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Chair

Mr. David Tilson

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● (0805)

[*English*]

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

I'd like to call the meeting to order. This is the Legislative Committee on Bill C-2, meeting number 24, which is being televised. Our orders of the day are Bill C-2, An Act providing for conflict of interest rules, restrictions on election financing and measures respecting administrative transparency, oversight and accountability.

We are on clause-by-clause.

(On clause 89)

The Chair: We have a subamendment of Mr. Poilievre to NDP 5.1. The subamendment has been distributed to members of the committee.

Mr. Poilievre.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Yes. The subamendment, which we've submitted, seeks to sharpen up some of the wording in the existing amendment. I don't believe the changes are particularly substantive, but we believe the subamendment does present better wording than the original NDP 5.1, and I'd invite any commentary from our panel of experts.

The Chair: Mr. Wild.

Mr. Joe Wild (Senior Counsel, Legal Services, Treasury Board Portfolio, Department of Justice): I think that's correct in terms of the subamendment. It's primarily meant as a tightening of language, and the substantive part of it is that it transforms a “may not refuse”, which is discretionary, to “shall not refuse”, which is non-discretionary, and that's probably the key important change that's happening through the subamendment.

The Chair: Debate?

Mr. Martin, debate?

Mr. Pat Martin (Winnipeg Centre, NDP): Just let me say simply, although I wasn't the one who was here last night to initiate amendment NDP 5.1, that I would welcome this amendment as a friendly amendment. I think any time you go from “may” to “shall” it's for greater certainty regarding what the intent of the clause is. We want the Commissioner of Lobbying to disclose in these circumstances. We don't want it to be an “if” or a “may” situation.

The Chair: Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau (Repentigny, BQ): Today I believe we're studying a number of amendments that concern the Access to Information Act. Consequently, I repeat what I said yesterday: we of the Bloc Québécois would have liked the reform of the Access to Information Act to be included in Bill C-2, as the Conservatives said during the election campaign.

That was not the government's wish, as we saw when it tabled Bill C-2. It decided to table a proposal for study by another committee. We don't want to adopt certain amendments concerning the Access to Information Act on a piecemeal basis. We think this should have been included in Bill C-2. If that isn't the case, we should let another committee study the reform of the Access to Information Act.

Furthermore, the Conservatives are putting on the pressure to have Bill C-2 passed very quickly. They have told us that in the committee and emphasized it through the media, since it was announced in the newspaper today. Consequently, I think we should only study the elements included in Bill C-2 and not touch the Access to Information Act.

Thank you, Mr. Chairman.

[*English*]

The Chair: Mr. Martin.

Mr. Pat Martin: That's not necessary, Mr. Chairman.

Thank you.

The Chair: Mr. Martin, I'm sorry.

Mr. Pat Martin: I'd just like to call the question.

The Chair: Yes.

Ms. Jennings.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): I'd simply like to state, on behalf of my Liberal colleagues, that we share the same view as the Bloc on this issue. Given that the government in its wisdom has decided not to follow through on its electoral commitment in its accountability bill to bring forth amendments to the Access to Information Act and has instead decided to table a paper and have the access to information, privacy and ethics committee examine this in detail before going forth with a comprehensive overhaul of the Access to Information Act, we do not believe it's appropriate for this committee to be dealing piece by piece with various amendments that touch and amend the Access to Information Act.

So we will not be supporting this amendment.

(Subamendment negatived [See *Minutes of Proceedings*])

The Chair: Is there any debate on the amendment?

Mr. Martin.

Mr. Pat Martin: If I can say briefly, I disagree with my colleagues from the Liberals and the Bloc in that, yes, we would rather have comprehensive sweeping changes to the Access to Information Act, but that's not what is on the table. We're the Legislative Committee on Bill C-2 and we're duty bound to deal with the clauses of Bill C-2 in order to make this the best bill it can possibly be. Those of us who embrace open government, those of us who are fans of freedom of information, are doing all that we can to move amendments to Bill C-2 in order to touch on as many of the key points of access to information as may exist.

The Chair: Do you want to keep on topic, Mr. Martin?

Mr. Pat Martin: Well, we got off to a bad start with statements by both of the other parties.

The Chair: You know, you're right. I've tried to make it clear, as chair, that I really am opposed to members from all sides bating and teasing each other. That's what's been going on, and that's what has started today.

Please keep on topic, Mr. Martin.

Mr. Pat Martin: We're pleased that there will be a Commissioner of Lobbying. We want the activities of the Commissioner of Lobbying to be as transparent as other officers of Parliament.

I think there's a valid reason to restrict the access to some of the activities and some of the records held by the Commissioner of Lobbying. Obviously when you talk about access and freedom of information, you have to offset and balance that with the right to privacy of individuals and certain information. Once the investigation is concluded, that information should be made public. We would urge that it would be.

This is a subject I'm sure will be monitored carefully. If there is to be a five-year statutory review of this act, one of the considerations will be how clauses like this are working where the word "may" rather than "shall" is in fact used—what has been the experience. That's all we can judge it on. That will be the measure of whether it's a success or a failure.

● (0810)

The Chair: Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, someone said that our mandate was to make the best bill possible. However, that same person, and I'm not talking about Snoopy or Winnie the Pooh, was reported in today's edition of *Le Droit* as saying the following about the bill's passage:

> I think it's feasible. Our committee will be sitting 43 hours this week. We're compressing things—

[*English*]

The Chair: We are on the amendment. Please stick to it.

[*Translation*]

Mr. Benoît Sauvageau: I'm getting there.

If it doesn't work, it will be due to the bad faith of some people. We're told—

[*English*]

The Chair: Did you not hear me? Please stick to the amendment. I don't want to go there. I don't want to go where you're going. I'm really getting upset about the shots that are being taken by all sides. Don't get the chair in a cranky mood.

Proceed.

Mr. Owen.

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

I would just like to make the observation—and I will try not to step on your toes at all, Mr. Chair—that with respect to the access to information provisions set forward in the bill, the Information Commissioner has called them retrograde and dangerous. I think we should ignore those words at our peril.

This is why I support my colleague Ms. Jennings, who is suggesting that given what we've heard from the expert in the country on this issue, we must be very careful not to take a step backward or do anything that might endanger the access to information and privacy regime until it can be done comprehensively. That's why we will be voting against the amendments that relate to the Access to Information Act.

The Chair: Mr. Martin.

Mr. Pat Martin: Mr. Chairman, with all due respect to Mr. Owen, I profoundly disagree with him. I can't imagine how, as a well-respected scholar in these matters, he would pass up an opportunity to implement meaningful improvements to the access to information regime in this country.

Yes, it's only a fraction of what we would like to see, but for heaven's sakes, half a loaf is better than no loaf at all. We have negotiated and in good faith put forward amendments that will give some improvements...

I beg your pardon, Mr. Sauvageau?

Mr. Benoît Sauvageau: I think the same thing about Bill C-11.

The Chair: Order. The chair is here.

Mr. Pat Martin: So here we have an opportunity to open government somewhat to areas where the light of day never shone, and to vote down these amendments now.... We don't know if the other committee will be able to make any meaningful Access to Information Act changes—in the ethics committee—so this is all we have. This is within reach; it's within our grasp. We'd be irresponsible not to take it now, to pass it over in the anticipation that there'll be a more comprehensive review in another committee at another time. Tomorrow may never come in terms of true access to information reform within this Parliament.

And if we don't do it in a minority Parliament, you know full well, Mr. Owen, we're not going to do it in a majority Parliament, because your government is a graphic illustration of how majority governments view reform of access to information laws.

So I urge you to reconsider, my other opposition colleagues. There will be a half dozen or more amendments dealing with access to information coming up, if they haven't already. We should support those. In the interests of better government, we should support them.

● (0815)

The Chair: Thank you, Mr. Martin.

Mr. Owen.

Hon. Stephen Owen: Well, Mr. Chair, I'm glad to hear Mr. Martin speak in such positive terms about the ability of the opposition parties here to make this a better bill, including in terms of access to information.

Regrettably, our experience for the last three weeks has been that the NDP has consistently voted with the government on almost every progressive amendment we've tried to put forward. What I don't want is for us to put forward our amendments, which are progressive, have the NDP vote against them, and therefore find we have dealt with this only in a way that reinforces the retrograde and dangerous aspects the commissioner warned us about.

The Chair: I want to return to the Commissioner of Lobbying. You two are having a great old time here, but I'd like to return to the Commissioner of Lobbying, if I could, please.

Mr. Owen.

Hon. Stephen Owen: Fine. Thank you.

Chair, could I have a brief recess? With a brief recess, we may be able to move this together more quickly.

The Chair: You may. Thank you, sir.

We'll have a brief break.

The Chair: Okay, we're going to reconvene.

We have before us amendment NDP-5.1. Is there any further debate? If not, we're going to call the vote.

I'll be reasonable, but we have to keep moving here. I'll wait for a minute. I know what you're going to do; we'll wait for a minute, but go and find her.

Mr. Martin.

Mr. Pat Martin: Perhaps in the meantime, if I may take a moment, I should clear the record. Maybe it'll help this vote; this is why this point is relevant.

Sometimes I vote against opposition motions simply because I have my own similar motion coming up in 15 minutes that I like a little bit better. It's not as though I'm against progressive ideas to improve Bill C-2, as Mr. Owen would have this public forum believe. In fact, often we have very similar amendments coming down the pike that are subtly different and that we would rather see implemented.

I just wanted to use this time to clear that up, for the record.

● (0820)

The Chair: Thank you, Mr. Martin.

We're going to vote on amendment NDP-5.1.

(Amendment negatived [See *Minutes of Proceedings*])

The Chair: Ladies and gentlemen, we will return to clause 65.

To remind you, the vote on clause 65 applies to clauses 66 to 88 and clauses 89 to 98.

(Clause 65 agreed to)

(Clauses 66 to 88 inclusive agreed to)

(Clauses 89 to 98 inclusive agreed to)

The Chair: Ladies and gentlemen, if you could turn to new clause 88.1, it's on page 69.

The vote on new clause 88.1 will apply to new clause 88.2 and to the amendment G-30 to clause 83, although clause 83 will be voted on separately.

So that you're following along with the program, clause 83 is on page 67 of the binders. It is government amendment. It is G-32 on page 69.

The Chair: Mr. Poilievre.

Mr. Pierre Poilievre: The purpose of this amendment is to provide the technical underpinnings of the amendment that we all voted on yesterday. Yesterday we voted as a committee in favour of consistently applying a new five-year freeze on lobbying. That motion passed through this committee.

Amendment G-32 seeks to provide the technical underpinnings for that previous amendment. In essence, I respectfully suggest that those who supported yesterday's amendment would logically support today's amendment.

I invite any technical commentary from our panel of experts.

Mr. Joe Wild: The effect of new clause 88.1 is to retrospectively cover members of the transition team, if the Prime Minister chooses to so designate them, with respect to the various bans and employment restrictions in the lobbying act.

As new subclause 88.1(2) of the amendment makes clear, it's not a retroactive application in that it would only cover the carrying out of activities after the law comes into force, as opposed to making illegal anything that was done by any of those members between the time they left the transition team and the time when this law comes into force.

● (0825)

The Chair: Debate, Mr. Martin.

Mr. Pat Martin: I want to make sure I understand Mr. Wild. The difference between “retroactively” and “retrospectively”, is that what you were explaining by your last remark?

Mr. Joe Wild: Yes.

Mr. Chairman, the member wasn't here last night when I talked about the difference between the two at some length.

Mr. Pat Martin: Actually, I think I understand it. I would say I understand the difference.

Mr. Joe Wild: Retroactive application does create legal issues. Retrospective application doesn't create the same types of legal issues at all. So this amendment was carefully crafted to ensure that it's not a retroactive application.

Mr. Pat Martin: If I may carry on then, Mr. Chair, do I still have the floor?

The Chair: You do, sir.

Mr. Pat Martin: I think all of us have received representations and even e-mails—when I got into the office early today, further e-mails—from people who will be affected by this clause.

I think it's important to keep in mind, as we look at this clause, that this is the fulfilment of a commitment. This is introducing the spirit that was spoken to when the government made the commitment that they would end influence peddling, that they would put an end to the revolving door that so angered Canadians in the previous government.

Notwithstanding even the particular details of the woman in question, who perhaps is the most high-profile person affected by this, you have to bear in mind the tasks of the transition team. They aren't simply ordering furniture for the new government. They aren't only organizing office space. They're hiring the most powerful people in the country.

I can just imagine, one month after these new deputy ministers and chiefs of staff are put in place, the same individual showing up on their doorstep saying, "Hi, do you remember me? I'm the one who interviewed you and gave you your job. Now there is something you can do for me. I'm working in the private sector as a lobbyist."

The optics of that are so obvious, it's as plain as the nose on your face. Whether it was for two weeks or two months, those people on the transition team must have known it put them in the top level of political influence, the upper sphere, if you will. That's exactly the type of influence that shouldn't be marketed. Your connections shouldn't be a marketable commodity.

That's what has been so wrong in Ottawa. I don't say it's terribly wrong, to the extent of some other countries. I think the United States' democracy has been ruined by the undue influence of lobbyists on Capitol Hill. We're not at that degree, but we were heading in that direction and it can be nipped in the bud by a clause like this.

I don't know what the sense of the committee is in support of this bill, or how much more I have to argue in favour of it, but it's a strong motion for its symbolism and the message that it sends, as well as the practical effect of the language that's been very carefully chosen, I might add.

The Chair: We'll go to the vote.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 83 as amended agreed to)

(On clause 99)

● (0830)

The Chair: Just for the record, amendment L-6.3 cannot be put because amendment L-2.2 was negatived. Therefore we will move to Bloc amendment BQ-14, which is on page 74.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: I believe we've already debated a similar question. Let me find my place.

