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Chair

Mr. David Tilson

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● (1805)

[*English*]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): We're going to convene the meeting. Order, please.

This is the Legislative Committee on Bill C-2, meeting 17. The orders of the day, pursuant to the order of reference of Thursday, April 27, 2006, are for the study of Bill C-2, an act providing for conflict of interest rules, restrictions on election financing, and measures respecting administrative transparency, oversight, and accountability.

We have with us as our witness and guest an independent journalist by the name of Jenefer Curtis.

Good evening to you.

Ms. Jenefer Curtis (Independent Journalist, As an Individual): Good evening, Mr. Chairman.

The Chair: You're going to be seeing members eat during the meeting. I know that appears rude; however, we don't have any time, so we have to eat while we're working. We don't mean to offend you.

Ms. Jenefer Curtis: That's fine.

The Chair: As you know, Ms. Curtis, you have a few moments to make some introductory comments. The caucuses will then have seven minutes each to ask you questions and make statements.

Thank you for coming. You may proceed.

Ms. Jenefer Curtis: Good evening.

I thank you very much for the opportunity to speak to this bill. I'm here in my capacity as an independent journalist winding up a laborious book on lobbyists, specifically consultant lobbyists. Its main title is *The Hired Guns*. It's published by Penguin Books Canada Limited. In my career I've also been a lobbyist.

I'm not here to promote my book but to make a few comments based on many years of researching and interviewing the three points of a lobbying triangle: lobbyists, clients of lobbyists, and the people lobbied—public office holders.

I have some proposed changes to this bill. I will review these very soon.

I'd first like to make some general comments. My general feeling about the bill is that it is too extreme in its solutions, while at the same time ignoring other larger issues of which lobbying is symptomatic.

My feeling is that lobbyists are a legitimate part of the system but that they're at the line beyond which their activities are questionable. That line varies for everybody. I assure you, they often go beyond that line in many ways. One place to draw the line is when they aren't selling their expertise but rather their relationships.

I have a few comments about the three points of the lobbying triangle. First, lobbyists provide substance and access in varying proportions. Some most certainly are door-openers, some are very political, and some have never set foot in a political campaign but lobby with considerable expertise.

The second point is clients. If you talk to the thousands of organizations and companies that hire lobbyists, as I have over the last four years, you will hear how grateful they were to have help with the labyrinth that they say is Ottawa. I would say that 60% to 65% of clients are quite happy with their lobbyists. That's not a lot, but it's considerable.

The third point is public office holders. They always talk about the access and substance talents with a bias, of course, for the latter, but whether it is politicians or bureaucrats, many public office holders appreciate the information, the summing-up of an issue, and the industry updates that a lobbyist brings.

This applies to bureaucrats as well, who people often assume are not interested in hearing from lobbyists. Many bureaucrats actually rave about lobbyists. Of course, there are those who refuse to meet with them, too.

My point is that lobbyists have some value to the system. I want to stress the information flow role. Good public policy gets as many channels of information flowing into it as possible. A good public office holder can see a lobbyist's bias and distinguish a lobbyist who is bringing value-added from one who is just trying to earn his or her retainer and go home.

Those are my general comments.

One big picture item that your bill won't fix is the pervasiveness of lobbying, and I don't see it looking at this. The range of organizations and bodies hiring hired guns is incredible. They include hospitals, zoos, universities, ice cream companies, and stores. Lobby associations hire hired guns as well, amounting to something that I'm calling layered lobbying.

Why? This likely reflects the feeling of entitlement that probably started with the charter, but it is very much a sense of feeling cut off from government. I think your bill should try to address this better.

Now, as far as the specifics in the bill are concerned, I think banning contingency fees is an excellent idea. There is no need for a consultant lobbyist to have an incentive to help their clients.

The five-year ban should be reduced to three years, with no loopholes whatsoever. As you likely know, there are loopholes that allow a minister to use a list so that junior staffers are not subject to this ban. Political aids, no matter what their level, are privy to all kinds of information, so you need a rule that is hard and fast. In my opinion, you should eliminate these loopholes.

The ban should not apply to industry associations. There is a long tradition of cross-collaboration between associations and government. These industry associations are themselves not for profit.

Public office holders have told me how much they value the sector-specific input of associations. I've argued with the hired guns about this, but I feel the mindset and approach of associations is different and a long cooling-off period is not necessary.

Five years, I feel, is too long. It will drive the industry underground. People will find more ways to get their message across without registering, which is something that occurs today, as I'm sure you know, but not frequently. And it will prevent politically attuned people from working in politics. If you want average Joes on the Hill doing government relations, pass this bill.

● (1810)

Regarding the recording of names of public office holders by lobbyists, I understand that you want to set up a second registry. I can guarantee this will really tee-off public office holders and put a chill on lobbying entirely. Look at it from the point of view of a public office holder, who will see his or her name popping up on a registry just because he or she agreed to meet with a lobbyist. I suggest, instead, that you use the current lobbyist registry and have a section where the lobbyist fills in two boxes, indicating the number of political people they met with and the number of bureaucrats they met with, and perhaps the dates. That way, no names are recorded. This should be done within two weeks of a meeting.

I also suggest that a 1-800 number be incorporated into the lobbyist registry, and operate weekdays from 9 a.m. to 9 p.m., with live bodies willing to assist people who are having trouble with the registry. It is pretty user-friendly, but there are definite difficulties with it. Considering this is your only tool for transparency, this would be a good investment of money.

I have two more comments and then I'm finished.

The second big-picture problem is that one of the things that your proposals in this bill is trying to solve is that there is no real way to track how decisions are made in our federal government. I'm not the first to make this point. Recording meetings with lobbyists may help a bit, but one should not overestimate their role. Lobbyists do not make things happen; politicians do. Lobbyists alert, inform, and try to influence politicians, but it's the politicians who move the chess piece across the board, so to speak. Yet our mechanisms for seeing this are very weak.

Lastly, I suggest you amend the lobbyist registry, so that “hybrid” lobby firms—those who lobby on one floor, and do work for government on another floor—are required to declare the latter. This is a huge problem.

The Chair: Thank you, Ms. Curtis.

Mr. Murphy.

Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.): Thank you, Mr. Chair.

Thank you, Ms. Curtis. I was very impressed with your presentation and your point that we should avoid people selling their relationship, but more or less praise people who are selling their expertise.

A number of questions have been raised by this bill, and a number of amendments may come forward at the last minute, I hope. The question is, what is the difference between a former staffer for a political minister working as a lobbyist after leaving the minister's office, with the three- to five-year period, whatever it is, which are covered by this bill, and someone who leaves an opposition member's office and becomes a lobbyist when the government changes? These are real-life examples.

I have tried to illustrate, in questions in the House and other places, that it really doesn't matter where the money comes from, whether from government or the opposition or Parliament or political parties. What really matters is the relationship; if someone has been with a politician who is now a minister but who was an opposition member for ten years, as a campaign worker or a staffer, obviously they have a relationship that is important to the lobby firm. I would like to see something included in the bill that precludes that, for whatever period. I understand what you're saying about three to five years. That's very debatable, as well, I think

Do you agree with me that it's the relationship or connection that the putative lobbyist has with the now-cabinet minister, or the then-cabinet minister, that matters, and not where the money came from?

● (1815)

Ms. Jenefer Curtis: When you say where the money came from, what do you mean exactly?

Mr. Brian Murphy: A public office holder in this bill is a minister or a parliamentary secretary; they are not a member of the opposition. The real-life example is that we now have a Prime Minister and a number of ministers who are now public office holders but who weren't when they were in opposition. This has not been made up. Their executive assistants were with them for a number of years, left after the government was sworn in, and became registered lobbyists. I don't think that's right. It's a pox on both houses.

It's a matter of influence, and those people who worked for the Prime Minister and other people have influence. And that's what they're now selling to the lobby firms.

This would apply to us when we get back in government, folks.

Some hon. members: Oh, oh!

Mr. Brian Murphy: Does the record show the laughter? I hope not.

Some hon. members: Oh, oh!

Mr. Brian Murphy: In any event, you know what I'm saying. I hope you do.

Ms. Jenefer Curtis: I agree 100%. I agree that they are, in that case.... They've had no cooling-off period, have they?

Mr. Brian Murphy: No, absolutely not, because it's not covered by this law. That's the point.

Ms. Jenefer Curtis: It's relationships, to some extent, 75% relationships, and it's also 25% knowledge of the process.

The history of cooling-off periods is that they don't want people to sell the insider knowledge they've had, immediately having been in government. I feel that a cooling-off period is necessary at some point. We all use our relationships in life to get ahead in many ways, so we can't penalize people for having relationships, but you have to find the line where private interest is not trumping public interest. Obviously the difference between public office and other aspects of life is that you're affecting public policy. So you don't want private interest trumping public interest, and you want to make sure that public policy is always done with the public interest in mind.

Am I not addressing your question?

Mr. Brian Murphy: I have a follow-up on that. Maybe I could go with you and say, yes, we're all about relationships to some degree, and it's all about expertise to some degree as well. But a number of suggestions have come up, and I'll put one to you. It comes from the legal profession, of which I'm part.

Let's say an executive assistant was working for a fisheries minister. Rather than the holus-bolus three- or five-year cooling-off period, what if they were precluded from working and lobbying for clients directly related to the work they'd done as a fisheries minister EA? They could still lobby government on....

Do you know what I'm talking about? Their experience is what counts. The fisheries EA might not know anything about agriculture or—-

Ms. Jenefer Curtis: So they can still lobby other people, then; they're just precluded from lobbying their former minister, the place where they'd worked. Is that what you're saying?

Mr. Brian Murphy: That's the suggestion. Under the current bill, they're precluded—period—from being registered lobbyists for five years.

Ms. Jenefer Curtis: Yes, and my thinking is that this is too long.

Mr. Brian Murphy: I understand. So what about the suggestion that they be precluded—i.e., the Chinese wall in Martin v. Grey, the Supreme Court of Canada decision about conflicts—from lobbying on those topics on which they were privy to some very important knowledge?

Ms. Jenefer Curtis: I don't think that goes far enough. Anyone who's been in a minister's office comes out with not only expertise in some areas but an understanding of the process. If you talk to someone in government who was in opposition six months ago, they understand the mindset of that government. They understand how the process works and the dynamics between them.

So it's not just a question of exempting them from the area or the place that they were before. I think you have to go further than that.

● (1820)

Mr. Brian Murphy: What are these GR specialists going to do for the three years? In a way, what difference does it make if it's three years or five? What's somebody going to do—go back to university, sell cars...?

Ms. Jenefer Curtis: As I say, I exempt associations from this. If someone is going to join a consultant lobby firm, they should have some cooling-off period. It's at the political level that these people operate, which is where political relationships come in. If somebody goes from an association to an association, they tend to deal mostly with sector-specific issues. So to answer your question, three years is a little less of an intrusion into somebody's career.

Also, one point that I didn't make in my presentation is that you have a process in a democratic system of parties. They operate on a partisan basis with people who have been partisan all their lives. If you take that five-year chunk out of their careers, you're going to have a real breakdown in the party process, I feel. Those people started out doing the grunt jobs—no offence—with MPs and so on. They worked themselves up, and they want to cash in on it. It happens all over the world.

So three years would be fine, but five, I think, is too long.

Mr. Brian Murphy: Thank you for your presentation.

The Chair: Thank you.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau (Repentigny, BQ): Thank you, Mr. Chairman.

Thank you for your presentation and your clarifications, Ms. Curtis.

I'm going to take a chance and ask a question on clause 35 in Bill C-2, since you seem very familiar with it and very well informed. I will start by reading you the proposed clause:

> 35. (1) No former reporting public office holder shall enter into a contract of service with, except an appointment to a board of directors of, or accept an offer of employment with, an entity with which he or she had direct and significant official dealings during the period of one year immediately before his or her last day in office.

That could mean for example, had this bill been in force, that Irwin Cotler, who was the Minister of Justice and Attorney General for Canada in the Liberal government, could not have practised as a lawyer anywhere, because, as Minister of Justice, he had been called upon to work directly with the courts or with various courts in making his decisions that resulted in amending the Criminal Code. Is that correct?

Therefore, this...

[*English*]

The Chair: Mr. Murphy, on a point of order.

Mr. Brian Murphy: Just on a point of order, do you think that's a little too precise? Let's just say "an ex-minister".

The Chair: You're absolutely right, Mr. Murphy.

Mr. Brian Murphy: Keep it hypothetical, like I did.

The Chair: I'm going to agree with Mr. Murphy. He has a point. We have to avoid using names. So continue without using names.

[*Translation*]

Mr. Benoît Sauvageau: I think people just heard the name and jumped to a conclusion, because I did not say anything bad about Mr. Cotler. You should have listened to what I said before and after, and not just listened to the name.

My question is this. Could a Minister of Justice, for example, not be allowed to practise law, if he is a lawyer, after being defeated or resigning? I think that if people had listened to me correctly, they would have understood that I was defending the minister in question rather than accusing him of anything whatsoever. In my opinion, this definition is too restrictive.

