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# Legislative Committee on Bill C-2

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## Wednesday, June 14, 2006

## Chair

**Mr. David Tilson**

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● (1830)

[*English*]

**The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)):** Ladies and gentlemen, I'd like to reconvene the meeting. I hope you all enjoyed the break.

We're going to do some voting. We've finished with clauses 309 and 310.

The amendments start on clause 315, so shall clauses 311 to 314 carry?

(Clauses 311 to 314 inclusive agreed to)

(On clause 315)

**The Chair:** We have a number of amendments. These are on regulations on contracts. If we could turn to page 191, it is a proposed government amendment, G-59.

Mr. Poilievre.

**Mr. Pierre Poilievre (Nepean—Carleton, CPC):** Yes, I so move, and I will invite any commentary that the panel wishes to offer.

**Mr. Joe Wild (Senior Counsel, Legal Services, Treasury Board Portfolio, Department of Justice):** Thank you, Mr. Chairman.

The amendment is to clarify that in the areas in which the Governor in Council may make regulations under proposed section 42, those regulations are not restricted to contracts involving the payment of money by Her Majesty but include the payment of money by crown corporations.

That is necessary because when you go through the different headings, the (a), (b), (c), and (d) of those types of regulations, (d) is the one with respect to the follow-the-money authority for the Auditor General, in order to ensure that this authority would also apply to crown corporations. We need it to be clear in the first part of proposed section 42 that the Governor in Council would have the authority to issue regulations that apply to contracts providing for the payment of money by not only Her Majesty but also crown corporations.

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

**The Chair:** NDP-25 is on page 193. Go ahead, please, Mr. Dewar.

**Mr. Paul Dewar (Ottawa Centre, NDP):** Thank you, Mr. Chair. NDP-25 is so moved.

To give you some background on this, Mr. Chair, we were very clear about our thoughts on ensuring that there was public disclosure of government information, not just in this process but indeed before the last election. The public has a right to know that information, but the means by which it can know has to do with public information, and this would give it the means to be able to get that information.

This amendment will ensure that there is public disclosure of basic information on government contracts—and we've seen this recently, in fact in the House today. It is akin to having a window into how our money is spent, how your money is spent, how my constituents' money is spent.

Without this, the transparency of government operations is limited, in my opinion. That's why we put forward this motion. This wasn't something we came up with during this process. In fact, it reflects something we heard from witnesses and from people who want more transparency. Adding this amendment requiring public disclosure of basic information on government contracts will allow for that.

I guess we could have some insight from Mr. Wild on this, but I think if we want to make sure that indeed we're being as transparent as possible, we need to allow for public disclosure of the information on these contracts and the background thereof.

● (1835)

**The Chair:** I think there is a question for you, Mr. Wild.

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

Certainly the proposed amendment would increase the discretionary authority of the Governor in Council to make regulations under proposed section 42. It would add another subject heading, which would be regulations respecting the requirement to make public certain types of information related to government contracts.

Just for the committee's information, I thought it might be important to point out what occurs now with respect to proactive disclosure of information on government contracts. Currently departments are proactively disclosing information on contracts over $10,000. That is currently done pursuant to informal Treasury Board policy. Treasury Board is working on a policy requirement in this area, which would bolster the disclosure practice that is in place today.

**The Chair:** Mr. Dewar.

**Mr. Paul Dewar:** Sir, was there another hand up?

**The Chair:** Oh, there is. Mr. Owen has his hand up.

**Mr. Paul Dewar:** I will defer to Mr. Owen and then come back.

**Hon. Stephen Owen (Vancouver Quadra, Lib.):** Thanks, Mr. Dewar.

Mr. Wild, just to get some idea of the volume we're talking about, because the previous government, which I was part of, put in the voluntary.... As you say, it wasn't a formal requirement, but they automatically posted contracts over $10,000. I believe there was some discussion at the time about the volume involved.

Do you have an opinion on that or some information on what complications might be caused by this volume of posting?

**Mr. Joe Wild:** The government certainly does a significant amount of business in contracting. Mr. Chair, the honourable member is probably well aware of that, given his previous service as Minister of Public Works and Government Services. We would be talking thousands and thousands of contracts worth billions of dollars. So per annum, the government is entering into thousands and thousands of contracts worth billions of dollars.

I don't have exact figures, but...450,000.

**The Chair:** It's amazing how people have this at their fingertips, isn't it?

**Mr. Joe Wild:** It is.

So we're talking in the ballpark of 450,000 contracts per year that are over $10,000. That's a fairly large number, so obviously there is a fair amount of time spent in terms of the current proactive disclosure requirements, which are done primarily through websites.

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

**The Chair:** Mr. Martin—sorry, Mr. Dewar. I can distinguish the two of you, believe it or not.

**Mr. Paul Dewar:** Just to synthesize the information, then, this is something that was being addressed but not insisted upon, if I can put it that way. Is that correct? It's something the government is working towards and the departments are doing?

● (1840)

**Mr. Joe Wild:** The Treasury Board has requested that departments do this. It has not done so through a formal policy. Its suite of policies around contracting and procurement is currently under review, and when that review is completed, this notion of proactive disclosure in terms of a policy requirement will be created.

**Mr. Paul Dewar:** Further to that, if this were to pass...indeed, when any legislation is passed, there is a time for government to respond, a reasonable amount of time, and typically that depends upon what the requirement is. If this were to pass, this would be something that wouldn't have to be done the day after it had been proclaimed. That would be common sense.

If that were to be amended so that contracts...and I think the web would be a natural place to put it, then the government, the departments, would have time to respond to make sure they're in line with the legislation.

**Mr. Joe Wild:** Mr. Chair, the question really raises a question of instrument choice. There is a kind of choice here. You could do proactive disclosure of this information through policy. You could do it through simple guidance, which is what's been done to date. Certainly the government's view is that this guidance has worked and that departments are, by and large, complying with this. Policy tends to be the more natural choice the government uses when we're talking about detailed things that are really internal administration of the government. Regulations would be another choice.

Regulations tend to create a more onerous, stricter interpretation in the sense that they're a more formal legal instrument, so they require time and effort to craft properly and so forth.

