: You'll recall I came before this committee and offered an interim blanket protection on this, which is something I then went forward and put in writing with the unions. There is a provision in the bill to pick up on those items relative to Gomery. It's retroactive. So laws can be retroactive?

Mr. Ralph Heintzman: They can be if they're made retroactive.

Hon. Diane Marleau: Good. I think there are some people who will be pleased with that.

Thank you.

Mr. Guy Lauzon: I'd like to follow up with Mr. Heintzman on the RCMP and the fact that Mr. Keyserlingk is there. Will this arrangement still be available with an independent commissioner? I raise this because we've had one of our senators approached by some RCMP officers in Quebec. They have some real concerns, which were raised here when they appeared before the committee.

Say an RCMP officer doesn't want to go through the formal system in-house, are they going to be able to go to the independent commissioner as readily as they can go to Mr. Keyserlingk now? Maybe you can explain how the situation works now.

Mr. Ralph Heintzman: I'm not sure we can give you an absolute guarantee. But if the RCMP is prepared to have an administrative arrangement for the current office, which is not established in legislation, to allow officers to take cases to the public service integrity officer, I can't think of any reason why this would not be continued under the new regime. I would have thought the RCMP would prefer this arrangement to one that brought them under this bill.

Mr. Guy Lauzon: There were different opinions from some of our witnesses.

Can I assume this office will be open to recommendations put forth by the access to information, the privacy and the ethics committees?

Hon. Reg Alcock: Open to...? I don't understand what you mean.

•(1635)

Mr. Guy Lauzon: Well, if they were to make recommendations, I imagine they would be entertained.

Hon. Reg Alcock: You mean referrals of issues?

Mr. Guy Lauzon: Yes.

Hon. Reg Alcock: Absolutely, they would take referrals. If people have whistle-blowing cases to put before the office, they would act upon it.

Mr. Guy Lauzon: Minister, at one stage you were talking about the perception that people have of the Public Service Commission. Subsequent to that, you mentioned a dysfunctional organization and said you had some real problems there. Did you mean the perception, or do you think there are some concrete issues?

Hon. Reg Alcock: You'll recall in that first session with you Mr. Martin raised a question about this. The concern was that Public Service Commission had a foot in each camp. It was half an administrative executive function and half an independent oversight function. Mr. Martin asked if I would be willing to look at some internal restructuring to clarify that and get into an independent position.

I did not accept—and you raised this—the perception of the Public Service Commission as dysfunctional. I didn't get that at first. Now, after talking to the witnesses you talked to and listening, I buy it. But when I went in and tried to see if I could fix it, it struck me that I was trying to make a fit that just wasn't going to work.

Mr. Guy Lauzon: But it was the perception of other people; it's not your opinion of the Public Service Commission?

Hon. Reg Alcock: I thought that to try to make the Public Service Commission fit within some of its current legislative models and what we wanted here, I would have had to tie myself into too many knots.

Mr. Guy Lauzon: Okay.

The Chair: Mr. Poilievre, if you would like to finish up Mr. Lauzon's time, you have about a minute and a half.

[*Translation*]

Mr. Pierre Poilievre: Thank you.

I have never believed that there is any need to have special mechanisms for the RCMP or the military. I believe that the same principles should govern the entire whistleblowing process. Under the initial bill, disclosures were very clearly defined. The definition was extremely clear and the process was well described. It was clear that disclosures involving state secrets would not be legitimate.

Such disclosures are involved where a public servant, a member of the RCMP or members of the Canadian Forces disclose a crime, a human rights violation or waste. Such issues arise in any department or agency, including within the RCMP or the Canadian Armed Forces. I've never believed that there should be a different process for these organizations.

Minister, are you open to the idea of extending this office's mandate to directly include actions by members of the RCMP or the Canadian Forces?

[*English*]

Hon. Reg Alcock: Well, Mr. Poilievre, I would encourage you to consider that more fully. As the RCMP will tell you, there are very few clerks or assistants in the federal public service who get shot, and there are very few people who put themselves in harm's way the way the army does. As a result, we have unique structures to manage these groups. And to suggest that they can be managed in exactly the same way as every other public servant, I would submit, is simply wrong.

So my advice to this committee is not to do that. My advice to this committee is to use, as Mr. Lauzon has inquired about, structures that respect the uniqueness of these organizations, but that do two things: impose upon the organization a duty to build a whistle-blowing regime that respects the intentions of this bill and, where you think you can do it—and I'm impressed that the RCMP is prepared to go to this extent—use the office. But leave that within their control, frankly, because I do think they are singular. This is the dilemma in some of these things: we make these broad, sweeping generalizations about an organization that is enormously complex.

So my advice to you is not to do it. If the committee chooses to do it, we'll have to deal with that. But my advice is not to do it.

•(1640)

Mr. Pierre Poilievre: I would counter, respectfully, that whether or not someone can be shot in the line of duty should not impact on the process by which they report criminal behaviour by their senior management, or sexual harassment by someone in the office, because—

Hon. Reg Alcock: That's not the point.

Mr. Pierre Poilievre: The bill does define very clearly what constitutes wrongdoing. It would not necessarily protect a CSIS agent from going out and revealing critical state secrets, or something of that sort.

I guess what I'm looking for—and I'm open to being convinced on this point—is some tangible example of where it would be problematic for these agencies to fall under the rubric of this independent officer of Parliament. I need to have a more practical example than your just saying that they are very different. All of your departments are very different; all of them operate in very different ways.

Hon. Reg Alcock: No, no.

Mr. Pierre Poilievre: I'd like to hear a specific problem that would occur.

Hon. Reg Alcock: Mr. Poilievre, if you will allow me, let's come back to the nature of the organization. The fact that people are put in harm's way does not imply that this all of a sudden gives them a right to be protected from wrongdoing, or to suppress accusations of corruption or mismanagement. What it means is that the command and operational structures of those organizations are quite different from what you get in other public sector offices; the ways in which they oversee discipline and deploy and use people are quite different. I think we have a duty to respect and recognize that difference. To override it without consideration, when we're not saying... I think it's a serious mischaracterization of this to suggest that it is trying to leave them free and harmless from that. That is not what this bill is saying; this bill says they must do it also.

But these are different organizations, and I think it is too simplistic to suggest that you encompass them that way.

Now, if you'd like a specific example, Mr. Heintzman says that he has one.

Mr. Ralph Heintzman: The problem is the actual legal structures of some of these organizations and, from a technical point of view, how you would accommodate those legal structures with this bill.

I can give you one example. Under the RCMP Act, the RCMP's discipline system actually functions more or less like a court; the commissioner of the RCMP doesn't function like a deputy minister. So there is an entire process that happens before the commissioner ever gets involved in anything, and by the time a disciplinary decision reaches the commissioner, he's making a decision as if he were more or less a tribunal. Under the RCMP Act, the only way that can be appealed is to another tribunal, i.e. to a higher court.

I will not say it's impossible, but it's legally or technically very difficult to make the fit between the RCMP and the regime of this bill. I'd go further and say that for the forces, I think it's actually technically impossible at this point, or beyond the skill of the lawyers we have available to do that.

Hon. Reg Alcock: Can I close on that one final comment?

The Chair: Go ahead, Mr. Minister.

Hon. Reg Alcock: This bill requires those four organizations to have a whistle-blowing regime that respects the principles and processes contained in this bill. That's number one.

Number two, you already see willingness on the part of the RCMP to go further than that through their administrative relationship here.

Number three, you have a clause in here that allows you to go back into this bill and review it, after there have been a few years of practice with it, to see whether those things are respected. So you have lots of vehicles to get at that question.

My advice to you is, don't do it. Bring these organizations back before you; in fact, you can call them back any time you want. Bring the command structures in and ask them what they have done and what they have put in place. You have the ability to oversee this to ensure that they meet this test in all sorts of ways.

But be cautious when you're building legislation that's going to last for a very long time. It's not just about winning today's political battle.

The Chair: Thank you, Mr. Alcock.

Monsieur Sauvageau, for five minutes, followed by Mr. Scarpaleggia.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I would first like to ask the Clerk whether twelve noon tomorrow is indeed the deadline for submitting amendments to the bill. I believe it is twelve noon tomorrow.

Considering what the Minister has just said with respect to amendments and that we had no way of knowing what those amendments would be, I am wondering whether we could not be given additional time to table amendments—at least until Monday, since the next meeting is scheduled for Tuesday. It is my opinion that the bill, as improved by the Minister, warrants our spending whatever time is necessary to have a clear understanding of what is proposed.

• (1645)

[English]

The Chair: Mr. Sauvageau, we can discuss that after the witnesses are through today. In fact, we intend to discuss it, so we'll do that then.

If you want to continue with your questioning, you still have four minutes left.

[Translation]

Mr. Benoît Sauvageau: I have five minutes left. I am going to ask my first question. Although we may table amendments, I would still be interested in hearing—although I realize you have great respect for the Committee and you want us to table amendments—your interpretation or your perception of certain clauses of the bill. That could help us to decide whether we should draft amendments or not.

Clause 3 reads as follows:

3. The Governor in Council may, by order, amend the schedule by adding or deleting the name of any Crown corporation or other public body.

We are a little concerned about the possibility of the Governor in Council being able to decide—heaven knows how—to delete the names of certain Crown corporations from the schedule. Do you believe there is any need for further detail here?

[English]

Hon. Reg Alcock: Can I say just two things, Mr. Sauvageau?

First, on your question about more time for amendments, certainly the committee will decide what it wishes to do, but I would encourage you that we will work with you in crafting some of those.

My only concern, given the urgency that's been expressed here, is that if there is a willingness on the part of all parties to move this through before we rise, and should we rise on the 23rd, there will need to be some time for that. If we had the opportunity to actually get this thing through and—

Mr. Benoît Sauvageau: We will try.

Hon. Reg Alcock: Now, on your question, it's a standard clause. Let me give you two reasons. It's a standard clause in the sense that we have a crown corporation out there, the Public Sector Pension Investment Board, which is a hybrid. It has both provincial and federal standing in terms of its board members. We did this with the access to information bill, too. We will not add that to this bill until such time as we've talked to the provinces, respected provincial jurisdiction, and got a decision. But at that point we could then add it.

We have crowns out there to which this applies. What if one of them went out of business? What if we shut one of them down?

Well, we need a mechanism just to remove it, so it's just a management clause, that's all.

[Translation]

Mr. Benoît Sauvageau: Thank you for that clarification; I appreciate it.

