

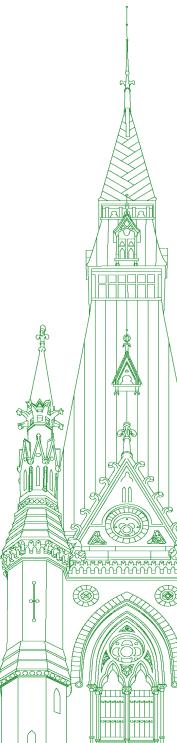
44th PARLIAMENT, 1st SESSION

# Standing Committee on Government Operations and Estimates

**EVIDENCE** 

### **NUMBER 074**

Tuesday, June 20, 2023



Chair: Mr. Kelly McCauley

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

Tuesday, June 20, 2023

• (1835)

[English]

The Chair (Mr. Kelly McCauley (Edmonton West, CPC)): Good afternoon. I call this meeting to order.

Welcome to meeting number 74 of the House of Commons Standing Committee on Government Operations and Estimates, also known as the mighty OGGO, the only committee that matters. If you're watching at home on CPAC, I hope you will hit "like" and "subscribe".

Pursuant to the order of reference adopted by the House of Commons on Wednesday, February 15, 2023, the committee is meeting for clause-by-clause consideration of Bill C-290, an act to amend the Public Servants Disclosure Protection Act.

I will remind everyone to please keep your earpieces away from the microphone, as it causes feedback.

Quickly, colleagues, I'm going to seek unanimous consent for the proposed budget of \$2,950 for the study of the certificate of nomination for the Public Sector Integrity Commissioner. As always, that budget is the upper limit. It does not mean we'll spend, probably, any of it—not more than some coffee and a few other items.

(Motion agreed to)

The Chair: That's wonderful. Thank you very much.

We will resume clause-by-clause consideration of Bill C-290 on amendment G-12 to create new clause 42.

Now, resuming debate on G-12, Ms. Vignola, I understand that you had a subamendment. You've given the printed copy to our legislative clerks.

[Translation]

Mrs. Julie Vignola (Beauport—Limoilou, BQ): The electronic version was sent to the clerk. It reflects what we were talking about yesterday, namely a six-month time frame for royal assent of the bill. The Senate could study the bill this September. All in all, it's reasonable. The time frame is the only thing that would be changed by amendment G-12.

[English]

The Chair: Mr. Housefather.

Mr. Anthony Housefather (Mount Royal, Lib.): Thank you so much, Mr. Chair.

I'm sure that after my exciting explanation of G-12, you will have more subscribers on CPAC than ever before.

I wasn't sure it had been moved yet, because I thought we ended with the vote on G-11, but I'll both speak to Ms. Vignola's amendment and explain why G-12 is as it is.

[Translation]

First of all, I do appreciate the arguments Mrs. Vignola raised yesterday. The reason I voted with her against amendment G-11 is that there's nothing binding on the Governor in Council, so we never know when the bill will come into effect.

[English]

With G-12, we have certainty. It says that it comes into effect two years after the deed of royal assent. Regardless of what happens, we know when it comes into effect. The reason for the original proposal of two years versus the six months was the amount of time it was estimated would be needed to develop the regulations, to put the policy into effect and to train people.

I'd like to pose a question to the officials on whether two years is a legitimate time and whether six months is a legitimate time, and whether they have comments about how long they believe it will take before the law can be properly put into effect.

If it's okay, Mr. Chair, that's a question for the officials.

The Chair: Yes.

Ms. Laroche and Ms. Stevens, before you start, you should all have the proposed subamendment in your P9s by now.

Please go ahead, ladies.

[Translation]

Ms. Mireille Laroche (Assistant Deputy Minister, People and Culture, Office of the Chief Human Resources Officer, Treasury Board Secretariat): Thank you very much for the question.

Good evening, everyone.

I'd like to start by talking about the two time periods. We think that six months would be very tight. Although the work can begin before royal assent is granted, we won't know what's going to happen with the bill until it's passed by both Houses.

[English]

I'll talk about some of the things. I think Mr. Housefather has already mentioned a few of them. You have approved new definitions in terms of wrongdoing—in terms of abuse of authority, political interference and foreign interference. These are to be defined in regulations. We need to consult and define, and, as you know, as part of the regulatory process, there is consultation that typically occurs and that typically takes about a year, if not more, to do.

