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# Legislative Committee on Bill C-2

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## Tuesday, June 13, 2006

## Chair

**Mr. David Tilson**

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**Tuesday, June 13, 2006**

● (1530)

[*English*]

**The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)):** I call the meeting to order, please. Please take the cameras out. We can't have cameras in here, I'm sorry. It is being televised, but I don't want a camera facing me when I'm doing all this.

This is the legislative committee on Bill C-2, meeting number 25. The orders of the day, pursuant to the order of reference of Thursday, April 27, 2006, 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're continuing with clause-by-clause. We are on amendment NDP-9.3, page 119.5.

(On clause 144)

**The Chair:** Mr. Martin.

**Mr. Pat Martin (Winnipeg Centre, NDP):** Mr. Chair, I'd like to move amendment NDP-9.3 found on page 119.5, which amends clause 144 by simply adding a "for greater certainty" clause, so that there can be no question that the intention is that the Canada Race Relations Foundation and the Public Sector Pension Investment Board are considered by this legislation to be parent crown corporations for the purposes of this act. We dealt with and tried to identify what we consider to be parent crown corporations, and the inclusion of this simple language will leave no doubt about that.

**The Chair:** Mr. Poilievre, go ahead, please.

**Mr. Pierre Poilievre (Nepean—Carleton, CPC):** I'd like to introduce what will likely be considered a friendly subamendment. It starts above Mr. Martin's original amendment. It starts before "For greater certainty", and it reads as follows:

> For greater certainty, any provision of this act that applies to a government institution that is a parent crown corporation, applies to any of its subsidiaries within the meaning of section 83 of the Financial Administration Act.

It speaks for itself.

● (1535)

**The Chair:** Mr. Sauvageau, go ahead, please.

[*Translation*]

**Mr. Benoît Sauvageau (Repentigny, BQ):** Could one of our experts tell us whether it would be good legislative drafting to use "tout ce qui ressemble à quelque chose"? It seems vague, but I may be wrong.

Let the light be...

[*English*]

**Mr. Joe Wild (Senior Counsel, Legal Services, Treasury Board Portfolio, Department of Justice):** It may assist us to quickly place the amendment and subamendment in context. Paragraph (b) of the definition of "government institution", as introduced in subamendment NDP-9.2, said:

> any parent Crown corporation, and any subsidiary of such a corporation, within the meaning of section 83 of the *Financial Administration Act*.

The "For greater certainty" part of NDP-9.3, about the Canadian Race Relations Foundation and Public Sector Pension Investment Board, is necessary because those are two crown corporations that, in their own enabling legislation, say that part X of the Financial Administration Act doesn't apply to them, which is where this section 83 reference in the definition comes into play. This is necessary to make sure that those two crown corporations are included for the purposes of the Access to Information Act.

The subamendment that's been proposed says that under this definition we're including subsidiaries and parent crowns, and if you are a subsidiary of a parent crown, then any of the provisions of the Access to Information Act that apply to the parent would equally apply to the subsidiary. For example, if there was a specific exemption for a parent, the subsidiary would also be able to use that specific exemption. So it just follows in line, given the lines of business they're in.

**The Chair:** Mr. Owen.

**Hon. Stephen Owen (Vancouver Quadra, Lib.):** I'd like to ask the additional question then: does the subamendment deal with the concern raised in the amendment, by raising these two organizations specifically?

**Mr. Joe Wild:** With the subamendment, what you have are two greater certainty provisions happening in proposed section 3.01 now. You have the first, which is clarifying that any of the provisions of this act that have been written to apply to a parent crown corporation also apply to any of that parent crown corporation's subsidiaries. Then Mr. Martin's proposed amendment is saying that the Canadian Race Relations Foundation and the Public Sector Pension Investment Board are parent crown corporations for the purposes of this act. So the proposed section 3.01, the first part that has been introduced, applies to the Race Relations Foundation and the PSPIB, as well as does the entire Access to Information Act. That's what's happening here with these greater certainties.

**Hon. Stephen Owen:** Okay. I'm sorry, but I was thinking Mr. Martin's was the amendment and Mr. Poilievre's was the subamendment.

**Mr. Joe Wild:** Correct.

**Hon. Stephen Owen:** But yours does not delete or obviate the other?

**Mr. Joe Wild:** It was adding to it.

**Hon. Stephen Owen:** Adding to it, good.

**The Chair:** For NDP-9.3, we have a subamendment.

(Subamendment agreed to)

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

**The Chair:** We move to the Liberal amendment, L-15.

Ms. Jennings, Mr. Owen.

Sorry, before you start, I might just draw your attention that there's a line conflict with NDP-10.

Mr. Owen.

● (1540)

**Hon. Stephen Owen:** Yes, I have a note on that. I don't believe this is going to be necessary if NDP-10 is passed. So I would withdraw this amendment at this point.

**The Chair:** Mr. Martin, we're on NDP-10.

**Mr. Pat Martin:** Mr. Chairman, I'd like to withdraw NDP-10 as well.

**The Chair:** We now go to a new clause 145.1 and NDP-10.1.

Mr. Martin.

**Mr. Pat Martin:** Mr. Chairman, this amendment proposed by the NDP seeks to add section 145.1 on page 112 of Bill C-2. After line 25, we would include....

If I had an English version of this bill it would be easier for me to explain.

**The Chair:** Just move it, sir.

**Mr. Pat Martin:** All right. I'll just move it for now and we'll get into the substance after the fact.

**The Chair:** Well, I have bad news, as I'm going to rule it inadmissible.

**Mr. Pat Martin:** Oh, that old trick. I can't believe I fell for that again.

**The Chair:** NDP-10.1 proposes to amend the availability of information concerning government institutions under the Access to Information Act. *House of Commons Procedure and Practice* states at page 654:

> ...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 being specifically amended by a clause of the bill.

Since section 5 of the Access to Information Act is not being amended by Bill C-2, it is inadmissible to propose such an amendment. Therefore, NDP-10.1 is inadmissible.

(On clause 164)

**The Chair:** We will now go to the amendments for clause 164.

A point of order, Mr. Lukiwski.

**Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC):** I appreciate your last ruling, on the inadmissibility of NDP-10.1, but I would like to hear a comment, if I may, from the technical experts. I believe there may be some conflict with—

**The Chair:** I've ruled it out of order. Why are you proceeding with it? It's "gone-zo". Unless someone wants to challenge the chair, we're moving on, Mr. Lukiwski.

**Mr. Alan Tonks (York South—Weston, Lib.):** Oh, no; nobody's going to challenge Gonzo.

**The Chair:** I'm sorry, sir, but I've ruled it inadmissible.

We're going to turn to page 135.3 for an amendment to clause 164. It's government amendment G-41.1.

● (1545)

**Mr. Pierre Poilievre:** The government withdraws.

**The Chair:** It is the same as NDP-18.2, on page 135.5.

Mr. Martin.

**Mr. Pat Martin:** Mr. Chairman, if it's in order, I would seek to move amendment NDP-18.2.

This amendment calls for a report of expenses for all ministries and departments, in the interest of expanding what information is subject to the access to information law. This is part of a theme we've introduced in this suite of amendments put forward by the NDP.

If I had the time, I would find the amendment and actually speak to it directly....