Proposed clause 39 reads as follows:

> 39. (1) On application by a reporting public office holder [...] the Commissioner may waive or reduce any applicable period [...]

Do you think that could apply more generally? In other words, could the commissioner be given the power to reduce or waive the period in order to allow the public office holder to engage in lobbying or to work in his or her field after leaving their position? What do you think?

[*English*]

Ms. Jenefer Curtis: I don't think that should be in there at all. There should be a clear period of three years, for no matter who. With all due respect to somebody you're referring to, I don't think the commissioner should have the ability to make any exceptions.

When I made this presentation, I looked at all the loopholes and the exemptions. There should be none at all. With all due respect, people are not taking it seriously. They're saying, "You're saying five years, with all these different loopholes." Well, that just waters it down completely. You say three years, with absolutely no loopholes whatsoever, and then you're taken seriously.

Let's face it. When people go into public life, they make great big sacrifices. They give up big salaries, they give up their other professions, and sometimes they go back and sometimes they don't. It's part of the sacrifice of public life. I really believe there shouldn't be any kind of exemption that the commissioner should be able to make.

● (1825)

[*Translation*]

Mr. Benoît Sauvageau: Thank you very much.

If, unfortunately, for whatever reason, the committee is prevented from amending the part of the bill on lobbyists and if the bill were to be passed as it is drafted at the moment, what would your worst fears be?

[*English*]

Ms. Jenefer Curtis: At the risk of sounding like somebody who endorses lobbyists, which I certainly don't entirely, I would be afraid that you would get people in the government and in the lobbying industry who frankly don't really want to be there and who are, as I said, not as capable and not as politically attuned to other people. You need some sense of tension there, and you need political people going back and forth.

My fear was that the flow of information and the understanding between industry and government would be decreased very much. That's basically the biggest fear I have.

The Chair: You have two and a half minutes, Madame Guay.

[*Translation*]

Ms. Monique Guay (Rivière-du-Nord, BQ): Thank you. I will be very brief.

You are an independent journalist, Ms. Curtis. We have heard a lot of questions from organizations and companies regarding confidentiality. Under the bill, it would be possible for them to obtain some very personal information about their plans, even though they have files they themselves consider confidential and they do not want to reveal this information because of possible conflicts and competitivity considerations.

I would like to hear your views on this. I would just mention in passing that this applies even to journalists.

[*English*]

Ms. Jenefer Curtis: I'm going to speak to this not as journalist, but more as somebody specifically looking at lobbying.

I realize this came up in the GRIC presentation. I think it's actually a very good point, but I think it's trumped by the necessity to have some form of recording of meetings. As I said, I suggest you put them on the registry and that you don't put people's names on them but put a box for bureaucrats or non-political and a box for aides.

Especially with the case that was brought up with mergers and acquisitions—and that's the only case I can think of where this is relevant—I suggest that the people wait two weeks before they have to do this. I just think that lobbyists working on cases like that are going to have to be very careful. I don't necessarily think you should make an exemption. Exemptions make for diluted public policy. I feel that there were too many exemptions before and you just got into a mishmash of trying to make regulations. There are legal problems with that. I think you shouldn't make flat exemptions.

If they're going to be contacting public office holders for their particular events, it will encourage them to be very picky about which clients and which things they actually have to contact public office holders for. Maybe it will reduce the amount of insider lobbying that goes on. But I don't think there should be an exemption. Maybe we can extend that rule to two or three weeks, maybe a month, before they'd have to register those meetings so they have to proceed with caution. But I don't think they have that strong a case.

The Chair: Thank you.

Mr. Martin.

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

Thank you, Ms. Curtis.

I'm concerned about lobbyists. First of all, I'm not a big fan of lobbyists. I think lobbyists have bastardized democracy in the United States, and I don't like what I see with lobbyists here.

I don't meet with lobbyists. I have a rule that lobbyists don't get in my office and that's all there is to it. Having said that, I'm thinking in terms of those lobbyists who are there to advocate on behalf of a particular business or profit-making venture; I'm not really thinking of lobbyists who may be on the Hill for the Canadian Cancer Society or a non-profit NGO. I don't really categorize them.

I think the rules to put limitations on lobbyists have that other corporate lobbyist in mind. There have been egregious examples that have really turned Canadians off, such as the David Dingwall affair, where they're negotiating contingency fees to peddle influence.

● (1830)

The Chair: I know it's tempting, but try to refrain from mentioning names.

Mr. Pat Martin: Oh, yes. Okay. Thanks.

Well, for instance, without mentioning his name, three months after a former Minister of Indian Affairs ceased being the minister, he was a lobbyist on behalf of a bunch of first nations who were lobbying the Department of Indian Affairs. Can you imagine? That's so vile that it cries out for swift action.

Unfortunately, maybe there will be some collateral damage and other lobbyists will be duty-bound to stricter guidelines as a result of our efforts to curb the abuses that are taking place.

One question I have is with regard to an amendment we're thinking of. Would you agree that rules should be put in place where if a company is a lobbyist on an issue they should not be contracting to the government in another capacity at the same time?

Ms. Jenefer Curtis: You and I have spoken briefly about this. I have given this a lot of thought, because this is in my book. This is what I call the “hybrid syndrome”. There are certain lobby firms that have been in the media for this problem. I'll tell you right now that there's more than one firm that does this, so it is a big problem. What we're talking about is where you have part of the office that lobbies—usually these are big firms, because let's face it, they want to make as much money as they can, and government is a great place to get work—and the other half of the office does work for government, whether it be stakeholder management or strategic whatever. I mean, they have all sorts of names for it.

I've looked into this, and my suggestion here for an amendment.... You're saying you want to ban it?

Mr. Pat Martin: Yes. It can be one or the other. Just like it can't be the auditor of a company who sells tax services at the same time because that's a conflict, I think it's a conflict to be contracting to the government and being a lobbyist to the government at the same time. We saw huge problems in the previous PMO where the revolving door between the lobby firm, the contracting firm, and actual people in the PMO was so offensive that Canadians recoiled with shock.

Ms. Jenefer Curtis: From an ethical point of view and a principle point of view, I agree with you entirely. If you can ban it, that's great. I've talked to a couple of lawyers about this. There are, for example, lawyers who do exactly the same thing. There are many, many law firms that are called on by government departments for their advice on particular issues, and at the same time, they're lobbying that department.

So you have to sort of look into—

Mr. Pat Martin: That would be wrong, wouldn't it?

Ms. Jenefer Curtis: Well, the law firms can get around it because the Chinese wall idea started with law firms, because they were able to keep their conflicting clients and their different works. If you can get away with it and you can do it, if it's constitutionally okay, then I think that would be a good idea. I don't know if it would fly.

Mr. Pat Martin: I don't think law firms should either. I used to be an organizer for a union, and I went to our lawyer one time to file our application to certify this company. It turns out he was the lawyer acting for the company I was trying to certify. That's an example that these things just shouldn't happen in law offices or lobby firms.

Chinese wall—I don't know where that term comes from.

Ms. Jenefer Curtis: It's a legal term.

Mr. Pat Martin: I don't think that's adequate in Ottawa, so we'll be aggressively pushing for an amendment that will in fact bar that practice.

Ms. Jenefer Curtis: Okay. You would somehow have to prove that the company, by working for the government on a particular issue, is also getting information from it that is going to help its clients, and that's very difficult to prove, that's all.

Mr. Pat Martin: You can assume that it's taking place.

Ms. Jenefer Curtis: It's ethically beyond the pale, believe me. I have academics who are ethical wizards telling me it's a huge problem, which is why I raised it, and it's in my book. It's very hard to legislate; this is not an easy field to legislate in.

Mr. Pat Martin: It's not an easy concept to put into legislative—

Ms. Jenefer Curtis: Or to make rules that people have to obey. With Chinese walls, you're basically saying somebody is unable to make that distinction in their head, which—

Mr. Pat Martin: If they don't know the difference between right and wrong, then we have a real problem. This whole exercise is about elevating the standards of ethical practices in Ottawa.

Ms. Jenefer Curtis: It's certainly worth discussing, though.

Mr. Pat Martin: Yes. Okay, thank you.

The Chair: Thank you.

Monsieur Petit.

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Good afternoon, Ms. Curtis.

We seem to have reviewed all of the rules regarding lobbying. From what you have seen, does Bill C-2 protect us against lobbying by public servants internally? Let me give you an example. We have had an Information Commissioner who was a minister in a Liberal government. Under Bill C-2, would it be possible that such an individual could be appointed Information Commissioner?

● (1835)

[*English*]

Ms. Jenefer Curtis: Can you just repeat that? I'm not too sure what happened there. Sorry.

[*Translation*]

Mr. Daniel Petit: I see. Let me repeat my question. Does Bill C-2 protect us against lobbying from within? For example, is Bill C-2 strong enough to protect us in a situation where a public servant, in order to reach a higher level, would engage in a type of lobbying with his or her minister?

[*English*]

Ms. Jenefer Curtis: I don't think so. I must confess, I have not gone through this bill with an absolutely fine-tooth comb, but I don't think it treats that. I don't think it does. I don't think it's anything to do with what happens in government.

[*Translation*]

Mr. Daniel Petit: I see. Thank you.

[*English*]

The Chair: We still have a few minutes. Does anyone have any more questions or comments?

Do you have anything else you want to say?

Ms. Jenefer Curtis: No.

The Chair: Well, thank you kindly for coming.

Ms. Jenefer Curtis: You're very welcome. Thank you.

The Chair: We appreciate your remarks.

We will now recess for a short break.

● _____ (Pause) _____ ●

● (1840)

The Chair: We will reconvene.

Representing the *Institut québécois d'éthique appliquée*, we have two witnesses: the president, René Villemure, and the project manager, Michel Quintal. We also have Pierre F. Côté, the former Chief Electoral Officer of Quebec. Welcome to all three of you.

Both groups have an opportunity to say a few words to the committee, and then each caucus will have a question period of up to seven minutes.

Perhaps we could proceed with Mr. Villemure.

● (1845)

[*Translation*]

Mr. René Villemure (President, Institut québécois d'éthique appliquée):

Mr. Chairman, members of the committee, thank you very much for inviting me to appear before you today.

I am the President of the Quebec Institute of Applied Ethics. We reflect on ethical matters in the management of government and large organizations.

In my opinion, the introduction of Bill C-2 is an ethical moment that must be hailed. This type of idea was put forward a long time ago, but it is now in the process of becoming concrete. As the saying goes, no one is opposed to virtue. However, the challenge is to make this virtue concrete, and to go beyond good intentions.

Bill C-2 is ambitious. It deals with a number of matters that have some connection with ethics. However, it remains silent on a number of matters, and these are the things that disturb me as an ethicist.

I will deal with only two issues in the time I have today. First, I will make a few comments on the meaning of the words used in the French and English versions of the bill and their frequent inconsistencies. Second, I will put forward some ideas about the role of the commissioners of ethics, integrity and conflicts of interest.

Misnaming things simply causes more trouble. There is certainly a desire to do the right thing in this bill, there is an interest in ethics. But we need to know what is meant by ethics. It is consideration given in order to make fair decisions consistent with the values of the state. These values have a direct link to the common good. In a responsible ethical decision — since this is mentioned in the bill — the decision-maker has a choice of means for achieving this objective. The ethical consideration occurs before the decision is made, not afterwards.

We note that the terms "*imputabilité*", "*reddition de comptes*" or accountability all refer to a time after the decision, whereas the word "*responsabilisation*" refers to a time before the decision. I think there is some inconsistency in the translation, because the terms are used as synonymous, and that gives rise to a problem. Words can sometimes change meaning. Sometimes accountability means "*responsabilisation*", and sometimes it does not.

I have done some research on the meaning of the words. I noticed that the word "*éthique*" appears 45 times in the bill, while the word "ethics" appears 291 times. That is a problem. The word "*responsabilisation*" appears six times, while the word "accountability" appears 141 times. The term "*reddition de comptes*", which is the accurate translation of "accountability" never appears in the bill.

[*English*]

The Chair: Monsieur, could you slow down just a fraction?

[*Translation*]

Mr. René Villemure: All right. I will repeat what I said about the number of times the words are used. The word "*éthique*" is mentioned 45 times; "ethics" appears 291 times. The word "*responsabilisation*" is mentioned six times and "accountability" 141 times. The expression "*reddition de comptes*", which is the exact philosophical translation of "accountability" does not appear once in the bill.

The meaning of the words used is more than just a philosophical hobby for us, it is something very important. All the French words used in the bill refer to the time before the decision, and all the English words refer to the time after the decision. In my opinion, therefore, the accountability sought in Bill C-2 is deontological rather than ethical.

My second comment has to do with the role of the ethics and integrity commissioners. First of all, it should be noted that it is a good idea to appoint them for a long period of time. However, these commissioners should be ethicists. We would stress that they should not necessarily be jurists, however, they should be ethicists. Such people do exist.

