



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

44th PARLIAMENT, 1st SESSION

Standing Committee on Procedure and House Affairs

EVIDENCE

NUMBER 125

Tuesday, October 1, 2024

Chair: Mr. Ben Carr



Standing Committee on Procedure and House Affairs

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• (1130)

[Translation]

The Chair (Mr. Ben Carr (Winnipeg South Centre, Lib.)): Good morning.

[English]

I hope you had a wonderful weekend and were able to find some meaningful time in your communities yesterday in honour of the National Day for Truth and Reconciliation.

Colleagues, we are here for meeting 125 of the Standing Committee on Procedure and House Affairs. As a reminder, as always, to protect the health and well-being of our interpreters, who work so hard on our behalf, please ensure that your headsets, when they are not in use, are sitting on the stickers in front of you.

I notice that we have a couple of guests today. Mr. Nater, welcome. Mr. Louis, welcome to you. Mr. Ruff, it's nice to see you here.

Colleagues, as you know, we are beginning our first set of questions and answers in relation to Bill C-377, which is an act to amend the Parliament of Canada Act. It's always nice when we have a colleague who is able to join us and provide their perspective and testimony on legislation that is before us.

To Mr. Ruff, our colleague from Bruce—Grey—Owen Sound, who's the sponsor of the bill, the floor will be yours for 10 minutes. It's nice to see you here, sir. We look forward to hearing your introductory remarks, and then we will enter into our question and answer period, as usual. With that, Mr. Ruff, the floor is yours.

Mr. Alex Ruff (Bruce—Grey—Owen Sound, CPC): Do I have 10 minutes?

The Chair: You have up to 10 minutes. If you don't want it, you—

Mr. Alex Ruff: Excellent. I cut my notes down to about five minutes. I will speak more slowly for the interpreters, so they'll be happy.

The Chair: Yes—military precision.

Mr. Alex Ruff: Chair, we're here today to speak to my private member's bill, Bill C-377, an act to amend the Parliament of Canada Act, by adding the following subclause:

A member of the Senate or the House of Commons who applies for a secret security clearance from the Government of Canada is, for the purposes of the consideration of their application, deemed to need access to the information in respect of which the application is made.

Really, what does this mean? It means that for the purposes of applying for the security clearance, parliamentarians have a need to know. The most important aspect to understand is that this bill would only allow parliamentarians to apply for a secret security clearance. The government would, then, not be able to deny, regardless of which party is in government, a parliamentarian from applying. That's all it would do; it would allow them to apply.

The bill does not guarantee that a parliamentarian's application would pass, should they apply. They still must go through the same government security vetting and clearance process. I've had a secret level security clearance for decades now. I've had a top secret security clearance for over 15 years. Having a clearance does not guarantee that one gets access to whatever classified information they want whenever they want, or on any classified issue. One still must demonstrate the need to know to the government to get access to the classified information. This is, really, the second safeguard of the “need to know” principle on how the system protects classified information.

Why is it so important to allow parliamentarians a secret security clearance? The preamble of my bill, Bill C-377, states:

in the face of threats to world peace and security posed by nefarious state and non-state actors, the Government of Canada needs to make challenging decisions relating to national security, which it must do in a manner that is consistent with its constitutional duty to be accountable to Parliament and that respects the Canadian Charter of Rights and Freedoms and the Canadian Bill of Rights;

This highlights the need to improve transparency, accountability and education with respect to the ever-changing threats to Canada and our democratic institutions and processes, but ultimately for Parliament to rebuild the trust in those same democratic processes and institutions.

Let's look at some testimony that you have heard at this PROC committee in just the last year. You had Vincent Rigby here. He served as the national security and intelligence adviser from January of 2020 to June of 2021. He stated that transparency needed to be increased by producing annual public threat assessments, responding to the NSICOP reports, publishing intelligence priorities and, most important, sharing more intelligence with members of Parliament.

In the conclusion of *Top Secret Canada: Understanding the Canadian Intelligence and National Security Community*, edited by Stephanie Carvin, Thomas Juneau and Craig Forcece, it states:

Canadians (and indeed, their political leaders) must have context to avoid swinging wildly from indifference to panic when security events occur. Likewise, transparency and national security literacy help citizens tease apart real scandals from the noise. More generally, Canadians shall need to develop a renewed understanding of the hard dilemmas that frequently arise in securing a free and democratic state.

Let's look at a few real-life parliamentary examples where access to classified information has become a political hot potato both under this current Liberal government and under the former Conservative government, respectively, the Winnipeg labs and, under the previous Conservative government, the Afghan detainee file issue. How did Parliament ultimately address both of those issues? They formed ad hoc committees at the last minute and created a whole lot of undue politicization of the whole process, whereas, if Parliament had members already cleared, this would have sped up the process and helped downplay the politicization.

More recently, let's look at foreign interference. We know that parliamentarians are being targeted—and this isn't new. We can go back to the 2019 annual report by the National Security and Intelligence Committee of Parliamentarians, where they recommended that parliamentarians needed to be briefed on the threats they face from foreign interference. This, again, has been further emphasized and highlighted by the most recent and ongoing public inquiry into foreign interference, the NSIRA review, in their report, and in the most recent NSICOP report on public interference that was just tabled in May.

• (1135)

The point I'm trying to make here, and we've heard some of this feedback from parliamentarians who have received some of the generic defensive briefs on foreign interference, is that it's not specified and it doesn't have enough detail to actually make them understand the threats that parliamentarians are facing.

In response to these reports, the government tabled Bill C-70, and kudos to Parliament for fast-tracking that bill with all-party support, because there's one relevant aspect of Bill C-70 that made changes to the CSIS Act. These changes now allow CSIS to share classified information beyond the federal government with other levels of government—provinces and territories, municipalities and first nations—and with industry and other stakeholders.

However, one key caveat that still needs to be cracked is that those individuals still must gain a security clearance to be briefed. If they're not cleared, they cannot get access to that information unless it's an imminent threat, if it's going to save somebody's life or if it's a grave public threat. There are all sorts of caveats that allow our national security agencies, including CSIS, to help out.

Finally, I'd like to remind the committee of your own unanimous consent recommendation from earlier this year during the report on the question of privilege related to the member for Wellington—Halton Hills and other members. Recommendation 3 states:

That the government work with recognized parties' whips to facilitate security clearances, at Secret level or higher, of caucus members who are not Privy Councillors (particularly those who sit on committees with mandates concerning foreign affairs, national defence and national security), who shall be taken as satisfying [the] requirements for a "need to know," to ensure that they may be adequately briefed about important national security matters, including foreign intelligence threat activity directed toward Parliament, or their party or its caucus members.

Basically, this committee has already recommended and supported what Bill C-377 is trying to achieve.

I look forward to any questions from my honourable colleagues.

The Chair: Thank you very much, Mr. Ruff.

Okay, colleagues, we'll get right into our first round of questioning.

Mr. Cooper, the floor is yours for six minutes.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you very much, Mr. Chair.

Thank you, Mr. Ruff.

Perhaps you could help explain why this bill is necessary. You noted that you have a top secret security clearance arising from your service in the Canadian Armed Forces. Is it accurate or fair to say that as a sitting member of Parliament, unless you had a security clearance from a prior career or are one of the handful of members appointed to NSICOP—on which you serve—the chances of getting a secret security clearance or any security clearance are close to nil?

• (1140)

Mr. Alex Ruff: I'd agree with Mr. Cooper on his summary here.

It goes back to the principles around how we protect classified information in this country and this "need to know" principle. As I highlighted in my opening remarks, there are really two tests. The first one is you need to be in a position to have access or a need to know. That's where, as a former member of the Canadian Armed Forces, I was required to apply for a secret security clearance. Once I moved into positions where I required top secret security clearance, I applied and was successful. However, to get to my point, it doesn't mean you have access to stuff; it's by virtue of your position.

In Parliament, cabinet members, privy councillors, parliamentary secretaries and, now, NSICOP members have security clearances, and that's really it. There may be some rare exceptions where a member has successfully made the requirement to the government, but I'm not aware of any. The point is that the government could just deny it at any point by saying, "Guess what? You don't have a need to know."

The purpose of this bill is to allow that need to know to occur. Again, I can just go back to the two historical examples I highlighted of the Afghan detainee files and the Winnipeg labs. The reason the government wouldn't hand stuff over to the relevant committees that were studying it at the time was the first response: You don't have a security clearance.

Mr. Michael Cooper: Thank you.

Your bill amends the Parliament of Canada Act by establishing a presumption that a member of Parliament or senator has access or would be granted a secret security clearance on the basis of a need to know. It is, to clarify, merely a presumption. It merely gets the member's or senator's foot in the door for the first step of the process, but that's it. Is that right?

Mr. Alex Ruff: That's correct. It just establishes that as parliamentarians, we have a need to know. I've laid out the historical examples. In particular, the one that's most relevant and that we're all facing today is the foreign interference side. We need to be able to take this seriously.

This is a pet peeve of mine going back decades—long before I was elected. Canada is terrible at.... We overclassify things. We do not understand...we pay lip service to national security.

The first step to rebuilding that trust in our democratic processes is getting those of us who represent the Canadian populace, i.e., elected members of Parliament and senators, to have a better understanding of the threats we face because there are tough decisions.

I'm sorry to break the news to some that maybe aren't aware, but the world is actually getting more volatile and more complicated than we've ever seen. The first step to us addressing that is becoming smarter and more educated here in Parliament.

