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Chair

Mr. Art Hanger

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• (1535)

[English]

The Chair (Mr. Art Hanger (Calgary Northeast, CPC)): I call the meeting on the Standing Committee on Justice and Human Rights to order, this being Wednesday, March 28, 2007.

The committee will continue its deliberations and discussion on the judicial appointment process.

Witnesses appearing before the committee are some distinguished members of the judiciary: Mr. Wallace Gilby Craig, retired judge; Mr. Edward Ratushny, professor, University of Ottawa Faculty of Law; also, from the Canadian Police Association, Mr. Tony Cannavino and Mr. David Griffin; and from the Canadian Council of Criminal Defence Lawyers, Mr. William Trudell, chairman.

I am going to begin just as the individuals appear on the agenda and turn the floor over to Mr. Wallace Craig. Mr. Craig, you have the floor.

Mr. Wallace Craig (Retired Judge, As an Individual): Thank you very much. I'm impressed by the gathering here. Unfortunately once again, I think I'm the oldest in the room. It doesn't give me any privileges or rights, but it does allow me to reflect on a number of things, and I hope I can do that very quickly for you.

What makes me uncomfortable, though, about being here is that judges generally never speak at all after they leave the bench other than to write a memoir or possibly something for university matters. In my mind, they close ranks, and they don't recognize that possibly there are problems in the criminal justice system.

I worked for 26 years in the provincial court of British Columbia at 222 Main Street. It is a criminal court with 20 judges, roughly, and it deals exclusively with criminal cases. The only cases that we don't deal with are those that go beyond the preliminary inquiry stage to trial by judge and jury, or before a high court judge sitting alone.

During the time I was a judge, the Charter of Rights came into existence, and initially it appeared that superior court Judges would be the judges who would deal in the main with charter issues.

But what happened is that in one case I dealt with and another one back east, in the course of conducting a preliminary inquiry on an indictable matter, charter issues were raised. I granted charter relief, and it went to the Supreme Court of Canada. They decided that inferior judges, as we were called, didn't have the capacity to deal with charter issues. All that meant was that the defence corps quickly decided that they could not afford to wait, and they would simply

elect to have trial before provincial court judges. So the trial bench that deals in the main with charter issues is the provincial court.

That left me dealing with criminal cases and also with the other aspect of it, which you're not going to touch on, and that is the effect that charter issues have on the conduct of criminal litigation.

What I was able to do, though, was experience for 26 years a steady diet of probably 10,000 people appearing before me, one after the other, a conveyor belt that never ends, criminals of every kind, lawyers of every kind, and acquire a deep understanding of human nature. As far as I'm concerned, there are and always will be criminals among us. There are and always will be violent people who are either sociopathic or psychopathic, or beyond that, those who are simply swindlers, who are the same.

You learn to recognize evil when you see it. You don't see it too often, but it is there. So what is the response to that? The response, of course, is the imposition of a just and adequate punishment.

So what does all that have to do with what you have to deliberate on? Probably not much, but it explains my point of view.

In all the time I was a judge, I encountered police officers, both in front of me as witnesses and informally in the coffee shop that I, among other people, frequented. It was open to the public. Then I would see them on occasion at retirement functions and, of course, at the occasional funeral.

In the first two years I was a judge, an RCMP officer was gunned down at the office of the detachment in Richmond, leaving a pregnant wife and two small children. I understood then and forever after the fact that the police are an absolute in the criminal justice system. I say right out front that they are more important than the judges and they are more important than the prosecutors. Nobody dials up 911 and asks to speak to a prosecutor or a judge. You ask for someone in emergency health or the police or the fire officials.

Having that in mind and having then concluded my 26 years, I wrote a letter expressing my respect for the police force of Vancouver, particularly for officers and constables on patrol and for officers having special street duties. They're the real police. To use the vernacular, they do the grunt work.

• (1540)

I described them in what I wrote in a memoir in the first three years of retirement. I said:

At times they are foot soldiers in a dirty and dangerous war against violence, property crime and predatory drug trafficking. The men and women—working in a world of harsh reality, are the back-bone of the criminal justice system. More than that, they are the only ones who risk injury and even death each time they go to work.

I'm mindful of Sir Robert Peel's expression when he brought civilian police into existence as we know them today: "The police are the public, and the public are the police." That bond ought to be firmly established in our communities, but it is not as firmly established as it should be.

To deny police officers the right to be represented on a justice advisory committee is, to me, an absolute denial of that proposition that the police are the public and the public are the police. It's an absolute denial of the fact that we want them, and that we want them to protect us. When it comes to expressing an opinion, and as I read, they're accused of having a law and order ideology, for want of a better expression. Of course, an ideology does not express and reflect reality.

With a great deal of passion and emotion when I speak about this, I really do believe a police officer can be a very functional and advantageous person to have on any justice advisory committee. In fact, I might pause and change direction a little bit. In British Columbia, there are at least five judges who are former police officers. You can't tell that from seeing them work. It's impossible. It may surprise you, or it may not, that the judge in the Pickton case is a former police officer. So if police officers can rise to the level of becoming judges, why can't they rise to the level, even while they're working, of being members of a justice advisory committee?

I think it best that I stop at this point, other than to say just in a few moments that on Tuesday, March 6, I went to a high school in Vancouver, Eric Hamber Secondary School. I've spoken to many groups in the time since I retired and since I wrote a memoir; I've spoken on radio talk shows, on television on occasion, to women's groups and professional groups, and to high school students on occasion. These students were in a planning course, planning their future. I explained to them what peace, order, and good government is all about. I explained to them my view, which was that of a virtual black sheep among judges. I explained that sentencing, in my opinion, is not adequate. I won't go into that, though, because it's not the purpose of your deliberations when you ultimately make them, I suppose.

Those students understood what peace, order, and good government meant when I discussed the concept with them in simple terms. It is a constitutional issue that reflects on the judiciary, the judiciary being recognized as an institution and as a branch of government. As a branch of government, the judiciary has to recognize sooner or later that when we have rampant crime, as we do in the city I come from, it's time for it to do something to further the fact that we are losing the peace and order in our communities.

How does that bear on what you're going to do? When I go back to Vancouver, I'm going to tell them I was at this session, I'm going to explain to them what generally took place, and I'm going to tell them that what I did when I left the session was leave you with the essays written by each one of those students. They're reflections on columns that I've written that all deal with law and order, with the presence of the police, and with the importance of the police.

● (1545)

I'm going to suggest to you that the functioning of the judiciary and criminal justice is very important, and these young people recognize it. I said to them that it's too late for me to do anything for them. My generation dropped the ball, and things aren't in very good shape when they go out at night, when they leave their houses, when they go out about in public, in terms of whether or not they're going to be safe. I said that what they have to do in the next few years, when they're in their twenties and thirties, is think more about their country.

When you take the time, if you ever wish to, and examine what these students have said, I think you'll realize that they are out there and they do expect you people, as parliamentarians, to do something. If not, they are going to take their turn at it, and hopefully do better than you might be able to do.

Really, what you do is not for your own benefit, as politicians or as judges or anything else. It's for that next generation, and I do think the criminal justice system is very important to them.

That's all I have to say for the moment.

The Chair: Thank you so much, sir.

Mr. Ratushny, please.

Professor Edward Ratushny (Professor, Common Law Section, Faculty of Law, University of Ottawa, As an Individual): Thank you very much. It's an honour to be here before this committee again.

I want to comment on two aspects of the changes to the appointment process: the committee structure, at least, and the function of the committee. The first relates to police representation as an institution on these committees, and the second is the removal of the "highly recommended" category in the recommendations that are made by the committee.

Note that I say "police representation as an institution". I of course share my colleagues' great respect for the police, the important role they play in our society, the crucial role they play; and in Canada we've been blessed by very good police officers and forces, as we have been blessed by very good judges and lawyers. However, I do not think it's appropriate for the police as an institution to select members to the nominating committee or at least the assessment committee.

The inclusion of representative law enforcement strongly suggests to me, through the circumstantial evidence—and I'll build the case a little bit—strongly suggests the desire to appoint judges who are not expected to be independent and impartial, but who are expected to judge in favour of police interests. What other explanation is there for providing a representative of that institution on this body as opposed to many other institutions in society?

Criminal cases represent only a very small fraction of the kinds of cases that come before the courts, a very small percentage. Police have no special knowledge of that vast majority of cases. What is more offensive to this notion to me is that the police are partisan actors in criminal cases. Their conduct may be on trial as much as the accused is on trial. They are being judged as part of the judicial determination in the case. That is not true of lawyers, but the conduct of police officers can be a central issue, which is determinative of a case.

An illustration of police partisanship is the series of royal commissions on wrongful convictions that we've seen in Canada recently. These cases are unusual; they're not everyday results, and they don't reflect the work of the vast majority of police officers. But in these wrongful conviction cases—Marshall in Nova Scotia, Parsons in Newfoundland, Morin in Ontario, Milgaard in Saskatchewan, and others—the royal commissioners have identified police misconduct as a central cause of wrongful conviction.

The term “tunnel vision” has been used frequently in these reports, the concept that a police officer is so convinced of the guilt of an accused that the officers will take shortcuts and engage in misconduct to achieve that conviction. It's sometimes called noble cause corruption.

The police have a difficult role. They see the victims, they deal with the victims. They see the consequences of crimes. When they become convinced that this particular individual is guilty, they stop at no lengths to achieve a conviction. That's why we have courts and that's why we have judges, judges who act independently and impartially. They stand between potentially innocent accused and an overzealous police force or police investigative team. Judges are to be a protection against such misguided conduct and not a vehicle to promote it.

• (1550)

The additional piece of circumstantial evidence that suggests to me that this is an attempt to achieve a particular result from judges rather than having them act impartially and independently is the comment of the Prime Minister in the House. I don't know the exact words, forgive me, but the gist of the comment was that we want judges who will help to advance our agenda.

It is not the role of a judge to advance the agenda of the government. The role of a judge is to act independently and impartially, according to the law and the judge's conscience, and not according to any other agenda.

That's why judges always come under attack in countries like Zimbabwe, and more recently, Pakistan. It is very inconvenient for dictators to have to deal with judges who decide independently and impartially, so they harass them and they force them to resign.