Oh, here it is.

**The Chair:** Perhaps you could pause for a minute, Mr. Martin. I just want to make sure we're all on the same page.

I understood that we were doing NDP-18.2. I think you're on another topic.

**Mr. Pat Martin:** Ah, yes; I was referring to my notes of 18.1, Mr. Chairman, where we'd had a false start.

I'll carry on, then, and move NDP-18.2, which would amend clause 164 by adding, after line 20 on page 118 of Bill C-2, the following:

> (2) Subsection 77(1) of the Act is amended by striking out the word "and" at the end of paragraph (g), by adding the word "and" at the end of paragraph (h) and by adding the following after paragraph (h):
>
> (i) prescribing criteria for adding a body or office to Schedule I.

That's a very complicated way of saying something very simple. This is a method for adding to the list in schedule I in terms of what agencies, etc., would be listed. There should be some way of adding to and subtracting from that list. This, I believe, talks about establishing criteria by which we would add to the bodies or offices listed in schedule I.

**The Chair:** We're going to vote on NDP-18.2.

(Amendment agreed to)

**Mr. Pat Martin:** That's one for the good guys.

Oops, I didn't realize my mike was on.

**The Chair:** You're on the air, Mr. Martin.

We now go back to clause 143.

Just to repeat what I said before, we're going to put the question on clause 143, and its results will be applied to consequential clauses 144 to 147—excluding clause 146—and clause 164.

(Clause 143 as amended agreed to)

(Clause 144 as amended agreed to)

(Clause 145 agreed to)

(Clause 147 agreed to)

(Clause 164 as amended agreed to)

(On clause 161)

● (1550)

**The Chair:** On page 133 we have Liberal amendment L-20.

Mr. Owen or Ms. Jennings.

**Hon. Stephen Owen:** I am withdrawing the amendment.

**The Chair:** Amendment withdrawn.

(Clause 161 agreed to on division)

(On clause 146)

**The Chair:** Sorry to jump around, but that's the way it is.

On page 122 we have NDP amendment 11, a line conflict with L-16 on page 123.

Mr. Martin.

**Mr. Pat Martin:** Mr. Chairman, I'd like to withdraw amendment NDP-11.

**The Chair:** All right. NDP-11 is gone.

Now we go to NDP-11.1, on page 122.1.

Mr. Martin.

**Mr. Pat Martin:** Mr. Chairman, this amendment is an updated version along the same lines.

I'd like to move NDP-11.1, found on page 122.1 of our book, amending clause 146 by—

**The Chair:** Excuse me just a second. I want to confer with the clerk about L-16.

I'm sorry, Mr. Martin.

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

This is an important amendment dealing with the Access to Information Act—NDP-11.1. It says:

> The Auditor General of Canada shall refuse to disclose any record requested under this Act that contains information that was obtained or created by or on behalf of the Auditor General of Canada in the course of an investigation, examination or audit conducted by or under the authority of the Auditor General of Canada.

It's an important addition to give comfort to those whose information may be held by the Auditor General in the context of her work that otherwise would have been protected or not covered under the Access to Information Act. I will ask the technical advisers to expand further.

It also speaks to records relating to investigations and audits by the following heads of government institutions who shall also refuse to disclose any record: the Commissioner of Official Languages for Canada, the Information Commissioner, and the Privacy Commissioner.

No one should read into this that we are trying to say that the Official Languages Commissioner, the Information Commissioner, and the Privacy Commissioner shouldn't be subject to the Access to Information Act. In virtually every other capacity, their offices are in fact subject to access to information.

We all remember the scandal in the Privacy Commissioner's office. Believe me, the NDP would never try to put an amendment forward that would contemplate some special protection from the ordinary operations of the Privacy Commissioner, but some of the information held by the Privacy Commissioner in the context of an investigation shouldn't be released, and the privacy of that information should be upheld.

In the final clause, it says:

> However, the heads of the government institutions mentioned in subsection (2) may not refuse to disclose any record that was created by them or on their behalf in the course of an investigation or audit conducted by them or under their authority once the investigation or audit is complete and all related proceedings, if any, are final.

In other words, this is an exclusion, but it's not a permanent and absolute exclusion. It may be after the fact that information can be released, once the investigation and all related proceedings have gone their natural course; I suppose that could be an appeal to the courts that may drag on and on.

I realize this is a sort of pluralistic clause and that it touches on a few different things, but we believe it's necessary to the integrity of the access to information provisions we're seeking to achieve.

● (1555)

[*Translation*]

**The Chair:** Mr. Sauvageau.

**Mr. Benoît Sauvageau:** I have a question for my NDP friend and colleague.

Why is it that the commissioner of lobbying and the chief electoral officer are not included in this provision? Why not have paragraphs (d) and (e)?

[*English*]

**Mr. Pat Martin:** The issues that have been brought to our attention arise in the context of the investigations by these particular officers of Parliament. It was felt that these were the offices that needed special mention and accommodation in the bill.

That's the only answer I can give my colleague.

[*Translation*]

**Mr. Benoît Sauvageau:** A significant part of Bill C-2 deals with the commissioner of lobbying, and another one deals with the chief electoral officer.

We do not oppose certain clauses out of bad faith, but because they are not clear and specific enough, and they were hastily drafted. Some commissioners were included at random and others have been left out. With a little more time to design this bill, both the commissioner of lobbying and chief electoral officer would have been included in this clause.

[*English*]

**The Chair:** For the speaking order, I have Ms. Jennings and then Mr. Poilievre and then Mr. Martin.

**Mr. Pat Martin:** I wonder if it would speed things along if we asked the technical advisers if those other offices are dealt with elsewhere in the act.

**The Chair:** Okay, we'll do that.

**Mr. Joe Wild:** Thank you, Mr. Chair.

The Chief Electoral Officer is dealt with...it's on page 113 of C-2 in clause 147 amending section 16.3 of the Access to Information Act. The commissioner of lobbying was dealt with previously in section 89 of C-2, which created the exemption for the commissioner of lobbying. Later on in this part, part 3 of the bill, under the amendments dealing with the Public Servants Disclosure Protection Act, there are amendments for the Access to Information Act relating to the public sector integrity commissioner.

**The Chair:** Ms. Jennings.

**Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.):** It's just a point of clarification, and I'm sure Mr. Wild will be able to provide it to me, through you, the chair.

In NDP amendment 11.1, am I to understand from reading it that it only pertains to the heads of government institutions that are actually mentioned there, i.e., the Auditor General of Canada, the Commissioner of Official Languages for Canada, the Information Commissioner, and the Privacy Commissioner, period?

**Mr. Joe Wild:** You're quite correct that reference to the following heads of government institutions means the head of those offices that are listed in (a), (b), and (c).

● (1600)

**Hon. Marlene Jennings:** Thank you.

**The Chair:** Mr. Poilievre.

**Mr. Pierre Poilievre:** I'd like to propose a subamendment. It adds something to the third subsection of Mr. Martin's amendment. It reads as follows:

> (3) However, the head of a government institution referred to in subsection (2) shall not refuse under that subsection to disclose any record that contains information that was created by them or on their behalf in the course of an investigation or audit conducted by them or under their authority once the investigation or audit and all related proceedings, if any, are finally concluded.

