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Chair

Mr. Rob Anders

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• (1530)

[English]

The Chair (Mr. Rob Anders (Calgary West, CPC)): Hello, everybody.

We're starting off yet another one of our Standing Committee on Veterans Affairs meetings, and today we're trying to delve into, if you will, the proposed veterans bill of rights. We're also studying the veterans independence program and the veterans ombudsman. So we ask our committee members, as well as the witnesses today, to try to focus their remarks on those things and give us feedback in terms of how we'll set up the ombudsman and how we can improve the independence program and the bill of rights.

I don't know who would like to make their presentation first. All right, Sean. I'm going to try your name, sir. Is it Bruyeya?

Mr. Sean Bruyeya (As an Individual): It is Bruyeya. That's correct.

The Chair: Okay, wonderful. You have the floor, sir.

Mr. Sean Bruyeya: Thanks.

Good afternoon, Chairman and other committee members. I thank you all for inviting us here today. More importantly, I congratulate all of you on the creation of the Standing Committee on Veterans Affairs.

I am Sean Bruyeya, and joining me here today are Perry Gray and Tom Hoppe. Mr. Hoppe presently sits on the advisory committee to the DND/CF ombudsman, as he has done for the past four years. He is also Canada's most decorated soldier for bravery since Korea. Mr. Hoppe and Mr. Gray are both veterans of the former Yugoslavia conflict, and both are very passionate advocates for the rights of veterans and their families.

Chairman and committee members, I also congratulate Prime Minister Harper for taking the first steps to fulfill his promise to immediately create an ombudsman for Veterans Affairs Canada and a veterans bill of rights. I would also like to thank Minister Thompson for making the ombudsman and the veterans bill of rights his highest priorities.

These initiatives are long overdue. An ombudsman for veterans was first recommended by the Woods committee in 1967. It also follows years after Australia and the United States created similar bodies to ensure the fair, just, and equal treatment of veterans and a confidential recourse for all, should the system fail.

We all recognize that what we are trying to achieve here today, from whatever viewpoint, directly affects the men and women who,

as we speak, are putting their lives on the line for us in Afghanistan. We are not talking abstracts. We are talking real flesh and blood.

I will focus on the issue of the ombudsman for VAC, including the role, vision, and mandate, as well as emphasize the reasons for creating the ombudsman sooner rather than later. Indeed, it has never been more urgent to create an independent ombudsman. The first wave of young Afghanistan veterans is coming home to face the yet untested provisions of the new Veterans Charter.

Many of you know that the new Veterans Charter was created in great haste and passed in the House of Commons in only a single day on May 10 of last year, based on the tacit support of groups that primarily represent the veterans of Korea and the Second World War, for whom the new Veterans Charter's provisions do not apply.

As a result, the current Minister of Veterans Affairs is concerned about the new Veterans Charter. A perfect storm is brewing, and it has seven unlucky, coinciding components: first is a quarter of a million aging war veterans, plus their families and survivors, who are putting increasing demands on the current health care system; second is hastily passed, untested legislation through Bill C-45; third are overworked, underresourced VAC front-line staff who are trying to maintain old programs while implementing new ones; fourth is an inability or unwillingness to keep previous ministers' promises to review the new Veterans Charter every four months; fifth is VAC bureaucratic opposition to the creation of an ombudsman, especially one with real powers; sixth is repeated ministerial and government statements "recognizing the debt owed to all our veterans"; and seventh are young, wounded veterans returning from Afghanistan at a time when the federal government is trying to increase recruitment for the Canadian Forces.

I suspect that the Prime Minister's recognition of the significant possibility for error, with potentially tragic consequences, is one of the reasons he encouraged the creation of this committee and proposed the creation of an ombudsman as one of its first priorities. While I applaud the government's support for the creation of the ombudsman, it is important that the office be powerful, independent, and impartial. The current process is unlikely to produce that result.

When the DND/CF ombudsman was first created, the process was initially given to a general, who wrote up plans for the most ineffective and weak form of ombudsman—the organizational ombudsman—who had no powers of reporting or investigation and was far from independent. André Marin and his team then spent the next year fighting to create an independent office with true powers of investigation. Currently, an assistant deputy minister from Veterans Affairs has been assigned the task of carrying out consultations and drawing up a plan for the bill of rights and an ombudsman.

Frankly, allowing Veterans Affairs to design the office that will have power over them is like asking railways to redesign the Canadian Transportation Agency, or allowing banks to decide how best to restructure the Office of the Superintendent of Financial Institutions. It is potentially scandalous, and it is certainly neither accountable nor transparent. As the saying goes, justice must not only be done, it must also be seen to be done.

● (1535)

In order for an ombudsman and a bill of rights to be created properly and immediately, either an individual outside the process or an independent and competent committee could be promptly appointed to have 10 weeks or so to prepare the model for an ombudsman.

The VAC ombudsman should be a neutral third party. It should be an independent and impartial office ensuring fairness to all, including VAC employees involved in the process for the care, treatment, or re-establishment to civil life of any veteran or RCMP member, and the care of their families or survivors. The VAC ombudsman must strive to bring positive change to the entire community involved or affected in this process.

Oftentimes there is no reason to reinvent the wheel. André Marin's 1998 action plan, "The Way Forward", provides groundwork that applies to a VAC ombudsman as well. An ombudsman for VAC would provide "ongoing opportunity to address complaints and concerns and to foster change when any injustice and unfairness exists". The VAC ombudsman's role would be too "work with existing mechanisms in an impartial and independent manner". The VAC ombudsman will "not only respect the existence and role of available avenues but reinforces them by allowing every reasonable opportunity" for VAC to resolve its own issues before the VAC ombudsman would formally intervene.

There are two basic roles that a VAC ombudsman would need to assume: individual representation and systemic monitoring and reporting. Individual representation could come about if a veteran falls through the cracks. As the website for the Ontario ombudsman states:

If you feel a provincial government organization has treated you in a way that is unfair, illegal, unreasonable, mistaken, or just plain wrong, you should bring your matter forward to the Ombudsman.

The feeling of injustice is crucial here. Perhaps the problem can be resolved with information or a quick telephone call to the department, or a referral to an administrative review. The goal is to provide assistance, not to worry about offending the mandate of the bureaucracy. We are often dealing with suffering individuals, not players in a chess tournament.

One of the roles of a VAC ombudsman would be to track the pattern of individual complaints, hence the role of systemic monitoring. If a critical mass is reached in the number of complaints, or seriousness and magnitude of the issue in any particular area, then the ombudsman could initiate a systemic investigation. This is perhaps the greatest value to the stakeholders, as such systemic monitoring and reporting can articulate the problem and recommend timely changes so that no further veterans or other stakeholders drive over the same pothole, let alone fall in.

Those able to access the ombudsman's office would include, but would not be limited to, veterans, serving CF and RCMP members, the families of all, their practitioners, VAC employees, and contract providers. The scope of the mandate should be relatively simple: all programs, policies, regulations, and legislation related to and/or handled by Veterans Affairs Canada. This is a view that is publicly supported by the Ontario Command of the Royal Canadian Legion:

While it is true that [Legion] members have access to representation at no cost and that there are multiple levels of redress within the disability pension and award system, [Ontario Command] support[s] an Ombudsman in all [my emphasis] affairs related to veterans.

Many observers have testified that it is precisely the injustices and inefficiencies in the disability pension decision, review, and appeal process that make this the most problematic of all VAC's programs. According to one of Canada's leading experts in veterans legislation, Harold Leduc, who now sits on the Veterans Review and Appeal Board:

Veterans Affairs Canada has a tried and tested pension adjudication system, which includes a review and appeal process. Currently this system is broken, as far too many files are being appealed through the Veterans Review and Appeal Board. The current broken system needs to be fixed if it is to be credible and if the programs of the new bill [C-45] are to build on this administrative process. Although [VAC] agree that the status quo is problematic, Veterans Affairs Canada will not fix the problem. Resolving this step in the process will result in fewer files being forwarded to VRAB...and would make the process more efficient, saving money, pain, and suffering. An ombudsman review could motivate Veterans Affairs to repair this broken process.

You will find in the reference material that we provide the first ever VOICE ombudsman's report on Veterans Affairs that we released last fall. Its hundreds of contributors agree with both the Ontario Command of the Legion and others that amongst other programs the pension system is indeed broken. Even the Auditor General said:

We found inconsistencies in the level and nature of the services provided by the Department in counselling applicants. For example, in some offices, we noted that counselling was provided to applicants in identifying service-related disabilities other than those initially put forth by the applicants. In other instances, we found that the focus was limited to the conditions identified by the applicants.

