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Thursday, May 4, 2006

Chair

Mr. David Tilson

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● (0900)

[*English*]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): Good morning, ladies and gentlemen. We'll call the meeting to order.

This is the Legislative Committee on Bill C-2, the accountability legislation, and meeting number two. The orders of the day are Bill C-2, An Act providing for conflict of interest rules, restrictions on elections financing and measures respecting administrative transparency, oversight and accountability.

Our guests this morning are the Honourable John Baird, President of the Treasury Board, and two representatives from the Treasury Board of Canada Secretariat.

What I'm going to do, Minister, and representative from the Department of Justice, is to ask you at the appropriate time to introduce the people who are with you.

So we will proceed.

Minister, you will make, hopefully, a presentation to the committee and then we will have some questions. Minister, good morning.

Hon. John Baird (President of the Treasury Board): Good morning. Thank you very much, Mr. Chairman.

Colleagues, I'm very pleased and happy to be here to briefly introduce the Federal Accountability Act, Bill C-2.

There's a real desire, I think, on behalf of all Canadians to see their parliamentarians work together to make this important piece of legislation one that will rebuild the public trust of Canadians in their government. Over the coming weeks you will deliberate on each of the 317 clauses of the bill and you will hear many witnesses with different points of view. I urge you to consider them carefully and to remember what Canadians said on January 23, that they want an honest and accountable government they can trust. The Federal Accountability Act, I believe, is a starting point for rebuilding that trust.

Before I go into the details, I'd like to say how pleased I was with the debate on second reading in the House last week. There were many interesting ideas put forward, and I know the committee will have time to consider all of them. I was particularly interested in the genuine support and cooperation in the speech by the member for Vancouver Quadra,

[*Translation*]

my colleague from Repentigny's comments and

[*English*]

the speech of the member for Winnipeg Centre, who has obviously worked on this issue longer than most of us. They were very thoughtful.

I'd like to briefly go through the bill. Part 1 is about making significant political reforms to ensure that elected representatives and public office-holders make decisions in the very best interests of Canadians. These proposals would enshrine the Conflict of Interest Code into law.

[*Translation*]

This is the practice in the province of Ontario, where I gained a great deal of experience. The Members' Conflict of Interest Act is part of the law, and is not merely something written by the premier of the day.

[*English*]

The bill would significantly reduce the influence of big money in politics. These are reforms that were undertaken in Quebec more than 25 years ago, and also in the province of Manitoba. By eliminating corporate and union contributions, we believe we can make the political process more open and more democratic.

There are major lobbying reforms in the bill. The ban of five years for senior public office-holders, ministers, and ministerial staff is significant and designed to end the revolving door between senior government officials and lobbying firms.

● (0905)

[*Translation*]

In section 2 of the bill, the provisions are intended to support the institutions of Parliament in their duty to provide a responsible government.

[*English*]

By establishing a parliamentary budget authority, the legislation would ensure parliamentary committees have access to independent and objective analysis on economic and fiscal issues.

Part 3 of the bill is about making government more open, ensuring the independence of the Director of Public Prosecutions and protecting those who report wrongdoing.

The bill proposes expanding the coverage of the *Access to Information Act* for the first time to 17 new organizations, including seven agents of Parliament, seven crown corporations, and the three foundations created by federal statute. Each of those foundations has a budget of approximately $1 billion.

We're committed to going even further to strengthen the *Access to Information Act*, through consideration at committee of the draft proposals based on those put forward by the Information Commissioner late last year and further changes to the discussion paper presented by Minister Toews on April 11.

The bill also provides a new public appointments commission to oversee, monitor, and report on the selection process for Governor in Council appointments to agencies, boards, commissions, and crown corporations. This proposal would ensure that government appointments reward merit while respecting the values of fairness and openness.

Also, in the spirit of ensuring that appointments are merit based and reflect fairness and openness, the bill would give the Office of the Chief Electoral Officer the authority to appoint returning officers. This is something that would help depoliticize the process and ensure greater political and public perception of the way our elections are run. I know this is an issue that has been very big for our colleague from Lanark—Frontenac—Lennox and Addington and also for a number of our colleagues from Quebec in the past.

Because openness and transparency are the heart of accountability, we must create a federal public sector culture where people feel comfortable in coming forward to report wrongdoing. The proposed act strengthens the former Bill C-11 by hopefully creating a greater degree of certainty in the minds of public servants when they see wrongdoing, waste and mismanagement, or even criminal behaviour, that they'll have the genuine confidence to come forward and report that knowing they don't have to fear a reprisal and there will be a genuinely independent process for protecting them. The development of this proposal was led by the member for Nepean—Carleton and certainly builds on what the committee heard on Bill C-11.

I believe the proposed act is a good bill for public servants as it does not establish more red tape, more bureaucracy, or more rules.

Some have said our proposed amendments to the whistle-blowing legislation may imply that we believe abuse is rampant in the public service. Let me be clear and say for the record that the government knows the vast majority of people in the federal public service uphold the highest ethical standards.

Part 4 of the bill focuses on public sector reform by enhancing administrative oversight and accountability. Within the framework of a minister's overall accountability to Parliament, the roles and responsibilities of deputy ministers must be clear. The bill before us proposes to designate deputy ministers and deputy heads as accounting officers for their department, without taking anything away from the responsible minister's accountability to Parliament.

Finally, the last part of the bill is about reforming procurement and contracting. This is obviously real and significant in terms of the concerns that the Auditors General have raised in recent years, and among the public, particularly small businesses. The Auditor General plays a key role ensuring that public funds are spent wisely. That's why the bill before us would give the Auditor General increased authority to audit individuals and organizations that receive federal funding.

The measures I have described here give a good sense of our commitment to instill a culture of accountability within the public sector. These measures before us would affect everyone, from the Prime Minister to parliamentarians, to public service employees, to Canadians directly, and to companies that receive federal funding. By ensuring these proposed reforms make it into law, Parliament would go further than any government in Canadian history with respect to accountability.

At the beginning of this minority Parliament, I think working together to rebuild the public trust in government and its institutions and in the political process would perhaps be the greatest legacy the 39th Parliament can give to Canadians.

● (0910)

In the *Ottawa Citizen*, I saw a poll that looked at professions. At the top of the list were farmers, nurses, and firefighters, in the middle of the pack were public servants, but at the very bottom were politicians and elected officials. I think we all share a responsibility to help rebuild that trust, which has declined over many decades in this country, under the stewardship of many political parties, I would also add. That can perhaps be the greatest gift for the 39th Parliament, I think, to show the importance that we all place on strengthening accountability.

I was very pleased to read recent media reports from my good friend the member for Winnipeg Centre, where he suggested it would be a great gift to Canadians to put these measures into law before we break for the summer recess. That would allow us to quickly move forward in terms of getting these new offices up and running and getting these new measures in place to strengthen the trust that Canadians have in their government.

Thank you.

[*Translation*]

Thank you very much, Mr. Chairman. I am now prepared to answer your questions and hear your comments.

[*English*]

The Chair: Thank you, Minister.

We now have rounds of seven minutes per caucus.

Mr. Owen.

Hon. Stephen Owen (Vancouver Quadra, Lib.): Thank you, Chair.

Minister, welcome.

Let me begin by reiterating what I said in the House, that the official opposition supports the proposed Federal Accountability Act. We see it as a continuation, a natural evolution of many of the accountability measures that have been introduced by the former government over the last decade, including a continuing strengthening of the Lobbyists Registration Act and practices, whistle-blowing legislation, reform of procurement, the extension of the Auditor General's reach into crown corporations, the setting up of the independent Ethics Commissioner and Senate Ethics Officer, having a code of conduct—and I think the intention of this bill to put that code in legislation is a very positive, forward, further step—and certainly around the whole question of ensuring, and I'll paraphrase, because I don't remember the exact phrase you used, that we stop the revolving door between people in influence in Ottawa and lucrative careers advising people on how to have influence with their government. I think that's an area that all of us would like to see properly cleaned up.

Minister, as we go forward with this commonly held revolving-door concern, as you've said, how might we ensure that this proposed act protects against not only people leaving public offices and going into the lobbying or influence-contracting business, but also people who have held high office in an opposition that now becomes government going out and practising the same thing, and perhaps with even greater influence since they're now speaking to the people who were their former colleagues and are now in government? That may be something we together will want to think carefully about, because governments will come and go over the years and we want to make sure the principle is effective.

To give you a brief example—not to embarrass anybody, but this is a public posting on the Lang Michener website, from their Vancouver office—with respect to a new senior strategic adviser who of course is well known to all of us, John Reynolds, they say on the website: “John's wealth of experience and connections further adds to our ability to serve our clients.” Then they go on to name his numerous shadow cabinet roles in federal politics: official opposition whip and House leader, leader of Her Majesty's official opposition in 2001, chair of Stephen Harper's leadership campaign, and co-chair of Prime Minister Harper's 2006 election campaign.

I don't want to focus too much on Mr. Reynolds, but rather on the type of situation we are seeing with a number of people who were senior advisers and officials in the official opposition, which is now the government—and there are dozens of them—registering as lobbyists. I wonder if you can help us with any suggestions on how we can deal with the principle but ensure that it applies all the way around, so that the people with potentially the most influence... and in the attitude of the public, which you've so properly raised, of cynicism towards people in political life, how we can ensure that there isn't even the appearance of undue influence through these very close connections.

I think that's something we have to work towards collectively, and it's so important that we work towards that because of the attitude of the public that you mentioned, but it being actually contrary to the facts.

Of course, after the Gomery inquiry, which was one of the longest fact-finding inquiries in modern Canadian history, Justice Gomery came to the conclusion in his report that “Canadians should not forget that the vast majority of our public officials and politicians do their work honestly, diligently and effectively, and emerge from this inquiry free of any blame”.

● (0915)

Now, that is certainly not, as you've correctly identified, the general impression that the public has of public servants and politicians. I see our task in this committee as a solemn one to help improve areas of accountability wherever we can, but to also help correct the misconception in the public that things are routinely corrupt, inefficient, or inappropriate in some way in public life in this country, when we know they are not.

Hon. John Baird: Thank you for your comments.