The duty of the commissioners goes beyond a strictly procedural context. They should try to pave the way toward what is just, even before or beyond procedure.

What is an ethics or integrity commissioner? The bill does not make this clear. It states that the person shall be appointed, but it does not say what he or she does or why they exist. In fact, my main question about the commissioner is whether the individual is an advisor or an investigator. That is a major distinction that should be made here.

Even though the term "commissioner" " commissaire" is used 500 times, the duties are never mentioned. In the notes to clauses 72.01 to 72.061, there are many references to principles, rules and obligations, without ever naming the principles in question.

The bill contains many prohibitions, but I think it is rather short on ethics. We should remember that ethical actions cannot merely be a number of prohibitions. The subject is much broader than a simple accountability calculation. It includes accountability but it goes beyond that.

The lack of value principles in the bill could reduce the commissioner's role to that of a technician providing advice on how things should be done, rather than an individual who advises on why things should be done. Bill C-2 should set out broad principles and values people can use to deduce how things should be done. Simply saying how things should be done is of no use, if there are no reasons given for this. I think the 274 pages of the bill are very long on "hows" and very short on "whys".

Thank you very much.

● (1850)

The Chair: Mr. Côté.

[*English*]

Do you have any comments to make?

[*Translation*]

Mr. Pierre F. Côté (Former Chief Electoral Officer of Québec, As an Individual): Mr. Chairman, ladies and gentlemen, I read a particular clause from Bill C-2 that bans contributions by corporations or businesses to a political party. This is to a certain degree drawn, as was the case with certain provisions a few years back, from what the *Loi électorale du Québec* advocates. However, I personally do not agree with this clause.

As far back as November 1999, I expressed the opinion that corporations which are corporate citizens, should be allowed to make financial contributions to political parties. Subsequently, a similar text appeared in *Le Devoir* on April 9, 2005. What must be made clear is that the Quebec experience illustrates that it is wishful thinking to forbid corporations from making contributions to political parties. Allow me to read you a short passage from the 1999 article:

> Party financing by the public can no longer meet the financial needs of political parties [...] new avenues must be explored.

Financing by the public is raised by going door-to-door, and what I had just stated corresponds to what they have experienced in Quebec.

We can no longer continue putting a large number of people in a situation where they must act inappropriately. This is not ethical behaviour. Changes must be made. It seems to me that corporations must be allowed to contribute to political parties, but according to very strict rules. For example, one could allow corporations — businesses, law firms, engineering firms — to contribute to political parties. What happens currently in Quebec, is that members of the board of directors, from a law firm or an engineering firm, each pay, if there are 10 of them, the maximum amount allowed by the legislation out of their own assets, but they are then reimbursed for these contributions through expense accounts or salary increases, or some other means, which is obviously illegal.

The biggest problem is being able to investigate these cases in order to identify the people who are behaving this way, subjecting them to fines or taking them to court. This is a real problem, and I must point it out to you. This is why I find it strange that, instead of drawing on Quebec's experience, the main provisions of Quebec's 1977 legislation have been invoked, including those banning the corruption of corporations.

Having said that, I would like to submit a further comment on another section of the act that is not mentioned in Bill C-2. I find it an unfortunate omission. Section 24 of the Canada Elections Act dealing with the appointment of returning officers should be amended, and Quebec's example should be followed. All returning officers at the federal level are appointed by cabinet decree, but without any of the competitions and controls mechanisms that we established several years ago now in Quebec.

Those are my two remarks, Mr. Chairman.

[*English*]

The Chair: Thank you.

Madam Jennings.

Do you have a question, Monsieur Sauvageau?

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I was wondering if Mr. Quintal had a preliminary statement. No? Thank you.

● (1855)

[*English*]

The Chair: I'm open to the committee. We've given the groups ten minutes, and they've been pretty fair with each other—about five minutes each. Somehow I think we'll get some answers out of Monsieur Quintal.

Did you have a point of order?

An hon. member: No.

The Chair: All right. Here we go.

Madam Jennings.

[*Translation*]

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Are we ready, Mr. Chairman?

[*English*]

The Chair: We're ready.

[*Translation*]

Hon. Marlene Jennings: Thank you very much for your presentations.

Mr. Villemure, given your expertise in applied ethics, I would like to ask you for an ethical definition that you believe would be appropriate for our system and our federal framework. I am talking about deputy ministers, ministers, etc., and the objective that Bill C-2 is supposed to be trying to achieve.

Mr. René Villemure: Ethics is a reflective process with a view to making a fair decision. The equitable decision is based on values or principles that must be set out. In this case, they are not defined. It is therefore difficult to reach an ethical decision. This does not mean that it will not be good or just, but when we are reflecting ethically, quite honestly, the frame of reference is always that of values. A value is what a country or an organization finds beautiful, good and desirable. Canadian values have been set out so often that, in my opinion, the frame of reference is somewhat vague, which makes things difficult.

Bill C-2 should be the instrument in which we find those values set out, which would allow for ethical decision-making, that is to say a fair decision in an uncertain situation. The ethical decision will often prevail in the absence of standards, or where these are unclear or not applicable. This can happen, because this bill has so many exceptions that if one were to look, one would probably find even more. Furthermore, in such a case, the bill would be of no use. The values would therefore provide a frame of reference if the standards were insufficient.

Hon. Marlene Jennings: All right. Many of us around this table, particularly on this side — except for the gentleman at the end — believe that Bill C-2 is very complex and has many shortcomings.

I know that you had very little time to prepare for your appearance this evening. What would you advise the committee to do to deal with the shortcomings that you have found in the bill?

Mr. René Villemure: First of all, you raise an important point: the short preparation time. I must admit, I made my presentation very quickly, in order to respect the time I was given.

What surprises me the most is that the two versions of the bill do not say the same thing. The concept of a fair and just ruling in the absence of a clear framework is very different from the concept of "ethics", which means "to follow the rules". It cannot be translated in that way, it is a false cognate in French. On one page, one reads "follow the rules", and the rules are clearly set out. On another, one finds references that are unclear. I know that English has often prevailed over French in the interpretation of legislative texts, but in this case, there are inconsistencies.

The little exercise I carried out counting the terms earlier on was not a useless one: I found the word "*éthique*" six times, and the word "ethics" 291 times. It is not as though it was six and 15. In terms of philology, the meaning of words, this bill is rife with inconsistencies because of its complexity. I would either ask that it be divided into separate parts, or that more time be taken, but one thing is certain: in its current state, even though it obviously began with good intentions, it will be difficult to enforce. I do not believe that it will go much further than showing good intentions.

Hon. Marlene Jennings: Thank you very much.

Mr. Côté, you said that even though Quebec bans political financial contributions from corporations to candidates or to political parties, this remains a common practice. It is very difficult to investigate. You mentioned law and engineering firms and businesses, but do you also include unions, associations, etc.?

● (1900)

Mr. Pierre F. Côté:

Absolutely. They are corporate entities, legally speaking.

Hon. Marlene Jennings: Yes.

Mr. Pierre F. Côté: It is the complement, I would say, or the opposite of an individual person. Any organization, whatever it may be, is a corporation, and is banned from making financial contributions to political parties, as set out in section 43 of Bill C-2.

I am sure that within the next decade, it will be faster than it is now. You will see that the federal government will find itself in the same situation as the Quebec government, that is to say that the legislation will be very easily circumvented.

Hon. Marlene Jennings: Then what do you suggest?

Mr. Pierre F. Côté: I suggest two solutions. Corporations are corporate citizens. As such, we should allow them to contribute to the development of democracy and to participate financially in that. There are two hypotheses that would allow them to do so.

For example, they could contribute a maximum amount, which could be a multiple of the amount allowed for individuals. These sums would be paid into a trust fund to the Chief Electoral Officer, who would do a pro rata distribution of them according to the votes obtained by each of the political parties.

The other formula would be to allow corporations to contribute to one of the political parties, up to a given maximum amount. Obviously, the inherent constraint in this formula is that all contributions would be made public, including the name of the business and the amount paid. In this way, everyone would know what to expect.

I can easily imagine the following situation, as it was described to me by a businessman. As the political parties try to get money from corporations, from big businesses, if federal or provincial legislation allowed it, these big businesses could refuse, saying that they had already given. In that way, they could avoid any pressure that might be brought to bear on them to give more or to give under the table.

Hon. Marlene Jennings: Thank you very much.

[*English*]

The Chair: We're out of time. I'm sorry.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I would like to know what Mr. Poilievre thinks of Mr. Côté's recommendation.

I will put my question to Mr. Côté. First of all, welcome to both of you. I find what you have said to be most interesting, particularly, among other things, everything what you said about corporations. Given your experience in Quebec, I believe we absolutely must take into consideration what you have said.

Do you recommend a maximum amount of $1,000, $2,000 or $3,000?

Mr. Pierre F. Côté: I think that has to be debated. It could be a multiple of the allowable amount for individuals, that is $5,000 or $10,000 per business. However, this amount should not be too high, but high enough to allow businesses to say that they have acted like good corporate citizens, that they have contributed to the Chief Electoral Officer's trust fund or, in some other way, to the various political parties.

Mr. Benoît Sauvageau: I would ask you to repeat something you said, in order that it appear in the "blues", the evidence. In that way, we will be able to refer to your comments during clause-by-clause study.

If we do not amend Bill C-2 as it is currently drafted, do you believe the legislation could be very quickly and easily circumvented?

Mr. Pierre F. Côté: I am convinced of it. As we often hear, prayers do not win elections, money does. Also, going door to door is not enough. What is remarkable and what must be emphasized, is that election expenses are climbing, particularly because of television costs.

Political parties invariably need more money than door to door fundraising can ever bring although this practice is very good and very democratic— and what they make from fundraising activities where one can donate $20. It is not enough to allow political parties, particularly given the vastness of Canadian territory, to have—

Mr. Benoît Sauvageau: It takes a lot of $5 contributions.

Mr. Pierre F. Côté: ...television ads. They cannot afford it. So one comes to the conclusion that a means to solve the problem has to be found.

Mr. Benoît Sauvageau: All right. I hope that your judicious comments have been heard.

As far as the appointment of returning officers — ROs — in our ridings is concerned, the legislation stipulates that your counterpart in Ottawa could appoint them. In Quebec, they are appointed and identified after a competition.

Would you have any suggestions to make to the committee for the Chief Electoral Officer?

● (1905)

Mr. Pierre F. Côté: Yes. In Quebec, we experimented with different formulas, for example holding a competition and submitting 3 names to the party in power. The party in power chose the person that suited them. Before that, we had the system that you currently have in Ottawa.

I believe that we have finally found the right formula, which is the following. We hold a public competition in each of the ridings. Any person or voter having the ability and the required knowledge may take part in the competition. However, this competition is followed by an interview of the candidates. This interview allows us to see whether or not the future candidate for the position of returning officer has good judgment. It has already happened that we encountered people in this interview having extraordinary knowledge but no judgment.

The first thing that I always say to my returning officers is the following: you must always approach situations with a healthy dose of doubt. Returning officers are appointed for a 10-year period in Quebec.

Mr. Benoît Sauvageau: I will be quite brief, if I may.

Unless I am mistaken, in by-elections in Quebec, a returning officer is allowed to represent two ridings, if there is a problem with the competition and appointments. Is that correct?

What happens if an election is called suddenly, which could be the case when we have a minority government?

Mr. Pierre F. Côté: In answer to your first question, I don't think that is the case. I would be very surprised if returning officers could do that. When you're short one returning officer, an interim returning officer is appointed.

Mr. Benoît Sauvageau: Fine. Thank you very much, Mr. Côté.

My next question is for Mr. Villemure. We are being forced to pass Bill C-2 very quickly. You stated that if Bill C-2 is passed as is, problems could arise. Unfortunately, in spite of everything you have stated, it probably will be passed as is. Could you nonetheless tell me what the problems will be in implementing Bill C-2?

Mr. René Villemure: Bill C-2 has no underlying rationale. The rationale, which is made up of principles or values, guides decision-makers when the law is silent. If there is no rationale, and when the law is silent, anything goes, or nothing goes; there is a vacuum.

Despite the fact that this is a very ambitious, very lengthy bill with considerable content, we cannot foresee the unforeseeable. That is why there is always a basic framework that guides you in managing the unforeseeable. In my opinion, that framework is missing. The bill may be successful to a certain extent but its foundations will always be fragile.

Mr. Benoît Sauvageau: Thank you.

Ms. Monique Guay: I have one last question, Mr. Chairman.

You mentioned that the bill does not include the commissioner's role and that it should. We will therefore focus on that.

You also mentioned the words “éthique” and “ethics”. Perhaps a linguist should look at this because otherwise the French and English versions will not be equivalent. That's what you're telling us.