It's the same except that it becomes an obligation instead of a permissive authority.

**The Chair:** Just so I understand, you've changed "may" to "shall"?

**Mr. Pierre Poilievre:** That's right.

**The Chair:** I have Mr. Martin still. I have you on the list, sir.

**Mr. Pat Martin:** We now have a subamendment, and if I could just ask for clarification.... I'm not averse to the subamendment, and my initial insight is that it makes it stronger, but I am concerned that, as he read through it, there were quite a few differences in the paragraph. Was that just an oversight, or is your main intention to change "may" to "shall" to actually strengthen subsection (3)?

**The Chair:** I'm going to ask you to read it again, and I'm going to ask you to bring it to the front so we can have a look at it.

**Mr. Pierre Poilievre:** It reads:

> However, the head of a government institution referred to in subsection (2) shall not refuse under that subsection to disclose any record that contains information that was created by them or on their behalf in the course of an investigation or audit conducted by them or under their authority once the investigation or audit and all related proceedings, if any, are finally concluded.

So there are additional changes in addition to the change from—-

**The Chair:** Could you bring it to the front to make sure we've got it?

**Mr. Pierre Poilievre:** Sure. While I'm doing that, I'll just ask the—when he's done his point of order, I still have the floor.

**The Chair:** We have a point of order, I'm sorry.

Mr. Sauvageau.

[*Translation*]

**Mr. Benoît Sauvageau:** It may be just a translation problem. The wording that was read by Mr. Poilievre and the one I heard from the interpreter are the same as the one I have on this page in French. It has been written in advance. We do not need to copy it. I can hand you my page. It is the exact version in French. I can read it again to make sure I am not mistaken.

**Mr. Pierre Poilievre:** I will also read it in French.

**Mr. Benoît Sauvageau:** I will read it, and you will realize it is the same thing we have in our documents.

It goes like this, "Toutefois, aucun des commissaires ne peut refuser de communiquer des documents—"

**Mr. Pierre Poilievre:** This is not it.

**Mr. Benoît Sauvageau:** That is what is written here.

**Mr. Pierre Poilievre:** It reads:[...] ne peut s'autoriser du paragraphe (2) pour refuser de communiquer les documents qui contiennent des renseignements créés par lui ou pour son compte dans le cadre de toute enquête ou vérification faite par lui ou sous son autorité, une fois que l'enquête ou la vérification en toute instance afférente sont terminées.

[*English*]

If I have the floor at this point, I'm going to ask the expert panel to comment, and then I'm going to share the copy of my amendment with the chair.

**Mr. Joe Wild:** Thank you, Mr. Chairman. The—

**The Chair:** Mr. Owen.

**Hon. Stephen Owen:** Perhaps I can make this shorter. Can Mr. Wild perhaps confirm that as a matter of statutory interpretation, "may not" has the same meaning as "shall not"?

**Some hon. members:** Oh, oh!

● (1605)

**The Chair:** I'm looking forward to this.

**Some hon. members:** Oh, oh!

**Mr. Joe Wild:** I'm afraid, Mr. Chairman, I might disappoint you on this one.

The question of whether "may" becomes a "shall" and when "shall" is a "may" is a pretty interesting question for lawyers and those who study the law. I'm not sure others would necessarily be that interested in all the machinations around those possibilities. I think the point of the subamendment is certainly to clarify that it is a "shall" as opposed to a "may". The "may not" in this instance could be read as discretionary; a "may not" does not appear to get translated into an obligation. It is possible sometimes that a "may" can be interpreted as an obligation.

I certainly think the reason for the subamendment is to ensure there is clarity, that in fact it is clear that the heads of the institutions listed in (a), (b), and (c) not have the discretion to refuse to disclose a record that contains information created by them or on their behalf in the course of an investigation, once that investigation is complete and all ancillary proceedings, if you will, are finalized.

(Subamendment agreed to)

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

**The Chair:** If clause 161 had been defeated, we could have voted on this section, but it wasn't, so we cannot proceed on L-16.

**Hon. Stephen Owen:** Amendment L-16 was withdrawn.

**The Chair:** I'm sorry, you're absolutely right.

So we're moving to NDP-12.

Mr. Martin.

**Mr. Pat Martin:** Mr. Chairman, I'd like to withdraw NDP-12.

**The Chair:** We will move to NDP-13 on page 125, Mr. Martin.

**Mr. Pat Martin:** I would also like to withdraw NDP-13.

**The Chair:** We are moving to NDP-14, on page 126.

**Mr. Pat Martin:** We're on a roll here, so I'll withdraw NDP-14.

● (1610)

**The Chair:** The chair rules that we can't put L-17 because it's consequential to 99.1, which is inadmissible.

Therefore, we will move to G-41.1 on page 127.1.

Mr. Poilievre, do you have that? You do now. Okay, because it's going to be your show here.

It's a government amendment, G-41.1, Mr. Poilievre.

**Mr. Pierre Poilievre:** Yes, Mr. Chair. I move government amendment 41.1. It seeks to amend clause 147 of the bill. It adds some wording here at the beginning of proposed section 16.3, "Subject to section 541 of the *Canada Elections Act*", the very beginning. Further, after "a person who conducts", it will add "an investigation," and then we proceed with "examination or review", and then it adds "in the performance of their functions under the *Canada Elections Act*".

The purpose of this amendment is to properly adapt access provisions to the functions and roles of the Chief Electoral Officer. I will invite our panel of experts to further expound and clarify.

**Mr. Joe Wild:** The primary focus of the amendment that's proposed is to clarify that the documents that are obtained or created by persons who are authorized under the Canada Elections Act to conduct investigations are included. The way it's crafted in Bill C-2, it says "examinations are reviewed", but there are also investigations that are conducted under the Canada Elections Act. So the clarification is to ensure that the information created by those people who are conducting investigations is also protected.

The first part of it is just to note that section 541 of the Canada Elections Act is a public disclosure requirement for certain types of information. It's just noting that this in no way infringes upon that requirement of the Chief Electoral Officer to disclose certain information publicly.

**The Chair:** Okay.

Monsieur Sauvageau, go ahead, please.

[*Translation*]

**Mr. Benoît Sauvageau:** I have a short question for Mr. Wild. When? You said there were details in the Canada Elections Act. Clause 147 does not specify any time limit. Am I right?

**Mr. Joe Wild:** Yes.

**Mr. Benoît Sauvageau:** Is there a time limit anywhere else in the legislation?

[*English*]

**Mr. Joe Wild:** Not that I'm aware of. Again, what this is trying to do is...where there is information that the Chief Electoral Officer is currently required to make public under the Canada Elections Act, this exemption cannot be used as a basis not to provide that information required under section 541 of the Canada Elections Act.

It's not to say that we're.... This gets a little complicated.

The only point is that—

[*Translation*]

**Mr. Benoît Sauvageau:** It does not correspond to what is being said. It is the opposite.

[*English*]

**Mr. Joe Wild:** No, it says "Subject to section 541". So subject to that section, "the Chief Electoral Officer shall refuse to disclose" information obtained or created in the course of an investigation—but this is subject to section 541. So the Chief Electoral Officer still has to respect the requirements under section 541, in terms of rendering or making public the information required by that section.