My bill only does that first step. It doesn't guarantee you have access.

Mr. Michael Cooper: Another point that I would ask you to elaborate on is that it is specific to a secret security clearance. That is different from, for instance, a top secret security clearance.

Can you perhaps explain what a secret security clearance is versus a top secret security clearance and the rationale for specifically selecting a presumption in favour of a secret security clearance for members and senators?

Mr. Alex Ruff: It's a good question.

You can google the Treasury Board Secretariat rules to explain the differences between enhanced reliability, confidential, secret and top secret, but in a nutshell, here's the easiest way to break it down.

In my estimation, 95% of the intelligence that needs to be shared with any government department or parliamentarian is never above the secret level.

The difference between secret and top secret.... Top secret is how we got that information and the need to protect the sources, whether that's people, techniques or whatever. Who cares? We need to know what the crux of the information is. That's why secret is the appropriate level.

Again, the resources required to communicate at a top secret level are very costly. I can go on at length about where we lack on classified communication systems in this country if it comes up in another question.

● (1145)

The Chair: Thank you very much, Mr. Cooper.

Mr. Turnbull, the floor is yours for six minutes.

Mr. Ryan Turnbull (Whitby, Lib.): Thanks, Mr. Ruff. Thanks for being here and for your testimony today.

I'm still struggling with what the intentions of this bill really are. When I look at it and read the language in the bill, it says "deemed to need access to the information in respect of which the application is made."

That language strikes me as particularly concerning, given the fact that if I, as a member of Parliament, want to apply for a secret security clearance.... I don't have it currently, as far as I know. Actually, as a parliamentary secretary, I may actually have it.

If any member of Parliament were to say that they want to access a certain type of intelligence or national security-related information, they would be deemed "need to know". Am I misinterpreting that?

You're shaking your head, so please clarify for me because that's the way I interpret that language. It's very broad.

Mr. Alex Ruff: It is, but it isn't. At the same time, if you read the clause, it states very specifically, "for the purposes of the consideration of their application".

In my opinion, I'd love to see every member of Parliament and senator, upon being appointed or elected, go through the security clearance process. If you fail it—because there's no guarantee you're going to get it—that should be publicized far and wide. Politically, I don't think that's acceptable, so therefore it will never happen.

I really struggled in my first cut of this with how I do this without wading into questions of parliamentary privilege and the access of that information. That's why I wrote the bill as only the first step in addressing this thing. It allows you to apply and you cannot be turned away. That's all that my bill does.

It's why that second clause.... I wish the language could be even more in plain speak. When you work with the drafters sometimes, it gets into.... I'm not a lawyer, so drafting some of this stuff.... That's the way it was written. That's the intent. It only allows you to apply and you only need to know for the purpose of getting that application.

Your example, Mr. Turnbull, is very good. You likely have a secret security clearance, but you're not even aware of it. How many secret documents have you read since you've been a parliamentary secretary? Likely very few. I'd argue none, because if you're not even aware that you have it, then I would argue you have yet to read it, even though you have a clearance.

Mr. Ryan Turnbull: I think you might actually be wrong on that, but that's okay.

The point, though, is that on “need to know”, if I or any other member of Parliament make an application—I’m using myself as an example—and I’m automatically deemed to need to know, if I were to then get through that screening process, I would actually get access to that information. That’s the part I’m struggling with because the language in the bill is not clear that there would be another gated step of who determines whether I need to know that information.

You can understand the concern one would have if any member of Parliament could make an application for a secret security clearance and then be deemed to need to know that information for which they have applied. If they get through the process, then they get access to that information.

Mr. Alex Ruff: Yes, that was the whole purpose of what I highlighted—the second step of “need to know”. Just because you have it doesn’t mean you get access. I’ve had top secret security clearance. I maintained that when I first retired from the military because if I hadn’t been successful in getting elected I would have likely gone into—who knows?—defence consulting, defence contracting or something where I needed it.

Therefore, I had my security clearance transferred from the Canadian Armed Forces over to a private company, which then got registered with Public Works at the time—now PSPC—so that I maintain it. However, I sat here for the first two and a half years of being elected before I got put on NSICOP. I actually stood up in the House one day and asked for classified information on national security threats that the government was saying existed. Did the government give me access to one classified document? No. I sit on NSICOP. Does that mean NSICOP gets to see and ask for any document I want to read? It absolutely does not, and I have the highest clearances.

That’s the second principle. The government always has that ability to control, regardless of the department, what information is shared with whom. That’s the whole process. Then you have to get into the resource thing I mentioned, too. Unless you’re on a system that actually allows you to read classified documentation, you can’t read it unless somebody prints a hard copy. Then you have a whole other process, and when you go through the process, you actually learn what the requirements are to protect that information.

• (1150)

Mr. Ryan Turnbull: I understand that.

You’re saying that there’s another “need to know”, a second layer of “need to know”, which is determined by the government and is not included or referenced in your bill. Where does that sit? Does that sit in the the legislation this is amending? Can you clearly identify it?

That’s my concern when I read this: It seems to throw the doors wide open. You’re saying no, and I appreciate that clarification, but I want an assurance as to where that other “need to know” sits within the the legislation and to just know that there’s another gate people have to get through.

My concern would be that people would be able to access information they’re deemed to need to know but that they perhaps shouldn’t have access to, or where there is no rational justification for them to have access to that information.

There’s lots of information I’d like to have access to. I’d like to have access to the information that’s referred to in the NSICOP report on the allegations of foreign interference in the Conservative leadership race. I would like to have access to that and be clear on that.

The Chair: Mr. Turnbull, I’m going to need you to wrap up, please.

Mr. Ryan Turnbull: Yes.

Currently, the Conservative leader does not have a security clearance, which I find slightly suspect. I can’t understand why that would be acceptable for individual in your caucus. However, I disagree, and I look forward to a future conversation.

The Chair: Mr. Turnbull, I’m going to have to leave it there. Thank you.

Madame Gaudreau, it’s over to you.

[*Translation*]

Ms. Marie-Hélène Gaudreau (Laurentides—Labelle, BQ): Thank you, Mr. Chair.

I’m not trying to be funny, but there’s something I, too, “need to know”. How does this change benefit us in terms of our role and our parliamentary privileges?

[*English*]

Mr. Alex Ruff: As I highlighted, the key thing is really the threats we face. Our role as parliamentarians is to hold the government to account. That’s really what Parliament is here to do. It’s the way our whole Westminster system is set up.

We’ve had historical examples, and again I use the two, and then, most recently, foreign interference. If a member is facing foreign interference threats directly, and you’re not aware of it, hands are tied. Again, all of the feedback that’s come forward in the recommendations of NSICOP over the last five years since the 2019 annual report is that parliamentarians and senators need to be apprised of what those threats are. If you don’t get them and you’re not aware of them, it’s really hard for us to address them.

It’s our role to then pass legislation that the government of the day brings forward to try to address it. If we have no understanding of what those threats are, it’s very difficult for us to do our job properly to provide the best legislation and the best protection for Canadians. That’s really what I’m trying to do.

It’s no different than if you’re a member of the Canadian Armed Forces or you’re in law enforcement. By virtue of your position, you’re in a position that should have a higher level of security clearance than the average Canadian, because you should be aware in order to do your job.

I just think, arguably, that parliamentarians have that requirement to be more educated and have better awareness so that, when that second step of the need to know principle arises, you can address and get access if that’s determined, and you make the compelling case to the government of the day.

[Translation]

Ms. Marie-Hélène Gaudreau: I understand the need to know. I also understand its impact, especially in the case of foreign interference. There is a reason so many recommendations came out of the study on Bill C-70.

On the flip side, what are the negative effects? What can happen following a request like that? There are considerations related to security and the protection of parliamentarians, to say nothing of the information itself, which has to be known and disclosed, but at what cost?

What would the risk be?

• (1155)

[English]

Mr. Alex Ruff: I'm not sure what you're getting at. If you're talking about the risk of providing that information to members of Parliament, then that's a great question that this committee should be seized with. Again, my bill doesn't tackle that issue, because I knew that it's very difficult to suss out the whole level of detail in a private member's bill. However, let's just use two or three specific examples.

We've had two ad hoc committees on the Afghan detainee file and on the Winnipeg labs. Was there any risk? Did any of those parliamentarians who received the appropriate security clearance leak anything to the public they shouldn't have? We've had NSI-COP established now since 2017 with the most sensitive information at a much higher level. Has there been a single leak to the public or whatever?

There are consequences, you know, and that's part of going through the process that I'm trying to make everybody understand. When you go through the security clearance process, just by going through the process and applying, you become better educated and more aware of how important it is to protect information that is sensitive or classified in nature.

[Translation]

Ms. Marie-Hélène Gaudreau: The crux of my question is this: how far should we go? What are the potential consequences of having access to top secret information?

Right now, in the House of Commons, we are using a lot of information to achieve our ends. To what extent is the need to know legitimate, favourable and beneficial? I fully appreciate that if I'm being targeted by foreign interference activities, I need to know, but do I need to know what's going on elsewhere? That's my question.

[English]

Mr. Alex Ruff: Again, my bill doesn't tackle and solve all of that; it just does the first step that allows any parliamentarian to apply for security clearance. As I said, it doesn't guarantee that you're going to pass it, and quite possibly there might be parliamentarians who would fail to get a secret security clearance. Again, it doesn't guarantee that you would get access.

