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Chair

Mr. Bob Mills

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•(1535)

[English]

The Chair (Mr. Bob Mills (Red Deer, CPC)): I call the meeting to order.

Members of the committee, the intention today was to look at Mr. McGuinty's motion and then to go in camera. We would then look at the CEPA report and begin our review of it.

Mr. McGuinty, do you think the Auditor General's letter, which all of us just received minutes ago, would be any reason we might want to postpone discussion?

What does the committee think about postponing discussion of this motion until our next meeting on Thursday? Is there any interest in that? What is the feeling of the group?

Go ahead, Mr. Cullen.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): First, it's an interesting letter. It states the auditors can't comment on policy. It's a comment on policy almost in the body of the letter itself. I'm not perturbed about the idea of considering this motion today.

I am going to suggest that we take some witnesses on it—obviously not today, but as soon as we can arrange it. While I'm in favour of the principle of what's being suggested, I think it would be worthwhile to hear at least a little bit of pro and con as to how we could strengthen this office, because the intention behind this work is to do that—to increase its independence, and those types of things.

The letter, to me, feels like an aside. If Ms. Fraser wants to come before the committee to comment on these specific things, that could be encouraged, but I don't think today I am prepared to vote on it until we've heard at least some testimony for and against.

The Chair: Mr. Cullen, that's my feeling as well. The last paragraph speaks in terms of dedicated environment audit professionals, etc., and immediately that raises a question to me of what that means in terms of staff and additional bureaucracy to make it happen. Obviously, your suggestion of witnesses would maybe answer some of those questions.

I was in the process of asking Mr. McGuinty that question, but now I may as well ask it publicly. It would seem to me that there may be some implication there in terms of cost, bureaucracy, and so on, so I appreciate your suggestion.

Go ahead, Mr. Harvey.

[Translation]

Mr. Luc Harvey (Louis-Hébert, CPC): In fact, the letter sent by the Auditor General comes very close to my perception of the office of Commissioner of the Environment.

The motion calls for a separate budget. The office already has a separate budget and operates independently. We have no say in what the Commissioner does.

As for her comments—

[English]

The Chair: We're not doing Mr. McGuinty's motion. I am just asking if anyone has any comments on postponing this matter until Thursday, Mr. Harvey. We will get to the motion once Mr. McGuinty tables it.

Are there any other comments about that? Is the general feeling that we should carry on and hear the motion today? Is that what I'm hearing?

Go ahead, Mr. Cullen.

•(1540)

Mr. Nathan Cullen: This is just a technical point, Mr. Chair. Hearing the motion today does not require a vote on it today. Getting some witnesses together, or whatever the committee deems proper—

The Chair: I think the committee can make those recommendations at the end, and then we'll go ahead as proposed.

I just basically wondered about this letter and the time to get witness lists, and so on.

Are there any other comments on that issue specifically?

Mr. Calkins has a comment.

Mr. Blaine Calkins (Wetaskiwin, CPC): I would concur with you, Mr. Chair. It would be prudent, given the letter that we received from the Auditor General and some of the issues pertaining to the motion. I would appreciate an opportunity to have some witnesses come to talk about this motion.

The Chair: The question is whether we will deal with the motion now—have it tabled and then go to the next step—or hold off so that everybody can get their ducks in a row for Thursday. Should we put the motion?

We would need the suggestions for witnesses immediately. If you have some ideas on that, it would be very helpful for our clerk if you could get those in by the end of this meeting. That's why I suggested a possible delay, but if we can accomplish that, let's do it; let's get on with it.

Go ahead, Mr. McGuinty.

Mr. David McGuinty (Ottawa South, Lib.): Thank you, Mr. Chair.

Thank you, members of the committee, for participating in what will be a debate here.

Before we go any further, Mr. Chair, I'd like to add a sixth bullet point in English and in French to the motion itself. The sixth bullet point would read as follows:

That the committee adopt these recommendations as a report to the House and that the chair present this report to the House.

I wanted to include this before putting the motion formally, as part of the motion I'm about to put to the committee.

Mr. Mark Warawa (Langley, CPC): Could you read that again, please?

Mr. David McGuinty: It is:

That the committee adopt these recommendations as a report to the House and that the Chair present this report to the House.

The Chair: I think this is a kind of boilerplate we've done before in many of these things.