In clauses 12 and 13, two processes are laid out whereby a public servant can disclose a wrongdoing. Clause 12 reads as follows:

12. Any public servant who believes that he or she is being asked to commit a wrongdoing, or who believes that a wrongdoing has been committed, may disclose the matter to his or her supervisor or to the senior official designated for the purpose by the chief executive [...]

Then, sub-section 13(1) reads as follows:

13. (1) A public servant may disclose a wrongdoing to the commissioner if:

But if we amalgamate those two provisions, we could say: "Any public servant who becomes aware of a wrongdoing may file a complaint with his or her supervisor, to the senior officer designated for the purpose, or to the commissioner." Otherwise, we are creating an additional barrier, and I am not sure whether that might not have the effect of constraining the disclosure of wrongdoing within the public service. Of course, we can always move an amendment, but I would first be interested in hearing your opinion on this, if you are able to provide it.

[English]

Hon. Reg Alcock: This conversation came up when they were here first, but again, I think the dilemma is this: you want this to be an exception in the sense that the management structure should work and the people should be able to get resolution of their problems when dealing within their normal organizational structures. Again, we've got some coming in on accountability within that. The first clauses simply respect that process.

We were persuaded, though, that there may be circumstances in which the whistle-blower, for example, is concerned about their superior, or they have concerns that they feel are significant. We didn't want to block them from going to the commissioner, but wanted to respect normal management practices. Personally, I believe a lot of these things get resolved at that level.

• (1650)

[Translation]

Mr. Benoît Sauvageau: Sub-paragraph 27(1) reads as follows:

- (1) Investigations under this Act are for the purpose of bringing the existence of wrongdoings to the attention of chief executives and making recommendations concerning corrective measures to be taken by them.

I don't know whether the Integrity Commissioner's work will be based on the same model as what is currently in place for the Commissioner of Official Languages and the Auditor General, but I do know that they file annual reports. Is there provision for the Public Sector Integrity Commissioner to make any wrongdoing public or file a report with chief executives?

[English]

Hon. Reg Alcock: Yes, the current integrity officer publishes an annual report, and this practice will be carried into this one, absolutely.

[Translation]

Mr. Benoît Sauvageau: I see.

In addition, clause 35 is worded as follows:³⁵ If the commissioner is of the opinion that a matter under investigation would involve obtaining information that is outside the public sector, he or she must cease that part of the investigation and he or she may refer the matter to any authority that he or she considers competent to deal with it.

Reading that earlier—in all sincerity, I am not trying to play politics here, although it may seem that way—I started thinking about the sponsorship scandal, which involves outside public relations firms. For example, someone could file a complaint with the Public Sector Integrity Commissioner and then realize that the apparent wrongdoing occurred within firms that operate independently of government. Under circumstances such as those, the inquiry on the sponsorship scandal could not have been completed. Is my interpretation incorrect?

[English]

Hon. Reg Alcock: There are two things, Mr. Sauvageau, as I understand this.

Certainly, if your question is, would the existence of this clause prohibit or diminish the ability of one to pursue that, the answer is absolutely no. The whole purpose of putting in a mechanism like this is to allow earlier, more rigorous identification of the problem, and earlier intervention. So there's nothing there.

There is a boundary issue. We can legislate within our own House, if you like, but to start to move outside of our own labour force and actions ties us up in a number of other activities that become problematic. I can tell you, as you will see in the government's response to the Gomery commission, that we are actively examining mechanisms to do that. But there is a problem with it.

The Chair: Thank you very much.

[Translation]

Mr. Benoît Sauvageau: May I...

[English]

The Chair: A short question. Go ahead.

[Translation]

Mr. Benoît Sauvageau: Under clause 35, could he not “support” those outside sources?

[English]

Hon. Reg Alcock: Mr. Sauvageau, I'm informed by Mr. LeFrançois that the purpose of the clause is that it could be argued that the president of the Public Service Commission is precluded from going to outside authorities, unless you put in the clause that enables him to do that. But if you, for example, report something to the RCMP, then it becomes their decision as to how they're going to react; they're not necessarily going to bring you into the investigation, but they may come back to you for evidence and all of that.

The Chair: Thank you very much, Mr. Sauvageau, and Mr. Minister.

To Mr. Scarpaleggia, for five minutes or more, if you'd like. We've let the clock run over on a few of these.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Thank you, Mr. Chair.

Welcome, Minister.

I'd like to follow up or continue the discussion regarding the RCMP and the armed forces. I agree with you that nuance is the basis of intelligent policy-making. You mentioned that in the case of the RCMP, they have their own internal mechanism, but have been accommodating, in the sense of linking up in some way with the integrity officer. Is that correct?

• (1655)

Hon. Reg Alcock: Sorry, I missed the question.

Mr. Francis Scarpaleggia: You mentioned that the RCMP has its own internal structure, but that in an effort to accommodate and somehow be more open, they've established a relationship of sorts with the integrity officer. I don't know if you can do this at this moment, but can you tell me what the nature of that relationship is?

Hon. Reg Alcock: Before I do that, Mr. Scarpaleggia, this bill now makes it a duty for them to have a relationship.... They're doing it now with their current system. This bill hardens all that up in terms of the expectations on them, as well as on the others, to actually do this.

Now, as I understand this, they have chosen and are satisfied with the processes that Mr. Keyserlingk has used, so they have gone to him. We've thus respected the uniqueness of their command structure, but also availed ourselves of the advantages of this. There's nothing that would prevent them, under this legislation, from continuing to do that—

Mr. Francis Scarpaleggia: I wasn't suggesting that. If I may go to my second question and then come back to what the nature of that arrangement is with the integrity officer, is that duty being imposed only on the RCMP in this legislation or also on the armed forces?

Hon. Reg Alcock: On all four.

Mr. Francis Scarpaleggia: On all four, okay.

Hon. Reg Alcock: Mr. Scarpaleggia, if you'd like, Mr. Keyserlingk is here. Would you like him to comment on the nature of that relationship?

Mr. Francis Scarpaleggia: I would really like to know what that is, yes.

The Chair: Thank you.

Mr. Keyserlingk, go ahead, please.

Dr. Edward Keyserlingk: Thank you.

It is essentially an administrative arrangement whereby they have asked whether their members could come to us...and who in fact have on several occasions. On all the occasions when those members have come to us with a complaint, they have previously gone internally as well. So we typically collaborate with them on the investigation. However, we make our own report, independent of their report. But there is a degree of collaboration, and that's essentially what it is. Partly because we are not a legislated office at this point, we can't and don't offer them the same protection from reprisal that would be possible, should this be a legislated part of the new bill.

So there are different ways of doing this. At the moment, they can come to us, but we can't protect them from reprisal in the way one theoretically could if this were part of a legislated bill.

Mr. Francis Scarpaleggia: In their collaboration with you, how do you ensure that justice is done? I'm being very serious here. How do we ensure that this collaboration is not just window dressing or superfluous, but that somehow your involvement brings things one step closer to a just solution?

Dr. Edward Keyserlingk: We make our own independent report to the commissioner, as we would to a deputy minister, with a recommendation. Then it falls into the commissioner's lap, for a decision on what will be done with it. This is already the case with deputy ministers. We can't force the conclusion, and we don't have the recourse of going to Mr. Himelfarb, in this case, as we would in the other ministries.

Mr. Francis Scarpaleggia: Minister, with respect to this alternative for those four organizations, which you see as necessary to protect the uniqueness of their management and command structure, do you think the probability that justice will be done vis-à-vis a whistle-blower in the RCMP or the armed forces is the same as it would be for someone working at Public Works and Government Services?

Hon. Reg Alcock: There's the world today and the world after this bill, right? What Mr. Keyserlingk is talking about, even in respect of this unique structure, is that they have found a way to begin to avail themselves of the services of this office. What this bill does is harden it all up. It says in clause 52 that they must set up procedures "applicable in that organization"—like the RCMP—"for the disclosure of wrongdoings, including the protection of persons who disclose the wrongdoings. Those procedures must, in the opinion of the Treasury Board, be similar to those set out in this Act".

So it's not just, we think you should do it. They are compelled to do it. Now, the RCMP could go to the new commissioner and say, look, we are satisfied that we can work out an administrative arrangement so that you can do it for us. If they make that decision, then so be it. Or they could set something up entirely within their organization. They've chosen not to do that, it seems. But if I understand what you're saying, Mr. Keyserlingk, it doesn't go quite as far as it would under this regime.

• (1700)

Dr. Edward Keyserlingk: Yes, that is correct. In a legislative regime, presumably, unless it's legally allowed, as opposed to an administrative arrangement, it could not provide them with the same legal protection. It would simply be an administrative arrangement.

This probably works better now than it could in a legal framework. In a legal framework, others who fall under the legislation would have legal protections that would not be extended, unless you legally empowered them to come. That leaves open the whole issue of whether you want to do that, but it is a difference.

Mr. Francis Scarpaleggia: Under the system for the RCMP, the armed forces, and CSIS, if it's kept separate, with accommodation, no one's worse off than if those organizations were made part of the bill? I'm talking about organizations that are different because they have a different command structure. As an outsider, it seems to me that in these organizations people are trained to submit to authority for a very good reason. So they are different in that way, too.

Hon. Reg Alcock: But I take you back to clause 52, which is noted as the "Obligation of excluded organizations". Those organizations "must"—not "may" or "should"—"establish procedures, applicable to that organization, for the disclosure of wrongdoings, including the protection of persons who disclose the wrongdoings".

So they are compelled to do it. I would say that this committee, if it continued to have concerns, would be within its rights to call the organization before the committee and say, "Have you done it? What is it?" I think you could ask all of those questions.

Mr. Francis Scarpaleggia: Excellent point.

Hon. Reg Alcock: And should you not be satisfied, you have the opportunity to amend the act three to five years from now.

Mr. Francis Scarpaleggia: Excellent. That's a good point.

Hon. Reg Alcock: The next clause says, "The Governor in Council may, by order, direct that any provision of this act applies, with any modifications that may be specified in the order, in respect of any organization that is excluded from the definition...".

So we shouldn't be too hypothetical, right? But should the committee call them back the year after this thing has begun and ask those questions about what it has done and not be satisfied, it would be within its rights to petition the government and deal with other mechanisms it has for doing it, a motion in the House or whatever, to exercise its authorities under clause 53.

So you have lots of ways to bell that cat.

Mr. Francis Scarpaleggia: Thank you.

Do I have more time?

The Chair: One question.

Mr. Francis Scarpaleggia: The private sector dealing with the government is not covered in this bill, I don't believe. Could I have your thoughts on that?