● (1540)

We have included a list of 14 considerations for a VAC ombudsman to be truly independent, impartial, and effective, most of which are the minimum required to create a real ombudsman rather than an impotent, neutered office with largely illusory powers.

Most notable are the powers of investigation, the power to report publicly on the ombudsman's own initiative, and the power to initiate investigations on the ombudsman's own motion. It is the power of accountability to the public that brings about change, as evidenced by recent scandals here in Ottawa and in the corporate world. If the ombudsman cannot rely on the power of moral suasion from the public, then the power to bring about change diminishes greatly.

Another mandatory consideration is protection for persons coming forward. This protection should be similar to the philosophy behind the whistle-blower legislation. Confidentiality is a given, but the resolution of individual cases often requires that names be revealed. Most veterans are reluctant to come forward for fear of losing the benefits from VAC upon which the veteran and the family may be totally dependent. I can personally tell you that the bureaucracy has a myriad of subtle and not so subtle ways of threatening or removing that security for those who have spoken out. Disabled veterans have to know that they will be free from review, audit, or reprisal of any form by VAC should that veteran come forward.

In order for the ombudsman to be truly independent, impartial, and effective, the office must have the necessary resources in both funding and manpower. I've included a list of required resources, mostly from an organizational perspective, to make a VAC ombudsman with teeth. A sufficient pool of skilled investigators is crucial here. You'll also note that an independent office requires a number of integrated sections such as finance, administration, record retrieval, and, one of the more important, an integrated communications cell to coordinate with the media and the public in accessing the necessary power of public opinion to bring about change.

There has been much talk of the ombudsman being an office of last resort. In principle, this would be true. However, considering that the last resort in many cases has not been reached for some World War II veterans and that many veterans of the conflicts in services of the 1990s are still being run through the system, a true last resort in VAC may never come. Therefore, a much more flexible approach must be taken. Should the complainant feel there is an injustice, there is no reason why he or she cannot talk with the ombudsman's office. The office can make referrals for effective review mechanisms or perhaps a telephone call or a letter to the appropriate directorate, which could save the complainants months, if not years, of review and appeal.

For example, the Ontario ombudsman is also called an office of last resort, but it received more than 23,000 complaints last year. Ninety-nine percent were resolved by referral, provision of information, ombudsman third-party intervention, or even a quick telephone call to the department concerned. Only 78 major investigations occurred, and there were between 100 to 200 field investigations.

There is no doubt that the details in setting up an office of the VAC ombudsman can be complicated; however, as André Marin stated:

Access to the office of the ombudsman could be granted simply by the Minister of Veterans Affairs signing a ministerial directive. Or, more appropriately, a Canadian Forces-Veterans Affairs ombudsman's office having coordinate jurisdiction could be entrenched in statute, with the ombudsman reporting to the Minister of National Defence on DND/CF issues, and to the Minister of Veterans Affairs on issues related to Veterans Affairs Canada.

The truth is that departmental organization is a technical obstacle, not an impediment to doing the right thing. It is a maxim of good government that technical obstacles never be allowed to impede doing the right thing. Instead, technical obstacles should be managed and overcome.

For the ombudsman, doing it right means letting the right people do it. Giving the process more study than necessary or leaving it in the hands of the very bureaucracy that requires oversight is unjust and wrong. Independent agents can be brought on board with the stroke of a minister's pen. Timelines can be declared and made public. And the faith of the veterans and their families can be restored.

Election promises for the immediate creation of an ombudsman can be fulfilled. The creation of the ombudsman is an urgent matter, yet we must learn from the missteps of the new Veterans Charter and take the steps to ensure that our new VAC ombudsman is powerful, independent, and impartial. We must ensure that our VAC ombudsman is created right, and created right away.

• (1545)

Thank you, Mr. Chairman and honourable members of the Standing Committee on Veterans Affairs. We look forward to your questions.

The Chair: Thank you very much for your presentation. I'll go so far as to say that of all the presentations we've heard so far, that was one of the more detailed ones we've heard, about proposals for how to set this up.

Mr. Cuzner, you're first up for the Liberals. Welcome to the committee.

Mr. Rodger Cuzner (Cape Breton—Canso, Lib.): Thank you very much, Mr. Chairman. I'm looking forward to doing some good work with this committee, a very important committee. Certainly, the presentation today was excellent and very detailed. I thought some great points were brought forward.

With the office, there is a risk, some concern for the potential for another layer of bureaucracy. Could I get your comments on that?

As well, you made comments on some of the appeal processes and the fact that they appear to be broken, or you've stated that they are broken. Are there processes we would be able to dissolve, i.e., there would be no need for some of the processes now in place? Could you elaborate on those first two points?

Mr. Sean Bruyey: Thank you, sir.

With reference to the question about more bureaucracy, in government we must always be concerned about creating more bureaucracy than necessary. However, there is a misconception in some circles about what an ombudsman does—I've heard that comment before.

An ombudsman exists outside the bureaucracy, as a sort of mail clerk who's able to look at the volume of mail coming in and put it in the right spot, and to see from the outside the big picture, what needs to be done. So it actually increases the efficiency of the bureaucracy.

I can see real money savings, and I can certainly see the debt of dignity and respect for the sacrifice we owe our veterans will be upheld by ensuring more rapid response and systemic improvement.

As far as the existing system, the legislation, the Pension Act I find is a superior act. It's generously written to help support the veteran, to give the benefit of the doubt; the programs allow the veteran to be protected. Regulations and policies within the department are so written. The problem is they're not being followed, and there's no one to enforce the following of those regulations.

When it existed as a subcommittee, the committee heard that VRAB does not track any of its decisions. There's no ability to make systemic improvements to what is sitting at VRAB—right now I believe 7,000 files are backlogged. There's no way of understanding why so many files are going to VRAB. No one's sitting down and tracking that.

An ombudsman could track that. An ombudsman could make the recommendations at the departmental level and perhaps at the VRAB level, so that VRAB has the power—and I think this is open to consideration—to say to the department, “You know what? You should have ruled on this the first time.” And they could send it back, rather than cutting off the options of appeal and review by having the board review it. It's an expensive process to send it to VRAB when an administrative review at the department could solve the problem quickly.

• (1550)

Mr. Rodger Cuzner: So there's the sheer volume of the backlog of the 7,000 files. Is there a concern as well that some of the work that's coming out of there is rubber-stamping previous decisions, or is it a lack of in-depth follow-up? Is it the quality of the work that's being done on the files as well, or...?

Mr. Sean Bruyca: Sir, at the VRAB level or at the departmental level?

Mr. Rodger Cuzner: At the departmental level.

Mr. Sean Bruyca: I'd like to read a quote that was—

Mr. Rodger Cuzner: Both levels.

Mr. Sean Bruyca: For sure.

The Woods committee noted—and I'll have to find that for you in a second. The problem is there's still far too much secrecy at the pension adjudication system within the department. We don't know who makes those decisions and we don't know on what basis they make those decisions; there's no consistency in terms of the documents or letters that are sent out after the decisions are made.

That problem also exists at the VRAB level, where there's far too much secrecy. In 1967, the Woods report noted that the process has to be opened up to more transparency and accountability, and 40 years later we're saying the same thing. I think an ombudsman would...it has to be the vehicle to do that because all other attempts have failed.

Mr. Rodger Cuzner: I take from your comments and your presentation as well that you'd like to see this totally independent ombudsman. Do you see any benefit in having some type of connection with the ombudsman for the Department of National

Defence? Is there any synergy there, or should it be totally independent?

Mr. Sean Bruyca: That's a very important consideration. If they exist in an accordant jurisdiction, then the linking is not a problem in terms of cooperation between DND, CF, and Veterans Affairs Canada. However, if they are to be both independent and separate, then there has to be a liaison between the two because there is much overlap. In terms of clientele, the serving members in the CF could easily be Veterans Affairs Canada clients, so it will require, in any form of ombudsman's office, that the two will have to work closely together.

Mr. Rodger Cuzner: You had indicated inconsistencies in some of the pension supports and services. Are there any consistencies in the inconsistencies? Are they consistent by region of the country? Are they by campaign? Are they by maybe the nature of the disability or the challenge that the veteran might face? Is there anything like that, or are they just all over the place?

