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# **Standing Committee on Government Operations and Estimates**

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**Chair**

**The Honourable Diane Marleau**

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## Standing Committee on Government Operations and Estimates

Thursday, March 6, 2008

• (0915)

[English]

**The Chair (Hon. Diane Marleau (Sudbury, Lib.)):** I'm going to call the meeting to order. This morning we have a witness to speak to us about order in council appointments: Mr. Jeremy DeBeer.

I'm sorry we're late starting, but there have been delays with the green buses and delays just about everywhere else, and as you were telling us, you were delayed yourself.

What we normally do here is we hear from the witness. You can speak for five to ten minutes—it's up to you—and then we open it up to questions.

So perhaps you will proceed.

**Mr. Jeremy DeBeer (Assistant Professor, Common Law Section, University of Ottawa, As an Individual):** Thank you very much, Madam Chairperson.

Good morning, Madam Chairperson and committee members. My name is Jeremy DeBeer and I'm an assistant professor at the University of Ottawa Faculty of Law. I'm also a former legal counsel to the Copyright Board of Canada—an independent administrative tribunal—and a co-author of a treatise on administrative law addressing the standards of review of federal decision-makers.

Thank you for the invitation to present my views on the general legal principles that govern the relationship among various public office-holders in various branches of the Canadian government.

Please accept my apology in advance for the inability to provide written copies of my remarks, but I'll be pleased to leave my comments with the committee clerk for subsequent distribution.

I understand the committee is particularly interested in exploring the principles applicable to the removal of public office-holders appointed by the Governor in Council. I also understand the committee's interest in this topic has been triggered by recent circumstances surrounding a position at the Canadian Nuclear Safety Commission. I should emphasize at the outset that I'm not in a position to comment specifically on those circumstances. However, it's my pleasure to offer you an abstracted overview of some of the potentially applicable legal principles.

During the next few moments I will describe a basic framework that might be useful for consideration of such matters.

I believe there are at least two broad issues that merit discussion. The first relates to the relationship between the legislative and executive branches of government in appointing persons to and

removing persons from public offices. The second relates to the relationship between the executive branch of government and public office-holders themselves.

Let me first speak briefly to the relationship between the legislative and executive branches of government. What is the appropriate role of Parliament in the appointment and removal process? Well, in brief, Parliament's role is not only significant, it's fundamental. Without a delegation of authority from Parliament, the Governor in Council has no power to take any action in respect of a public office. The Governor in Council may only appoint or remove public office-holders pursuant to authority granted by applicable legislation. By legislation, Parliament instructs the Governor in Council as to the conditions for appointment to or removal from public office. For example, legislation might specify who is eligible to hold a public office, for how long, and on what terms or tenure. Regarding tenure, as you know, an appointment may be during pleasure or during good behaviour, and that distinction is important for reasons I'll discuss in a moment.

Though the Governor in Council has no power in respect of public office-holders other than as specified by legislation, Parliament likewise cannot exercise power or control over the actions of the Governor in Council except as provided for in the applicable legislation; that is to say, Parliament's role is limited to empowering the Governor in Council through legislation. Once legislation has been enacted, the scope of the Governor in Council's powers is then determined. At that point, in many, perhaps most, or perhaps even in all cases, Parliament ceases to play a role in the appointment and removal process.

That brings me to the second broad issue for consideration, which is what principles apply to the relationship between the Governor in Council and the public office-holder. Here again there are two topics to discuss. One concerns procedure and the other concerns substance.

Whatever tenure of appointment is specified in the applicable legislation, it is clear that the Governor in Council owes to the office-holder a duty of procedural fairness when dealing with that person. Recent case law has confirmed that this duty applies, whether the person holds office during pleasure or during good behaviour.

The tenure of appointment will, however, affect the scope of the duty. The concept of procedural fairness exists on a continuum, covering a range of obligations that might be owed in different circumstances. Precisely which procedures are required to be followed in a particular situation will depend on a variety of factors. As well as the tenure of appointment specified in the applicable legislation, the nature of the decision being made is one such factor. For example, administrative decisions of the Governor in Council attract fewer procedural requirements than an adjudicative decision of a court of law.

• (0920)

Yet another factor is the consequence of the decision to the person affected. Removal from public office is a serious matter, though perhaps less serious than a change of title or position within an administrative agency.

Office-holders' expectations regarding requisite procedures might also influence the scope of the duty of procedural fairness. Depending on these factors, procedural fairness might require, at minimum, notice of the action to be taken—removal, for instance—an opportunity to be heard, and reasons for the decision. The manner in which such procedures might be implemented is highly variable and often a matter within the discretion of the decision-maker.

In terms of the substance of decisions concerning the appointment to or removal from public office, the law is somewhat less settled. One factor, if not the most significant, affecting the power to remove persons from public office is the tenure of the appointment. Where appointment is during pleasure, the Governor in Council has very broad discretion. Where the appointment is during good behaviour, removal requires cause.

In determining whether cause for removal exists, questions to consider include whether the person's conduct is consistent with the terms of the office and whether the standard of integrity necessary to maintain public confidence in the institution and appointment process has been met. Some exercise of discretion by the Governor in Council is necessary in determining to what extent an office-holder's actions conform to these benchmarks.

Regarding appointments both during pleasure and during good behaviour, the discretion of the Governor in Council is not unfettered. Every discretionary decision is subject to certain parameters—for example, decision-makers shall act in good faith, they may not consider irrelevant factors, and they must be impartial. As with procedural requirements, the precise nature of these substantive obligations will depend greatly on the circumstances of the case.

In summary, Parliament's role is to empower the Governor in Council through legislation to appoint or remove persons from public office. In executing the powers granted by Parliament, the Governor in Council must comply with requirements of procedural fairness and exercise reasonable discretion in reaching a substantive decision. The precise nature of the Governor in Council's procedural and substantive obligations will of course vary greatly depending on the circumstances.

With that, I thank you for your attention to my remarks, and I would be pleased to respond to any questions the committee may have.

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

We will start with seven minutes for the Liberals.

Madame Folco.

[*Translation*]

**Ms. Raymonde Folco (Laval—Les Îles, Lib.):** Thank you, Madam Chair.

Welcome to our committee meeting, Mr. DeBeer.

From what you have said, I understand that you have no intention of commenting on Mrs. Keen's case. Is that correct? Thank you.

In that case, I will ask you a more general question, and your response will help to enlighten us so that we might move from a general discussion to something more specific, namely, federal organizations that are at arm's length from Parliament or from the government.

Are you happy with the current legislation whereby it is the governor in council who makes and revokes appointments? If the answer is no—since nothing in life is ever perfect—what would you add to improve the legislation for the benefit of the person who will be given the responsibility to head the organization, as well as for the benefit of the governor in council?

• (0925)

[*English*]

**Mr. Jeremy DeBeer:** Thank you very much for the question; it is a good one.

I think there are two issues to consider. One is in terms of specific legislation applicable to each office-holder, whether that be the Canadian Nuclear Safety Commission, the Copyright Board of Canada, the Privacy Commissioner, or the chairman of the board of VIA Rail, so there is specific legislation governing the appointment and terms of the appointment for office-holders in each of these contexts. Another approach would be legislation that would empower Parliament to play some general role in appointments and/or removals more broadly, which is not in the specific context of a particular officer-holder, but legislation that might apply to all office-holders.