In Canada we've been blessed by an independent and impartial judiciary as well as excellent police officers and a strong bar. In Canada, I suggest that we should not even consider taking a tiny baby step in that direction of encouraging judges to carry out any particular agenda.

The second point relates to the category of “highly recommended”. I understand that now the committee will only say “recommended” or “not recommended”; it will not have this

additional category of “highly recommended”. What this does is simply expand one vast pool for the government to feel free to select from.

Of course, the government is entitled to do that. The government ultimately makes the appointment. It is a cabinet decision, a government decision. And ultimately, the government will be judged in the big picture in terms of the kinds of judges they appoint, although there's a limited constituency that has a direct interest or knowledge of how well they're doing.

For that reason, I would suggest that the category of highly recommended should remain. Not only should it remain, but the government should report publicly on the number of times it has made appointments from the highly recommended category and the number of times it selected merely from the recommended category. This would give at least some public measure and accountability as to the extent to which the committee's recommendations were being seriously considered.

Of course, there may be reasons for departing from the category of highly recommended. It might be that there is a special need in a court for a particular kind of judge, someone who is an expert in bankruptcy law, for example. That may be a need that a court is lacking when there's no one in the highly recommended category who can fulfill that function. That would be a justification for departing from selecting from the highly recommended category. There may be issues of equity in the appointments, diversity on the bench, that would cause the government to select from the broader pool of recommended rather than the highly recommended category.

So there may be justification for it on occasion, but in my view, having the more specific advice of highly recommended versus recommended is additional information and opinion that can be helpful to the government in making its decision, and if there is reporting on the extent to which they appoint from one or the other category, that should provide some public accountability as well.

Thank you.

• (1555)

The Chair: Thank you, Mr. Ratushny.

We'll go to the Canadian Police Association now. I understand, Mr. Cannavino, you will be presenting.

Mr. Tony Cannavino (President, Canadian Police Association): Yes, Mr. Chair.

The Chair: Please go ahead.

[*Translation*]

Mr. Tony Cannavino: Thank you very much, Mr. Chairman.

If I had a Latin temperament and were impulsive and emotional, I would tend to respond immediately to the comments I just heard, but you know that that is not in my nature. However, perhaps I misunderstood. Perhaps I should have put my headset on when he referred to corruption, partisanship and tunnel vision. I hope he was not drawing a comparison between the astounding number of lawyers who are accused of such things and Canadian police officers, but perhaps I misunderstood his comment.

Good morning ladies and gentlemen. The Canadian Police Association, CPA, welcomes the opportunity to present our submissions to the House of Commons Standing Committee on Justice and Human Rights with respect to the judicial appointment process.

The CPA is the national voice for 54,000 police personnel across Canada. Through our 170 affiliates, membership includes police personnel serving in police services from Canada's smallest towns and villages as well as those working in our largest municipal and provincial police services, the RCMP members associations, and first nations police associations.

We are proud of our relationships with parliamentarians from all political parties. Like you, our members want to make a difference in their communities. As the national voice for front-line police personnel across Canada, we bring a unique perspective on progressive justice reform.

By raising awareness on law enforcement and justice issues, the CPA promotes community safety.

Police associations have contributed to the deliberations on such issues as youth criminal justice; child pornography; impaired driving; sentencing, corrections and parole reform; national sex offender registry; criminal pursuits; organized crime; and technological innovation in policing, such as DNA testing and the Canadian Police Information Centre renewal project.

We are proud of the calibre of today's police officers and the contributions they make to their community. Police officers are men and women who want to make a positive difference in their neighbourhood. You will find them coaching in local arenas, gymnasiums and sports fields, volunteering with organizations such as Big Sisters, Boy Scouts and Special Olympics, or lending a hand with a local school, civic club or the United Way; that is where you will find your neighbours who are police officers. Policing is not just a job, it is a way of life.

We were pleased when the former Minister of Justice, Mr. Toews approached us about having law enforcement representatives sitting on the judicial advisory committees. It immediately made sense to us that police officers could bring their skills and experience to the table to bring another perspective and skill set to the process of selecting judges.

I would like to thank Prime Minister Harper, Minister Toews and Minister Nicholson, for their support in making this decision, and for standing their ground when the decision came under partisan attack. We are grateful for their support, and sincerely appreciate their confidence in our profession.

Recently the Canadian Police Association appeared before the Supreme Court of Canada, as interveners in a case concerning investigative standards. Could you imagine my surprise that very same morning to learn that the Chief Justice, who was also presiding over this case that day had issued a public letter condemning the decision of this government to include police officers on these committees? Certainly this was not something we expected from the highest judicial official in Canada, who is expected to be neutral, impartial, independent, and non-partisan. Unfortunately, we understand, all too well, how an apprehension of bias, partisanship and

partiality serve to undermine the confidence of Canadians in our justice institutions.

● (1600)

The composition of the judiciary advisory committees incorporates a variety of different perspectives: one nominee of the provincial or territorial Law Society, one nominee of the provincial or territorial branch of the Canadian Bar Association, one nominee of the Chief Justice of the province, or of the Senior Judge of the territory, one nominee of the provincial Attorney General, or territorial Minister of Justice, one nominee of the law enforcement community, three nominees of the federal Minister of Justice representing the general public, and one ex officio non-voting member: either the Commissioner for Federal Judicial Affairs or the Executive Director, Judicial Appointments.

Lawyers, including the criminal defence bar, are well represented on these committees. The fact that these lawyers often appear before courts to plead their cases in an adversarial system has not been seen as a conflict of interest or reason to bar their participation in the selection process. The fact that lawyers may also become candidates for selection has not barred them from participation either. After only one year following the end of their term of office on the committee, lawyer members may themselves become candidates for judicial appointments. We submit that this certainly raises questions of conflict, or perception of conflict. We are not suggesting that lawyers should not participate in this, even criminal defence lawyers. Obviously they bring an important perspective and understanding of the justice and legal system. We would suggest, however, that the process can, and will, be strengthened by broadening the perspectives and experiences around the committee table.

[English]

Police officers work at the front line of our justice system. Police officers work closely with victims of crime and those who are most vulnerable and disadvantaged within our communities. Police officers understand that our justice system needs to be much more than simply a legal system.

Regrettably, there have been some very strong reactions from some regarding this decision. The Leader of the Opposition has suggested that the Prime Minister is attempting to manipulate the judge selection process. The Prime Minister has defended the decision, pointing to the need for different perspectives on these committees.

Clearly those who had a monopoly on judicial appointments do not want to part with it. The strongest opposition has come from bar associations, including criminal defence lawyers and members of the bar serving in the judiciary. Are they simply trying to preserve their exclusivity? Quite possibly they are.

The former Chief Justice of the Supreme Court has even suggested that the selection of judges should be through committees comprised solely of lawyers.

In actual fact, the process federally and in many provinces has included the appointment of lay people for quite some time. It is quite conceivable that a police officer or a former or retired police officer may have been appointed as a layperson on the committee. We contend that the process can in fact be enhanced by bringing more community perspectives into the process, not less.

Some have suggested that the introduction of police officers on the judicial advisory committees will risk politicizing the judiciary and police associations. Yet previous witnesses before this committee who have studied the judicial appointment process for years have declared that previous Conservative and Liberal governments have all given undue influence to political considerations in making judicial appointments. We would argue that expanding the process to include non-partisan appointments such as police officers will serve to reduce this risk.

A previous ad hoc committee of Parliament, chaired by Mr. Lee, presented reports to Parliament on the appointment of Supreme Court judges. In the May 2004 report, the ad hoc committee enumerated the personal characteristics of candidates who should be considered for the Supreme Court: honesty, integrity, candour, patience, courtesy, tact, humility, fairness, and common sense.

Police officers bring training, interviewing skills, and experience in assessing credibility and truthfulness to this process. Unfortunately, police officers have been classified by some as a special interest group with a narrow interest in the justice system.

We would suggest that at the end of the day, we are no different from many other groups that appear before this committee, including those here today. We are stakeholders within the justice system who seek to find the truth and, in doing so, seek safer communities and neighbourhoods.

Finally, we understand that since these appointments have been made, many of the committees have met and are working well together. We are confident that over time the results of the committee process will support the government's decision.

Thank you, Mr. Chair, and thank you, members.

• (1605)

The Chair: Thank you, Mr. Cannavino.

Now it's Mr. Trudell, with the Canadian Council of Criminal Defence Lawyers.

Mr. William Trudell (Chair, Canadian Council of Criminal Defence Lawyers): Mr. Chair, thank you very much. It's an honour to be asked to appear here today on this very important topic.

It's always a pleasure to come before the committee, but this is a special day for me, because Professor Edward Ratushny dragged me kicking and screaming out of the first class at the University of Windsor Law School many years ago, and it is a real thrill to be sitting at the same table he is at. He was only nine; he was the youngest professor ever appointed to a faculty.

But actually, Justice Craig, I identify with you, because you see yourself as a black sheep among judges. I was a black sheep and remain a black sheep in many circles. So we have a lot in common. The white sheep from that class sits here to my right.

We appreciate being here; I appreciate being here, but quite frankly, I'm not going to get into the situation of finger pointing and that kind of thing. We believe, on behalf of the Canadian Council of Criminal Defence Lawyers, that this is about principles, not the process.

The government, the Minister of Justice, has the right to appoint. That's the way it should be. The politicians who are elected have their pulse on what's needed, and we don't question that.

We question a couple of things, however. You've heard it from me before on behalf of the CCCDL when we've been here. Consultation is so very important when you are going to change something so dramatically as legislation, or even this very important process. If I were to say there's one thing that concerns me greatly here, it's that there was no real consultation before this was done.

Do you know what? Appointing police officers to a committee to screen potential candidates to the bench in itself doesn't destroy the process. Police officers could have been appointed before. I served on the provincial committee in Ontario for five years, and the fact that a police officer—in and of itself, the earth is not going to collapse. Stripping a judge of a vote in and of itself doesn't mean the committee process is destroyed. Giving federal appointments the majority vote may not destroy the process. Removing “highly recommended” and replacing it with just “recommended” may not destroy the process.

