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

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**EVIDENCE**

**Thursday, December 9, 2004**

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**Chair**

**Mr. Leon Benoit**

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## Standing Committee on Government Operations and Estimates

Thursday, December 9, 2004

• (1105)

[English]

**The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)):** Good morning, everyone.

We are again dealing with Bill C-11, an act to establish a procedure for the disclosure of wrongdoings in the public sector.

Our first witness today, from Canada Post Corporation, is Gerard Power, vice-president, general counsel, and corporate secretary.

It's very good to have you here this morning, Mr. Power. Go ahead and make a short statement, if you have a statement to make, and then we'll open it up to questions right away.

**Mr. Gerard Power (Vice-President, General Counsel and Corporate Secretary, Canada Post Corporation):** Thank you very much, and good morning.

I'd like to thank you for the opportunity to appear before this committee to speak about the Public Servants Disclosure Protection Act and about Canada Post Corporation's new policy on the disclosure of improper activities in the workplace.

We are proud of this initiative, and believe our policy reflects the spirit and intent of Bill C-11. We believe it is important that as a major Canadian corporation, we have a practice that is rapidly becoming the norm in public companies. In light of the Enron and other corporate scandals in the United States, the creation of whistleblower mechanisms has become part of the standard set of controls, just as internal audit became part of the standard controls decades ago.

Canadian companies have followed the American trend, as have European companies. Our board of directors felt that Canada Post should be no different. On October 28 of this year, the board of directors approved the corporate policy on whistle-blowing. This policy is the realization of a commitment made by Canada Post to the government and the people of Canada following the release of the Deloitte and Touche final report on the examination of management practices in July of this year.

Acknowledging that the Deloitte report brought to light issues with respect to oversight and governance within Canada Post, the corporation undertook to implement a formal whistle-blowing mechanism by December 31, 2004. The corporation pledged that such a policy would focus on issues pertaining to business ethics, accounting irregularities, and non-compliance to corporate policies by Canada Post employees, corporate officials, including members of the board of directors, and senior management. We believe this

policy initiative demonstrates Canada Post's commitment to a corporate environment that fosters and demonstrates ethical behaviour at all levels in the organization.

[Translation]

Canada Post designed its policy on whistleblowers to comply with the requirements of the bill. We think that Canada Post's policy complies with and in some regards goes beyond the requirements of Bill C-11. Like the bill, the policy is designed to encourage Canada Post employees, acting in good faith, to mention activities that might seem improper in their workplace without any fear of reprisal. This policy requires all employees who see a potentially improper activity or behaviour in violation of Canada Post's ethics code to report it immediately, in accordance with the procedures set out in the policy.

Although Canada Post employees are invited to discuss the issue with their supervisor or a senior manager, in some circumstances, they might not feel comfortable reporting an irregularity to management. They might also be dissatisfied with the way in which the problem was dealt with by senior management. For this reason, Canada Post signed a contract with the Canadian company, ClearView Strategic Partners, a supplier of whistleblowing services for employees, who will receive all the reports on irregular activities made by Canada Post employees. ClearView will manage independently a free telephone assistance service offered throughout the year, 24 hours a day, 7 days a week, to receive reports from employees regarding irregular activities. Employees wishing to submit a report in writing may do so on ClearView's Internet site or by mail. ClearView will deal with all reports immediately and will inform the corporation official responsible for compliance. It will also inform the chair of the audit committee of the board of directors, who is a member of the board and independent from management and the government.

As required by Bill C-11, Canada Post will ensure that all reports from employees will remain strictly confidential. In addition, all the data will remain in Canada. In order to facilitate the investigation of irregular activities, the whistleblower policy encourages employees to self-identify when they submit a report. However, Canada Post recognizes that the most important component of an effective whistleblower policy is a guarantee of anonymity for employees who hesitate to self-identify. We think the use of a third-party reporting service guarantees this anonymity.

Canada Post's use of a third-party report service is a different approach, but it is compatible with the requirements of Bill C-11. We think employees will be more inclined to trust a system in which they report irregular activities in the workplace to an independent third party. We trust that fewer employees will be embarrassed to report on irregularities because there is this impartial, third-party service. We also recognize that Bill C-11 would offer Canada Post employees another way of reporting irregularities to the President of the Public Service Commission.

• (1110)

[English]

All reports of potential improper activity will be taken very seriously. Canada Post has established, within the office of the general counsel, the office of a chief corporate compliance officer. All information provided to the third party reporting service will immediately be forwarded to both the compliance officer and the chairman of the audit committee of the board of directors. The review and investigation will be carried out by the chief compliance officer.

In our view, having the general counsel's office oversee and review the investigation will ensure that principles of procedural fairness and natural justice will be applied to all investigations of improper activities.

• (1115)

[Translation]

We expect Canada Post's employees to cooperate in the investigation into an irregular activity. Any employee who neglects to do so could face appropriate disciplinary measures. Like Bill C-11, the policy guarantees that no employee will face disciplinary action, will be laid off, demoted, suspended, threatened or harassed and will not suffer discrimination in any form whatsoever for having reported irregular activities. Similarly, there will be no reprisal against an employee for providing information for an investigation.

[English]

Hence, if the employee is participating in providing information to the inquiry, there is no fear of reprisal.

In closing, we believe that Canada Post has implemented a whistle-blowing policy and mechanism that possesses all of the elements of Bill C-11, and that we are developing a code of conduct that reflects the nature of a corporation. We understand that the President of the Treasury Board, under this bill, is required to develop a code of conduct, and that this code of conduct will apply to a broad definition of public servants, including the employees of Canada Post Corporation. But in addition to that code of conduct are elements that would not normally apply to public servants, such as matters respecting the Competition Act, and we feel that we need to have those in our code of conduct to bring forward the special obligations that reflect the nature of a crown corporation, not just the nature of the employees as public servants.

Canada Post is very proud of the initiative, and we are confident that this policy will encourage ethical behaviour by our employees at all levels in the organization.

Thank you.

**The Chair:** Thank you very much, Mr. Power, for your presentation.

We'll go to the questioning now, beginning with Mr. Preston, for seven minutes.

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

Thank you, Mr. Power, for your statement. It sheds some light on where Canada Post is headed and where you are in your own whistle-blowing legislation or rules of conduct for your corporation.

I'd like to start with a question specific to Bill C-11. Canada Post is a very large crown corporation. I think we've heard that it's between the fifth and seventh largest employer in Canada. Certainly it's a workplace that probably needs this type of protection in place. Do you know if your corporation or its unions were asked for input into Bill C-11?

**Mr. Gerard Power:** I am not aware of whether we were asked for input into Bill C-11. However, the provisions of Bill C-11 are by and large reflective of the survey that we had been conducting over a period of a year and a half to develop a whistle-blower policy ourselves.

**Mr. Joe Preston:** So you had some great information—

**Mr. Gerard Power:** Yes.

**Mr. Joe Preston:** —that you maybe could have shared with them as they were setting up Bill C-11?

**Mr. Gerard Power:** The information we had was publicly available information, largely from sources that can be obtained at libraries, Internet sites, and so on.

**Mr. Joe Preston:** So you've gone forward with your own procedures, a for-profit system, as I see it. There is some internal mechanism, first through your own supervisor, if you feel comfortable, and further up the chain of command, if you feel comfortable. But at the point where anonymity is needed, you can go to an outside, for-profit corporation?

**Mr. Gerard Power:** We felt that the external service provider was important in order to ensure that our employees had confidence that their anonymity could be respected. If we were to set up a website within our internal intranet as a company, for example, it is possible that somebody could determine the IP address of the individual who had submitted an anonymous complaint. So in order to ensure that no one would fear that we were reverse engineering their message, we wanted to be able to say, no, we can't see this, because we're not on the receiving end; this goes to this third party, and it's housed there.

The other advantage of using the third party in the way we have is that if somebody files something that is absolutely anonymous, and in the conduct of the investigation there's a need to get more information, how can you do that? Well, using a web service like this allows the employee to receive a code where they can go in and follow up on what's being done on their complaint.

• (1120)

**Mr. Joe Preston:** I understand the concept—

**Mr. Gerard Power:** It allows us to go back to them, say we need some more information, and ask them to give it to us.

**Mr. Joe Preston:** I understand that, and that's why we continue to talk about their being a need, under Bill C-11, for a completely independent body, where employees have the ability to do that.

Did you not see that Bill C-11 could also cover your employees in the same way, that the whistle-blowing legislation for crown corporations and departments of the government would not fulfill the need that you think your employees have?

**Mr. Gerard Power:** It may fulfill the need; however, we were concerned that the employees do not see themselves as public servants. Many of the employees of Canada Post, and perhaps even the majority, were never public servants.

Canada Post Corporation has been in existence since 1981. It has its own identity. The employees think of themselves as Canada Post employees. Their pay stub is a Canada Post pay stub, it's not a Government of Canada pay stub. Having a process that is branded as their company gives them the confidence that they're not going entirely outside of the family, that they are in fact making their complaint within an organization that they understand and that understands them.

**Mr. Joe Preston:** Do you feel employees of all crown corporations feel more that way, or do they feel they are members of a government service?

**Mr. Gerard Power:** I really can't speak for the other crown corporations. I've been at Canada Post for twenty years now—

**Mr. Joe Preston:** So you know that your employees—

**Mr. Gerard Power:** Before that, I was in private practice, and certainly my sense of being is as an employee of Canada Post.

**Mr. Joe Preston:** I have a couple of other quick questions.

When you were setting up your in-house employee protection act, did you survey your two largest unions and your workforce as to what they were looking for in whistle-blower protection?

**Mr. Gerard Power:** We surveyed things generally. Basically, we surveyed what was out there in terms of what other companies were doing. There is a question for a trade union when faced with this kind of a mechanism. One of the things we wanted to be sure of, and one of the reasons why the chief compliance officer is within the general counsel function and is a lawyer, is that many of these issues may properly be grievances under a collective agreement. We wanted to make sure that when the employee had rights under a collective agreement, they would be told that they had rights under a collective agreement, that they might want to talk to their shop steward about this particular matter. The last thing we want to do is drive a wedge between ourselves and the trade unions, between our employees and their representatives within the trade union.