I share the view that we certainly have a solemn task. I think we have it collectively, irrespective of our political affiliations, to rebuild the institution of a government of elected officials, the honour that we all have to represent the people of Canada from different parts of the country. I agree with you in that the overwhelming number of actors in this business are good honest people, who are motivated by collectively wanting to make a difference for the country.

With respect to your issue, you mention that the Lang Michener website talked about the numerous cabinet roles that Mr. Reynolds had in federal politics. I'm not sure that he did.

● (0920)

Hon. Stephen Owen: Shadow cabinet.

Hon. John Baird: Oh, shadow cabinet. Sorry.

On the five-year ban on lobbying, I think if there has been one criticism, one huge criticism is that it goes too far, not that it's not strict enough. I heard many comments. Your comments in the scrum, after we released the bill on the day we tabled it, on April 11, indicated we were going too far.

Through the conflict of interest code and the lobbying reforms, we've sought to regulate the executive branch of government, not the legislative branch. I'd be very open if you have any proposals on regulating the Office of the Leader of the Opposition, the staff of members of Parliament who are not working in the executive branch. If you think these don't go far enough, we would welcome any ideas or suggestions that you think could strengthen the bill.

Thus far, we haven't gone into the legislative branch on the conflict of interest side. We've only looked directly at the source of power in this government, and this act identifies the executive branch. We've sought to bring in fairly significant reforms so that people don't lobby the person who used to work in the office next to them, the people they used to work with on making important decisions in government, for five years.

If you have suggestions to go further and you would like to present amendments, I think we'd all welcome a good discussion on that. If you would like to discuss making them retroactive, we're open to discussing that too. We would want to make them retroactive for the former ministerial advisers in the previous government too, if we made them retroactive for the former opposition.

The Chair: Okay. The chair is going to try to follow the rules of this place, and you're making it difficult for me. We've now had eight and a half minutes on this. What each caucus does with their time is their business. We let it go this time, but I'm going to get mean from now on.

Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau (Repentigny, BQ): Thank you, Mr. Baird, good morning and welcome.

I have several questions for you. I would ask you, if possible, to give me brief answers, because we only have eight and a half minutes at our disposal.

I will begin my comments by paraphrasing the Auditor General, if I may. And I want to say clearly that this is a paraphrase and not a quote. When referring to the sponsorship scandal, she said something along these lines: every rule in the book was broken. The rules therefore existed, and they were broken. I congratulate you for creating new rules, but these rules will be respected if and when the political will exists to ensure it.

On the highway, the speed limit is 100 km an hour. We can go ahead and adopt a new rule to further control speeders, but if it is not respected or no penalties are imposed... We can have all the lovely rules that you are proposing and this big document with 317 sections covering 250 pages, but what is needed is political will. And only time and experience will tell whether it is present. That was not a question.

Here is my first question. Alfonso Gagliano told us that a minister is not responsible for his department. Reg Alcock told us that a minister is responsible for his department. In your opinion, is a minister responsible for his department and his actions or is he not?

Hon. John Baird: What you have said about the changes to internal auditing is important. The steps that have been implemented in order to protect whistleblowers are as well, as is the new independence these people have. In my opinion, the situation has changed over the last few years. I feel a minister is responsible for his actions as well as for those of his staff. Given that responsibility, I believe that the former Prime Minister and the former Minister of Public Works were in fact responsible. A great many files were affected.

Mr. Benoît Sauvageau: In the end, you are telling us that a minister is accountable and that other cabinet ministers from the Conservative Party are responsible for their departments.

Hon. John Baird: All my cabinet colleagues are responsible for what is done by their departments. In my opinion, under the Federal Accountability Act, when a minister or his or her office takes action on a file...

Mr. Benoît Sauvageau: I am certain that this will not be the case, but suppose there was a scandal within the Human Resources Department and that there was a change of minister. Does the accountability for the scandal follow the minister?

Hon. John Baird: The bill does not deal with that principle.

Mr. Benoît Sauvageau: For example, when Mr. Pettigrew was the Minister of Human Resources, it was discovered that departmental funds had disappeared. When there was a change of minister, we were not able to ask questions of the new minister because she was not there at the time those monies disappeared. Nor could we ask questions of Mr. Petttigrew because he was no longer with the department. Does the responsibility follow the minister?

Hon. John Baird: Ministers are accountable for their actions to the House and to committees. That is nothing new. In other countries, deputy ministers are still held accountable for these actions to their parliaments. Now, under our system, the sitting minister is held accountable.

Mr. Benoît Sauvageau: So there are no changes in that respect.

What do you think of Bill C-11 from the previous session, which, at the time, was passed unanimously by Mr. Poilievre and other members of the committee?

● (0925)

Hon. John Baird: In my opinion, Bill C-11 was barely better than nothing. The amendments brought forward by the government after the committee's study were much stronger than what had been proposed at the outset. I feel that the measures included in Bill C-2 will improve the system.

I hope that public servants will be better able to count on the fact that there is truly a system in place to protect their careers. The provisions in our bill dealing with the protection of whistleblowers have much more impact than those in Bill C-11. This is very important. If we adopt a culture of accountability—

Mr. Benoît Sauvageau: The culture does not lie in the differences between Bill C-2 and Bill C-11. This is about more than the sections. Furthermore, you said something that is both interesting and significant which gives me the opportunity to ask you another question. In your opinion, Bill C-11 would be better than nothing. The fact remains that this bill, even though it went through all of the legislative stages, was not enacted by your government.

You want us to study Bill C-2 quickly in order to create a better climate, that is to say a culture of confidence. Well, we could announce today at 9:30 a.m. the government's intention to immediately enact C-11 from the previous session of Parliament and to amend the latter when Bill C-2 is passed. It would be doable, realistic and relatively simple. While we are rigorously studying Bill C-2, this alternative would allow you to offer something that you consider better than nothing—you said earlier that for the moment, there is nothing—to all civil servants, bureaucrats and others.

Would you be prepared to respond favourably to the request formulated by the Professional Institute of the Public Service, one that I make my own, that is to immediately recognize that civil servants may disclose wrongdoing? Or would you prefer to let these people live in uncertainty for some time?

Hon. John Baird: We had consultations concerning this bill with Michèle Demers. The Professional Institute of the Public Service of Canada was not comfortable with the idea of changing Bill C-11. We had to decide whether or not we would draft new legislation or proceed with Bill C-11, with amendments. We accepted the institute's opinion.

As for the representatives of the Public Service Alliance of Canada, the other large public servants' union, their representatives said that Bill C-11 did not go far enough and that we needed very strict legislation.

The good news, is that we have a government—

[*English*]

Mr. Benoît Sauvageau: Why wait? Why wait?

The Chair: Thank you, ladies and gentlemen.

You're doing much better; you're only 30 seconds over this time.

Thank you, Minister.

Mr. Martin is next.

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

I will try not to use up all of my time with my comments, so we can give the minister some opportunities to react as well.

Let me say first, on behalf of the NDP, that I view what we're doing as a very noble undertaking. I'm happy on behalf of our party to be able to be involved with this. I can restate that I think this could be the single most important thing we do in the 39th Parliament. I say that as a preface to the comment that we can't ram this thing through; this is so important that I think perhaps the minister's stated timelines might not be realistic. By that same token, I won't tolerate anybody on this committee doing anything to sabotage the work for their own political motives. I say that as the first official comment I have to make on this committee, because while we don't want it rammed through, we will not see it unduly delayed for anybody's political objectives. I'm speaking, of course, to my colleagues on the opposition side, largely.

We're concerned that the sheer magnitude of this thing could cause it to collapse under its own weight; that's my only observation. Rather than getting into the specifics, I'd ask the minister if he has considered the idea of hiving off those things where there is broad agreement and consensus, allowing them to go ahead unabated or separately while we wrestle with the more contentious issues. Has there been any consideration of taking your easy ones first, like in a game of pool?

● (0930)

Hon. John Baird: I'll say to my friend from Winnipeg, the minister's stated timelines were inspired by comments I saw attributed to you in *The Hill Times*. That's when I first wanted to take up your challenge to deliver to Canada an accountable political system.

I think there are a lot of measures here that are interrelated and lean on each other. The end objective is to create a culture of accountability. If there are parts of the bill that you have specific concerns with or where you don't think there's as much agreement, I'd welcome answering any questions on those.

Mr. Pat Martin: As I said, I don't think this is the time to get into the nitty-gritty. I will say on a more general level that one of the things we're particularly keen on is the accountability provisions, where you're speaking about deputy ministers' responsibilities. I've often thought and felt that deputy ministers are always looking forward and that their primary concern is watching their minister's butt, frankly, to make sure the minister is not getting into any trouble, and that they are spending very little time looking backwards at the 5,000 people they supervise.

How do you contemplate reversing that to make sure the deputy ministers are in fact watching what's going on in their backyards, as well as watching over their ministers' political well-being?

Hon. John Baird: I think the proposals for a made-in-Canada approach that have deputy ministers and deputy heads accountable before Parliament for the statutory or regulatory powers they exercise is a significant initiative in addressing the challenge you just raised. I also think that strengthening internal audits will hopefully equip deputies with better information.

One of the challenges we have, and I think this certainly affects every parliamentary-style public service around the world, is that where some deputies have an extraordinary capacity in policy, others have an extraordinary capacity in management, and others have an extraordinary capacity in process, or in law or in communications, or have an operational background. It's a rare breed to get someone with all of the skill sets, as it is for a minister—and probably a lot more difficult for a minister.

Complementing the internal audit, we're looking at doing more training on things like delegated authorities and at strengthening internal capacity on the management side, which I think is important and will affect the long-term culture change.

Mr. Pat Martin: As you know, I was very frustrated. I don't believe the access to information provisions are adequate in this. I'm frustrated that they were pared down to seven officers of Parliament, seven crowns, three foundations.

Here's a quote from the current Prime Minister to the former Prime Minister in question period: “Why is the Prime Minister refusing to allow the Information Commissioner to examine all crown corporations, officers of Parliament, foundations and organizations that spend taxpayer money?”

The former Prime Minister, as we know, intervened when the justice minister was trying to push meaningful access to information reform. At the cabinet level they squashed it. Clearly the Liberals were not dedicated to ending the culture of secrecy as much as they would have you believe today.