But putting it in the context of what's happened here—I hope I have it wrong—if the Prime Minister said, “We want to make sure we're bringing forward the laws to make sure we crack down on crime, that we make our streets and communities safer; we want to make sure our selection of judges is in correspondence with those objectives”, that to me changes all of these factors and means that we have to look at the process. I as a Canadian, as a defence lawyer, with great respect, was taken aback and had to read this about three or four times.

If the Prime Minister and the minister just want to make it more representative of the community, that's fine. They can do that. But that's not what happened here. The Prime Minister said—and I apologize if I'm misquoting him, and I'm not pretending to quote him directly—we want to make sure that our political agenda is reflected in the committees. So when you take what happened in relation to the change of the committees, we have to be concerned.

Our concern here is that it's the principle; it's not the process. There are fantastic police officers, and there are even some fantastic defence lawyers in the world. But that's not what we're talking about here. We're talking about potentially politicizing the process, and that's not what we want in this country. I hope the Prime Minister didn't mean to say that.

• (1610)

I'm not here to represent the Chief Justice of the Supreme Court of Canada. She could do a lot better, for sure, and I'm not going to do that. But I think the Chief Justice, remarkably, was speaking about the principle, not the fact that there was a police officer on this committee.

When I look at “Canada's Court System: Keeping the system fair and efficient”, on the Department of Justice's website, it talks about the process, and under the heading “Judicial Independence”, it says:

Judicial independence is a cornerstone of the Canadian judicial system. Under the Constitution, the judiciary is separate from and independent of the other two branches of government, the executive and legislative. Judicial independence is a guarantee that judges will make decisions free of influence and based solely on fact and law.

As I look at the comment, not what happened to the process, I wonder whether or not there's an erosion of this principle.

The third paragraph talks about tenure: A number of institutions foster judicial independence, notably the Canadian Judicial Council, the Commissioner for Federal Judicial Affairs and the National Judicial Institute. These institutions help maintain a distance between the government and the judiciary in areas like discipline, pay and benefits, and continuing education for judges

—and I would have thought, before these comments were made, the principles that we're dealing with here.

So at the end of the day, I really believe there seems to be a problem, and the problem seems to be really an optical one.

With the greatest respect to him—he works hard—the Prime Minister of this country should not be saying those things, because it blurs the lines. I have nothing against the police, but how many times have we heard in the last five years in this country, in the last year, politicians embrace the criminal justice system, the courts? How many times? Not enough. All through the world, our system is held up as an example. We go over to third worlds and teach. But where are the parliamentarians? Where are the leaders embracing the criminal justice system?

I have been at many committees, and with great respect, my criticism of the police, special interest group, lobby, or citizens, or associations, whether it be the CACP or this association, is that they don't seem to embrace the criminal justice system: the judges are not tough enough, or they're not getting it. That's the problem.

Those are the statements that we would like to make. It is not the process, it's the principles. It's my respectful submission that if you are going to change the principle, you have to consult. I would like later on, if I have time, to talk about the changes, because to me, the mediocre are entitled to appointments too, but with great respect, we are shaping the history of this country for our children, and we want highly qualified and highly recommended candidates—not superstars from the bar; that doesn't make someone highly qualified. In the most important thing that preserves our democracy, surely the minister should be able to choose from the highly qualified.

Last, I'd have to spend a lot of time on it, but my experience on the judicial appointment committee in Ontario is that a judge is very important. A judge is only one voice, but a judge should have a vote. Why strip a judge of a vote? It leads to kind of a vote thing as opposed to a consensus thing. Judges have so much to offer in terms of guidance. I don't understand, except in the context that we accept somehow that the committees were the private clubs of judges and lawyers, which is preposterous, because the committees in this country are jealously protective of the judges. We love the system we have in this country. I would think most people on committees would

tell you that once they get in there, there's almost a sense of fear to make sure they're doing the right thing.

• (1615)

I don't care, personally, if people are members of any particular party or if they lobbied for a particular party. If they come out, and they're highly qualified—Let's say there are three of them. I'm the Prime Minister, or I'm the Minister of Justice, and I belong to one party, so I may appoint that person. This has been going on forever, and it will continue. But if they are all highly qualified, we've done the right thing.

So it is the principle here that is of great concern, not the tinkering with the committee.

The Chair: Thank you, Mr. Trudell.

Now to the questions. Mr. Murphy.

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

It's quite amazing; we have people here today of seemingly divergent views, and yet all of them make complete sense—to me, anyway, although I might just be having an off day.

If we can have a moment of self-reflection here, I think it opens up a larger issue: we're not really studying the appointment of judicial officers here, we're having a political debate. Sometimes, perhaps unfairly, the opposition might say that the government is anti-judiciary, anti-judge. I'm sure they're not. I'm sure the lawyers—there are at least three of them over there—can't be anti-judicial, anti-judge.

Quite frankly, when the Attorney General gets on the floor of the House of Commons and says that the opposition—in this case, the Liberals—are anti-police, that's equally false. By my background as a practising lawyer for some 21 years, and as a former mayor, I can't be either anti-police or anti-judge. My late uncle was a provincial court judge in the city of Moncton, where occasionally there is serious crime. It's not Vancouver or Toronto, but—For 35 years he developed very close relationships with prosecutors, defence attorneys, and for sure, the police.

So that's where I come from. We all come from communities.

I guess where I'm going with this line of questioning, Mr. Chairman, is that we're here discussing who should be, as Mr. Trudell says, on the committees. We're here discussing process, as if somehow this is going to be a debate of principle and attitude. I think we may be wasting our time discussing the judicial appointment process, because the very presumption, by the government's enunciated policy of change, is that there's something wrong with our judiciary. But I'm not hearing that from the retired judge, from the police officers, or from the defence attorneys.

What is wrong with our judiciary that would lead the Prime Minister to announce a statement that would divide the parties, that you're either pro-police or anti-police? It's pure politics.

I don't expect you people to comment on the politics. We're making a fine enough mess of that up here on both sides. We don't need your expertise on that. I guess I would ask each person, starting with the retired judge, what is so wrong with the level of the Canadian judiciary that we have to have these fairly large changes to the process? What is so wrong with our judiciary that the Prime Minister had to make this change?

Judge.

• (1620)

Mr. Wallace Craig: I can take you back and deal with that very simply. There has been a generational shift in judges. It has nothing to do with the appointment process; it's a matter of attitude.

Judges who were what Tom Brokaw called "the greatest generation", those who grew up and went through the Depression, those who fought the war, those who made Canada what it was in the last 50 years of the twentieth century, they knew what to do when they were dealing with vicious criminals. They would sentence on a global basis to 35, 37, or 40 years. The same judges now in the courts of appeal across this country will limit global sentences to probably 20 at the most, and when you take into account early parole and other factors that are weaseled into the system, such as giving credit for time spent in custody awaiting trial and sentencing, what this means is that the price of crime is pretty low. Crime pays. Criminals continue to become almost serial criminals in property matters simply because there is no punishment, and that's mainly the fault of the provincial court that I was in, not the high court judges.

What I'm saying is that the boomer judges just don't get it. They will not protect the public through the sentencing process, and that is because many of them will openly say, anything but jail comes first. Look at the conditional sentence and it will tell you what it's like in the hands of judges.

I'll give you one brief example. The first day it came into effect in the court where I sat, a lawyer came up to me and told me I wouldn't know what was going on in Judge X's court, and when I asked what, he said it was a feeding frenzy. That judge, who was anti-police and anti-everything, jail included, was granting conditional sentences as quickly as he could. He probably granted 20 that day.

Now, what I'm saying is, where the hell does he come from with that notion? What I'm saying is that there can be judge-shopping. There can be manipulation of the process. Plea bargaining is rampant in this country. All of that turns judges into rubber stamps when there are plea bargains. I don't like it. I am ashamed of the fact that the judiciary has not done its job in the sentencing process under the Criminal Code, and the appellate courts, with their sentencing guidelines, have literally told Parliament they don't care what Parliament says in its legislation called the Criminal Code of Canada, which is the second most important piece of legislation in our country.

In our constitutional law, beneath the Constitution, where it says "a maximum in aggravated assault of 14 years", can anybody tell me

when they've last seen one? I haven't. The sentencing guideline in British Columbia is five to eight years, and that's ridiculous.

In other words, that's what's wrong with the judiciary, if I might say it in simple terms.

The Chair: Professor.

Prof. Edward Ratushny: I'm afraid I have to disagree with my learned colleague. I think the judiciary has evolved, and the society has evolved. I think there's a lot more information available. There are a lot more studies, including studies that show the inadequacies of imprisonment, how imprisonment generally is counterproductive. We've got greater insights into the nature of the people who commit crimes.

There are some evil people who should be locked away for a long time so that they're not allowed to continue to prey on society, but there are a lot of other shades of grey in terms of people who come from broken homes, people who have all kinds of psychiatric problems, mental problems, and that sort of thing, and I think sentencing has become a much more sophisticated process because of that knowledge. The idea that anything but jail should come first is a principle of sentencing, and I think a very sound principle, particularly where you talk about a first offender, someone who has not gone to jail before, someone who is a young offender where there's hope for rehabilitation. That principle I think is a very valid one.

There are other principles of sentencing that say that in certain circumstances a person must go to jail, even though there's almost no likelihood of recidivism. A person who is in a position of trust, a lawyer, an accountant, who has trust responsibilities and who abuses those responsibilities, even though it may be as a result of a rough time through addiction or whatever the case may be, such a person has to go to jail. That's a sentencing principle, because in that situation general deterrence must be prevalent.

So I think we've evolved in our understanding of sentencing. There have been studies done showing that when lay people were asked what kind of sentence they would give for a certain set of facts, they've come down very hard as a gut reaction. When they learned the circumstances, the kind of information that would come before a judge on a sentencing hearing, their result changed to come out to just about what the judges had decided in these cases. There are actual criminological studies that demonstrate—

• (1625)

Mr. Brian Murphy: What is wrong with judges? That was really the question. What's wrong with judges?