Mr. Sean Bruyca: I don't want to take a broad-brush approach because there are some excellent employees in Veterans Affairs Canada, and, from what I understand, some of the people on VRAB are excellent people.

There is a problem, perhaps, with management of the entire system. The consistency that we see is that there seems to be a real lack of ability, especially at the headquarters level, in understanding what it is to deal with a disabled client. That is ironic since that is the reason for the department's existence.

Do you want to comment?

Mr. Perry Gray (As an Individual): If I may, I'd like to read a quote. This is a quote from Deputy Minister Jack Stagg to the parliamentary subcommittee, this august body's predecessor, and this is what he said:

What we found in the pension system was it was a kind of perverse system, in effect, because we had quite a large number... We took a number of files between 1998 and 2002 and looked to see how many people were coming back to us for additional pensions. People were making this their life's work. We had people coming back anywhere from 9 to 17 or 18 times, looking to boost a pension.

Mr. Stagg added:

We try, of course, in Veterans Affairs, to be fair and to judge rationally how sick or how disabled someone is from the services they rendered for Canada. They will tell us they are sicker than what we believe—

—and I must emphasize “what we believe”—

—or what they can prove, and it becomes a kind of adversarial battle.

I'd like to point out to all the committee members that the basis for any application by a veteran to the Department of Veterans Affairs is medical information provided by professional medical practitioners. It is not based on what I may think I need. The big complaint we have—and it points directly to what you said about consistencies within the inconsistencies—is that they are taking these assessments made by doctors and saying that they are not true to the extent to which the doctor has stated. In many cases it's very difficult for the practitioners to define in reasonable terms that are acceptable to the department exactly what the extent of the problem is.

I will give you a specific example of this. According to Minister Thompson, there are practically 9,000 veterans who have been diagnosed with post-traumatic stress disorder or related operational stress injuries. According to DND, the majority of these people suffer from a long-term disability that severely restricts their employment outside of the military, and yet these 9,000 people often are assessed at a disability level of 25% to 30%, and, based on what Mr. Stagg said, they then have to go back between 9 and 17 to 18 times and prove that the original assessment was unfair.

I hope you can understand why this is a very traumatic experience for people, and it very well illustrates the problems veterans experience currently with the appeal and review system.

Thank you, sir.

• (1555)

Mr. Rodger Cuzner: Mr. Chairman—

The Chair: Mr. Cuzner, you've already had 10 minutes, so no.

Monsieur Perron.

[Translation]

Mr. Gilles-A. Perron (Rivière-des-Mille-Îles, BQ): Thank you, Mr. Chairman.

Perry, Sean and Tom, thank you for being here.

We're not here to put veterans on trial, but to talk about the ombudsman. When you start telling me things are working well or not at the Department of Veterans Affairs, you lose me, and I get a little frustrated.

You didn't mince your words in your presentation. Thank you for that. It was interesting and sincere, but who's your ombudsman's boss? Who does he report to?

[English]

Mr. Sean Bruyey: My wife.

Mr. Gilles-A. Perron: It could be.

Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC): Good answer.

Mr. Sean Bruyey: *Je m'excuse.*

Is it possible to get the question of Monsieur Perron clarified? The boss of what?

• (1600)

Mr. Gilles-A. Perron: You described what an ombudsman should be.

[Translation]

That's what you described. You state all his duties, but you don't say who he reports to. Does he report to a House of Commons committee, the Minister of Veterans Affairs, the Pope or the Prime Minister? Who's his superior?

[English]

Mr. Sean Bruyey: I think the veterans who have gone overseas and gone to war for more than a century have fought for Canada. We don't go and fight for an individual or for a political party—in spite of the good work of the parties. I think an ombudsman who's going to ensure that this sacrifice is honoured and upheld should report to

all Canadians, to Parliament. I believe it should not be filtered by a political party or by a minister.

There are also practical reasons for that. The Veterans Review and Appeal Board does need to have some oversight. There is very little accountability. That has been noted through multiple presentations over the past decade. The ombudsman would offer that accountability.

VRAB reports through the minister to the Governor in Council, so the ombudsman would have to report to either the Governor in Council or Parliament in order to ensure the effective operation and oversight of VRAB.

[Translation]

Mr. Gilles-A. Perron: He could be the equivalent of the Auditor General.

[English]

Mr. Sean Bruyey: I don't think an ombudsman would have the same sweeping powers of an Auditor General.

We're talking about the sacrifice of some very noble and important Canadian citizens. After years of difficulty in dealing with predecessors of the Veterans Review and Appeal Board and dealing with previous organizations and forms of the department, I think there have to be some powers. We have to get someone who can get to the bottom of this.

It's a very complex bureaucracy at Veterans Affairs. I think merely reporting to the minister will not allow the timelines and effectiveness of an ombudsman's office to be optimized. So I think it's very important that—

[Translation]

Mr. Gilles-A. Perron: On page 3 of your report, you ask: "Who would have access to the Ombudsman's Office?" You put the present armed forces and veterans in the same boat. When veterans were a matter for the Standing Committee on Defence, there was an ombudsman. But you criticized them because it was too concerned with National Defence and not enough with the armed forces. If we create this ombudsman position, will the armed forces be opposed to it? Shouldn't it be completely separated?

[English]

Mr. Sean Bruyey: That's an excellent point, Monsieur Perron. I'm confused enough, and I've been through this system for years. Yes, we have to minimize the confusion for the soldiers and the veterans.

I think they should all have access. The ombudsmen's power will come in the skilled training of its employees, who will be able to vet and do triage at the initial intake of those complaints. They would be able to say immediately whether it's a mandate of the DND ombudsman or whether it's the mandate of Veterans Affairs.

This has to be of great concern. That's why we put in the recommendations that there should be skilled and highly trained people, not only to do the investigations but also at the public level, with the intake workers.

[Translation]

Mr. Gilles-A. Perron: I'll ask you to shorten your answers because I'd like to ask you as many questions as possible.

Is that your report? Did you send it to the people who are preparing the job description for an ombudsman? Did you send it to all the committee members? Did the Department of Veterans Affairs, located in Prince Edward Island, ask you for your opinion on an ombudsman? Did you have the opportunity to express your opinion? If you work alone in your corner, it's not worth the trouble, but if you work with us, it'll work out well.

[English]

Mr. Sean Bruyey: This is the first time we've had the honour of tabling a report to committee members, and we're hoping it will be of value to you in your work.

I have submitted copies of the report to the six major organizations. I have no idea what they think of it or what they're going to do with it. I've also submitted it to the minister, as well as the deputy minister, for distribution within the department, for those people concerned. I've had no word back on any of it. This is the only feedback I've received on the report, in terms of an official capacity, right here today.

The Chair: You have 40 seconds left, if you wish, Mr. Perron.

Mr. Gilles-A. Perron: Thank you, and I hope to see you again.

The Chair: That was brief.

We don't have our NDP member today, so Mrs. Hinton, are you interested in asking questions?

Mrs. Betty Hinton (Kamloops—Thompson—Cariboo, CPC): Yes, I am. Thank you.

There was one comment from Mr. Perron that I might be able to help clear up.

It is my understanding that the ombudsman for defence...once you have been discharged from the army and finished your service, you don't have access to that ombudsman any more. So that's the rationale behind this ombudsman—

Mr. Sean Bruyey: That's not so.

Mrs. Betty Hinton: Is that not correct? That was certainly my understanding.

I'll let you answer that later on, but there are a few things I want to say.

It feels like I've known Mr. Bruyey for a long, long time, and Louise Richard as well. They have been very instrumental. I probably will never get another chance to say this and have it on the public record, so I'm going to say it today.

Having talked with Mr. Bruyey and with Louise Richard and with many other veterans across this country, I learned there were a lot of obstacles they faced that I was completely unaware of. Because of the discussions we've had over this pretty extended period of time, I went forward to the leader of my party, who was leader of the opposition at the time, and expressed all of the concerns that were told to me across the country. I was told by my leader, who is now the Prime Minister, to put forward a piece of legislation to go to the conference for the Conservative Party of Canada. I did that. Two of the seven things in those pieces of legislation are:

A Conservative Government will treat all veterans with respect and will create a Veterans' Bill of Rights to ensure that all disputes involving veterans are treated quickly, fairly and with the presumption in favour of the rights of the veteran.