It's certainly true that if the amendment were passed and Bill C-2 came into law with that amendment, there wouldn't be a requirement the day it comes into force to actually do this. It would take the step of issuing regulations for a requirement to do this.

It goes back to, as I say, really a question of instrument choice. The government is working on a policy instrument to do the very thing that is contemplated by the regulatory proposal that's been put forward in the motion.

**Mr. Paul Dewar:** Thank you, Mr. Wild.

Just in summary, Mr. Chair, I think when we look at the concerns we have had—on the government side, or all of Parliament—where are the origins of this bill? The origins were in the fact that we had concerns about how contracts were done and how the accountability instruments and rules were ignored.

It just seems common sense that we would allow for public disclosure. In fact, even the government right now—indeed, it might be nascent—is engaged in this. So I would think that we should put this amendment forward and put this into play, so that we could actually have full public disclosure of contracts, of which we had many concerns with the recent sponsorship scandal. So it baffles me why we wouldn't do this.

I would hope that people would support it—not because it's our amendment, but because it just makes good sense. It won't paralyze government. They'll have a chance to bring it forward and, in the end, Canadians will have public disclosure of contracts, which I would suggest is one of the reasons why we're here today discussing this bill.

I would hope for members' support on this amendment.

Thank you.

**The Chair:** We're not ready yet.

Mr. Owen.

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

Again, through you to Mr. Wild, I agree with the sentiment of this amendment. Indeed, Mr. Dewar is correct that the reason the voluntary, proactive disclosure of contracts over $10,000 was put in place was the difficulties with the sponsorship program, and that's been going on for over a year now—and perhaps two years.

If there are 400,000-odd of those being posted, I'm wondering what the expense and the complexity to government would be, as one matter. Where or at what level does it become impractical by way of cost, but also in terms of impact? If we've got 400,000 or so now being posted and we were to go to any contract—$100 or $500—are we going to lose what's most important, the focus and emphasis of it on the larger contracts, by just flooding the web with millions of contracts perhaps?

I approve and support the concept. I'm just wondering where it becomes impractical.

● (1845)

**Mr. Joe Wild:** It is very difficult for me to answer that question with any real certainty, Mr. Chairman. Obviously the government hasn't costed the amendment as proposed. So in terms of the actual cost of complying with a regulation that would require proactive disclosure of every contract, I simply don't know what that figure would be. We'd certainly be talking about a large number, considerably above the 450,000 contracts, but I can't answer with any specifics.

**Hon. Stephen Owen:** I would suggest, then, just in conclusion, Mr. Chair, that perhaps as a friendly amendment we consider putting a limit on this, so that it's not totally wide open. Whether it's $5,000 or $10,000, there should be some practical or realistic limit where the public interest is really at risk, so that we don't lose focus of the larger issues.

Maybe I could suggest as a subamendment that it be $10,000, so that it is in law.

**The Chair:** A limit of $10,000?

**Hon. Stephen Owen:** No, all contracts over $10,000.

**The Chair:** All contracts limited to $10,000 and—

**Hon. Stephen Owen:** Limited to $10,000 and greater.

**The Chair:** Have you concluded, Mr. Owen?

**Hon. Stephen Owen:** Yes.

**The Chair:** We have a subamendment to the amendment.

Mr. Dewar.

**Mr. Paul Dewar:** That is a friendly amendment.

I just want to underline—and it was very deliberate—that we had basic information on government contracts. So it would be company X, with an amount of money and a descriptor. It was very basic. So we're not talking about full disclosure of the whole contract here, but it's to give Canadians an understanding.

With that in mind, I thank Mr. Owen for his input and friendly subamendment.

**The Chair:** Just so I'm clear, we will vote on the subamendment and the amendment.

Mr. Poilievre.

**Mr. Pierre Poilievre:** Mr. Owen has introduced a very interesting subamendment. I'd like to get the views of our panel.

**Mr. Joe Wild:** Mr. Chairman, one of the issues that I do want to raise with respect to this amendment—it's the amendment, less so the subamendment perhaps—is that it is unclear to me, in the scope of what we're doing under proposed section 42, when the amendment refers to government contracts.

I just want to make a point here. We were very careful in the language we chose in proposed subsection 42(1)—kind of the *chapeau* part of the section, if you will—to talk about contracts, meaning any legal agreement that would be considered a contract. So it's larger than just a services contract or a goods contract; it would include employment, a real estate agreement, a lease, anything.

And we were very specific in proposed paragraphs (a), (b), (c), and (d) to narrow...where necessary. So, for example, under (b), where it's meant to only apply to government procurement, if you will, we were very careful to talk about contracts "for the performance of work, the supply of goods or the rendering of services".

I'm not sure what the intention of the motion is.

If it's actually meaning all government contracts, which would include transfer payments, grants and contributions, all real estate, leases, procurement of goods, procurement of services, then, quite frankly, we are probably talking over a million; I don't know if we're going to get into millions, but we are talking a very large number. It would be well above the 450,000 procurement contracts.

So I just want to raise that there is an issue in terms of what this particular amendment is actually focusing on.

● (1850)

**Hon. Stephen Owen:** Let me make a suggestion to you, Mr. Wild.

If new paragraph (e) was worded "requiring public disclosure of basic information on all government procurement contracts over the amount of $10,000", would that work?

**Mr. Joe Wild:** In order to stay within the language we use in the Financial Administration Act, if the intention is to cover government procurement contracts, I would suggest that it should read, "information on government contracts for the performance of work, the supply of goods or the rendering of services".

**Hon. Stephen Owen:** Well, I would make that friendly amendment and that would pick up the wording of the other—

**The Chair:** Mr. Owen, please clarify your subamendment.

**Hon. Stephen Owen:** As I understand Mr. Wild, the subamendment would therefore say:

> (e) requiring public disclosure of basic information on all government contracts for the performance of work, the supply of goods or the rendering of services over the amount of $10,000.