Hon. Reg Alcock: I think it is a very interesting issue. It is not covered in this bill for a number of reasons. Some of them are the legal jurisdictional issues. But I can tell you this—and this is perhaps new for this committee, but it's on the public record now; we submitted this in our submission to Gomery. We are going to bring in legislation in the fall around accountability and integrity, and I'm actively investigating how we might build a regime that builds some requirements for private sector organizations that do business with the government. So we will try to encompass that.

It's complicated. It's new. But we are actively examining that, and I would be more than willing to come before the committee in the fall to talk about it.

• (1705)

Mr. Francis Scarpaleggia: On a last note, Mr. Chair, I certainly hope we can get this to the Senate.

Hon. Reg Alcock: If we can get it to the Senate before the House rises, we'll have advanced the applicability of this by a good quarter of a year.

Mr. Francis Scarpaleggia: I agree.

Thank you.

The Chair: Thank you very much, Mr. Scarpaleggia.

I'd just like to thank Mr. Keyserlingk for coming to the table. He wasn't scheduled to do that, but his expertise is obviously well sought.

Mr. Lauzon, I understand Mr. Preston may finish your time.

Mr. Guy Lauzon: Mr. Poilievre will take it.

I just want to make a statement; I don't have a question.

I want to congratulate this committee, led by our illustrious chair. We've worked together with some of the other committee members, and I think this is an indication that minority government can work.

To the minister, as Mr. Martin said, it does take a large man to move as you have, Mr. Alcock, and I do respect that. I think we have the start of a great piece of legislation, and we have to keep it going.

Thank you very much.

The Chair: Mr. Poilievre, you have about four and a half minutes left.

[*Translation*]

Mr. Pierre Poilievre: First of all, it is important to acknowledge that a whistleblower who is one of the greatest supporters of legislation that would protect whistleblowers is here with us today. I am talking about Allan Cutler. Without his work, we may never even have heard of the sponsorship scandal. It is thanks to his courage and that of other whistleblowers that this work continues. Thank you, Mr. Cutler, for being here.

I want to come back to the Canadian Forces and the RCMP. I am not yet convinced, and I think we will need more debate on this.

I am looking at the section of the bill entitled “Wrongdoings”, which begins at clause 8. That clause very clearly describes the actions that a person may disclose while benefiting from protection afterwards. I can't imagine any circumstances where a member of the RCMP or the Armed Forces should not be given the same protection as other government employees.

[*English*]

For example, I see “contravention of any act of Parliament”, “misuse of public funds”, “gross mismanagement in the public sector”, “an act or omission that creates a substantial and specific danger to... life”, “a serious breach of a code of conduct”, “the taking of a reprisal against a public servant”, and I don't see how any of those things, if they occurred in the RCMP or in the military, would require a special or different mechanism than would be required in all the departments of government. I just haven't been convinced of that on a practical level.

You have raised some alternative ideas, which are that these agencies—the RCMP and others—would consult on an administrative level with the office that we set up and that we could ask them questions before this committee. And if we're still not satisfied that they have set up something comparable, then we could ask the cabinet to undertake an order in council to actually force them to do so.

To me, all of those steps seem very intangible and far off, and I'm just not prepared to accept that. Perhaps you can give me some comfort here.

• (1710)

Hon. Reg Alcock: Mr. Poilievre, you continue to characterize this as either in or out. That is absolutely not what this bill says. This bill says there are some organizations that are unique and have unique characteristics that we feel need to be considered in this, but it doesn't say, so go forth and don't deal with this.

It says in clause 52 not that the organizations ought to think about this; it says it's the obligation of the excluded organization. They are obligated in law to put in place “...procedures, applicable to that organization, for the disclosure of wrongdoings, including the protection of persons who disclose the wrongdoings”. They are compelled to do that.

Mr. Pierre Poilievre: Yes, they may be compelled to do it, but their definition of what constitutes good mechanisms might be different from our definition. That's why we are writing a very specific law and putting in place a very specific mechanism. So to say you're obliged to do it, but we're not specifying how exactly it must be done....

Hon. Reg Alcock: If you go to the last sentence, the clause says that the Treasury Board has to certify these are the same as other organizations, and over and above that, you have the ability, as the committee, to call them before you.

Mr. Pierre Poilievre: To ask questions, but nothing more.

Hon. Reg Alcock: Well, if you think the powers of the committee are inconsequential—

Mr. Pierre Poilievre: No, I think the powers, if exercised properly by fixing this bill directly, are very consequential, but if we wait until after the bill is passed, we won't have that power.

Hon. Reg Alcock: But the advice you're receiving is that these are unique organizations that have unique characteristics. The advice you're getting, not just from me but from those organizations, is that you create a serious problem for them; otherwise, they would be encompassed today.

Mr. Pierre Poilievre: The advice I'm getting from the employees—for example, RCMP members themselves—is to the contrary. They want these protections defined here, not defined later by their management.

Hon. Reg Alcock: Mr. Poilievre, that's why this committee is charged with making judgments.

The Chair: Mr. Poilievre, you're out of time.

Go ahead, Mr. Minister.

Hon. Reg Alcock: That's why you have to make a judgment. At the end of the day, this committee has to make a decision as to what's in the public interest. It is not simply finding a short-term quick fix to something. This is complicated stuff.

Governing this country is difficult. It's serious business, and you cannot do it on the basis of little disputes. It's not about winning today's question period. It's about changing the way we manage the government and putting in place law and procedures that do that in perpetuity. So let's not be casual about this.

The Chair: Thank you, Mr. Minister.

Mr. Anderson, we have very little time. We had agreed to end this meeting at 5:10. That clock is a little bit fast, but we're almost there. Could you just ask some short questions, and then we do have some further business. We'll take a five-minute break and then go on to further business that we have for the committee.

Go ahead, Mr. Anderson.

Hon. David Anderson (Victoria, Lib.): Thank you, Mr. Chair, and thank you, Minister.

Minister, you said earlier that it's at the boundaries that the problems occurred. Most of the questions have been on that, particularly with respect to the military and to the RCMP.

I would like to raise a number of other areas that are similar. For instance, does this bill apply to the staff or the employees of the House of Commons, the staff or the employees of the Senate, the staff or employees of members of the House of Commons, the staff or employees of members of the Senate, or the officers of Parliament? There are a lot of people who now work for these officers of Parliament—the Auditor General, the Commissioner of

Official Languages, the Privacy Commissioner, etc. Does this bill apply to any of these classes of people?

Hon. Reg Alcock: It applies to the officers of Parliament, the staff of the officers of Parliament. Yes, it applies to that. But no, it does not apply to the staff and operations of the House writ large. There is a boundary area between the House and the executive. Similarly, the House has its own integrity ethics officer, as opposed to his being encompassed within the government.

Hon. David Anderson: So any staff member of a member of Parliament who attempted to blow the whistle on an employer for illegally taping phone conversations would not have the protection of this act?

Hon. Reg Alcock: I think that's a unique example, Mr. Anderson. I will not go there—the House would have to address that.

Hon. David Anderson: Okay, the House would have to do it. But what you're really telling us is that we as members of Parliament are being asked to put a higher standard on others than we're willing to put on ourselves.

Hon. Reg Alcock: Yes, sir.

Mr. David Anderson: Okay, we'll leave it at that, then.

The Chair: Mr. Holland.

• (1715)

Mr. Mark Holland (Ajax—Pickering, Lib.): Thank you, Mr. Chair. I appreciate the opportunity to ask a question although I'm not a member of this committee. I'm standing in and taking a great deal of interest in this issue. I commend committee members and the minister for the work to date. I think this is good news.

On the issue of retroactivity, I wonder if you could tell us a little more. You said there would be an opportunity to go back. That can be good, but it can also be problematic. Also, attached to this is the issue of compensation. I know there's an opportunity for somebody to be restored to their position. But is there also consideration of alternate types of compensation? If you are thinking about retroactivity, we could also be looking at liability.

Hon. Reg Alcock: The first response is that legislation is not usually retroactive, although in this case there was an undertaking by me at the beginning of this process to encompass the period during which this bill was introduced. So yes, there's retroactivity to that extent.

The question of liability that you raise is one I would prefer Mr. Heintzman to answer. I am not encumbered by a legal degree, something I go to bed at night celebrating.

Mr. Ralph Heintzman: With respect to liability, this bill empowers existing administrative tribunals to remedy any situation of reprisal. This includes substantial powers to pay compensation for expenses incurred by anybody as a result of a reprisal.

Mr. Mark Holland: That was my understanding. I was trying to find out more about this element of retroactivity, how far back it would go and what kind of liability we might be looking at. It's hard to put parameters on this, but it's an issue I wanted to raise.

With respect to your intention, Minister, to try to do this by unanimous consent to get it through, I hope it's shared by all parties present. I hope they'll take it back to their leadership, because I think this is extremely important. It's an opportunity to pass this quickly, and I think there is all-party agreement on it.

Hon. Reg Alcock: The committee can't presume upon the leadership of the House. But given the possible unanimity around this table, I would encourage members to talk to their House leaders. If there was unanimity, we could pass this through the House and get it to the Senate by Thursday. It would be tough. But if there's an urgent desire to do it, and there's unanimity on it, then I think we should try to do it. I think it would advance this thing.

Can I say one final thing, Mr. Chair? I realize my time is up.

The Chair: You have one more question. Do you want to wait for it?

Hon. Reg Alcock: Okay, let's deal with the question.

The Chair: Mr. Sauvageau, a short question and then a short wrap-up comment.

[Translation]

Mr. Benoît Sauvageau: Under clause 54, it is proposed that the law be reviewed five years after coming into force. It seems to me that is quite a long period of time.

Given that this legislation is extremely important and that it is relatively new, what would you think of the idea of having it reviewed after three years, at least the first time around? We could eventually amend the timeframe to make it five years. I would be interested in hearing your comments on that.

[English]

Hon. Reg Alcock: Mr. Sauvageau, I guess that would be a question the committee should consider.

The reason that's five years, classically, is because it takes a while for these things to break in and get running, to settle in and establish the patterns that will be helpful in a review. So if the committee felt there was enough of that...

Mr. Keyserlingk's office has been running, and we're importing some of that in. So the committee would have to consider at what point they would get the best information in order to conduct a review.

I am pleased with where we are on this, and I'm pleased with the attitude around the table at this committee to get on with this and to get it done. I am deeply committed to modernization of the administrative apparatus of the Government of Canada. I'm spending day and night on this. This is the focus of virtually everything I'm doing, and I have a series of discussions here around accountability, around the structures and relationships between some of the central agencies, and so on. I think they are deeply interesting and deeply important discussions, and I would encourage this committee, as it looks forward to its mandate, to spend a little time on this.