Again, the advantages and the positives of this, as I highlighted in my opening remarks, are that it takes the politicization out of this. Regardless of what political party is in government, it doesn't

put the government under a cloud of suspicion from the general public, because now you have members across all parties representing the people who have the clearance.

Should a committee or Parliament determine that they need access to certain things, that's a lot more powerful than any one of us standing up. That won't sway a government, but, when a committee determines that they need it, when Parliament as a whole votes on something, now you have the measures in place. It's not just going willy-nilly to whomever, who has no understanding of how to protect that information. You have gone through the process itself.

The Chair: Thank you, Madame Gaudreau.

Ms. Mathysen, the floor is yours for six minutes.

Ms. Lindsay Mathysen (London—Fanshawe, NDP): Thank you for bringing this to us today.

I have a lot of questions around who gets it and who doesn't.

On your example of some of the committees, the ad hoc committees that were provided or created by Parliament, in those cases, if parliamentarians had had those security clearances, they would have had better access to the information they needed, but this doesn't guarantee that all members get that clearance. Membership on committees moves consistently. We have things come up. We need to be in our ridings. We get sick. It happens. All of that occurs.

Say you're in a committee where we're dealing with that sensitive information and everybody on the committee has a security clearance, but you're sick that day. You need someone to come in. They don't have the clearance. It halts all committee business, yes? No?

An hon. member: No.

• (1200)

Mr. Alex Ruff: Not at all, because that's the purpose of this. When I was first thinking up this idea, it was, all right, let's mandate that the defence committee, the foreign affairs committee and the public safety committee all have secret security clearance. All right, and then, how much is an appropriate number and how do you control that?

No, my bill actually allows every parliamentarian.... Ideally, after the next federal election, there will be 343 members elected who all will have a secret security clearance, should they choose to apply, because, again, I'm not going to weigh in on your parliamentary privileges. Should they choose to apply, they'll do that. That will give all the political parties, ultimately, that flexibility, because technically their whole caucus, all members of Parliament and all senators, could have a secret security clearance should they apply and should they pass.

Ms. Lindsay Mathysen: What if they don't pass?

Mr. Alex Ruff: If they don't pass? That's another great question. That's where, when I talked to bureaucrats about this, they actually said that this is a great idea. I talked to people in PCO and in national security. They said that this is a great idea, but you'll never get political acceptance of this because your political colleagues will be worried that if somebody fails to pass the application and that becomes news, there are going to be political ramifications, but—

Ms. Lindsay Mathysen: We are all equal members, though: Doesn't that unbalance that equality amongst members? Even if someone chooses not to take that on, for their own choice.... I mean, your own leader chose to not get security clearance. There's a choice in that. How do you balance that out and ensure we're all equal?

Mr. Alex Ruff: I'll clarify just the last part of it. Mr. Poilievre is a former privy councillor, a former minister. He has been cleared, has top secret security clearance—

Ms. Lindsay Mathysen: He chose not to—

Mr. Alex Ruff: —and while he was a minister, and he actually renewed every two years under the previous government.

The current government, in 2019..... According to a response I got back, which was signed off on by Mr. Duguid, it's that they changed it in 2019, and now, ministers of the current government, actually, once they've been cleared, never have to get cleared again. They're not reviewed or vetted ever again, so—

Ms. Lindsay Mathysen: Fine. He chose not to have access to specific information, but if members choose not to have access to specific information through getting or not getting a security clearance, doesn't that take the balance, the fairness and that equality out of all members supposedly being equal?

Mr. Alex Ruff: It's a great question, but right now, members don't have access to anything, right? The point is, my bill doesn't actually tackle... It's a great discussion that we should have. My bill doesn't even go that far.

My bill just allows you to apply for a security clearance. That's all it does. Then it allows Parliament and committees, going forward, to make those cases to the government of the day to say, "We think we should get access to further information."

Ms. Lindsay Mathysen: It does go that far, in that if members are not allowed, if they are not granted that access, that creates a division in an open way and, as you said, it could even be political. It could be used against them.

If we're talking about the rule of law here, where people have a decision to make on their representative, nothing should interfere in that decision, yet that additional level of security clearance and having access to information that others don't have in those different ways—or not having it—undermines it, does it not?

Mr. Alex Ruff: It doesn't, because they're just the rules we have in place. If you get access to classified information, there are consequences, under the current Treasury Board rules, if you fail to protect that information, and that's the point. If you fail it, it means that the security apparatuses—law enforcement, CSIS, everybody who's part of that review process—is telling the government, do not grant this member a security clearance because they can't be trusted.

Really, that's what it comes down to, and that's a valid concern. However, that's a privacy thing that should never see the light of day. There are lots of cases that could be made, but again, that's up to an individual's choice as a member, and that's why you can't make it mandatory. As much as some of us would love to see it mandatory and make it.... To do it, you can't grant it to somebody if they can't be trusted, because that's what our professional government officials.... That's their job: It's to protect this stuff. They're

not going to give access to information to anybody if they actually haven't...if they're not, you know, considered secure and they're going to properly safeguard classified information in this country.

Ms. Lindsay Mathysen: But to some degree, doesn't the executive branch already do that between—

The Chair: You have just a few seconds remaining here, Mr. Ruff and Ms. Mathysen.

Ms. Lindsay Mathysen: Instead of CSIS doing that, doesn't the executive branch within government sort of do that already? You're saying that you're maybe moving those decision-making factors away—

• (1205)

Mr. Alex Ruff: No, not at all.

Ms. Lindsay Mathysen: —or you're disputing—

Mr. Alex Ruff: It's not the executive government, really, that makes those decisions when somebody gets a security clearance. Look at what ended up happening with the two ad hoc committees. Each party had to put names forward. People were then passed before they were given clearance or access to any information.

The Chair: Thanks very much, Ms. Mathysen.

Mr. Cooper, the floor is yours for five minutes.

Mr. Michael Cooper: Thank you, Mr. Chair.

Mr. Ruff, approximately how many Canadians have applied for a secret security clearance or otherwise have a secret security clearance at the present time? Do you have any statistics on that?

Mr. Alex Ruff: Yes. Look, I asked another OPQ that somebody in the room might have signed off on in the last little while.

In the last decade, there have been approximately 250,000 secret security clearances applied for across government departments. Obviously, it's not that large, but that's over a decade timeframe. Do you know how many were denied out of those approximately 250,000 applications for secret security clearance? It was 23 at the secret level.

Mr. Michael Cooper: There have been 250,000 applications in the last decade, and yet, as it presently stands, a sitting member of Parliament, putting aside being in cabinet, being a parliamentary secretary and having a clearance from a previous career, is shut out. I mean, it seems passing strange. It doesn't seem to make a lot of sense, having regard for the fact that parliamentarians' core function is to hold the government to account on matters of national security, foreign policy, national defence, public safety and so on.

How does it make sense that 250,000 Canadians have secret security clearances, but if I, as a member of Parliament, applied, I'd almost certainly be turned down?

Mr. Alex Ruff: That's why Bill C-377 has been tabled, Mr. Cooper.

Mr. Michael Cooper: You noted in your testimony a key recommendation of this committee's report on the question of privilege concerning MP Michael Chong and other members arising from the government's failure to inform them that they and their families were being targeted by the Beijing regime. The recommendation is that "the government work with recognized parties' whips to facilitate security clearances, at Secret level or higher...to ensure that they may be adequately briefed about important national security matters".

That effectively is what your bill would enshrine—or at least, I guess to be clear, it's the first step of that, correct?

Mr. Alex Ruff: Yes. In fact, this committee has already unanimously made a recommendation that goes much further than what my bill would actually achieve. My bill just allows parliamentarians to apply for a secret security clearance. It doesn't garner access. You as a committee have already unanimously passed that you feel that certain committees need to not only have a clearance; they need to have a higher than secret-level clearance. That's what you guys determined here. They then actually get the information and get briefed on it for certain committees.

Again, I wholly support that recommendation made by the PROC committee. My bill doesn't actually go that far.

Mr. Michael Cooper: On second reading debate on your bill, the Parliamentary Secretary to the Minister of Public Safety said with respect to your bill, "it does not address what information [members of Parliament and senators] would be looking for, where they would access it physically, how they would maintain it and, on this ad hoc basis, what would actually come of it".

Don't those arguments from the parliamentary secretary entirely miss the objective of your bill?

Mr. Alex Ruff: They do. It goes to the next step.

Again, my bill only addresses the right and privilege of parliamentarians to apply for a secret security clearance. They're valid concerns. Once a committee has decided, it's no different if it were PROC that said, "Here's a potential study for this committee." Maybe it's more for BOIE, and it would be, "All right, should a committee have all their members appropriately cleared, and should Parliament decide, going forward, that the next step is we need to be doing more studies of a more classified nature, how do you address the resources?"

The point I want to get to is that when I was in the military, my last job before I went to Iraq was handling joint training for the whole Canadian Armed Forces. I put together a consequent management exercise working with the government ops centre in public safety. There were 47 different government departments and agencies involved in that, which imagined an improvised nuclear device having gone off in Peggy's Cove and how we would deal with that. Again, it was not a DND lead or a CAF lead, but we know it's the force of last resort.

One the huge challenges we identified, and this is all unclassified, was the lack of infrastructure and even the lack of government people with the appropriate clearance right across this country at the other levels of government. How many people in a hospital have a secret level clearance or access to secret level information?

If a terrorist threat were coming down the pipe and you wanted to be prepared to deal with the consequences of it, where would that happen?

