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Chair

The Honourable Diane Marleau

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•(1530)

[English]

The Chair (Hon. Diane Marleau (Sudbury, Lib.)): I call the meeting to order.

To the committee, you can see that we have some guests. We have before us the members of a brand new tribunal. I think they just set up shop in April or whenever it was. We also have the acting senior financial officer of the Canada Public Service Agency.

It's nice to have you both here.

We'll fill the first hour with that, and then we will go to Mr. Holland's motion afterward, if the committee thinks that would work.

[Translation]

I would ask you to introduce yourself and that each witness make a presentation of about seven or eight minutes. We will then move on to questions.

I know that this is all fairly new, and we are here because of the estimates, but since this is the first year you are in that position, perhaps you can explain to us what exactly you have done so far.

Ms. Lacroix, you may begin. We will then hear from Ms. Sylvestre.

Ms. Lianne Lacroix (Registrar, Public Servants Disclosure Protection Tribunal): Thank you, Madam Chair.

Good afternoon, ladies and gentlemen.

It is my pleasure, in my capacity as the Registrar of the Public Servants Disclosure Protection Tribunal, to meet with the members of the Standing Committee on Government Operations and Estimates.

With me are Ms. Ginette Sylvestre and Ms. Diana Jardine. Ms. Sylvestre is the senior financial officer for the Canada Public Service Agency. Ms. Jardine is the senior advisor for Planning and Reports of the Office of the Registrar. Mr. Jean-Charles Ducharme is the senior counsel for the Office of the Registrar, and Ms. Ginette Pilon is the Deputy Registrar of the office, and they are also here today.

The Government of Canada announced the composition of the Public Servants Disclosure Protection Tribunal on July 3 last. The tribunal is comprised of four judges of the Federal Court of Canada. The tribunal was created under the Public Servants Disclosure Protection Act, which came into force on April 15, 2007. This act is

part of the government's commitment to accountability, which enhances public confidence in the integrity of public servants.

As stated in the preamble of the act:

[...] the federal public administration is an important national institution and is part of the essential framework of Canadian parliamentary democracy;

Canadians therefore have the right to expect that public servants act in accordance with the highest ethical standards.

The Public Servants Disclosure Protection Act calls for the creation of a disclosure system which is in the public interest. The effectiveness of such a system rests largely on the ability to protect potential whistleblowers from reprisals. In that regard, the tribunal will play a key role. Its mission will be to determine whether a public servant has been subjected to reprisals following the disclosure of wrongdoing. In cases where it was determined that a public servant was subject to reprisals, the tribunal has the responsibility to make an order granting a remedy to the complainant, and, depending on the circumstances, may order disciplinary action against the person found to have taken reprisals.

It is important to note that the tribunal does not directly receive complaints about reprisals which are made by public servants. The complaints must first be presented to the Public Sector Integrity Commissioner, who, after investigation, may refer a case to the tribunal. Therefore, the tribunal plays no role in the first step of the process as set out in the act.

•(1535)

[English]

The Public Servants Disclosure Protection Act also calls for the establishment of a registry necessary for the proper conduct of the work of the tribunal. The registry provides strategic advice and legal and operational support to the tribunal to ensure effective case management and decision-making. The registry is listed as a branch of the federal public administration in schedule 1.1 of the Financial Administration Act, and reports on its activities to Parliament through the Minister of Canadian Heritage.

Since my appointment as registrar last April, I have had one goal in mind—to ensure that the tribunal is ready to hear its first case. In this context I am pleased to report that in its first six months of operation, the registry has recruited a core group of skilled and enthusiastic employees, established an excellent working relationship with the chair and members of the tribunal, developed draft rules of procedure, constituted a consultation group composed of key stakeholders to review the draft rules of procedure, secured office space, and negotiated a number of partnership agreements with other departments and tribunals for the purchase of corporate services, the sharing of resources, and the use of existing hearing rooms.

The registry has also contracted with Public Works and Government Services Canada for the development of a website.

[*Translation*]

As part of the federal public service, the Office of the Registrar must manage its affairs in accordance with the Financial Administration Act and with various Treasury Board policies. The office is also subject to pan-governmental initiatives such as the Management Accountability Framework and the modernization of the public service.

As the senior administrator, I am making the commitment to implement efficient management policies and practices to ensure that the office's budget is spent wisely. In a few months, the Minister of Canadian Heritage will table in the House the first report on plans and priorities of the registry. The report will contain a detailed description of the way the registry intends to respect the government's commitment to protect whistleblowers who disclose wrongdoing from reprisals. It will contain the planned activities of the registry, forecast expenditures and estimated outcomes for the next three years. I will then be in a better position to provide you with more information with regard to the strategic direction and the expenditure plan of the registry.

