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Chair

Mr. Rob Anders

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• (1555)

[English]

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

Monsieur Côté, we appreciate your appearing today. You know, of course, that we had the previous ombudsman for National Defence and the Canadian Forces here. I appreciate your coming today. As you know, we're doing our study on the ombudsman.

I hope you have the questions that our research analyst has prepared with regard to some of the issues we're looking at. We're making sure that as people do their presentations on the ombudsman issue they have an understanding of some of the questions we've been examining.

Mr. Yves Côté (Ombudsman, National Defence and Canadian Forces Ombudsman): I don't think I have a copy of those.

The Chair: We're looking to get you one, I believe. Some of the members here want to make sure that all the presenters have a copy so that they understand the logical syllogism we're going forward with on the ombudsman question.

Once again, I appreciate your presence here. We'll give you about 20 minutes, the way we usually do. You can, if you wish, split your time with your colleague for ten minutes each, or however you see fit. After that, we'll open it up to questions and play it by ear.

Once again, I apologize for starting late today, but you have some appreciation that we were dealing with some other issues in the House.

The floor is yours, sir.

[Translation]

Mr. Yves Côté: Thank you very much, Mr. Chairman.

I would like to begin by sincerely thanking the committee for inviting me to testify this afternoon on the issue of a Veterans Ombudsman. I have followed your work with great interest and I would like to commend you for your collective determination to develop the best possible Ombudsman model for Canada's veterans. This is an incredibly important initiative for our veterans who have given so much of themselves in service to Canada.

I think all Canadians would agree that we owe our veterans—at the minimum—fair, equitable and compassionate consideration when they come forward for help. And, clearly, a Veterans Ombudsman will greatly help to ensure this.

Joining me today is Mary McFadyen, our General Counsel and acting Director General of Operations. Of course, I am referring to the lady seated to my left.

[English]

At this point, Mr. Chair, and with the committee's indulgence, I would like to skip over some of the detail regarding my current role and mandates—which can be found in paragraphs 6 to 19 in your copies of my speaking notes—and focus on the issue at hand; that is, the creation of a veterans ombudsman. This begins at paragraph 20 in the document we have distributed to you.

Our own office has been an effective catalyst for positive, substantial, and long-lasting change for Canada's men and women in uniform. This is not to suggest, however, that everything is perfect. Indeed, I have been working with the Minister of National Defence on some important changes.

Most notably, we have been focused on securing a legislated mandate for our office. Our key objective is to confirm our mandate in a more secure and permanent manner, thereby protecting the independence and ensuring the continuity of our office. This, of course, takes me to the issue at hand today: what type of mandate the veterans ombudsman should have.

The veterans ombudsman must be effective; our veterans deserve no less. In order to be effective, the veterans ombudsman must be given all the tools and the resources required to produce concrete results for their constituents. To me, this means that the veterans ombudsman model should, just as our own office should, have a robust legislated mandate.

Such a legislated mandate should provide, at a minimum—and I stress “at a minimum”—for the following: security of tenure for the incumbent; complete independence from the department and agencies over which the veterans ombudsman would have jurisdiction; full ability to decide what complaint or issue to investigate; full ability to determine how any complaint will be investigated and when a file will be closed; clear and powerful investigative tools, including the power to order the timely production of all relevant files and information and the power to compel witnesses to appear before him or her; clear provisions to ensure the confidentiality of complaints handling and of the investigation process; penalties for failure to assist and cooperate, and penalties to prevent any type of retaliation; full ability to make findings and reports public without having to obtain any type of prior authorization; full authority to select and direct the staff; and finally, access to independent legal advice.

Quite clearly, Mr. Chairman, the legislation would contain many other provisions typically found in an ombudsman's mandate. I just wanted to highlight here today some of the key characteristics that should exist.

[*Translation*]

Let me now turn to an issue that has been of some interest for several members of this committee—to whom should the ombudsman report?

My own personal view is that there is merit in having a specialized type of ombudsman like ours and like a Veterans Ombudsman reporting to the relevant minister. This is based on my experience—now with two Ministers of National Defence, namely, Mr. Graham and the current Minister, Mr. O'Connor. In a large measure, my view is based on pragmatic considerations. I found that my direct, personal and, at times, informal contact with the minister personally and with key members of his office has allowed me to intervene on a number of issues and to cause issues to be resolved quickly and decisively.

In our business, or in the ombudsman's world, these are important considerations. And, clearly, our constituents have benefited from this. I would be concerned about establishing a more distant relationship with the sole minister who has the responsibility, the authority—and accountability—for implementing my recommendations.

Mr. Chairman, let me illustrate this with a concrete and recent example. Earlier this month, namely on November 1st, I released our report on the first combat engineer regiment veterans who deployed to Kuwait in 1991. The day before the publication of the report, I met with the minister and discussed our recommendations with him.

The day after the publication, the minister rose in the House and said that he had ordered the department and the Canadian Forces to implement all of our recommendations. Having spoken to the main complainant on this, I can tell you he was much heartened to hear that the minister had reacted so quickly and so decisively to our recommendations.

• (1600)

[*English*]

There is another very important consideration that I'd like to bring to bear on this issue. Effective steps can be taken in legislation to ensure that the mandate and status of a specialized ombudsman who reports to a minister is protected in a very effective way from what could be referred to as undue ministerial interference. I have already mentioned some of these characteristics, and I would refer you to paragraph 23 of my remarks.

I would also like to reiterate a couple of those here. The ombudsman should have the full and unrestrained freedom to make public whatever report or views he or she sees fit to publish and in whatever form he or she thinks advisable. The ombudsman should have the ability to deal with any complaint in the way that he or she deems appropriate. Finally, the ombudsman should have the full ability to launch any investigation on his or her own motion—that is, without necessarily having to wait for complaints to be filed with his or her office.

In addition to these provisions, legislation should make it absolutely clear, for example, that the minister could not issue any directions to the ombudsman unless they were issued in writing and unless they were made public. This, in my view, clarifies the lines. Though the ombudsman submits his or her reports and recommendations to the minister, the ombudsman maintains a healthy distance from ministerial power and interference. I think the approach that I am proposing, certainly based on my own personal experience, combines the virtue of swift efficiency with that of solid independence.

That being said, Mr. Chairman, there is no question that Parliament and parliamentary committees, such as this committee, of course, have an absolutely fundamental role to play in matters of this sort. The minister, as we all know here, is accountable to Parliament and can be called to appear before any committee.

Speaking from my own experience, my annual reports are tabled in Parliament. Any special report that I issue is widely distributed to parliamentarians and certainly to all members of relevant committees. In addition, I am always, as I'm sure any veteran ombudsman would be, available and pleased to appear before any parliamentary committee to discuss any of our activities or reports or to provide any information any committee may be interested in obtaining.

[*Translation*]

On a closing note, Mr. Chairman, I would say that a new veterans ombudsman will have a tremendously important—and challenging—road ahead. Given the significant size of the veterans' constituency, I would expect the new veterans ombudsman to receive a large number of cases and complaints in very short order.

It will be, of course, essential that the veterans ombudsman be given the full resources they will require to set the office up, and then to operate on an on-going basis: the best structure and the strongest possible mandate will not be sufficient if the appropriate level of resources to deliver on it are not made available.

Also, and this is a point that should not be overlooked, the new veterans ombudsman must be given a reasonable period of time to set up the office, recruit and train the staff, create the procedures, etc. This is not a small detail.

In short, if they are to succeed and truly serve Canada's veterans in an effective manner, the veterans ombudsman will require a clear and robust legislated mandate, a strong team, an appropriate budget and the appropriate amount of time required to establish a strong office.

At this time, Me McFadyen and I stand ready to provide any assistance that we can do this committee.

