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# Standing Committee on Industry, Science and Technology

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**Chair**

**The Honourable Michael Chong**

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Tuesday, March 31, 2009

• (1535)

[Translation]

**The Chair (Hon. Michael Chong (Wellington—Halton Hills, CPC)):** Good afternoon everyone. Pursuant to the Order of Reference of Thursday, February 12, 2009, we are studying Bill C-4, An Act respecting not-for-profit corporations and certain other corporations.

This afternoon, we will be hearing witnesses from the Canadian Institute of Chartered Accountants—Ms. Christiane Brizard, Mr. Thomas Warner and Ms. Elly Meister—and also from the United Way of Canada—Mr. Al Hatton and Ms. Eva Kmiecic.

Welcome to all of you.

[English]

We'll begin with some opening statements, first from the Canadian Institute of Chartered Accountants.

**Ms. Elly Meister (Director, Government Relations, Communications and External Relations, Canadian Institute of Chartered Accountants):** Thank you, Mr. Chair and honourable members.

The Canadian Institute of Chartered Accountants—together with the provincial, territorial, and Bermuda institutes, and the *ordre* of chartered accountants—represents a membership of approximately 74,000 CAs and 10,000 students in Canada and Bermuda.

The CICA conducts research into current business issues and supports the setting of accounting, auditing, and assurance standards for business, not-for-profit organizations, and government. It issues guidance on control and governance, publishes professional literature, develops continuing education programs, and represents the CA profession nationally and internationally.

The role of the provincial and territorial institutes of chartered accountants, by contrast, is to serve as the qualifying and regulatory bodies of all those who have earned the CA designation and go on to work in positions in public practice, in corporate environments, in the not-for-profit sector, and in the academic world.

We appreciate the opportunity to present the views of Canada's chartered accountants to the committee today. Our commentary will focus on the provisions of Bill C-4 that deal with the requirements to be a public accountant of a not-for-profit corporation.

With me today is Tom Warner, of the Institute of Chartered Accountants of Ontario; and Christiane Brizard, of the Ordre des comptables agréés du Québec. They will provide you with an overview of our submission.

Thank you.

Tom.

**Mr. Thomas Warner (Vice-President and Registrar, Institute of Chartered Accountants of Ontario, Canadian Institute of Chartered Accountants):** Thank you.

As Elly has noted, our comments today focus on clause 181 of Bill C-4, which deals with the qualifications of a public accountant. By way of background, in addition to requiring that a public accountant be a member in good standing of an institute or association of accountants incorporated by or under an act of the legislature of a province, clause 181 requires that a public accountant “meet any qualifications under an enactment of a province for performing any duty that the person is required to perform under sections 189 to 192”. That is for audit or review engagements undertaken for federal not-for-profit corporations.

Paragraph 181(1)(b) ensures that the provisions of federal legislation governing not-for-profit corporations are consistent with and do not override the provisions of provincial public accounting legislation. It also ensures that the standards for providing public accounting to federal not-for-profit corporations are not lower or different from those for provincially incorporated not-for-profits.

The committee has heard the recommendations of the Certified General Accountants Association of Canada, CGA-Canada, regarding the replacement of the term “public accountant” with “auditor” in the preamble to subclause 181(1) and the removal of paragraph 181(1)(b).

We believe the proposed amendments, if adopted, would not be in the public interest. In the case of Ontario and a number of other provinces, they would create standards for audit and review engagements performed for federally incorporated not-for-profit corporations that are significantly lower than those that must be met in order to be licensed to provide public accounting services to provincially incorporated not-for-profit corporations.

Public accounting services are regulated by legislation in Canada's largest provinces, such as Ontario and Quebec, to include audit engagements, review engagements, and compilation services. In part, this is out of the recognition that these two provinces are home to the great majority of the country's capital markets and therefore require the most stringent regulation of financial services providers.

Under Ontario's Public Accounting Act, each of the three designated accounting bodies in the province may be granted authorization to license and govern their members in the practice of public accounting, provided they meet the standards of qualification and regulation adopted by the Public Accountants Council, the PAC. The PAC is an independent, government-appointed, standards-setting and oversight body for public accounting, comprised of a majority of public representatives.

The Ontario legislation requires the standards set by the PAC adopt, maintain, and increase as required standards for public accounting licensing that are internationally recognized and respected.

Let me spend a moment on the meaning of the term "internationally recognized standards" as it relates to CA qualifications. By these, we mean those standards that have been determined to be of equivalent rigour to those of the leading accounting bodies of Canada's major trading partners, for example, the CPA designation in the United States. It means we're not talking of CA standards per se, but rather a set of standards that are internationally driven, consistent with our obligations to our major trading partners.

While the PAC has granted the Institute of Chartered Accountants of Ontario authorization to license members and govern the practice of public accounting by its members, the Certified General Accountants Association of Ontario and the Society of Management Accountants of Ontario currently are not authorized to do so. Indeed the qualification requirements and regulatory programs of the Certified General Accountants Association of Ontario were recently assessed by the PAC as inadequate for this purpose.

We believe this strongly shows there is a significant public policy issue regarding the amendments that CGA-Canada has proposed to clause 181. They would allow individuals who do not possess the necessary competencies under provincial enactments to be public accountants for federally incorporated not-for-profits. It also serves to illustrate that the removal of paragraph 181(1)(b) from Bill C-4 would do nothing to establish uniform or consistent standards for qualification of public accountants between federal and provincial jurisdictions.

● (1540)

Legislation specifically governing licensing or certification of public accountants has been adopted in some jurisdictions but not in others. The nature of public accounting services that are regulated varies among the provinces and territories. In our written submission to the committee, we have provided an overview of the disparities in these public accounting standards.

I'll now ask my colleague, Christiane Brizard, to provide you with an overview of how public accounting services are regulated in Quebec.

[Translation]

**Ms. Christiane Brizard (Lawyer, Vice-President, Legal Affairs and Records, Ordre des comptables agréés du Québec, Canadian Institute of Chartered Accountants):**

In Quebec, the Professional Code establishes a single framework applicable to all professional bodies. Beyond this, specific legislation has been adopted for bodies whose members enjoy an exclusive field

of practice. For example, under the Professional Code and Chartered Accountants Act, chartered accountants are licenced to practice as public accountants and to use the title "auditor".