So we can't use the exemption to avoid the obligation under section 541 of the Canada Elections Act. That's what this is saying.

● (1615)

[*Translation*]

**Mr. Benoît Sauvageau:** But under section 541, he has to disclose documents of an investigation. But under clause 147, he cannot disclose these documents, except those mentioned in section 541.

My question is just this. If there is an investigation, will we get these documents or not after 15 or 20 years?

[*English*]

**Mr. Joe Wild:** Proposed section 16.3 does not affect the disclosure requirement under section 541. If the documents are required to be disclosed under section 541, they would still be disclosed under that section.

[*Translation*]

**Mr. Benoît Sauvageau:** Let me try to be more specific. Suppose there is a referendum in Quebec and the chief electoral officer investigates. In 15 years from now, will section 541 apply, or will it be clause 147?

[*English*]

**Mr. Joe Wild:** We haven't touched section 541 of the Canada Elections Act. Section 541 is specifically talking about examinations or reviews, and it has certain requirements under it. Proposed section 16.3 is simply saying that section 541 is there, and without affecting section 541, records obtained or created pursuant to an investigation, an examination, or a review are not required to be disclosed under the Access to Information Act. But that in no way affects whatever disclosure requirement there may be for examination or reviews under section 541.

[*Translation*]

**Mr. Benoît Sauvageau:** I listened carefully, and I think I understood what you said.

If, after an investigation, I want to get documents, I would not ask them from the information commissioner, because I could not get them under clause 147, but I could make my request to the chief electoral officer. Under section 541, he should disclose these documents to me.

Are we prohibiting or not the disclosure of certain documents? If so, which documents? I am sorry, I do not understand quickly.

[*English*]

**Mr. Joe Wild:** If documents are required to be disclosed by, or if there are documents that are disclosable, put it that way, under section 541 of the Canada Elections Act—

**Mr. Benoît Sauvageau:** I understand that.

**Mr. Joe Wild:** No, no, I'm trying to assist as best I can, Mr. Chairman. If the documents are disclosable under section 541 of the Canada Elections Act, this exemption does not apply to those documents.

[*Translation*]

**Mr. Benoît Sauvageau:** Obviously. The bottom line is that if section 541 applies, he will not disclose the documents. You said earlier that section 541 applied to examinations and reviews.

Suppose there is an investigation and it does not deal with an examination or review, so that it is not under section 541. Under the Access to Information Act, documents created by this investigation could not be made available to the general public, to a journalist, a member of Parliament or minister 25 years from now. Is that right?

[*English*]

**Mr. Joe Wild:** Correct.

[*Translation*]

**Mr. Benoît Sauvageau:** That is it. But this is supposed to be a legislation on transparency. That is why I will vote against this amendment. I wanted to make sure. Thank you.

[*English*]

**The Chair:** Mr. Poilievre.

**Mr. Pierre Poilievre:** I'm still not sure Mr. Sauvageau understands. What this amendment actually does is it removes the possibility that this clause could be misinterpreted to shield information from disclosure.

Without this amendment, proposed section 16.3 could potentially lead one to believe that the Chief Electoral Officer has the right to refuse to disclose any record requested.

What this amendment does is it gives precision to the fact that if those documents were accessible under section 541 of the Canada Elections Act, the Chief Electoral Officer would not be allowed to use this section in the Accountability Act as an excuse for not revealing them.

I think Mr. Sauvageau is speaking as though this amendment seeks to further constrain the flow of information, when in fact it does exactly the opposite.

If it is truly his view that we need to have in place the maximum transparency to protect against an Elections Canada conspiracy and a Quebec referendum, he ought to be anxiously supporting this amendment.

● (1620)

**The Chair:** Monsieur Sauvageau.

[*Translation*]

**Mr. Benoît Sauvageau:** Thank you, Mr. Poilievre, but I understood just fine. If I am mistaken, I would rather be corrected — verbally and not physically, of course — by Mr. Wild and not by you. Anyway, Mr. Wild said "Subject to section 541". I would be interested in knowing what applies subject to section 541. Is it everything or just a small part? He told us this clause applies to examinations and reviews.

Suppose an investigation is undertaken tomorrow morning and there are records containing information that was obtained or created by or on behalf of a person who conducts an examination at the office of the chief electoral officer. For the sake of this investigation, a report should be made public. But the public would not be able to access these documents until the end of times. I am mistaken?

[*English*]

**Mr. Joe Wild:** Documents related to an investigation are covered by the exemption and would not be accessible under the Access to Information Act.

**Mr. Benoît Sauvageau:** Merci beaucoup.

So I understand, Pierre.

**The Chair:** Mr. Poilievre.

**Mr. Pierre Poilievre:** It's not in the physical sense, but I do intend to correct Mr. Sauvageau once again.

The section that he refers to here, 16.3, does not actually create a new exemption. This information is not accessible under ATI right now. So if Mr. Sauvageau or anyone else went through ATI and tried to access this information today, they would not find it.

**Mr. Benoît Sauvageau:** [*Inaudible—Editor]*

**The Chair:** Mr. Sauvageau, Mr. Poilievre has the floor.

**Mr. Pierre Poilievre:** This section, to which he has taken such inexplicable offence, actually codifies a very simple principle, that documents that are created during an investigation are not to be accessed through the investigator; those documents are to be accessed elsewhere. This section does not create any new exemption or close off accessibility to any information that would otherwise be available to the public. So in fact he's wrong.

If he objects for some reason to the fact that documents under proposed section 16.3...documents that the "Chief Electoral Officer shall refuse to disclose"—if he objects to that proposed section being there and he really feels so strongly, I'm curious as to why he has taken this sudden stand now and why he has not chosen to introduce an amendment to remove that entire section.

If he really believes that this section is some nefarious attempt to cover up an Elections Canada conspiracy related to a Quebec referendum, he very easily could have prevented such a conspiracy by putting forward an amendment and making proper argumentation for its passage.

In the absence of that amendment, I suggest he vote for our amendment, which clarifies

● (1625)

[*Translation*]

the provision in question.

Thank you.

[*English*]

**The Chair:** Okay.

This is like a game of tennis.

Monsieur Sauvageau.

[*Translation*]

**Mr. Benoît Sauvageau:** I will conclude with this.

We would have liked to amend this at the Standing Committee on Access to Information, Privacy and Ethics. As a matter of fact, I am not allowed to speak about that committee, and members of that committee voted against any possibility to amend this legislation.

I partially agree with Mr. Poilievre that under the Access to Information Act, the chief electoral officer will not have to disclose certain informations and that, when this bill is given royal assent, we will continue to keep facts secret.

Thank you very much.

[*English*]

**The Chair:** I think we appear to have come to the end of this. We're going to vote on amendment G-41.1.

(Amendment agreed to)

(Clause 147 as amended agreed to on division)

(On clause 146)

**The Chair:** We've somehow missed clause 146. We're going to vote on clause 146. This was amended, I think.

Madam Jennings, do you have a point of order?

**Hon. Marlene Jennings:** Which amendment was adopted to amend clause 146?

**The Chair:** It was amendment NDP-11.1.

**Hon. Marlene Jennings:** Okay, thank you.

**The Chair:** Okay, are we ready? Is there debate?

(Clause 146 as amended agreed to)

(On clause 148)

**The Chair:** We now move to clause 148, which is on page 128. We have Liberal amendment L-18.

Mr. Owen, Ms. Jennings.

