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Chair

Mr. Leon Benoit

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•(1215)

[English]

The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)): Good afternoon, everyone. We'll continue with the public portion of our meeting. This meeting, of course, is no longer in camera. It's a public meeting.

As witnesses today, we have the Public Service Alliance of Canada and its national president, Nycole Turmel.

If you could introduce the individual you have with you and make a short presentation, we'll then open it up to questions.

Ms. Nycole Turmel (National President, Public Service Alliance of Canada): Thank you. I have with me Jacquie de Aguayo, from our service. She is doing the research and the work on this issue.

I want to say thank you for inviting me here today. It is my intention to read a short statement this morning that highlights some of the most important points the PSAC would like to make with regard to Bill C-11.

I first want to apologize to the committee for not having a formal submission to present at this time. Unions, like most other organizations, have staff, and unfortunately some of ours were on strike over the last ten days. Some of them would have been responsible for the research, writing, translation, and production of our submission. Now that the strike is over, the submission will be completed in short order and will be forwarded to the committee in both official languages.

I also want to advise members of the committee that I have, over the last few weeks, had a number of meetings with some of the key people in the federal administration on the government's vision for whistle-blowing protection under Bill C-11. These meetings have included very senior representatives of the Public Service Commission, the Office of Public Services Values and Ethics, and the Public Service Integrity Office. I can assure you that I have no doubt of their integrity, commitment, and motivation.

That said, there is a fundamental and unbridgeable division between the government and the PSAC on the issue of who should have responsibility for investigating complaints of wrongdoing and protecting whistle-blowers from reprisal. The division between the PSAC and the government was made crystal clear during a meeting I had with the President of the Treasury Board yesterday morning.

Under Bill C-11, the government is proposing that the head of the Public Service Commission assume the responsibility for the

investigation of complaints of wrongdoing and the protection of whistle-blowers. The PSAC continues to believe that this is the wrong approach. In testimony before this committee, Maria Barrados, the president of the Public Service Commission, made the case for the machinery of disclosure to be housed in the Public Service Commission, and she outlined the changes that have been made to the commission that make the commission sufficiently independent of the senior management structure of government.

While I do agree with the president of the Public Service Commission that change is taking place within her agency, and, equally importantly, I acknowledge the President of the Treasury Board's commitment to make the Public Service Commission even more independent in the future, I continue to believe that the PSC is simply the wrong place to house the machinery of disclosure, and I'll say why.

Firstly, while it is quite possible that the changes that have been and will be implemented within the Public Service Commission will provide some distance between the commission and the senior management structure of government, cultures that are embedded over decades don't change overnight. In the opinion of the PSAC, this is a government agency with a questionable history of independence from management. Given the long history of mistrust of the commission by public sector workers, it's not likely to be used by public sector workers with knowledge of wrongdoing, at least not in the short to middle term.

Secondly, even if you take the position that appropriate change will be implemented within the Public Service Commission, the fact remains that the PSC has itself—and very recently—been part of the problem. As far as I believe, the Radwanski case added to the urgency for a more proactive approach to whistle-blowing protection. The Public Service Commission was culpable in that case, in that it knew or should have known some of the appalling things that were happening in the Office of the Privacy Commissioner, but it did nothing to correct the problem. That should be sufficient to forestall its involvement in disclosure and whistle-blower protection.

Thirdly—and I can't stress this enough—successive governments have shown an unrestrained reluctance to adopt whistle-blower protection for the federal public sector for decades. When they do act, the reluctance translates into inadequate protection, coverage, and independence.

In discussions with Treasury Board and other government officials in 2001, PSAC told the government that its policy on the internal disclosure of information concerning wrongdoing in the workplace would not work, and it has not.

It has been a few days longer than three years since the policy came into force and the Office of the Public Service Integrity Officer was created to act, as the government said at the time, as “a neutral, third party agent who will be available to deal with disclosures an employee believes cannot be raised internally, or have not been dealt with adequately within a department”. Despite the obvious competence and integrity of that office, it too has not worked.

I don't think it is in anyone's interest to adopt Bill C-11 in its current form and wait for a five-year review to determine whether the PSC can do the job and, more importantly, wait for five years to see whether the public sector workers will have enough confidence in the system to be encouraged to report wrongdoing. The risk is too high. I personally believe that our members, the majority of public sector workers, will not use an agency with such a long history as part of the senior management structure of government.