Recently, with the adoption of Bill 46, CGAs and CMAs were granted the right to practice public accounting under certain conditions related to the necessary standards of qualification and regulation—conditions that they have not yet met. CGA and CMA accounting bodies may grant their members a licence to practice as public accountants and to use the title "auditor" if their members have met the standards adopted by that accounting body by regulation. Only these future holders of specific licences may practice as public accountants.

Bill 46 specifically requires that the CGA and CMA accounting bodies, in making the first regulations applicable to their members regarding the practice of public accounting, use standards that are analogous to the recognized standards currently required to practice public accounting in Quebec. These recognized standards are those applied by the Ordre des comptables agréés du Québec and by the ICAO in Ontario. Deleting paragraph 181(1)(b), requiring public accountants to meet provincial requirements for performance of their duties, would have the effect of allowing CGAs or CMAs not qualified to perform public accounting to do so.

I would like to address another issue outlined in our submission. It has been argued that paragraph 181(1)(b) could impede the mobility of accounting professionals, which is otherwise provided for under Chapter 7 of the Agreement on Internal Trade. Under Chapter 7, which takes effect on April 1, 2009, provinces and territories maintain the authority to establish the standards they deem necessary for their jurisdiction and also retain the authority to determine those professional areas that require exemptions to full mobility provisions, on the grounds of consumer protection, among other considerations.

There is a significant concern that a "public accountant" from another jurisdiction could obtain automatic certification in public accountancy in either Ontario or Quebec under the revised Chapter 7 provisions of the AIT. As such, a legitimate objective exemption for automatic certification in public accounting is being actively sought in Quebec, and by the Institute of Chartered Accountants of Ontario and the independent provincial Public Accountants Council in Ontario before the entry into force of revised Chapter 7 provisions.

As already noted, the concern for consumer protection would be further compounded should provisions regarding mandatory qualifications set out in subclause 181(1) be deleted from Bill C-4.

I would also like to speak briefly about the independence provisions of Bill C-4, which are contained in clause 181. It has been suggested that they be amended to simply require that professional accountants comply with independence standards established by their regulatory bodies, that is the CA, CGA or CMA. However, we note that there are significant differences among the independence standards established by each body. For this reason, we support keeping the minimum standards that are established under Bill C-4.

•(1545)

This would avoid any confusion in determining the applicable independence standard and would prevent potential disputes. We note that these provisions, contained in Bill C-4, mirror those that are found under the Canada Business Corporations Act.

I will now give the floor to my colleague, Thomas Warner, who will conclude our presentation.

[English]

**Mr. Thomas Warner:** We believe that our submission clearly demonstrates the importance of retaining clause 181 as contained in Bill C-4. If paragraph 181(1)(b) were deleted, the right to perform audits or reviews of federally incorporated not-for-profit corporations would be given to some practitioners who, under the legislated public accounting regimes in Quebec and Ontario, do not possess the competencies necessary to do so. That this would occur, whether or not their accounting bodies have qualification programs that provide their members with the competencies needed to perform audits and reviews, runs counter to the public interest at a time when stringent regulation of financial services practitioners is paramount.

We submit that Bill C-4 should not be amended to create a conflict with provincial legislation. We urge the committee to ensure that the public interest is protected and that Bill C-4 is consistent with and does not override the provisions of applicable provincial legislation by retaining the current term “public accountant” in the preamble to clause 181 and by retaining paragraph 181(1)(b).

We appreciate the opportunity to address the committee and would be pleased to take any of your questions. Thank you.

[Translation]

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

Mr. Hatton, you have the floor.

[English]

You have the floor.

**Mr. Al Hatton (President and Chief Executive Officer, United Way of Canada):** Good afternoon, *bonjour*, everyone.

Mr. Chair, members of the committee, and committee staff, thank you so much for inviting us to present to you this afternoon. We're pleased to discuss the bill and talk a little bit about United Way.

I'd like to begin actually by talking about United Way, and then I'll come to our position, in more detail, related to the bill. No doubt all of you know about United Way. We actually have a very special relationship with the federal government. We work with every department for several months of the year. This year we raised \$36 million in partnership with the federal government right across the country and \$20 million in the national capital region. We have long experience of working with government in that regard.

We are also the largest movement in the country that fundraises in the voluntary sector, supporting health and social services. Each year, we raise more than \$480 million. We've raised almost as much this year as we did last year, which is pretty extraordinary because the economic turmoil hit us as it did all of society in the last quarter and the beginning this fiscal year. We know we have a challenge

ahead, but at least this year we can maintain many of the commitments we had over the past year.

I also want to talk to you a bit about the transformation we're going through as an organization. Our fundamental purpose is to change living conditions and tackle the toughest issues in communities. It's ultimately about improving the life of Canadians; it's not simply about fundraising.

Our 119 local United Ways across the country have independent boards of directors. They're incorporated separately across the country. They represent diverse citizens who come from a variety of sectors. They work with us to identify community problems and address them on an ongoing and daily basis.

We have approximately 900 staff, and we engage 200,000 volunteers each year across our country, both in fundraising and in working on allocations and how you deploy those resources in the best possible way in local communities.

Our role at national—we're based here in Ottawa—is to provide directions, be strategic, think long term, and help United Ways learn and share together. That's our fundamental purpose.

In 2003, we actually worked very hard to come up with a new mission to move away from simply being an umbrella fundraising organization and really start to understand more fundamentally how you change community conditions. How do you have an impact in the community? That's far more challenging.

For us, fundraising is one of our strategies to reach the public and ignite volunteers and engage people, but the other is to create lasting change in communities. We're really about getting at root causes and thinking long term. That's a fundamental change for us. In the past, for instance, funding a food bank takes resources and is a challenge. Try alleviating and reducing poverty. It's much more challenging.

We're doing this through research, through public policy, through new partnerships and collaborations, and engaging volunteers and citizens in a far more meaningful way. This is going on with United Ways all across the country.