**Ms. Raymonde Folco:** Could you be more specific, Mr. DeBeer?

**Mr. Jeremy DeBeer:** For example, there is currently legislation governing, empowering, or establishing procedures for the appointment of office-holders by the Governor in Council, providing a broader role so the decision is not purely discretionary. That legislation, however, does not apply to the removal of persons from public offices.

So that might be an issue worthy of consideration, whether to expand that process to input into both the appointment and the removal process. There are advantages and disadvantages of doing that, of course.

Inevitably there is a balance between the need to confer authority on the executive branch of government to carry out business and the need to ensure that authority is not completely untrammelled.

Whether the supervisory function ought to be performed by Parliament or the judiciary remains an open question. Sorry, if I understand your—

**Ms. Raymonde Folco:** I can understand, Mr. DeBeer, that you're presenting a point of view, yes, but from the legislators' point of view, and from my point of view without a law degree—although I do have some experience with executive councils and so on—I would really like it if you could give me an example. It need not be a realistic example in the sense that it is somebody who is named and who actually holds office today. That doesn't matter. But I would like to see the pros and cons in concrete terms, if you like, rather than in abstract.

**Mr. Jeremy DeBeer:** Let me speak from my own personal experience, which is as a former legal counsel to the Copyright Board of Canada, without speaking about any individual office-holder.

Parliament enacts the Copyright Act, and the Copyright Act contains provisions constituting the Copyright Board. It empowers the board to do certain things and indicates who may hold office as a Copyright Board member to carry out those functions.

Once Parliament has specified what the role of that board would be, how members are to be appointed, and on what terms, there is no longer a role for Parliament to play in supervising how the executive implements those instructions contained in the legislation.

So at that point the relationship concerns solely the Governor in Council or the executive branch of government and the office-holder him or herself.

I believe what you're asking is whether there might be a role for Parliament to play after that point, should Parliament wish to supervise what the executive branch of government is doing.

**Ms. Raymonde Folco:** I am not talking about day-to-day operations, obviously, but in a supervisory role, yes, and at the very end in the removal role particularly. Obviously that is what is interesting to us.

**Mr. Jeremy DeBeer:** Yes. So my inclination would be to say no, because Parliament is empowered or able to provide all the instructions it wishes to in the legislation proactively or prospectively. So Parliament speaks and then the executive branch carries out those instructions.

If there is something that Parliament has in mind, it is free to do that by enacting or amending legislation. Once that legislation is enacted, I believe it's necessary for effective and efficient implementation to give significant leeway to the executive branch, to the Governor in Council, in deciding how office-holders are appointed and removed.

I say that only because it's not the case that the Governor in Council has totally unfettered discretion or is unsupervised. The judiciary is there to intervene in cases where there are abuses of power.

● (0930)

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

We will now move on to Madame Bourgeois.

[*Translation*]

**Ms. Diane Bourgeois (Terrebonne—Blainville, BQ):** Thank you, Madam Chair.

Good morning Mr. DeBeer. I am trying to find my way through your testimony. I hope that you will leave us a copy of your text so that we may refer to it.

If I understand what you are saying, Parliament simply delegates the power to the governor in council. Is that correct?

[*English*]

**Mr. Jeremy DeBeer:** That is correct—through legislation.

[*Translation*]

**Ms. Diane Bourgeois:** That is its only role at this time. However, to follow up on what my colleague Ms. Folco said, Parliament could play a greater role if the act were amended. Is that what you have just told us?

[*English*]

**Mr. Jeremy DeBeer:** That's absolutely correct. The amendment to the legislation could be specific in terms of a particular agency or tribunal—for example, VIA Rail, the Privacy Commission, the Copyright Board, or the Nuclear Safety Commission—or such measures could be taken on a level that's more broadly applicable. That would apply to all public office-holders rather than the particular office-holder. If you decide that Parliament should play a more active monitoring or consultative role in the appointment and removal process, the question to decide is whether it ought to be specific to the particular office-holder or be in general to all office-holders.

[*Translation*]

**Ms. Diane Bourgeois:** In that case, would the governor in council not say that Parliament has interfered in his duties, in what he is supposed to be doing? It is not easy, there is very little leeway.

[*English*]

**Mr. Jeremy DeBeer:** Yes, I absolutely agree, and that is why I suggested that my intuition tells me that supervision of the relationship between the Governor in Council and the office-holder is best left to the judiciary. Parliament has an opportunity to provide input prospectively through legislation, but enacting legislation is different from playing some ongoing consultative or supervisory role, and I think there are downsides in enabling Parliament to intervene to too great an extent.

[Translation]

**Ms. Diane Bourgeois:** Moreover, if I understand what you said earlier, the governor in council is given very broad authority when an appointee is removed from office. As long as the governor in council can demonstrate that the procedure was fair or appeared to be fair, as long as he can show that he acted in good faith or appeared to act in good faith, then he has the authority to remove from office any appointee whose tenure is during good behaviour or during pleasure. That means that he is given a great deal of authority by Parliament. Did I understand that correctly?

[English]

**Mr. Jeremy DeBeer:** That's absolutely correct.

However, if Parliament wished to curtail the power of the Governor in Council, it is absolutely free to do so through legislation. There is nothing preventing Parliament from deciding to limit the powers of the Governor in Council, but what Parliament can't do is empower the Governor in Council to use discretion and then attempt to monitor the exercise of that discretion too closely.

● (0935)

[Translation]

**Ms. Diane Bourgeois:** Would you now agree that in giving so much authority to the governor in council, the act is allowing parliamentarians to give him free reign? He can say and do just about anything, when an appointment is revoked. He can remove whomever he wants for whatever reason, as long as he appears to be acting fairly.

[English]

**Mr. Jeremy DeBeer:** As long as the Governor in Council has acted fairly in terms of according necessary procedures to the office-holder and has not abused discretion by acting in bad faith, prejudging the issue from a biased perspective, or considering irrelevant factors, yes, the Governor in Council has very broad discretion.

[Translation]

**Ms. Diane Bourgeois:** That brings me to my final question. If we want to prove that a governor in council has a particular bias, or acted unfairly, the regular legal process would apply and can be extremely time-consuming; that is why it is so important for us to have an act that clearly states the terms of reference for the governor in council. Is that what you are telling us?

[English]

**Mr. Jeremy DeBeer:** This is absolutely true. One of the downsides of leaving it to the judiciary to supervise the relationship between the Governor in Council and an office-holder is that it is very time consuming. It is also very expensive, and often the results are unsatisfactory.

That is not to say that the procedures would be better if Parliament supervised the relationship between the executive branch with the Governor in Council and the office-holder. If the office-holder had to consult a committee or bring proposed action to the House of Commons for some sort of approval prior to removing an office-holder, that could also result in an expensive delay. So there are trade-offs.