**The Chair:** Does everyone understand the subamendments?

**Some hon. members:** Yes.

**The Chair:** Mr. Owen, are you finished?

**Hon. Stephen Owen:** Yes.

**The Chair:** I have Madam Guay.

[*Translation*]

**Ms. Monique Guay (Rivière-du-Nord, BQ):** Mr. Chairman, I merely wanted to say that most of this information is already available in any event. We're not talking about an enormous sum of money. I would venture to say that over 80% of the information we're seeking is already available. Therefore, the government need only disclose the remaining 20%. As far as I'm concerned, it's a sound amendment. If no one else wishes to speak to the motion, I request a vote.

[*English*]

**The Chair:** I will.

(Subamendment negatived)

(Amendment negatived)

● (1855)

**The Chair:** We're now on amendment NDP-26, on page 194.

Mr. Dewar, could you move that, please?

**Mr. Paul Dewar:** I move amendment NDP-26, Chair.

If we take a look at the intent of this section, we are looking at how we regulate and deal with areas of government, and one of the areas of government that is very important to us is how lobbying is dealt with. We've discussed lobbying before, and we've discussed contingency fees. We've discussed the registry. We've discussed the fact that lobbying needs to be cleaned up in this town. I won't go over the horror stories of what happens when lobbying is not regulated.

What we need to do is make sure this is going to be something that is all-encompassing. We have one crack at this for now, and that is to make sure that lobbying is something that is done responsibly—and there are responsible lobbyists in this town.

When I look back to what we had put forward in our ethics package that Mr. Broadbent moved before the election, one of the key things he wanted to make sure of was that we wouldn't have people who are lobbying government turning around and receiving government contracts. It's a very basic notion. In fact many of the people I know who do lobbying, who are responsible lobbyists—which is the majority of them—know that to be an ethical way of doing their jobs.

You decide what kind of lobbying you're going to do. You set up your operations such that you lobby on one particular area, and you don't confuse things. In other words, it's like two separate circles; it's not like a Venn diagram. When we have people who are lobbying government one day turning around and getting government contracts the next, we end up with this kind of Venn diagram. It's not only confusing, but I would say it's not ethical, because you're receiving contracts from people one day, the next day you're lobbying, and it goes on and on.

Canadians aren't aware of this, by and large. Most people outside of this town didn't know this was an issue until recently. We want to make sure this is dealt with. We want to make sure that people who are lobbying one day don't turn around and get a contract the next day. We want to put up a wall that doesn't have holes in it, so there are no tunnels that people can crawl through to get to the other side.

What this amendment does is ensure that contracts for the performance of work, the supply of goods, or the rendering of services not be awarded to firms that normally lobby the Government of Canada.

I have talked to people about this. To a person, no one disagrees with this. I can't imagine why anyone would disagree with this. If there are other concerns, let's have them. But in terms of the ethical behaviour of how people lobby and how they receive contracts, it's pretty clear. People in my constituency don't have connections that they can one day turn into lucrative contracts. That's the kind of thing we need to steer away from.

That's the essence of this motion, the motivation behind it. It's to finally cement the difference between what it is to lobby and what it is to garner influence from that lobby, which is to be able to get government contracts.

**The Chair:** Mr. Lukiwski.

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

I'd like to ask our technical experts for an opinion. I know how you have to interpret the clauses that are going to be adopted into this bill very diligently, and if you're interpreting the term "normally", I wonder how that affects this. He said "firms that normally lobby the government". What does "normally" mean? Does that mean if you've lobbied the government sometime in the past, you can't ever receive a government contract? Or is it someone who lobbies the government 10 times a month? I just don't know what the classification "normally" means.

I'd like an overall assessment from the technical panel, but with particular emphasis on that.

● (1900)

**Mr. Joe Wild:** Mr. Chair, with respect to the question of "normally", it's certainly a vague term in law. So there is a vagueness in the use of that word. Given that this is, again, being designed as a discretionary regulation that the Governor in Council would be passing, the Governor in Council could, in the regulation, give more precision to what "normally" means.

That being said, I think it's important that the committee be aware that there may be implications under Canada's trade agreements. Once you get over the $100,000-for-service and the $25,000-for-goods contracts, there are requirements in terms of open bidding, and there are very specific areas where the government is allowed to close off competition. I'm not aware of any area under any of the internal or international trade agreements that would allow the government to close off competition from a lobby firm.

**Mr. Tom Lukiwski:** I just want to be clear on this. Are you saying that the government might be in violation of international trade agreements if we passed this clause?

**Mr. Joe Wild:** The passage of the clause would simply set up the authority to issue a regulation. If the regulation were ever issued—

**Mr. Tom Lukiwski:** Enforced.

**Mr. Joe Wild:** —unless trade agreements were first amended to allow for the possibility of basically creating preferential treatment for non-lobby firms—in other words, if you somehow tried to get into the trade agreements that you could discriminate against a lobby firm in an open, competitive bidding process—then yes, there is the potential that those regulations would violate Canada's trade agreement obligations.

**Mr. Tom Lukiwski:** I'll ask you what's undoubtedly an unfair question. How likely is it that you could get those provisions put into international trade agreements?

**Mr. Joe Wild:** All of them? It would take a matter of years, if not decades, I would think, of negotiation.

**Mr. Tom Lukiwski:** Thank you.

**The Chair:** Mr. Dewar.

**Mr. Paul Dewar:** I'd just like to go back to that point. I appreciate your concerns there. We share them. The intent of this amendment is to talk about people who are registered lobbyists who lobby the Government of Canada. We're not talking about, at least in intent, people who are international in scope, as you say.

To set up rules—and I look to you to clarify—here and perhaps in other jurisdictions, and to make sure that people who are registered lobbyists, as everyone is required to be.... We're talking about the ones in the registry who will be within its scope. That's who we're talking about here. I'm not sure about the leap to the international trade agreements. That's certainly not where this amendment was going in terms of intent, so I'd hate to have it go global on me in terms of practice.

**Mr. Joe Wild:** I think the issue you would face would be the agreement on internal trade. Assuming that the lobbyist registry only contains Canadian lobby firms or lobbyists who are Canadian, the issue, then, would be the agreement on internal trade. Again, for over $100,000 for services and over $25,000 for contracts, it requires the government to offer an open, competitive, fair bidding process.