Now I want to come to Bill C-4. Actually, we welcome this legislative initiative and congratulate the government on this act, because we feel it's actually long overdue and will help organizations maintain the credibility and the public trust that is so important for organizations, both ours and ones we fund across the country.

We also support the principle of a new stand-alone legislative framework, which will help organizations and guide them in some areas where perhaps they haven't had the resources in the past to really pay attention. Everyone wants to be transparent and everyone wants to be accountable in our sector, because in fact that is a fundamental precept of our sector—trust. If we don't have trust with citizens, we obviously will not be able to engage them and work with them over time.

We also participated in earlier rounds of consultations in other forms of this bill, so we're happy to see it at this stage. Hopefully it will move through the House in the coming weeks.

Over the last couple of years our board of directors has actually been working in anticipation of this legislation. We took this as a guide and we began to change our policies and our procedures. Whether this actually became law or not, we know it's best practice, and for us that was an important thing, to update our guidelines and requirements to ensure we would be ready and were very credible in terms of the public.

It's true that the bill is complex, and we appreciate the government's role in trying to simplify and clarify how organizations can actually utilize this and be stronger. We do appreciate that this is long overdue and we support the fundamental principles underlying the bill. However, at the same time, we regret a bit that in this recent iteration of the bill there wasn't more extensive consultation with the sector, because some new things have been introduced, and it would have been helpful to have had the time to weigh in on that. On the other hand, we have to keep moving, and we appreciate that it's important to get some of it, or all of it, through the House so that it can start being used by organizations over time.

● (1550)

We do have one major concern. We believe this will have a significant impact on smaller organizations. In our case, we have a number of United Ways. We are very representative of the voluntary sector. In the city of Toronto, for instance, our United Way raises \$107 million each year, including this last year, and we have small, remote United Ways that raise \$200,000, so we are a very good reflection of the sector.

Our concern is with small and remote United Ways and those small organizations that we also fund. For us, some of the burden of the regulations will potentially have a negative impact on small organizations. There's a fear among some of their members about whether they can continue to attract quality volunteers, and that is a concern for us.

Volunteers get involved with our organization, and many other organizations, because they want to give back to the community. They want to care. They want to make a contribution. They're not interested in overhead and they're not interested in bureaucracy. They live through enough of that in their daily lives. Really, they come out and they want to help fellow citizens. For us, that's an important thing to keep in mind.

We would ask the committee to perhaps consider less onerous requirements in some of the regulations so as to make things simpler, especially in the areas that relate to legal guidelines. This is not about undermining transparency and accountability, but it is about making it simpler.

We also appreciate and understand that the committee, or the government, is going to be holding some workshops across the country after the implementation or the acceptance of this bill. We commend you for that. It's very important to get out and explain to organizations what's embedded in this, because from our experience, the smaller organizations just do not have the capacity to stretch and do more in terms of accountability.

We also have a concern around the rights of members. Obviously it's important to share information with members, and to use modern data management and up-to-date systems to the best of our ability in terms of sharing information, but many small United Ways and local organizations don't have that capacity, so it would be really important for this to be communicated well. Again, if there's any way the regulations around members could be simplified, it would be great.

There's also a tone in the bill that can be taken in one of two ways. From one perspective, it can simply be that you are assisting organizations to be more transparent and accountable. There's another side to that, though, that could start to cast doubt in the minds of the public about huge insufficiencies and incapability and incompetence in voluntary organizations. That has not been our experience crisscrossing this country. What people are able to do with minimal resources is incredible, so I think it is important for the committee to underline this point in casting the introduction of this measure.

With regard to the remedies section, we see remedies across a number of the categories in some of the different pieces of the legislation. We would recommend that they be perhaps centralized in one place. Then organizations could quickly go to that place and be very clear about the areas in which they are accountable. We believe that's also cast around a feeling of trust. In all the polls we do—in the private sector, in the public sector, in our sector—we see that trust levels end up being the top consideration. Yes, we can always improve, but again, we want to give a healthy impression to the community and to the public in general.

We also know that Imagine Canada recently presented before the committee. I think they made some very cogent arguments around the voting rights of members. I don't want to reiterate those. We would support that. They also talked about reducing red tape, and that's something we've been working on with Treasury Board and the current government to ensure that the organizations can be effective but not overwhelmed.

● (1555)

I'm going to leave it at that. We're open to a conversation and a discussion in responding to your questions.

Again, thank you so much for inviting us, and we look forward to chatting with you about this.

[*Translation*]

**The Chair:** Thank you for your testimony, Mr. Hatton.

We will have Mr. Garneau begin the question period.

**Mr. Marc Garneau (Westmount—Ville-Marie, Lib.):** Thank you.

[*English*]

First of all, I'd like to thank all of the witnesses for coming today to testify, and I'd also beg your indulgence. My question is to the Canadian Institute of Chartered Accountants, the Institute of Chartered Accountants of Ontario, and l'ordre des comptables agréés du Québec.

In clause 181, this bill talks about public accountants or auditors. Irrespective of whether or not paragraph 181(1)(b) is in the bill, ultimately my concern is that Bill C-4 be a good piece of legislation. There's no question that one of the two groups, either you or the Certified General Accountants' Association, is not going to be satisfied with the bill's final form.

This, of course, is a piece of legislation that deals with a matter of great importance. Forgive me thinking at one point that there may be a little bit of a turf battle going on here—at least that's my perception as a non-expert. So if you'll indulge me, I would like to quote from the other group and ask you what your opinion is of their statement. Of course, they want to remove paragraph 181(1)(b), and one of their arguments is that the provision is redundant and that:

...a professional accountant who provides public accounting services must comply with the requirements of his association or institute whether these requirements are matters of law or practice. The requisite level of oversight is appropriately captured in the first requirement.

What is your comment about that assertion?

• (1600)

**Mr. Thomas Warner:** I guess I'll respond to that.

Really, the issue is not about which accounting designation gets to do what services. It really is a question of standards. The legislation governing public accounting in Ontario and Quebec says that if you're a member of any of the three accounting bodies, you can be licensed and do these services if your accounting body meets the standards set by the legislation.