The wording proposed in the bill is as follows:

> (3) Every member of the House of Commons who contravenes subsection (1) or (2) is guilty of an offence and liable on summary conviction to a fine of not less than $500 and not more than $2,000.

In our party, we believe that these penalties are inadequate fo the purpose of enforcing the Act. For that reason, we propose a fine of up to $50,000. The person, whether it be the lobbying commissioner or the person responsible for offences, could decide to impose a penalty of $2,000 or $10,000. However, if it is a serious offence or breach, it would be possible to give this Act some teeth by imposing a fine of up to $50,000.

I hope I've made myself clear.

[*English*]

The Chair: I don't see any hands up, so we're going to vote on amendment BQ-14.

(Amendment negatived)

The Chair: We now move to amendment NDP-7, on page 75 of your package, your book.

Mr. Martin, could you move NDP-7?

Mr. Pat Martin: What are you going to do, Mr. Chair, if I do?

The Chair: Well, you have a good guess, but we have to go through this. Sometimes it's a charade, but we have to do it.

Mr. Pat Martin: All right. I move amendment NDP-7, on page 75, dealing with floor crossing.

The Chair: Thank you, sir.

Amendment NDP-7 proposes: Any member of the House of Commons who was elected with the endorsement of a registered political party and ceases to be a member of the caucus of that party during the term for which he or she was elected shall sit in the House of Commons as an independent and shall be considered as such for all proceedings in the House of Commons during the remainder of the member's term.

The *House of Commons Procedure and Practice* states on page 654: "An amendment to a bill that was referred to a committee after second reading or a bill at report stage is out of order if it is beyond the scope and principle of the bill."

The chairman rules that amendment NDP-7 is a new concept that is beyond the scope of Bill C-2 and is consequently inadmissible.

We therefore will move to Liberal amendment L-6.4, which is on page 75.1.

Ms. Jennings.

Hon. Marlene Jennings: First, I'd like to ask the clerk if she received copies in both languages of the memos that I received from the parliamentary counsel, legal affairs, Steven Chaplin, Melanie Mortensen, and Francis Descôteaux.

Yes. With the agreement of the chair, could they be distributed? The memos lay out Mr. Walsh's position with regard to clause 99.

I'd like to explain this amendment.

● (0835)

The Chair: Would you give me a moment. I haven't seen this.

Do you have a French version, Madam Jennings?

Hon. Marlene Jennings: Yes, I just handed the French version to the clerk.

The Chair: The problem is no one has seen this up here.

Ms. Jennings, just before we talk on that, this is to you from Mr. Chaplin and others, and it's an explanation of what this amendment is. Is that what this is? I haven't read it. It goes on for a couple of pages.

Hon. Marlene Jennings: I apologize. That's obviously an error on my part and on the part of my staff. I thought I had given clear instructions when I received the memo, both the short version and the long version, in both languages, that when it was passed on to our clerk both versions would be provided in both languages along with a request that it be distributed. That is obviously a problem in my office, however—

The Chair: Just a second. Has everyone got a copy of this? Is everybody happy with this amendment? I'm going to allow it to go, but just acknowledge that I expect no one has read it yet, so you'll have to summarize it.

Hon. Marlene Jennings: Yes, fine.

The basic position I am expressing is one that's based on Mr. Walsh's advice to this committee, his legal advice, regarding clause 99. Ultimately, it was that clause 99, however it might be amended if it was the will of the committee to amend, including the amendment that I've provided, should not carry because it would in fact impede the autonomy, the exclusive constitutional authority, of the House to regulate its members, and that the provisions—

The Chair: I'm sorry, just give me a minute. I'm sorry to interrupt.

Has Mr. Wild seen this?

I am going to have a brief break.

Hon. Marlene Jennings: Recess? How about putting a time limit so that we don't find members out. Maybe 10 minutes, 15 minutes?

The Chair: Oh, when I say brief, I mean we'll just call them back. No one leaves the room. We're in play here. We're going to have a brief break.

● (0840)

The Chair: Thank you, Ms. Jennings. I think all members now have a copy of this memorandum, and Mr. Wild and his colleagues have had an opportunity to read it.

I interrupted you in mid-sentence. Please continue.

Hon. Marlene Jennings: That's fine, and I apologize for the confusion regarding my amendments and the memos that I have from Mr. Walsh's staff.

To explain my amendment and the purpose thereof, I would like to briefly discuss clause 99 and the impact of clause 99 as it is now constructed. Ultimately, clause 99 proposes sections that would regulate the personal trusts of members, and the conflict commissioner would have the power to make orders directly against a member, with fines up to $2,000 that could be imposed by the commissioner if the member did not comply with the commissioner's orders. The provisions in clause 99, forming part of the Parliament of Canada Act, would be outside of the ability of the House and its members to consider, revise, enforce, or regulate.

Then we can go into the conflict commissioner's powers under proposed sections 41.1 to 41.3. They stand apart from the commissioner's other powers with respect to members, if we look at proposed section 87 and the member's code. These particular powers that one would find under proposed sections 41.1 to 41.3 would be exercised as statutory powers, and the House would not be able to object to the actions taken by the commissioner. Further, as a result of the exclusion of the proposed sections 41.1, 41.2, and 41.3 from judicial review—and that's as a result of clause 38 on page 51, as amended by the government amendment G-24—the commissioner would have exclusive control over the exercise of the powers under those proposed sections 41.1, 41.2, and 41.3 without any judicial reviews.

So I want to come to my amendment now. That explains my view, which is also the view of Mr. Walsh and his legal staff as to clause 99 right now.

● (0845)

The Chair: I just wanted to make sure that you moved the amendment.

Hon. Marlene Jennings: Yes, I move my amendment. I just wanted that as a preamble before moving my amendment. Now I will get to the crux of my amendment.

As I said, with proposed subsections 41.1(1), 41.1(2), and 41.1(3), as they are now written, any person could go before, for instance, a justice of the peace and swear out a complaint against a member on the issue of a personal trust. My amendment would still allow any person to do that, including the commissioner, but only before the appropriate standing committee of the House of Commons or, if it's a senator, the appropriate standing committee of the Senate. My amendment attempts to keep it within the authority of the House of Commons and ensures it doesn't involve judicial courts.

Clause 99, as it now stands, puts it in a statutory authority, removes it from the constitutional authority and autonomy of the House of Commons to regulate the conduct of its members, including the issue of members' trusts. My amendment attempts to bring it back in a limited way to the House of Commons so that rather than any person or the commissioner taking it before a judicial court, the complaint would have to be brought before the appropriate standing committee of Parliament, either the House of Commons or the Senate.

As well, the trigger within proposed section 41.3, as it now stands, is that the commissioner would review various trusts and make orders—for example, to wind up the trust. That's an example of an order that the commissioner would be able to make under proposed section 41.3 as it now stands. And it makes it an offence not to comply with the commissioner's order.

My amendment would create a new section, proposed section 41.5. I propose, instead, creating a new trigger. That trigger would be that once the commissioner creates an order under proposed section 41.3, his order would be provided to the standing committee of the House of Commons duly designated. The committee would then have 30 sitting days to consider either the public's or the commissioner's complaint, and so on, and order, and could then issue an opinion of the member of Parliament's compliance.

If we look at proposed subsections 41.5(3) and 41.5(4), the language already exists in the Parliament of Canada Act. One only has to look at section 52.6 of that act and subsequent. This process of stipulating that no court, judge, and so on can issue until the Board of Internal Economy has issued an opinion on an allegation that a member of Parliament has, for instance, misused the member's operating budget already exists. The way it exists is that no judge can issue a judgment and sentence, if the judgment is guilty, prior to the prosecutor providing the judge with an opinion of the designated House of Commons committee.

In the case of section 52.6, and so on, of the Parliament of Canada Act, it's the Board of Internal Economy that issues an opinion on the allegation of wrongdoing on the part of the MP, and the judge shall consider the opinion in his or her determination of whether an offence was created and, if an offence was created, the penalty, sanction, or sentence that should be imposed.

● (0850)

What my amendment attempts to do is to bring the authority not just to deal with allegations, but to deal with the issue of personal trusts that a member of Parliament may have, and to bring the authority of regulating that back into the House of Commons. It does not preclude there being a criminal proceeding taking place within the judicial courts, but that proceeding could not be concluded without the prosecutor tabling the evidence of the appropriate or designated House of Commons committee that deals with the issue within the House of Commons—tabling that opinion before the judge, and the judge having to take it into consideration.

This already exists with regard to the members' operating budgets and allegations of misuse. What my amendment strives to do—and this is on the advice of our parliamentary counsel and law clerk—is to take that same process and system and apply it to the issue of trusts that members may have or benefit from.

Thank you.

The Chair: Well said.

Is there any further debate?

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: Is there further debate on clause 99?

Ms. Jennings.

Hon. Marlene Jennings: This may sound contradictory, but notwithstanding the fact that this committee in its wisdom has adopted the amendment I proposed on the advice of our parliamentary counsel and law clerk—L-6.4—I believe, based on the advice received from the said law clerk, that clause 99 should not carry; that it should be negatived, because the remedy my amendment brings to clause 99 is not a 100% remedy, and the constitutional autonomy and exclusive control or authority over members' conduct by the House is still impeded, notwithstanding this remedy.

It is my opinion that negativing clause 99, as amended by Liberal amendment 6.4, would not in any way result in the House being unable to regulate the members' trusts. The House would always be free to amend the members' code, which is appended to the Standing Orders, to deal with members' trusts. The decision would rest exclusively with the House. It would then remain an internal affair of the House and within the constitutional privilege of the House to regulate its affairs without interference from outside the House.

I would recommend to the members of this committee to vote against clause 99, as amended by Liberal amendment 6.4.

● (0855)

The Chair: Thank you, Ms. Jennings.

Is there any further debate?

(Clause 99 as amended agreed to)

The Chair: We now move to new clause 99.1. This is on page 76, and it is a Liberal amendment.

Hon. Stephen Owen: I move the amendment.

The Chair: Mr. Owen moves amendment L-7.

Is there debate?

Did you have an explanation or a comment, Mr. Owen?

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

The Chair: Do you know what? I'm going to make a statement. I'm going to rule it inadmissible.

Amendment L-7 proposes a procedure for appointment of the president and commissioners. It is amending subsection 4(5) of the Public Service Employment Act.

House of Commons Procedure and Practice states, at page 654, that: “an amendment is inadmissible if it amends a statute that is not before the committee or a section of the parent Act unless it is specifically being amended by a clause of the bill.”

Since section 4 of the Public Service Amendment Act is not being amended by Bill C-2, it is inadmissible to propose such an amendment. Therefore, Mr. Owen, I regret to say that amendment L-7 is inadmissible.

Mr. Owen.

Hon. Stephen Owen: Mr. Chair, I have a brief commentary. I regret that it's out of order, because it seems like a neat way to roll intended powers and functions into an existing organization.

The Chair: That's very nice, but I just ruled it out of order. I'm sorry, Mr. Owen.

We're going to move on to L-8, which is on page 77, and that's new clause 99.2. This is consequential to L-9 on page 79.

Members, the vote on amendment L-8 applies to L-9 on clause 100.

Mr. Owen, on L-8.

Hon. Stephen Owen: This new clause provides the normal protections for someone carrying out their duties, subject only to the charge of perjury under section 131 of the Criminal Code.

The Chair: Madame Guay.

[*Translation*]

Ms. Monique Guay (Rivière-du-Nord, BQ): Mr. Chairman, could we request the opinion of our legal experts on this clause?

[*English*]

Mr. Joe Wild: The new clause 99.2 is setting out a series of what we would consider to be immunity provisions as well as non-compellable witness provisions, and that appears to be what Mr. Owen's amendment is doing, Mr. Chair.

● (0900)

Hon. Stephen Owen: Mr. Wild, could you clarify? These are standard form protections for people acting within the scope of their duty.

Mr. Joe Wild: These protections have only been provided under statute for positions that the government characterizes as agents of Parliament, so the Information Commissioner, Privacy Commissioner, for example, as well as the...under Bill C-2 there's also been a proposal to provide the same types of authorities for the Auditor General.

The government has not proposed to add these to the Public Service Commission under Bill C-2, as the Public Service Commission is not included or characterized by the government as being an agent of Parliament because it carries out executive functions.

Hon. Stephen Owen: Mr. Chair, just to add to that explanation, this adds a new clause to the bill rather than amending an existing clause that hadn't been raised in this bill, and that's why it's acceptable, why it's not out of order.

The Chair: Mr. Poilievre.

Mr. Pierre Poilievre: This amendment is unnecessary, given that the protections it seeks to extend to the Public Service Commission have only been extended to agents of Parliament, and the Public Service Commissioner is not an agent of Parliament, nor is the office an office of Parliament.

To date, I have heard of no practical problems with the status quo, no reason why the same legal standing that applies to others cannot apply to the Public Service Commission. So I have to state my opposition to this amendment as it seeks to solve a problem that doesn't exist and seeks to extend immunity to a body that does not, on any legal basis, merit that immunity.

I would stand against this amendment, and I would ask also, are there any legal problems that exist right now related to the non-immunity of the Public Service Commission?

Mr. Joe Wild: Certainly, Mr. Chairman, I'm not aware of any outstanding legal concerns with respect to the immunities of the Public Service Commissioner or the commissioners. I would simply add that, as with any other Crown servant, the commissioner as well as the other commissioners on the Public Service Commission all enjoy indemnification. It is exactly the same indemnification as every other public servant enjoys with respect to their service to Her Majesty. That indemnification is pursuant to Treasury Board policy. It's exactly the same basis of indemnification that has been provided, as I say, to all other public servants and Crown servants.