The question would be: how could you offer an open, competitive, fair bidding process for some given service if you're going to discriminate against a class of firms because they conduct lobbying activities? That's where it creates the potential for this violation of the obligations on the government under the agreement on internal trade.

**Mr. Paul Dewar:** Let's say this amendment was passed, then, and it was on the road to being enacted. Would there not be any legal bumps along the road, without having to get into trade agreements or agreements of that scope? It could be tailored accordingly and then go back to the committee on regulations, for instance.

**Mr. Joe Wild:** I'm not sure, Mr. Chair, that I fully followed the question.

● (1905)

**Mr. Paul Dewar:** Let me just put it clearly. If we pass it, put it forward, would there not be, perhaps through your office and others, a mechanism to say that we'll make sure that this doesn't have the unintended effect of having to get into areas that are beyond our abilities?

**Mr. Joe Wild:** It's certainly possible that regulations could be constructed, provided that we're only dealing with contracts under the trade agreement thresholds. So if you were talking about contracts under $100,000 for services...although even then you're going to run into a problem with the government contracts regulations, which require an open and competitive bidding process. So then you're really talking about contracts under $25,000.

For contracts that are under $25,000 for services and goods, you could potentially, I guess, create a regulatory regime that would discriminate against a certain class of service providers—maybe. The only reason I say "maybe" is that I just want to be very careful about that potential. So the government would be faced with the task of trying to find a way to carve a set of regulations that would be narrow enough in the monetary amount of contracts that it could still incorporate.

I keep saying "discriminatory" because in the procurement world that's what it is.

If you were going to do that, as long as you kept it under $25,000 you would probably be okay. But even under $25,000, while it's not a regulatory requirement, the government still tries to compete where possible. It's just the notion that if you have an open and transparent bidding process, then you only have the relevant factors coming into play on the actual criteria that you sent out and that companies are coming back and bidding against.

I'm struggling with trying to figure out how we could do the regulations. The only thing I keep coming back to is that if we were staying under $25,000, then it might be possible to do the regulations.

**The Chair:** Mr. Owen.

**Hon. Stephen Owen:** There's a somewhat analogous situation where audit firms are also providing consulting services, and I've wondered how we have dealt with that in the Government of Canada over time. Many of those companies have split into their auditing functions and their consulting functions, but it has been an ethical problem for some time. Have we dealt with that in our contracting practices for audit services as well as consulting services?

**Mr. Joe Wild:** I think the issue with audit companies has primarily been dealt with by the profession itself, in that it is self-regulating, with its own rules around when you can act as an auditor, and that if you are going to act as the auditor for a company, you should not then be participating in consultant service contracts with that same company or organization that you are auditing. But that, as I understand it, is done primarily through the profession's own self-regulation, as opposed to anything the government is doing.

**The Chair:** All those in favour of NDP-26?

(Amendment negatived)

**The Chair:** We now have amendment G-60 on page 195.

Mr. Poilievre.

**Mr. Pierre Poilievre:** I move amendment G-60. Are there any comments from the panel?

**The Chair:** All those in favour of G-60?

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

**The Chair:** We're now on amendment G-61, on page 196.

Mr. Poilievre.

**Mr. Pierre Poilievre:** I move amendment G-61. This is another technical amendment.

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

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

● (1910)

**The Chair:** The next two amendments, NDP-26.1 and L-28, are not the same, but they are similar.

Mr. Dewar, Mr. Owen, or Ms. Jennings, I'm going to suggest that Mr. Dewar make his amendment but that the two motions be debated at the same time.

Mr. Dewar, amendment NDP-26.1, on page 197.1.

**Mr. Paul Dewar:** Thank you, Chair. I'd like to move it, and then I'd like to propose a subamendment.

**The Chair:** You've moved it. Go ahead with the subamendment.

**Mr. Paul Dewar:** It's a subamendment. I'm not sure if this has been given to the committee. It's fairly short.

If you go to the top, it says, "That Bill C-2, in Clause 315 be amended by". Then "replacing lines 33 to 35", is the subamendment, so that would replace "adding after line 35". So it would read:

> That Bill C-2, in Clause 315, be amended by replacing lines 33 to 35 on page 194 the following

And then everything is the same until after—at the end where it says:

> or any agency of the band.

I want to include:

> or an aboriginal body that is party to a self-government agreement given effect by an act of Parliament or any of their agencies.

**An hon. member:** Would you repeat that?

**The Chair:** Mr. Dewar, would you repeat it again?

**Mr. Paul Dewar:** Oh, absolutely.

So at the end it would be:

> or an aboriginal body that is party to a self-government agreement given effect by an act of Parliament or any of their agencies.

**The Chair:** I'm sorry, if you've got some copies, that would be useful. I thought we'd be okay, but we're not.

**Mr. Paul Dewar:** I was just going to have this handed to your clerk.

**The Chair:** That would be helpful, sir. Thank you.

**Mr. Paul Dewar:** The reason for the subamendment, Mr. Chair, is to—if you want to wait until this is—

**The Chair:** I want to make sure members know what this is all about before we get into discussion.

Do we have sufficient copies for all the committee members, Mr. Dewar?

I want to keep moving, so if you don't have enough, please tell me.

I'm going to try another tack. Does everyone have a copy?

**An hon. member:** No.

**The Chair:** All right. Mr. Dewar, I need help here. I want to keep moving.

**Mr. Paul Dewar:** Sure. I'm just making sure it's in order.

**The Chair:** The clerk will make some copies.

**Mr. Paul Dewar:** I'll move along.

**The Chair:** No, I don't want you to move along, because I want the committee to know what's going on here.

● (1915)

**Mr. Paul Dewar:** I've moved the subamendment as read, and I'm just making sure—

**The Chair:** No. I was going to ask you to pause for a minute.

**Mr. Paul Dewar:** Sure.

**The Chair:** We don't have anything, Mr. Dewar.

**Mr. Paul Dewar:** For clarification, to have a subamendment read out where it wasn't that long is in order, is it not?

**The Chair:** Oh, it's in order. That's not the issue.

What does the committee want to do here? Do you want to debate this, even though you don't have a copy?