I could go on forever about the challenges and some of the necessary infrastructure and investment that needs to be put into the ability to share classified information, but, again, that's a step past my bill.

• (1210)

The Chair: Thank you very much, Mr. Cooper.

Mrs. Romanado, the floor is yours for five minutes.

Mrs. Sherry Romanado (Longueuil—Charles-LeMoine, Lib.): Thank you very much, Mr. Chair.

MP Ruff, thank you for being here. You know that I supported your bill at second reading to bring it to committee, and I think it's important that we have an adult conversation about how we classify information. I think we do have overclassification, but that is not the point of this bill.

You highlight very clearly in proposed subsection 13.1(1) that the bill is "for the purposes of the consideration of their application". I think there's a lot of misunderstanding about how a security process rolls out.

I don't want to call it "need to know" because the need to know is referenced somewhere later on in the process, but this is more of a reason to apply. Why do you need to apply for one? In order to actually get your clearance, you need to have a reason to apply, so staffers who work in ministerial offices have to have someone who's authorized to put their name on the list to even apply. After the person applies, they have to go through the process and they have to pass the said process.

Once they get the process, and if they have secret clearance, that does not mean we can now read the JFK files and have access to everything under the moon. That is not what this is. That's where the "need to know" comes in to compartmentalize the information at your disposal.

Ministers who are Privy Council members do not have access to every classified ministerial document out there. There is another process for being able to access specific information, so this is not opening up a Pandora's box to any member of Parliament who wants to know where our intelligence assets are or anything like that. I think it's really important that members of Parliament understand that, because this is allowing you to apply for the clearance. Am I correct?

Mr. Alex Ruff: You just said that much more eloquently than I did in trying to make my case, so I do appreciate that. That's why the preamble is as long as it is, actually, because, in the end, as you know, this bill is literally one or two sentences long, and that's it.

This is only for allowing you to apply. It doesn't take away any of those necessary protections or safeguards that are already in place.

Part of my goal in bringing this forward was to be here today to have this conversation and talk about this. We don't get to talk about it otherwise, and it is very important that we, as a Parliament, get our heads wrapped around it and take national security and intelligence more seriously. The best way to do that is to get educated on the process for how we protect the information.

Mrs. Sherry Romanado: Further to that, I previously sat on the national defence committee. I have in my hand a letter, signed by a former chair of the national defence committee, to a former Minister of National Defence, dated December 7, 2017, in which we explained to the minister that, during the studies on “Canada's Involvement in NATO” and “Canada and the Ukraine Crisis”, information that the committee needed to do that study was not available to them, and that:

As a result of not having access to certain critical information through briefings or documents, the Committee feels they have been unable to complete their work related to this study in an effective and comprehensive manner.

The first issue appears to stem from the requirement of officials to confirm security credentials of Members of Parliament before providing information to the Committee.

We're doing incredible work here, work that is affecting global situations. We, unfortunately, can't complete the work because we do not have access to the information.

I honestly believe that we are all honourable members, and that, given the responsibility of our own national security, I do not think members of Parliament would be using it for nefarious reasons and that they'd be standing up in the House of Commons and using parliamentary privilege to spew information, as they understand very well what that would mean. I think this is a learning opportunity to have those hard conversations because the face of intelligence and our national security have changed. Do you agree that it is time that we actually start having these conversations and move the dial forward to make sure that members of Parliament are able to do the work that they are required to do?

• (1215)

Mr. Alex Ruff: Absolutely. How did a former Minister of National Defence respond to the defence committee's ask or pointed recommendation to get more access?

Mrs. Sherry Romanado: He didn't believe that members of the national defence committee had security access.

I'm good. Thank you.

The Chair: Thank you very much, Ms. Romanado.

[Translation]

We now go to Ms. Gaudreau for two and a half minutes.

Ms. Marie-Hélène Gaudreau: This is a very interesting discussion.

I want to come back to the Peggy's Cove incident. Clearly, we want to have the required security clearance to know certain things, but how does it work?

As I understand it, when you have top secret security clearance, your hands are also tied when it comes to the information you have access to. How does it work when you get access to information?

[English]

Mr. Alex Ruff: You don't get access to it if you don't have the clearance, and that was the challenge, even in an imminent threat in this scenario. Again, this wasn't about ensuring that parliamentarians had the information—obviously, the government had it—but actually all the different levels of government. When you're dealing with a massive....

Again, I'm using the example of a security threat, not something like consequence management of an earthquake, a flood or a fire, but when it comes to a security threat and the scenario to play it out. I mention this because I wrote the scenario and ran the exercise. It wasn't about the initial improvised explosive device having gone off, which overwhelmed the system and required the military to help support different levels of resources in Nova Scotia, and our being dependent on allies, like the Americans, to bring in capabilities. I wrote an inject into the exercise that said, “Now we have another potential improvised explosive in Montreal. We now have a threat. How are we going to brief the appropriate authorities in Montreal?” Guess what? Half of the provincial government people and nobody in the hospitals or the transportation system had the right clearances.

That's the good thing about Bill C-70, which will help fix some of that, since now CSIS finally has the authority to share classified information with levels of government other than just the federal government. We're moving the needle in the right direction on the sharing of certain information.

This is just an extension to it, in a parliamentary case, that should.... A great example Ms. Romanado brought forward is that the defence committee, the foreign affairs committee and the public safety committee all had studies in which they brought this forward and said, “Look, we'd like to know more here so that we can actually make good, solid recommendations to Parliament and the government of the day, to fix and address threats and shortfalls within Canada.”

[Translation]

Ms. Marie-Hélène Gaudreau: Thank you, Mr. Chair.

I will ask my other questions later.

The Chair: Thank you, Ms. Gaudreau. You always finish right on time.

[English]

Ms. Mathysen, you'll end us off with two and a half minutes here.

Ms. Lindsay Mathysen: One of the concerns I've certainly heard as a sitting member of the defence committee is that we over-classify information. Is there a concern that if those who hold the information already and classify it might, if they understand that all members of Parliament might get the information, classify things differently and increase the level of security clearance and make it even more out of reach?

Mr. Alex Ruff: Not at all. As somebody who was in that business for 25 years, there's no thought of that. You can pull up the Treasury Board rules, and each of the departments has its own guidelines on how stuff gets classified. It has nothing to do with who has access or who has clearance. It's all based on whether the information poses a security threat to Canada if it gets out.

• (1220)

Ms. Lindsay Mathysen: Another concern I had was that all members of Parliament would be granted security clearance, depending on if they pass or what have you, but if they don't, would that not be seen as a breach of their privilege because being a member of Parliament would then give you access? Isn't that a bit of a loophole in that regard?

Mr. Alex Ruff: It's as I go. Just because you have clearance doesn't mean you get access to anything. You could make the case that I sit on NSICOP and I get access to stuff, so is that a breach of your parliamentary privilege because certain members get access to information? No. This is no different. This is just saying you have a right to apply. That's all it does.

Ms. Lindsay Mathysen: I'm talking about a situation where you apply and you're not granted clearance. This bill says that I get to apply because I'm a member of Parliament, but if I'm not granted it, wouldn't that raise a concern of a breach of privilege?

Mr. Alex Ruff: No, because there's nothing within the Parliament of Canada Act that says you have a right to classified information. My bill would only allow you to apply for a security clearance. It doesn't breach your privilege. If you were to fail, that would raise a valid question that we should be debating. It would be a concern to not only Canadians but also to Parliament if we had parliamentarians, whether they were MPs or senators, who failed to pass a security clearance.

Ms. Lindsay Mathysen: Right, but again, isn't that a breach of my privilege if I fail? You're saying that we have every right to question that, so wouldn't that go through the Speaker as a breach of privilege?

Mr. Alex Ruff: If a member of Parliament or a senator wanted to make public the fact that they failed to pass a security clearance, good on them. I don't think it would reflect well on the government that appointed the senator or on that member's ability to get re-elected if they're trying to make the case to their riding to re-elect them even if they can't get a security clearance in this country.

The Chair: Ms. Mathysen, that's all the time we have. Do you want 20 seconds to clarify, if you have a question there?

Mrs. Sherry Romanado: Could we get her to clarify, please?

Ms. Lindsay Mathysen: Thanks, Chair. I do think we're getting to the crux of it.

It undermines the democratic rule of law and breaches your privilege if you're denied.

Mr. Alex Ruff: It's a valid question that this committee can feel free to address and try to tackle as the next step, but again, my bill doesn't guarantee anything. It just allows you the right to apply, and I would actually caution against Parliament deciding or ruling that all members of Parliament and parliamentarians should automatically get access to a secret level security clearance. I would not

support that. Personally, I would vote against that if that came forward.

It's a personal choice whether you want to apply or not, and again, we have a process in place, and if you think we need to change our Treasury Board rules around what is required to pass a security clearance, that's fair game, but my bill doesn't address that, and it doesn't seek to address that. It just allows you the opportunity to apply and not be denied that opportunity to apply for secret level security clearance.

The Chair: Okay. Thanks very much for the clarification, Ms. Mathysen and Mr. Ruff.

Mr. Ruff, thank you very much. That was an interesting discussion, and your testimony today was valuable, so thank you.

Colleagues, we are going to suspend briefly as we turn to the second hour of testimony on this piece of legislation.

• (1220)

(Pause)

• (1230)

The Chair: Okay, colleagues, we are going to recommence for our second hour.

[*Translation*]

Joining us now are two witnesses.

