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## **Standing Committee on Public Accounts**

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**EVIDENCE**

**Tuesday, May 30, 2006**

**Chair**

**The Honourable Shawn Murphy**

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## Standing Committee on Public Accounts

Tuesday, May 30, 2006

• (1115)

[English]

**The Chair (Hon. Shawn Murphy (Charlottetown, Lib.)):** First of all, welcome to everyone here.

The first order of business is to ask the mobile cameras to leave the room.

**Mr. Brian Fitzpatrick (Prince Albert, CPC):** Chair, could you have the witnesses sworn in?

**The Chair:** That's your right, Mr. Fitzpatrick, and I'll ask the clerk to make arrangements.

While she's doing that, again I want to welcome everyone to this meeting; *bienvenue à tous*.

Colleagues, this meeting is pursuant to the standing orders of the public accounts committee to review a report from the Auditor General. Today, we are reviewing the supplemental report that was tabled with her last report, which is entitled, "Government Decisions Limited Parliament's Control of Public Spending". Again, a brief summary of it is the accounting treatment of certain expenditures related to the Canadian firearms program—program II, as it is referred to—incurred during the 2002-03 and 2003-04 fiscal years.

Because it involves an interpretation of an expenditure, we have many witnesses before us, as everyone can see. What I'm going to do is go down the list I have.

Yes.

**Mr. Brian Fitzpatrick:** As a point of order, in view of the fact that this meeting is about 20 minutes late already, and we've had some meetings on this matter already—I think the committee members are fairly familiar with the issues at stake here—could we limit the opening statements or confine them to maybe three short opening statements from some of the witnesses, rather than having every witness give an opening statement? We've lost a lot of time already. We had a good in camera session yesterday, so I don't really see the need for this.

**The Chair:** Mr. Fitzpatrick, I realize that we are late, but we have scheduled three hours, and we can go overtime. This doesn't have to end at 1 o'clock. We can go right to 2 o'clock.

The witnesses have come prepared to give a brief opening statement—not everyone is giving an opening statement, I believe we're only having about four—so I will allow opening statements. Perhaps what I'll do is forgo the introduction of the witnesses, because I think everyone has the list of the 11 people in front of them.

What I'm going to do is go right to the opening statements.

Mr. Fitzpatrick, what's going to create more delay is this affirmation, or swearing in, of 30 witnesses.

**Mr. Brian Fitzpatrick:** I would still want to have them sworn in.

**The Clerk of the Committee (Ms. Danielle Bélisle):** All of them?

**Mr. Brian Fitzpatrick:** The Auditor General's people would not have to be sworn in.

**Mr. John Williams (Edmonton—St. Albert, CPC):** I think it might be sufficient to advise all the witnesses that in appearing before this parliamentary committee they are deemed to be under oath. Therefore, it's the same as having them sworn in. Could you please advise all the witnesses accordingly?

**Mr. Brian Fitzpatrick:** If the effect of not telling the truth at this committee would amount to perjury and everybody understands that, then we can waive the actual affirmation. That's fine with me, but I'm going to approach it as if they're under oath.

**The Chair:** Following that discussion, I want to remind all the witnesses—which I'm sure every witness is aware—that the testimony given before this committee is deemed to be under oath and certainly will be treated as such. I take it that the witnesses will take it to that affect.

So whose is the first opening statement, Madam Clerk?

Mrs. Fraser, welcome to the committee.

**Ms. Sheila Fraser (Auditor General, Office of the Auditor General of Canada):** Thank you, Mr. Chair.

We thank you for inviting us to discuss our report on how government decisions limited Parliament's control of public spending.

Accompanying me today is Peter Kasurak, senior principal of the public safety team, who was responsible for this audit.

I would like to take this opportunity, first, to provide a brief summary of our findings and, second, to provide remarks on their importance.

In fiscal year 2002-03, the Department of Justice did not report liabilities of \$39 million incurred in the development of CFIS II, the Canadian firearms information system, as they should have done. This error had two effects. The first was that Parliament was not told that the program had actually exceeded the limits stated by the then Minister of Justice in the House. Second, it also meant that the new Firearms Centre management team had to deal with an unexpected \$39 million in unrecorded expenses in 2003-04. In that year, 2003-04, in addition to the unrecorded \$39 million, there were new costs of \$21.8 million stemming from the ongoing development of CFIS II. Although the centre initially recommended additional funds be requested from Parliament through supplementary estimates, senior officials at the Treasury Board Secretariat and Public Safety and Emergency Preparedness Canada sought an accounting presentation that would avoid reporting these costs against that year's appropriation.

Acting on their advice and a legal opinion obtained by Public Safety, the centre incorrectly decided that the new CFIS II liabilities of \$21.8 million did not need to be recorded against the centre's voted appropriation. The result was that Parliament was not informed that the centre had in fact exceeded its appropriation, more commonly known as having "blown its vote".

Our report analyzed each argument made by officials to justify their decision not to report these costs against the centre's vote and concluded that officials erred and government accounting policy was not followed. These accounting errors meant that Parliament was not properly informed of the true costs of CFIS II on a timely basis.

We note that not seeking proper authority for supplementary funds when there is a reasonable likelihood that an appropriation would be exceeded could be interpreted as a breach of the Standing Orders of the House of Commons.

Failure to fully account to Parliament for expenditures against a vote could also be viewed as an infringement of the privileges of the House of Commons. Only the House itself can determine whether such a breach has occurred.

• (1120)

[Translation]

Comments have been made that this affair is simply a technical matter, a "disagreement amongst accountants." If I believed this, I never would have tabled a separate report.

In my opinion, the accounting errors made were fundamental and obvious in nature. Subsection 37.1 (1) of the Financial Administration Act is clear (see attachment), a debt incurred for work performed that remains unpaid at the end of the fiscal year must be charged to an appropriation, in that fiscal year. This subsection of the FAA is also subject to such directions as the Treasury Board may make. Such direction has been provided through the Payables at Year-End Policy (see attachment).

Under this policy, liabilities for costs incurred must be either charged to a departmental appropriation, or recorded in a central accrual where no appropriation exists. In this case, Parliament voted an appropriation to the Firearms Centre for the development of a new information system (CFIS II), so an appropriation clearly existed. The government incorrectly recorded a central accrual and,

in my opinion, the Centre's 2003-04 Vote should have been charged instead.

The government's main argument for not charging the liability to the Centre's Vote was that there was no contract approved by the Treasury Board. I do not agree for the following two reasons.

First, despite the absence of a Treasury Board ratification, a liability existed as senior officials of the Centre and PWGSC with sufficient authority entered into an agreement with the contractor. It was based on this agreement that the contractor forged ahead with the additional work. In this case, what was required was Treasury Board ratification, rather than approval.

Second, in incorporating in its Contracting Policy a provision for after-the-fact ratification of contracts by the Treasury Board, the Board recognized the possibility for the government to enter into a contract prior to its ratification.

Moreover, the consequences of adopting the position taken in this case—that the period for recording expenses would be determined by the date of Treasury Board approval—would seriously impair Parliament's control of the public purse by allowing officials to choose a convenient time period, rather than following the economic reality of the transaction. I am also surprised that these consequences would have not been apparent to senior accounting officials.

[English]

Many people have asked who was responsible for these accounting errors. We found that inadequate records were kept and that the memories of those involved in this situation conflict about the details of what happened. While ministers were informed that supplementary estimates might have been required in 2003-04, there is no record that ministers gave any direction to public servants.

The Commissioner of the Canada Firearms Centre is responsible for the financial reports of that department. The Treasury Board Secretariat and the Department of Justice are responsible for the provision of accounting and legal advice, respectively. Finally, the Treasury Board Secretariat is responsible for the preparation of the *Public Accounts of Canada*.

Finally, I am concerned that records are not being kept of important decisions. Not only were there no formal minutes kept of meetings, but according to the participants, no notes were taken. After the fact, the memories of participants about the details of the meetings conflicted with each others' and were often quite vague. I do not believe it would be particularly onerous for such records to be maintained. In cases such as this one, they would have been of obvious importance at a later date.

Mr. Chair, that concludes our opening statement. We would be pleased to answer committee members' questions.

• (1125)

**The Chair:** Thank you very much, Mrs. Fraser.

The next person I'm going to call upon for an opening statement is William Baker, the former Commissioner of the Canada Firearms Centre.

I understand, Mr. Baker, that congratulations are in order. I read this morning that you've been appointed the Deputy Minister of the Canada Revenue Agency.

**Mr. William Baker (Former Commissioner, Canada Firearms Centre, As an Individual):** It's the deputy commissioner and chief operating officer. Thank you for your remarks.

Mr. Chair, in the interests of time, I'll keep my opening remarks very brief.

First of all, I would like to signal to members the presence of some of my colleagues, including Beverley Holloway, chief operating officer; John Brunet, chief financial officer;

[Translation]

and Mr. Denis Bilodeau, Senior Advisor at the Canada Firearms Centre.

[English]

I think the chapter lays out the necessary material for a good discussion. We're certainly prepared to take any questions you may have.

**The Chair:** Thank you very much, Mr. Baker.

The next person I'm going to call upon for any opening remarks is Charles-Antoine St-Jean, the Comptroller General of Canada.

**Mr. Charles-Antoine St-Jean (Comptroller General of Canada, Treasury Board of Canada Secretariat):** Thank you very much, Mr. Chairman.

Thank you for the opportunity to appear before the committee. This is a very serious matter. I welcome the opportunity to discuss the findings of the Auditor General in her May 2006 report relating to the Canada Firearms Centre with the standing committee.

Attending with me is my colleague, Mr. John Morgan, the acting assistant comptroller general, financial management and analysis sector within the office of the Comptroller General. Mrs. Susan Cartwright, from the Treasury Board Secretariat, is also with us at the table.

Because these findings revolve around legislative authorities and accounting matters, it would be appropriate to first provide some context. The government must live in both the accounting and parliamentary worlds, with Parliament having primacy. It's unique in the public sector. With regard to parliamentary control over spending and the reporting of the use of appropriation, the Financial Administration Act provides very specific rules. In addition, Treasury Board accounting policies support the application of legislative requirements and the preparation of the government's audited financial statement.

When the possibility of the need for a supplementary estimate was brought to the attention of Treasury Board Secretariat, advice was

sought from a number of different sources. The differing advice, coupled with the legislative nature of the appropriation and the fact that the costs in question were being incurred outside the formal contract, prompted requests for legal advice from the Department of Justice in early February 2004.

The key issue was that these costs were incurred under an agreement in principle and not under contract. Furthermore, there was an issue about the nature of the liability; for example, whether it was a liability or debt under subsection 37.1 of the Financial Administration Act. This legal advice concluded that the costs in question did not meet eligibility requirements of the Financial Administration Act for charging against appropriation. Given that these costs could not be charged to appropriation, it was concluded that there was no immediate requirement for ministers to seek supplementary estimates.

[Translation]

The Office of the Comptroller General accepted the legal advice. It also monitored the situation as the books were being closed to determine if there were any triggers for additional charges to appropriations, such as contract termination or amendment.

In compliance with its accounting policies, the costs and related liability were included in the Government's audited financial statements for 2003-04. The Firearms Centre was also advised by the Office of the Comptroller General to fully disclose the matter in its Departmental Performance Report which it did for 2003-04 and 2004-05.

The matter was first brought to my attention on June 17, 2004, a few weeks after I took office on June 1, 2004. My position was that the Auditor General should be consulted as soon as possible to ensure that all facts were known to the Auditor General prior to the closing of the Public Accounts for 2003-2004.

A senior official of my Office and myself met with senior officials from the Office of the Auditor General, as part of its Public Accounts 2004 audit in early August 2004, to discuss the accounting treatment from both an appropriations and financial statement perspective. A copy of the legal opinion and related analysis was provided to the OAG at that time. We were subsequently verbally advised later in August by the Public Accounts audit team of the OAO that it had no issues with the matter.

• (1130)

[English]

This matter points to deficiencies of communication by the government with the Auditor General. This also tells us that we must do better at minimizing risk and recurrence of such misunderstanding between the government, the Auditor General, and of course Parliament.

The four-point action plan on pages 22 and 23 of the Office of the Auditor General audit report includes some of the elements being put in place to address these deficiencies. Other measures are also being taken.

In conclusion, I do take the matter raised by the Auditor General very seriously, and I'm taking action to minimize risk of recurrence of similar circumstances in the future.

My colleagues and I would be pleased to respond to any questions that you or your committee members might have at this time.

Thank you very much.

**The Chair:** Merci, Monsieur St-Jean.

The next person I'm going to ask for an opening statement is John Wiersema.

Mr. Wiersema is in an interesting position. When these transactions took place, he was the Assistant Comptroller General of Canada, and now he's the Assistant Auditor General of Canada. He's appearing here very much as an individual.

Mr. Wiersema.

**Mr. John Williams:** On a point of order, I thought he was the acting Comptroller General.

**The Chair:** That's correct. I'm sorry.

He was acting Comptroller General. Now he's the Assistant—

**Mr. John Wiersema (Former Comptroller General of Canada, As an Individual):** Now I'm the Deputy Auditor General.

**The Chair:** Okay, the Deputy Auditor General.

[Translation]

**Mr. John Wiersema:** Good morning Mr. Chairman and thank you for the opportunity to explain my involvement with the accounting for certain costs of the Canada Firearms Centre.

I should note at the outset that I appear before you today as an individual—the person who was the Acting Comptroller General for part of the period in question. For this hearing, I do not represent the Office of the Auditor General, nor any government organization.

To put things in context, I should also note that I joined the Treasury Board Secretariat (TBS) as Deputy/Acting Comptroller General on November 17, 2003. I submitted my resignation on February 17, 2004, effective March 5, 2004. I took holidays between March 1st and 5th, 2004 and rejoined the OAG as Deputy Auditor General on March 8, 2004.

[English]

As disclosed in the Auditor General's report, I recused myself from all involvement in the Auditor General's audit, as I had been involved in matters that might arise in the course of the audit. I was, however, interviewed by the audit team late in the audit in my capacity as the former acting Comptroller General.

I would like to begin by referring you to paragraph 34 of the Auditor General's report entitled "Government Decisions Limited Parliament's Control of Public Spending".

It reads, in part:

Senior accounting officials of the Treasury Board Secretariat continued to maintain that all CFIS II costs and other estimable liabilities incurred in 2003–04 should be recorded and charged against the Centre's voted appropriation that year. They held that this was consistent with the requirements of transparency, full disclosure, and good accounting practices—as well as the PAYE policy, which had been applied by all other government departments since it was established in 1991. These officials also stated that legal advice should not determine the correct accounting treatment.

This was my position as the acting Comptroller General. It is well documented in TBS files. My position and recommendation on the proper accounting for the amounts in question was clear from the onset of discussions through to my departure from TBS. Documentation in TBS files also indicates that discussion on the proper accounting continued well after my departure, when the decision not to record the amounts in accordance with the policy was implemented.

I was a participant in the mid-February 2004 meeting referred to in paragraph 35 of the Auditor General's report. While it was not my role in the meeting to command any particular recommendation or decision by those responsible, my position on the accounting for the amounts in question was not only clear, it was a source of tension on the issue. It was likely also the reason the meeting was called.

Although the Auditor General notes in her report that the recollections of participants in the meeting differ significantly, I can state categorically that I did not change my position during or after this meeting. Documentation in TBS files confirms this. However, in the end, my position and recommendation were not followed, either in the decision not to seek supplementary estimates or in the ultimate accounting that was used for these costs. It was apparent to me before, during, and after this meeting that these decisions were being driven by considerations other than good accounting practices.

•(1135)

[Translation]

Thank you, Mr. Chairman. I would be pleased to answer any questions members of the committee may have.

[English]

**The Chair:** Thank you very much, Mr. Wiersema.

The last person we're going to call upon for an opening statement is Mr. Morris Rosenberg, the former Deputy Minister and Deputy Attorney General of the Department of Justice.