**Some hon. members:** Agreed.

**The Chair:** Mr. Dewar, the committee seems to be prepared to go ahead, so you go ahead.

**Mr. Paul Dewar:** Thank you for your indulgence. I just want to explain the reason for the subamendment as it relates to the original amendment. During the time we had witnesses coming forward, they were talking about the fact that—including the Auditor General, for that matter—there wasn't a requirement to have the scope and the reach of the Auditor General to our first nations people.

I think it's really important that we underline the relationship here. This isn't like an agency, a board, a commission; this is a very different kind of relationship, constitutional in nature. I think when you look at the track record—and I go back to my comments before about what was the intent of this bill, what in fact are we doing here. When we were talking about the sponsorship scandal, when we were talking about the concerns around accountability, the concerns people had weren't around first nations.

I should add that when you look at what first nations are doing, the Assembly of First Nations has come forward and they're putting their own processes in place. It would be an act of redundancy, in effect. So what we have put forward is this amendment to make sure that there are no unintended consequences by removing this part and to make sure that the respect of first nations and the relationship we have continues. Therefore, that's why this amendment has been put forward, and I would ask my colleagues on all sides for support.

**The Chair:** Mr. Owen.

**Hon. Stephen Owen:** Thank you. We certainly support the objective of this subamendment and amendment, and you'll see by our amendment....

I just have a couple of technical questions, Mr. Wild.

When we put forward and perhaps when the NDP put forward the original amendments, because they're the same, we had in mind that paragraph (c) on page 194 mentions:

> the government of a foreign state, a provincial government, a municipality or an aboriginal body named in Schedule VII,

—which is coming up—

> or any of their agencies;

Because an aboriginal body named in schedule VII is in fact an aboriginal body that is party to a self-government agreement given effect by an act of Parliament—that's what the definition is—it seems like the subamendment is redundant to the amendments we've both put forward. I just want to make sure from Mr. Wild that this is so; however, because I have some idea of Mr. Wild's aversion to too many schedules in acts, if we were to find that schedule VII was not necessary, is there a preference of doing away with schedule VII and putting the language here, or limiting the language here to the original amendment and keeping schedule VII?

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

The preference certainly is to do away with the schedule if what's captured in the schedule is going to be done through definition. It's certainly easier I think from any reader's perspective to understand what's captured through the definition. If you have a schedule sitting there, along with the definition, then you can run into legal interpretive problems, as you have a schedule listing certain bodies, but they're all captured by a definition, and then, if for some reason more bodies get captured by the definition but they're not scheduled, it starts to become very confusing and difficult to figure out what's going on.

So certainly if the motion that creates (c.1), so you have a separate stand-alone exclusion, if you will, for the council of a band and so on.... The schedule at that point becomes redundant, and certainly from a technical perspective and for those of us who have to live with trying to interpret the Financial Administration Act every day, it would be a welcome gift to remove the schedule.

● (1920)

**Hon. Stephen Owen:** Okay. Then perhaps I could suggest what might meet that preference is a friendly amendment to the subamendment, which would—

**The Chair:** Mr. Dewar, something is happening here, so you may want to—

**Hon. Stephen Owen:** To get a final package that achieves everything we want, including eliminating schedule VII, we would have to amend proposed paragraph (c) so that it read in part, "or an aboriginal body that is a party to a self-government agreement given effect by an Act of Parliament or any of its agencies". That would be the amendment to proposed paragraph (c), and then we would go back to our original NDP and Liberal amendments—which are the same—to add a proposed paragraph 42(4)(f).

Does that tie it up?

**Mr. Joe Wild:** If I may, actually the amendment proposed by the NDP takes the currently proposed paragraph 42(4)(c) and reduces it to just say, "the government of a foreign state, a provincial government or a municipality or any of their agencies". Then the NDP introduces proposed paragraph (c.1), which addresses "the council of a band as defined" and so on.

So the only issue after this amendment goes through is the fact that you've got schedule VII still sitting there, as created by a different clause in Bill C-2—clause 272. I don't know that it can be removed out of that clause at this point or not, but that would technically be what you would want to be doing—removing the creation of the schedule in clause 272 by simply deleting the reference in clause 272 to schedule VII.

**Hon. Stephen Owen:** We haven't got there yet. That's fine.

Can you advise us of how to deal with this, knowing the joint objective that probably all of us are trying to meet?

**Mr. Joe Wild:** From a technical perspective, in terms of what I believe you're trying to accomplish—and the legislative clerks may have a perspective on this as well—my suggestion would certainly be that if you went with the amendment proposed by the NDP, as long as you dealt with clause 272, that would accomplish what you're seeking to do.

**The Chair:** Okay, we need some help up here.

**Mr. Paul Dewar:** Chair, if I may?

**The Chair:** We've done clause 272, so the question is, do we need to amend the schedule with this?

**Mr. Joe Wild:** The only reference to schedule VII in law would be in proposed paragraph 42(4)(c). This is effectively removing that reference to schedule VII, in which case it no longer makes sense to have a schedule VII to the Financial Administration Act. So you would need to do whatever you might need to do procedurally, if the committee wishes, to re-open clause 272 and strike the reference to schedule VII from it, and that would effectively delete the schedule.

**The Chair:** I'm going to suggest a break for a couple of minutes.

● (1920)

(Pause)

● (1935)

**The Chair:** The chair is going to make a ruling. We have had some discussion trying to sort this out. There are several issues. The amendment to remove schedule VII from the schedule to this act is consequential to Mr. Dewar's amendment, NDP-26.1.

So for coherence, the committee should also remove the reference to schedule VII in clause 272, which we've already dealt with. To do this we'll have to have unanimous consent of the committee to reopen that clause. Otherwise clause 272 will need to be amended at report stage. Do you understand what I've just said?

Do I have unanimous consent with respect to those items? Mr. Dewar is now going to have—-

**Mr. Pierre Poilievre:** Wait a second. We are just going to caucus for a second before we offer our consent.

Yes.

**The Chair:** Unanimous consent is given, so Mr. Dewar, you're the hero. You're going to clean all this up with Mr. Owen, of course. I do thank both you and Mr. Owen and Mr. Wild for working with this end of the table.