• (1605)

[*English*]

At this time, we stand ready to provide any assistance we can to this committee.

The Chair: I take it you have finished your presentation. You still have about nine minutes left, if you want. You are done? Fair enough.

I have a little question here. I am referring to your colleague. Please clarify the pronunciation of your last name.

Mrs. Mary McFadyen (Acting General Counsel, National Defence and Canadian Forces Ombudsman): My name is McFadyen. That is the correct pronunciation. It usually gets shortened to McFadden, but it is actually McFadyen.

The Chair: So that is the correct spelling. That is fascinating, very interesting.

All right. Over to Mr. St. Denis for the Liberals, for seven minutes.

Mr. Brent St. Denis (Algoma—Manitoulin—Kapuskasing, Lib.): Thank you, Mr. Chair.

Thank you, Mr. Côté and Ms. McFadyen, for being here.

We've had a very interesting number of meetings on the issue of an ombudsman for our veterans and your input is greatly appreciated.

One of the questions I would have asked, I think, you've answered by not mentioning it. At no time did you say that such a veterans ombudsman would be part of your office and answer to you. I gather you're satisfied that such an ombudsman position would be totally separate from your own office and operate exclusively for veterans. I think that's a happy opinion, on my part—

Mr. Yves Côté: Mr. Chair, that would be my view on the topic.

Mr. Brent St. Denis: Okay, thank you for that.

A number of us were able to go to the St. Anne's veterans hospital in Montreal earlier this week, and we were very impressed with the team of Rachel Corneille Gravel, the executive director. We met with Mr. Bérubé, who is the ombudsman for that hospital. Now, that's a very precise assignment for an ombudsman—the residents of a hospital and their families, and so on—but it still gave us insights into what the role might be. Many of the points you covered are certainly elements that would apply to Mr. Bérubé's position at St. Anne's, or really to any ombudsman.

We can get things like tenure and budgets and so on from the template. So I appreciate that you've delved into some of the more complicated areas, which, for example, would be the reporting. Your position is not a legislated position. It was set up by the minister or the department. Do you feel that would be adequate as well for a veterans ombudsman?

Mr. Yves Côté: Mr. Chairman, I think my views are in a way pretty clear from the statement I shared with you today. My own sense is that, by far, the preferred approach would be a legislated mandate for the veterans ombudsman, and as I said in my remarks, what I just said should also apply to my own office.

Mr. Brent St. Denis: As for the reporting, I know you'll get different points of view among members of this committee, but you've made it fairly clear that while reporting to the minister, you're not directed by the minister and your reports to the minister are public and they are tabled in the House of Commons on a periodic basis.

I understand your argument that by reporting to a minister you, or the people you serve, could have a more timely response, as opposed

to waiting for a committee or for the House of Commons, through a committee, to act. I wonder if you could maybe speak a bit more about the timeliness of your ability now in answering to the minister or in reporting to a minister...that this is a better way to serve the constituency that you serve.

Mr. Yves Côté: Indeed, Mr. Chairman, as I said in my opening remarks, this is based on my own experience and on what I refer to as pragmatic reasons. When you are in the ombudsman business, your role is to make a real difference for the people you serve. Actual results and delivering results in a timely way are two very important considerations.

My own experience with the two ministers I've served under or with has been that the fact that you report to them can be very useful. For example, from time to time I have picked up the phone and called a minister to say that we have this issue that is burning; that I think they, as minister, should be aware of it; and that I think they should take this or that step to resolve it. I can say again that, based on what I have done and what I have lived over the last year and a half almost, this has been very productive.

There are at least two other points that I'd like to make. When legislation is developed for the veterans ombudsman, you can have very strong clauses in the legislation that say, for example, that the only way the minister can direct the veterans ombudsman will be by way of written directions, and you can provide for the publication of such written directions. Right then and there, you guarantee that before any minister issues any type of direction to an ombudsman, he or she will think very carefully before doing so. I think that is something that is easily doable in any kind of legislation that you develop.

Also, as the member suggested, Mr. Chair, there's the fact that a minister is always available and is always reachable. Wherever they happen to be, you can reach them. You can reach the chief of staff and you can ask them to look into an issue and get back to you. In a way, that also works to ensure better and more timely results for the people we serve.

Lastly, that doesn't mean a committee like yours would be taken out of the equation, so to speak. For example, if the new veterans ombudsman runs into problems with the Department of Veterans Affairs on issues like the budget—for example, he had this great mandate, but he was only given half the resources he needed—I'm sure the ombudsman could ask to be heard by you, in order to share with you the fact that he has this fundamental issue that he doesn't seem to be able to move. Quite clearly, I would assume this committee would be interested in hearing about that, and that the committee would then take steps.

All of this together suggests to me that the preferred option, based again on my experience and my own view, would be what I have said.

● (1610)

Mr. Brent St. Denis: Mr. Chair, in my last few moments, further to that, I'd like to thank the witness.

In paragraph 37 you mention the happy experience with 1 Combat Engineer Regiment veterans from Kuwait, and you say the minister responded quickly. What happens if, in your mind, an equally important situation is brought to the minister of the day and you feel it is not dealt with? What is your recourse? Do you have a press conference? Do you contact the chair of the committee or the Chief of Defence Staff? How do you handle it? Or does it have to wait for the report to Parliament at the end of the year?

Mr. Yves Côté: No. The big reports that we issue are what we call the systemic reports. They are systemic investigations into topics like recruiting or the deployment of 1 CER to Kuwait. These are published throughout the year at various intervals. For example, we had one in July on recruiting and one at the beginning of November on 1 CER.

To go back to the member's question, if I, as ombudsman, felt the minister of the day was not responding in a way that I thought was appropriate to the recommendations that I made, there are a number of things I could do. One could be to go to the Standing Committee on National Defence, draw their attention to it, and say they might be interested in hearing from me about it. I could also go to the press to some extent and make the point that we're not getting the kind of response we think we should be getting.

In the end, there is a saying in the ombudsmen's world. It's a bit flippant, but it says that the only power we have is the power to shame, to go public and say there is no action being taken on an issue that we think is very important. I know enough of my world—that is, national defence—and I think I know enough of the veterans affairs world that if an ombudsman for the veterans affairs department came out and said something like I just suggested, the press would be interested, and I presume this committee would be interested.

So those are ways of getting results.

The Chair: We'll now move on to Monsieur Perron.

[*Translation*]

Mr. Gilles-A. Perron (Rivière-des-Mille-Îles, BQ): Good day, ladies and gentlemen.

You clearly stated that you would prefer to report to the minister. This is your point of view, but I do not necessarily share it. This is how things work in democracy.

• (1615)

Mr. Yves Côté: Quite so.

Mr. Gilles-A. Perron: The Quebec citizen's protector, who is like an ombudsman, and the ombudsman of Ontario, Manitoba, British Columbia and New Brunswick report to the Legislative Assembly. I have some difficulty in understanding why you are out of step with them.

I would also like to ask you the following question. If I understand correctly, the National Defence ombudsman and the veterans ombudsman would have an equal workload. In that case, what would be your idea of an appropriate budget: \$10 million, \$25 million, \$75 million? To give us an idea, you could tell us what kind of operating budget you have.

Mr. Yves Côté: Mr. Chairman, there were two or three questions, and I will answer them in the order that they were put to me.

The member said that we would be practically alone in not following the same procedure. Of course, in a military environment, this kind of thing may raise concerns. In any case, I think that there are two or three good reasons for it. First, our mandate, unlike that of provincial ombudsman, is limited. We deal with complaints that have to do with the interaction between members or former members of the Canadian armed forces and the Department of National Defence. We know that Ontario's ombudsman, Mr. André Marin, and Quebec's protector of citizens, for instance, deal with issues that cover all departments.