**Hon. Stephen Owen:** Yes, I'll comment on this.

**The Chair:** You have to move it first, sir.

**Hon. Stephen Owen:** Well, I'll move it in a moment, if you'll give me a moment.

**The Chair:** Well, I'm not going to let you debate it until you move it.

**Hon. Stephen Owen:** I'm not going to debate it until I move it.

Okay, I move it.

**The Chair:** He moved it. Very good.

Do you have any comments, sir?

**Hon. Stephen Owen:** I think what this purports to do or intends to do, Mr. Chair, is ensure that the competitive positions and the financial interests of government institutions are protected. You'll see that we have amended the clause from lines 10 to 16 and lines 24 to 26 to ensure that the injury test is properly reflected.

**The Chair:** For further debate, Mr. Martin.

**Mr. Pat Martin:** I would simply add that this is something we asked for and we feel strongly about. We're pleased to see that Mr. Owen put this motion forward. It gives greater clarity to those who may be apprehensive about undertaking this initiative. If there are competitive positions within a government institution, or other financial interests, I guess would be the other term used, people don't have to be apprehensive that the Access to Information Act may reveal that, to the injury of the government institution. The same applies to commercially sensitive material, for example, Canada Post's commercial courier wing, etc. They all raised concerns that they don't want that information getting to their competition.

We will support Mr. Owen's amendment.

● (1630)

**The Chair:** Mr. Rob Moore.

**Mr. Rob Moore (Fundy Royal, CPC):** Mr. Chair, I'm fine.

**The Chair:** Then we'll vote on it.

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

(Clause 148 as amended agreed to on division)

(Clause 149 agreed to on division)

**The Chair:** Proposed clause 149.1 is a New Democratic amendment, NDP-15. It is on page 129.

Mr. Martin, could you move that, please?

**Mr. Pat Martin:** We withdraw amendment NDP-15.

(On clause 150)

**The Chair:** We will move to clause 150. On page 129.1, we have amendment NDP-15.1.

Mr. Martin.

**Mr. Pat Martin:** I'd like to move amendment NDP-15.1., that Bill C-2 in clause 150 be amended by deleting lines 13 to 20 on page 114.

As we can see, this says, “The head of the National Arts Centre”, etc., and the effect of it will be the ability of the National Arts Centre to refuse to disclose certain information. We would like to remove all reference to that because we have further amendments dealing with the National Arts Centre.

**The Chair:** Where are they? We need to know what those other amendments are, Mr. Martin.

**Mr. Pat Martin:** Actually, Mr. Chairman, I'm afraid I've misread this.

We have comprehensive amendments for the National Capital Commission. I've confused the two. This is the NAC.

We seek to delete this paragraph for our own reasons.

**The Chair:** Then this one is not withdrawn. Are you proceeding with it, sir?

**Mr. Pat Martin:** Yes, we are proceeding with amendment NDP-15.1.

**The Chair:** Are you finished, sir?

Is there any further debate?

**Mr. Pat Martin:** If you need further information, I can provide it.

**The Chair:** Mr. Poilievre, on amendment NDP-15.1, sir.

**Mr. Pierre Poilievre:** As I understand it, this deals with a special exemption that was carved out for the NAC. The amendment proposed by the NDP, as I read it, would remove that exemption so that there would be no special exemption for the NAC. In the interest of greater transparency, our members will be supporting this amendment.

**The Chair:** Mr. Martin, further discussion.

**Mr. Pat Martin:** I'm sorry for the mix-up at the start of this motion. The fact is we don't believe the NAC needs or deserves this special exclusion given the nature of the enterprise and the operation. The current Access to Information Act has protection for commercially sensitive information. The Information Commissioner can rule certain information shall not be released based on that commercial sensitivity. We believe the National Arts Centre is adequately protected by the existing act, and therefore there's no need for this clause. So we seek to have it deleted.

● (1635)

**The Chair:** You want to take it out. Okay.

All those in favour of NDP-15.1?

(Amendment agreed to on division)

**The Chair:** We'll move to NDP-16 on page 130. Mr. Martin.

**Mr. Pat Martin:** Mr. Chairman, I'll move NDP-16, found on page 130 of the workbook. It's an amendment to clause 150 on page 114. It replaces line 27 with the language "the advice or information as confidential and if the record came into existence less than twenty years before the request was made".

Page 114, line 27 deals with investment information from the Public Sector Pension Investment Board, which gives the exclusion to them as contemplated for the National Arts Centre and other places that have commercially sensitive information.

Could I have a one-minute recess, Mr. Chairman?

**The Chair:** Okay. We'll suspend for a couple of minutes.

● (1640)

**The Chair:** All right, we'll reconvene.

We're at NDP-16. Mr. Martin, go ahead, please.

**Mr. Pat Martin:** I would like to withdraw NDP-16.

(Amendment withdrawn)

**The Chair:** Then we will proceed to NDP-16.1, which is on page 130.1

Mr. Martin, go ahead, please.

**Mr. Pat Martin:** Thank you, Mr. Chairman. I'd be happy to move NDP amendment 16.1 and then to speak to it briefly. This issue has been brought to our attention, Mr. Chair. We're seeking to change clause 150, I should explain for the record.

The head of the Canada Pension Plan Investment Board and senior staff came to the committee and made representation that it would put a chill on their opportunities to attract major investors if information could be accessed even after a 20-year cooling-off period.

**The Chair:** Could I have some order? Mr. Martin is speaking.

Mr. Martin, continue, please.

**Mr. Pat Martin:** Thank you.

We were sympathetic to the representations made by the chair of the Canada Pension Plan Investment Board that it may in fact be difficult for them in a very competitive investment market to attract the kinds of investors they're seeking if those investors had any fear that even 20 years down the road their private information might be disclosed through an access to information request. We are sympathetic to the fact that it's a very highly competitive market and any small thing may alter their choice to invest.

So having said that, what we're seeking to do is remove any reference to the 20-year cooling-off period or shelter period, so it would now read that:

> 20.3 The head of the Canada Pension Plan Investment Board shall refuse to disclose a record requested under this Act that contains advice or information relating to investment that the Board has obtained in confidence from a third party if the Board has consistently treated that advice or information as confidential.

In other words, they would be able to maintain the status quo that no one has access to that information, for good reasons and for the benefit of all of us, because this is the Canada Pension Plan Investment Board that we're dealing with, and we all have a vested interest in its ability to operate effectively.

● (1645)

**The Chair:** Okay, we're going to vote on NDP-16.1.

(Amendment agreed to on division)

**The Chair:** We're going to move to NDP-16.2, which is on page 130.3. Is that different? What is that? We'll let Mr. Martin tell us.

Mr. Martin, we're on NDP-16.2, page 130.3. It looks awfully familiar, but maybe it's not.

**Mr. Pat Martin:** It does, doesn't it?

**The Chair:** I don't want to influence you. It just looked familiar, but maybe it's not.

**Mr. Pat Martin:** No, there's a substantial difference, and I would like to withdraw 16.2.

**The Chair:** We're now going to the Liberal amendment on page 131, L-19 which is consequential to L-20.1, page 139, which is clause 166.

