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Chair

Mr. Leon Benoit

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• (1105)

[English]

The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)): Good morning, everyone. It's good to welcome you to the second meeting of the Standing Committee on Government Operations and Estimates.

Before we get to the witnesses today, I would like to ask the consent of the committee to put off the approval of our first report from the subcommittee on agenda and procedure until the end of the meeting so we can get right to the minister and the other witnesses. Do I have that approval?

Some hon. members: Agreed.

The Chair: Very good. Thank you. We'll deal with that at the end of the meeting then.

I am very pleased to welcome the President of the Treasury Board, the Honourable Reg Alcock, who is certainly no stranger to this committee. He was the chair of this committee when I came on the committee, and I know he had a lot to do with making it a successful committee in the past. In fact, he first sat as chair of the committee when it was created in June 2002, right up until December 2003, when he was named to cabinet. Welcome back, Mr. Minister.

Minister, I thank you for coming today to talk to us about Bill C-11 and for making yourself available to this committee on such short notice. I understand you're here for the full session today, and we do appreciate that.

I want to get right to questioning, but I'd like you to make a few short comments first. Before that, though, you have some other officials with you and I would ask you to introduce them for the committee.

Hon. Reg Alcock (President of the Treasury Board): Thank you, Mr. Chairman, and congratulations on your election to this august office. I know some of the pressures you will be subjected to, so you have my sympathy as well as my congratulations.

To the two vice-chairmen, it's nice to see that in the leadership of the committee there's continuity with some of the work that went on before.

And of course welcome to the new members.

You know that Diane is my parliamentary secretary and will be available to fill in at any time you need additional information. She is probably more knowledgeable on some of the details than I am.

With me at the table is Mylène Bouzigon, who is the lawyer for the Treasury Board Secretariat, who keeps me out of trouble on some of the legal and administrative matters and oversees legislation as we develop it.

Ralph Heintzman is the vice-president of the agency.

Monique Boudrias, who members will remember from the development of Bill C-25—she led the team that developed the Public Service Modernization Act—is the executive vice-president of the Public Service Human Resources Management Agency.

This is the team that has worked on the drafting of this bill and to get it ready for presentation to committee.

Because I remember the frustration of the chair, and also because I'm not certain of the utility of lengthy descriptions of things, I want to just frame some structural arguments to give you a sense of what has occurred between the last time this committee dealt with this bill and now, with the bill you have before you, and to share with you a bit of the thinking about why we did what we did.

I listened to the responses from the three lead critics for the various opposition parties with some interest, to get a sense of what people's concerns were and what issues they wanted to address. Unfortunately, I was not able to stay in the Chamber for all of the debate, but I have reviewed the comments that were made by other members, and certainly the staff have gone through that in some detail. I'd like to try to respond just quickly to give you a sense of some of the structural issues here that led to us making the decisions we made that appear in the bill.

Mr. Chairman, you and some of the members who were here prior to December 12 will recall that we had an experience in the Privacy Commissioner's Office that led to a heightening of concern about the need for a mechanism whereby public servants could come forward with concerns. Treasury Board was undertaking to do a review of this and bring together a body of experts to consider how we could respond to this. I think it was the feeling of members that we wanted to put before Treasury Board some of our experiences as a committee, dealing with an issue that was quite serious, and to offer them some advice, so that when they went off and did their research they could come back to us and see if they would reflect on that. Mr. Martin co-chaired that, along with Raymonde Folco. That report is available to committee members.

One of the issues in there was one that was identified the last time the committee sat on the first round on this bill, which was the need for an independent body to which public servants could go to raise serious concerns and have those concerns evaluated as to whether they were simply things arising out of employment disputes or other kinds of issues or whether they were substantive public concerns, and then go forward and take action on that. That was a key part of the discussions we had gone through.

We did that, in part, having been through the experience of the Public Service Modernization Act. Some of this may have been missed by members who didn't live through that exercise, but those who did will recall that the structural changes we were trying to drive in that piece of legislation were to allow managers to run their organizations in as efficient and effective a manner as possible, because we felt that some of the internal mechanisms we had were too cumbersome, and to move the Public Service Commission into more of a role of an auditor of the public service hiring processes within departments, rather than the deliverer of that. In these discussions there was a move that was undertaken, which was supported by all members and was driven by one of the members of the committee, to change the way in which the chief commissioner was hired.

• (1110)

The language that was borrowed was a section of the legislation that supports the hiring of the Privacy Commissioner and the Information Commissioner, and that was the process that was followed in the hiring of this commissioner. It was a resolution to the House, supported by a motion in both houses, the House and the Senate.

I know Mr. Martin raised some concerns with me that there seems to be some confusion on that issue, and I think that's something members may want to look at. The intention very much was to start to rebuild. I think I heard statements in some of the speeches about concerns about the Public Service Commission. Did it have the kinds of confidence levels and such that you would like it to have? And those concerns are certainly reflecting concerns that have existed in the public service for some time.

I would ask you to look carefully at it, because I think the question is, do we want to build a wholly new system, or do we want to make the systems that we have work? Do we want to reform them and improve them and make them functional? Of course, I've chosen the second one. My recommendation and the way I've structured this bill is that we begin to build up the role of the Public Service Commission, which is one of the oldest institutions in government. It was created around 1917, 1918, in that area, to serve as the guarantor of quality in the hiring of public servants. It served to stand there between all of the abuses, not just political but also the abusive tendencies in terms of nepotism, patronage, and all of that. Its role was to guarantee quality in the management of the public service, and I think all of us want to see that role carried through.

The second thing I want to say, as the chairman has referenced, is that I believe very strongly in this process. I fought hard to get this committee into place and I enjoyed the time I spent here, because I think these issues of quality management are critically important to all of us. These are not broadly ideological issues. These are issues of good management and good governance. So I don't come here

with a pre-set...I have my own beliefs, my own research, and my own feelings about this that you see reflected in the bill, but I'm looking for a vigorous debate on this. I will respond to any questions you have, I will try to provide you with the information I can, and I will engage in that debate. I think at the end of the day what all of us want is a regime that serves Canadians well, and frankly we have to serve our employees well. No organization succeeds by treating its employees badly or by victimizing them.

I'm a little concerned. There's a thematic that has emerged in the last while that abuse is widespread. I think in a flourish of rhetorical excess someone talked about a culture of corruption. Well, I'm here to say that's just not true. I don't believe that exists in our public service. I think there are examples of problems. We are the largest organization in Canada—four times larger than any other organization in terms of our employees. This is a massive operation. There are always management problems. There always will be. We have to build frameworks that allow us to constantly reinforce the confidence of the people who do important public business. I have confidence in this committee to do exactly that.

I'm going to stop, Mr. Chairman, and we'll get into the rest of this on questions. I'm here for as long as you need me.

The Chair: Thank you very much, Mr. Minister, for your short, concise comments. It's much appreciated. I'm looking forward to you answering questions from the members from all parties here.

The first round of questioning will be seven to eight minutes, and then we'll go into a second round of five minutes each.

We'll start with Mr. Lauzon from the new Conservative Party of Canada. Guy.

Mr. Guy Lauzon (Stormont—Dundas—South Glengarry, CPC): Thank you very much.

I want to thank the minister for his opening remarks, and I'm very happy to hear that he has an open mind about any suggestions that might come from the committee. I'm also very, very encouraged to hear that he wants legislation that will serve the employees well. I think that's what this committee is about and that's what we should be trying to do.

To that end, I would like to preface my first question by saying that I've served 22 years in the public service, so I would like to think that my comments have credibility. Part of that time, I worked my way up through the ranks; I worked as an employment counsellor and as a supervisor, and I've managed five different offices. I've managed three offices in Ottawa, one in Cornwall, and two in Sudbury. I also served as a local union president in the Sudbury local.

So I've had a lot of dealings with public servants on an intimate basis, both as a union representative and as a manager-supervisor, and I can say from 22 years' of experience that I'm quite certain that public servants will be extremely reluctant to disclose any wrongdoing to anyone who is associated with the Public Service Commission of Canada. The commission, unfortunately, is regarded as an arm of management; it always has been.

The minister mentioned that the public service was founded in 1918. Since that time.... I realize their mission is to protect the rights of equality in the public service, but quite frankly, the employees—and this legislation is made for the employees—do not respect the Public Service Commission as carrying out its mission.

If we want to draft good legislation that the people we're drafting the legislation for will use, then I think we have to come up with a structure that is independent of senior management, because quite frankly the Public Service Commission.... If you went out and did a poll of all the public servants across the country, they would tell you without doubt that the Public Service Commission is part of management and is there to serve management.

So, Mr. Minister, my first question for you is very straightforward. You said you have an open mind. Will you entertain an amendment to this bill that would create an independent—and I stress, independent—external agency to receive and investigate disclosures and to protect those who make those disclosures?

•(1115)

Hon. Reg Alcock: Mr. Lauzon, you started by saying that you hoped your remarks would be received as having some sort of credibility. Well, I hope I'll do that with everybody; I think all members around this table have credibility, and I think ultimately we all have the same interests.

I would ask you, though, to consider a couple of things.

I agree with your fundamental premise that the Public Service Commission has a problem if it exists serving two masters. It can't be an agent of oversight and a deliverer of services, right? If it's exercising executive functions, then there may well be a problem in exactly the way you suggest.

That was very much the debate, for those of you who were here for the Bill C-25 debate.... In this changing role, one of the questions was how far were we able to move that model? Was it the intention to have the Public Service Commission begin to give up some of those executive functions and to emerge as an auditor? So it's a new Public Service Commission, right? You're right; if we simply said "Let's hand it over to the old Public Service Commission that reports through the executive" and everything, I think your concerns would be well founded, because one thing we heard very much was that people want to have an independent body, right?

