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Chair

Mr. David Tilson

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● (0910)

[*English*]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): Good morning, ladies and gentlemen.

This is the legislative committee on Bill C-2, which is the Accountability Act. It's meeting 6.

The orders of the day are pursuant to the order of reference of Thursday, April 27, 2006—Bill C-2, an act providing for conflict of interest rules, restrictions on election financing, and measures respecting administrative transparency, oversight, and accountability.

Our guests today, from the Office of the Commissioner of Official Languages, are Dyane Adam, who is the commissioner; Johane Tremblay, who is the director of the legal affairs branch; and Carol White, who is the interim director of corporate services branch.

Ms. Adam, welcome. If you wish, you could make a few opening comments, and then I'm sure members of the committee will have some questions for you.

Ms. Dyane Adam (Commissioner, Office of the Commissioner of Official Languages): I will certainly make some comments

Mr. Chair, good morning.

[*Translation*]

Good morning, everybody.

[*English*]

I'm very pleased to appear before your committee to comment on and answer any questions you might have about Bill C-2 and the proposed Federal Accountability Act. I intend to keep my opening remarks *au point* so that there is adequate time to answer questions from committee members.

[*Translation*]

I will comment briefly on four aspects. I will first speak about my role as an officer of Parliament and the importance of strengthening the independence of the roles of all officers of Parliament. I will also talk about the manner in which officers of Parliament are confirmed in their positions, and changes relating to the Access to Information Act and the Privacy Act; lastly, I will speak about administrative changes in the areas of internal audit and procurement.

[*English*]

First, I fully support the notion of strengthening the culture of accountability that underlies Bill C-2. I also strongly support the notion, as set out by the Prime Minister in the federal accountability plan, of strengthening the capacity and independence of officers of Parliament to hold federal departments and agencies accountable. This will ensure that Parliament has access to information and advice from the various officers of Parliament so that Parliament can hold government accountable.

In this regard, I am very much encouraged by the government's announced intention to establish an all-party parliamentary advisory panel on resource requirements for officers of Parliament and to continue a two-year pilot project to give Parliament a greater role in order to respect the independence of officers of Parliament from the government.

As Commissioner of Official Languages and one of the independent officers of Parliament, I act as an instrument of Parliament in ensuring that organizations subject to the Official Languages Act are held accountable to Parliament for fulfilling their obligations under that act. I do this by providing parliamentarians with appropriate information on the implementation of the act by those particular institutions.

[*Translation*]

On the appointment process for officers of Parliament set out in part 2 of Bill C-2, I strongly believe that officers of Parliament must have, and see that they have, the unequivocal support of parliamentarians. Apart from the secret ballot, the process set out in Bill C-2 is what I experienced when I was confirmed in my position over seven years ago.

On the matter of access to information, I also fully support the government initiative to review the current scope of the Access to Information Act. While making five officers of Parliament subject to the act, Bill C-2 acknowledges the unique role played by these officers, and the need to protect information obtained or created by them, in the course of their investigations, examinations or audits.

The Commissioner of Official Languages is an agent of change and ombudsman. My role is to ensure that federal institutions comply with the intent and spirit of the Official Languages Act in administering their affairs. I receive and investigate complaints against federal institutions about their duties relating to official languages and recommend appropriate corrective measures. In my role as ombudsman, it is important that I protect both the identity of complainants and the information the investigators gather and create in the course of investigating complaints.

[*English*]

In order to allow the commissioner to fulfill such a mandate, Parliament has included in the Official Languages Act specific provisions pertaining to the non-disclosure of information gathered by the commissioner in the performance of his or her duties and functions. Therefore, I am quite satisfied with the new exemption that Bill C-2 is adding in the Access to Information Act. The proposed new subsection 16.1 will allow the Commissioner of Official Languages to disseminate information as widely as possible without undermining the integrity, the credibility, and the effectiveness of the commissioner's investigations, audits, and examination processes.

This broad dissemination of information, accomplished through such vehicles as my annual report to Parliament and in audits, evaluations, and research studies, supports another key role I play, namely that of the agent of change.

The same underlying policy should, in my view, apply with respect to access to information under the Privacy Act. While the government recognizes the need to include in the Privacy Act an exception similar to the one provided in the Access to Information Act, such a non-disclosure provision would apply only to information obtained or created by the Privacy Commissioner or by the Public Sector Integrity Commissioner in the course of their investigations, pursuant to their enabling legislation. Since exemptions provided in the Privacy Act generally mirror those provided in the Access to Information Act, I recommend that the committee adopt a common approach under both acts.

More particularly, I urge the committee to recommend that Bill C-2 be amended in order to include in the Privacy Act a mandatory exemption similar to the new proposed subsection 22.1 with respect to personal information obtained or created by the Commissioner of Official Languages for Canada in the course of his or her investigations, audits, or examinations.

● (0915)

[*Translation*]

Lastly, my office will be affected by administrative changes proposed in parts 3, 4 and 5 of Bill C-2 in such areas as further strengthening internal audit capacity, and ensuring that low value procurements are fair, open and transparent. I support these changes and I have asked my staff to determine the resource implications of the administrative changes needed to implement these important procedures. I would anticipate that my successor will be presenting any additional funding requirements to the parliamentary advisory panel on funding later this year.

In summary, I am encouraged by and support the proposed legislative changes to strengthen the culture of accountability and to support and strengthen the independence of officers of Parliament, and thereby provide Parliament with the advice and information it needs to make key decisions to support change and hold departments and agencies accountable.

With respect to the new appointment process for officers of Parliament, I would stress the importance of each officer seeing that we have strong support from parliamentarians.

[*English*]

I support the proposed extension of the Access to Information Act to my office and the specific exemptions set out in Bill C-2. I would urge the committee to recommend that Bill C-2 be amended in order to include in the Privacy Act a mandatory exemption with respect to personal information obtained or created by the Commissioner of Official Languages in the course of his or her investigations, audits, and examinations. I look forward to working with the parliamentarians who will be on the parliamentary advisory panel on funding for officers of Parliament, to ensure the continued independence of the officers of Parliament.

[*Translation*]

Thank you for your attention. I would be delighted to answer any question you may have.

[*English*]

The Chair: Thank you, Ms. Adam.

I apologize for pronouncing your first name incorrectly at the outset. But don't feel bad: I pronounce the names of most members of the committee incorrectly.

Mr. Owen, go ahead, please.

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

Welcome, Commissioner, and your officials. It's always a pleasure to have officers of Parliament come before members of Parliament to discuss our respective roles. I very much appreciate your definition of the role of an officer of Parliament as someone who is really there to be an extension of the work of members of Parliament and to assist us in holding the executive accountable for the various rules and expectations we have of the executive. That characterization is a bedrock to your role, but it is not always understood as plainly as it should be; we sometimes think of parliamentary officers, or ombudsmen, as independent. Of course, you are independent in many aspects of your work, but you have a very, very close and important connection to the relationship between the branches of government, which I think has to be properly understood.

The issue of appointment, I think, is very interesting. The aspect of having a secret ballot and therefore not disclosing the number of votes going one way or the other is an interesting way of supporting the credibility of the office. I'm sure you as the office holder will take comfort from that. That seems to be a very positive addition.

As for the access provisions and your recommended privacy mirroring of it, I agree that they are the mirror of each other. The exceptions to one are the rules of the other, and vice versa. With respect to investigative reports that you might do requiring evidence that you would rely on, I am just wondering if you might be blocked from providing fully reasoned arguments for any strong recommendations you might make in a report after an investigation if, in some cases, you could not identify the source of the information and the actual testimony or evidence provided. I worry about there being absolute exemptions where, in the discretion of the officer of Parliament, it might be felt necessary to provide full information to provide a reasoned recommendation. So I'd be interested in how you would deal with the issue of keeping the source of information confidential and the actual nature of it. Could that restrict the thoroughness of your report?

● (0920)

Ms. Dyane Adam: I think I understood the sense of your question about there being times when some information that normally would be kept confidential would become available. As I mentioned, our current Official Languages Act does allow for non-disclosure of whatever information we get through the process. When we go to court—because there's a possibility of a court remedy under our act—there is some information that normally would not be released in our reports' evidence, but that will or may.... I don't know if that answers the question.

Hon. Stephen Owen: Certainly, when you get to the court stage to substantiate a particular finding that has a consequence that's being challenged, I would think that would have to be made public.

Ms. Dyane Adam: Really, we're taking complaints from citizens and from federal employees in matters of service, but also in matters of language of work and career advancement. You can understand that it's a bit like the whistle-blower situation, in that if an employee is reporting a situation in their institution, and even reporting supervisors who are not really abiding by the legislation or who are being discriminatory in their comments at times, or whatever, then the information is quite sensitive, and it would definitely impede our investigation, or even the willingness of employees to put complaints forward, if complainants knew their identities would be recognized or released.

Hon. Stephen Owen: I would hope that the interplay between the Official Languages Act and the whistle-blower legislation would provide some confidence to the informant to allow you to substantiate your recommendations, and that the whistle-blower legislation would also provide protection against reprisal, so if it became necessary to identify someone to substantiate a complaint and cause a recommendation, that could work in tandem with you.

I think Mr. Tonks had a question as well.

Mr. Alan Tonks (York South—Weston, Lib.): Thank you. If I have time, Mr. Chair...?

● (0925)

The Chair: Thirty seconds.

Mr. Alan Tonks: My question is along the same line. Internal audits, external audits, with respect to privacy.... How is it from your perspective? If they are excluded or included within the Privacy Act, then there would be no follow-up. I don't understand why you would include internal audits. They should be a matter of public record, should they not? Or external audits, I should say.

Ms. Dyane Adam: External audits? With respect to what? Are you talking about external audits on our office?

Mr. Alan Tonks: Yes.

Ms. Dyane Adam: This is open right now.

Mr. Alan Tonks: I'm reading page 5 with respect to your point coming under the Privacy Act, and you said audits or examinations.

Ms. Dyane Adam: Okay. Those are our own audits. When we go into institutions, we do audits. We have the power. The Commissioner of Official Languages, in fact, has a number of powers, compared to the Auditor General, who only does audits. We do audits. We do take complaints from the public or public servants, so we react to specific situations that are being raised in my office. This is more the ombudsman role, and we do examinations.

The Chair: You'll have to carry this on in the next round, Mr. Tonks.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau (Repentigny, BQ): Ms. Adam, I would like to wish you, and those who have accompanied you here today, a warm welcome. I would like to congratulate you on your latest report, as well as on all of the work which you have done throughout your mandate, which has been thoroughly exemplary. I am sure that I am speaking on behalf of all parliamentarians in saying so. You deserve our most heartfelt congratulations.

I appreciate the fact that you have proposed some amendments in your brief. I would like to provide you with a concrete example relating to the Privacy Act, which is discussed on page 4 of your brief.

Let us take the example of the citizen or member of Parliament who tables a complaint about a department. Were the complaint to be deemed admissible, and were you to provide a report on it, you would inform the complainant that, given that his complaint was related to part V of the Official Languages Act, he would be entitled to seek redress before the Federal Court of Canada. This is just an example. In this case, in the interest of impartiality, the documents that you would use to prepare your report would remain confidential until the case had been heard by the Federal Court.

Am I correct in my understanding of the process?