[*English*]

Mr. Wark is a senior fellow at the Centre for International Governance Innovation.

Mr. Wark, welcome back, long time no see.

Also, Dr. Christian Leuprecht, professor, Royal Military College of Canada, is joining us by video conference.

Colleagues, we'll follow the same set of protocols we always do.

Dr. Leuprecht, I'm going to turn the floor over to you for up to five minutes, followed by Mr. Wark, who will have five minutes, and then we'll get into our round of questioning.

Colleagues, as a friendly reminder again, particularly to witnesses, please make sure that when you're not using your earpiece you have placed it down on the sticker in front of you.

With that, Dr. Leuprecht, we are going to turn the floor over to you for five minutes, sir.

[Translation]

Dr. Christian Leuprecht (Professor, Royal Military College of Canada, As an Individual): Thank you, Mr. Chair, for inviting me to take part in today's meeting.

I'll be giving my presentation in English, but feel free to ask questions in the official language of your choice.

[English]

I appear before you as a professor with subject matter expertise. I recently co-authored a book entitled *Intelligence as Democratic Statecraft: Accountability and Governance of Civil-Intelligence Relations across the Five Eyes Security Community*. It was published by Oxford University Press, which is among the world's most reputable scholarly publishers. I'm also a student of constitutional democracy, having co-edited *Essential Readings in Canadian Constitutional Politics*. Both areas of expertise are relevant to this bill.

The basic constitutional convention that informs Westminster parliamentary democracy is responsible government—that government, through parliament, is responsible to the people. The subsidiary principle is ministerial responsibility—that ministers are accountable for their departments and agencies.

In recent years, the role of parliament and its ability to hold government to account has been greatly diminished, this at a time when the size of the bureaucracy is up 45% since 2015 and government spending is at an all-time high.

As Donald Savoie documents in his most recent book, the civil service is atrophying and is becoming less effective. That's in part because ministers seem to take little responsibility for what happens in their departments. Instead, they seemingly prefer to blame civil servants. In response, civil servants have become highly risk-averse, yet parliament is hampered in its role of holding the government to account because the civil service reports to the political executive.

By giving parliamentarians the opportunity to apply for a secret security clearance, the bill takes a small step to bolster parliamentary supremacy and restore some balance to the relationship between parliament and the political executive. Access to documents that would otherwise be protected and the ability for civil servants to testify frankly before committee on protected material in camera improves the ability of parliament to hold government to account. The change is not to be taken lightly. It also changes the very character of the Westminster tradition of open parliament.

In 2015, this government came to power on a promise of open and transparent government. In the NSICOP, the government moved swiftly to empower security and intelligence reviews by parliamentarians. Allowing MPs and senators to apply for secret clearance is a logical next step in empowering parliament to hold government to account.

Can parliamentarians be trusted with protected, even classified, information? My book shows that indeed they can. Members of cabinet and the NSICOP are already entrusted with privileged information. Instances of intentional or inadvertent disclosure of priv-

ileged information by parliamentarians in any western democracy are far and few between. That's because they know that, as legitimately elected representatives of the people, they bear special responsibility. Access to sensitive and protected material at in camera meetings also reduces incentives for grandstanding at committee.

By contrast, political staffers leak information strategically all the time. Just last week, we had an apparent leak by a department to The Globe and Mail. Given the way that the government has instrumentalized secrecy provisions for partisan purposes—in the case of the national microbiology laboratory, for instance—and as we're learning from the Hogue commission, possibly in the selective treatment of national security intelligence, if political staffers get access to sensitive and protected material, then so should parliamentarians.

Bill C-377 conforms with the principles of who needs to know and what they need to know because parliamentary committees would ultimately put forward the case to the government of the day which material members should be able to access and for what purpose, and party leaders will be accountable for the MPs they appoint to committees.

The government may beat back calls for selectively clearing parliamentarians, arguing that parliament isn't up to the task, that the proposal is somehow American, that it doesn't work elsewhere, or even that they should all be left in the hands of judges. Does that sound familiar? Well, those were the Conservative Harper government's objections to bestowing on parliamentarians precisely the powers of review that the Liberal government subsequently gave them in the NSICOP.

• (1235)

[Translation]

Thank you for this opportunity and your interest in this issue.

The Chair: Thank you, Mr. Leuprecht.

[English]

I appreciate your opening remarks.

Mr. Wark, the floor is yours for up to five minutes, sir.

Dr. Wesley Wark (Senior Fellow, Centre for International Governance Innovation, As an Individual): Thank you, Mr. Chair.

I have just two quick comments to begin. First of all, I'm a big fan of private members' bills and have contributed to two of them in the past, both on oversight issues. Like Mr. Ruff, I have also held secret, top secret, top secret code word clearance, and I would say in that regard that security clearances are not a holy grail to understanding national security intelligence issues and threats.

Bill C-377 would establish an unprecedented power for Canadian parliamentarians, on their own initiative, to apply for a secret security clearance in order to access classified information. This power has no equivalent among the parliamentarians of our Five Eyes partners—those that are Westminster-style democracies. The parliaments of the U.K., Australia and New Zealand all share a responsibility with that of Canada to hold the government to account as a core duty. In their cases, this responsibility, when it comes to matters pertaining to national security and intelligence that involve access to classified intelligence briefings and records, is given to special committees of review and oversight. In the U.K. case it is the Intelligence and Security Committee, in Australia it's the Parliamentary Joint Committee on Intelligence and Security, and in New Zealand it's the Intelligence and Security Committee. All of these have unique features, but in the case of New Zealand the committee includes the prime minister and the leader of the opposition.

In Canada the National Security and Intelligence Committee of Parliamentarians is the body, established by Parliament in 2017, to undertake reviews of national security and intelligence issues. NSICOP has significant access to classified material, with some restrictions: cabinet confidences, ongoing investigations that may lead to criminal prosecutions and solicitor-client privilege, as examples. Its members must obtain top secret security clearances and relinquish the protection of parliamentary privilege should they divulge, in an unauthorized manner, classified information. NSICOP has been publishing reports for the past six years, most recently its report on foreign interference. It has, in my view, performed an important public service and issued many significant studies. I encourage all members of this committee to support NSICOP and to pay attention to its studies: Use them to hold the government to account.

NSICOP is not mentioned in Bill C-377. The effort to establish NSICOP took many years to accomplish—decades, in fact—and to undermine it now, which I think this bill would do, would be a serious mistake. The legislation was opposed by the Conservative Party at the time of its passage, but an earlier iteration dating back to a study undertaken in 2004 actually had all-party backing.

Members of Parliament may feel that there are aspects of the original legislation that established NSICOP that need review and amendment. You would not be alone in this. In the original statute, at section 34, the legislation called for a comprehensive review of the act by Parliament after five years. That review should have begun in 2022. It has not yet started, which is a serious failure of a statutory obligation and a missed opportunity by Parliament.

I believe Bill C-377 is wholly unnecessary, given the existence of NSICOP as the parliamentary entity designed to exercise accountability, in a non-partisan matter, on behalf of both the House of Commons and Senate. Even if you do not share that view, I point out the following—and there has been, of course, some discussion in the previous hour about that. In my reading, Bill C-377 does not establish any real need-to-know principle, leaving this to individual

parliamentarians' discretion. Application for a secret clearance is not restricted to members of committees dealing with national security and intelligence issues. Even if it were, it would result in clear duplication with NSICOP and undermine, I believe, the purpose of NSICOP. Bill C-377 would open up security clearance processes for all parliamentarians in a way that I think is hard to justify and extremely problematic. It would have impacts on security clearance processes conducted by CSIS, potentially undermining their rigour, and leaves unanswered—as we discovered in your first hour of discussion—the question of what would happen should an applicant be denied a clearance. In my view, Bill C-377 would fatally undermine NSICOP and parliamentarians' ability to hold the government to account on important matters of national security and intelligence, and it demonstrates no real need...case. It would also heighten, potentially, the risk of unauthorized disclosure of classified information. A better alternative would be to have a system—and I stress “system”—in place whereby party leaders have clearances and can receive classified information, as NSICOP itself suggested.

Finally, I encourage parliamentarians to push, instead, in a different direction on a genuine declassification strategy, which I think would be a great benefit to all parliamentarians and members of the Canadian public, in terms of better informing Canadians about national security issues.

• (1240)

Thank you.

The Chair: Thanks very much, Mr. Wark.

Mr. Ruff, I imagine that you have some commentary to provide, so the floor will be yours for six minutes, sir.

Mr. Alex Ruff: Thanks, Chair.

My first comment in rebuttal to the testimony of Mr. Wark is that I cannot speak on behalf of NSICOP here. I can only speak as somebody who's been a member for the last couple of years, because NSICOP really takes privilege, in that we speak through our reports. The fact is that I do agree that it's very non-partisan, but part of the value of that committee, too, is that everything is done at a secret level, an in camera equivalent, so that it takes away the politicization.

Where I disagree with Mr. Wark is that NSICOP is not that accountability oversight committee. It's a review committee that he talked about. It could evolve. If our current government had decided to start that review two years ago that we need, you maybe could see an evolution of that, and then maybe my bill would not be required. However, that's not the case, and that review process has yet to occur. Again, to push back a little bit, my bill does not guarantee access to anything. It doesn't undermine anything. It just allows members to apply.

That's just my commentary. I'm not looking for a response on that right away.