The second one is:

The Conservative Party would immediately enlist the services of an Ombudsman with a mandate similar to that of the National Defence Ombudsman

I say that for one purpose and one purpose only. I know you feel that sometimes you have been beating your head against the wall and no one is hearing you. I'm here to assure you that you have been heard; that those concerns you have brought forward as a modern-day veteran have been echoed by traditional veterans. The example I give you is Lieutenant-Colonel Al Trotter, who went through the same kinds of problems you went through. We finally resolved his after a year and a half.

This ombudsman position is being brought into existence because of people like you and Al Trotter, who told us what their needs were.

I will have a question for you, but I want to tell you that from my perspective, you, Louise, Perry, Tom, and all the people like you who've talked to us over the years, you leave a living legacy that will go on long after you will. There will be an ombudsman in place.

Today's discussions are for us to hear from you again what you think that position should be about, what you think the power should be.

It will be this committee that will discuss these issues, and we will try to come up with the best alternative for all veterans concerned. The value you bring to this table when you give us your opinion and your experience is tremendous. I know that sometimes it feels like you're not being heard, but I want to tell you that you are being heard and that your legacy is tremendous.

I'll give you an opportunity, if you like, to maybe put a bit more detail into some of the things you raised in your opening comments, because I know it's a limited amount of time and the field is open. Go for it.

• (1605)

Mr. Sean Bruyey: Wow. Thank you very much, Mrs. Hinton. I appreciate your comments. I will pass on your comments to other veterans I know who have been fighting. I'm sure it will mean just as much to them, if not more.

In the attachment that I provided, there are a number of considerations, the minimum considerations, for creating that ombudsman. I'd like the committee to consider those seriously in order that the ombudsman truly be something that represents and respects the dignity and legacy that veterans have provided to Canada and the sacrifices they've endured.

On a more focused level in terms of the ombudsman, there's going to be a lot of fear within the bureaucracy. There's no doubt that there will be fear. However, I would like to emphasize that the ombudsman is there for the bureaucracy too. It's not only for the employees who perhaps feel that they're not being managed properly or they have some sort of grievance; it's also for the managers. It's an effective tool.

When I was in the military as a manager and a leader, I wanted to know the truth. I wanted to know what was really going on with the men so that I could ensure that the team was the most effective possible for carrying out that job. I would hope that the same philosophy exists within the Department of Veterans Affairs, that those managers, whether it be the DM, the ADM, or all the way down to district supervisors, would want to know what the truth is out there in terms of the effectiveness of their services and programs. Are they really dealing with their client service base?

One of the most ironic things about the Department of Veterans Affairs is that you have a department that I believe is unique—and please correct me if I'm wrong—in that it is 99.9% dedicated to providing client service. Yet there's no client service response cell, no mechanisms for monitoring whether veterans services are being carried out effectively. Yes, they have internal mechanisms, but we certainly don't see how those measurements are carried out.

If I walk into a Staples or a Home Depot, I don't walk by the cash register—what they can get out of me—first. I walk by the customer service counter—how can they help me? How can they encourage the relationship of trust?

That has to be the key factor. We have to re-instill trust between the department that provides this service and the veterans, who are all about trust. That's what going into battle is all about: trusting the man beside you, trusting your leaders, and trusting your subordinates.

The Department of Veterans Affairs has to have a mindset change in terms of what it means to be in the military. Probably indicative of the fact that Veterans Affairs doesn't understand that is that they've advocated, under the new charter, priority hiring. Yet Veterans Affairs has, from what recent statistics show—and I can show this on my hand—fewer than five employees who were previously in the military.

So if Veterans Affairs wants to live up to the fact that they want to employ veterans and understand the culture, they have to step forward and listen to people, veterans like us, and have an ombudsman that can be a more powerful and articulate representative of veterans like us.

•(1610)

Mrs. Betty Hinton: Do I have more time?

The Chair: You're at seven minutes and thirty seconds.

Mrs. Betty Hinton: There are openings on VRAB. There you go.

Mr. Perry Gray: Ms. Hinton, I'd also like to remind the committee of what the minister said last week, and this echoes what Sean was talking about.

The minister said last week that time is on our side, that there is a 29- or 30-year period to fix the glitches within the new Veterans Charter.

I vehemently disagree with that. I also disagree with his statement that the glitches will be fixed in the new Veterans Charter if this government or a future government decides to do it.

You rightly said that everything that is in your election statement, which I have here, has to be done in a context that's meaningful,

which means that “immediate” is not translated as 29 or 30 years from now, or sometime during the next 10 years. Immediacy has a different meaning to those of us who sit on this side of the table.

Also, reflecting on some of the shortcomings that were discussed at the last committee meeting, it has been over 50 years and we're still waiting for the Agent Orange problem to be resolved. We've had veterans from World War II who have not had their cases resolved. It has to be a question of timeliness—not eventually.

Thank you.

The Chair: All right, thank you.

Mr. Sean Bruyey: I just want to add a quick comment. It's a compliment—I want to compliment the committee.

Perhaps we didn't make it clear; we'll also be willing to speak, if you have questions, about the bill of rights, and we can give you a limited response on VIP.

I wanted to compliment the committee and echo what Member of Parliament Betty Hinton has said about this committee; that the previous members were very important in bringing about changes to VIP.

I wanted to pass on that compliment to you. We're not just here to complain.

The Chair: Just to let you know, some people have had ten minutes, but it's not because the questioners were taking more than seven minutes; it's our witnesses.

Now we're over to the Liberals again.

Mr. Valley, you're up.

Mr. Roger Valley (Kenora, Lib.): Thank you.

I take it I get 10 minutes. Thank you for that.

The Chair: Only seven of your own. What they do is their own decision, sir.

Mr. Roger Valley: Okay.

Thank you for coming today.

I'd like to refer to page 2 of your comments. You say, halfway down the page, “...it is important that the office be powerful, independent and impartial”. You go on in the next paragraph to explain that the ombudsman position created for DND and CF did not, at the start, have that ability. It appears from your statements a little later on that this was corrected through a major effort and that it didn't take too long. So it's working for the armed forces right now. You need an independent set-up for the veterans, and you go down farther to talk about how this is being set up.

My first question, a brief question, is this. An assistant deputy minister of Veterans Affairs has been appointed to set this process up, and you take issue with that. Can you tell me when that person was appointed and how it came about? Is it very recent? We know the election was on January 23. We know there have been five months since. Can you tell me when it happened?

•(1615)

Mr. Sean Bruyey: The first I heard about it was about six weeks ago, or probably more accurately eight weeks ago, that Keith Hillier had been appointed to the position. I had a chance to have one consultation with him. He appears to be just a super guy and a super manager. But he's also a VAC employee, and I think, with no disrespect to Mr. Hillier, that there has to be impartiality in this process. If I can quote Perry, who gave me a very colourful quote concerning the bill of rights and the ombudsman being drawn up by a VAC ADM, it's not unlike having the Criminal Code written by the offenders of the Criminal Code, or having the inmates run the prison.

Mr. Roger Valley: Or the fox in charge of the henhouse.

Mr. Sean Bruyey: Exactly.

Mr. Roger Valley: I'll take you a little bit farther down the page. There you make quite a strong statement, and I'd like to quote it: "It is potentially scandalous and it is certainly neither accountable nor transparent."

So we haven't started out on too good a footing. We have gotten the issue started, and in a number of months we have a deputy minister who may have all the abilities in the world, but the fact is, as you point out very clearly, this is an employee of the department who's going to set up the rules for this.

Did you want to comment on how you arrived at that line, that "it is...neither accountable nor transparent"? I think I agree with you at this point.

Mr. Sean Bruyey: This also goes back to your question about when the ADM was appointed to this position.

Unfortunately, this culture of secrecy not only exists in the pension adjudication and the Veterans Review and Appeal Board; it exists through the entire consultation process, for whatever it may be—the new veterans charter, the bill of rights, or changes to programs and policies. The stakeholders, the veterans receiving those services, are rarely if ever informed until after the fact. There's far too much attention being given to representatives from six organizations. It's wonderful work that these organizations do, but even if their entire membership were consulted, they represent less than 17% of the entire veteran population, and they've admitted on many occasions that they don't have time to consult their membership.

What we're talking about is a culture within the department that doesn't feel it needs to consult with its stakeholders, because they're too large in number. But the point is we're the customers. I think the department should start listening to the customers.