[Translation]

**Ms. Diane Bourgeois:** In my opinion, when an official is appointed to serve during good behaviour or during pleasure, an effort has already been made to find the best candidate for the job. These people appear before selection committees. The unsuitable ones are weeded out. That means that there must be a very good reason to remove someone from office, unless it is a matter of conflicting ideologies, or unless the mandate was misunderstood from the outset.

In that case, removing an appointee would be a very serious matter. If we parliamentarians have no power and if all of this authority rests with the governor in council, then a removal from office could well be arbitrary and unfair.

[English]

**Mr. Jeremy DeBeer:** I agree with the first part of your remarks, but in the end it isn't true that the decision can be unfair or arbitrary. The decision needs to be reasoned, and if it isn't, there will be a judicial review and the courts can reverse the decision of the Governor in Council.

**The Chair:** Thank you.

Mr. Albrecht.

**Mr. Harold Albrecht (Kitchener—Conestoga, CPC):** Thank you, Madam Chair.

Thank you, Mr. DeBeer, for being here today.

I just want to follow up a bit on these terms that you've used, and that we've heard before and I am not familiar with at all. In terms of the Governor in Council's power to remove someone, you used the term "at pleasure and good behaviour". Could you just outline for me what the criteria are to determine whether it's at pleasure or good behaviour? Is it based on tenure? Is it based on the level of the appointment or a combination of the above? What are the criteria that determine those two differences?

**Mr. Jeremy DeBeer:** It will be specified in the legislation that empowers the Governor in Council to make the appointment.

**Mr. Harold Albrecht:** So it will vary across public office-holders?

**Mr. Jeremy DeBeer:** Absolutely correct. For example, members of the Copyright Board of Canada hold their appointments during good behaviour. The members of the Canadian Nuclear Safety Commission hold office during good behaviour. If I'm not mistaken, the head of VIA Rail would hold office at pleasure.

**Mr. Harold Albrecht:** And the rationale for the differences is simply based on specific legislation?

● (0940)

**Mr. Jeremy DeBeer:** That's correct, which presumably Parliament has considered and enacted for some reason. One likely reason would be the degree of independence Parliament decides the office-holder should have from the executive branch.

**Mr. Harold Albrecht:** So would all crown corporation CEOs be on "good behaviour"?

**Mr. Jeremy DeBeer:** I don't know the answer to that question.

**Mr. Harold Albrecht:** Just to follow up, then, in terms of the “procedural fairness” that you indicated was part of the picture, you indicated there needed to be notice given, that the person needed to have the opportunity to be heard, and that reasons for the removal needed to be given. But then you said something about the method being variable. So there's a huge degree of discretion and variability in terms of even the “procedural fairness” definition.

**Mr. Jeremy DeBeer:** Precisely, and how much procedural fairness is due will depend on the various factors I outlined: the gravity of the decision, the nature of the decision-maker, and the processes.

Perhaps one of the easiest concrete examples is whether the right to be heard includes the right to an oral hearing or a meeting or simply constitutes the right to make written submissions.

The duty to provide reasons can also be variable. How specific do the reasons need to be? Do they need to be just general—“You've lost the faith of the Governor in Council”, or “You did X, Y, and Z”? That is also variable.

**Mr. Harold Albrecht:** When Mr. O'Sullivan was here before the committee, he pointed out that there are roughly 3,000 Governor in Council positions that are established in legislation, and he commented about the lack of consistency across the enabling legislation. You commented as well today, in response to a question, that Parliament could decide to have very specific legislation zeroed in on a specific appointment or could do a broader mandate across a number of different appointments.

In your opinion, would Parliament be wise to have a more broad general application that would fit multiple agencies, or do you think this piecemeal approach to establishing the enabling legislation is a better one?

**Mr. Jeremy DeBeer:** If Parliament did decide to retain some supervisory role over the relationship between the Governor in Council and an office-holder, my personal opinion is that it would be preferable to do so through legislation that has blanket application rather than a piecemeal approach.

The reason I say that is in part because as I understand it, the Federal Accountability Act provides a process for Parliament to play a role, or at least there is a consultative mechanism on the appointment side of things. So it may be sensible to establish a corollary in terms of the removal process. I think a piecemeal approach would be haphazard and potentially irrational and very difficult to monitor and implement.

**Mr. Harold Albrecht:** It would seem to me too that if there are significant numbers that are being challenged, the whole process could get bogged down if there is a piecemeal approach to making all of these different legislative mandates.

I'm going to share my time with Mr. Kramp.

Thank you.

**Mr. Daryl Kramp (Prince Edward—Hastings, CPC):** Thank you, and welcome, Mr. DeBeer.

I am left wanting in your explanation. I think we need to extrapolate a little bit further. In comparing the capacities of the

legislative and the executive branches, you stated that in your opinion the role of Parliament is rather limited.

As a parliamentarian, I'd like to more clearly define my area of capacity or capabilities. So could you give me an idea of what role Parliament and members of Parliament can or should play, the parameters?

**Mr. Jeremy DeBeer:** Yes. I didn't intend to minimize the role of Parliament or parliamentarians. In fact, to the contrary, the role of Parliament is absolutely fundamental. Without authority delegated from Parliament, the Governor in Council can do nothing.

The limitation, however, is that Parliament's role in the current system is limited to the front end. So when Parliament decides that we need a privacy commissioner or a member of the Veterans Appeal Board, the process for deciding what the terms of the appointment will be is considered prospectively. There is consideration of whether the office should be during pleasure or during good behaviour, for how long, whether the office-holder should be, for example, a sitting or a retired judge, or full-time or part-time. Parliament specifies all of this in the legislation. Then it's for the Governor in Council to go and execute Parliament's instructions, and it's at that point where, metaphorically, the torch is passed.

So Parliament has an enormous role to play, but it's a front-end role under the current system. Essentially, that's for reasons of administrative efficiency. A government is elected to carry out the will of Parliament. Parliament, in a welfare state, enacts legislation to implement various different social programs, but it can't do so without delegating that authority to somebody. So the question is really whether, once you've delegated the authority, you want to continue to play a supervisory role. Under the current system the answer is typically no, but there's nothing stopping Parliament from changing its mind on that, either on a wholesale basis or on an individual basis.

● (0945)

**The Chair:** That's it. Thank you.

Mr. Dewar.

**Mr. Paul Dewar (Ottawa Centre, NDP):** Thank you, Chair.

Thank you to our guests, who provided a very succinct overview of the issue and the dilemma.

Speaking of dilemmas, listening to you reminded me of a bit of Canadian history, and you probably are somewhat versed in Canadian history. It was Lord Elgin's dilemma—you remember what that was about—at the point of responsible government. Lord Elgin's dilemma was whether or not he would sign off a bill that was provided to him from the legislative branch.

I'm giving that example for my friends in the Conservative Party because they have Lord Elgin's dilemma in front of them. Lord Elgin's dilemma for them is the Accountability Act, and in legislation we have the public appointments commission. At everything you said today, I kept on nodding and then looking to the legislation. That isn't something we have to contemplate; it's something we have at the front end.