The Chair: Are you finished?

Mr. Pierre Poilievre: I think I can just withdraw.

The Chair: Mr. Owen.

Hon. Stephen Owen: Mr. Chair, colleagues, this was really intended to be dependent on the previous motion, and I do agree that it serves no additional purpose without the other Public Service Commissioners having been made officers of Parliament, which was the intention. So I think this becomes irrelevant, if not out of order, and I withdraw it.

The Chair: Now, L-9. That is consequential, so I assume you're going to withdraw L-9.

Hon. Stephen Owen: Yes.

The Chair: L-9 is withdrawn.

Clause 100 is consequential to clauses 102 to 105 and 107. The vote I'm going to call is on clause 100 and applies to 102 to 105 and 107.

(Clause 100 agreed to)

(Clauses 102 to 105 inclusive agreed to)

(Clause 107 agreed to)

● (0905)

The Chair: We'll go to the New Democratic amendment on page 80. New Democratic motion, NDP-8.

Will you move that, Mr. Martin?

Mr. Pat Martin: Yes, I will move NDP-8 on page 80, which is seeking to amend section 23 by adding the following after subsection (3):

> (4) Each special report of the Commission made under subsection (3) shall be submitted to the Speakers of both Houses of Parliament and shall be laid before each House by the Speaker of that House immediately after its receipt

The Chair: Mr. Martin, before you get into debate, I'm going to rule it out of order.

NDP-8 proposes that special reports of the commissioner will be submitted to the Speaker of the Senate and House for tabling in each House. It is amending section 23 of the Public Service Employment Act.

The *House of Commons Procedure and Practice* states, at page 654, that “an amendment is inadmissible if it amends a statute that is not before the committee or a section of the parent Act unless it is specifically being amended by a clause of the bill.

Since section 23 of the Public Service Employment Act is not being amended by Bill C-2, it is inadmissible to propose such an amendment. Therefore, NDP-8 is inadmissible.

We therefore move to Liberal amendment, L-10, which is found on page 81.

Mr. Owen, Ms. Jennings.

The chair would like to rule on that one. Is it withdrawn or moved?

Hon. Stephen Owen: I will relieve the chair from his obligation to rule it out of order by withdrawing it.

The Chair: Thank you.

We now move to clause 101.

(On clause 101)

The Chair: There is a Liberal amendment, L-11, which is found on page 82. This clause has to do with the mobility of ministers' staff.

Mr. Owen.

Hon. Stephen Owen: Thank you.

So moved.

The Chair: Debate.

I'm sorry, Mr. Lukiwski, you have to speak up.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): I'm sorry. I'll have to be more authoritative, I suppose.

Would this not also be considered outside the scope of Bill C-2, Mr. Chair?

The Chair: Not under the parent act.

Ms. Jennings.

Hon. Marlene Jennings: This amendment, proposed by my colleague Mr. Owen, is based on part of the presentation that was made to us by the president of the Public Service Commission, Madam Barrados.

Clause 101 seeks to permit and regulate the right of "a person who has been employed for at least three years in the office of a minister or of a person holding the recognized position of Leader of the Opposition in the Senate or Leader of the Opposition in the House of Commons, or any of those offices successively," to apply for government competitions.

The scope should be opened up to allow individuals who are employed by the Senate, the House of Commons, Library of Parliament, or the Office of the Conflict of Interest and Ethics Commissioner to also participate under the same conditions.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 101 as amended agreed to)

(On clause 106)

● (0910)

The Chair: Now we go to clause 106. There is an amendment, G-33, on page 83. It is a government amendment. This deals with salaries of deputy ministers.

Before we ask the government to propose the amendment, I draw the committee's attention to a line conflict between G-33 and L-12. And I hope, members, you have G-33.1 in your binder. That has a line conflict as well.

Mr. Poilievre.

Mr. Pierre Poilievre: Yes, I would move G-33, and I would propose the following subamendment that would add the words, "a deputy minister" at the end of proposed paragraph (c). So where it currently reads,

> (b) replacing, in the English version, lines 8 and 9 on page 88 with the following:
>
> (c) special adviser to a minister.

a comma would be added, followed by "a deputy minister or a deputy head".

This further clarifies the existing clause in the bill.

● (0915)

The Chair: So it would be just to G-33.1. That's what it's done.

Mr. Poilievre—

Mr. Pierre Poilievre: I moved it as a subamendment.

The Chair: Yes, what you've done really is move G-33.1. So I'm wondering whether we should proceed on G-33.1 as opposed to G-33.

Mr. Pierre Poilievre: Yes, that would be acceptable.

The Chair: And then we won't have any subamendments.

Okay, so we're cutting these down one by one. We still have a line conflict with L-12.

Mr. Poilievre, do you have any further comments?

Mr. Pierre Poilievre: I think it speaks for itself. Do the technical experts have anything to add?

Mr. Marc O'Sullivan (Acting Assistant Secretary to the Cabinet, As an Individual): I would just point out that the intent of this provision is to allow for appointments that until now have been made under the Public Service Employment Act by way of exclusion order, and it's a way of regularizing this so that it is now authorized by this amendment to the Public Service Employment Act.

The clarification was because of a lack of congruence between the French and English versions, and the purpose of this amendment, G-33.1, is to resolve that difference between the English and French versions.

The Chair: Mr. Owen, are you happy with L-12?

Hon. Stephen Owen: Yes, I think this deals with the issue sufficiently, as explained, so that we can withdraw L-12.

The Chair: We're voting on G-33.1.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 106 as amended agreed to)

(On clause 108—*Order in Council*)

The Chair: Clause 108 has some amendments. The Bloc amendment is the first one on page 87, so perhaps you could turn in your package to page 87.

Hon. Stephen Owen: Just so we don't miss anything, Mr. Chair, I want to clarify that L-13 is withdrawn as well because it's consequential to the other.

The Chair: I've got it in as inadmissible, so thank you very much.

An hon. member: We withdrew it first.

The Chair: You withdrew it first.

An hon. member: We're getting pretty quick over here.

The Chair: I know, you're listening to my conversation. It's on the air too much.

Monsieur Sauvageau and Madame Guay, on BQ-15.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, we propose the following:

> (3) Sections 39 to 64 come into force on January 1 of the year next following the day on which this Act receives Royal Assent, but sections 63 and 64 do not apply in respect of monetary contributions made before that day.

We discussed the objective in question. I hope that was official, but it was at least informal, particularly when the directors general of the four major parties came and testified before our committee.

From what I understand, we all agree on the idea of reviewing political party financing. However, we think that changing the rules in the middle of the fiscal year would mean problems and restrictions for virtually all volunteer officers in all ridings. The witnesses who appeared were also of that view, and all parties appeared to be in agreement.

The idea here would be to ensure that this part of the Act on financing applies at the start of the fiscal year. That, to all intents and purposes, is what the amendment would state. I don't know whether the experts have anything to add, but it seems to me this is a matter of common sense.

Mr. Marc Chénier (Counsel, Democratic Renewal Secretariat, Privy Council Office): The bill currently provides that certain clauses will come into force on the day royal assent is given. These concern political financing rules on limits and the prohibition against corporations and unions from making contributions. I'm missing an element.

Whatever the case may be, two amendments are proposed to the Canada Elections Act. They will come into force within six months of royal assent. We've chosen, on the one hand, those the Chief Electoral Officer will need to create new forms and manuals and, on the other hand, those that will require the parties to make changes to their financial arrangements. Here we're talking about, for example, the prohibition against using trusts to finance candidates' campaigns.

We believe that the four articles that are to come into force on the day of royal assent require very little preparation on the part of Elections Canada. Furthermore, those who might be affected by these changes can easily receive instructions through an insertion in the manuals or an addition to the Elections Canada's website.

● (0920)

Mr. Benoît Sauvageau: Mr. Chairman, with your permission, I'd like to speak.

[*English*]

The Chair: Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: I hope we've all used popular financing. Some people make contributions in the form of bank drafts or advances. For example, some give us 10 cheques as an annual contribution. People give us 10 cheques for $200 each, and those cheques are cashed on the first of every month.

If the Act is implemented as it stands, will I have to return the cheques to certain people in my riding and tell them that I have to consider the date they were issued? If my memory serves me, we're only proposing that this part of the Act come into force on January 1, 2007 to simplify the lives of our financial officers and to support the decision of the directors general of the four political parties.

[*English*]

The Chair: Mr. Poilievre.

Mr. Pierre Poilievre: So this amendment would change the coming into force date of the reduction in allowable donations from $5,400 to $1,000, and the ban on corporation and union contributions to January 1, 2007. Is that correct?

Mr. Marc Chénier: That's correct. That's assuming the bill receives royal assent in 2006.

Mr. Pierre Poilievre: Okay.

I see absolutely no reason whatsoever to support this amendment. The idea that there's going to be some sort of administrative problem with the change mid-year is, I think, a specious argument that holds no weight whatsoever.

If the act comes into force on, say, August 1, it will simply mean that after August 1 riding associations and parties will decide not to cash cheques that exceed $1,000 or cheques that come from corporations and unions. It will be publicly known when the act comes into effect. It will be widely distributed. All the political parties and riding associations can be easily informed of the change, and they can adjust their behaviour accordingly.

I simply have not heard a single practical argument as to why there should be any problem implementing the tough new financing rules when the act comes into effect, nor have I heard a single argument as to why we should allow a continuing loophole to flow until the end of the calendar year, other than perhaps to favour parties that cannot live under these tough new rules and are not able to raise money under these tough new rules.

If members of this committee actually believe in the rules that the Accountability Act introduces, if they believe that we should end big money, end corporate cash and union donations, then they ought to believe in it now, not just eight months from now.

● (0925)

Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.): That's political, Mr. Chair.

Mr. Pierre Poilievre: I recognize that the member, Mr. Murphy, is commending me for my passion. I am very passionate about it. I believe, and this Accountability Act insists, that campaigns ought to be funded by everyday, willing contributors—hardworking folks who work hard, pay their taxes, and play by the rules. Those are the people who financed my campaign.

This act seeks to set out a political system that is financed by everyday voters so that political parties are loyal to everyday voters instead of having an ongoing loyalty to big corporations and big-money contributors. That's why we are amending the Canada Elections Act to end big money and to ban corporate cash.

But if we believe in that, we ought to believe in it now, not just eight months from now, so that parties can stuff their pockets with corporate cash and large donations over the next seven months, and—

The Chair: On a point of order, Ms. Jennings.

Mr. Pierre Poilievre: Thou dost protest too much.

Hon. Marlene Jennings: In conformity with the ruling you made earlier—which I think was a wise ruling—I think members should cease and desist taking potshots at each other personally and at their political parties, and maybe a call to order to—

The Chair: You know, I had a go at Monsieur Sauvageau, and I'm going to have a go at you too. You're playing with me. Don't do that.

Mr. Pierre Poilievre: I'm sorry for that, Chair.

I do maintain my passionate commitment to this bill and to its provisions that ban big money and corporate cash from the political process. Any attempt to delay those provisions from coming into force can only be designed to favour those parties that rely on big money and corporate cash.

The Chair: We're going to move on to Mr. Lukiwski.

Let's try to keep this amicable.

Mr. Lukiwski.

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

Just briefly, to support what my colleague was saying, I'll give you two distinct reasons. Number one, I'm a former executive director of a political party, albeit on a provincial scene, and I can assure you that these provisions, if they came into effect the day royal assent was granted, would not prove to be any onerous encumbrance on political parties. In fact, all the political party executive directors who appeared before this committee obviously had a very great depth of understanding of the ramifications of this bill. They've studied it very carefully. They are prepared to amend their practices on the fundraising side in receiving of money, immediately upon royal assent. So I don't think there would be any problem from the administrative side of political parties.

But more importantly, I believe what we are trying to do—at least, I hope we're all trying to do here in committee—is to send a very strong signal to the Canadian public that we're serious about accountability and transparency. I can see no stronger signal than to say the day this act receives royal assent, the provisions contained in this act come into effect.

I think that sends an extremely strong signal to Canadians, as opposed to, "Well, we passed the act, but you know, there's still going to be six months out there where people can do whatever they wish."

I think it is incumbent upon us as a committee to make a very strong statement to the Canadian people that the changes we have made with the Accountability Act, including all the amendments that we have agreed upon to make this act even stronger, have to come into effect the day it receives royal assent. I think that's the one signal that we as parliamentarians on this committee are charged to do.

So I would strongly support opposing this amendment, only because I don't think that's the signal we want to give to Canadians.

● (0930)

The Chair: Mr. Murphy, Madame Guay, and then Mr. Martin.

Mr. Murphy.

Mr. Brian Murphy: Just to make a point of reality, we have a convention in November. According to our executive director—and I don't think it was disagreed with by the other directors—the registration fees for conventions are receiptable, they're contributions, and things cost money. This will directly penalize the Liberal Party; that's what I think it is connected to.

If the shoe were on the other foot and you guys were having a leadership convention...gosh knows, you've a whole bunch of them through various parties over the time.

It's directly harmful to the democratic process, because the person who goes to a convention will not be able to contribute to the person he or she votes for at the convention, because basically their $1,000 would be gone.

So I think it's unfair. I think it's targeted. I don't want to talk politics, but this is a very political matter. It's mean-spirited and politically targeted.

The Chair: Madame Guay.

[*Translation*]

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

We of the Bloc Québécois rely to a large extent on popular financing. So this provision does not affect us particularly. However, you have to wonder why it is provided that some amendments of the bill won't enter into force for six months, whereas, in the specific case of the Elections Act, we want royal assent immediately. I have a lot of trouble understanding that. It all smells of politics. It makes no sense.