Before we start talking about another entity, I would encourage you to look at ways to improve the Public Service Commission. Part of my reason for saying so is that when I look at the overall management structure of government, I think this is about modernizing public management. This is one piece, but you'll have me here many times on a whole bunch of issues like this. I think there's an inherent tendency driven by us politicians to always create something new, but never to change or fix or to get rid of something

old; so we have this proliferation of things that just add to complexity within the overall management environment, to the point where.... One of the problems we were having in hiring is that when we identified a smart young kid at university, it would take us six months to make him an offer. It is dysfunctional.

So the structures of government need to change, and this is one of them. My desire to move in this direction was in part because I just didn't see the utility in setting up yet another thing. Now we have two, and now we have three—we have the agency. The agency has an HR responsibility, the Public Service Commission has an HR responsibility, and this new entity has a responsibility.

Well, if the Public Service Commission is going to move into this new role of being an overseer or auditor, in a way an auditor of the human resources side.... We have an auditor for the financial side, and that was the image presented during Bill C-25. I would encourage you to see if we can't make that work before we look at creating yet another entity.

At the end of the day, I'll see what the consensus is around that table—but that was at the heart of my thinking about this.

•(1120)

The Chair: Thank you, Mr. Minister.

Mr. Lauzon, for two minutes.

Mr. Guy Lauzon: Mr. Minister, I appreciate your comments.

You mentioned the Public Service Commission modernizing. By the way, I heard that word probably 20 or 30 years ago. I went through a number of those modernizations of government and of the Public Service Commission.

The point I'm trying to make, Mr. Minister, and I say this passionately, is that you have to talk to the public servant who is doing the job. The public servant will not use the vehicle you're suggesting. I say this from the bottom of my heart. It is impossible to motivate people to go to someone who they haven't trusted for 50 or 60 years.

I encourage you to change the public service. Surely it needs lots of change and lots of modernization; but quite frankly, you're not going to have the credibility and the goodness of this bill if you continue...unless you remove it. Maybe somewhere down the road when you have the public service the way you suggest it should be, maybe then you can roll that back in, but I would suspect that would be 20 or 30 or 40 years down the road.

The Chair: A very short response, Mr. Minister.

Hon. Reg Alcock: Well, let's hope that it's not 20 or 30 or 40 years down the road. I would argue that one of the problems or challenges confronting public management is figuring out how to manage in a much faster-moving world. It has to become more flexible, more responsive, more able to change in response to changing conditions. The things to think about, I would argue, are the structural pieces, right?

Yes, it's true there's a history. There's a history in virtually every department. We can sit and tell tales about problems till the cows come home. But the reality is, when we move from all of that and look at the structures of the organizations, what is the most effective and efficient way to provide a solution?

I think you've got a tool there.... The other thing is that the Public Service Commission comes with a whole bunch of tools and investigative capacities and history in their relationships with people, and one of the aspects of this legislation is to protect, throughout their careers, the people who have disclosed wrongdoing. You don't want a negative consequence appearing all of a sudden later on. Well, do we have to create a second structure for that, when we already have one that has longitudinal responsibility with people?

There are a bunch of issues here that I think are much broader than the old image of what the public service is. I think public servants are smart enough to realize that; when they see things changing, they'll figure that out. I think they're pretty smart, by and large.

The Chair: Thank you, Mr. Minister.

Mr. Sauvageau, for seven minutes.

[*Translation*]

Mr. Benoît Sauvageau (Repentigny, BQ): Thank you, Mr. Treasury Board President.

In so far as the positions of independent officer, namely the Auditor General and the Commissioner of Official Languages, are concerned, I totally agree with Mr. Lauzon. Let me give you an example, and correct me if I'm wrong. I could draw a parallel between the Official Languages Act and what you'd like to do with this disclosure legislation.

If the Public Service Commission were the agency responsible for ensuring compliance with the Official Languages Act across the country, the need for an independent agency would already be clear to us, because the Commission would never have been able to defend the rights of public servants to work in their own language, a right guaranteed by the Constitution, by law and by convention.

If you want a concrete example of why we need an independent officer, call either Ms. Dyane Adam or Ms. Sheila Fraser and you'll get a very concrete answer. I want Treasury Board to know that I have filed a complaint with the Commissioner of Official Languages over non-compliance with the Official Languages Act throughout the Public Service, which comes under the direction of Treasury Board. The complaint was deemed in order. I'm not certain that I would have been inclined to lodge this complaint with the President of the Public Service Commission, given this agency's 30-year record of non-compliance with this legislation.

To add to what Mr. Lauzon was saying, we need an independent officer of the House. Let me tell you why. You talked about

modernization, a very lovely and very laudable objective. However, when attempts are made to modernize an institution that isn't working in the first place, ultimately these efforts sometimes fail. Perhaps a different approach is called for from time to time.

I stressed in my speech that we didn't need to reinvent the wheel and I stand by that statement. However, we shouldn't be trying either to make something work when clearly it doesn't. To give concrete expression to the spirit of this disclosure legislation, we need something that works.

I'd like certain things to be clarified. I'd like you to tell me—or to submit the response in writing to the committee— what the main differences are between Bill C-11, in its present form, and Treasury Board's Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace.

A policy is already in place. Firstly, is that policy enforced? Secondly, has it been modernized? Thirdly, what are the main policy shortcomings that have been identified by public servants? Has the policy been in place for 25 years and yet, never been enforced, studied or analysed?

In my speech, I asked the committee to consider why the following is noted in clause 8:

8. This Act applies in respect of the following wrongdoings:

notably, in subclauses (c), (d) and (e):

(c) a gross mismanagement in the public sector;

(d) an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment;

(e) a serious breach of a code of conduct established under section 5 or 6;

Here is the example I used. Suppose I were to purchase \$165,000 worth of golf balls and have them inscribed with the initials "J.C.". Would this constitute gross mismanagement? That was the question I submitted in the House. I'd like to get your response to my query.

The following is noted in clause 12: 12. Any public servant who believes that he or she is being asked to commit a wrongdoing [...] may disclose the matter to his or her supervisor or to the senior officer designated...

In my view, that's one more reason why we need a fully independent officer. Just ask Huguette Tremblay or the other persons currently appearing before the Gomery Commission whether they would have appreciated disclosing wrongdoings to their immediate supervisor. In my opinion, they would have been fired immediately. Therefore, we absolutely need an independent officer with whom complaints can be filed.

• (1125)

Subclause 24(1) notes the following: (1) The President of the Public Service Commission may refuse to deal with a disclosure if he or she is of the opinion that:

(a) the public servant has failed to exhaust other procedures otherwise reasonably available;

In the federal government, when someone wants to lodge a complaint or simply obtain information, the beginnings of a solution or an answer, a Herculean effort is very often required. How is a public servant to know that he has exhausted all procedures available to him? Are there 28 such procedures or 45? Moreover, the public servant must muster up the courage to disclose the wrongdoing in the first place. If he's told after two or three months that he needs to start the process all over again because he skipped the procedure set out in 8.(c) of subclause 2, it's not very encouraging.

You also noted that a code of conduct would be drafted in consultation with the unions.

[English]

The Chair: Mr. Sauvageau, if you would like any response from the minister at all, you only have about a minute left.

[Translation]

Mr. Benoît Sauvageau: I have three or four additional questions. Perhaps I'll put them to you during the second round.

Thank you.

• (1130)

[English]

The Chair: Mr. Minister.

Hon. Reg Alcock: I'll try to be quick.

On the questions of the changes since the last bill, we'll circulate a document on that giving you those differences. I can deal with it that way.

[Translation]

Mr. Benoît Sauvageau: I wasn't talking about the last bill, but rather about the policy.

[English]

Hon. Reg Alcock: Oh, I'm sorry.

Didn't he ask for the changes between what's here and what was there the last time?

Mr. Ralph Heintzman (Vice-President, Public Service Values and Ethics, Public Service Human Resources Management Agency of Canada): The differences between the bill and the policy that's currently in place. We can do that.

Hon. Reg Alcock: I'm sorry, I thought the question was how this bill is different from the bill the committee dealt with the last time. Either way, we will make that available.

Let me return first to your comments about the independence and the violation of official languages. We don't have any disagreement on that. It was contained within the report this committee put down, given the work that Mr. Martin and Madame Folco did—that the office needs to be independent of the government. It's not independent of the House, but of the government. We have the official languages commissioner, access to information commissioner, privacy commissioner, the elections commissioner, the Auditor General, and now the ethics commissioner, all of whom are structured in such a way that their appointments are approved by the body, the House of Commons and the Senate. They're not all approved by both houses, but certainly by one. The terms and conditions around how they're hired and disciplined or dismissed are

very clearly prescribed, so that the House and the executive arm can't deal with them capriciously.

And there are other issues. If you recall, this committee also spoke about a need to structure some of the underlying legislation for those, to remove the relationship back and forth with the House on things like budget and oversight. We are still caught in this strange situation where in the case of the Office of the Privacy Commissioner, why didn't Treasury Board exercise the oversight it was supposed to? Under policy, we're supposed to, yet Treasury Board officials are saying "Hold it, this person is exercising oversight on us". There are number of confusions here that I think this committee could find interesting. In fact, in previous reports we made recommendations that we try to deal with those things.