That being said, I would be pleased to answer any questions you may have today regarding the budget of the registry.

● (1540)

The Chair: Thank you.

Ms. Sylvestre...

Ms. Lianne Lacroix: I apologize, I should have clarified that Ms. Sylvestre is accompanying me today because I still have not received a budget and the Public Service Agency is helping me out. Moreover, I negotiated an agreement with the agency in order to purchase all of their corporate services, including financial services.

The Chair: So that is the reason why she is accompanying you.

Ms. Lianne Lacroix: Exactly. Ms. Sylvestre and her staff look after my budget and my financial statements for the time being.

The Chair: Thank you.

[*English*]

We will now go to Mr. Silva.

[*Translation*]

Mr. Mario Silva (Davenport, Lib.): Thank you, Madam Chair.

First of all, I would like to thank Ms. Lacroix for her excellent presentation. I have a few questions to ask her, particularly with respect to the tribunal.

You stated that this was a quasi-judicial tribunal composed of four judges. Is the final decision made by the minister or by the tribunal?

Ms. Lianne Lacroix: The four judges, the chairman and the three members, are from the Federal Court of Canada. The chairman is Judge Pierre Blais. The tribunal also includes Judge Snider, Judge Mosley and, finally, Justice Luc Martineau. These people are all judges with the Federal Court of Canada. The tribunal has a quasi-judicial function. Accordingly, the decisions made by the tribunal have nothing to do with the minister and they are final. Parties can request the Federal Court of Appeal to undertake a judicial review.

Mr. Mario Silva: How many cases does the tribunal hear on an annual basis?

Ms. Lianne Lacroix: There is no limit. That depends on the number of cases referred to the tribunal. As I mentioned in my opening statement, the requests are tabled by the Public Sector Integrity Commissioner, Ms. Christiane Ouimet. She receives the complaints directly from the public servants and she conducts an inquiry. If she deems it necessary or if there is an issue of public interest involved, she may submit a request with the tribunal.

Mr. Mario Silva: Thank you.

The Chair: Ms. Bourgeois, it is your turn.

Ms. Diane Bourgeois (Terrebonne—Blainville, BQ): Thank you, Madam Chair.

Good morning. I would like to refer back to a document that was distributed to us and which contains, I believe, the main points of your presentation.

First of all, who can file a complaint when the matter concerns public servants? Could you provide us with more details?

Ms. Lianne Lacroix: Madam Chair, page 5 of the presentation distributed to you today states that employees, public servants and former public servants from all departments and other sectors of public administration, crown corporations and other public agencies, can file a complaint with the Public Sector Integrity Commissioner.

● (1545)

Ms. Diane Bourgeois: I think that this is new in the legislation and it results from the revised code of ethics and conduct. Indeed, not all of these people could file a complaint before.

Ms. Lianne Lacroix: The legislation is much broader than it used to be.

Jean-Charles may wish to elaborate.

Mr. Jean-Charles Ducharme (Senior Legal Advisor, Public Servants Disclosure Protection Tribunal): This act was amended and implemented further to the adoption of Bill C-2, the Accountability Act. This legislation broadened the scope of the policy which used to be in force. The integrity officer became the integrity commissioner. So this is a new system.

Although the former act had been adopted, it had never come into effect as such. We now have a new system, a new commissioner and a broader application. Nevertheless, this new act does not apply to three entities: the Canadian Security Intelligence Service, the Communications Security Establishment and the Canadian Forces.

Ms. Diane Bourgeois: I really appreciate your answer. I have already worked with the Public Sector Integrity Commissioner. The first year, the commissioner dealt with 14 complaints, at the most. The next year, there were 18 complaints, and then 21. I know this because I spent a great deal of time going through the reports. Nevertheless, these were not necessarily complaints about disclosure. There were also complaints that pertained to psychological harassment.

Ms. Lacroix, you have prepared a plan, or you are in the process of doing so, in order to justify the additional \$2 million that you have asked for. Could you tell me how many previous cases you are basing yourself on in order to prepare this plan?

Moreover, do you intend to broaden protection beyond the infamous 60 days provided for in the legislation, and to include psychological harassment, something which the act is completely silent about?

Ms. Lianne Lacroix: Thank you.

First of all, you mentioned a former system, the one under the previous commissioner, Mr. Keyserlingk, and the reports that he tabled in the House.

You are right to say that there were very few complaints. This is one of the reasons which prompted the government to create a new system. This is the main reason why the tribunal was established. You can understand that, with the establishment of this tribunal, the public servants will not be so fearful about lodging a complaint with the commissioner's office, that they now know they are protected by the act and that, following the commissioner's investigation, the file may be referred to the tribunal.