We have Mr. Owen. Please go ahead, sir.

Did we make a mistake, Ms. Jennings?

**Hon. Marlene Jennings:** Which one are we going with? L-19 is mine.

**The Chair:** They're consequential, so....

**Hon. Stephen Owen:** Where are you? Which page is yours on right now?

**Hon. Marlene Jennings:** It's on page 131, which is L-19.

**Hon. Stephen Owen:** Right. Where's the other one?

**The Chair:** It's on page 139.1, Mr. Owen.

So we're going to go to page 131?

It's L-19, from Ms. Jennings.

**Hon. Marlene Jennings:** Yes, I've got it.

Can we start with L-20.1 first? L-20.1 is removing—

**The Chair:** Okay, let's go there.

**Hon. Marlene Jennings:** Okay.

**The Chair:** Just so members know, that's page 139.1 of the amendments.

**Hon. Marlene Jennings:** Yes. Now, if I'm not mistaken—

**The Chair:** Just a minute, please. Let me make sure I am there.

**Hon. Marlene Jennings:** Yes.

**The Chair:** That's clause 166.

Okay, to add to the confusion, Ms. Jennings, with L-20.1, there is a line conflict with BQ-28 from Mr. Sauvageau. I'll repeat that: regarding L-20.1, there's a line conflict with BQ-28.

● (1650)

**Hon. Marlene Jennings:** In which case, I would prefer to start with my amendment L-19 on page 131.

**The Chair:** All right, we'll move back there.

L-19, Ms. Jennings.

**Hon. Marlene Jennings:** I'm sure all the members here recall when the representatives of the Canada Foundation for Sustainable Development Technology came before this committee. They made what I believe to be an eloquent case to ensure that their confidential and proprietary applicant information, external viewers assessments, proprietary methodology, etc., remained confidential. They recommended that the committee adopt an amendment to clause 150 immediately following proposed section 20.2. I understand that an amendment from Mr. Martin has just been adopted as proposed section 20.3, so o the number here would simply change, but it would read as follows:

> The head of the Canada Foundation for Sustainable Development Technology shall refuse to disclose a record requested under this Act that contains information —including facts, data, opinions, external assessments and comments—obtained or created by the Foundation in relation to applicants, applications for funding, eligible projects and eligible recipients.

I don't want to repeat the entire brief and testimony of the representatives of the Canada Foundation for Sustainable Development Technology. As I said, it was quite eloquent, and it convinced me, and that's why I put forward this amendment to clause 150. I hope it will have the support of our colleagues here.

**The Chair:** Monsieur Sauvageau.

[*Translation*]

**Mr. Benoît Sauvageau:** I would like to ask Mr. Wild whether, among the witnesses we heard, for example, from the Business Development Bank of Canada, Export Development Canada, Genome Canada, the Canada Millennium Scholarship Foundation and others, some would have liked to be excluded.

In all due respect to Mrs. Jennings, this is another case of a piecemeal approach. We just excluded the National Arts Centre, and we included the Canada Foundation for Sustainable Development Technology. If five or six other agencies appeared before this committee and asked for the same treatment, why should we not grant their request?

[*English*]

**Mr. Joe Wild:** I certainly can't answer the question of why a particular crown corporation or foundation that appeared before the committee hasn't been offered some kind of an exemption by a member of the committee through an amendment.

In terms of who has appeared and asked for some form of amendment, certainly there were crown corporations that appeared in support of the amendments within Bill C-2 now. The Export Development Corporation was one of those, as was the Public Sector Pension Investment Board. Canada Post also appeared before the committee and asked for a host of other amendments, none of which has been moved by any member of the committee that I can see. As far as the foundations go, I believe there were three foundations that appeared.

Again, this is the only amendment that appears before the committee. I'm really not in a position to answer why that is.

**The Chair:** Monsieur Sauvageau.

[*Translation*]

**Mr. Benoît Sauvageau:** I can give a partial answer. First, several foundations could not appear before this committee because our schedule was pretty full. Also, these foundations may not have the lobbying capacity to be able to tell members of Parliament that they want to be exempted from Bill C-2. This is another reason why we will oppose amendment L-12.

We do not want a piecemeal approach to this, and we think all these foundations and agencies should have been examined so as to decide which ones are included and which ones are not. I have no grudge against the Canada Foundation for Sustainable Development Technology. But I will vote against amendment L-19.

● (1655)

[*English*]

**The Chair:** Ms. Jennings.

**Hon. Marlene Jennings:** I just want to add one piece. Sustainable Development Technology Canada was clear that there are organizations dealing with small and medium-sized enterprises. Bill C-2 recognizes the types of difficulties that can arise with organizations that deal with those kinds of small and medium-sized enterprises and offers exemptions similar to the ones already available, for instance, under Bill C-2 to EDC, the Export Development Corporation, to protect the third-party confidential information it handles. The exemption that exists under the Access to Information Act has already been in place for a considerable time for the Business Development Bank.

I believe this would provide that kind of exemption, and the exemptions have already been created under Bill C-2 for other crown corporations, or already exist for other crown corporations, under the existing Access to Information Act. I believe it's quite important that we ensure that Sustainable Development Technology Canada be in a position to ensure, for instance, that the external reviewers, the name of the reviewer, and the information within the assessment that expresses opinions or relates to competitive information is protected. My reading of the current Access to Information Act, and certainly their reading of it, is that it does not provide that protection.

If Sustainable Development Technology Canada cannot provide confidentiality assurances to its reviewers, there won't be anyone to review the applications and the projects. That's really important. No one's going to want to be a reviewer because then they could be open to liability. That's one example.

The other example is the fact that under the current Access to Information Act, yes, it provides exemptions relating to disclosure of third-party information; however, today's reality is that the courts have been using the test of economic interest worthy of protection. The problem with that is the majority of enterprises or third parties that Sustainable Development Technology Canada deals with are budding enterprises that have not existed long enough and their intellectual property has not been developed sufficiently so that a court would find there's an economic interest worthy of protection. That causes a major problem. That then makes it difficult to attract investors, the angel capitalists, the venture capitalists, etc.

So my amendment seeks to ensure that the kind of work SDTC has been doing will continue to be able to be conducted, will continue to be profitable, and will continue to be a positive thing for our economic society, for our small and medium-sized businesses.

I will stop there, Chair.

**The Chair:** Mr. Owen.

**Hon. Stephen Owen:** Mr. Chair, I'd only add that this would fit well within the definition of a made-in-Canada climate change policy.

**The Chair:** Mr. Murphy.

**Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.):** Just to—

**The Chair:** Are you going to do the same thing?

**Hon. Marlene Jennings:** No, he's not. I'll kick him if he does. Sorry, I didn't say that.

● (1700)

**Mr. Brian Murphy:** Well, in all seriousness, we've had a very compressed time, but it's a fairly poignant session of this committee when we have witnesses talking about protecting our competitive advantage globally. Innovation should be important to all of us. This is the blood and guts of this organization, and despite every opportunity to cross-examine or get out of this group that came before us, there was no compelling reason not to put them on the same footing as Canada Post and VIA Rail with respect to trade secrets, financial, commercial, scientific, or technical information.