Professor Leuprecht, I'd like to get you to elaborate on two aspects. One is your commentary because it's been my personal experience as well with in camera meetings and the frank feedback and testimony by our public servants, regardless of their department, whether they're from National Defence, CSIS, Public Safety or RCMP, that there is value in really getting to the crux of some of the security risks we face and allowing Parliament to address the issues and concerns it has to the government of the day.

As well, I would give the opportunity, as somebody who I think has a different opinion from Mr. Wark, to comment on Mr. Wark's remarks.

That's for you, Professor Leuprecht if you want to respond.

• (1245)

Dr. Christian Leuprecht: Okay, just to make sure that I don't jump the gun, I think that in camera discussion is a very high-value opportunity. I mean, if you look at public governance boards—I sit on two of them for the Province of Ontario, for instance—certain matters are required to be discussed in public, in particular, matters related to finance, matters of confidence, maybe matters of public discourse and any sort of money bills and the like. However, much of what parliamentary committees do, I think, ultimately could benefit from a more informed conversation, also by parliamentarians, to understand how government works and why civil servants make the decisions that they do.

My experience is that civil servants will be rather reticent in public with comments that could possibly be construed as critical of the government of the day—and so they should be in order to maintain neutrality and objectivity. I think this measure would allow committees to get a better picture.

I don't see this as a broad opportunity for parliamentarians to get access. I also think that it's a bit obfuscating the matter when we necessarily talk here about classified top secret information. I mean, a lot of what we're talking about is simply the opportunity to have access in many cases to documents that government would

protect for any number of reasons, as government does in the course of practice, and to have a franker discussion.

In practice, I simply see this as an opportunity to empower Parliament. I also think the conversation about NSICOP obfuscates the matter, in the sense that we all know that NSICOP is a committee of parliamentarians; it is not a parliamentary committee. Rather, what this bill would allow is, I would say, to re-emancipate parliamentary committees, given that the ability of committees and Parliament in general of holding the government to account—not just with this government, as this is a longer tradition in Canada—has atrophied. Everybody's familiar with the centralization of power in the Prime Minister's Office. NSICOP effectively does the same thing because it reports to the executive, and so this re-establishes some balance with Parliament.

Mr. Alex Ruff: In only 45 seconds, do you want to give Mr. Wark the opportunity to provide any additional feedback?

I just want to again re-emphasize, as a member of NSICOP, that we are a committee of parliamentarians, not a committee of Parliament. Unless the committee evolves, we're not in that role to provide that oversight. We're there to review, and we do fulfill a very important role. However, I can guarantee you that for the amount of work that we could tackle, we don't even touch it. It needs to be tackled by other committees of Parliament.

The Chair: Very briefly, we'll go to Mr. Wark.

Dr. Wesley Wark: Sure.

Thank you, Mr. Ruff.

I'm glad that you've appreciated your time on NSICOP. I was involved in the drafting of the legislation and have been involved with the committee in various ways since its establishment in late 2017. I'm very familiar with it.

You can make a distinction between a committee of Parliament and a parliamentary committee, but in fact, the Canadian NSICOP version was based on the U.K. Intelligence and Security Committee, which now calls itself a committee of parliamentarians. There's very little difference. The legislation could be amended in that respect if that distinction matters.

I would just say with regard to my colleague, Dr. Leuprecht, that he and I have known each other for a long time. I think we would have a fundamental disagreement on whether your bill, Mr. Ruff, would be the next step past NSICOP or, in my view, fatally undermine it. I think there's a clear distinction there.

Thank you.

The Chair: Thanks very much, Mr. Ruff.

Ms. Romanado, the floor is yours for six minutes.

Mrs. Sherry Romanado: Thank you very much, Mr. Chair, and, through you, I'd like to welcome the witnesses back to PROC.

My first round of questions will be for Dr. Leuprecht.

I understand that you have expertise in Canada-U.S. relations, continental security and NORAD. How would the adoption of Bill C-377 impact our largest partner in terms of defence south of the border? Would there be any impact in terms of that relationship?

Dr. Christian Leuprecht: It's a good question.

I suppose that one of the inferences you draw is the possibility that materials that the United States shared with Canada could somehow end up being intentionally or inadvertently disclosed by this process. I would say, given the number of leaks that come out of Congress, that Canada probably has much more to worry about, in that some of its information might possibly inadvertently or deliberately be disclosed.

If anything, I think it will provide more informed parliamentarians who will be able to contribute to a more informed conversation around key issues of the day with our most important and strategic ally.

• (1250)

Mrs. Sherry Romanado: My next question is for Dr. Wark.

Obviously, I think that the question of national security, the question of intelligence—which we've been talking a lot about this over the last couple of years with respect to foreign interference—has an educational piece that is really important for parliamentarians and all of those who support us understanding a little bit more about what is intelligence, what is information, what is evidence and so on and so forth.

I think that by going through the process of receiving one's clearance and of understanding what foreign interference looks like, it would help parliamentarians identify possible breaches, possible risks, so that we're working in lockstep with the intelligence community. We've heard, quite frankly, that the intelligence community doesn't understand what we do and we don't understand what they do.

One of the other questions is that if we were to do this, I would assume then that all of the staff members who support us in what we do, whether it be on committee or not, might also necessarily have to go through security clearance. I say this because obviously with the handling of documents, whether it be access to the documents or not, it's not as if I could forward an email and say, "Please print this and put it in my day file". Because they don't have the necessary clearance, what would be some of the ramifications or unintended consequences of our doing this and thus expanding the scope of who actually has to get the access?

Dr. Wesley Wark: I would say two things.

First of all, to reiterate—and I'm happy to expand on this if it's of interest to the committee—having a security clearance at whatever level and having access to classified information is not a holy grail. It does not provide you with the kind of broad-based knowledge that I think all parliamentarians should have and need to have about

national security and intelligence issues. There is a vast amount of information in the public domain available to parliamentarians and Canadians that is, I suspect, little studied, including past reports from NSICOP, NSIRA, the intelligence commissioner's office and their predecessors, and all the other kinds of public documents that are put out.

I would argue that understanding that public domain information is going to be far more valuable than having access to bits and pieces of classified intelligence from the security and intelligence community. I base that, in part, on my own experience of what is available. It's wonderful to have a top secret clearance. It's exciting. You get access to special information. Secret clearance is less valuable. Everybody has a secret clearance in the government, but it's not a holy grail.

A voice: Except for parliamentarians.

Dr. Wesley Wark: Yes, except parliamentarians. It's not a holy grail, though. There's lots of stuff to study on behalf of parliamentarians.

The other thing, in terms of consequences, is this would open up a considerable set of challenges. It's important for members of this committee to understand that security vetting is done by CSIS. CSIS security vetting results in a recommendation, usually to a deputy head or deputy minister. That recommendation is just that: it's a recommendation only. It would be up to whomever would be responsible for approving the security clearances or denials for parliamentarians to make a judgment. How would that process work? I'm not entirely clear on how it would work favourably.

Frankly, members, I would also be very concerned about the rigour of CSIS security clearances in that process, because they would be faced with the challenge of, on the basis of some ambiguous information about loyalty, trustworthiness and background, whether they really want to get into the grip of denying a security clearance to an elected member of Parliament. I would really be concerned about the impact on CSIS security clearance culture, which is already challenged enough.

Thank you.

• (1255)

Mrs. Sherry Romanado: I'm good.

Thank you.

The Chair: Thank you, Mrs. Romanado.

[Translation]

Ms. Gaudreau, please go ahead. You have six minutes.

Ms. Marie-Hélène Gaudreau: Thank you, Mr. Chair.

Mr. Wark, I want to follow up on your last comment.

As you just mentioned, a significant gap exists between members of Parliament and the intelligence agencies when it comes to access to information. In fact, we've been studying the culture of intelligence for months, and it's clear that there is almost no such culture.

Could Bill C-377—which is useless given what you said at the outset—help bring the two sides closer and improve the culture of intelligence?

[*English*]

Dr. Wesley Wark: First of all, I certainly wouldn't characterize Mr. Ruff's bill as useless. Private members' bills are typically quixotic affairs, and, as I said, I'm very supportive of them. They're an important part of the opportunity for Parliament to debate issues that might otherwise not come to its attention.

I'm doubtful that this measure alone would improve what we often refer to generally as the “culture of intelligence” in the federal government. The reason for this is that the issue of the culture of intelligence fundamentally is a matter of understanding the nature of national security threats and understanding the strengths and limitations, the governance mechanisms and the ways in which intelligence communities work.

You do not need a security clearance to understand those fundamental problems. Having a security clearance would likely, I would think, enmesh you in the cultural deficiencies problem that we have with regard to intelligence matters rather than to solve it.

Thank you.

[*Translation*]

Ms. Marie-Hélène Gaudreau: When I said that Bill C-377 was useless, according to you, I was referring to the fact that you called it “useless”. What you really meant was unnecessary. You rephrased it clearly. No retaliation, please.

As I understand it, the government has repeatedly tried to protect information, parliamentarians want to know the information, and there is a committee of parliamentarians—which you helped set up—but it doesn't have sufficient analysis powers.

That is why you think Bill C-377 is certainly not necessary if we focus on the information that's already available.

Do I have that right?

[*English*]

Dr. Wesley Wark: Thank you, Madame Gaudreau.

First of all, as Mr. Ruff will appreciate, NSICOP chooses its own subjects for review. Of course, in any particular year of its operations, it can't cover the waterfront, but it can and has chosen important topics for study. I hope it will continue to do so.