As for the \$2 million, I would clarify that I am not the one who has set the budget. The Office of Public Service Values and Ethics had the file before the tribunal was set up. If I understand correctly, the budget was set based on the number of cases that could be filed. The people from this office were also basing themselves on already existing tribunals that had the same number of employees as us. They considered travel costs, the fact that we may have to travel to the regions to hear complaints, and so on and so forth. I was given this budget. I was appointed two days before the act came into effect.

With respect to the number of cases, that is very difficult to determine. It will depend on a certain number of factors: first of all, the number of cases that the commissioner may receive; then, the number of cases that the commissioner may choose to refer to the tribunal; and then there is the fact that cases may be heard in Ottawa or in the regions. Indeed, if the employees who have filed a complaint live outside Ottawa, there will be travel and accommodation costs. Finally, there is the complexity of the cases. The more complex the case, the more time it will take and the higher the costs will be. I must manage my budget without knowing how many cases will be submitted. I'm trying to remain as flexible as possible.

• (1550)

Ms. Diane Bourgeois: Perhaps Ms. Sylvestre should answer my question since she is the acting senior financial officer for strategic management and planning. I will ask you some slightly different questions, Ms. Sylvestre.

To whom will people lay an information or simply disclose matters that are of concern to them such as, for instance, embezzlement within the public service? Is it to you also?

A voice: Yes.

Ms. Diane Bourgeois: If I understand correctly, you have come here to meet with us but you don't really understand your mandate or where you're going with it.

Ms. Lianne Lacroix: No, I'm very clear about the nature of my mandate. I can explain, once again, the role played by Ms. Sylvestre. A tribunal was...

Ms. Diane Bourgeois: I understood Ms. Sylvestre's role. I will be very clear.

If, for example, a public service executive disagrees with the conduct of a minister because the latter, during the course of a committee meeting, explained something that was not at all in compliance with the rules or do not match the figures that the executive had available to him, to whom should this employee disclose the matter? You give 60 days of protection to this employee, but once this deadline has been passed, to whom should he go in order to obtain protection?

Ms. Lianne Lacroix: I understand your question very well.

First of all, whistleblowing comes under the jurisdiction of Ms. Christiane Ouimet, the Public Sector Integrity Commissioner. If an employee had concerns about actions taken by a senior official...

A voice: Not by a minister?

Ms. Lianne Lacroix: No, am I mistaken, Jean-Charles? That is not provided for in the legislation.

Mr. Jean-Charles Ducharme: No, if it is a minister, that is something else.

Ms. Lianne Lacroix: That's right. So, if an employee had some concerns about the activities of a senior official, he would have two options. Every department has a senior officer who has been appointed by the deputy minister for the very purpose of receiving complaints from employees. The employee could, first of all, go to this individual. Or the employee could also choose to make a direct complaint with the Public Sector Integrity Commissioner. It is then up to the commissioner to carry out an investigation in order to determine whether or not there has in fact been any wrongdoing.

The mandate of the tribunal deals with retaliation exclusively. If the employee has suffered retaliation after filing this complaint, or even beforehand if he has raised the issue or if his supervisors have thought that he was going to go down this path, the employee may also file a complaint with the commissioner, Ms. Ouimet. He will therefore inform the commissioner that he is disclosing information with respect to wrongdoing and that he is also filing a complaint regarding retaliation. The employee has suffered retaliation because he has taken action. Once again, it is Ms. Ouimet who initiates the inquiry. If it is a difficult case or a case of public interest, Ms. Ouimet will decide whether or not to table a request with the tribunal to hear the parties.

I did not answer your question about the 60 days.

The Chair: Thank you. We will go back to that.

Mr. Dewar.

• (1555)

[English]

Mr. Paul Dewar (Ottawa Centre, NDP): Thank you.

I want to thank our guests for coming to committee today.

Your work and the office you're setting up and will be working in is very important to me as a member of Parliament from this area. In fact, I was on the committee for Bill C-2. One of the concerns I had was around whistle-blower protection, so it's interesting to see you here today, and I'm glad to see that things are moving along.

I have a question to start off, just for clarification and for the record. The three people who have been appointed were appointed by whom? How did they become appointed?

Ms. Lisanne Lacroix: They were appointed by order in council.

Mr. Paul Dewar: I just wanted that for the record. In Bill C-2, as you are probably aware, there is also a process called PAC, or the Public Appointments Commission, which is as yet to come into force and to be put into place.

Again, I'm just stating that for the record, because it was our understanding that the Public Appointments Commission would actually be up and running, and by the time your office was up and running, the three judges would have had their appointments vetted through the Public Appointments Commission.