**Mr. Paul Dewar:** I think we'll have a group hug after.

**The Chair:** Indeed. It will be unbelievable.

**Mr. Paul Dewar:** Joking.

So we'll start with NDP-26.1, the subamendment that is included here, which I have already provided to the clerk.

> (c.1) the council of a band as defined by subsection 2(1) of the Indian Act, any member of the council or agency of the band, or aboriginal body that is a party to a self-government agreement given effect by an Act of Parliament, or any of their agencies.

I have already mentioned why, so I won't indulge further.

**The Chair:** Okay. We are going to vote on the new amendment, NDP-26.1, which has just been moved.

It will be one vote on the three items we have been mentioning.

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

**The Chair:** That removes the schedule from clause 272 and it removes schedule VII from the schedule. I don't want people asking questions later.

(Clause 316 agreed to on division)

● (1940)

**Mr. Tom Lukiwski:** A point of order, Mr. Chair—a short one.

**The Chair:** Do you have a point of order? I've just made a mistake, which I have to try to rectify.

**Mr. Tom Lukiwski:** Yes. We have to get L-28 withdrawn, do we not?

**The Chair:** I'm assuming that was done.

My mistake was that we haven't voted on clause 315 yet.

**Mr. Tom Lukiwski:** It's withdrawn.

**The Chair:** So amendment L-28 is withdrawn.

We have voted on clause 316, but we haven't voted on clause 315 as amended.

(Clause 315 as amended agreed to)

(Clause 317 agreed to on division)

**The Chair:** I guess the schedule has been amended. It's been obliterated. That is a great word. We don't need to vote on that.

Mr. Wild.

**Mr. Joe Wild:** Just to be of assistance, Mr. Chair, there are two schedules. Schedule VI, if it hasn't already been voted on, would need to be approved in that it touches the accounting officer. Schedule VII is the schedule that is gone as a result of the vote on clause 315.

**The Chair:** We have to vote on this because of schedule VI.

(Schedule as amended agreed to)

**The Chair:** Now we're at clause 1, on which we have two amendments.

We have to go way back to page 1, which sounds kind of scary. I don't want to do this again.

Monsieur Sauvageau has a proposed amendment, amendment BQ-1, on page 1.

Monsieur Sauvageau.

[*Translation*]

**Mr. Benoît Sauvageau (Repentigny, BQ):** Mr. Chairman, I'm pleased to move this final amendment, the first proposed by the Bloc Québécois.

The word "accountability" appears on page one of the bill, in the English version of the table of provisions, while the word "*responsabilisation*" is used in the corresponding French version of the table. If we look at the Roman numerals on page one, we note the reference in the table of provisions in the English version to "An act providing for conflict of interest [...] oversight and accountability". The French version merely notes: "*[...] et de responsabilisation*".

The word "accountability" appears in the short title in the English version. The wording of the English version is therefore consistent. However, instead of "*responsabilité*", the French version employs the word "*imputabilité*".

So then, there's a mistake somewhere. There's no question about that. The error is contained, in our view, in the short title: "*Loi fédérale sur l'imputabilité*".

We're proposing that the title of the act be changed to "*Loi fédérale sur la responsabilité*", to ensure consistency with the word used in the table of provisions in French.

[*English*]

**The Chair:** Before we proceed any further, there is a line conflict with amendment G-1, and I'm going to suggest that we debate these two together. So I don't know where you want to go from here.

Does anyone else have anything to say? No? Then we're going to vote on amendment BQ-1. Are we ready for that?

Monsieur Petit.

[*Translation*]

**Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC):** I'd like to make a comment.

● (1945)

**The Chair:** Go ahead, Mr. Petit.

**Mr. Daniel Petit:** It has to do with the translation and the proposed title "*Loi fédérale sur la responsabilité*". I've discussed this with my colleague M. Murphy and the fact of the matter is that "*imputabilité*" is used even in Quebec legislation. The word appears in the legislation respecting ministers and deputy ministers.

I looked into French laws and discovered some things that I could share with you. Unfortunately, I didn't think we'd get around to clause one this evening. The word is even used in the title of French laws.

This isn't even a question of semantics. The translation is correct. The law clerks used the proper word, the one that's always been used, in the translation. The Office de la langue française even has a chapter on the translation of laws. The word "*imputabilité*" has always been used.

Consequently, in my opinion, the act is correctly titled "*Loi fédérale sur l'imputabilité*". It's a very good translation and it shouldn't cause any problems.

**The Chair:** I see.

Mr. Sauvageau.

**Mr. Benoît Sauvageau:** Assuming Mr. Petit is correct, there is still an error in the title as it appears in the table of provisions.

**Ms. Monique Guay:** I don't believe so.

**Mr. Benoît Sauvageau:** All right then.

If Mr. Petit is entirely correct about this, then it shouldn't say: "*Loi prévoyant des règles sur les conflits d'intérêts et des restrictions en matière de financement électoral, ainsi que des mesures en matière de transparence administrative, de supervision et de responsabilisation*".

Instead, it should say: "*et d'imputabilité*", assuming he's right.

Furthermore, upon further investigation, the word "*imputabilité*" is actually used incorrectly in French in this context. The Office de la langue française suggests that people avoid using this word because, and I quote:

> En français, seules de choses comme une action blâmable ou une dépense budgétaire sont imputables. Le term imputabilité désigne en fait la possibilité de considérer une faute ou une infraction come attribuable, du point de vue matériel et moral, à une personne donnée. On parle donc d'imputabilité d'un délit à une personne, mais non d'imputabilité de la personne.

That explanation comes from the terminology library of the Office de la langue française as well as from the translation service of the House of Commons.

Clearly then, since there is an error in the table of provisions and in the short title, we're asking, through amendment BQ-1, that it be rectified.

**The Chair:** Ms. Guay.

**Ms. Monique Guay:** Thank you.

I'd like the law clerks to give me their opinion, if indeed they have one, of the title of the bill. As my colleague mentioned, we've received the same advice on several occasions, namely that the appropriate word to use in this case is "*responsabilité*", not "*imputabilité*".

[*English*]

**Mr. Joe Wild:** Mr. Chairman, the only thing I can really say on this question is that with respect to the short title, in essence you're free to put whatever you want in the short title. It's a deeming provision, so you can call the act what you want to call the act.