Mrs. Johane Tremblay (Director, Legal Affairs Branch, Office of the Commissioner of Official Languages): In fact, when a plaintiff exercises his right to a legal remedy, he usually bases his complaint on the investigation report, which constitutes a basic element of evidence if, of course, the report is favourable to the plaintiff and deems that his complaint is well-founded.

If the plaintiff wants to obtain more information from the file, he can turn to the commissioner's office to get them. Besides this, the legislation gives us the authority, in specific cases of legal remedy, to transmit information that we should normally not disclose.

Section 73 of the Official Languages Act allows us, when there is a legal remedy, to disclose this information.

Mr. Benoît Sauvageau: Thank you.

On the other hand, should the documents of a department that has been audited remain confidential? Are these documents accessible through the Access to Information Act? Is the information from any given department, on which you have based your report, protected or accessible?

Mrs. Johane Tremblay: The information can be accessible if there is a legal remedy involved. Under those circumstances, the commissioner can provide them, at his discretion. On the other hand, this does not mean that all the information will be automatically disclosed.

Mr. Benoît Sauvageau: Thank you very much.

You state in your notes: "[...] I urge the committee to recommend that Bill C-2 be amended [...]", and this is very clear. However, could you draft a specific amendment and send it to the committee through our clerk? It would be greatly appreciated.

● (0930)

Ms. Dyane Adam: We could surely do that, if that is what the committee wants.

Mr. Benoît Sauvageau: I do not know if that is what the committee wants, Madam Commissioner, but it is certainly what I want.

Ms. Dyane Adam: I understand, Mr. Sauvageau.

Mr. Benoît Sauvageau: At this time, we have what could be called regional commissioners, a fact which allows citizens who want to complain to your office to do so directly. In Bill C-2, it is proposed that the citizen first go to his MP. Then, the MP must decide whether the complaint is admissible. If that is the case, the complaint is filed by the MP.

Suppose that in a given riding, someone wants to complain about an infringement of the Official Languages Act. If that person has to go to his MP first and then the MP has to come to you, is this not a rather complicated procedure?

Ms. Dyane Adam: Which provision of Bill C-2 are you talking about?

Mr. Benoît Sauvageau: In Bill C-2, this does not concern you, but it concerns the Integrity Commissioner.

Ms. Dyane Adam: We did miss that, but let me give you my opinion anyway.

I have taken great interest in this issue during my mandate. This mainly concerns the model of the francophonie but it also involves mediators and ombudsmen on the national level. Your colleague, Mr. Owen, knows very well what this beast that we call an ombudsman looks like, given that he has already served in that capacity.

As far as I am concerned, I maintain that in order to have fair access for francophones, citizens should be able to file complaints without having to go through this extra level of bureaucracy. I think that access should be direct, without any filters. Whoever is in charge, be it an ombudsman, an agent or a mediator, should be able to judge, according to the legislation, whether the complaint warrants an inquiry or not.

Mr. Benoît Sauvageau: With regard to the appointment process, you stated on page 3: "Apart from the secret ballot, the process set out in Bill C-2 is what I experienced when I was confirmed in my position over seven years ago."

Do you think that these procedures are acceptable or would you rather change them? Do you have an opinion about this?

Ms. Dyane Adam: At the time, I had just left the academic world. I had no experience of the federal apparatus and the political world. I was told that my name was on the short list of candidates for the position of commissioner, but I had never applied for this position. Nonetheless, I came to the hearing. I know that the parties had been consulted. I had to appear before a joint committee of the Senate and the House of Commons. I testified at my own nomination, and a few days later, my appointment was approved by the Senate and the House. It was an open vote, there was no roll call. I must tell you that I appreciated the fact that it was an open vote. When you set out on an adventure that will last seven years, you need to know that you have the support of the parliamentarians and the Parliament to whom you are accountable.

[*English*]

The Chair: We'll have to continue with this in another round.

Monsieur Petit.

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Good morning, Ms. Adam.

● (0935)

Ms. Dyane Adam: Good morning.

Mr. Daniel Petit: I suppose that you have studied Bill C-2 on accountability. Here is the issue I would like to raise with you.

Let us take the case of an individual who denounces a given situation. Let's suppose, for instance, that his superior is not bilingual, that he feels that he is constrained in his job and that he has all kinds of reasons to complain. As provided by Bill C-2, he comes to you. Pursuant to the bill, the employee must be replaced. At the federal level, francophone and anglophone groups are not identical. How do you go about it? Have you looked into this aspect, which is quite new? To avoid harassment, where can we put him? Supposing he is working at the EDC, and that he has the necessary skills for that position. Would he be sent to any office at all, so long as he is not harassed? One way to avoid harassment is to transfer the individual. This applies both to francophones and anglophones. How are we going to go about this?

Ms. Dyane Adam: We did not look at this specific aspect. In fact, this is a management issue. When there is a real case of intimidation or discrimination, I think that the damage has already been done. How can we provide redress for an employee who has been subject to discrimination in an apparatus that is as vast and complicated as the administrative apparatus? I think that we can provide a remedy and offer him a job, but there will always be a wrong that is very difficult to rectify, because he will have to deal with the fact that his reputation and his credibility have been attacked. Thus, the legislation must provide for compensation. I do not know how much further we can go.

Mr. Daniel Petit: I am sure that you understand that the first criterion consists in finding another place for the individual within the government apparatus.

Ms. Dyane Adam: Yes.

Mr. Daniel Petit: This is the first and most fundamental standard we have.

Ms. Dyane Adam: Since I arrived, I noticed that there are many opportunities, within the government apparatus, for employees. Government is a big employer, when compared to other public institutions. When an employee of a small institution is not functioning in his environment or really has problems being accepted, it is much more difficult. Here, we are dealing with a big employer. I think that jobs can be found. There are enough jobs to go around. If the administrative apparatus really wants to rectify a situation, it can certainly find the right kind of job. However, I think that it will be very difficult to provide full remedy for the injustice suffered by the individual.

Mr. Daniel Petit: I have one last question, Ms. Adam. Earlier, you mentioned what you call the protection of personal information. If I understood correctly, you are requesting that the complaint not be disclosed, to avoid, if it is unsuccessful, any penalization of the individual. Is that correct?

Ms. Dyane Adam: This concerns the protection of information about persons and about the identity of a specific person in the course of the investigation. We request that this information be kept...

Mr. Daniel Petit: Perhaps I did not state my question properly. When someone denounces a situation, the Auditor General protects us because we are disclosing something. Suppose I disclose something to you. Is this the aspect that you want to protect?

Ms. Dyane Adam: Yes. It is as if I had interviewed you in the course of my investigation and you made statements about your employer, for instance. This kind of information should be kept confidential because it can cause many problems.

Mr. Daniel Petit: This is what you want to protect?

Ms. Dyane Adam: Exactly.

Mr. Daniel Petit: Thank you very much.

[*English*]

The Chair: Mr. Lukiwski.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): I have two quick questions, Ms. Adam. One, I support what Mr. Sauvageau said in asking you to submit your proposed amendments to the committee. We're trying to find out how to strengthen the bill, and that would be much appreciated.

Do I understand, though, that after your examination of this bill, that's the only amendment you have?

Ms. Dyane Adam: Yes, so far, unless you amend other things, in which case we may come back.

Mr. Tom Lukiwski: No, I just want to ascertain that you're generally supportive of the bill as written, with the one exception.

Ms. Dyane Adam: Yes, really.

Mr. Tom Lukiwski: The question I have is that many—

● (0940)

Ms. Dyane Adam: Oh, I'm sorry, sir, the other thing I did mention was the vote, the fact that it's not open.

I must say, the secret ballot amazes me a bit. I do not understand the reason, because this is a bill about transparency. Why would the agents of Parliament not have an open vote? That's the only thing.

I would have lived with that one if that was the case, but I think it's already open. It's already transparent. It was fine, so why change it?

Mr. Tom Lukiwski: That's an interesting point, because some other officers of Parliament take the opposite view, thinking that a secret ballot would be better. But that's something where there will probably always be 50% of the people on one side of the question and 50% on the other.

My question, though, Ms. Adam, is that some critics of this bill hone in on the access to information and say we're making it more secretive. So I would just like you to explain, if you could, a little bit more fully why you're recommending that we include yet another exemption to access to information under the Privacy Act, and why, if all access to information was increased, it would undermine the integrity of your office. Why are you asking for more exemptions to access to information?

Ms. Dyane Adam: We are not demanding more, because in fact in my own bill, in the Official Languages Act, there is already non-disclosure protection. It's already there.

With respect to the citizens, but mostly the employees, I'll give you an example. The employees find it very difficult when they notice in their institutions their supervisors or whoever, even the deputy minister, not really respecting the act.

One recent employee from my office went to another department. The first day on the job he was given his manual to be introduced to his new position. It was entirely in English. He comes from my office. He knows his rights. He was talking about this to one colleague at the office, who said, “Well, you know what you need to do. Give a complaint to the commissioner.”

He will not do that. Because it's the first day on the job, he doesn't want to do that. He doesn't want to be seen immediately.

So imagine, and this is with non-disclosure. I think it would impact enormously on the integrity and the credibility and the possibility of doing my job as an agent of Parliament and ensuring that the Official Languages Act is protected and respected.

The Chair: Thank you. That concludes the first round. We're now onto the second round.

Ms. Jennings.

[*Translation*]

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Thank you, Mr. Chairman.

Thank you, Ms. Adam. I am glad to see you again. I would like to take this opportunity to congratulate you for the excellent work you have done during your mandate with us.

On page 5 of your brief, under the title “Administrative Changes”, it says that the changes or amendments that concern you or your organization could involve an increase of financial and human resources. Moreover, you asked your personnel to determine what impact the administrative changes needed to implement the amendments proposed in Bill C-2 would have on resources.

First, I would like to know what progress your personnel has made regarding this file. Then, I would like to come back to the question that Mr. Sauvageau put to you regarding another article which does not concern you, namely the one that says that the citizen would have to go through an MP. I agree with you in saying that this is a useless measure that restricts citizens' accessibility. I would like to hear more from you about this.

● (0945)

Ms. Dyane Adam: With regard to the impact of the bill on an organization like ours, I must emphasize the fact that we are a small organization as compared to a department. We have a very limited administrative capability. Most of my resources are of course assigned to discharging my mandate, that is to say to investigations, examinations and legal remedies.

When we carry out internal audits or when we have to go through extra administrative procedures, such as the ones required by the Access to Information Act, we have to provide for more resources, of course, but these resources also have to be specialized. These circumstances don't allow us to improvise. Therefore, we have to provide for everything in advance. I must emphasize that we have always tried to manage public funds with the utmost possible care.

Thus, I cannot give you any figures now, but we think that this will create added financial burdens. I intend to prepare this file before handing it over to my successor, so that he will be able, when the budgets of commissioners or officers of Parliament are examined, to provide you with figures. At this time, this would be premature.

Hon. Marlene Jennings: Consequently, you are not able to give exact figures?

Ms. Dyane Adam: I cannot do that for the time being.

Hon. Marlene Jennings: Nonetheless, you can state without a doubt that this will put more pressure on your organization.

Ms. Dyane Adam: There is no doubt about that.

Hon. Marlene Jennings: Besides, this will require added funds so that your organization can actually enforce the act as it will be amended by Bill C-2.