I really appreciate your comments about how that might be used, maybe at the other end when things happen. But where I come from, it's always important to prevent the dilemmas we have in front of us, like what we've seen most recently in the case of the nuclear agency.

I'm just assuming everyone has read this legislation at this committee, on the public appointments commission. I have to say I'm a little saddened that every time this is brought up the government says, "Well, we had our guy and you guys said no." Let's get over that and get on to good public policy and what's in the legislation and enact it.

In this legislation, Bill C-2, the cornerstone of this government, the Accountability Act, it asks for the government to set up a public appointments commission. In it, it says appointments should be based on merit. We haven't seen that in this town for a long time. This government has a hissy fit because it didn't get what it wanted with the person who was named by the Prime Minister before the act was passed.

So give me a break when you say, "Oh we were going to do it, but they didn't allow us." It's in legislation. It says, "to audit appointment policies"—this is what it says in the legislation as to what the public appointments commission should do—"and practices in order to determine whether the code of practice that is aforementioned is being observed"; to ensure that "public education and training of public servants involved in appointment and reappointment processes regarding the code of practice" is put in place.

It talks about the commission itself—and we're getting the spin lines now from the staffers here—that it makes sure it's under good behaviour. I'm glad you underlined good behaviour. I don't want the pleasure, because we've seen what happens at pleasure.

Before my Liberal friends jump on this, the reason why we had the Accountability Act and the public appointments commission was because of the smell and whiff of scandal that came from their government. So we have a crisis. My concern is that this government is going to do the same as the previous government and they're going to take Lord Elgin's dilemma and not do the responsible thing. Lord Elgin signed the bill, by the way, the Rebellion Losses Bill; we know that.

This government seems not to be going to honour Lord Elgin; it seems to be looking the other way.

I want to ask you what you think of the public appointments commission proposal.

• (0950)

**Mr. Jeremy DeBeer:** What do I think of the public appointments commission proposal? I think it's a potentially viable solution to the dilemma, although it strikes me as somewhat odd that there would be all this process and input into the appointments end of things without any input into the removal. It strikes me that unless you extend the scope of this legislation to governing both the appointment and the removal of Governor in Council appointees, public office-holders, all of the good intentions and everything that might be positive within the legislation could be thwarted by a decision made by the Governor in Council to remove the office-holder.

**Mr. Paul Dewar:** One of the things in the legislation is that you would have appointments based on merit and good behaviour—this

is for the public appointments commission itself—and that there would be a fixed term of five years.

In terms of appointments themselves, do you think this practice that is assigned to the public appointments commission could and should be assigned to public appointments in general, if that's a way to deal with the dilemma you're providing us?

**Mr. Jeremy DeBeer:** The limited term is something that you see very commonly in various different appointments. Sometimes the terms are renewable infinitely, sometimes the terms are renewable once, and sometimes they're non-renewable.

To be totally frank, I think the consideration in assessing whether the term is renewable or non-renewable is slightly different from deciding whether the terms should be during pleasure or during good behaviour. Typically the purpose of putting a limitation on the time during which an office-holder serves facilitates the rejuvenation of the institution, the injection of fresh blood; you want people to turn over every five or ten years, or whatever the case may be, whereas the issue as to whether the appointment should be at pleasure or good behaviour really relates more to the independence of the institution from the government of the day.

I wouldn't think it would be wise to categorically say that every public office-holder should be appointed for five years and that's it, because there may be reasons—

**Mr. Paul Dewar:** As long as you have good behaviour, is what you're saying.

**Mr. Jeremy DeBeer:** I think that's the key, the good behaviour.

The at pleasure appointment—I won't saying anything else about that for now.

**Mr. Paul Dewar:** It's a political thing, and basically it gives the government a way to appoint their buddies. But I can say that—you don't have to, and you really can't.

If you look at the public appointments commission as a policy tool in the tool kit, would you agree that it's an important first step to have a process—you don't have to comment on whether it's this one—in other words, that it's merit based, there's oversight, there are some criteria as to what the job is about, to have a group that is other than the PMO looking at appointments?

**Mr. Jeremy DeBeer:** Yes, absolutely I agree. I think that's a positive development, and it should be implemented.

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

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

We will go to Mr. Holland for five minutes.

**Mr. Mark Holland (Ajax—Pickering, Lib.):** Thank you, Madam Chair, and thank you as well to Mr. DeBeer for appearing today.

There are a couple of things. The first thing I want to come to is the comments you made with respect to us relying on the judiciary to decide these matters when somebody is to be removed. In your words, that's a time-consuming, expensive, and often, you said, unsatisfactory process. You could imagine that we would want to try to find something better.

I know sometimes there aren't ideal solutions and you're left with things that are difficult, but you don't want to leave it at a solution that is described in the words that I just repeated that you said.

I want to take the example specifically of Linda Keen, without asking you about it, just to illustrate the point I'm trying to make.

We have a situation where Linda Keen, as you know, was removed, and there's a great deal of debate as to the appropriateness of that. Obviously, that's going to play out in the judiciary. If you take the position that we do, that the appointment was inappropriate and it was interfering in an arm's-length agency, then the problem there is that if you're leaving it up to the judiciary, you have somebody who is a nuclear watchdog who is removed from her position, a position that obviously is extremely important for national safety, and you potentially don't have a resolution to that for a very long period of time.

I don't want you to comment at all on Linda Keen, but I'm wondering what your feelings would be as an alternative, because I agree there are downsides to what I'm about to talk about, but I think it would certainly be faster, and given the fact that witnesses before parliamentary committees are required to represent themselves, as opposed to having lawyers....

In the United States we see confirmation hearings. We would also see hearings sort of in reverse if somebody is going to be removed. What would your feeling be around that type of process where, if there is a dispute, they would have the opportunity to come before a parliamentary committee to have an airing of what's going on and for Parliament to be able to play a role similar to what we see Congress playing in the United States?

• (0955)

**Mr. Jeremy DeBeer:** Thank you very much for the question.

In leaving it to the judiciary to establish the principles that govern the appointment and removal of public office-holders, the hope is that as case law develops, the Governor in Council follows the law. Not every case will lead to litigation, but litigation will set the parameters that ought to govern behaviour in the future.

It's an organic process, where the courts will decide procedures required in particular circumstances. And if the executive branch of the government is acting legally, it will comply with those obligations so there won't be a need for litigation. Though many cases are time-consuming, expensive, and lead to an unsatisfactory result, the hope is that the very existence of the legal principles created by the courts will prevent abuses from arising and lead to greater compliance.

To pose a counter-hypothetical, you could imagine a very important agency like a nuclear safety watchdog and suppose there is cause for removal. In such a situation it may impede the executive branch's ability to deal with the problem quickly and satisfactorily if

there were a big public hearing and a major consultative process, approval from a parliamentary committee, or a vote in the House of Commons or something like that. So it works both ways.

**Mr. Mark Holland:** Well, I don't know. Maybe I'll use the example again, without asking you to specifically comment on Linda Keen.