Having said that, what we did.... There were two things going on here. The government, or Madame Boudrias, was coming forward with a way of restructuring how human resource management got dealt with because of a lot of the concerns...some of which you're referencing in terms of complexity. In that, there arose this image of the Public Service Commission beginning to give up some of its executive functions and becoming something that was almost indistinguishable from a House officer. The committee went further and added the new process. The process was drawn from the same process where the other.... I think it was drawn from privacy and access. It's the same process; the person will be proposed in the House and we'll have to accept it.

As to Mr. Lauzon's question whether we are still exercising executive functions in the Public Service Commission, the answer is yes. I think the committee would do well to look at that and make recommendations on that. My advice would simply be to look to see whether you can make this entity what you feel it should be before we start creating something else. I believe we can.

On the details here, I think you just have to read a little further in the bill. You comment on clause 12. Good management—

The Chair: Mr. Minister, I think we'll have to leave the rest of that for your written response. Thank you for undertaking to give a written response to Mr. Sauvageau.

To the Liberals now, Mr. Szabo and Madame Marleau; they're splitting their time.

Mr. Paul Szabo (Mississauga South, Lib.): Thank you.

Minister, when you were the chair of the committee and we dealt with the George Radwanski situation, we engaged a representative of the table of the House of Commons to make first contact with a potential whistle-blower to determine the relevance and the reliability of the allegation. We then went into in camera hearings to hear these people. We also dealt with pretty well everything in camera, and held everybody pretty strictly to the rules of keeping this quiet because of the importance of protecting the whistle-blower.

Why don't public servants deserve the same level of scrutiny and dignity in the process? You said something like, why would I want to create a new independent agency? If I may refer you to clause 10, clause 10 says that each chief executive or deputy "must establish internal procedures", that each deputy or chief executive "must designate a senior officer to be responsible". When you do this through the entire public service, you have now engaged an army of people to do what we could focus through one independent agency. I raise that as a question: I'd like to know what our thinking is about why we would want to engage hundreds of people instead of a focal point.

In clause 13 of the bill, this is the essence. It says "A public servant may disclose a wrongdoing to the President of the Public Service Commission" if they're not satisfied, if they have already tried through their supervisor, or if they went through the supervisor and weren't happy, etc. That means we have to go to the Public Service Commission as a last stop. Is there any reason you have to believe that there can be no mismanagement or malfeasance in the Public Service Commission's office itself? How can it be the police of all when it itself is covered by these rules? These are dichotomies we have to deal with.

To close, for the minister's comment, as a chartered accountant I'm bound by the rules of ethics. They say that if I become aware of any allegation, I have an obligation to report it to an independent officer. I don't have to prove anything; all I have to do is raise it. It's up to them, and they do it, and I'm not involved. If it's subsequently determined that somebody did something wrong, and it was discovered that I knew but did not disclose it, I would be equally culpable. So I'm also interested, Mr. Minister, in whether or not the value system in which you want to underpin this whistle-blowing legislation also throws the onus on employees to do the right thing and to come forward if, as, and when they know.

• (1135)

Hon. Reg Alcock: Do you both want to ask your questions, and then I'll answer you both? It's whichever you like.

Mr. Paul Szabo: If you wish.

Hon. Diane Marleau (Sudbury, Lib.): That's fine. My question concerns the RCMP, CSIS, and the Canadian Forces. My understanding is that this particular piece of legislation would not apply directly to them, or at least they would not have the opportunity to report to the President of the Public Service Commission, or to that independent body; that they would have to establish their own body. Why is that, and is it possible for us to have them included as well?

Hon. Reg Alcock: I'll start out with Paul's questions.

Paul, I think you need to look at this issue of the Public Service Commission. It is exactly because of the problems we had in that process....

If you recall, when Bill C-25 came forward—the original Public Service Modernization Act—I believe Mr. Martin moved amendments to create independent whistle-blowing protection that we as a committee rejected, because we felt that the Keyserlingk process, which was relatively new, was a way to deal with this.

Then we had the Radwanski experience, and we found we had no way to deal with it once you stepped outside of that. That's why we

used the services of one of the House lawyers to act as an intermediary. That's why we got caught in the situation in camera, because we made guarantees of confidentiality in camera that we were then withheld from talking about. As you recall, we got into all sorts of ugly twists and turns.

It was as a result of that process that we came forward and said we have to capture this; we no longer believe that an internal process within the executive is going to work.

Concerning the conclusion that you need an independent body, I don't disagree with you on that. Then the question is, what's the independent body? Is it something new that exists wholly for whistle-blowing, or is it something that exists that can be made independent and evolve into a House officer?

I argue that the Public Service Commission is headed that way. That's why we use the same procedure for hiring. That's why they selected a person who was a human resource auditor to head it. That's why the House approved that thing. The president of the Public Service Commission has considerable independence right now.

I'll go back to Mr. Lauzon's point. He is absolutely right: the Public Service Commission still exercises some executive functions, and that's a problem. I would be very interested in hearing what the committee has to say on that.

But I come to your other points. Why would we ask people to establish internal regimes? It's because that's good management. A number of you said in your speeches that good whistle-blowing regimes are good management, and good managers welcome them.

But one of the things, if I can borrow a term from the auditor, is a level of materiality. If you know that your colleague is taking a government car home on the weekend, and that's wrong, is that something the president of the independent commission that reports to the House of Commons needs to deal with, or should it not be dealt with within the normal process? You want to give incentive for good operational practice. If you feel that the concern is so serious—and there are two clauses in here that give you a great deal of ability—that it represents a danger to the community, you are allowed in this legislation to take it public immediately.

In terms of the commission, under clause 13.... Let me read it to you: "A public servant may disclose a wrongdoing to the President of the Public Service Commission if (a) the public servant believes on reasonable grounds that it would not be appropriate to disclose the matter to his or her supervisor...". They are not forced to disclose, but they are—

• (1140)

Mr. Paul Szabo: With all due respect, there is something you have to deal with, Mr. Minister.

Your presumption is that if an employee reports to his own supervisor that somebody has taken a car home, there wouldn't still be reprisals because they are not a team player. You reject that totally, and I think you have to deal with it.

Hon. Reg Alcock: We are an organization of 450,000 people, Mr. Szabo. I think you want to set a system that has the managers manage the system while we deal with the exceptions. Otherwise, it starts to just roll up in your head. Is the House going to be the manager of all of the minutiae in the departments? If people feel they are abused, they have lots of recourse in the new legislation, and in this legislation. It really is a structural issue here that people need to get their heads around.

There was another thing in clause 14. This is an issue, if you go back to the recommendation we made about dealing with the legislation for House officers, that is a classic “who watches the watcher?” Who deals with wrongdoing in the auditor's office, or in the privacy commissioner's office? In the case of this office, it would deal with it for others, but if there was a wrongdoing within this office, the same powers would go to the Secretary of the Treasury Board. There is a route to cover that.

The reality is, we need to modernize, I would argue, the legislation that underpins all House officers.

The Chair: Thank you, Mr. Minister.

To continue the first round, we'll go to Mr. Martin, from the New Democratic Party.

Mr. Pat Martin (Winnipeg Centre, NDP): Thank you, Mr. Chair, and thank you, Minister, for your remarks so far.

I read somewhere that freedom of information is the oxygen that democracy breathes. I think that is an excellent quote. Freedom of information and whistle-blowing go hand in hand.

Your own point is that good managers welcome whistle-blowing. It's only managers with something to hide who resist and oppose and foot-drag or put barriers and walls in the way.

Your previous bill, Bill C-25, although it wasn't under your name but was under the PCO president, was so widely condemned that it was called in the public service “an act to protect ministers from whistle-blowers”. That's how they viewed it.

We need to see dramatic, bold changes in this incarnation of whistle-blowing to give any confidence to the public service that things are in fact going to be different. With all due respect, you're asking us to accept that the public service commissioner is going to be that truly independent officer, yet the changes you have made to the status of the public service commissioner are so timid that the Library of Parliament doesn't know yet.

We just had a research paper done. You publicly said the appointment of the public service commissioner is really the same as an officer of Parliament. We went to the Library of Parliament and asked them, and the research paper we got says it's not the same at all. It's by Governor in Council—that is, cabinet.

Public perception is everything. My colleague from the Conservatives said that if we're going to restore the confidence of public servants, it has to be abundantly clear that things are dramatically different, not a timid little change. So I'm going to propose to you a radical change and ask for your opinion of it.

The only thing that's not independent about public service commissioners is the executive functions they have that make them

report to ministers—that is, the hiring, recruitment, and training. They have two jobs. One is to preserve the integrity of the public service and to advocate so there's no nepotism, no patronage appointments. The other function or the other arm of a public service commissioner is in fact dependent on government. Why don't we strip that away? Why don't we give that to the public service agency? Then I'll be able to tell my colleagues in the union movement that the public service commissioner is no longer dependent; it's independent; it has a brand-new status.

Fix the appointment process so that it is by Parliament. If you're correct and the Library of Parliament is wrong, I'll withdraw that comment, but tell us today that you would entertain an amendment that would change the status of the public service commissioner so that he or she is independent. Then I'll vote for it. I'll support this act if you can prove to me by that radical step that the public service commissioner is independent.

I only say this publicly because I don't think you will do it.

Hon. Reg Alcock: Thank you for that convoluted vote of confidence, Pat.

Let me deal with that in a couple of ways.

I'm uncertain why the Library of Parliament would come to that conclusion unless it was confused about the difference between the part-time assistant commissioners, who are indeed appointed directly by the government, and the chief commissioner herself.

I believe there was a motion passed. I have not gone back, but I will go back and have the legislation pulled and presented to you. I believe it was proposed by Roy Cullen and unanimously supported by the table. The text of that motion was drawn directly from the legislation of the other Parliament.