In addition to the reasons outlined above, I take this position because there is an existing alternative that has the confidence of the PSAC and that will, I believe, secure the confidence of public sector workers immediately if it is given the true independence and the power to protect federal workers that it should have been given when it was created three years ago.

I am, of course, talking about the Office of the Public Service Integrity Officer and Public Service Integrity Officer Keyserlingk. In my estimation, this office has the skill, experience, motivation, and integrity to do the job. All that is lacking is the will to grant them the independence and funding that they need to secure the confidence of federal public sector workers and the ability to fully protect whistle-blowers. This is not only our preferred option, but the only one that we can see working in the immediate term.

Before concluding, Mr. Chairman, I would like to very briefly outline some of the other concerns we have with Bill C-11.

Included in the legislation is a presumption that public sector workers covered by the act must first launch a complaint through an internal departmental agency or crown corporation channels. While this is not the only option available to public sector workers who believe they have knowledge of wrongdoing to expose, it is clearly seen by the government as the most appropriate in most circumstances.

We do not believe that this view is held by our members. The PSAC would like to see Bill C-11 amended to provide the person making the disclosure a clear choice as to whether to disclose internally or to the knowledgeable and independent body established to investigate wrongdoing.

With regard to recourse in the event of reprisal, I have a concern that the bill as currently worded is not clear enough. Especially in an attempt to prevent public sector workers from forum shopping or duplicating complaint mechanisms, the bill may curtail the rights of public sector workers to arbitration or education where these options will otherwise be available.

In addition, we believe that recourse must include remedies that are effective against the widest range of potential reprisals. The bill as currently worded is not broad enough.

We strongly recommend that the bill be amended to ensure that the federal public sector worker who believes that she or he has been subject to reprisals has a right to have a representative.

● (1220)

Finally, from our perspective, the scope of this bill is too limited in its application. Specifically, employees of a number of establishments, including the Canadian Forces, CSIS, CSE, and the RCMP, are excluded from the provision of the act that provides for access to a neutral and independent body. We have members who work in many of these areas, and we believe that the application of the bill in their work environments will encourage silence rather than disclosure. The powers of a neutral third party are sufficient to protect the privacy and confidentiality of information within these agencies. As a result, there is no basis for the exclusion of their employees from the protection of the bill.

Let me sum up by saying that the PSAC has been advocating on behalf of effective whistle-blower legislation for more than 20 years, and is encouraged and gratified that a government bill was finally introduced in the last Parliament and was quickly introduced in amended form in the opening days of the current Parliament. That said, the government's reluctance to go the distance and get it right is more than a little disquieting.

A truly independent third party is essential, and with due respect to the president of the Public Service Commission and the changed culture and environment she's trying to create, the Public Service Commission will quite simply not be seen as such. Other existing agencies, such as the Auditor General, have been suggested in the past as possible homes for the disclosure of information and protection from reprisals, but such a move would be a significant departure from its current mandate.

An alternative, as I said, in the form of the Office of the Public Service Integrity Officer already exists, and if it is properly funded and made fully independent it can quickly secure the confidence of the federal public sector workers we represent.

Thank you.

● (1225)

The Chair: Thank you for your presentation.

We'll go to the first round of questioning of seven minutes: Mr. Preston, followed by Madam Thibault.

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

Thank you, witnesses, for coming before us today. You were very thorough in your opening statements, so some of my questions may be a repetition of what you've already said, but I'll start with them anyway.

You stated it's been more than 20 years that we've been working on good whistle-blower legislation, and we're here today to determine how close we are to getting good whistle-blower legislation. You represent the largest group of employees who work for our federal government. You mentioned that you talked to the President of the Treasury Board yesterday, and you've had different conversations with the Public Service Commission.

Before Bill C-11 was written, I'm sure they came to you for input. Did you tell them then that the independence of the Public Service Commission was not where you thought protection under whistle-blowing should go? Did you share with them then that the Public Service Commission was not the appropriate independent body that you thought was needed for this legislation to work?

Ms. Nycole Turmel: Before they wrote the second part... We should go back to the first part. When the first bill was introduced, we disagreed completely with it. We were approached at the time to discuss it. This time we met with Madame Chartrand two weeks ago, but—

Mr. Joe Preston: Two weeks ago—that would have been after the legislation was written?

Ms. Nycole Turmel: Yes, it was after the introduction of the legislation. I explained to everybody I met that consultation is not what I believe it is right now—the way it is done.

We disagree with many parts of this bill. We believe that between the first and the second one some changes were made, but based on the fact that we made a presentation and explained properly and in public what we believe should be—so that's what we did.