Ms. Dyane Adam: There is no doubt about that. I invite all MPs to come and visit the office of an organization like ours from time to time. They will be able to see all the administrative procedures that we must follow and the kind of reports that we must fill out. It is important that we do so. Behind all that, there are people and resources. Things do not simply appear out of the blue.

Let's go on to your question about a citizen's access, if he has to go through an intermediary. I have never worked as an MP, but you are an MP. I can see you in Ottawa, without necessarily going into your office. I know that you do a tremendous amount of work during long hours. How can we really believe that you, the MPs, will be able to handle all the requests from citizens, given that you are already overwhelmed?

I think that citizens are responsible adults. Citizens can file complaints on their own if they are not satisfied with services or with anything else in the federal public administration.

[*English*]

The Chair: Thank you.

Monsieur Petit.

[*Translation*]

Mr. Daniel Petit: Let me ask you a question, Ms. Adam. I am curious to know. You said that this was your opinion.

Are you speaking on your own behalf or on behalf of the Office of the Commissioner? Was this your personal opinion regarding MPs?

Ms. Dyane Adam: Yes, it was my personal opinion, but at the same time, I am speaking on behalf of the Office of the Commissioner. This is my opinion as the commissioner, and not as a simple citizen. It's as though I were an ombudsman. In fact, this is my opinion as commissioner.

Mr. Daniel Petit: Let me ask you my question, since you are speaking on behalf of the Office of the Commissioner. You know something about our work. You said that we do a great deal of work. You also know that there are many people working in our offices.

When I am in my riding, people come to meet me for all kinds of things. We deal with all kinds of matters in MPs' offices.

Do you believe that if someone came to see me about an issue involving your work, this would be an extra administrative step? Could the MP communicate directly with you? Could citizens have two options for access?

Ms. Dyane Adam: We should not give the impression that citizens should not go to their MP's office. On the contrary, they should go there. Currently, some citizens inform you that they have a problem with a government service. Often, they are sent to us by the MP.

This is the normal procedure, but if we want to make everything formal, citizens will necessarily have to go through their MPs and, in my opinion, there will be only one remaining access option.

● (0950)

Mr. Daniel Petit: Thank you.

[*English*]

The Chair: Madame Guay.

[*Translation*]

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

I agree with you. I do not think that complaints should go through MPs' offices, not because MPs cannot intervene, but rather because the complaint takes on a political colour at that point. Our role is to work in politics. Now when a citizen wants to complain, I believe that he should be able to do so directly to an authority which should be apolitical. The citizen must feel that his complaint is being received in this apolitical way. By going through the MPs' offices, we thereby go through all the political parties with their different ideologies. I do not think that this is a good thing.

In Bill C-2, they mentioned a $1,000 reward for whistleblowers. I do not know what you think of the idea of giving someone a $1,000 prize for having blown the whistle on his superiors or on any other person who might have committed a reprehensible act in a department or agency.

As far as we're concerned, we have made up our minds, but I would also like to know what you think. Finally, I would like to take this opportunity to congratulate you and to wish you good luck in your future projects.

Ms. Dyane Adam: I don't really have an opinion on that subject. When I am asked that question, I wonder first of all why there is a $1,000 reward. I don't understand. Why $1,000 instead of $5,000? Does the bill say anything in particular on that matter?

Ms. Monique Guay: Yes, it does. It states very clearly — and we will in fact propose amendments on the subject — that the whistleblower should receive the amount of $1,000. It's basically like a witch hunt. Some people might move heaven and earth to find a guilty person in a department in order to get the $1,000.

Ms. Dyane Adam: Mr. Chairman, it reminds me of situations in court where there is financial compensation. In many cases, the judge will determine the amount of the compensation. But I don't know why in this case the government chose to award a financial reward. In my opinion, we should debate the very reason for having a financial reward.

Ms. Monique Guay: Thank you.

[*English*]

The Chair: Thank you.

That concludes our time, Ms. Adam. I thank you and your colleagues for coming to help us today.

Thank you very much.

Ms. Dyane Adam: And we'll send you, as I believe two of your members have requested, a proposed amendment.

The Chair: If you could send that to the clerk, that would be most helpful.

Ms. Dyane Adam: Okay. Thanks a lot.

The Chair: Thank you very much for coming.

We'll recess for a couple of minutes.

● (0955)

The Chair: I call the meeting to order again.

Ladies and gentlemen, if we could all take our seats, we have with us for our second witness this morning the Public Service Integrity Officer, Mr. Edward Keyserlingk, from the Public Service Integrity Office.

Good morning, sir.

You have someone with you this morning. Perhaps you could identify that person to the committee.

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

I would like to introduce Maître Jean-Daniel Bélanger, who is my senior counsel, who is sitting at my right.

The Chair: Sir, I know you know the procedure, but if you are prepared to, please make a few comments if you wish. After that, the committee members will have some questions for you. I thank you again for coming.

Dr. Edward Keyserlingk: Thank you, Mr. Chairman, for your invitation to appear before your committee this morning to testify on those parts of Bill C-2 that apply to the past, but not yet proclaimed, Public Servants Disclosure Protection Act.

[*Translation*]

Thank you for giving me the opportunity to answer your questions. In order to give you enough time to ask them, I will keep my preliminary remarks brief. I've distributed a short written presentation in which I present seven specific proposals to amend Bill C-2 with regard to the Public Servant Disclosure Protection Act.

[*English*]

I am very pleased with the Public Servants Disclosure Protection Act. In my view, on the basis of my almost five years of dealing with public servants and whistle-blowers, it effectively reflects the proposals that I and many others have been making for some years. The prospect that my policy-based and relatively weak Public Service Integrity Office will soon be transformed into a legislated agency with a commissioner reporting to Parliament, and equipped with strong investigative powers and protections, is exciting and very welcome. As you are no doubt aware, Mr. Chairman, the Public Servants Disclosure Protection Act in effect mandates that my office be the nucleus of a new and expanded commission. My colleagues and I have been working very hard on transition matters to ensure both continuity of investigations and the required new structures and processes.

If I may be permitted a personal note, one reason for my pleasure is that once the PSDPA comes into effect, my original mandate of three years, which has become almost five years, will end and I can finally go back to retirement, which I left five years ago.

[*Translation*]

Of course, the Public Servant Disclosure Protection Act is not perfect. In my opinion, the amendments proposed by Bill C-2 are quite significant, and I fully support them. In my written presentation, I indicated various aspects of the bill which I found positive.

[*English*]

But of course Bill C-2 is also not perfect, and I have a number of proposals to make towards further amendments. For the most part, I made the same or similar proposals in my annual reports and in testimony to the parliamentary committee considering what at that time was Bill C-11. You will find, Mr. Chairman, more detail in support of those proposals in the written submission.

My proposals are the following:

1) Extend fuller protection from reprisal to private sector contractors and grant recipients who report public sector wrongdoing, by providing them with access to the reprisal complaint process available to public servants;

2) Expand the definition of what constitutes reprisal in order to cover more than only employment or work-related forms of reprisal;

3) Extend the jurisdiction of the Public Sector Integrity Commissioner to include the Canadian Forces, the Canadian Security Intelligence Service, and the Communications Security Establishment;

4) Add an education/communication mandate to the role of the Public Sector Integrity Commissioner, which, once that mandate is legislated, would enable the provision of adequate funding and other resources for that task;

5) Enable investigations of public service wrongdoing to extend beyond the public sector when relevant;

6) Authorize the commissioner to access, in the course of an investigation of public service wrongdoing, any relevant information, including departmental documents protected by solicitor-client privilege, and cabinet documents;

7) Regarding access to information, without being excessively technical here, my position is threefold. The identity of whistleblowers should remain shielded, as provided for in Bill C-2. However, the identity of wrongdoers, including those found to have practised reprisal, may be disclosed in the public interest. The third part of this proposal is that any other information gathered in the course of the investigation may become accessible once the investigation is complete.

Thank you, Mr. Chairman.

● (1000)

The Chair: Thank you, Mr. Keyserlingk.

Mr. Owen, go ahead, please.

Hon. Stephen Owen: Thank you.

Welcome, Mr. Keyserlingk.

Most of us have watched your current retirement years with great interest over the last few years and are grateful for your sacrifices in putting your shoulder against this particularly heavy wheel. Thank you for your persistence in this important role.

I'm very interested in the education and communications side of your recommended extended mandate, particularly from the point of view of attempting in public administration, as best we can, to avoid, first of all, the problem of wrongdoing, and then when wrongdoing occurs and someone feels compelled to report on it outside the normal channels, protecting the person from reprisals.

I am wondering, from your experience over the last few years, how the education of the public service, and in particular of public service management, has been progressing with respect to internal channels of complaint. Are we here faced with an integrity commissioner who is challenged to really go into the public administration and shake it up and restore it and recommend the implementation of a large number of channels of complaint that are fairer, more protective, and more welcoming to the public servant? Or are we looking at a residual office that on the rare occasion when the internal workings don't work can be looked to with safety and toward an effective result?

It relates to education and communication, but also to the core role here. Would this commissioner effectively be inside the public service, even with independence, and involved in daily scrutiny, or is this a safeguard to use when things that usually go right might go wrong?

Dr. Edward Keyserlingk: Thank you for the question. It is a very good one.

I would like to think that the Public Service Integrity Commissioner ought to be both of those things and very much involved in the exercises involving training, teaching, educating, cajoling, and all sorts of things of that kind, because if the experience of the Public Service Integrity Commissioner is anything like mine has been, one has a special vantage point, in a sense, for seeing what kinds of reasons lead to people whistle-blowing. Very often, the cause turns out to be some degree of lack of leadership, some degree of lack of accessibility on the part of managers, some degree of managers not remaining in positions long enough to gain the confidence of their staffs, and issues like that. I feel that the person who has that job will be in a very special position to be able to say that he or she would like to contribute to efforts to instill better leadership, identify wrongdoing at an earlier point, deal with it within the departments, and so on.

Those are things that, in my view, go very well with this position.

● (1005)

Hon. Stephen Owen: I'm very pleased to hear that, because I share the opinion that your type of office, or the office that this is going to become, is a unique repository of systemic problems. Over time it can analyze complaint trends and practice difficulties and have a broad and longitudinal view of what may go wrong systemically, and therefore can make recommendations, quite apart from any specific ruling on a specific complaint or concern.

Mr. Alan Tonks: Thank you.

Thank you for the very confident nature of your report.

I wonder, Mr. Keyserlingk, if you could just explain recommendation 5, “Enable Investigations to Extend Beyond the Public Sector”. That really flows through to providing the integrity commissioner with access to relevant information.

Is that a power that you see...? You cited the Auditor General, who has been given this authority, if you will. Are you talking about the same architecture that is available to the Auditor General, or are you talking about more...I'll use the terms intrusive or invasive powers? I don't mean that in a judgmental sense. When you talk about matters of integrity, as opposed to matters of numbers, there's a difference.

Could you just comment on the likelihood of that happening?

Dr. Edward Keyserlingk: Sure. I think it could be similar to what is envisaged for the Auditor General.