The final thing is that there is a piece of this that is within your domain. Mr. Anderson raises an interesting point about there being certain things that the executive cannot dictate to the House. I think there are serious problems with the way we conduct some of the oversight functions of these committees. I would challenge you to challenge yourselves to get involved in correcting some of that. This organization is huge and exceptionally important, and we have to figure out a better way to do this business.

Thank you, Mr. Chairman, and congratulations to all of you.

• (1720)

The Chair: Thank you very much, Mr. Minister.

I would like to thank Mr. LeFrançois and Mr. Heintzman. I understand you've met with members of all the parties, and you have been extremely helpful in the whole process. That is very much appreciated. I think you've made a bit of a different process work, to date, and we're confident that next week we can complete this.

Thank you again, Mr. Minister, for coming today and for your recognition that we do need the independent office. We are looking forward to making this happen. Thank you all very much.

We're going to suspend for five minutes, and then we'll come back. We have some business to do. We should be able to do that in a few minutes.

• (1720)

(Pause)

• (1725)

The Chair: Could we continue with the meeting? We want to get this done as soon as possible. It's Thursday night, and I know some people are on House duty and have other duties.

We have a few items of business to deal with. The first is the continuation of this legislation. We still have clause-by-clause, and as you all know, there's a lot of work to be done.

Does anybody have a problem with an extra meeting added from 11 a.m. to 1 p.m. on Tuesday? And then we'll go with the normal meeting Tuesday afternoon. I'm really hoping we can complete this by the end of Tuesday afternoon.

Mr. Martin.

Mr. Pat Martin: Mr. Chair, my only reservation is that I'm also the NDP's only member on the aboriginal affairs committee, which meets from 11 a.m. to 1 p.m. on Tuesdays and Thursdays. I don't want to hold this up.

Actually, I just talked myself into it. I'll send a substitute.

The Chair: That's okay, then, Mr. Martin?

Mr. Pat Martin: We're okay.

The Chair: Mr. Szabo.

Mr. Paul Szabo: Maybe we could just take a survey about the number of committee-stage amendments that members have.

We have technical amendments. They've been given to the clerk. Those are consequential to what the minister talked about. They're not our individual ones. But I guess if there aren't going to be a lot of committee-stage amendments....

We'd have to get some sort of indication, because I'm pretty sure we can do clause-by-clause on the bill as it stands with some amendments—as long as there aren't 100 amendments, or something like that.

The Chair: Mr. Szabo, there will be a large number of amendments. Different parties do have quite a large number.

I think we'd have a pretty good chance of getting through it by Tuesday afternoon if we added an extra two-hour meeting. If we let it go beyond Tuesday, who knows whether we'll be here Wednesday—probably, but nobody knows for sure.

Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I am fairly ambivalent about this. It is already Thursday late afternoon, and you have just told me there will probably be a lot of amendments. But those amendments have to be prepared by the law clerks, and they are human beings. They have deadlines to meet.

I have the amendments in writing, but I have not given them to the law clerk. It is already 5:30 p.m. on Thursday. If we're talking about a hundred or more amendments being drafted over the weekend, so that we can discuss them starting on Tuesday at 11:00 a.m., I think we may have a time management problem on our hands.

I am certainly anxious to see the bill pass quickly and I am proposing ten or so amendments that I consider to be fairly simple. However—and this is not obstructionist, but rather a constructive comment—I simply want the time management issue to be considered.

As regards those amendments, we have to determine how much time will be required and how many law clerks will be available. Indeed, we have a law clerk problem at the House of Commons. Speaking for myself, I have about ten amendments, but if others have 50, and still others 70, well, I'm sorry, but it will not be possible to get that done by Tuesday.

[*English*]

The Chair: Monsieur Sauvageau, about a week ago we had agreed that members of the committee would have their proposed amendments in. We did have a change today. I think it was anticipated.

If we use 11 o'clock on Monday morning as a deadline for getting amendments in, we can still accommodate that with an 11 o'clock meeting on Tuesday. So you'd have the weekend to get your end done and get them in by 11 o'clock on Monday.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I'm perfectly willing to draft my amendments and give them to you as is, but I don't believe that's the way things normally work. I think they are supposed to be sent to the law clerk. If I'm not mistaken, if you need to have my

amendments by Monday morning à 11:00 a.m., that means the law clerk has to take the time to draft them between now and then.

[*English*]

The Chair: Mr. Sauvageau, I think you probably understand the system quite well. We'd have to get your work to the drafters on Friday, probably, so that they would be ready by Monday at 11 o'clock, so that we'd have a day to look at them.

I assume that most of the amendments you intend to make have already been dealt with. If there are a few, I think the drafters can handle it.

Are there any other comments?

Mr. Preston.

Mr. Joe Preston: I was going to defend Mr. Sauvageau a little bit. Although we have amendments ready and some had nothing to do with what was announced here today, we've had a fairly major announcement by the minister, and that may change some of our amendments. So I'm not sure if that's workable, leaving a deadline of noon tomorrow, after a 5:30 meeting tonight.

• (1730)

The Chair: All right.

Mr. Szabo.

Mr. Paul Szabo: Members should also know that committee-stage amendments can be made on the fly as we go through the bill. So I think by the time we start our first meeting on Tuesday at 11 o'clock, members should be ready to address any amendments as we move through the clauses.

That's a lot of time between Thursday and next Tuesday. I think we should stick to the calendar. Let's go with meetings early Tuesday and Tuesday afternoon and get this done.

The Chair: Of course what Mr. Szabo says is true. When we go through clause-by-clause, any member can make any amendment that is in order. There still is that final time to do it, and that's why we go through clause-by-clause. That's the process here.

Mr. Lauzon.

Mr. Guy Lauzon: I have to defer to the people with experience around the table. We probably have over 100 amendments. Even with four hours or whatever of committee work, are you going to be able to get through this? Is this doable? Even if everything is in and the clerks have it all ready, can we go clause-by-clause and do all we have to do in four hours?

Mr. Joe Preston: If we get along nicely.

The Chair: Go ahead, Mr. Szabo.

Mr. Paul Szabo: Sorry, Mr. Chairman, but it is going to take the good faith of the committee. We should understand that a mover of the motion doesn't have to read it into the record. We have our copy, we're dealing with this one, there's a very quick explanation if necessary—if it's necessary—and unless there's some serious disagreement, then we go right to a vote. The chair is going to have to be respected and to act crisply on each of those items.

Mr. Guy Lauzon: How quickly can we get those amendments, so we can review them before we get here, so that it would save time?

Mr. Paul Szabo: You can have the technicals immediately. They are tabled with the committee.

Are they in both official languages?

Hon. Diane Marleau: The technicals? I think they are.

Mr. Paul Szabo: They're available immediately.

Mr. Guy Lauzon: That shouldn't be a problem anyhow; it's the other ones.

The Chair: By sometime on Monday night, I think we should be able to have all the amendments, unless people put in a whole load of amendments that haven't been dealt with. But I hope that wouldn't happen. We are well along in this process, and there should be no surprises.

It really does depend on the cooperation and goodwill of this committee. We can do it in four hours on Tuesday. All right? We'll go with a meeting at 11 o'clock then on Tuesday, and that announcement will go to you.

We want the amendments to the clerk by 11 o'clock on Monday morning. That means you will have to work to get the work done with the drafters, tomorrow, if necessary.

There are a couple of other quick motions. The first one is Mr. Poilievre's. We had a motion that was in Mr. Preston's name. Mr. Poilievre moved a motion that I wanted to rule on. I rule it as out of order. Mr. Poilievre has changed it to accommodate what would have to be done to make it in order. Everybody has a copy of that motion, I believe. It is standing in Mr. Preston's name.

Mr. Poilievre, briefly please.

Mr. Pierre Poilievre: All right.

Obviously, there's an airtight case that there was an infraction of the law here. The only disagreement we had last meeting was that the wording created some problems with respect to the other place. We've just made some semantical changes to this motion, which of course does not at all change the intent of the original motion but merely pulls it into full compliance with the Standing Orders. I introduce it today with it having been approved by the clerk and the chair as being in order and having made only the necessary semantical changes to do so.

At this point, I would move the motion onto the floor, and—

• (1735)

Mr. Francis Scarpaleggia: Mr. Chair, is this session in camera?

The Chair: No. We're still televised.

Mr. Pierre Poilievre: To summarize, in effect the public works minister admitted there was an infraction of the law. The infraction of the law carries a \$200-a-day fine, and we as a committee have a duty to see that the laws are upheld. This motion seeks to do exactly that.

So I call on all members who support the rule of law to support this motion.

Thank you.

The Chair: Any debate?

Mr. Szabo.

Mr. Paul Szabo: Mr. Chairman, this is not just a little revision; this is a whole new motion. I'd like to know when it was submitted to the clerk.

The Chair: Mr. Szabo, I've had a look at this, and I see the changes as just those necessary to make this motion in order.

Mr. Paul Szabo: No, Mr. Chairman, I'm sorry, but the other one was judge and jury on a senator, with a fine of \$109,000. This is a totally different matter. Quite frankly, Mr. Chairman, this is a matter of improper notice.

I would also like to suggest to members and to inform them that this matter has been formally submitted to the ethics commissioner of the Senate to review fully, and it would certainly be my recommendation to the committee that this whole question of direct or indirect contractual matters between parliamentarians and the government not be dealt with until we get the decision of the Senate ethics commissioner as to the nature of this item. It may help us to determine whether or not we should go forward with the others.

I'd also like to refer members to the ruling of the Speaker on Tuesday, June 14, with regard to matters dealing with...particularly as the member is talking about these penalties. We are still dealing with the matter, pursuant to former section 14—which has now been deleted, but was in force at that time—having to do with the relationship in contracts, directly or indirectly, of parliamentarians and the government. So we're still talking about this issue.

The Speaker ruled very clearly. If you would like me to read it into the record, I will. It is from page 523 of Marleau and Montpetit. It is out of order for the House and, therefore, for the committee to deal with matters of the integrity of a senator, or "a Senator's integrity, honesty or character". This relates, directly or indirectly, to a member of the other place, and using the Speaker's own ruling, I think this committee should respect that.

However, should we receive that ruling from the Senate ethics commissioner, I'm sure this committee will want to take note, and then I think there should be a discussion with the Speaker to determine to what extent this committee should be doing this matter, or whether it should ask, or make reference to, the Senate directly to make its own investigation of its members.

I'm very concerned about the jurisdictions of both Houses, and so I'm recommending to the committee that we wait until the Senate ethics commissioner deals directly with the issue related to Alexis Nihon.