Now, not all parliamentary officers are appointed in exactly the same way. The elections commissioner and auditor are done differently. I think the language commissioner, access to information commissioner, and privacy commissioner are all done in a similar fashion, and it was drawn from that.

You may recall that they were trying to get this commissioner in place and we were asked whether we could do a review. This was just before the November recess, so we said we just didn't have the time to do it responsibly. So we didn't do it, but the person was presented subsequently to the House and approved by resolution in the House, which is exactly the same process as the other ones.

● (1145)

Mr. Pat Martin: To help you with your answer, for clarity, it says there's no statutory requirement for parliamentary approval of the appointment.

Hon. Reg Alcock: I think the library needs to update its information.

Mr. Pat Martin: If the library is wrong we should make that clear, because, as I say, we have to use an abundance of clarity if we're going to—

Hon. Reg Alcock: Here it is. That's the value of having a lawyer here with you.

It's subsection 4(5):

The President and other Commissioners shall be appointed by the Governor in Council. The appointment of the President shall be made by commission under the Great Seal after approval by resolution of the Senate and House of Commons.

I believe that's exactly the same wording you'll find for the Information Commission and the Privacy Commissioner. I know those fairly well. I would assume, Mr. Sauvageau, it applies to the Official Languages Commissioner, because that was the intention of Roy's motion. So that step was taken.

That doesn't mean, though, that there doesn't need to be further changes, because there are these broad questions. For example, the situation with Mr. Radwanski—could we take action to remove somebody where there's been a finding? We found it was so convoluted and so difficult.

On your other question, I have to be a bit circumspect here. I would be very interested to see what the committee recommended, but part of what you're talking about would be a machinery change of some significance that I would have to have a further discussion about. Let me put that way.

I certainly think if you go back to the testimony on Bill C-25, the original intention was headed in that direction, but I don't have authority—

Mr. Pat Martin: It was watered down so bad, Mr. Minister, with all due respect, that no one would ever believe that was the intent.

Hon. Reg Alcock: I guess I'd like somebody to stick a sock in my mouth if I'm getting too far off track here. I can see the problem with being at both ends of this table.

I think what we want to see is an excellent response that provides protection and good human resource management, and if you have a way of addressing that in the context of this bill, and if it means that I may perhaps need to seek additional authority, I am prepared to do that. I can't commit to it today, because I'm part of a cabinet that needs to think about these things, but I will be very interested to see what the committee has to say about that.

• (1150)

The Chair: Thank you, Mr. Martin.

To Mr. Preston, from the Conservatives.

Mr. Joe Preston (Elgin—Middlesex—London, CPC): Thank you, Chair.

Mr. Minister, as you just alluded to, and as the other members today have alluded to, it's really important to get it right, and perhaps not even right but to get it perfect. If the first employee comes forward and finds the process of whistle-blowing isn't painless, it will be a long time before the second and third one come forward. So it's important that we really look at maybe even the minutiae of the bill, but really look at it and get it right.

I'm not certain I heard the answer that was asked of you from the member across on CSIS and the RCMP, so if you could touch on that, it would be great.

Mine falls into clause 3, where in fact the governor in council or the cabinet has the ability to change the scope of the application of this bill to opt out other bodies and other crown corporations. How

does this help the legislation, and how does it not just potentially protect those other bodies that may be opted out?

Hon. Reg Alcock: Well, let me start by picking up on your opening statement.

I want to refer back to something Mr. Martin said. He's not wrong, in the sense that we need something that sends a dramatic signal. But I would argue that too often in public management we focus on the signal without focusing on getting it right. We have this debate. We had one recently that this issue wasn't sexy enough, so how do we sex it up? Let's get it right. Let's make it work, and then we've got a solution. So there's something that I think is really important for this committee to grapple with.

On the issue of CSIS and the RCMP and the uniformed members of the armed forces, I need to say that it is not the civilian members of the RCMP or the armed forces. CSIS is a separate issue altogether. I mean, CSIS exists in such an unusual space, if you like, and requires such levels of secrecy that it's just not appropriate. But the act requires that CSIS put in place its own internal disclosure regime that is consistent with this act, and then the oversight body for CSIS would have to deal with them on that.

The same thing is true of the uniformed members of the RCMP and the armed forces. They do function in a different way from others. There has been a debate because we have an example of a problem within the RCMP. So the act does require that the RCMP and the army put in place similar provisions that respect the intention of this act, but it's just not part of this because those are unique kinds of organizational structures where it's considered to be inappropriate to do that.

Now, on your section 3, I can give you an immediate reason why it's there. That is, there's a desire that this act apply not just to what we would call the Treasury Board universe, the core public service, but that it apply to public organizations, the crown corporations and others. There are a couple of organizations there—I think the pension investment board is one—that have joint management, provincial and federal. It was in part to deal with our desire to get this thing passed and up and running but give them time to go through their processes before we said you're automatically a part of this, because you have to respect other governing jurisdictions in that.

The final thing is who knows what's going to be created next. So it could give you the opportunity of adding or subtracting some of these very unusual cases. That's all. I don't think there's any... Is there any evil intent in this? I don't think so.

Mr. Joe Preston: I doubt there's evil intent. My question is I understand the opting in as new things occur; we need to be able to put them in so that they're protected. I just don't understand the ability to opt organizations or public bodies out of it. Why would we ever want to do that?

Hon. Reg Alcock: What if we split CSIS into two parts and we had son of CSIC running around there? We might want to opt it out, that's all. Well, it's not opted in.

A voice: It's not in.

Hon. Reg Alcock: I certainly don't think there's...

Ralph, did I say anything wrong there?

Mr. Ralph Heintzman: Sometimes organizations disappear.

Mr. Joe Preston: If it's no longer here, it certainly wouldn't pertain regardless.

I'm not looking for the evil in it, but to give the cabinet or governor in council the opportunity to just exclude an agency before or after or in the middle of a scandal...it just doesn't seem like that possibility should be there.

Hon. Reg Alcock: If you can think of a way to remove that fear in the context of this, given that the intention here is simply an administrative one, I would be interested in your comments.

• (1155)

The Chair: Thank you, Mr. Preston.

Mr. Scarpaleggia.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Thank you.

Minister, I take your point about wanting to avoid creating new structures. It seems to me you can't micromanage large organizations, so if you want to effect change in a particular direction, senior management has to focus on certain priorities.

In this case, the focus of the government in general—the overarching theme—seems to be how to make government more efficient, more streamlined, in order to reap efficiencies and ultimately reduce the tax burden on Canadians. I believe that is your focus, in terms of modernizing the public service, and so on.

If we create a new structure, we're creating a second focus that is in some way contradictory. Then you're sort of upsetting the cultural message you're trying to send within this massive organization, which, as you mention, is the largest in Canada.

The second part of my comment is that we have so many capable and intelligent people involved with the government in creating policy, it seems to me there must be other instruments that can be developed. You've alluded to some of them in your earlier comments: firewalls, the right of anonymity, perhaps legal protection for a whistle-blower whose career has been damaged because things have been mishandled and there have been reprisals following a complaint, and so on.

It seems to me we can develop instruments that aren't necessarily new structures, because in the end we are essentially accountable to the public, and we want to maintain our credibility with the public.

So that's just one comment I'd like to make.

The other comment I'd like to make is that there's a cultural component here that cannot necessarily be resolved through new structures, or even new non-structural instruments. I remember reading something a few months ago, before I was a member of Parliament, about whistle-blowers in the United States. There was one case where the person had really put themselves on the line, and had exposed an issue to the great benefit of the public. This person—even outside of the organization in which they were located when they made the complaint—was having trouble getting their career started, because there's a general societal, cultural taboo on people who, as my colleague said, are not team players. This goes way beyond legislation, and so on. So it's partly a cultural problem.

Going back to the public service, how do we create a culture among public servants in which they have a duty to report the fact that so-and-so has taken the government car home? Most people would say, "Well, I don't want to worry about this; it doesn't really concern me." How do we create a duty?

It's almost a parallel to when we talked about the declining voter participation rate. I know it's not the same thing at all, but by way of analogy, you can modify the electoral system in a million different ways, but will it really raise the public participation rate if citizens don't feel it's part of their citizenship duty to go out and vote?

Hon. Reg Alcock: That's an excellent and very complex question. It's one I've spent a whole lot of time thinking about.

I think it's important for this committee to understand that there are a lot of changes coming—a lot of changes. You don't fix an organization as large as the Public Service of Canada with one bill or one action. This is an incredibly complex organization.

I also have argued, and I'll say it now as the minister—I've said it often enough as a member—that I think one of the problems we have in public management has been the separation between the House and the rest of the government. These management questions are not sexy; you don't have people beating down your door saying they want to see a better XYZ system. It's just not the space that politicians function in. A lot of the debate that we're functioning in in short clips is too coarse an instrument to deal with the complexity of these things. It was one of the reasons why I argued for the creation of this committee, because I think it's vitally important that this table and the rest of the House get engaged in the management of government, because at the end of the day, that's what will produce the improvement. It will improve your understanding of it; it will improve your ability to communicate to the public and sort out where there's a tough issue and where there isn't; and more importantly, it will improve our ability to drive change.

No organization, public or private.... You know, these references to large private sector organizations, when you examine the literature on that, they had as much trouble going through the changes as the public service is right now, but they had the advantages of profit and loss, which gives you a little faster ability to target.