The Public Accountants Council for the Province of Ontario has set those standards for that province, including qualifications—that is, education, examination, and experience requirements. But they also include, on the regulatory side, rules of professional conduct, disciplinary processes, practice inspection, etc. Those are all standards, and the Public Accountants Council has said they will assess each of the three accounting bodies in terms of whether they meet those standards, and if they do, the members of those bodies will be able to provide the public with accounting services, because they will be able to be licensed.

So, really, our response is that this is about standards. The legislation provides for members of each of the three accounting bodies to provide those services, if they meet the standard set by the independent government-appointed oversight body in Ontario.

[*Translation*]

**Mr. Marc Garneau:** Did you wish to add something?

**Ms. Christiane Brizard:** I agree completely with what my colleague just said and I would add that, in general, in order to practice public accounting, one must hold a specific permit for public accounting in addition to being a member of the Ordre des CGA and the Ordre des CMA.

Therefore, you can be a member of an association without necessarily holding a public accounting permit. Thus, you would not have the right to perform public accounting, that is, to audit financial statements. You must hold a public accounting permit to do so.

That is what paragraph 181(1)(b) sets out. The conditions are, first, membership in an association and, second, a permit to practice public accounting.

**Mr. Marc Garneau:** Thank you.

[*English*]

I have one other argument of theirs that they bring up, and I would like to hear your opinion of it. Again, the Certified General Accountants' Association says that the provision in paragraph 181(1)(b) is inconsistent with current federal legislation, including the approach taken by the Bank Act, the Canada Elections Act, and the Canada Mortgage and Housing Corporation Act.

I guess they're basically arguing that this has not been an issue with some other very important government acts.

**Mr. Thomas Warner:** I'll respond to that as well.

Our concern is that those federal acts are inconsistent with the applicable provincial legislation, in terms of who may provide those accounting services, that is, the audit and review engagements within those sectors. Our concern is that within a province or a territory, it is not in the public interest to have an inconsistency in the standards of who is able to do audit and review engagements for federally incorporated not-for-profits, as opposed to those who would have to meet a different or higher standard to do the equivalent public accounting services for provincially established not-for-profits.

We're saying it is important that there be consistency between the federal and provincial legislation within each province for services provided to not-for-profits established or located in those jurisdictions, and that the federal legislation cited at the moment is inconsistent with provincial legislation. Our view is that Bill C-4 shouldn't continue the inconsistency, but should be consistent with provincial legislation.

• (1605)

**Mr. Marc Garneau:** I had a feeling you were going to say that, Mr. Warner.

*Madame.*

[*Translation*]

**Ms. Christiane Brizard:** I believe that the CGA commented more on the use of the term “public accountant” than on the term “auditor”. From experience, I can tell you that when you do not necessarily use the same terms found in provincial legislation, it requires that you go to court to obtain an interpretation of what is meant by the term “auditor” as opposed to “professional accountant” or “public accountant”. That has been our experience. I have personally had that experience with respect to the law and Elections Canada.

Therefore, by using terms applied by the provinces—the constitution gives jurisdiction for professional legislation to the provinces—, the risk of interpretation, or at least of litigation, is lower.

**The Chair:** Thank you, Ms. Brizard.

Mr. Bouchard.

**Mr. Robert Bouchard (Chicoutimi—Le Fjord, BQ):** Thank you, Chair. Thank you for being here this afternoon.

My question is for the certified accountants. The CGA recommends replacing the term “public accountant”—you just mentioned this but I would like to hear it again—with the term “auditor”.

Could you explain why you use the term “public accountant” rather than “auditor”?

**Ms. Christiane Brizard:** I am going to complicate this even more. The Quebec bill that was just adopted, Bill 46, does not use the term “vérificateur” nor the term “expert-comptable”, but just “auditeur”. If you would like to know why, I will explain it to you.

I was a member of the working groups that negotiated the tabling of Bill 46. This bill governs public accounting. That is the expression used, “public accounting”, and it refers specifically to audit and review engagements.

However, when the time came to choose the terms to identify those having the right to provide this type of service, we asked ourselves if we wished to use the term “comptable public”, for the English “public accountant”, and the three professional associations decided that this French term did not have a meaning in the French language. In general, the public does not know what a public accountant does.

However, in the other provinces, the term “public accountant” is very clear, and indicates an individual who has the right to perform public accounting, but not in Quebec. Thus, the term “*expert-comptable*” would be used. In the end, the reason why “*expert-comptable*” was not chosen was because, especially in the case of the CGA and CMA, the accountants must have a special permit to perform public accounting. This would have created two categories in their association: public accountants and accountants. They could not allow this. Therefore, we looked for another term that everyone could agree on. We settled on the term “auditeur” because we wanted to somewhat follow what is happening in France.

However—and I imagine my colleague can say this more authoritatively—, in the nine other provinces, the term “public accountant” is used. In looking at how the legislation has been translated, we note that in French, rightly or wrongly, it is rendered by the term “expert-comptable”. Thus, where the term “public accountant” is in the original version of a legislative text, we find, in the French, the term “expert-comptable”.

**Mr. Robert Bouchard:** Therefore, in Quebec, “expert-comptable”—

**Ms. Christiane Brizard:** In Quebec, we use the term “auditeur”, but the nine other provinces use “public accountant”, therefore “expert-comptable”.

**Mr. Robert Bouchard:** I think you are referring to auditing of the books as opposed to accounting, which is carried out on a daily basis.

• (1610)

**Ms. Christiane Brizard:** No, I am referring to “vérification” or “audit”, if we again wish to use the term used in France. In fact, it is known as an audit and review engagement, as per clauses 182 and so forth of Bill C-4.

**Mr. Robert Bouchard:** Did your two groups work together to find the appropriate term?

**Ms. Christiane Brizard:** Yes, that is what I was saying. The three associations and the Office des professions reached a consensus. In Quebec, we use the term “auditeur”.