The current Prime Minister, the leader of the opposition then, was challenging the existing Prime Minister regarding why he wouldn't allow it. It sounded like the current Prime Minister was committed to it, at least when he was the leader of the opposition. What's changed in the mindset of your—

Hon. John Baird: I think that as an initial step, when the current Prime Minister presents his first bill to Parliament, the bill will go farther than any government has in Canadian history to expand it to all agents of Parliament, the three big foundations, and the seven big crown corporations that weren't covered. That's welcome news.

Second, we put forward a draft discussion paper and the draft bill. When the Information Commissioner came forward to Parliament—I think it was in October of the last Parliament, and as you know I wasn't here—he said that he hadn't done a lot of consultation on his proposals and welcomed that from the committee. That's one thing.

Also, whenever you are expanding the act, there's a significant amount of due diligence that you have to do to recognize the different circumstances of those you bring in. One example is the CBC. Obviously it's unique, and we would all, I think, unanimously want to ensure that there's a 100% concrete guarantee to journalists that their journalistic sources would be protected, not for five years or twenty years, not at the whim of whoever the commissioner of the day is, but continuously.

When we put the election officer underneath, is it our intention to Americanize our system by having the ballots be subject to access to information? No. So there's a significant concern, as you bring in more organizations, that there's some due diligence and some work to do. We're working on a very tight timeframe. We didn't have the input that the Information Commissioner suggested. He also suggested that our proposals were radical and went farther than he even had asked for.

I'm a believer in access to information. We've talked about that. You know the commitment that I give to it.

● (0935)

The Chair: Thank you, Minister.

Hon. John Baird: Saved by the chair.

The Chair: Mr. Poilievre and Mr. Lukiwski are going to share their time.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Minister, I'd like to ask some additional questions regarding comments from Mr. Sauvageau. He is asking for the government to proclaim the former Bill C-11. I recall why the decision was made not to proclaim the bill, because its flaws run right down to the DNA level, and they need to be corrected with amendment before they are set into place. The idea of affirming or setting in place a whistle-blower law that is flawed and then hoping that it can eventually mutate into something better is highly impractical and sets the stage for administrative disaster.

The principal difference at the quintessential level between Bill C-11 and the whistle-blower protections we are bringing in is that Bill C-11 was not a whistle-blower protection law; it was a mechanism for disclosure. It relied effectively on the executive branch of government to protect the whistle-blower and to punish the repriser or the bully.

We know the core principle of whistle-blower protection has to emanate from the independence of the process from the executive branch. That does not exist in Bill C-11. It does, however, exist in the Accountability Act. The Accountability Act will allow whistle-blowers to ultimately gain protection from judges. A tribunal will be put together when needed. Also, the consequences for punishing a repriser will also be put in the hands of independent judges. So those who believe in the independence of the judiciary would logically support that process.

Ultimately, is it your view that we ought to get it right from the very start on whistle-blower protection? That's the first question. Secondly, if the members of the opposition want whistle-blower protection swiftly, is it not also your view that they should move swiftly to pass the Accountability Act?

Hon. John Baird: I think it's important. With respect to whistle-blowers, I think the real win will be if a process is not used. I think the real win will be if a public servant has the confidence to know that they can come forward with no fear of reprisal. That will be the real win.

We had a lot of discussion about Bill C-11. The institute did not want us to scrap it. That was the advice we got from Michèle Demers. So we didn't do that. There was a lot of discussion that we'd be better to just start from a clean slate and build a new regime. The PSAC had significant concerns about the integrity of the whistle-blowing measures.

Time didn't allow me to answer, but the good news is that we have a new government and we have a Parliament that I think is prepared to go farther than Bill C-11, and to strengthen it.

The measures we're proposing for whistle-blowers really are a home run for the public service. They send out a very serious message to any manager who would... they'll think twice before committing a reprisal. It's actually now a crime, and there will be significant adjudicative remediation for any circumstance where that goes on.

For the sake of clarity, the portions of this bill with respect to whistle-blowing are really not new issues for Parliament. In the 38th Parliament I think there was about a year or a year and a half of discussions on them. This, by and large, takes measures exactly from that committee process in strengthening it.

Even most of the union leaders would acknowledge that this is a pretty significant win. I can certainly commit to you, the member for Nepean—Carleton, that we will move expeditiously, when this bill passes, to get this new regime in place as quickly as possible to demonstrate that we're serious about protecting whistle-blowers and going after people who commit reprisals.

● (0940)

The Chair: A point of order, sir.

[*Translation*]

Mr. Benoît Sauvageau: Yesterday, we passed a motion that the Conservatives tabled, perhaps because of inexperience, according to which witnesses would have only 40 minutes to testify before us. Therefore, out of a concern for fairness towards the other witnesses, we will have to say goodbye to Mr. Baird and thank him for his presentation. I am certain that this was not the intention of the Conservatives when they tabled this motion. Now, they want to prolong Mr. Baird's time as well as that of the other witnesses.

[*English*]

The Chair: It is a good point of order.

Mr. Benoît Sauvageau: Thank you.

The Chair: The 40 minutes has expired. We have a number of choices. We can change the rule, as we discussed yesterday, by unanimous consent to extend times. That's one interpretation.

Another interpretation is that I see three people back there; that's two more witnesses. However, as I said to Ms. Guay yesterday, I'm here to proceed with the will of the committee. If the committee wishes to proceed further with Mr. Baird, we will proceed further with Mr. Baird. We will need unanimous consent to do that.

Mr. Poilievre.

Mr. Pierre Poilievre: That's right. One of the things we did set into that motion was that we would allow, by unanimous consent, an extension of the time period allotted to a witness. I think that's a very good safety valve. If the member is asking for that unanimous consent, we would grant it.

How long do we want to extend it?

The Chair: I don't know. It's up to you people.

Mr. Pierre Poilievre: Another round or two?

The Chair: We have a consensus to go into a....

We actually had a couple of minutes left for the Conservatives, so we could finish them off—I didn't mean it like that—and then we could go another round at five minutes each. Do I have a consensus for that? I don't see any opposition.

Mr. Lukiwski, you have two minutes.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): Thank you very much.

I just want to pick up on a point that Mr. Martin was making on access to information. Current Information Commissioner John Reid was highly critical of the bill, as you well know, and actually tabled a report in Parliament. With the short amount of time we have left, I wonder if you could expand on why you believe the provisions for access to information in this bill are sufficient, and perhaps respond directly to some of Mr. Reid's comments and criticisms.

Hon. John Baird: I've certainly taken the time to be with Mr. Reid to talk about his concerns. I think in many respects he thinks the existing blanket protections for certain sorts of information are sufficient and don't require new exemptions; the CBC is one example I raise. We certainly have agreed to work with him to hear any concerns he has, to look at what amendments might be brought forward to satisfy him.

I think in three areas there will not be agreement, at least with the government. One is a concrete, iron-clad guarantee for journalists that their sources are fully protected and not reviewable by him. Two, because we're going so far on the whistle-blower protections, I don't believe that if a charge is made against another public servant, if there's no basis in fact for it, in fact if it's false... that should not be made public; we should protect people's reputations and their careers. Third, we've accepted a recommendation from the accounting community, and I believe the Auditor General as well, in order to protect draft audit documents before the main audit report comes out. In some respects, deputy ministers would be able to request a draft copy of the Auditor General's report before she even goes to Parliament, as one example. Those are three areas where we have significant disagreements with him.

As for the rest of his concerns, I've said we're prepared to work with him and see if we can't satisfy his concerns. He obviously has a significant amount of expertise.

I do find it problematic, because one day he says we're going too far, we're radical, and the next he says the exact opposite.

● (0945)

The Chair: We now go to the second round at five minutes each. It will be opposition, government, opposition.

Mr. Tonks.

Mr. Alan Tonks (York South—Weston, Lib.): Thank you, Mr. Chairman.

Thank you to the minister. I'm sure the committee is unanimous in its appreciation for you being here today.

Chairman, would it be possible for the minister, through staff, to provide the committee with a management chart that would focus the role, under the legislation, of the deputy minister as accounting officer and the role of the deputy minister with respect to his or her relationship with the internal audit committee, and then the relationship of the internal audit committee to the Comptroller General and the Auditor General with respect to closing that accountability loop?

From the perspective of the government, what is the role of oversight through the respective committee that that deputy minister would be responsible to, through the minister?

I ask for that on behalf of the committee, Mr. Chairman, because I think Judge Gomery pointed out the systemic breakdown in the checks and balances, that we're really here to try to make sure there is transparency, accountability, and follow-through in decision-making. All of that was seriously flawed, as Mr. Cutler pointed out during the public accounts hearings.

I wonder if the minister might like to make a comment on that, and would it be possible to provide the committee with a management chart?

The second question is about this public accountability culture. I wonder if the minister could acquaint the committee with the $1,000 aspect of the proposed whistle-blower legislation. What was the government's thinking behind that, and does the minister think that that really will contribute substantively to a professional culture that we're all trying to inculcate in our own actions and in the actions of appointed public servants?

There are two questions, Mr. Chair. Thank you.

Hon. John Baird: If I could just address your first question, that's probably the most astute question I've had on the bill since it was put forward. I think you've gone right to the heart of one of the big issues within the public service with respect to Justice Gomery's report and with respect to this bill. We'll do our best to get something to you and to the committee in writing on that issue, because I think you have taken a scalpel and gone right to the heart of it. It's a good question, and we'll provide that information for you.

The Chair: That would go to the clerk, Mr. Minister.

Hon. John Baird: Certainly.

On the second issue, with respect to the culture of accountability, the reward for whistle-blowers, I'm going to concede to you, is a contentious issue among some. I think some would argue that it is very difficult for a whistle-blower to go back to work, just to face their colleagues if they've blown the whistle on something that might have involved a good number of people in the workplace. That's why some people have said it should be six or twelve months' worth of pay, so they can re-establish themselves in another environment. We didn't choose to go that far; we chose a rather modest reward, perhaps not dissimilar to Crime Stoppers, to reward people who have the courage to stand up and do what is right.

The Chair: You still have some time.

Mr. Alan Tonks: I'll pass to my colleague.

The Chair: Okay.

Mr. Murphy.

Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.): I'll just take the brief time on a little question about your comment that the bill is intended to significantly reduce the role of money in politics. Combined with your comment that this is really about the executive, not the legislative, and you're open to going wherever the committee might suggest, I wonder whether election cap spending, on the other side of the argument about how much money can be donated, might be considered. Do you consider that too widespread?