My main pitch to the committee is: Please do not undermine this creation that took so long to put in place and is, I think, an important institution and one where, frankly, Canada is trying to catch up with our counterparts among the Five Eyes in having an ability on the part of a parliamentary committee, a committee of parliamentarians—frankly, I don't think there's a big difference between those things—in being able to have access to classified information and conduct thorough and in-depth studies with the help of an expert

secretariat of a kind that no parliamentary committee has or has the resources for.

I think that it is an important institution, and my real fear about this bill is not its usefulness or uselessness; it is the undermining of the very important thing that we created in 2017 that is still maturing but deserves to survive, and it certainly deserves a timely parliamentary review.

[*Translation*]

Ms. Marie-Hélène Gaudreau: I completely understand your concern.

Before I go on, I want to commend the interpreters, who are doing a wonderful job. That said, I'd like you to send us your opening statement, Mr. Wark. You covered a lot of information, and I was trying to write it all down.

I believe you said that our Five Eyes counterparts don't have this kind of security clearance.

Besides the Five Eyes members, which countries give parliamentarians this access, even just for analysis purposes?

• (1300)

[*English*]

Dr. Wesley Wark: I mentioned to the clerk a study that had been undertaken by a Geneva think tank that has done a lot of work on parliamentary oversight and review, and it examined this issue, in fact, and does make a distinction between different kinds of processes undertaken by different parliaments.

There are certainly some European parliaments that provide security clearances to members of Parliament, principally on the basis of their role with respect to selected committees. This is true, as I recall, for parliaments as diverse as those of Poland, Slovakia and so on, but certainly there are European countries that have adopted that process.

It also is important to say that none of those countries have the kind of dedicated, specialized committee of the sort that NSICOP represents.

That's certainly an alternative method, in my view, but it's not nearly as powerful a one as the one that we've created and can potentially reform and make stronger still in the future.

Thank you.

[*Translation*]

Ms. Marie-Hélène Gaudreau: Thank you, Mr. Chair.

Thank you, Mr. Wark. That was very helpful.

The Chair: Thank you, Ms. Gaudreau.

[*English*]

Ms. Mathysen, the floor is yours.

Ms. Lindsay Mathysen: We've been talking a lot along the lines of the transparency of information. I have heard in the defence committee, of course, the stat that Canadians classify 70% more information than the Americans do

Could we talk whether this bill gets to that idea of transparency and whether maybe we should be doing this another way? My understanding is that there are—and what I've certainly used—ombuds' offices within Parliament. There are officers of Parliament. There's the Auditor General. There are commissioners and so on. Instead of this way, would it maybe make more sense in terms of transparency to look at if it's possible to give those actors within this parliamentary context more teeth, more responsibilities, greater access to information and report directly to Parliament, those sorts of things?

I'd like to hear from both witnesses, I guess Mr. Wark first and then Dr. Leuprecht.

Dr. Wesley Wark: Ms. Mathysen, thank you for the question.

Just quickly, I would say two things in direct response to your question. I don't think it would improve transparency necessarily, because if a member of Parliament got a security clearance to the secret level and was provided with classified information, that member of Parliament would not be able to divulge that information in any kind of public setting, unless they were going to use parliamentary privilege to do that, which would create a huge problem.

There are two things that I would certainly like to see happen. One is that I would like to see the government really deliver on the promises that were embedded in the national security transparency commitment that was issued in 2017. It's not a piece of legislation; it's just a commitment. But it was an important set of principles that has never been properly followed through on.

The second thing, just to come back to the remarks I made in the opening statement, is that we do not in this country have a declassification strategy or any way in which, in a systematic format, previously classified information can be lowered in terms of its classification or made public in the public interest. That is a serious weakness that sets us apart from many of our Five Eyes counterparts, especially the United States and the United Kingdom.

Dr. Christian Leuprecht: I have two comments. One is that we know that access to information in this country is seriously broken. We've all read the recent Globe and Mail reporting. We've read the access to information commissioner reports. This is a basic premise of democracy. I think parliamentary committees can substitute.

I also think perhaps Dr. Wark and I are coming at this from different assumptions. This is a bit of the conversation we had about a very contentious bill a decade back, where people pulled out the worst-case-possible scenarios that we could possibly think of. We're talking about national security, about classified intelligence. I actually think that obfuscates the conversation. A secret clearance would give select parliamentarians on committees the opportunity to see sensitive and protected material and to have everyday conversations with civil servants in a review capacity. It would be *ex post facto*. We're not talking about oversight. We're talking about review here. It would be about standard, run-of-the-mill things that a committee believes require a level of conversation that perhaps cannot be had broadly in public.

We're not talking about national security. We're not talking about highly classified information here that might become accessible to members of Parliament. I think we're simply talking about raising

by one notch the ability for members of Parliament, and especially parliamentary committees, to hold the government to account.

Dr. Wark, I guess you disagree with me, but whether a committee reports to the political executive or to Parliament, that to me, in terms of the executive branch and the legislative branch, is a substantial, fundamental difference in what we're talking about with regard to responsible government and parliamentary supremacy.

• (1305)

Ms. Lindsay Mathysen: I'd like to get back to what you said, Dr. Wark, about this huge problem of parliamentarians sharing that information, or the potential that they get the information and then use privilege to share it. Obviously, members of NSICOP have forfeited their rights to this. Can you talk about that and expand on that further? It's not in this act.

Dr. Wesley Wark: No, it's not.

I have two things. I would first like to respond to my colleague Dr. Leuprecht, just briefly.

Ms. Lindsay Mathysen: Go ahead.

Dr. Wesley Wark: It is right that it is part of the construction of the legislation that created NSICOP that members must acquire a top secret security clearance. They become people permanently pledged to secrecy under the Security of Information Act. They have to deliver an oath of loyalty. They give up parliamentary privilege. That's been challenged legally, but I don't think the challenge, to be honest, is very sensible. That's the way NSICOP works. That is also the way that counterpart bodies in the Five Eyes work.

In regard, just very briefly, to Dr. Leuprecht's statement, NSICOP does not report alone to the executive. Of course, NSICOP publishes its reports and provides them. They are tabled in Parliament. NSICOP reports to Parliament, and that's an important function. We can talk about the ways in which the executive controls some aspects of protecting information in the unredacted versions of NSICOP reports, but that is perhaps a discussion for another day.

The Chair: Thank you very much, Ms. Mathysen.

Mr. Ruff, the floor is yours for five minutes.

Mr. Alex Ruff: Thanks, Chair.

This is for both witnesses because you both highlighted this. You highlighted the lack of education and awareness about national security issues in general with the Canadian public, but in particular within Parliament. Do you agree with that statement? Do you think that Parliament could go a lot further in becoming a lot smarter about issues of national security and intelligence?

Dr. Christian Leuprecht: I am personally, as a professor, deeply concerned about the impoverished level of political discourse in this country. I think being able to make a contribution to ensure that members of Parliament have an ability to raise the level of informed conversation and to have slightly broader awareness of the broader functioning of government and to have a bit more detailed conversation, especially in light of the shortcomings we have already discussed in the ability to access information or in the government's, at times, partisan obstruction—not just this government—of making the right information available in a timely fashion, and coming at it with a broader understanding to begin with would allow for a slightly improved level of political discourse overall in this country.

I don't see the concerns about “these are people we elect”. I guess maybe I'm just too much of a small-d democrat, but I just believe that we can ultimately trust our parliamentarians, and I think, by and large, all the theatre in the House of Commons notwithstanding, I actually find the parliamentarians I meet, irrespective of political party, to be exceptionally responsible and mature people.

Mr. Alex Ruff: Thank you for [*Inaudible—Editor*].

Dr. Wesley Wark: Thank you.

Just very briefly, I think anyone who studies national security intelligence issues in Canada will share Mr. Ruff's view that there is a problem with what the former CSIS director David Vigneault often referred to as a lack of national security literacy. It is a problem. I don't think that the solution to it comes through delivering security clearances to all members of Parliament. I would note that Mr. Ruff's bill does not limit the process of applying for security clearances to members of designated committees. That came up in the discussion. Even if it did, I would continue to worry about the potential undermining of that fundamental and important role that NSICOP plays.

The think tank that I have been associated with since 2020, the Centre for International Governance Innovation, issued a major report in 2021 called “Reimagining a Canadian National Security Strategy”, and that was designed, in part, to try to make a contribution to a better public understanding.

Again, I would come back to the fact that members of Parliament in particular cannot consider themselves as passive consumers waiting for intelligence briefings to come their way. There are many ways in which they can inform themselves through information in the public domain about threats to national security and intelligence.

• (1310)

Mr. Alex Ruff: I just want to address this because Mr. Wark brought it up a few times, and it will be interesting. I will bring this conversation up with my colleagues in the NSICOP committee. In no way does my bill undermine the work that NSICOP does. I have no concerns about NSICOP's continued existence. I think there's a recognition across Parliament of the valuable work that NSICOP has been able to do, full stop. There is more than enough work that Parliament needs to do to tackle this.

Just to get to my point and why I asked this leading question about literacy around national security, the only way is to start

down this path. People need to become more aware. There are loads of information out there. Parliamentarians, though, can't study it all. We're very dependent upon focused studies when some issue becomes the issue of the day, and that is the role of committees of Parliament, not a committee of parliamentarians, to actually provide that accountability and oversight. I think that's why some of this is important, because if you want to take the politicization out of the debate and out of the discussions, you need to have informed discussions, and you can't have those without having the level of detail.