In terms of the question of *imputabilité* versus *responsabilisation*, I can't get into whether there was any specific legal advice rendered by the Department of Justice on the title of the act. I'll just simply say I'm not particularly qualified to speak to what would be the precise French word to use, other than to note again that there's certainly no drafting convention that restricts what you do in the short title.

[*Translation*]

**The Chair:** Ms. Guay.

**Ms. Monique Guay:** Mr. Chairman, I'd simply like to remind you that throughout debate on Bill C-2, the translators always used the word "*responsabilité*", not "*imputabilité*". That was the term used throughout our study of the bill in committee. So then, even the House of Commons interpretation and translation services always refer to "*responsabilité*", not "*imputabilité*". Therefore, I think we've proven our point.

[*English*]

**The Chair:** I'll call the question on amendment BQ-1.

(Amendment agreed to)

**The Chair:** So that's the end of amendment G-1.

(Clause 1 as amended agreed to)

**The Chair:** Monsieur Sauvageau, do you have a point of order?

[*Translation*]

**Mr. Benoît Sauvageau:** Yes.

Before we conclude, Mr. Chairman, with your permission, I'd like to thank you as well as the members of the committee, the staff, the interpreters...

● (1950)

[*English*]

**The Chair:** You know what? We're not there yet.

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

**The Chair:** I wish you hadn't even started that.

There will be an opportunity for members to speak once we've concluded everything and we have all of this out of the way. The chair would like to start off, and then members can join in—if we ever finish this.

All right. So we have voted on clause 1 as amended.

Shall the title carry?

**Some hon. members:** Agreed.

**The Chair:** Shall the bill as amended carry?

**Some hon. members:** Agreed.

**The Chair:** Shall I report the bill as amended to the House?

**Some hon. members:** Agreed.

**The Chair:** Shall the committee order a reprint of the bill?

**Some hon. members:** Agreed.

**The Chair:** Okay. Before you all run out of here, the chair would like to make a few comments—it's my prerogative as chair—and other members may wish to add to this.

This has obviously been a difficult time. We have finished, and I would like to thank all members of the committee for helping me out, because there were some times when I needed help. I do appreciate all that help.

However, there are others who we should thank, and this is going to take a while, so hold off your applause. It's like the end of a movie, you know, when they list all those things. This is what this is—the credits.

First of all, I certainly couldn't have been up here without the clerk, Miriam Burke. I want you to give her a special hand.

**Some hon. members:** Hear, hear!

**The Chair:** I'm going to list some names from the committees directorate—and I wasn't familiar with that term—Caroline Martin, Melissa Mastroguiseppe, Lise Tierney, Sharron Scullion, Robert Hoffman, and Diane Lefebvre.

From the legislative unit are Michael Lukyniuk, Susan Baldwin, Joann Garbig, Wayne Cole, and Mike Macpherson.

Let's give all those people a hand.

**Some hon. members:** Hear, hear!

**The Chair:** Then there are all the other committee staff, the interpreters, the console staff, and the messengers. Let's give them a hand, particularly those guys back there.

**Some hon. members:** Hear, hear!

**The Chair:** From the library—you should know some of these names, but we're going to list them because there are quite a few—we have Katharine Kirkwood, Kristen Douglas, Nancy Holmes, Sebastian Spano, Margaret Young, Wade Riordan Raaflaub, Lydia Scratch, Élise Hurtubise-Loranger, Alex Smith, Jack Stilborn, Sam Banks, Philippe Le Goff, Tara Gray, and Brian O'Neal.

I want you to give all those people a hand.

**Some hon. members:** Hear, hear!

**The Chair:** Then we have these two people here, Mr. Wild and Ms. Cartwright.

**Some hon. members:** Hear, hear!

**The Chair:** And if you could, please pass on your thanks to the people who have helped you and have from time to time come here. We do appreciate all of your work and your putting up with the committee. You've been very good to us.

Thanks to the House of Commons law clerk, Mr. Rob Walsh, and his staff.

**Some hon. members:** Hear, Hear!

**The Chair:** Finally, there are the publications staff who are working on the various copies of the bill and who produce the report. There are quite a few of them, so let's give those people a hand.

**Some hon. members:** Hear, hear!

● (1955)

**The Chair:** Now you have a chance for any special comments—as long as it doesn't get too political.

Mr. Owen.

**Hon. Stephen Owen:** Very briefly, let me just add my congratulations and thanks to all of the people named, but also to our chair and all members of this committee and their staff.

Sometimes we descend in this House to levels that we're not always comfortable with the next morning, but I think this committee—and committees generally, but certainly this committee—in dealing with such a complex job has done it with grace and towards a common objective. If we haven't completed the job—because this will be never-ending—we've taken a good step forward.

Thank you all.

**The Chair:** Mr. Tonks.

**Mr. Alan Tonks (York South—Weston, Lib.):** Mr. Chair, just as a point of clarification—

**The Chair:** I'll try not to rule you out of order.

**Mr. Alan Tonks:** —at the point we've reached now, does that make the notice of motion that Mr. Poilievre put forward for extended hours redundant?

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

**Mr. Alan Tonks:** I would just like to say ditto, and thank you, Mr. Chairman. You've done a remarkable job, along with your staff and everybody else. Thank you.

**The Chair:** Thank you, sir.

Mr. Murphy.

**Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.):** Thank you, everyone.

This is my first committee experience. They tell me all the committees are like this, so I'm gearing up for that. But I do want to thank you for the good collegial spirit that we came to on some occasions and the good work that we did.

And, Mr. Chairman, I want to thank you. You did a wonderful job in being impartial and listening to people. It wasn't easy, I know, so thank you.

[*Translation*]

**Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.):** Thank you, Mr. Chairman, for your good humour and for conducting the proceedings of this committee in an impartial manner. You've truly succeeded in helping us to do the best possible job in the time allotted to us.

On a personal note, I'd also like to thank our research and legislative staff as well as our technical advisors. They were of great assistance to us.

Also, if somewhere along the way I managed to offend someone, either because I acted impatiently or as a result of something I may have said, I apologize. It was a pleasure for me to serve on this committee, in spite of the few occasions where tensions were running high.