I also want your brief comment on the role of PACs, action committees outside of government to influence elections, if we really want to significantly reduce the role of money in politics, which I think was your wording.

● (0950)

Hon. John Baird: There are already statutes in place with respect to spending limits. They are modest. I can tell you, as a provincial member of the legislature, the spending limit is higher, and in the province of Ontario the rebate is only 20%, not 50%. Also, our campaign is only 28 days, as opposed to the smaller limit for a 57-day campaign that we had in the last election, which made it much more difficult because we had to run a campaign for twice as long.

I don't think that at this time we contemplate any changes with respect to spending limits. We've had spending limits for many years in parts of the country.

What was your last question?

Mr. Brian Murphy: It was on the role of action committees.

Hon. John Baird: The bill is also clear, and the statute is also clear, that the only people who would be able to contribute would be individuals, so organizations, political action committees, would not be allowed to donate money. That's not allowed today, and it doesn't change under this bill.

Mr. Brian Murphy: There will be follow-up when time permits.

The Chair: Mr. Rob Moore.

Mr. Rob Moore (Fundy Royal, CPC): Thank you, and I thank the minister for appearing.

Minister, one of the big changes under the proposed Accountability Act involves the public prosecution of offences the federal government has charge of prosecuting. We know there are 680 employees in the federal prosecution service, and more than that of legal agents who are in contract with the federal prosecution service.

Can you comment a bit, generally, on the Director of Public Prosecutions and how that is going to work and why there is the need for the new director?

Hon. John Baird: Thank you for the question.

The idea is not to create a new bureaucracy, but rather to take the Director of Public Prosecutions out of the Department of Justice and to allow this director to conduct prosecutions for offences under federal jurisdictions and try to strengthen its independence from the government of the day. The idea in terms of the appointment of an individual is we would have a process not dissimilar from the one that we had that appointed Justice Rothstein to the Supreme Court that would involve members of Parliament from all political parties on the consultation.

Some people said that the Supreme Court hearing wouldn't go well, and it was a credit to all members of the House and all parties. I thought, having watched the hearing on Justice Rothstein's appointment, that it was respectful. It was constructive progress in expanding accountability. It surprised a lot of people as well, so we're hoping this would be the same.

Mr. Rob Moore: Thank you.

I'm going to split my time with Mr. Poilievre.

Mr. Pierre Poilievre: The Liberals are trying to create this bogeyman about third party interest groups. I just want to clarify for the record that these groups are allowed to spend $3,000 in a given constituency, which works out to about five cents per voter, if that. These groups, as it stands in Canada, almost can't function under existing laws. To suggest that they are some sort of threat or menace to our political system is a strange twist of facts. I suspect we'll see an amendment from the Liberals that would ban their activities altogether.

I wonder what implications that would have on the charter rights of everyday Canadians who are not part of a political party to participate in the democratic process. If, for example, EGALE organized a rally during an election and spent $30,000 on that rally, could they be prosecuted under such prohibitions? Could they face some sort of problem with the law? What recourse might they have under the Charter of Rights and Freedoms?

● (0955)

Hon. John Baird: I'll speak specifically to the charter. There would be a significant charter issue if you banned third parties from being involved in political campaigns. I can speak from my own experience. In one campaign, I'm sure the better part of $60,000 was spent against me by third parties. It did have an effect: my vote went from 49% to 62% of the vote.

So no part of our legislation is affecting the changes brought in by previous Parliaments in this regard. But if you were to say to a group like EGALE or the CAW or the Canadian Taxpayers Federation that they couldn't be involved at all in political parties, in political campaigns, in terms of advocating issues they care about, I think there'd—

Mr. Pierre Poilievre: If you prohibited third party groups altogether, might the big rally that CAW held for Mr. Martin in the last federal election, supporting his candidacy, have been prohibited? Might they have been forced not to hold that rally or not to spend money on a rally related to a political event?

Hon. John Baird: I can't contemplate that, it would be so against the charter, in my judgment.

Mr. Pierre Poilievre: Why would the Liberal Party want to attack the charter in that way?

Hon. John Baird: I am sure Mr. Murphy or Mr. Tonks would never do that.

The Chair: I don't want to get any provocations going here, although you are entitled to a point. I think your time is up.

Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: I would just like to make a short comment on the subject of Bill C-11 from the previous session. Then, I will ask you other questions.

Mr. Poilievre tells us that Bill C-11 had quite a few shortcomings. I will remind him that his party voted unanimously in favour of a bill that had a number of flaws. This means we should have several concerns.

I would like to share with you just a small portion of the Professional Institute of the Public Service of Canada's position that I adopt as my own. The Institute's major concern is the delay in enacting Bill C-11. The Institute says that it may require some time before the federal accountability legislation is in place and that will result in a significant delay in putting in place the protection for which it has fought for more than 15 years. The institute suggests that the reason put forward by the government to justify its strategy is that it does not wish to implement Bill C-11 only to have to carry out a major revision once the bill has passed. In fact, with the exception of the tribunal, it says, there is very little difference...

[*English*]

The Chair: Excuse me. Perhaps you could slow down.

[*Translation*]

Mr. Benoît Sauvageau: Yes, I am sorry.

There is very little difference regarding the changes made by Bill C-2, because the Public Service Labour Relations Board already exists and the reasons invoked by the government do not justify the delay in implementing these protections.

It is therefore clear that Bill C-11 would be completely eliminated after the application of Bill C-2, but from a legislative perspective, it is doable, realistic and would not be overly problematic. We will see a little later on what the will of the various stakeholders is.

My second question deals with another area. I have not yet studied Bill C-2 thoroughly enough to be able to answer this question. Could certain decisions of the Canadian International Trade Tribunal be subject to Bill C-2?

Let us suppose, for example, that a department puts out a call for tenders, that a company or organization is chosen, but that another organization realizes that the call for tenders was biased, skewed—think of Earnscliffe, at the time, for example—and that the other competitors working in the field realize that there is a problem, that they take the case to the Canadian Trade Tribunal and that they win their case alleging that the call for tender was biased.

Could this decision be subject to Bill C-2, when it becomes law, that is to say the decision to investigate the bad administration in the case of the competitive bidding?

Hon. John Baird: You have asked two different questions. As far as the whistleblowers are concerned, we have followed the suggestion of the Professional Institute of the Public Service of Canada to not throw Bill C-11 away. We will improve it. The good news is that the government will strongly support the rights and protective measures for our public servants. I have heard none of the three opposition parties complain that the changes contained in Bill C-2 did not go far enough, or were not positive. The members of Parliament will probably support these measures. Whether they are implemented in May or at the end of the year, the important thing is that the policies and protective measures be good ones. If we were to have one system in May and another in October or in December, that would cause me problems.

We are sending conflicting signals to our public servants. We have heard their real concerns. If you talk to the representatives of the Alliance...

● (1000)

[*English*]

Mr. Benoît Sauvageau: Yes, I know, but it's better than nothing.

[*Translation*]

Hon. John Baird: Public Service Alliance of Canada representatives say that we need more safeguards within the bill. The good news is that the current government, along with a critic such as yourself in opposition, will support stronger measures and implement them. These protective measures may be the second most important thing. The most important thing is for public servants to trust the protective measures and for others to know that reprisals against public servants are no longer acceptable.

Mr. Benoît Sauvageau: That's a good message for the public service. Thank you.

What about my second question?

[*English*]

The Chair: Thirty seconds.

[*Translation*]

Hon. John Baird: As to your second question, I will answer in English because it is very technical.

[*English*]

The CITT would remain in place, I think establishing a procurement auditor at the Department of Public Works and Government Services, reviewing contracts below the CITT threshold. Right now they have nowhere to go. I think the measures proposed in Bill C-2 will be welcomed by small contractors, not just in the national capital region but right across the country.

[*Translation*]

Mr. Benoît Sauvageau: Thank you.

[*English*]

The Chair: Thank you.

Mr. Lukiwski.

Mr. Tom Lukiwski: Thank you, Mr. Chair.

Mr. Baird, more than anything else, I would ask you to give perhaps a sense of comfort to this committee about the bill that you've presented here. I say that inasmuch as this is a massive bill, at 270 pages and 317 clauses. My understanding is that you had about six weeks to put this together. It is a credit to you and your officials that you were able to do it, but it also begs the question that if you were able to present a bill as massive as this in that short period of time, some may question whether or not you encountered some bumps in the highway.

I would like you to give to this committee the sense of confidence that you and your officials have about all of these clauses that we are going to have to examine over the next few weeks. It seems to me there is a chance for error, although I wouldn't say omissions, in the work you have tried to present here. It's an awful lot of work you completed in a very short period of time to have 100% confidence in what we're going to be seeing here. I would just like some general comments on that.

Hon. John Baird: I can give credit to my ADM, Susan Cartwright, who led a huge team of talented public servants who worked hard to put this proposal together. I also give credit to Joe Wild, from the legal side, who worked with a dedicated team of folks from the justice department to help draft it.

I suppose like any legislation, we may say "six" where other people prefer "half a dozen", and we may say "tomato" where people would rather say "tomahto". We are open to doing things that can strengthen the bill or clarify it or provide a greater degree of comfort. I think I spoke to Mr. Owen about that. We're certainly open. We're open not just because we're a minority government; we're open because if we can make the bill better, or clarify it, that's a good thing.

There's no doubt it's a comprehensive bill, I acknowledge that, but in terms of its thickness, a lot of it is designating, for example, all the deputy heads, listing who they all are for the agencies within government. One of the things we've done is to separate the chair and CEO positions for crown corporations—the Dairy Commission, the National Capital Commission, and other things. So when you look at that, the bill is a little bit smaller than it might at first seem.

In addition, a lot of the proposals in this are ones that have been discussed. Mr. Owen spoke at great length at the beginning of his comments about the work that the previous government had done. A lot of it builds on that work. There have been substantive discussions around this place. We just talked about former Bill C-11. We had a huge number of hearings in the previous Parliament on that issue. We also have the benefit of the Auditor General's report.