Mr. Gilles-A. Perron: But they are limited to military matters.

Mr. Yves Côté: With all due respect, I must say that I do not really agree with you. In Quebec, for instance, the ombudsman covers 23 departments, commissions, administrative tribunals and so forth. Given the breath of his mandate, the ombudsman should naturally report to the National Assembly in Quebec or the Legislative Assembly in Ontario.

Moreover, as we all know, there are federal parliamentary agents, as for example the Information Commissioner, the Privacy Commissioner, the Chief Electoral Officers and the Auditor General. Given these people's mandates cover the government as a whole, it seems natural to me that they should report to a parliamentary committee or to Parliament.

As the member said, this is nonetheless an issue about which reasonable people can reasonably draw different conclusions. I am speaking from my own point of view, based on my experience and on what has worked in this environment.

With regard to the workload, I can say that in our office, on an average year, we receive about 1,400 or 1,600 complaints. They come from the 60,000 members of the regular forces, the 30,000 members of the reserves and from families.

In certain news clippings that I read, it was mentioned that about 700,000 veterans were currently negotiating with the Department of Veterans Affairs. This is a much larger base. This would lead us to believe that the number of complaints will be probably larger than ours. We must also keep in mind that veterans who can no longer work and who have financial problems probably have more opportunities to deal with their ombudsman than to members of the regular armed forces who are deployed or who are hard at work.

With regard to the budget allocated to our office, it amounts to \$6.5 million. This amount was granted to us for the past fiscal year. We have spent \$5.3 million of that amount. This covers a staff of about 50 persons.

Mr. Gilles-A. Perron: Let me tell you about a rather peculiar case.

We all remember the report handed in by Mr. André Marin in 2003 that dealt with the SISIP. If I remember correctly, you even came back to this issue in another report. It seems to me that all of this led nowhere. Since 2003, the issue has been dead.

Are you bound by the minister? Why did this famous report, which had practically been tabled on the sly, go the way of file no. 13? You really have to be involved in veterans' issues before getting involved in this.

● (1620)

Mr. Yves Côté: Mr. Chairman, I clearly see why the question was asked. I understand that from the outside, there is an impression—and a well-founded one in a certain sense—that there is not much happening. As a matter of fact, it is not so.

You remember that last November, I wrote a letter to Minister Graham that I subsequently published. In this letter, I strongly advised him to get things moving. In the following month of May, we were informed by the Department of National Defence that the cost of implementing the recommendations in the report was much higher than what we had been told during the investigation.

I was astounded by the size of the figures. I then requested that these figures which came from the insurance company that deals with SISIP, be audited by independent actuaries who could tell us whether the arithmetic is correct or if there are mistakes. Four or five weeks ago, it was confirmed that the bill would amount to much more than what we had envisaged at the time.

In this respect, I intend to write to the Minister of National Defence in the beginning of calendar year 2007. In this letter, which will also be published, as was the one of November 2005, I will tell the minister what steps should be taken, in my opinion, in order to deal with this situation and solve the problem in a way that is fair to all the stakeholders.

Mr. Gilles-A. Perron: Mr. Chairman, I have a point of order.

I know that today, we must focus on the ombudsman issue, but I think that we should take this opportunity to schedule a meeting with Mr. Côté in the near future to discuss other problems. I have quite a few questions about veterans' issues.

[*English*]

The Chair: That's perfectly fine. I'll just let you know that you're a minute and 46 seconds over.

All I was indicating was that we're moving on to Mr. Stoffer's time, but I would be more than happy to have Mr. Côté back again. That's not a problem.

Mr. Yves Côté: And from my point of view, I'm here to serve. So any time you want to meet with me—for example, after the letter is made public, if you want to discuss it—I would be happy to appear.

The Chair: That's fine.

Now on to Mr. Stoffer for five minutes.

Mr. Peter Stoffer (Sackville—Eastern Shore, NDP): Thank you very much, Mr. Chairman.

Thank you both for coming to the committee today.

Sir, in your mandate book in paragraph 3, it says off the top: “The Ombudsman shall, on the Minister's behalf”. Then in the report here, in the part you didn't go over, but the part that would be right here, it says: “I also have the authority to investigate matters on my own initiative upon notice to the Minister.”

Then for recommendations for the veterans independent ombudsman, you say: “full ability to decide what complaint or issue to investigate and to determine how any complaint will be investigated, and when a file will be closed”.

It appears to me, and correct me if I'm wrong, that an ombudsman should be completely independent of the department. But right off the bat, your mandate says “on the Minister's behalf”. Does that not handcuff you a bit in this regard? And are you recommending to us that the veterans ombudsman not have this in the mandate—that instead it would say “The ombudsman shall”, and forget the minister altogether? Are you saying that this should be also written for the ombudsman?

● (1625)

Mr. Yves Côté: Mr. Chairman—

Mr. Peter Stoffer: It just appears that your restraint.... The minister can ask you to investigate things, even though it says here that you're the office of last resort. I find it rather unusual that the Minister of Defence would need an ombudsman to investigate his own department, but there are obviously special circumstances that may come up now and then.

So do you not feel constraint in that regard? Would you like to see a veterans ombudsman—I guess for lack of a better term—have more latitude or freedom to determine what he or she can decide to do?

Mr. Yves Côté: Mr. Chair, I am certainly not recommending that the words the member has raised are found in the mandate of the veterans affairs ombudsman.

In the remarks that I haven't read, or maybe also in the parts that I have read, I think I made the point that as far as our office was concerned, there are issues that should be addressed, and certainly legislating our mandate would be one of these. That's one part.

The second part, I would also like to mention, Mr. Chair, is that since I've been ombudsman, since August 3, 2005, although these words are present in the mandate, there has been absolutely no attempt in any way, shape, or form by any minister or by his staff to interfere with our ability to do things.

Another point I would make, and it's also very important.... The member asked why the mandate would say that the minister could refer issues or questions to the ombudsman. Actually, I think this can be a very helpful tool for a minister to have, because it may be that at some point in time a minister would look at what his department was giving him or her and say, “You know what? This is not exactly what I need. I think the work that has been done here was maybe not as complete as it should have been.” Or maybe there is a risk that the work the department did will not be perceived as being independent.

One good example from the history of our own office is the Wenzel case. Mr. Wenzel, as you know, was a retired pilot from World War II, who for a number of years had been fighting to get a pension. Many ministers had tried to resolve the issue, to no avail, and at some point in time a minister said, “Okay, enough of this. We will refer this case to the ombudsman, because he is independent and he is outside, and we’ll look forward to what he finds.” In fact, what we found was that there had been something wrong. In that case, I think, the end result of the minister having the power to give us a file like this was that we were in a position to accomplish a result that simply was not accomplished before when it should have been. So I think there is something useful in having that.

Mr. Peter Stoffer: Did you need the minister to give you that formally? Why couldn’t you just go to Cliff Wenzel and do it yourself, without the minister giving it to you? Did you have the ability to do that?

Mr. Yves Côté: Technically, the answer would be no, because somewhere in our mandate it says that for matters that occurred before 1998, this office—I—may not investigate unless I obtain the minister’s authorization. So in this particular case, Mr. Chairman, I would have had to go to the minister, or my predecessor, and seek the minister’s authorization to do that.

By the way, I think that as long as this office has existed, any time the ombudsman has gone to the minister asking for that kind of authorization, it has been given.

Mr. Peter Stoffer: That’s very good, but the reality is that the minister could say no. Are you suggesting, then, that a veterans ombudsman have no restrictions in terms of what he or she investigates? If, for example, a case happened in 1975—

Mr. Yves Côté: Or in 1955.