The argument that I think counts here is that if one does not provide the Public Service Integrity Commissioner with the ability to follow the trail of evidence about public service wrongdoing, there is a limitation imposed that would potentially interfere with the investigation and would typically result in an incomplete investigation. It could be that the responsibility for the activity is a shared one between, say, a department or an individual public servant and, on the other hand, someone outside the public service. So if one cannot follow the evidence, one would be forced to say, "We've got to end the investigation because it would be unfair to come to a conclusion."

We're talking here, of course, only about instances where there has been a disclosure of wrongdoing, either within the department or from outside the public sector. The difficulty, as I say, is that if one does not have that ability, one can envisage investigations having to be essentially ended without a firm conclusion.

Mr. Alan Tonks: Perhaps I may follow up on that. Where there's criminal activity, is there not access to court proceedings, a judicial proceeding?

Dr. Edward Keyserlingk: Where there's criminal activity, it would always be the obligation of the commissioner to turn that over to the police. We'd be talking about other kinds of wrongdoing—gross mismanagement, breaking of laws and regulations that are not criminal, and so forth.

The problem here is partly that if you look at sections 33 and 34 of the disclosure act, on the one hand, one is entitled as a commissioner to receive information about public service wrongdoing from outside and act on it—one can receive a complaint, an allegation, from a person in the private sector—but then section 34 says one can't follow that up effectively because one has to turn it over. The two sections, in my view, are at odds because one says we can take an allegation from outside and the other says you can't really effectively do anything with it. If you get it from outside, you normally would want to do as you do within the public service—question the discloser, look for witnesses outside as well, test the documents that are being provided—but all of that can't really be done. So you have two very good sections, but they're at odds, in my view.

● (1010)

The Chair: We'll have to explore this in another round.

Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Keyserlingk, thank you and welcome. First, thank you for having inspired Bills C-25 and C-11. The entire legislative process which was created to provide protection for public servants comes from you in your capacity as Public Service Integrity Officer. Thank you also for the seven proposed amendments; I believe they are important.

With all due respect to the witnesses we heard from earlier and to those we will hear in the future, I would say that you are probably the person who has been most directly involved in this bill. That is why your amendments will surely be relevant.

I will read a passage from your presentation and will then ask you several questions. You say:

> In addition, the establishment of a Public Appointments Commissioner, to establish rules and standards for open competitions and processes [...] will be free of conflicts of interest, partisanship or patronage, is another positive feature of Bill C-2 [...]

The Prime Minister, in Bill C-2, proposes the creation of the position of Public Appointments Commissioner. While we were debating, the government decided to create this position immediately, with the probable expectation that corrections or amendments would be made in committee. Therefore, it would be possible to immediately apply certain provisions of the bill and then to make changes once Bill C-2 is promulgated.

I would like to know what you think about the request made by 11 unions representing nearly 100,000 public servants — and perhaps what you think about your request to go back into retirement — and about the immediate application of Bill C-11. In your view, would it be heretical to support the immediate promulgation of Bill C-11, which dates back to the previous session, and then to make any amendments to the legislation through Bill C-2? Does that create too many problems?

[*English*]

Dr. Edward Keyserlingk: May I respond in English to make sure I don't miss anything?

I think, in principle, it would be an interesting approach, and I did read the union's request in that regard. I think it could, on the other hand, be quite complicated because of the very different nature of the process involved in the amendments of Bill C-2 compared to the disclosure act, and, in my view, the interim period could be quite complicated. I'm not sure what would be gained.

Now, I don't have a firm opinion on that, but when I read their view, it seemed to me that could be a big complication, because the whole process of the tribunal, which is part of Bill C-2 versus the boards, is part of Bill C-11 and so forth.

[*Translation*]

Mr. Benoît Sauvageau: Indeed, you are right, that is the main difference. There is the tribunal, the third parties, what I was going to call the trivial matters, in other words the $1,000 giveaways handed out regardless of what was actually done, etc. However, even if Bill C-2 is adopted relatively quickly, I still think there is a long delay between Bill C-11 being enacted and a situation making its way to the tribunal.

For example—and I am not judging how quickly the work was done, because it was complex— I lodged a complaint with the Commissioner of Official Languages June 10, 2003, and I got the final report May 4, 2006. So, if you think about the time it would take between someone blowing the whistle tomorrow morning and the case being looked at by the tribunal—and this is assuming Bill C-11 was enforced and the process was established—Bill C-2 would have passed, and been amended.

Regardless of all the good will any Integrity Commissioner may have, I do not think that in the space of two weeks, he would be able to carry out the entire process and get people before the tribunal.

Am I wrong here?

● (1015)

[*English*]

Dr. Edward Keyserlingk: I think you're probably correct on that. I think the other issue might be, however, that when you receive allegations from whistle-blowers you will always try to explain to them what the process will be, how this will be investigated, what recourses you have, what appeals, and so forth. Of course, that would be a little complicated, because you wouldn't know when the other bill was going to come into effect.

Theoretically, what I would love is that all the provisions that apply to the Disclosure Act be approved, passed, and enacted before all the rest of it is done, but of course that's a wish that is not within my control. But I think if that could be done, that would possibly be a more effective approach because you would have the bill that applies to the Disclosure Act pulled out of the larger Bill C-2 and enable the Disclosure Act to be proclaimed with all the new amendments. But that has its complications, too, I understand.

[*Translation*]

Mr. Benoît Sauvageau: Up until last month, were a public servant to witness an act of wrongdoing, he would have to wait one, two, three, even five months—the time required for the committee to complete its hearings—before being able to file a complaint, knowing full well that all that was lacking was a willingness on the part of the government to get Bill C-11 enacted. What is more, by that time, and after having heard Mr. Cutler and the woman we heard from yesterday, he may think that it is a little bit too complicated and dangerous and decide not to make a complaint. On the other hand, if there were a safety net then and there, imperfect as it may be, he could go ahead and blow the whistle. And I think the message would be clear to the government.

[*English*]

Dr. Edward Keyserlingk: As I say, I'm not personally opposed to it; I'm only a little bit concerned about the possible complications.

I guess a third option would be that it gets passed very quickly and the whole of Bill C-2 gets put in. That also isn't within my control, but I take your point. I think there are pros and cons about that. My point is only that I think there would be complications with it in the interim and one wouldn't know how long that might be.

The Chair: Thank you.

Mr. Martin.

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

Welcome, Mr. Keyserlingk.

For the record, I should start by saying we have a press release from the Public Service Alliance, which also feels that implementing Bill C-11 at this time, while we're working on Bill C-2, could be so complex that they, the largest public sector union, don't approve.

Bill C-2, of course, is just one in a series of numerous efforts to do something about whistle-blowing, from private members' bills to internal policies, to reports and various government members' bills that I've been involved with, from Bill C-25 through Bill C-11, and now Bill C-2.

Through that process you've been very helpful in making recommendations. Are you satisfied that in Bill C-2 the key recommendations that were a theme throughout most of your reports to the committee have been addressed—the powers of the commissioner, for instance?

Dr. Edward Keyserlingk: Yes, I am satisfied that the basic powers and protections available to the commissioner are the right ones. There are, as I say, a few points I've raised here that I think would improve the bill considerably and go back to issues that I and others have advocated for some time.

One of them is the issue of transparency, which covers the aspects of access to information that I've raised here. It's terribly important that the office in no way be seen as hiding information that can and should be made public. I think Bill C-2, in its present state, might give rise to that kind of accusation. I don't think it's required for this office, and I've specified why certain things could be changed.

The other aspect is the access of members of the public to the commissioner, which I think is very strong in Bill C-2. That's a very good statement of access, and also the issue of protecting contractors and grant recipients from reprisal. But again, there I think it would be better to go a step further and say those people ought also to have access, not just to the offence that is there, but also to the reprisal mechanism that is available to public servants. Otherwise you leave those people a little bit less protected, because they would have to convince the police to lay a charge. The charge would be essentially about a criminal offence and therefore subject to a criminal standard—

● (1020)

Mr. Pat Martin: A much more complicated avenue of recourse.

Dr. Edward Keyserlingk: —which is much more complicated, as opposed to an administrative inquiry within the commission. I don't see any constitutional or other reason that process couldn't be made available to contractors and grant recipients who have been dealing with government, because that's access that we allow in lots of other statutes as well.

Mr. Pat Martin: That actually is one of the strongest things that the Conservative members of the last committee pushed for to be in Bill C-11. I think they dropped it towards the end, but that was of great interest to them at that time.

I don't wish to interrupt you, sir, but I have such little time and I do want to get your opinion. You've made very helpful comments on what else might be added to Bill C-2, but you haven't commented on things you may wish had been left out. For instance, what's your view of this $1,000 monetary reward issue? Do you think that would actually bring forward more information to your office, or would it be neutral? What's your view?

Dr. Edward Keyserlingk: I very much doubt that it would bring forth more. I would rather it not be there. It seems to me that we have a better appeal to public servants than the $1,000, which is that public servants will hopefully see it as their duty to report serious wrongdoing, and not because they're being rewarded. I think that fits, in fact, with what most public servants see.

The reason they may not come forward, I think, is not because there isn't a reward, but because of fears of reprisal, and so forth. If those are fixed, as I think they are largely fixed now, we won't need a reward, and it's a kind of motivation that I would hope we don't have to appeal to.

Mr. Pat Martin: I share that view too.

First of all, the sum of $1,000 is probably too paltry an amount for someone to risk—

Dr. Edward Keyserlingk: Yes, $50,000 might make a difference —

Mr. Pat Martin: —but it's still the wrong motivation.

Dr. Edward Keyserlingk: My point would be more the principle of it. I think whatever the amount is, it really ought not to be the reason why people come forward. I don't think people do require it. I haven't seen any evidence of that anyway.

Mr. Pat Martin: I agree.

With the volume of complaints in your office recently, I think your most recent report cited, of 30 or 40, only about three that you had found actually had merit that you moved forward with.

I guess what we're all trying to estimate is how much pent-up volume of activity is out there waiting until it's safe to come forward. Are there people sort of hiding behind bushes waiting until it's safe to come out into the air?

Dr. Edward Keyserlingk: I really don't know the answer to that. We're probably in the worst position to know how much wrongdoing there is and how many people would like to come forward but don't, because we respond to complaints, as opposed to going out looking for them.

On the other hand, I think it's reasonable to assume, just from the people we have talked to who have considered sometimes coming forward but have not because the process does not look safe enough or protective enough or effective enough, that there probably are people who would come forward but would not come forward in the present regime, because it's perceived as not effective and protective enough.

I can't, however, give you numbers, but I would expect there might be such persons. Again, I don't know how much wrongdoing there is; therefore, I don't know how many people should come forward. I don't think there will be and I have no reason to think there will be a flood of disclosures, partly because I haven't seen evidence that there is a massive amount of wrongdoing in the public service. I have not seen that, so I cannot say that there are necessarily a lot of pent-up disclosures. But I think we ought to be able to say to public servants that no matter how many people actually use the system, it ought to be available; then we ought to say, here is how to access it, and furthermore, here are alternatives.

● (1025)

The Chair: Thank you.

We have to move on, Mr. Keyserlingk.

Monsieur Petit.

[*Translation*]

Mr. Daniel Petit: Good morning, Mr. Keyserlingk.

In your brief, you talked about retaliation. Other witnesses have also done so. Apparently, the fear of reprisals is the main reason why public servants refuse to blow the whistle; they are always afraid it will come back to bite them.