I totally respect what Export Development said. Of course, they had no problem. There are protections under section 18 of the Access to Information Act, there is protection under the PIPEDA regulations, but we already have exceptions in this near-perfect act. The case for this group was perhaps the most compelling. So I don't know how, if members of the committee were listening carefully to that *témoinage*, they could resist voting for this amendment.

**The Chair:** Anything else?

We'll vote on L-19.

(Amendment negatived)

**The Chair:** So L-20.1, on clause 166, fails? It's gone...?

We're going to leave that. Just ignore what I said there. We'll set down that little debate for a moment.

(Clause 150 as amended agreed to on division)

**The Chair:** There are no amendments for clause 151.

(Clause 151 agreed to on division)

(On clause 152)

**The Chair:** We're on New Democrat amendment 17, on page 132.

I don't think we've done that, Mr. Martin.

**Mr. Pat Martin:** We will withdraw NDP-17.

**The Chair:** So we'll proceed to NDP-17.1, Mr. Martin, on page 132.1.

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

I'm happy to move NDP-17.1, which amends clause 152 with a very important, very poignant amendment, brief though it may be. It creates the obligation to "disclose a draft report of an internal audit of a government institution".

This is a very important amendment in that we all know that the sponsorship scandal was in fact unearthed due to a draft report. The pertinent information that revealed the scandal was in fact from a draft report. We want to make sure that, through access to information, draft reports of an internal audit of a government institution are in fact made available to access to information requests.

(Amendment agreed to on division)

**Mr. Pat Martin:** Holy moly, we're on a roll. More, more!

**The Chair:** You're on the air, Mr. Martin.

**Mr. Pat Martin:** Oh, right.

**Some hon. members:** Oh, oh!

(Clause 152 as amended agreed to on division)

(Clauses 153 to 160 inclusive agreed to on division)

● (1705)

**The Chair:** We've already dealt with clause 161.

Mr. Martin, we're going to go to new clause 161.1, in amendment NDP-18, on page 134.

**Mr. Pat Martin:** Do I have the floor, Mr. Chair? Are you waiting for a motion?

**The Chair:** You do, sir. It is your proposed motion.

**Mr. Pat Martin:** I have a feeling that it's not going to go much further.

**The Chair:** Well, I have to move it, but you've made a good guess.

**Mr. Pat Martin:** I will move NDP-18.

**The Chair:** It is inadmissible from the chair.

NDP-18 proposes that.... Do you want me to go through it?

**Mr. Pat Martin:** No.

**The Chair:** All right.

We'll move to clauses 162 and 163.

(Clauses 162 and 163 agreed to on division)

**The Chair:** We're now on new clause 163.1.

Mr. Martin.

**Mr. Pat Martin:** I would like to move NDP amendment 18.1 on page 135.1 of the workbook, which reads:

> 163.1 The Act is amended by adding the following after section 72:
>
> 72.1 The head of a department or a ministry of state of the Government of Canada shall publish an annual report of all expenses incurred by his or her office and paid out of the Consolidated Revenue Fund.

I think it's self-evident what we're seeking to achieve. Is there a question?

**The Chair:** All those in favour?

(Amendment agreed to on division)

**The Chair:** Now we'll go to clause 165.

Do you have a point of order, Mr. Poilievre?

**Mr. Pierre Poilievre:** I'm just wondering what the recording mechanisms are for keeping track of who voted how.

**The Chair:** We haven't had an awful lot of recorded votes in this place. So until there's a recorded vote, there are none.

**Mr. Pierre Poilievre:** Okay. We'll just have to use our collective memories.

Thank you.

**The Chair:** I do as I'm told here. If there's no request for....

(On clause 165)

**The Chair:** We have an amendment on page 135.7. It is a New Democratic Party amendment and it's NDP-18.3.

Mr. Martin, go ahead.

**Mr. Pat Martin:** Mr. Chairman, this is a comprehensive list.

I will move NDP-18.3. If it's in order, I will speak.

● (1710)

**The Chair:** It is in order.

**Mr. Pat Martin:** I think we're all seeking to clarify the extent of the work we're doing. So for certainty, in this schedule listed in clause 165, we seek to replace lines 21 to 39 on page 118 with the following lists. I don't need to read them all. The proposed clause reads:

> Schedule 1 to the Act will be amended by striking out the following under the heading "OTHER GOVERNMENT INSTITUTIONS":

Then it goes through a comprehensive list, ranging from the Atlantic Pilotage Authority to Telefilm Canada.

**The Chair:** Just a moment, please.

Mr. Martin has the floor on NDP-18.3.

**Mr. Pat Martin:** When we passed the language about the definition of a government institution, it became unnecessary to list these specific institutions. They're captured under "government institutions" by the definition we adopted. Is that correct?

**Mr. Joe Wild:** Yes, Mr. Chairman, that's correct. This is a list of parent crown corporations that are now, by definition, included under the act as government institutions.

From a technical perspective, once you include entities under a piece of legislation through definition, it's inappropriate to also reflect them in a schedule. The purpose of the schedule is simply to reflect those bodies that are subject to the legislation. The scheduling becomes redundant now that they're brought in through the definition.

**The Chair:** Okay, Mr. Martin?

Mr. Sauvageau.

[*Translation*]

**Mr. Benoît Sauvageau:** If I am not mistaken, we are saying that the schedule is unnecessary, because it is already provided for in... No more questions, Mr. Chair.

[*English*]

**The Chair:** Any further debate?

We're going to vote on NDP-18.3.

Oh, am I going too quickly? I apologize.

I hate to interrupt your conversations, but I'm up here.

**Hon. Marlene Jennings:** Mr. Chairman, I'm trying to gain some understanding of something from a colleague; I wasn't listening.

I apologize, Mr. Wild, because I do listen to what you have to say.

**The Chair:** Ms. Jennings, please proceed.

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

Is it my understanding that as a result of a previous amendment that was carried by a vote of this committee, all of these organizations no longer need to be listed under schedule I? That's correct?

I'm seeing head-nodding, but not from Mr. Wild.

**Mr. Joe Wild:** I'm going to talk as opposed to nod.

Mr. Chairman, the definition of "government institution" captures all parent crown corporations. The list, under clause 165, that is being deleted is that of parent crown corporations currently under the Access to Information Act. All of these organizations are still subject to the Access to Information Act. They're just simply now brought in through the definition as opposed to the schedule.

**Hon. Marlene Jennings:** In the act itself rather than through the schedule.

**Mr. Joe Wild:** That's right.

**Hon. Marlene Jennings:** Thank you.

**The Chair:** Can we now vote on NDP-18.3? Okay.

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

(Clause 165 as amended agreed to on division)

● (1715)

**The Chair:** We're on page 136. This is government-proposed amendment G-42, which would add new clause 165.1.

I might add that this is the same as NDP-18.4.

Mr. Poilievre.

**Mr. Pierre Poilievre:** In light of that, and in light of my continued spirit of non-partisanship, I will withdraw G-42 and throw my support behind the NDP amendment.

**The Chair:** Mr. Poilievre has withdrawn his amendment.

Mr. Martin, we're on NDP-18.4, on page 136.1. Your motion, please.

**Mr. Pat Martin:** I'd like to move NDP-18.4, to add to the schedule of the act, in alphabetical order under "other government institutions", the Canadian Wheat Board.