Prof. Edward Ratushny: I'm saying there's not very much wrong with judges in Canada. I've been involved in constitutional review in Kenya, for example, where we condemned corruption amongst judges. The chief justice there had a Hummer and a Cadillac and a Mercedes and so on, and when he ultimately resigned and they pulled all these things away, he condemned us for putting the finger on corruption. It took people from outside of the country to come in and examine this. I could tell you stories about some of the magistrates and some of the corruption that occurred.

In Canada, I cannot think of a single case—there may be one, but I can't think of a single case—in which a judge has been convicted of corruption. Can anyone else?

Mr. Wallace Craig: I can.

Mr. Tony Cannavino: I guess I can as well.

Prof. Edward Ratushny: In which they've been paid off?

Mr. Tony Cannavino: Absolutely. We could show you a couple of them.

Prof. Edward Ratushny: Well, I've never seen one.

The Chair: Mr. Cannavino, do you want to respond to the question?

Mr. Tony Cannavino: Yes. It's very interesting and refreshing to have—

The Chair: Order, please.

Mr. Cannavino.

Mr. Tony Cannavino: We often hear about studies and comparison studies. What I like about today is that we are privileged to have a judge here who's been on the bench for 26 years. We're talking about experience in the number of cases he's seen. So the comparisons with certain studies—And I'm a little bit astonished to hear the last question about judges sentenced for corruption. There are a few, so I don't know what kind of studies—There must be a flaw in the studies you've read.

The other thing is the principle of anything but jail for the first sentence. We don't agree with that. It depends on what the crime was. What was the intention? What was the *mens rea* on that? You have to look into that or else we're going to start a debate on another committee that we said—we're talking about revolving doors.

Mr. Brian Murphy: What's wrong with judges, Tony?

The Chair: Mr. Cannavino, in reference to Mr. Murphy's question and this principle that has come forward, as Mr. Ratushny pointed out, of anything but jail, are the judges then following the principle that's outlined? Is that basically what's happening here? Anything but jail: who came up with that?

Mr. Tony Cannavino: In the training we have had—and we always have updates—I have never seen that. I don't know where it's written that it should be the principle. I think the best person to answer that would be Justice Craig. The question is, I don't know if we're talking about process or about committees and what is wrong with enhancing a committee.

The Chair: Okay.

Mr. Trudell. What's wrong with our judges?

Mr. William Trudell: Nothing. With great respect, first of all, the Criminal Code provides under section 718—and it's the law—that jail should be the last resort. That's the law, and I don't want to get into a debate with Justice Craig about whether judges are too soft or whatever, because at the end of the day, Justice Craig has said that we need tougher judges.

In answer to your question, sir, there is nothing the matter with the system if we embrace the system. If, for instance, the Prime Minister had said we have a very good criminal justice and federal justice system in the country, but he would like to maybe introduce police

officers on the committees to broaden the perspective, we wouldn't be here.

So there's nothing the matter with it. The matter is the politics that are built into it. There was some criticism suggesting that Liberal-appointed judges or whatever-appointed judges were thwarting government agendas and we're not getting it and not applying the law and not being tough on law and order. That's anecdotal stuff. We all know that there are judges who are tough and judges who are perhaps lenient, but we're not going to get into anecdotal stories. There's nothing the matter with the system. There's nothing the matter with it.

The Chair: Thank you, Mr. Trudell.

Just for the benefit of the committee, looking at section 718.2 of the Criminal Code, other sentencing principles, it's noted in point (e) that “all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders”. And that's outside—

• (1630)

Mr. Brian Murphy: Read all of section 118. That's ridiculous. Those are the sentencing principles. There are a bunch of sentencing principles. You can't just read one.

The Chair: No, but I'm talking about the reference—

Mr. Brian Murphy: Okay, we all have a code.

The Chair: —that Judge Craig and Mr. Ratushny had mentioned. I'm just making reference to that for the benefit of the committee.

Now, I think your time is up, Mr. Murphy.

We'll go to Mr. Ménard.

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Mr. Chairman, I'd like to draw your attention to the fact that that was 11 minutes, although Mr. Murphy's comments were relevant. I'm certain you will be just as generous with all our colleagues. That being said, I will not accept being interrupted after six minutes.

I am somewhat surprised by the direction this debate is taking, because we are not here to establish sentencing principles nor to decide whether or not police officers or judges are corrupt.

I tend to believe that most people do their jobs honestly. Of course, there have been cases of corrupt police officers, teachers, MPs and judges, but that has nothing to do with our debate today. This is a government which decided, with no prior consultation, to rework the rules of the game in the judicial appointment process, and we have reason to believe that they did so for ideological reasons. As parliamentarians, we have to decide in this matter, and this has nothing to do with whether or not police officers are competent.

Why choose police officers over notary publics, nurses or any other professional? Police officers, as diligently as they may do their work, do not have any greater expertise in the field of criminal law. Besides, most lower courts do not deal primarily with criminal matters. So why would they claim they have more expertise in the matter than anyone else in our society? It is a problem because in 8 out of 10 provinces, police officers trigger the laying of charges. I don't understand how anyone could feel there is no potential conflict of interest here.

Are police officers able to exercise appropriate judgment as to the qualifications required to be a judge? Of course. But once you step onto that slippery slope, you accept that the system for appointing judges loses its integrity.

This leads me, in a spirit of friendship and out of great respect, to ask two questions, first of the professor—I will not try to pronounce his name—and one of my colleague Mr. Cannavino.

Witnesses have asked us to set out in legislation the terms and conditions relating to the composition of judicial advisory committees to avoid governments making any changes to them given the random partisan fluctuations we've seen. Would you be in favour of legislation being submitted to Parliament aiming to preclude any undue partisanship?

I realize my question may be biased, but I am familiar with your great intellectual integrity. My question goes to you, Mr. Cannavino, as well as to your seatmate. Would you agree that police officers have a specific mission to carry out, that they are in a position of conflict of interest from the start because they are the ones that bring the charges in 8 out of 10 provinces?

I suggest that the professor answer my two questions, and then Mr. Cannavino.

• (1635)

[English]

Prof. Edward Ratushny: I didn't understand your first question. Was it whether there should be term—?

[Translation]

Mr. Réal Ménard: Do you believe Parliament should pass legislation to determine the terms and conditions relating to judicial appointments, as your colleague Professor Sébastien Gramont told the committee two weeks ago?

[English]

Prof. Edward Ratushny: A limited term of appointment.

[Translation]

Mr. Réal Ménard: No. I'm referring to the way in which we select judges.

[English]

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Should the process of selection and appointment of judges be framed in an actual piece of legislation? Some of the provinces already have that for provincially appointed judges.

Prof. Edward Ratushny: I see, the qualifications for judges.

Hon. Marlene Jennings: The qualifications, the process, meaning that a committee, the committees proposed—

Prof. Edward Ratushny: I see. No, I don't think that legislation would be appropriate.

Ultimately this is a decision of the government. All this advisory structure is essentially the government asking for assistance. But by the Constitution, they have the right to appoint judges—the government does. That's the government's prerogative. I don't think that prerogative should be bound by legislation.

[Translation]

Mr. Réal Ménard: Very well.

I'll ask my second question, and then turn the floor over to Mr. Cannavino.

Am I mistaken in believing that police officers, who do admirable work with integrity, are involved in the process? In a number of provinces, not in Quebec but elsewhere in Canada, they initiate the indictment process.

[English]

Prof. Edward Ratushny: They start the criminal cases, you're saying?

[Translation]

Mr. Réal Ménard: Yes.

[English]

Prof. Edward Ratushny: Well, it goes beyond that. They're involved in the criminal cases. Their conduct is reviewed in the course of a criminal trial, so they're very much partisans in the process. So unlike the lawyer, whose conduct is not judged in the ultimate determination of the case, the conduct of police officers may well be and frequently is.

So that in that respect, I believe they're partisan.

[Translation]

Mr. Réal Ménard: Very well.

Mr. Cannavino, I'm sure you're dying to express your views on that.

Mr. Tony Cannavino: You know my characteristic composure.

Mr. Réal Ménard: Yes, and that is in fact why your comments are perfectly relevant to our study.

Mr. Tony Cannavino: Absolutely.

You want to know if we need legislation. Legislation can be amended over time by governments and as positions change. I don't think it would be appropriate to have legislation. It is not an important or major point for us.

The minister is accountable to the Prime Minister as well as to the House of Commons. That is the process. You hold lively debates, and your comments sometimes influence decisions. We leave that part up to legislators.

With respect to knowing whether the police officers have a specific mission, most probably. That's what I was saying earlier on.

Mr. Réal Ménard: Not a mission, a conflict of interest.

Mr. Tony Cannavino: You referred to a specific mission and then to conflicts of interest, if I am not mistaken.

We certainly have a specific mission. I would imagine it is the same specific mission as that of all members of the committee, in other words to find the person who has the most integrity, who is the most honest, who has good experience and who will serve justice well. I think our concerns are the same as those of all other members of the committee.

With respect to police officers having a conflict of interest, I think there are very few professions that are as closely overseen as law enforcement. There's the police force's internal affairs unit and there are discipline committees. In some provinces, they are called SIUs and in Quebec, they are called *comité de déontologie*, ethics committees. And then, there is criminal court. Essentially, if police officers are in conflicts of interest or not doing their work with integrity, they are suspended.

Mr. Réal Ménard: Mr. Cannavino, that is not what I am questioning.

[English]

The Chair: Mr. Ménard, no. Your time is up.

[Translation]

Mr. Réal Ménard: I would like to ask one last question. You gave the Liberals 12 minutes. I did not get 12 minutes.

[English]

The Chair: Your time is up. With the aid of your Liberal colleague, your time is up.

Mr. Comartin.

•(1640)

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you, Mr. Chair.

Thank you all for being here.

Justice Craig, would it be fair for me to characterize your position in the testimony you gave today as being very much in the minority of that of the vast majority of judges currently sitting on the bench?

Mr. Wallace Craig: You'll never know what the judges on the bench think, because first of all, they can't speak publicly about anything they've done. Once they're out of court, the judgment of any judge belongs to the litigants, the lawyers, the legal profession, and the public.