Mr. Rosenberg.

[Translation]

**Mr. Morris Rosenberg (Former Deputy Minister and Deputy Attorney General, Department of Justice, As an Individual):** Thank you, Mr. Chairman. I am the Deputy Minister of Health.

[English]

I've been the Deputy Minister of Health since December 2004.

I'm here with Mr. Wayne Ganim, who is currently the chief financial officer in the Department of Citizenship and Immigration, but he was the chief financial officer in the Department of Justice until the spring of 2004.

We'd be pleased to answer any questions you have.

**The Chair:** Thank you very much, Mr. Rosenberg, for your brief opening remark.

That concludes the opening remarks. We're going to now go on to questions. I understand, Mr. Williams, you're taking the first round.

Oh, I'm sorry.

Mr. Wrzesnewskyj.

**Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.):** Thank you.

Yesterday, in the \$21.8 million, we established, even though the terminology doesn't make completely clear what the breakdown of the delay in development cost was, that delay costs were approximately \$18 million, or \$18 million plus; they were \$1.8 million per month.

What would have been the approximate costs had this contracted company not maintained the system during this period of time? Do we have any estimate of that?

**Ms. Sheila Fraser:** At the time we did the audit we indicated that the system total cost is \$90-some million, and about \$30 million represents delay cost.

**Mr. Borys Wrzesnewskyj:** But the question is the reverse. What would have been the cost—because those delay costs were basically there to maintain the system, at \$1.8 million per month—had it not been incurred, if the company had been told to put it on the shelf, on the back burner? Would the system have been functional when it was needed? What costs would have been entailed in opportunity cost loss and actual dollar cost? Do we have any idea of that?

**Ms. Sheila Fraser:** I certainly don't have that information. I don't know whether Mr. Baker would.

**Mr. William Baker:** I may.

Those costs refer to the delay and other costs associated with the new system that was under development. There are two information systems. CFIS I, or Canadian firearms information system I, is the system that has been in place since the outset of the program, and it is the system that continues to provide support to the program. The CFIS II costs were associated primarily, as you have observed, with delay, and the delay costs, to correct the record, were \$1.2 million per month.

There were also some associated development and interest charges. These were the cost of not being able to complete the development and delivery. The contractor had incurred expenses of experts, licences, and what have you necessary to develop a new system, and we were not able to proceed.

That answers your question I think in that those costs were incurred because of the delay, and had that system not been under development then, of course those costs would not have been incurred in their entirety.

**Mr. Borys Wrzesnewskyj:** Yesterday during our meeting there was some discussion around the agreement in principle. I had what I thought was a pretty straightforward question: when is an agreement in principle considered to be a contract? The answer was that the Auditor General's office considered the agreement in principle to in fact be a contract because senior officials were involved.

I'm curious, because that's quite an assumption. Is there some sort of policy framework that says that if a deputy minister or a department head is involved, at that point an agreement in principle is considered by the Auditor General's office to be a contract? And how do legal interpretations differ on this?

● (1140)

**Ms. Sheila Fraser:** I'd like to re-state the issue in perhaps a different way. What we are arguing is that there was a liability incurred by the government at the end of the year—March 2004—of \$21.8 million. Quite frankly, I would think the government agrees there was a liability, because they recorded a liability.

**Mr. John Williams:** Can we just get that confirmed? Does the government agree that this was a liability that was acknowledged, written or otherwise, so we have that for the record?

**Mr. William Baker:** Yes, indeed. It was in the public accounts: \$21.8 million.

**Mr. John Williams:** So there's no dispute that it was—

**Mr. William Baker:** It was a liability.

**Mr. John Williams:** —accepted as a liability of the Government of Canada.

My apologies, Ms. Fraser.

**Ms. Sheila Fraser:** Thank you.

The difference in opinion is when we read subsection 37.1(1) and the government's policy on how to record liabilities. It says very clearly, and we give it to you in the attachment:

It is the policy of the Government of Canada to record liabilities to outside organizations and liabilities incurred up to and including March 31 in each fiscal year and to charge them to existing appropriations or provide for them through a central provision for valuation.

Government provided for the \$21.8 million through a central provision. We are of the opinion it should have been charged to the appropriation for the Canada Firearms Centre because there was clearly an appropriation that covered the development costs of this program.

The government has brought forward arguments that there wasn't a formal contract in place and because of that it shouldn't be charged, but if you go back to their policy on payables at year-end, it says if there is an existing appropriation, liability should be charged to that. An appropriation was voted by Parliament for the Canada Firearms Centre and the development costs of that system would be included in that.

The whole discussion, quite frankly, about whether there was a contract is a bit moot. We're saying there was a liability and government has now agreed there is a liability.

**Mr. Borys Wrzesnewskyj:** So it's just how that liability is reported.

**Ms. Sheila Fraser:** To the appropriations, that's right.

**Mr. Borys Wrzesnewskyj:** As opposed to notes to the report and the timing. It's not an issue of money gone missing. What we're dealing with are technicalities and disputes on those technicalities, both legal, because it seems the government has a slightly differing view on that and also in terms of the accounting.

**Ms. Sheila Fraser:** I would like to reiterate the importance of this. You are correct that no money has gone missing. At the end of March 2005, all costs had been recorded, but in our parliamentary system it is fundamental that Parliament votes and authorizes spending to government, and government should not spend more money than has been authorized by Parliament. The whole maintenance of expenditures as compared to appropriations is an absolutely essential function of government.

If government believes spending is going to exceed an appropriation, it is incumbent upon it to come back to Parliament and ask for additional authority to spend through the supplementary estimates process.

**Mr. Borys Wrzesnewskyj:** In your report on page 21, the third-last paragraph states that the Office of the Auditor General subsequently advised verbally that it had no issue with the accounting of this matter after a meeting with officials from the Comptroller General's office.

Mr. Wiersema was with the Comptroller General's office at that time, or was he with your office?

**Ms. Sheila Fraser:** No. This is actually the response by government; Mr. St-Jean referred to it in his opening statement, and I would just like to go on record as to what actually occurred.

A meeting was held sometime in August when a number of issues were discussed. I'm told by my team that this may have come up very briefly, and I have written correspondence from a member of my team indicating they reviewed the material regarding the accrual of the \$22 million in the central reserve. We did not look at the appropriations; we do not audit appropriations, so I would ask Mr. St-Jean to correct it, because we never gave an opinion on appropriations, and it was indicated it was an appropriate accrual. It also says, "Note: amount of work was minimal but reasonable given the size of the accrual." This was in the context of doing the audit of the summary financial statements of the whole Government of Canada.

Our materiality level is \$1 billion, so you can imagine on a \$22 million accrual that little, if any, attention was paid to it. If the question had been put to us, "Was this an appropriate charge to the accrual?", much more work would have been done, and it would have been a very different kind of response.

• (1145)

**The Chair:** Thank you very much, Mr. Wrzesnewskyj.

*Monsieur Sauvageau, huit minutes, s'il vous plaît.*

[Translation]

**Mr. Benoît Sauvageau (Repentigny, BQ):** Thank you, Mr. Chairman.

I'll try to be brief, and I'll ask you to be brief as well, as far as that's possible, because time is limited. My first question is for Mr. Wiersema.

You enjoy parliamentary immunity, and you're appearing as an individual, not as a member of the staff of the Office of the Auditor General. At the end of your presentation, you said that it had seemed to you, before, during and after the meeting, that these decisions

were being driven by considerations other than good accounting practices. What were those other considerations?

[English]

**Mr. John Wiersema:** Mr. Chairman, during the course of very many meetings held on this matter, a number of references were made to the political implications of seeking supplementary funding from Parliament for a program as controversial as this.

[Translation]

**Mr. Benoît Sauvageau:** Thank you.

Your report states that the documents contained in the files of the Treasury Board Secretariat are authoritative. That means that you were opposed to this decision. I'll use your evidence to put my question to Mr. St-Jean. You said that your position and your recommendation were not followed.

Mr. St-Jean, your predecessor has documents establishing that he was opposed to the decision to give the Department of Justice more money. The Auditor General stated that, in her view, these accounting errors were fundamental and flagrant.

In your evidence, you mentioned that one key aspect of the question was that costs had been incurred under an agreement in principle, rather than a proper contract. The Auditor General has just told us that was secondary and you're nodding your head... Am I mistaken? Pardon me.

Since your predecessor and the Treasury Board Secretariat of Canada have documents asserting that this makes no sense, and since the Governor General has concluded that these are fundamental and obvious accounting errors, why ask the department—which is to receive more money—whether it is entitled to receive any?

**Mr. Charles-Antoine St-Jean:** Thank you for your question.

As my predecessor mentioned, he expressed his objection to the proposed accounting treatment within the Treasury Board Secretariat. The documentation he refers to is kept by the Secretary of the Treasury Board and was made available to the Auditor General in the context of her audit. We therefore have all the documentation on this matter.

One question arises. There were a number of opinions. I don't know what the other considerations were because I wasn't in my position at that time; I took up the position on June 1. I consider only the accounting side and disclosure of the matter.

At that time, a number of opinions were given on the accounting treatment and parliamentary treatment.

For the past few days, I have had in hand the legal opinion that was used in this discussion.

**Mr. Benoît Sauvageau:** Are you referring to the legal opinion of the Department of Justice to enable that department to receive more money?

**Mr. Charles-Antoine St-Jean:** No, it wasn't the Department of Justice. At the time, it was the Department of Public Safety and Emergency Preparedness. The Department of Justice prepares all the court opinions of the Canadian government. So it provided a legal opinion analyzing the circumstances of that transaction, with a conclusion based on the various elements of the transaction.



Four conditions had to be met in order to obtain a parliamentary appropriation: first, Treasury Board approval was needed; second, a proper contract had to be made; third, the effective date of implementation had to be in December 2003; and fourth, a price comparison was needed.

The first condition was not met, nor were the second or third. I can continue...

● (1150)

**Mr. Benoît Sauvageau:** If I understand correctly, you're saying you disagree with the Auditor General's comment that there were fundamental and obvious accounting errors. You also seem to disagree with Mr. Wiersema, who told the Treasury Board Secretariat that this made no sense.

**Mr. Charles-Antoine St-Jean:** I think this is a matter that must be properly discussed among all the parties.

When my predecessor left his position, there was also some question as to whether or not the legal opinion would be accepted. At that point, the question within the Office of the Comptroller General was whether the legal opinion should be accepted or rejected. I arrived shortly afterwards, and the question is still being asked.

**Mr. Benoît Sauvageau:** As far as you can remember, was that roughly around the time of the sponsorship scandal?

**Mr. Charles-Antoine St-Jean:** It was in February and March 2004.

**Mr. Benoît Sauvageau:** Let's suppose it was at the time of the sponsorship scandal. It appears that the Treasury Board Secretariat did not trouble itself to pull up its socks. Why did it not comply with the first opinions it received?

I'm not an accountant, and some things I don't understand. It's been said that the centre first recommended that supplementary estimates be requested from Parliament, which the Financial Administration Act also provided for. It was also said that senior officials at the Treasury Board Secretariat and Public Safety tried to find an accounting treatment that would avoid having to account for these costs as expenditures charged to the annual appropriation for that fiscal year. Why did they do that?

**Mr. Charles-Antoine St-Jean:** As I told you earlier, I wasn't at the Treasury Board at that time. I got there on June 1. I saw the document that talked about accounting solutions. As a professional accountant and former auditor, it goes without saying that this kind of question startled me. I discussed it with the document's authors, and I was told that a number of different opinions had been issued by lawyers and accountants on this matter. The following comment was directed at me: "I'm not an accounting or legal post-graduate. You're submitting a number of different opinions to me, and I'd like to know exactly where we stand from an accounting point of view."

The choice of words wasn't very appropriate, but that's the answer I was given. I'm not here to analyze intentions; I deal in facts.

**Mr. Benoît Sauvageau:** The Library of Parliament people have prepared a lot of good questions for us. I'm going to try to select a few. How much time do I have left? Only 30 seconds?

In that case, I'd like to know whether the Auditor General agrees with the last comments by Mr. St-Jean.

**Ms. Sheila Fraser:** I prefer not to make any comments on that subject. We definitely think an error was made. We believe the amounts should have been accounted for and that, in that respect, government policies were not complied with.

I know that the committee is supposed to receive a legal opinion. You will note, when you receive it, that it doesn't even take the government's policy on accounting for liabilities into consideration.

**Mr. Benoît Sauvageau:** The Secretary of the Treasury Board, not the other departments, is theoretically the custodian of those amounts, isn't he?

**Ms. Sheila Fraser:** We normally expect the Secretariat and Comptroller General to be very well informed on all policies and their application and to give the departments concerned appropriate opinions.

**Mr. Benoît Sauvageau:** Thank you.

[English]

**The Chair:** Merci beaucoup, Mr. Sauvageau.

Mr. Williams, for eight minutes.

**Mr. John Williams:** Thank you, Mr. Chairman.

My first questions are to Mr. St-Jean.

Mr. St-Jean, you're the Comptroller General of Canada. You are a chartered accountant. Is that correct?

**Mr. Charles-Antoine St-Jean:** Yes, indeed.

**Mr. John Williams:** Mr. Morgan, are you a chartered accountant too?

**Mr. John Morgan (Acting Assistant Comptroller General, Financial Management and Analysis Sector, Office of the Comptroller General, Treasury Board of Canada Secretariat):** Yes, I am.

**Mr. John Williams:** You're a chartered accountant too.

Mr. St-Jean, you stated in paragraph 11 of your opening statement that the Office of the Comptroller General accepted the legal advice. What is your professional opinion? Did you accept the legal advice?

**Mr. Charles-Antoine St-Jean:** Mr. Member, it would be looking two years after the fact.

● (1155)

**Mr. John Williams:** I asked you a question. As a professional chartered accountant, do you accept the legal advice that was given to you in an accounting matter on this particular issue?

**Mr. Charles-Antoine St-Jean:** I would have to qualify the answer, sir, on two sides.

As a professional accountant, I can say that this transaction is a liability, it should be recognized as a liability, and it should be recorded as a liability. My first reaction is that it should—

**Mr. John Williams:** I asked you if you accepted the legal advice.

**Mr. Charles-Antoine St-Jean:** The legal advice tells me to say that this is not a charge against the....

**Mr. John Williams:** Mr. Morgan, do you agree with this? Do you agree with this statement? As a professional accountant, do you agree with the legal advice that was given to your office that this was an appropriate way to record this transaction?

**Mr. John Morgan:** If I could, Mr. Chair, we certainly respect legislation and the statutory requirements.

**Mr. John Williams:** A simple yes or no will suffice.

**Mr. John Morgan:** I very carefully consider any legal advice, sir, and I ensure that we take it under consideration. If we ignore legal advice, we do it at our own peril, especially when it comes to parliamentary legislation. We did take this advice.

**Mr. John Williams:** Okay.

I'll come to you in a minute, Mr. Wiersema.

Mr. Rosenberg, were you aware of this legal opinion before it was delivered to the Treasury Board or to the Comptroller General?

**Mr. Morris Rosenberg:** Mr. Chair, could I explain the context of my involvement in this?

**Mr. John Williams:** I only asked if you were aware of it.

**Mr. Morris Rosenberg:** Yes, I was aware that a legal opinion had been requested.

**Mr. John Williams:** Okay. Was it prepared by someone who had an accounting designation, as well as a legal designation?

**Mr. Morris Rosenberg:** No, it was prepared by a senior lawyer with long expertise in crown contracting and commercial law.

**Mr. John Williams:** But he had no accounting designation.

**Mr. Morris Rosenberg:** I don't believe he had an accounting designation.

**Mr. John Williams:** Okay.

Mr. St-Jean and Mr. Morgan, you take the advice of a lawyer, and you are professional accountants. Is that right? You are supposed to be in that profession.