Through this committee, we've also determined that the Treasury Board has to develop some new policies in terms of the internal disclosure process. Again, there has to be development, consultation and approval of those by TB.

Third, the tribunal, as you know, is now going to be receiving complaints of reprisals directly from civil servants. They will have to assess their processes and define whether there are new functions, such as conducting investigations, prior to that in order to be able to call or make a decision on the case in front of them. That takes time and, as we discussed, potentially additional resources.

We have also agreed and you have also approved that more people can actually get disclosures from public servants. We will need to be able to develop training, train the people and make sure that senior officials who are already in place know about the changes that are coming. We'll also have to make sure we have the proper awareness material for all civil servants to be able to know what the changes are, where they need to go, and how they can be supported if they wish to make a disclosure.

Finally, in terms of the piece we discussed yesterday about data collection for the PSIC, if we were to do this in six months, they likely would not have the time to define their questions, put their questioners in, get the data and analyze it for their next annual report, so they would be in breach of the law regarding the six months, depending on when it happens and the timing of the tabling of the annual report. That could be a problem for them as well.

For all these reasons, in our view, six months would not be enough time to do a proper job and to be able to make sure the law was adequately implemented. We would require a longer time. Thank you.

**(1840)** 

The Chair: Ms. Vignola, go ahead.

[Translation]

Mrs. Julie Vignola: I have a quick question for you.

If the coming into force date of the bill were set at six months after passage, that would mean about 18 months from today, taking into account the Senate study and third reading stages.

If the coming into force date were 12 months after passage, would that be more reasonable? That would bring us to about 24 months from now.

**Ms. Mireille Laroche:** That time frame would certainly be more reasonable than six months. That being said, it will also depend on the evolution of the bill, by which I mean the changes that will be made to it, particularly in the upper chamber.

So that doesn't necessarily mean that the coming into force date can be set at 12 months. Certain regulatory processes involve fixed steps that we don't have much influence over.

The time frame you're suggesting is definitely better than six months, but I think it would still be too tight in some respects.

**Mrs. Julie Vignola:** I'm going to withdraw my subamendment suggesting a time frame of six months. However, after listening to the officials, I also want to propose that the bill come into force after the first anniversary of the day on which it receives royal assent.

If my colleagues are willing, that's what I would like to propose in a second subamendment.

[English]

The Chair: Okay. We need unanimous consent for you to withdraw the first subamendment about six months. I see that we have unanimous consent to withdraw that.

(Subamendment withdrawn)

**The Chair:** Do you have the second subamendment in writing?

It has been emailed to everyone. We're now on the same wording as in the previous subamendment, but for one year.

Mr. Housefather, go ahead.

[Translation]

Mr. Anthony Housefather: Thank you, Mr. Chair.

I thank my colleague for proposing a time frame of one year rather than six months. However, from what I understand, it can take a year to get through the regulatory process and the consultations. Furthermore, the process can't start until the Senate study and royal assent stages are completed.

If we listen to the witness, who's the expert on this subject, I believe 12 months is still too short. So I'd like to keep the coming into force date as the second anniversary of the day on which royal assent is given.

That's why I'm going to vote against Mrs. Vignola's subamendment.

[English]

The Chair: Thanks.

Mrs. Vignola, did you have something else?

[Translation]

Mrs. Julie Vignola: I'll be brief, Mr. Chair.

After listening to the officials, I split the difference so that the bill could be implemented sooner. Starting from now, the time frame would be 24 months, which is more reasonable than six months. I think we could spend all night arguing over this, but to avoid that scenario, I move that we call the vote, if my colleagues are willing.

[English]

The Chair: Colleagues, are we ready to vote?

We are on the subamendment to G-12. Shall that carry?

It's tied, so I vote "yes".

(Subamendment agreed to: yeas 6; nays 5 [See Minutes of Proceedings])

The Chair: Shall G-12 carry as amended?

Mr. Kusmierczyk, your hand is up.

• (1845)

Mr. Irek Kusmierczyk (Windsor—Tecumseh, Lib.): I'm wondering if I can just speak to this amendment.