**Mr. Joe Preston:** The other element in Bill C-11 that has some disturbing nature to me is clause 3, where the Governor in Council or the cabinet has the ability to opt in or opt out crown corporations and departments of the government. It says it can add or delete them. Do you have any such provision in your own? Are there parts of Canada Post that are not protected or covered by your whistle-blower policy?

**Mr. Gerard Power:** No, we've covered all of our employees, so anybody can raise something. We've included our board of directors as persons who could be the subject of an issue. I would hope that

would never be the case, but they are included there. Senior management is included. There are no exceptions.

**Mr. Joe Preston:** Does your board of directors have the ability to opt out certain departments of Canada Post?

**Mr. Gerard Power:** Well, the board set the policy, but the policy does not provide for any exceptions within the company. But that's the nature of a corporation. You want to include everybody. It is perhaps a different circumstance for us.

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

Madam Thibault, followed by Mr. Szabo.

[*Translation*]

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

Thank you, Mr. Power, for being with us this morning. I'll be splitting my time with my colleague.

We've had the opportunity to hear other witnesses about the need for a third independent party and the resulting costs. Canada Post is a corporation that generates revenue, or at least attempts to do so, and this relates to one of the aspects I find most interesting; were you able to estimate, however approximately, the cost of setting up an independent third party? Can you give us an approximate percentage, for example relating to training and education, as well as relating to investigators? What would the role of these investigators be? What I'm interested in is the relationship between their mandate and the costs.

Thank you, Mr. Power.

• (1125)

**Mr. Gerard Power:** We did attempt a certain cost estimate. Of course it all depends on the number of persons who make complaints or denunciations. We started with a prudent estimate of approximately \$250,000 a year but we think it will be much more, maybe as high as \$1 million. Of course, it will all depend on the number of disclosures. The advantage of the third party would be that the costs would be variable. We would not have to pay a set amount for the work done.

It should also be noted that the independent service receives complaints. However, as is the case with complaints under the Canadian Human Rights Act, investigations are conducted in-house by our legal service. Our corporation has over 60,000 employees and we have a certain number of lawyers who look after grievances, among other things. We hope to be able to carry out this work with our present staff.

**Ms. Louise Thibault:** Do you know what the costs are for your legal service?

**Mr. Gerard Power:** Additional costs for legal services? They are included in the amount I provided you with.

**Ms. Louise Thibault:** I see.

Thank you, Mr. Power.

**Mr. Benoît Sauvageau (Repentigny, BQ):** For how long has ClearView been mandated by Canada Post to receive employee complaints?

**Mr. Gerard Power:** The service will come into effect at the end of this year.

**Mr. Benoît Sauvageau:** In other words, it has not yet begun.

You tell us that ClearView will receive the complaint but that your lawyers will administer it. Let's assume that this is a complaint against the ex-president, Mr. André Ouellet. It would be rather odd for in-house lawyers to conduct the investigation. That is probably the biggest difference between Bill C-11 and your policy, that is this ability to carry out an investigation of oneself, to examine and protect oneself from within the corporation. The board of directors had not seen certain expenditures nor perhaps had the lawyers. It's one thing if we are dealing with a foreman but something quite different when we're talking about the senior management of Canada Post Corporation.

If Bill C-11 were passed, why should Canada Post Corporation be excluded? It is not audited by the Auditor General, it is excluded; it doesn't table an annual report with Treasury Board, it is excluded; but it is not a private business, it is a crown corporation. Why would it be excluded from Bill C-11 which deserves to be given full importance? If that is the case for Canada Post Corporation, then all the other corporations may claim that although Bill C-11 is a good one, they each have their own little distinction or particularity and they should be excluded from it.

**Mr. Gerard Power:** I think that lawyers, as justice professionals, will carry out their job properly and will not be inclined to exonerate a CEO of a corporation simply because he is the CEO. They will do a proper job of investigating.

When they do their investigation, all the reports are submitted to the person who denounced the irregularity, as well as to the president of the audit committee, who is a member of the board of directors and independent of management. There will therefore be a third party looking at the procedure.

You say that Post Canada will be excluded from Bill C-11. We did not ask to be excluded. We do not see, in the terms of the law, that we are excluded but we wished to set up a whistleblower program and we made a commitment to this effect in July. So that is what we are doing and employees have a choice, they may make a disclosure under Bill C-11 to the President of the Public Service Commission, they may choose to table a grievance under their collective agreement or they may make a denunciation pursuant to our policy.

• (1130)

**Mr. Benoît Sauvageau:** There are several aspects to the problem, sir. First of all, Bill C-11 is not an invention of the Holy Spirit in the past two weeks, it proceeds from Bill C-25 as well as a previous bill. You were aware of their existence and you deliberately duplicated something that was being prepared. Canada Post Corporation knew about this.

I am sure that your lawyers are extremely competent and that the members of your board of directors are respectable people. Nonetheless, they allowed a large number of irregularities in the case of André Ouellet when he was in charge. I don't know whether that was why you decided that you would set up your own thing, like CN and other companies want to do. Parliament is drafting a bill and all the crown corporations think that it is a good one but they would rather have their own little set up. Don't you think that this would be

detrimental to Bill C-11 at a time when we should be concentrating all our energies on it?

Lastly, it strikes me as rather odd that people should be investigating themselves.

**Mr. Gerard Power:** Private companies investigate themselves.

**Mr. Benoît Sauvageau:** Yes, but you are not a private company.

**Mr. Gerard Power:** Companies do so, in spite of their obligations towards their shareholders. As I explained in my answer to Mr. Preston, we think that our employees are more inclined to see themselves as employees of Canada Post than as public servants. They are not members of the Public Service Superranuation Plan, they do not have either the advantages or the job security of the public service. Their status as employees is somewhat different and that is how they see themselves.

[English]

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

Mr. Szabo, followed by Mr. Martin.

**Mr. Paul Szabo (Mississauga South, Lib.):** Mr. Power, I'll just refresh your memory. It says "wrongdoings" refers to: (a) a contravention of any Act of Parliament or of the legislature of a province...;

(b) a misuse of public funds or a public asset;

(c) a gross mismanagement...;

(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...;

(f) and the taking of a reprisal....

Those are the highlights of those items. Are they applicable to Canada Post?

**Mr. Gerard Power:** Yes, they are.

**Mr. Paul Szabo:** I want to congratulate Canada Post and its board for taking the initiative to establish a mechanism. It was the right thing to do. We've had this discussion before. It had to do with corporate responsibility to recognize the importance of having something in place if, as, and when legislation is passed. So that's not an issue with me.

We also had a discussion with regard to the idea that you're not public servants. I agree that you're not public servants, but for the purposes of this bill, a public servant is defined to include you and all the other agencies, right up to the chief executives, everybody. I think we should put that one away.

You are not public servants in the traditional way that people would understand, but for the purposes of this act, if I have to, I'll put in an amendment and define you as persons subject to this bill, but that would make the bill really sloppy. So let's not say we're different. For the purposes of this bill, wrongdoings could occur in Canada Post, and, I'm sorry, we have a vested interest because we are responsible for appointing the chair of the board, the vice-chair of the board, all of the directors, your CEO, your president. That's why all these boards and agencies are included.

With regard to ClearView Strategic Partners, what is the term of the contract? How long does the current contract with them go for?

• (1135)

**Mr. Gerard Power:** I can't say what the term of the contract is.

**Mr. Paul Szabo:** How much is it costing us annually for their services?

**Mr. Gerard Power:** I don't have that detail.

**Mr. Paul Szabo:** With regard to your testimony, you also said you believe the employees will think this is a good idea, "we believe". I'm not sure who "we" is, but I guess the question is, what do your employees believe? What have they told you with regard to what you have set up?

**Mr. Gerard Power:** What we know is that we have had an ethics hotline for several years within the company. We had relatively few calls to that ethics hotline on an annual basis—less than a hundred calls. Since we have started the dialogue within the company about this corporate policy, we have seen a significant increase. It's not an enormous number, but we have seen over forty calls coming into that hotline in the last month.

I'd like to clarify something. We're not asking to be excluded from the application of Bill C-11. What we are saying is that, in our experience as the managers in this company, we believe our employees see themselves as employees of Canada Post, and that they would be more inclined to make a call to the corporate hotline than to an external public service hotline. But they can still make the call to the public service hotline.

**Mr. Paul Szabo:** No, I understand.

**Mr. Gerard Power:** It's suspenders and a belt.

**Mr. Paul Szabo:** Your assumptions, or presumptions, are valid. I can't disprove them. Nobody can prove them or disprove them. It's an opinion, and that's good. Others don't share it, and others do share it. It's on the record that you think this is okay.

With regard to Bill C-11, currently the spot to which the focal point will go is the Public Service Commission. Do you have any comment on whether or not that will be acceptable to the employees in terms of their perception, or, as you referred to it, having no fear of reprisals, etc.?

**Mr. Gerard Power:** Most of our employees have no dealing with the Public Service Commission, and they've never had any dealing with the Public Service Commission. This is something new to us, dealing with the Public Service Commission, so I really can't comment.

**Mr. Paul Szabo:** Sure, but this is Bill C-11, and Bill C-11 says public service. You said you have no objection to being under Bill C-11. This is a very important question, because it deals with this issue about the anonymity, about no fear, and about the security, that there will be a confidence level established that will make sure the whole system has integrity.

You're saying you don't have an opinion on PSC because you're not part of the public service, which brings us back to that other question, which says that for the purposes of the bill, you are.

**Mr. Gerard Power:** Yes.

**Mr. Paul Szabo:** I hope that you could give us, at a later date, whenever you can determine what the position is of Canada Post, whether or not you have an opinion with regard to having this position under the Public Service Commission or whether your preference would be otherwise to emulate some stand-alone, independent body, such as you have set up through ClearView.