The Chair: Mr. Szabo, just to expedite this, I'm going to move a motion that the chair's ruling be sustained. We want to carry on with this, as we are past the meeting time already.

Are you questioning the chair's ruling?

Mr. Paul Szabo: No, but certainly on procedure, I'd like to ask the opinion of the clerk.

Is it appropriate for the chair to make a motion? The chair has made a motion.

•(1740)

The Chair: Yes, this particular motion the chair does make. You would know as a former chair.

Mr. Paul Szabo: No, no, you can't make a motion that you be sustained. It was demonstrated last night in the clause-by-clause consideration of Bill C-38 that a motion must be moved by another person.

Mr. Pierre Poilievre: I have a point or order, Mr. Chair. If it will put an end to this procedural obstructionism, why not just allow another member of the committee to make that same motion?

The Chair: I just have to consult with the clerk here. I want to make sure that would be in order.

Just to expedite this, is there any member who would make the motion that the chair's ruling be sustained?

Mr. Martin.

Mr. Pat Martin: I would like to move that the chair's ruling be sustained in this matter.

The Chair: Okay. Is there any comment or any debate? There is no debate?

Mr. Paul Szabo: I challenge the chair.

An hon. member: You can't, as you haven't got the motion.

The Chair: Mr. Szabo, go ahead.

Mr. Paul Szabo: The member's motion was that the chair's ruling be sustained. All right, let's deal with that first.

Recorded division, please.

(Motion agreed to: yeas 6; nays 5)

The Chair: Let's go directly to the vote on the motion, unless someone is absolutely pressing to make a comment.

Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: Am I entitled to propose an amendment to Mr. Preston's motion?

The Chair: You can go ahead and see if the mover considers it a friendly amendment.

Mr. Francis Scarpaleggia: Well, I consider it to be, anyway.

The Chair: Well, you can make the amendment, I guess.

Mr. Scarpaleggia, of course you can choose to move an amendment anyway.

Mr. Francis Scarpaleggia: Well, I choose to make an amendment, and I choose to make it friendly, that the committee consider recommending that the government undertake all necessary measures to collect forfeitures resulting from wrongdoings by any person of Alexis Nihon REIT in their dealings with Public Works and Government Services Canada, once the Senate ethics commissioner has given his opinion on the matter.

The Chair: Mr. Poilievre.

Mr. Pierre Poilievre: I don't consider that friendly, and I'll tell you why. The Senate ethics commissioner or officer is not ruling on this matter whatsoever; he's ruling on the new guidelines. I was referring to the previous guidelines. He will be dealing with the

conduct of Alexis Nihon post-June 1, but this deals with the conduct of Alexis Nihon pre-June 1. So it would not be appropriate to wait for his ruling, because his ruling is totally immaterial to the subject I'm discussing in this motion.

The Chair: Mr. Scarpaleggia, if you want, you can make the motion. We may have a vote on it.

Mr. Francis Scarpaleggia: I might as well.

•(1745)

The Chair: Could you repeat the motion to amend the amendment?

Mr. Francis Scarpaleggia: I move that the committee consider recommending that the government undertake all necessary measures to collect forfeitures resulting from wrongdoings by any person of Alexis Nihon REIT in their dealings with Public Works and Government Services Canada, once the Senate ethics commissioner has given his opinion on the matter.

I understand Mr. Poilievre's point. However, there seems to be a lot of uncertainty as to whether anyone but the Senate can deal with a matter like this. If the ethics commissioner, in dealing with the matter before him, finds that people involved in this were exhibiting good faith and acting on advice given to them in good faith, and if we're a committee that operates on good faith, then we should take that into account.

The Chair: Thank you, Mr. Scarpaleggia.

Mr. Szabo, on the amendment.

Mr. Paul Szabo: Yes, Mr. Chair.

Prior to dealing with this motion, I would suggest that in view of the fact that we did hear from the Minister of Public Works and Government Services that Alexis Nihon had in fact complied with the contract and fully delivered on time and in accordance with the deal, we don't seem to have any evidence that Alexis Nihon itself is in violation. In fact, there was tabled with the committee members a legal opinion from McCarthy Tétrault to that effect.

If the members feel that the testimony of the Minister of Public Works and Government Services shall be ignored and that the legal opinion shall be ignored, it would be before we could ever make this decision that Alexis Nihon, who we are going to find in breach of a contract, should have an opportunity to defend itself. This is precisely the issue that has been raised about making allegations about persons who have no opportunity to defend themselves. They have never had an opportunity to defend themselves here, and they should have that opportunity prior to our doing this.

The Chair: Mr. Szabo, the letter you're referring to—I think it was a response to a letter—was tabled with the committee when the public works minister was here. Is that the one you're referring to?

Mr. Paul Szabo: There was a legal opinion from McCarthy Tétrault that they were in full compliance.

Mr. Joe Preston: Alexis Nihon was invited to come to this committee.

An hon. member: The senator was, and the CEO.

Mr. Joe Preston: The senator and the chief operating officer of the company were invited.

The Chair: Mr. Anderson had indicated he wished to speak.

Hon. David Anderson: I hesitate to speak, as a newcomer to this committee, but I hope that the rest of you understand how foolish we're going to look. We would expect that any wrongdoings, any failure to honour a contract with the government, would be appropriately pursued. Picking out a single contract for our attention, where there is not the proof of wrongdoing that's alleged in the motion, makes us look very spiteful, partisan, and petty.

As an outsider, not a regular member of your committee, I can't for the life of me understand why you would continue to give Parliament the bad name it has developed over the last few months. It doesn't help our reputation to carry out this kind of kangaroo court, where you do not have the clear indication of wrongdoing, and where you have not followed the proper procedures of the law. I just don't understand why we would do this.

We're talking about \$200 a day. How many other contracts with the government—the hundreds of thousands of contracts—have not turned out exactly as expected? Why pick out one person and one company? It can only be spiteful partisan politics.

The Chair: Thank you, Mr. Anderson.

Mr. Martin, and then Mr. Sauvageau. Then Mr. Poilievre can make a wrap-up comment.

Mr. Pat Martin: I can be very brief.

Mr. Anderson, the clear evidence of wrongdoing is the admission by the Minister of Public Works that the senator was in breach of the rules. They even tried to withhold the rent, Mr. Anderson. It's a very serious issue. We're the government operations committee, the oversight committee for the Department of Public Works. It's simply a matter of course.

The \$200-a-day fine was set in 1874. The architects of that Parliament of Canada Act in 1874 wanted this to be a very serious issue, or they would not have put such a heavy burden, such a stiff fine. The fact that it hasn't been modernized and updated is no fault of our own.

There was a clear admission that the senator, as the landlord, was in violation of the Parliament of Canada Act. This was twice admitted by the Minister of Public Works here at this committee. We want enforcement of the rules in reference to this clear breach of the Parliament of Canada Act.

● (1750)

The Chair: Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Non, that's fine. Everything has already been said.

[*English*]

The Chair: Mr. Szabo has a comment.

I'll let you wrap up, Mr. Poilievre.

Mr. Paul Szabo: I think Madam Marleau has a letter here.

Mr. Chairman, I have to refer to the Speaker's ruling. The member, Mr. Martin, refers to the same thing. He says, "The suggestion falls on deaf ears"—about making exchanges in good faith—"when such exchanges are instead a continual and arguably disingenuous repetition of selected quotations". The minister's full commentary was that a letter was sent to the effect that, if they are in violation of any of the lease provisions, they have to remedy them. I understand that you can take a quote. But the issue here is whether someone is going to get a chance to defend themselves before you find them guilty. This is totally wrong as a principle of good faith.

The Speaker made it quite clear. He reviewed the transcripts of our meeting with regard to Mr. Poilievre's statement, and he ruled very clearly that Mr. Poilievre was disingenuous in making selected quotes. There is no proof until the matter is dealt with. But we are not a court. If this....

Mr. Chairman, I think this is important. If this committee is going to keep its reputation—

Mr. Pierre Poilievre: On a point of order, is there a time limit here?

Mr. Paul Szabo: Would you like to set a time limit, five minutes, maybe?

Mr. Pierre Poilievre: Sure.

Mr. Paul Szabo: Well, make a motion that there be five minutes now.

The Chair: To both of you, I know this is important, but if you could keep it....

I've certainly read the Speaker's ruling; I don't know whether everyone else has or not.

Go ahead, but keep it as brief as you can, Mr. Szabo, please.

Mr. Paul Szabo: Is there a time limit on this?

● (1755)

The Chair: There's no time limit.

Mr. Paul Szabo: Okay.

I think we have to take a step back, Mr. Chairman. This is so important; this is so important. I don't want to suggest summarily that this is just a partisan game. This committee has an opportunity to deal with an issue that is of interest to at least one of our...well, they're not even a member of our committee, but they come to our committee on a regular basis.

Mr. Chairman, the committee, if it were going to handle this properly, would first make sure that it's apprised itself of all of the information. The committee will know that when information was requested, Mr. Poilievre told us that we had our own research abilities, and to go do it ourselves. But now we've come to the point where the former motion was a clear finding of judge and jury: you're wrong, here's the penalty, let's collect this. It's now been revised. Quite frankly, when you get the Speaker's ruling, and you understand the consequences...and also that the senator is not a party to this contract, the senator is an employee of the company who is a party to the lease contract.

Mr. Chairman, I have to tell you, the best way for us to do it, if the committee is going to, in good faith, deal with this matter, is to make sure we have all of the information, make sure that all members who are going to make a decision on it have all of the information, and make an informed decision about the propriety of the actions. It may very well turn out to be a precedent for the motions of Mr. Martin, who actually is going a little further. If we are serious about doing this....

And I'm sorry, I have a problem that we never did make written requests for anyone to appear here. Those were done by telephone conversations. I talked with Senator Massicotte about it. I'm sorry, if it's going to go to the point where we're going to make a judgment on whether someone has been in breach of a contract, we should make that known. As you know, we had the same problem when Mr. Ouellet was only given verbal requests to be here. He said he had a problem, and all of a sudden we were...but we did say we must put it in writing. We did, and he did appear.

I think if we're prepared to do this, we have to give a written request, with notice that there is this question, and here is the motion. Senator Massicotte or Alexis Nihon should have the opportunity also to bring legal representation here to defend their rights before us. If we don't do at least that, which is, I think, the basis on which we should handle all matters of this sensitivity, regardless of who they are, then we haven't done our job properly, and I don't want to be a part of it.