Now do you want to put your motion?

Mr. David McGuinty: I'd like to. Thank you, Mr. Chair.

I move the following motion:

That this committee call upon the government to bring forward legislation to strengthen the role of the Commissioner of the Environment and Sustainable Development by:

—making the commissioner a full and independent agent of Parliament, to be called “Office of the Commissioner of the Environment and Sustainable Development”, reporting to Parliament directly through the Speakers of both the House of Commons and the Senate;

—by clearly affirming and appropriately circumscribing the duty of the Office of the Commissioner to advocate on environmental and sustainable development issues;

—by requiring that the appointment of a commissioner be approved by both the House and the Senate;

—by ensuring that a funding mechanism at arm's length from the government be established for the Office of the Commissioner;

—by protecting the right of the commissioner to name the office's staff, including environmental auditors, without government influence; and

—that the committee adopt these recommendations as a report to the House and that the Chair present this report to the House.

If I could, Mr. Chair, I would like to take a few minutes to just recap what we know about the position of the environment commissioner and to elaborate on my motion.

The first thing to remind ourselves I think is that the creation of this position was largely part of the response the government made in response to the 1992 Earth Summit in Rio, when as a country we signed on to the Rio Declaration and to a forestry statement and declaration and of course to the United Nations Framework Convention on Climate Change.

In 1993, the Liberal campaign red book contained a new, innovative proposal for the creation of this Commissioner of the Environment and Sustainable Development.

To the best of our knowledge, and having gone back through some of the debate with parliamentarians at the time, Mr. Chair, there seemed to be significant resistance in the senior ranks of the federal public service to the creation of this post. I recall that the Auditor General at the time, Denis Desautels, appeared to have offered to host the position in order to anchor it in an auditing type of office.

In April 1995, the government proposed the creation of the Commissioner of Environment and Sustainable Development in the Office of the Auditor General. At about the same time, our government was among the first in the world to require ministers to prepare and table sustainable development strategies for their departments.

In my mind, there's no doubt that locating the post in the Auditor General's office lent immediate credibility and stability to a new, fledgling post. We were one of maybe two countries in the world that were creating such a post at the time.

The evidence I have around this is only anecdotal, but I think now there are also problems with the structure. As we've just seen, we're not quite sure what happened this past week with the Auditor General and whether there were professional or interpersonal differences—that's speculative on my part—but clearly we're seeing that there are problems with the position's still remaining inside the Auditor General's office.

It's clear that the legislation, upon my reading, allows the Auditor General, and not the environment commissioner, to retain the final say on environmental matters. We don't know whether there is possible interference in the commissioner's work by the Auditor General or not. We haven't really had forthcoming answers from the Auditor General. I think we would all agree as committee members that we're left to guess, to surmise, what those difficulties might be.

In any case, to repeat myself, there's enough evidence, in my view, to say that there's a structural problem or issue.

I think after 12 years of important reports and progress it's time to take this office and the role of the commissioner to the next level, a new iteration. We would be best guided, in my view, by looking at the mandate, for example, of the Commissioner of Official Language as a possible precedent.

As set out in the Official Languages Act, the Commissioner of Official Languages acts as an independent agent of Parliament. That office plays several key roles in promoting and achieving the objectives of the Official Languages Act. It ensures, for example, that federal institutions comply with the act, upholding the language rights of Canadians, promoting linguistic duality, promoting bilingualism.

The Commissioner of Official Languages may initiate a review of any regulations or directives made under that act and of any other regulations or directives that affect or may affect the status or use of the official languages, for example.

• (1545)

I think these duties and powers might serve as a helpful model as we consider how to construct a more effective, fully independent environment commissioner.

I was struck by what Auditor General Fraser said last week in indicating that she intended to take some time before appointing the next commissioner, and that the interim commissioner might be there until at least next fall, which I understand is six, eight, maybe ten months away.

I think we would want to seize upon a wonderful moment here. Maybe the best time to act is now to examine the structure, to bolster the role of the commissioner, and to examine hiving off the position from the Auditor General's office itself.

In any event, I'm hoping that if we are able and successful, Mr. Chair, in this regard, there will be a new and transparent recruitment process for whoever is to succeed Madame Gélinas ultimately as the commissioner; that the position will be properly gazetted; that there would be a hiring panel and an interview panel; and that we would establish core competencies, even perhaps let the committee have an opportunity to vet or to meet the final candidate. This certainly reflects the importance of the big job ahead, and I think it would go some distance in ensuring transparency and effectiveness for Canadians.