Mr. Peter Stoffer: —or in 1955, or whenever, that person should have the full freedom to investigate whatever he or she determines is worth investigating without restrictions imposed by a department or a government.

Mr. Yves Côté: Mr. Chairman, this is exactly my view, and I’m totally in agreement with this. I think there should be enough confidence put in the new ombudsman that they should be allowed to run their offices and their files the way they see fit, as I think I mentioned in my opening remarks.

Mr. Peter Stoffer: Thank you.

The Chair: I believe Mr. Cuzner has passed his time to Mr. Valley. Is that right?

Oh, I’m sorry, it’s the other side of the table.

We’ll go to our injured colleague, and bless her for being here. Mrs. Hinton.

Mrs. Betty Hinton (Kamloops—Thompson—Cariboo, CPC): I see you’re under the false impression that there is favouritism given. I don’t think so.

Thank you very much for appearing, Mr. Côté. It’s been extremely interesting to listen.

I’m a little bit confused, and you may be able to help me. On one thing, by the way, Mr. Perron beat me to the punch, because I was going to ask you the same thing: what would be your rough guess as

a cost estimate? So you’re saying it’s \$6.5 million for the defence ombudsman, and that’s with 50 staff. Do you think that would be in the ballpark? That’s the first question about the veterans ombudsman.

The second part is that ministerial directives indicate that your reports concerning investigations can be published 28 days after they have been submitted to the Minister of National Defence. Do you have to notify the minister about exactly when a report concerning investigations will be made public, or does your office determine independently when this will be done? I ask that question because in paragraph 27(g) you say that one of the things you believe should be part of this is the “full ability to make findings and reports public without having to obtain any type of prior authorization”.

I’m sorry, those are a lot of questions.

•(1630)

Mr. Yves Côté: Actually, this is quite manageable for somebody like me, so let me take a stab at it.

I’ll start with the second one, if I may, Mr. Chairman. Concerning the 28 days that you find in the mandate, which you have referred to, it is very important to realize that the only thing this is, in a way, is a heads-up to a minister that 28 days later, or perhaps after that, a report will be made public. And it is by no means a clause that has the effect of giving the minister the power to say “I agree” or “I don’t agree”. It’s simply given to him—in that case, to him—so that he can staff it through the department and so that when it is actually made public, the minister knows what he should be saying publicly.

Throughout the history of this office, reports that have been issued have always been reports as approved by the ombudsman, without any changes imposed or suggested by any ministers or any members of DND or the CF. Let me be very clear about this.

Mrs. Betty Hinton: And I’m assuming you like that, in support of veterans.

Mr. Yves Côté: I like that, and to me it’s absolutely essential that any veterans ombudsman has exactly the same power—28 days, or it could be 21 days. I do think that a minister needs some time, but 28 days is not the big thing.

The second point is the issue of budget. Yes, I did say that we had a budget of about \$6.3 million. It’s very difficult for me to even guesstimate what would be the right amount or the right level of resources for a veterans ombudsman, but there are at least one or two things that I would like to put on the table. One is that it seems to me that when the government decides to go ahead on this, what we want to have is an effective ombudsman. We want to have an office that can take files, can answer the mail, make a difference, and produce results. What this means to me is that this has to be properly resourced. You can have the best mandate in the world with all the bells and whistles that anyone can imagine, but if you don’t have the gas to put in the engine, so to speak, you won’t go very far.

It seems to me that what should happen, once the new ombudsman has been appointed, is he or she should be given some time to consider what kinds of resources they may need. Speak to people in the department. Speak to people outside of the department. For example, I know they have a toll-free line within Veterans Affairs that people can phone 24 hours a day. Well, let's get a sense of how many calls they are getting and so on. And then it would be an iterative process in which the ombudsman would say, "Well, you know what, to start for the first year I think I may need, let's say, \$10 million, but after that, it may have to be adjusted upwards or perhaps downwards. I don't know." I think the department and the ombudsman should then engage in this healthy dialogue between the two of them so that the ombudsman gets the level of resources he or she needs in order to be what I think the ombudsman should be.

And as I think I mentioned earlier today, if there were to be disputes or disagreements between the ombudsman and the minister or the department on what would be the appropriate level of resourcing, then it seems to me that this committee could be brought to bear to listen to the various points of view and then perhaps issue a report or make a recommendation as to what should be the appropriate number of resources.

Mrs. Betty Hinton: Okay, I have one really quick one and then I'm going to pass to Mr. Sweet.

What do you believe, based on your experience as a defence ombudsman, is a reasonable amount of time? You keep talking about it taking some time. What do you think is a reasonable timeline for the veterans ombudsman to be up and running? Are you talking three months, six months, twelve months? What's your reference there?

Mr. Yves Côté: Mr. Chairman, I was afraid, in a way, that this question would be asked, but there it is. It has been asked.

It's very difficult. When you think about it all, this person would start from scratch. There would be nothing. So first of all you have to decide what kind of organizational chart you're going to have. Do you have one DG for operations and one for something else? You have to think about this and presumably you have to consult maybe with offices like ours and provincial ombudsmen and ask to be given a sense. This takes time.

Once you've done that, we are part of the Public Service of Canada, and we have to have those jobs classified. The classification process takes some time. I don't want to bury you in bureaucratise, but I just want to emphasize the fact that it takes time.

And then you have to do the recruiting, and speaking from experience, recently we have been trying to hire good, solid investigators who have the right background and the right approach to things, and these are not easy to recruit. You have to launch a process and you get applications in. It takes time.

But the one word of caution, as I think I said earlier, that I would really leave with this committee and with the decision-makers is that the word should be given to the ombudsman that they should move quickly but also that they should get it right. Imagine if, let's say, they are up and running after six months or four months or two months and they realize that they don't have the right structure and that their people have not been trained.

That's the other thing. The veterans affairs world is a very complex world. You have the new charter that just came in. You have all kinds of programs and legislation. The people who answer the phone must be familiar with what they are talking about, so you have to train them in addition to having selected them. That takes a bit of time.

My advice would be the Latin maxim, *festina lente*, hurry up slowly. Well, the word to the ombudsman should be to do exactly that—*festina lente*. Get going, but get it right and don't waste time.

And I'm sorry that I cannot be more helpful in terms of giving you precise data, but that's the best I think I can do.

● (1635)

Mrs. Betty Hinton: Thank you, Mr. Côté.

The Chair: Ms. Hinton was thinking of splitting her time, but unfortunately it's over seven minutes, so Mr. Sweet will have to wait. I apologize.

Now over to Mr. Cuzner, who has referred his time to Mr. Valley, for five minutes.

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

That's what happens: when you took her time away, she ran long.

I appreciate your comments. Far too many of us have sat on too many committees where we didn't know exactly what had been said after we'd had the presentations. I thank you for being clear on who you see this ombudsman should report to. Like Mr. Perron, I'm not sure I totally agree with you yet, but that's why we need your advice at this point.

You do say they have to have complete independence from departments and agencies. We would always hope that would be the case, but you have experience of two ministers, and it worked well, and we thank you for giving us that advice. You're obviously there, you understand the system, and you understand what success is. From that side of it, thanks for the advice and we're not sure where this is going to go. We would hope that with every minister you have to work for, and that Veterans Affairs has to work for, there would be that relationship.

You mentioned in your comments that a number of times you've phoned the minister and you talked to the chief of staff. Is that a common occurrence? Is that some way you solve problems before big investigations come about? Would that be common?

Mr. Yves Côté: It happens on a regular basis. I don't know if that's common or not. It happens when we sometimes have files that deserve ministerial attention and I'll pick up the phone and speak to the chief of staff, or my folks will speak to people in the minister's office and we get the ball rolling.