So I'm just asking members, in good faith, if you want to deal with this, please make a written request for Alexis Nihon to appear before us here with regard to the allegations made and to have proper legal representation. This is precisely what we did in the George Radwanski case, as Mr. Martin will know. Everybody who came there, even the whistle-blower, brought a lawyer to make absolutely sure their rights were protected. When people come before this place, it has the same effect as being sworn in.

I'm appealing to the committee not to take advantage of simple numbers of votes around the table to do something that may impair the credibility of this committee. If we're going to do this, let's do it right.

If any member here thinks this is something they have to do, and they want to go for it, it should be able to stand the test of all the relevant information before the committee prior to taking a vote on any decision.

The Chair: Mr. Szabo, are you suggesting that the clerk's verbal request for someone to appear somehow should be treated differently from a written one? Because I think we should consider a verbal

request on the part of the clerk of this committee as something to be taken seriously.

Mr. Paul Szabo: Mr. Chairman, in fairness, without anything in writing, I'm not sure what the clerk said to the senator. It was verbal.

I think it's extremely important: was the senator advised of what the motion was? If I could ask that question....

He was advised. Okay.

And was he given a date to be here? We accommodated Mr. Ouellet, who couldn't come on a certain day.

Now we have a different motion. If we don't give formal notice to Alexis Nihon, who is now the named person—it's not the senator but now Alexis Nihon, the legal entity...and it has to be in writing. They have to be notified precisely about what the procedures are. They have to be given an opportunity to appear, with at least one or two different dates. If they have to prepare for this—and it may be a very sensitive preparation because of the statements that have been made against them—then reasonable time has to be allowed for them to prepare.

I think due process has to take place, and that's not what's happening now. If we go straight to a vote, it is absolutely an abuse of process. It's an abuse of parliamentary privilege. I would certainly take the matter up with the Speaker, if that's the case.

The Chair: Thank you, Mr. Szabo.

Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I would like there to be a time limit for each speaker, because I'm concerned—although I'm sure that is not what my friends want to do—that the Liberals may, completely accidentally, end up dragging out the debate forever.

As you know, I am a man of consensus. I agree with Mr. Szabo, I support him, and I say he is right: we have to hear witnesses. But I also agree with Mr. Poilievre. How can I agree with both? Well, because I abide by the philosophy and principles laid out in the Income Tax Act.

They are probably good boys and good girls who have nothing to reproach themselves with, have never violated a federal law, have always done everything according to the rules, and were even appointed to the Senate because of their competence—Mr. Massicotte, for one—and they will come and tell us that. But the principle laid out in the Income Tax Act is that you are guilty until you have proven yourself innocent. I believe we can apply that philosophy to our Committee.

There is nothing preventing me from voting in favour of the motion currently before us. That is the way the Income Tax Act is structured. There is a court, and you have to pay immediately. Whether you owe 100 000 \$, 50 000 \$ or 10 000 \$ in income tax, that's the way it works. Then, if they prove to us...

An hon. member: [*Editor's Note: Inaudible*]

Mr. Benoît Sauvageau: You have never owed taxes, right? But I know. I don't know the law, but I do know about my personal accounts.

But seriously, I wanted to say that we can vote in favour of the law. If they come and tell us we were wrong, that they were right, and that they complied with all the laws, and so on, well, we'll give them a credit on their rent or will pay it back to them another way.

If that is not the case, I know how it will work. You will use every possible delaying tactic, and we will have to sit through a lot of legal talk and futile discussion. At some point, another subject will grab the Committee's attention, and Mr. Massicotte will be left in peace.

You're not used to this. For 12 years now, you have had a majority and controlled everything in Committee. Now you no longer control things, and it is a little hard on your nerves.

I believe members should support this motion. After that, I am sure that they will run right over when the Clerk calls them. They won't need to have received something in writing to come and tell us they were clean, and that they were good little boys and girls. We will make arrangements to give them back the money for their rent.

So, I agree with you and with him. That's it.

• (1800)

The Chair: Thank you, Mr. Sauvageau.

[*English*]

We have to go to a vote here within three or four minutes. There are people who have a deadline here. I'm not going to allow this to be dragged out until members are forced to leave.

Mr. Holland.

Mr. Mark Holland: On a point of order, Mr. Chairman, unless there's a motion to suspend, we can't just be arbitrarily shut off. I think there's a list of speakers; I don't know who's next on it.

The Chair: Actually, you're next on the list, Mr. Holland. Go ahead.

Mr. Mark Holland: Okay.

I take this seriously. I'm not a regular member of this committee either, but any time a motion says "resulting from wrongdoings by any person", and makes allegations of wrongdoing, without due diligence having been undertaken...

I'm a little bit shocked that the committee is proceeding in this matter. If the intention is indeed, as it states here, to, first of all, recover anything that's been potentially misdirected, then why the rush to pass judgment and act as a judge and jury? It's quite beyond me.

As I understand it, Mr. Chairman, right now the matter before us is in fact the amendment put forward by Mr. Scarpaleggia. Could I just

have that amendment read again? Because that is what we're debating.

The Chair: Yes.

Mr. Scarpaleggia, please.

Mr. Francis Scarpaleggia: The amendment I'd moved was that the committee consider recommending that the government undertake all necessary measures to collect forfeitures—

The Chair: Just the last part, please.

Mr. Francis Scarpaleggia: Okay; once the Senate ethics commissioner has given his opinion on the matter.

The Chair: Is there any more discussion on that amendment?

Mr. Mark Holland: Yes. On that amendment, again, it would be my position that the amendment is appropriate and should be supported by all members. There's no rush to judgment, there's no need to smear somebody. As a result of that, I think it's imperative that we do adopt this motion and not rush to judgment.

The Chair: Mr. Poilievre, did you want to speak on the amendment, or were you actually on the list for the motion?

Mr. Pierre Poilievre: I was on the list for the motion itself.

What is the speakers list right now for the amendment?

The Chair: The speakers list for the amendment is Madam Marleau, and it looks like Mr. Szabo. Of course, Mr. Scarpaleggia will wrap it up.

Mr. Pierre Poilievre: Can I make a motion to close the speakers list at this point, exhausting the existing members on the list but closing the list thereafter? Is that possible?

The Chair: That can't be done. To suspend—

Mr. Pierre Poilievre: Not to suspend, just to close the speakers list.

The Chair: We have a motion on the floor that's being debated right now, so there can't be any motion to limit that now.

Mr. Paul Szabo: Yes, but that's a special motion. That's to limit debate, and that's in order any time. If you'd like to make that motion...

The Chair: Just a minute, please, Mr. Szabo.

Mr. Pierre Poilievre: This is a procedural question: is it possible for you to close the list on the debate on the amendment? You can let in everyone who wants to be in, but this could go on in perpetuity here.

The Chair: That I need some clarification on; I'm not sure.

We have on the list two more speakers. Can we just hear from those speakers and then go to the vote? Okay.

Mr. Szabo.

•(1805)

Mr. Paul Szabo: I believe the amendment is appropriate because I'm not sure what the consequences are of having the contract we entered into with Alexis Nihon declared null and void for cause—

Mr. Joe Preston: That's another motion.

Mr. Paul Szabo: No, no, that's why we have to hear from the Senate ethics commissioner, if you'll let me explain.

I'm a little bit concerned that if the contract is null and void, that means they take back the building and evict the government employees from the building, because they're no longer going to be collecting rent and they may default on prior rent as a consequence of this.

I need legal advice now, and the ethics commissioner may be able to provide it, but I think it's more than that. I think somebody's going to have to explain to us what the legal ramifications are of declaring this contract null and void. What is it going to mean to the operations that are currently involved there? We don't have that information.

So with regard to the amendment, I think that's really the issue, that it's going to be a venue for us to get more information.

Mr. Benoît Sauvageau: A public inquiry is the answer.

Mr. Paul Szabo: A public inquiry? Well, if that's the only way we can get it, then...you could try it.

Those are my comments on the amendment.

The Chair: Thank you, Mr. Szabo.

The closing comments on the amendment, Mr. Scarpaleggia.

[*Translation*]

Mr. Francis Scarpaleggia: Thank you, Mr. Chairman.

I agree with Mr. Sauvageau. He is a man of consensus. However, as regards the Income Tax Act, some principles may apply in this case, but I would point out that specific cases are not debated in committee or in public. So, there are differences.

[*English*]

But listen, if at the end of the day Alexis Nihon or any other corporation has to pay a fine for good reason, that's fine with me. That's not the issue here. But if we're going to act like a tribunal and pass judgment on people, then let's act like a tribunal. Let's be rigorous. Let's not base ourselves solely on verbal communication.

That's not to impugn the clerk in any way, but there's a difference between verbal communication and written communication. Courts don't communicate verbally. They don't call up a witness and say, "Would you like to come today?", and then report back to the court and say, "I spoke to the witness and this is what happened". That's not the way courts operate.

Last, we don't need a royal commission here, I agree. In fact, I go back to Mr. Poilievre's interest in the Queensway-Carleton Hospital. When he had a motion, we all agreed to have a hearing and have knowledgeable experts in to discuss the matter.

What possible difference could it make to add one more session where we bring in witnesses to discuss the matter in some technical detail? What difference could it make to the issue? It would just

make us feel a lot better, I think, as a committee if we followed a rigorous process and if we acted all in good faith, the way we acted on the whistle-blower legislation, which has produced a positive result that everybody seems to be in agreement with.

I suppose I can't offer an amendment to my own amendment, but if I could, I would add the words "and that a special session of the committee be held in order to explore the matter in more detail".

The Chair: Thank you, Mr. Scarpaleggia.

We'll go, then, to the vote on the amendment—a recorded division.

(Amendment negated: nays 6; yeas 5 [See *Minutes of Proceedings*])

The Chair: We'll go to the main motion now. I'm going to suggest that we limit to five minutes any discussion on the main motion, so that we can get to the question.

Mr. Paul Szabo: I don't want you to do that.

•(1810)

The Chair: Mr. Szabo isn't accepting that. It will require a motion, then, from the committee.

Mr. Pierre Poilievre: I move a three-minute timeline, and I also add to my motion a one-time speaking opportunity.

The Chair: So that's three minutes for each person and one time speaking?

Mr. Pierre Poilievre: Yes.

The Chair: Is there debate on that? Is that a debatable motion?

A voice: Yes.

The Chair: Okay, Mr. Szabo, on this motion.

Mr. Paul Szabo: Thank you, Mr. Chairman.

There has been a motion and it has been agreed to by the committee that there's one intervention for three minutes.

The Chair: We have to vote on it. Is that accepted by the committee?

(Motion agreed to)

The Chair: Okay, Mr. Szabo, three minutes.

Mr. Paul Szabo: Thank you.