In your text, you mentioned that you would like individuals to be protected even outside the workplace. For example, reprisals may occur outside the workplace.

Can you give me an example of what you mean when you refer to ostracism in a group?

[*English*]

Dr. Edward Keyserlingk: I understood your question, sir, but I'm trying to understand whether we actually said that in that way.

What we meant was we would like to see a wider definition of reprisal that covers instances of reprisal that are not captured within the employment-related context; in other words, those that are not related to their work conditions or their employment contract, but could be something much more subtle.

For instance, you could have people who are essentially shunted aside. They're not being denied anything overtly that they're contractually entitled to, but they're still being marginalized, and over time, it becomes clear, to them at least—that's their claim—that this would not have happened if they had not made a disclosure of wrongdoing.

Our view is that the list of things that apply to define reprisal is too limited to the workplace context. I'm not talking about reprisal outside their professional life, but simply saying that within their professional life there could be conditions that amount to reprisal but don't specifically refer to their contractual arrangements or their workplace. The example I always use is the ostracization, the sort of marginalization where somebody is no longer taken seriously or isn't advancing very quickly, and it's not clearly a denial of an entitlement, but it looks as though it would not have happened if they had not disclosed it. That's the claim we have to investigate. So the list within the reprisal definition is what we're really attacking here.

[*Translation*]

Mr. Daniel Petit: You give a slightly broader definition of group ostracism. However, section 19 of Bill C-11 refers to reprisal, but does not cover reprisal made by a union against one of its members who may have revealed something about another unionized employee. For example, when the whistleblower goes to a union meeting, he may be called a sell-out or a traitor, etc.

Won't the new bill, Bill C-2, address that problem?

● (1030)

[*English*]

Dr. Edward Keyserlingk: I don't think that's changed, because what it doesn't apply to is wrongdoing within the union. It has to be wrongdoing within the public service. So it doesn't cover that kind of example, not within Bill C-11. There are other recourses that person may have, but not to this particular approach.

Do you see what I mean? The whole focus of this bill and the disclosure act is on the assumption that the wrongdoing is within the public service. It's not just wrongdoing by a public servant in a union; it has to be within the context of the public service.

If you're suggesting that could change, that's a different issue. But right now that would not apply.

[*Translation*]

Mr. Daniel Petit: Perhaps I phrased my question poorly.

Take for example an individual who blows the whistle on a colleague who is a member of the same union as him. Now, let's suppose the whistleblower then lodges a grievance because he was transferred to avoid any reprisals. Because he went and blew the whistle on a colleague, his grievance ends up at the bottom of the pile.

Mr. Jean-Daniel Bélanger (Senior Counsel/Investigator, Public Service Integrity Office):

That is a very interesting question we have not looked at from that angle. Mr. Keyserlingk's submission sought to broaden the definition of reprisal to any measure which may affect the grievant, i.e., the person who filed the complaint. You raised the possibility of his union taking an anti-union measure or acting inappropriately by refusing to represent the grievant and process his grievance. That goes far beyond what we had envisaged. We were thinking more about a measure taken by the employer, or the complainant's colleagues, which would end up affecting him in his job and which is not included in the definition given for disciplinary measures.

[*English*]

The Chair: We have time for one more question, Ms. Jennings, and you have won the prize—for five minutes.

[*Translation*]

Hon. Marlene Jennings: Thank you, Mr. Chair.

Thank you very much for your presentation. Are there any interim provisions included in Bill C-2 which stipulate that the complaints you are currently hearing will, after royal assent, henceforth be heard pursuant to Bill C-2? In other words, will all these provisions to protect whistleblowers apply retroactively to files you are currently processing or which may be referred to you before royal assent is given to this bill?

[*English*]

Dr. Edward Keyserlingk: I think the answer is yes.

[*Translation*]

Mr. Jean-Daniel Bélanger: In the Public Servants Disclosure Protection Act, there is indeed a provision which provides for a transition between our office and that of the commissioner.

Hon. Marlene Jennings: So, that means you have not referred to the fact that the enactment of Bill C-11 would have caused confusion as far as the files you are currently processing are concerned. That did not happen, but Bill C-11's promulgation last session could have caused a great deal of confusion. So, should this interim provision be maintained, despite Bill C-2, there will be a great deal of confusion.

Mr. Jean-Daniel Bélanger: We thought about the issue and discussed the following scenario. Should the Public Servants Disclosure Protection Act be enacted, shortly followed by Bill C-2, we have to know what we are going to tell public servants who come and see us. What we will tell them is that redress may be obtained through the Public Service Labour Relations Board and that a tribunal will eventually be set up. That is more or less along the lines of Dr. Keyserlingk's answer: we cannot give a clear answer to public servant whistleblowers concerning the protection we are able to give them. All we can tell them is that section 19 is in force and that legal protection exists against reprisal, a legal prohibition which is in itself a lot stronger than the current policy. It would be beneficial, in this way, but the public servant may then lodge a complaint with the Public Service Labour Relations Board, which would have to establish its own due process. We would no longer be involved at that point.

If you go back and take a look at our office, at Dr. Keyserlingk's annual reports, you will note that we have always said the Integrity Commissioner should deal with everything that comes under our jurisdiction: acts of wrongdoing and reprisals.

● (1035)

Hon. Marlene Jennings: I understand. I am going to interrupt you for a second.

If Bill C-11 had been enacted and had complaints being lodged, under the interim provision, the complaints you were already seized with would have been affected. From what you are saying, there would have been enhanced protection for whistleblowers. Let me speculate for a moment: once adopted, Bill C-2 will amend Bill C-11, which is already in effect. It is being claimed that Bill C-2 provides even better protection than Bill C-11.

I do not understand what would happen at that point. It may be necessary to include interim provisions in Bill C-11 to ensure there is no legal void and that the procedures permitted under Bill C-11, once enacted, would be either maintained or abolished in Bill C-2. I really cannot see what the problem is.

Mr. Jean-Daniel Bélanger: In fact, with a transitional provision, we could go from the Public Servants Disclosure Protection Act to Bill C-2. This is what I like about the legislation.

Hon. Marlene Jennings: What you are saying is that Bill C-11 provided better protection than what we have now, and that Bill C-2 will improve this protection even further. The fact that Bill C-11...

[*English*]

The Chair: The time is up, Mr. Keyserlingk, but you can make a few brief remarks on that issue.

Dr. Edward Keyserlingk: My only concluding remarks would be simply that I want to be very clear that I like Bill C-2 and I think it's a very big improvement on C-11. But I think it could still be better, and of course that's true for any bill.

The provisions we've recommended here I think would not require major revisions. For instance, extending to private sector contractors and grant recipients the access to the reprisal mechanism of the office of the PSIC would only essentially require taking sections 19 and 19.1 and simply expanding the definition of "reprisal" to include more than just public servants for the specific purpose of these two groups of people.

Thank you very much.

The Chair: Thank you, sir, and Mr. Bélanger, for visiting with us this morning. Thank you kindly.

The committee will suspend for a couple of minutes.

● (1040)

The Chair: I'd like to reconvene the meeting, ladies and gentlemen. We have with us representatives from Canada Post Corporation. We have Moya Greene, the president and chief executive officer, and we have Gerard Power, the vice-president and general counsel and corporate secretary with us. Good morning to you both.

I'm sure you're aware of what we do. We allow you a few moments for a few introductory comments to us, and then members of the committee may or may not have questions. You may proceed. Thank you.

Ms. Moya Greene (President and Chief Executive Officer, Canada Post Corporation): Thank you very much, Mr. Chairman, and thank you very much, ladies and gentlemen of the committee.

[*Translation*]

Let me first thank you for giving me the opportunity to appear before the committee this morning.

[*English*]

I really welcome the opportunity to speak to you about the very important work that you have before you.

[*Translation*]

You have been entrusted with a heavy responsibility.

● (1045)

[*English*]

We understand the importance of moving the work along, so the comments I have to make this morning, Mr. Chairman, are more in the nature of I think relatively simple matters for you to take under what I hope will be positive consideration. This is a very important bill, Bill C-2, the Federal Accountability Act, and as CEO of Canada Post, I really appreciate the opportunity that I have to spend a few minutes to speak to it.

We appreciate the Government of Canada's efforts to bring forward measures to help strengthen accountability and increase transparency and oversight in government, and we know they are widely appreciated in this country.

Of late, we at Canada Post have been very proactive in this area. We have introduced measures, including our own whistle-blowing policy that came into effect January 1, 2005, and a renewed and strengthened conflict of interest policy that provides more clarity and guidance to all our employees in how they should conduct themselves with personal integrity, honesty, and obviously diligence in the performance of all of their duties. In addition, Mr. Chairman and ladies and gentlemen of the committee, the governance committee of the Canada Post board is led by Gordon Feeney, a very strong business-oriented chairperson whom many of you have met. We have also put in place a number of new business processes for the approval and retention of all records relating to travel and hospitality expenses that apply to board members, and of course to the senior managerial team, including me.

[*Translation*]

Nonetheless, I think that some aspects of the bill could be improved a bit. I do not want to suggest any major change. In fact, I can give you a copy of the language used in the bill, if it can be helpful.

[*English*]

to move things along more quickly.

As many of you know, Canada Post is a unique crown corporation. It is very large: it is the sixth-largest employer in Canada, with 71,000 employees; it has $7 billion in revenue; it is perhaps the most complex crown corporation in Canada. The presence of the company in every province and in most towns and cities across the country makes it in fact one of the most widely recognized names in Canada.

We're very pleased to talk to you about the brand of Canada Post. Some of you will know that Canada Post is recognized as one of the top ten brands of business corporations in Canada. This, I think, reflects the confidence that both our business customers across this country and consumers alike repose in Canada Post. That has everything to do, Mr. Chair and ladies and gentlemen of this committee, with the security of the mail. The brand of Canada Post is based upon the security of the mail.

The world has changed in the past five years, and all aspects of security everywhere have taken on far greater importance for every public official than they did even five years ago. That is also the case for Canada Post—perhaps more so, because of the importance of the security of the mail as the key cornerstone of the brand of this company.

The security of the mail is threatened every day. I don't need to tell some of you—many of you—with whom I've spoken personally in the course of my first year as CEO of this company about issues relating to identity theft, but the security of the mail is threatened in other ways.

Hardly a week goes by, Mr. Chair and ladies and gentlemen of this committee, that our operations are not interrupted at our largest hub facility, for example, in Toronto and Vancouver, because of concerns over suspicious parcels and letters. It stops the operation; we have to put in place different handling procedures to make sure that the security of the mail is uppermost in our minds before that piece of mail moves on to the next stage of processing.

Every day in the course of their duties, our employees are involved in security operations, in investigative operations. These investigative operations often include alliances with some of the strongest investigating forces in the world—not just in Canada, but in other parts of the world—so our people work very hard to reinforce the security of mail operations.

● (1050)

[*Translation*]

In order to protect the corporation's ability to properly carry out its mandate and ensure not only the security of the mail and employees involved in transmitting mail but also the security of management, we must send out a message that states that we take the prosecution of offences very seriously.