Mr. René Villemure: You may need more than a linguist. I know that parliamentary staff worked on the translation. However, these words contain a philosophical meaning. I think the word should be translated by a linguist, a philosopher or a philologist, someone who is well-trained in etymology and philology.

I conducted an etymological analysis, that is, an analysis of the actual history of these words, that took into account Greek, etc. I don't think that this was done in this case but it is something I often observe. We have two cultures with their own heritage, so these things happen. However, it is much more important in a bill that in a mission statement in a convenience store.

In my opinion, given how important the situation is, we should be paying special attention to this. If I had one suggestion to make, it would be to set out those values that underpin the bill. Currently we're assuming those values, just like we're assuming what the commissioner's role is, but we need to go beyond assumptions and state them.

Ms. Monique Guay: Thank you.

[*English*]

The Chair: Mr. Martin.

Mr. Pat Martin: Thank you, Mr. Chairman, and thanks to the witnesses for being here today.

Mr. Côté, let me start with you, sir. I was very interested in your observations about political donations and limits on donations. I used to envy Quebec, because I felt it had the best legislation associated with political contributions. It seemed to me Quebec recognized that businesses and unions would have a disproportionate amount of influence over the political process because they were able to donate far more money; in other words, that it was anti-democratic or less democratic to have businesses able to buy elections, as it were. We certainly have had that problem in the rest of Canada.

So I was rather surprised to hear you say, sir, that you don't recommend banning contributions altogether. If I understood you correctly, sir, your reasoning was that businesses will find a way around the laws, and therefore we shouldn't have those rules. That doesn't seem like a satisfactory reason to disregard the ethical issue we were dealing with. Wouldn't you say we should have better enforcement of the rules, rather than give up on the rules? Is the principle not worth the extra effort to fight for it, if you will?

Perhaps I could ask both parties to answer.

● (1910)

[*Translation*]

Mr. Pierre F. Côté:

If I understood correctly, current legislation forbids corporate contributions. I'm saying that they shouldn't be absolutely forbidden. They should be allowed within very specific rules and a very specific framework. In Quebec, all businesses and any organization other than a private individual are being placed in situations that allow for unethical behaviour. They find indirect ways to make political contributions. For example, an executive, a board...

[*English*]

Mr. Pat Martin: That's against the law, sir. That would be breaking the law.

[*Translation*]

Mr. Pierre F. Côté: Yes, that's against the law. I absolutely agree. That's why we need to change the law and allow for it. It's very difficult to prove that it's against the law. Take, for example, a firm of 30 engineers, ten of them who make the maximum contribution allowed. How can you be sure that the money they donated to a political party won't be reimbursed? It's a well-known fact that this happens. The problem is that it would take an army of investigators and very sophisticated accounting to catch them in the act and to prove that they had circumvented the law.

[*English*]

Mr. Pat Martin: I understand your point, sir.

Would you care to comment?

Mr. René Villemure: Yes. I don't think people should not contribute because it's against the law, but because it's unfair. Those are the types of principles I'm talking about.

Rules will prevent people from doing stuff, but where there's a will there's a way, as Mr. Côté just said. But I think we should educate people on the notion of being fair, being just.

These are the things we don't talk about a lot these days. We don't talk about values. We talk about interdictions, rules, and whatever, but these will never be enough.

[*Translation*]

Rules will never completely cover the unforeseen.

[*English*]

We cannot foresee the unforeseen or the unforseeable.

So you can write rules until you're blue in the face, but eventually, if somebody wants to break the law, they will. But I think educating people as to the notion of ethics, to do good, is a good thing. We just don't talk about it a lot. We hear people saying “It's against the law,” or “I can break that rule,” but we're not talking about being fair.

Mr. Pat Martin: This is actually one of the reasons my party, the NDP, felt that the most critical part of this Federal Accountability Act would have been the access to information provisions, because even if you can't regulate people into higher ethical standards by observing them or by shining a light on their activities, you might force them to operate on a more ethical level. Unfortunately, the government withdrew most of the access to information provisions from this bill. We will try to reinsert some through the amendment process.

But going back to the elections financing, the province of Manitoba, where I'm from, followed Quebec's model, and we haven't had that problem so much, because the penalties are very severe for cheating. It would be against the law to do anything to deliberately circumvent the donation limits of the act.

I'm being sued currently, frankly, by a Liberal member of Parliament because we believe he's circumventing the act by having the CEO of a company, his wife, and all four of their children donating the maximum amount of money under the Elections Act. We believe that's taking deliberate steps to circumvent the rules and therefore breaking the law.

So rather than give up on trying to enforce the law, I would get tougher on those rules, because I think the principle is worth fighting for. It's fundamentally wrong that a corporate citizen, which is a super-citizen in terms of wealth and power, has more influence over the political process than individuals. I think that principle is offensive.

And unions too. I'm from the union background. Unions are excluded as well, because it just strikes me that only a citizen should be able to participate in the democratic process.

Corporations can't vote, so why should they be able to contribute money?

● (1915)

The Chair: Your time is up.

Mr. Pat Martin: Is it?

The Chair: It is.

Mr. Pat Martin: I think Mr. Côté had one point he wanted to make.

The Chair: Yes, okay, we'll bend the rules.

[*Translation*]

Mr. Pierre F. Côté: You're absolutely right on the issue of principles, on correct behaviour. Of course we have to convince people to act ethically and not break the law. Given human nature, however, there aren't many places in the world where, despite our best efforts, people act perfectly ethically or appropriately. Those contributions can come indirectly from businesses and the issue must be examined closely.

I have a solution to suggest. I would suggest treating businesses as corporate citizens who contribute in their own way to democratic development. They should be regulated in order to prevent them from breaking the law and making indirect contributions. The regulations would be very strict and parameters would be set requiring very appropriate behaviour on their part.

[*English*]

The Chair: We have to go to Mr. Lukiwski.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): Thank you, Mr. Chair, and good evening, gentlemen.

Monsieur Côté, I have one brief question for you. Let me get some background first. When did you leave the position of chief electoral officer in Quebec? What year?

[*Translation*]

Mr. Pierre F. Côté: In 1997. I was chief electoral officer for 19 years.

[*English*]

Mr. Tom Lukiwski: Then obviously you have a wealth of experience dealing with election returns, both from candidates and political parties.

My question to you is whether or not this situation would have ever occurred in Quebec, and if it had, whether it would be considered appropriate, legal, or not.

Let's assume for a moment that a political party—one of the provincial parties, not a candidate—hired 10 people to work in their war room, or whatever. This is legal, I understand. They can pay salaries and claim them as an expense, which would then be entitled to a rebate. Let's just assume for a moment they hired 10 people, paid them $1,000 each for whatever purpose, and then those 10 individuals at some point in time during the campaign donated $1,000 each to the political party. Would that be considered, under Quebec election laws, a violation?

[*Translation*]

Mr. Pierre F. Côté: If I understood your question correctly, I believe not. In Quebec, the maximum amount an individual can contribute is $3,000. The question, as I pointed out earlier, is whether the $1,000 contribution to a political party from an individual is personal money or money that would be reimbursed by the business the individual works for.

● (1920)

[*English*]

Mr. Tom Lukiwski: I'm not sure if I communicated my hypothetical situation correctly. Say that a political party hired 10 campaign workers and paid them $1,000 each; those 10 workers then contributed, at some point in time, $1,000 each to the political party. Now, within the strict rules, as I understand them, that's perfectly allowable, but if you connected the dots, it would appear the individuals had made a deal with the political party to take money for services they performed and then donate that money back to the political party. In addition, because the political party would be able to claim those salaries as an expense, they would get a rebate back. So not only would they get the full amount of money back, they would also get a rebate from the taxpayers; they would be making money off the situation.

My question to you is whether you have you ever experienced that in Quebec, and would that be considered a violation of the Quebec elections act?

[*Translation*]

Mr. Pierre F. Côté: It may have happened but I don't think it would have happened in the way you described. There is a basic overarching rule and that is that you can't do indirectly what is not directly allowed. If you indirectly do what is directly forbidden by law, you may be taken to court and fined.

[*English*]

Mr. Tom Lukiwski: Your point, however, earlier in your presentation, was well taken. As Mr. Martin stated, it would appear obvious that there were some wrongdoings, but it's very difficult to prove. I'm wondering whether there are any particular rules in place.

While I don't know what has happened over the past few decades in Quebec, I can assure you, sir, that this situation has occurred in Saskatchewan several times. I have lodged complaints with the chief electoral officer in Saskatchewan to no avail, because there cannot be any wrongdoing proven. But at first blush it would appear quite obvious that it involved an agreement.

What makes it even more egregious in my mind is the fact that the political parties would not just be receiving their donations back; they would be making money on top of it, because they would claim a rebate, and with taxpayers' dollars. To me, that's the type of "accountability" we need to clamp down on.

That was my only comment, sir.

The Chair: Mr. Rob Moore.

Mr. Rob Moore (Fundy Royal, CPC): Thank you, Mr. Chair.

From the testimony I've heard tonight I'm more convinced than ever that we're on the right track. I find it a little defeatist to suggest that because businesses are going.... No one is perfect, so no matter what rules we put in place, people are going to find ways to break them. But I think we're on the right track to having enforceable rules, strong oversight, and empowered parliamentary officers. I could be missing something, but Mr. Villemure was saying we need principles and values that would guide people and need to set out the values. To me that sounds like what businesses have—a mission statement for their employees.

But we've had this discussion with other witnesses on the question, can you legislate honesty? Is that what you're saying, basically—that we need this mission statement and that somehow people would be so influenced by it that it would impact upon their behaviour?

I think generally most people—and this was certainly what Judge Gomery found—are honest and do their job and try to do what we think of as the right thing, but there are those who are bad apples and, no matter what we do, are going to do the wrong thing. What this bill, Bill C-2, is doing is putting the rules and the oversight and the officers in place to do everything we can as a Parliament to prevent the bad apples from doing bad things.

I'd like your comment on that. What is that piece that's missing?

Mr. René Villemure: We can't legislate honesty; you're right, definitely.

[*Translation*]

Earlier on, I began my remarks by saying that Bill C-2 constituted an ethical moment. It is generally well perceived. However, I think that only half the work has been done because the bill acts only in terms of prohibitions. Do we need a

● (1925)

[*English*]

"mission statement", something such as we'll find in businesses? I don't think so. But I think we do have a need to reinstate the importance of values such as respect and fairness,

[*Translation*]

equality and equity, regardless of which ones apply.

[*English*]

I think these things are so obvious that we don't see them any more, and I think they need to be reinforced.

Also, and as Justice Gomery used to say, *l'exemplarité* is something that needs to be demonstrated, and it hasn't been in the past.

So I think a strong demonstration of such values is necessary, although you can't legislate honesty and you will not do so. But the introduction of the fundamentals of the project is missing. You would gain a lot by being more precise.

The Chair: Our time has expired.

Did you have point of order, Mr. Murphy?

Mr. Brian Murphy: Yes. In the interests of fairness and respect, should we hear a few words from Monsieur Quintal?

The Chair: Is there unanimous consent?

I do what I'm told here, gentlemen, and both my clocks have gone off.

Monsieur Quintal, did you have some remarks? We haven't given you a chance to speak all night.

[*Translation*]

Mr. Michel Quintal (Project Manager, Institut québécois d'éthique appliquée):

I would like to talk about the commissioner's role or mandate. If we're talking about ethics based on values, then an advisor would be an appropriate choice. However, if we're talking about a code of ethics, and violations of certain standards, then the choice should be a commissioner with vast experience in investigations, because allegations of breaches of a code must be founded in fact. Finding the evidence requires extensive interview and analytical experience. A background in ethics would be an asset for someone acting as an advisor in cases of non-compliance with certain values, for example, an individual innocently doing something that was not allowed. On the other hand, in cases of deliberate attempts to break the law, an investigative approach is necessary, one that involves collecting facts and evidence that will ultimately lead to recommendations. The ideal candidate should have both types of experience.

[*English*]

The Chair: We appreciate your time. Thank you very much.

We'll break for a moment.

● _____ (Pause) _____

●

● (1930)

The Chair: We're going to reconvene.

Our final delegation this evening comprises three representatives from the Public Sector Pension Investment Board. We have Paul Cantor, the chairperson of the board; Gordon J. Fyfe, the president and chief executive officer; and Assunta DiLorenzo, the general counsel.

I believe the procedure has been described to you. You make a few introductory comments, then the four caucuses will each have seven minutes to make statements and/or ask questions.

I don't know who is speaking.

Mr. Cantor?

Mr. Paul Cantor (Chairperson, Public Sector Pension Investment Board): May I speak, Mr. Chairman?

The Chair: Yes, please do, sir. Thank you for coming, and welcome.

Mr. Paul Cantor: Thank you very much, and thank you for giving us this opportunity to meet.

[*Translation*]

My name is Paul Cantor and I am the chairperson of the Public Sector Pension Investment Board. I'm accompanied by Gordon Fyfe, our president and chief executive, and by Assunta Di Lorenzo.