We'd like to know what you think about that, because your employees are also very important, and you're a very large corporation.

In terms of numbers of wrongdoings as defined, have you any idea of how many allegations of those types of wrongdoings, not whether they were founded or unfounded, would have come through, and over what period of time?

**Mr. Gerard Power:** Most recently, in the month of November, we had 43 calls to our ethics line. More than 75% of those dealt with issues such as performance appraisals and so on. They were HR issues. In the previous period, where we had roughly 40 a year, we were finding that most of the issues were HR issues.

● (1140)

**Mr. Paul Szabo:** Okay.

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

Mr. Martin.

**Mr. Pat Martin (Winnipeg Centre, NDP):** Thank you, Mr. Chair, and thank you, Mr. Power.

Mr. Power, most of your brief really spoke to the dual or parallel process you're setting up at Canada Post. Really, our business here is to look at the merits of Bill C-11, and you didn't bring us very much input, frankly, on how Canada Post feels about Bill C-11. But I'm glad you clarified one thing, in answer to Mr. Szabo, that you aren't here seeking an exemption from Bill C-11.

**Mr. Gerard Power:** We're not seeking the exemption. I think what we're doing is consistent with clause 10 of the bill, which talks about the chief executive establishing internal procedures to manage disclosures.

**Mr. Pat Martin:** I understood that to mean for agencies that may fall outside of Bill C-11. Notwithstanding that—

**The Chair:** Actually, Mr. Martin, perhaps I can just make the point that the witness today was asked to come and talk about the process in Canada Post so that we could see how they'd fit together, that type of thing.

**Mr. Pat Martin:** Very good. I'm certainly not....

I do have some specific questions, first with regard to the company you contracted to. Is it a Canadian company, wholly based and resident in Canada, exclusively?

**Mr. Gerard Power:** It is a Canadian company. We were very concerned that the data remain in Canada. We didn't want to run the risk of foreign legislation—

**Mr. Pat Martin:** The Patriot Act.

**Mr. Gerard Power:** —having the potential to cause disclosures that might be contrary to the Privacy Act, to which we are subject, or to PIPEDA.

**Mr. Pat Martin:** Fair enough. Thank you.

With Bill C-11, the new whistler-blower officer has fairly broad, sweeping powers of investigation and subpoena, etc. In your process, the agent of ClearView won't have the legal authority to investigate nearly as thoroughly as with Bill C-11. Is that the case?

**Mr. Gerard Power:** The chief compliance officer is able to request the assistance of anyone within the company. If anyone impedes an investigation by the compliance officer, that can be dealt with through discipline, including discharge of the employee. I think most of our employees are quite concerned about keeping their jobs; with discharge as an ultimate result, I think they would be quite responsive.

In terms of ensuring that the person gives a truthful reply, the investigator, as a lawyer, as a commissioner or as a notary public, is actually going to be able to take the person's oath.

**Mr. Pat Martin:** One of our main concerns with Bill C-11, frankly, would be bad faith complaints, or complaints deemed to be vexatious and malicious. What is the discipline cited in your policy? From a worker's point of view, I guess, where is the protection that information won't be deemed to be in bad faith just because it's wrong, just because it's mistaken?

**Mr. Gerard Power:** The first protection, for the employees who are represented by a bargaining agent, is through the collective agreements. Any discharge, for any reason, can be subject to grievance. The vast majority of the employees of Canada Post are covered by collective agreements.

With respect to those who are not covered by collective agreements, we have the protections of employment law.

**Mr. Pat Martin:** What discipline is contemplated for a bad faith complaint, and who does the initial adjudication to determine if this information is made in good faith or is in fact vexatious?

**Mr. Gerard Power:** The initial finding would be made by the investigator. That in turn would have to be reviewed with the vice-president of human resources. Ultimately, in terms of the discharge process, for the employees who are not represented, the board of directors becomes involved.

**Mr. Pat Martin:** Would the total number of complaints, investigations, and wrongdoings ultimately be reported to Parliament in your annual report? The main thing about Bill C-11 that we're pushing for is that the whistle-blower officer should report to Parliament. With your dual or parallel system, who's to say that MPs will ever find out what's happening within a crown corporation over which we have oversight?

• (1145)

**Mr. Gerard Power:** The reports will be made to the audit committee of the board of directors.

**Mr. Pat Martin:** How does that help us?

**Mr. Gerard Power:** You've made a very good point about the additional transparency in terms of additional reporting. It's the kind of matter that could be included, as we are making a more and more extensive annual report every year. An annual report of Canada Post that is made public—it's on our website, it's deposited in Parliament—goes well beyond the purely financial elements. It includes elements of corporate governance and so on. There's no reason why the annual report could not extend to include, as you've suggested, a report on the number of issues.

We wouldn't want to get into the specifics of an individual's complaint, for privacy reasons, but as to those metrics, there's no reason why that could not be included as part of the governance component of the annual report.

**Mr. Pat Martin:** Thank you.

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

Mr. Poilievre, followed by Monsieur Godbout.

**Mr. Pierre Poilievre (Nepean—Carleton, CPC):** Thank you for being with us.

Just for quick background, was there a call to tenders for the whistle-blower services?

**Mr. Gerard Power:** Absolutely. We used the federal government's MERX system for that. We had a fairly large number of companies actually pull down the RFP.

**Mr. Pierre Poilievre:** What is your opinion on rewards for those people who make a complaint that results in significant savings to taxpayers, or, in your particular case, the shareholder of your company, which is the Government of Canada? What is your view on monetary rewards for those employees?

**Mr. Gerard Power:** Our view is that it is part of the employee's job to raise issues about conduct that is inappropriate.

**Mr. Pierre Poilievre:** Does your system then operate on the premise that it's not only the right of an employee to expose wrongdoings but the responsibility of that employee?

**Mr. Gerard Power:** It's the responsibility of the employee to safeguard the assets of the company, and those include the company's reputation.

**Mr. Pierre Poilievre:** Does the mechanism you have in place apply also to companies that do contract work for Canada Post? For example, if my company provides some sort of a contracting service to Canada Post and I identify wrongdoing, can I then go through your process to expose that wrongdoing, and then be protected?

**Mr. Gerard Power:** Yes. We have actually included that within the definition of persons who can make reports.

**Mr. Pierre Poilievre:** That's good. As I understand it, that's superior to the system proposed under Bill C-11, which does not protect companies that do contract work for the government. So I think that's very instructive.

I wonder before you leave if one of your staff members could leave the wording in the policy that extends protection to contractors and other outside groups that do business with Canada Post. I would very much like to adopt similar wording, if it's appropriate, in Bill C-11.

**Mr. Gerard Power:** I can leave copies of the document itself with the clerk of the committee. I have copies in French and English.



**Mr. Pierre Poilievre:** Do you think the government in Bill C-11 should drop its proposal to rely on the Public Service Commission to investigate these wrongdoings, and replace the Public Service Commission's role in this legislation with a role for a private provider, the way your company has done?

**Mr. Gerard Power:** The challenge for me in answering that question is that I've only been with the company for 20 years, and the company has been around for about 25 years. The relationship with the Public Service Commission is one that I'm frankly not familiar with. How the Public Service Commission is viewed by public servants, the degree of impartiality with which it is viewed, and so on, are things I don't have the experience to comment on.

**Mr. Pierre Poilievre:** Without mentioning the Public Service Commission, do you think it would be appropriate for the Government of Canada to use a private provider to investigate disclosures the way your company has?

• (1150)

**Mr. Gerard Power:** It's difficult for me to say it would be inappropriate to use a private provider, given that is the mechanism we have chosen to use.

**Mr. Pierre Poilievre:** Would it be less difficult for you to say that it would be appropriate?

**Mr. Gerard Power:** That's frankly a matter of public policy to be determined in the House, in this place, and not by me.

**Mr. Pierre Poilievre:** Fair enough. I understand your reluctance to get into that discussion.

Have you had a chance to read through Bill C-11?

**Mr. Gerard Power:** I have.

**Mr. Pierre Poilievre:** What comments do you have to offer on its effectiveness, generally speaking? Is there any glaring error in the legislation that you could point out?

**Mr. Gerard Power:** Frankly, I was very happy to see the legislation in both its previous form and its current form. I think it's a tremendous step forward for Canadians, and gives all Canadians an opportunity to feel that their public servants are able to raise issues that otherwise they might not have had—

**Mr. Pierre Poilievre:** Is there anything you don't like about the bill?

**Mr. Gerard Power:** The only concern I have about the bill relates to the code of conduct and the concept of Treasury Board establishing a code of conduct that would be applicable across this broad definition of public service. The employees of crown corporations, who have additional duties beyond the duties of public servants covered by the Public Service Commission, would then have to respond to two codes of conduct. I see there might be some confusion there.

**Mr. Pierre Poilievre:** Can this code of conduct contradict a code of conduct within Canada Post?

**Mr. Gerard Power:** No. The code of conduct in Canada Post would go further because there is legislation that is applicable to employees of Canada Post that is not applicable to public servants. For example, the Competition Act logically doesn't apply to the work that public servants do, but it does apply to the work that the employees of Canada Post do.

**Mr. Pierre Poilievre:** But as long as there's no conflict between the two codes, why would there be a problem?

**Mr. Gerard Power:** We have a limited amount of time to present these documents to our employees on an annual basis. We want to train them in how to offer the services they have to offer. We need to train them on how to use systems, and so on. To have them review two codes of conduct every year... Frankly, you need to review that code of conduct every year with every employee, and having two documents to look at just reduces the amount of time you have to deal with other issues that are also important.

**Mr. Pierre Poilievre:** On the spectacular irregularities we've witnessed at Canada Post over the last several years, which have been publicly exposed and debated, would they have been prevented had this procedure been in place at the time?