Mr. Roger Valley: Another point you make throughout your presentation concerns the powers of the minister. You feel, do you, that the minister has the ability to correct this very quickly, if he wanted to?

Mr. Sean Bruyey: Yes. The minister could write a letter right now. He could set up an interim ombudsman or an interim ombudsman committee to work in conjunction with the committee here. There could be timelines set for milestones for when they would like, let's say, the proposals, first of all. Then, once those proposals were decided on by the committee here and by the PMO or the PCO, the legislation could be drawn up for submission to

Parliament. All of those steps and milestones could occur before Christmas, if it were set up properly by the minister.

Mr. Roger Valley: That brings me back to the last question I had for you.

In a perfect world, you spoke about 10 weeks for setting up a certain program with an individual private company. I forget the term you used. It's not a private company, but I can't remember how you phrased it.

You said this could happen, and you mentioned Christmas, which is six months away. Do you feel that it would take that long or do you feel it could be done more quickly through the power of the minister? You're here today because we asked for your opinion. We would like to know, in a perfect world, if you had the ability of the minister to do this right now, what timeline would you put on this?

Mr. Sean Bruyey: I would immediately appoint an individual. I would take two weeks to find an interim ombudsman or an interim committee to set it up. I would give no more than another 10 weeks for them to draw up their proposals, and then I would let the mechanisms of government go forward.

If it's going to be legislated, we obviously need time to write the legislation. I would have the legislation go forward. I'm not sure of the timeline for that, but if it's not to be legislated and reported directly to the minister initially, then I think it could occur immediately after the decision is made on the model. I think it could happen within three months.

•(1620)

The Chair: Thank you.

Mr. Roger Valley: That wasn't ten minutes.

The Chair: No, but it was more time than you were allotted, so you did well. You had five minutes and 31 seconds, to be exact.

Monsieur Gaudet, from the Bloc.

[*Translation*]

Mr. Roger Gaudet (Montcalm, BQ): Thank you, Mr. Chairman.

Good afternoon, gentlemen. I'd like to clarify a minor point. In your speech, you mentioned the Woods Commission. Was that in 1967 or 1972? In your presentation, it says 1972. However, you said 1967.

[*English*]

Mr. Sean Bruyey: Unfortunately, I made a mistake. My initial mistake was in saying 1972, but it was 1967. I did some research late last night.

By the way, 1967 was the release of the report, and the commission sat between 1965 and 1968.

[*Translation*]

Mr. Roger Gaudet: Did you file your report with the Canadian Legion? Did you get any comments?

[*English*]

Mr. Sean Bruyey: No, not a word, nothing.

[Translation]

Mr. Roger Gaudet: Thank you. The new Veterans Charter provides for disability allowances and other aid programs for veterans and the Canadian Forces.

In your opinion, would an ombudsman really be able to help veterans who are dissatisfied with the rehabilitation and placement assistance programs?

[English]

Mr. Sean Bruyey: I think the new Veterans Charter in principle was written with the approach necessary to get some of the CF veterans to make that transition. During the Senate testimony that occurred before they passed it in the Senate, in May of last year, it was pointed out that the charter has a huge gap in not dealing with the veterans who most need help and who are the most disabled. That gap has still not been addressed.

There has been a commission of what's called a special needs advisory group. To date there is no mention of that group on the website and there is no mention in the *Salute!* newspaper that goes out to veterans. There is no way to contact them if someone wants to make a representation, the minutes are kept confidential, and they are sworn to confidentiality. We have no idea what's being discussed in terms of monitoring those special needs.

In terms of rehabilitation, I think the big question about the Veterans Charter has to be, at what point does bureaucratic efficiency in making sure that money is not being wasted cross the line and force veterans into compromising positions?

I don't think veterans should have to be forced into the workplace in order to receive benefits. I don't think we should have that kind of mistrust of veterans. I think we should trust that they will be ready to work when they're ready. All the veterans I know who are disabled are very upset if they are unable to work, and they do everything possible. I don't think there's a question of them trying to defraud the government. I think putting that conditional workfare on veterans to receive benefits is unconscionable.

[Translation]

Mr. Roger Gaudet: When would the ombudsman be ready to take up the position? Do you want him to start? As soon as possible? When would you like him to be appointed and take up the position? If he's already been appointed for 35 years...

[English]

Mr. Sean Bruyey: It's true, Monsieur. One of the important things is that we could get the ombudsman off and started, but he or she has to actually start setting up the office, and the practicalities of staff training and hiring would be involved. But the sooner we could take the initial step, which is the model, getting the mandate and legislation into place, the sooner that training can occur.

Of course, there'll be a steep learning curve. By working closely with stakeholders and with the DND ombudsman, I think they could probably come up with a working model in less than a year from the time the go-ahead is given.

Mr. Tom Hoppe (As an Individual): It's all going to depend on the training of the staff. The current ombudsman's intake calls for the

year were around 2,000, and he had four intake-call personnel to accept those.

If you're going to look at a community of 400,000 or 700,000 veterans, even if you have 30,000 intake calls, you're going to have quite a large staff that needs to be trained to understand how to deal with those intake calls and to understand which ones are actual complaints, which ones are not, and which ones may go back to the DND ombudsman.

I think your delay is going to be in the training time to get that staff up and running, and to find the staff to fill those positions.

The Chair: Now we're over to the Conservative Party. Mrs. Hinton looks very keen here.

Oh, Mr. Shipley.

• (1625)

Mrs. Betty Hinton: I'm going to split with Mr. Shipley.

The Chair: Okay.

Mrs. Betty Hinton: I have a couple of things to say now that the time taskmaster here has let me speak again.

There are openings on the veterans appeal board. You have to apply, go through the right method on the computer. You can do it; it's easy to find out. We can give you details after, if people are interested in applying.

I happen to agree with you. I think it would be very beneficial to have someone who has served in the military be part of the VRAB.

In regard to one of the other comments that was made, Mr. Valley asked how fast this would happen in a perfect world. Well, we're in a very imperfect world, so what we've tried to do as a government is include all parties, so that we can get feedback from all the different parties in the House of Commons. We want to be able to hear as many different witnesses as we can, so that we can pick the correct model the first time and make this work for veterans.

Unfortunately, summer is coming—there goes two months out of the time period you're referring to. So it may not be as quick as you want, but it's going to be quick. We want to consult thoroughly on the bill of rights and the ombudsman with all those who are going to be affected.

Mr. Gray also mentioned that he wants to see things happen more immediately. I can certainly understand that point of view, but I would point out to him that we have a backlog of 7,500 veterans waiting for resolution. We have Agent Orange and Agent Purple, which are well under way and which we hope to have solutions for in the very near future. We're doing the ombudsman and the bill of rights right now. I suppose if I were going to try to say something positive, I would tell you that we're very good at multi-tasking. But sometimes you can only take on so many things at one time.

We are trying. Veterans are very important, not only to the government but to every member of this committee. We will get it right, and we will get it right as quickly as we can.

Mr. Shipley.

Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC): Thank you very much.

I really appreciate having the three of you come out and talk to us as individuals. I think the reality is that this is where the rubber meets the road. We've had some great presentations at this committee. I think you'll find that all of us want to work to make this good for veterans. That's why we're working towards this ombudsman. We all agree on it. Mrs. Hinton has said that we want to make it right the first time.

Can I go to the model? You've laid out the 14 issues. I'm not questioning them; I'm just trying to get a little better understanding.

On number 1, "True and robust investigative powers", could you expand a bit on that?

On number 7, the "Legislated protection for those that come forward, similar to 'Whistle-blower provisions'", I don't know that you can answer this, but as we look at our Federal Accountability Act, which brings in new criteria for whistle-blowers, would that not encompass this? It's a question I don't know the answer to. Mrs. Hinton is shaking her head no. So then I guess you could speak a little about what you would see in that.

Then could you expand a bit more on number 12? We've had a lot of discussion about the close relationship between the Department of National Defence and the CF ombudsman. You want to have that relationship and yet you want that separation.

Maybe you could help a bit on those three.

If I have any time left, I have another question.

Sean.

Mr. Sean Bruyey: I'll try to be brief so that you can get another question in, Mr. Shipley.

I'll do 1 and 7, and then Tom is going to talk about 12.

The robust investigative powers are crucial to the ombudsman's office. Expanding upon that, this would give them the powers to call up files or to enter into the files of the department. They could compel the department or those involved to provide testimony as to the situation being investigated.