Parliament did have a very difficult decision to make—and it had to make it almost immediately—as to whether to restart the reactors. It had to have an emergency debate. It had to weigh that information and make that decision in a very quick fashion. I think Parliament has demonstrated that it has the capacity to deal with major issues that are put before it.

I understand your comment about the establishment of case law, jurisprudence, but the problem—and you would be aware of this—is that this doesn't stop these processes from going to the courts. Just because there's well-established case law does not mean that people decide they're not going to go to court. Cases happen all the time as a result of this.

Even if there is well-established case law, I don't see that if somebody is in the type of situation we've seen that they wouldn't take it there for perhaps other purposes. That's a process that can take months and months, if not years. A parliamentary process could be very targeted, particularly if there were an urgency associated with it. Parliament could deal with it in a very timely fashion, in the same way it dealt with the very difficult decision with Chalk River.

**Mr. Jeremy DeBeer:** It's possible. Absolutely.

I have one more quick response to the comment you made...I think it was in respect of the appointment process of judges in the United States.

It's not necessarily the case that providing a parliamentary committee with authority to consider removals from public office would lead to more objective or justifiable decisions, and in some cases it may equally compromise the independence of the agency. You're just shifting the supervisory function from the executive branch to the legislative branch, and there is a risk that that could also compromise the independence of the agency.

**Mr. Mark Holland:** We are talking about actually having it on both, but—

**The Chair:** Thank you. Your time is up.

Madame Faillie.

• (1000)

[*Translation*]

**Ms. Meili Faillie (Vaudreuil-Soulanges, BQ):** Thank you, Madam Chair.

Thank you for your presentation. I am a new member of this committee; however, I did sit on the Citizenship and Immigration Committee. Last year that committee dealt with problems related to the slow pace of governor in council appointments.

The IRB, which is a quasi-judicial board, is currently lacking one-third of the commissioners that are required for it to operate properly. This causes delays and administrative problems, for the government as well as for the people who are involved with immigration services. Although complaints were laid by the Bar Association, there was a mass resignation of the selection committee members who were to report to the minister. The IRB chair resigned. The complaints seemed to be related to the fact that—in this case, the chair is appointed by the governor in council—that the government cuts off the funding when it doesn't want a program or an act to be implemented.

You seemed to be saying, earlier, that Parliament should not play a supervisory role. However, in some cases, the services that are expected or the operation of the judicial, quasi-judicial or administrative apparatus can be affected. How would you deal with that?

[English]

**Mr. Jeremy DeBeer:** I think early in your question you really hit the dilemma on the head, and that's the idea that Parliament empowers the Governor in Council to act in a certain way because it's recognized that that is the most efficient way to implement social programs or the will of Parliament. To the extent that Parliament does have a role to play, I think the efficiency of the processes is one of the most important considerations. For example, if a process were to be designed to play a supervisory role in the appointment and removal process, if procedures were established to that end, my advice would be to design them in such a way that efficiency concerns are paramount.

[Translation]

**Ms. Meili Faille:** I ask the question because in this case, the chair could no longer operate within the mandate that he had been given. The pressure was so great that he had to resign. He clearly stated in this letter that he did not have the resources that he needed to deliver the goods.

Now let's take the example of Ms. Keen. There can also be interference or intrusion in day-to-day activities or in the carrying out of an appointee's decision-making or management mandate to operate the agency or organization. When we talk about a supervisory role, there are indirect means that can influence the carrying out of a mandate.

Ms. Keen did not resign: she was fired. I am not asking you to comment directly on her case. The committee heard the concern expressed by the IRB chair who appeared before it. I believe that the committee also heard from Ms. Keen. However, it seems to me that, without drawing any conclusions, if a person who is caught in this type of situation is without the means or does not want to undertake legal proceedings, then the whole thing might simply be dropped and forgotten.

[English]

**Mr. Jeremy DeBeer:** If Parliament has concerns about the resources allocated by the Governor in Council to a particular tribunal or the degree to which the Governor in Council is interfering in the administration of an agency or tribunal, I think it's a point that's easily overlooked that Parliament can do something about it, but they do it through legislation.

If Parliament wishes to specify that the IRB needs more resources to operate, Parliament can enact legislation instructing the Governor in Council to provide those resources. If Parliament feels that the Governor in Council is interfering with the mandate of a particular tribunal and that there is a lack of independence, it's open to Parliament to amend the legislation to provide measures to ensure greater independence.

I guess if you take nothing away from my testimony other than this, let it be that the role for Parliament in the current system is always on the front end; it's prospective. Parliament provides the instructions, the Governor in Council executes the instructions, and the judiciary supervises that execution.

Parliament does have a role to play, but it's in providing the instructions and empowering the Governor in Council.

● (1005)

**The Chair:** *Merci, Madame.*

I would like to ask you a question. I want to take a different tack and look at a different part of this. It has more to do with the independence of the quasi-judicial body that is formed and its relationship with a minister.

I wonder to what extent a minister has the right or the obligation to intervene in the work of a quasi-judicial body. We've seen in the past ministers resign for writing a letter to the Immigration and Refugee Board about a case. We've seen other ministers resign for having called a judge.

What happens in a case of an independent, quasi-judicial body and its relationship? Who has the right to order that body to do something that is perhaps not within its jurisdiction or that it disagrees with?

This is the question that I think is crucial in this point, because obviously Parliament was the one that had to order the judicial body to do something. I don't think the government had the right to do it, but I don't know.

Perhaps you can answer me on that particular aspect—of the Keen case and of any other case, for that matter.

**Mr. Jeremy DeBeer:** That's an excellent question.

The short answer is that it depends entirely on the provisions of the governing legislation. So if the legislation includes provisions that enable the Governor in Council to make regulations or prescribe certain behaviours or dictate actions that must be taken or must not be taken, then the Governor in Council is free to do that.

If, on the other hand, the legislation does not provide those powers, then there is no authority to intervene.

That's the technically legal question.

The separate issue is essentially more of a political question, which is to what extent—

**The Chair:** If the Governor in Council is called, it's really the government and the cabinet—the whole cabinet, not an individual minister. Is that correct?

**Mr. Jeremy DeBeer:** Well, yes, although I'm not aware of circumstances where an individual minister is empowered to instruct an administrative—

**The Chair:** That's my question. I don't think they are.

**Mr. Jeremy DeBeer:** I would not want to say that categorically, but I would be surprised if I could find an example of where that were the case.

**The Chair:** I'm going to go to Mr. Dewar.

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

To build on your question to our witness, I think your examples of people calling judges and interfering with the process is exactly why we need something at the front end and some oversight.

Going back to the purpose of the PAC, it's to prevent those kinds of things from happening and make sure that appointments indeed are merit based. The adage is that it's who you know in the PMO that determines whether or not you get an appointment. The way it works in our process now, there's not really that much hindering that process and procedure from continuing—in other words, not looking at merit and what experience this person has in any given area. The refugee file was riddled with problems. There was a report in January 2007 that talked about that.