**Mr. Gerard Power:** When the board of directors saw the information from the report that was prepared by Deloitte & Touche, they and management of the company decided to implement a whistle-blower policy. This whistle-blower policy was not only already in the works—because there was the previous bill and there had been moves to do this over the last 18 months within Canada Post—but this matter was considered as part of the corporation's response to that report.

**Mr. Pierre Poilievre:** Is the fact that you brought in your own mechanism to deal with this not an indication that the government legislation is not sufficient on its own?

**Mr. Gerard Power:** It's more an issue that we wanted to make sure the employees were going to bring things forward. Notwithstanding what definition we have in the legislation, if the employees do not see themselves as public servants, they are less likely to raise the issue. We don't want these matters to be swept under the carpet. We want employees to bring these complaints forward.

It's not a measure of a lack of success of the company that there are complaints. Every company with some 60,000 employees is going to have irregularities and some complaints. We want to find them. We want to address the issues, find the root causes, and make sure we address them properly.

• (1155)

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

Monsieur Godbout is next for seven minutes, and then maybe we'll have just a very short question or two from Mr. Lauzon.

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

I'll share with Madam Marleau if there's time left.

Mr. Power, you remain somewhat vague on the reaction of your employees to the said process. Could you maybe elaborate on what the initial reaction of the unions was? What was the initial reaction of your senior staff? Just guide us so we can see if your process is something we can use to better our own legislation. What was that reaction, notwithstanding the fact you had so many demands and reactions?

**Mr. Gerard Power:** The reaction from the trade unions was one of concern. In fact, there was a suggestion that this was not necessary because these kinds of matters could be raised through the grievance process. There is a delicate line to draw so as not to undermine the grievance process that is well established and required by the Canada Labour Code.

On the non-unionized staff, they are very receptive to this. There have been many positive comments I've received saying, "Yes, this will enable us to address something we have a concern about, and ensure that without exposing ourselves to any fear of reprisal, matters we are worried about within the company will be properly addressed."

It goes beyond what many companies have done. Many companies have limited their scope to accounting irregularities. We felt, especially in light of the report from Deloitte & Touche, that we had to go further.

**Mr. Marc Godbout:** You are referring to an external agency that could possibly get involved in the process. Would you be so kind as to give us a general understanding of the terms of reference? They're under contract to Canada Post, obviously, so where do they bring the disclosure? Would the public know about it?

**Mr. Gerard Power:** They maintain all of the complaints on a website. The employee who makes a complaint is able to access his or her complaint. Only that employee, the chairman of the audit committee, and the corporate compliance officer, can access the specifics of that complaint, in order to maintain the confidentiality of the complaint.

**Mr. Marc Godbout:** So if a major fraud were involved, let's say, would only Canada Post know about it?

**Mr. Gerard Power:** As I suggested to Mr. Martin, on the concern about having some external view of the number of reports and so on, it's a matter of corporate governance. Within our annual reports over the last six years, we have included a statement on corporate governance. It seems to me that it would be appropriate to have an indication, with respect to these reports, included in that corporate governance portion of the annual report.

**Mr. Marc Godbout:** When you did study your process, you went the RFP way. That's what you mentioned. Is there any particular best practice that you have geared on, either from other public corporations or private companies? What inspired the particular process that you put in place?

**Mr. Gerard Power:** We did a survey of what other corporations were doing, both within Canada and in the United States. That survey was largely based upon looking at what they've published on their websites about this particular aspect of their policies. They're very open about having these policies, because they're a matter of shareholder confidence, a matter of shareholder communication.

**The Chair:** Madam Marleau, you still have three minutes.

**Hon. Diane Marleau (Sudbury, Lib.):** Canada Post would come under Bill C-11. Do you think this bill effectively takes into account your special operating circumstances and those of other crown corporations? If not, are there any modifications that should be made to Bill C-11?

• (1200)

**Mr. Gerard Power:** The greatest concern that we have is with respect to the code of conduct. Our view is that we should have to have a code of conduct that is absolutely consistent with the code of conduct established by the President of the Treasury Board, but that we'd be able to have a code of conduct that reflects the nature of Canada Post and its particular requirements, such as respective competition legislation and other pieces of legislation that don't necessarily apply and would be superfluous in the context of a code of conduct for the public service writ large.

**Hon. Diane Marleau:** So how would you change Bill C-11 to allow you to do this? I was under the impression that Bill C-11 was not that rigid, that as a corporation, you would be allowed to take into consideration some of your operating challenges.

**Mr. Gerard Power:** We would be able to have two codes of conduct. The concern is the ability to have a single code of conduct, but a single code of conduct that in effect not only includes the elements of the code of conduct set by the President of the Treasury Board, but also elements that are specific to the operational issues for the post.

**Hon. Diane Marleau:** Couldn't you do that under the bill?

**Mr. Gerard Power:** As we read the bill, we would actually have to have two documents. I don't want to have the employees being faced with training on two documents and having to review two documents.

As much as I would like them to be brief two-page and three-page documents, codes of conduct as we've looked at them from other companies turn out to be twenty-page and thirty-page documents. We have to give them appropriate consideration in terms of making sure the employees have read them every year.

**Hon. Diane Marleau:** Could you not use the basic code of conduct and add your own specifics to it so that there's only one document?

**Mr. Gerard Power:** I don't believe that's entirely consistent with the bill, and we want to respect the legislation.

**The Chair:** Thank you, Madam Marleau.

Mr. Lauzon, for just a couple of minutes.

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

Thank you very much for coming, Mr. Power.

One of the concerns I have with Bill C-11 is that I don't feel that, in discussing it with public service employees, they feel they've been consulted in the drafting of the bill.

I think you were asked a couple of times if your employees were consulted in the formulation of your whistle-blower efforts. Have you met with your unions and received their input, or have you met with employee groups and received their input?

**Mr. Gerard Power:** We have met with our unions. We have an ongoing process of consultation with respect to employee matters.

**Mr. Guy Lauzon:** I realize that, but have you had their input on your...?

**Mr. Gerard Power:** We have met with them on this policy, yes.

**Mr. Guy Lauzon:** Have they agreed with your...?

**Mr. Gerard Power:** As I said earlier, there is some concern on the part of the trade unions that this interferes in their relationship with the employee. The trade union is an intermediary.

**Mr. Guy Lauzon:** I'm not talking about the trade unions; I'm talking about the actual employees.

This legislation and Bill C-11 was made to serve the public servant. I assume your legislation is there to facilitate its use by your employees. I think it's important that the user get some input into the product that's being developed. I still haven't heard if that's been done or not.

**Mr. Gerard Power:** We maintain a communication vehicle that we call "Life at Work" with our employees. We have had no concerns or complaints about this raised through that vehicle.

**Mr. Guy Lauzon:** Is it safe to assume that you haven't had groups representing the employees give you input on what you developed? Would that be a fair comment?

**Mr. Gerard Power:** We have not set up focus groups on this particular matter, no.

**Mr. Guy Lauzon:** Thank you.

**The Chair:** Thank you, Mr. Lauzon, and thank you, Mr. Power, for being here this morning. We really appreciated your presentation.

I'm sorry, Madam Thibault has a very short question.

Go ahead, Madam Thibault.

[*Translation*]

**Ms. Louise Thibault:** Thank you for your indulgence, Mr. Chairman, and I'd like to thank my colleagues as well. This is a short question along the same lines as that of my colleague.

Who was the person responsible for granting and authorizing the contract with ClearView? I'll have a short question afterwards.

• (1205)

**Mr. Gerard Power:** There was an in-house delegation of authority. The group responsible for awarding contracts looked after this. Contracts such as this are posted on MERX so that we can receive the greatest number of offers possible.

**Ms. Louise Thibault:** Lastly, under this delegation, who has the power? Is it a vice-president or the president himself? At what level does this take place? Fill us in briefly.

**Mr. Gerard Power:** It's probably at the director level because the value of the contract is not high enough for it to go to the vice-president. It is signed... I can send you a precise answer in writing.

**Ms. Louise Thibault:** No, that is not what I'm getting at. So you have no problem with the fact—personally I think there is a problem—that someone internally would grant a contract, conduct investigations and report to the person who is indirectly part of the organization that awarded the contract. Do you not think that there

might be an appearance of conflict of interest, at least potentially? I'm not saying there's a real conflict of interest.

**Mr. Gerard Power:** I think the reputation of the company in question protects us. It would not allow the person signing the contract for its client to exert undue influence.

**Ms. Louise Thibault:** Thank you very much.

[*English*]

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

Thank you, Mr. Power, for coming this morning and answering the questions.

The members of the committee have asked for two things, the cost of the contract with ClearView Strategic Partners and the wording of the policy regarding contractors' reporting issues of wrongdoing, so we can review that for possible use in this legislation.

Again, thank you very much.

**Mr. Gerard Power:** Thank you.

**The Chair:** We'll suspend temporarily as we get the next witness to the table.

• (1207)

(Pause)

• (1210)

**The Chair:** Okay, let's start again. We have Steve Hindle with us this afternoon, president of the Professional Institute of the Public Service of Canada.

I understand, Mr. Hindle, that you'll be stepping down as president of the institute on December 31. You won't be appearing before us in that capacity after that, but I'm sure we'll see you here in another capacity in the future.

Welcome. Go ahead and make your opening statement, and we look forward to the questioning following that.

**Mr. Steve Hindle (President, Professional Institute of the Public Service of Canada):** Thank you, Mr. Chairman, and thank you in particular for the vote of confidence for the future.

Let me begin by indicating that the Professional Institute of the Public Service of Canada represents 50,000 public service professionals across the country. So it should come as no surprise that for more than 15 years the institute has been working for effective legislative protection for its members who blow the whistle on wrongdoing.

Many of our members, through their licensing bodies and professional organizations, adhere to strict codes of ethics and must bring to light unethical practices in their everyday work. Their commitment to high standards of practice and professionalism protects the efficacy and integrity of government programs and instills the confidence of Canadians. These admirable characteristics mean that it is our members who are most vulnerable when things go wrong. It means that they must have strong and effective legislation to protect them, their careers, and their families.