It would be improper for me to say anything, and I did say nothing. I would give no interviews to the press, no photographs, nothing—absolute silence. The tendency of judges now to speak publicly while in office, including the Chief Justice of Canada, is a very immense shift. But once retired, I think a judge has a duty as a citizen to not go off and play golf in Florida or do whatever else. He has a duty, if there's something about the system that's extremely good, to voice it, and if there are things that are troubling him—In my case, it's plea bargaining, which is rampant. That's behind-closed-doors sentencing and rubber-stamping by judges.

Why am I the only voice in Canada? Am I an eccentric or is something wrong with me? The answer is that they act like a private club. They do not want to rock the boat. Now, I don't blame them. It's a very difficult job. Once you become a judge you're no longer a

free citizen to do the things you did before. You're isolated. You talk only to other judges, in the main.

It's a very difficult thing, when they get to retirement, to become a gadfly like I have, and I'm not happy about it. I feel very uncomfortable about being here. When I spoke to the students, it was very difficult for me to tell them the difficulties that victims have, tell them how the victims feel. Victims in Canada feel they're being denied justice, I can assure you all of that.

In the appointment process—What is wrong with judges when they say to victims, “The criminal justice system can do nothing for you”? They're literally correct, but it's very hard on victims. So what I'm saying is, when I've dealt with these young people and said that I don't think I've accomplished anything in 26 years in this regard, that everything I did that was an adequate sentence would be either returned by the court of appeal right from the very beginning as harsh and excessive—And this is the generational gap that I was dealing with, generational change, things like that.

But let me just tell you where it all began.

Mr. Joe Comartin: Justice Craig, let me go on, because I'm really tight on time. I got the point.

Mr. Wallace Craig: All right. I'm sorry about that.

Mr. Joe Comartin: Mr. Ratushny, this is on the process that the Prime Minister has instigated here. First, is it correct that you've been extensively involved in the judicial appointment process going back nearly 30 years now?

Prof. Edward Ratushny: It was the early 1970s, yes.

Mr. Joe Comartin: Are you aware of any provincial government of any political stripe that has introduced these types of appointments—that is, of police officers being specifically appointed as one of the categories—to any of the committees in this country?

Prof. Edward Ratushny: I'm not aware of any, but perhaps my colleague Mr. Cannavino might be more familiar with that, in terms of a comprehensive survey.

Mr. Joe Comartin: Right.

Mr. Cannavino, we've heard from Mr. Trudell and we've heard it from other witnesses that no one who's been before us up to this point has been consulted. Mr. Griffin, you may know as well. Was the national police association consulted before this decision was made by the current government?

Mr. Tony Cannavino: The only time I had a conversation with the former justice minister, he was asking what I thought about that, as his intention was to make some changes to the committee and include a police representative. I was very happy to hear that. Of course I said I would be very supportive, because it would enhance the work of the committees.

Mr. Joe Comartin: Was that before it was made public that they were going to shift the appointment process this way?

Mr. Tony Cannavino: I can't remember. I'm not sure.

Mr. David Griffin (Executive Officer, Canadian Police Association): It was certainly before the announcement, but certainly I wouldn't call it consultation. There was nothing presented to us.

Mr. Tony Cannavino: No, absolutely not. It wasn't a form of—

Mr. Joe Comartin: At least they talked to you, which is more than they've done to anybody else.

Mr. David Griffin: We don't know who else they talked to.

Mr. Joe Comartin: So far, we haven't found anybody.

One of the concerns I have is not only the question of the independence of the judiciary. As you know from some of the statements I've made, I'm not opposed to police officers' being appointed on occasion to either the federal committee or the provincial ones. As Mr. Trudell has set out accurately, it's the process that led us to this one and what appears to all of us to be a real threat to the independence of the judiciary. I'm concerned about that, but I really don't want that comment.

I'm equally concerned about the politicization of our police. Have you given any thought to the fact that once this government is out of power, which will be shortly—that was just for my friends across the way—you will be faced at some point, whether sooner or later, with a different government, and that it will say this is wrong? As all three of the parties have taken that position, it's going to happen at some point. You will be seen to be isolated in favour of one political party. Has the association given that any consideration?

• (1645)

Mr. Tony Cannavino: We've thought about what would happen if there were to be some changes, but do you know what the answer was to all of that? It was to let's wait and see; after a year, probably you will all agree that it's going very well and it's positive, so this thing will not come back in discussion anymore, because you'll realize by the reports of the different committees that what they thought and what they apprehended didn't happen.

Mr. David Griffin: Could I add something as well?

Our organization strives to be non-partisan and we try to meet with members from all political parties to advance our issues. With the previous government, in fact, and with the last two previous prime ministers and justice ministers, we had good relationships. In the fall of 2001 we appeared 11 times in support of government initiatives following 9/11. Certainly our experience has been that if you were to look at policing 15 years ago, you probably wouldn't have seen police associations in front of these committees on a regular basis, but we found that decisions were being made in isolation and that the concerns or interests of police weren't being brought forward.

Not only federally but also provincially, our associations have become much more active—not partisan, but more active—in bringing the issues and the concerns of front-line police officers forward. In Ontario—

Mr. Joe Comartin: Let me interrupt, because you—

The Chair: Thank you, Mr. Comartin.

Mr. Petit is next.

[Translation]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Thank you for being here this afternoon, gentlemen.

My question is to Mr. Cannavino. In one of your documents, you talk about the various individuals who would be on the Judicial

Advisory Committee or JAC. You state that a member designated by the community is responsible for the enforcement of the act. The purpose of our meeting today is to determine whether that is proper, whether there are any conflicts of interest, and so on.

A member designated by the Attorney General of the province or by the Minister of Justice of the territory is also required to enforce the law, because that is his or her role. Is it possible that this individual who is responsible for enforcing the law, who is a judge, could be in a conflict of interest situation? You are involved in enforcing the law as well, but at a different level. Could we think that a member appointed by the bar, perhaps not a criminal law specialist but someone with some interest to defend, would also be in a conflict of interest?

Does a police officer have the skills and expertise required, as a citizen who is also a police officer, to be a member of the committee?

Mr. Tony Cannavino: As I mentioned in my presentation, we might think initially that a lawyer, a criminal lawyer or a defence lawyer might be biased. Why? Because in addition to the fact that they have some affinity with and frequent judges, there is also the fact that they might possibly be tempted to put their name forward to become a judge. However, we police officers can never aspire to that high office. That is not part of our career path. That said, I fail to see how we could be biased.

Some may think that we are naive to say that the members of these committees are all seeking the same objective—namely that the most competent people assume the high office of judge. Moreover, there are not enough of us to influence or overturn the recommendation. We have just one seat on a committee, not half of them or half plus one.

• (1650)

Mr. Daniel Petit: Do I have any time left?

[English]

The Chair: Yes.

[Translation]

Mr. Daniel Petit: I have a second question, Mr. Cannavino. A number of police officers, at least in Quebec, are on different committees on which they're required to dispense a sort of justice. In cases involving the code of ethics, for example, a number of police officers appear before these committees and the police officers on these committees do virtually what judges of the Provincial Court do: they dismiss them or reprimand them, for example. Do police officers have this type of expertise?

Mr. Tony Cannavino: Definitely. More and more police officers have some legal training. In fact, the Honourable Justice Craig said that some police officers had even taken their bar admission and that over the years they had acceded to the highest judicial position.

We respect the procedures that have been established and so far, I don't think it has ever happened that these individuals have been shown to be biased in the performance of their duties or had not done their work properly. After implementing this new measure for a year, I think the results submitted to parliamentarians will prove how well these committees work.

Mr. Daniel Petit: One final question, Mr. Cannavino. When a police officer who is a member of your association is on an ethics committee, for example, does he show bias because of his job, or does he play the role he is assigned?

Mr. Tony Cannavino: We've never found that these people were easier on us or gave us the benefit of the doubt. All the police officers who have been on these committees—Ms. Jennings knows something about this—ensure generally speaking that everything is done correctly and if there is the slightest deviation from that, things go very badly. We do not benefit at all from the fact that these committees are composed of police officers. They enforce the law honestly and they comply with all the directives and policy statements.

[English]

The Chair: Thank you, Mr. Petit.

Ms. Jennings.

[Translation]

Hon. Marlene Jennings: Thank you, Mr. Chairman.

I would also like to thank all the witnesses who are here today.

[English]

I would like to begin by correcting what appear to be two misstatements, Mr. Cannavino, in your presentation. It would be on the third last page, in the first paragraph, second sentence, where you say the leader of the opposition has suggested that the Prime Minister is attempting to “manipulate the judge selection process”.

I believe, if you look at all the statements of the leader of the opposition—I'm assuming you're referring to the leader of the official opposition—his comments about manipulating the judge selection process were aimed at the fact that changes were made without any prior consultation, as has been the practice of past governments, including Progressive Conservative ones—that prior consultations take place before any modification to the process or to the composition—and secondly, at the fact that the federal government was removing the judges' vote, again without prior consultation, and increasing the number of federal government appointments from three to four. They were not in reference to the fact that the government would be, of its own choice, appointing law enforcement.

So I'd like to correct that.

Mr. Rob Moore (Fundy Royal, CPC): On a point of order, Mr. Chair—

The Chair: Mr. Moore is on a point of order.

Mr. Rob Moore: —I don't think this is an appropriate line of questioning, because we're supposed to, sitting here, try to understand what the Leader of the Opposition was saying. It was in the context of this very issue that he said this was manipulating the judge selection process.

Hon. Marlene Jennings: That's not a point of order.

Mr. Rob Moore: It is a point of order, because we're trying to have a question and answer period here, and you're talking about things that no one here could possibly answer.

Hon. Larry Bagnell (Yukon, Lib.): It's part of a speech. It's debate.

Hon. Marlene Jennings: May I continue?

The Chair: You may continue. It's a point of debate.

Hon. Marlene Jennings: Thank you.

I believe that when the Chief Justice wrote a letter, it was not condemning the decision of the government to include police officers; it was concerning the government's choosing to change the composition, and the “highly recommended”, “recommended”, or “not recommended” to simply “recommended” and “not recommended”, with no prior consultation. That was my understanding. I read the letter that was published. That was my understanding. But I do understand, given the fact of statements that are at times made about police officers, how there could be a certain sensitivity and a reaction that automatically it meant that police officers shouldn't be there.