The Chair: Do you mean G-12 as amended?

Mr. Irek Kusmierczyk: Yes, the amended.... Thank you, Mr. Chair.

I appreciate the sentiment around the table of wanting to get this enacted as quickly as we possibly can. I think there's an urgency that we all recognize, but I think the concern here—and it's one that was expressed by the officials—is the danger or the risk here that, in essence, we will have a half-baked policy or a half-baked process in place. To me, that represents a significant danger. That represents a risk. That is a significant risk when you consider how delicate and how sensitive the issue is that we're discussing here—private information, cases that are being brought forward, concerns and disclosures.

We want to make sure that if we're going to do this, it's done correctly. What I just wanted to humbly flag for the committee members here is that what we agreed to with the amended clause is again the danger there, because it's being rushed. Again, we heard from the officials that it will be implemented without having all of the i's dotted and the t's crossed. That could have significant repercussions for the people we are trying to protect.

I wanted to flag that risk, because I think it is altogether real. Again, there is the need to balance the urgency of wanting to get this legislation into practice with, at the same time, being careful to make sure that all the t's are crossed and all the i's are dotted so that we actually do the thing we want to do, which is to protect the people who have the courage to step forward.

Again, I don't want to belabour the point here, but I really just wanted to raise that as a genuine concern. I'm not sure, in listening to what the officials said, that we in fact, with this amended clause, have actually struck that balance correctly.

The Chair: Thanks.

Are we ready to vote now, colleagues? Shall G-12 carry as amended?

(Amendment as amended agreed to: yeas 10; nays 0 [See Minutes of Proceedings])

The Chair: Thank you.

We're on LIB-12, but since LIB-7, which is on page 21.1 of your handout, was withdrawn, amendment LIB-12 cannot be moved. It

refers to subsection 12(2), which would have been created by LIB-7, therefore LIB-12 is eliminated.

We're now getting back to a couple of stood clauses.

(On clause 10)

We're on clause 10 and NDP-9. It had been moved, but I understand that Mr. Johns is going to withdraw it. We need UC to withdraw NDP-9.

Some hon. members: Agreed.

**The Chair:** We are now on G-6, which is on page 25 of the package.

Mr. Housefather, you're speaking to this.

I'm sorry. Is it Mr. Jowhari?

**(1850)** 

Mr. Anthony Housefather: Mr. Chair, I'm so sorry—

The Chair: I think Mr. Jowhari is speaking first.

Can you hold on one moment, Mr. Housefather?

**Mr. Anthony Housefather:** Of course. I wanted to go back to your question about LIB-12, though—

Mr. Majid Jowhari (Richmond Hill, Lib.): Yes. Go ahead, Mr. Housefather.

The Chair: Go ahead.

**Mr. Anthony Housefather:** Mr. Chair, I'm confused as to the reason for ruling LIB-12 out of order. If somehow you're ruling that there was...with LIB-7 defeated, and that's what added the reference to 12(2).... I'm not quite sure.

If that's the case, then why would we not remove the words under subsection 12(2) and just say that if a matter is referred to the Commissioner under 24(2.1)...? I'm just confused as to your rationale for why this is out of order, so if you wouldn't mind explaining it, sir....

The Chair: Thanks, Mr. Housefather.

I will refer to our legislative clerks, who will have a better answer than I would.

Ms. Dancella Boyi (Legislative Clerk): Thank you, Mr. Chair.

In LIB-12, it is indicated, "If a matter...". I should actually read it, but 12(2) is referenced in LIB-12, and 12(2) would have been created by LIB-7, which was withdrawn.

To go back to your question, Mr. Housefather, even if you were to remove that from the current LIB-12, 24(2.1) already exists in the parent act as it is written, without the 12(2) reference.

Does that answer your question?

**Mr. Anthony Housefather:** That certainly would answer my question if the only thing being added was 12(2) and LIB-7 were withdrawn.

I'll just turn to Mr. Jowhari, because he would have been the one who withdrew it, but thank you so much for that explanation.

**Mr. Majid Jowhari:** Okay. I recall that LIB-7 was pulled. However, this one is referring to.... I'll at least read it: It's that Bill C-290 be amended—

The Chair: Are you referring to LIB-7?