It would be entirely possible to opt for January 1 of next year. For us, that would be the start of the fiscal year. That would greatly simplify the lives of our financial officers and the chief electoral officer. If there were provisions or documents to change, we would proceed in accordance with the rules. All our documents would arrive at the same time.

[*English*]

The Chair: Mr. Martin.

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

I'm not unsympathetic to the points raised by my colleagues from the Bloc and the Liberals. I understand that they have a legitimate concern that it may be onerous to deal with the administrative details here. But all four executive directors of the four main political parties in the country were here. They're well aware of what we're doing. I imagine they're making preparations, as we speak, in anticipation of this coming into law.

The average donation, as we heard in testimony here at the committee, is less than $200. So there won't be that many people affected, if refunds are necessary, if royal assent doesn't occur until as late as July 1, even if it takes us that long for the Senate to deal with this and get it back for third reading. It may be that somebody will have donated more than the maximum limit by then, and we would have to issue refunds. But the parties are prepared to do that. From my experience, there won't be any refunds necessary in my riding association. There may be in some.

I can guarantee you that the political parties are out there shaking the bushes as we speak. They've used from April 11, when they first learned of the government's intention, until the date it achieves royal assent and implementation, to get as many $5,400 donations as they possibly can from people who are able to make them. I don't buy that anybody is being disadvantaged. Fair notice was given. Adequate time has been given. If this is a good idea and an honourable thing to do now, or ever, why should we wait six or eight months to actually implement it?

We dealt with the concept of retrospective versus retroactive in another context. If I could ask our experts, can you explain the application of that legal notion in the context of this fundraising?

● (0935)

Mr. Marc Chénier: If the clause carries as written, on the day of royal assent, if somebody has given in excess of $1,000, they would no longer be able to give any more to either the registered party at the local level or to the leadership contestants of one leadership contest. If they haven't given the limit, then they can give up to that limit.

Mr. Pat Martin: Just to be clear, this application applies to the leadership contest, as well, that's currently under way. Only one of the political parties currently has a leadership contest under way. Are there two?

Mr. Marc Chénier: I believe the Green Party is currently having a leadership contest too.

Mr. Pat Martin: That's right. So this isn't targeting any one political party. It applies to all the parties who currently have leadership races under way.

I think that answers all my questions. I can't support my colleague from the Bloc in this case. I've given it due consideration and I've weighed the merits, and you haven't convinced me that it's a good idea.

(Amendment negatived)

The Chair: We are now on to G-34 on page 88. That's a government amendment.

Mr. Poilievre.

Mr. Pierre Poilievre: This amendment deals with coming into force. I think it's fairly self-explanatory. I'd like the panel of technical experts to offer their input on its impact.

Mr. Joe Wild: The amendment allows, basically, two primary things to happen on royal assent, as opposed to on a date or dates fixed by order in council. It allows the machinery changes that are contemplated under Bill C-2 with respect to creating the Office of the Commissioner of Lobbying and eliminating the Office of the Registrar of Lobbyists. So one aspect of it is the machinery.

The other aspect is that it brings into force, on royal assent, the provisions with respect to the Prime Minister's authority to designate transition team members for the purposes of the lobbying ban.

Mr. Pierre Poilievre: To conclude my remarks, these coming into force provisions are designed to deal with the mechanical changes that are necessary in clauses 65 to 82, 84 to 88, and 89 to 98. There are actually substantial and mechanical reasons for why these coming into force provisions are necessary.

[*Translation*]

The Chair: Mr. Sauvageau.

Mr. Benoît Sauvageau: I'm not good at mathematics, but I can still see the following numbers on the list of clauses: 65 to 82, 84 to 88 and 89 to 98. That means that clause 83 isn't there any more. Why not simply say that it was withdrawn? Why make it simple when you can make it complicated?

[*English*]

Mr. Joe Wild: Clause 83 deals with changing the references in the act so that we're no longer referring to the Lobbyists Registration Act but to the renamed Lobbying Act. It was previously amended by a motion of this committee to extend provisions that were approved to the transition team.

I guess the others are clauses 90 to 97, which are all the machinery changes that bring the new Office of the Commissioner of Lobbying into force. Those are the other ones that would be brought into force on royal assent. It's clause 83, and then it's clauses 90 to 97.

I'm sorry. I have this wrong. I have it backwards.

It's only clause 83 and new clauses 88.1 and 88.2. It's the provisions relating to the transition team.

Clause 83 becomes necessary because there were references in those provisions to the Lobbyist Registration Act, which becomes the Lobbying Act once this comes into force. Clause 83 is really a technical one to get the name of the act correctly identified.

● (0940)

[*Translation*]

Mr. Benoît Sauvageau: So we're only withdrawing clause 83, subclause 88(1) and subclause 88(2). You're telling me that clause 83 only concerns lobbyists and the transition team. What is the effective date of clause 83?

Ms. Michèle Hurteau (Senior Counsel, Department of Justice): The effective date is the date of royal assent. The same is true for subclauses 88(1) and 88(2).

[*English*]

Mr. Joe Wild: Clause 84 actually deals with the transition of the current registrar to the new Commissioner of Lobbying.

[*Translation*]

Mr. Benoît Sauvageau: If I understand correctly, clause 83 is the only one that will come into force at the time of royal assent, and the others will be effective on a date determined by order.

Ms. Michèle Hurteau: They'll come into force on a date set by order.

Mr. Joe Wild: In fact, one clause and two subclauses will come into force on the date of royal assent. They are clause 83 and subclauses 88(1) and 88(2).

Mr. Benoît Sauvageau: That's good. Thank you.

[*English*]

The Chair: We'll go to the vote.

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: Ladies and gentlemen, I'd like you to refer to amendments L-13.1 and NDP-8.1. Those new clauses are consequential to the negative vote on clause 99. Therefore, those two amendments cannot be put.

(Clause 108 as amended agreed to)

(On clause 109)

The Chair: We now move to clause 109, the appointments process.

The first one is a Bloc amendment on page 90.

BQ-116, L-13.2, and NDP-8.2 are all the same.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: To avoid redundancy, Mr. Chairman, I would tell you that it's the same thing for the other clauses concerning the secret ballot. So we propose to delete lines 26 to 30 on page 89 in order to delete every reference to the secret ballot. In a bill on transparency, a secret ballot is a paradox.

[*English*]

The Chair: I call the question.

(Amendment agreed to [See *Minutes of Proceedings*])

● (0945)

The Chair: The amendment is agreed to, so we don't need to deal with amendments L-13.2.2 and NDP-8.2.

(Clause 109 as amended agreed to)

(On clause 110)

The Chair: Clause 110 is also on the appointment process. The next two amendments are the same. The first one is amendment BQ-17. The second one is amendment NDP-8.3, and they are the same, so we will start with the Bloc amendment, which is on page 91.

Monsieur Sauvageau, on amendment BQ-17.

[*Translation*]

Mr. Benoît Sauvageau: The principle is the same. I'm introducing amendment BQ-17 for the same reasons, and I cite the same arguments.

[*English*]

The Chair: I call the question.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 110 as amended agreed to)

The Chair: Proposed new clause 110.1 on page 92 is a Bloc amendment.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, if I'm not mistaken, the purpose is to make the library officer autonomous and independent. The purpose of this amendment is to create a budget director linked to the Office of the Auditor General rather than to the Library of Parliament.

If you consult the election platform of the Conservative Party of Canada, you'll see, on page 11:

> Ensuring truth in budgeting with a Parliamentary Budget Authority.

I'll read the first paragraph very quickly:

> In the spring of 2004, the Liberal government told Canadians that the 2003-04 surplus would be only $1.9 billion. In fact it was $9.1 billion. In 2004-05, the Liberals spent about $9 billion at the end of the year to reduce their surplus to only $1.6 billion.

With a great deal of rigour, they explained the necessity—and I remind you that this is on page 11 of the Conservative Party's election platform, *Stand Up for Canada*—for an independent budgeting authority. The Conservatives were probably so busy that they forgot to include it. That's why, so that they can keep one of their promises, we're proposing that this independent budget auditor position be created, and, among other things, for the budget surpluses.

[*English*]

The Chair: We have Mr. Martin and then Mr. Poilievre.

Mr. Martin.

Mr. Pat Martin: My first observation is that something I've been pushing for years in the corporate sector is the independence of auditors. In order to trust the financial statements of a company or a government, any level of government, the auditor must be independent and shouldn't be dealing with any services other than the audit itself.

Having this newly created budget officer within the auditor's office seems to me to be a contradiction. We've always been critical of businesses that sell financial services to companies also being their auditor. That's exactly what happened with Enron. That's what Arthur Andersen did with Enron. They would sell them the tax services, and then they would come along and audit those very same services. So it concerns me, just on the face of it, to even have the newly created budget officer in the Office of the Auditor General.

That said, I wouldn't mind the opinion of the technical officers on the effect of this amendment. I don't fully understand where in clause 110 that actually fits. Can they explain that to me, where it resides and the effect it would have?

● (0950)

Mr. Joe Wild: I'll take the first run at that, and then my colleagues Monsieur Lapointe from the Department of Finance or Mr. Heiss may have something to add.

As to where the member has chosen to actually seat the amendment, I don't really have any comment to make on that. I don't know what the member was thinking in terms of the particular drafting that's being used.

In terms of putting the position within the Office of the Auditor General, the issue, I guess, is one of choosing and being clear about the role and mandates of the Auditor General versus that of the Library of Parliament.

The Auditor General's role and mandate is to carry out the powers, duties, and functions she has under the Auditor General Act. Those functions are fairly clear. It's her discretion. She determines what to audit, goes out and conducts those audits, and then reports to Parliament on the results of those audits.

The Library of Parliament is, of course, the vast research resource that is available to members of Parliament. So from the government's perspective, it certainly made sense that you would lodge a parliamentary budget officer, whose primary mandate is to be, again, a research resource for members of Parliament, in that existing structure as opposed to putting it in with the Auditor General, where there's just no connection to that particular mandate of what the parliamentary budget officer does.

Do my colleagues have anything to add?

The Chair: Mr. Wild, we have two new players here at the table. Would you introduce your colleagues, please?

Mr. Joe Wild: Sure. Mr. Heiss is assistant deputy minister with the Department of Finance, as well as an assistant deputy minister with the Department of Justice, responsible for the provision of legal advice and legal services to the Department of Finance.

Monsieur Lapointe is also with the Department of Finance. He can explain his title better than I can.

The Chair: Mr. Lapointe, welcome to you, sir.

Mr. Paul-Henri Lapointe (Assistant Deputy Minister, Economic and Fiscal Policy Branch, Department of Finance): Thank you.

I'm the assistant deputy minister of fiscal and economic policy in the Department of Finance.

I just want to confirm what my colleague just said about the mandate of the parliamentary budget office and the mandate of the Auditor General. I understand that the Auditor General, in her appearance here, made the statement that her mandate and the mandate of the parliamentary budget officer are quite different. That is why we propose that the best place to locate the parliamentary budget office would be in the Library of Parliament, which already provides that kind of analytical support to parliamentarians.

The group in the Library of Parliament would be specifically dedicated to providing the economic analysis and fiscal analysis that is required here, so we thought it should be located in the Library of Parliament.

The Chair: Mr. Martin, are you finished?

Mr. Pat Martin: No. I just want to say that's very helpful, very useful. It's along the lines of what my apprehensions were. It actually confirms my concerns about this. We all welcome the creation of the budget officer.

Monsieur Sauvageau's points are very well taken. It's been atrocious. No one can be that far out, unless you're trying to be that far out. You feel like the Minister of Finance should take off his shoes—if he can't count that high on his fingers, perhaps he needs to use his toes as well. It's been appalling.

But I'm comfortable with where it is in the bill, and I'll be voting against Mr. Sauvageau's amendment.

The Chair: We have Mr. Poilievre, and then Mr. Sauvageau.

Mr. Poilievre.

Mr. Pierre Poilievre: I'm going to pass. All my questions have been answered.

[*Translation*]

The Chair: Mr. Sauvageau.

Mr. Benoît Sauvageau: I partly agree with you, but there's a minor problem. In 1994, in the Standing Committee on the Environment, we had a lengthy debate as to whether we should create an independent environment commissioner position or a commissioner position that would report to the Office of the Auditor General. We weren't rushed, as we are today, so we heard a number of witnesses. We came to the conclusion that, even if the Commissioner of the Environment and Sustainable Development, whose position was created in 1994 or 1995, if my memory serves me, worked in close cooperation with the Auditor General, fears about his independence could be allayed in view of the rigour of her work. So we wound up with a common office and common expertise, rather than create another authority.

That was 12 years ago. Since then, I believe the Commissioner of the Environment and Sustainable Development has demonstrated his independence, even though his office is located in that of the Auditor General. Until quite recently, that is until January 23, that's also what was believed by the Conservatives, who included transparent budgeting in the same paragraph, on page 11 of their election platform, as strengthening the powers of the Auditor General.

If the Minister of Finance tells me he would prefer that someone from the Library of Parliament supervise him, that's fine. The Minister of Finance has been making completely wrong budgetary estimates for 50 years. So I'm not sure we'll achieve the desired objective if we allow that position to be where it is. We'll see what happens over time. In any case, the Act will be reviewed every five years.

Our objective is to ensure that budgetary estimates are as accurate as possible. I hope they will be. I think they will be more so if this position reports to the Auditor General, who has demonstrated her credibility.

● (0955)

[*English*]

The Chair: Mr. Tonks.

Mr. Alan Tonks (York South—Weston, Lib.): Mr. Chairman, I think the irony or paradox with respect to the BQ motion is that it argues about putting the budget officer in the Office of the Auditor General, but then it follows up by stressing how important it is to have accessibility and proactive input through the committees of the budget officer. I believe that practice, both past and future, will verify that the role of oversight of committees will be enhanced more by placing the budget officer and the function with the Library of Parliament and the ancillary resources that exist there than if it were in a reactive mode in the Auditor General's office.