**Mr. Robert Bouchard:** But was that in keeping with bill C-4?

**Ms. Christiane Brizard:** No, we did not discuss that.

**Mr. Robert Bouchard:** Do you think it would be possible to choose a term acceptable to all parties?

**Ms. Christiane Brizard:** Personally, I do not object to the term “expert-comptable”. Historically, that is the term that has always been used in legislation. In my opinion, changing terms without providing an explanation results in more confusion than anything else.

**Mr. Robert Bouchard:** My second question is for Mr. Hatton.

You mentioned some of your concerns, including the difficulty in recruiting quality volunteers and the need to simplify requirements for small organizations.

Do you feel that Bill C-4 can address these concerns?

[English]

**Mr. Al Hatton:** I think if, for instance, forms are built after the fact to be able to share with organizations so they can simply understand what their rights and responsibilities are.... Frankly, if you're a small organization you're not going to take a 300-page document and figure out how you're going to be able to respond. I think the challenge is going to be to simplify that. We had a bit of the same challenge with CRA in terms of their T3010 forms.

We are doing other regulation with Finance and with Canada Revenue. They actually created two forms. One was for complex organizations that they would have to fill out each year in terms of their operations, and they were 16 or 18 pages. They had a second form for organizations under, let's say, \$200,000 of five or six pages, where they really accented the key things that organizations would be responsible for. That's the sort of thing we'd be thinking of. Otherwise people are overwhelmed and then they take it to auditors. If they don't have the money and if they can't find volunteers, then they don't have the resources to be able to do that. I think that's sort of the tone in which we would make that recommendation.

[Translation]

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

Mr. Lake.

[English]

**Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC):** Thank you very much for coming in today.

I'm going to come back to the same question, but maybe I'll ask it in a different way regarding the CGA and CA difference.

Hypothetically, let's say we were to change the bill as per the request of the CGA. If that were to happen and an Ontario organization decided they were going to a CGA rather than a CA to perform their necessary accounting work, how would that organization suffer by making that decision?



**Mr. Thomas Warner:** I don't think it is the organization itself that would suffer, but the third parties who would be relying upon or using the audited financial statements of that organization. The concern there is that whether you're a for-profit organization or a provincially established not-for-profit or a federally established not-for-profit, the financial statements have all been prepared in accordance with the same standards and the same requirements, demonstrating the same competencies. I think it's more a question of the ability of the third parties, the users of the financial statements, to rely on those and to understand that an audited financial statement means the same thing regardless of who has prepared it.

•(1615)

**Mr. Mike Lake:** So would a third-party organization, as you're talking about, using the outputs of a CGA in Saskatchewan be at a disadvantage compared to a third-party organization using the outputs of a CA in Ontario?

**Mr. Thomas Warner:** Let me answer it this way. Saskatchewan at the moment does not regulate public accounting at all. They have no legislation governing public accounting. So anyone may do public accounting there, whereas in Ontario, it has been regulated at an international standard.

So within Saskatchewan there would probably not be any difference, but that individual wanting to provide that engagement in Ontario would not be required to perform it at the same standard as a public accountant in Ontario.

**Mr. Mike Lake:** In general, how do the qualifications of CGAs and CAs differ substantively?

**Mr. Thomas Warner:** I'm a little hesitant to get into that, because I'm sure the CGAs would come back with a response that would disagree with me. I would tell you that all the components of both the CA qualification requirements and the CGA requirements, which include professional program requirements, the competencies and knowledge you need to write the examinations themselves, practical experience, and education—if it's a university degree, what's in the university degree—have been assessed by the Public Accountants Council in the province of Ontario, which I indicated has been set up under the legislation as the standards-setting and regulatory body. They did that through a rigorous process involving academics and practitioners and psychometricians. They did a thorough review, and it was their conclusion that at this point in time, the CGA in Ontario did not meet the standards they had set when you look at those aspects of the qualification program: education, examination, experience.

**Mr. Mike Lake:** Is the fact that the legislation as it stands right now would allow a CA in Ontario and a CGA in Alberta or Saskatchewan to do the same work a shortcoming in the legislation, in your view?

**Mr. Thomas Warner:** It isn't in Ontario.

**Mr. Mike Lake:** No, no. I'm talking about the fact that the legislation, Bill C-4, as it's presented, would allow a CA in Ontario and a CGA in Saskatchewan to do the same work. Is it a shortcoming in the legislation that it allows CGAs in any part of the country to do this work?

**Mr. Thomas Warner:** No. Bill C-4 says it allows them to do it in any province in which the provincial legislation allows them to do it.

**Mr. Mike Lake:** Okay.

I have a quick question for the United Way, if I could.

First of all, I want to comment that I really do appreciate, and I think we all appreciate the work you do in all of our communities.

In terms of the impact, you mentioned that you'd like to see less onerous requirements for smaller organizations. Are there particular examples of areas where the requirements would be too onerous for the small organizations you're talking about?

**Mr. Al Hatton:** Yes. The whole section under the previous clause 375—debts, trust indentures, receivership.... Those are exceptional circumstances. That sort of very loaded, legalistic verbiage, in a sense, is fairly challenging.

Obviously, people have to obey the law. Obviously, if an organization gets into trouble, there's a whole process by which you can deal with that. That would be an example, Mike. It's overwhelming. Then people have to go to lawyers and they have to start a whole process. They're there to actually give service, and often with limited resources.

It starts to create a very uncomfortable feeling for organizations, whereas if you simply state that you have to be honest, you need an audit, you have to have an annual report, and you have to share results with your members, that's the basic stuff people have to honour.

You can make it much more complicated. If somebody wants to do something that's illegal, they'll find a way around it. How do we make it simple and yet not so general that people can say, "I didn't know I was supposed to behave that way"? Most people know what's right.

•(1620)

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

Mr. Masse.

**Mr. Brian Masse (Windsor West, NDP):** Thank you to everybody for coming.

I'd like to continue with the United Way. I have a lot of concerns with the bill, not because of what it's trying to do but because of the lack of initiatives to even deal with this section of the economy. It's 8% of the economy. People forget about that.

There hasn't been any charitable tax reform. In fact, there's actually been a reduction in the amount you can rebate back to people for giving. It's tied to the lowest bracket of income tax. When that is dropped, then your rebate is dropped. Mind you, it's only a couple of bucks in overall donations, but it's sending the wrong message.