To conclude, I hope we would all agree that the commissioner's role is probably now more important than ever before, so this might be a wonderful moment for us to strike.

Those are my remarks, Mr. Chair.

• (1550)

The Chair: I believe Mr. Cullen is next.

Mr. Nathan Cullen: Thank you, Chair.

It's interesting that in viewing this motion and in the whole consideration of the Auditor General's office and the commissioner's office, we seem to move around some of the issues we've been faced with.

I think this has been thrust upon us, frankly, this sudden departure of Ms. Gélinas under circumstances we don't yet know, with claims and testimony from the Auditor General herself saying that the media attention wasn't necessarily high enough; that it wasn't getting as much attention through this independent presentation as it might through her presentation; that government hadn't responded enough to what the commissioner had been asking for over the years.

On both counts I find it worrisome that the conclusion is to bury it deeper within the Auditor General's reports and offices and then appoint somebody with little environmental background to the position for up to a year, having replaced somebody with much credibility and background on the environment.

I think it's incumbent upon us as committee members to hear from Ms. Fraser. She mentioned in the letter she gave us today that she's interested in coming back. She has opinions, clearly, about the policy framework for this.

As I mentioned at the beginning of this, I think it's challenging for her not to be able to comment on policy, particularly when the policy is affecting her office, which this is. It's one or the other, and it's become difficult for me to understand what position she's taking. Does the auditor comment on policy? Do the auditors audit themselves?

In the testimony previously, there seems to be some justification of policies, which were laid out by Parliament, by the auditor herself; that there is backing up and shoring up of opinion rather than fact.

My last point on this—and I think this is brought to light in this motion and in what we'll be drafting hopefully into legislation to be supported—is the idea that traditional auditing practices, when it comes to things as wide-sweeping as the environment, don't apply well.

I can understand Ms. Fraser's consternation—or that of people in her office, perhaps—when they see what they believe to be the Commissioner of the Environment's stepping beyond traditional auditing boundaries.

I think there's a call for that. When you have governments making proposals, promises, commitments, and then presenting a plan that doesn't meet the commitment over something such as climate change, as an example, is it incumbent upon somebody auditing that government to make comment if they know full well in advance that the target is X and the solution is Y? Perhaps.

As Mr. McGuinty points out, this is a relatively new position in the world—it's been 10 years tried. But if part of the problem was that it wasn't getting enough attention or it wasn't forcing government in previous times or in current times to react enough, as Ms. Fraser said, then for heaven's sakes, moving it out and giving it more independence and more attention seems worthwhile; not burying it deeper within an auditor's report, so that when the audit comes out there are six booklets and one of them may or may not be on the environment—with Canadians telling all of us that this is the leading critical issue right now.

We'll likely be supporting the motion, and we'll want to hear from some witnesses, ideally Ms. Fraser and perhaps some others.

The Chair: Next is Mr. Bigras, and then Mr. Warawa.

[*Translation*]

Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ): Thank you, Mr. Chairman.

I don't want to repeat what my colleagues have said, but from the outset, from the moment Ms. Fraser testified, I called for more independence for the Commissioner of the Environment. As Nathan was saying, we mustn't allow environmental issues to be overshadowed by broader audit concerns. That is the mandate of the Auditor General.

The Auditor General is responsible for auditing government and each government department. I have always believed that the government should analyze policies, particularly those relating to the environment. I'm thinking here about the strategic environmental assessment. A relevant directive was issued by the Prime Minister's Office 25 years ago, but the government refuses to apply it because of the belief that economic principles must prevail in the government decision-making process.

The environment is a fundamental issue. I don't quite understand, and I'd like Ms. Fraser to come and explain to us what she means when she says that defending causes and conducting legislative audits are incompatible pursuits.

Consider, for example, the former Commissioner of Official Languages. Just because Ms. Adam, as Commissioner of Official Languages, defended the role of francophones in the federal public service doesn't mean she didn't conduct a proper audit. I don't think Ms. Adam overstepped her position. Nor do I think she defended a cause. Rather, she took steps to ensure — as her mandate dictates — that francophones have a place in the federal public service.