Strong and effective whistle-blowing legislation not only serves our members and employees throughout the broader public service but the Canadian people by protecting programs and safeguarding the trust they place in their government.

The institute has worked hard with government and in the broader community to support the development of these measures by participating in academic, policy, and labour-relations fora to ensure that whistle-blower protections become an assumed part of responsible governance. It goes without saying—although I'm going to say it anyway—that the institute welcomes any attempt to meet the goal of making legislated whistle-blower protections a reality.

However, it must be recognized that Bill C-11 is the latest of many attempts at such legislation. At this point, there is little excuse for obfuscation, delay, or half measures. With the protection of our members on the line, we prefer immediate improvement now to postponed perfection. With this in mind, we welcome the five-year review entrenched in the bill. However, the review provision is no excuse for ineffective legislation. To this end, we have included concise and focused recommendations that build on the act and are aimed at creating a strong and independent disclosure process and uncompromising protections for our members. Protections for whistle-blowers safeguard not only our members but the programs and services on which Canadians rely.

We have a series of recommendations, which I'll proceed with if I may, Mr. Chairman.

In order to ensure this effectiveness, we have some suggestions. Number one is in regard to application. In order to serve the purpose of the legislation, to protect the public interest and public service employees who disclose wrongdoing, exemptions to the provisions of this act should be made on the basis of the nature of the information to be disclosed, not the organization concerned.

The purpose of Bill C-11 is to protect whistle-blowers from reprisals wherever wrongdoing occurs. No branch or agency of the Canadian government can be exempt from this regime if this initiative is to be taken seriously. As proposed, the act excludes entire organizations, presumably on the basis of secrecy and security.

However, any member of those organizations may uncover wrongdoing that is not a matter of secrecy or national security. As written, this act denies employees of excluded organizations the opportunity to report wrongdoing to an independent authority. They face this segregation without any specific security rationale. Exemptions from the protections of this act must only be made where the disclosure truly concerns national security. A fundamental element to rooting out wrongdoing is an independent and credible disclosure mechanism. Unnecessarily exempting any organization from this process only serves to shelter wrongdoing and silence ethical employees.

Mr. Chairman, I will not read all the amendments that are in the brief. They are there as our suggestions in order to incorporate the recommendations.

I'll be moving on to page 7 in the English brief, and I believe the numbering on the pages is slightly different in the French version.

The purpose of this act can only be served through the creation of an independent and credible disclosure process. The history and structure of the Public Service Commission present a barrier to its president adequately fulfilling this role. The office to which public service employees disclose wrongdoing must unequivocally meet the test of independence and credibility.

A great deal of discussion on Bill C-11 has focused on the proposal that an external disclosure process reside with the president of the Public Service Commission. This debate has centred on the history of the PSC, the coming changes to its mandate, and the efficiencies of housing the disclosure role within an existing department or agency. However, this is not the proper perspective.

It has been repeated time and again and now stands as an accepted principle that if a disclosure mechanism is to be effective and credible, it must reside in an independent agent of Parliament. This agent must report directly to Parliament and have the authority to fully investigate allegations of wrongdoing and protect those who disclose it. These are the criteria against which this initiative must be judged.

Throughout its more than 80-year history, the Public Service Commission has been regarded as part of government management. In changes to the Public Service Employment Act yet to be proclaimed, the government has sought to create a hybrid—part staffing auditor, part management adviser—housed within the executive branch of government. This history and structure undermine the likelihood of the president of the Public Service Commission being perceived as independent.

This is not intended to reflect in any way on the current president. The institute met with Ms. Barrados, and we are convinced of her intentions, character, and sincerity. But the success of this legislation cannot rest on the characteristics of an individual. Among the presentations to this committee there has been vagueness concerning the role of the president versus the commission itself. How will that subtlety be effectively communicated to almost 500,000 public service employees covered by this act? This is a concern that must be addressed, as it will be the basis for the credibility of these measures.

In order to be truly independent, the office that is to receive disclosures must be an agent of Parliament reporting directly to Parliament. In Canada, the status of being an agent of Parliament has become the hallmark of independence in government oversight. Investigation of wrongdoing can be no exception. As is currently the case with other agents of Parliament, the ability to report directly to Parliament and not through a minister is a statement both in function and perception of independence and integrity. Of the two, it will be the perception of independence that is the most important.

With regard to the powers of the president, the office responsible for investigating wrongdoing must have the power to fully and independently pursue allegations of wrongdoing and order corrections.

In subclause 30(3) of Bill C-11 there is the requirement that the president must notify the chief executive of that portion of the public sector before entering the premises to carry out an investigation. This is not in keeping with the powers of other investigative agents of Parliament, such as the Auditor General of Canada. Where wrongdoing is taking place at the highest levels, as was the case in the Office of the Privacy Commissioner, this notification would undermine the investigation.

Clause 27 of the bill describes the purposes of an investigation undertaken by the president as bringing the existence of wrongdoing to the attention of chief executives and making recommendations concerning corrective measures. In order for this process to be taken seriously, the president must have the power to issue orders, correct wrongdoing, and make restitution to public service employees adversely affected by wrongdoing. These orders should be enforceable by the Federal Court. This not only makes the process more effective in ending wrongdoing, but also reinforces the independence and accountability of the president.

Subclause 28(3) does not require the president to hold any hearing on an allegation of wrongdoing. This does not support the principles of natural justice. In collecting and reviewing evidence, all parties concerned must be given the opportunity to review and comment on all relevant information. This is particularly important in the case of whistle-blowers who may be able to refute or reply to any explanations that are intended to justify, excuse, or mitigate actions that appear to be wrongdoing.

● (1215)

Despite the direction in subclause 27(2) that investigations are to be conducted as informally as possible, this informality must not undermine the credibility or efficacy of the investigation.

Moving on to protection of employees, the legislation does not protect a public service employee from reprisal if their disclosure to the president is referred back to their department. The president's role as adviser must be included as a protected disclosure. Currently, under Bill C-11 a public service employee is protected from reprisal when they disclose to the president only if that disclosure is deemed reasonable. This is contrary to the president's role in paragraph 22(a), which is to advise public servants who are considering disclosing wrongdoing, and places the burden on the public service employee. The act should be amended to facilitate the president's role as adviser and remove this burden on employees as it creates a barrier to disclosure.

On the role of the unions, the role of public service employee bargaining agents must be fully entrenched in the legislation, from the disclosure of wrongdoing through reporting, investigation, correction, and protection from reprisal. As was the case with Bill C-25, the institute has many concerns about the role of bargaining agents in this act. There is no explicit role for bargaining agents to support public service employees during the disclosure process. Only in cases where a member is accused, subpoenaed, or has faced reprisals is the bargaining agent explicitly permitted to assist them.

In addition, there is no allowance for members to make a disclosure through their bargaining agent. In fact, it is unclear as to whether the act of seeking the advice of the bargaining agent concerning a disclosure would be outside the scope of these

protections. The entrenchment of this role is necessary to fully support whistle-blowers, protect the integrity of the disclosure process, and earn the trust of public service employees.

What happens when people are the victims of reprisal? As is the case when dealing with harassment under the Canadian Human Rights Act, the board dealing with a reprisal complaint must be able to award damages for pain and suffering in addition to financial losses suffered by the victim of the reprisals. Whistle-blowers experience enormous stress in deciding to come forward with information concerning wrongdoing. They risk their reputations, careers, their well-being, as well as the security of their families. This is compounded when whistle-blowers suffer reprisal in their workplace. It is only right that whistle-blowers be compensated when they are punished for upholding ethical standards and protecting the public trust.

The materials to inform and educate public service employees about the process and protections outlined in disclosure legislation must be developed and disseminated with the assistance of their bargaining agents, and employee associations, in the case of excluded employees. Bill C-11 rightly recognizes the importance of consulting with bargaining agents in the development of the code of conduct. To ensure public service employees are fully aware of their rights and responsibilities and the operation of the disclosure process and protections, it is important to develop information and education materials in conjunction with employee representatives, and associations, in the case of excluded employees. This will not only make sure that public service employees are receiving clear and consistent information, but it will also allow bargaining agents to assist in ensuring that inquiries and complaints are dealt with in a proper manner. In order to be efficient and effective, the government must recognize the partnership that exists between itself and bargaining agents in protecting the integrity of the process.

In conclusion, Mr. Chair, Bill C-11 contains many improvements over its predecessors and brings us a step closer to realizing our goal of legislative protection for whistle-blowers. However, without the confidence of public service employees this initiative will be an abject failure. That confidence will be earned by creating an independent and credible disclosure and investigation process and uncompromising protections for whistle-blowers. If the institute's recommendations are adopted, this legislation can become the cornerstone supporting ethics in the public service and restoring Canadians' faith in government.

We have come a long way to get here. The time for rhetoric and posturing is over.

•(1220)

If amended, Bill C-11 can meet the needs of public service employees and the expectations of Canadians. That is the purpose of this act, and that is why we appear before you today.

Thank you, Mr. Chairman.

•(1225)

**The Chair:** Thank you very much, Mr. Hindle. I appreciate the comprehensive report you've given the committee.

We'll open it up to questions now, starting with Mr. Preston, for seven minutes, followed by Monsieur Sauvageau.

**Mr. Joe Preston:** Thank you very much.

Mr. Hindle, thank you very much for coming. Thank you very much for such a professional job of bringing us suggestions and changes for Bill C-11. There are some very good recommendations in there. I started to write them down and then realized I didn't have to because they're in there.

I'll speak to them that way. You've done a good job of looking at Bill C-11. You talked a bit about Bill C-25 and where Bill C-11 has come from, and that without confidence among the employees who whistle-blowing is supposed to protect, we can go no further. If the employee doesn't believe that protection is built into Bill C-11, whistle-blowing will never happen. The purpose of the whole legislation is to make it safe for people to come forward to talk about wrongdoing in their workplace.