My concern, coming from the not-for-profit sector myself, is this. In terms of resource-based training, do you envision that the organizations will have to actually consult a lawyer? Will they have to bring in outside resources? Or do you really think that people could actually do this through a workshop?

I'd like to know whether or not you think, looking at the medium to smaller ones in particular, it wouldn't have the lawyer volunteering on their time, or the accountant sitting on their board. Sometimes it might even be a conflict of interest for some of them to do that training anyway.

Can I get a response to that? Do you think they'll have to expend resources to do this training?

**Mr. Al Hatton:** Well, fundamentally we support the principle of this—namely, to ensure that organizations are well run, are transparent, are very conscious of their responsibility to the public, and are husbanding their resources in the best possible way.

There are three years for us to sort of soften up organizations and make them aware that this is important. I think the trick is going to be in simplifying the implementation. This is obviously a regulation to cover all kinds of things, some of which you wouldn't want to happen and some of which people should just be conscious of.

I think the trick, from an implementation and bureaucratic next-step point of view, will be to come up with simple processes that help people understand their basic responsibilities and how they can exercise those in a practical and non-complicated way. It's not clear how that process is to take place.

I think that's where the real challenge is going to be. If the intent is to, in a sense, put a whole bunch of rigour onto organizations and tell them they have to do all sorts of things that don't actually advance their missions, then I think that will be complicated. It will be costly. And that's where it will become complicated.

That I don't have a sense of, but our concern, I think, would be that this be thought through. And then, once this goes through, how do we actually bring this alive and make sure that organizations continue to be effective without breaking them?

**Mr. Brian Masse:** Right now we really only have a commitment for pamphlets. You're suggesting workshops.

Would it be practical enough if we actually...? Let's say over the next three years we were getting that commitment to have workshops in regions, and then maybe some funding to make sure they can get to that training, too. You have rural and other types of organizations that, I can tell you—well, I don't have to tell you, as you'll know this very well—don't have this money budgeted for training, let alone for executive directors. Then you have staff members, who then have to be up on all of this stuff. Even if they don't participate in the decision-making, they need to understand how their boards function, and their rules, and all those things, if we're going to change all that.

Would that be a model that you think the United Way could support, or would be able to participate in, to make sure that the training gets done?

**Ms. Eva Kmiecic (Executive Vice-President, United Way of Canada):** Thank you for that.

That is, in fact, an understanding of ours from the previous consultations we had with Industry Canada, that in a three-year transition period there would be effort made to have either workshops done directly by the department, with non-profits across the country, or to provide funding to other organizations, such as

ours, national membership-based organizations with membership agreements, around which our members have to meet minimum standards that will change as a result of this act. So we would be allowed the opportunity, and provided some resources to provide that training to our members.

It's very important for us to have not just awareness-building sessions—some tools and templates, as Al has mentioned—but also the opportunity to actually do some training, if not through the department, then working through some credible organizations that would provide for that opportunity to ensure that we are compliant.

There are some additional areas where in fact this will put a harder burden on our non-profits. The voting rights of members is one that we have also not identified. Certainly we would like to see some changes in that regard.

So yes, there was an understanding that those provisions would be allowed for.

• (1625)

**Mr. Brian Masse:** You correctly mentioned at the beginning of your presentation the strength of actual organizations right now, and the accountability for this, because every single cent makes a difference. In fact, the private sector could take some lessons from what's been happening in the not-for-profit sector all these years.

Here's what I really worry about at the end of the day. I look at a community like Windsor right now. We've had a successful United Way drive, even recently, and there are other not-for-profits that are dealing with some of the significant social consequences we have now, and I don't want to see a single cent diverted to a new *Robert's Rules of Order* at a time when we can't even retain volunteers and programs are required to expand when we know they've been shrinking.

If I understand correctly from the testimony, the United Way would be open to being part of one of those organizations that trains, follows up, and does that type of work. I just believe it's going to be a lot bigger than what we're talking about here today.

**Mr. Al Hatton:** To the second point, absolutely, and on the first point, I think it's a balance, because at the same time there have to be accountability and rigour, and we're subject to the same growing level of skepticism and cynicism about organizations and how they actually use their resources. So anything that enhances our ability to prove and to validate that we're adopting best practices in terms of being responsible organizations is good. If it tips over to that's what we're spending all of our time on, or too many resources on, then you know what? That hasn't worked.

It really is that balance, but absolutely, we'll have to do it anyway. With regard to any support, certainly for the member organizations we have and those we fund, we would have to make sure they are capable of following this kind of regime. The simpler it is, and whatever support we would get, that would be great.

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

Thank you, Mr. Masse, for those questions.

We'll end this first panel of witnesses and suspend for two minutes to allow the next panel of witnesses to appear.

I want to thank the Canadian Institute of Chartered Accountants and the United Way for appearing in front of us today.

Thank you very much for your testimony and for the briefs.

- \_\_\_\_\_ (Pause) \_\_\_\_\_
- 
- (1630)

[*Translation*]

**The Chair:** Today, the committee will hear officials from Industry Canada.

A vote will be held at 5:15 p.m. I believe we have 50 minutes.

Mr. Charland, you have the floor for 10 minutes.

[*English*]

**Mr. Roger Charland (Senior Director, Corporate and Insolvency Law Policy and Internal Trade Directorate, Department of Industry):** Thank you, Mr. Chair and members of the committee.

Thank you for inviting me to appear before you to clarify some points with respect to Bill C-4, An Act respecting not-for-profit corporations and certain other corporations, and to answer any questions you may have. It's a pleasure to be here.

I'm the senior director of the corporate and insolvency law policy and internal trade directorate at Industry Canada. I'm joined by Wayne Lennon, the senior project leader on the not-for-profit file, who works directly with me, and Coleen Kirby, manager of the policy section at Corporations Canada, the agency that would be responsible for the administration of the statute.