Therefore, in my opinion, we should be guided by the work of Ms. Adam, the former Commissioner of Official Languages, when called upon to make choices concerning the Commissioner of the Environment. If it was good for the former Commissioner of Official Languages and for the Privacy Commissioner, then it can certainly be good for the Commissioner of the Environment.

Therefore, I support greater independence and the separation of powers between the Auditor General and the Commissioner of the Environment. As such, I will, of course, support the motion.

• (1555)

[English]

The Chair: Mr. Warawa.

Mr. Mark Warawa: Thank you, Chair.

Mr. McGuinty, Mr. Cullen, and myself were asked this question on Friday, and we had a healthy dialogue as we debated the issue when we were being interviewed on CBC. The position of the government remains neutral on this. We would be open to considering this and open to hearing from witnesses.

At this point the plan is the motion has been tabled. Some statements have been made, and witnesses will be called. I don't have a problem with that, but I would like to correct some of the statements made.

Mr. McGuinty did mention that there was a promise made in the 1993 red book that the Commissioner of the Environment and Sustainable Development would be created as an independent commissioner. They were the government since that time up until a little over a year ago, so a question is relevant: when they had that opportunity to appoint that position as an independent, why didn't it happen? I think that's a legitimate question.

The other comment was made using the example of Madam Gélinas no longer being the commissioner. There was a statement made that there were problems with the office being within the Office of the Auditor General. I think Mr. McGuinty said he didn't want to surmise what the difficulties might be. We don't know that

there are problems within the office. Again, we are surmising, and Mr. McGuinty said we don't want to surmise. Just as a caution, we're prejudging the situation here. We're possibly making some assumptions that may not help the situation.

We want to look at the position of the Commissioner of the Environment and Sustainable Development as good policy and not base it on a specific instance. We don't know if there are problems with the present structure. We need to approach this with an open mind.

Also, a comment was made that we need a more effective, independent commissioner. Again, we need to look at this with an open mind. Is it indeed more effective to have the commissioner independent from the Auditor General's office? We haven't heard from witnesses yet. We don't know that. Also, Mr. Cullen mentioned that what is being proposed with a change of reporting—which I think is what he was referring to—would bury it deeper within the Office of the Auditor General. Again, we don't know that. So hopefully we can all approach this with an open mind.

I do have some concerns with the motion, and we may want to consider some amendments, but the second bullet saying, “clearly affirming and appropriately circumscribing the duty of the Office of the Commissioner to advocate on environmental and sustainable development issues”, is a vague term. Ms. Fraser has provided a caution to the committee saying, “As I mentioned last week, policy advocacy and legislative audit simply do not mix.” There would be a possible conflict. “Auditors cannot in fact, or in appearance, audit their own work.” I would agree with that. Again, we need to clarify what is meant by that. The mover may want to consider changing that or clarifying what it means.

I do have some concerns with some of the statements that have been made. I'm neutral, open to hearing from witnesses and then moving on. I don't know if we want to consider some amendments to what we have here before us for direction to the committee, but those are my comments.

Thank you.

• (1600)

The Chair: Mr. Regan, then Mr. Vellacott.

Hon. Geoff Regan (Halifax West, Lib.): Thank you, Mr. Chairman.

It seems to me that in that the motion refers to circumscribing the role, the point is that this part of it would in fact say that these are the restrictions, effectively. What we have to ask ourselves is whether we're going to have a separate, independent Commissioner of the Environment and what the role should be.

Clearly this isn't legislation we're drafting here; we're drafting a resolution that would be recommended to Parliament to go further, for the government to bring forward a bill. We don't have to be too precise, but I think we want to talk about the question of what we think the role ought to be and to what degree it should be independent or not.

It seems to me that Mr. McGuinty has raised a very good point about the Auditor General having the final say on the reports of the Commissioner of the Environment. The question we have to ask ourselves is whether we think that's the right way for things to work. We have to ask ourselves what Parliament looks for in selecting an Auditor General—what the qualifications sought in that role are—and whether those qualifications are appropriate in relation to oversight of the Commissioner of the Environment or whether, because of the nature of the Auditor General's role and the audit function, the commissioner should be separate.

Also, if it's separate, does the audit function generally then remain with the Auditor General while the commissioner has a different role, with some kind of circumscribed advocacy? We have to look at the degree to which this role is different in nature from other kinds of auditing functions. I think it is different in nature for some of the reasons we've heard today, but it seems to me that's what we have to be considering.