It's like I went to the doctor and said I feel sick. I don't like what the doctor tells me, so I get a lawyer to tell me what I should do. Is that right? Is that what you're trying to tell me? Did you accept a non-professional legal opinion to tell you, as a professional, how to record this stuff? Is that what happened?

**Mr. Charles-Antoine St-Jean:** If I may say so, we live in both worlds. Listen, this is a very important matter. We live in the world of accounting and in the world of parliamentary votes. Accounting tells us that we have to record it as a liability, and as a professional accountant, I would like to record it as a liability against the vote.

**Mr. John Williams:** So why didn't you?

**Mr. Charles-Antoine St-Jean:** I wasn't there to start with, sir.

And second, if I had legal advice telling me that you cannot charge it, what I would do, and that's what I told the Auditor General, is bring this kind of issue to the attention of the Auditor General so we could have a full debate at that time and not a year later.

**Mr. John Williams:** Mr. Wiersema, you disagreed with the ultimate conclusion here. You said that this should have been a supplementary estimate request. When you left the Office of the

Comptroller General, that was the position of the Comptroller General because that was your position.

Mr. St-Jean, when you followed Mr. Wiersema, did you change Mr. Wiersema's position?

**Mr. Charles-Antoine St-Jean:** No. I looked at the correspondence that was in the Comptroller General's file. There was a memo in the file that said the Comptroller General, or the acting Comptroller General, was not going to challenge the legal opinion. That memo has been shared with the Auditor General.

**Mr. John Williams:** When did the legal opinion come forward? What date was the legal opinion provided, Mr. Rosenberg?

**Mr. Morris Rosenberg:** I believe the legal opinion was provided somewhere around February 9 or 10.

**Mr. John Williams:** Were you familiar with this legal opinion, Mr. Wiersema?

**Mr. John Wiersema:** Yes, I was, Mr. Chairman.

If I may, the present Comptroller General has made a couple of references to the fact that the legal opinion was accepted by the Comptroller General. I just wish to clarify that when I was the acting Comptroller General, I did not accept the legal opinion as a basis for determining proper accounting. It's a legal opinion. I accepted it as a legal opinion, but I did not accept it as the basis for proper accounting and for the decisions that subsequently flowed from it.

The other point, Mr. Chairman, is that the Comptroller General made reference to a document that indicated that I had accepted this legal opinion. I have not seen that document. I have no knowledge whatsoever of that document.

**Mr. John Williams:** Is this legal opinion going to be made available to us?

**The Chair:** I understand that it is, Mr. Williams. Perhaps we can clarify that right now.

**Mr. Charles-Antoine St-Jean:** If I may answer the question on the legal opinion, there have been discussions with the secretary and the Deputy Minister of Justice, and the opinions will be made available—both opinions, as a matter of fact. One is called the Pigeon legal opinion and the other one is the Besner legal opinion.

Before doing so, I would just like to put on the record that solicitor-client privilege applies to legal advice given by the Department of Justice to the Government of Canada. In all essential ways, it's the same privilege that applies to privileged communication—

• (1200)

**Mr. John Williams:** I have a point of order, Mr. Chairman.

I just asked a question. Are we going to get the legal opinion or are we not? I know about all this solicitor-client privilege. Are we going to get it or are we not?

**Mr. Charles-Antoine St-Jean:** If I may answer the—

**The Chair:** Perhaps, Mr. Williams, we'll stop your time. If this is important, we'll allow it.

**Mr. Charles-Antoine St-Jean:** I'm told by the Deputy Minister of Justice that this is an important statement.

**The Chair:** We'll stop your time, Mr. Williams.

Mr. St-Jean, if it is important, I'll have you put it on the record.

**Mr. Charles-Antoine St-Jean:** My apologies, Members.

In all essential ways, this is the same as the privilege that applies to privileged communication in the private sector. Normally, the client does not waive this privilege. It's only done in rare instances and for good reason. Frequent waiving would erode the purpose of privilege. It ensures that the government gets candid legal advice on its most sensitive issues. The principle, which the courts have long worked out, is only feasible if the client has reason to believe that things said in confidence will be kept confidential. Only in exceptional circumstances is the privilege waived. This may be one of those situations.

In this instance, the gist of the confidential legal advice was inadvertently disclosed in the centre's departmental performance report. Technically, this constitutes a waiver. If the Pigeon opinion is to be disclosed, it would also be appropriate to disclose the related Besner opinion. So accordingly, those two opinions will be made available. Both opinions are being translated as we speak. One is about 13 pages long; the other one is about two pages long. Both will be made available very shortly to the committee.

**The Chair:** Okay, thank you.

Mr. Williams, your time will resume.

**Mr. John Williams:** Thank you very much, Mr. Chairman.

Mr. St-Jean, you mention in paragraph 13 that the Canada Firearms Centre was advised by your office to fully disclose the matter in its departmental performance report for 2003-04, which of course covered the transactions for that particular year. So you said to put it in the performance report, but that it was not to be in the estimates. I don't know how you square this circle.

**Mr. Charles-Antoine St-Jean:** If I may, the departmental performance report has a full page that explains that transaction. So to disclose it as an unrecorded liability against appropriation may be—

**Mr. John Williams:** Perhaps you would explain this concept of recorded and unrecorded liabilities. It seems an oxymoron to me. How can you record an unrecorded liability? By putting it in the performance reports, you're saying you've spent the money, but you didn't have it in the estimates or get the approval from Parliament.

**Mr. Charles-Antoine St-Jean:** We have two sets of books. One is the appropriations book and the other one is the financial statements book. In the financial statements it was recorded. It was not recorded in the appropriations. It was disclosed in the DPR in 2004-05.

**Mr. John Williams:** But you are an accountant, Mr. St-Jean, a professional, and you accept legal advice from someone who is not an accountant, not an accounting professional? You are where the buck stops when it comes to the accounting of the Government of Canada, and you allow your decisions to be dictated by someone who doesn't even have an accounting designation? And now you're

trying to tell me that it's fine to put into financial statements an unrecorded liability that was not approved by Parliament? You know it should have been approved by Parliament. You acknowledge the fact that it should have been in the appropriations and it wasn't.

I don't know how you can sit here, as a professional, and tell us... dancing around this issue without acknowledging the fact that you know that this should have been in the estimates.

**Mr. Charles-Antoine St-Jean:** If I may, sir, I take your point, but as I said, when I came on it was June 1, 2004. I was not there at the time.

When I was informed of the situation around the transaction—I was advised in mid-June of 2004—I wanted to make sure that the Office of the Auditor General was made aware of the circumstances. I gave the legal opinion at the meeting with the Auditor General. My colleagues at Justice Canada were not too happy with me, because normally we don't give this legal opinion. But I gave the information, sir.

To prevent it from happening again, I have an action plan to make sure that in future an advance audit opinion is sought. I cannot correct the past. I can just correct the future.

**Mr. John Williams:** Mr. Wiersema said not to do it but you said it was okay. You accepted a legal opinion, and....

The question has just gone out of my mind because I'm boggled by what is going on here, that as Comptroller General you would accept a legal opinion on this basis from a non-accounting person.

The Treasury Board, I understand, according to their notes in the Auditor General's report, provides advice to the department.

Mr. Baker, you were the senior person in the firearms place. You asked for this to be in the supplementary estimates. Is that correct? You asked for additional supplementary approval?

• (1205)

**Mr. William Baker:** When we first identified the issue, the advice I received as commissioner from my chief financial officer was that this should be booked in 2003-04. Of course, since we didn't have the budget for 2003-04, naturally we had to pursue some solution. To my knowledge, there are two solutions: either obtain supplementary estimates or blow the vote, which is something that none of us ever wishes to do.

We raised the issue for discussion, trying to drive down through that issue for people in the centre and the Department of Public Safety and Emergency Preparedness to understand the essence of this problem. Further, many meetings were held to try to understand the contract, liability, debt, and all the different variations around this. That, of course, was what brought on the legal opinion.

So we certainly went from a position where we assumed that money would have to be obtained through supplementary estimates, if indeed the government wished to have sufficient funds in the vote. The conclusion coming out of all that deliberation, including the legal opinion and everything else, was that this was not required.

I should point out a couple of things, Mr. Williams. Number one, on the DPR, we were all concerned that we had to at least flag the \$21.8 million—that's why the page is in there—as an unrecorded liability so that Parliament would be apprised of the existence of this amount, notwithstanding the fact that the conclusion received was that this didn't have to be charged to the vote.

The second thing I'd like to point out is that when the DPR was prepared, or the accounts of Canada were prepared and tabled, at no point did anyone ever tell us that this was the wrong thing to do. So we assumed that we were acting properly and fulfilling our duty to inform Parliament correctly.

**The Chair:** Thank you very much, Mr. Baker.

We're now going to go to Mr. Comartin for eight minutes.

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** This reminds me so much of the ongoing friction between the legal profession and the accounting profession.

In that regard, Ms. Fraser, in your experience, have you run across this kind of conflict between a legal opinion that it can be done this way and auditors' and accountants' opinions that it's not the proper way to do it? Have you run across that experience historically at any time, before you ran into it in these circumstances?

**Ms. Sheila Fraser:** Certainly in my five years as Auditor General I have not had this difficulty before.

**Mr. Joe Comartin:** Mr. St-Jean?

**Mr. Charles-Antoine St-Jean:** I have been here for only two years; I would say the same.

**Mr. Joe Comartin:** Mr. Wiersema, when you were having the conflict in that meeting in particular in—was it February?—were you aware of the legal opinion at that time?

**Mr. John Wiersema:** There is some confusion, Mr. Chairman, around the exact date of that meeting. I don't think the exact date of that meeting is known yet, but, yes, I believe at that meeting we did have the legal opinion—definitely, yes.

**Mr. Joe Comartin:** Had you actually read it?

**Mr. John Wiersema:** Yes, I had.

**Mr. Joe Comartin:** You said earlier, in response to a question, that.... I'm not clear. I don't want to put words in your mouth, but I had the sense that you were disregarding the letter in the sense of its being a controlling document. Would you have taken it into account? That is, you have this legal opinion that says it's proper to do it this way, that the interpretation of subsection 37.1(1) of the FAA allows us to do it this way; if you were making the final decision, would you have taken it into account or would you have ignored it completely?

**Mr. John Wiersema:** If I were making the final decision, I would take it into account, but I don't think it should be the determining factor in determining the proper accounting for the matter of reporting to Parliament. I did take it into account in formulating my

position on the matter, but I don't think it should be the determining factor.

**Mr. Joe Comartin:** Can I conclude that in terms of general accounting practices, that would be the standard for the profession—that is, you would consider it, but it would not be a controlling document?

**Mr. John Wiersema:** Controlling document—I believe that would be a fair statement; yes, Mr. Chairman.

**Mr. Joe Comartin:** Mr. St-Jean, would you agree that it's the generally accepted accounting practice?

**Mr. Charles-Antoine St-Jean:** I would say that in circumstances where you have multiple factors, this is an issue you look at very carefully with your auditor at that time. That would be my position. This is a significant aspect. I take the point of John that it would not have been his key point, but I also take the comments from my colleagues here that if you ignore legal advice, you do it at your own peril. This is the reason why I would do it. I would review this matter with the auditor at that time.

• (1210)

**Mr. Joe Comartin:** Ms. Fraser, I'm going to ask you to comment on this, but I want to stay with Mr. St-Jean for a minute.

Is this all about how much credibility you give to that legal opinion, as opposed to the position of Mr. Williams? Some accountants or auditors may in fact accept it and let it in effect determine their decision and other auditors or accountants would not.

Mr. St-Jean, I'd like you to answer that first, if you would. Then we will have Ms. Fraser.

**Mr. Charles-Antoine St-Jean:** I would say that legal opinion was a determining factor of those who made the decision at the time.

**Mr. Joe Comartin:** And that again is within acceptable accounting practices?

**Mr. Charles-Antoine St-Jean:** Well, as I mentioned earlier, we live in both worlds—both the accounting world and the parliamentary vote world. The accounting world talks about the generally accepted accounting principles on a full accrual basis. The parliamentary vote talks about the modified accrual basis, which has been modified by the PAYE policy; it asks the government to record transactions that have not been paid for at March 31, subject to certain criteria. Subsection 37.1(1) makes reference to the word “debt”, not “liability”. They make reference to the word “debt”. I don't like it, but that's the way the law is written.

**Mr. Joe Comartin:** Thank you.

Ms. Fraser.

**Mr. John Wiersema:** I'd like to make a very brief point, Mr. Chairman.

If one were to accept the legal opinion as the basis for determining the accounting, would that not require the Treasury Board to revisit its policy on payables at year-end? The reason is that this legal opinion would have broader implications than just the particular case in point here. It would have broader implications for recording other liabilities and charging them against the appropriation as well. To the best of my knowledge, the PAYE policy has not been revised.

**Mr. Joe Comartin:** Would that be only with regard to the firearms, then, or all sorts of other agencies and departments?

**Mr. John Wiersema:** All sorts of other agencies and departments in similar situations with similar liabilities.

**Ms. Sheila Fraser:** Mr. Chair, I would like to refer you to the attachment to our opening statement. We have in there an excerpt from the Financial Administration Act that everyone has been talking about, subsection 37.1(1), on which the legal opinion is based. The legal opinion goes into a great deal of discussion about the definition of debt. We have our arguments and we can argue that, but what is really key in that subsection is at the very beginning, where it says, "Subject to such directions as the Treasury Board may make".

The Treasury Board has made a policy on how liabilities are to be recorded and how they are to be charged to appropriations at the end of the year, and the legal opinion makes no mention of that policy, does not consider it at all. So even if one is to accept the legal opinion as is, on their definition of debt, one needs to consider the policy of payables at year-end, and the policy says, "It is the policy of the Government of Canada to record liabilities and to charge them to existing appropriations."

Our argument is there was a liability. The government agrees there was a liability. They booked a liability. They even call it an "unrecorded liability", and there was an existing appropriation to cover those expenses. So we can argue till the cows come home about the definition of debt, but the government's policy...and this is the way government has been applying this since they've adopted it, so—

**Mr. Joe Comartin:** I have to jump to the defence of the lawyer, though, Ms. Fraser. You're playing lawyer yourself at this point, and in spite of any direction that comes out of the Treasury Board—and this is simply an accepted rule of interpretation in law—those directions cannot override the rest of what's in section 37.

In fact, the analysis you've just given is not necessarily a valid one. Legal interpretations, statutory interpretations...I think I've caught Mr. Rosenberg's attention. Those directions cannot override the statutory provisions that have been passed by Parliament.

• (1215)

**Ms. Sheila Fraser:** I must say that we have a serious issue, then, with how government records liabilities and if the government is going to go to strictly recording based on debt. The way they have analyzed that in that legal opinion, I have yet to see anybody go through and make sure there are signed contracts approved by Treasury Board for every accrual. We're talking about a fundamental and huge change in the way government records liabilities at the end of the year, and I'm not sure that's what government expects to come out of all this.

**The Chair:** Thank you very much, Mr. Comartin. Thank you very much, Mrs. Fraser.

We'll now go to Mr. Bains for eight minutes.

**Hon. Navdeep Bains (Mississauga—Brampton South, Lib.):** Thank you very much, Chair. My question is for the Comptroller General, Mr. St-Jean, with respect to his opening remarks.

Basically, I'm looking at your paragraph 7, where you indicate that legal advice was sought because of the notion that there was a need for supplementary estimates and that the legal advice was sought from the Department of Justice in early February, due to the nature of this particular liability.

Is this the first time such a liability has come up, where legal advice was sought? Is this the first time this course of action was taken?

**Mr. Charles-Antoine St-Jean:** Perhaps my colleague, John Morgan...he has had many more years than I have.

**Mr. John Morgan:** This is the first time this particular case has come up, where it has been this difficult from an accounting policy perspective to determine what is the appropriate charging to appropriations. I'd like to add that Parliament has prescribed in legislation exactly what can be charged to appropriations and what cannot. Therefore, in our role in the Office of the Comptroller General, whenever we get involved in these sorts of discussions, be it about general financial management or accounting policy, we seek the counsel of Justice, because it is prescribed in legislation.