I do appreciate the points that have been raised by Mr. Sauvageau with respect to the Commissioner of the Environment, but the Commissioner of the Environment and the Auditor General, to some extent, are reactive. In this case, we're talking about a proactive, ongoing role. For example, in the committee's oversight with respect to the estimates, the ability to draw upon the resources of the budget officer through the Library of Parliament is far superior to entrenching the role of the budget officer in the Auditor General's office.

So I would suggest that if this committee is intent on completing the accountability loop with respect to the role of committees in their oversight function, this committee should support entrenching the budget officer in the Library of Parliament.

The Chair: We're going to vote on amendment BQ-18.

(Amendment negatived [See *Minutes of Proceedings*])

(On clause 111)

The Chair: On clause 111, amendment BQ-19 and amendment NDP-8.4 are the same.

Mr. Sauvageau, you could make a motion. That's on page 95.

[*Translation*]

Mr. Benoît Sauvageau: I believe this is a mistake, Mr. Chairman. I won't introduce amendment BQ-19.

[*English*]

The Chair: The amendment is withdrawn.

● (1000)

The Chair: Mr. Martin.

Mr. Pat Martin: I will move this motion, that Bill C-2 be amended by deleting clause 111, because it deals with the same issue of secret ballot votes, and we were asked by the law clerk to address this, unless it....

The Chair: I'm going to rule it inadmissible. Do you want me to go through it?

Mr. Pat Martin: No, that will be fine. It will save us all some time.

The Chair: All right.

We're voting on clause 111. Do you want to have a chat, or what do you want to do here? Is there debate on clause 111?

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: If we support clause 111, we're supporting a secret ballot. If we vote against clause 111, we're doing what we've done from the start, that is vote against a secret ballot.

[*English*]

Mr. Pierre Poilievre: Mr. Chair, could you give us 30 seconds?

The Chair: I'll give you a minute.

Mr. Pierre Poilievre: You're a good man, very generous.

The Chair: What are you going to do?

Mr. Pierre Poilievre: We're with you. We'll call for the question.

The Chair: All right. We're going to vote on clause 111.

(Clause 111 negatived)

(On clause 112)

The Chair: Clause 112 still is on the appointment process, and we go to Bloc Québécois amendment BQ-20. That's on page 96.

Mr. Sauvageau.

I might say, before Mr. Sauvageau speaks, that it is the same as amendment L-13.3 and amendment NDP-8.5.

Mr. Sauvageau, you can move amendment BQ-20.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I'm pleased to introduce amendment BQ-20. Having regard to amendments L-13.3 and NDP-8.5 and the result of the last vote, I would be the most surprised man in the world if this amendment were negatived.

[*English*]

The Chair: Let's have a vote and find out.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 112 as amended agreed to)

(On clause 113)

The Chair: We're going to move to clause 113, which is still on the appointment process, and to amendment G-35 on page 97.

Mr. Poilievre.

Mr. Pierre Poilievre: I move this amendment.

The Chair: Is there debate? No.

(Amendment agreed to [See *Minutes of Proceedings*])

● (1005)

The Chair: Next is a Bloc amendment. It's on page 99, amendment BQ-21.

Monsieur Sauvageau, you could make that motion, please.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I've just found the word I had been searching for since this morning, the word "concordance". So I'm tabling this amendment so that we can vote to withdraw this clause for reasons of concordance.

[*English*]

The Chair: You're going to withdraw it? That's fine, thank you.

We're going to vote on clause 113 as amended.

(Clause 113 as amended negatived)

The Chair: We're back to the appointment process. We're still there.

Shall clause 114 carry?

(Clause 114 agreed to)

(On clause 115)

The Chair: We're still on the appointment process at clause 115, and there's a Bloc amendment. It's on page 100, amendment BQ-22.

Mr. Sauvageau, could you move that, please?

[*Translation*]

Mr. Benoît Sauvageau: I'm going to withdraw my amendment for reasons of concordance. I move that we vote against clause 115, as we did in the case of clause 113 and for the previous clause.

[*English*]

The Chair: All right.

(Clause 115 negatived)

The Chair: Clause 116 is still on the appointment process. There are no amendments. Is there debate on clause 116?

Let's count the votes here. People are not putting their hands up. All in favour? Opposed?

(Clause 116 agreed to)

The Chair: Mr. Martin, do you have a point of order?

Mr. Pat Martin: Mr. Chairman, it might be helpful if we adopted a practice I've seen in other committees, that when the chair calls, "Shall clause 116 carry", people can voice-vote at that stage, and if the chair is satisfied from a voice vote, he will simply say, "Carried". If there's any disagreement, then we'd have a counted vote.

The Chair: I would love that to happen but—

● (1010)

Mr. Pat Martin: Would that be helpful? I don't mind the practice you're using; I'm only wondering if it might be simpler.

The Chair: We'll try anything.

We'll move to clause 117. It's the parliamentary budget officer, and there's a series of other clauses that are related to this particular clause. As we've done before, I suggest we deal with all the amendments that pertain to the subject matter of clause 117 before we put the question.

So we will deal with the amendments to clauses 119 and 119.1. Once that's completed, we will put the question to clause 117. Its results will be applied to all the consequential clauses, that is to say, clauses 118, 119 and 119.1. We'll l stand clause 117 and call for the first amendment, which is a Bloc amendment.

(Clause 117 allowed to stand)

(On clause 119—*Parliamentary Budget Officer*)

The Chair: This is a Bloc amendment and is on page 101 of your book, BQ-23.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: I want to introduce this amendment, which is not designed to eliminate the secret ballot. So I'm showing some originality.

I'll ask the experts to tell us what they think of the following.

In clause 119 of the bill, that is in proposed subsection 79.1(2), it is provided that the person who is appointed Parliamentary Budget Officer will hold office during pleasure for a renewable term of not more than three years.

We think three years is too short a period to take over the file, move it forward and so on. I get the impression that's why the Auditor General, the Commissioner of Official Languages and the senior officers of the House are appointed for seven years. As we believe that three years is too short a term, we are proposing that the term be comparable to those of other officers of the House. I don't know what the experts think of that.

[*English*]

Mr. Paul-Henri Lapointe: We have no objection to this amendment. I can simply say that the reason we put three years was originally to facilitate the recruitment of the parliamentary budget officer. Our thinking at the time was that perhaps if your're looking for someone in the academic community to come and occupy that position, it would be easier to recruit that person if he or she were to commit to a shorter period than seven years. But we have no objection at all to extending this period.

The Chair: I have people who want to speak.

Ms. Jennings and then Mr. Martin.

Hon. Marlene Jennings: I appreciate the explanation that Monsieur Lapointe gave, but I believe the amendment the Bloc is suggesting does not preclude the scenario that has been suggested by Monsieur Lapointe. Ergo, if individuals who are at a point in their career—they're academics who can only take a leave of absence for a certain period of time—are approached and are interested, they would simply say they do not wish an appointment that is longer than three years, two years, or whatever. The Bloc amendment simply allows that the maximum allowable time would be seven years, in accordance with the appointments of other parliamentary officers, but does not preclude the appointment for a lesser period.

The Chair: Mr. Martin.

Mr. Pat Martin: I'm wondering what is the status of the parliamentary budget officer. I often get confused between agents of Parliament, officers of Parliament, etc. How are we viewing this appointment?

Mrs. Susan Cartwright (Assistant Secretary, Accountability in Government, Treasury Board of Canada Secretariat): This individual would not be an agent of Parliament, he would be an officer of an institution of Parliament. So although there would be nothing to prevent an appointment for longer than three years, to do it on the basis that it's consistent with the other agents of Parliament is flawed, if you like, because he or she would not be an agent of Parliament.

● (1015)

Mr. Pat Martin: So we're not trying to remain constant with some....

My feeling is that you want one of these appointments to bridge a parliamentary cycle. I think that's advantageous, so I see where Mr. Sauvageau is coming from.

It currently reads "not greater than three years". Is that what I am to understand? I'm wondering if we should have a subamendment to have "not greater than five years", that would satisfy the idea the appointment could be as long as five years to bridge at least one parliamentary cycle, but not to be held in the same status as an officer of Parliament, at seven years.

So I'd like to move that as a subamendment.

The Chair: On the subamendment, any discussion?

Ms. Jennings, I have your name. No?

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: I find Mr. Martin's remarks constructive, and I'm inclined to support the enlightening subamendment he has introduced.

[*English*]

The Chair: The vote is on the subamendment.

(Subamendment agreed to [See *Minutes of Proceedings*])

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: We now move to G-36 on page 102. That's a government amendment.

Mr. Poilievre.

Mr. Pierre Poilievre: Yes, it is moved.

I turn your attention to clause 119, line 36:

> 79.2 The mandate of the Parliamentary Budget Officer is to
>
> (a) provide objective analysis to the Senate and to the House of Commons about the state of the nation's finances

In line 36, we're adding "the estimates of the government". So it expands ever so slightly the mandate of the parliamentary budget office in line 36 on page 93, in clause 119 of the bill.

So I would encourage all members to support this, because it gives members of Parliament an extra tool in getting informational support on estimates from the parliamentary budget office.

(Amendment agreed to)

The Chair: Page 103 is the French version, so we're on to a further government amendment, G-37, on page 104.

Mr. Poilievre.

Mr. Pierre Poilievre: Further to that, if you go down to line 40, I believe this amendment merely creates concurrence with the previous one: "The Parliamentary Budget Officer shall"—and you go down to paragraph 79.2(b)—"when requested to do so by any of the following committees, undertake research for that committee into the nation's finances", and we're adding "into the estimates". So the committees may ask the parliamentary budget officer to do research into the estimates as well as the nation's finances and the economy.

So moved.

The Chair: A question, Madam Jennings.

Hon. Marlene Jennings: It's not a question, it's just to underline that in the French version we have before us, the first *et*, which is found between the word *budgétaires* and the word *les* should be removed and replaced by a comma. So it should in fact read, "*ce qui touches les prévisions budgétaires, les finances et l'économie du*".

The Chair: Does everybody agree?

Some hon. members: Agreed.

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: We're now on to page 105.1, which is a further government amendment, G-37.1.

Mr. Poilievre.

● (1020)

Mr. Pierre Poilievre: Yes, this amendment pertains to the same subject matter, and it would change proposed paragraph 79.2(c) to read:

> when requested to do so by a committee of the Senate or of the House of Commons, or a committee of both Houses, that is mandated to consider the estimates of the government, undertake research for that committee into those estimates;

[*Translation*]

The Chair: Mr. Sauvageau.

Mr. Benoît Sauvageau: Mr. Chairman, I have a little problem. With your permission, I'm going to speak to Mr. Poilievre.

If I understand correctly, we could have a favourable amendment. The bill states this: "when requested to do so by a member of either House, estimate the financial cost...". Your amendment instead states: "when requested to do so by a committee of the Senate or of the House of Commons...".

I would prefer the following: "when requested to do so by a member of either House or of a parliamentary committee..." The government's amendment G-37.1, on page 105.2, takes away—I don't know whether this is the intent—from all members and senators the opportunity to contact this new person responsible for the budget. If that is the case and if the other members of the committee are in agreement, I would ask Mr. Poilievre to use the words: " when asked by a member of either House or of a parliamentary committee...".

[*English*]

Mr. Joe Wild: Just to go through what the amendment is doing, it's creating a new category. The existing categories, which are proposed paragraphs 79.2(c) and (d), become 79.2(d) and (e). Then the new 79.2(c) is the one that talks about being requested to do so by a committee of the Senate or the House or a committee of both Houses that is mandated to consider the estimates and undertake research for that committee into those estimates.

So what currently reads as proposed paragraphs 79.2(c) and 79.2 (d) remain; they just become 79.2(d) and 79.2(e), and we're inserting a new paragraph above that, which deals with the estimates.

[*Translation*]

Mr. Benoît Sauvageau: Thank you very much for your explanation. Parliamentarians, senators and members of the committee would thus have the same rights. So we're eliminating no one. That's very good; I understand. Thank you. Now we're going to vote in favour of the amendment.

[*English*]

The Chair: There's no subamendment.

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: Mr. Poilievre, I have a question for you.

We're on amendments G-38 and G-38.1. Does G-38.1 replace G-38? We're on pages 106 and 107.1

Mr. Pierre Poilievre: Yes, it does.

● (1025)

The Chair: So you're withdrawing G-38, and we're proceeding with G-38.1, which is on page 107.1.

Mr. Poilievre.

Mr. Pierre Poilievre: This is amendment G-38.1, on clause 119. It pertains to proposed subsection 79.5(1) on page 95, line 20.

I gather that everything in line 36 remains the same, but the amendment adds a fourth point, which reads:

> For greater certainty, section 74 and subsection 75(2) apply in respect of the exercise of the powers described in subsections (1) and (2).

I trust the amendment speaks for itself. Is there any additional commentary from the expert panel?

Mr. Werner Heiss (Director and General Counsel, General Legal Services, Department of Finance): The intent of the amendment essentially is to clarify that in fact the existing provisions, section 74, which already provide that it's the Speakers and the joint committees that have control of the library and its officers, apply to the parliamentary budget officer; and similarly, that the librarian, who has the control of the library per se, also has the control and direction relating to the budget officer, simply because he is part of that library.

It's simply a confirmation of that.

The Chair: Mr. Owen.

Hon. Stephen Owen: I believe Mr. Poilievre mentioned that it would be the powers described in subsections (1) and (2). The amendment actually reads “subsections (1) to (3)”.

The Chair: We're all clear. We're going to vote on amendment G-38.1.

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: We're going to move to amendment G-39, on page 108.