Mr. Joe Preston: Just for clarification, other than the recommendations you made to the old Bill C-25, which you were not happy with at all, before Bill C-11 was written and presented to Parliament you were not consulted in any way?

Ms. Nycole Turmel: I will say that it depends on your definition of consultation. To me, a meeting is not consultation. Consultation is preparing and consulting before you finalize the presentation. That's what I believe, so I will say no.

Mr. Joe Preston: I will reiterate that you are the largest group of employees that may be covered under whistle-blowing legislation, and somehow they felt your input wasn't what was needed.

Ms. Nycole Turmel: Especially based on the experience of Radwanski, our members were directly involved and affected by the situation. We have been working really hard over the last 20 years to have legislation that was proper for public sector workers. Even outside of that, I agree we should have properly consulted. We did work with Mr. Kinsella, for example, on the bill. We worked with opposition parties as well, to try to make some changes, but it's not where it should be.

Mr. Joe Preston: It sounds like it's not where it should be because it wasn't asked. If we go to the people who will be most touched by the piece of legislation and ask for their input on where the independent officer should be, whether it should be the Public Service Commission, the Public Service Integrity Officer, or the Auditor General, we could at least get that input. You're saying that input wasn't even asked for, so the fact that the legislation written is not where you want it certainly comes to mind as to why it's that way.

You talk about the lack of independence of the Public Service Commission, and I believe even in your preamble you mention that you see it heading that way, that as we go through this process of the reorganization or rebirth of the Public Service Commission, you see it getting there. But can we wait for that to put good whistle-blowing legislation in place, or do we need to find another officer who whistle-blowers would report to before we're done with the change in the public service?

Ms. Nycole Turmel: We cannot wait for that. It is clear to us as well that it needs to be presented or given to an organization or agency that's fully independent, and is seen as being fully independent. The past experience or the culture inside the Public Service Commission doesn't help us, and I don't believe we can wait another five years to make sure we achieve that. When we met with Mr. Keyserlingk—and he told you as well—he explained that even with what he tried to achieve within the three years, he was not able to really fully do what he wanted to do. He was not completely independent, in the sense that he didn't have the money and everything to do a proper job.

Mr. Joe Preston: Do you feel that his office at least has the element of independence that is needed for public sector employees to come forward?

• (1230)

Ms. Nycole Turmel: I believe so. I believe he has the credibility. He was transparent with all the unions. He met with everybody as many times as we wanted. For example, even in our structure, which is quite big, he came and met with everybody. Every time we wanted him to come over he was available. That's the way you build trust.

Mr. Joe Preston: As you stated in your preamble—and I started with in my statement—we don't build that trust the first time. If the first whistle-blower who comes forward has an unhappy situation because of coming forward, how many more will come forward after that? It's a rhetorical question. We can recognize that none will.

The legislation itself can't be flawed when it starts. It needs to be reviewed. As you said, you're not sure you can wait five years to be reviewed to find out if it is working. But the real point made here is that the first whistle-blower has to be protected beyond question, so the legislation has to be perfect. Are we at that point with Bill C-11?

Ms. Jacquie de Aguayo (Legal Officer, Collective Bargaining Branch, Public Service Alliance of Canada): If I can draw you to the preamble of the bill, the third paragraph says “confidence in public institutions can be enhanced by establishing effective procedures for the disclosure of wrongdoings and for protecting public servants who disclose wrongdoings”.

If it is the intention of the bill to put the enforcement arm of protection for disclosures of wrongdoing and protection against reprisal in a body that does not have the confidence of public sector workers, you are cutting off your nose to spite your face. You will not have people coming forward to do precisely what the bill aims to achieve. You will have killed the bill before you've even got off on the right start.

Confidence of public sector workers is what you need. I believe that Professor Keyserlingk has repeated, in both of his annual reports to Parliament as well as in his submission to this committee, that's what is necessary to get the disclosure process moving, and to get the culture changed in the public service. We need to do it now.

Mr. Joe Preston: Thank you again for coming forward and saying that.

The Chair: Thank you.

Madam Thibault is next, followed by Mr. Godbout.

[*Translation*]

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

Thank you, Ms. Turmel, and thank you to your colleague. If we have time, I have three questions on consultation, protection and concertation.

My first question relates to consultation. I presume that you have consulted members of your union. I would like for you to tell us briefly how you did that, in light of the definition that you gave us, of course. What was the nature of this consultation? What were the results? I understand that what you are telling us expresses the result of these consultations, but tell us what mechanisms you used to consult your members, so that we can take that into consideration.