Mr. Majid Jowhari: No, I'm referring to LIB-12.

The Chair: Okay.

Mr. Majid Jowhari: This reference is made:

If a matter is referred to the Commissioner under subsection 12(2) or 24(2.1) of the Public Servants Disclosure Protection Act, the Commissioner shall

Even if we remove 12(2), the 24(2.1) is still.... Are you telling me that 24(2.1) is actually covering this?

The Chair: Wait just a moment, Mr. Jowhari.

We're going to suspend for a couple of seconds. Our legislative clerks wish to address this with the officials.

• (1850) (Pause)\_\_\_\_

• (1901)

**The Chair:** Colleagues, thank you for bearing with us. It was a bit of a procedural issue.

LIB-12 is out of order due to a typo. Mr. Jowhari was kind enough to table-drop an amendment that is almost identical. We're going to call it "LIB-12.1".

Please read it in and highlight the specific change from LIB-12, so people can follow along.

When Mr. Jowhari is done with that, we'll open it up for debate.

Go ahead, Mr. Jowhari.

Mr. Majid Jowhari: Thank you, Mr. Chair.

I would like to move LIB-12.1, which reads that Bill C-290 be amended by adding after line 14 on page 12 the following new clause:

42 The portion of section 68 of the Conflict of Interest Act before paragraph (a) is replaced by the following:

68 If a matter is referred to the Commissioner under subsection 12.1(1)—

which replaces 12(2)

—or 24(2.1) of the Public Servants Disclosure Protection Act, the Commissioner shall

My reasoning for this is we want to make sure that we allow the Ethics Commissioner to receive protected referrals from departments under the PSDPA, not only from PSIC. We are just making sure they can receive more.

That's it. Thank you.

The Chair: I sense a question, Ms. Vignola.

Mrs. Julie Vignola: Yes. It's quick.

[Translation]

Is this amendment about subsection 12(2) or subsection 24(2.1)?

[English]

**The Chair:** It's identical to LIB-12, except there is a fix to a single reference number. It is basically identical in all ways to LIB-12.

**Mr. Majid Jowhari:** If you look at LIB-12, we made a mistake by typing 12(2). That mistake caused LIB-12 to be thrown out. Therefore, I had to move a new one, which is called LIB-12.1.

All we are doing is replacing 12(2) with the appropriate subsection, which is 12.1(1). That's it.

The legislative clerk has seen it. If you want, we can have more debate on it. It's basically just to expand and protect, and it allows other people from other departments to be able to receive it.

That's it.

The Chair: Go ahead, Mr. Housefather.

You're on mute. As much as we enjoy that....

• (1905)

Mr. Anthony Housefather: Can you hear me now?

I'm sorry about that.

I'm giving more ammunition to feedback, to try to make it exciting.

[Translation]

I just wanted to explain something for Mrs. Vignola's benefit. In amendment G-4.4, we added—

[English]

**The Chair:** Give me just one moment, Mr. Housefather. We're having some audio problems with you.

[Translation]

Mrs. Julie Vignola: It's okay, Mr. Housefather, I get it.

Mr. Anthony Housefather: Okay, thanks.

[English]

The Chair: Go ahead.

**Mr. Anthony Housefather:** Basically, it just allows that when a department sends something to the Ethics Commissioner, the disclosure is protected. It's not currently protected under the act if it comes from the department. That's the goal. It's to make sure that all disclosures, even if they're coming from the department to the Ethics Commissioner, are also included.

Thank you.

The Chair: Shall LIB-12.1 carry?

Some hon. members: Agreed.

Some hon. members: On division.

(Amendment agreed to on division)

(On clause 10)

**The Chair:** Colleagues, we're back on the stood clauses. We have clause 10. We got a bit ahead of ourselves.

I'll go back and ask for UC again for the withdrawal of NDP-9.

Some hon. members: Agreed.

(Amendment withdrawn)

The Chair: Thannk you.

We're now on clause G-6.

Mr. Housefather, were you addressing that one?