Mr. Chairman, you mentioned that it would be nice to have the witness names today, before the end of the committee meeting. I'm not sure whether that's possible or not. I'm hoping we can get them to you by tomorrow. I don't know whether we're looking at a meeting on this topic on Thursday or whether we could do it that soon; I'm sure Mr. McGuinty would prefer it, if we can. Obviously, if the witnesses aren't available, maybe we can chat and find the next best time.

The Chair: I'm just suggesting that if we can, we should come up with those witnesses. I think Mr. Cullen has some in mind, and I imagine other members do. If we can put together a group for Thursday, let's do it.

Hon. Geoff Regan: It shouldn't be too difficult, providing they're available.

The Chair: Mr. Vellacott.

Mr. Maurice Vellacott (Saskatoon—Wanuskewin, CPC): I've been listening carefully and attentively to the committee members. I've been hearing the comments from different members around the table from both sides here, and I think maybe a way to do it... I would suggest it first by way of a friendly amendment, because I think it takes into account suggestions that Nathan meant and Geoff implied, and I guess Mr. Warawa as well, to have witnesses. I think a way to do it might be to insert a friendly amendment at the beginning of the first sentence of the motion. It implies considering, looking at, and hearing testimony of people coming forward as soon as we have a list together.

I would propose a friendly amendment to say that this committee “consider calling upon the government”, and then proceeding as outlined.

I think it's a friendly amendment; it could be perceived that way. Also implicit in it, of course, when this committee is “considering”, is that—probably in the minds of most of us it implies—that witnesses are coming forward. You've referred to that, Mr. Chair, as have members of all the parties here in our discussion or deliberations so far.

I would propose this and ask permission of the mover of this motion, if he would consider it—since we're already into discussion

of witnesses and so on—as a friendly amendment, basically not deflecting anything in his motion at this point, but having witnesses come forward, so that we as a committee “consider calling upon the government”.

• (1605)

The Chair: I'm not sure, Mr. Vellacott, but I believe we're not going to have a vote today; therefore, I think since we won't be voting, we really don't need that amendment at this point. We are simply going to call witnesses; then, of course, at that point we might consider what amendments we would want to make to the motion we're going to vote on and would vote on those amendments at that time.

My interpretation would be that this amendment wouldn't be necessary today. It might be down the road, but I haven't heard anybody say they don't want to hear witnesses on this and move forward.

Mr. Maurice Vellacott: Well, yes, that's exactly my point. If you're going to consider it after we've had witnesses, then it really makes the whole point moot; that's why I'm suggesting it now. But it's no big deal, if what we're understanding is that we're having witnesses come forward. That's the intent of the friendly suggestion.

The Chair: I believe Mr. McGuinty has indicated that's acceptable in this motion.

You're not expecting a vote today, are you, Mr. McGuinty?

Mr. David McGuinty: No. We're not stubborn in that regard.

We'd like to move it along quickly. I don't think there's a need to delay this. So if we can get witnesses in by tomorrow and move to hear from them as soon as possible....

I don't think it would take a lot of witnesses. I have some ideas; I know other members have ideas.

The Chair: That's my suggestion, that we simply say we need the list as quickly as you can get it to us. We'll try to set up our next meeting to accommodate those witnesses and then at that point move forward.

Next on my list is Mr. Harvey, and then Mr. Godfrey.

[*Translation*]

Mr. Luc Harvey: As for the basic principle at issue here, namely that the Commissioner of the Environment should operate independently with a separate budget, I think there is unanimity on this score. However, what I can't understand is that to my knowledge, the Commissioner already enjoys these privileges.

I believe the problem between Ms. Fraser and Ms. Gélinas had more to do with the activities carried out in connection with these reports than with the actual reports produced by the Commissioner of the Environment. Ms. Fraser said that she had approved and backed the reports, that they had been tabled and that there weren't any problems. There are limitations to the job, regardless of who holds the position of Auditor General.

We mustn't delude ourselves either. Fundamentally, the opposition's role is to comment on a report released by an auditor general. The Auditor General must not usurp the opposition's role, which is to comment on reports. I can't see you giving an official the power to comment on a report that she herself produced. She could only agree with herself. I have some questions about this, questions that I will ask when we hear from the witnesses.