I am satisfied that this is a pretty good bill, but like everything else, we're all human beings, and no one is perfect. I've often found that in the legislative process we may come forward with a proposal wanting to accomplish acts, and people may have concerns that this may not be the best way to accomplish it, or would have greater comfort if it were done a different way. That's why, if members of the committee have advice, or you hear other advice on these things, we're certainly open.

● (1005)

Mr. Tom Lukiwski: Just generally, Minister, how many of these clauses would you consider to be technical clauses or, say, amendments from other acts?

Hon. John Baird: An estimate would be about half, 50%.

Mr. Tom Lukiwski: Then I suppose that cuts down on the amount of work we're going to be looking at if it's just technical, or an amendment that's put in from an existing act. I'm just trying to get a sense of how much time we're going to be looking at each clause here.

Thank you very much.

Hon. John Baird: Again, a lot of these issues just build on reforms. We had Bill C-24 with respect to election financing. This goes a little further. We had Bill C-11 on whistle-blowing. This goes a little bit further. We had changes to audit reform. This goes a little further.

These are all bills that the previous Parliament would have discussed. I think only a few of us here are rookies.

The Chair: Thank you.

Welcome, Mr. Dewar. You have five minutes.

Mr. Paul Dewar (Ottawa Centre, NDP): Thank you very much.

I want to thank my colleague Pat Martin for providing some time for me to ask some questions. I also want to thank Mr. Baird for being here.

I'm going to turn right to whistle-blowing, because that's been a concern of mine. I want to get straight to the point about the $1,000. I won't engage in a long discussion other than to say that I don't think this was something that the people I talked to who blew the whistle and suffered the consequences wanted. In fact, each and every person I have spoken with and dealt with around whistle-blowing has said that they did it because it was the right thing to do. It was the ethical thing to do.

However, those people have had their lives destroyed, torn apart, and they are currently still suffering for it. I'm thinking of a couple of people from within Health Canada, at the veterinary branch, who still, to this day.... You know, we talk about taxpayers' money, but taxpayers' money is being spent putting people under the microscope for blowing the whistle.

Does the government have any provisions to deal with those people who have blown the whistle, to turn the attention toward supporting them, and to not continue what's been going on within government to go after them? I don't see any of those provisions in Bill C-2.

I want to talk a bit about compensation. I want to talk a bit about suspending, if you will, the process that people are now engaged in. I would prefer that we didn't say “that's in the courts”, or “that's in the tribunal”. If you want to do the right thing, the right thing to do right now is to call off the dogs, so to speak, on these people. I'll say that out front.

The other thing I want to suggest is that when we look at whistle-blowing, we have to look at how far the reach goes. When we look at the federal dollars that go into research within universities, I can tell you that I've talked to many people who are engaged in research. They're concerned that they aren't going to be protected. Notwithstanding the fact that federal dollars, taxpayers' dollars, go to universities for research, when they speak out or blow the whistle on issues that have to do with public health—we know the situation with drinking water, we know it with drug research—they're isolated and left out in the cold.

I'm wondering if you could respond to those two points.

Hon. John Baird: I know the case before the courts was handled by Justice lawyers, and just as you said too, it was pretty good timing.

I won't talk about a particular case, but I did notice you had a press conference the other day with some individuals who would be affected. There is nothing in Bill C-2 that is retroactive in that respect.

If you have any ideas or suggestions, I would be very happy to talk to you, as a member of Parliament, about how those things may be addressed. I can't talk about a particular case, but obviously if there is a fair process that could be expedited, I'm certainly all ears to listening and reflecting on any ideas and suggestions you have.

Mr. Paul Dewar: On the second point, when you're looking at institutions that receive federal money for research, will we see changes to the whistle-blower act that will protect them?

● (1010)

Hon. John Baird: If there are some amendments that are realistically implementable, I'm very open to considering them. The public can complain. I think the intention is that we'd be very open to that. If you go a ways to strengthen the bill in that respect, those objectives are very complementary to the direction we're going.

Mr. Paul Dewar: Thank you for that.

If I have a couple more minutes, I'd like to turn attention to the fact that there are some other concerns—and I've voiced them before with your colleague—about making sure there is still an avenue for people to appeal after that fact, notwithstanding that there is this tribunal proposed.

But I'm going to turn my attention now to lobbying. There has been a lot of discussion in this town about how to strengthen the Lobbyists Registration Act and to have further oversight. Indeed, it's in this tome right here.

My concern is something that had been proposed by my predecessor, Ed Broadbent, and that is that when someone has been lobbying government they should not be in the queue or be given government contracts. I think the reason is pretty obvious, that if you have this kind of revolving door....

In fact, I've spoken to a couple of people in this town who lobby government, and they said that it's pretty clear: you decide what you're going to do, you set up an office and a business, you stick to that, and you don't have the.... It should be a separate circle instead of a vend diagram between someone who is being paid to lobby government and who then turns around and receives government contracts.

So to have clear lines here in terms of who does what and who receives government contracts—I'm just wondering if you could speak to that.

Hon. John Baird: I guess it would depend on what type of government contract. Say you had an interest in a company in Vancouver that sold tires to the Department of Transport and then you were a lobbyist in Ottawa. If the two things didn't touch, I suppose that would be awfully difficult to justify. On the same point, if you talk about someone who is paid as a lobbyist and who is also giving communications advice on similar issues with the same people, that's obviously a fair issue for the public to scratch their heads and be concerned about. I guess it would be how you'd construct ways to grapple with that.

On the first issue, there is a right of appeal to the Court of Appeal under Bill C-2, and you can also seek a judicial review of a tribunal decision.

Mr. Paul Dewar: I appreciate that. But on your last point and response, just quickly, if you look at—

The Chair: Time.

The Chair has discovered that he has a new tool; it's a bell, and your time has expired.

Mr. Paul Dewar: Thank you, Mr. Chair.

The Chair: This brings me to the next issue.

We have now gone through the second round. Do I have unanimous consent to proceed with another round? Don't everybody speak at once. I'm following your rules. Do you wish to proceed to another round? I don't hear any opposition.

Some hon. members: Do we need another round?

The Chair: No more? We do not have unanimous consent.

I want to be clear—

[*Translation*]

Hon. John Baird: I am available to work with my colleagues. Should they have any questions, I am always available to meet with them.

[*English*]

The Chair: Please, Mr. Minister. You've got to leave me with these people. You've got to let me deal with them.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: I'd like to introduce a notice of motion while the President of Treasury Board is here with us. The motion reads as follows:

> That the Committee recommend that the government immediately enact Bill C-11, An Act to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings.

I have this motion in both official languages and I am moving it knowing that Bill C-2 would override and make null and void last session's Bill C-11. We will discuss the issue in 24 hours.

[*English*]

The Chair: Thank you, sir. We'll take it as notice.

It appears we've come to an end, Minister. I thank you and your colleagues for appearing before us and answering our questions. Thank you kindly.

On a point of order, Mr. Tonks.

Mr. Alan Tonks: We're learning as we go along, Mr. Chairman. This is just an explorative question.

Mr. Chairman, you indicated that the minister brought two witnesses. If we had wanted to continue questioning the other two witnesses, would it have been your decision to extend the time?

● (1015)

The Chair: We saw three people there, Mr. Tonks. Again, I'm going to do whatever this committee wishes me to do; it's as simple as that. I saw three people. That's all I'm saying.

Mr. Alan Tonks: I guess the inference I draw from that is that if we also wished, we could have asked questions of substance to the other members. But at this point we're not prepared to do that.

The Chair: It's up to the committee. The witnesses are still here in the room. If the committee wishes to ask.... One of them is gradually getting away—maybe not.

Ms. Jennings, does the committee wish to ask questions of Mr. Wild or Ms. Cartwright? The answer to that is yes. Is there any opposition to that?

We have two more witnesses. I'm going to introduce both of you. We have before us Susan M.W. Cartwright, Assistant Secretary, Accountability in Government, Treasury Board of Canada Secretariat. We have Joe Wild, Senior Counsel of Legal Services, Treasury Board portfolio, Department of Justice.

You are here before us. We may have taken you off guard on this. You may just make yourselves available for questions, or you may wish to make some introductory remarks. The floor is yours to tell us what you wish.

Mrs. Susan Cartwright (Assistant Secretary, Accountability in Government, Treasury Board of Canada Secretariat): We have no introductory remarks to make, but we would be happy to take questions.

The Chair: Thank you.

Mr. Owen.

Hon. Stephen Owen: Thank you for being here.

The Chair: We will proceed with seven-minute rounds.

Hon. Stephen Owen: Thank you.

Mr. Wild, I'd like to explore a bit the reasons behind and the workings of the proposed Director of Public Prosecutions. I'm not sure if this is your legal field, but perhaps through your involvement in drafting you can shed some light on this.

I'm aware of only one Director of Public Prosecutions Office in the country, and that's in the province of Nova Scotia. In all other jurisdictions, including the federal jurisdiction, under constitutional practice and tradition, the Attorney General of the jurisdiction is the chief law officer of the Crown. That person is also the Minister of Justice, and is sometimes called under the dual role or sometimes just under the title of Attorney General. But there is both a political policy-based role as a member of cabinet and this quasi-judicial office of Chief Law Officer of the Crown. It is in that role, as Chief Law Officer, that this person takes responsibility to ensure that government acts within the law and that prosecutions are conducted in the appropriate way. And I think constitutionally—but I'd like your opinion on this—it's not actually possible for the Attorney General to divest himself of that responsibility and give it to another person.

We have in the federal government an Assistant Deputy Attorney General for criminal prosecutions. And I think, as the President of the Treasury Board said, there are about 640 employees in that branch of the Justice Department.

I'm wondering, first of all, if you are aware of any issue or problem with those prosecutions, with the role of the Assistant Deputy Attorney General, that would lead to containing in an accountability act provisions to separate that out from the direct responsibility of the Minister of Justice and Attorney General.

Second, I'm interested to know that in the wording in Bill C-2 we have something very similar to the Crown Counsel Act in British Columbia, which says that the Attorney General may intervene—which he may by convention in any event, as Chief Law Officer—with criminal justice policy or the conduct of a particular prosecution. But if he or she does, it must be done in writing, and gazetted perhaps, with a delay to make sure that an ongoing trial isn't affected.

That language is in the Crown Counsel Act of British Columbia. It's the same wording as here. But it doesn't require a separate department of a Director of Public Prosecutions. It simply states clearly what the role and process are for an Attorney General intervening in a prosecution.