At the same time, however, we put on our other hat, which is that of dealing with the preparation of the government's financial statements that are in accordance with generally accepted accounting principles.

So we do try to respect both of these rules as we go about preparing the financial statements and taking decisions on individual transactions. Every year we get at least 30 questions from departments on how to apply a policy on payables at year-end. Sometimes these are very complex questions; sometimes they are relatively straightforward. But that is part of our role, to interpret the policies we develop and to interpret, with the aid of counsel, how to apply the legislation of which we are the primary owners, and we do that every year.

**Hon. Navdeep Bains:** So basically, with the legislation and the accounting dilemma that you were dealing with, and the nature of this liability, did you think it was appropriate to seek legal advice? Do you think that was the appropriate course of action based on the nature of the—

**Mr. John Morgan:** I think so, yes, given that this was a very unusual situation, where it was appropriations, that there was an existing contract and the work that was being done was done under an agreement in principle.

The agreement in principle had four conditions, none of which had been fulfilled. One was that the agreement in principle had to be approved by Treasury Board, that the contract amendment had to be executed, that the actual service effective date of the system, performance of the system, had to be delivered December of 2003, and there was a fourth condition, which dealt with verification of pricing. None of those conditions had been met. Therefore, this was a very complex situation where we said we probably need to get some legal advice on this, because within the secretariat there were differing views and therefore the decision was made to try to clarify legal application.

**The Chair:** John, I think you wanted to.... It's not one of those dissenting voices, is it?

**Mr. John Wiersema:** It's not a dissenting voice; it's just to clarify.

Given that the legal opinion was sought while I was the acting Comptroller General, I wanted to clarify that it was not the then acting Comptroller General that sought that legal opinion. It was sought elsewhere in government. So I did not request that legal opinion.

**Hon. Navdeep Bains:** Could you indicate who sought that?

**Mr. John Wiersema:** The then Deputy Minister of Public Safety and Emergency Preparedness.

**Hon. Navdeep Bains:** So I guess based on the fact that this legal advice was sought because of the nature of the liability, and you believe it was the right course of action in light of the complex nature of the issue... after the legal advice was rendered, you shared this information.

This is where I'm confused, and I would really like your assistance here as well, Ms. Fraser. This was shared with the Comptroller General and the Office of the Auditor General. You indicate in paragraph 15 that you had discussions with the Office of the Auditor General. Subsequently, you were given verbal advice that the nature of this legal advice that was sought and accepted was consistent at that time with the accounting principles.

I guess there was some misunderstanding before, so could you clarify that for us, please?

• (1220)

**Mr. Charles-Antoine St-Jean:** If I may, in my statement on page 15, I say that

[Translation]

a senior official of my Office and myself met with senior officials from the Office of the Auditor General as part of its public accounts 2004 audit. That was on August 10, 2004. The purpose was to discuss this transaction.

At that time, I submitted the legal opinion to the Auditor General. He told me that the audit had not been conducted with respect to parliamentary appropriations. I accept his point of view. I had been in my position for barely six or seven weeks, and I didn't know exactly what the scope of the Auditor General's work was. I find myself dealing with two somewhat difficult transactions, and I wanted to discuss them with the Auditor General. The first represented approximately half a billion dollars and the second \$20 million. Was I sufficiently clear with the Auditor General when I

wanted to get an opinion on the parliamentary appropriations? That remains to be seen. Whatever the case may be, I have learned a few lessons since then.

[English]

**Hon. Navdeep Bains:** I have a quick question and then a follow-up to that. Is it common practice to have some sort of verbal advice given and not have it in writing? Is that considered a common practice? Given the nature of these questions in your interaction with the Auditor General's office, wouldn't it have been appropriate to have that, as opposed to a verbal confirmation, something in writing, or is that common practice where there's a verbal exchange on matters of this nature?

**Ms. Sheila Fraser:** Can I just clarify on our recollection?

Our recollection is there was a meeting between one of my officials and one of Mr. St-Jean's people. There's no recollection that there was actually an agenda item on a meeting or that there was any particular attention paid to this. The whole discussion revolved around a \$22 million accrual being set up in a general provision that totalled some \$20 billion. So the amount was insignificant. A copy of the legal opinion was given, and I have a note that was issued the next day, which just said: "I reviewed the material, discussed the amount, and consider this an appropriate accrual." We do not go back and audit appropriations. We don't give an opinion on that, so it is not part of the work we do. But it also says, "Note: amount of work was minimal but reasonable given the size of the accrual." Therefore, it was basically a pass on that amount.

So there was not an extensive audit done of this, given that we were in the public accounts audit and this was what they called the forum where officials discuss large and significant issues just before we sign off on our opinion on the public accounts audit.

**Hon. Navdeep Bains:** Did you have a copy of the legal opinion to review at that time?

**Ms. Sheila Fraser:** I believe they were given a copy of the legal opinion; it was shown and read.

**Hon. Navdeep Bains:** Was it fairly extensive?

**Ms. Sheila Fraser:** Well, the legal opinion is some 13 or 14 pages, I guess. So given the relative unimportance of the amount in the context of the audit of the public accounts, there was not a lot of work done.

**Hon. Navdeep Bains:** It was immaterial at that time.

**The Chair:** Mr. St-Jean, do you have something to add?

**Mr. Charles-Antoine St-Jean:** If I may say, I do take the information from the Auditor General very seriously.

There are two things. First, in the public accounts there are the financial statements themselves, and there are notes to the financial statements. The notes to the financial statements talks about spending and borrowing authority. When there's a vote being blown, their report is a note to the financial statement; it's part of the financial statement. That was the first point.

The second point is that the scope of the Auditor General's audits includes authorities. Do they do a lot of work on this? Maybe not, probably not. But does it include authorities? Yes, because it's part of the note to the financial statement.

**Ms. Sheila Fraser:** I would prefer we not get into an argument about what our scope is and what we opine on, but if you look, you'll see we do not opine on authorities in the financial statements.

**The Chair:** Thank you very much, Mr. Bains.

Mr. Fitzpatrick, for eight minutes.

**Mr. Brian Fitzpatrick:** I'm going to try to get back into some legalities on this thing. I actually find it surprising that it seems to be the chartered accountants who understand that section 53 of our Constitution basically says that government cannot spend any public revenue without...it says it "shall originate in the House of Commons". We have three liabilities here that I can see that have occurred in consecutive years, and I do not see that any one of these liabilities ever originated in the House of Commons.

Then I go to the Financial Administration Act...and I expect you, as the Comptroller General, sir, to be quite familiar with these provisions because that's your job. There's section 26 of the act that reinforces what the Constitution says. Section 37.1 is quite clear on it; it says other arrangements similar in kind to a contract. And here are you and your people, running off trying to get a lawyer to give you some sort of legal opinion that gives a third way.

Mr. Baker said there are two ways this matter could be dealt with: you've blown the vote or you go back to Parliament and get approval on supplementary.... You seem to be suggesting we have a third way of dealing with it. Government can go ahead, a department can go ahead, and book expenses, enter contracts or things similar in kind, and then after the fact—not originating in the House of Commons, but after the fact—you can report it in your general statements, not with the department on the appropriations, but in the general statement where we're probably dealing with \$2 billion. You can just put something in there saying "unrecorded liability", which is a catch-22 if I ever heard one.

Are you saying that this new exotic, creative way of accounting is the way we're going to proceed in this count? We book the expenses, incur the cost, and then after the fact we come back to Parliament, in defiance of section 53, and ask for approval. That's good financial management?

• (1225)

**Mr. Charles-Antoine St-Jean:** If I may, Mr. Member, the books that are prepared for the Government of Canada.... There are two sets of books: one is the financial statements of the Government of Canada; the other one is the book of the appropriations.

In the financial statement of the Government of Canada, we're directed under the statement of accounting principles to record liabilities that closely match those as prescribed by generally accepted accounting principles. So we book those liabilities in the financial statement.

The Auditor General made reference to some \$20 billion of liabilities. There are many liabilities that are booked in the normal course of events in the books of the Government of Canada. They have not been approved by Parliament, because you have not authorized them as payments yet. But to say there are some liabilities—for example, I can think of environmental liabilities and other types of liabilities—that the government estimates they will

likely be accountable for, but they have not received the authority from Parliament—

**Mr. Brian Fitzpatrick:** Sir, I have to go back to basics. I've been in the House. I know what supplementary estimates are and I know what the estimates are.

The area that you work in, you review that and you get a projection. And if there are estimates in your department...and I sure hope the Comptroller General is policing that to make sure the departments provide accurate information to Parliament before we vote on those things.

I take section 53 seriously and I take the Financial Administration Act seriously. It's the law. We're not just breaking rules; we're breaking the law for not following these things.

There's nothing in those sections for me as a parliamentarian to ascertain these expenditures. And to come back later on and put it into a general statement for the whole blaming Government of Canada as an unrecorded liability, even as a lawyer I have a heck of a lot of problems trying to get my mind around that terminology. Somebody must have stayed up a long time at night to come up with that kind of inventive thinking.

But anybody who was looking at the Firearms Centre certainly wouldn't have been looking at this unrecorded liability that you presented in your general summary at the end of 2003-04.

**Mr. Charles-Antoine St-Jean:** I'm saying that the amount, the contingent liability of \$21.8 million, was recorded in the financial statement of the Government of Canada. It was not recorded against the appropriation based on the legal advice that was obtained.

Do I like it? No. But the legal advice was making reference to the fact that the law, the Financial Administration Act, makes reference to the word "debt" and not "liability." Do I like it? Absolutely not, but it's the law.

**Mr. Brian Fitzpatrick:** What occurred here would certainly not be a practice that anybody here should endorse as good accounting. I find it an exotic and extreme way of trying to deal with something.

Somebody really didn't want to come back to the House of Commons on supplementary estimates. Mr. Wiersema said it was political considerations. This was in the charged atmosphere of the sponsorship program, and I know what happened the year before. The government couldn't even get their backbenchers to agree to supplementary estimates for the firearms registry.

There was an elaborate strategy going on to make sure that Parliament was locked out of this arrangement. We even went to the extent of getting some lawyer to give us some cover so that we could find some exotic third way of getting rid of this problem, with some creative accounting, but which no accountant in his or her right mind would say is an acceptable accounting practice.

• (1230)

**Mr. Charles-Antoine St-Jean:** If I may conclude on this, sir, I was not at those meetings. I looked at the situation here.

**Mr. Brian Fitzpatrick:** Who was there when it was booked at the year-end as an unrecorded liability? Mr. Wiersema wasn't there at that time.

**Mr. Charles-Antoine St-Jean:** I was the Comptroller General as of June 1, 2004.

**Mr. Brian Fitzpatrick:** Who did it?

**Mr. Charles-Antoine St-Jean:** The transaction was recorded in the books, in the financial statement, as an accounts payable, as an accrued liability at March 31, 2004. That's what we were referring to when I reviewed the matter at the time.

**Mr. Brian Fitzpatrick:** Mr. Baker, could I get a question in before we leave here?

Your boss is your political minister. There's a serious problem here. It's quite apparent to me. It has caused a lot of meetings. Even the Treasury Board got involved with meetings that weren't documented. It had to be a serious matter, and there are political considerations.

Mr. St-Jean already mentioned that we live in two worlds: the world of politics and Parliament, and the world of accounting—

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

**Mr. Borys Wrzesnewskyj:** That was a misconstruction. I believe Mr. St-Jean said, "There are two worlds: the accounting world and the world of legal opinions."

**Mr. Brian Fitzpatrick:** Well, Borys, I take it back.

I'd still like to get my question in with Mr. Baker. Let's not get sidetracked on this point.

If you were to brief your minister—it was Minister McLellan in 2004—on this matter and discuss the whole idea of bringing it back as a supplementary estimate, I'd assume that would be the case. I mean, who's running this place? Is it the people we elect to run our country or is it department heads?

**Mr. William Baker:** Like any deputy head, if I concluded there wouldn't be sufficient money in the budget to get through the year, I would have a duty to take the necessary steps to advise the minister, as well as consult with the Treasury Board on the proper next steps. As indicated in the Auditor General's report, that was done.

There's a very important distinction here. When we first raised this issue, it was based on our basic understanding of this from an accounting perspective, which naturally was the advice that my chief financial officer, who is also a chartered accountant, was giving us. This then triggered many meetings, as people have pointed out.

**Mr. Brian Fitzpatrick:** I want to interject on that question.

**The Chair:** Let him finish his answer.

**Mr. Brian Fitzpatrick:** Well, I've heard the answer, but the question was really this. Did the minister make it clear to you at the time that we were not going back for supplementary estimates on this matter?

**Mr. William Baker:** As reported in the Auditor General's report, the minister was—

**Mr. Brian Fitzpatrick:** No. In your conversation with the minister, I'm asking whether it was made clear to you that we were not bringing this thing back to Parliament under supplementary estimates.

**Mr. William Baker:** Never. And my duty is under the Financial Administration Act.

**Mr. Brian Fitzpatrick:** Why didn't you?

**Mr. William Baker:** Because, sir, once the analysis on what we thought was an additional charge to the appropriation was complete, the conclusion was—

**Mr. Brian Fitzpatrick:** But you briefed her before you got the legal opinion. In the first part of February 2004 you had a meeting where you briefed the minister. It's in the report. There was no legal opinion at that time, and you said, "There are only two ways: blow the vote or go back to Parliament for supplementary estimates."

In that early February meeting, I'm assuming the matter of going back to supplementary estimates was discussed with the minister and it was made clear to you that it was off the radar screen.

**Mr. William Baker:** Absolutely not.

**The Chair:** We're going to let Mr. Baker conclude his answer to the question and then we're going to move on to Ms. Ratansi.

**Mr. Joe Comartin:** I didn't hear Mr. Baker's answer.

**The Chair:** No, I didn't either, so I'm going to ask him to repeat it, without interruption.

**Mr. William Baker:** I was never directed to avoid supplementary estimates. My duty was to present the options to the minister.

That in turn triggered more detailed examination by officials at the Treasury Board Secretariat and the Office of the Comptroller General, and others, which in turn raised questions about the amount of liability or debt and triggered requests from the Department of Justice for a legal opinion. Then, based upon the reflections on that legal opinion and everything else, it was determined that in fact this was not something that had to be charged to the appropriation. Therefore, the issue of supplementary estimates versus blowing the vote became moot; there was no longer a pressure on—

**Mr. Brian Fitzpatrick:** There's a third way now that you came up —

**The Chair:** Mr. Fitzpatrick, we're agreed that Mr. Baker will conclude his answer; then we're going to move on to Ms. Ratansi.

Are you finished, Mr. Baker?

**Mr. William Baker:** Yes, I am. We discussed it.

**The Chair:** Thank you very much.

Ms. Ratansi, we're now starting the second round of five minutes.

**Ms. Yasmin Ratansi (Don Valley East, Lib.):** Thank you. I'd like to make a comment first.

I think we should take things into perspective. The Auditor General had stated that parliamentarians do not pay much attention to estimates and that it is important for us to pay attention to estimates. I can see that there is a \$21.8 million issue, and I'll come to it in a minute. But going forward I have not seen any estimates for the extension of the Afghan mission; as a parliamentarian, I have no idea of the roles and responsibilities, the human resource costs, the cost of equipment. I think, therefore, people here should understand that it is our responsibility to make government accountable. We are parliamentarians and we cannot willy-nilly allow the Prime Minister to do whatever he wants, and that's the context in which I'm going to put it.



My question is to Monsieur St-Jean. Who wrote the Financial Administration Act? I know you've only been here two years, but does anybody know who wrote the act? It could have been lawyers and accountants. In a business world, accountants seek opinions. I understand from Mr. Morgan that because this involves legislative issues, you had to seek a legal opinion.