That's not all. We already have an office that goes by the name of the Office of the Auditor General. The name means that the Auditor General oversees other areas of responsibility, including the environment. If ever we amend these responsibilities, what message are we sending out about the position of Auditor General? It would be tantamount to saying that we no longer have confidence in the Auditor General's abilities or judgment.

These are questions that I will be putting to the witnesses. I hope that we have an opportunity to hear from some witnesses and to discuss this matter with them.

[English]

The Chair: I would hope, Mr. Harvey, that we're not going to get into that.

Having been on the environment committee for a number of years, I believe Ms. G  linas has always been very kind to all parties. Her comments have been very good. We have based an awful lot of what we did in opposition, certainly, on those reports.

I hope this won't get into attacking the job that has been done or the job of the Auditor General in terms of her role with the environment commissioner. I believe almost everyone on this committee and on previous committees would agree that the job has been excellent and has fit very well. I think we have to make sure we don't cast aspersions on what has been I think a pretty successful operation.

Obviously, I think most of us would like to strengthen the reporting on environment, and if that's what we're talking about, then let's get on with it. If we're going to start picking problems, I think we're going down the wrong road.

That would be your chairman's feeling about this sort of thing.

Mr. Godfrey.

• (1610)

[Translation]

Hon. John Godfrey (Don Valley West, Lib.): I'd like to respond at this time to Mr. Harvey's comments. When we talk about the independence of a commissioner of the environment, we're talking about that person's independence in terms of political party affiliation or ties to the Auditor General. The fact is that the commissioner's office is funded entirely through the Office of the Auditor General. The Commissioner of the Environment must report through the Auditor General.

I think we've evolved beyond that point today.

[English]

I think the fundamental difference between the two offices is well contained in the Auditor General Act. I think it can be summarized quite simply: that in the act, the Auditor General, whose functions

are described in subsection 7(2), really deals with classical audit functions. They're retrospective: they look backwards to see that accounts have been properly maintained, essential records have been maintained, that money has been expended for the right purposes, that it's been expended for economy and efficiency and effectiveness.

Then there's a little throwaway line about sustainable development, but this is the perspective of classic auditing: value-for-money, backward-looking, strict accounting.

When you come to the section on the Commissioner of the Environment and to the description of what sustainable development is, it is, if anything, future-looking. In fact, it deals with things we did not anticipate. It challenges, in fact, traditional concepts of effectiveness and efficiency, because it says that many things you thought were effective were wildly inefficient. You treated the atmosphere as a free receptacle for greenhouse gases. That's not in the end a very good form of accounting, as it turns out, if you take into account the future.

The description of sustainable development itself says it reports "on the progress of category 1 departments towards sustainable development"; it doesn't report "back" on how they've done it; it's where they are going. Will this lead in a direction?

What is sustainable development? It's a "continually evolving concept based on the integration of social, economic and environmental concerns", which is achieved by a variety of things: integrating the economy and the environment—

None of that is in the traditional function description of the Auditor General. We're talking about the future health of Canadians, about ecosystems. Nowhere, for example, does the act mention I think, in the Auditor General's classic description, how we're doing meeting our international obligations, yet it's spelled out specifically under the definition of sustainable development and what the commissioner is responsible for.

And "promoting equity"; I don't think equity features as a traditional audit function. It may be under effectiveness or efficiency.

Then there are integrated approaches to planning and decision-making.

There's "preventing pollution". That's a futuristic thing: how do we stop this happening again in the future?

The final one is "respect for nature and the needs of future generations".

So I think we've seen that they're radically different mandates, and that's why we can speak of a kind of support by the commissioner for the whole concept of environmental and sustainable development itself. It is different from a traditional concept, that we want clean auditing on past records.

Therefore, I think the time has come to sever the two, and I think there are powerful reasons. As Mr. McGuinty has pointed out, as we become better at understanding this evolving concept of sustainable development, we need to have an independent officer who is not constrained by traditional audit functions or whose reports will not get lost in describing traditional audit functions. They are really worlds apart.

•(1615)

The Chair: Mr. Regan.

[*Translation*]

Hon. Geoff Regan: Thank you, Mr. Chairman.

I'd like to make the following suggestion to my colleague Mr. Harvey. When you examine the position of privacy commissioner and commissioner of official languages, you might want to recommend that they report to the Office of the Auditor General. Why do these positions stand alone?