So when you look at the public appointments commission, we pushed to have it in the Accountability Act because unless you deal with merit-based appointments and have some oversight other than the Prime Minister's office, with all due respect to Parliament, its hands are tied if all of the powers are given to one level of government. That's what we saw before. Then when a scandal breaks out—witness Gomery—they say, “Okay, we'll try to do better”.

My frustration and our party's frustration is that we worked hard to put in a preventive policy tool here called the public appointments commission. The chair just gave us examples, and we've seen in the past where interference.... And they weren't people who I believe were up to mischief in the cases she referred to. They thought, “It's fine, I'll help out”. They didn't understand the boundaries.

If you look at the legislation, it talks about having not only merit-based appointments. Any Canadian could look at the appointment and say, “You know what? I should be able to apply for that”. That's not how it's going now with the way this government is operating, because there's no oversight. If it does, it's only because they put ads out.

So I come back to you on the issue of the public appointments commission. Do you agree it should be put in place? Do you agree it would actually prevent the concerns we've had about withdrawing people, because at the front end you would put people in place based on merit, and you would have some oversight other than just the political oversight that exists presently?

•(1010)

**Mr. Jeremy DeBeer:** I agree that the public appointments commission is a very good idea, in principle. To add some conceptual clarity here, we should separate three different issues. One is the independence of the Governor in Council in making appointments. The second is the independence of the Governor in Council in removing appointments. The third is the ongoing

operations of the particular agency or the functions of the office-holder.

On the removal question, we have judicial oversight according to the principles I've explained. On the operational front, what we want in most cases is independence, particularly where quasi-judicial functions are being performed by the agency. So we don't necessarily want oversight from Parliament or the executive branch, but again there is judicial oversight in terms of standards of judicial review that apply to operational decisions taken by administrative agencies.

But the judicial oversight that exists in the removal process, procedural fairness, substantive obligations, and operational functions doesn't exist in the context of appointments. So the judiciary doesn't play a role in appointing office-holders, and that's why I think it's so important that we have a parliamentary process in that context, whereas it's less important in the removal and the operational context. In fact, there may be negative consequences of parliamentary involvement in the removal and operational context.

**The Chair:** I want to thank you for coming before us. These are always very difficult topics. I've been a member of Parliament for very many years, and obviously patronage is in the eye of the beholder. I recall, shortly after we formed the government in the mid-nineties, when by order in council Kim Campbell was appointed honorary counsel in Los Angeles and we were accused of making a patronage appointment. So it depends on who's where, what, and at what time. It's always complicated.

But I thank you for coming. Hopefully you've given us all some insight into the process and the relationships.

**Mr. Jeremy DeBeer:** Thank you, again, for the invitation.

**The Chair:** Thank you.

We're going to take a short break, and then we'll come back and work on the motions.

Madame Bourgeois has a motion before us, which she'll be bringing forward, and then we'll look at future business.

• \_\_\_\_\_ (Pause) \_\_\_\_\_

•

•(1015)

**The Chair:** I'm going to call the meeting back to order.

We're now moving to the second part of our agenda. We have as our first item a notice of motion from Madame Bourgeois, which I believe you should have in front of you.

Madame Bourgeois.

[*Translation*]

**Ms. Diane Bourgeois:** The motion is seeking to find more information on the involvement of the Prime Minister's office in the conflict between Rosdev and Public Works and Government Services Canada.

We would like Mr. McGrath and others to appear before the committee to answer some questions, as well as Mr. Loiselle, the chief of staff for the unelected Mr. Fortier, and the deputy ministers; first, in order for us to determine whether or not these people were all present, and then, in order for us to obtain more information.

The motion is very clear.

• (1020)

**The Chair:** Did you raise your hand, Ms. Folco?

[*English*]

Now we go to debate on the motion.

Mr. Kramp, followed by Mr. Dewar.

**Mr. Daryl Kramp:** Thank you, Madam Chair.

We have some difficulty with the motion as it stands. I'd like to suggest a friendly amendment. We as a government and members have no difficulty with calling in witnesses to add more clarification to the issue between Rosdev and Public Works in that. With regard to the witnesses, though, I would like to remove the second paragraph, "That the unelected Minister of Public Works [...]"; and the reasoning is very, very simple.

Minister Fortier has appeared before this committee probably more than any other minister on the Hill—six times now before this committee. The last time he was here, just a short while ago again, the minister was left wanting for questions on this file, and the minister left early simply because there were no more questions.

This motion suggests that the minister is hiding something. He has been totally forthright for six consecutive times coming before this committee.

Also in here, the wording says "to explain, among other things". Well, it's totally ludicrous to ask a minister to come before committee to explain "things", without even knowing what "things" are. How would you even prepare information to come to explain "things"?

I really think that is a real level of inadequacy that just doesn't do justice, to bring officials here to give explicit answers to explicit questions. I really honestly do believe that it's politically motivated, because obviously the minister is running against one of her compatriot members, and I think we should get beyond that.

**The Chair:** Is this a friendly amendment?

**Mr. Daryl Kramp:** Yes, it is a friendly amendment.

I really think this is an affront. It is going overboard—let's get information, call the ministers. We had Mr. Loiselle just here at committee. We had the minister, again, just here at committee. Why would we be bringing back these same people for the same questions on the same times? Obviously the responsibility is on all committee members.

If you want to ask questions when people are here, then be prepared and dig into your files and do your homework and ask the questions when they're here.

On a simple matter of courtesy and respect, there's a difference between using and abusing. I really think it's preposterous to ask a

minister to be at our beck and call for every other time we have a session here.

Madame Chair, you were a minister.

**An hon. member:** She was an elected minister.

**Mr. Daryl Kramp:** Madam Chair, I really think I've made my point on this. I really think we are abusing a minister and our privilege. I would certainly lose a bit of respect for common decency when we obviously have had every question answered fully by this minister every time he's been here and left wanting. So to carry on on another witch hunt now, simply for partisan purposes due to a potential election again, once again gets away from doing what we have to do as a committee.

If we need evaluation of Public Works officials, bring them in. That's our job. Let us investigate. We already asked this minister, time and again, on this same subject. How many times do you want him back—every other day here? Ministers have a lot of other serious responsibilities too, and never once has the minister said he would not appear. He has always been a willing attendant at any of these meetings here. So I just ask our committee members to use a little discretion, a little intelligence, a little compassion, a little capability, and a bit of maturity in just simply dropping the second paragraph.

Certainly we as a government have no regret and/or no objection to the intent of Madame Bourgeois' motion on discussing the issue. That's why I would suggest that friendly amendment. I think that would make sense at this time.

• (1025)

**The Chair:** Debate on the amendment.

Madame Folco.

[*Translation*]

**Ms. Diane Bourgeois:** That is an amendment—

**The Chair:** It is an amendment to strike the second paragraph which is asking the minister to reappear.

**Ms. Diane Bourgeois:** It was supposed to be a friendly amendment; it was not official. May I go back to the friendly amendment and explain why I cannot agree to it?

**The Chair:** I have just given Ms. Folco the floor, an amendment was made and that is how I am going to deal with it.

Ms. Folco, you have the floor.