Now that I have the floor, Mr. Chairman, just for the education of those members who may not know, what has just been passed by the committee is a motion to limit debate, and that is certainly debatable.

The clerk wants to tell me something.

I'm going to suggest to you, Mr. Chairman, that in fact the clock is going to tick for a fair amount of time, because if you want to check with the clerk, the motion that was passed by the committee is a motion to limit debate. That motion at committee is debatable, and every member can speak as long as they want, as many times as they want. We are now in a filibuster. If you would like to interrupt me at this time just to check with the clerk—

The Chair: Mr. Szabo, we will stop the clock for this question. I just want to be clear on what you're saying here.

I believe the motion to limit debate to a maximum of three minutes for each person was just passed by the committee.

Mr. Paul Szabo: I understand. The motion was made—

The Chair: Right.

Mr. Paul Szabo: —and it is debatable.

The Chair: Well, it was passed, Mr. Szabo.

Mr. Paul Szabo: No.

The Chair: You can't debate a motion that has been passed.

Mr. Szabo, that motion was passed.

Mr. Paul Szabo: You have to call debate on the motion.

The Chair: Mr. Szabo, I called for the question, and people just went right to it. It was agreed.

Mr. Paul Szabo: Once the motion is made—

An hon. member: You missed this one. You lost.

The Chair: Mr. Szabo, I believe proper process was followed here.

The committee agreed to a limit of three minutes. Let's go to the actual debate on the motion, then, with a limit of three minutes—which I thought you were well into, Mr. Szabo.

Mr. Paul Szabo: Once you make a time limit, that is debatable. You said—

The Chair: That may all be true, Mr. Szabo, but I asked. I asked and it was clear. It was agreed to by members of the committee, whether they supported a three-minute maximum speaking time.

Mr. Paul Szabo: All right. I would like to—

An hon. member: Your three minutes are up.

Mr. Paul Szabo: Okay, with regard to the main motion, I'm sorry, but if you want to do it this way, Mr. Chairman, I'd like to move an amendment to the main motion that adds to the very end of it, "subject to hearing all appropriate witnesses as submitted by the members of the committee".

The Chair: You have heard the motion. Is there debate?

Mr. Holland.

Mr. Mark Holland: On the amendment, I would again hasten to add, Mr. Chairman, that if we're going to proceed—

• (1815)

The Chair: Mr. Holland, there is a point of order from Mr. Martin.

Mr. Pat Martin: I'm sorry, Mark. I just want some clarification.

Do the new time limits that we've just imposed apply to the amendment?

The Chair: The time limit was on the main motion, Mr. Martin.

Mr. Pat Martin: Nice move.

Mr. Mark Holland: Mr. Chairman, with respect to this item, I personally do not feel that this is an appropriate way to proceed or an appropriate tack for a committee to take. I think there are other opportunities to deal with this particular issue. But if we're going to proceed down this road, the very least the committee should do—if it ventures into being a jury, if you will, on the outcome of these affairs—is hear from witnesses prior to embarking upon this, to ensure that it's not sully or smearing reputations without merit. Therefore, I think the idea of hearing witnesses is one that makes a great deal of sense.

I'm not a member of this committee, and as such, I haven't spent a lot of time on this particular issue. I wouldn't suggest who the witnesses might be, but I think you have steering committee meetings. Is that correct? If there was an opportunity to pass this motion, then you would be in a situation where the steering committee could evaluate the witnesses who would come forward and the worth of those witnesses to the committee and to its deliberations and ensure that whatever is passed and dealt with is accurate, is not in any way smearing anybody, and is being dealt with in a judicious and appropriate manner.

If the committee were to proceed without hearing witnesses and simply adopt this today, it continues what, in my opinion, has been a very dangerous precedent established over the last year, of throwing around accusations and making claims and proceeding on them without the basis of evidence.

From the public accounts committee, I can tell you that these are things we ran into all the time. We had a witness appear before our committee and simply drop an accusation. That was immediately believed to be true because a witness said it, and in the due course of time, the witness withdrew that statement and said that in fact it was not the case.

So I think we have to be very cautious in how we proceed with this. I think it makes sense to hear from witnesses, and it would certainly be my advice that this amendment be passed.

The Chair: Thank you, Mr. Holland.

Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I call the question.

[*English*]

The Chair: There has been a call for a vote.

Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: May I speak to the motion before we vote?

Mr. Pierre Poilievre: I have a point of order. He's called for a vote.

The Chair: Yes, Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: Thank you, Mr. Chair.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I just want to try and understand.

[*English*]

The Chair: Was it a point of order, Mr. Sauvageau?

Yes?

[*Translation*]

Mr. Benoît Sauvageau: I feel a little like the Soviets back in 1972, when they came for the Series of the Century: I'm here to learn. I would like to know why I cannot call the question.

[*English*]

The Chair: Mr. Sauvageau, as long as there are people who wish to speak on the amendment, I have to allow them to speak.

[*Translation*]

Mr. Benoît Sauvageau: I see. I was given that in stereo. Thank you.

[*English*]

The Chair: Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: Thank you, Mr. Chair.

I'd like to actually take this opportunity to congratulate you on the good job you're doing in managing this committee. You are someone who has never made matters into personal matters, which I think is the kind of spirit that should guide this committee, even if it does not always guide the deliberations of the House, especially during question period. I think all committees could probably learn from the way this committee conducts its business.

As I said just a few moments ago, today was a fine day. I think this committee reached a high-water mark about an hour ago when it achieved consensus on the new whistle-blower legislation, which is intended to ensure accountability and integrity in the federal government.

In terms of this committee and this particular issue, it's obvious that a committee like ours, or any committee of Parliament, cannot force the government to do anything, whether it be imposing fines or what have you, and it's clear that the committee can only recommend. So even if this motion is passed, I think it would be naive to think that tomorrow morning the government is going to suddenly implement its recommendations.

So my question is—and it's not a rhetorical one, it's a serious one—what is lost by taking the time necessary, which is not a long time. We could be talking about maybe one or two days. What is lost by taking the time to do a rigorous exercise in this case? Certainly no time is lost, and I think Mr. Poilievre, Mr. Lauzon, Mr. Preston, Mr. Sauvageau, Madame Faïlle—who is actually my neighbouring member of Parliament—and Mr. Martin should recognize this.

Nothing is ever lost by following due process. It only enhances the integrity of the system, and if we can serve as an example to other committees, if we can serve as an example to other parliamentarians by following due process.... After all, we're not just any committee,

we're the government operations committee. We're concerned about due process, and accountability, and integrity.

I would again urge the opposition members to put a little water in their wine, to take the extra day to have legal experts here, to have people from the Senate speak to us, and—

• (1820)

The Chair: On a point of order, Mr. Holland.

Mr. Mark Holland: I don't mean to interrupt, but I know that when I'm chairing committee meetings of the public accounts committee it requires the consent of committee to go past 5:30. It was my understanding there had to be unanimous consent, but I think you should check on that. But in any event, certainly we are well past the hour of 5:30 and there was never a motion to extend the hours of the committee. So could I get a ruling from the clerk on that, Mr. Chair?

The Chair: Mr. Holland, I'm not going to let the slowing down of the process interfere with the committee making a decision.

Mr. Mark Holland: Mr. Chair, with all due respect, could we defer to the clerk on this, because there are rules, and it is my understanding that if we are to extend the period of time we're dealing with an item past the hour that's stated, there needs to be a motion from the committee to do that. I can tell you that there were two separate occasions when this came out in the public accounts committee and we unfortunately had to, in one of those instances, carry business over. We weren't able to complete it because there wasn't consent to move forward.

I understand your personal opinion, Mr. Chair, but the rules at the end of the day are the rules, and I want to seek clarification on that.

The Chair: I will ask the clerk for clarification. You'll have to be patient. We'll just carry on here. We'll wait patiently for the clerk to come back and to give me some advice on that.

Mr. Holland, I have asked the clerk for her advice on that. She has advised me that in fact, as I said, there is no such requirement. So we will continue until we come to a vote on this.

On a point of order, Mr. Szabo.

• (1825)

Mr. Paul Szabo: Mr. Chairman, I know that members have other obligations, and therefore I think we should consider a time limit on this matter. I don't know how other members feel, but I would suggest that debate on this matter go no further than, say, 7 p.m.

The Chair: And we conclude with a vote on the main motion at that time?

Mr. Paul Szabo: No further than 7 p.m. to limit.... I move that the committee meet—

Mr. Pierre Poilievre: We don't understand what you mean.

The Chair: Mr. Szabo, perhaps you can make it clear what you're suggesting.

Mr. Paul Szabo: I can't decide the vote, but I move that this committee meeting shall end no later than 7 p.m.

The Chair: We have a motion on the floor.

Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Can we amend Mr. Szabo's motion? You see, there again, I am a man of consensus. I would agree to the motion if he added the words: "with votes on the motions before us". I believe he wanted to say that, but he omitted it. So, I am proposing to add those words to complete the motion. We would conclude our discussions at 7:00 p.m. and then vote on the motions before us. I am only completing his thoughts.

[*English*]

The Chair: Mr. Szabo, for clarification, Mr. Sauvageau's point is that you've put forth a motion calling for this meeting to end at 7 p.m. and he is suggesting that part of the intent of your motion was that it conclude with a vote on Mr. Poilievre's motion. Is that a friendly amendment?

Mr. Paul Szabo: We're presently on the amendment that we have all witnesses who the committee members would suggest. We're still doing some debate there. So I don't know where we're going to be. Is there going to be a vote on the amendment?

The Chair: To get to the vote on Mr. Poilievre's motion, that's the real issue.

Mr. Paul Szabo: I was just trying to say that we have to come to an end. I can't move that the committee do anything.

The Chair: Let's go to a vote on Mr. Szabo's motion.

Mr. Poilievre, on a point of order.

Mr. Pierre Poilievre: We don't know whether or not he has accepted the amendment.

Mr. Paul Szabo: I can only make the motion that—

Mr. Pierre Poilievre: No. Do you accept—

Mr. Paul Szabo: We have someplace to be at 7 o'clock.

Mr. Pierre Poilievre: The committee has to know if the motion is considered friendly or unfriendly, and only Mr. Szabo can answer that question. Is that a friendly amendment or is it not a friendly amendment? Mr. Sauvageau's amendment, is it friendly or is it unfriendly?

The Chair: Mr. Poilievre, I'll have Mr. Szabo straighten this out. I wasn't certain on his response either.

Mr. Szabo, the question is do you accept—

Mr. Paul Szabo: I need to get some guidance from the—

Mr. Mark Holland: On a point of order, Mr. Chairman, that motion wouldn't be in order.