Am I correct in saying that to date no cases have come to you?

Ms. Lisanne Lacroix: Right.

Mr. Paul Dewar: Are you aware of how many cases there have been outstanding that are similar to what this legislation would do and protect? Any guesstimate on that, or has there been a study on that?

Ms. Lisanne Lacroix: No, I'm not aware of any. The reason for that is there is complete independence between the tribunal and the Public Sector Integrity Commissioner. You would have to ask that question of the commissioner.

Mr. Paul Dewar: I ask that only because of the numerous cases I've dealt with in my office that this legislation doesn't cover. These cases actually predate the coming into force of this legislation.

What I would say to my friends on the government side is that we had asked that the government appoint someone to clean up, if you will, to mop up the cases that are outstanding. I'm thinking of Shiv Chopra's case, of Chander Grover, who is well known. These people have fought and won, but the government continues to fight them in court with all of the resources of the Department of Justice.

I'm not sure how it would come into your focus, or if, for perhaps your own study, there is a way to look at how many cases in the last couple of years would have come to you—in the public domain, of course. I've mentioned two, and I have many others that I'd be happy to share with you.

I'd just plead to the government to...was on the verge of appointing someone, we know, to actually clean up the cases of previous whistle-blowers who still are in front of the courts. These are people—I mentioned Dr. Chopra, Chander Grover, and others—who blew the whistle, did their jobs, and the price they paid was they lost their jobs and are being litigated against in the courts. I'd again appeal to the government.

In terms of your office, have you all the resources you need? If someone were to bring a case forward tomorrow, would you be ready to go?

Ms. Lisanne Lacroix: Absolutely. I've hired a critical mass of employees. It's a small group. The full salary budget would allow for about 12 or 13 employees. We are six at the moment.

Whether you have one case or you have ten, you do need a minimum critical mass. I have these people in place. We have hearing rooms available to us. Of course, the judges are already appointed and are quite familiar with the law. We have developed rules of procedure for hearings.

So we are ready to go.

Mr. Paul Dewar: I have a question about your relationship with the Public Service Labour Relations Board. My understanding, from being at committee on Bill C-2—the other Bill C-2—was that there was a huge backlog with the Public Service Labour Relations Board.

Are you aware of their backlog, of how many cases they have in front of them right now?

Ms. Lisanne Lacroix: No, I'm not. Again, we're a completely separate and independent organization with a different mandate. There are some similarities in terms of the scope, if you like, or the types of issues that would be looked at by the two organizations, but really, the tribunal is there to hear cases of reprisal, and reprisal specifically as a result of having come forward in the—

• (1600)

Mr. Paul Dewar: So a public servant may choose to take their case to the Public Service Labour Relations Board or yourself. I just wanted to be clear about that.

My question was based simply on the fact that at committee I was supportive of the setting up of your office because of the backlog at the Public Service Labour Relations Board, the experience of the aforementioned people, and the fact that they weren't able to get their cases heard in a timely fashion. It's maybe worthy—and it's on the public record—to look back or to phone them and look at how many cases they have in their backlog, because it is an issue of deep concern for many people.

I'll leave my questions at that. Thank you very much.

The Chair: Thank you, Mr. Dewar.

Mr. Alhabra.

Mr. Omar Alhabra (Mississauga—Erindale, Lib.): Thank you, Madam Chair. It's good to be back on this committee.

Thank you to the officials for being here today, and for your helpful presentation.

I have a couple of questions. First—and you may have mentioned this—does a tribunal take any cases outside of the referrals from the Integrity Commissioner?

Ms. Lianne Lacroix: No.

Mr. Omar Alhabra: So it's exclusively dependent on a decision of the Integrity Commissioner.

Ms. Lianne Lacroix: Exactly.

Mr. Omar Alhabra: Is the tribunal public or is it private? And if it is public, are there provisions for private sessions?

Ms. Lianne Lacroix: Yes. I'm going to ask Jean-Charles to elaborate on that, but basically, yes, the law provides for hearings to be public and for the decisions to be made public as well. There are exceptions.

Jean-Charles.

Mr. Jean-Charles Ducharme: The act provides, in subsection 21(3), that the hearings be public unless a party demonstrates to the satisfaction of the tribunal that it has to be in camera. So the rule is public per se, but there is room to have it in camera.

Regarding personal information, technically speaking, because it's public everybody can attend the hearing. So what is said there is supposed to be public. We cannot prevent what will be said.

What can be adjusted is the decision of the tribunal, which will be public. But that doesn't mean that everything that is personal would have to be in the decision per se, depending on what may be said, depending on the public interest. So all the details regarding personal information will be on a case-by-case assessment. But the rule is public per se.