You've suggested a number of recommended changes in here. Before Bill C-11 was drawn up, when you were asked for your input as to how to make Bill C-11 a better bill, did you not suggest these recommendations?

**Mr. Steve Hindle:** Most of these recommendations are on the public record in one form or another, including our own testimony in front of the committee previously on Bill C-25. We have had discussions with senior officials inside of government prior to the drafting of the legislation. We were not as involved as we would have liked, but we definitely were part of the process.

We don't always wait until we're asked what we think. We try to get out there because we know what's going on and we tell people what we think because we know they're not going to ask us.

**Mr. Joe Preston:** Were you asked for your input in the drawing up of Bill C-11?

**Mr. Steve Hindle:** Not specifically, although we did have discussions with officials and they had the briefs we had prepared before. They have assured us that they paid close attention to those.

**Mr. Joe Preston:** If they paid close attention to them, why do you believe you're coming forward with so many new recommendations?

**Mr. Steve Hindle:** I would suggest that while they paid close attention, they don't believe in what we're saying or they don't think it's the proper way to proceed.

**Mr. Joe Preston:** Again, you're an organization of 50,000 members across Canada, professional members of the public service, and your advice would be incorrect?

**Mr. Steve Hindle:** I think there is an inherent fear inside of government at protecting people who disclose wrongdoing, because

they don't know what's going to happen once that protection's in place.

**Mr. Joe Preston:** I'm beginning to have to agree with you, as cynical as that makes me sound. I've asked many witnesses now that same question: were you asked for your advice before the legislation was drawn up? Now in talking to the largest unions, the largest groups of workers this will affect, and now finding that none of them in fact were asked specifically.... Some assumed, as you did, that as they were on the record saying certain things, some of that would be taken into account.

We'll go from there. It's mind-boggling we weren't asking the people this is made to protect.

You've made some certain recommendations in here. Your first one was not to opt out organizations, that CSIS, the RCMP, and the military should not be opted out as organizations, but by some sort of.... If it is a secret piece...that protection needs to be there for their workers, regardless of whether they're dealing with national secrets or not.

Do you feel that mechanisms are in place to be able to handle it that way?

**Mr. Steve Hindle:** I think they could be put in place. Certainly if this legislation, in whatever form it takes when the House is finished with it, includes all of the public service, then part of that will be a mechanism to determine whether or not the information being disclosed is a national secret or about national security or has those implications. But if it's just about the management of an office and about a person purchasing supplies lining their own pockets in doing it, I don't see how that's a matter of national security.

**Mr. Joe Preston:** Clause 3 of Bill C-11 talks about the ability to add or delete organizations. So you would say that doesn't need to be there, that all public servants should be covered and that we'll deal with this secrecy part, or the organizations having trouble being covered, in a different way?

**Mr. Steve Hindle:** Well, yes and no. I actually understand that one of the reasons for the legislation saying what it says is that it is needed for when they create new parts of the public service; they need a mechanism whereby they can have that portion covered by the legislation without having to amend that legislation.

•(1230)

**Mr. Joe Preston:** The word "deleting" then would be the one that's disturbing me the most—not "adding".

**Mr. Steve Hindle:** Presumably, if you eliminate an organization in the public service, you want to be able to delete it because it's no longer required.

**Mr. Joe Preston:** If it's no longer there, I would bet no whistle-blowing would come forward from it.

**Mr. Steve Hindle:** Yes, and presumably the legislation deleting it could take care of that piece of legislation as well.

**Mr. Joe Preston:** All right.

Your other main point to us was about the use of the Public Service Commission as the spot to dock, if you will, whistle-blowing or allegations of wrongdoing. You seem fairly adamant that's not the place to put it.

**Mr. Steve Hindle:** Legislation that protects people who blow the whistle will only be effective if people actually use it; people will only use it if they have confidence that the person to whom the disclosure is being made can act independently. I do not believe that public service employees have that confidence in the current makeup of the Public Service Commission or the current president of the Public Service Commission, because they don't know her. Despite where she came from, she is not well known in the public service.

So if there's no confidence in the system put in place, the system won't get used. There's no real way that the system will prove to be effective, except that it will stop people from blowing the whistle.

**Mr. Joe Preston:** So we've found another piece or roadblock, if you will, in the legislation that will actually stop people from coming forward rather than making it easier for people to come forward.

**Mr. Steve Hindle:** We believe that's the case.

**Mr. Joe Preston:** You're asking for an independent office of some sort that reports directly to Parliament. Is that a simple sum-up of what your group is asking for in this legislation?

**Mr. Steve Hindle:** The simplest way to put it is per the previous legislation, Bill C-25, which contemplated a public service integrity commissioner. So clearly, that government at that time was not afraid of creating a new organization.

**Mr. Joe Preston:** Good. Thank you.

**Mr. Steve Hindle:** You're welcome.

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

Monsieur Sauvageau, followed by Mr. Boshcoff.

[Translation]

**Mr. Benoît Sauvageau:** I will try to share my time with Ms. Thibault, as she so kindly did for the previous witness. Call me to order, Mr. Chairman, if I stray too far off topic.

First of all, Mr. Hindle, I would like to thank you most sincerely for your high-quality presentation. I have been sitting on committees for several years now. We are always pleased to get concrete recommendations and amendments to a bill; they are not rejected out of hand.

For the benefit of committee members, I would like to say that last Thursday, the Standing Committee on Public Accounts heard from the officials who worked in Mr. Gagliano's office: Ms. Bouvier, Mr. Lebrun and another woman. We asked them if they would have considered reporting the situation or making a complaint if Bill C-11 had been in force. They said no, that they would still be too afraid to do that. You are therefore quite right to say that the perceptions public servants and the public have about Bill C-11 have a great deal to do with the trust they place in it.

I agree with you completely: there must be an independent officer. I thank you for your comments about Ms. Barrados, because it is true that the questions are not about the person but rather about the position, and I told her that. I am also wondering about the increase in the number of independent officers of the House and the relatively small size of their offices within the federal government: they have 12, 15 or 16 employees. Do you think it would be possible or desirable to incorporate this individual into the Auditor General's Office as is the case with the Commissioner of the Environment and

Sustainable Development, Ms. Gélinas? That would give this person more visibility and credibility and would allow him or her to take advantage of an established organization.

[English]

**Mr. Steve Hindle:** I think it's entirely possible to house the function inside the Office of the Auditor General. My understanding, through conversations with people inside of government, is that the government is not interested in giving the Auditor General more authority, more power, or more opportunity.

**A voice:** I don't know why.

**Mr. Steve Hindle:** I don't why; I can't understand it myself.

However, I think it could. If it were set up properly, it could work inside the Office of the Auditor General. It clearly has a long history of reporting to Parliament and making known what needs to be made known.

• (1235)

[Translation]

**Mr. Benoît Sauvageau:** Do you think this could contribute to raising awareness about Bill C-11 throughout the federal government and that this could have an impact on the confidence and trust public servants must have to file a complaint? Do you not think that having an officer to manage the program even if this individual does not report to the Auditor General, would help give the bill all the importance it deserves?

[English]

**Mr. Steve Hindle:** I believe that public service employees would have more confidence in dealing with the Office of the Auditor General of Canada than dealing with the office of the president of the Public Service Commission.

[Translation]

**Mr. Benoît Sauvageau:** Thank you very much, Mr. Hindle.

[English]

**The Chair:** Merci, Monsieur Sauvageau.

Madam Thibault, for three and a half minutes.

[Translation]

**Ms. Louise Thibault:** Thank you very much.

Like my colleague, I would like to thank you for your presentation, Mr. Hindle. It is excellent.

In the part of your brief entitled Information and Education on pages 15 and 16 of the English text, you say that you hope bargaining agents will assist in ensuring that inquiries and complaints are dealt with in a proper manner. Could you please define how you and your union understand the phrase "in a proper manner"? What form would this entirely justified assistance take?

[English]

**Mr. Steve Hindle:** We actually have some experience in helping our members who have serious concerns about things going on inside the public service. We've represented them through a grievance process, we've represented them in front of the Public Service Staff Relations Board, and we've represented them in front of the Federal Court. Also, after the establishment by policy of the Public Service Integrity Officer, Dr. Keyserlingk, we have advised or directed some of our members to go to the PSIO as a mechanism to try to have their issues or concerns dealt with. Because we are knowledgeable about the process and the mechanisms that are available, we've been able to help members and direct them to the most appropriate place to try to have their concerns addressed and the wrongdoing stopped.

We have not always been successful, but bargaining agents have a role. It's very similar to the role we play when a member comes forward with a grievance or a harassment complaint. Our role is to ensure that their rights are protected and that the mechanisms they use are the appropriate ones and that they follow the correct channel.

[Translation]

**Ms. Louise Thibault:** I understand that, Mr. Hindle. You make a number of recommendations in your brief. What tools would you use to help your members, what criteria would you use to determine whether an inquiry had been conducted properly or not, and whether or not it is complete?

[English]

**Mr. Steve Hindle:** One of the first things to determine is whether or not there is a mechanism in place already, such as the grievance process in the collective agreement, to take care of things. The other mechanism is to be there when the investigation is going on, to be there when they're dealing with the officer charged with investigating the wrongdoing to ensure they understand what their responsibility is in terms of providing information, what the role of the investigating officer is, and also to explain to our members what the rights are of the person against whom the allegation is made.

It is essentially shepherding them through the whole process.

[Translation]

**Ms. Louise Thibault:** I already asked your colleague, Ms. Turmel, this question. You will only take action if the public servant requests it? There will be no obligation on the public servant to seek the assistance of his or her union representative?

**Mr. Steve Hindle:** Absolutely.

**Ms. Louise Thibault:** Thank you.

[English]

**The Chair:** Thank you, Madame Thibault.

Mr. Boshcoff, followed by Mr. Martin.

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

Mr. Hindle, you seem to be in a bit of a conundrum. You had to write this brief assuming that the president of the PSC was going to be a *fait accompli*, but your preference now is really more clearly toward the Auditor General.