Can you shed any light on why we would set up a whole separate department rather than just making explicit the language that is in Bill C-2, for the Attorney General and the Assistant Deputy Attorney General?

● (1020)

Mr. Joe Wild (Senior Counsel, Legal Services, Treasury Board Portfolio, Department of Justice): I'll do the best I can. Certainly part of your question I can't necessarily answer from an official's perspective, in that it's a question that goes very much to the heart of a political decision that was made.

What I would point out is that the Director of Public Prosecutions is not initiating prosecutions in his or her own name. They're very much still acting under and on behalf of the Attorney General of Canada. So nothing is changing in terms of the actual title of the person that carries out the prosecutions on behalf of the Crown. It is still the Attorney General of Canada. It just so happens that the Director of Public Prosecutions is being separated out from the Department of Justice so that the Minister of Justice functions are not in play in terms of what the Director of Public Prosecutions is doing. It's very much a policy choice.

As you correctly identified, there are other models in this country, as well as internationally, in which the public prosecution function has been separated from the broader Department of Justice function. That simply reflects the policy choice here, which in essence is to physically as much as symbolically show that the Director of Public Prosecutions is operating independently in a separate, distinct office from the Minister of Justice, functioning within transparency safeguards.

Hon. Stephen Owen: Perhaps I could intervene, Mr. Wild. Excuse me for interrupting, but I'm afraid the clock is going to run out here and our chair is quite vigorous in holding us to the time.

Other than the policy reason, are you aware of any practical difference that this would make to the conduct of either the Attorney General or the prosecutor responsible for leading prosecutions?

Mr. Joe Wild: It's always difficult, in terms of the word "practical". From the perspective of the Department of Justice, this isn't changing the practice that's been in place of ensuring that decisions around prosecution are isolated from political influence. This is merely taking that a step further and putting it, if you will, out in the daylight, in that it's now a transparent separation of those functions, whereas before it was done within the walls of the Department of Justice and that separation was maintained as a result of practices that we had developed.

Hon. Stephen Owen: If it were under the Attorney General's act, or a legal instrument, or this act, would simply using the words instructing how an attorney general intervenes in a prosecution or a Justice policy have the same effect?

Mr. Joe Wild: Certainly, for a certain aspect it would. Obviously, as I mentioned before, there's a policy choice here as to whether or not you are going to have a separate function in the sense of physically separating the Department of Justice and the Director of Public Prosecutions. The choice was made to separate them; it simply reflects the policy decision to try to demonstrate independence as well as ensure that it's actually done.

● (1025)

The Chair: Thank you.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Hello, ladies and gentlemen.

Earlier on, I did not fully understand the answer you gave regarding whether the trade tribunal's decisions may be subject to Bill C-2. Excuse my ignorance, but could you repeat the answer you gave?

[*English*]

Mr. Joe Wild: I'm going to answer in English just because it's very technical.

The proposals with respect to the procurement auditor do not take anything away from the jurisdiction of the CITT as it currently exists. Certainly, in our view, we did not do anything to impact upon the CITT's current jurisdiction; we have not changed it and, in our view, we have not affected it. The procurement auditor has a function that operates primarily with respect to contracts that are under the thresholds that would allow a matter to go to the CITT. It's a different type of function from what the CITT performs, and that is an investigative function to make recommendations to departments as to how they can ameliorate their contracting cases.

[*Translation*]

Mr. Benoît Sauvageau: I'll give you an example, and you can tell me if Bill C-2 will change anything or not. Let's assume there is a call for tenders to install carpeting in public service offices and that the conditions are so explicit that only one tenderer may bid. The call for tenders may, for instance, state that the bidder must have offices in all 10 provinces, 22 years of experience, a master's in marketing, etc. So the bid would clearly be tailored to one company. Competitors complain and prevail before the Canadian International Trade Tribunal, which rules that the call for tenders was indeed biased. There was therefore misconduct, the desire to commit a wrongdoing.

Once Bill C-2 is passed, will the International Trade Tribunal's decision that there was misconduct be reviewed by anyone else? Can you answer my question with a yes or no? Could things be that simple?

[*English*]

Mr. Joe Wild: There is nothing specifically in Bill C-2 that would address that.

[*Translation*]

Mr. Benoît Sauvageau: Thank you.

Could you tell me approximately how many bills will be amended once Bill C-2 is passed? Would it be 15, 20?

[*English*]

Mr. Joe Wild: I've not done the exact count. It's over 60.

[*Translation*]

Mr. Benoît Sauvageau: So, if last session's Bill C-11 were currently in force, C-2 would amend 61 acts rather than 60.

[*English*]

Mr. Joe Wild: Bill C-11 will be amended by Bill C-2. It's in the count of the 60. Because Bill C-11 has received—

[*Translation*]

Mr. Benoît Sauvageau: I would like you to give me an answer which is of a legal nature rather than political in nature. I am fully aware of the fact that you cannot answer political questions.

Bill C-2 will amend 60 existing acts. If Bill C-11 were to be enacted, would it be complicated or feasible legally speaking to enforce Bill C-2 later on?

[*English*]

Mr. Joe Wild: The way Bill C-2 works vis-à-vis Bill C-11 is that Bill C-11 has received royal assent but has not been proclaimed in force. Bill C-2 amends Bill C-11. Assuming Bill C-2 is brought into force first, then Bill C-11 will come into force with those Bill C-2 amendments having been made to it.

● (1030)

[*Translation*]

Mr. Benoît Sauvageau: So we have to amend Bill C-11 either way, whether or not it is enacted. Thank you very much, you make me very happy.

[*English*]

The Chair: It might be useful, Mr. Wild, if at some time you could give us a more precise estimate of the number. You said at least 60.

Mr. Joe Wild: If you want me to count them, I will.

The Chair: Yes, do that and send it to the clerk.

Monsieur Petit.

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): I'd like to ask Mr. Wild a question.

You have certainly read Bill C-2, which the committee is currently considering, as well as Bill C-11. It is correct to say that C-11 is not in effect. Something in Bill C-11 drew my attention. Whistleblowers get transferred within the public service in order to protect them from acts of retaliation. However, they would not be protected from acts of retaliation on the part of their unions.

If someone discloses the wrongdoings of a colleague who holds an important position within the union, the latter may use the union, even if the whistleblower has been transferred, to settle a score. Let's say the whistleblower wants to file a grievance through his or her union, that process may be delayed or may not work at all. Why isn't there a safeguard on that front? There is a weakness there.

[*English*]

Mr. Joe Wild: What we've done in Bill C-2 is make it an offence for any person to commit a reprisal against a whistle-blower. So it is a criminal offence for a member of a union to issue a reprisal against someone who has blown the whistle. That's the extent of the reach we could have in terms of reaching into entities that are not government institutions and controlling their behaviour, if you will.

The Chair: You have a little bit of time.

Mr. Pierre Poilievre: Under Bill C-11, it was left largely to politicians and senior bureaucrats to enforce the act. That's the simple legal reality we were left with from the previous Parliament.

The Accountability Act gives that power to the independent judiciary. It gives the power to protect whistle-blowers and discipline infractions to judges instead of senior politicians and bureaucrats. That's something that should have been in the original bill but wasn't.

Additionally, the Accountability Act removes the cover-up clauses that allow the cabinet to remove certain organizations and all their employees from protection. It removes the prohibition on access to information requests related to disclosures of wrongdoing, so that if corruption is exposed by a whistle-blower, it cannot then be covered up and concealed from the Information Commissioner. It extends whistle-blower protection to every Canadian. Any Canadian who makes a disclosure, public servant or not, is protected under Canadian law against reprisal.

So the Accountability Act provisions on whistle-blower protection are significantly stronger and broader than anything contemplated under Bill C-11.

Does Mr. Wild or Ms. Cartwright believe, due to the independence of the judiciary, we can rely on an independent tribunal of judges to protect whistle-blowers?

● (1035)

Mr. Joe Wild: Yes, absolutely. No question.

Mr. Pierre Poilievre: So people who believe in the independence of the judiciary must also logically believe that an independent tribunal of judges, comprised, when need be, to protect whistle-blowers and to discipline those who have bullied whistle-blowers, is necessary if you really believe in independence. I'm not going to ask you to comment on that, because I'm just making a point.

So I hope the opposition members will find it in their hearts to extend that kind of independent protection by judges, as opposed to protection by politicians and senior bureaucrats, who in some cases may themselves have been involved in the initial wrongdoing, to provide those protections.

That's exactly what the Accountability Act does. It is a fundamental change, is it not, from Bill C-11? Regardless of whether one supports the policy decision or not to give independent protection through judges, would you not agree that it is a fairly quintessential change from the system that was in place under Bill C-11?

Mr. Joe Wild: The introduction of the independent tribunal composed of judges to hear complaints with respect to reprisals is certainly a fundamental change from what was contemplated in Bill C-11.

Mr. Pierre Poilievre: It's a genetic change. It starts right at the DNA level, and to set in motion an entirely different creature. Then, before that creature has fully had the opportunity to be born, to alter it would certainly be an administrative catastrophe, the kind of which you, Mr. Wild, wouldn't even want to contemplate. Is that a fair question?

Mr. Joe Wild: I'm not a geneticist, so I'll just stick with saying it's a fundamental change from Bill C-11.

Mr. Pierre Poilievre: Thank you. That's all.

The Chair: Mr. Martin, you have seven minutes, if you wish, because we missed you earlier, and then we'll go to Ms. Guay.

Mr. Pat Martin: Yes, thank you, if you wouldn't mind.

The Chair: Proceed.

Mr. Pat Martin: I'm interested in the legislative versus regulatory matter. A lot of the changes that the government is featuring in terms of change in the culture and in the way we do business are divided into those two categories.

Is it accurate to say some of the things that are being heralded in with the Prime Minister's new accountability regime won't ever come to this committee? They'll be done by regulation.

Do you have them in two books or two lists, or is there any way you can help us with that?

Mr. Joe Wild: There is the action plan document, which sets out the entire agenda, including the Accountability Act.

Within the Accountability Act itself, you will see there are various areas where regulatory authorities are being created in order to actually implement the policy objective of the government. So it is true that there are elements that will be implemented through regulations.