I'd like to make the point that the issue here, in my view, is not whether law enforcement should be part of the JACs or not. The point has been made that there may well have been police officers or retired police officers who in the past have been on the JACs. The issue here has to do somewhat with what Mr. Trudell was talking about, both the principle that we have an independent impartial judiciary and that over, I'd say, the last 25 years there have been serious efforts on the part of federal governments, from different governing parties, to improve the process to ensure that the process of selection—without diminishing the government's right to then appoint who they want, but the process of choosing and making recommendations to the government—was done in as independent and impartial a fashion as possible, and that consultation would take place.

• (1655)

The Chair: Ms. Jennings, put your question. Your time is about up.

Hon. Marlene Jennings: My question to you is, if you are now on—Law enforcement is now there, and there was no prior consultation. If in three years' time the government, in its wisdom and with no prior consultation, decides that they're going to remove law enforcement, will you not be complaining, saying we should have been consulted, as should all of the other members?

The Chair: Mr. Cannavino.

Mr. Tony Cannavino: I don't know whether I should answer a hypothetical question, but I would say that I'm pretty sure you will not come out with that, because you'll think it was a great idea, with the results of the committees. The thing about it is—

First of all, on behalf of all the police officers I represent, thank you very much to all of you for saying that you really like the police officers, that you think they do a great job. I appreciate that. I'll send a message to all my members.

The other thing is, I don't get it. Why wouldn't the process be independent and impartial because there's a police officer there?

Hon. Marlene Jennings: That's not it. It's the lack of prior consultation.

The Chair: Let Mr. Cannavino finish, please.

Mr. Tony Cannavino: It always comes back to that part. They will do the job like defence lawyers, crown attorneys, or criminalists would do it.

If it's about the process of consultation, it's a debate among all of you. If it's in a committee where we come here as witnesses, we think it's a great idea. We will be supporting that idea, and we'll try to convince you within—

Hon. Marlene Jennings: That we'd take away your voting rights without consultation.

The Chair: Thank you, Mr. Cannavino.

Ms. Freeman.

[*Translation*]

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): In your presentation, Mr. Trudell, you stressed that this was about the principle, not the process. You also said that if we gave you an opportunity to state your views on this matter, you could explain how you see the advisory committee. Would you care to talk about that?

[*English*]

Mr. William Trudell: Can I just say this? It's not ever going to happen federally, because it can't. I've testified about this before, but one of the best systems is the interview process. An in camera interview process really separates the highly recommended political people from the people who probably shouldn't be there.

If this process is to remain, I cannot understand why the judge does not have a vote. It doesn't make any sense to me. It leads to the suggestion that a judge can vote when there's a tie, but I think what you and others have said is that you want a consensus and you don't want to get into voting. This is the spirit of these types of committees.

I think the judge should have a vote. Judges are there to give guidance. They know the types of judges who are needed. They know what the jurisdiction needs. They know the number of judges in the area and things like that. The judge would only be one vote.

I don't understand why they have no votes. It's a message that is not fair, and it's a message that says what? What does it say? Why can't the judge vote? This is a senior judge.

Secondly, I really believe this is an advisory committee, and the minister asks for advice. A committee that advises should surely be able to give advice on candidates who are more qualified or who they highly recommend, because it's what an advisory committee does.

The Minister of Justice is not going to go out to look for people and interview people. He has a committee to advise him. I think that if a committee is going to advise properly, they're going to say, here are the recommended candidates and here are the highly recommended candidates. The minister can choose from the highly recommended or the recommended, but he should have the information. It's the role of the advisory committee, and I believe it's really important.

The federal government has more appointments, and some people have therefore criticized the fact that they can outvote others. If you

give the judge a vote, it balances it a little. You're not open to the suggestion that someone has more votes than others do.

The other thing is this, and it has already been talked about. If you're going to report to the House, if that's what going to happen, let's have a look at this again. It's been done without consultation, for whatever reason, and you're now consulting. I think it has to be looked at and visited again, within a reasonable period of time.

But the specific change I would make is to give the judge a vote. It's only one vote. This is about the appointment of judges. They have a lot to give. Secondly, you have to be able to say these are highly recommended candidates. The minister can choose from them or from the recommended ones. In terms of changes, I think that would be important.

I didn't really think there was anything the matter with the committees before. There will always be criticism about patronage in those kinds of appointments, but I think people strive to do the right thing.

The problem with it is that the committee was changed, with an announcement for the reason the committee was changed. The reasons, then, have to be balanced by making sure the committee is a fair one, nobody has more votes than anyone else, and the judge is listened to, and you can recommend highly recommended people.

Those are specifically the comments I would make.

● (1700)

[*Translation*]

Mrs. Carole Freeman: Thank you, Mr. Trudell. I would like to ask you a question that is also for Mr. Ratushny.

In his third point, Mr. Ratushny mentioned that police officers could be involved and have a bias. He also mentioned that judges were a sort of buffer between citizens and police officers.

I would like you to tell me, Mr. Trudell, whether you think the presence of a police officer on a committee would have the same effect. Would the police officer be in a conflict of interest situation?

[*English*]

Mr. William Trudell: It's a problem. Police officers are one group. There are lots of other groups, as Mr. Ménard has said, that were not consulted about their representation.

My problem is that the government says, we want judges who will follow our law and order agenda and we are going to put police officers there. So it's a problem of perception. There are lots of great police officers who may do the job properly, but my respectful submission is that there's an inherent potential conflict if the reason for their being there is that we want different judges.

● (1705)

The Chair: Thank you, Mr. Trudell.

Mr. Ratushny, I believe you were going to reply to this.

Prof. Edward Ratushny: I think that's essentially what I said in my presentation. So I agree with Mr. Trudell.

The Chair: Thank you, sir.

Thank you, Madam Freeman.

Mr. Trudell.

Mr. William Trudell: Can I just say one thing, Mr. Chair? One of the things that really struck me is when Professor Ratushny said “police as an institution” as opposed to “individual”. That was very helpful to me in trying to understand the concerns—not as individual citizens of the country, but as an institution. That might be helpful too.

The Chair: Thank you very much, sir.

Mr. Brown.

Mr. Patrick Brown (Barrie, CPC): Thank you, Mr. Chairman.

I see the judicial advisory process as being important to have balance. I'd suggest that with the addition of a police officer or a representative of law enforcement on the committee, you're helping bring balance to it.

Certainly this has been an evolving process. I think we need to recognize that. We're acting as if this is a radical change without recognizing the fact that there have been numerous changes before, whether it was when Brian Mulroney and his Minister of Justice initiated this in 1988, or with the evolution that came in 1991. This is just another step to make sure we maintain that balance. I would be concerned that without having law enforcement there, we have a very significant voice in the judicial system not recognized.

When you look at a courtroom, when you look at the whole judicial process, there are lawyers, there are judges, and there are certainly police officers. That's why the comparisons with police officers don't wash, because union representatives, teachers, or any other group that has been mentioned around this committee aren't involved in the judicial process, and police officers are. That's why I think they make a very valued contribution.

My question is related on a few fronts. There have been suggestions that this is going to take away from judicial independence, that it's going to harm the process. The question I have is, are we saying that judges weren't qualified prior to 1988? If this change is happening today and it's somehow going to affect the process, what happened prior to 1988? What happened prior to 1991, when these changes were happening? It's contradictory to make the suggestion that somehow well-intentioned representatives from law enforcement are going to harm judicial independence.

Perhaps I could get a quick comment on that from Mr. Cannavino, and then I'll have a follow-up comment to make as well.

Mr. Tony Cannavino: Your comments are exact. You said exactly what we have saying since the debate started on that. It's exactly that. How could it harm the process? How could it be biased? How can they be biased in those committees? I don't see that.

Mr. Patrick Brown: Another concern that has been raised is that there are many aspects of the roles the judges would play, and that the criminal aspect is only one. Maybe, Mr. Cannavino, you could touch upon what other contributions law enforcement could make rather than just criminal. I note something that hasn't been mentioned around this table. With this announcement there was a reference to an advisory committee related just to tax law. So when I heard comments at previous hearings that on tax issues there wouldn't be a valued input, I think we're forgetting that there is that pilot project to get advice on tax issues.

Maybe you could comment on the types of contributions law enforcement could make and why it's not solely limited to criminal law, whether it be police and law enforcement involved in family matters or the various avenues that the police play in their very important role in the community.

[*Translation*]

Mr. Tony Cannavino: At the beginning of my presentation, I talked about the commitment of police officers to their society and their community. One important aspect of their work has to do with their training. From the outset, they are taught to be honest, upright and impartial. When they arrive at the scene of an incident, they must not have any bias with respect to the individuals involved. They must be objective and see what is happening. They then gather the information and gradually come to some conclusion about the incident and the way it occurred. They are taught in their training to be objective.

We have seen police officers sit on boards of directors or on committees on ethical matters and other matters as well. They must be objective and analyze the case before them. Police officers are not excluded from selection boards. They conduct interviews; they are familiar with the process. They follow the rules. At the first meeting, they are told how the committee works, and they follow that procedure.

• (1710)

[*English*]

The Chair: Thank you, Mr. Brown.

Mr. Bagnell.

Hon. Larry Bagnell: Thank you.

I think the police do a tremendous job. But that's not the issue here, so I won't talk about the police.

I have one question, and then I'll give the rest of my time to Monsieur Ménard.

I think that the independence of the judiciary—relative independence—is one of the reasons Canadians have such great confidence in the system.

I have a simple question for each of the four witnesses: do you believe in the independence of the judiciary? That's how I'll make my decision.

Mr. William Trudell: It's sacrosanct to our society, and that's what the concern is.

Mr. Tony Cannavino: For us, it's the same thing. And we know it won't be tainted with our representatives.

Prof. Edward Ratushny: Absolutely.

Mr. Wallace Craig: Could I get the question again, please?

Hon. Larry Bagnell: Do you believe in the independence of the judiciary?