Let's just talk about the president of the PSC for a second. One of the statements you made in terms of the function of personality in this role is that perhaps the president could be a place where this legislation should end up, if the membership at large felt comfortable with her. Many groups have prefaced their remarks by saying that they don't reflect on the president. You mentioned that perhaps your membership doesn't know her and has no measure of confidence or affection, or whatever, toward the presidency.

Would it change if there were someone who had perhaps been in the position for a while, who had traversed the country and was known in a backslapping kind of way?

• (1240)

**Mr. Steve Hindle:** Let me start by correcting the impression I left you with. I do not prefer the Office of the Auditor General, except in relation to the president of the Public Service Commission. Our preference is for a new independent agent. This is a new function for someone to perform inside government. Our first preference is an independent officer, not the Office of the Auditor General. I only want to get that on the record.

For the president of the Public Service Commission to be seen as independent, it's going to take a history of acting independently. The first thing that needs to happen is that the Public Service Employment Act provisions creating the position of an agent of Parliament need to come into force. That's not scheduled to happen until December 2005. There's no telling what's going to happen between now and then.

The other thing that needs to happen is there needs to be a prolonged period, I would suggest at least five years, probably more, of the office actually functioning independent of the executive arm of government. Even under the current structure contemplated in the new Employment Act, I think that independence will not be seen by public service employees for a long time. While it may be possible in the future, I think that it's a long way into the future.

**Mr. Ken Boshcoff:** As president, do you have any feel for what the workload might be for an entirely new agency? Will there be people lined up around the block? We're trying to assume that if you set up a whole new system, it's going to have enough to do.

**Mr. Steve Hindle:** The establishment of the public service integrity officer, Dr. Keyserlingk, did not lead to the floodgates opening. I do not expect the establishment of an independent investigator would make the experience much different. I believe, by and large, that public service employees conduct themselves ethically, with a view to taking care of the assets of the government on behalf of Canadians. They are very responsible individuals. I do not think there is a lot of wrongdoing to be rooted out of the public service. By and large, I think we do a pretty good job.



Of course, due to the size of it, there are going to be instances when wrongdoing does occur. The mechanism that the legislation should be contemplating is this. Create an environment inside the public service where an employee who has concerns and an indication or evidence that wrongdoing is occurring can take care of it at the earliest possible moment. Then they are encouraged and supported, when this information comes to their attention, to deal with it either through the departmental senior official or the person involved, or through using the channels already in place inside most hierarchies and talking to the supervisor or the manager, having it dealt with before they come to the scale of scandals that we've seen in the past.

The whole focus of this should not be on rooting out wrongdoings so much as creating an environment where people are comfortable talking about these issues in order to have them dealt with so they can be fixed and they don't become serious problems.

**Mr. Ken Boshcoff:** On the aspect of your concern about the act of seeking the advice of a bargaining agent and involving that part with the union activity, is there any chance that such a thing would end up slowing the system down and would become more of a grievance type of mechanism where you have more running interference or political motivation?

**Mr. Steve Hindle:** I would suggest that any time you add another bureaucracy—and unions have bureaucracies—by all means, you run that risk. I think you will find public service employees, given the option, do have a certain amount of confidence in their union to help protect and guide them. As was indicated earlier, it's clearly the choice of the employee, the union member, to use the bargaining agent or not.

• (1245)

**Mr. Ken Boshcoff:** In terms of determining the path of resistance, when we talked about the consultation process, have you or your organization had lots of experience in terms of being involved in the legislative process?

**Mr. Steve Hindle:** Our organization has been making appearances in front of government committees for as long as I have been involved. I was involved back in 1984 when I first became a member of the institute. We have a long history in terms of making presentations, talking about the concerns of our members, etc. We have learned some lessons in terms of what to present to committees and a mechanism whereby we try to help with the committee's work.

**Mr. Ken Boshcoff:** It seems that there's some concern about the response to the consultation. Would it help your organization if we asked the drafters of this legislation to appear before us as witnesses so we could ask them how they view consultation and how they take input?

**Mr. Steve Hindle:** It's an interesting question. You would be putting public service employees on the spot by doing that.

I think the more appropriate person to direct that question to is the politician responsible for giving instructions to the drafters. If they were not instructed to go out and consult, the politician should be the one answering why, and not the public service employee who was following what is actually a legal order or direction from those who are supposed to be making those decisions.

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

Mr. Martin is next, followed by Mr. Poilievre.

**Mr. Pat Martin:** Thank you, Mr. Chair.

Thank you, Steve.

**Mr. Steve Hindle:** You're welcome.

**Mr. Pat Martin:** We've done this so many times I don't even need to use my seven minutes. I've been at this as long as you have, from the labour side, and then with all the incarnations of this bill.

It seems to me—I've said this to Nycole Turmel as well—the only person in the country who thinks this office should be housed in the Public Service Commission is the President of the Treasury Board. No other witnesses we can find agree, including the president of the Public Service Commission. She didn't ask for it, and was a little taken aback when she was asked to find a way to house it. She thought it should naturally go to either the Auditor General, where she came from, or an independent, free-standing agency, as you recommend.

We're a little taken aback. I don't like the future of this bill as it stands. I don't see the President of the Treasury Board moving very much from his stubborn position on where it's supposed to go. I talked to his minions from the.... Anyway, let's talk about the bill.

I don't know. What can you say about it? We've been through this so many times, it's pretty self-evident what needs to be done to make workers trust the process. I feel like I'm repeating myself.

**Mr. Steve Hindle:** I take it you agree with me, Mr. Martin.

**Mr. Pat Martin:** Yes, I do. I guess it would be interesting to know how you would be voting if you were a Liberal backbench MP, instead of the head of PIPS. Will you bring these same strongly held views to that side of the House if and when you get elected as a Liberal member of Parliament?

**Mr. Steve Hindle:** I have every intention of bringing those views into the Liberal caucus at some point in the future.

**Mr. Pat Martin:** Well, I hope you have better luck than we do at trying to reason with those guys, because as a former trade unionist and trade union leader—

**Mr. Steve Hindle:** I'm a union president. I'm used to beating my head against a wall.

**Mr. Pat Martin:** That's right. Well, you'd better pack a lunch if you're going to change those minds over there, because I found that to be a singularly frustrating experience.

**The Chair:** I would be calling for order if I weren't laughing so hard here, but I think we'd better get on to the business at hand.

**Mr. Steve Hindle:** With all due respect, Mr. Chair, the President of the Treasury Board has been open to having discussions about it. Whether or not we're able to convince him to change his mind remains to be seen. I'm hoping that the recommendations coming from this committee will carry some weight with him.

**The Chair:** Thank you.

Mr. Martin.

• (1250)

**Mr. Pat Martin:** We have an interesting example of a whistleblower. Would the career position of access to information officer fall under your organization or the Public Service Alliance?

**Mr. Steve Hindle:** I believe that's more likely to be classified in a bargaining unit represented by the Public Service Alliance. It's probably a program administration function.

**Mr. Pat Martin:** I was just looking at a recent example of an interesting revelation that came out of the Gomery commission. The woman who was in charge of all the access to information requests that were filed around the sponsorship scandal had to violate direct orders from her bosses and give the *Globe and Mail* the information they asked for. She had to consult with a lawyer first to find out if she would lose her job by complying with the terms of her job, because she was being directly ordered to not give Daniel Leblanc the details he was asking for.

Would you agree that's a good example of the kind of delicate position well-meaning civil servants find themselves in when wrestling with the ethics associated with this?

**Mr. Steve Hindle:** It's a good example of the pressure that can be brought to bear on a public service employee and why it's so difficult for public service employees to speak administrative truth to political power. There are grave consequences for doing it in going forward with your career and just in your ability to continue to function in that position—or in some cases in any position—inside the public service.

**Mr. Pat Martin:** Some people have gone so far as to say people would be better off with the status quo than with Bill C-11 as it stands, unamended. In fact, the Public Service Commission was given a letter from the Treasury Board president that gave them assurances that in the interim, until whistle-blower legislation does in fact come into effect, certain protections would be guaranteed that exceed what's in Bill C-11. In other words, if we can extend the debate around Bill C-11 longer, that group of employees will enjoy better protection than will be offered under Bill C-11.

**Mr. Steve Hindle:** I understand that protection is for employees who appear in front of parliamentary committees, but I don't know that it goes much beyond that.

**Mr. Pat Martin:** No, I haven't seen the letter and we haven't had that tabled yet. We'll be calling for that.

Well, we all want to see genuine protection. As a labour representative, I've had to advocate on behalf of people who were nervous about their jobs in the private sector, and you must be faced with this on a regular basis. A person has to do what's best for their family first, and if you're going to jeopardize your career or even advancements in your career by doing the honourable thing and coming forward, all of my sympathies are with that employee who's wrestling with those things when going to work every day. We'll be letting them down if we don't put in place meaningful whistle-blowing legislation.

I concur with your report, as you can tell from my comments, and I do compliment the Professional Institute of the Public Service of Canada for the consistent quality work they have done on this subject ever since I can remember. Had the legislative drafting people paid heed to all the work that was available right on the shelf, we'd have a good bill to deal with today and wouldn't be trying to cobble together something that will be adequate.

That's all I have. Thank you.

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

Mr. Poilievre for seven minutes, followed by Mr. Godbout.

[*Translation*]

**Mr. Pierre Poilievre:** I would like to thank you for the work you have done on this matter.

[*English*]

I'll just offer a brief, balanced recap of the witness testimony we've had here, which has now culminated in your testimony. We've had the Information Commissioner, who told us this bill would not only have failed to protect whistle-blowers during the sponsorship scandal but might have prevented it from being exposed for 20 years. We've had the president of the Public Service Alliance, who indicated that the bill would not protect employees who fell under its purview. We've had the Public Service Integrity Officer indicate that this bill has massive shortcomings. You have come before our committee and listed numerous glaring shortcomings. We've had whistle-blowers tell us in direct conversations, the most notable whistle-blowers who have exposed wrongdoing in the public service and suffered greatly from it, that this bill does not do the job.