Mr. St-Jean, you have been very thoughtful in projecting what your predecessor, or whoever sought the opinions, tried to do. You mentioned that a liability has to be recorded after Treasury Board approves it. Am I putting words in your mouth? Is that the right statement?

• (1235)

**Mr. Charles-Antoine St-Jean:** A liability must be recorded in the books of the Government of Canada—not necessarily against an appropriation—when there is the economic substance to say directly that there is such an obligation that will mature and that the government will eventually become liable for. It goes in the books of the Government of Canada—the financial statements, not the appropriation.

**Ms. Yasmin Ratansi:** You talked about two worlds. You said you live in the accounting world and the parliamentary world. Parliament looks at the FAA as its guide. Regarding the treatment of the \$21.8 million, was it put into the financial statements of the government? If I were a layperson and was looking at the financial statements of the government, would I have seen that amount? Would it have appeared as a debt, a liability, or as anything? Would the balance sheet have shown me that this amount was there?

**Mr. Charles-Antoine St-Jean:** As the Auditor General has mentioned, this is a very small amount compared with the overall liability recorded in the balance sheet, so you would not see it as a single line on the balance sheet per se.

**Ms. Yasmin Ratansi:** No, but I'm not going line by line. I'm looking at the bottom line figure. If the government were to spend \$200 billion, would that \$21.8 million be part of that accrued liability shown in the balance sheet as its liabilities? Would it be there?

**Mr. John Morgan:** Yes, that's correct. It was recorded as a liability in the financial statements of the government, and the money was expensed on the bottom line, so it reduced the surplus.

**Ms. Yasmin Ratansi:** So help me understand how I've been misinformed. I am trying to figure out.... I am doing double-entry bookkeeping and saying, how have I been misinformed?

**Mr. John Morgan:** It is certainly a matter of interpretation of what can be charged to an appropriation and what cannot be charged to an appropriation. Parliament has provided the government with the powers under the Financial Administration Act to keep its balance sheet and reflect whatever assets and liabilities it considers appropriate. That's in section 63 of the Financial Administration Act.

Parliament has also said that here is what must be charged to appropriation: any cash payment. It also says under section 37.1 that if you incur the following things, they must be charged to appropriations as well. You have no discretion on that, and you cannot charge anything else at year-end that does not fit this description.

The legal advice was, you cannot charge this particular thing to appropriations. The disclosure to Parliament occurred through the departmental performance report, where we advised the department to disclose the matter in its DPR, which it did. It recorded that as an unrecorded liability. The departmental performance reports were tabled in Parliament for 2003-04 and in 2004-05.

The public accounts themselves, because of the level of detail, are fairly aggregated in terms of the balance sheet. You would not see those individual amounts, the \$21.8 million; however, we could track that and demonstrate in which balance that was included.

**The Chair:** Thank you, Ms. Ratansi.

• (1240)

**Ms. Yasmin Ratansi:** That's it? I thought Ms. Fraser wanted to respond.

**The Chair:** Well, we'll give her an opportunity.

Do you want to respond?

**Ms. Sheila Fraser:** I'd like to go back. There is a difference between the financial reporting of financial statements and the tracking of voted appropriations. So the appropriation from Parliament is the authority to government to spend money. It is important that government track the spending, track all the charges against those appropriations, and it's considered very serious if it spends more than what Parliament has authorized.

In this case we are saying that this \$21 million should have been recorded against the appropriation. If it had been, the government either should have gone back for supplementary estimates, to get additional authority, or they would have exceeded the vote.

Mr. Comartin raised an issue about our interpretation of the legal opinion. He said that because we were arguing that the legal opinion should have taken into consideration the PAYE policy of the government, which specifies how liabilities are to be recorded against appropriations...and he said, well, they shouldn't override.... What my lawyers are saying is, because it says "Subject to such directions as the Treasury Board may make", then in fact that PAYE policy is referenced in the act, in the law, and it should be taken into account. It was not taken into account in that legal opinion, which, to us, is a major consideration in this whole debate.

**Ms. Yasmin Ratansi:** And we will get the legal opinion later.

**The Chair:** Thank you very much, Ms. Ratansi.

Thank you very much, Ms. Fraser.

Mr. Sweet, five minutes.

**Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC):** Thank you for all your public service. It's become a little heated, and I don't think anybody has remembered that you're servants for us and we appreciate your service.

It's been established that the seeking of a legal opinion to determine accounting practice is not only uncommon, but there's no recollection of this ever happening before, under our Auditor General right now and the Comptroller.

Is there a suggestion that by not following this legal opinion, which unfortunately is not available to us today, it would put the government in some kind of liability?

**Mr. William Baker:** As public servants we deal with policies and legal opinions, and while this may have been an unusual situation, as attested, when we make decisions we take all of the information into account, and that's precisely what was done in February with the right officials in order to reach a conclusion.

**Mr. David Sweet:** What I'm trying to establish is the motivation behind seeking the legal opinion. Was it to protect yourself from a contractor who might sue?

**Mr. William Baker:** No. I can give you a very clear answer on that.

The genesis of the legal opinion was, as indicated earlier, when as the Commissioner of Firearms I raised the issue as indicated in the Auditor General's report. Questions were raised in the Department of Public Safety, in particular, about what was the exact amount that we were questioning. Everyone was aware of the complexities of this contract. As alluded to, there were delay costs, there were unanticipated development costs. In providing that information, it was clear that we didn't really have a good handle on what belonged where, year-over-year charges, what was in the contract, what was not in the contract. On that basis, it was decided to seek a legal opinion from a senior lawyer in the justice department. That was a very important piece of the puzzle in determining the right way forward.

**Mr. David Sweet:** I hope you can appreciate that it would be hard for the average person looking in here to see that there's \$39 million, then \$21.8 million, and then \$15 million that's not properly accounted for. There's a contractor who's financing these delayed appropriations. There were meetings during which no notes were taken. In fact, if we had those notes today, we would most likely be able to establish a premise about what went on, because we have differing views from people who attended that meeting.

As the leader of the department, when this eventuality came up, why didn't you consult directly on this particular issue with the Auditor General's office?

**Mr. William Baker:** First of all, that would not be a normal course of events for a departmental deputy or a head of a department.

• (1245)

**Mr. David Sweet:** No, but you would direct that.

**Mr. William Baker:** It had not occurred to me, given that we had already engaged senior officials in Treasury Board, the Office of the Comptroller General, and the Department of Justice. So when all was said and done, I was quite confident, based on the balance of information, that the inclusion was correct in going forward.

We were also aware that we were planning to make a disclosure in the departmental performance review for 2003-04, and that this matter would.... I was advised by my chief financial officer that this would be reflected in the *Public Accounts of Canada*, and there would be an opportunity to hear if there was a problem. Up until the time of the audit that is before us, I was not aware there was any issue with the accounting treatment.

**Mr. David Sweet:** Mr. Kasurak, has it been common practice for other departments, if they know their accounting is going to be subjected to an audit, to consult with you and ask for the appropriate practice?

**Mr. Peter Kasurak (Senior Principal, Office of the Auditor General of Canada):** In my experience, I've never personally been asked by a department about an accounting issue. But I believe that sometimes it would come up through our central team, which deals with accounting matters.

**Ms. Sheila Fraser:** The questions would generally arise with the Secretary of the Treasury Board or with the Comptroller General, rather than with the specific departments.

**Mr. David Sweet:** Yes, but it wouldn't be uncommon, if you knew that the audit team was going to look at it, to make sure you were handling this appropriately, when they were going to have to bring an account to it.

**The Chair:** Mr. Wiersema, did you have a comment you wanted to make?

**Mr. John Wiersema:** If I may, Mr. Chairman, Mr. Baker has made two references to his assertion that he was not aware there was an accounting issue. I have to go on the record to indicate that I disagree with that.

As he indicated, Mr. Baker's CFO came to see me, after he discussed this issue with my staff, to discuss the accounting ramifications and what he thought at that time was the need to seek supplementary estimates.

I indicated to Mr. Brunet that for me the issue was quite straightforward. Here we had a situation where work had been performed before the end of the fiscal year. The contractor had been asked by government officials to carry out that work. The contractor was going to be paid. In all my experience—in my short experience as Comptroller General, but in all my experience in the AG's office—the accounting for this was quite straightforward. In other government organizations, this would be recorded as a liability and charged to the appropriation.

So it was very clear to me, and I communicated that to Mr. Brunet. I believe it was clear to everybody else involved in the discussions that the proper accounting was self-evident.

**The Chair:** Thank you very much, Mr. Sweet.

Thank you very much, Mr. Wiersema.

We're going back to Mr. Sauvageau, *cinq minutes*.

[Translation]

**Mr. Benoît Sauvageau:** At that time, who was the Comptroller General of Canada? Is there an official, and if so, who is it?

**Mr. Charles-Antoine St-Jean:** As my colleague Mr. Wiersema has already said, he performed the Comptroller General's duties on an acting basis from December 12, 2003 until March 2004. He had previously been Deputy Comptroller General.

**Mr. Benoît Sauvageau:** So it was Mr. Wiersema who made the decision. Is that correct?

Imagine a car is headed toward you and you have to decide which of you will have to bear the impact of the collusion. Did one of you make that decision or not?

[English]

**Mr. John Wiersema:** Mr. Chairman, at the time the decision was made not to seek supplementary estimates, which would have been February of 2004, I was the acting Comptroller General. I disagreed with that decision. At the time the *Public Accounts of Canada* were finalized, for March 31, 2004, my colleague, Mr. St-Jean, was the Comptroller General.

[Translation]

**Mr. Benoît Sauvageau:** So you made the decision not to do that, but someone reversed your decision. It seems to me I'm asking a simple question.

**Ms. Sheila Fraser:** You have to understand that there were two events. First, the decision had to be made, in February, whether to request supplementary estimates. That was the first decision, and I believe it was the Deputy Minister of Public Safety and Emergency Preparedness who made the recommendation not to request supplementary estimates.

Subsequently, there was a second decision, and it concerned the accounting in the government's financial statements. Mr. St-Jean was the Comptroller General at that time.

• (1250)

**Mr. Benoît Sauvageau:** Thank you. I got an answer.

While we're sitting here, another committee is sitting to examine Bill C-2, the accountability bill. If that bill were enacted, would all these problems disappear as a result or would they still exist?

We spend 29 hours a week trying to reinvent the wheel so that government is more accountable. If Bill C-2 had been enacted at that time, would...

**Mr. Charles-Antoine St-Jean:** As I mentioned in the response to the Auditor General's report, the points have been noted. There is no doubt that improvements needed to be made. A four-point plan was put in place to prevent any repetition of similar situations.

**Mr. Benoît Sauvageau:** So we don't need Bill C-2 in this case?

**Mr. Charles-Antoine St-Jean:** The fact that Bill C-2 is not...

**Mr. Benoît Sauvageau:** That wouldn't change anything in your life.

**Mr. Charles-Antoine St-Jean:** In terms of accountability, as Comptroller General and the person accountable to Parliament, I must put controls in place so this kind of situation does not reoccur.

**Mr. Benoît Sauvageau:** Very well.

I know Ms. Cartwright will be delighted to hear that.

Madame Fraser, in paragraph 32, on page 13 of your report, you state:

At the same time, Secretariat accounting officials were asked to look for an accounting treatment that would avoid having to record all of the CFIS II costs incurred in 2003-04 and therefore avoid, if possible, the need to submit Supplementary Estimates.

Could you or Mr. St-Jean tell me who asked them to do so?

**Ms. Sheila Fraser:** We'd have to find...

[English]

**Mr. Peter Kasurak:** Mr. Chairman, the officials would have been in both the Comptroller General's branch and the program branch.

**Ms. Sheila Fraser:** And who asked them?

**Mr. Benoît Sauvageau:** I would say we're probably referring to a comment or an e-mail that makes reference to Bill C-2 accounting solutions. Can we find, let's say, an accounting solution to this problem?

**Ms. Sheila Fraser:** No, we refer to a memo, an e-mail from the Secretary of the Treasury Board at the time, the secretary himself.

**Mr. Benoît Sauvageau:** That's it. Thank you very much.

**The Chair:** Merci beaucoup, Mr. Sauvageau.

Mr. Watson, you have five minutes.

**Mr. Jeff Watson (Essex, CPC):** Thank you, Mr. Chair.

Mr. Wiersema, paragraph 35 of the report mentions a meeting of high-level officials in mid-February. You testified earlier that there were a lot of political considerations that were talked about to arrive at an ultimate decision. In your opening statement you raised the issue that you resigned as deputy acting Comptroller General. Did you resign in objection to the decision that was ultimately made at that meeting? Is that why you resigned? May I ask that question?

**Mr. John Wiersema:** Decisions to resign positions, Mr. Chairman, are based on many considerations, but I should say that this was a major factor in my decision to resign, yes.

**Mr. Jeff Watson:** Thank you, Mr. Wiersema.

Were there any other dissenting voices at that meeting? May I ask who you recall had dissented on the ultimate decision of deferring to a legal opinion as opposed to the decision to go for supplementary estimates?

**Mr. John Wiersema:** I don't think I can answer that question, because I don't recall any explicit polling of participants in the meeting so as to know what their positions were. There was a discussion about the legal opinion, there was a discussion about the accounting, and there was a discussion about the political implications. The meeting terminated and decisions were taken from there.

**Mr. Jeff Watson:** Who recorded the unrecorded liability? Who's responsible for recording the unrecorded liability?

**Mr. Charles-Antoine St-Jean:** That would be recorded in the books, in the DPRs of the centre, and then it would be booked in the central provisions in the public accounts.

• (1255)

**Mr. Jeff Watson:** So who is personally responsible for that decision, for recording it as unrecorded liability? Would that be you, Mr. Baker?

**Mr. William Baker:** As the head of the centre, I make an attestation, along with the chief financial officer, to ensure that we're accurately reporting to Parliament. We certainly had the strong view that we were, in light of the feedback and discussions that were held.

I should point out again that at no point subsequent to that meeting that took place was I or my chief financial officer advised by anyone that this conclusion was not the right way forward with respect to reporting.

**Mr. Jeff Watson:** Who authorized the seeking of a legal opinion from Public Safety? Who at Public Safety authorized that?

**Mr. William Baker:** The Deputy Minister of Public Safety and Emergency Preparedness Canada had requested it from the Department of Justice.

**Mr. Jeff Watson:** Can you give me a name?

**Mr. William Baker:** Her name is Margaret Bloodworth. She's the former Deputy Minister of Public Safety and Emergency Preparedness Canada.

**Mr. Jeff Watson:** Okay, and was it that legal opinion for the minister that you report to that ultimately persuaded you to change your opinion on advising supplementary estimates?

**Mr. William Baker:** It wasn't just the legal opinion. We had an accounting opinion, we had a legal opinion, and there were many discussions.

From our perspective, what mattered was that there appeared to be a consensus emerging with all the parties at the table that the proper way forward was not to charge it to the appropriation.

**Mr. Jeff Watson:** That's interesting, Mr. Baker, because Treasury Board and the CFC commissioner at one point were united in recommending the pursuit of supplementary estimates, according to the Auditor General's report, and yet seven weeks later that evaporated.

Mr. St-Jean, you mentioned the perils of ignoring legal opinion. What perils were you concerned about if you were to ignore that legal opinion and advise that it should be recorded or should pursue supplementary estimates? Losing your job perhaps?

**Mr. Charles-Antoine St-Jean:** Well, the issue here is that if I'm not following the law and doing accounting as provided by the Financial Administration Act, it would be breaking the law. So you can make your own conclusions in terms of what it means. It's not something I would do.

**Mr. Jeff Watson:** Very good, sir.

I'm also concerned that by focusing on the trees we're going to miss the forest a little bit. I want to come back to the decision on supplementary estimates.