[*English*]

Any infraction, any offence, that would threaten the security of the mail or undermine people's confidence in our ability to safeguard the security of the mail is taken very seriously at Canada Post. These are criminal offences—tampering with the mail—and that has certainly helped us in the course of the years to reinforce the importance we attach to that and why it has become the cornerstone of the brand. But I think it's fair to say, and I mean no criticism whatsoever here, that attorneys general and public prosecutors in the provinces have a lot of difficulty giving the kind of priority that obviously we would give to infractions that would undermine the confidence we all need to retain in the security of Canada's mail operations.

So it is for this reason, Mr. Chairman, that we at Canada Post applaud the idea of creating a Director of Public Prosecutions, and we feel the office, if its attention could be directed to offences relating to the security of the mail, would be a very positive thing for Canada Post. It would open an avenue where greater priority and attention could be applied to the investigation and the prosecution of these infractions, similar to what is available for Canada Elections Act offences and Financial Administration Act offences.

Canada Post has a specific interest in this aspect. Like the offences in these other acts, there are a series of mail-related offences respecting theft of identity, national security, and the use of mail for terrorist purposes. In the wake of the horrible events of 9/11, some of you will have heard about threats through the mail, where anthrax and other suspicious substances were being put through mail operations. This happens, still, on a regular basis. Thankfully, we have in place the means to investigate anything suspicious as soon as it arises. But being able to prosecute these offences quickly and with diligence is I think a reinforcing measure that the Office of the Director of Public Prosecutions could help.

As I said at the beginning, Mr. Chairman, we have suggested language. We don't think this would be a big change to what is currently before you and your colleagues on the committee. We think it could be done relatively simply, and certainly it is being put forward in the spirit of minor adjustments that would improve the act.

[*Translation*]

Canada Post understands the objective of greater transparency and better accountability for the Government of Canada and supports the principles enshrined in the bill at hand.

● (1055)

[*English*]

As you know, Canada Post generates $7 billion in annual revenues. It is probably not well-known, Mr. Chairman, that 95% of that revenue comes from Canadian businesses, big and small. To the 14 million addresses, it's very important to them that we bring their messages to their customers. However, we operate in a very, very competitive environment, more competitive than I think many of you would have thought.

The Chair: I want to allow time for questions, Ms. Greene, so if you could conclude, please....

Ms. Moya Greene: Thank you, Mr. Chairman.

Many of you know the strength of companies like UPS and FedEx. That's competition, very vigorous competition for Canada Post.

Therefore, the Access to Information Act must be applied to Canada Post, Mr. Chairman, in a way that doesn't undermine our ability to continue to compete, and to compete even more effectively as the environment becomes more and more intense. We appreciate that proposed section 18.1 of the Access to Information Act does to some extent do this. However, again in the spirit of modest adjustments that could improve the bill, we think we can make changes that will do just that.

We have four specific recommendations for improvement that we'd like to make.

First, like EDC, CBC, Atomic Energy of Canada, and the National Arts Centre Corporation, and indeed the Public Service Pension Investment Board, we believe Canada Post should have the benefit of the same tailor-made language, language that recognizes and protects information relating to our essential commercial interests as a competitive postal corporation.

Mr. Chairman, I'd like you to know that this is what the U.S. Postal Service has; this is what other postal services—Australia and the United Kingdom—have. A comprehensive set of protections have been developed—

The Chair: I want to allow time for questions, Ms. Greene.

Ms. Moya Greene: —to recommend the business of Canada Post.

The Chair: Yes, Mr. Tonks.

Mr. Alan Tonks: On a point of order, I can see that the witness has three other points. We could bring those through questioning and give her the opportunity then to expand a little on those. I think she's out of time.

Ms. Moya Greene: I'll move very quickly, Mr. Chairman.

Secondly, proposed paragraph 18.1(2)(b) of the Access to Information Act proposes language in reference to two Canada Post programs that we are proud to deliver on behalf of the Government of Canada: the government free mail and literature for the blind. The principle for the compensation we receive for these programs is in fact the right one, that this is a commercial corporation. While we are most proud to have the confidence of the government, we would like to suggest a modest amendment in that case to make sure that what Canada Post is recommending is focused on those two specific programs.

Thirdly, as Canada Post carries out the many investigative and enforcement activities that I alluded to above, the Canada Post corporate security office should be recognized as an investigative body under paragraph 16(1)(a) of the Access to Information Act.

Finally,

[*Translation*]

Given the amount of information collected by the corporation and given the scope of its operations, Canada Post recommends that the committee consider extending the application of the Access to Information Act by 18 to 24 months in order to allow time for preparation.

[*English*]

It's a very complex, big company with a huge history. It goes back, as a crown corporation, 26 years, and before that, 250 years. The kind of challenge that this company will put in, and will meet, to meet the requirements of the Access to Information Act will take us some time. I am told by experts in the field that it will take us about a year just to recruit a person with the necessary seniority to take on the access to information role.

Thank you for your attention, Mr. Chairman. As I mentioned to you, we actually have suggested language so as to not delay the work of your committee with respect to these modest suggested improvements.

● (1100)

The Chair: If you can give those to the clerk, Ms. Greene, that would be appreciated.

Mr. Owen.

Hon. Stephen Owen: Thank you, Ms. Greene.

I'm interested in your support for the Director of Public Prosecutions, and I would like to understand a little more clearly how you would see that operating. You mentioned the Canada Elections Act. Are you looking for a specific offence that would be within the authority of the federal prosecution service?

Ms. Moya Greene: I'll turn it over to my colleague Gerard Power, who is the legal counsel for Canada Post, but essentially the offences are already there in the Criminal Code. It is the power to prosecute those offences in the new office that we would seek.

Go ahead, Gerard.

Hon. Stephen Owen: Is that as opposed to provincial jurisdiction?

Mr. Gerard Power (Vice-President, General Counsel and Corporate Secretary, Canada Post Corporation): Yes, the challenge is that the provincial crown attorney is dealing with a series of priorities, the highest priority being acts of violence to the person and the next priority being matters of child pornography and other very, very serious offences. When dealing with commercial crimes, we often find that we are told it will be a year or more before the matter can go very far, simply because of the lack of resources within that office.

It's not that they're not considered to be serious; it's just that from the provincial crown attorney's perspective, these are commercial crimes and are not high priorities.

Hon. Stephen Owen: Could you explain, then, what the difference would be if this federal prosecution offence were created, whether it was the prosecution department of Justice Canada or whether it was a Director of Public Prosecutions?

I don't understand what the link would be to having a Director of Public Prosecutions that would enhance what would be done under the federal prosecution service as it now is.

Mr. Gerard Power: The Department of Justice has a number of priorities in dealing with legislative policy as well as civil litigation beyond the criminal law domain. By having someone as a Director of Public Prosecutions, as has been done in some provinces, whose sole focus and professional purpose is to deal with the prosecution of offences within their jurisdiction, not only will a body of expertise be built up within that group, but also the time, attention, and focus necessary to deal with these matters will be there in an undivided manner.

Hon. Stephen Owen: But I understand the assistant deputy attorney general for criminal prosecutions in that branch within Justice Canada is exclusively focused on the prosecution of federal offences. So I'm not sure how...then I also understand that we're not thinking of creating, in the Director of Public Prosecutions, any larger institution. I understand it's merely a transfer of what already exists to a somewhat arm's-length operation from the Department of Justice. I'm not sure there would be any further resources or any further focus.

So my question to you really is.... The essence of what you're recommending is to create a federal offence...it's independent of whether it's by Justice Canada's prosecution division or whether it's by a Director of Public Prosecutions.

Mr. Gerard Power: Certainly, the essence of what we are recommending is that we remove some of these offences from the Criminal Code and place them under the Canada Post Corporation Act, as has been done with certain offences that are today offences under the Criminal Code and have now been created as parallel offences within the Financial Administration Act in Bill C-2.

We would like to see that, so there is the jurisdiction for a federal prosecutor to take on these matters, with the expertise they have and their ability to dedicate the resources to these files.

Hon. Stephen Owen: Great. That makes it a bit clearer.

The Chair: Madam Guay.

[*Translation*]

Ms. Monique Guay: Thank you, Mr. Chairman.

Good morning, I am pleased to meet you. We are told that this is an important bill that will have great impact on large corporations such as the Canada Post Corporation.

Have you assessed the costs that your corporation will incur to implement Bill C-2?

● (1105)

Ms. Moya Greene: We have not studied this specifically. However, we inquired about other bodies that are now subject to the Access to Information Act. I personally had experience with this when I was a public servant. I know that Canada Post is perhaps the largest government entity that is subject to the Access to Information Act.

When I was working for the Department of Transportation, about 12 years ago, 30 persons were assigned to work on the Access to Information Act. Perhaps there are more of them now. At that time, Transport Canada was not as complicated, not as commercial and not as big. With its 71,000 employees, Canada Post is the seventh largest employer in the country. So, according to my experience and in light of the enquiries regarding other administrative bodies, this will be quite expensive. However, we are ready to commit the necessary funds to this undertaking.

Ms. Monique Guay: Ms. Greene, after your assessment, could you inform us about the expenditures that you will have to incur? We ask for this information from all organizations like yours, so as to get an idea of what the overall cost might be.

Ms. Moya Greene: Yes, of course.

Ms. Monique Guay: You want the application of the act to be delayed by 18 to 24 months. Do you really think that you need more than two years to implement it?

Ms. Moya Greene: Yes. Given the complex nature of the corporation and due to the fact that we are beginning to implement this legislation, we have information that shows that we will need at least 12 months to find an experienced person who will be in charge of enforcing this legislation. I think that it will take us 24 months to get all the files together and to form an experienced team.

Ms. Monique Guay: I would like to know what you think of the idea of giving $1,000 to whistleblowers. What does the Canada Post Corporation think of this measure which, in any case, we will not support?

[*English*]

Ms. Moya Greene: I share the view of the person representing the Office of the Ethics Commissioner for the Public Service Commission, Madame Guay, that it's probably not necessary. I don't think $1,000 is a sufficient motivator for someone to come forward and, in fairness, to stand apart, stand up for what is right, stand up for what he or she believes in, even if it means standing apart from others.

So I don't think the $1,000 will uncover more wrongdoing, and I think it may in fact be misused on occasion.

[*Translation*]

Ms. Monique Guay: Could this launch a witch hunt?

[*English*]

Ms. Moya Greene: It could, but I have to say that it is not a matter that we have done a lot of research into, so these would be my personal views.

[*Translation*]

Ms. Monique Guay: That is quite acceptable. Thank you very much.

● (1110)

[*English*]

The Chair: Mr. Martin.

Mr. Pat Martin: Thank you, Chair. Thank you, Ms. Greene.

As you know, the proposed Federal Accountability Act adds 19 new entities to schedule I of the Access to Information Act, one of which, of course, is Canada Post Corporation. I think it's section 165 of the ATI act, but while it gives with the one hand, in our view it takes away with the other because the proposed FAA also creates 10 new exemptions. We're concerned this may add further secrecy rather than greater openness and transparency.

Beyond those that are already available, in the case of Canada Post it creates a class exemption with no time limit, so a permanent exemption for any record that contains financial, commercial, scientific, technical information, etc., which is virtually all of the activities of Canada Post, other than the physical plant perhaps. We're just very concerned that these new exemptions.... I don't understand why Canada Post needs these exemptions when the Department of Finance, for instance, operates under full transparency of the Access to Information Act and manages to safeguard these very important financial confidences that could ruin the economy if they ever got out.