Some of this testimony has frankly rocked the committee, it has been such a bombshell. The revelations of this bill's shortcomings have been spectacular. I'm wondering if you believe at this point, given the fact that none of these groups have been consulted, there are glaring inadequacies in the bill and in some ways it represents a step backwards. Is it time, in your view, for this committee to make the decision that this bill is not reparable, and should we start from scratch and go back to the drawing board with a new bill?

• (1255)

**Mr. Steve Hindle:** I'm not sure if I'd draw that conclusion at this point. There is still hope that the government can be convinced that the legislation can be amended to address the concerns that have been heard by the members of the committee and that we can get on with providing some protection for people who work in the public service.

**Mr. Pierre Poilievre:** Would that be under the rubric of this bill?

**Mr. Steve Hindle:** We believe that with the proper amendments, this can be made to work as we go forward.

**Mr. Pierre Poilievre:** You mentioned compensation for employees whose disclosures have resulted in career setbacks or other reprisals. Can you elaborate more specifically on how that would work?

**Mr. Steve Hindle:** It would be similar to the provisions of the Canadian Human Rights Act, where if a complaint of discrimination is upheld, the commission has the authority to provide relief for pain and suffering. We see this bill as working the same way.

This is just to be crystal clear: this is not advocating a reward mechanism for those who blow the whistle; this is to ensure that those who face reprisal as a result of doing the right thing can be made whole.

**Mr. Pierre Poilievre:** So you don't believe in rewards.

**Mr. Steve Hindle:** No.

**Mr. Pierre Poilievre:** Do you believe your union should be subject to whistle-blower legislation? In other words, what if there were an employee within your organization who came forward with a disclosure? Do you think there should be a disclosure mechanism to expose wrongdoing within public sector unions?

**Mr. Steve Hindle:** We believe that organizations should have mechanisms or environments in which wrongdoing can be addressed, whether that's through legislation or through other processes.

**Mr. Pierre Poilievre:** Does your union have an independent disclosure mechanism?

**Mr. Steve Hindle:** We do not, although my union, like most unions, is made up of employees and politicians, so there are always mechanisms whereby things that go wrong can be addressed. Our employees are also represented by two unions, so they have mechanisms through their unions to bring concerns forward if they believe something is being done incorrectly. Those mechanisms are in place to address those through the grievance process.

**Mr. Pierre Poilievre:** Your organization, like any other, is composed of human beings. Just like you explained, rare though it may be, wrongdoing can occur within the government. It surely can also occur within your organization or PSAC. Should this bill not apply to employees who work for the union itself who might wish to disclose wrongdoing within the union?

**Mr. Steve Hindle:** Well, it's not in the same jurisdiction for the most part. The employees of the institute working in the national capital region are covered under the Ontario Labour Relations Act, so I'm not sure if that would be appropriate.

I can certainly understand the point of view that employees who work for unions should have some mechanism. As a result of the question, I'm sure we'll be taking a look at it ourselves.

**Mr. Pierre Poilievre:** Not that your testimony is not taken seriously as it is, but you would have greater moral authority if your organization and PSAC came forward and said you've actually set up independent mechanisms for disclosure of wrongdoing within your own organizations, so you believe the government should do the same.

I'll move on to an additional question. The institute does not cover free enterprise companies that do contract work for the government of Canada. That being said, it's my view that they too should be protected if they expose wrongdoing within the government. I represent a riding in Ottawa where many people work for the government on a contractual basis. They're not unionized in any way, shape, or form, and they're not protected under this bill in its current state. Do you believe they should be?

**Mr. Steve Hindle:** I think it's totally appropriate that any citizen having dealings with the government should have a mechanism whereby they can report wrongdoing and be protected from any repercussions as a result of it, providing they're making the disclosure in good faith.

●(1300)

**Mr. Pierre Poilievre:** I believe that probably covers most of my comments.

Do you want to add that? I believe we have some time left, Joe.

**The Chair:** You have about a minute, Mr. Preston.

**Mr. Joe Preston:** You also suggested damages as one of your other things, and I know it's been touched on in the questioning. You talk about a pain and suffering type of reimbursement to the employee. What other types of damages, if you will, do you see coming forward?

We've talked an awful lot as we've looked at this about the fact that we're not talking about employees in 500,000-person departments. We're perhaps talking about one employee coming forward in a Revenue Canada branch in Timmins, Ontario. That's going to be a poisoned workplace after the fact. Are you talking about rewarding this person with employment elsewhere? What are we talking about?

**Mr. Steve Hindle:** Moving a person to another office to work, I wouldn't see that as a reward.

**Mr. Joe Preston:** Nor would I.

**Mr. Steve Hindle:** It may be an appropriate mechanism to help provide some protection. On making a person whole I'll give you an example. One person who was in the news last year was a member of the institute, Allan Cutler, who had information and tried to ensure, through departmental mechanisms, that the problem was addressed. The problem was not addressed and Mr. Cutler's story didn't come out until many years later. In the meantime, Mr. Cutler had been told—and this is admittedly anecdotal evidence—by senior people above him not to even bother applying for a competition because he wasn't going to get promoted. He was shoved aside and put in a work unit where he had very little opportunity. He got so discouraged by it, he just stopped applying for promotions.

In his case, making him whole could have taken the form of promotion, or a promotion as he was retiring, to ensure that he would have had the benefit of a higher salary when calculating his pension. It can be as simple as that.

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

Mr. Godbout.

**Mr. Marc Godbout:** Thank you, Mr. Chair.

First of all, I would like to congratulate you on that excellent presentation. This document is very helpful.

I want to follow up on what my colleague just said. Would you be contemplating a similar process for your own institute?

**Mr. Steve Hindle:** I can't very well ignore it, having heard the suggestion. I think it's a useful suggestion. The institute's board of directors has a meeting later this week, tomorrow as matter of fact, and I'm sure as a result of this testimony they'll be raising the question, or the issue will come up.

●(1305)

**Mr. Marc Godbout:** I'd like to go on to the protection side of things. You've talked to it in the document, but maybe I'm...

[Translation]

I was left unsatisfied with what you had to say.

[English]

This I think is very important. Like Mr. Poilievre, many of my constituents are civil servants or working for your institute. Have you thought of specific measures that could be taken to fully protect these employees, one way or the other, whether they're the accused or the accusing? I think that is key in making sure this process works. I'd like your comments on that. What would be the measures—it can't be full-fledged, I understand that—but what could we as a government consider, generally speaking, to make sure these employees are being protected when either being accused of something or accusing somebody?

**Mr. Steve Hindle:** Let me start by saying I'm pleased that you recognize that absolute protection is not possible and it should not even be the goal. I think an example of a protection mechanism for an employee who has disclosed wrongdoing, who is faced with a disciplinary measure within a certain period of time—and I'd suggest possibly two years—could include that it be considered at the outset as reprisal for disclosing the wrongdoing, as opposed to the other way around. The manager responsible needs to be able to prove—in other words, the onus should be on the person applying the discipline—that it's not the result of the fact that the disclosure was made previously.

That's one mechanism that might be possible to provide some reassurance to people that they will be believed when they step forward and say, "Six months ago I disclosed wrongdoing by my manager and I am now faced with a suspension for a day because I was late for work." I think the starting point in a situation like that should be to believe the employee that it is reprisal for what happened six months previously. That's just one possible mechanism.

**Mr. Marc Godbout:** If it's on the other side, one of your members is being falsely accused, what would be the protection there?

**Mr. Steve Hindle:** My member in this case might be the manager. The mechanism to protect people who are being accused is that the disclosures have to be in good faith and that the actual act of making an allegation of wrongdoing that's vexatious or frivolous can be considered an act of wrongdoing in and of itself. I believe that's what the bill does contemplate and certainly the previous Bill C-25 contemplated that. The people against whom the allegations are made do need to be protected as well. Some of those will be union members, some of them will be excluded employees, but they need to be reassured there is a process in place to determine exactly what went on and whether or not it constitutes wrongdoing.

**Mr. Marc Godbout:** Do I still have some time?

**The Chair:** Yes, if you can make it fairly brief.

**Mr. Marc Godbout:** Very briefly, you made your point very clearly that it should be an independent body that's responsible for it. You've talked about the Auditor General—well, we've talked about the Auditor General—as being a possibility. Are there any other independent bodies of government that you would have considered down the line?

**Mr. Steve Hindle:** That we would have considered for housing the function? I think the Auditor General or a new one would be the only two that would come to mind.

**The Chair:** Thank you very much, everybody, for a very productive meeting.

Thank you once again, Mr. Hindle, for an excellent presentation.

**Mr. Steve Hindle:** If I may, a few closing comments, Mr. Chair? I'll be brief. I'll be to the point.

**The Chair:** Go ahead, Mr. Hindle.

**Mr. Steve Hindle:** As you said at the outset, this is my last appearance in front of committee as the president. I've been very pleased with the opportunity that members of Parliament have provided to me and my organization. If you would, Mr. Chairman, on behalf of the professional institute, say thank you to your colleagues in the House of Commons for all the efforts they put in, I would be very pleased.

I'm also very pleased to indicate that as I was sitting here I was handed a note. Today is election day in the institute. I'd like to introduce you to the next president of the Professional Institute of the Public Service of Canada, Madame Michèle Demers, who is here today. She has been working as a vice-president of the institute for the last four years on a full-time basis.

**Some hon. members:** Hear, hear!

**Mr. Steve Hindle:** She was previously a social worker at Sainte-Anne-de-Bellevue. She will, I suspect, be asking to come to see you because we will have some results from a discussion with our members through a slightly different process from just a regular survey, in terms of values and ethics, not just Bill C-11, but values and ethics. We expect we'll have the results in January or February. I'm sure she'll be quite pleased to come back to talk to you about that.

**The Chair:** Thank you very much. I appreciate that.

The meeting is adjourned.

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