I will summarize here in saying that my bill, again, doesn't guarantee access to anything. It will just allow parliamentarians the right to apply for a security clearance. Nobody will see anything or nobody get anything unless it has been worked out at the table at the respective committee and with the government of the day.

The Chair: Thank you very much, Mr. Ruff.

Dr. Leuprecht, I see that your hand is up. The protocol on committee is that a witness has to be asked by a member to respond. Hopefully, a question will be directed toward you where you have the opportunity to add your remarks in that regard.

Mr. Turnbull, the floor is yours for five minutes.

Mr. Ryan Turnbull: Thank you.

Notwithstanding Mr. Ruff's testimony, in which he said his intention is not to undermine the work of NSICOP...which I get. I appreciate that, and I take it at face value. I don't think it's his intention to do that.

Notwithstanding that, Mr. Wark, you've said that this bill would “fatally undermine” NSICOP. That's pretty strong language. I want to get you to unpack that a little bit more. I don't think you've necessarily had the chance to do that yet. You've outlined the impact on security clearance. What other aspects of NSICOP's role or work that you've called fundamental would this fatally undermine?

Dr. Wesley Wark: Thank you, Mr. Turnbull.

Just very quickly, there are two things. One is that if Parliament would like to amend the original legislation to change the label applied to NSICOP from a committee of parliamentarians to a parliamentary committee, they should do that. That would be an easy fix for a semantic distinction, which I don't think, to be honest, is important.

NSICOP is a very special committee with very special resources. It's an all-party committee. It has a secretariat of around 10, all of whom have security clearances and considerable knowledge of the world of national security intelligence of a kind that is, again, to repeat myself, not available to ordinary parliamentary committees.

My view of NSICOP is that it has proven its worth over the last six years of reporting, but it still lacks a degree of trust by Parliament. Let's be honest about this. The government suggested, for example, that NSICOP could be the entity to study foreign interference problems. That was rejected initially by Parliament as not sufficient. The government also suggested that NSICOP could be the entity to study the question of security breaches and related issues with regard to the Winnipeg lab. That suggestion was not adopted by Parliament. I take that to mean that Parliament did not sufficiently trust NSICOP to perform those functions.

There is still, in the first six years of its existence, a trust factor that perhaps goes back to some of the original political opposition to NSICOP. That is why I fear that giving this broad security clearance availability to all members of Parliament, whether they sit on respective committees or not, would mean a fatal undermining of NSICOP as Parliament's key instrument for studying national security and intelligence issues and doing that in a rigorous and in-depth way that is unavailable to any other parliamentary committee.

• (1315)

Mr. Ryan Turnbull: Based on what you just said, it sounds like you see a trend of Parliament's resisting and not fully trusting the work that NSICOP should undertake.

Dr. Wesley Wark: That's what I've seen in selected instances.

Mr. Ryan Turnbull: Is this a continuation of that, in your view?

Dr. Wesley Wark: I fear it might be. That's why I said “fatally undermine”. It's a question of the extent to which Parliament is willing to trust and rely on the abilities of NSICOP to bring issues to Parliament's attention, in that accountability realm, that are of major public interest.

Mr. Ryan Turnbull: Thank you.

You also mentioned the heightened risk of unauthorized disclosure, which is something that concerns me as well. One of the questions or ramifications of this bill would be that if there are numerous other MPs who now have secret security clearance and have gained access to national security and intelligence information, how would we ensure the necessary safeguards in how those documents information is shared? Would their staff need to get security clearances?

There seems to be a whole number of other considerations in operationalizing the implications of this bill. Would that not be a concern for you as well?

Dr. Wesley Wark: Thank you, Mr. Turnbull.

Just very briefly, as Mr. Ruff will know full well, there are processes and protections that need to be in place to handle classified information—to store it, to retain it and so on. All of that would have to be made available to MPs, senators and conceivably their staff, depending on how this process would be rolled out, if the private member's bill were established.

I don't want to emphasize the idea that parliamentarians cannot be trusted with classified information. My concern about heightened risk is in part a concern about how this initiative would be read by our Five Eyes partners, to be honest, in terms of that tension that always exists about the kinds of information and intelli-

gence that can be provided to Canada and the extent to which it can be protected by Canadians. I think there would be some questions raised by our Five Eyes partners, not least because they do not share this practice.

The Chair: Thanks very much, Mr. Turnbull.

[*Translation*]

Ms. Gaudreau, you may go ahead for two and a half minutes.

Ms. Marie-Hélène Gaudreau: Mr. Chair, although I have a lot to say on this topic, I will stick to the matter before us today.

What we're trying to get is the relevant information that will help ensure our national security. I've noticed that, over the past six years, obstruction has taken place. As you said, it's partisan obstruction. On one hand, there is an attempt to hide information, possibly out of fear of shedding light on a situation, and on the other, there is Bill C-377, which is an attempt to know everything.

I heard you say that the current organization needs more teeth. The executive branch puts out a report, which I didn't even know about. That means there's a lot of information available to us, as parliamentarians.

In the current situation, even if a bill like this one is passed, there will be changes. The roles will change. The goal is to regain the confidence of our democratic society.

I'd like to hear your thoughts on that before deciding whether or not to support the bill.

• (1320)

[*English*]

Dr. Wesley Wark: Madame Gaudreau, just very briefly—again, I'll be repeating myself a bit—I think members of Parliament can do a great public service by better educating themselves, when the opportunities come, with regard to national security and intelligence issues. Much of that process can be based on publicly available information.

I do think that Parliament should hold the government to account for its national security transparency commitment and really press on that. It would be wonderful to see the Access to Information Act really revitalized. I fully agree with Dr. Leuprecht that it is a completely broken system.

Also, it may well be that members of Parliament simply do not understand, and this is why the declassification process is so important. Once a document is classified, it remains classified forever under the current system, unless someone comes along and makes an access request for it, and even if that person comes along and makes an access request for it, that information is regarded as theirs and not the public's, so it doesn't become public.

It is the craziest system that you can imagine, and it needs reform, but we haven't seen that reform.

[*Translation*]

Ms. Marie-Hélène Gaudreau: Mr. Chair, I'd like to know whether the witness can send the committee the 2021 report entitled "Reimagining a Canadian National Security Strategy".

[*English*]

The Chair: Dr. Wark, if you have access to that.... We can get it on our end, too, but we'll want to make that available as per Madam Gaudreau's request. Thank you.

Ms. Mathysen, you'll be the last speaker for today. There are two and a half minutes for you.

Ms. Lindsay Mathysen: I always love being last.

I would like to thank both witnesses. You both referenced access to information. That's why I was so adamant about having that review in the national defence committee, where we're going through that report right now—a soon-to-be excellent read.

Dr. Wark, I think you mentioned the lack of the review that was overdue in terms of the NSICOP report. It sparks me to say that if we're going to make changes or amendments to this piece of legislation, would you—or either witness, actually—comment on the need for a review mechanism within this piece of legislation?

Dr. Wesley Wark: Ms. Mathysen, I'll just go quickly. It's an interesting question.

I think there's much that is unclear in the governance of this process that Mr. Ruff has proposed, including questions we've touched on, such as how CSIS would handle security clearances and to whom recommendations would be made and how those recommendations might be handled, whether granting a clearance or denying it. Who would be in a position to review such a process I think would be a question that I would scratch my head about.

Thank you.

Ms. Lindsay Mathysen: Go ahead, Dr. Leuprecht.

Dr. Christian Leuprecht: Timely review is built in. For instance, the Australians do this regularly, with an outside judge, every five years for the whole national security infrastructure. The problem we have in Canada is that we build in these mechanisms, but then the government of the day doesn't follow through, for any number of reasons.

Yes, a review, but there's also the question of what kind of review. Would it necessarily be a review within a parliamentary committee or would it perhaps be an outside review? Certainly, on these

types of mechanisms, it will be worthwhile to look at whether the effects we intended to achieve are actually working to that particular end.

For me, the effect would be that of providing a rebalancing of the information asymmetry between Parliament and the executive.

The Chair: Thank you very much, Ms. Mathysen.

Colleagues, that brings us to the end of today's testimony. I do have a couple of quick items for the committee to deal with that aren't relevant to our witnesses.

Dr. Wark and Dr. Leuprecht, thank you very much for being here today. I wish you a good rest of your day, and thank you so much for the insight you provided.

Colleagues, just very quickly.... You will recall that we changed the meeting time for this Thursday's meeting from 10:30 to 1:30 originally. We only have two hours' worth of business as a result of not being able to get enough witnesses. Here's my question, then: Do we want to go from 11:00 to 1:00, our usual window, or do we want to keep the change but have it be from 11:30 to 1:30?

A voice: 11:00 to 1:00 is—

The Chair: Okay, it will be 11:00 to 1:00....

I'm looking....

• (1325)

[*Translation*]

Ms. Marie-Hélène Gaudreau: Since we're going to have some time in a week, we can deal with it then.

[*English*]

The Chair: Colleagues, I'm seeing unanimous consent on that, so it will be our regular meeting time.

One other thing to mention is that the analyst has let me know that we're very close to receiving the final translated copy of the report that he's drafted from the Chief Electoral Officer with regard to the Nunavut pilot project. That will be coming out relatively soon. We'll ask everybody to keep an eye out for that because we will have to dedicate a couple of moments of committee business to going through that report.

With that, colleagues, it's been a very productive meeting. Thank you very much. Have a good rest of the week.

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