This is a question that we need to consider, at least in the case of the Commissioner of the Environment. Mr. Chairman, I don't believe that Mr. Harvey, or anyone else here for that matter, is attacking Ms. Gélinas or her past accomplishments as Commissioner. The question is whether these responsibilities should be completely or partly separate. Is the job more similar to that of the Privacy Commissioner or the Commissioner of Official Languages, who enjoy a separate status, or should the position continue to come under the authority of the AG's office?

[*English*]

The other thing, Mr. Chairman, is that I would hope we aren't planning to do this forever. It's important, but hopefully after a meeting and some witnesses we can have our discussion and get this dealt with.

The Chair: Thank you, Mr. Regan.

Are there any other comments?

What I'm hearing then is that you come up with witnesses who you feel we should hear and get those to the clerk as quickly as possible.

We'll try to set something up for Thursday, if it's possible to hear those witnesses then.

Mr. Regan, if we have time afterwards, I would hope that we could make any amendments we want, go to a vote, and then move on.

Are there any other comments?

Yes, Mr. McGuinty.

Mr. David McGuinty: Would it be helpful to put some potential witness names forward now, Mr. Chair.

The Chair: Certainly. I'm sure the clerk would be happy to receive those.

Mr. David McGuinty: Picking up on our colleague Mr. Cullen's suggestion, I think it might be important to call Ms. Fraser, who I'm sure has something to say about the structure of the office and its going forward. Clearly she does, because she sent us a pre-emptive strike letter today, asking us to consider her views, which is great.

There is a steering committee, Mr. Chair. In fact, I understand that there are two steering committees, advising the Commissioner of the Environment and Sustainable Development. It might be important to consider inviting the chairs of both of those advisory committees to talk about the structure of the office, or one of them.

The Chair: Mr. Cullen, I believe you asked that question—I'm not sure who did—when Ms. Fraser was here. Did she not make some comment that these people are kind of at arm's length and not —

Mr. David McGuinty: All the better.

The Chair: I'm not sure who asked a question of her—

Hon. Geoff Regan: But that makes them appropriate as witnesses.

The Chair: Certainly, that's a suggestion.

Mr. David McGuinty: I would think that being advisers beholden to no one except the Canadian people would make it wonderful for us to hear from them.

It would also be useful to hear from someone on the front line who is responsible for sustainable development strategy. I don't know if that is a director general in a line department who's responsible for holding the pen every two years or not, but certainly somebody who is a practitioner, who is responsible for delivering up the strategies and following up on them.

I guess the last suggestion would make it somebody from the Privy Council Office who is senior in the machinery of government, who can explain to us—picking up on my colleague Mr. Godfrey's comments—what appears to be a fundamental incompatibility of mandates: one being retrospective and the other being prospective. That would be very useful.

The Chair: Mr. Warawa, I believe you had a comment, and then Mr. Cullen.

Mr. Mark Warawa: Thank you, Chair.

My understanding is that we will be providing names to the clerk now, but also within the next 24 hours.

Maybe there could be international consideration, if there is another country or countries that have an environment commissioner—what's their structure and mandate—and use these as examples to consider.

The Chair: For the committee's information, I attended a meeting in Vancouver some time ago, where the environment auditors general of probably about 40 or 50 countries—

Ms. Gélinas was a very active participant and asked me to be a speaker at that event. There were auditors general from all these different countries, so this position does exist in many countries. I believe the indication was that Canada was kind of a leader in setting up this role, and many others followed us and set up a similar type of department.

Now I'm sure Ms. Gélinas could suggest someone on that international scene who might be able to speak. The problem is, could we do it by conference call, video teleconference, or whatever? But that's another suggestion; you would have to talk to Ms. Gélinas for that.

Mr. Mark Warawa: Mr. Chair—

• (1620)

The Chair: I believe Mr. Cullen was first, and then Mr. Harvey.

Mr. Nathan Cullen: I can see how this could potentially turn into another two months. I just caution the committee against starting to reconsider at too fundamental a level the role of the Commission of the Environment. As Mr. Godfrey said in reading out parts of the mandate a little earlier, I actually think we're talking about working around the edges rather than approaching a new concept or anything like that.