I think that when you look at this question of ethics—it's been a big topic around here—I have a duty in this bill; it imposes a duty on me to promote ethical practices. Okay, it sounds nice, but what does it mean? When you go into the literature, and you talk to large organizations that have dealt with this, what you get back are three things. One is you have to have a body of rules that describes expectations. You have to have a set of expectations. I think that's the kind of thing you're saying: what is it that constitutes ethical behaviour?

I would argue that in the public service we don't have an absence of rules; we have an excess. We have so many rules, I think that's part of the reason why we're as dysfunctional as we are. I think one of ways this committee could make a hugely positive contribution to public management would be to start to look in detail at those policy suites and start to disaggregate them. I'll tell you, we are belt and suspenders and neckties on everything, and I think that contributes to this incredible rigidity and slowness. I think the public service gets the need for change; I'm not sure that we do yet. I think we need to help them.

The second thing, when you look at the literature on ethics, is transparency. Transparency is a huge thing; it is a hugely important item, which we say a lot, but we just don't grapple with how difficult it is in an organization that lives in the kind of chaotic space that we create for them. Again, we'll be coming back and talking a lot about this, about how do we promote transparency. How does the public hold their government to account if they can't see what it's doing? How do they hold us to account if they can't see? So transparency is huge.

The third thing is leadership—and not leadership in terms of I'm going to wear a hair shirt for a while, and look at how frugal I am, but real leadership, leadership that just incorporates ethical practices into your daily behaviour. You model it, you talk about it, you make it part of the language that goes on in the organization.

Those three things come up over and over again. You'll have me at the end of this table talking about that a lot as we look at our various policy suites, at legislation, at administrative changes. I'll come here, Mr. Chairman, as frequently as you want. You may decide you don't want me here that often, but I'm here as often as you want to talk about this.

•(1200)

The Chair: On that, Mr. Minister, you're cut off. Thank you very much.

Now for the second round, a five-minute round, Mr. White, from the Conservatives.

Mr. Randy White (Abbotsford, CPC): Thank you, Mr. Chairman.

I'm going to try to put this question into perspective. I'd like to get the minister's opinion of an issue that may or may not be considered whistle-blowing. I'd like to find out if you think it is.

For instance, an employee says we've had a riot in a prison, with about \$500,000 damage, and the warden of the prison just got a bonus for having a successful year. That, in my opinion, would be not a very bright idea to give the warden a bonus, but it happened. Is that a whistle-blowing issue, in your mind?

Hon. Reg Alcock: I'm really nervous about tying those two things together, Randy. Let me disaggregate that in this sense. One of the things, if you look at the British experience on—

Mr. Randy White: This is pre-empting my question.

Hon. Reg Alcock: If you want to finish your question, then I'll answer it.

Mr. Randy White: I'm trying to put this into perspective.

Hon. Reg Alcock: I'm not going to be drawn into that. I'm not going to walk down that path.

Mr. Randy White: No, I'm not trying to walk you into anything. That's why I gave the warning on it.

Hon. Reg Alcock: That's good. Keep going.

Mr. Randy White: I do have a great number of contacts in the prison system who talk to me. These individuals talk about individuals smuggling drugs in prisons, female guards having sex with inmates, theft within the system, all of those sorts of things. These individuals would not be considered whistle-blowers today; I don't know what they're considered today. I guess those are the kinds of things that eventually these people want to talk about because they think it's wrong.

They're also saying that with this legislation, if they say anything at all like that, transfers to other prisons will occur, which is within the legal management parameter of the process, but they know darn well they don't want to go from prison A to prison B; there will be a loss of acting positions; there will be no training on particular things like special ops or emergency processes; there will be no promotions. The ones who talk to me—which is a considerable number—don't really have the confidence, and I'll go back to Paul Szabo's comment, that there's going to be confidentiality, prompt action, or objectivity.

I agree with Guy's comments, that these people are saying, look, I'd rather talk to you than talk to these guys because I'm going to get my head cut off if I talk to these guys.

I'd like to have some confidence on that kind of issue, because that's what's bothering these individuals.

•(1205)

Hon. Reg Alcock: Good. Let me run around that one a little bit. The reason I differentiate between the first part of your question and the second part of your question is.... I should tell you too, Randy, that I worked in one of your prisons for six months. I have to say “worked”; I said I spent time at Matsqui Institution once and people had to ask the second question. But I worked there.

Mr. Randy White: You didn't talk to me about any of the problems. You're not on my list of contacts.

Hon. Reg Alcock: No, I don't think you were born then. It was a long time ago.

I think the issue you referenced about the senior executives getting compensation when there may be evidence of problems is an interesting question, frankly. I said it when I was chair here, that we may want to review the system. In fact, there is a large compensation review going on right now at Treasury Board, and we might want to have a conversation about how we incent good management. One of the things that I think we need to recognize is that there are big sections of our management that are grossly underpaid. If we start looking at compensation, there are all sorts of sides to this.

Having said that, though, on the issues you're talking about, if somebody is aware of smuggling drugs or inappropriate activity of any sort where they feel it's inappropriate for them to deal with the management, they have the right to go directly to the commissioner. There's nothing that impedes that. They are not forced to go to their management first. Good practice says that if you can solve this at a local level, you're better to have good management solving it. But if you can't—and the thing you reference, Randy...I heard those stories myself years ago. This bill allows that individual to go and deal with an independent officer of Parliament on that.

The Chair: Mr. White, your time is up.

Now to the Bloc. Splitting their time will be Madame Thibault and Monsieur Sauvageau.

[*Translation*]

Ms. Louise Thibault (Rimouski-Neigette—Témiscouata—Les Basques, BQ): Thank you, Mr. Chairman.

I'd also like to thank the minister and his associates.

In response to Mr. Lauzon's first question, you stated that you agreed with the premise that it was impossible to serve two masters.

[*English*]

Hon. Reg Alcock: No, you can't.

[*Translation*]

Ms. Louise Thibault: Using the same very Cartesian logic, no doubt you'll agree with me about one thing: a public servant would find himself or herself in an untenable, impossible situation if required to continue serving a manager whose serious wrongdoings he or she had just disclosed.

The preamble to Bill C-11 contains some very important, choice words, such as “confidence” and “integrity”. Paragraph three of the preamble refers to “establishing effective procedures for the disclosure of wrongdoings”.

However, if the objective sought is effective procedures and integrity, both personal and institutional, it must be noted that this bill does not contain any transitional measures. These words must be given concrete expression in the provisions that will be brought in for public servants. The provisions of the legislation must take into account, not only the importance of the institution, but the importance of the employees, the public servants, as well.

I'm concerned about the lack of transitional measures. A few short minutes ago, you mentioned transparency and we all agree that our public service must be transparent, like other institutions. Would you be amenable to amending this bill? The lack of any transitional measures is unacceptable. When a public servant discloses some wrongdoings, it's critically important that that person be removed from the workplace and no longer report to the person who is the target of the disclosure. The public service's harassment policy currently contains provisions to address this kind of situation.

Moreover, it's important that these transitional measures not adversely affect the person making the disclosure. That goes without saying. The person could be transferred, reassigned and even put on paid leave or sent on training, if necessary, if that's in the best interests of the organization. As we all know, an investigation can

take time, hence the need for transitional measures, for the sake of transparency and integrity and to instill confidence in the process.

Let me then repeat my question: are you prepared to amend the bill to ensure that these three objectives are achieved? Thank you.

• (1210)

[*English*]

Hon. Reg Alcock: It's interesting.

Mr. Sauvageau, do you want to ask your question too, and I'll do both? I'll do whichever you prefer.

The Chair: Actually, Mr. Minister, there's only about a minute for you to answer. I think you'd better get to the answer.

Hon. Reg Alcock: I'd be interested if the member had some suggestions to make; I'd certainly be interested in looking at them. One of the things is that I was trying to understand how this works.

The acceptance of a complaint to the commissioner is done in confidence, so nobody knows other than the employee and the commissioner. Moving the employee exposes them, so in certain circumstances you may be creating a problem.

Now, should there be an ability to protect an employee? Absolutely. And should there be a range of options as to how you provide that protection? Yes, and if you think there's a deficiency here, I'd be interested in hearing what you have to say. But remember, there are other consequences here when you're doing this; that's all. But I'd be open to listening to what you have to say about it.

The Chair: Monsieur Sauvageau, you have just a very short time.

[*Translation*]

Mr. Benoît Sauvageau: I'd like her to finish her question. Go ahead, Ms. Thibault.

Ms. Louise Thibault: Thank you.

I truly believe, Mr. Minister, that when a disclosure is made within an organization, everyone will know the source of that information and for that very reason, the person's integrity could be affected. If you're open to suggestions, I'd be delighted to make some to you.

[*English*]

The Chair: Thank you.

Now we'll go to the Liberals. Mr. Powers.

Mr. Russ Powers (Ancaster—Dundas—Flamborough—Westdale, Lib.): Thank you very much, Mr. Chairman.

I'd like you to check into two of them later on, rather than waste your time right at the present time.

Under clauses 5 and 6, which relate to the code of conduct, what I'm looking for is progression, assurance there is a code of conduct. Clause 5 says that the Treasury Board shall create a code of conduct; further on clause 6 says they “may”. What I'm looking for is the assurance that there is not a “may” but a “shall”, that there shall be a code of conduct—progressively, I think... It's something I'd like you to look at just more from a wording standpoint.

Clause 12 is with regard to the person you could file the complaint with; it's either the supervisor or the delegated officer. I just need, once again, some assurance that indeed sometimes—and it's been raised that they're not comfortable with going to the immediate supervisor or even somebody within the chain—they can very clearly go to the delegated officer from there.