As you've already heard from the Minister of State for Small Business and Tourism and other witnesses before this committee, this is a bill that has a long history. Variants of this bill were introduced in Parliament in 2004, twice in 2008, and now in 2009. The bill is intended to improve and modernize an old statute that applies to some 19,000 federal not-for-profit corporations. It does so in a number of ways.

For example, it greatly simplifies the incorporation process, replacing ministerial discretion for issuing letters patent with a process more akin to incorporation as a right. It reduces the paper burden and associated costs for smaller corporations by allowing them to forgo audits of financial statements, with the support of members. It provides the maximum flexibility to not-for-profit corporations to organize their affairs through articles and bylaws. It allows information to be provided to members by electronic means, including the holding of electronic meetings, if members so wish. It provides a clear and well-understood defence for directors and officers against unwarranted liability. It provides members with a new set of rights, including the right to financial information, the right to make proposals for discussion at an annual meeting, and the right to use the oppression remedy in the event of a conflict within the corporation. It provides more public transparency for a corporation that obtains its funding through public solicitation or by government grants. It provides clear rules and procedures for a whole range of contingency situations, including debt financing and trust indentures.

Admittedly, many of these provisions will never be used by most corporations. But the new act will eliminate ambiguities that in some instances can cost a not-for-profit corporation thousands or even hundreds of thousands of dollars in legal fees before a resolution can be reached.

These are only a few of the bill's many improvements over the current legislation.

As committee members know, Industry Canada was aided during the development of the policy that led to this bill by the input of hundreds of stakeholders who were consulted in 2000, 2002, and 2005. During those consultations, many suggestions and recommendations were received, a great number of which found their way into the proposed statute.

Members of the committee, my colleagues and I are prepared to assist you in any way we can by answering any questions you may have.

Thank you.

[*Translation*]

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

We will continue with Mr. Rota.

[*English*]

**Mr. Anthony Rota (Nipissing—Timiskaming, Lib.):** *Merci beaucoup, monsieur le président.*

We saw something here earlier. I know the CGAs and the CAs were here. I know the way in which the bill was written. We have other examples where the script was put in and we saw it very plainly. It recognizes the accounting that's basically done on a provincial basis.

The concern I have is that if we start making changes, it sounds as if we're getting into a muddle over an argument that is happening among associations. I'm not even sure if it's a provincial matter that the federal government is getting into. What advice would you have as far as meddling with CGA and CA disputes within the provinces?

- (1635)

**Mr. Wayne Lennon (Senior Project Leader, Corporate and Insolvency Law Policy and Internal Trade Directorate, Department of Industry):** The bill is very similar, if not exact, to the Canada Business Corporations Act and the Canada Cooperatives Act in that the act itself does not define what the accounting standards are. It really doesn't care. But to the extent that there's a coexistence of corporate entities within a province, it defers to the provincial authorities to make whatever rules or licensing arrangements are required to provide public accounting services within that province.

If the provinces, either through Bill 46 in Quebec or the Public Accounting Act in Ontario, decide to allow CGAs to do public auditing within the confines of the province, it will automatically allow them to do federal incorporations.

**Mr. Anthony Rota:** Leaving it to the provinces is the right route to take. It's the safe route.

**Mr. Wayne Lennon:** Again, notwithstanding the acts that were cited by the CGAs, it's consistent with other corporate statutes administered by Industry Canada.

**Mr. Anthony Rota:** Do you have any concerns about corporations that have less than \$25,000 and there's no need for an audit? I've heard some concerns that may leave the door open for some darker sides of society to take advantage of that. Are there any safeguards within this bill that would allow or prevent illegal actions or illegal activities to take place?

Say somebody opens up 25 or 10 non-profit corporations, runs them to about \$20,000 or \$25,000 and then doesn't have to worry about an audit and just goes from one to the other. That was something that was brought up by someone. I'm not sure if that's realistic. If it is realistic, is there anything within the bill that would prevent that?

**Mr. Wayne Lennon:** It's \$50,000 and lower that one need not do an audit.

First, there are member remedies. The financial statements have to be provided to members, even though they're not audited. This \$50,000 would be for soliciting corporations. Those financial statements, even though they may not be audited, have to be deposited with Corporations Canada so they'd be available for public scrutiny, including scrutiny by regulatory officials, police officials, FINTRAC, Revenue Canada, or anybody who wants to look at them. There is that public oversight.

For non-soliciting corporations, of course, it's \$1 million, but money could only be collected from members themselves, so it's a different situation.

For soliciting corporations that get their money from the public or from government grants, there are other ways of looking at their books even though they may not be audited.

**Mr. Anthony Rota:** I'll pass it on to my colleague, Mr. Garneau.

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

I understand the Canadian Bar Association sent you their proposed changes, a fairly large number. I would like to get, in your words, what your feelings are about those changes and whether you think some of them should be incorporated.

**Mr. Roger Charland:** We received their suggestions for changes and we're looking at them. At this point we don't have a position on any one of them in terms of whether we would agree or not. We could undertake to get back to the committee if the committee so wishes.

**Mr. Marc Garneau:** In some of the presentations we have received from witnesses there seems to me to be an encouragement to simplify wherever possible. Is that something that appeals to Industry Canada?

**Mr. Roger Charland:** I think some of the proposals that have been submitted go to maybe simplifying the drafting. It doesn't really change the nature of the provision or what the provision was intended to do. To the extent that it would create greater clarity, it becomes interesting in terms of possibilities. But we still have to look at some of these and assess their full implication in terms of how they would play with the other provisions and whether it's

simply a matter of drafting, in terms of getting the drafting clearer, or whether it unintentionally changes some of the elements of the bill.

● (1640)

**Mr. Marc Garneau:** In some cases, complete sections are recommended to be removed as being not necessary. I think it would be very useful for us to know what your feelings are about some of those. I can remember 6 and 7 repeatedly mentioned as not being really necessary.

**Mr. Roger Charland:** We can get back to the committee on that if it would be useful. I can't answer at this point in time.

**The Chair:** If you could get back to the committee, that would be useful. If you do get back to the clerk, we'll make sure that gets distributed to all members.

[Translation]

Do you have another question? Thank you.

Mr. Vincent, you have the floor.