Mr. Poilievre.

Mr. Pierre Poilievre: This is still on clause 119. We're replacing lines 30 to 36 on page 95 with the following:

> (3) The Parliamentary Budget Officer may authorize a person employed in the Library of Parliament to assist him or her to exercise any of the powers under subsection (1) or (2), subject to the conditions that the Parliamentary Budget Officer sets.

I think this is a practical amendment, allowing for the employment of Library of Parliament staff in aid of the budget officer's work. It's pretty standard.

(Amendment agreed to)

The Chair: New clause 119.1 is a government amendment, amendment G-40, on page 110.

Mr. Poilievre.

Mr. Pierre Poilievre: Amendment G-40 deals with new clause 119.1. I'm going to invite some commentary from our panel of experts on this one.

Mr. Werner Heiss: The amendment is simply a consequential amendment in view of the provisions that are contemplated in the act, the amendments being made to the Access to Information Act, and the expansion of those provisions, so that they would equally apply, in this case, to the parliamentary budget officer.

The Chair: Ms. Jennings, do you have a question?

Hon. Marlene Jennings: I don't understand what Mr. Heiss has just said, so perhaps you could explain, because I don't have the Access to Information Act in front of me.

What does proposed section 18.1 actually do? What does proposed section 20.1 actually do? What does proposed section 20.2 actually do? What do these sections, which are being repeated in Bill C-2, actually do?

Mr. Werner Heiss: It's contained in the current bill, at the moment. Clause 149 provides for the amendment adding proposed section 18.1; and clause 150 provides for proposed section sections 20.1 and 20.2 as amendments to extend the act to the respective corporations.

Hon. Marlene Jennings: And what do those sections actually do?

Mr. Joe Wild: Under the Access to Information Act, those sections create specific exemptions for certain types of information held by the crown corporations that are actually named in the proposed sections. There's a variety of them.

The coordinating amendment anticipates that if the access to information provisions are approved, proposed section 79.4, on page 95, which addresses the confidentiality requirements around the parliamentary budget officer, says those confidentiality requirements have a relationship to certain exemptions under the Access to Information Act.

So what this coordinating amendment is doing is saying the new exemptions that Bill C-2 is proposing would also go into this proposed section 79.4 so that those new exemptions would come into play with respect to the confidentiality requirements of the parliamentary budget officer.

● (1030)

Hon. Marlene Jennings: Am I correct in thinking that in the reference, for instance, in proposed paragraph 119.1(1)(a), to "section 18.1, as enacted by section 149 of this Act", "section 149" is a section of Bill C-2, which makes reference to section 18.1 of the Access to Information Act as it currently exists?

Mr. Joe Wild: No, clause 149 of Bill C-2 creates proposed section 18.1.

Hon. Marlene Jennings: It creates.

Mr. Joe Wild: That's right.

Hon. Marlene Jennings: So my question then is why are we dealing with amendment G-40 when it's predicated on clause 149 of Bill C-2 and clause 150 of Bill C-2 being carried by this committee and we haven't got there yet?

Ms. Susan Baldwin (Procedural Clerk): These coordinating amendments always coordinate far too much for comfort, to begin with.

The next thing is that if you look at the bottom part of that, at proposed section 79.4, that is clearly consequential to the budgetary officer. So we decided that if the committee didn't want to vote the whole thing together, then they could remove part of it and it would still be very much a consequential amendment to clause 119.

Hon. Marlene Jennings: Okay, that was just Greek, Chinese, and Mandarin. It was everything but English, French, and Italian, which are the only three languages I understand.

Could you give that to me again? I'll try to concentrate even harder.

Ms. Susan Baldwin: Our reasoning was that proposed section 79.4 of the Parliament of Canada Act being replaced by the following at the end of this amendment has very much to do with the parliamentary budget officer. Our reasoning was that if part of the amendment had to so clearly do with the parliamentary budget officer, it was then probably consequential even though we were aware that there were other references.

These coordinating amendments always have a multiple reference. If the committee would prefer, we could vote on it separately, but it's not a matter of great moment.

Hon. Marlene Jennings: Just to give you an example to make sure I have understood in fact, if the committee votes on the entire G-40 amendment as proposed and it is not carried, then it still has no impact on clauses 149 and 150, which we find further on in the act. Is that correct?

Ms. Susan Baldwin: It would only have an effect on their coming into force. That is it.

Is that right?

Mr. Joe Wild: If I could assist a little bit on that, what this section is really doing is saying if proposed sections 18.1, 20.1, and 20.2 are enacted, once they come into force you then take the proposed section 79.4 that's currently in the bill and replace it with this proposed section 79.4 that's proposed at the bottom of the page. That's what it's doing.

Hon. Marlene Jennings: So if we adopt new clause 119.1, the G-40 amendment, and then come to clauses 149 and 150 of the bill—because we haven't been told that by adopting this it automatically means those two other clauses are adopted—and we defeat clauses 149 and 150, then what happens?

● (1035)

Mr. Joe Wild: The coordinating amendment, in my opinion, wouldn't have anything to—

Hon. Marlene Jennings: Coordinate.

Mr. Joe Wild: —coordinate, because it's only if those clauses are enacted and once they are brought into force that proposed section 79.4 then gets replaced with what's in the coordinating amendment. So if they don't get enacted, then in my view there's nothing to coordinate with.

Hon. Marlene Jennings: Thank you. I understand now. We can proceed to a vote if everyone else is prepared to.

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: We're going to vote on clause 117, but before we do that we're going to take a five-minute break.

● (1045)

The Chair: We're going to call the meeting to order, we'll reconvene, and we're going to vote on clause 117. Is there any further debate on clause 117?

(Clause 117 agreed to)

(On clause 120)

● (1050)

The Chair: We now move to clause 120, and it's on page 112 of the amendments. It's a Bloc Québécois proposed amendment, and it appears to be the same as L-13.4, and NDP-8.6.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: It's the same thing; we want there to be concordance.

[*English*]

The Chair: Shall clause 120 carry? I'm sorry, I'm getting ahead of myself. I apologize.

We are voting on BQ-24.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 120 as amended agreed to)

The Chair: Moving along, we're on clause 121, and that's on page 113 of the amendments. It's a Bloc Québécois amendment, and it's the same as before. There are three amendments that are all the same, L-13.5, NDP-8.7.

So, Monsieur Sauvageau, BQ-25.

[*Translation*]

Mr. Benoît Sauvageau: I'm pleased to introduce the amendment. I don't get the impression that would be too much of a problem.

[*English*]

The Chair: Thank you.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 121 as amended agreed to)

(Clause 122 agreed to)

(On clause 123)

The Chair: Now, clause 123 relates to the Director of Public Prosecutions Act, and there's a series of other clauses related to this particular clause. We propose to deal with all the amendments that pertain to the subject matter of clause 123 before I put the question on clause 123; therefore, we will deal with the amendments to clauses 123 and 139, and once that has been completed, we'll put the question on clause 123, and its results will be applied to all the consequential clauses, which are clauses 131 to 142.

So we're going to stand clause 123, and we're going to call for the amendment, which is G-40.1 on page 113.3.

Mr. Poilievre.

Mr. Pierre Poilievre: Yes, G-40.1 regarding Bill C-2: that clause 123 be amended by replacing lines 13 to 22 on page 99 with the following:

> (a) initiates and conducts prosecutions on behalf of the Crown, except where the Attorney General has assumed conduct of a prosecution under section 15;
>
> (b) intervenes in any matter that raises a question of public interest that may affect the conduct of prosecutions or related investigations, except in proceedings in which the Attorney General has decided to intervene under section 14;

So I'll invite commentary from our panel.

Mr. Joe Wild: The amendments that are proposed are technical amendments to properly reflect the policy decision that is in the bill regarding the assumption of the conduct of prosecutions or the interventions by the Attorney General.

So following through on where the Attorney General has given the appropriate notice and that notice has been gazetted, what new paragraphs (a) and (b) are simply recognizing is that in those instances, the Director of Public Prosecutions would not be initiating or conducting the prosecution on behalf of the Crown, because the Attorney General himself has taken on that prosecution.

(Amendment agreed to)

● (1055)

The Chair: Next is G-40.2, page 113.5, and 113.4 is the French.

Mr. Poilievre.

Mr. Pierre Poilievre: On the same subject, clause 123 would be amended, in the English version, by replacing line 38, on page 99 with the following:

> (h) exercises any other power or carries out any other duty or function

The original says:

> (h) carries out any other duty or function

I believe this is a technical amendment. Is there any further commentary required, Mr. Wild?

Mr. Joe Wild: It is a technical amendment. We generally refer to powers, duties, and functions as being the things that are provided under statutes. So this is simply clarifying that "power" is included in that assignment authority under paragraph (h).

(Amendment agreed to)

The Chair: We're now on to a further amendment. On page 114 is a Bloc Québécois amendment, BQ-26. There's a line conflict, in French only, with L-13.6, and with L-13.7.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: All we want is for a parliamentary committee not only to examine the application, but also to give its approval. This amendment would require the government to consider the opinions of the committees. No government appointment should be made against the opinion of a committee.

That moreover is what the Conservative Party said when former Liberal candidate Glen Murray was appointed by Paul Martin to the National Round Table on the Environment and the Economy, contrary to the opinion of a committee of the House.

This amendment should correct the situation.

[*English*]

The Chair: Okay. On this conflict business, are there any subamendments, or are we just going to let this go?

I'll repeat what I said. There's a line conflict with L-13.6, in French only, and L-13.7. So if we vote on this, that's it. Okay, silence.

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: We're now on page 115, which is another Bloc Québécois amendment, BQ-27.

Monsieur Sauvageau.

● (1100)

[*Translation*]

Mr. Benoît Sauvageau: By this amendment, we want to ensure that the director of criminal investigations cannot be revoked except with the consent of the House of Commons. This person must go through the entire nomination process. Once that person is in the position, he or she has quite dangerous duties and is always doing a tight rope act. So we want the Director of Criminal Prosecutions to be revoked only with the consent of the House of Commons.

[*English*]

The Chair: Mr. Poilievre.

Mr. Pierre Poilievre: I want to make sure, before voting, that we understand the effect of this. Does this give the House of Commons control over the selection of the Director of Public Prosecution? That's what the previous one did.

Mr. Joe Wild: The previous motion, Mr. Chair, BQ-26, in effect gives the House of Commons control over the selection of the candidate, so it's a variation of the Supreme Court of Canada nomination process, which is what was articulated in Bill C-2.

BQ-27 then follows that to provide that in the event there is a decision to remove the Director of Public Prosecution, that removal cannot happen without the support of a resolution of the House of Commons to that effect.

[*Translation*]

The Chair: Mr. Sauvageau.

Mr. Benoît Sauvageau: I simply want to provide an explanation. Otherwise it means that it's the governor in council—

That's fine with me. We can vote.

[*English*]

The Chair: We'll proceed to the vote.

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: We go to page 115.1, government amendment G-40.3.

Mr. Poilievre.

Mr. Pierre Poilievre: G-40.3 also amends clause 123 by replacing, on page 104, line 14.... It actually replaces the heading "ISSUES OF GENERAL PUBLIC INTEREST" by adding the word "OR" in between "GENERAL" and "PUBLIC".

Then in lines 15 to 18 on page 104, it makes some wording changes: General, in a timely manner, of any prosecution or intervention that the Director intends to make, that raises important questions of general interest.

Members who have their Bill C-2 book open will see that the changes are quite self-evident. If the panel of experts have anything to add, I welcome that.

The Chair: Mr. Wild, we have new players. Could you introduce your colleagues, please?

Mr. Joe Wild: Sure. Monsieur Bouchard is the associate deputy minister with the Department of Justice and Ms. Proulx is senior general counsel, also with the Department of Justice. Both are experts with respect to the federal prosecution service and the portions of Bill C-2 dealing with the Director of Public Prosecution.

The Chair: Thank you, Mr. Wild.

Ms. Proulx.

Mrs. Chantal Proulx (Senior Counsel, Legal Services and Training, Office of the Commissioner of Review Tribunals Canada Pension Plan/Old Age Security): The proposed amendment would essentially do two things. In the first instance, it would introduce the concept of the DPP informing the Attorney General on interventions. As previously drafted, the requirement on the part of the DPP to inform was limited to prosecution, so it broadens it in that fashion.

It also introduces the concept of important questions of general interest, again, the intent being to provide for broad and general duty on the part of the director to inform the Attorney General of important issues.

● (1105)

The Chair: Mr. Owen and then Ms. Jennings.

Mr. Owen.

Hon. Stephen Owen: Thank you, through you, to our experts.

I'm just curious. I support the obvious intent of the amendment, but I'm wondering if you could describe to me the difference between "general" and "public" when applied to interest, and why, if we're putting in the title "GENERAL OR PUBLIC INTEREST", that amendment is not also included in the body, so that it would be of "general or public interest".

Mrs. Chantal Proulx: Proposed section 14 deals with interventions by the Attorney General and refers to a "public interest" test. That test is currently in the common law as the basis for an intervention. In fact, the amendment merely codifies the existing practice.

Proposed section 13 was meant to craft, as broadly as possible, a definition of what the DPP ought to inform the Attorney General about. It was felt that the term "general interest" at least included public interest.

Hon. Stephen Owen: Okay, I would like to continue with that. I understand the meaning of public interest, as you've described it. I don't understand what general interest would include beyond that. So if this proposed section on the Director of Public Prosecutions goes through, might it not introduce some uncertainty into when a report was required or when it wasn't?

Mrs. Chantal Proulx: As the honourable member points out, the public interest test is one that is known in our Canadian jurisprudence. General interest is a somewhat less common expression. In terms of statutory interpretation, I think we would attach its plain and ordinary meaning. It was felt that this expression was to be construed as least as broadly as public interest, if not more broadly. If one were to introduce the notion, for instance, of the DPP having his or her own private interest.... The intent of the section was to craft a broad and general duty to inform, and that's the reason the choice was made.