Mr. Wallace Craig: Well, the independence of the judiciary is virtually a constitutional guarantee. It is the right to a term that is tenured until retirement. You can't be fired. You have no boss. You are at absolute liberty to speak as you wish in rendering any decision that is privileged. There is an adequate salary. Everything about the judicial appointment—

This process you're going to debate is the only opportunity you have to look at them and ask whether this is going to be a good judge. You're stuck with them for the next 30 years—or 40 years sometimes.

Hon. Larry Bagnell: Thank you.

Mr. Wallace Craig: But there's no question that Canadian judges are absolutely independent.

Hon. Larry Bagnell: Thank you. That's how I'll base my decision on this issue.

Mr. Ménard.

Mr. Myron Thompson (Wild Rose, CPC): This is not fair.

[Translation]

Mr. Réal Ménard: I would like to thank Mr. Bagnell, but I am not asking for special treatment. I am simply asking that everyone be given equal time. I will raise a point of order at the end of our meeting.

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Follow the list.

[English]

The Chair: Thank you, Mr. Bagnell and Monsieur Ménard.

Hon. Larry Bagnell: Is my time up?

The Chair: No, it's not.

Mr. Lee.

Mr. Derek Lee: I think I've become the beneficiary of about 47 seconds here.

The Chair: You have two minutes, Mr. Lee.

Mr. Derek Lee: I want to reiterate my reaction to some of the comments.

Essentially I agree that the issue of “police” sitting on these advisory committees has nothing to do with the individual policemen. There are thousands and thousands of policemen out there who have judgment, tact, honesty, and all of the things that would make them good appointees for a whole lot of functions. The issue is police, as an institution, being given a berth in an appointment process. It's a perception of what that institutional placement might bring to the delicacy of the appointment process, as has been referenced by Mr. Brown, who suggested that the arrival of the police would bring some new balance.

So I leave the question out there. What exactly is it in this balance that the police, as an institution, would bring? Whatever the balance is—I'm not too sure what it is—there's some additional weight coming from police that wasn't there before.

I note that we haven't gone to prison guards, and we don't put elected people on these advisory committees, who surely represent thousands and thousands of people and the public interest. We don't

put them on there. And we don't put priests and ministers on, who have a whole lot of interest in divorce litigation and family law. There are lots of groups in society that might have an interest.

I have no problem with a particular priest or minister being on the committee. I have no problem with a prison guard being on the committee. But police are already restricted under our Constitution in their political activities. They are already restricted. We've already noted the sensitivity.

Could I ask you what you think the police, as an institution, bring in terms of that balance?

Mr. Cannavino.

• (1715)

Mr. Tony Cannavino: I think that Mr. Brown put it very well, saying that if you go to court, you're going to see judges, you're going to see defence lawyers, crown attorneys, and police officers. If you see a priest there or anybody else, probably they're accused of something. But mainly what you would see in a court would be those who are really involved in the judiciary. That's why we think it's a very good idea. They will bring a different aspect, different expertise, and they will also be able to participate in those committees. They're the ones you see in court. They're the ones involved in the judicial system.

The Chair: Thank you, Mr. Lee and Mr. Cannavino.

Do you want to reply to that, Mr. Ratushny?

Prof. Edward Ratushny: Yes. I just want to say that the police are in court, but they're in court for a different purpose. They're participants in the process, they're part of the trial, and they can be judged as part of the process, unlike all the other people who are in court, who are on this committee.

The Chair: Thank you, Mr. Ratushny.

I'm just going to take the prerogative and ask a question from the chair.

I was a police officer for 22 years, went through the training. Our training clearly pointed to the fact that we were a team—the prosecutor, the police officer, the defence lawyer, and the judge—all with one purpose: to determine the guilt or innocence of an individual coming before the court. The final say was the judge's. We weren't considered some sort of entity off to the side, a special interest, as police officers have been called before, but rather as serving the public good in dealing with a criminal matter.

Yet the term seems to be brought up time and time again that the police have some sinister role out there almost, that they are more under question about what their motives are, even to the point that at some point here one association member pointed out that the police, really, if not held to severe account, would be capable of doing harm to a witness, or even killing them to cover up some offence that may be pointed directly to them. There is a question about—

Hon. Marlene Jennings: On a point of order, Chair, would you name the witness who said that? Nobody on our side seems to recall that.

The Chair: This was brought up in another committee meeting, by an association.

All I'm saying is that there is a view that suddenly separates the police away from this general purpose of where we, as a supposed team, determine guilt or innocence. That has all disappeared. I don't understand what happened to push the police off to that side. That's a comment I'd like to make, and maybe there's going to be a chance for someone to—

Mr. William Trudell: Do you want a response to that?

Prof. Edward Ratushny: Do you want a response?

The Chair: I would like a response.

Mr. William Trudell: My response is this: the police became very political.

The Chair: When?

Mr. William Trudell: I don't know when, but police associations began to lobby and to criticize the judges and the system. The team approach, which we have to work with every day or we're not going to get through any cases, got replaced by a politicization of the police forces. The police forces started to appear and started to criticize the judges. My point earlier on was this: where is the embracing of our system by the police associations?

Last, I just want to say one other thing about this. Maybe the police are being wrongly used here. The Prime Minister says he wants judges who are going to follow the law and order agenda, and he's therefore going to put in the police officers, as an institution. Quite frankly, that may be unfair to the police, but the police politicized themselves in criticizing the criminal justice system, and that's why we got into this situation.

• (1720)

The Chair: Mr. Ratushny, and then I'm going to turn to Judge Craig.

Prof. Edward Ratushny: I think your comments, like the comments of my colleague here, are fine in theory. He talked about how police are trained from the beginning to be objective and straightforward and right down the middle, and about how they're not going to be affected subjectively by these kinds of things. You talked about the team approach and the objective of justice being done and so on. Theoretically, that's great. Applied to the vast majority of police conduct, that is probably correct.

But there is a danger, because police have a unique role in society. They have the authority to use force, and they have great authority to affect criminal cases and the outcome in criminal cases, quite apart from the actual evidence that's presented.

The proof is in the pudding. If you read the Marshall inquiry report; if you read the recent report of the Right Honourable Antonio Lamer on three murder cases in Newfoundland; if you read the recent reports on Driskell in Manitoba and Morin in Ontario, there's chapter and verse of police misbehaving, of withholding evidence from the defence, of acting unfairly, and of giving testimony that was misleading. Although the vast majority of police live up to the

principles that you enunciate, that is why there's a danger. It's because of their unique position that some won't, and the consequences can be wrongful convictions. That's why, in many cases, the judge is the one who stands between society and the danger of the police abusing their position.

The Chair: Mr. Craig.

Mr. Wallace Craig: The ultimate court, if it ever wants to be, is Parliament. There are members of Parliament who would do exactly the same thing as Mr. Ratushny has said, but the institution still functions, and it functions well.

With respect to the politicization of the police force by criticizing the justice system or individual decisions, there is an absolute right in the hands of every Canadian citizen to voice very serious and strenuous criticism of any decision rendered by a judge, or any series of decisions. That's an absolute right. That's part of our individual liberty. Police officers should not be muzzled.

A gentleman with the Metropolitan Police in London—his name escapes me—wrote a biography. He said that changes have come to the extent that chiefs of police must start speaking out on issues that relate to the criminal justice system.

I see no reason why we can't have more democratic legitimacy in the process by having a police officer or police officers on the board. As with any other, as Mr. Ménard said, it should be open. The more open that process is, the better.

As Mr. Ratushny said—and I believe one of our other members did too—ultimately the government of the day has the absolute duty—not a right, but an absolute duty—under the British North America Act's judicature section, to appoint the judges of the superior courts. That's an absolute right that remains in the hands of Parliament, and it must never be delegated to a committee, ever. The Prime Minister may well take on roles beyond what is intended originally by our parliamentary structure; nevertheless, the more legitimate it can become, the more democratic it can become—and I believe that includes police officers—the better.

So I wish you well.

The Chair: Thank you very much, sir.

Mr. Thompson.

Mr. Brian Murphy: On a point of order, Mr. Chairman, it's absolutely important to underline that those remarks are not entirely correct, in that the Canadian Bar Association's code of conduct is very clear that there are limits on how far a lawyer can go in criticizing the courts.

The Chair: Thank you for that, Mr. Murphy.

Mr. Thompson.

Mr. Myron Thompson: Thank you, Mr. Chair.

I thank all of you for being here, but I'd especially like to thank Mr. Craig for being here. Maybe after the meeting, we'll have to compare birth certificates, because I've been looking for a long time for an elder I could be respectful to. I can't find any anymore. I don't know what's happening.

Mr. Wallace Craig: What year? I'm 1931.

Mr. Myron Thompson: Good, I'm 1936. Here's my chance. All during this session, I've been looking for an elder. I've finally found one.

I just want to tell you how much I appreciate your testimony. I agree with you fully, and I want to take some responsibility. My generation, your generation, has failed dismally. I agree with you in that regard.

Mr. Wallace Craig: It's troubling.

Mr. Myron Thompson: I immigrated to this country in the sixties. During the sixties and seventies, I served as a high school principal for a number of years in junior high, and I was mayor of a small town in Alberta. I've paid a lot of attention to what's going on with law and order. In the sixties and seventies, as Mr. Trudell said, I really embraced the judicial system. It was pretty darn good. Compared to where I came from, I was really pleased with what I saw going on. Then slowly, through the eighties and the nineties, all of a sudden, what happened? I'll give you two examples.

When I was mayor, the police officers did a good job of catching two young adults who attacked a small businessman who liked to take his proceeds from his business home every day in this small town. He didn't trust leaving them in the store. On his way home, he was mugged, was beaten severely, and was robbed. Very shortly, the police did a good job of apprehending these two individuals. They delivered them to the remand centre in Calgary, because we didn't have a remand centre in the small town where I lived. This was in the eighties, when I was mayor.

I went in and was congratulating the sergeant of the RCMP on the work the police in that small town had done in apprehending these two fellows. The officers were on their way to deliver them to the Calgary Remand Centre. Before they came back from Calgary, they had to stop at the headquarters in Calgary about something, and they stopped and had lunch. Those two fellows were on the street corner giving the officers the finger when the officers came back into town. They had beat them back to town. I wondered what in the world was going on and how that could possibly be.