Of the expenditures for the Firearms Centre between 1995-96 and 2002-03, 70%, or a total of \$525 million, was sought by supplementary estimates. Why look for a legal opinion at this point when there's an established practice? There had been no problem about seeking supplementary estimates prior to that, so why the change?

**Mr. William Baker:** First of all, I think you're correct on the years in question. Certainly for the years 2003-04 and beyond, when I was in charge of the Firearms Centre, we did not seek supplementary estimates, because we certainly did not plan to ever exceed our budget in any respect.

But the core of your question is absolutely right. It's a duty of the deputy head of an agency, if it looks like we're not going to have

sufficient funds in the appropriation, to pursue with the minister a supplementary estimate. We were prepared to do so, had we concluded that one was necessary.

I come back to your earlier observation. It's correct that at a point in time in early January, I felt, based on the advice I had received from accounting specialists, including the Comptroller General's office, that a supplementary estimate was required, but that pre-dated the involvement of the Department of Justice and many others in reviewing what was the actual extent of the debt or liability.

**Mr. Jeff Watson:** Mr. Wiersema, is he correct on the Comptroller General's accounting advice to that department? Is that the correct assessment?

**Mr. John Wiersema:** I can only speak for myself as the Comptroller General. As I said in my opening statement, my accounting advice was consistent throughout my entire involvement with this file, that these were liabilities and should be recorded by the Firearms Centre and charged against the appropriation.

**The Chair:** Thank you very much, Mr. Watson.

Mr. Morgan wanted to add something to that. Then we're going to go to Mr. Comartin.

**Mr. John Morgan:** I believe at the time the facts were very uncertain. We had verbal recollections from the centre as to the nature of the arrangement, but we had a lack of clarity in the details. So there was some advice provided by the OCG that the costs should be accrued and charged in appropriations. That was in the middle of January.

That assumed certain things, and one of those things was that this would proceed to Treasury Board for a formal contract amendment. In other words, had the contract been amended, it would have represented a legitimate and legal charge on the appropriation. That was the working assumption at that point.

• (1300)

**The Chair:** Thank you very much, Mr. Morgan.

We're now going to go back to Mr. Comartin.

Mr. Comartin, you have five minutes.

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

Mr. Wiersema, we've had a fair amount of criticism from the Auditor General about the lack of recording of minutes of those meetings. Did you ever raise the issue at any of the meetings that you wanted recorded minutes?

**Mr. John Wiersema:** No, I didn't. At the mid-February meeting, Mr. Chairman, no, I did not raise it. In hindsight, I regret not doing so.

**Mr. Joe Comartin:** As do we all.

Mr. St-Jean, I'm not quite clear when the Comptroller General made the decision to reverse the one that was made in 2004 and agree with the Auditor General that the booking of these liabilities and debt had been done inappropriately. When was that decision made?

**Mr. Charles-Antoine St-Jean:** The report of the Auditor General on the firearms, a special chapter, was done in November and December and in January 2006, just recently—

**Ms. Sheila Fraser:** It was March.

**Mr. Charles-Antoine St-Jean:** March. Okay. It was in the last two or three months, in March 2006. The matters were reviewed at that time with the Auditor General. A conclusion was made that there's absolutely no disagreement with the Office of the Auditor General on the error of 2002-03. This is a technical error.

In 2003-04, there was a decision made not to go for a supplementary estimate and not to report it as an expense against the appropriation. But the Auditor General made the point, when we had—

**Mr. Joe Comartin:** Mr. St-Jean, let me stop you. I just wanted—

**Mr. Charles-Antoine St-Jean:** There's one very important point, sir, and it deals with obtaining an unqualified audit opinion on the public accounts of the Government of Canada.

The Auditor General made the statement that had she known about this transaction at the time, it would have given rise to a qualification on the audited financial statements of the Government of Canada.

As a public servant—

**A voice:** What...?

**Mr. Charles-Antoine St-Jean:** Well, when we met with the secretary, he said that transaction would have triggered a qualification. That led me to my conclusion: I will not do anything that will knowingly trigger a qualification on the financial statements of the Government of Canada. If the Auditor General is of the opinion that this would trigger a qualification because her perspective is that it should have been recorded, I might disagree with it, but at the end of the day I will depend on the opinion of the Auditor General and will respect the opinion of the Auditor General. I'm always going to try to get an unqualified audit opinion. So on that basis...that's what led to my changes.

**Mr. Joe Comartin:** Given the change in government and their attitude towards the firearms centre, was there any political pressure brought on you to make the change?

**Mr. Charles-Antoine St-Jean:** For me, no.

**Mr. Joe Comartin:** Was there any discussion with the minister during that period of time—from the time of the election until March, when the decision was actually made to change the opinion?

**Mr. Charles-Antoine St-Jean:** I came on board on June 1, so—

**Mr. Joe Comartin:** I'm speaking of this year, Mr. St-Jean.

**Mr. Charles-Antoine St-Jean:** I'm sorry. No.

**Mr. Joe Comartin:** There was no discussion between yourself and the Minister of Public Safety between, let's say, February when he became the minister and March when the decision was made, for you to change the position of the department?

**Mr. Charles-Antoine St-Jean:** The answer is no.

**Mr. Joe Comartin:** Okay.

Ms. Fraser, I want to pin down exactly when you were notified that the Comptroller General had changed his position and that they in fact were accepting yours.

**Ms. Sheila Fraser:** Well, I guess that would be today, sir, because the government has never been—

**Mr. Joe Comartin:** Well, you can't say that, Ms. Fraser. It's in the report that they've accepted it.

**Ms. Sheila Fraser:** No, the government has indicated that they accept our interpretation... They accept the first error of \$39 million, but they have never indicated to us whether they have changed their position on the \$21 million. They've indicated that there can be a different interpretation, but we have always had the impression that they have maintained that their position was the correct one. If the government is saying today that they accept our interpretation and agree with it, this is the first time I have heard that.

**Mr. Joe Comartin:** Ms. Fraser, when would you have been notified of the position they took?

● (1305)

**Ms. Sheila Fraser:** Late March, I guess. It was very late. We could get the exact date if you want, but it was very late in the process.

**Mr. Joe Comartin:** That's sufficient. Thank you.

**The Chair:** Thank you very much, Mr. Comartin.

Mr. Wrzesnewskyj, five minutes.

**Mr. Borys Wrzesnewskyj:** Thank you, Chair.

Mr. St-Jean, you arrived on the job, and you had questions on a couple of items. In your opening statement, in point 14, you say:

My position was that the Auditor General should be consulted as soon as possible to ensure that all facts were known to the Auditor General....

We know the timeline, which was very promptly, but were all facts presented as you were familiar with them at that time?

**Mr. Charles-Antoine St-Jean:** As I said, I came on board on June 1. I was first notified by my officials that there was an issue with this file on June 17. I met with my predecessor on June 29 to discuss this matter and to have a better understanding of it. Then there was a meeting for the closing of the public accounts, I believe, on August 10. And if I recall, I was away for one week of vacation in the first week in August. That might have been played as the reason this meeting was not sooner than that, but it was August 10.

At that time, as I mentioned, there were two transactions and one was that I put the legal opinion on the table to explain what the legal opinion said.

**Mr. Borys Wrzesnewskyj:** Thank you.

And soon afterwards—we don't have a date, but you reference it in the Auditor General's report—the Office of the Auditor General subsequently advised verbally that it had no issues with the accounting for this matter. When did that occur?

**Mr. Charles-Antoine St-Jean:** I would have to ask. It was very shortly thereafter.

**A voice:** August 11.

**Mr. Borys Wrzesnewskyj:** And who was the official from the Auditor General's office who provided that opinion?

**Mr. Charles-Antoine St-Jean:** Can I ask my colleague who received this?

My colleague, Bill Matthews, is a senior director in the office of the Comptroller General.

**Mr. Bill Matthews (Senior Director, Government Accounting Policy, Treasury Board of Canada Secretariat):** It was via a phone call between myself and Mr. Frank Vandenhoven.

**Mr. Borys Wrzesnewskyj:** I understand from the Auditor General that there was also a legal opinion. Is that correct, or did I misunderstand? There was a legal opinion at that time?

**Ms. Sheila Fraser:** Mr. Vandenhoven was given a copy of the legal opinion, yes.

**Mr. Borys Wrzesnewskyj:** You said it was below that billion-dollar threshold and that he was dealing with another issue of \$500 million. Did he actually read that legal opinion?

**Ms. Sheila Fraser:** We can ask him. I don't know. His note indicates that he reviewed the material supporting the establishment of the \$22 million. I don't know if that includes it.

**The Chair:** The witness is here. Why don't we bring him up now?

Perhaps I'll ask the witness to come to the table, identify himself, and answer the question so that we can get it on the record.

**Mr. Frank Vandenhoven (Principal, Office of the Auditor General of Canada):** I'm Frank Vandenhoven from the Office of the Auditor General.

In answer to your question, yes, I did see and read the legal opinion.

**Mr. Borys Wrzesnewskyj:** And you thought it was a good opinion?

**Mr. Frank Vandenhoven:** I focused on the legal opinion from the perspective Mr. St-Jean has referred to—the two areas. I looked at it from the accrual accounting perspective: was this a legitimate liability, an appropriate charge, if you will, to the surplus of the government for that point in time. I did not focus on the issue of whether it should have been charged from appropriation.

**Mr. Borys Wrzesnewskyj:** So it appears there was no intent. In fact, it was Mr. St-Jean who flagged this and brought it forward.

Would it be possible to table the memo that you mentioned you found in the file, that Mr. Wiersema, back in February of that year, had in fact given a positive response? You mentioned a memo.

**Mr. Charles-Antoine St-Jean:** If I may, my predecessor didn't give a positive response. My predecessor declined to challenge the legal opinion.

**Mr. Borys Wrzesnewskyj:** Would it be possible to table that document? Thank you.

Mr. Morgan, you said there are approximately 30 requests for legal opinions per year. Was that correct?

**Mr. John Morgan:** No. What I was indicating was that we take at least 30 or 40 calls from departments asking for our interpretation of our policy on payables at year-end. We don't request legal opinions for those, but it does demonstrate that there are questions in departments in terms of how to apply that policy for charging appropriations at year-end.

• (1310)

**Mr. Borys Wrzesnewskyj:** Thank you.

Mr. Baker, you were the final person to sign off. Did the buck stop with you?

**Mr. William Baker:** Yes, it did. I signed an attestation.

**Mr. Borys Wrzesnewskyj:** The Auditor General states in her opening remarks, point 13, that there's no record that ministers gave any direction to public servants. And you absolutely, categorically, can verify that?

**Mr. William Baker:** Absolutely.

**Mr. Borys Wrzesnewskyj:** Thank you.

**The Chair:** Thank you very much, Mr. Wrzesnewskyj.

Mr. Fitzpatrick, you have five minutes.

**Mr. Brian Fitzpatrick:** I just want to ask Mr. Wiersema some questions. I get the impression of a crisis mentality going on here in February—meetings with Treasury Board, Public Works, the Deputy Minister of the Department of Public Safety, the captain of the centre. It was a pretty high-level thing. Nobody really missed the meetings; there must have been some urgency. I would think cabinet ministers would also have been quite interested in what was going on at those meetings.

I'm not sure why the whole matter should have been urgent, because in July 2003 there was a meeting with Public Works and these people, and they had an agreement in principle. Isn't that right, Mr. Wiersema? To your recollection, there was an agreement in principle in the summer of 2003?

**Mr. John Wiersema:** I believe we may be mixing up two different things. I think the agreement in principle is the agreement with the contractor for the work. Some considerable urgency was associated with the meeting in February 2004.

**Mr. Brian Fitzpatrick:** How you account for it, right?

**Mr. John Wiersema:** Because of the timing of the final supplementary estimates for 2003.

**Mr. Brian Fitzpatrick:** You would think when senior people are making an agreement in principle on fairly significant expenditures, they must be trying to figure out how they're going to account for this at the end of the year.

**Mr. John Wiersema:** As I testified, Mr. Chairman, during my short time as the Comptroller General, this was a relatively straightforward issue for me. I have worked in government for quite a while; I've dealt with complex accounting issues. As I said earlier, this one was clear to me. The work had been performed. The contractor had been asked by government officials to do the work. The contractor was going to be paid. It looked to me like a liability that should be charged to the appropriation committee.

**Mr. Brian Fitzpatrick:** Until the legal opinion came, Mr. Baker, if I understand you correctly, the legal way of dealing with this matter would be by supplementary estimates, or blowing the vote. Those were the two options. That's my understanding, until a legal opinion came, right?

**Mr. William Baker:** Forget the legal opinion; those are the only two options, to my knowledge.

**Mr. Brian Fitzpatrick:** Then out of the blue came the suggestion for high-level meetings, or whatever, and people decided, well, we can't; obviously neither of these alternatives is attractive, so let's seek a legal opinion.

Who made the decision to seek a legal opinion? Which department made that choice?

**Mr. William Baker:** The legal opinion was requested specifically by—

**Mr. Brian Fitzpatrick:** I just asked who made it.

**Mr. William Baker:** Margaret Bloodworth, the Deputy Minister of Public Safety. The reason for that was when I alerted the minister to the possible need for supplementary estimates, it was incumbent on Margaret Bloodworth, the Deputy Minister of Public Safety, to get to know the facts. I subsequently met with her and she raised questions we didn't have all the answers to, in terms of which amounts, for which years, for which purposes. The suggestion was made that we should get a legal interpretation, and she subsequently requested that from the Department of Justice.

**Mr. Brian Fitzpatrick:** I understand that. It looks like there were a lot of things out of control at that time and you had to seek a lot of advice on the matter.

But I want to come back to one point that I still think shows that—sorry, Mr. St-Jean—it doesn't look like the government learned a whole lot here. I want to raise the point because the payables at year-end...your guidelines for Treasury Board say:

This policy states that costs for large system development are to be recorded as expenditures against a departmental appropriation in the year when they are incurred, rather than when they become due and payable under a contract.

I am quite surprised, after all this turmoil we went through here in accounting error number one and in accounting error number two, that lo and behold we get this \$15 million amount. You've amortized that thing out over 15 years, and you're not bringing that in as a full liability in the year 2004-05, which seems to me is what that policy obviously states, and I think it's a general accounting thing too. I mentioned that yesterday.

If you take out a \$50 million mortgage on your business, when you look under the liability section it's not going to be \$1 million for year one; it's going to be booked as \$50 million. But this isn't what we're doing here with this accounting work. We're trying to do the same things we were doing before. I'm not sure that the watchdog and the guardian of parliamentary spending and control here is really serious about making sure the rules are followed and the laws are followed around here, because we're just going along with what I think is an unacceptable way of accounting for money.

• (1315)

**Mr. Charles-Antoine St-Jean:** Maybe I could ask my colleague to give a technical answer on that \$15 million. I'll come back on the lessons learned, if it's okay with the member.

**The Chair:** And no interruptions, please.

**Mr. John Morgan:** Yes.

I should indicate that we've noted that we will be reviewing this year in accounting with the Auditor General's office and the Canada Firearms Centre as we close the books for this year. But it isn't as straightforward as one might think.

The example here is that this contract was renegotiated in February 2005 as a service performance contract. We account for appropriations in accordance with the liabilities and the debts related to that contract. So if there is no performance, there is no payment on this particular.... In terms of the development costs, which actually have not all been incurred—there have been some incurred over the last fiscal year—the liability is actually payable over the 15-year period as they perform. If there is no performance, there is no payment; if there is contract termination, there is no payment for those particular costs.

This may be similar if you think of capital leases. You may ask someone to build you a building and lease it back over a 25-year period.

What we do for appropriation purposes is we charge appropriations as those payments are due under the lease, under the service. They provide that service over the 25 years. We don't record that capital charge to appropriations at the time the lease is signed. This is similar, in a way, in that this is a software development that is going on. We do not own the software, so what they have done is they've structured a contract to get certain functionality provided by the supplier over 15 years, and as these payments are coming due under the contract, that's when the appropriation is going to be charged.