Certainly I can also say that any time I've asked to meet with either minister, they have been able to make time very quickly. So it happens on a regular basis, if you will, and it works.

Mr. Roger Valley: We would hope that would carry on for the ombudsman we're looking to set up.

We've heard a number of times that part of the problem is about the record keeping. How does an ombudsman work when the records aren't as good as they should have been, especially when we go back in time for the veterans?

We've heard many cases where things weren't reported because it wasn't the way things were done back then. There was a different feeling from people who were heard and they didn't necessarily want to report something they felt was minor, but which could be major later on. How do you work when there's a lack of records?

Mr. Yves Côté: I think in a way there is more to that question than meets the ear or meets the eye. In addition to the point you've raised, there's also the point that if you don't have a robust legislated mandate it may take an awful lot of time before you get the information as an ombudsman. This is something we have lived as DND ombudsman or CF ombudsman, because we don't have a legislated mandate.

On asking for documents, it happened in a case that was referred to us by the Chief of Defence Staff. He referred that to the then-ombudsman and said please look into this. A week later we sent a letter saying give us everything you have on that. There were pieces of the documentation required that took one year to come to us. Point number one: you absolutely need a legislated mandate that clearly says you have the right to have access to anything you think is relevant.

The first point you raised is on the issue of missing documentation. I think in the package we just distributed you may have a copy of the report we issued at the beginning of November for the deployment of 1 CER in Kuwait. And yes indeed, going back 15 years we found in a number of instances, when we interviewed members of 1 CER, that they were telling us that there were pieces of medical reports that were somehow missing from their files. They had been assured it would be there and it was not there.

This is not right, obviously, and this should not happen. When you're stuck with it and you find that information is not there that should be there, you push the department, the CF in our case, to re-create it in the best way possible and to afford the member who is in this difficult situation all the help and assistance he or she may need with a view to re-creating, after the fact, the kinds of things he or she may require in order to, for example, in Veterans Affairs, pursue a claim for a pension. But that's not easy.

• (1640)

Mr. Roger Valley: That wouldn't be easy 15 years ago, let alone to go back 60 years ago. It's going to take that many more resources, that many more challenges. Would I be fair in saying it's going to take that much more experience as a whole team? You work with 50 people who have to re-create something from 15 years ago, and what's it going to take? How accurate can we be, or is it going to be gut feeling in the end when we try to re-create what happened in 1945?

Mr. Yves Côté: It's very difficult to guess the amount of resources you may need. My main point would be that the ombudsman should have the tools and the necessary equipment, if you will, to get the department to get moving to assist, in this case the veteran, to re-create and remake those documents that are missing. I don't pretend to be a specialist in the area, but I know the legislation for Veterans

Affairs is quite clear that whenever there is a doubt the benefit of the doubt should be given to the veteran. It seems to me in some cases what you can do is file an affidavit, a sworn declaration that this is what happened. If there was no contrary evidence, then the benefit of the doubt presumably calls for the veteran to be believed on the basis of the sworn declaration he has filed with the tribunal, for example.

Mr. Roger Valley: Thank you, Mr. Chair.

The Chair: Now we'll go to Monsieur Gaudet.

[*Translation*]

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

Would you explain what your job consists of? Up to now I have not really understood what your mandate is. You said that your office tries to settle complaints in an informal way. What is an informal complaint?

Mr. Yves Côté: Mr. Chairman, we solve problems or complaints in an informal way. We are not the only ones to do this, I think that all ombudsmen and all citizen's protectors work in the same way. What I mean is that we emphasize efficiency in resolving issues.

For instance, someone might have a certain type of problem and decide to write a formal letter to someone, somewhere, asking him to look into the situation and give an answer in writing. Or this person might decide to make a telephone call for example, to the commander of a squadron or a military base to tell him that a certain soldier is having such and such a problem and ask him for a way to solve it. This is what we mean by "informal". It is our ability to intervene—and this is really important for an ombudsman and for those who work with him or her—at any level of the organization. This is our current situation. We can speak to General Hillier's office, the minister's office or the office of a commander of a base at Bagotville or anywhere else.

Mr. Roger Gaudet: I agree with you. You are able to speak to them, but they do not give you what you want. They do not give the information you want nor the letters, nothing. That is what you told my colleague earlier on. Most often, you are obliged to make the request several times because you are connected to a minister. If you reported to the House of Commons, perhaps it would be quicker.

Mr. Yves Côté: Mr. Chairman, if I said that in general we do not have access to documents, I did not express myself well. What I wanted to say, is that we have had cases such as the one entrusted to us by the Chief of Defence Staff where it took a long time to get all the documents.

Another aspect I would like to emphasize is that, in the case of informal inquiries, the degree of cooperation between our office and, for example, the officers of the armed forces or the Minister of Defence is very good.

As an example, I would mention the inquiry we are currently carrying out on the state of health of reservists and on the way in which they are treated when they come back from a deployment. I met with the investigators quite recently once again, and they tell me that the degree of cooperation, at every level of the chain of command in all of the bases they visited, is really very good. Therefore, yes, there are areas in which things are not going so well and there are others where things are going very well.

But there is one argument I wish to make and which is, in my opinion, extremely important. What could make a difference as far as we are concerned, is not necessarily that we report to a parliamentary committee, to Parliament or to a minister, but rather that we have a legislative mandate. If we had a legislative mandate that stipulated that the ombudsman could issue notices to appear, and orders for delivery of documents, the department would be obliged to comply with our requests within the time prescribed by the ombudsman, and we would receive the documents much more quickly.

I think we must be very careful to separate what I have just said from the issue of ultimate responsibility, that is to say to whom I report or not, because once again, with a strong legislative mandate, all of these obstacles can be overcome without any difficulty.

• (1645)

Mr. Roger Gaudet: I do not know if there is a Chinese, Canadian or some other kind of proverb that says: "You do not bite the hand that feeds you". It is a proverb that should be paid attention to normally, particularly in politics. We do not bite the hand that feeds us because if we do, normally, we are out of a job. That is my fear.

That the ombudsman should be appointed for a six-year term by the House of Commons—I would agree on that—and that he should report to the House of Commons.

If I understood Mr. Marin, the ombudsman for Ontario, correctly the other day, he manages a budget of \$6.9 million. He settled 25,000 complaints a year and he personally carries five or six formal investigations per year.

Earlier on, you said that you spent \$5.3 million last year. It is not the fact that you spent the money that bothers me, but I want to know how you spent it. I heard that many cases were settled. Take note that there are several veterans who are not happy with the way in which things are being done. Some are happy, but some are not.

Mr. Yves Côté: Mr. Chairman, that is a question which has many aspects. I would remind you that our annual report—I think we distributed copies of it earlier today—gives you an idea of the kind of complaints that have been resolved and of their number. There is a table that indicates the kinds of issues we dealt with. I'm very proud of the work that the office accomplishes and of our capacity to deal with situations quickly and in the interest of the people we serve.

Mr. Roger Gaudet: Your office, with its \$5.3 million budget, deals only with veterans affairs. If I take Mr. Marin as an example once again, he receives complaints from citizens of the entire province of Ontario, not only complaints from veterans, complaints from anyone. That is why I am saying to you that if you had a mandate, it seems to me that it would be much easier for you, if you had to report to the House of Commons. That is my opinion.

You have the right to your own, and I respect that.

Mr. Yves Côté: Mr. Chairman, I obviously also respect the member's opinion. That is very clear.

I should also mentioned quickly that I am appointed for a five-year mandate in what is referred to as "during good behaviour". What that means is that if the government or the minister wanted to remove me or fire me, it might be quite difficult doing so because the expression "to hold office during good behaviour," provides a very solid protection. I say that in response to the comment according to which we always fear biting the hand that feeds us.