Hon. Stephen Owen: I'm trying to get a little more precision on this. The *National Post* has an editorial raising, in a very public way, a concern with respect to a prosecution policy that the director is meaning to implement. Would that be of general interest?

Mrs. Chantal Proulx: I would think so.

Hon. Stephen Owen: I suppose the Attorney General would already know about it if he had read the *The National Post*.

Thank you.

The Chair: Ms. Jennings.

[*Translation*]

Hon. Marlene Jennings: The original text of Bill C-2, at line 14, page 104, states: "Issues of General Public Interest", whereas line 16 of the English version states:

[*English*]

"that raises questions of general interest".

[*Translation*]

Since these are two different concepts, am I to understand that the purpose of part of the government amendment is to correct the different use in the English text and the French text of the words "general interest"?

Mrs. Chantal Proulx: The proposed amendment adds the word "important" to the English version and is designed to correct what might be interpreted as a lack of concordance between the English and French versions.

● (1110)

Hon. Marlene Jennings: Notwithstanding the explanation you've just provided to my colleague Mr. Owen on the difference between "general interest" and "public interest", the words "raises important questions of general interest" in the English version become "*soulevant d'importantes questions d'intérêt général*" in the French version.

Does the case law define the expression "*important questions of general interest*"? Otherwise, are there any case law tests for determining what is an important question of general interest?

Mr. Michel Bouchard (Associate Deputy Minister, Department of Justice): Personally, I don't know of any case law that would help us distinguish the terminology used here. It's more a matter of semantics.

It must be understood that the purpose of these amendments is to enable the Attorney General of Canada, under the provisions of Bill C-2, to transmit or give power to the Director of Criminal Prosecutions to undertake criminal prosecutions under federal jurisdiction. At the same time, the Attorney General of Canada remains responsible for those prosecutions.

So there are two entities that have the same power. There's the Director of Criminal Prosecutions, who uses it every day in the vast majority of cases, and the Attorney General, who uses it sometimes, if he wishes, to give written instructions or as an intervener himself. These interventions or written instructions must be published in the *Canada Gazette*. So there are two interests.

The purpose of the clause is to ensure complete communication between the two entities that have the same powers, to avoid situations of conflict in prosecutions, if, for example, the Attorney General is not informed of a specific problem that he would deem to be of public interest, while the Director of Criminal Prosecutions would maintain the perception that it is not a problem of public interest. We want to avoid situations in which prosecutions would be stopped or conducted when the Attorney General would have liked to be informed in order to intervene publicly and to publish that intervention in the *Canada Gazette*.

Examples may be numerous or scarce. My experience as a prosecutor leads me to believe that the prosecutor doesn't always—and this isn't a criticism—have a political sensibility in certain cases. The Attorney General would like to be informed so as to be able to tell the House of Commons and the public what has happened. The idea is thus to ensure this communication between the two entities.

Hon. Marlene Jennings: I understand very well. However, how will the director know whether it is a question that he can raise with the Attorney General if he has nothing to guide him?

Mr. Michel Bouchard: I'm quite confident that this assembly of parliamentarians can ratify the appointment of someone who has good judgment. That individual will subsequently be well informed by the various attorneys who assist him in his duties. There are approximately 400 attorneys in the country who work for him and who will have to examine police reports every day to determine whether there are grounds to institute a prosecution following events that have occurred. These people are professionals, they have good judgment and they are able to bring a case of general interest to the attention of the Director of Criminal Prosecutions. The director will analyze the situation and determine whether, under these clauses, he should inform the Attorney General of it.

Hon. Marlene Jennings: Thank you very much.

[*English*]

The Chair: All those in favour of G-40.3.

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: We're going to move to amendment G-40.4, which is page 115.3, and 115.2 of course was the French version. It's a government amendment.

Mr. Poilievre.

● (1115)

Mr. Pierre Poilievre: I move amendment G-40.4.

Members will note that on clause 123, government amendment 40.4 replaces lines 21 and 22 on page 104, with the following:

> interest, the Attorney General may, after

So to put it into context, if you go to lines 21 and 22:

> 14. When, in the opinion of the Attorney General, proceedings raise questions of public interest, the Attorney General may, after notifying the Director, intervene in first instance or on appeal.

I invite some commentary from our panel of experts.

Mrs. Chantal Proulx: The intent of this amendment is to remove the words “beyond the scope of those usually raised in prosecutions” from the English, and from the French,

[*Translation*]

"of general interest beyond the scope of those usually raised in prosecutions".

[*English*]

In response to a question from honourable member Owen, I advised the committee that the current test for interventions is a public interest test. It was felt that these words were unnecessary and could unduly limit the ability to intervene that is currently enjoyed by the Attorney General.

The Chair: All those in favour of amendment G-40.4, please signify.

(Amendment agreed to)

The Chair: We now move to clause 139 and an amendment that is on page 118. That is a Liberal amendment.

Mr. Owen, you could move that, please.

It is on page 118; it is amendment L-14.

Hon. Stephen Owen: There's a lot of paper here. Between the page numbers in the bill and page numbers here and numbers....

Mr. Chair, the purpose of this amendment—

The Chair: You'll have to move it first.

Hon. Stephen Owen: Well, I move it.

The Chair: I'm going to rule it inadmissible, before you get going.

Amendment L-14 proposes an amendment relating to the Attorney General of Canada. It is amending section 2 of the Department of Justice Act.

House of Commons Procedure and Practice states at page 654 that "an amendment is inadmissible if it amends a statute that is not before the committee or a section of the parent Act unless it is specifically being amended by a clause of the bill." Since section 2 of the Department of Justice Act is not being amended by Bill C-2, it is inadmissible to propose such an amendment; therefore, amendment L-14 is inadmissible.

We'll return to clause 123 for a vote, and it was amended a number of times, if I recall.

(Clause 123 as amended agreed to)

(Clauses 131 to 142 inclusive agreed to)

(Clause 124 agreed to)

(On clause 125—*Acting Director*)

● (1120)

The Chair: There is a proposed amendment to clause 125 by the government on page 116; it's amendment G-41.

Mr. Poilievre.

Mr. Pierre Poilievre: Amendment G-41 replaces lines 22 and 23 on page 105 with the following:

> the other Act until

Put into context, it would read:

> The person who holds the position of Assistant Deputy Attorney General (Criminal law) in the Department of Justice immediately before the day in which this section comes into force is authorized to act as the Director of Public Prosecutions under

—and we continue—

> the other Act until that day, and continuing after that year until the appointment of the Director of Public Prosecutions under subsection 3(1) of the other Act.

I think this is just a grandfathering clause to bridge the existing deputy attorney general into the role of Director of Public Prosecutions. Am I correct?

Mr. Joe Wild: There are two things happening with this amendment. The first is that it's simply clarifying that the current assistant deputy attorney general of criminal law would act as the DPP until such time as a DPP is actually appointed. So the current version of Bill C-2 required that to be a year and it's an inflexible timeframe rather than a more fluid one, which is once the appointment process can actually be completed.

The second thing the amendment is doing is also putting in place a mechanism to allow for someone to act as the Director of Public Prosecutions in the event that something happens to the assistant deputy attorney general of criminal law, again because there's a gap until the appointment can be made. This is just again putting in place a bit of a safeguard in case something were to happen to the assistant deputy attorney general of criminal law.

(Amendment agreed to)

(Clause 125 as amended agreed to)

(Clauses 126 and 127 agreed to)

The Chair: Shall clause 128 carry? Carried.

Mr. Owen.

Hon. Stephen Owen: Mr. Chair, I want you to make sure that you're properly reflecting what's happening here. It's not being carried unanimously.

The Chair: On division.

(Clause 128 agreed to on division)

The Chair: We're going to carry on. That's a good point, Mr. Owen. Thank you, sir.

(On clause 129—*Continuation of prosecutions*)

The Chair: Is there debate on clause 129?

Mr. Owen.

Hon. Stephen Owen: Let me explain to the chair and the committee why we are against the Director of Public Prosecutions.

It seeks to resolve a problem that doesn't exist, in my mind, and perhaps I could ask through you, Mr. Chair, to Mr. Bouchard whether there have been issues of public concern expressed about the independent actions of the Attorney General acting in his role as Attorney General under criminal prosecution—

Mr. Pierre Poilievre: I have a point of order.

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

Mr. Pierre Poilievre: I think Mr. Owen is seeking political advice and policy advice from a group who are here to advise us on technical legal matters, not to give general testimony on the state of the status quo within the Attorney General's office. They're here not to discuss the policies that we have before us, but merely to interpret the words that are on paper and what their implications would be.

Those questions would have been appropriate if they had been asked during general testimony to a witness before the committee, but they are being asked in clause-by-clause of a technical panel, and that's not appropriate.

● (1125)

The Chair: I'm going to allow the question.

Hon. Stephen Owen: Thank you very much.

Is there a problem, Mr. Bouchard, in your experience, which is lengthy and deep, that going to the dramatic move—that's my characterization—of creating a Director of Public Prosecutions office separate from the Department of Justice is trying to cure?

[*Translation*]

Mr. Michel Bouchard: Thank you for your question, sir.

I had the opportunity to testify before this committee at the start of the month, if my memory serves me, and I believe you asked me the same question. I was told my answer was good, so I'm going to repeat it.

In criminal prosecutions, appearances are often as important as, if not more important than the reality. In my career as a prosecutor, which has spanned roughly 30 years at the federal and provincial level, I have never had any problem with so-called political interventions by one of the 12 or 13 attorneys general for whom I have worked.

Appearances are at times different. Over those years, there have been, unfortunately all too often, situations in which both the public and the media had a perception of political intervention, which had not occurred. That perception was conveyed by individuals who based their assertion on what I would call circumstances that might lead them to consider that there might have been political intervention, which was not the case.

Often they came to the conclusion that the people representing the Attorney General, those acting as deputy attorneys general, were close to politicians that were accountable to their political masters. Those apparent interventions might have occurred, but, and I repeat, they in fact had not.

This provision reproduces what is done elsewhere in the Commonwealth and what has been done for about 10 years in Nova Scotia, Quebec and, for a few months and in part, what has been done in British Columbia. In Nova Scotia, a DPP was created as a result of a claim that there had been political intervention.

So in response to that question, in my last appearance before the committee, I asked whether we had to wait for a scandal before creating an institution which, in appearance and reality, gives greater independence to the Director of Criminal Prosecutions, who will be selected by parliamentarians, ultimately, based on the amendments that have been tabled this morning.

Under those provisions, we are assured that, when difficult situations arise in which the claim is made that there has been political intervention, it can always be doubted, since the individual who has made the decision will be independent of all political intervention, will be free from all political contact and, in his soul and conscience, will pursue his objective of prosecuting individuals.

[*English*]

Hon. Stephen Owen: I thank you for that, and I accept your expression of concern for the appearance of political interference.

Perhaps I could ask this. If the Department of Justice Act was amended—and I understand it can't be in this proceeding, Mr. Chair—to provide for the same protection of an Attorney General, as was suggested in amendment L-14, for the same provisions as for the director of prosecutions, if the Attorney General intervened in or indeed took over an individual prosecution or a general matter of prosecution policy, would that not provide the same protection against a misapprehension or a doubt in the public about the impartiality and professionalism of the process? It would provide exactly the same mechanism of giving notice in writing and gazetting that these provisions provided, but without the need for a separate Director of Public Prosecutions office.

● (1130)

[*Translation*]

Mr. Michel Bouchard: Thank your for your questions. I think the fact of ensuring that there is a comfort zone about the degree of independence that we want to give the office is a choice.

Certain models could have been adopted. In this case, preference went to the model of what I would call the summum of independence that we want to grant an individual. We want to be certain that the individual will have the most absolute power of independence. We've adopted the best models from other Commonwealth institutions.

With this bill, we're much closer to the model followed by the province of Quebec a few weeks ago. I'd even go as far as to say that we have approved on it. In Quebec, selection of the Director of Criminal Prosecutions does not involve intervention by the members of the National Assembly. Here it involves intervention by the members of the House of Commons. In the Quebec model, the appointment process involves people from the outside, but does not require the intervention of the representatives of the political parties who sit in the National Assembly. Here, with this bill, we do so for the members of the House of Commons, which ensures that the individual is recognized by all political parties and thus has greater political neutrality.

As you said, it is true that the fact that the Attorney General is required to give public instructions in writing and to publish them in the *Canada Gazette* is an excellent way to enable him not only to inform the public that he is taking charge of a case, but also that he will be politically accountable for his decision and will have to give the reasons why he made it.

[*English*]

Hon. Stephen Owen: Thank you.

Thank you, Mr. Chair. Those are all my questions.

The Chair: Thank you.

(Clauses 129 and 130 agreed to)

(On clause 143)

The Chair: I have a brief statement.

Clause 143 relates to the Access to Information Act, and as has happened before, there is a series of clauses related to this particular clause. The chair is suggesting we deal with all the amendments that pertain to the subject matter of clause 143 before we put the question on clause 143.

We will deal with the amendments to clauses 143, 144, 145.1, and 164. Once this is completed, we will put the question on 143, and its results will be applied to all the consequential clauses, namely clauses 144, 145, 145.1, and 164.

We will move on to the amendments of 143. We have a New Democratic motion on page 119 of your book, it is amendment NDP-9.

Mr. Martin.

● (1135)

Mr. Pat Martin: Mr. Chairman, I'd like to withdraw amendment NDP-9.

The Chair: Okay. We now move to page 119.1, amendment NDP-9.1.

Mr. Martin.