I have indicated we will be reviewing this with the Auditor General as we close the books for this year-end, but that was the logic in terms of how this would be charged to appropriations. It is actually reflected as a liability on the balance sheet.

**Mr. Brian Fitzpatrick:** In general, they've got—

**The Chair:** Mr. St-Jean, do you have a closing to this last question?

**Mr. Charles-Antoine St-Jean:** In closing, I want to talk about what is the lesson learned from this matter. As I have mentioned, the report is from the Auditor General. These are quite unusual circumstances, and we have to make sure to prevent this kind of a miscommunication or error from happening again. So we've put in place a number of action plans, including one in which the Comptroller General, the next time he or she is not in agreement with, say, the deputy minister, must advise the deputy minister in writing of the disagreement on the proposed accounting treatment. That will be part of the policy on financial reporting.

**The Chair:** Thank you very much, Mr. Fitzpatrick.

I have a few questions myself, and then I want to move to a few of the members who really haven't had an opportunity. Then we have a brief meeting after to deal with the most recent report of the steering committee.

I want to go back to perhaps you, Mr. St-Jean, and to Mr. Wiersema. I want to get a clear understanding of the so-called pecking order of who makes the decision. We had a situation here in February that there was a dispute as to how a certain expenditure was to be handled from a financial accounting point of view and from an appropriation point of view. I'm not totally clear on something. You were the acting Comptroller General, Mr. Wiersema. There were a number of people at this meeting, there were different views, and a decision was made to seek legal opinion. But was there anyone at the meeting who had the final say, that this is the way we're going to handle it?

**Mr. John Wiersema:** In terms of who makes that final say, I guess, Mr. Chairman, that would ultimately be the decision of ministers, based on the advice of public servants.

I can speak from my own role on this. As I indicated in my testimony, I thought my position was clear throughout. I maintained my position consistently in all the meetings. It became clear to me at some point in the process that my position was not going to carry the day. I became increasingly uneasy with this. I spoke frequently to my boss at the time, the then Secretary of the Treasury Board. He was very aware of my views as well as my extreme discomfort with what was happening. Beyond that, Mr. Chairman, I don't know what else I could have done.

• (1320)

**The Chair:** I just want to clarify this in my own mind so that when we're writing this report.... You did not have the authority under the government hierarchy, as acting Comptroller General, to say that we were going to handle it this way.

**Mr. John Wiersema:** No, Mr. Chairman, I did not. The responsibility for financial reporting of the Firearms Centre, I believe as Mr. Baker has acknowledged, is the responsibility of the deputy head, based on the advice that he's received.

**The Chair:** So this would be Mr. Baker's decision.

**Mr. John Wiersema:** It would be Mr. Baker's decision, technically, in terms of the accountabilities, as to whether or not to recommend to the minister the need for supplementary estimates and the accounting for these transactions.

**The Chair:** Do you agree that this was your decision, Mr. Baker?

**Mr. William Baker:** Ultimately I sign off on the accounts with an attestation. I did so on the full understanding that what I was doing was due and proper and involved the consensus and support of the entire centre.

I'll just repeat that at no point following the consideration of the legal opinion did I or my chief financial officer receive anything from anybody saying that this was an improper way to go, so we assumed we had done the right thing, and I stand by that to this day.

**The Chair:** No one in the Office of the Comptroller General or anyone else told you that you shouldn't be doing it?

**Mr. William Baker:** Not subsequent to the consideration of the legal opinion and the meeting that is referred to in the Auditor General's report.

**The Chair:** Perhaps I'll come back to Mr. Wiersema later. Now, if this situation arose in the private sector, it's my understanding that if the chief executive officer and the chief financial officer got into a

dispute they would bring in the external auditor, and that external auditor would be part of the meeting and his or her view would carry the day, I would think.

I take it that the way the government operates it wouldn't be a normal practice to bring in someone from the Auditor General's office to a meeting like this to get an opinion. Am I right in that?

**Ms. Sheila Fraser:** We are at times requested for opinions on accounting treatment of various issues. I think it would be very rare. I don't recall that we've ever been requested for any kind of opinion on a transaction similar to this. I think this case is probably a very unusual one in several regards, so we wouldn't normally be involved in this kind of determination, but again, we are often asked for accounting opinions on very significant transactions.

**The Chair:** Do you want to add something, Mr. Wiersema?

**Mr. John Wiersema:** I will just respond to Mr. Baker, Mr. Chairman.

In my view, my position was very clear in that meeting. I maintained that view throughout the meeting. I didn't feel it was necessary at that meeting to repeat myself. My view was known. My assessment was that everybody in the room knew what the right thing to do was, that it wasn't necessary for me to repeat myself, so I did what I thought was logical and reported to my boss. I communicated my discomfort.

**The Chair:** For the record, who was at the meeting? You may have answered this before, but I want to make it absolutely clear.

**Mr. John Wiersema:** I'll speak from my recollection. It has already been mentioned that Madam Bloodworth convened the meeting. I was in attendance. Madam Cartwright was in attendance. Mr. Baker and Mr. Brunet were in attendance. There may have been some officials from PWGSC in attendance as well, but I'm not clear on their names. Perhaps Mr. Baker can fill in the gaps.

**The Chair:** Ms. Cartwright, you're here. I'm going to ask you what your position is on this whole issue.

**Mrs. Susan Cartwright (Assistant Secretary, Accountability in Government, Treasury Board of Canada Secretariat):** My recollection of the meeting that took place was that Mr. Wiersema did not raise his concerns at the meeting, and certainly from my point of view, I didn't believe we were doing anything wrong in taking the action we took, which was based on a legal opinion in terms of how to treat the appropriation under the Financial Administration Act.

**The Chair:** The plot thickens.

I'm not going to keep going back and forth.

I want to pursue one other issue that disturbs me here—I'll bring it up again, and it has been brought up before—that involves a statement in your submission, Mr. St-Jean, and that is:

A senior official of my office and myself met with senior officials from the Office of the Auditor General, as part of its public accounts 2004 audit in early August 2004, to discuss the accounting treatment from both an appropriations (and I underline that) and financial statement perspective. A copy of the legal opinion and related analysis was provided to the OAG. We were subsequently verbally advised later in August by the Public Accounts audit team of the OAG that it had no issues with the matter.



I'm a little taken back that this statement is contradicted almost totally by the Office of the Auditor General.

My first question is to you, Madam Auditor. You've complained about minutes not being taken of other meetings. This was a very important meeting. Certainly if we had minutes of that meeting, they would answer a lot of the questions we're having here today. Are there any accurate or correct minutes from this meeting?

• (1325)

**Ms. Sheila Fraser:** I don't believe there are any actual minutes of that meeting. As I mentioned, there is this e-mail from Mr. Vandenhoven outlining his review of the material. It's a four-line memo.

**The Chair:** You read it before. It doesn't shed much light.

**Ms. Sheila Fraser:** I think if we had been apprised of the full nature of this transaction and the concerns about charging it to appropriations, a substantive letter would have gone back. It wouldn't have simply been a note and a verbal conversation, saying that we think a \$22 million accrual is okay. It's a very different kind of analysis that would have been done.

**The Chair:** Lastly, Mr. St-Jean, the senior official, you've probably answered this before, but who was that person?

**Mr. Charles-Antoine St-Jean:** From my office?

**The Chair:** Yes.

**Mr. Charles-Antoine St-Jean:** My colleague here, Bill Matthews.

**The Chair:** I think in fairness to what is going on, I'd like to bring him to the table and ask him a question, if you don't mind.

I'll ask you, sir, to identify yourself and state your position.

**Mr. Bill Matthews:** Bill Matthews, senior director, government accounting policy, Office of the Comptroller General.

**The Chair:** Sir, have you read this paragraph 15 of Mr. St-Jean's submission?

**Mr. Bill Matthews:** Yes, I have.

**The Chair:** Is it correct, as far as you're aware?

**Mr. Bill Matthews:** We had a meeting with Mr. Vandenhoven and one other member of the Office of the Auditor General, and we discussed two issues. Our understanding at that time was that it was the legal opinion on whether an item should be charged to an appropriation. I cannot speak to what sort of audit work the OAG did with that, but my understanding then was that there were no issues.

**The Chair:** Who was the other person from the Auditor General's office who was there?

**Mr. Bill Matthews:** If my recollection is correct, it was Mr. Doug Timmins.

**The Chair:** How long did this meeting last?

**Mr. Bill Matthews:** I would guess half an hour or so. It was not a long meeting.

**The Chair:** Would it be normal to keep minutes or some kind of recording of the decisions taken at this meeting?

**Mr. Bill Matthews:** We have larger meetings where we take minutes of such items. At this meeting, neither ourselves nor the OAG took minutes. In the future, I think we will.

**The Chair:** Okay then.

Colleagues, those are the questions I had. We have another 30 minutes.

We have about 10 minutes that we need to approve the minutes of a steering committee.

We've had a very interesting discussion, and I'd like to give everyone who came here today an opportunity, in perhaps two minutes or less, to give a closing statement or remarks, if they wish. That gives us perhaps seven or eight minutes for additional questions.

Mr. Lake and Mr. Nadeau did not have the opportunity to question. I'd like to extend them the courtesy.

Perhaps three minutes, Mr. Nadeau, if you wish, then Mr. Lake.

*Monsieur Nadeau, trois minutes.*

[Translation]

**Mr. Richard Nadeau (Gatineau, BQ):** Thank you, Mr. Chairman, ladies and gentlemen.

This entire matter reminds me a little of the repatriation of the Constitution of 1982, when the Supreme Court held that it was legal, but immoral. We all remember the confusion that subsequently caused. That moreover is one of the reasons why the Bloc québécois exists today.

We know it is not consistent with the Treasury Board policy to spread \$39 million over 15 years, as we saw. That's written and that's in the documents.

I asked the people from Justice, who were responsible for this, why that was done all the same, when we know that it was not compliant to act in that way. Ultimately, a decision was made that was not compliant.

• (1330)

**Mr. Morris Rosenberg:** Mr. Chairman, does the question concern the \$39 million in 2002-2003?

**Mr. Richard Nadeau:** In fact, it concerns everything pertaining to the non-compliant deferral of money. Do we understand each other?

**Mr. Morris Rosenberg:** I believe that each situation must be examined separately because there is a different explanation for each one.

For 2002-2003, based on the information we have on this point, this contract caused major concerns, particularly regarding deadlines. There was a six-month deadline for a nine-month contract. It was impossible to get to the certification stage, and, in the meantime, costs mounted. That raised some red flags at that time. This point was raised in the consultants' reports, and Mr. Hession and HLB confirmed that the contract entailed risks. So officials acted on the basis of the information that was available at that time. They did so in good faith, based on their interpretation of the Treasury Board policy.

Mr. Ganim, who is here with me, was the Director General of Finance at that time. He'll be able to provide you with additional explanations.

**Mr. Wayne Ganim (Former Director General, Finance, Department of Justice, As an Individual):** All the factors that Mr. Rosenberg cited were taken into consideration. In addition, we had plans and budgets that were based on a three-year contract with the supplier, and the payments were made over three years.

When we thought about establishing an account payable at the end of the fiscal year for the whole contract, plus an amount for the delays, I didn't realize that I could debit that amount from the appropriation under section 33 of the act, because the merchandise hadn't been delivered by March 31, as provided in the contract. There were too many doubts about the contract's validity with regard to the delivery of known services.

Another important aspect is that the contract was designed to transfer all the risk to the supplier. It's a risk-transfer contract. If the contractor can't provide the service, no balance is payable. That's based on these two factors. I didn't feel comfortable using section 33.

[English]

**The Chair:** Thank you very much, Mr. Nadeau.

Mr. Lake.

**Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC):** The timing of all this stuff is very interesting.

One question I have right off the bat is for Mr. Baker. I notice that right off the bat you said there were only two options: you could ask for supplemental estimates or blow the vote—neither of which was a very good option from your standpoint. I imagine you probably very early on had a conversation with the Treasury Board Secretariat, and I notice from Mr. St-Jean's comments that he acknowledged the possibility of a need for supplementary estimates. I think Mr. Wiersema was at that time in his position with the Treasury Board Secretariat, and obviously the feedback you would have received would be that you did need to go for supplementary estimates.

So you've got some accounting advice. It looks to me, at this point, as though the political interest would be to look for any way to avoid accountability to Parliament, given that I imagine there was some tension at the time, and this is not a good thing. Then we go to February and this meeting that we have. I believe the ad scam report had been put forward just prior to that, and I imagine things got all the more tense.

I'm wondering, first of all, was the ad scam report discussed in the meeting in February?

**Mr. William Baker:** No, not at all.

**Mr. Mike Lake:** Not at all, okay.

In terms of the order of events, going back to the discovery of the cost overruns and everything else, you had a conversation, you said, with the Minister of Public Safety at the time?

• (1335)

**Mr. William Baker:** As indicated, I brought the matter to her attention through correspondence.

**Mr. Mike Lake:** Okay.

And did she have any concern about the need to go for supplementary estimates at that time?

**Mr. William Baker:** Supplementary estimates on the firearms program were, there's no question, a sensitive matter. But if that's what had been required, that's what we would have pursued.

You raised a concern about a supplementary estimate. Believe me, there was also a very dominant concern about making sure we were completely forthright with Parliament, because that was the big issue of 2002 in the Auditor General's report. It was my mandate, coming in, to make sure we did accurate reporting to Parliament on costs and production. So there was a strong interest on everybody's part to do simply the right thing. That was clearly my understanding, and that's how we conducted ourselves.

**Mr. Mike Lake:** Was there ever any expression of the need to avoid supplementary estimates, if possible, from the minister?

**Mr. William Baker:** No.

**Mr. Mike Lake:** To the Justice folks, I guess the legal opinion came from you. Was there any suggestion of the need to avoid supplementary estimates from the minister at that time?

**Mr. Morris Rosenberg:** No, there wasn't.

**Mr. Mike Lake:** Mr. St-Jean?

**Mr. Charles-Antoine St-Jean:** I wasn't there.

**Mr. Mike Lake:** Okay.

Mr. Wiersema, was there ever any suggestion from the President of the Treasury Board of the need or desire to avoid supplementary estimates at that time?

**Mr. John Wiersema:** Mr. Chairman, I wasn't privy to any discussions with any ministers relating to the accounting of costs for the firearms program.

**Mr. Mike Lake:** Okay.

Going back to the Justice folks, when you were asked to provide a legal opinion, was there any discussion that you remember having, any meeting, that would have involved the Minister of Justice at the time?

**Mr. Morris Rosenberg:** I'm not aware of any meeting. I don't think there was a meeting that involved the Minister of Justice. My role in this was to assign this to a senior expert in crown commercial law, who took over and did the legal opinion.

**Mr. Mike Lake:** Okay.

My last question is in regard to subsection 37.1(1) of the FAA. The question is for Mr. Baker, but Mr. St-Jean can jump in.

I'm curious; when you read this, it refers to "any amount due or owing under a contract, contribution"—and then the key words—"or other similar arrangement entered into before the end of the fiscal year". Would this arrangement qualify as an "other similar arrangement"? From a regular citizen's standpoint, it seems pretty obvious to me that it does.

**Mr. William Baker:** Being neither an accountant nor a lawyer expert in these areas, it certainly wasn't obvious to me. There were legitimate issues raised. The agreement in principle, to which people refer, in July of 2003 was between officials. Nothing was signed. It was an understanding. On the surface, there certainly wasn't a contract.

What was important to me, and always was, was that there had to be Treasury Board authority, Treasury Board approval, to amend the contract. That was not in place at the time. So in the context of the legal opinion that made that clear, that the authority would be required, that seemed reasonable.