Furthermore, one has to consider the kind of person appointed to the position of ombudsman. This person must have courage, convictions, and must be prepared to issue recommendations or take public positions that are sometimes unpopular or objectionable, because that is his or her responsibility under the circumstances.

[English]

The Chair: Thank you, gentlemen.

We will now go on to Mr. Sweet, who sadly couldn't split his time before, for five minutes.

Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC): Thank you very much, Mr. Chairman.

If I have any time left, I will share with Colin. I'll try to be a little bit more concise.

Thank you very much for some very specific information.

Of the 1,400 complaints that you get, how many of those would be major cases that would require substantial investigation?

Mr. Yves Côté: In a moment I will ask Madame McFadyen if she has an answer to that, because I don't know that I necessarily have the exact answer to this.

I would like to emphasize two things. One is the fact that on the one hand, one of the things that we do is systemic investigations, and they as a rule will eat up a large amount of resources. For example, in the reservist investigation that we have currently going on, we will have four and a half people, four FTEs and a half-time, on this for a period of probably seven months, in addition to whatever legal advice they may require, and in addition to my own time. So the systemic investigations are very consuming in terms of resources, but they also are very important, because often they will cost the system as a whole.

• (1650)

Mr. David Sweet: That's a good point. How many of those systemic investigations would you do per year?

Mr. Yves Côté: In this office, in and out, we've probably been doing three systemics a year. Certainly since I came on board that has been my objective. We're going to be issuing a couple of reports in the next few months. So three to four a year would be what we do, and of course Veterans Affairs would do something different.

Mary, would you have that?

Mrs. Mary McFadyen: No.

I think since the office started I'd say in total there have been 25 to 30 systemic reports released. Since 1999, when the office started receiving complaints, we've received 12,000. Certainly most of the complaints we receive deal with an individual with individual problems. Certainly after receiving complaints we see that there are trends, so we realize that maybe there's a bigger issue that needs to be investigated. Since we've been operating, we've released about 30 systemic reports.

Mr. David Sweet: Are the investigators that you have and the skills that are acquired of a forensic calibre?

Mr. Yves Côté: Yes. We have a mixed bag, if I may use that expression, of abilities and competencies in the office. For example, we have somebody who used to be a university ombudsman. We have a couple of people who used to be police investigators. We have somebody who used to work for CSIS. We also have a number of investigators who used to be members of the military. So they bring to the table a good understanding of the universe and the way in which we operate. We have hired some young investigators with masters degrees in conflict resolution. We try to go in different directions to make sure that when we constitute a team that will look at the systemic issue, we can have on the team people who have different backgrounds so that the work can be as rich as possible.

Mr. David Sweet: You said earlier that the minister makes you aware of some issues. I just want to dig a bit at that. If the minister makes you aware of an issue, is your office under any obligation to proceed with that issue?

Mr. Yves Côté: Technically speaking, under the directives as they read now, if the minister said to me, "I want you to investigate this", I think the technical answer would have to be, "Okay, I'll do it". At the same time, it seems to me that if this were an issue that I thought for some reason was not worthy of a full investigation, I would go back to the minister and ask him or her whether they had considered this, that, or the other thing, and also the alternative cost of it. I might suggest that if we do this, then we won't have the time or the resources to do what in my book, perhaps, is more important than that.

Mr. David Sweet: I asked you that question specifically because you brought up some new information that we hadn't heard before, and I wanted to really clarify if there was direction or encouragement. If there's an obligation, that's direction.

Mr. Yves Côté: Yes.

Mr. David Sweet: When you notify the minister of an investigation, have you ever been turned back by any minister?

Mr. Yves Côté: Not me personally.

Mrs. Mary McFadyen: No.

Mr. David Sweet: Not in your past either. Okay.

The recommendations that you so far have given to ministers, have you felt they've been respected, and have you seen evidence of implementation on those recommendations?

Mr. Yves Côté: We have in a number of respects. Perhaps the key file on this would be post-traumatic syndrome.

That was, of course, before my time and was an issue that for the longest time, in a way, had been ignored by the chain of command. It was looked at as being something you could deal with by saying,

"Well, just roll up your sleeves and stop thinking about your own problems and get on with life". Of course, Mr. Marin issued that report, which I think in many respects caused the department and the CF to review fundamentally how they deal with this. That's one example, and perhaps one of the biggest examples, but it goes to the case of Mr. Wenzel. Every single recommendation that I made there was implemented.

As you heard me say at the outset, on the 1 CER report that we issued three weeks ago now, the minister has ordered the departments in CF to implement every single recommendation. Certainly from what I know of my time in the job, this has been very positive and very constructive.

● (1655)

Mr. David Sweet: Is there any time left?

The Chair: No, we're 38 seconds over. Sorry, guys. That's the way it's working out. I didn't set the rules.

Now to Mr. Cuzner. Five minutes.

Mr. Rodger Cuzner (Cape Breton—Canso, Lib.): Thank you very much.

I think the committee, through many of the witnesses, has been trying to determine whether it is best to report to the minister, or whether it is best to report through committee to Parliament. What I'm getting from your testimony here is that probably there are other mechanisms, that there's probably a hybrid in there where there's benefit to both.

You mentioned the fact that sometimes expedience isn't on the side of reporting to Parliament through committee because of pulling the committee together. Could you hang a little bit more meat on how that would work, together with the reporting? Is it to the responsible minister and committee? Could you identify, other than the timeliness thing—because I think that could be something we could probably address in the case of an emergency or whatever—what other drawbacks there would be in reporting to Parliament through the committee?

Mr. Yves Côté: Other drawbacks, Mr. Chairman? I wouldn't want to minimize the points I made about efficiency and timeliness, because for me that's very important. You say that there are, perhaps, mechanisms to address this, and that may be right. There's no doubt that things could be done. I am speaking, as I said, on the basis of pragmatic considerations and based on my own experience, which admittedly, of course, is a limited amount of experience.

Also, in answer to a previous question, I made the point that having an agent of Parliament, having somebody who has a mandate that is broad, reporting to Parliament, makes a good deal of sense because of the breadth, if you will, of the mandate. When you deal with a mandate that's narrow, I think it's preferable to go to the person who ultimately has the ability to direct his department or the CF to do things. The minister under the National Defence Act has, I think, management and direction of the department and the CF, so he is in charge. Of course, as I mentioned also, he's accountable to Parliament through question period or committee work or whatever, so I think it's not only pragmatic in a way, but in theory I think it makes for a better model.

For example, if other ombudsmen-like offices were to be created in the federal bureaucracy, then the risk would be that you would have a multiplicity of those reporting to Parliament, even though they had narrow mandates. I'm not sure that in terms of good governance that would be the right approach. Of course the committee could see fit to having experts advise them in terms of what the theory and the principles would be, and that's not an area I'm highly qualified in.

Mr. Rodger Cuzner: That's it, Mr. Chairman.

The Chair: Are you finished?

Mr. Rodger Cuzner: Yes, unless one of my colleagues wants to....

Mr. Gilles-A. Perron: I'll take your time.

The Chair: Well, you have two minutes.

Mr. Brent St. Denis: Gilles has referred many times to the term "watchdog", or a guard....

[Translation]

Mr. Gilles-A. Perron: A watchdog.

[English]

Mr. Brent St. Denis: *Un chien de garde.*

Is that a true sense? Do you see yourself as a watchdog, a guard dog, on behalf of the constituency you serve? Is that your primary... the first ones to whom you serve?