The investigative powers would also be, in large part, enhanced by the training of the investigators, so we want to make sure that we have some good quality staff on board.

In the models that we see in Europe, in Germany, as well as what we see even in Canada, at home, with the CBC ombudsman, it's the powers of investigation that make the ombudsman. If they cannot bring the department to the table, if they can't get the department to respond within x number of days, then basically their investigation runs up against a brick wall. So we have to make sure they have more robust powers in order to carry out that investigation, and that way we get better results, more timely results, and more efficient results.

As far as 7 goes, with the whistle-blower act, I'm not sure where that would lie either. Would this be an addition to the whistle-blower act? Would we put in an amendment for veterans? Traditionally, I think the whistle-blower act is looking at public employees or federal

service employees. I don't think we're being original here, but hopefully we can emphasize that veterans are a unique class. They are totally dependent. They have a fiduciary trust with the government because they depend on the Department of Veterans Affairs for basically everything if they are seriously disabled.

We have to protect them to make sure that if they're going to help improve the system by coming forward then they also have robust powers of protection, and that it's detailed, because bureaucratic harassment can be extremely broad-reaching and extremely subtle. So we have to make sure that there are very well-defined protections for those veterans coming forward.

• (1630)

Mr. Tom Hoppe: To answer your question on the connection between the two offices, under the current mandate for the CF ombudsman, former members can go back with a complaint. The issue then becomes where the dividing line is between a VAC member and a former member of the Canadian Forces. So that's going to be something that has to be worked out. And it could be worked into the legislation when it is written.

The other thing that has to be taken into account is the transfer of information. If the information that the current CF ombudsman has is confidential and private, is he able then to release that information to the VAC ombudsman and vice versa? That's going to have to be put into legislation.

The connection between the two offices is going to have to be seriously looked at in order to ensure that nobody falls through the cracks. The soldier will cross between the two because they are so closely linked.

The Chair: Mr. Shipley, my heart goes out to you, but we're over time.

Mr. Rota, go ahead, please.

Mr. Anthony Rota (Nipissing—Timiskaming, Lib.): I have two questions, and I'll start with my second one because it kind of ties into what Mr. Shipley was talking about.

Perry, Sean, Tom, thank you for coming out. It's nice to see you all again. I know you've done a lot of work. I read through this, and there has been a lot of thought go into it—not that there was any doubt in my mind initially—and it's nice to see it all packaged very well.

My question relates to the model that you see used. We've looked at different models from around the world. Australia has one that is all-encompassing. Germany has one. Britain has one that's independent. You're kind of leaning towards having an independent ombudsman strictly for Veterans Affairs.

I guess I'm just thinking out loud here, but would it make sense to have it be a division or a part of the CF ombudsman? I'm thinking that because some of the cases start while someone is in the military and then follow through to when the person retires or comes out of the forces. So that's one of my concerns. Would it not be better to have one? It would allow us to hit the road running, and it would allow for continuity.

It's a question; it's not a statement. I know you've put a lot more thought into this than any of us has, so I'm wondering what your thoughts are on something like that.

Mr. Sean Bruyey: We released a report in November; you'll see there's a chapter on three models and the pros and cons of each model—it's a pretty general approach. Since then, I've come to understand that veterans would be grateful whether it's independent or combined with DND. I want to make that point clear.

Mr. Anthony Rota: Okay, so there's no....

Mr. Sean Bruyey: We'd be very grateful for an ombudsman. The important thing is to make it real, not window dressing.

I agree with you 100%. There are some economies to be saved by the Canadian compromise, instead of putting it completely under DND or making it completely separate. I think there could be two subdirectorates of the same ombudsman that have some sort of independence within that same department.

You're absolutely right, the training time for bringing people online would be minimized; there would be economies of scale in terms of cost savings with infrastructure sharing. There is also what I would call a prestige dividend that comes with the ombudsman for both departments coming forward and representing issues, both to the public and to official bodies like this.

Furthermore, there's also the point you made; it would make the transition much easier. Transitioning from DND to VAC is a very complex process, but some corporate knowledge could be shared, and veterans would be less likely to fall through the cracks in a make-up like that.

•(1635)

Mr. Tom Hoppe: One issue you have to look at is if the DND ombudsman is reporting to the Minister of Defence and now he's looking after Veterans Affairs, who's his boss? He has two.

On the resources side, if the DND ombudsman takes 2,000 and all of a sudden it spikes up to 30,000, what's that going to do to his office?

I would like to see a division of the two because of who you're going to answer to. Unless they answer to Parliament, and you make it a separate body, then that resolves the issue. I think you'll find the two-boss thing could create a problem.

Mr. Anthony Rota: By making it answer to Parliament, would that make it that much stronger? It seems to be a much better model, and it would have continuity.

Again, it's nice to say we have the economies of scale, dollars, but we're dealing with human lives. To me, it's more the continuity from one level to another, so that individual doesn't get everything dropped out from under him and then you end up with, "I'm sorry, I can't get your history from that department because they won't release it", or.... You know the games that get played within bureaucracies—just that thought.

A question regarding VRAB. How would you see the ombudsman working with VRAB? Would they be working together, or would it just be a report and then VRAB would have to respond to whatever report the ombudsman would come up with?

Mr. Sean Bruyey: VRAB is obviously a very delicate matter. As a tribunal they have to have independent authority. However, legislation and policies apply to VRAB, and resources must be managed. The oversight would ensure the legislation is being followed.

I believe it was you, Mr. Rota, who pointed out in testimony last year, making the very clear point that there is no tracking of cases when VRAB makes decisions. It's nice to treat all those individuals as separate cases, but at the same time there has to be some sort of legal precedent if they claim they're a quasi-legal tribunal.

So in terms of VRAB, I think there could be a close working relationship, especially in understanding the boundaries of crossing the line into the area of tribunal proceedings. At the same time, VRAB needs to be accountable in terms of upholding the legislation.

As it currently stands, in the Pension Act and the VRAB Act there are two mechanisms for sending files back to the department. In spite of numerous pleas, VRAB at this time will not articulate the conditions for sending a file back to the department. An ombudsman would be able to come in and say, "Wait a minute, why are we convening a tribunal for a file that could be sent back to the department under certain conditions?" That's an example of where the ombudsman would be able to work to greater efficiency.

Mr. Anthony Rota: Can I just ask one thing for Mr. Cuzner? I'm going to ask it anyway.

Can I have the document Mr. Gray quoted from? Period. I asked it.

The Chair: I'm sorry, Mr. Rota, my job is to be the timekeeper; this is my role.

Now I have to go over to the Conservative Party. I wonder if Mr. Mayes, Mr. Sweet, or Mr. Shipley have any questions.

Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC): First, thank you very much for the high quality of information you're giving us.

I want to mention a couple of things. First, I share your concerns around the VRAB and the number of cases, close to 60%, that are granted new benefits. There has not been a real analysis about why that is happening, and we share those concerns. I want you to know that's taking place.

Also, Mr. Gray, I think all of us here—certainly I have—in some way have been on the other side of feeling bad when injustice is done, and at this committee we're trying to make sure that we go through this process and have capable, wise people like yourself give us information so that we can make sure that this process is done right. I wanted to say to you that in every minute that ticks by, I'm passionately aware of that. At the same time, we want to deliver for our veterans the best possible answer for all their concerns for the future. So listening to stakeholders, taking the time to vet the information, making sure we make a quality decision—these are of paramount importance to us.

You mentioned there was no response from the Legion regarding your report. What about any of the other organizations? You mentioned six other veterans organizations. Did you get any response from them?

•(1640)

Mr. Sean Bruyey: No, none whatsoever.

Mr. David Sweet: Excuse my ignorance—this is my first time on this committee—but how many years have you been an advocate for the concerns and rights of veterans?

Mr. Sean Bruyey: I started entering the process in 1997.

Mr. David Sweet: I need to ask you—because we got to this conversation—again, because it's our concern to get as much quality information as we can, have some of your efforts been around trying to develop good communication lines with all the other organizations so you can get consensus...well, maybe not consensus, really, but an accurate feeling of what the broad spectrum of veterans groups are feeling from all the different areas, and of course most currently now from Afghanistan?

Mr. Sean Bruyey: For sure, I know that Perry and Tom are itching to respond to this one because this is dear to everyone's heart.