In the final analysis, Mr. Chairman, you truly succeeded in making this a positive experience for us. Thank you.

[*English*]

**The Chair:** Thank you.

[*Translation*]

**Mr. Benoît Sauvageau:** Let me start by apologizing to you, Mr. Chairman, for almost jumping in before you. It was certainly unintentional.

I'd like to take my cue from Marlene and say that if I offended anyone at any time during our proceedings, I truly am sorry. Sometimes, our emotions get the best of us.

I'd like to thank everyone who, either directly or indirectly, had a hand in this undertaking and worked very effectively. The research staff of all political parties lent their support to us, under often very demanding conditions. And I speak in a completely non-partisan way.

Finally, I'd like to extend my sincerest thanks to the legal experts for their support as well to all those who accompanied us on this adventure. Thank you very much.

**Ms. Monique Guay:** I too would like to thank you, Mr. Chairman. Watching you chair the committee, I was reminded of my two years as caucus chair. It takes someone with an iron hand in a velvet glove. You were up to the task and managed to keep your own emotions in check, which wasn't always easy. So, congratulations on a job well done!

My thanks go out as well to Steve who was part of our team and to Dominique, who has left. We mustn't forget to thank them for the amazing job they did for us.

I've been here for 13 years. To Brian, I'd like to say that this was quite an accomplishment. I've never before seen a committee put in so many hours in so few weeks. Yet, we somehow managed to get the job done.

Mr. Chairman, I look forward to reviewing the legislation in five years' time, if I'm still around.

● (2000)

[*English*]

**Mr. Paul Dewar:** I'd like to thank all of the people on the committee, obviously, but also the people behind the scenes: the people who actually fed us, the people who brought us information when it was required, the people who gave us technical assistance, the people who are doing the translation, and all those people who are helping us as staff for the respective political parties as well, because they've had to go beyond the norm, whatever the norm is.

I'd like to say, as someone who is new, like Mr. Murphy, this was a very interesting first time. Some have mentioned it as trial by fire, but I think in the end it was a genuine learning experience for me, not only in terms of process and procedure—and God help us if we have to go through anything quite like this anytime soon—but in terms of the breadth of information and the knowledge that I gained from the witnesses, from our technical panel, and how government works.

Someone mentioned that sometimes legislation is like making sausage. It ain't pretty sometimes, but in the end you come out with something, hopefully, you can be proud of. If we look at how this committee has worked and how we are able to move this along, hopefully we can see some of the same kind of sensibility in the House.

I will finish off by thanking you, Mr. Tilson, for shepherding us along. I appreciate your support throughout.

**The Chair:** Other words. Mr. Moore.

**Mr. Rob Moore (Fundy Royal, CPC):** I'll simply congratulate everybody who took part. I think everything that can be said has been said. Especially, I congratulate all of the staff who worked behind the scenes, supposedly to make us look good. I don't know how good we all looked at times, but I think they did a great job. And to everybody who's already been mentioned, thank you for all your work. I think we have a product at the end of the day we can all be proud of.

**Mr. Tom Lukiwski:** Mr. Chair, again, we're going around in circles a little bit, but thank you so much. I know how difficult this was for you, Chair. I've sat with you on another committee that you also chaired, and you do a superb job under very difficult situations. Your sense of humour and your impartiality I think more than anything else really shone through in this committee. It was an intense month and a half that we put in here, so congratulations to you.

I want to say to all the committee members and everyone else, research staff, technical staff, legislative staff, this is a good bill. You should be very, very proud of yourselves. I know I'm proud of myself. I'll take this to my grave, saying I was sitting on the legislative committee that brought in an accountability act that went far beyond anything this government, this Parliament, has ever seen before.

I congratulate all of you. Good work. It's been great working with you. Thank you.

**Mr. Pierre Poilievre:** I'd like to focus my thanks particularly on the people who were involved in the early stages of drafting. A lot of the work they did prior to the politicians even getting involved was very difficult, grinding, thankless labour, and they did it with incredible professionalism under trying circumstances and nearly impossible timeframes. They met them with grace and never missed a beat.

I'm not going to name all of them right now, but there are a tremendous number of people, many of whom I see in this room, who were there from Treasury Board, from Justice, and from other parts of the public service, PCO, to put together this package and then ultimately support it throughout all of its stages.

I'd like to thank all of the services and the people who have been supporting us throughout, Mr. Chair, yourself as well. I'd like to thank my staff, who have been incredibly dedicated. James Kusie comes to mind, who works in my office and tries his best, sometimes to no avail, to keep me on track. Thanks to the minister as well for entrusting me with this task and for keeping the faith and the promises that we made.

I'd also like to thank the other members of the committee. Though we had some very direct and heated exchanges, some of them very colourful, I want you to know that despite the moments when the adrenalin was higher than it should have been, I respect all of you deeply as people and fundamentally believe that all of you are here for the right reasons. I believe that those reasons have been achieved in what is a very good final product.

Thank you.

[*Translation*]

**Mr. Daniel Petit:** I too would like to say thank you, especially since, like Mr. Murphy, I'm a new MP.

I dove head first into this adventure. As a lawyer, it was a interesting experience for me. Normally, I raise legal issues. This time around, I had a hand in making the law. It's an entirely different experience. Most interestingly, and most importantly, we managed to achieve a common goal, despite our differences of opinion.

I'll be able to tell my grandchildren—and I do have grandchildren—that I participated in this process.

Thank you very much.

● (2005)

[*English*]

**Mr. James Moore (Port Moody—Westwood—Port Coquitlam, CPC):** Everything's been said. The only other thing I want to say is that in my three terms in Parliament, there have been three big legislative committees, on Bill C-36, after 9/11, on Bill C-38 on same sex marriage, and now this committee. I think this committee was a real pleasure to model. I had the opportunity to sit on the C-36 committee, but not the C-38 committee.

Also, Pat Martin's not here, but I wish him well and thank him for his contributions. We have to take credit for what the people behind us and around us do. It's a good moment. We made Canada stronger. It's a good day.

**The Chair:** The final word is, this committee is adjourned.

**Some hon. members:** Hear, hear!