Mr. Omar Alhabra: Okay, but you were saying there are provisions to have in camera sessions.

Mr. Jean-Charles Ducharme: If asked and granted by the tribunal, subsection 21(3).

Mr. Omar Alhabra: When there are in camera sessions, there won't be any audience, so we can somewhat say that the hearing would be private.

Mr. Jean-Charles Ducharme: It's possible, but the burden of proof is on the party who will ask for it. The standard is quite high.

In French, it would have to be *nécessaire*, so it's not simply “I would prefer that”. You have to demonstrate why it has to be in camera. So the burden of proof is on the shoulders of the party who asks to have an in camera hearing.

Mr. Omar Alhabra: Will the public servants be provided with any resources? I understand that probably the government side will have their own lawyers arguing in front of the tribunal. Will the complainants have any resources available to them to make their case?

Ms. Lianne Lacroix: Again, the complainants will be working closely with their unions. The committee we've established to review the rules of procedure does include representation from the Public Service Alliance of Canada and the Professional Institute of the Public Service. It would be up to them to decide whether they want to. It would be up to them.

Mr. Omar Alhabra: But the tribunal will not provide anyone.

Are the RCMP included?

Ms. Lianne Lacroix: The RCMP is covered by the legislation.

Mr. Omar Alhabra: I see that CSIS is excluded. Do you know the logic behind that?

Ms. Lianne Lacroix: I was not privy to or not involved in drafting the legislation. One could guess, but I don't think it's my place to say. I was not involved. None of us were actually involved in the drafting of the legislation.

Mr. Omar Alhabra: Do you have anything?

Mr. Jean-Charles Ducharme: Obviously it would be for security purposes. That's the only thing I can see. The Canadian Forces, CSIS are related to the security issue. That's the only—

Mr. Omar Alhabra: I think the Canadian Forces is understandable because of the hierarchy and structure there, but given that there is provision for private hearings and that the RCMP, who also could be involved in security matters, is included, I find it somewhat strange that CSIS is excluded, especially given the recent incidents we've had in the public about some issues. I would have liked to see the men and women who serve at CSIS protected by this legislation. I guess we don't know the logic behind that.

Thank you, Madam Chair.

●(1605)

The Chair: Thank you.

Madame Bourgeois.

[Translation]

Ms. Diane Bourgeois: If I have understood correctly, when an employee of the public service decides to turn to the integrity commissioner, it is the commissioner who does all the research and determines whether in fact any wrongdoing has been committed, whether there has been disclosure and so on and so forth. Once the research has been completed and the file established, you are called upon for a decision. Is that right? No?

Ms. Lianne Lacroix: No, not quite. You talked about wrongdoing. However, this matter does not come under the purview of the tribunal whatsoever. I do not remember how we say this in French.

[English]

“agent of Parliament”.

[Translation]

I've been told that the term is “officer of Parliament”. Ms. Christiane Ouimet is an officer of Parliament.

Following her investigation, if she establishes that the complaint is in fact related to wrongdoing, she must table a report directly in Parliament within 60 days. Parliament would therefore be aware of the situation.

The commissioner plays two roles. As for the first part of her mandate, she receives the information with respect to the wrongdoing and the results of the investigations are tabled directly in Parliament. As for the second part of her mandate, this pertains to retaliation, and this is when the tribunal has a role to play.

Ms. Diane Bourgeois: So you focus exclusively on the issue of retaliation.

I asked you earlier how many previous cases you based yourself on in order to come up with an action plan, and you told me that you didn't know. Did I understand you correctly?

Ms. Lianne Lacroix: That is very difficult to determine. This is a new tribunal and a new act; it is therefore really impossible to know how many cases we will have to deal with. We have to make assumptions. For example, we have to expect that there will be fewer cases the first year than there will be the second or third year. As employees become familiar with the legislation and the new mechanisms in effect, they will perhaps take the initiative. I manage my budget with as much flexibility as possible for the precise reason that I want to have the money I will need to hear the cases when they occur.

Ms. Diane Bourgeois: That raises other questions.

If my memory serves me correctly, the employee who discloses wrongdoing must do so to his immediate superior, an individual who has been designated by the department. The conflict may be resolved right there. I have been told that the person may also deal with the Federal Centre for Workplace Conflict Management, at the Department of Justice. The individual may also deal with the Labour Relations Board. If the matter is not resolved, the person could deal with the conflict management office within various departments.

Could the resources that have been allocated to you this year, or at least the number of cases that you have this year, have the opposite effect? You may have to increase your human resources, but it is possible also that you have too many. Four judges will not be sitting at the same time. The 12 individuals working in your tribunal will not have to do any investigations or prepare files. I am not against allocating you this money; we will give it to you, obviously. I'm simply wondering if you have considered everything. The financial requirements of an in-depth investigation amount to so many dollars, and you need such and such a figure in order to go further. Then again, you may reduce your budget over the subsequent years.