Ms. Nicole Turmel: I will start with consultation. We consulted in two ways. We took into consideration our experience with respect to complaints and situations wherein members were affected by disclosures. In some cases, some people were tempted to make a disclosure. In other cases, there should have been disclosure, but the members of our union were afraid and did not speak out. Therefore, we based ourselves on these experiences.

Our second way of consulting, if you will recall, was part and parcel of our most recent round of negotiation. Applying for a round of negotiation involves going through a local process, at the lowest level, —or the highest level, depending on the way the situation is perceived—of our organization, by means of conferences, etc. This is the position that we have taken.

• (1235)

Ms. Louise Thibault: With respect to protection, I asked this question to several witnesses and I'm going to ask you the same question because I believe that it is a very important point. In my opinion, there are cases wherein, given the place, entity, group size, nature of the disclosure, despite the person's right to anonymity, it is possible that the identity of the whistleblower may be known.

Would it not seem appropriate to you that the bill should contain a provision dealing explicitly with transitional measures, as is the case for example, with harassment policies? Such a provision would allow us not to backtrack. So, if we knew that this were to occur, we

could protect the person, even if it means immediate transfer, paid leave, or whatever else. There would be mechanisms to protect the person immediately rather than waiting until something happens making her a potential victim of retaliation. Have you made representations on this subject?

Ms. Nicole Turmel: Yes, indeed, that is one of the difficulties we can encounter in a place where there is only one person.

Ms. Louise Thibault: I'm thinking of Rimouski. There are not a lot of people who work for Revenue Canada, in Rimouski. If there is a staff of four and someone lodges a complaint, it won't be long before the whistleblower is identified.

Ms. Nicole Turmel: That's true. Those people are automatically identified and singled out. Very often, news leaks even out of the office. In my opinion, these people should be protected immediately. Later on, there must be a follow-up and automatic involvement of the union. The two parties can then make sure that the person is protected. Should we, in such a case, remove the person from her work place? Probably. It would depend on the case.

Ms. Louise Thibault: Is union representation a sine qua non condition, Ms. Turmel, or could the person choose who will be representing her should she decide to be represented at all in her disclosure process?

Ms. Nicole Turmel: We hope that there is representation, but that is up to the person. It is the same in all our cases.

Ms. Louise Thibault: Very well.

With respect to cooperation, I understand that you are the largest union. There are other unions which represent public servants. Have the unions decided to work together? Have you agreed on a partnership initiative when putting forward your representations? On occasion, there may be differences of opinion, but have you agreed to make it a joint effort whenever possible? Is this an approach that you have used or intend to use?

Ms. Nicole Turmel: Very often, this approach is used by employees who do research and consult amongst themselves regarding participation, or through the Joint National Council, where negotiating agents discuss the matter. In this case, I am trying to recall whether or not there was a formal consultation, I don't believe so.

[*English*]

Jacque, you might want to add to that.

Ms. Jacque de Aguayo: We certainly have met and spoken with representatives from other unions in the context of the submissions that were made for Bill C-25, on which the unions certainly met together and had a fairly solid and uniform position, I believe, in advocating for an independent, well-funded agency to do the investigations into complaints of wrongdoing.

In this case, the consultations would be more along informal lines, but certainly we had discussions with the CLC and PIPS and a number of other public sector unions.

[*Translation*]

Ms. Louise Thibault: Do I have any time left?

[English]

The Chair: You still have two minutes.

[Translation]

Ms. Louise Thibault: Thank you very much.

How do you intend to proceed? I would like to talk briefly about a subject you referred to in your opening statement, Ms. Turmel. It relates to the issue of cultural change. It is recognized that there is a need for cultural change within the organization we call government entity. Your members and those from other unions work for that entity. What are you doing to take part in this cultural change so that the criteria you are seeking to establish are complied with, inspire trust, so that people take part as constructively as possible? How do you intend to participate in this cultural change with the members of your union?

• (1240)

Ms. Nycole Turmel: When we met with Mr. Keyserlingk, we told him very clearly that we cannot openly support the policy in its current form because no protection was provided in case of a disclosure nor what would be the status of the whistleblower following a disclosure. There was no protection either for the prosecution or for the person making the disclosure.

In a situation where one feels comfortable with a bill in accordance with people are protected and unions are involved, we fully understand that this can be done through training, information and publicity to encourage this. That is what we are doing now, we invite people to send us brown envelopes. Following that, we take over.