The only point I would make about the regulations, of course, is that they are subject to the scrutiny of the committee that looks at regulations. It's a transparent process involving consultations with stakeholders, and so on.

Mr. Pat Martin: Fair enough.

One of the questions I asked the minister was if, after a few months of working on this bill, it looks as if we're bogging down on certain elements of it, even though there's broad agreement on certain elements of it, is there a way, logistically, to hive off elements and allow them to pass while we bicker over...?

If there are 317 clauses, what if we're in agreement on 315 and bogged down on two?

Mr. Joe Wild: It's a difficult question you're putting to me, given how hypothetical it is.

From a technical perspective, this is a very complex piece of legislation in terms of interconnections between the various parts of it. And while there are five parts, they do interact with each other, so it's difficult to identify particular areas where one could say that if we just, for some reason, split the bill or something like that, we could still go ahead with these other parts. It is difficult to do that, by and large.

That's about all I can say about that.

● (1040)

Mr. Pat Martin: Nothing's impossible, mind you.

Mr. Joe Wild: I'm not going to use the word “impossible”, because one never knows what is actually impossible until you're faced with the situation.

The only other point I would make on this is that the committee will have to go through the bill and decide how fast it's going to be proceeded with. We'll do our best to provide the information support that we can to ensure that we don't bog down on any specific item.

Mrs. Susan Cartwright: The only thing I would like to add to that is that I think the government has been clear in putting together the Accountability Act as it is presented to you, and in the various elements in it that touch on a number of parts of the government—the legislature, the executive—it has identified areas in which change is, in its view, required in order to restore the confidence of Canadians in their public institutions.

I think the government has seen this bill as a cohesive whole to address a range of issues that it believes Canadians would like to see addressed. So to reinforce Mr. Wild's comment that the bill is presented as a cohesive whole, from a technical point of view there are interrelationships, but from a policy point of view there are linkages as well.

Mr. Pat Martin: Thank you.

There is one thing I'm most curious about. I've actually learned, in the previous government, what stopped the access to information movement. I know now exactly when it was nipped in the bud.

I'm curious if you can tell me—under oath, too—at what point the government dropped a bunch of the access to information reform elements of this act. Who put the brakes on, going from the complete access to information reform regime down to the stripped-down version that we have and hiving the rest off to the committee?

Who did that, when, and at what stage?

The Chair: Just give me a minute.

Order.

If the witness is able to answer that, he can proceed with the answer. If not, then say you are unable to answer the question.

Mr. Joe Wild: I think there are two things I can say; part of it I cannot answer.

The part I can say is that the government has an access to information reform proposal that is in this Accountability Act. The other part of it is before another parliamentary committee for consideration. Nothing has necessarily been dropped in the sense that you still have fulsome access reform.

Mr. Pat Martin: When did you decide that it wouldn't go under Bill C-2 but would be put off to some other committee? And who told you to do that?

Mr. Joe Wild: I can't answer that.

The Chair: You know, Mr. Martin, the reason I'm pausing here is that, to use your words, these are technical people who are here before us. I wonder whether you know you're getting into an area of political questioning that might have been more appropriate towards the minister or a political person. These are technical people, and I don't know whether those are appropriate questions. You're getting into an area that makes me uncomfortable, quite frankly.

Mr. Pat Martin: What I'm not comfortable with is that his answer tells me there's more there than meets the eye. He said, “I can't tell you”. I would argue that he's under parliamentary privilege when he's a witness at this committee. He can tell us anything and be free of reprisal too. He enjoys the same privilege we do.

● (1045)

The Chair: You can talk about that, but there has been a tradition in this place that I know of, that people in Mr. Wild's position and Ms. Cartwright's position don't get into those areas. So they're pleading the fifth amendment.

I'm asking you to rephrase your question. The questions that have been put forward, I think, should have been more appropriately put forward to the minister.

Mr. Pat Martin: Could I ask, then, what was the rationale put to you for only having the seven additional crown corporations included and not all 246 crown agencies, institutions, and corporations?

The Chair: The seven crown corporations are the last of the eight crown corporations fully owned by the government that are not under the Access to Information Act. There is one crown corporation that is not being brought under the Access to Information Act, and that's the Canada Pension Plan Investment Board. The reason for that is that it is a body that requires provincial consent in order to be brought under the Access to Information Act due to a technical provision in the Canada Pension Plan Act, because it is governed with the provinces that participate in the Canada Pension Plan. Effectively, with Bill C-2, of the 46 crown corporations wholly owned by the government, you would have 45 of them under the Access to Information Act.

I'm afraid you're out of time.

Madam Guay.

[*Translation*]

Ms. Monique Guay (Rivière-du-Nord, BQ): Thank you, Mr. Chairman.

My question will be brief but very important, because it addresses some problems in Bill C-2.

I would like to start off by getting back to last session's Bill C-11. If the committee decided to have a safety net in place until we finish considering Bill C-2... In my opinion, in light of the time it takes to get other bills through the House, there is no way the consideration of C-2 will be finished before the month of June; that would be practically impossible. It is a very dense, very long bill which affects a number of departments. Several amendments will be brought forth by the various political parties. If we want to have a bill that makes sense and works, we're going to have to take the time to do it right. By having a safety net in the form of Bill C-11, we may be able to see the flaws in Bill C-2 and correct them even before we are done considering the bill.

My question is the following: we know that there currently is a Commissioner of Official Languages, and a commissioner of responsible for the protection of human rights. When someone wants to file a complaint, he or she may do so directly with these commissioners. In Bill C-2, a similar position would be created, except for the fact that complaints would be made through one's member of Parliament. The complaint would come to us and it would then be up to us, members of Parliament, to follow up with the commissioner.

Do you not see how that simply won't work? It will mean an incredible workload. I think this should be done directly with the commissioner, and not through the members.

[*English*]

Mr. Joe Wild: Again, from a technical perspective, what Bill C-2 does in setting up the Conflict of Interest and Ethics Commissioner is provide an avenue for members of the public to make a complaint with respect to the Conflict of Interest Act and whether or not a public office-holder has violated the provisions of that act. The member of Parliament is integral to that process in that the member of the public would have to make the complaint to the member of Parliament, who then has to determine whether that complaint has been made in good faith and is reasonable. Then the MP would make that complaint to the Conflict of Interest and Ethics Commissioner. That is the mechanism that has been chosen.

● (1050)

[*Translation*]

Ms. Monique Guay: Members have a duty as members of Parliament, but they also have a political role. Each one of us has a political party, an ideology, ways of doing things. There could be some partisanship there, up to a certain point.

Under this bill, the member would have to assess the complaint and decide whether or not it should be sent to the commissioner, which according to me may infringe upon certain people's rights because, based on our political party or our allegiance, we will have to judge a complaint which may be of a political nature. It is a judgment call we may not be making correctly.

So, why not simply allow for complaints to be made directly to the officials, people who are supposed to be apolitical and in a position to truly assess a complaint and determine whether or not it is reasonable?

[*English*]

Mr. Joe Wild: The complaint mechanism doesn't require the public to go to a specific member of Parliament. They are free to choose whichever MP they wish. I'm sure they would be able to find one willing to bring a complaint against the other political party.

[*Translation*]

Ms. Monique Guay: That makes no sense.

[*English*]

The Chair: Monsieur Petit.

[*Translation*]

Mr. Daniel Petit: Mr. Wild, I have a technical question to ask.

I would imagine you must have consulted other legislation in order to draft the Accountability Act. In the Province of Quebec, there is legislation that has been amended on two or three occasions since February, 1995. It is the Act respecting the Accountability of Deputy Ministers and Chief Executive Officers of Public Bodies and it was amended in 2000. That act seems to provide powers which are just as extensive, but there are fewer sections in it than in the act you are introducing today.

Could you tell us if you discussed the legal implications of their legislation with the province of Quebec? And I mean legally speaking, not from a political perspective.

[*English*]

Mr. Joe Wild: No. In drafting the accounting officer provisions, we did not have discussions with counsel for the Government of Quebec. Certainly in drafting the provisions, however, we looked at what is in the Quebec legislation, as well as in that of other countries.

[*Translation*]

Mr. Daniel Petit: You did not speak directly with the Attorney General of the Province of Quebec, for instance? The legislation has been in existence since 1993 and we are in 2006. It was amended twice for technical reasons and to broaden the accountability of deputy ministers and heads of public agencies.

Did you enquire as to how things were done and how people reacted, before deciding to introduce Bill C-2?

[*English*]

Mr. Joe Wild: We did not have specific discussions with the *procureur général du Québec*. We certainly looked at the wording of their legislation. The primary sources we drew from were the United Kingdom, as well as Australia and New Zealand.

[*Translation*]

Mr. Daniel Petit: Thank you very much.

[*English*]

The Chair: Yes, you have some time.

Mr. Tom Lukiwski: Thank you, Mr. Chair.

I want to go back and explore a little further the questions I asked the minister about Information Commissioner Reid, who tabled a report in Parliament critical of this bill on a number of fronts.

The minister gave me three examples of where this legislation differed from the views of the Information Commissioner, and I want to know if there are more, and if so, why the differences? As an example, he explained that if the Information Commissioner wanted the CBC to reveal a source, this legislation would prevent it by upholding the current provisions regarding the media, which protect disclosing sources.

The second example was that if a complaint was laid by one bureaucrat against another under the whistle-blowing provisions of this act, and if the investigation found there was no basis for the complaint to have been raised, that information would not be given to the Information Commissioner.

What other specific examples did the Information Commissioner provide in his report that were critical of this legislation? Why were there any differences, and what was the rationale in your legislation?

● (1055)

The Chair: Mr. Lukiwski, I'm going to give you the same warning as I gave Mr. Martin. I get very nervous with these types of questions. It may be an appropriate question, but I don't know whether it's an appropriate question for this witness. We'll see how he does.

You're getting into a—

Mr. Tom Lukiwski: Quite frankly, Mr. Chair, I'm just trying to get the technical—

The Chair: I know.

I'm going to make the same comment as I made to Mr. Martin.

But, Mr. Wild, it's up to you.

Mr. Joe Wild: From a technical perspective, the distinctions between the Information Commissioner's position and what's in the Federal Accountability Act is that the Federal Accountability Act builds in specific forms of exemptions or exclusions to protect information related either to the core operations of commercial crown corporations or the sensitive information gathered during an investigation, examination, or audit being carried out by agents of Parliament.