• (1610)

Ms. Lianne Lacroix: There are several components to your question. First of all, I would like to clarify that I have not hired a

team of 12 or 13 people. I have the money to do so, but I have hired only a small number of people. We are a team of six; that is what I call the critical mass. These are the people that I would need in order to hear a complaint. I do not intend to hire any more people only to have them twiddling their thumbs if there aren't any complaints filed within a few months' time.

Furthermore, the Federal Court of Canada judges are appointed. They're busy doing the work that they normally do. They will continue to sit on the Federal Court of Canada. They already have offices and they will sit only when there is a case. As for the tribunal, we have no problems with that either. They are not paid, they are not given a supplementary salary or anything else of this type.

You also explained that employees have various options available to them. That may be true in one sense, but the mandate of the Public Sector Integrity Commissioner and the mandate of the tribunal are really very precise. They do not deal with just any staff relations case. Their mandate pertains exclusively to complaints of retaliation further to whistleblowing. Should the employee feel that he or she has been the victim of retaliation further to whistleblowing, this individual can see the authority in the department or the commissioner. The other doors remain open. For example, the Labour Relations Board does not deal with retaliation cases as a result of whistleblowing.

The Chair: Thank you, Ms. Lacroix.

In simple terms, Ms. Bourgeois, the tribunal is there to help with redress. Is that true? If someone loses a job, is sidelined or is not earning the salary he or she is entitled to, this is when the tribunal comes into play. It has binding authority and it decides to pay or not to pay.

This is what the tribunal will do.

Ms. Lianne Lacroix: You are right, and it is what I should have said.

The existence of the tribunal will give employees an incentive to lodge a complaint with the commissioner, who in turn will file the application with us. The tribunal may make an order granting a remedy to the complainant; and may order disciplinary action against persons found to have taken reprisals.

Ms. Diane Bourgeois: Madam Chair, I understood that quite well. I just wanted to make sure that the tribunal, as well as the commissioner, will do the work we need—work that other tribunals are unable to carry out. I want to be assured of that.

The Chair: Thank you very much.

[English]

We'll have one final question from Mr. Dewar.

Mr. Paul Dewar: I have a quick question, Madam Chair.

If someone had their employment terminated in July 2007 for reasons that would fit under the criteria, clearly that would be a case that you would handle.

Ms. Lianne Lacroix: Yes, if it was referred to us.

Mr. Paul Dewar: Sorry, yes, you'd handle it with that proviso.

I'm actually speaking about a case that I have a file on. This is someone whose employment was terminated in July 2007. There is a thread to the termination that's not solely based on events that happened from July 2007 back to when you came into force in April. So that's a short window. Some of the variables of the case go beyond April 2007. Obviously I don't want you to judge on it—you wouldn't tell me that—but are you able to deal with cases that go beyond April 2007?

•(1615)

Ms. Lisanne Lacroix: So before April of 2007?

Mr. Paul Dewar: Yes. This person's employment was terminated in July 2007. The act has come into force, but there are many layers and there are other variables that go beyond April 2007. The actual termination of employment of this person, this individual, is July 2007.

So is this something that would be looked at? And I understand that you're not going to tell me what would happen.

Mr. Jean-Charles Ducharme: It's a good legal question.

I can tell you that considering the act came into force on April 15, and the person has 60 days to submit a complaint to the commissioner to investigate it and possibly have that case come to the tribunal, technically speaking, it is 60 days starting on April 15.

I would assume—*avec réserve*, of course—that if the facts happened before the coming into force of the act...but the moment his right was created to submit a complaint, it was after the coming into force of the act. Technically it may be possible that we have to... or not us, but the commissioner will deal with the case and may refer it to us.

That question may be interesting to ask the commissioner as well.

Mr. Paul Dewar: I will be doing so. Thank you very much.

The Chair: Thank you very much.

[Translation]

Thank you very much, Ms. Lacroix and Ms. Sylvestre.

[English]

Good luck in future years.

We'll take a two-minute break, then we'll be back.

• _____ (Pause) _____
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The Chair: I think everyone is back in their seats and the guests have left.

Mr. Holland.

Mr. Mark Holland (Ajax—Pickering, Lib.): Thank you, Mrs. Chair.

I'm introducing a motion. There are some contextual clauses that are before the operative clauses. Those are simply for the benefit of the committee. I'm not introducing them as part of the motion. The motion is simply on the operative clauses.