**Mr. Mike Lake:** But based on your wording, it seems that you thought the only two options at the time were supplementary estimates or to blow the vote. At this point, it seems to me, you must have thought of this as an arrangement similar to a contractor.

**Mr. William Baker:** At a point in time, I thought those were the only two. I should also point out that there was a question of urgency. We were very seized with the fact that the window was quickly closing to obtain supplementary estimates that year. I think we had a few days left to get a submission into Treasury Board. In exercising my duty, I wanted to advise the minister of that possibility.

Had this issue surfaced even two or three weeks earlier, and we'd had a chance to do the due diligence on the issue, I would not have had any need to advise the minister of the need for supplementary estimates, because the conclusion reached was that we could operate within the appropriation, that this additional charge was not to be accounted for.

**The Chair:** Madam Ratansi, you have a question?

**Ms. Yasmin Ratansi:** Yes, I have a very quick question.

The reason I asked who wrote the FAA—and then I'm looking at the excerpts of the Treasury Board's payables—is that it looks as though a lawyer has written it. I honestly have a real problem here. I am an accountant by trade, and I would have a difference of opinion with any accountant....

I think that's a healthy discussion, and I agree; if I ever want to have my statements not qualified, I will seek an external auditor's opinion. But I don't think there was any wilful desire to deceive anyone. There was no Machiavellian plan to deceive anyone.

If you look at the policy statement, it says it is the policy to record liabilities and to charge them against existing appropriations or provide them, through a central provision, for valuation. I would have said, yes, that's what I would do. But that's not.... It's probably here. Yes, we learn lessons.

As well, I was looking at the accounting treatment, and it says, "However, the Government's appropriation, accounting and recording policies...impose some special criteria for defining and recording liabilities." I would have taken that and decided, "Ah, I'm going to treat it this way."

However, the question that was posed to you about the \$15 million...it's like a leasehold improvement. You said you did not own the software. And it says clearly here that if the system has not been transferred, the calculation of liabilities should be based on the percentage of work completed, etc.

So I'm not going to dis you for seeking a legal opinion, because I think it is important to seek a legal opinion. But having learned this lesson, in half a second could you respond on how you will go forward? Because *he* has to then take the question from there.

● (1340)

**Mr. John Morgan:** No, we will definitely look at this. As I said earlier, when it comes to situations such as capital leases, which we treat as liabilities on the books of the government, we do not charge appropriations for the capital cost of that lease at the time we sign the lease. So we don't have to rationalize why the two would be different. We have hundreds of millions of dollars of capital leases on the books that haven't been charged appropriations yet, and that's because, under the FAA and our interpretation of it, those do not represent a debt or an amount owing at the end of the fiscal year.

In this situation we're dealing with software, where there's a contract for services provided over a 15-year period. We're buying the service; we're not buying the product. Therefore, if the service isn't provided, we don't charge, we don't pay. So we will have to rationalize the two differences here.

**Ms. Yasmin Ratansi:** Okay.

**The Chair:** Thank you very much.

Mr. Sauvageau.

[*Translation*]

**Mr. Benoît Sauvageau:** Mr. Chairman, I have a point of order. You'll tell me whether my comments are relevant or not.

Mr. Wiersema said, and I quote:

Mr. Chairman, I was a participant in the mid-February 2004 meeting [...] While it was not my role in the meeting to command any particular recommendation or decision by those responsible, my position on the accounting for the amounts in question was not only clear, it was the source of the tension on the issue. It likely was also the reason the meeting was called.

Ms. Cartwright, Assistant Secretary, Accountability in Government, said that Mr. Wiersema had lied. The latter had wanted to respond, but there was no time left.

I'd like to ask you whether he can respond to that comment that his statements were false. I believe this is important for the committee.

[*English*]

**The Chair:** It's really not a point of order, but we're going to ask for closing remarks, and of course Mr. Wiersema will be given the opportunity to give a full response.

**Mr. Borys Wrzesnewskyj:** A point of clarification: from his statement, if possible.

**The Chair:** He'll have an opportunity to do that and we're going to ask him to do that.

What we'll do now, colleagues, is ask for closing statements, and of course we'll ask Mr. Wiersema too. I'm going to ask also if any of the other officials who are sitting behind there have anything to add. Certainly, we'll give everyone an opportunity, but first we will call on the Auditor General herself, Ms. Fraser.

**Ms. Sheila Fraser:** Thank you, Mr. Chair.

There are a number of statements that we could take exception to and disagree with, but in the interest of time—and I think everybody is starting to get tired of issues—we will continue our discussions with the Comptroller General on the accounting of the development costs, not service costs, that are being extended out over 15 years.

We look forward to the committee's report, and I thank you for your interest in this issue.

**The Chair:** We thank you for your time and that of your officials.

Mr. Baker, closing comments.

**Mr. William Baker:** Yes, Mr. Chair.

We're talking in May of 2006 about an audit that was performed in 2005-06, looking back on transactions and decisions that were made in previous years. A conclusion has been reached by the Auditor General that has subsequently been accepted by the Treasury Board and Comptroller General, and I'm very comfortable with that.

Concluding today that the opinion of the Auditor General is the better opinion as to what should have happened two years ago in no way detracts from the fact that the officials at the Canada Firearms Centre and my colleagues elsewhere, to the very best of my knowledge, always operated with due diligence and a simple desire to do the right thing and report accurately to Parliament.

**The Chair:** Monsieur St-Jean.

**Mr. Charles-Antoine St-Jean:** Thank you very much, Mr. Chair.

In concluding, may I say this is a very serious matter, as has been mentioned before. We have to do our very best to make sure that we do report to Parliament in a full, fair, and complete manner.

The lesson has been learned from this experience in terms of how we will deal with that kind of issue in the future. The Auditor General will be called in when there is some alternative accounting treatment to take place. And the other action plans that are taking place will deal with some of the symptoms that have been noted in this matter, including establishing the pecking order and to see to it that when there's disagreement of the accounting treatment, what is the role of the Comptroller General? A new policy will make it very clear that it will be a duty of the Comptroller General to report such disagreement to the deputy minister and the secretary so that there will not be any kind of misunderstanding in the future.

Thank you.

• (1345)

**The Chair:** Thank you very much, Mr. St-Jean.

Mr. Wiersema.

**Mr. John Wiersema:** Thank you, Mr. Chair.

I would like to deal with the single issue of the extent to which I went along with whatever was proposed here.

As I said in my opening statement, my position on this was clear throughout. I believe my position on this was the reason that mid-February meeting was called. I received a call from my office late one afternoon saying there was this meeting being convened that evening and that the Deputy Minister of Public Safety had insisted I be in attendance. So I did attend that meeting.

I did not change my view in that meeting, but based on discussions in that meeting it became very clear to me that we weren't having an accounting conversation, we were having a conversation about the political implications of seeking supplementary estimates. The comment was made in the meeting that we cannot, or I cannot, recommend supplementary estimates, because it will have implications for the estimates. Given all of that, it was not an accounting conversation, it was a different conversation, and I didn't think it was necessary to restate my view.

A few days subsequent to that meeting, Mr. Pigeon formally sent the legal opinion to me, the legal opinion that will eventually be shared with you. I was not privy to that legal opinion. My name wasn't indicated in that legal opinion up until that point. I received that legal opinion a couple of days after the meeting that we've much referred to today, and it was of concern to me.

I was going to draft a memo back to Mr. Pigeon indicating that I received his opinion, it was interesting, but it still had not changed my view on the accounting for that matter. I circulated that draft memo to selected individuals within the secretariat for their comments before I sent it. I was strongly advised not to send it, because decisions had been taken and because I would be viewed as exercising or demonstrating sour grapes on the matter. At that point, I had resigned and I was advised not to send the memo, on the basis that it would be viewed as sour grapes on my part. Madam Cartwright was one of the people who saw that draft memo.

Secondly, during the course of the finalization of this audit, as I understand it, on two separate occasions government officials, in letters to the Auditor General's office, referred to my participation in these meetings. Both of those letters were subsequently retracted. In both letters, initially, the first drafts referred to my participation in the meeting, but the final version of both letters removes those references. That, to me, is an indication of the degree of conviction that the government had as to the extent to which I concurred with the ultimate decisions that were taken.

Thank you for the opportunity for these closing remarks.

**The Chair:** Thank you, Mr. Wiersema.

I'm going to give the opportunity to anyone else who has anything to add to the very serious and somewhat troubling and difficult issue that this committee is dealing with.

Ms. Cartwright, do you have anything to add?

Does anybody else?

**Mr. Brian Fitzpatrick:** For clarification, I am personally disappointed that the Public Works people are not here. My recollection is that they were involved in a whole lot of meetings all through this process. It just seems that they're a player that should have been here. They should have been called.

**The Chair:** That's a good point, Mr. Fitzpatrick, and I agree with you 100%.

We did spend a lot of time trying to track down Ms. Bloodworth. She is presently in England. I'm not exactly sure of the nature of her visit. She is changing jobs within the public service, and I understand she's not starting her new job until sometime in mid-July.

She is coming home, we understand, for a couple of days in June. We can follow up with the steering committee, but I agree with you that, from what we heard today, she was a major player in some of these discussions and she was the deputy minister at that point in time. We'll follow that up.

**Mr. Brian Fitzpatrick:** The other point I want to make, and that I'm very upset about, is that this meeting would have been a lot better if we had seen the legal opinion before this thing started. It just seems to me that we should have had this a long time ago. I'm not going to imply there's some sinister motive in having this thing late, but it seems to me a photocopy or an e-mail could have got things out to people fairly quickly on this.

It's regrettable, because I'm a lawyer and I'm scratching my head at the legal opinion, quite honestly. If I walked into court having to defend the government with a lawsuit with the software company, I wouldn't be jumping up and down over this legal opinion that you refer to.

• (1350)

**The Chair:** And don't forget that the legal opinion is 14 pages.

Mr. Morgan, you have closing comments.

**Mr. John Morgan:** Just a couple, if I may, Mr. Chairman.

One is, in terms of the requirements that Parliament puts on government for how it accounts for transactions and activity, through various pieces of legislation Parliament prescribes exactly how the government must keep its books. So we endeavour to do that, respecting the laws of Parliament.

The second item is, in terms of the nature of the contingency associated with this, throughout the discussions there were references to the point that if the submission doesn't come to the Treasury Board for approval of contract amendment, this may be a situation of a contingency. In other words, if Treasury Board does not approve it or does not ratify the contract amendment, we could be in a situation where there is a contingency.

The Treasury Board did not ratify or did not approve the contract amendment as we were closing the books, and therefore it was treated as a contingency on the books of the government.

Thank you.

**The Chair:** Thank you very much, Mr. Morgan.

If there's no one else, I would thank all the officials. It's been a very long meeting. I understand that some of you had a previous meeting from 9 to 11, so it's been a very long day.

Again, on behalf of everyone on the committee, I want to thank you for your attendance and for being here today. Thank you.

Colleagues, we're now going to go to the last item on the agenda, and that is the circulation, discussion, and approval of the minutes of the steering committee. I believe everyone has that in front of them.

We'll suspend for two minutes and then come back to do the steering committee minutes.

• (1355)

**The Chair:** Colleagues, I'll call the meeting back to order.

First of all, the minutes of the steering committee meeting, which was held on May 18, have been circulated to everyone. If I may, I'll highlight the four paragraphs.

I'll explain the first item. The report of the subcommittee on agenda and procedure deals with the report, the eight chapters set out in the report of the Auditor General that was tabled in November of last year. As you will recall, we went to an election shortly after that, and this committee did not have an opportunity to examine any chapters. When we look at the chapters, we're probably not going to get to many of them, if any.

Someone on the steering committee made a recommendation that the committee write to the departments concerned for an update on the auditor's recommendations that were set out, and we'll get a response from any committee. That's the first item on the steering committee.

The second item, colleagues, is we had a decision to make to recommend to the committee what chapters we would deal with in this committee. Of course, we all realize that we don't know exactly when the House is going to end, but we have to proceed on the assumption that we only have seven meetings left.

We had previously decided that we would have a special meeting to talk about some of the efficiencies of the committee, but we decided to prioritize the chapters. You can see that our first priority was the chapter that you just heard about, the second priority was the first nations, and then you can see it was the PWC acquisition of leased office space. We're positive that we won't get to the six of them, but we'll take them one at a time. Depending on the schedule, we may have to interpose one with the other if there is a problem with witnesses, but we'll certainly inform you of that.

The third item is especially important for new members who were elected in the last Parliament. In the last Parliament, this committee wrote an extensive report dealing with the accountability of ministers and deputy ministers. We made a number of recommendations, and the government responded. It's certainly my feeling and it's the feeling of other members on the committee that the response on certain issues was not adequate or we certainly weren't satisfied. We request that this committee re-table or re-submit our report and get a response from government on those certain recommendations.

The last item is that, following up on the meeting on the leak, we write the government for an update on the results of their investigation, which they indicated they were going to do.

Does anyone have any questions on the minutes?

**Mr. Borys Wrzesnewskyj:** Mr. Chair, could I point out a bit of an historic occurrence here?

In the public accounts committee, Mr. Sauvageau usually points out incorrect translations from English to French. We have an incorrect translation from French to English in point 3, "recommendations". We have the French version in the English. I'm sure it's only a typo.

**The Chair:** Okay. We'll correct that, Mr. Wrzesnewskyj.

**Mr. Mike Lake:** At 2.1, there should be no comma after "limited", because it kind of changes the way it's worded, and it's not "goveredment".

**The Chair:** Okay. Is there anything else, any other discussion?

No, okay. The chair would entertain a motion for the approval of the minutes.

**Mr. Benoît Sauvageau:** I so move.

**The Chair:** Okay, thank you very much.

(Motion agreed to)

• (1400)

**The Chair:** Before we leave, I just want to have a very brief discussion. We just concluded the meeting on the accounting allocation issue and I want some direction from the committee on where we go from here.

Mr. Fitzpatrick made a good point. We were not able to wrangle in Mrs. Bloodworth for this meeting, as she's out of the country, and we don't have the two legal opinions that we are getting—very shortly, I understand. The steering committee, certainly, didn't want to spend an awful lot of time on it.

Perhaps, if I can throw out a suggestion, we could continue to attempt to get Mrs. Bloodworth to a committee—make it one hour, maximum, for her—and also have a discussion and review of the legal opinions. Then perhaps, if we finished up with Mrs. Bloodworth in half an hour, we could use it up as a general discussion in camera—the first discussion—as to the direction of the committee report.

Does anyone have anything...?

**Mr. Brian Fitzpatrick:** I think it would be useful to have in the person from Public Works who was at the February 2004 meeting. I don't think that was her.

**The Chair:** My clear understanding is that it was her; she was there.

**An hon. member:** No, she was from Public Security.

**The Chair:** Okay, Public Works. We can follow that up.

**Mr. Brian Fitzpatrick:** I don't know who it was.

**Mr. Brian O'Neal (Committee Researcher):** We have some names from Public Works.

**Mr. Brian Fitzpatrick:** Public Works never missed a meeting all the way through this thing. They're one constant.

**Mr. Brian O'Neal:** They can speak to whether or not this was a contract or....

**The Chair:** Is everyone in agreement with that, Public Works and Mrs. Bloodworth?

**Mr. Brian O'Neal:** You might want more than an hour, then, Mr. Chair.

**The Chair:** We'll have another steering committee meeting anyway, but that's the direction given to this committee.

Does anyone have any problem with having an extra meeting, if it's possible? It depends on her schedule, but we have to—

**Ms. Yasmin Ratansi:** An extended meeting would be fine. We could extend our meeting.

**Mr. Brian Fitzpatrick:** An extended meeting might be better than trying to find another day.

**The Chair:** Okay, the committee will take that and we'll proceed in that manner. Again, these are subject to other people's schedules, but we'll certainly pursue it aggressively.

Thank you very much.

The meeting is adjourned.

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