**Mr. Anthony Housefather:** Basically, G-6 is meant to reverse the removal of the prohibition if starting a different proceeding under a different act for a reprisal. It would prevent overlap with other recourse mechanisms for reprisals, which could allow for multiple processes being conducted on the same issues by different administrative bodies with different mandates and objectives. In my view, that would waste resources and create inconsistent determinations and different remedies.

Coming back to this, it would say you have to go through one recourse mechanism for reprisals, and I think that's a better way to do it.

That's the purpose of G-6.

Thanks, Mr. Chair, and I'm sorry about my microphone.

The Chair: Thank you.

Mrs. Vignola.

[Translation]

Mrs. Julie Vignola: I understand my colleague's concerns. At the second-last meeting, we discussed amendment G-6. Our goal is to make sure that the public servant's options for recourse aren't restricted and that if the public servant chooses to go to the union, for example, and the grievance process seems to be dragging on forever, the person will have the right to use other recourse mechanisms.

In our view, it's a protective measure, and that's why we're not going to come to an agreement over amendment G-6.

[English]

The Chair: Mr. Johns.

Mr. Gord Johns (Courtenay—Alberni, NDP): We're on the same terms as Mrs. Vignola, in the sense that subsection 19.1(4) says that filing a complaint of reprisal precludes workers from seeking any other procedural remedy for the same act of reprisal.

The commissioner and the tribunal are not perfect, and in many cases are far from effective. Their processes also often take years. There are many situations in which disclosures may need to also seek another method of recourse, for example, grievance. They should be able to do so without waiting years for one process to

complete. Different processes are available, because these situations are complex and require multi-faceted resolutions. We'll also be opposed to this.

The Chair: Next, we have Mr. Housefather, and then Mr. Kusmierczyk.

Mr. Anthony Housefather: Thank you, Mr. Chair.

I think it's common sense that when you're picking an action before one administrative tribunal, you're not supposed to have parties take actions before multiple different administrative tribunals at the same time. The reason is simple. You'll have contradictory decisions. You'll have all kinds of flaws in terms of resources, because you would have to put resources in front of two or three tribunals instead of one.

In my view, if you want to take court action, you are not going to launch it in front of the court of appeals, the superior court, and the court of Quebec at the same time. You wouldn't be allowed to do that. It would create unreasonable bureaucracy. It would also cause time delays and all three different judges having to deal with the same issue.

It just doesn't make logical sense to me. I believe the line should be deleted. Again, I would call upon the common sense of my colleagues to see that it makes sense to not have alternative mechanisms.

**(1910)** 

**The Chair:** Mr. Kusmierczyk, before I go to you, I'm sensing the Conservative side is probably supporting this.

Could we skip over you and get to a vote? Is that fine, Mr. Kusmierczyk?

Mr. Irek Kusmierczyk: That's perfectly okay with me.

**Mrs. Stephanie Kusie (Calgary Midnapore, CPC):** That's fine. We would support that.

The Chair: Shall G-6 carry?

Some hon. members: On division.

The Chair: Mrs. Vignola has requested a recorded vote, please.

(Amendment agreed to: yeas 8; nays 2 [See Minutes of Proceedings])

The Chair: On clause 10 as amended, would you like a recorded vote, or can we do that on division?

Some hon. members: On division.

(Clause 10 as amended agreed to on division [See Minutes of Proceedings])

(On clause 38)

The Chair: We are now resuming debate on clause 38.

Mrs. Vignola, did you have an amendment?

[Translation]

Mrs. Julie Vignola: During our discussions yesterday, it was pointed out that it would be surprising if a person accused of wrongdoing were to give their consent for their name to be disclosed

In a spirit of goodwill, in light of the discussions—[English]

The Chair: May I interrupt for a moment?

Are you able to distribute that? Our legislative clerks have it, but the rest of us don't.

[Translation]

Mrs. Julie Vignola: It wasn't sent out with the other two?

[English]

**The Chair:** If you could send it, our clerk will send it out to the P9s.

[Translation]

Mrs. Julie Vignola: I'll send it to you right now.

To sum up, this follows on what we were talking about yesterday, which is that the accused person is unlikely to give their consent for their name to be disclosed in any way. The amendment I moved would take this aspect out of clause 38.

I'll read it out while we wait for it to reach you all.