I know the committee has reviewed this before. In fact there were many hearings with respect to the leaseback real estate plan that had

been proposed by the government for initially nine properties and potentially some 31 more. The committee had expressed concern and asked that a moratorium be placed. The committee had also requested a great deal of information that wasn't forthcoming from Public Works and Government Services, and a lot of that information is still outstanding. However, some has come in dribs and drabs, and has been analysed and raised a lot of concerns.

Nine properties were supposed to be sold, and seven were. An injunction came forward that stopped two of the properties because there were not sufficient discussions with the Musqueam Nation, and there were interests there. That forced the government to stop the sale of those two properties.

Secondly, the concern on a go-forward basis is to look at that and see what kind of value has been obtained for the seven that were sold, to understand what the cost implications are for the two that are not. The question is, what is the intent of the government on a go-forward basis on those properties? Another concern is that there are 31 buildings that are considered for phase two, some of which are heritage buildings located within the national capital. Obviously, that raises a significant number of concerns, certainly on this side.

In that regard, I think it's appropriate that we return to look at this matter, that we have hearings, that we ascertain the costs—what kind of value for dollar was received in this deal that was concocted with Larco Investments—and also to look ahead.

I realize there was some confusion, for example, when we talk about the 31 additional buildings. Some of them are on one property, with multiple buildings on one property. Sometimes there is a little confusion about how many buildings we're talking about. But certainly before there's any further action taken on this, we need to see what's happened and ensure that we're getting appropriate value for our dollar going forward.

•(1620)

The Chair: Your motion starts at...?

Mr. Mark Holland: It would start at the first operative clause, "It is moved that...", and would include as well the part that begins with, "And that..."

Those would be the operative portions. The contextual "whereas" clauses are simply there for the benefit of the committee.

The Chair: Thank you very much.

Debate, Mr. Moore.

Mr. James Moore (Port Moody—Westwood—Port Coquitlam, CPC): Just to clarify, we can call the question, because this will pass unanimously. We'll support it. We're fine to do that.

The only caveat I would add is that I'm glad Mr. Holland took out the whereas clauses, because almost all of them are factually incorrect. But that's okay; the purpose of this is to have the minister come before the committee.

The only information we haven't given to the committee is information that would be illegal to give to the committee. Anyhow, we are more than prepared to put forward any information that is not illegal.

Minister Fortier is a good starting point, I guess. He'll be here December 5. This coincides with the minister coming before our committee. I welcome Mr. Holland's first opportunity to ask questions. We have already had the minister before the committee four times on the subject, and he'll have his first kick at the can.

I call the question.

The Chair: Well, I have Mr. Dewar wanting to speak.

Mr. Dewar, please.

Mr. Paul Dewar: Thank you, Madam Chair.

I wanted to add to the motion. There are a couple of things I'd like to see in this motion before I would support it.

The first point would be to amend it to look at what the government's plans are—because we've sold the buildings, or a couple anyhow—to provide financial assistance to municipalities that will be or are affected by the sell-off of federal public buildings.

In my community right here in Ottawa, the City of Ottawa will receive \$4 million less just because of the sell-off of two buildings.

I'd like to put that down on the motion.

The Chair: Why would they receive less?

Mr. Paul Dewar: If I may, this came from the City of Ottawa, actually. It's not something I concocted. In the short term, the City of Ottawa receives payment in lieu of taxes from the federal government. It's a direct payment.

When these buildings go onto the private market, the regime changes so some of the taxes will go to the City of Ottawa, the rest will go to Toronto for education taxes. What that means to the City of Ottawa just for the two buildings is a net loss of \$4 million.

If this is an unintended consequence, which often happens in these affairs, I think it's an important item that should be addressed. And it might be affecting other municipalities, I have no idea. I know that's the case in Ontario.

A certain woman by the name of Marion Dewar, who was mayor of Ottawa, fought and won the payment in lieu of taxes from one Jean Chrétien in 1978. This is a little history. But I want to make sure when we sell off these buildings, we obviously disagree with him entirely that there's not going to be a further hit to municipalities.

Right now, a debate is raging, as you know, in the City of Ottawa in terms of how much we have to raise our property taxes. Another \$4 million is going to hurt. If we sell off all the buildings, it's calculated as a \$25 million hit.

So I'd like to add that to the motion.

The other thing I want to add are the plans of the previous government on this file. It's my understanding that this idea didn't start with this government, so I'd like to open up the discussion or the study, or whatever you want to call this, to any plans the previous government had regarding the sale and leaseback of federal public buildings; whoever was responsible.

So I want to amend the motion accordingly, adding, "Any plans the previous government had regarding the sale and leaseback of federal public buildings".