So how is it that Canada Post needs this additional secrecy when institutions like the Department of Finance operate fine with the existing exclusions and exemptions under the Access to Information Act?

Ms. Moya Greene: I think, Mr. Martin, the answer resides in the nature of Canada Post. Canada Post is a commercial entity. We are not a department of the Government of Canada. We are a commercial entity, where 95% of our revenues are coming from thousands of businesses across this country. We are in the process of delivering mail, 40 million pieces of mail, every day, to 14 million addresses, where the security of the mail and the timeliness of its delivery are the basis for why those businesses still use us. This is a very competitive business. We are competing against some of the largest and most successful companies in the world. A company like UPS is a formidable competitor. It is one of only six companies in the world that has a triple A rating. I would like to think that Canada Post has the same protection for its commercial information that my competitors have.

Mr. Pat Martin: But you already enjoy that under the current Access to Information Act, except it's at the discretion of the Information Commissioner and there are time limits to it. Now what justification is there to—

Ms. Moya Greene: But we're not covered.

The Chair: Let Mr. Martin ask the question.

Mr. Pat Martin: I'm sorry, but if you were covered by the Access to Information Act, if you were listed in schedule I, which you would be by Bill C-2, and you didn't have these new exclusions, then the act as it stands would apply to you, and it already protects commercially sensitive corporate trade secrets, all of those things. They're already contemplated in the ATI at the discretion of the Information Officer.

What they're giving you in Bill C-2 takes that away. It makes it automatic and it makes it forever—permanent. We have a right to know what Canada Post is up to, just like we have a right to know what any crown corporation is up to.

Why this rigid exclusion? Did you ask for it, for instance? Were you consulted, and did you ask for this exclusion?

Ms. Moya Greene: Oh yes, of course, and I think it is quite properly there. The reason Canada Post was not subject to the act in the past was due to its commercial nature, Mr. Martin.There's a huge harm that could happen to this company—

Mr. Pat Martin: Why aren't you fighting its being included in the act altogether?

Ms. Moya Greene: Because I think, as I have said in my remarks, the people who have proposed the law and drafted it have by and large done a good job. They have respected the commercial nature of Canada Post. The exemption that is provided for Canada Post and the EDC and the CBC.... These are special corporate entities, and they therefore require special treatment in order to be covered under the act. I believe this has been given, by and large. It is to recognize the harm that would happen to the company if we, unlike our competitors—

● (1115)

Mr. Pat Martin: I'm sorry to interrupt you again, but those are the very things the Information Commissioner takes into consideration now when he rules whether something should be divulged or not—the injury test.

Ms. Moya Greene: Mr. Martin, he is not accountable for the future and the success of Canada Post; I am. I am the person who is accountable, and the board of Canada Post is accountable. He is not accountable for that—

Mr. Pat Martin: You're accountable to the people of Canada, and we have a right to know what you're up to. That's my only point, with all due respect.

Ms. Moya Greene: I think you do know what Canada Post is up to.

Canada Post, as you know, publishes its corporate plan, which is a very detailed document; it publishes a very detailed annual report. I'm available to meet with members of this House at any time. I'm available to meet with committees such as this whenever I am called. I think Canada Post is a very transparent corporation, certainly more transparent than my competitors.

Mr. Pat Martin: Why is this class exemption permanent and automatic? There are many types of requests for information under these categories that could come forward. They're automatically not allowed now by this language, instead of at the discretion of somebody's ruling.

The Chair: Quickly, Mr. Martin; we're running out of time, please.

Mr. Pat Martin: Why is it permanent? Why is it not a 20-year prohibition? This is forever and automatic.

Ms. Moya Greene: The act can be changed at any time. I think any provision in an act is only for as long as the act is in place.

I think the harm that is being protected against here is as real today as it was 10 years ago, as it will be 10 years or 20 years hence. As long as Canada Post is a $7 billion commercial entity in an intensely competitive world, that protection is needed.

The Chair: Thank you.

Mr. Lukiwski.

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

My primary question was addressed by Madam Guay, and we got on 24-month.... [*Technical difficulty—Editor*]

We have some static in our earpieces. Hopefully you can pick this up.

My question has been answered—thank you—but I do want to encourage you, Ms. Greene, to submit suggested language with your amendments as well. Again, I go back to the fact that this committee is always looking for ways to strengthen this act. Witness after witness we've had today has said that it's a very good act, and they like it, but many of them have some minor amendments they think would make the act better. I would certainly encourage you to include the language as well as the amendments so that we can consider this.

Thank you.

Ms. Moya Greene: Thank you very much. We will do that.

The Chair: Mr. Moore.

Mr. Rob Moore (Fundy Royal, CPC): We acknowledge that you're in a competitive environment, and I think the act goes a long way towards recognizing Canada Post's unique situation. You mentioned some of the harms. We had previous testimony on some of the harms that can come to a crown corporation if subjected to some other provisions.

For the benefit of the committee, can you talk about some of the harms that could come to you or your customers, and some of the concerns you would have if the act went beyond what it does?

Ms. Moya Greene: Yes. We have literally thousands of large contracts with businesses across this country, through which they have reposed in us the confidence to carry their mail, to get their payments in on time, or to deepen their relationships with their customers. These contracts contain significant competitive information from our customers and significant information on our pricing for different categories of mail, different products, and different services that we provide—services and products for which there are other providers in most markets, including even in parts of the value stream that's considered the protected part of our market.

If that information on our pricing or our costing or how we have developed our pricing were to become available to our competitors, I am certain that it would be incredibly useful, just as it would be very useful for me to have UPS's pricing information and UPS's contracting information and how UPS goes about getting access to its customers and deepening its relationships with its customers. So it would cause commercial harm. I think it's information that would be used, not to provide transparency on Canada Post, but to really improve the position of my competitors in ways that I do not have.

If I speak in terms of my suppliers, in order to put 40 million pieces of mail in 14 million addresses every day in this country, it's a huge logistical exercise that involves many, many suppliers. In fact, Canada Post is probably one of the biggest contracting operations in the country. In order to mail—

● (1120)

Mr. Rob Moore: I want to leave a little time for my colleague, but that does answer my question. I just wanted some of those examples and it drives the point home. Thank you.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): I'd like to open my question by clarifying that this is not a new exemption. The bill does not create a new exemption for the commercial activities of Canada Post. In fact, the exemption already existed in that your entire operation, all of Canada Post, was exempt. In fact we are dramatically reducing the exemption and limiting it exclusively to those things that could be used by competitors against Canada Post. It would not be in the interest of Canadian shareholders, who are the taxpayers, to put their enterprise at a competitive disadvantage against private enterprises. I think that's a more appropriate way of looking at the way the Federal Accountability Act applies to Canada Post.

I'll just conclude by asking whether you agree that opening up Canada Post to access to information will restore more faith and accountability in this crown corporation amongst Canadian taxpayers.

Ms. Moya Greene: That's a difficult question. As you know, this is very important to me as the CEO to know that Canadians continue to trust Canada Post. The most recent information I have is that they do. We have an 80% approval rating from our customers. We are one of the top 10 brands of the country. The brand is based upon Canadians' belief in the importance of the security of the mail.

Will this enhance their already very positive view of Canada Post? I don't know. I don't think it will hurt it.

The Chair: Thank you very much for coming this morning, to both of you.

Ms. Moya Greene: Thank you for inviting me, Mr. Chairman.

The Chair: Thank you.

I might just conclude that we did get a letter from Mr. Feeney, and when it is translated into both official languages I will distribute it to members of the committee. So if you could inform him of that, the committee will get—

Ms. Moya Greene: I will be back to you within hours, if not—

The Chair: No, I have the letter. I'll get it to the members of the committee. Thank you.

The meeting is suspended for a few moments. Thank you.

● (1125)

The Chair: I'd like to reconvene the meeting, ladies and gentlemen.

The committee has some business. We have a notice of motion that was given to us a couple of days ago.

Mr. Poilievre, go ahead, please.

Mr. Pierre Poilievre: Yes. I submitted a motion two days ago. I don't know if you have the wording or not, Mr. Chair.

The Chair: I think it would be appropriate if you moved the motion, so we're aware of it. I think the members of the committee have it.

Mr. Pierre Poilievre: I did give you my wording. I don't have it returned to me.

The Chair: Okay.

Mr. Pierre Poilievre: Mr. Chair, the motion reads as follows:

> That the Committee seeks to complete its work on Bill C-2 before the House adjourns for summer recess in late June, 2006 and that if that work is not complete the committee will continue to sit into the summer without break until its work on Bill C-2 is done notwithstanding the adjournment of Parliament.

I can read it in French, but I gather the translation is probably pretty clear.

The reason for this motion is that I believe members of this committee are acting in good faith and they agree we need to complete this work as quickly as possible. This debate has been going on for several years now. The Auditor General presented her original report into the sponsorship scandal back in 2003. It's now midway through 2006 and we're still waiting for a legislative response from any government at a federal level. I think three years is a long enough time to talk. We now have a very comprehensive bill for which all parties have proclaimed their support.

This motion seeks to assert the committee's firm commitment to the passage of this bill before summer, and it demonstrates the willingness of members of this committee to roll up their sleeves and do the job, even at some personal sacrifice. We're all paid here not to talk but to do. I firmly believe that members of this committee from all different parties want to achieve something for the taxpayers who sent them here, even if it means sacrificing some of the personal time that is typically afforded to members of Parliament throughout the summer.

I'm proposing that we sit here until the job is done, Mr. Chair, and work vigorously to complete the task. At the same time, this motion allows us to hear as many witnesses as we need. In fact, it gives us more time to study, more time to consider, and more time to put forward amendments and to analyze clause by clause. In that sense, Mr. Chair, it represents the best of both worlds: we can complete our work for the Canadian people, and we can also take as much time as is necessary to complete the task.

Finally, we can send a message to the taxpayers who sent us here that we're serious about achieving what we promised we would achieve at election time.

Those are my thoughts.

● (1130)

The Chair: Thank you.

The motion is on the floor.

Is there debate? Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: In my opinion, this was an excellent presentation by Mr. Poilievre on the common will of committee members to adopt Bill C-2 as soon as possible. However, I have noticed a few minor flaws and I would like to point them out.

First, if committee members are very sincerely united in their intention of providing as soon as possible a safety net for public servants who make disclosures, then it is possible for us to do it. In fact, the government holds this power in its hands. All we need to do is to pass Bill C-11 right away and then allow committee members to study Bill C-2 seriously.

Some say that if the members of the opposition were sincere, they would greatly accelerate the study of this bill so as to protect public servants. I think that this is a rather weak theory, given the fact that Bill C-11 does exist, and that the Conservatives obstinately refuse to implement it. This is the first problem.

The second problem is that we have heard about eight witnesses up to now, and they all told us that Bill C-2 was good but that it needed amendments. Now, Mr. Poilievre feels that he is on a mission, like Moses with the Ten Commandments on Mount Sinai. In fact, Moses had a perfect document straight from God. The eight witnesses we heard all told us the same thing, they were all in good faith and no one wanted to use delaying tactics; even if this bill is well drafted, we must look at it closely.