Not too long after that, one of my school teachers whom I had hired three years earlier—she was an excellent teacher, but she was young, with only three years in the profession—came into my office on a Monday morning, crying like you wouldn't believe. A terrible thing had happened on the weekend. She got picked up for drunk driving and was charged with drunk driving and injuring persons in another vehicle, an accident causing injury. She was devastated, “What have I done?” Oh, the tears. I wanted to help her all I could, in the sense of “Relax, you've done a bad thing here”—she agreed—“but let me help you through this.”

We progressed, and as time went on, I talked the board into allowing her to stay in the school. They wanted to get rid of her immediately, but I talked them into allowing her to stay because she was an excellent teacher.

About a month after this charge, she came into my office, she had her defence lawyer with her, and they were asking me for a letter of reference in order to support them in their hearing. I said, “I can only give a letter of reference in regard to your abilities as a teacher. Sure,

I'll do that much, but don't expect me to condone what happened in any way, fashion, or form.” It was then that I asked, “When will the trial be?” I was concerned about her being gone from school, and I wanted to make sure we had that covered. They said it wouldn't be for a couple of months, so I asked why it would be so long. Well, Judge A was on the bench that quarter, and they were waiting until Judge B came in later in the year. It was pure and simple judge shopping. I couldn't believe that happened, but then I was told that it happens quite frequently.

We can go on with cases in regard to taxes and decisions made regarding mothers and fathers fighting over children and all this.

And then there's the big cruncher: four officers killed in Mayerthorpe by an individual who should have never seen the light of day after about his seventieth arrest.

Mr. Trudell, you ask me to continue to embrace this judicial system? Not on your life! And 90% of the taxpaying people in my riding are saying the same thing. No. We need some sweeping changes. We have to fix it. It even means readjusting the committees we use for selection of judges. Right from there, anywhere you want to go, we need sweeping changes. That's what people are saying. We can no longer embrace the judicial system with the things that are happening all around us.

● (1725)

Why do you think we have great numbers of organizations for victims of crime? Why are they joining together?

● (1730)

Mr. Joe Comartin: Mr. Chair, on a point of order, this is the third time at the committee you have allowed excess time. We're on the second round.

The Chair: It's actually the sixth time I've allowed it.

Mr. Réal Ménard: Except for me. When it is me—no.

The Chair: We'll get to that on a point of order.

Mr. Myron Thompson: I'm sorry if I've offended Mr. Comartin and the committee about the time, but I'm really getting fed up with being asked to totally embrace a justice system that's failing.

Mr. Trudell, I totally object to your comments in that regard. You cannot continue to convince me that we should embrace a system that's failing.

The Chair: Thank you, Mr. Thompson.

Mr. Brian Murphy: We didn't hear anything from the witnesses.

The Chair: Mr. Thompson can use his time as he sees fit.

Thank you all.

Mr. Myron Thompson: If you want to embrace the system, be my guest. Love it up, love it up big.

The Chair: Order, please.

I would like to thank the witnesses for their appearance and their comments. They will certainly be part of our deliberations and our final report. We appreciate it.

I know Mr. Ménard has a point of order that he wants to bring forward.

I will remind colleagues that we are in public meeting right now, so let's behave ourselves.

You have a copy of the budget before you, a travel request to RCMP headquarters.

Yes.

[*Translation*]

Mr. Réal Ménard: I would like to raise a point of order now.

[*English*]

The Chair: We'd like to deal with this budget quickly.

[*Translation*]

Mr. Réal Ménard: No, I have a point of order to raise now. You have given all the members the floor.

[*English*]

The Chair: What's your point of order, Mr. Ménard?

[*Translation*]

Mr. Réal Ménard: Mr. Chairman, for a number of meetings now I have had the impression that when my colleague, Mr. Comartin, or myself have the floor, you are quick to interrupt us and you are not distributing the time fairly. I do not want to get into a long debate about this. And I really do not want to criticize Mr. Murphy, who asked some very relevant questions.

I know this is up to the chair's discretion, and we're not in the army here. However, if you want to continue working in an atmosphere of harmony and mutual respect, I must not continue to feel, when I have the floor, that you are about to cut me off or will allow me to be interrupted so that I do not have a fair length of time.

While I would like to say that I have nothing but trust and respect for you, there have been three occasions on which I felt that you were quick to interrupt me. I hope that will not happen again, because unfortunately this is not the climate in which I want to work.

[*English*]

The Chair: Thank you.

As a quick response to that point of order on the time allotted today, I try to wait for an appropriate break to cut a member off so we don't run way overtime. Mr. Murphy asked his question this afternoon and sought a reply from everybody at the table. I don't like to get into that practice, because I know how it can eat up the time very quickly and the witnesses are here for us to hear.

Mr. Murphy's time was 10 minutes and 47 seconds. Yours was 8 minutes and 2 seconds. Mr. Comartin's was 7 minutes and 33 seconds, and our time was 5 minutes and 11 seconds.

• (1735)

Mr. Rob Moore: What did I get?

The Chair: You got no time.

Mr. Petit's time was 5 minutes, 11 seconds.

I know it doesn't always balance out. I try to maintain the time as much as I can. I often give Mr. Comartin extra time because his party has only one chance, but that doesn't always happen either. I'm trying to be as judicious as I can in dealing with the time issue.

Ms. Jennings had 5 minutes and 50 seconds, Ms. Freeman had 7 minutes, and Mr. Brown had 5 minutes and 8 seconds. Mr. Lee, along with Mr. Bagnell, had 6 minutes, and so on and so forth.

I'm trying to be as fair as I possibly can with the time issue.

I'll now go to the budget now, if I may. Ms. Jennings.

Hon. Marlene Jennings: Thank you.

I think that Monsieur Ménard has a very clear point on this. The other thing I would suggest is that you make it very clear that any time there's a point of order, whether I've made the point of order or a member of one of the other parties, the clock stops. The clock stops. I've never been on a committee where the clock does not stop. That's the first thing.

The Chair: I tried. Even on those matters, we tried to extend the time.

Mr. Derek Lee: We'll sort this out.

Hon. Marlene Jennings: I would suggest that rather than trying to do favours for anyone, when the time is up, the time is up. You simply inform the witnesses that they can submit their responses in writing.

The Chair: You have convinced me. When your seven minutes is up, your seven minutes is up. I don't care if you have used all your time up.

Hon. Marlene Jennings: I had 10 seconds left, according to you.

The Chair: No, when your time is up, then, folks, that's exactly what it'll be. Your time will be up.

[*Translation*]

Mr. Réal Ménard: On a point of order, Mr. Chairman.

That is not what we are saying. We are saying that we are relying on you to show some judgment, but that we have the unpleasant impression—

[*English*]

The Chair: I have been exercising my judgment.

[*Translation*]

Mr. Réal Ménard: We are relying on you to exercise your judgment.

We want to trust you, but I have the unpleasant impression that during my turn or Mr. Comartin's turn, you are in a big rush to interrupt us. I would very much like to trust you.

[*English*]

The Chair: What is the committee's feeling here? Do you want me to bring every time sheet forward that we have conducted over this last little while, so you can personally look at it, to see whether you have been shortchanged? Is that what the members want?

[*Translation*]

Mr. Réal Ménard: Mr. Chairman, I would just like to trust you. I know you are an honest man, but I have the unpleasant impression that in the last three meetings you have been quick to cut me off. I am just asking that you ensure that I no longer have this impression, because I think I am doing a good job and that I am working seriously. We have to trust each other.

[*English*]

The Chair: Fair enough, then. We will leave it at that. I will endeavour to restrict the time to the seven minutes on the first round, five minutes on the second and subsequent rounds, and give everyone as much leeway as I possibly can.

Now to the budget, if I may. Do you have a copy of the budget before you? It's a visit to the RCMP headquarters. It reads: "That, in relation to the study of Bill C-22 (age protection), twelve members of the Standing Committee on Justice and Human Rights be authorized to travel to the RCMP Headquarter, Alta Vista Dr., Ottawa on Monday, April 16, 2007, and that the necessary staff do accompany the Committee."

Mr. Derek Lee: I want to debate this.

The Chair: Okay, we'll debate.

Mr. Derek Lee: Colleagues, I don't know where this visit to the RCMP headquarters actually came from. I sit on the steering committee. I haven't heard about it.

The Chair: Monsieur Ménard.

[*Translation*]

Mr. Réal Ménard: This comes from me.

The police invited us to visit the National Child Exploitation Coordination Centre.

[*English*]

The Chair: Last week.

Mr. Derek Lee: How courteous of the police, how courteous of the witnesses. I don't understand why we're going.

• (1740)

The Chair: The question was asked by a committee member.

Mr. Derek Lee: The matter we're studying involves the age of consent. And it's a fairly technically worded bill. It's a complex little

sucker, and I do not understand why we have to do an on-site visit to a police office to better understand the bill. I can understand why we went for the DNA bill, but not on Bill C-22. I recall some reference to child pornography from that witness. But this has nothing to do with child pornography; it's got to do with 14- and 15-year-olds' consent and some other add-ons to protect 14- and 15-year-olds.

So at this point, I am fully opposed to what's taking valuable committee time. It has nothing to do with the money; it's taking valuable committee time out from the study of Bill C-22 to go and do an on-site visit. So I am opposed to it.

The Chair: Mr. Lee, just to point out, it's not committee time; it's an additional day that was slotted for it. So you put your point forward.

Monsieur Ménard.

[*Translation*]

Mr. Réal Ménard: Mr. Chairman, just to inform Mr. Lee, I would say that we can adapt to what committee members want. However, some committee members have not visited the National Child Exploitation Coordination Centre at the RCMP. Members of the RCMP told us that they would have some expertise in the sexual exploitation of children that would be helpful in understanding the issue.

I do not think this is irrelevant, and I am prepared to support that.

[*English*]

The Chair: Those in favour of this budget and the trip? Those opposed?

(Motion negated)

The Chair: The meeting is adjourned.

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