[*English*]

We welcome this opportunity to talk to you. We have a prepared statement, which I believe has been circulated to the members of the committee. It is not my intention to drag you verbatim through that, but just to highlight the key issues and to turn the floor over as rapidly as possible to you for your questions.

We at the PSPIB do welcome the government's initiative to move towards greater transparency. In our comments, which will be restricted to how they relate to the PSPIB, we're supportive of the bill as drafted, and we look forward to its speedy passage for the reasons we will outline to you.

As neither Mr. Fyfe nor myself have had an opportunity to present to this committee before, we've taken a bit of the opening here to provide you with our résumés, which are there for your consideration. The only comment I would make about myself is that I started my career in government. I actually worked in a crown corporation and then moved into the financial service sector. It was when I was at the CIBC that I was most particularly focused on the capital markets issue, when I was treasurer of the bank and responsible for its trading operations, and thereafter when I was president of the investment committee.

My other expertise in order to hold this job relates to my general experience as a president and chief executive officer, and subsequently as a consultant. If you look down at the bottom of the section about me, you'll see that I serve and have served on a number of other boards in publicly listed companies and subsidiaries, affiliates, and so on.

Mr. Fyfe is much more deeply embedded in the capital market, having spent his entire career working in it, first at Canadian Pacific and then at RBC Dominion; thereafter at JP Morgan in London, as they say, taking on positions of increasing responsibility; then as a president at TAL, which was ultimately sold to the CIBC—unfortunately not when I was the president of the investment bank, as I badly wanted to buy it when I was there—and then finally for the Caisse. He became the president and chief executive officer of the PSPIB in 2003, and I became the chairman shortly before that.

My position and the other board of directors positions are order-in-council positions. Mr. Fyfe is selected by the board, and it is the board's decision pursuant to our statute to hire—and I hope not fire—the chief executive officer.

The Public Sector Pension Investment Board is a crown corporation. We're charged with the responsibility of managing the contributions from employees and the employers of the Public Service of Canada, the RCMP, and the armed forces. We have the responsibility for all of the contributions that are received after April 2000, and we have a growing proportion of the responsibility to dispense the liabilities that are associated with that.

During the period when the liabilities are catching up with the assets, we receive funds at the rate of about $3.5 billion a year in excess of the liabilities. So growth is a significant challenge for our organization.

● (1935)

Currently, we're about $30 billion, and over the course of the next 10 to 15 years we will end up being about $100 billion.

You'll see from the materials provided that our statute requires us to act in the best interests of the contributors and the beneficiaries under their public service pension plans and to invest their assets at the maximum rate of return, not surprisingly, without undue risk of loss. Thus, the board of directors of the pension fund has a statutory duty, which parallels the fiduciary duty expected of the boards of most pension funds.

My summary comments this evening will be directed towards four areas. The first is the accountability bill and how it relates to the appointment process. I'll make some summary comments on the conflict of interest issues, I'll make some summary comments on the audit issue, and I'll finish by an introduction to the access to information issues, which my colleague Mr. Fyfe will be able to deal with in greater detail.

On the appointment process, there are three issues on which I'd like to touch. The first is the appointment process, the second is board expertise, and the third is the competence of the people who are board members, both in terms of expertise and whether or not they have the capability of actually conducting themselves as board members.

The appointment process that's set up by our legislation is a very desirable framework, as it achieves a maximum of interest and a disinterest in the process. Unlike the provisions that are generally under discussion, we have a separate nominating committee that is not part of the PSPIB board itself. That nominating committee is chaired by an expert from the capital markets. Currently, it is Claude Lamoureux, who is the president and chief executive officer of Ontario Teachers' Pension Plan. The balance of the members of the nominating committee are composed of representatives of the public service, the RCMP, and the armed forces, who are selected by the relevant ministers—the President of the Treasury Board, and the Ministers of National Defence and of Public Safety.

From the outset, this nominating committee has retained an executive search firm to assist in ensuring that the widest range of candidates are considered by the ministers for appointment to the board. More recently, the nominating committee has adopted the advertising requirements that are set out in the accountability bill.

The legislation on the Public Sector Pension Investment Board requires us to ensure that the directors who are selected have proven financial ability or relevant work experience that allows them to actually conduct the activities of the board. This is extremely important because the legislation provides that there are certain activities that the board cannot delegate to management, including the approval of the investment policies standards and procedures and the appointment of investment managers, who in turn are given full discretion to invest on our behalf and for approving internal controls.

Thus, it's important that we have on the board the expertise required for these activities, and we have identified that expertise as people who among them have expertise in public market securities, private equity, real estate, infrastructure, finance, accounting, and actuarial experience, technology, public affairs, and judgment.

Well, that's the expertise side. In addition to that, we need to ensure that the people who are on the board conduct themselves on a basis that contributes to excellent board governance.

● (1940)

To that end, the PSPIB has conducted annual reviews of itself as a board from the outset. A number of years ago, we initiated a peer review of the chairman—that's me—so that I get feedback from the board members as to how I'm doing as chair. Last year we extended that process. All members of the board are now subjected to peer review by the other members of the board.

That's important for two reasons. First, it provides us with a way of improving our own ability as directors. It also provides a channel for feedback to the nominating committee, which is separate from the board, as I described to you, so that they can make assessments on what additional kinds of expertise are needed. It also ensures that the people who are on the board, if they are subject to renomination, ought to be renominated.

In other words, there is a process in place that allows the nominating committee to make judgments about the capability of the board members as well as the expertise of the board members—

The Chair: Mr. Cantor, you can proceed if you like, but if you want to allow questions, time is short.

Mr. Paul Cantor: Thank you for that, Chair. I'll make just two more comments, on conflict of interest and audit, before I turn it over to Mr. Fyfe to deal with access to information. My comments will be brief, I promise you.

The Chair: Okay.

Mr. Paul Cantor: The conflict of interest provisions provided in the Accountability Act are consistent with those in the Canada Corporations Act, which is the basis of our statute. On that basis, the conflict of interest rules provided in the accountability bill will work for us.

Under audit, there are requirements that we have no members of management on the audit committee. We never have, and still don't.

That takes me to the completion of my remarks. From here on in, we'll talk about access to information, unless there are questions that members wish to address first.

The Chair: The committee has your paper, and may have questions.

Mr. Fyfe, do you have some very brief comments?

Mr. Gordon Fyfe (President and Chief Executive Officer, Public Sector Pension Investment Board): That's fine. I think they will come out in questions from the floor.

● (1945)

The Chair: Great.

Mr. Owen.

Hon. Stephen Owen (Vancouver Quadra, Lib.): Thank you.

I'd like to thank you all for being here and for the work you do on our behalf.

Perhaps I'll jump in on the access to information issue, Mr. Fyfe. On the exemptions provided in the act for the pension fund specifically, could you explain why those go beyond the commercially confidential information exemptions in the Access to Information Act? And what is special about your particular organization that makes this extra certainty or underlining necessary?

Mr. Gordon Fyfe: There are two exemptions. The first is proposed section 18.1, which protects PSP's own commercial or investment information. The second exemption is proposed section 20.2, which provides protection for third party information.

Let me deal first with proposed section 18.1, on our own commercial investment information. PSP was created by Parliament to make money. The intention was to make money for our three pension plans. The more money PSP is able to make, then the less everyone is going to need to contribute to these plans in the future. That's all three plans plus the government, because they are also a contributor.

So the more money we make, the less contributions are required. The inverse is also true, that the less money we make, the more contributions may be required in the future for a given level of benefits.

The way we make this money is in the financial and capital markets of the world. The amount of money to be made in these markets is finite. If we're making money, somebody else is not making that money. If we're not making it, it goes to someone else—

Hon. Stephen Owen: Excuse me, Mr. Fyfe, but perhaps I misstated my question. I don't want to have you spending time on things I wasn't quite interested in.

I understand perfectly, and your paper makes very clear, the importance—the vital, fundamental importance, in fact—of keeping this material confidential. I am just wondering why the exemption provisions in the existing Access to Information Act are not sufficient to provide that protection.

Mr. Gordon Fyfe: Okay. I'll ask Assunta, our general counsel, to answer specifically on the legal aspects of that.

Ms. Assunta Di Lorenzo (First Vice-President, General Counsel and Corporate Secretary, Public Sector Pension Investment Board): Mr. Chairman, we believe that the current exemption provided in the Access to Information Act contains subjective qualifications that are subject to interpretation; therefore, it would lead to numerous complaints being presented to the Information Commissioner.

Third-party information protection is based on a proof that the third party has consistently kept the information confidential. We need private investments with general partners who do not wish to partner with organizations where there's a risk of their information being disclosed.

We believe the current exemptions that are proposed in Bill C-2 are clearer and more unequivocal. When we go to various parts of the world and try to do business with partners, we could tell them this is a specific protection given to PSPIB, this is what it means, and it's in plain English. They'll understand and they will not object to doing business with us.

Mr. Fyfe could perhaps describe the detriment that we would have in terms of monetary value if we're not able to access those partners.

Hon. Stephen Owen: That's very helpful.

It's been presented to us by another witness that with the similar exemption in the act with respect to investigative information coming out of a lawful investigation, for example, by CSIS or the RCMP, there may be an analogy between the ultimate and absolute importance of keeping that information confidential.

Perhaps the analogy could be further pushed to sharing information with other law enforcement agencies either here or abroad that might otherwise, as with your investment partners, not feel comfortable sharing with you without that exemption. Is there something of a higher order of importance or a more fundamental nature of confidentiality beyond law enforcement agencies perhaps working internationally?

● (1950)

Ms. Assunta Di Lorenzo: Well, I believe that in trying to comply with this legislation we also have to try to fulfill our legislative mandate, which is to provide the necessary return without undue risk. I believe the proposed exemptions do not take anything away; you're not gaining anything more by giving us the proposed exemptions. The exemptions will only help us to tell those partners that we will not disclose the information.

At the end of the day, if we have to make those returns, we need to have access to those first quartile partners. Therefore, if that's our legislated mandate, I would feel it's different from the example that you gave.

Hon. Stephen Owen: Thank you.

Mr. Paul Cantor: Mr. Owen, if I might, I wouldn't want to leave the committee with the view that we're seeking to establish a parallelism with agencies such as CSIS that are concerned with the security of our nation.

As Mr. Fyfe says, we're in the business of making money. We seek this confidentiality in order to get the best partners in the world, and they will only deal with us if we can guarantee them confidentiality of their information. It's not the same as the secrets of state, but it is important in terms of providing a reduction to the risk that employees and employers will have to pay more in the long run for their pensions.

Hon. Stephen Owen: Thank you. That deals very well with my question.

The Chair: We're going to have to move on.

Madam Guay.

[*Translation*]

Ms. Monique Guay: I will be brief because time is running out. You really do need that confidentiality because the bill does not protect you. You require an exemption—is that what you're saying?

Ms. Assunta Di Lorenzo:

We need Bill C-2's exemption because it is clearer than the one contained in the current legislation, as it does not contain words that could be subject to interpretation. For example, current wording includes important values that could harm competitiveness. That's subjective. Therefore, an organization could refuse to disclose information, which could then lead to a complaint to the commissioner, which could then lead to the Federal Court.

Even if we manage to prevent the disclosure of information, the partners we want to do business with won't be willing to run the risk of having to disclose their financial statements, which constitute confidential information. Take, for example, the private equity market, where money is loaned to people to invest. We want to be able to reassure them that although we are subject to legislation, we are not obliged to disclose their investments. We need much clearer exemptions than those contained in current legislation.

Ms. Monique Guay: Could you give us a written recommendation on that point? Could you send us a document? You have until midday on Friday to send us amendments to the bill because we will be soon moving on to clause-by-clause consideration. We're moving quickly because the government wants quick passage of the bill.

Ms. Assunta Di Lorenzo: I believe our position is that this bill is fine as drafted. Sections 18.1 and 20.2 are satisfactory.

Ms. Monique Guay: You don't want any changes.

Then make that your recommendation. If someone were to propose changes to those points, we would then have your recommendation in hand to the effect that they should not be amended.

● (1955)

[*English*]

The Chair: *Vous avez fini?*

Okay, we'll move on to Mr. Martin.

Mr. Pat Martin: Thank you, Mr. Chair, and thank you, witnesses.

The Department of Finance and the Bank of Canada deal with sensitive information all the time, too, and they operate currently under the discretionary exemptions as regulated by the Information Commissioner. Is that correct...the Department of Finance, certainly?

There are exemptions in the existing Access to Information Act for commercially sensitive information, and so on, so that people can have access to information, to those sensitive agencies, and it's left up to the information commissioner whether or not that information should be released in cases like that, where commercially sensitive information is not released.

Why, then, should you get not just an exemption, but an automatic exclusion forever, permanently? That's what's in Bill C-2. You would get an exclusion forever, automatically, without anybody saying yes or no as to whether the public has a right to this information. I don't get that.