You can't have a motion that dictates the committee to vote. You can have a motion that says the committee will adjourn at a particular time, but you can't dictate the actions of a committee. It would be my assertion, Mr. Chairman, that the friendly amendment—

The Chair: We're going to vote on Mr. Szabo's motion. It's clear he isn't willing to take the amendment.

Mr. Sauvageau, is this a point of order?

[*Translation*]

Mr. Benoît Sauvageau: I believe I've already moved my motion. So, we can vote on that one first. We have an erudite procedural expert among us, and she tells me that my motion to amend Mr. Szabo's motion, which I have moved, should be put to a vote as well.

• (1830)

[*English*]

The Chair: Yes, Mr. Sauvageau, I think Mr. Szabo has rejected that as a friendly amendment. So we can vote then—

[*Translation*]

Mr. Benoît Sauvageau: So, I am moving this as a regular amendment.

[*English*]

Mr. Paul Szabo: Mr. Chairman—

Mr. Benoît Sauvageau: Sorry, Mr. Szabo, I have the microphone.

The Chair: Mr. Szabo, then we'll go to the amendment. Mr. Sauvageau has moved an amendment to your motion.

Mr. Paul Szabo: The clerk is getting advice now, and maybe we could—

The Chair: Mr. Szabo, I don't think I need advice on this. You moved a motion. There has been an amendment proposed to your motion, so let's go to the amendment.

Yes, Mr. Holland.

Mr. Mark Holland: Mr. Chairman, it's the same point of order I made earlier. It is in my opinion, and I would ask the advice of the clerk on this, but I'm fairly certain that you cannot make a motion that dictates the committee take an action. Certainly a motion is in order to adjourn at a particular point in time, but you can't say the committee must vote, or must take actions, prior to its adjournment. That's not in order.

The Chair: Yes, Mr. Poilievre, on a point of order.

Mr. Pierre Poilievre: Yes, on the same point, it is perfectly in order for the committee to decide to vote on an issue. This committee can do what this committee wants to do, and the amendment that the member proposed is to have a vote. This committee can choose to have a vote. As much as the Liberals on this committee would like to avoid a vote, it is the right of this committee, as the master of its own work, to have a vote and to call a vote, and that's exactly what the member's amendment would do.

The Chair: Mr. Holland.

Mr. Mark Holland: Mr. Chair, on the same point, a committee is master of its own destiny. If a committee makes the decision that it's time to proceed to a vote, absolutely, it has the right to do that. However, notwithstanding that, the motion that was moved was that we would adjourn by 7 p.m., which is fast approaching, and that a vote would occur before then.

It's the second part I have a problem with, because you're saying the committee must.... You're actually having a motion directing the committee to do something, which is that, no matter where the debate is at, to cut short the debate and force the committee to have a vote before that timeframe. That's not in order, Mr. Chair.

The Chair: Thank you, Mr. Holland.

Let's deal with this one at a time. Let's have a vote on Mr. Szabo's motion, and then we can go to any other motions that may be brought forth.

So Mr. Szabo's motion to end the meeting at 7 o'clock.

Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Unlike Mr. Holland, who asserts that he knows the Standing Orders by heart, I would like you to put the question to the Clerk, Mr. Chairman. Mr. Holland says that he knows what the rule is under the Standing Orders. However, I can tell you I am not an expert in that area, even though it has been...

Could I speak please?

[*English*]

The Chair: Order, please.

Mr. Sauvageau has the table here.

[*Translation*]

Mr. Benoît Sauvageau: Thank you.

If I tabled my motion after Mr. Szabo's motion, then I believe you must put my motion to a vote first.

Could you ask the Clerk whether my interpretation—which is that we must vote on my motion first—is correct?

[*English*]

The Chair: Yes, Mr. Sauvageau, I will then follow. I'm at the will of the committee. My suggestion isn't accepted, so let's go to Mr. Sauvageau's amendment. I'll ask the clerk for her advice.

While the clerk is contemplating, I want to thank you all very much for putting this chair in this wonderful position. I'm just kidding.

We're going to be getting a ruling on whether Mr. Sauvageau's amendment to Mr. Szabo's motion is in order.

I will give a friendly reminder to everyone that we're still on TV, so just keep that in mind. This is televised.

We will suspend for five minutes.

●(1835)

_____ (Pause) _____

●(1840)

The Chair: We are resuming the meeting that was suspended about five minutes ago.

We are awaiting a ruling on whether Mr. Sauvageau's motion was in order. Mr. Sauvageau had moved an amendment to Mr. Szabo's motion.

Mr. Sauvageau, we can't allow your amendment, because Mr. Szabo's motion is out of order. You can't qualify an adjournment motion. You can move an adjournment motion, but you can't set a time limit. You move it to adjourn now, or not at all.

Your motion is out of order, Mr. Szabo.

So let's go to the vote on the amendment.

Mr. Szabo, on a point of order?

●(1845)

Mr. Paul Szabo: Yes, I believe we are still dealing with my amendment that witnesses be called.

The Chair: That's right. It is your amendment.

Mr. Paul Szabo: We've been debating this. There is still more commentary, more debate on this amendment. I'm not ready for a vote yet.

Mr. Pierre Poilievre: On a point of order, Mr. Chair, is there a speakers list assembled for Mr. Szabo's amendment?

The Chair: I don't think there is.

Mr. Pierre Poilievre: I'd like to be the first name on it.

The Chair: Okay.

Go ahead, Mr. Szabo.

Mr. Pierre Poilievre: No, he's wrapping up. He's already introduced his amendment.

The Chair: That's right. You've had your speaking time, Mr. Szabo.

Mr. Paul Szabo: No, I can speak.

Mr. Pierre Poilievre: The chair has ruled.

The Chair: Your motion is out of order.

Mr. Szabo.

Mr. Paul Szabo: I'd like to understand. I made the amendment, but as a result of the—

The Chair: And you spoke on that.

Mr. Paul Szabo: But you can speak more than once, Mr. Chairman.

The Chair: But next on the list is Mr. Poilievre.

Mr. Paul Szabo: All right. Then put me on the list to speak again.

The Chair: Mr. Poilievre, on Mr. Szabo's amendment.

Mr. Pierre Poilievre: You can go ahead and turn your microphone off.... Oh, thank you for doing that.

I'm glad that we have modern technology so that people all across this country—concerned, civic-minded people—can watch these hearings right here and now. What we have is a group of Liberals delaying a vote on a motion that would deliver justice where a law has been broken. A Liberal senator's company took rent for 10 months for a vacant building and broke the law in the process. The law was clear. It was broken. The Minister of Public Works, a member of that senator's own party, admitted the law was broken.

We as lawmakers have a duty to respect the law and pass motions to see that the law is upheld. Liberals in this room are using every procedural trick in the book—I see them now, looking through the books to find new tricks—in order to defend their Liberal friend from the law, from taxpayers. I hope that every single person watching these proceedings is able to see what is happening here—this travesty of justice, this offence against our democracy. That is what these Liberal members are paid to do here.

We've put forward a clear motion. We've had witnesses. We've had a minister who admitted the law was broken. He admitted it twice. Now we have a motion that calls on the government to do its duty and collect. But Liberals in this committee have decided to put their own narrow partisan interests ahead of justice, and this fact will be recorded permanently in the history of this place. That's why I'm so glad that I'm on this side of the committee hearing and not on the other side.

An hon. member Hear, hear!

Mr. Pierre Poilievre: Thank you very much, Mr. Chair.

The Chair: Thank you.

Mr. Pierre Poilievre: Mr. Chair, before I conclude, I would like to say one last thing.

We will see justice in this matter even if it takes all night. Even if we have to have other meetings, it will happen. While they may delay justice, they will not deny it.

Thank you.

The Chair: Okay.

Sorry, Mr. Preston, that was a point of order, and I should have taken it immediately. I apologize for that.

Mr. Joe Preston: It's okay. I've learned to expect rulings like that from you.

The Chair: Thank you very much, Mr. Preston.

Mr. Joe Preston: I believe there is a procedure for calling a vote. I simply need to state when I would like the vote to happen. I would like a vote to take place within ten seconds.

The Chair: You can't. You'll have to wait for a speaking time, Mr. Preston.

• (1850)

Mr. Joe Preston: I take it I do have one.

The Chair: You do have one, yes, but the next speaker on the list is Mr. Szabo.

Mr. Paul Szabo: What was the determination on that motion?

Mr. Joe Preston: I can't do it until it's my turn.

The Chair: He can't move a motion on a point of order.

Mr. Joe Preston: I thought I could; others have today.

The Chair: Actually, we're going to get a ruling on that. I'm not certain about that and I want to make sure. I don't want to deny Mr. Preston that opportunity if I'm mistaken.

Mr. Preston, you can't move a motion on a point of order.

Mr. Szabo.

Mr. Joe Preston: I think that's how Mr. Szabo got all of his motions on the floor today.

Mr. Paul Szabo: Mr. Chairman, now that I've heard his motion, the member is asking to get us to the vote quickly. I would gladly trade positions with him so that he could take the floor now, because we might as well get this over with one way or another. So if that's okay, I'd be happy to switch positions with him on the debate of this amendment.

The Chair: Does everybody agree that we go directly to the vote on this amendment?

Mr. Paul Szabo: Well, is that okay that we switch positions? I don't want to lose my speaking spot if it's defeated.

The Chair: Okay, Mr. Szabo—

An hon. member: You're relinquishing the floor to him.

Mr. Paul Szabo: No, no. He wants to make a motion. When he gets the floor from the chair, I understand he wants to make a motion that we move to the vote in ten seconds, or something like that.

The Chair: Okay, Mr. Szabo.

Mr. Preston, under Mr. Szabo's speaking order, you can make your motion, if you would like to.

Mr. Joe Preston: I'd like to move that this committee vote on the original motion, and I'd like to set the timeframe, that we vote on that within the next minute.

The Chair: We can't really do that. We have to deal with this amendment first.

Mr. Joe Preston: Knowing that, Mr. Chair, can I move then that we vote on each of the amendments that are before the main motion within the next minute?

The Chair: Okay.

The speaking order for that motion starts with Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I move that the meeting be adjourned immediately.

[*English*]

The Chair: Sorry. I missed that, Mr. Sauvageau.

[*Translation*]

(Motion agreed to: yeas 10; nays 1)

Mr. Benoît Sauvageau: I move that the meeting be adjourned immediately.

[*English*]

The Chair: Okay. Let's go directly to the vote on that. It has been moved that we adjourn. We will have a recorded vote.

The Chair: The meeting is adjourned.

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