This is one, I suppose, Mr. Wild, that does not fit under the neat rubric of "government institutions". It therefore is necessary to list the Canadian Wheat Board. Is that correct?

**Mr. Joe Wild:** Yes, the Canadian Wheat Board is not a crown corporation within the meaning of section 83 of the Financial Administration Act; therefore, we need to be scheduling it.

**Mr. Pat Martin:** Very good. Thank you.

(Amendment agreed to)

**The Chair:** We're down to clause 166 and BQ-28 from Monsieur Sauvageau.

Monsieur Sauvageau.

(On clause 166)

[*Translation*]

**Mr. Benoît Sauvageau:** Yes.

[*English*]

**The Chair:** All right. This gets us back to our old conflicts here. We're going to have a short break for a moment before we proceed with this. We'll suspend for a moment or two.

● (1720)

**The Chair:** Okay, we're going to start again.

Monsieur Sauvageau, we're on a Bloc Québécois amendment, BQ-28.

Monsieur Sauvageau.

[*Translation*]

**Mr. Benoît Sauvageau:** Mr. Chair, I will surprise you. I will present amendment BQ-28, if you find it admissible.

[*English*]

**The Chair:** Yes, sir.

[*Translation*]

**Mr. Benoît Sauvageau:** Thank you.

Mr. Chair, I will remind the Conservative members this statement they may have forgotten. On page 12 of their document *Stand Up for Canada - Conservative Party of Canada Federal Election Platform 2006*, under the chapter "Strengthen Access to Information legislation", it says:

> A Conservative government will:
>
> Expand the coverage of the act to all Crown corporations, Officers of Parliament, foundations, and organizations that spend taxpayers' money or perform public functions.

The word “manage” should be used instead of “spend”, which is not very appropriate.

After reading the document *Stand Up for Canada*, I thought that maybe, they had forgotten to mention a few foundations. That is why we are moving amendment BQ-28. It is a kind of gift.

[*English*]

**The Chair:** Is there any further debate?

Mr. Poilievre.

[*Translation*]

**Mr. Pierre Poilievre:** I recognize the usual generosity of my colleague. He is still trying to contribute to our process, and he supports the approach Conservatives that has been put forward in their electoral platform.

But the list he provided included agencies that were not established by federal legislation. That is why they have been excluded initially.

Also, several agencies do not get sizable funds from the federal government. Most of their resources come from the private sector. It is not the case with all agencies, but there are some in this list.

I have here a subamendment restricting the list to five agencies that have been established by federal legislation and that could be included in the list of institutions and agencies under the Access to Information Act.

● (1725)

[*English*]

My subamendment reads as follows: that BQ-28, proposing to amend clause 166 of Bill C-2 by replacing lines 1 to 9 on page 119, be amended by substituting the following:

> Asia-Pacific Foundation of Canada, Canada Foundation for Innovation, Canada Foundation for Sustainable Development Technology, Canada Millennium Scholarship Foundation and The Pierre Elliott Trudeau Foundation.

[*Translation*]

Thank you, Mr. Chair.

I hope I have the support of my colleagues.

[*English*]

**The Chair:** So I'm clear, are those the only ones you wish included in the subamendment?

**Mr. Pierre Poilievre:** Yes, these five would be included.

**The Chair:** Monsieur Sauvageau.

[*Translation*]

**Mr. Benoît Sauvageau:** There is a problem somewhere.

[*English*]

**The Chair:** I'm sorry, did I jump ahead? I apologize.

Mr. Martin first.

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

I'm interested in my colleague's subamendment because I was going to have to vote against this Bloc amendment, partly because the first foundation listed is the Aboriginal Healing Foundation. I feel strongly that this Parliament and certainly this committee have no business providing access to information regarding the Aboriginal Healing Foundation, for the same reason that I'm going to oppose the Auditor General having the right to audit first nations. It's a unique status, which we need to acknowledge in everything we do here in the House of Commons.

I also had an inclination to put forward an amendment early on elsewhere in the bill that would call for access to information being allowed in any government agency or institution receiving more than two-thirds of its funding from the federal government. I thought that was a logical saw-off, so I understand partly where Mr. Poilievre is coming from in identifying these key five. I understand that there is a mixed source of income for many of the others.

So I'm inclined to support the subamendment and oppose BQ-28 as it stands.

**The Chair:** Mr. Sauvageau, and then Mr. Owen.

We're getting very close, folks, and we have to leave.

[*Translation*]

**Mr. Benoît Sauvageau:** There is a problem, and I am a bit sorry. If my motion is not admissible, unfortunately, it means that the Conservative program was not either. In their program, the Conservatives said they would expand the coverage of the act to all Crown corporations, foundations, and organizations. They never talked about entities created by... It is as if they said they would give Quebec a seat at the UNESCO like it has in the Francophonie, or that they would pass the motion...

[*English*]

**Mr. Pierre Poilievre:** I have a point of order, Mr. Chair.

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

[*Translation*]

**Mr. Pierre Poilievre:** I fail to see how this argument is relevant.

[*English*]

**The Chair:** Well, he's trying to help you.

But don't overdo it.

[*Translation*]

**Mr. Benoît Sauvageau:** Mr. Chair, from now on, I will prepare my remarks and send them to Mr. Poilievre so he can censor or approve them. Thank you.

● (1730)

[*English*]

**The Chair:** Mr. Owen.

**Hon. Stephen Owen:** Thank you.

Perhaps through you, Mr. Wild could confirm that the subamendment foundations are the only ones created by statute.

**Mr. Joe Wild:** On the subamendment list, the Pierre Elliott Trudeau Foundation would be the only one that is not created by a specific act of Parliament.

**Hon. Stephen Owen:** Then if I could, through you, Chair, I would ask Mr. Poilievre what is the rationale for that, as opposed to some of the other non-statutory foundations?

**The Chair:** Mr. Poilievre.

**Mr. Pierre Poilievre:** Yes. It was the view of Conservative members that due to an assortment of factors that are used to judge which organizations should be susceptible to ATIs, the Pierre Elliott Trudeau Foundation qualified based on public funds received, based on its capacity to respond to ATIs, and based on the fact that there was no other reason to disqualify it.

Mr. Martin, for example, gave a reason why he believed the Aboriginal Healing Foundation should be disqualified.

**Hon. Marlene Jennings:** I have a point of order.

**The Chair:** On a point of order.

**Hon. Marlene Jennings:** It's 5:30, Chair.

**The Chair:** Proceed.

**Mr. Pierre Poilievre:** There was no similar reason to disqualify them. They receive sufficient public funds from the federal government, and as such they were added.

**Hon. Marlene Jennings:** I have a point of order, Chair.

**The Chair:** Yes, on a point of order.

**Mr. Pierre Poilievre:** I don't know if that member has any particular reason to exclude them, but I would be very interested—

**Hon. Marlene Jennings:** It's 5:30. You should be adjourning.

**The Chair:** I don't think the members are going to allow you to continue, Mr. Poilievre, so we'll come back after the vote.

**Mr. Pierre Poilievre:** Okay. I'll have the floor when we get back.

**The Chair:** Indeed, you will.

Thanks. The meeting is adjourned.

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