**Ms. Diane Bourgeois:** That's fine.

**Ms. Raymonde Folco:** I will let Ms. Bourgeois speak, but first, I would like to say two things. First, I appreciate and understand the point of view expressed by my colleague Mr. Kramp. Rather than tell us 10 times though, he could have said it once or twice. We understood him the first time. The same goes for all of my colleagues opposite.

Next, if I understand what Ms. Bourgeois is saying, since the motion was made in French, I am wondering if we could use the French text as the official version. Mr. Kramp has just referred to three words in the second paragraph, namely, “*among other things*”, which appears to be a rather loose translation. The French word “*notamment*” is an expression of what Ms. Bourgeois intended to say. I would like to use the French text for the official motion, since I believe that Ms. Bourgeois drafted it herself.

As to the amendment, yes, the minister did appear on numerous occasions, but as my colleague Mr. Holland has said, it is the only way for opposition members to speak to him directly, on the record. When we ask questions in the House, during question period or at some other time, the person who answers on his behalf is his parliamentary secretary, who is an elected member of Parliament.

When the Minister for Democratic Reform was here yesterday to speak to us about Bill C-20 on Senate reform, I asked him how someone could have been appointed by the Prime Minister. The minister was not elected. He ran in the riding of Laval—Les Îles, the riding that I currently represent in the House of Commons, he was rejected by the voters, and the Prime Minister appointed him to his position. After that, the senator even refused to run in a by-election, something that he could have done. This is the only place where we can direct questions to him.

I agree wholeheartedly with my Bloc Québécois colleagues that this person should appear before us to answer our questions. We have more questions for him.

[English]

**The Chair:** May I just intervene for half a second here on the translation?

[Translation]

The word “*notamment*” does not really mean “*among other things*”. Here is how I would translate it. Correct me if I am wrong.

[English]

I want to correct.... I think there's a different intonation in the English translation of the French motion. The word *notamment* does not mean, I feel, “among other things”. I would say it's probably better reflected to say, “again to explain specifically why he tried to hide information from the committee”, instead of “among other things”. That is somewhat stronger. I think that's possibly a better translation—I remain to be corrected—but definitely “among other things” is a little more vague.

• (1030)

[Translation]

Ms. Bourgeois, you are next.

**Ms. Diane Bourgeois:** Me?

**The Chair:** Yes.

[English]

Mr. Dewar, did you want to speak on the amendment? I have had your name here and it was there before.

**Mr. Paul Dewar:** Yes, on the motion and the amendment, both.

I just had a quick suggestion on the amendment, maybe a compromise. It's not to remove the entire second paragraph but simply to take out the word “unelected”. We all know he's unelected. He's a senator. They're all unelected.

**Mr. Chris Warkentin (Peace River, CPC):** No, no. Bert Brown.

**Mr. Paul Dewar:** Yes, well, legitimately, like bona fide adult elections, not these make-up elections.

What I want to do is just suggest we take out “unelected”, but I think it's really important that we obviously have the minister present. This story goes beyond this minister, particularly with Rosdev. I have files here. It's a long and tried story with Rosdev, as you know.

**The Chair:** You're putting this forward as a subamendment.

**Mr. Paul Dewar:** It's a friendly one, to just take out “unelected”. It's argumentative, obviously, and if we want to get to the task at hand, then let's go, but he should be in front of the committee.

If you want to take out “unelected”, then by all means....

**The Chair:** It's a subamendment. So we'll go to Mr. Albrecht on the subamendment.

**Mr. Harold Albrecht:** Thank you, Madam Chair.

Maybe just to follow up on Mr. Dewar's idea, then, we've already had the minister here.... Maybe we should get the other six ministers that he's talking about here to just completely do this thing.

I want to come back to the point you made about “specifically” or “notably”, or whatever you're going to change that word to.

**The Chair:** “Notably” could be another one.

**Mr. Harold Albrecht:** It simply does not get to the point that was made previously, that this minister was here at our last meeting, there was time left over, and there were no more questions to be asked. So to imply that he tried to hide something—

**Mr. Paul Dewar:** On a point of order, Chair—sorry to interrupt—I actually don't want to go down the path of a subamendment. It was just a suggestion. Take it or leave it.

Thank you.

**The Chair:** Madame Bourgeois.

**Mr. Harold Albrecht:** Madam Chair, I want to finish.

**The Chair:** Well, he has withdrawn his subamendment.

**Mr. Harold Albrecht:** I had my hand up on the other one.

**The Chair:** I'm going to go back to the order where I was on the amendment, which is Madame Bourgeois...or was it Madame Folco?

[Translation]

Have you finished, Ms. Folco?

[English]

Madame Bourgeois, and then Mr. Kramp and Mr. Warkentin.

[Translation]

**Ms. Diane Bourgeois:** I will deal with the amendment later. Perhaps I didn't explain the motion correctly. I would like us to invite officials from Public Works and Government Services Canada because we met with them when we were studying the sale of government buildings. The government was using a lease-back process. We had a number of questions about the definition of a lease-back and the disadvantages that it could present. We were never ever told about any lawsuit or any problems with the tenants or those who sublet these buildings. I think the committee should hear from the officials at Public Works and Government Services Canada who were aware of the problems with Rosdev. They were probably also invited to appear when the Rosdev file was being discussed.

Now I would like to deal with the unelected Minister of Public Works and Government Services Canada. I say unelected because he was appointed. We have to make the public aware of this because he is travelling around Quebec calling himself a minister. He is not yet a minister, he is a senator and he doesn't even attend when the Senate is sitting. That said, I think we should call him to appear. He has the time, since he does not attend the Senate debates and—

[English]

**Mr. Chris Warkentin:** On a point of order—

**The Chair:** Is it a real point of order?

•(1035)

**Mr. Chris Warkentin:** Yes. The member opposite is saying that a minister of the crown is not a minister of the crown. I think it's important that she either bring evidence of that or else desist in this slander.

**The Chair:** He obviously is a minister of the crown, even though he was named as—

**Mr. Chris Warkentin:** Thank you very much for the clarification.

**The Chair:** Madame.

[Translation]

**Ms. Diane Bourgeois:** We did ask him some questions, but they were not the right ones. He was asked if he had met with certain people, if he had spoken to them on the phone. There might be other questions that we could ask him. It is important for the unelected minister to return with his officials so that we can delve a little further into this matter. That is why I do not want to change the second part of my motion.

[English]

**The Chair:** Before I go to Mr. Kramp, I believe Madame Bourgeois has accepted that we use the word “notably” instead of “among other things”. How's that?

She says it in French, “*notamment*”, which is a direct translation.

[Translation]

**Ms. Diane Bourgeois:** That is what it means.

[English]

**The Chair:** Again, it would read “to explain notably why he tried to hide information from the Committee”. It's a translation. It's not a problem, right? Okay.

Mr. Kramp.

**Mr. Daryl Kramp:** Thank you, Madam Chair.

I have two points. Madame Bourgeois has said there might be more questions we might want to ask the minister. The minister left a full half-hour at the last meeting alone before the time expired because there were no more questions.

If you have more questions, do your homework and be prepared and ask them.