Mr. Paul Cantor: The Department of Finance, of course being a department of government, would be subject to the Access to Information Act, as you describe. They are not in the business of doing business, and, on that basis, don't need to deal with partners on the same basis as do we.

Mr. Pat Martin: That would turn the financial market on its head if it's leaked out, if it's sensitive information.

Mr. Paul Cantor: Indeed.

I think we should make clear.... If I can put this in terms of what we did when I was the president of National Trust and we were trying to deal with the issue of confidentiality there, we ended up with the conclusion, because we were a publicly traded company, that nothing we did needed to be confidential except the information that related to our customers, the information that related to our employees as individuals, our financial statements before they were published, and our marketing plans.

So in your comparison to the Department of Finance, and in respect of all the activities of PSPIB that do not relate to our dealings with particular clients or customers, we strongly endorse the accountability act as it stands, with no exceptions or exclusions in respect of the information that relates to us. So the kind of information you would get from the Department of Finance we are ready and willing to provide in response to requests for information.

Mr. Pat Martin: Thank you. I understand. I've been a trustee on employee benefit plans in the past and I understand a bit about it.

What sort of actuarial surplus do you...? Just to be more specific, is this $3.5 billion per year the total contributions, or is it the amount after liabilities?

Mr. Gordon Fyfe: The contributions are actually collected here, and the gross amount is somewhere around $4 billion. The fund was only created on April 1, 2000. At that date it had zero assets, and since that time—

Mr. Pat Martin: Well, there was a $30 billion surplus that Marcel Masse took and used to pay down the debt, instead of giving it to the beneficiaries.

Mr. Gordon Fyfe: But there are two—

Mr. Pat Martin: That ended. I know. Marcel Masse—

The Chair: We want to stick to the bill.

Mr. Pat Martin: Well, I want to talk about Marcel Masse for a minute.

The Chair: I know you do, but I want to stick to the bill and I have the gavel.

Mr. Paul Cantor: Mr. Martin, if I may take you back to the other side of your question, just as a specific example—and I apologize if you already know this—if somebody retired from the public service in 2005 after 25 years' service, the first 20 years would be paid from the consolidated revenue fund, just as it always has been. Only the last five years would be covered by us. In the meantime, we get all of the contributions, and that's why it's growing by $3.5 billion a year and will for another 10 or 15 years, until we catch up.

● (2000)

Mr. Pat Martin: Yes, I understand that. My only point was....

I guess what I was getting at is to ask, how is any surplus treated? If your fiduciary obligation is to act in the best interests of the beneficiaries of the plan, and if another surplus evolves, whether through interest rates or other factors, will that surplus go to the beneficiaries or will it be hived off again by the government to use in building roads somewhere?

Mr. Paul Cantor: It's important that we clarify that we only have responsibility for the investment of the funds that are passed to us. We have no responsibility on the liability side; we have no responsibility in respect of the surplus. All we do is take the money that is passed to us by the employees and the employers and invest it to the best of our ability. All of those questions that you are asking, sir, are outside our terms of reference.

Mr. Pat Martin: I agree. You're right; I forgot.

Okay, those are all the questions I have. Thank you.

The Chair: We're going to move on to Mr. Lukiwski.

Mr. Tom Lukiwski: Thank you, Mr. Chair.

Lady and gentlemen, thank you very much for coming.

I just have one brief question I'd like you to expand upon. You mentioned it in your brief, and unless I missed it I didn't hear any further explanation. In your brief you call for a “speedy passage” of this bill. Could you give me some reasons why for your organization a quick passage of this bill would be so important?

Mr. Paul Cantor: We support the overall direction of the bill as it relates to the PSPIB. In respect of conflict of interest, the guidelines that were created previously create the potential for some difficulties in resolving issues as to whether board members who have expertise may be also faced with conflicts of interest. Under the accountability bill, because it follows the Canada Corporations Act and because our legislation is modelled on the Canada Corporations Act, we believe that uncertainty is eliminated and that the conflict of interest issues can be dealt with as provided in the accountability bill and as provided in the PSPIB legislation.

The second reason we would like to see speedy passage is that another of the provisions changes the term of directors from three years to four years. Because the work we do is so complex and expertise takes so long to build up, there is a great benefit to us in having four-year rather than three-year appointments.

Mr. Tom Lukiwski: Thank you. I have no more questions.

The Chair: Mr. Poilievre.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): My question has been answered, thank you. I am very satisfied.

The Chair: We appear to have come to an end. Thank you very much to all three of you for coming. We appreciate it.

We'll break for a moment.

● _____ (Pause) _____ ●

● (2005)

The Chair: We'll start the business portion of the meeting. This is still public; this is still televised.

We have distributed to you some draft motions for which we have properly received notice of motion.

Before we get to those, the chair would like to make a couple of comments. I intend to make them now because we appear to be about to—although we may not—move into a new stage. So I'm going to make a statement as chair as a clarification. The reason I'm making this statement is that in the past I've been asked to cast votes for tied votes.

A point of order, Mr. Poilievre.

● (2010)

Mr. Pierre Poilievre: My suggestion would be that we address tie-breaking votes if there is one to be cast.

The Chair: I'm going to make a statement; it's as simple as that. You'll have to bear with me, as it won't be long.

Before we proceed with this bill clause by clause, I would like to share some information with members of this committee. As you know, there have been several situations in recent meetings where divisions on motions have resulted in tied votes, and I've delivered a casting vote.

House of Commons Procedure and Practice explains the casting vote on pages 268 to 269 in this manner:

> The Speaker does not participate in debate and votes only in cases of an equality of voices; in such an eventuality, the Speaker is responsible for breaking the tie by casting a vote.
>
> In theory, the Speaker has the same freedom as any other Member to vote in accordance with his or her conscience; however, the exercise of this responsibility could involve the Speaker in partisan debate, which would adversely affect the confidence of the House in the Speaker's impartiality. Therefore, certain conventions have developed as a guide to Speakers (and Chairmen in a Committee of the Whole) in the infrequent exercise of the casting vote. Concisely put, the Speaker would normally vote to maintain the status quo. This entails voting in the following fashion:
>
> - whenever possible, leaving the matter open for future consideration and allowing for further discussion by the House;
>
> - whenever no further discussion is possible, taking into account that the matter could somehow be brought back in the future and be decided by a majority of the House;
>
> - leaving a bill in its existing form rather than having it amended.

Therefore, without anticipating any results in clause-by-clause, I want to inform members that if there are tied votes on clauses of the bill, I will vote in the affirmative to leave the bill in the existing form. If there are tied votes on amendments or subamendments, the chair will vote in the negative in order to maintain the status quo and keep the question open to further amendment, either here in committee or in the House at report stage.

Finally—and this is important—I intend to notify the Speaker of any casting votes delivered on amendments. Normally, the Speaker will not select at report stage any motions that were defeated in committee. However, the Speaker does exercise a discretionary power of selection, and I intend to provide him with as much information as possible, so that he may base his selection decisions on it during report stage in the House.

I trust this information will assist the committee in its decision-making process on this bill. That's my statement for you to ponder.

At about six o'clock tonight I received a document from the Law Clerk and Parliamentary Counsel, R.R. Walsh, and Richard Denis, Deputy Law Clerk and Parliamentary Counsel. It has been distributed to you.

So you have this document before you. Just as a comment from the chair, which I believe I'm entitled to make, I find it a very important document. I find it very unusual that the clerk would.... I didn't ask for this document; it was just given to me. Many of you are more experienced than I am, but I find it unusual. However, the committee may consider speaking to him or having him come here, or they may not. I believe it's a fairly important document. It's here for your reading. I don't imagine any of you have had a chance to read it; you may wish to read it later, but that's for your consideration. Again, I don't make these comments to try to prejudice any of the motions—Ms. Jennings' motions, or anyone else's motions—with respect to that.

The proposal that we have for debate on these matters....

Mr. Sauvageau.

● (2015)

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I read the document. It is very, very important. I would like to appeal your decision. I will quickly read a paragraph because I believe it is important to read this before considering the motions before us. I don't think we can consider the motions without having read this review. I quote:

> The purpose of this review is to identify those aspects of Bill C-2 that impact the constitutional position...

[*English*]

The Chair: Excuse me. Could you repeat that? I'm trying to hear what you're saying, but I'm having trouble here.

[*Translation*]

Mr. Benoît Sauvageau: Certainly, Mr. Chairman, just say when.

[*English*]

The Chair: I want to make sure everybody has this document. Does everybody have a copy? No.

Where are we?

Ms. Monique Guay: Page 1, introduction.

[*Translation*]

The Chair: You have the floor, Mr. Sauvageau.

Mr. Benoît Sauvageau: Thank you, Mr. Chairman. I am at page 1 of the French text, which reads as follows:Review of Bill C-2

> Federal Accountability Act
>
> Introduction
>
> The purpose of this review is to identify those aspects of Bill C-2 that impact the constitutional position of the House of Commons and its members or that otherwise violate provisions of the Constitution Act, 1867, pertaining to the House of Commons. This review, therefore, is limited to parliamentary law issues.

Furthermore, if you turn your attention to the summary on the previous page, you will see the following headings: “Secret Ballot Votes”, “Debates and Votes in the House”, “Conflicts of Interest and the Ethics Commissioner”, “Requests to the Ethics Commissioner”, “Members and Trusts”, “Parliamentary Budget Officer”, and “References to Parliament”.

This document is referring to clauses of the proposed legislation that are contrary to the Charter, the Constitution, or the Parliament of Canada Act.

Some members may still wish to fast track Bill C-2 even after having studied this document; however, I do not think that Mr. Walsh or Mr. Denis would advocate such an approach. I think that they would be more inclined to advocate the respect of parliamentary procedure and parliamentary law. This document leaves us with no choice but to hear testimony from Mr. Walsh and the Speaker of the House of Commons, unless we want to amend legislation that has not been touched since 1867, and which would involve amending the Constitution.

There comes a point when you have to say that enough is enough. We have been given an important document. It is all very well to debate motions seeking to complete our study of the bill on the double, but the document that has been provided to us by the office of the law clerk leads me to believe that would be irresponsible, dangerous and disrespectful of parliamentary tradition. Of course, the committee can opt to make it a partisan issue.

● (2020)

[*English*]

The Chair: Mr. Martin, then Mr. Poilievre, and then Ms. Jennings.

Mr. Pat Martin: Mr. Chairman, I will make just one point about the brief statement you opened with.

What you read out loud was that the Speaker—or in your case, the chair who was acting in the same role as the Speaker—would feel compelled to vote with the status quo in the event of motions.

My argument would be that the Speaker actually has an obligation to vote in such a way so as to continue the debate, or allow the debate to carry on, if the gathering—whether it's the House or this committee—is unable to come to a conclusion. In other words, if we're split and divided, your obligation would be to allow that motion to continue to be debated further: to get to the House of Commons and be debated at the report stage.

So I would say that in the event of a tie, the Speaker should vote for any amendment, in order to allow debate to continue on that amendment in the House. If you voted against and that amendment went down, after the fact it would not be allowed to be reintroduced in the House. So I think the inverse of what you read would be more to the point.

The Chair: Mr. Poilievre.

Mr. Pierre Poilievre: As for this document, so it's that we have another submission.... If members want to make amendments—I think we've had 60 submissions now from people who like some parts of the law and don't like other parts—and members seem to agree or disagree with the submissions we've had and....

[*Translation*]

Ms. Monique Guay: We are talking about the Constitution!

[*English*]

Mr. Pierre Poilievre: They can make an amendment at any time.

Am I still on here?

The Chair: Order, please.

You're still on.

Mr. Pierre Poilievre: I'm glad that we had this submission and some more opinions about the law, and I hope they can all be taken into account. The only way we can really act on the opinions we have here is by amending the law, and the only way we can amend the law is to get into clause-by-clause.

There might be an attempt by some to use someone's opinion—of which we've already had 60—to create some sort of constitutional crisis that will now necessitate our sitting here for the next 30 years to have a constitutional debate. Some people enjoy having 30-year-long constitutional debates.

[*Translation*]

It justifies their existence.

[*English*]

But the people sent us here to get a job done, and that's what we're here to do. If the Bloc or anyone else has an amendment to the bill that flows from an opinion they've seen, let's get down to the clause-by-clause and let's do some amending. Let's do our jobs.

Thanks.

The Chair: Ms. Jennings.

[*Translation*]

Mr. Benoît Sauvageau: We will get there eventually!

[*English*]

Hon. Marlene Jennings: Chair, I have taken cognizance of this document very quickly, but as you yourself said, it's a very important document. I think at the very least, given the issues that are being raised within this document by the Office of the Law Clerk and Parliamentary Counsel, this committee should invite the law clerk and parliamentary counsel to appear before the committee to explain the significance—beyond what's in the document, because, as I said, I came back from the break between the witnesses and this was sitting at my place. With the debates that have been going on and the comments, etc., I've had possibly a total of three to four minutes to actually read it.