First, I want to say that all veterans organizations do a great service to all Canadians and the veterans they serve. At the same time, there has to be a separation. The sort of exclusive relationship that exists between only a few of those veterans organizations and Veterans Affairs, to the exclusion of the vast majority of clientele they serve, is an injustice that has to end. Hopefully, that's what an ombudsman will help do.

I'll pass it over to Tom in one second.

First of all, freedom of representation and assembly, of course, are fundamental rights that we all recognize in the western world. There should also be freedom of not associating. In order to get his or her case heard, a veteran should not be forced to go through an organization. A veteran should be able to deal directly with the department and receive fair, equal, and just treatment. Even the Legion put that in its bill of rights, and I commend them for that. That's a very important point that has to be recognized. Equality is fundamental to all bills of rights throughout the world, and I think that would have to be considered in a bill of rights and carry great weight.

Mr. Tom Hoppe: To answer your question a little further, I've been involved in this for over nine years, especially with the organizations. There's a transition that's happening right now. The soldier in Afghanistan, at this point in time, really doesn't have a voice. In most of the veterans organizations, the traditional ones, and in one of the major ones, two-thirds of the membership have never been in uniform. The remaining third are former World War II and Korea vets. When these people sit at the table, the traditional veterans organizations tend to have a larger voice than the modern-day veterans organizations, and the modern-day veterans organizations are very small in number. So when things like the bill of rights, Bill C-45, are formulated, they are done from a different view. Of course, the person who is impacted by it is the modern-day soldier serving in Afghanistan.

The ombudsman can help in that situation by not only looking at one generation or one era of conflict, but by looking at the client. I think that's going to be crucial, because as much as the organizations are doing wonderful work, you don't find many young members in them. They're very exclusive.

Mr. David Sweet: To clarify my comments, certainly I do think they're all doing good work, and when institutions work well, not only in and of themselves but inter-institutionally, then it creates a synergy for better communications. That's our concern here at the committee, that we get more communication.

Finally, so I can get a handle on your experience, I want to know if either of you have had involvement with the Canadian Forces ombudsman, and if you have, could you give us an idea about your involvement? Obviously, you'd be happy about that because...

Mr. Tom Hoppe: I've been on the advisory committee for the ombudsman for four years. I've been there since about a year or so after Mr. Marin started, and I'm now with Mr. Côté in that level. So I've seen the development of the office through that committee. And for members of the forces I've directed to the office who have needed help, I've seen their results as well.

Mr. Sean Bruyey: I had mentioned threats to the security of veterans coming forward. I said that personally I've experienced that. There has been a situation going on for the past 18 months, since I made the first public call for an ombudsman, where there has been a notable increase in the scrutiny, auditing, harassment, and denial mechanisms that exist in the department.

I had to approach the ombudsman after all mechanisms in the department at the time had failed. The ombudsman was sympathetic, but clearly said his mandate does not help me for speaking out in favour of an ombudsman. So he made a few phone calls—the office made phone calls on my behalf. However, it's clear that the department was not obligated to deal with him in any form whatsoever. That's an example of how the veteran can fall through the cracks when the one mandate ends and the other one begins.

•(1645)

The Chair: Mr. Sweet, I just want to let you know your five minutes are up, but the NDP is not here and then it reverts back to the Conservative Party. So even though it's at 6 minutes and 30 seconds, there are still another three and a half minutes left on the Conservative side, if somebody wishes to pick that up.

Mr. Colin Mayes (Okanagan—Shuswap, CPC): I just want to comment in regard to the ombudsman. I think just the fact that the person will be in place will cut down on the number of appeals that have to be made, just because the people who are working with the veterans and with the cases know that somebody else is watching over their shoulder to make sure they are fair in their assessments.

I found that in my previous life in local government. As a mayor, when I knew things were happening and I could see what staff were doing and how they were relating to our customers in the municipality, it seemed there were fewer problems and I had fewer phone calls.

So I think just that fact will cut down on the workload for the review and appeal board. That's a very positive argument for an ombudsman, not just the fact that it's going to be independent and have the ability to be an advocate for the veterans. I think that's an important issue that needs to be stated.

Mr. Sean Bruyey: Would you like a comment on that, sir?

Mr. Colin Mayes: Certainly.

Mr. Sean Bruyca: I agree with you 100%. In fact, in the investigations that Mr. Marin made throughout the world, whether they be in Norway, Israel, or Germany, about the ombudsman models, and here in Canada with both private and public sector, one of the key factors was they had the big stick. Because they had it, they didn't have to use it. It brought the parties to the table and it brought about resolution.

The Chair: There's still one minute and 40 seconds left.

Mr. Perry Gray: If I may, I would just like to touch on another reason why the ombudsman is important.

The Bureau of Pensions Advocates was set up so that any veteran or client of the Department of Veterans Affairs would have access to a legal advocate. The problem is that like the Veterans Review and Appeal Board, it is seen to be part of VAC. Therefore, trying to get veterans to trust lawyers who work within the department is itself a problem. Knowing that you're dealing with an independent body may encourage people to come forward and state what they have in terms of a grievance.

The Chair: All right, thank you.

Now it's over to our friends at the Bloc.

Monsieur Perron.

[*Translation*]

Mr. Gilles-A. Perron: Sean, you made me jump when you said that, as an individual, you should be able to... I agree, but we're not there. We're at the stage of finding an ombudsman.

I'm going to try to speak on your behalf, colleagues. The problem we're facing as parliamentarians is to establish an act, regulations, a person on whom there is a consensus. To do that, we can't take the liberty of knocking on the doors of 250,000, 300,000 or 350,000 people. So we have to try to establish a general average.

I'm aware that the laws we make are not fair laws, but they are laws made for the average person. One law will never satisfy the people at the ends of the spectrum. We're trying to make a law that will please most people and that will be fair for most of them.

When we discuss a given file, we have to have a general vision that reflects that of the average person. We think it's increasingly interesting that people come and talk to us after theoretically questioning the members of their associations.

If, for example, you represent 50,000 people from your association, you're speaking on behalf of those 50,000 people. That's why it's important that groups come and meet with us to tell us about what's working and what's not working and so they can tell us their vision for an ombudsman.

I'm clarifying that point because you made me uncomfortable when you said you'd like to speak as an individual. If you want to make comments on the subject, you're welcome.

• (1650)

[*English*]

Mr. Sean Bruyca: Once again, I think this is insightful and it cuts right to the heart of the matter, Mr. Perron. I agree with you 100%. This is why an ombudsman is so important.

When an organization says that they represent x number of individuals, whether it be in favour of a charter or whether it be in favour of a bill of rights, Canadians trust—and I think as parliamentarians you have to trust—that they're telling you the truth, that they do actually represent the views of their membership.

However, in the case of something like the Veterans Charter, it was absolutely impossible for those representatives to have consulted their membership. That's the tragedy in the whole deal. I agree that we cannot go and talk to 210,000 Veterans Affairs clients. That would be absolutely absurd. But the department has made things highly secretive and highly inaccessible. For instance, the Veterans Affairs CF Advisory Council provided excellent work, but its minutes were never made public and it was suspended without notice. The members, to this day, have never received a letter telling them why they don't meet any more.

The special needs advisory group was in the same situation in terms of secrecy. They were sworn to confidentiality, not just about taking the testimony of individual clients but about all the issues discussed. In the Canadian fashion, I think there can be a middle road. We can't consult with everyone, but we can certainly do a lot better than the secrecy that has been carried out so far.

The Legion set an excellent example with their bill of rights. They posted it on their website and asked for input from their membership. In that sense, we have faith that this does represent a large number of their members. Why can't Veterans Affairs do the same thing in terms of reaching out, especially with the high-technology forums we have today?

Apparently, the bill of rights is now sitting at its fourth or fifth draft. Not one of the general VAC clientele has access to even one draft, nor have the committee members seen one. From a personal point of view, I think it's absolutely absurd that there's no accountability and transparency in such a consultation process.

Mr. Tom Hoppe: Just to add to that, I was an executive member on one of the six organizations, and I have yet to see any passage of the bill of rights. I'm a member of that organization. I haven't been consulted, and I'm at the executive level. People aren't being consulted, and that's just an example. That needs to change.

The Chair: Now it's over to our friends, with the Liberals and Mr. Valley.

Mr. Roger Valley: Thank you.