Nonetheless, if there was an act which would inspire us with confidence, we would move ahead immediately, jointly with the employer, at the local, regional, and national levels.

Ms. Louise Thibault: Thank you.

[English]

The Chair: Thank you, Madame Thibault.

Monsieur Godbout, followed by Mr. Martin.

Mr. Marc Godbout (Ottawa—Orléans, Lib.): Thank you, Mr. Chair.

[Translation]

Welcome, Ms. Turmel, and congratulations for your agreement in principle. It's always comforting for an employer to reach an agreement with his employees.

You clarified several issues today. That's fairly interesting. Clearly, one of the issues involved is for whistleblowers to know whom to turn to when making a disclosure.

I would like you to answer my question based on your experience. Perhaps your colleague may also want to add something. I'm referring to the nature of the disclosure. People often take for granted that disclosure of wrongdoing only has to do with financial or contractual matters. However, I was told that there are other types of disclosure, including issues related to human resources.

The reason I'm asking you this question is because if we had a fair idea of the types of disclosure being made, it might be easier to determine to whom any disclosure of wrongdoing should be made.

For instance, some people said that any disclosure of wrongdoing should not be made with the president of the Public Service Commission, but rather with the Auditor General. However, disclosure of wrongdoing does not only deal with financial issues, which is the area of expertise of the Auditor General.

Based on your current information, what types of disclosure of wrongdoing could be made under this bill, be it in the areas of human resources, contractual matters or others?

Ms. Nycole Turmel: Many situations have to do with human resources issues. When we met with Mr. Keyserlingk, he told us he once had to deal with a situation in which staff, or the members which were represented, were unhappy with their working environment. There were labour relations problems. So Mr. Keyserlingk and his team sent the person in question back to his job and told that person of the process which had to be followed.

For our part, we have received cases involving the misuse of money. Other situations were also brought to our attention. Perhaps Jacquie could talk about some of them.

[English]

Ms. Jacquie de Aguayo: It's a daunting question because there are any number of issues that could relate to that—perhaps 70% to a labour relation issue, and 30% to a reprisal. Our position has consistently been that you should not be trying to deconstruct the nature of the complaint from the start. That obligation should not fall on the individual, because it acts as a disincentive for them to come forward and provide a disclosure of wrongdoing.

The vision of PSAC for the process—and I believe it is consistent with Professor Keyserlingk's vision—is that you have an expert and truly independent body with the capacity to understand the intricacies of both disclosures of wrongdoing and how reprisals may or may not be meted out in the workplace. That individual then will also be aware of other complaint mechanisms that may be available. That individual may be able to make a judgment call about whether the investigation ought to occur appropriately within that agency or could encourage the complainant to perhaps explore some other avenue of recourse.

The issue always comes back to culture change. What this bill does have, which is a positive thing, is a requirement that there be education in the workplace. That is a fundamental part of the ultimate success of any disclosure-of-wrongdoing bill. The individuals in the workplace need to feel that when they come forward with a disclosure of wrongdoing that they believe is within the meaning of the act, they are performing an act of public service. Until public sector workers in the broader definition of this bill feel that way, we will continue to get into all of the problems of trying to ensure their identity is protected because of their fear of reprisal. These two things are interconnected.

Maybe in five to ten years, when we have truly effective legislation that has trickled down into the workplace, we won't have these types of problems where you're trying to deconstruct the nature of the complaint in advance. That is why we need to get it right now. We need to make sure that public sector workers can elect where they go to file a complaint, and that they're not required to go through a very intensive legal analysis of the potential areas they could be hampered in in terms of the recourse mechanism they use. They should just be encouraged to come forward as a matter of public interest, and then the education process, the code of conduct, and any number of other mechanisms this bill could potentially provide for will allow us to make sure that complaint moves through the system in the event it needs to.

• (1245)

Mr. Marc Godbout: I don't disagree with what you're saying; I'm only saying that if we study the nature of the deliberations in general, it would give us a better understanding of where it should possibly go.

You have recommended that it be sent to the integrity officer. Does that officer right now, as far as you understand, have the necessary tools to deal with all of these deliberations?

Ms. Jacquie de Aguayo: No. He needs more funding, he needs an independent agency, and he needs staff. Whoever this integrity officer may be—and PSAC has suggested that we have had very good experiences with Mr. Keyserlingk—I think the message this committee is being given this afternoon is that we need a truly independent agency. The Public Service Integrity Office, as it stands now, is an example of one area where we can build.