This went on and on, so might I suggest at this point another... Mr. Dewar really wants to get to the bottom of this file. On and on and on—as he said, it's gone on with various ministers. I suggest let's just put a halt to all of this nonsense, this politicizing, and bringing in a minister when it's unnecessary. Let's get to the bottom of it.

I think Mr. Dewar might even appreciate the friendly amendment I'm about to make.

Let's bring them in then; if they wish to bring in Minister Fortier again, then fine, but let's also bring in the person who was responsible for dealing with most of the Rosdev file all the way through. Let's bring in Minister Brison and his chief of staff as well and let us deal with this issue and with all the key people who have been involved. We'll put them on the stand, deal with it, and get it over with.

Does that sound like a reasonable, friendly amendment?

**An hon. member:** Maybe not friendly.

**Mr. Harold Albrecht:** Yes, on both counts, Madam Chair, reasonable and friendly.

**The Chair:** That's a subamendment, right? Yes.

**Mr. Daryl Kramp:** Yes, that is another subamendment.

**The Chair:** Is there any debate on the subamendment?

Mr. Dewar.

**Mr. Paul Dewar:** Just for the record, I'm completely agnostic on this. I don't have faith in either of them, so bring them on.

Seriously, you've looked at the Rosdev file. I've got a letter to the minister, to which sadly I've not had a response yet, about the option to buy L'Esplanade Laurier, which goes back to 2005, and it's coming up again.

Rosdev owns L'Esplanade Laurier. I would like to know what is going on there with the minister and what the discussions were with Rosdev officials and certainly with the PMO.

So I'd like to get the minister here and then take it from there. So yes, bring Brison up front, or whomever, and follow the path. He was responsible.

So yes, I would support that.

**Mr. Daryl Kramp:** I would ask for a vote on that one, Madam Chair.

**The Chair:** On the subamendment, citing Mr. Brison as well.

**Mr. Paul Dewar:** I think Mr. Dingwall was in there too.

**An hon. member:** He was.

**The Chair:** I'm not sure. I think he has to come as an individual. He can't come as minister because he's not the minister any more.

But you want us to vote on that particular motion, that we invite Mr. Brison?

•(1040)

**Mr. Harold Albrecht:** And his former chief of staff.

**The Chair:** His former chief of staff? I don't even know who that was.

Mr. Dhaliwal.

**Mr. Sukh Dhaliwal (Newton—North Delta, Lib.):** Thank you, Madam Chair.

I would personally not support whatever the friendly amendment calls for because the present unelected, appointed senator is campaigning in Quebec right now. He should have lots of time to come here. He's the only unaccountable minister who is not in the House of Commons to answer questions from the elected representatives of the people.

When it comes to the Honourable Scott Brison, he's not in charge there any more. I don't know what we are going to achieve by bringing Mr. Brison and his chief of staff. I personally would not support that.

I personally feel the Conservatives should take full responsibility, because they are the government of the day and they should be responsible for their actions and not pass the buck to the previous government. I would like to defeat this subamendment.

**The Chair:** Okay. All those in favour of adding the part about Mr. Scott Brison and his chief of staff?

(Subamendment agreed to)

**The Chair:** That was a subamendment. I'm getting lost in all the amendments here.

The amendment of Mr. Kramp that we remove the second paragraph completely hasn't been voted on.

All those in favour of removing the second paragraph completely?

**Mr. Mark Holland:** Can you read the second paragraph? It's just to change one word?

**The Chair:** No. As amended by your motion, which would invite Scott Brison, his chief of staff, as well as Mr. Fortier.... If we vote against this particular amendment we would delete the second paragraph, which includes the amendment.

All those in favour of Mr. Kramp's amendment to the main motion, to delete the second paragraph?

(Amendment agreed to)

**The Chair:** Therefore, nobody is coming.

Now, on the main motion as amended, that—

**Mr. Mark Holland:** Wait a second.

**The Chair:** It has been deleted.

**Mr. Mark Holland:** The first paragraph remains.

**The Chair:** Yes, that's what we're going to vote on.

•(1045)

**Mr. Mark Holland:** Yes, and the first paragraph right now is just to invite the Public Works minister.

**The Chair:** No. No more minister, no more Scott Brison. It reads: That the Standing Committee on Government Operations and Estimates invite Public Works and Government Services officials who participated in the information meetings attended by representatives of the Prime Minister's Office regarding the dispute between Rosdev and Public Works and Government Services; and....

The last paragraph is deleted.

All those in favour of that motion, the first part of the motion?

[Translation]

**Ms. Diane Bourgeois:** Who is in agreement?

[English]

**Mr. Mark Holland:** That still says the minister.

**The Chair:** No, not the minister. It's the first part.

(Motion agreed to)

**The Chair:** So we will hear from officials of Public Works. Thank you.

Mr. Kramp.

**Mr. Daryl Kramp:** I'm a little lost on the procedure here. I would like to ensure that we have the other individuals, Mr. Brison, etc., included in this motion. So do we have to bring this motion on the floor again now?

**The Chair:** We deleted that portion whereby we were inviting Minister Fortier and where we added Mr. Brison. All we're having are the officials of....

**Mr. Daryl Kramp:** So we just have the top paragraph.

**The Chair:** That's right. That's what passed.

**Mr. Daryl Kramp:** Fine. Good.

**The Chair:** We've got about 15 minutes to deal with future business. I wanted to tell you we've already sent out notices. On Tuesday we're going to look at the pay issue. I believe we're going to give instructions to Mr. Le Goff on what kind of report we'd like to see on that particular one.

On Thursday we will be reviewing the estimates. We're not sure which ones yet. We had invited Public Works, but the officials can't come, so we'll have to see what happens, what portion we will do on Thursday having to do with the estimates.

The Tuesday when we return after the two-week break we'll be hearing from Mr. Baird on the light rail, and possibly the Thursday would be Public Works on the budget.

Yes, Mr. Kramp.

**Mr. Daryl Kramp:** With the chair's indulgence, then, when we return from the break, possibly a steering committee meeting might be in order, because we might have some information, perhaps from Treasury Board. I have no idea. Are they ready in the middle of March, at the end of March, into April, with accrual? We don't know

—

**The Chair:** That's right.

**Mr. Daryl Kramp:** —but if we can find out some information prior to that, then a steering committee might land us up on a good session.

**The Chair:** That's right.

If I recall, you had asked, or they had asked, that we wait until Mr. Toews put out his report before we dealt with the accrual accounting again, and I'm quite willing to wait for that. But we could also have a steering committee as well, if you wanted. We're already quite well set up, in terms of the work we have to do over the next little while, and perhaps on the Monday we get back we can have a steering committee with the vice-chairs, and then we could do that.

**Mr. Daryl Kramp:** That would be great. That way the parties can think about some issues that might be crucial that we bring forward. I'm just dying to bring it forward.

**The Chair:** Okay, for Tuesday, on the pay issue, our researcher will be sending us a synopsis of what we've heard so far. So we can look at that before Tuesday's meeting and then give instructions to our researcher as to where we're going.

That being it, we'll adjourn the meeting.

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