I want to clarify what I thought I heard when I asked you about a perfect world—and we all know it's not a perfect world. I thought I heard you mention that to get this ombudsman in place, your thoughts would be to have somebody start in a couple of weeks, while the program was being designed. Is it correct that this is what I heard?

Mr. Sean Bruyca: Yes, at this point it is. For instance, if the DND/CF ombudsman is going to be involved in the process, then this office should be sitting down right at the table to see what sorts of mechanisms are being discussed—mandate, role, vision.

If it's too difficult to decide on this individual at this point, then appoint an interim independent body or a person to do such a thing, someone who would have the respect of all the political parties concerned. There would be an independent voice there for oversight, objectivity, and impartiality—all the concepts we talk about an ombudsman's office representing. Those concepts also have to be in the creation process and not only in the operation of the ombudsman's office.

Mr. Roger Valley: With that person in place, then, you would be able to live with the amount of time it took to get it right, because you'd be providing the service to the veterans that you see fit.

A number of times it has been mentioned—I mentioned it and you've mentioned it a couple of times—that we're starting on a process. My question to you in the end is going to be, what other avenues are open to you?

You're here before us today. You're talking about it. You feel we're taking a few missteps, if I could put it that way, by appointing the assistant deputy minister. You're saying it's "neither accountable nor transparent". You have an issue with this.

What other avenues are open to you besides coming to us? Have you made this presentation to the minister? How else do you carry this very strong point? You've obviously thought about this a lot. How do you carry it forward? What other avenues are open to you?

• (1655)

Mr. Sean Bruyca: Thank you for asking that question. In fact, I have carried out all those mechanisms. I have spoken directly with the minister personally. He was very generous in providing me with two hours of his time back at the end of March, just before the passage of the new veterans charter, and I made this point very clear to him, that the ombudsman comes first, not the bill of rights.

In the case of Mr. Hillier, I also made it very clear to him, with all due respect, that he should not be the one writing it up. He said, "Well, who should be writing up the bill of rights?" The ombudsman should be, because it's a bill of rights that is supposed to ensure independence, impartiality, and fair and equal treatment for all.

It's the rights of veterans. Veterans Affairs should not be writing up the rights of their clientele. As you said, it's the fox running the henhouse.

I'm grateful for those mechanisms. They have still fallen on deaf ears, so I have a great deal of hope that the fact that this is a standing committee and that you ladies and gentlemen are all very passionate about this issue will mean you'll be able to make sure the process and the end results are impartial, effective, and independent.

Mr. Roger Valley: That begs the question of whether we are going to have time, if they're writing this up as we speak. We know we're about to go into a period when the House is not sitting, so how are we going to have an impact on this? This process is going to carry on when this House closes for the summer break. Are there any other options open to you?

Mr. Sean Bruyca: Well, there's the ombudsman option. The most powerful tool of the ombudsman is always to bring this issue to the public eye. At the same time, I think all avenues have to be exhausted before we go that route.

There is nothing wrong with the minister at this point taking it away from the ADM, thanking him for his wonderful work, and then giving it to this independent person, who could be decided on in the next two weeks—that person, or that committee, does not have to be the ombudsman. They could work over the next 10 weeks.

To give you an example, André Marin, with his paper *The Way Forward*, started from scratch with absolutely nothing in September 1998. In December 1999, he handed the minister a 250-page analysis that went through great, exhaustive analyses of all ombudsman models and recommended the model we eventually came to have today. That was eventually published in January, 1999.

We're only talking there about a period from September to January. That's why I say this could easily happen before December.

Mr. Roger Valley: I would suggest to you that we have our job to do and we will do the best we can with the committee and the 12 members who make it up. You have tools and you have some very strong language. I can tell you, this government's mantra is "accountable and transparent". So you can use your own words against them, if that's what you're seeking.

Thank you.

The Chair: Fair enough.

Now we'll go over to the government side. We have five minutes on the Conservative side for whoever wishes to pick them up.

Mr. Bev Shipley: I've only got one actually.

I want to go back to Mr. Gray's comment earlier when he talked in terms of the diagnosis and the Veterans Review and Appeal Board. I think there was a concern that many of those diagnoses that an individual goes to the board with come from a doctor—you go to the doctor, so most of those are medical. It's a doctor's diagnosis and it has recommendation on it. Yet there's a sense that it's not recognized. Is there a concern that the makeup of the board then—I don't know how it's made up, quite honestly—maybe doesn't have the professional people required on it, the right medical and military makeup, who would be seen to understand the situations that come before the board?

Mr. Sean Bruyca: Thank you very much, Mr. Shipley.

I mentioned Harold Leduc. He was hopefully the turning point in terms of the type of person VRAB is going to be appointing. He has a long-term involvement in veterans legislation, and even though he was a member of an organization and the president who started it up, he had always taken an independent and impartial view to respecting the rights of all veterans, no matter what war, rank, or age they had or where they came from.

Yes, there has to be a mix of three factors on the board. There has to be, as you said, Mr. Shipley, medical expertise, there has to be legal expertise, and there has to be an understanding, when they make their decision, of the military culture that wrote those files, that created the person who's sitting in front of them. I think having two without the third would be a great loss and a disservice to the veterans.

• (1700)

Mr. Bev Shipley: My concern would always be that it gets.... I don't know, but I'd hate to see it overloaded with political.... That's not what this is about. It's about having the expert people on that review board who can make the best judgments, and make those in an efficient and effective manner.

Mr. Perry Gray: The one step that most concerns me is in the making of the first assessment within the department, and that was what I was addressing in my comment. When a person is released from the military they go through a process of review, and it's determined whether or not they should be retained, retrained, or released. When a person is released, they can be released for a number of different reasons, one of which is medical reasons. In order to be released medically, you must have a condition that precludes you from doing certain things in the military. That is all based on what a doctor, or doctors, think.

When that gets sent over to VAC, someone unknown—because it's very difficult to ascertain from the department who makes these assessments—decides at what level of the table of disabilities you will fall. If more of these decisions initially were better made and were made with accountability and transparency, then there would not be an average of 6,000 cases annually going to the Veterans Review and Appeal Board.

I mentioned 6,000 because on average there are only 4,000 releases from the military every year. So this indicates to you that there's a gross difference between how many people appeal and how many people get released. I can't say specifically what the percentage is, but to me it means there are too many people questioning the initial assessment.

The Chair: Thank you for your comments.

Mr. Rota.

Mr. Anthony Rota: May I ask a question that Mr. Cuzner asked?

Mr. Gray quoted something and Mr. Cuzner asked if he could have a copy of that quote. I'm not sure what it was because it was right when it started. He asked me to say that, and unfortunately I ran

out of time. But if he can get a copy of that or if you want to make it available to the committee...could we get a copy of that report?

Mr. Sean Bruyey: Yes, apparently it's being translated, I've been told.

Mr. Anthony Rota: I see. That's what's holding it up. So we will get it. Very good. Thank you.

The Chair: We'll go back over to the Conservative side. Are there any more questions there? No.

I would like to thank our witnesses for their presentations. I have to say that, as I stated at the beginning of this, I think it was one of the more substantive ones we've had in terms of going into the guts of what the ombudsman is to look like. I appreciate the work you gentlemen have done on that. Thank you for your appearance today.

Mr. Sean Bruyey: Thank you very much, members and Chair.

The Chair: Just before we all head out, I think Mr. Perron would like a couple of minutes to comment about the report.

[*Translation*]

Mr. Gilles-A. Perron: Mr. Chairman, have you read Sean's report? It's a very interesting report, but quite difficult to read. I'd say the same thing even if Sean were still here. It talks about the ombudsman, about the Service Income Security Insurance Plan and Bill C-45.

Would it be possible for Michel to give us a brief summary of the vital components of the ombudsman's position, the heart, lungs and blood, but not the toe nails and hair colour? I believe you can prepare a five- or six-page summary. That's an unofficial, not an official, request, but that would help us all.

• (1705)

[*English*]

The Chair: Mr. Perron, I see heads nodding. I think that's a yes.

Fair enough.

Sometimes people say to me, "Rob, how do we get stuff across to politicians?" They talk about giving us these mondo documents and everything else. I tell them if you boiled it down to one page, you'd have a tremendous amount of success. As soon as it goes to two or three pages, you'd be surprised how quickly it goes over to the staff and whatnot for consideration. It's the way these things work.

Thank you very much. We'll work on that.

The meeting is adjourned.

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