Mr. Marc Godbout: I have an extra minute, and I want to talk about protection. I've talked to my constituents, and this is a key area that concerns them, and it concerns me too. Naturally, we're all looking for perfect legislation, but it does not always happen.

Could you elaborate on the types of protection that could be foreseen, by modifying the existing legislation, to ensure these individuals are fully protected?

Ms. Jacquie de Aguayo: Of the areas we've identified, we believe that the education function will certainly perform a very important protection function in the long run.

Where an individual wants to make a complaint, the protections must be fulsome if there is to be adequate protection from reprisal. That means not only that the complaint mechanism is very clear and very quick, but also that the remedies need to be full—and this is a large problem that we have with the way the remedies provision in the bill is drafted. In other words, they need to say that whichever board may be seized of the complaint, it must have the power to put the person back in the position they were in, but for the reprisal.

The way the bill is drafted now, it lists certain remedies that can be provided and does not have very important words like “including but not limited to”. The boards must have full discretion to protect employees, because if employees think they may have some things remedied but not others.... Let's face it, we often spend more time at work than we do with our own families, and being ostracized, no longer getting e-mails, not being invited to meetings about how work is going to be allocated, are all extraordinarily important aspects of one's work.

If there is a perception that the remedies available to public sector workers who suffer from reprisal are not going to be fulsome enough to protect them in the long run, then we have failed yet again.

The Chair: Do you have a very short addition, Ms. Turmel?

[*Translation*]

Ms. Nicole Turmel: As for operational funding, I simply wanted to add that if we want to make sure that the program works, particularly over the first few years, we will have to make sure that training is given and we will have to be willing to answer all questions, to make sure the program operates in the appropriate context, and adopt the right approach.

• (1250)

[*English*]

The Chair: Thank you.

Mr. Martin, followed by Mr. Poilievre.

Mr. Pat Martin (Winnipeg Centre, NDP): Thank you, Mr. Chair.

I thank you both for being here.

We went through the same exercise in the last Parliament, with a previous whistle-blower bill that was unanimously condemned by virtually everyone who knew anything about this subject. At that time, the view was that workers were actually better off with no whistle-blowing bill than with that whistle-blowing bill.

What you're saying worries me very much, in that in Bill C-11, if an employee feels they're suffering reprisals of some kind or persecution for having revealed wrongdoing, their avenue of recourse certainly can be cumbersome, tedious—filing a complaint through the CIRB, which may take eighteen months or two years to be heard in arbitration, as we know—whereas the discipline for the employee for making an allegation in bad faith can be swift and immediately dealt with. There's an imbalance there that would lead me to believe that employees now are better off than under that situation.

Do you not have a letter from the President of the Treasury Board saying that in the interim period, in this period of time, they will grant adjudication of some kind for employees who find themselves in that position? Is there such a document or agreement in place with the Treasury Board?

Ms. Jacquie de Aguayo: It's been a few weeks since I read the letter, but as I recall, the letter just simply says the President of the Treasury Board will act if advised of any allegation of reprisal in the interim period. It does not provide explicitly for adjudication, as I recall—and I could be corrected on this.

We do agree that there are some complications with the way the recourse mechanisms are written in the bill, and we again apologize for not having the submission and some proposed language changes that could ameliorate that. However, we have long advocated for access to recourse, period, to the extent that there are labour boards out there that have expedited procedures. Some of the recommendations we will be making to this committee are that the boards be expressly provided with the power to expedite and that individuals have access to recourse of their choice. There are some very confusing prohibitions against adjudication and arbitration in the bill.

I know Professor Keyserlingk's view is that there ought to be a one-stop shop, and whatever independent third party is doing an investigation ought to also be able to deal with the complaint of reprisal. We have no issue with that situation, assuming that there is a fully independent and funded body. However, it is the PSAC's position that individual employees ought to again have choice, because if the objective is to change the culture, individuals need to be able to use mechanisms that they may or may not feel comfortable with. Rightly or wrongly so, and assuming representation, the right to representation from their trade union, they ought to have that choice.

Mr. Pat Martin: Going back to the most key and fundamental point in the minds of at least most lay people who may be watching, people who aren't actual experts, it's where this office will be housed. It seems so far that the only person in the country who really believes the Public Service Commission should be the place where this new office is housed is the President of the Treasury Board. We can't find anybody else. Even the president of the Public Service Commission is iffy about it and didn't recommend that it be housed in her office. In fact, she thought it should probably be in the AG's office.