But from what I have seen, the passage Mr. Sauvageau read out, and your own statement that this appears to be a very important document, I would suggest that our committee invite Mr. Walsh to appear before it so that we can get a better understanding of the points he is raising and their significance.

The only thing I would add to that is that I had the honour and privilege of actively participating in the debates and the work on developing the Office of the Ethics Commissioner, the independent ethics commissioner, the actual code of conflict of interest for members of Parliament. In fact, when the House of Commons committee that was charged with developing that was doing its consultation, it invited the then-members of Parliament to appear before it to come and discuss it. I was the only member of Parliament who was not a member of that committee who actually showed up, and because—

The Chair: Do you have a point of order?

● (2025)

Mr. James Moore (Port Moody—Westwood—Port Coquitlam, CPC): I'm sorry. The points Ms. Jennings is making are substantive and thoughtful, and I respect that.

The document that Mr. Sauvageau has just circulated is interesting and helpful, but it's strictly to the order of this committee, and what's—

[*Translation*]

Mr. Benoît Sauvageau: Excuse me, but I was not the one who tabled this document.

[*English*]

Mr. James Moore: Okay, I'm sorry. I thought it came from you. Settle down. I'm not accusing you of any crime.

The Chair: Let's go back to Ms. Jennings.

Ms. Jennings, if you could—

Mr. James Moore: I have my point of order.

The Chair: I thought you'd finished, sir. Go ahead.

Mr. James Moore: This document has been circulated, and as I understand it, we are now at the business of the committee. The business of the committee is the consideration of motions.

[*Translation*]

Ms. Monique Guay: No. That...

[*English*]

Mr. James Moore: Mr. Poilievre has put forward a motion. Ms. Jennings has a motion, and Mr. Martin has three motions that we're voting on.

This document has been circulated. That's fine. But as per the order of what we are considering, we're not debating this piece of paper.

If Ms. Jennings wishes us to have Mr. Walsh before the committee to discuss this, Ms. Jennings can move a motion today, and we'll vote on it in 48 hours. But right now the order of business of the committee is to vote on the motions that are before the committee.

We're not debating this document. That's not what's on the agenda.

The Chair: That's true, although I've muddied the waters by giving it to you.

I think Mr. Moore is correct about a motion. Unless there is unanimous consent—

[*Translation*]

Mr. Benoît Sauvageau: Point of order.

[*English*]

The Chair: Do you have a point of order?

[*Translation*]

Mr. Benoît Sauvageau: I have a point of order, Mr. Chairman.

I would ask your opinion, Mr. Chairman, but I believe that what we have just witnessed constitutes a lack of respect for Parliament. For a member to say that the Speaker of the House of Commons is just another witness is tantamount to insulting this institution. I also want to point out that I am not being partisan, I did not table this document.

In addition — and again I would ask your opinion, Mr. Chairman — I do not consider the law clerk and the Speaker of the House of Commons to be witnesses like, for example, and this is not a slight, a professor from the University of Manitoba who would have to be given 48 hours notice before appearing before the committee. They are officers of Parliament and, as such, I believe they are entitled to a minimum of respect.

[*English*]

The Chair: Sir, what's your point of order?

Just a second, you know you just can't jump in here anytime. We've given you this document; I've invited members to comment on it. I'm not looking for a motion at this time. That's all I'm looking for. I asked the members that their comments be brief because we have three motions to deal with tonight.

Ms. Jennings, please be brief. Is that possible?

A point of order, Mr. Moore.

Mr. James Moore: Mr. Chair, I'm afraid Ms. Jennings' intervention, while thoughtful, and I respect that, is not in order. We are here dealing with committee business, and committee business is to address the motions that are in order, including the motion from Ms. Jennings, the one from Mr. Poilievre, and three from Mr. Martin.

We are supposed to be debating and voting on the motions before the committee. If somebody wants to move a motion to have Mr. Walsh visit this committee and be a witness, they can move that motion today, and we'll vote on it in 48 hours. But the only business before the committee right now is these five motions. Any other debate is out of order.

The Chair: It's in order, go ahead.

Hon. Marlene Jennings: Thank you.

Mr. James Moore: It's not in order.

Hon. Marlene Jennings: Thank you very much, Chair.

Mr. James Moore: Committees have a structure.

The Chair: Please, Mr. Moore.

Hon. Marlene Jennings: Therefore, in respect of your request that I be brief I think I've said the substance of what I wish to say. What I was going to conclude with, had these points of order not been raised, was that I was amending my motion, to add—

The Chair: You can do that at the appropriate time.

Hon. Marlene Jennings: Perfect.

The Chair: I have Monsieur Petit.

[*Translation*]

Mr. Daniel Petit: Mr. Chairman, my rights as a parliamentarian are being violated. Let me explain why; it is very straightforward. This document was sent to my office yesterday, not today. I would ask...

● (2030)

[*English*]

The Chair: Well, I don't know what you have, but just give us a moment to make sure you have the right documents, because the one I have, I had it at six o'clock tonight.

[*Translation*]

Mr. Benoît Sauvageau: The document is dated May 31.

Mr. Daniel Petit: Yes, you're right, the document is dated May 31.

Mr. Chairman, as a parliamentarian, I am asking who requested this document; it did not appear out of thin air. Somebody must have requested it. That is what public servants are paid for. Somebody must have told them to produce this document. I want to know who gave the order. I also want to know who produced the document, because he or she was not a scheduled witness...

[*English*]

The Chair: Order. Monsieur Petit is speaking.

Please go ahead.

In answer to your question, sir....

[*Translation*]

Mr. Daniel Petit: I want the chair of this committee to instruct these individuals to appear before the committee today; as a member of Parliament, I am entitled to know which individual, party or group requested this document, because it is certainly not on the agenda. I want to know whether it has been drafted simply as a means of obstructing the committee's work. I have an inalienable right to this information, and I intend to exercise it.

[*English*]

The Chair: As I indicated to you, the document that I have before me incidentally is dated May 31, 2006. This document was presented to me by the clerk, who in turn had it presented to her by the law clerk, Mr. Walsh. That's how it came to my attention. I got the document at six o'clock. I did not ask for the document; it appeared.

Mr. Pierre Poilievre: All right, let's get on with our motions.

The Chair: There's no question. We're going to proceed with Ms. Jennings' motion.

Mr. Pierre Poilievre: Point of order.

The Chair: On a point of order.

Mr. Pierre Poilievre: Yes. There is an order of precedence here based on the order in which motions were received, and my motion is the first to go, unless you are arbitrarily deciding—

The Chair: Well, you changed your mind, Mr. Poilevre. At one point—

Mr. Pierre Poilievre: It's on the list. I have not changed my mind. I'm looking at the list right now, so unless you've arbitrarily changed the order, it's the order we got.

If you're asking me to change the order....

Mr. Pat Martin: That was my understanding as well, Mr. Chair. We were going through them in the order in which they were presented, in the order in which they were submitted.They're not alphabetical, if you notice.

The Chair: Okay. You're absolutely right. My position was that because Ms. Jennings' motion might come before your motions.... But you're absolutely right. Your motion came first, and you may proceed, sir.

Mr. Pierre Poilievre: I am absolutely right. Thank you for confirming that.

The motion I have here is designed to get us down to work and get the job done. We have now heard every single witness and more. Every single witness whom every single party put forward has been heard, except for those who did not want to attend. We have heard all the witness testimony we need to hear, unless we are inventing people to put them on the list exclusively to extend the time. In fact, I understand that some of the witnesses who have been contacted on the remaining list are not interested at all in coming, so we really have no more witness testimony to go over.

Finally, it is probable that the House is going to decide it will not leave for the summer until this bill passes, meaning that if we want to get all members back to their ridings by the scheduled June 23 ending date, we have to get this bill to the House by the 19th or the 20th. That requires that we get down to business on clause-by-clause immediately.

So I'm proposing that we begin clause-by-clause on Tuesday, June 6, 2006, and I think we should entertain the possibility of witnesses on Monday, June 5, if members believe that would be helpful. I'm also interested in entertaining any amendment that would allow us the time to submit additional amendments throughout the clause-by-clause process. That's something all of the opposition parties have come to me and asked my opinion on. The Bloc, the Liberals, and the NDP have all suggested they would like to see that happen.

So without further ado, I move that the committee begin its clause-by-clause study of Bill C-2 on Tuesday, June 6, 2006.

● (2035)

The Chair: I'll have some discussion.

Mr. Martin.

Mr. Pat Martin: Thank you, Mr. Chairman. The only thing I was going to raise is that we've heard from some of our colleagues that they believe the pace is too quick. I'm sympathetic to that point of view and I'm also sympathetic to the point of view the clerk and also the other research staff and the legislative drafting assistants have put forward, that they need time to properly collate and compile and assess the amendments some of us may wish to put forward.

So I would like to put forward an amendment. Hopefully it can be taken as a friendly amendment, but it's quite detailed, and I'd ask your indulgence for a moment, sir. I've written one down. Let me give it to the clerk, and then I could read it into the record. Would that be agreeable?

Shall I read it first?

The Chair: Yes, that would be helpful.

Mr. Pat Martin: All right. I would like to move an amendment to Mr. Poilievre's motion. I move that the committee begin its clause-by-clause study of Bill C-2 on Wednesday, June 7, at 3:30 p.m.; and further, that committee members shall submit their proposed amendments to the legislative drafting counsel by noon, Friday, June 2; and that committee members shall submit their finished amendments to the clerk by Monday, June 5, at 5 p.m.; and further, that the hours of the committee during the clause-by-clause analysis of Bill C-2 shall be the same schedule as that of the week of May 29; and finally, that the committee members may introduce additional amendments, provided they are submitted to the clerk in finished form 24 hours before the clause in question comes before the committee.

I'd be happy to answer any questions on that, and I'll submit this to the clerk.

The Chair: Yes, could you give that to the clerk, Mr. Martin?

In debate on the amendment, I have Mr. Owen.

Hon. Stephen Owen: Thank you. This is really just a matter of discussion on both these points. This document has come as a surprise, I think, to all of us. It speaks in very serious terms, from a person of very high parliamentary office.

I would suggest that we do have Monday available, and if we're going to call him as a witness, if that's what's going to be given in notice, then we use that time on Monday afternoon perhaps to do that.

I'd also suggest—and this is somewhat relevant to our deciding the pace of how to go ahead—that we make sure that the Department of Justice officials who will be appearing before us tomorrow have had a chance to review this so that we can ask them questions about it. I think it would be very useful to have their opinion.

But that's really in the course of saying that I think we can deal with the challenge of this, still within a reasonable timetable, perhaps such as Mr. Martin has suggested.

The Chair: Madame Guay, and then Monsieur Sauvageau.

[*Translation*]

Ms. Monique Guay: Thank you, Mr. Chairman.

This document raises extremely serious issues and implies that the Constitution Act would have to be amended. It has been written by professionals. I do not know who requested it, but it was probably legislators. I think that we should meet with the authors of this document before voting on any motion whatsoever, so that we know exactly what has to be changed in the bill.

Mr. Chairman, it would be a bad idea to allow ourselves to be rushed into voting today on motions seeking to amend a bill that is contrary to the Canadian Constitution.

In light of the information that we have just received, I think that the motions that we have before us are premature. Before we do anything, before moving on to our clause-by-clause study of the bill, we should seek further explanation about this document in order to understand how the bill affects the constitutional act. I really think that we would have gone too far if we were to end up having to amend the constitutional act. We need to seek further explanation to make sure that we fully understand the bill. Then we can table our motions. I am ready to move ahead quickly, but this matter has to be resolved before we set a deadline for our clause-by-clause study, or indeed before we do anything else. Should we fail to do so, we will, once again, not be doing a thorough job. Once again, they are trying to steamroll us.

● (2040)

[*English*]

The Chair: Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I shall endeavour to remain calm and respectful. I would like, through you, to make a few comments to Mr. Petit.

Mr. Walsh is not just a public servant, a pencil pusher, a little "fonfon" as your André Arthur would say. Mr. Walsh is the guardian of parliamentary tradition; he is the law clerk and an advisor to Parliament.

The House of Commons is a venerable institution, and I believe that, as members, we must show respect for the Speaker who, at his own initiative, is free to intervene in the study of a bill...

Ms. Monique Guay: Whenever he sees fit.

Mr. Benoît Sauvageau: ...which may be contrary to parliamentary immunity or the rules of the House of Commons. It is unthinkable to suggest that a member of Parliament, of any party, would have sought out the services of our law clerk and parliamentary advisor to sway the debate on Bill C-2. It is unacceptable to make such a suggestion. It shows a complete lack of understanding of the institution of the House of Commons.

Before commenting on the motion, I want to ask...

[*English*]

Mr. Pierre Poilievre: I have a point of order.

The Chair: Mr. Poilievre, on a point of order.