The second amendment would add, "Plans the government has to provide financial assistance to municipalities that will be affected by the sell-off of federal public buildings".

Mr. James Moore: I agree with the issue that Mr. Dewar raises. I saw the transcript of the press conference he held with the municipal politicians. We want to get those facts cleared up.

So let's use whatever tight language we can—something like, "The concerns raised by the City of Ottawa or any other municipality"—

• (1625)

Mr. Paul Dewar: By the municipalities.

Mr. James Moore: —"regarding this can be discussed", or whatever.

The clerk knows this; it's fine.

The Chair: Thank you.

Mr. Kramp, and then Mr. Holland.

Mr. Daryl Kramp (Prince Edward—Hastings, CPC): I have just a word of committee to the committee. And this is great, not a problem at all. My only thought is that we have already gone through extensive meetings on this issue. I have no problem broaching new material, new subjects, new ideas, new criticisms, new perspectives, but then let's do our homework.

The blues are all there, from the many meetings that have already been held on this issue. Let's not have ministers and their witnesses in here repeating the same process, with the same questions we've already had answers for.

Let's not waste the committee's time. Let's get on to progressive work.

The Chair: Thank you.

Mr. Holland.

Mr. Mark Holland: Thank you, Chair.

I think that would be appropriate. Certainly, it would be a good idea to bring forward that previous information, and perhaps the research staff could compile it and make sure it's distributed in advance of our hearing witnesses on this.

In terms of property taxes, one of the things we hear from municipalities is that payment in lieu of taxes gives them less than property taxes. Again, I'm not saying I agree with this, but what should happen in this instance of a sale is that the municipality, instead of receiving a payment in lieu of property taxes, should actually receive the property taxes. So while I have a lot of concerns, I don't have that particular one, because I think it may actually be demonstrated that it comes out in a wash at the least, or where the municipality's ahead.

That said, I don't have a problem with having it on the table, at least to clear the air on it. If that isn't an issue, then we can focus on those things that are issues.

In terms of going back further, the question I would have is what would be the intended purpose? Clearly there were discussions in the previous government—no one disputes the fact— about the possibility of the sale of federal properties. Those were discussions; there was never anything that materialized or anything beyond that.

The Chair: There was a request for proposal that had been posted on MERX. It was very far, wide...anyway, that's what happened.

Mr. Mark Holland: In any event, if the committee wants to expand it beyond this particular sale and the question of whether or not buildings should be sold going forward, then the question is why? What exactly are we trying to find out?

At the end of the day, what we're trying to determine is whether taxpayers got good value for their money in a deal that just happened.

The second point, and the intent of this motion, is to determine on a go-forward basis what an appropriate policy is with respect to federal buildings. Is it appropriate or not appropriate to lease them back, and are our interests served by doing so? Those questions would seem to make sense for this committee to answer.

I don't see any benefit... You talk about trying to focus on ensuring that we're actually getting to things that need answers. I don't see any benefit of adding on something additional to this that rings to me just to be partisan.

The Chair: Thank you.

Mr. Dewar.

Mr. Paul Dewar: I'll be very quick, just to clarify for Mr. Holland the rationale for this.

If you're going to look at this issue and the concerns of people—certainly of constituents of mine—you have to look at where this came from and why we are selling off our buildings.

As you know, Mr. Holland, this idea began when your party was in government, and that's why it's important. It's not about having weeks and weeks of study on this. You've already mentioned that a go-forward basis is to provide some backup as to how we got here. If

you're going to have a fulsome policy discussion about the sell-off of public buildings...

I'm just giving you the rationale: it's not partisan, it's actually doing the homework. I think it's important homework to do. How did we get here? You might find that we get a better idea; we don't know.

The fact of the matter is that we're here, people are concerned about it, and I think we have to understand how we got here. That's the only reason for the addition to your motion—which I support, by the way, with that spirit in mind.

The Chair: I'll ask the clerk to read the amendments, then call the question.

The Clerk of the Committee (Mr. Michel Marcotte): You all have the motion.

At the end of the first page of the motion, after the item on the confidential information memorandum, there will be a new item, to read: "Any plans the previous governments had regarding the sale and leaseback of federal public buildings". Then, after the last item, we would add the following: "Plans the government has to provide financial assistance to municipalities that will be affected by the sell-off of federal public buildings".

(Amendments agreed to)

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

● (1630)

The Chair: Thank you very much.

By the way, before I adjourn the meeting, the clerk will be circulating a calendar that will see us through to December 12. He has tried to fill in most of the spots there. I think he's done a fairly good job. He'll be doing that tomorrow morning. It looks pretty good to me, and it follows through on the discussions we had before.

Thank you very much.

The meeting is adjourned.

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