My final point—and it's not covered in this documentation at all, but Madam Thibault raised the issue—is the protection of the individual not only before and during but more importantly after the process plays out. What I don't see here is perhaps, notwithstanding the very opening stanza of the thing, that there will be no duress or action placed against the individual. We know that in reality that may or may not happen. What I'm looking for is protection for the individual, where following the process there may be the ability for them to request a transfer or those particular things.

I don't need an answer now. It's just something to report back on.

I'll turn it over to Mr. Boshcoff.

● (1215)

The Chair: Mr. Boshcoff.

Mr. Ken Boshcoff (Thunder Bay—Rainy River, Lib.): Thank you very much, Mr. Chairman.

Mr. Minister, I'm following up on Mr. Scarpaleggia's question regarding culture and the development of, really, an attitude shift. When we look at this legislation as being part of developing something that will restore the faith of the public service and their belief in the jobs they are doing, something more prideful, understanding... Because really, if we don't make legislation they can believe in and know is for them and essentially for their protection, which is what we're really doing here... There's an expression for us from the municipal level. When we were dealing with protective services like police, they'd use an expression that if they didn't really believe in what they were doing, it would be kind of “forget it, drive on”—FIDO—except they didn't quite use “forget” as the first word.

Some hon. members: Oh, oh!

Mr. Ken Boshcoff: I guess it's the spirit of this legislation that is being developed. Are you convinced, from the input you've had from the Public Service Alliance and other organizations, we'll do that with this legislation?

Hon. Reg Alcock: Mr. Powers, clause 5 imposes a duty on the President of the Treasury Board to establish a code of conduct, right? Subclause 6(2) allows managers to improve upon that to reflect the unique circumstances in their organization: “The codes of conduct established by chief executives must be consistent with the code of conduct established by the Treasury Board”. So Treasury Board establishes a base and then executives are able to take it up with...

In an organization as big as the government there is lots of tailoring; there are lots of things that need to be considered, given the unique kind of work people do, but they can't modify it away from it.

Mr. Russ Powers: So Treasury Board standards are the minimal standards, and what we're doing here is an enhancement within the workplace.

Thank you.

Hon. Reg Alcock: On the reprisals, I would just draw your attention to clause 19 onward. Have a look at that. I think you will see that there are sweeping powers to deal with that.

Mr. Boshcoff, it's an interesting issue. I can say that we did not have as much input from the Public Service Alliance as I would have liked. We read, of course, the testimony that was provided before, but I was also at the table bargaining with them at this time and it's just difficult to have a conversation—not that people don't try, but it's just difficult to sort out what is a labour-management issue and what is a substantive issue. So I made the choice to go with their testimony from before.

I think it would be fair to say they have some of the same concerns as other members around here about the independence of the solution that was provided before. My belief is that we're addressing that.

I think the other part that's inherent, if I understand your question, is that we need good practice, good management. It means involving people in the development of things they're held accountable to. It means reaching into your workforce and working collaboratively with them on the development of procedures. That's a principle I believe strongly in.

● (1220)

The Chair: Thank you, Mr. Minister.

For the Conservatives, Mr. Grewal.

Mr. Gurmant Grewal (Newton—North Delta, CPC): Thank you, Mr. Chair.

I would like to remind the minister, as well as the members of the committee and the public in general, that I had a private member's bill, Bill C-205, on whistle-blowers' rights and protection. This bill was drafted with the help of and consultation with whistle-blowers across the country, as well as institutions like FAIR, a government accountability project. The bill was debated in 1998-99 in Parliament but was eventually not supported by the government and therefore was defeated.

The government's bill, Bill C-11, is still seriously flawed and only gives potential whistle-blowers a false sense of protection.

Whistle-blowers across the country have been continuously bullied, intimidated, harassed, and fired from their jobs, rather than being rewarded, as is the case in the United States of America.

One of the whistle-blowers, Ms. Joanna Gualtieri, who has become a Canadian hero, blew the whistle on widespread violations of Treasury Board guidelines and policies in the Department of Foreign Affairs. She has suffered from retaliation and has been continuously reinjured by the litigation strategy of the Department of Justice, designed to debilitate her and financially ruin her. She has faced roadblocks, motion after motion without merit. The actions of the government speak louder than its words.

Recently the PCO, which is the right arm of the PMO, has served her with a certificate under section 39 of the Canada Evidence Act that claims confidence over 89 documents that she has put into her affidavit. These documents are hardly a matter of sensitive government policy or cabinet deliberation and are included, by the way, in the government's own public accounts documents. So the claim of privilege amounts to an arbitrary and bad-faith exercise of the government. This is a scandal that is ready to explode regarding the arrogance and the unaccountable tactics of the government. This is the heavy-handed approach of the government to intimidate and deny Ms. Gualtieri the right to fully argue her case and deprive her of occupational free speech.

So I would like to ask in my limited time if the minister would be prepared to make his commitment and make genuine efforts such that PCO doesn't use the heavy-handed approach to further intimidate and deny Ms. Gualtieri the right to defend herself and make her case with freedom. Will he commit here that he will try his best for the whistle-blowers, as we speak, by, on one hand, introducing the whistle-blower legislation and providing whistle-blowers with protection and the right to make their case, and on the other hand, not intimidating them any further from the government side?

Hon. Reg Alcock: I will make no undertaking relative to that particular case. It is highly inappropriate to discuss something that is before the courts. That's something we will leave to that process. We'll let people work that out.

What I am committed to doing is putting in place a piece of legislation that I believe meets all of the tests of independence and protection for public servants who report wrongdoing. Personally, that's where I will be focused on this. I will be wide open to the committee to hear what it has to say. I just cannot deal with a battery of single cases. That creates too many problems for us in trying to draft legislation. It may be useful to highlight people's understandings of some of the problems, but it's the problems we're going to fix, and not retroactively go back or get involved in things that are currently before the courts.

The Chair: Thank you, Mr. Minister.

Mr. Grewal.

Mr. Gurmant Grewal: Does the minister condone the action of the PCO intimidating the members like this? Does he condone that?

• (1225)

Hon. Reg Alcock: I think this is a fatuous and silly question, and I'm not going to respond to it.

Mr. Gurmant Grewal: Mr. Minister, while we are debating the whistle-blower legislation on one hand, would it be appropriate for the government or the cabinet, where you are a member sitting at the table, to at least talk about this issue that further intimidation is at least stopped, as we debate the proposed legislation? Would you commit that there will be discussion in the cabinet to stop intimidation?

Hon. Reg Alcock: You're asking me whether I have stopped beating my wife. You're asking me to accept your assertion that there is intimidation based on your presentation at this committee. I'm not prepared to accept your assertion. I'm not prepared to involve myself in the circumstances of this particular case.

What I am prepared to do is talk at great length and in great detail about how we put in place a piece of legislation that provides the best possible protection for whistle-blowers in the Public Service of Canada.

The Chair: Thank you, Mr. Minister.

Mr. Grewal, your time is up.

Over to the Liberals—is there a Liberal? Mr. Szabo.

Mr. Paul Szabo: Thank you.

Mr. Chairman, we had Ms. Gualtieri before committee in the last incarnation of this bill, and I suspect we will have her again, but it's quite inappropriate to talk about specific cases when we're talking about a piece of legislation, so maybe we should move on.

Mr. Minister, correct me if I'm wrong, but I gleaned through your comments that to the best of your knowledge the volume of complaints that is likely to come forward is in fact much less than people might imagine. I am wondering what you are basing that on.

Hon. Reg Alcock: I am basing it on two things, Mr. Szabo. I don't believe public servants are fundamentally dishonest. I don't believe that the Public Service of Canada is corrupt. I just don't believe that. I don't believe most people are that way.

I do think that in very large organizations there are circumstances where people do go wrong, as they do in large private sector organizations and as they do in the community at large. We have to have systems to protect ourselves from that, to apprehend and deal with people who do commit acts. We have examples in the public service of people who have committed acts of fraud and such, and they should be rooted out and punished, but I don't believe that the public sector, as an entity, is any different from the rest of the community.

Having said that, the other piece of evidence I would offer is that I am told that in other countries where there have been regimes started, two things occur. The actual volume of wrongdoing, consequential wrongdoing, is relatively small. There is a larger volume of what turns out to be “He got the promotion, I didn't, therefore this is wrong”—human resource kinds of things. That's why we need the ability for that person to say “This is a serious act of wrongdoing, and I'm going to put the weight of Parliament behind this to fix this” versus “I'm sorry, get used to it, you didn't get promoted”. I don't mean to be as crass as that, but that's what the British experience tells us.

Mr. Paul Szabo: Sure, and I agree with you fully. I have a great deal of respect for our public service employees.

I've been on this committee since it started. We have had the opportunity to hear employees, management, and everything in between. We had the annual report from the president of the Public Service Commission just two days ago, and even in her assessment of the overall quality she's quite satisfied. We should be proud of that.

But if your presumption is that the volume of legitimate allegations of malfeasance, wrongdoing, or whatever offence there might be is small—indeed, every organization will have human resources complaints—doesn't it make sense for an employee to have an opportunity to have someone who's not engaged or linked in any way give them some assurance and say the problem is a human resources one and there is a mechanism to deal with it? That's not going to take up a lot of their time.

I just find it very difficult to understand how an employee who thinks there might be a problem can discreetly go to somebody, discreetly write to somebody, discreetly phone somebody, or discreetly e-mail somebody. We got George Radwanski on a letter and computer files. There is no perfect protection. It can't happen.

When you and I worked on public service renewal, Bill C-25—not whistle-blowers, but renewal of the public service—the issue of culture was very important. We believed that the culture of the public service was such that there was skepticism about whether or not things could happen and were going to happen as they were represented.