Mr. Yves Côté: I would perhaps use a couple of different analogies. On the one hand, I would see the office as a mechanism or voice for those people who have little or no voice, given where they are in life or their status. On the other hand, I would see ourselves—and I think it's a very important role—as the canary in the mine, as I think they say in English, where we pick up things.

Just before I came here today, Mr. Chairman, I met with all the base and wing commanders and their chief warrant officers for an hour and a half. We discussed a number of issues with them in a very open way, and they raised a number of issues with me where they said these things should be investigated or looked into by me. That's one way. So you pick up various bits of information from here and there, sometimes real issues, and then you make a report, you sit down with the minister, you sit down with the Chief of the Defence Staff, and you say these are some of the things I have picked up, and I think you should be looking into them. And if they don't respond the way you think they should, then you either launch an investigation or you issue a report. That's the analogy I would use.

The last point I would make, Mr. Chairman, is how important it is for an ombudsman to always maintain independence and impartiality. If you are to be credible to the people you serve—that is, to your constituents, but also to the organization with which you interface—you have to approach things in a way that is completely impartial, so that when there is a real issue you move it forward, and when a complaint is laid with you and you don't think the complainant has been unfairly treated, you are able to say that to them.

• (1700)

Mr. Brent St. Denis: I just want to thank the ombudsman for that, and Gilles for bringing that term up, because we always assume you

are receiving complaints, whereas your just going around and seeing your community also brings forward issues.

Thank you, Mr. Chair.

The Chair: No problem.

Okay, we're a minute and twenty seconds over the five minutes already.

I'm sorry, Mr. Perron, you are coming up, but not just yet. I apologize.

Now, over to Mr. Mayes for five minutes.

Mr. Colin Mayes (Okanagan—Shuswap, CPC): Thank you, Mr. Chair.

Mr. Côté, I'm a member of Parliament and sometimes I feel like an ombudsman, because there are people who come through our constituency door and have issues with government.

Mr. Yves Côté: So we should have coffee and exchange our own experiences, right?

Mr. Colin Mayes: I've found in the little experience I've had as a member of Parliament that about 80% of them just don't like the word "no". There is a policy in place and they don't like to hear it, so they come into the office and try to get me to take up their cause. Twenty percent have fallen in the cracks or have an issue, or the policy doesn't make sense and it needs to be addressed.

I have a little bit of a follow-up to what Mr. Sweet had to say about the numbers here. When you review these 1,400 complaints, how often do you say no, there's a policy here and this is the policy? You said three or four times that you make recommendations as far as changing policy is concerned because it makes sense, but to how many people would you say "This is the policy and I can't help you"?

Mr. Yves Côté: I'll ask Madame McFadyen to answer that in a moment.

The one thing I would say is that because we are an office of last resort, just like any ombudsman I know, we will turn to complainants or contacts in a number of cases and say they could perhaps file a grievance, or, in the case of Veterans Affairs, they could file an appeal, if someone has not exhausted the existing mechanisms available to them. That's an important point. So out of the 1,400 complaints we get, a large number of those would simply be pushed back to existing mechanisms, with our telling them that if they're not happy with how these go, then they can come back to us.

In terms of the percentage of cases we dismiss because there is no foundation to them, we could certainly try to provide the committee with information on that—unless you have it, Mary?

Mrs. Mary McFadyen: Because we're an office of last resort, we let the internal processes of the department try to resolve the problem themselves. That's supposed to be what happens.

I don't have in our annual report how many people we said no to. I have 47 that we've declined, but I don't have the specific reasons. We have some 218 that we received that were outside the mandate.

But certainly if someone complains, because we're an office of last resort it is important that we take the file and look at it. And certainly when we get a complaint and we look and the person has explained what they think is wrong, sometimes if someone just sits down and explains to them why a decision was reached, that is enough to satisfy them.

Even though the decision is still against them, at least someone has taken the time to sit down and explain why a decision has been made. So we still do something, try to inform people. And even when they come and it ends up that there's nothing really we can do, at least we've helped them in some way.

Mr. Colin Mayes: And where you get more than one, where there's a group that has an issue that makes sense, that's where you make your recommendation as far as policy change by the government is concerned, to accommodate?

• (1705)

Mr. Yves Côté: Indeed, and I think you were alluding to a point that I covered a moment ago about how important it is for the Office of the Ombudsman to remain impartial.

So you have to look at those matters, and if your own investigation suggests there is nothing there, there is no case, so to speak, you have to be able to tell the complainant exactly that: We think that the policy was fair and that it was fairly applied to you, and for that reason we will not intervene on your behalf.

Mr. Colin Mayes: Thank you.

The Chair: Mr. Sweet, for a minute or so.

Mr. David Sweet: We're getting to where I wanted to go, so it was good that you had the follow-up question.

In the case of a file where you have to sit down with someone, walk them through it so they understand the answer, is that considered a complaint in this 1,400 number?

Mr. Yves Côté: Yes, indeed, Mr. Chairman.

The Chair: Now we're over to Mr. Stoffer of the NDP, for five minutes, please.

Mr. Peter Stoffer: Thank you, Mr. Chairman.

As far as you know, Veterans Affairs handles RCMP files now, so should the ombudsman be an ombudsman for RCMP retired members as well?

Mr. Yves Côté: Mr. Chairman, my view on this is that the ombudsman for Veterans Affairs should have jurisdiction over people or issues that come to bear because people are not happy with the manner in which a department has served them. So to the extent that RCMP members would make an application for a pension or benefits, for example, and they were dissatisfied with the responses they were getting, it would seem to me that, yes, the ombudsman should have jurisdiction to handle those complaints.

Mr. Peter Stoffer: Very good. Thank you.

Sir, your predecessor, Mr. Marin, was here and he talked about VRAB, the Veterans Review and Appeal Board. He basically said that if the ombudsman does not have oversight of VRAB, there's no sense in even putting an ombudsman in. Would you agree with that statement?

Mr. Yves Côté: Mr. Chairman, my position would be that any ombudsman that was created for VRAB should have a legislated mandate that applies to the VRAB tribunal—by all means, absolutely.

Mr. Peter Stoffer: Mr. Chairman, there's an old expression that says that in a democratic society, if you have a police force, then who polices the police? So you always have to determine who's looking at who.

On page 4 of your book here...and this is where I get a bit concerned, because I'm always of the belief that the ombudsman—watchdog, oversight—is an independent analysis of concerns within a department, including its minister. But I've done enough collective bargaining agreements in my life to know that the word “shall” is something you want in a collective agreement when you want the company to do something, but it's not something you want in when the company wants you to do something.

It says here “the ombudsman shall investigate any matter referred to the ombudsman by written direction of the minister”. So if the minister writes you a note and says “I want you to investigate this”, you have no choice but to investigate it. Is that right?

Mr. Yves Côté: That's right.

Mr. Peter Stoffer: You see, I have a problem with that. I think the ombudsman should determine independently of the minister or of anyone else what files, what programs, what direction.... That person should determine that.

Would you agree with that statement or not?

Mr. Yves Côté: Mr. Chairman, I would simply say what I said in my written remarks, which is that the ombudsman should have the complete ability to determine how any complaints, files, or issues should be investigated. What would flow from that is that if the minister directed him to do an investigation, the ombudsman should have the ability to say no, unless—and this goes back to what I said—the minister issues a direction, in writing, which is made public, that says I want you to investigate this. That would be the one caveat.

My experience has been that before a minister goes to the length of issuing a written direction to his or her ombudsman to do something, it would presumably be something serious and important, and it may be good for the ombudsman to look into it. My experience has also been that most ministers, most of the time, are by and large reasonable people. If you said, “Well, look, Minister, I don't think this makes sense, because if you force me to do this, I will spend an awful lot of resources that won't be available for this or that”, usually a minister would be sensitive to that and say, “Okay, maybe you're right. Maybe we will split it, or maybe we will do something else.”