Mr. Pierre Poilievre: I've been extremely patient in listening to Mr. Sauvageau go wildly off topic here. We are discussing an amendment from Mr. Martin, and I would hope that we could stay on that topic. Mr. Sauvageau has spent the last five minutes debating remarks unrelated to this amendment, that occurred prior to the existence of this amendment and therefore could not possibly be germane to this amendment that is up for discussion right now. Though his speech might have some eloquence, it has no pertinence.

The Chair: I'm going to allow him to continue. The reason I'm going to allow him to continue is because Mr. Petit and the amendment that's before us have to do with timetables. Monsieur Sauvageau is talking about a timetable.

[*Translation*]

Mr. Benoît Sauvageau: Indeed I am, Mr. Chairman.

I am also going to ask for unanimous consent for something else; I will not take up much time.

Paragraph 1a) of the document provided by the Office of the Law Clerk and Parliamentary Counsel states the following:

> a) *Secret ballot votes* — provisions contrary to constitutional position of the House of Commons and to section 49, Constitution Act, 1867.

That is serious.

And paragraph 1b) states that:

> b) *Debate and votes in the House* —provisions contrary to the constitutional position of the House of Commons.

That is serious.

Paragraph 3:

> 3. *Requests to the Ethics Commissioner*
>
> Sections 44 and 48 of the proposed Conflict of Interest Act present potential legal problems for members and thereby compromise their constitutional privileges and, indirectly, those of the House.

That is serious.

Paragraph 4:

> 4. *Members and trusts*
>
> Sections 41.1, 41.2 and 41.3 of the proposed Conflict of Interest Act present legal and constitutional problems; courts could become involved; amendments misplaced.

That is serious.

Mr. Chairman, if we were to adopt Bill C-2 in its current form, we would have to amend legislation that dates back to 1689 and that has never been amended. I would ask for unanimous consent—assuming that nobody thinks that the authors of this document are just lowly public servants seeking to influence our decision—to hear from these witnesses as soon as is possible.

[*English*]

The Chair: I'm not thinking that. I've never suggested that.

Mr. Pat Martin: I have a point of order.

A point of order is a point of order. I don't think you can decide not to hear a point of order, sir. I have a point of order, and as a matter of process, I believe it is a legitimate point of order.

We've heard Mr. Sauvageau insult us all a couple of times now by saying that this committee is implying that the chief law clerk is biased. No one at this table said that at any time tonight or that the law clerk submitted this document to sway the debate. No one said that at this table, and I resent it being implied or the association with it.

[*Translation*]

Mr. Benoît Sauvageau: You misunderstand, I'm asking for unanimous consent to have the witnesses appear before the committee.

[*English*]

The Chair: Mr. Martin is speaking.

● (2045)

[*Translation*]

Mr. Benoît Sauvageau: I was referring to what Mr. Petit said. I was not speaking about you, Mr. Martin.

[*English*]

Mr. Pat Martin: It's my opinion that no one insulted the law clerk. I would uphold and defend the reputation of Mr. Walsh, anytime. If he brought something to our attention, it's for the most honourable of reasons—nothing dishonourable.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I think there must have been a problem with the interpretation. I wasn't the one who said that. I said that Mr. Petit said that the law clerk had tried to sway the committee. I never said that the clerk had tried...

Perhaps you misunderstood, Mr. Martin.

[*English*]

The Chair: Do we have any more debate on the amendment?

When I said the amendment, I meant Mr. Martin's amendment.

Mr. Pierre Poilievre: I have something.

The Chair: Yes.

Mr. Pierre Poilievre: I have a proposed amendment to Mr. Martin's amendment. I know that it will get unanimous support and probably won't even need any debate because there will be such overwhelming support for it.

I move an amendment that we call the law clerk and parliamentary counsel and any other officials he chooses to bring with him on Monday evening.

All in favour of that amendment?

The Chair: Wait a minute, I'm the chair, and don't forget it.

Mr. Pierre Poilievre: Well get on with it, then. We're waiting for you.

Some hon. members: Hear, hear!

The Chair: Is there debate on the subamendment?

I see a hand here.

Ms. Jennings.

Hon. Marlene Jennings: On a point of clarification, would you put a date to that Monday? The date includes the day, the month, the year. Am I correct in assuming that you would be in agreement to say you're talking about Monday, June 5, 2006?

Mr. Pierre Poilievre: Yes. I was hoping it could be last Monday, but we don't have a time machine here.

The Chair: All those in favour of Mr. Poilievre's subamendment.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I have a point of order.

Ms. Monique Guay: Point of order.

Mr. Benoît Sauvageau: Is the sub-amendment in order, Mr. Chairman?

Ms. Monique Guay: It is out of order, Mr. Chairman.

Mr. Benoît Sauvageau: Before we vote, I want to know whether it is in order to make a sub-amendment of this nature to an amendment.

Ms. Monique Guay: It is out of order. It is inconsistent with the intent of the motion.

[*English*]

The Chair: Monsieur Sauvageau is correct. So we will vote on Mr. Martin's amendment.

Hon. Marlene Jennings: And then on my motion.

The Chair: No, no, don't even try to get me more confused than I am.

Mr. Martin, we're going to vote on your amendment.

Mr. James Moore: Could we just make sure, and have Mr. Martin read it out again before we vote on it?

The Chair: Sure.

Mr. Pierre Poilievre: Mr. Chair.

The Chair: Do you have a point of order, or are you just blathering?

Mr. Pierre Poilievre: I'm just blathering. I'm asking to speak to the amendment.

The Chair: Okay.

Mr. Pierre Poilievre: I just want to make it clear that all of us have clearly demonstrated here that we would like to hear from the law clerk and any of his officials—which we can do in the context of the amendment that Mr. Martin is putting forward. We are all in support of hearing from this witness, and it is perfectly within our means to hear from him while beginning clause-by-clause on Wednesday. I don't want any members of the public to be under the false impression that all of a sudden it's impossible to support Mr. Martin's amendment because of this submission. We can do both. We can hear from the law clerk, and we can begin clause-by-clause two days later, giving all members—including those members—a full 48 hours to develop their thinking before clause-by-clause begins.

● (2050)

The Chair: I'm hearing Tony agreeing, so let's vote before we change our minds.

(Amendment agreed to) [See *Minutes of Proceedings*]

The Chair: You have a point of order, Monsieur Sauvageau?

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, I would just like to clarify something. I just want to make sure that I have understood properly. Am I right in thinking that Mr. Poilievre said that we are going to hear testimony from the law clerk on Monday?

[*English*]

The Chair: It sounds like he's given us an undertaking to bring something forward; that's what I understand.

We're going to vote on Mr. Poilievre's original motion as amended by Mr. Martin. Do you understand what we're doing?

(Motion as amended agreed to)

The Chair: Do you have a motion?

Mr. Pierre Poilievre: I ask for unanimous consent that the committee clerk invite before this committee Mr. R.R. Walsh, Law Clerk and Parliamentary Counsel, and Richard Denis, Deputy Law Clerk and Parliamentary Counsel, and any other officials they believe appropriate to join them for that testimony; that the clerk aim to have those witnesses before this committee on Monday, June 5, 2006, but that she also have the option to invite them on the afternoon of Tuesday, June 6, 2006, and that they be given a time period not to exceed three hours.

The Chair: Okay.

Did you have a point of order? You're stunned, I can tell.

Hon. Marlene Jennings: No, my point is, does his motion go before my motion?

The Chair: He is asking for unanimous consent to do this.

An hon. member: Did he get it?

Hon. Marlene Jennings: No.

The Chair: I don't know.

An hon. member: Did you ask for it?

The Chair: I'm going to ask for it, how about that?

Does everybody agree with unanimous consent?

Some hon. members: Agreed.

Mr. Pierre Poilievre: I was presuming you were asking—

The Chair: You've moved your motion. You're going to move your motion.

Mr. Pierre Poilievre: Okay. Well, I moved my motion. I thought we were asking for unanimous consent on the motion.

The Chair: Is there discussion on this motion?

Hon. Marlene Jennings: No.

Mr. Pierre Poilievre: No. Let's get it done.

The Chair: Just be patient.

[*Translation*]

Mr. Benoît Sauvageau: Far be it from me to stop our tails, but, bearing in mind our agreed deadline, if Mr. Walsh were to suggest amendments when he appears before the committee, would they be in order?

Ms. Monique Guay: They would have to be in order.

Mr. Benoît Sauvageau: Let us say, for example, that Mr. Walsh appears before the committee and Mr. Petit realizes that he is a non-partisan official who does not want to cause anybody any problems; if he suggests a major amendment would it be deemed to be in order? I ask the question in light of the schedule that we have just adopted.

Ms. Monique Guay: It is up to the chair to answer the question, not you.

[*English*]

The Chair: Could you just give me a moment here to read what is going on here?

On Mr. Martin's amendment, which we voted on, the latter part of it says that the committee members may introduce additional amendments, provided they are submitted to the clerk 24 hours before the clause in question comes before the committee.

We've passed that. Okay. Where are we now?

Do you have a point of order, or what are you...?

Hon. Marlene Jennings: I have a point of clarification that I'm seeking from the chair before we go to a vote.

● (2055)

The Chair: Yes.

Hon. Marlene Jennings: If I understand the amendment, the motion of Mr. Poilievre, which we adopted, as amended by Mr. Martin, would then mean that if Mr. Walsh comes, and for instance if he is unable to come on Monday and comes on Tuesday, and suggests some amendments, there is theoretically, hypothetically a possibility that by the time the notice for amendments comes through we may have already dealt with a clause.

The Chair: It's 24 hours—or, as has been described to me, a sleep.

The Clerk of the Committee (Ms. Miriam Burke): We're starting clause-by-clause next Wednesday.

The Chair: I know that.

We're starting clause-by-clause the next day.

Hon. Marlene Jennings: I understand that.

The Chair: Yes, okay.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, could you simplify things for us and rule that any amendments suggested by Mr. Walsh when he appears before the committee will be deemed to be in order? Could we say that if Mr. Walsh tables amendments when he appears before the committee they will be deemed to be in order, whether we have had 24 hours notice, or a sleep, or not? Do you understand me.

Ms. Monique Guay: If not, the bill could be completely invalid.

[*English*]

The Chair: Mr. Sauvageau, as you know, only members can make amendments. Mr. Walsh can't propose an amendment. You or anyone else can extrapolate from what he is saying and move an amendment.

We have a motion on the floor.

[*Translation*]

Mr. Benoît Sauvageau: You are right. Does that mean that Mr. Walsh can give us his amendments?

[*English*]

The Chair: All right.

(Motion agreed to) [See *Minutes of Proceedings*]

The Chair: Now, Madame Jennings. You thought I forgot all about you, didn't you?

[*Translation*]

Hon. Marlene Jennings: Mr. Chairman, I know that you could never forget me, because I'm always a thorn in your side.

My motion is very clear. The intent is to invite a panel of former chairs of the Public Service Labour Relations Board to appear before the committee to answer questions that several members, from all parties, asked of Ms. Sylvie Matteau, the board's acting chairperson, but which she was unable to answer given her position.

[*English*]

The Chair: Maybe you could read your motion first, before we go any further.

Hon. Marlene Jennings: Yes. I move that this committee mandate its chair to invite a panel of former chairs of the Public Service Labour Relations Board to appear so as to answer those questions regarding Bill C-2 that Mrs. Sylvie Matteau was unable to answer, given her position of acting chairperson of said board.

The Chair: Okay.

Hon. Marlene Jennings: I don't have anything else to say. We had a number of questions from all parties here, and Madam Matteau was not able to answer them because of her obligations. I'd call the question, if there's no debate.

The Chair: All those in favour? Opposed?

We have six for and six against.

All right. To refer to my original statement, the chair is bound to agree with the previously agreed-upon schedule. I will therefore be voting against the motion.

(Motion negatived)

Hon. Marlene Jennings: May I ask a question?

The Chair: Yes.

Hon. Marlene Jennings: My understanding is that when we adopted the list of witnesses, we made it clear that the list could be added to.

● (2100)

The Chair: That isn't the way I interpreted it.

On a point of order, Mr. James Moore.

Mr. James Moore: It's true that the list could be added to. You attempted to add to it right now, and it was defeated. I would suggest that there's something called the telephone, and if Madam Jennings wants to give these people a call and ask them their views, she's free to do so.

Hon. Marlene Jennings: Mr. Moore, you do not want to be insulting like that.

The Chair: Okay. Monsieur Sauvageau, on a point of order.

Mr. James Moore: No, I know, but I mean—

Hon. Marlene Jennings: You are being insulting.

The Chair: Monsieur Sauvageau has the floor.

[*Translation*]

Mr. Benoît Sauvageau: I have difficulty in overcoming...

[*English*]

The Chair: Mr. Sauvageau has the floor.

[*Translation*]

Mr. Benoît Sauvageau: My Blackberry is telling me that it is 9:00 p.m. Thank you.

[*English*]

The Chair: The meeting is adjourned until tomorrow morning at eight o'clock, in Room 253-D.

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