So we're going through a process. In fact, Bill C-25, on the public service renewal, didn't go as far as it could have. But everybody decided to take it a step at a time, and five years from now we are going to change again and deal with the issue of the PSC as part employer, part employee representative. That's not finished yet.

Ultimately, I come down on the fact—I think you're well aware—that I want to support the employee; I want to support the public servant. I want to give them every confidence that there will be a system in place where they won't even have to worry about making a human resources complaint, because there will be this comfort level, and everybody will say “My rights are protected”.

Mrs. Gualtieri's case would never have occurred had there been an advocate there to ask, “Is this a real problem, is it a mixture of two, or is it just a human resources problem?” There wasn't that mentoring or advisory capacity that I think is really necessary to deal with this.

I throw those out for your convenience.

● (1230)

Hon. Reg Alcock: I think you make a very good point. As part of my response, there are three points I want to make.

First, I think we have to start to rethink perfection. We hold the public service to a bar that nobody else is held to, and then we criticize them all the time for not reaching it. As a result, they do everything they can to protect themselves in every way they possibly can. So the organization becomes dysfunctional, not because they're stupid or don't want to do the right thing, but because we keep beating them up every time they have the slightest mistake.

The reality is there isn't a business in the world that doesn't have problems, particularly when you have a labour force as large as this one and the complexities that exist in this organization.

I hope this committee will start to get engaged in some of the realities of public sector management. If you really want to help solve some of these problems, take a realistic approach to this. I think public servants are hungry for your engagement. What you can

do that they can't do is ask where those boundaries lie. You can provide protection for public servants who are trying to deliver good work and help them deliver better work by getting engaged in what they're doing and helping sort out that issue.

The Chair: Mr. Minister, your time's up. Maybe you can get to that later.

Now we'll go to the Bloc Québécois for five minutes. Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Thank you, Mr. Chairman.

First of all, Minister, I remind you that I asked a number of questions during the first round and expect some written answers. I have about 15 minutes remaining and I'll go through a few more of my questions. I have an exceptional request to make. The Research Branch of the Library of Parliament has submitted 10 very fine questions to us. I can't put every single one of them to you, but if you get a copy of these questions, would it be possible for you to respond to them in writing as well?

[*English*]

Hon. Reg Alcock: Absolutely.

[*Translation*]

Mr. Benoît Sauvageau: Thank you very much for seeing to that.

[*English*]

Hon. Reg Alcock: Give me the whole report, and I'll answer it.

[*Translation*]

Mr. Benoît Sauvageau: I'd also appreciate a written response to the question of disclosures that could possibly be vexatious or futile. Let me give you an example. I have a great deal of respect for public servants, but suppose they are in the midst of collective bargaining, some incident occurs and you receive countless complaints. The legislation must also make provision for dealing with futile or vexatious complaints that could be lodged in such cases. I hope, as I'm sure we all do, that nothing of the sort will happen, but disclosures should not be used as a means of exerting pressure on one party.

Earlier, you said that there were no tool you could have used to deal with the Radwanski affair. Can you explain to us why the Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace did not apply in the Radwanski case? Was the Office of the Auditor General consulted on the role of any future independent disclosure commissioner?

In fact, we already have an independent assistant officer, the Environmental Commissioner. Rather than operate as a totally independent, autonomous office, the Environmental Commissioner works under the auspices of the Office of the Auditor General. Was the AG consulted to see if this new independent agency could come under her jurisdiction, given the considerable credibility the AG currently enjoys?

•(1235)

[English]

Hon. Reg Alcock: On the various questions, give me the questions and I'll do what I can to see that you get responses to them.

One thing I do want to say, though, in part picking up on Mr. Szabo's question, but which is also relevant to your question, Mr. Sauvageau, is that we don't exist in a world that's governed by this one piece of legislation, right? We have a whole suite of legislation around human resources. We have appeal and negotiation processes that are all contained within the legislation that was part of the Public Service Modernization Act. It's important to do that and recognize that, because some of the solutions to the concerns that people have are found in legislation that is currently active.

When I said it's a new tool, I mean that one of the issues we are stuck with is where do we go? We have a person coming forward with an allegation but we have no way of judging it. They come forward and say this is awful, but how do you know whether it isn't just a complaint because somebody didn't get what they wanted or whether it is a substantive one? And absent a place like this office where you had a professional to do it, we created one by asking the lawyer who reported to the House to be that person. So to me this act creates a tool that we didn't have before.

On the question of the Auditor General, I certainly did not have a consultation with her on this, in part because if you think about management broadly, there are two big functions that you're managing—your cash and your people. They are separate functions, right? We have a very robust regime for managing and providing accountability on the financial management side. Call the Auditor General; she has great authority and great powers.

When we were doing Radwanski, the first thing we did is that we said, "You know we're getting all of this information about misuse of it; we don't know how to deal with it. Auditor, please, you take it." But when we had a problem on the human resource side, that's not an area where the Auditor carries expertise but one where the Public Service Commission had expertise. So our committee asked the Public Service Commission to undertake that.

[Translation]

Mr. Benoît Sauvageau: May I interrupt you? You are right about the cash side and the people side of the issue. However, when people misappropriate the cash, the correlation between the two becomes interesting. I don't think the environment is connected to the financial side of the equation either. Nevertheless, to create the position of Environmental Commissioner under the auspices of the Office of the Auditor General shows some imagination.

When individuals who are supposed to be managed by human resources officers misappropriate assets, often money—I could make a reference to the sponsorship scandal, but I will not—there could be some correlation with the Office of the Auditor General. Therefore, I would suggest that you consult with her to see if perhaps she could be of assistance to you, and to us as well.

[English]

Hon. Reg Alcock: I'd certainly be prepared to. I meet with the Auditor General on a regular basis on a number of things, and I have no inherent objection to speaking to her on this at all. It just occurred

to me when we were doing this that the human resource function is not a one-off function but a longitudinal one. People come into this place; they're here for a long time and have careers. The Public Service Commission is the instrument that engages with them, and with the goal to make it an auditor... The person who heads the Public Service Commission was the deputy or assistant auditor and worked in the Auditor General's office, and was deliberately recruited to head this organization because not only does she have the audit background but she also has a human resource background.

So wouldn't it be wonderful if we had two bodies that people had high confidence in, one that had real depth of expertise in human resources as well as one that had a depth of expertise in financial management. That's all. I mean, there's no...

[Translation]

The Chair: Thank you, Mr. Sauvageau.

[English]

To the New Democratic Party, Mr. Martin, for five minutes.

Mr. Pat Martin: Thank you.

We keep falling back to the Radwanski affair because it's recent history and a lot of us around the table were involved with it. One of the problems with your insistence that this whistle-blower office be housed in the Public Service Commission stems from the former public service commissioner's treatment of the Radwanski affair. The public service commissioner was brought in years before we dealt with Radwanski because serious complaints were made of Radwanski fooling around with the appointment process and the promotion process in complete violation of everything. That Public Service Commission did nothing. They took him behind closed doors and gave him a stern talking to for 20 minutes and he carried on for another couple of years, cutting a swath through everything that is decent about the public service. A lot of confidence was lost there.

The Public Service Commission has been viewed as a moribund institution for many years. I'm sorry to say it, and nothing personal against anybody. So on your insistence that it go there, I come back to my original point: we need to make radical changes to the Public Service Commission if it's to be viewed as independent or having the confidence of people. It's an uphill battle.

I think you took the path of greatest resistance when you chose this office, frankly. We advocated the Auditor General's office. Others advocated a brand-new institution. I don't know why you chose this and I don't know why you're married to it, but will you concede that the only way it's going to succeed is if we strip all the executive functions away from the Public Service Commission and leave them with just the advocacy and integrity of the public service capacity they have?

●(1240)

Hon. Reg Alcock: You know, Mr. Martin, I largely agree with your telling of the Radwanski story. That's absolutely right, the circumstance you describe, about people trying to reach out before and not feeling they got the support they needed. My response would be that that was the old Public Service Commission—different leadership, different set of circumstances, different executive responsibilities. The Public Service Commission you're dealing with today is different and does have additional independence and powers.

Your argument is that we didn't go far enough—and I hear Mr. Lauzon and others say that—on this question of executive functions. My personal opinion is that maintaining this function within an organization that has expertise in human resource management is important. I do have—

Mr. Pat Martin: But human resources complaints, Minister, don't belong there.

Hon. Reg Alcock: I'm walking too carefully here.

I will be very interested to see what the committee has to say on this. Is that fair enough? I am accountable to another group here also, and I really have to go back and examine that with them. Randy is going to get upset with me shortly if I appear too cooperative.

Mr. Pat Martin: I doubt it. That seems out of character.

The Chair: You still have over two minutes.

Mr. Pat Martin: I have a specific question then. One of the smaller points perhaps than that large general point is that the bill you've put forward is very firm and clear on punishment for people who make complaints in bad faith or even those who may punish others wrongly, but it's very weak on what a worker is to do if they feel they're suffering reprisals for having revealed information. Their only remedy is to go to the Canada Industrial Relations Board or the Public Service Staff Relations Board and file a complaint.

If it's an act to protect whistle-blowers, why isn't it clear that there's full protection for you if you feel you're being oppressed due to the fact that you've revealed information?

Hon. Reg Alcock: Pat, maybe just for timeliness and such here—I'm not as expert on some of these machinations as you are, given your history in labour—why don't I suggest that perhaps you and Mr. Heintzman meet and look at what's there? I think the sense is that that's covered, but if it's not, again...