The only suggestion I would have for the witness list is perhaps to have somebody who uses the commissioner's reports in their work to effect change. One of Ms. Fraser's criticisms was that the government hadn't responded enough. I think the PCO might be an interesting witness. But I think we should have someone we know has got much experience using the commissioner's reports to try to effect change, especially if that has been one of the criticisms, so that we talk to this person about how the effectiveness of the reports could be improved. I know that some in the NGO community tend to use them quite a bit. We'll cast about for a name or two of someone who has a track record with the reports, has seen them applied or not applied, and has got some thoughts on what will happen if you change this and that.

But again, I go back and caution against starting to dive deep into the mandate and the legislation.

I think Mr. Bigras' comment about the official languages is a good one; we have a model that makes sense.

On the mandate questions, let's not go too far. I'm one who believes the mandate is actually pretty clearly set. It's just the technical structure that needs to be changed.

The Chair: Yes, I think keeping it simple is probably something we should consider. If we get too far out and get too many recommendations, first of all, we'd be taking more than one meeting of the committee and we'd probably be venturing into an area where we really don't need to go. So I think we'll take that advice, certainly, Mr. Cullen.

Mr. Harvey, I know you had a comment as well.

[*Translation*]

Mr. Luc Harvey: Regarding our list of suggested witnesses, I think it would be more appropriate to hear from the Commissioner of Official Languages and—

Mr. Bernard Bigras: The Privacy Commissioner.

Mr. Luc Harvey: That's right. Because they operate independently, they would be well placed to speak to us about the independence of a commissioner. Ms. Fraser also offered to testify.

Instead of having an environmentalist debate the merits of an independent office of commissioner of the environment, in my view, it would be more appropriate to hear from those who work directly in the audit field or in a commissioner's office. That would help move this file forward.

[*English*]

The Chair: I would just remind committee members that we are discussing this motion, and it isn't broad enough that we're going to reconstruct the position exactly. We're dealing with a motion that is basically a recommendation to government that it look at establishing that independent office for the environment commissioner.

I think we could broaden this out and spend the rest of the year on it, and that is not, I believe, what Mr. McGuinty intends. He wants to keep this issue simple and bring it forward and state that we believe—if that's our decision at the end of this—that we in fact should have an independent environment commissioner from the Auditor General's office. So let's just keep in focus what the motion is before we broaden it out too widely.

Mr. Bigras.

• (1625)

[*Translation*]

Mr. Bernard Bigras: I agree with Mr. Harvey. I think we need to do some sort of comparative analysis of the duties of the Auditor General and those of other commissioners who report to Parliament. Perhaps we can come up with some very good ideas. Why do the Commissioner of Official Languages and the Privacy Commissioner operate independently? Why shouldn't the Commissioner of the Environment operate independently of the Auditor General? I don't know whether the Privacy Commissioner or the Commissioner of Official Languages will be able to provide us with an answer to this question. However, perhaps we can hear from someone who can explain to us clearly the role that commissioners play and their area of responsibility.

Mr. Luc Harvey: It's a matter of determining how their roles differ.

Mr. Bernard Bigras: That's right. We could look into the reasons why the Commissioner of Official Languages does not report to the Auditor General, whereas the Commissioner of the Environment does. Why is this the case?

[*English*]

The Chair: In talking to Justin, it looks like we've got a number of suggestions now. On the international one, I think we might possibly ask Tim if he could do a quick condensation of what exists internationally, which might solve that problem, in that it's unlikely we can get a witness that quickly. We may well be looking at two meetings, if in fact we were to get these witnesses. But I really think we should limit it to that and tentatively agree to have a vote at the end of the second meeting—if we get these witnesses lined up this way. That would give us a focus, and then we can get on to what we plan to be doing here. Otherwise, I can see this expanding and becoming a major thrust, and I'm not sure we want to go in that direction. I think with the CEPA report or review, there are a number of groups waiting for us to get on with that. I think we should do that.

Are there any other comments that are necessary at this point? So if you can get us names, get them to the clerk—to Justin—as soon as possible. We'll try to set this up then for our next meeting.

At this point, we can go in camera to look at the CEPA report for about an hour, to at least get some direction as to where we're going to go and as to how long the CEPA review might take. That's a

question I've been asked, and I don't know the answer to that, but it's something we could address as a committee.

So I would suggest that we go in camera at this point.

[Proceedings continue in camera]

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