Just to be perfectly clear to everyone who might be listening, it's the view of the single largest labour representative in the country that the Public Service Commission is probably the third choice in your preference. You would like to see the independent officer, such as Mr. Keyserlingk's shop, but with greater powers, funding, etc. Your second choice may be the Auditor General's shop, and a distant third is the Public Service Commission. Is that a fair analysis of what we've heard?

• (1255)

Ms. Nicole Turmel: It is fair to say that. The other thing we said—and it will be in our submission—is that they have to report to Parliament. That is clear for us as well.

Why go for a second choice when everybody else is saying it should be an independent agency? Why don't you do it right, right away? That's my question, and that's my reaction to that. Why try to do it another way and then, as we said, five years later you find out this was not okay, we went for second best, but in reality it was still wrong? So you go for the first right away.

Mr. Pat Martin: The only reason I can think of why they're pushing it into the Public Service Commission is that it will save money if nobody ever comes forward and complains. There will be no investigations necessary and it won't cost the government as much money. That's the only possible reasoning I can think of, because all the experts in the field seem to advise against it being at the Public Service Commission.

Ms. Jacquie de Aguayo: One of the comments we have had in response to issues like that is that had there been an appropriate mechanism for the disclosure of wrongdoing, this government could have saved millions if not billions of dollars due to government waste, whether it was the billion-dollar boondoggle or the sponsorship scandal. There are investigations going on as to the degree to which government money and public money was misspent. Of course, it's theoretical, but in our view, had there been appropriate mechanisms in place to allow individuals to come forward...

And this also raises the question of the scope. Ought we to include private sector workers in this bill? The answer must surely be yes, because individuals in various ad agencies in Quebec may have wanted to come forward to say they thought there was something very wrong going on. I think what we want is a bill that provides the greatest scope, and the excuse surely must not be money, given the money that's been lost and given the surpluses in the budget.

The Chair: Thank you, Mr. Martin.

We have very little time left.

Mr. Poilievre and Mr. Scarpaleggia, you can both take five minutes.

[Translation]

Mr. Pierre Poilievre (Nepean—Carleton, CPC): I would like to thank our witnesses. I have many public servants in my riding here in Ottawa. As regards whistleblower protection, my constituents have always told me that there is a principle on which there can be no compromise—the agency in charge of protecting whistleblowers will have to be completely independent. As regards that principle, I would like to congratulate you for your work. My colleagues have already discussed this matter, so I will move on to another subject.

You said that you thought that the private sector should be covered by this bill. Do you mean the private sector as a whole or only companies which deal directly with the government, such as the advertising agencies involved in the sponsorship scandal? Are you referring to every private sector business or only those businesses which deal directly with the government?

[English]

Ms. Jacquie de Aguayo: Yes, it would be any private sector business or individual dealing with the federal government or the public sector as defined in the bill, so the broader public sector. Those individuals should be protected in the event that they have information relating to matters in the federal public interest and the workings of the public service.

[Translation]

Mr. Pierre Poilievre: So you're saying that every business in Canada should be covered by the bill.

[English]

Ms. Jackie de Aguayo: We're talking about individuals, so it would be an individual coming forward with information relating to wrongdoing in the broader federal public sector.

[Translation]

Mr. Pierre Poilievre: Fine. I understand.

[English]

So they cannot just bring forward complaints about what's happening inside their own company.

• (1300)

Ms. Jackie de Aguayo: No, that would be hard for the federal government and the provinces to do. I think you might hear something about that.

Mr. Pierre Poilievre: I was just making sure.

I think your suggestion is a great one. I think we should put forward an amendment to the bill to ensure that it covers that.

What changes are going to need to be made to the mandate powers and resources of Dr. Keyserlingk's office in order to give him control over this portfolio?

Ms. Nicole Turmel: This part we would like to address in our submission. It is clear to us that there needs to be training. I talked a little bit about it, but we can elaborate in our submission, because that's a big question.

Mr. Pierre Poilievre: I think it's very important, because you're absolutely right. The Public Service Integrity Officer should be given the mandate, the funding, and the resources to carry out this task.

For me right now, and where I'm at in this discussion, how do we do that? How do we carry out the steps necessary to make that work? We would very much invite your input on how that might happen.