Let me say this, Mr. Chairman, to you and the entire committee. What I'm interested in is putting in place the best whistle-blowing protection regime we can. I don't have a secondary agenda here, other than maybe what I'd like to do is just stop the practice of always creating something extra and leaving other things floating out there. We need to start collapsing some of this and making government function.

My personal belief is that we can do that. You do raise a problem for me, Mr. Lauzon and Mr. Martin—and I think other members have said the same thing—about this issue of the executive functions. That is a problem. I acknowledge that, and it does go to the heart of some of these issues of trust. How much latitude I have in modifying that, I need to look at very carefully. But I would be very interested in the opinion of this committee.

●(1245)

The Chair: Thank you, Mr. Martin.

Now we'll go to the Liberals, to Mr. Powers, for five minutes.

Mr. Russ Powers: I'll be splitting it with my colleagues.

I thank the minister for referring me to clause 19. Then I go on further to refer to clause 20. Once again, my concern is the attention being paid to the complainant, not only before, but during and after the situation. My concern is under clause 20, particularly subclause (6). It refers to the ability to claim things, but it only allows the employee, if he or she is determined, to return to the original job.

I don't need an answer at the present time. You've referred to various pieces of legislation under different acts, so perhaps you could provide a written response to us.

I just don't think it adequately protects the individuals. It may leave them open to knowing or unknowing reprisals. I don't think it goes far enough.

Thank you.

Hon. Reg Alcock: Thank you.

We will undertake to make sure we give you as broad a view as we possibly can. It's also a problem dealing with legislation that we deal with it piece by piece. In fact, it's only in the context of a range of legislation that some of the answers are found. I'll try to cross-walk that as much as I possibly can for you.

You also have an opportunity to call officials and go through some of that, and Diane is here to make sure that you have information.

Mr. Russ Powers: Thank you.

The Chair: We'll go to Mr. Scarpaleggia for the rest of the time—just a little bit. Go ahead for two minutes. I think the clock ran away there.

[*Translation*]

Mr. Francis Scarpaleggia: Thank you, Mr. Chairman.

I have a brief question of a more general nature, Mr. Chairman. Please feel free to respond to members in writing. Did you draw inspiration from other regimes in place in other jurisdictions, either in Canada or elsewhere, when you conceived the bill? If so, what were your reference points?

[*English*]

Hon. Reg Alcock: This is a relatively new science in governments around the world. I did speak with Mr. Keyserlingk at some length on this. The British have a system where they use their public service commission to do this. Mr. Keyserlingk can speak for himself; I think his first choice was an entirely independent agency. He felt that one of the reasons there was an excess of human resource complaints over wrongdoing complaints was that it was housed in the Public Service Commission. At the end of the day, we're never going to know. I shouldn't say we're never going to know, but that we're never going to know until we do it.

There was a discussion of some of the American models. For the reasons I've already outlined, my personal preference was the one....

Frankly, if you read the committee's report co-chaired by Mr. Martin and Raymonde Folco in the last House, before the transition, it contemplated moving this to the Public Service Commission.

There is evidence in the research that's been done from the other jurisdictions that we could provide to you.

The Chair: Do you have a follow-up question, Mr. Scarpaleggia?

Mr. Francis Scarpaleggia: No, that's fine.

The Chair: Madame Marleau, you have approximately one minute.

Hon. Diane Marleau: How do the crown corporations fit into this, and how do they feel about being able to go to the Public Service Commission?

Hon. Reg Alcock: Thank you, Madame Marleau, for giving me an opportunity to speak about other things.

As members will know, at least members who were here in the House prior to the election, I am in the throes of finalizing a report on crown governance. There are a number of issues about how the crown corporations interact with government.

I use the word "modernization" a lot. If you look at what's happened in large organizations—step outside of government for a minute—in the U.S., with Enron, Anderson, and WorldCom, we've had a big change in the governance regimes for large organizations. Here, with the Royal Bank and CIBC and some of the dilemmas that occurred there, the Ontario Securities Commission has looked at governance models.

I've gone that route. I'd love you to pick this up one level. We have 43 crowns. They go from a \$6-billion post office to a parking garage in Toronto. So the instrument probably needs to be freshened and made more relevant. But for those big ones, I think we can draw a lot from the new governance regimes.

I'm going to be coming forward with a paper on that. If whistle-blowing is a good policy, it's a good policy for the crowns also. If access to information is a good policy, it's a good policy for the crowns too. If you're taking on a public trust, if you're spending public money, you have a responsibility also that goes along with it.

There's some tailoring of that. There are commercial confidences and all those kinds of things that come into play with access to information, but the principle remains that these suites apply.

• (1250)

The Chair: Thank you, Minister.

Just for the last round of questioning, five minutes will go to the Conservatives.

Mr. Lauzon.

Mr. Guy Lauzon: Thank you very much, and I thank you, Mr. Minister, for spending the time with us.

There are two themes that seem to be running amongst all the members. One is that our public servants are very well-respected and our greatest asset, and I agree with that.

What a chance for the Government of Canada to agree as well. If we were to take this legislation and put it with an independent person, that would be saying to the public servants, I guess, we'd be walking the talk. What we have to do is "walk the walk" as well as "talk the talk".

I want to close with two incidents, and I'll share some of the time with my colleagues. Two incidents have happened since I've become involved with whistle-blowing. One of them is that a lady came to my office and talked to me about whistle-blowing legislation when she heard I was the critic. She said eight years ago...

Let me tell you the story. She proceeded to give me a very thick file. Eight years after she left the public service, she was in tears in my office relating the account. We have to do something about this whistle-blower. We have to do it right.

The other thing is, I spoke in the House the other day about why I thought we should have an independent person. My assistant phoned over to the House and said, "You weren't two minutes off CPAC when I got a call." And guess where that call came from? It came from a person in Treasury Board who said "you're right on". We have to do something, and we have to do it correctly, Mr. Chairman.

Thank you.

The Chair: Thank you.

We'll go to Mr. White for three and a half minutes.

Mr. Randy White: I'll be very brief as well.

I want to thank the minister for his forthright answers. It's typical of you, Reg, to do that, and I appreciate it.

You've mentioned the complexity of whistle-blowing. I agree with that view, having undertaken a lot of labour relations in my day.

I wonder if you've thought about the impact on filling positions of this legislation. Many people, if this moves along as it should, who have been involved in the process of whistle-blowing and who apply for a job don't get the job and then say "I didn't get it because there's some retribution against that; therefore, I'm grieving this process", and it starts to hang up on another end—that is, tying up the hiring and placement of positions because somebody feels they've been offended over here by whistle-blowing.

I wonder if you've given that some thought, because I'm sure it's going to happen.

Hon. Reg Alcock: Let me say first to Mr. Lauzon, I don't think our goals are different at all. I think we may have a difference of opinion on the choice, but I think the Public Service Commission can be made to be what you want it to be. I firmly believe that; otherwise, I wouldn't have proposed it.

Randy, your question is a really interesting one, and I don't have a quick answer for you. I think it's something we should examine as we try to model how this legislation would play out and work against other legislation. One of my criticisms of Bill C-25 in the initial days was that we hadn't gone far enough in trying to clarify this, because we do have horrible functional problems. The example that was used during Bill C-25 was, you want to recruit the best and the brightest out of our universities, so you identify them all, and then it takes you six months to give them a firm job offer. Anybody who's going is gone by that point.

The question you raised I think is a really important one, in that we should not create regimes that further inhibit our ability to function. I would argue that it's in this area we want to spend a fair bit of time walking through a bunch of our procedures, because I think we do that to ourselves all over the place.

But on the specifics, I'll ask Ralph and the folks to come back. I think this issue of cross-walking against this suite of legislation would be a really important thing.

• (1255)

Mr. Randy White: I think this would give rise to a lot of grievances, thereby leading to temporarily filling jobs even more.

Hon. Reg Alcock: Yes. I think that's a good point. Randy, if you have any thoughts on how we might prevent this, I'd be interested.

The Chair: A very short question goes to Mr. Sauvageau, and then we have to end this part. I ask the committee to stay around for a very brief in camera meeting after.

Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Alcock, you neglected to answer one of my questions. I asked you why, in the Radwanski affair, the Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace did not apply.

[*English*]

Hon. Reg Alcock: Actually, I'm going from memory, but I think if you look, they were the fifth and eleventh reports of this committee

prior to the change of government. We made a recommendation coming out of the Radwanski affair that we needed to review the legislation that governs parliamentary officers—and the auditor has talked about this frequently. We have a problem.

On the same issue, where you want to separate executive functions from your parliamentary officers to ensure independence, right now my office sets the negotiating mandate for their staff. My office approves their budgets. We hold them accountable to Treasury Board policy. Yet at the same time, they're supposed to hold us to account. There is a structural problem here that I think at some point we have to address.

We made that recommendation twice, in two reports coming out of this committee. I would be interested in the committee looking at that.

In the short term, until such time as that legislation changes, we have to apply policy. I think what we heard from Treasury Board, what we heard from officials at the time was that there is a difficulty in trying to apply policy when you're applying it to someone who's offering oversight.

A voice: The policy did apply.

Hon. Reg Alcock: The policy applied, yes absolutely. But the realization of it is difficult, and everybody involved in it said exactly that, including the auditor.

The Chair: Thank you very much, Mr. Minister, for coming today, and thanks to all the officials who were here to help you out today. We appreciate your answers. I think we're certainly off to a good start in dealing with this whistle-blower legislation. Thank you very much.

We'll go into an in camera meeting right away, after giving a couple of minutes for the witnesses to clear.

[*Proceedings continue in camera*]

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