•(1710)

Mr. Peter Stoffer: See, you are right at the crux of the problem. I'm thankful the previous two ministers have not done this, but the fact is that it could happen. If a minister wanted to play games and tie your department up on something you think is frivolous, it doesn't matter. He or she wants you to do this and tie you up so that other issues of relevance or political importance could be delayed. That's the part that makes me nervous. In my view, I don't think a minister should have the right to tell you what to do.

If we're applying for an ombudsman position for Veterans Affairs, that person should have complete independence of the minister. He should be completely separate. That's my own personal view. It makes me nervous to know that at any time a minister could write you a letter, make it public—it doesn't matter—and say you have to do something. You have no choice but to do it. I find that is rather unfortunate.

Mr. Yves Côté: But there is also the point that the ombudsman could certainly decide how they're going to investigate. They could say, "Okay, we've reached a point where you're directing me to do this. I'll do it in the way I see fit in the circumstances." Maybe I'd come back with something that was very slim, and say, "You asked me to investigate. I did my investigation. There is my report. End of the matter."

Mr. Peter Stoffer: I hear you.

Mr. Yves Côté: So not all is lost, so to speak.

Mr. Peter Stoffer: Thank you.

The Chair: Now, the only person who has indicated they want to speak and who hasn't had a chance yet is Monsieur Perron.

I would ask that Monsieur Perron be our last questioner today.

Mr. Gilles-A. Perron: It's three minutes.

The Chair: Oh, no. That's fine.

I'm just laying out things for the committee. Originally, we were supposed to go to five o'clock, but it went over because of the stuff in the House.

I wonder if Monsieur Perron can be our last questioner today. After that, I have some announcements about next week.

Monsieur Perron.

[*Translation*]

Mr. Gilles-A. Perron: You mentioned that post-traumatic stress syndrome was practically a taboo subject in the army.

Do I sum up accurately what you said?

Mr. Yves Côté: In the past, yes.

Mr. Gilles-A. Perron: I agree with you.

One thing really surprises me. I was not there at the time, but according to my friend Louise, she has been fighting since 1994 for the recognition of post-traumatic stress syndrome. I arrived in 1997 and I have been fighting for that recognition since that time. The army still states that the syndrome does not exist, that it is nonsense, that people are imagining things.

Since the Conservative Party came to power, for the first time this year I have seen a document from the Department of National Defence that recognizes the existence of this syndrome.

Reading your document, I nearly had a heart attack. On page 35 of the French version, there is a letter written on July 20, 2001 by the Vice-Admiral and Vice-Chief of Defence Staff, G.L. Garnett, and the Senior General Counsel of the Department of National Defence at that time, Mr. Mark Zazulak. In the fourth paragraph, it says: "...if a member of the Canadian Forces who has suffered from post-traumatic stress..."

We are in the year 2006. Why did we have to wait all this time before talking officially about post-traumatic stress syndrome? Why did the Department of National Defence's ombudsman not want to investigate this? Sir, I am not blaming you for that, but nevertheless the ombudsman has heard about this syndrome since 1994. Why was there never any investigation on this subject? Is it because the army or the Minister of Defence did not want an inquiry?

What I was trying to show—and I agree with Peter on this—is that very often, your hands are tied, you are sent a note and told to be quiet, to put a Band-Aid on it, and not to rock the boat, because if not, you might lose your job. This is one of the reasons why I want to protect you.

You should report to a committee or to some kind of organization, and not to the Department of National Defence or to General Hillier. Surely the general has a very great impact on the decisions as to whether or not an inquiry should be carried out. That is an informal finding, but I may be allowed to say so formally, which you perhaps cannot do.

•(1715)

Mr. Yves Côté: Mr. Chairman, obviously, the member can issue any notices or opinions that he deems appropriate. All I can do is to talk about what I know and of my experience. There are perhaps a couple of points I would like to make.

First of all, my predecessor did table a report on the issue of post-traumatic stress syndrome. The report contained 23 recommendations, if memory serves me well. This resulted in an initial follow-up, which allowed us to see that several of Mr. André Marin's recommendations were implemented. We are in the process of completing another review of our initial recommendations, which will take into account what was done and what was not done. The report will be made public during the first quarter of 2007.

I will talk about my personal experience. Since I became the ombudsman for the Canadian Forces, that is since August 2005, there has never been, by any general, admiral, minister, political person or senior official whatsoever, any direct or indirect attempt, open or secret, discrete or not... I could even swear on the Bible. However, what ever happened in the office before I took up my position, I cannot obviously attest to. You would have to speak to the person who held the position at the time.

For myself, I can tell you that that has never happened, and were it to happen, I would make sure to take the strong and courageous steps necessary. That is the responsibility of someone who holds a position like mine.

Mr. Gilles-A. Perron: I'm grateful to you and I thank you on behalf of the veterans.

[*English*]

The Chair: Mrs. Hinton promises me that she has a very short interjection.

Mrs. Betty Hinton: I just want to clear up perhaps a misconception.

Veterans Affairs oversees RCMP benefits, and the RCMP can apply to Veterans Affairs on some disability issues, but it's actually public safety that oversees all the other issues for the RCMP. I just want to clarify that for Peter.

The Chair: Thank you very much for your presentation, sir.

We'll be preparing a report on this, probably not long after we hear our witnesses. We appreciate your comments. As our colleague Monsieur Perron said, we'll probably invite you back on another veteran-related issue.

Mr. Yves Côté: It would be my distinct pleasure to reappear before this committee any time you see fit to invite me.

Thank you very much for your attention.

The Chair: Thank you.

Just to let our committee members know, on Monday, November 27, we have Mr. Hoppe, from the Canadian Peacekeeping Veterans Association. He's not yet totally confirmed, but it looks very likely. On Wednesday, November 29, we have Mr. Winzenberg.

Monsieur Gaudet.

[*Translation*]

Mr. Roger Gaudet: On Thursday, November 30th, the House of Commons will not be sitting because our Liberal colleagues will hold their leadership convention. Would it be possible to postpone that meeting since the Liberals will not be here? They may be gone to their convention; I do not know.

[*English*]

The Chair: I don't know how flexible Mr. Winzenberg would be on this matter. The clerk would have a better knowledge than I have.

The Liberal meeting is on November 30. What I understand is that on the night of November 29, the registration begins for the Liberal convention. This is on the afternoon of November 29. Maybe the clerk could inform us with regard to Mr....

Mr. Brent St. Denis: The House is sitting on that day, so it's a legitimate timeframe.

The Chair: Mr. Clerk, do you have any thoughts?

The Clerk of the Committee (Mr. Alexandre Roger): From my contacts with Mr. Winzenberg, I think he is flexible. If it's the committee's will to do so, I certainly think he'll understand. It is a possibility. I remain in the committee's hands to apply any decision the committee would like to take.

• (1720)

The Chair: Where is he coming from?

The Clerk: Toronto.

The Chair: When is he next available?

The Clerk: I'd have to speak to him; I don't know. But in December we have four meetings.

The Chair: I'm at the will of the committee here. Monsieur Gaudet has put the idea forward. What do people think?

Let's take a quick straw poll, if we can. Those in favour of trying to move Mr. Winzenberg to a later date, indicate by raising your hands, please.

I think I see four.

Those who would like to keep Mr. Winzenberg for the time that he's already been booked for, raise your hands.

Okay, there is no strong will on that side.

We'll see what we can do about moving Mr. Winzenberg. We'll get back to you and let you know via notice.

Mr. Peter Stoffer: Thank you, Mr. Chair.

The Chair: Thanks so much.

The meeting is adjourned.

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