Can Mr. Poilievre and the Conservatives say that the eight witnesses who appeared before the committee, including Mr. Cutler and Ms. Fraser, were in bad faith because they suggested significant amendments to Bill C-2? I hope not. At least, if they look at the list, they will see that the witnesses are not members of the Bloc Québécois. I think that they came here as professionals to tell us that Bill C-2 needed serious study.

In any case, as we already said, we will go on maintaining that we want public servants to be well protected, first of all by adopting Bill C-11. Secondly, given that the Conservatives are obstinately refusing to adopt this bill with interim provisions, let me move the following amendment to the motion at hand:

> That the committee seek to complete its work on Bill C-2 before the House adjourns for summer recess in late June 2006, and that if that work is not complete the committee will continue its work until June 30, 2006, and will then adjourn until the first Monday in August 2006, which is August 7, if need be, notwithstanding the summer recess.

If, over the last six months, there had been any will to protect public servants, Bill C-11 would have been implemented. I therefore move that we sit until June 30 and come back on August 7, if need be, to hear the other witnesses. And I do now so move. Thank you.

● (1135)

[*English*]

The Chair: We now have an amendment.

Mr. Poilievre, and then Ms. Jennings.

Mr. Pierre Poilievre: I thank Mr. Sauvageau for having made that submission and that proposed amendment. I feel it's unnecessary, because the original motion already contains the possibility of sitting in August. One thing you can't get back in life—you can get back a lot of things that are lost—is time; once it's gone, it's gone. In other words, if it turns out that we're not able to complete our work by the end of August, we can't go back to say we're going to meet in July again, because July is already gone.

I would propose we stay with the original wording, because it allows us to meet in July, and if we're done, then August is free. If we need August, then we have it as well. Frankly, the existing motion covers the considerations Mr. Sauvageau has put forward, in that it leaves open the possibility of sitting in August as well.

Finally, I haven't heard from Mr. Sauvageau why August is better than July. If we have to sacrifice one, why would it be August and not July? I know there are as many constituency events that go on in August as in July, and if there are specific holidays that come to mind in any part of the country, Quebec included, I'm sure the committee would at that time make a decision to stop our function for those holidays and then get back to work as soon as they're over.

So I do not support this amendment.

The Chair: Ms. Jennings.

Hon. Marlene Jennings: I support the amendment proposed by Mr. Sauvageau, and I would propose calling the question.

The Chair: We have Mr. Martin.

Mr. Pat Martin: I didn't fully hear the intervention from Ms. Jennings. Did she call the question?

Hon. Marlene Jennings: I did, but I didn't realize you hadn't spoken. I apologize.

Mr. Pat Martin: Nothing personal taken.

I would like to add a few comments.

I feel strongly that we're being asked to do something special here. We've been given this task, and it's a great honour to be part of this task to do something meaningful for the country. We're being asked to make some personal sacrifice by Mr. Poilievre's motion. We're being asked to take one for the team, as it were, and give a bit of our time above and beyond the pace we already keep as members of Parliament.

I, for one, want to be on the side of the people who are willing to roll up their sleeves. If we have to wear short pants to work because it's sweltering in the middle of summer while we're here, we should do that willingly. Frankly, I'm grateful for the opportunity to be a part of this. It's a noble initiative, and we should vote in favour of the resolution to stay here until the job is done—until we can proudly pass it on to its next step.

The Chair: We have an amendment. We will vote on the amendment.

[*Translation*]

Mr. Benoît Sauvageau: I would like to ask a question, Mr. Chairman.

[*English*]

The Chair: I apologize; Mr. Sauvageau, and then Mr. Tonks.

[*Translation*]

Mr. Benoît Sauvageau: Should the votes be tied, the chair can break the tie in such a way as to preserve the status quo. Will this rule be applied here?

[*English*]

The Chair: Unfortunately.

Mr. Tonks.

Mr. Alan Tonks: Mr. Chairman, I would like to underscore what Mr. Martin has said in terms of the absolute requirement for us to expedite consideration of what is a major piece of legislation. I hope it isn't taken or inferred that because we aren't willing to meet in the summer, we are any less committed to that noble objective. That should be self-evident.

I would like to stress that there's a difference between being a member from Ottawa—with great respect—and being a member from British Columbia or the Yukon. We may have opportunities that would avoid having to meet during the summer and from an equity perspective be in the interests of the members.

I would suggest that the committee give consideration to meeting extra time. That was earlier presented as an alternative—that as we look at our work schedule over the next two months, the committee from time to time determine whether it wants to bring forward additional witnesses in order to expedite the consideration of the agenda in dealing with this bill. It would still achieve the objective Mr. Martin has so capably outlined, but it would at the same time avoid the necessity...for obvious reasons of family and so on, and it would protect the opportunity for members to get back to their families and their constituencies.

● (1140)

The Chair: I'm going to ask for a brief recess.

The Chair: Mr. Owen.

Hon. Stephen Owen: Thank you, Chair.

Colleagues, I just want to make one observation. I share the feeling for the noble task we have before us and the importance and complexity of this piece of legislation. I think one thing that's been evident since this legislation was introduced in the House is that it has been cast as.... I paraphrase, but I think quite accurately, the President of the Treasury Board as saying this is the strongest piece of anti-corruption legislation in Canadian history. To me, Mr. Chair, that is raising the temperature beyond the situation in our country.

I refer to Justice Gomery's conclusions that the vast majority of public servants and politicians are honest, diligent, and effective in their work. Secondly, the fact that the Gomery inquiry was set up as it was, as he says in his comments, with the breadth of access to information, even up to the Prime Minister and former prime ministers and cabinet documents, demonstrates that Canada is one of the most accountable countries in the world. These are the conclusions.

That doesn't quite square with the rise in temperature that I think is being attempted to be given to this bill. It's very important. There are incremental improvements on what's happened over the years. We have an independent conflict of interest commissioner—

● (1145)

Mr. James Moore: I have a point of order, Mr. Chair.

Hon. Stephen Owen: —we have political financing legislation, we have Bill C-11—

The Chair: We have a point of order, Mr. Owen. We'll have to stop here.

Mr. James Moore.

Mr. James Moore: I appreciate my colleague from Vancouver Quadra debating the findings of the Gomery Commission, but I believe Ms. Jennings a moment ago called the question. It was deferred for a second. Can we go to the question now?

The Chair: Yes, we seem to have forgotten that, but....

Hon. Stephen Owen: I'll wind up very quickly.

The Lobbyists Registration Act, which will always be—

Mr. Pat Martin: On a point of order, which was in fact first, I would like to raise the same point. Mr. Owen knows the camera is rolling, so he's taking this opportunity to make yet another speech on the merits of Bill C-2. The motion on the floor is the sitting schedule, so I'd ask the chair to please intervene on relevancy, and let's get down to the question.

Hon. Stephen Owen: My only point, Mr. Chair, is to—

Mr. Pat Martin: Mr. Chair, I have a point of order.

Hon. Stephen Owen: —have us consider this and not consider—

Mr. Pat Martin: On a point of order, Mr. Chair, you're allowing him to continue with a marathon speech about how the Liberals really didn't do anything wrong, and that's not what we're debating right now. He's giving his revisionist view of history here. He never misses an opportunity to take the camera and give a recitation that nobody really did anything that wrong and this bill is not really necessary, etc. I don't think we should let him hijack this committee repeatedly.

Hon. Stephen Owen: I have a point of order, Mr. Chair.

Mr. Pat Martin: Actually, there's already a point of order on the floor, and I have the floor.

Now, we have a motion—I have the floor, Ms. Jennings.

The Chair: There is a point of order from Mr. Martin.

Mr. Pat Martin: Thank you.

We have a motion on the floor and an amended motion. All I would ask is that in the interests of advancing Bill C-2 in some kind of an orderly way, in a way that we can be proud of, we stop the showboating and the grandstanding and we deal with things in a business-like manner. We have a specific motion on the floor, and it was amended by my colleague from the Bloc with a legitimate amendment, a legitimate point of view. The question was called, and it's not the time for a speech from Mr. Owen about the virtues of the Liberal Party or the merits of Bill C-2.

The Chair: You've made a good point of order. I'm going to allow him to continue, but keeping in mind his point of order is right on, then we're going to allow some more debate.

Hon. Stephen Owen: Thank you, Mr. Chair.

My point, and I won't go over anything I said previously, is simply to say, let's keep this in proportion to the situation in our country. We're not talking about a national disaster. We have no difficulty continuing work on this important, complex piece of legislation during the summer, but let's not put it out of proportion. The proportion, of course, is not people going golfing in the summer; it's people going back to their constituencies to be able to continue with the other parts of our important work. That being said, this is important, and we will do what's necessary to make sure it gets done in an appropriate period of time.

A voice: Hear, hear!

The Chair: Mr. Poilievre.

Mr. Pierre Poilievre: I'll be very brief. I just want to point out that the status quo for this committee is that there is no plan to adjourn when the House of Commons adjourns. There's nothing in the Standing Orders under the status quo that indicates that we will be adjourning or that our schedule is matched with the House of Commons schedule. The status quo does not give us any limitation on when we will sit, so this motion is more closely aligned with the—

The Chair: A point of order, Ms. Jennings.

Hon. Marlene Jennings: If my memory serves me correctly, Chair, the other day when a motion was being debated, Mr. Sauvageau attempted to argue the question of what was status quo. You correctly stated that was a decision that would be dealt with once the vote was called and actually took place, because it was a moot question.

So Mr. Poilievre, in my view, is out of order.

The Chair: That is not a point of order.

Mr. Poilievre, continue.

Mr. Pierre Poilievre: Am I recognized? The status quo does not send us home when the House of Commons goes home. The status quo does not align the schedule of this committee with the schedule of the House of Commons. The status quo is that we have no plans to adjourn. So I would argue that this motion is congruent with the status quo.

The Chair: I don't know where you're going on this. You're sort of anticipating a tie vote and I don't.... There's one thing debating the amendment and the motion, but it's quite another anticipating something beyond that, and that's what you're doing. I think you'll have to stop on that.

Does anyone have any comments?

We're voting on the amendment. Madam

Clerk, can we be clear what the amendment is? Or perhaps Mr. Sauvageau could confirm what it is so we know what we're voting on.

● (1150)

[*Translation*]

Mr. Benoît Sauvageau: The amendment reads as follows:

> That the committee seek to complete its work on Bill C-2 before the House adjourns for summer recess in late June 2006, and that if that work is not complete, the committee will continue its work until June 30, 2006, and then adjourn until the first Monday in August 2006, which is August 7, if need be, notwithstanding the summer recess.

[*English*]

The Chair: Okay.

(Amendment negatived)

The Chair: We will now vote on the motion.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, if I understand the Standing Orders, I cannot ask you to explain your vote?

The Chair: No.

Mr. Benoît Sauvageau: All right. That is fine with me. I have no problem with showing respect for the chair and the Standing Orders.

[*English*]

The Chair: If there's any more debate on the main motion.... No more debate? Then we will vote on the main motion.

(Motion agreed to)

The Chair: Yes, Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: If the committee sits all summer, could it sit in British Columbia, or in Ontario or in Quebec?

An hon. member: In my riding?

Some hon. members: Oh, oh!

[*English*]

The Chair: The meeting is adjourned until Tuesday at nine o'clock.

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