Finally, I want to move on to the question that is of concern to whistle-blower protection, and that is rewards for whistle-blowers who save significant public funds through their disclosures. Do you believe there ought to be any sort of reward—perhaps a capped reward, so that it is not overly costly—something to recognize the risk that is taken by a whistle-blower when they make a disclosure?

Ms. Nicole Turmel: For PSAC, it is clear that there should not be a reward to do a proper job. Wages, everything like that, working conditions, you can improve, but we have been against all kinds of bonuses. It has always been our principle. So to go with this one, I will say no. That's my reaction to that. If you feel something is wrong, you denounce it. The worry that I could have is that if you invite with rewards, you can invite all kinds of complaints, and then that won't help the process.

Mr. Pierre Poilievre: As a very quick question, the proposed legislation protects whistle-blowers who speak out against wrongdoing, or it's supposed to. Do you believe it should not only be a right to speak out against wrongdoing, but an obligation?

Ms. Nicole Turmel: It depends, because if you put in place an obligation, what is the definition of "obligation"? As soon as you put that in the legislation, will some managers or higher-level individuals

go after someone because they think they knew something and they didn't denounce it? I would have some reservations on this one.

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

Mr. Scarpaleggia, for the last five minutes or so.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Thank you, Mr. Chair. I'll keep this brief, because I know we're nearing the end of the meeting.

Obviously, we're not dealing with science here, in the sense that there's no perfect, definable solution. We're really in the realm of social science. In your view, should cost be a factor in any way in the search for the perfect system, or, given the importance of uncovering wrongdoing, should cost always be the last consideration?

Ms. Jackie de Aguayo: That's a loaded question, perhaps.

Mr. Francis Scarpaleggia: Perhaps.

Ms. Jackie de Aguayo: Given that we are talking about Parliament, cost always is an issue for Parliament because you're obviously answerable to the public in many different ways, including how you allocate your budget. However, given the preamble to the bill and given that what you are trying to do is encourage the disclosure of wrongdoing, not only to create a sense of integrity in the public service within the broader public, but also to save money in the long run, because these things will get caught before they spiral out of control, in these circumstances, given the context, given the history, given the types of public inquiries that are going on right now, I would be hard-pressed to see how cost could be a justifiable way out of providing an independent body to house the agency.

Mr. Francis Scarpaleggia: I wasn't talking about providing an independent body. I was asking if it should be a factor in terms of finding the perfect system.

Madame Turmel, I'm sure you have consulted your members extensively on this issue. You're very close to your members, no doubt, and I'm sure you've had many consultations and have been thinking about this issue for a long time. Have you actually polled your members and offered them different scenarios that they would accept? For example, have you polled your members to ask them if they would find it acceptable that this new independent agency be part of the Auditor General's office? Can you tell me honestly that you believe your members would be against this idea?

• (1305)

Ms. Nicole Turmel: I'm not saying yes or no on this one. The position they took, through our collective bargaining session, as well as at convention, is that it should be an independent party. We didn't

Mr. Francis Scarpaleggia: But the Auditor General is independent.

Ms. Nycole Turmel: I agree, but they still report to Parliament.

Mr. Francis Scarpaleggia: But you want this new body to report to Parliament, don't you?

Ms. Nycole Turmel: Yes, it's clear to us that it should report to Parliament. But what we are saying is that based on experience with the Public Service Commission, the Auditor General's office is not the right place. What we addressed in our presentation is that some have raised the possibility of it being the Auditor General. We said that as an alternative, it could be the Auditor General, but our position is still for an independent party. That's our position that we have taken over the time.

Mr. Francis Scarpaleggia: Thank you. I appreciate your answer.

The Chair: Thank you very much, both of you, for coming today.

You've referred to a submission. When can the committee expect your submission?

Ms. Jacquie de Aguayo: I would imagine in a week, or two weeks maximum. Is that too long?

The Chair: No, that's just fine. Thank you very much. I really appreciate that. We're looking forward to receiving your submission.

On a point of order, we go to Mr. Szabo.

Mr. Paul Szabo (Mississauga South, Lib.): Mr. Chairman, a couple of members did not have an opportunity to speak to our witnesses. Since we didn't have her comments in advance, I would like to suggest that we also have Madam Turmel back, maybe at the time when we have Madam Barrados back.

This matter is too important to leave to just a one-hour discussion. I think I'd very much like to have the opinion of PSAC once we've also heard from some employees, as well as the crown corporations. I think her input would be very valuable.

The Chair: Yes, I think the clerk has taken note of that, and we'll discuss that at the next steering committee.

Thank you very much.

The meeting is adjourned.

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