• (1915)

[English]

It would amend Bill C-290 in clause 38 by replacing lines 15 to 18 on page 11 with the following:

disclose the identity of a person making a disclosure and of a witness, with the consent of that person.

[Translation]

We've deleted the part that was initially problematic.

[English]

The Chair: Can we vote on the amendment, colleagues?

Mr. Bains.

**Mr. Parm Bains (Steveston—Richmond East, Lib.):** Can we suspend for a second, please?

The Chair: Sure. We'll suspend for a moment.

• (1915)	(Pause)	
<b>●</b> (1015)		

(1915)

The Chair: We're back.

Mr. Bains, did you have something on it?

**Mr. Parm Bains:** We're fine with the amendment. We're ready to vote on the clause.

(Amendment agreed to on division)

(Clause 38 as amended agreed to on division)

(On clause 40)

**The Chair:** We are returning to debate on clause 40. As I recall, it was one that we wanted to get back to after we saw whether other amendments were going to pass.

Mr. Housefather.

Mr. Anthony Housefather: Thank you, Mr. Chair.

My understanding is that the way clause 40 is drafted, it's removing the number of a section that now is not removed from the act. By adopting G-6 and deleting the other line, clause 40 has to be defeated, or it should be defeated consequentially. It's essentially changing two references, subject to two subsections, to one, and we retain the other subsection. Either it would be consequentially defeated or I recommend that we defeat it.

Thank you, Mr. Chair.

The Chair: Let me check with the analysts on that, please.

• (1915)	(Pause)	

• (1921)

The Chair: Colleagues, we're back.

I checked with our legislative clerks, and they advise me that, procedurally, clause 40 is okay. Ms. Laroche and Ms. Stevens may wish to weigh in on the legality of it, and if there are issues, it would be best, I understand, that we defeat it.

Ms. Laroche, Ms. Stevens, do you want to opine?

Ms. Mary Anne Stevens (Senior Director, People and Culture, Office of the Chief Human Resources Officer, Treasury Board Secretariat): Certainly. Thank you, Mr. Chair.

What clause 40 does, as Mr. Housefather mentioned, is remove a reference to subsection 19.1(4). That's all that clause 40 does. The reason it's in section 51 of the PSDPA is so that if subsection 19.1(4) comes into play—and that's the prohibition on having another process once you've filed a reprisal—section 51 says that this does not prohibit the presentation of a grievance or having the Canada Industrial Relations Board consider a complaint under section 242 of the Canada Labour Code. I would suggest that those are things that you want to continue to have in place, so you don't want to remove the reference to subsection 19.1(4).

The Chair: Thank you.

Can we move to a vote on this, colleagues? Shall clause 40 carry?

(Clause 40 negatived: nays 8; yeas 2)

**The Chair:** Colleagues, we have five minutes left, but we're down to the very simple ones.

Shall the short title, "Public Sector Integrity Act", carry?

Some hon. members: Agreed.

Some hon. members: On division.

**The Chair:** On the title, we have G-13. G-13, colleagues, is just naming the bill, but Mr. Housefather will introduce it.

Can we vote on G-13?

Mr. Anthony Housefather: Introduce—

**The Chair:** It's "An Act to amend the Public Servants Disclosure Protection Act and to make a consequential amendment to the Conflict of Interest Act". It's solely a title issue.

Shall G-13 carry?

(Amendment agreed to on division)

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

**Some hon. members:** Agreed. **Some hon. members:** On division.

The Chair: Shall the bill as amended carry?

**Some hon. members:** Agreed. **Some hon. members:** On division.

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

Some hon. members: Agreed.

**The Chair:** Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

Some hon. members: On division.

**The Chair:** Colleagues, that is Bill C-290.

Before we cheer, everyone, can we please give a special thanks to Ms. Laroche, Ms. Stevens and our two legislative clerks, Ms. Boyi and Mr. Vaive? Thank you for everything.

**Some hon. members:** Hear, hear! **The Chair:** Thank you, Ms. Stevens.

Thank you, Ms. Laroche.

Thank you, colleagues.

• (1925)

Thanks to everyone who helped make this extra hour, or 56 minutes, happen.

Colleagues, unless there is anything else, we are adjourned and we will see you tomorrow.

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