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

I would like to move amendment NDP-9.1, which is a very simple adjustment to replace in clause 143, on line 15, page 111, the reference to the Access to Information Act. It is simply changed to "the Act." I believe this enables other amendments that will be altering the name of the Access to Information Act.

(Amendment negatived)

The Chair: Mr. Martin, we now move to page 119.3, which is amendment NDP-9.2.

Mr. Pat Martin: Mr. Chairman, I'll move NDP-9.2 dealing with the definition of government institution. I'd ask my colleagues, especially the opposition parties, to think long and hard before they vote these down out of hand. Punishing me in some way isn't nearly as important as improving the access to information regime that Canada has to operate under.

The Chair: Mr. Martin, I know it's tempting to get into this again, but try to stick to the amendment, please.

Mr. Pat Martin: Well, I will try to stick to the issues rather than personalize, but you can't overstate how important freedom of information is to a functioning democracy. The Supreme Court of Canada calls access to information laws "quasi-constitutional". We're now finally getting through what I believe is the chaff of this bill and getting to the wheat, to the kernels.

I've made the point before that many of the other clauses of this bill pale in comparison to the benefit to Canadians that amending the access to information provisions will bring. I've said before, freedom of information is the oxygen that democracy breathes. You can't overstate how important it is. It's a fundamental pillar of democracy. One of the reasons I wanted to change the name of the Access to Information Act in a subamendment that I'm sure my colleagues are now conspiring to defeat is that we wanted Canadians to view access to information as a right, the right to know—

Hon. Marlene Jennings: On a point of order, Mr. Chair, I believe the chair, in his wisdom, some time earlier in the sitting admonished all members sitting around this table not to personalize, not to impute motives on the votes that members had taken and the way in which they did, and I would simply ask the chair to remind the member who is speaking at this point of that ruling.

Thank you.

The Chair: Ms. Jennings is in order.

Mr. Martin, the chairman is getting impatient.

Mr. Pat Martin: Mr. Chairman, with all due respect, I'm not prepared to sit here and let these people undermine the most significant changes to Bill C-2, or sabotage them in some way, because they're hostile.

The Chair: We're going to move on if you keep—

Mr. Pat Martin: Their hostility is overwhelming.

● (1140)

The Chair: Mr. Martin, we're going to—

Mr. Pat Martin: Mr. Chairman, I have the floor and I've been very good about—

The Chair: I'm going to rule you out of order if you carry on like that.

Mr. Pat Martin: Well, I intend to speak to the access to information amendment—

The Chair: Please do, please speak to the amendment.

Mr. Pat Martin: The definition of government institution is critically important. It's vital. If we're going to expand those institutions that operate in the shadows currently, if we're going to shine the light of day on government institutions, there's a necessary amendment we have to make to alter the definition of what we consider a government institution. The language we've put forward expands that greatly to include parent crowns, as if there's any doubt.

You will notice the previous government rationed which government institutions shall and shall not be covered by access to information. In other words, there was no freedom of information. The right to know was not acknowledged anywhere but in flowery speeches by the former Minister of Justice.

We're talking about the right to know what goes on within the confines of these crown corporations and institutions and agencies. Currently, 46 out of 249 government crown corporations, institutions and agencies are subject to the access to information laws. I can find out what goes on in the Atlantic Pilotage Authority, but I can't find out what goes on in massive crown corporations or foundations or agencies that deal with billions and billions of dollars outside the scrutiny of the public. Imagine if we had 30 million auditors instead of one Auditor General; imagine what we could unearth in terms of maladministration or waste, or simply being able to justify to the public how their public dollars are being spent in these institutions. The Liberals created an environment of distrust and fear—

The Chair: Point of order, Mr. Martin, I'm sorry.

Mr. Owen.

Hon. Stephen Owen: I don't want to interrupt Mr. Martin—

Mr. Pat Martin: Well, why are you doing it?

Hon. Stephen Owen: —but I might just comment that his speech may be directed at people who aren't opposed to this particular amendment, and it seems to be anticipating something that has not been shown by anybody's comment to suggest there's opposition to this. It's a good speech and I agree with what you're saying, except for the epithets about the former government.

The Chair: Are you on a point of order, Ms. Jennings?

Hon. Marlene Jennings: No, I simply wish to be on the list for debate of this amendment.

The Chair: Okay.

Mr. Martin, I know you're impassioned on this subject. You and I have sat on another committee, and I'm quite aware how impassioned you are; there's no question about that. I just again ask that you refrain from—I'm going to use the word “baiting”, and I've used it several times—other members of the committee.

Mr. Martin, you still have the floor.

Mr. Pat Martin: Thank you, Mr. Chairman.

It's impossible to address passage of this particular clause without addressing the politics associated with undermining this particular clause. I have reason to believe, and I've been told, that the other opposition parties are conspiring to oppose every amendment on access to information. It's out of protest because they're not getting the entire John Reid package before this committee.

If that is true, and if I yield the floor and allow you to put it to a vote, and these people exercise their vote to undermine and to sabotage the improvements that we do have in front of us for Bill C-2, we'll be doing a disservice to everyone who relies on access to information for—

The Chair: Mr. Martin, I think you're anticipating what members are going to do in this committee, and they may or may not do it.

Mr. Pat Martin: Well, I want to make the points in favour of this amendment prior to handing it over to the floor and subjecting it to the vagaries of whatever political mischief may be afoot.

The Chair: Sir, you still have the floor, but try to restrain yourself.

Mr. Pat Martin: I'm using an enormous amount of restraint, Mr. Chair.

The Chair: I know you are, sir. As I've said, I know your passion towards this topic.

Mr. Pat Martin: If I sound frustrated, let's consider the users of a clause like this and the beneficiaries of a clause like this. Quite often it's journalists, quite often it's opposition parties who use access to information requests to shine a light on the inner workings of the mysteries of this massive behemoth we call government.

There was a deliberate effort in recent years—and I won't say by which political party, but I can say it's within the time I've been here—to squirrel money away into foundations and into institutions being created: scholarship funds, innovation foundations, all kinds of.... Billions and billions of dollars that would no longer be before the public accounts committee were hived off from the normal access and the normal scrutiny that the system contemplates, or that the system has built in the oversight for. There's been a lack of oversight of, I'd say, one-third of the government's economic activity.

What we're seeking to do by this amendment is chisel away at that, incrementally chip away at it, so that ideally, someday in the fullness of time, all of government's activities will be in the full light of day. We're very concerned that now not enough is.

And there are very few friends of open government in the senior ranks of the bureaucracy. We are pushing an enormous rock up an enormous hill as we fight this battle for open government, for freedom of information. And I hope people focus on that word “freedom”; it's a fundamental freedom and a fundamental right to know what people are doing with our money on our behalf.

So it's reasonable to take the narrow definition of government institutions that are subject to access to information and expand it. I would like to expand it further, and we intend to do that at another committee, hopefully with your help, Mr. Chairman, as you will be a vice-chairman of the ethics committee, which will be dealing with the fuller picture of access to information laws.

But for now, we have a bird in the hand, which is worth two in the bush. We have an opportunity before us; we have a window of opportunity to do something meaningful and significant. Before noon, even before lunch, we will have changed the world if we pass this amendment. And that's not bad; we will have done a day's work already. We could go home satisfied that we've done something good for Canadians and not just twiddled our thumbs and argued about how many angels can dance on the head of a pin in any part of Canada.

So I'm adamant that...well, I suppose I appeal to my colleagues in the opposition benches: do not take any hostility or resentment out towards me on this important initiative. If you feel that way, we can meet outside and we can argue. But don't jeopardize something good because of petty partisan politics. Let's do something for Canadians before the end of this session of this 39th Parliament.

An hon. member: Hear, hear!

● (1145)

The Chair: Thank you, Mr. Martin.

Monsieur Sauvageau, Ms. Jennings, and then Mr. Murphy.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Martin, your speech was eloquent, grandiloquent, fantastic and credible. However, there's a minor problem. You gave it in the wrong place at the wrong time, since, in the Standing Committee on Access to Information, Privacy and Ethics, the members of the New Democratic Party voted against the Bloc Québécois motion that the committee immediately review that essential feature of democracy, the Access to Information Act.

[*English*]

The Chair: We've got a point of order.

Mr. Poilievre.

Mr. Pierre Poilievre: Every single time somebody felt their feelings were hurt by Mr. Martin there was a point of order, which you ruled in order, to silence his speech and change the topic of his words. Now when the reverse is happening I don't see any such intervention. I'm asking, if you're going to have this rule, that it be evenly applied to all members of the committee.

The Chair: Mr. Poilievre is correct, Mr. Sauvageau. You're going to have to refrain from referring to another vote in another place.

[*Translation*]

Mr. Benoît Sauvageau: On page 111 of my document, line 14, the title is "Access to Information Act".

Mr. Chairman, may I ask you whether the Standing Committee on Access to Information, Privacy and Ethics exists? If it exists, may we talk about it? Would it be unrealistic on my part to think that the Standing Committee on Access to Information, Privacy and Ethics can review the Access to Information Act?

[*English*]

The Chair: I said you could not refer to a vote in that committee. You can talk about the committee, but you can't talk about another member and how they voted or how they didn't vote.

This is starting to get difficult.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: All right. I won't talk about the other committee. However, I'd like to say that, in a corridor of the House of Commons, a member of the fourth party might have made that speech to his colleague sitting on another committee to direct his conscience in a different direction and to ensure that the consequences were different.

However, at a meeting of this committee, a member of the opposition who was neither from the Liberal Party nor from the Bloc Québécois voted not to hear witnesses or so helped to limit the schedule for the hearing of witnesses that we were unable to hear—

Some hon. members: Oh, oh!

● (1150)

[*English*]

The Chair: You've gone too far. I'm going to move on if you keep doing this.

On a point of order, Mr. Lukiwski.

Mr. Tom Lukiwski: Mr. Chair, you've got a handle on it, but I was going to say the member opposite, whom I respect very much, is trying to circumvent the rules that you have established by trying to get too cute by half in trying not to refer directly to Mr. Martin, but by referring to a member of the opposition not of the Bloc or of the Liberals. It's obvious who he's talking about.

I thought the intent of your ruling, sir, was to make sure we stop this baiting. If Mr. Sauvageau or any member of the opposition does not want to support this clause, or wishes to support the clause, then let's deal with the clause and vote on it.

The Chair: Monsieur Sauvageau, this is the last warning. I'm going to move on if you continue on with this.

[*Translation*]

Mr. Benoît Sauvageau: For the purpose of passing the motion, I think it would have been wise to hear the representatives of the Bank of Canada, the Blue Water Bridge Authority, the Canada Council for the Arts, the Canada Deposit Insurance Corporation, the Canada Development Investment Corporation, the Canada Lands Corporation and the Canadian Mortgage and Housing Corporation, which our agenda did not allow us to do. That's all; I'm finished.

[*English*]

The Chair: Ms. Jennings, you have the floor.

Hon. Marlene Jennings: I appreciate the sentiments Mr. Martin expressed as they pertain to the objective of his amendment. The difficulty I personally have is that I actually do believe that if one is going to change the rules that affect an entity, whether it be a crown corporation or an individual, those parties should be heard, and we should actively seek out their views on a potential amendment.

I applaud the government in the sense that notwithstanding that we did not necessarily hear from all of the witnesses that we, the Liberals, wished to hear from, I believe we heard from a sufficiently broad base so we got a fairly decent understanding—not as extensive or as profound as I would have liked—from the various parties who were going to be affected by Bill C-2 in its current written stage on how it was going to affect them. Those who felt it was going to affect them negatively actually made recommendations and proposed amendments.

Therefore, given that the aim of the amendment NDP-9.2 is to change the regime—of which certain entities who will be affected by it were not consulted or did not have an opportunity to come before the committee—I do believe this should be in the domain of the access to information, privacy and ethics committee, in its review subsequent to the tabling of the government's paper on the reform of access to information.

Therefore I won't be supporting amendment NDP-9.2.

The Chair: Mr. Murphy.

Mr. Brian Murphy: Mr. Chair, thank you.

Mr. Martin makes some good points. In that an Irishman named Martin founded the SPCA, I wonder if Mr. Martin is getting his Irish up a bit today.

I don't know if it's permissible to ask him a question, but in the interests of understanding this and seeing why it's important, we heard from a number of witnesses that protecting proprietary information, protecting competitive advantages for people who seek government funding, is paramount for many of the groups we speak of. With your permission, Mr. Chair—it's your ruling—I would like to hear from Mr. Martin what protection there may be remaining to make sure someone who's in the innovation field isn't disadvantaged on a world scale by having an ATI application expose some of his trade secrets or staffing levels. These things are very important to our economy and our well-being.

I don't know if that's permissible.

● (1155)

The Chair: There are no more speakers. If Mr. Martin wishes to respond he can.

Mr. Martin.

Mr. Pat Martin: I will briefly, and thank you for that very legitimate, serious question.

I am quite comfortable in the research we've done that the Information Commissioner has within his discretion the right to withhold the release of any information that may be commercially sensitive. There are a number of checks and balances built into the Access to Information Act to deal with that very thing, and there are further complete exclusions built into Bill C-2 for places that are particularly sensitive, such as the Public Sector Pension Investment Board, where they may be seeking large institutional investors who may be scared away if they think that, even 20 years down the road, information normally considered privileged in the corporate world may be made public because of their relationship with this quasi-public institution.

The points you raise are valid, sir, but they are already accommodated within the discretion of the Information Commissioner.

The Chair: Are we ready to vote?

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: That concludes the amendments to clause 143.

I think we'll adjourn. Just to let you know, we'll be in this room at 3:30 and we will continue at that time with clause 144.

This meeting is adjourned until 3:30 in this room.

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