The Information Commissioner took a different approach in terms of those exemptions and exclusions. Some he would eliminate altogether, in particular around crown corporations; others he would limit to a narrow cast of information, such as for agents of Parliament. The Information Commissioner proposed that it would only be the information they obtained from a government institution, whereas Bill C-2 proposes it would be information obtained and created by the agents of Parliament in the course of their investigation, examination, or audit.

In addition, Bill C-2 proposes a specific exemption for internal audit working papers and draft reports, which the Information Commissioner does not support. If you look specifically at the internal audit exemption, again the idea behind it is to ensure that there is sufficient protection in place to give an appropriate level of comfort to public officials, so they are free to voice opinions and have discussions with internal auditors without the draft of those discussions being publicly available before the final report. That's the last point I will make: the final report is always going to be publicly available.

Mr. Tom Lukiwski: Thank you.

The Chair: Mr. Murphy.

Mr. Brian Murphy: Thank you, Mr. Chairman.

I'm going to ask more questions about the Director of Public Prosecutions. Before I do, I think it might be a great idea, from a research point of view, for us to have available either some of the acts or articles, or a workup of some of the items mentioned today, such as the Crown Counsel Act of British Columbia, the example of how it works—or not—in Nova Scotia, and anything else that's been reviewed by the department or independently in Australia or the U. K., and I'm sure that'll be forthcoming.

We started out with the idea of the Director of Public Prosecutions having a separate name and a separate office, which sounds to me like the public expects that he or she will have independent powers and be a beacon of independence, power, ethics, and credibility. I think that's our intent, and I think that's great.

However, in the details and in your testimony, Mr. Wild, it becomes clear that the DPP has the power to make binding and final decisions as to whether to prosecute—unless the Attorney General directs otherwise. In your comments, you said that perhaps the DPP will be physically separate from the Department of Justice, but it seems that he or she would be under the Attorney General's umbrella.

The public might say this would be like the Auditor General, who is independent, having a separate office but becoming part of the Ministry of Finance, which of course is not what we expect.

My question is, to make sure that this DPP role is necessary—and we'll get into that in the weeks to come, I'm sure—but also has that public credibility.... You're probably going to say this is political, but do you not think the DPP should have separate powers? It should not be under the aegis of the AG for the laying of charges and should not be seen as.... I'll use a genetic allusion, because it's been brought up here twice: the DNA is the same for the Attorney General and DPP. In fact, they're part of the same being; one is an arm of the other.

That's not the impression the public got when a man I respect very much, Peter MacKay, made some announcements during the election that the DPP would have independent powers. I think we were all dreaming of Rumpole and that there was going to be a great independence. The point is that in this document so far, there doesn't seem to be that independence—or I've got your comments wrong, Mr. Wild, or I'm reading the précis of the act wrongly. How much independence does the DPP, as it is, have?

● (1100)

Mr. Joe Wild: The Director of Public Prosecutions has independence in the sense that the Attorney General cannot give a direction, whether it is a broad policy direction or a specific direction on any given case, without that direction being in writing and gazetted. That's the form of independence that has been given. The DPP makes decisions, and if the Attorney General wishes, I guess, to adjust that decision in some manner, the Attorney General has to do so in writing and publicly so that it is transparent.

Mr. Brian Murphy: I'm looking at my time, Mr. Chairman, and have about a minute left.

If I can follow up on your comments, you also said there is no political interference.... You said it didn't change the practice of avoiding political interference in the laying of charges; that's what exists now. I'm wondering if by putting up the DPP we are leading people, the public out there, to have the impression that there is now. What is the difference? Is it the initiating part that's different?

Mr. Joe Wild: The difference is that what was once a practice occurring within the Department of Justice is now codified in statute; there is now codified in statute a requirement that if the Attorney General seeks to give any form of direction, the Attorney General by law is required to do so in writing, and by law the Attorney General is required to gazette it.

Mr. Brian Murphy: Thank you.

The Chair: Okay.

We are now at 44 minutes.

Mr. Pierre Poilievre: Could we get unanimous consent just to finish our round?

The Chair: They have given you consent, Mr. Poilievre. You're on the air.

Mr. Pierre Poilievre: All right.

To further clarify Mr. Murphy's questioning, the additional independence that exists here is that the public can see the independence.

Right now, Mr. Wild, you have affirmed the overall independence of the prosecutorial function of the Attorney General's office, but we operate on a take-our-word-for-it basis. There is no way for Joe Citizen living in Halifax or Red Deer or Nepean to really know 100% what involvement the Attorney General has had in adjusting the behaviour or decisions of the prosecution within that department, whereas if we bring in the changes that sever the two offices and create the Director of Public Prosecutions, any direction that the Attorney General would want to give to the Director of Public Prosecutions would have to be done in writing and be made public, so that any involvement or political interference whatsoever would have to be known by Joe and Jane Public.

Is that not an accurate description of the distinction between the status quo and the DPP?

● (1105)

Mr. Joe Wild: Yes, I would agree with that. This is transparent in the sense that the mechanism is set out in law, available for anyone to see, and the directions would have to be gazetted.

Mr. Pierre Poilievre: So right now, as a member of Parliament, I personally don't know to what extent an Attorney General is directing the decisions of the federal prosecutor and I have no way of knowing that. Conceivably, I guess I could file an ATI request to see if there is any written correspondence, but I really don't have any way of knowing, as a member of the public. But if we create a Director of Public Prosecutions, who takes the same staff and the same expertise, and we just separate it, we are ensuring that any political tampering whatsoever or any attempt by the executive branch of government to influence the decisions of the federal prosecutor will have to be made known to the public and be done in writing in a transparent fashion.

In this sense, independence comes from transparency. As Pat Martin has often said, transparency is the sunlight that acts as the detergent. We agree with him on that. That is the reason that we on this side believe there ought to be that transparency in every step of federal prosecution.

Those are some comments and technical clarifications that I wanted to make.

Is there anyone else on the Conservative side who would like to conclude our time? I see none, so that would be all from our side.

The Chair: Thank you.

Mr. Martin, you may complete the round, if you wish.

Mr. Pat Martin: Thank you, Chair.

I would like to come at a previous question from a different angle. I firmly believe that the single most important thing we can be doing here to improve transparency and accountability is the access to information reform component of this bill. It's no secret I was disappointed when I found that it was far less than we expected.

When you first began the task of putting Bill C-2 together, was there more in the access to information reform section?

The Chair: Oh, Mr. Martin, I don't know.

Mr. Pat Martin: I don't understand why that wouldn't be a fair question.

The Chair: Well, it may be a fair question, but I've already commented that I get concerned about the asking of policy and technical questions. It may be a stretch to say that's a technical question. Mr. Wild has been doing very well—everybody's been at this, it seems—so we'll leave it up to him. But I take the position that that's a policy question.

Mr. Pat Martin: Well, that's your ruling.

The Chair: It is my ruling, but if Mr. Wild doesn't wish to answer it, he doesn't have to.

Mr. Joe Wild: The response I can give is that the Federal Accountability Act has measures in it pertaining to access to information reform. Other measures in the platform have been reflected in the action plan of the government. Those measures have been referred to the access to information, ethics, and privacy committee.

Mr. Pat Martin: Thank you. Those of us in the trade call that "death by committee".

My other line of questioning then is on the new powers for the Auditor General—the strengthening of the powers of the Auditor General. I'm particularly concerned that you're contemplating including any First Nation that doesn't have a self-governance agreement in place. There's only a handful of those, as you know. Technically, how does the government—

● (1110)

The Chair: He appreciates your help, Mr. Martin.

Some hon. members: Oh, oh!

Mr. Pat Martin: Technically, how does the government have the right to exercise any auditing function once the transfer of money has been made from the Government of Canada to a First Nation? By what authority do you add that clause?

Mr. Joe Wild: The follow-the-money authority of the Auditor General works by way of contractual obligations that would be deemed to be terms of contracts between the government and those who are defined as recipients.

Mr. Pat Martin: Wouldn't you agree that First Nations are unique?

Mr. Joe Wild: Included in that definition of recipients would be those aboriginal bodies that are not listed in the schedule of the Federal Accountability Act, which are those aboriginal bodies that have self-government agreements that have been ratified by an act of Parliament.

Mr. Pat Martin: Sir, the authority you're citing is the authority you will be creating with Bill C-2. There is no such authority currently.

Mr. Joe Wild: I'm talking about a contractual relationship.

Mr. Pat Martin: It's not a contract.

Mr. Joe Wild: If the funding agreement between the government and the recipient contains clauses that give the government the contractual right to require the recipient to provide information and audit what has gone on within the project that has been funded... it is that vehicle I'm referring to. That exists today, by and large, in most funding agreements. If under those funding agreements the government asks the Auditor General to go in and perform the audit that was contemplated under those agreements and the Auditor General agrees to do that, she can do so, again by way of contractual right.

Mr. Pat Martin: So the Auditor General could then review the audits that First Nations submit already by agreement. Every first nation does have to submit audited statements by the end of every year. I should point out that 96% of them do in fact submit them on time and without incident. So would the Auditor General then just scan those audits as they are submitted to the government?

Mr. Joe Wild: The follow-the-money authority is contemplated as being one where the Auditor General would be able to inquire into the use to which the recipient had put those funds within that funding agreement.

Mr. Pat Martin: Okay. Well, I—

Mr. Joe Wild: It allows her to go to the recipient to see what's happening on the other side of the equation, as she is auditing the grant or contribution program the department is delivering.

The Chair: Thank you, Mr. Wild.

Mr. Pat Martin: That's the information I needed. I can serve notice that we will be opposing that tooth and nail. But we won't take that up with you; we'll take it up with your superiors.

The Chair: The time has come to an end, Mr. Wild and Ms. Cartwright. On behalf of the committee, I thank you very much for coming and answering some very difficult questions.

Ladies and gentlemen, there will be a subcommittee meeting of representatives from all caucuses and myself—the appropriate notices will be sent out—on Monday at 3:30. That will be in the West Block, room 307.

Unless there are any other questions or comments by anyone, this meeting is adjourned until Tuesday, May 9, at 9 o'clock. Thank you very much.

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