**Mr. Robert Vincent (Shefford, BQ):** Thank you, Chair.

I would like to congratulate Mr. Rota for the excellent question he asked earlier.

I would like to say two things to you. First, the Canadian Bar Association sent you a 74-page brief. I imagine that you read the 50 provisions in this brief. Does this brief contain anything that would make you want to amend this new bill?

**Mr. Roger Charland:** As we indicated, I believe that it is premature to answer today. We read them and are continuing to study them. I intend to return to some of the Canadian Bar Association's proposals, particularly the elimination of parts 6 and 7, but we could also do so for all their recommendations. However, I am unable to state our position on every one of the proposals.

**Mr. Robert Vincent:** I am asking this question because we will soon be studying this bill clause by clause. When we carry out this exercise and prepare a report I hope that we will have been able to benefit from your expertise in advance. It would be unfortunate if you were to recommend certain amendments and none were included in our document.

You mentioned parts 6 and 7. As far as you know, are there other clauses requiring amendment, according to the brief?

**Mr. Roger Charland:** I do not know the 50 proposals off the top of my head, but we will get back to you as quickly as possible.

**The Chair:** We will be studying the bill clause by clause on Thursday afternoon. It would be best for us if the clerk received your recommendations tomorrow.

**Mr. Robert Vincent:** It is primarily for that reason. On Thursday, when we have finished the clause-by-clause study, we will no longer be able to suggest amendments to the bill. Will you consider their recommendations by Thursday. I imagine that they did a great deal of work to arrive at a 74-page brief. We should follow up because they worked hard and it would be unfortunate to ignore the brief. I expect that there is something in it or that you would have something to say about it.

**Mr. Roger Charland:** I have noted that you will begin studying the bill on Thursday. We will get back to you as quickly as possible. We will try.

**Mr. Robert Vincent:** Let us continue in the same vein. A little earlier, we were discussing clause 180 and areas of jurisdiction. Mr. Lennon, you stated that the provinces will decide. Is that found in the new bill? Will it indicate that, with regard to accounting, every province that asks for or requires the necessary competencies shall prevail?

**Mr. Roger Charland:** The first requirement of the clause in question is that the person shall be a member in good standing of the professional order—I do not have the exact French in front of me. Second, this clause states that they must comply with any applicable provincial laws. Hence, provincial legislation in the matter must be respected.

● (1645)

**Mr. Robert Vincent:** Therefore, we will put this change in writing.

**Mr. Roger Charland:** No. The actual text states:

181. (1) In order to be a public accountant of a corporation, a person shall (a) be a member in good standing of an institute or association of accountants incorporated by or under an Act of the legislature of a province; (b) meet any qualifications under an enactment of a province for performing any duty that the person is required to perform under sections 189 to 192; and...be independent—

The requirements of clause 181 already include the need to meet any qualifications under an enactment of a province. Thus, we do not see the need to add anything.

**Mr. Robert Vincent:** In fact, some witnesses, including the group we heard before you, told us that, with regard to clause 181, required changes required had not yet been made by the provinces. For example, the definition of an accountant or a public accountant has not yet been established. Consequently, regulations do not allow everyone to be treated equally across Canada, because the requirements vary from province to province.

**Mr. Roger Charland:** We should look at this from another angle. For the purposes of this bill, the idea was to refer to the applicable provincial regulations with respect for areas of jurisdiction. With regard to labour mobility and establishing who can do what across the country, we do have the Agreement on Internal Trade, which was recently amended.

The rules to ensure labour mobility within Canada have resulted in an exercise in implementation. The main issue is to determine who can act as an accountant or public accountant. This has led to proposed changes to Quebec laws, for example. Legislative amendments are being considered by Ontario for the same purpose. This issue has been raised by various efforts pertaining to labour mobility. The provinces are currently holding discussions with the federal government in order to find ways of ensuring this mobility.

**Mr. Robert Vincent:** Perfect. Thank you.

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

Mr. Warkentin.

[English]

**Mr. Chris Warkentin (Peace River, CPC):** Thank you, Mr. Chair.

Thank you for coming in this afternoon. A couple of our witnesses brought up the issue of soliciting versus non-soliciting organizations. Could you define for me an entity that would be non-soliciting? There are significant provisions that are provided for them.

It was the bar association, among others, that recommended that we simply do away with all the provisions regarding non-soliciting and require everybody to provide all the information that soliciting organizations provide.

For my own information, could you give an example of a non-soliciting organization? How many are there in the country? The frustration that some of our folks were bringing up is that an entity may be soliciting in one year and in the following year may be non-soliciting, or vice versa. They're moving from one set of requirements to another.

Could you give me an example of a non-soliciting organization?

**Mr. Wayne Lennon:** Allow me to back up a bit. A soliciting corporation is actually easier to define. A soliciting corporation is a corporation that receives money from the public, or from a government grant of any level of government, or from another corporation that receives money from the public or gets a government grant.

Non-soliciting corporations are everybody else. A curling club, for example, which is strictly funded by the donations or the dues of its members, would be non-soliciting. An airport or a port would, under this act, be non-soliciting, if it's self-financing. There are golf clubs; there are various service organizations.

**Mr. Chris Warkentin:** So in any given year, if a port, as an example, or a curling club—traditionally they get their funds from certain sources, the revenue stream they just have from their members.... If all of a sudden they got a government grant, would they then have to move into the soliciting framework? If they apply for a government grant and receive the funds, all of a sudden they would be under that.

Now, I know a number of organizations in my province, the province of Alberta, especially community-based organizations, will get grants from time to time from the lottery commission. These are ad hoc. They wouldn't be consistent, just one year; it's an ad hoc payment to a certain organization. I can see there would be frustration.

I guess the recommendation to our committee has been that we do away with the non-soliciting avenue and just make everyone soliciting, thereby simplifying things for everyone, including the government.

Is that something you would entertain as being a good recommendation? Or is that something that—

● (1650)

**Mr. Wayne Lennon:** If you make everybody a soliciting corporation or put them....

First of all, there are only about five rules that are different between the two. A soliciting corporation must have three directors. A non-soliciting corporation can have one. A soliciting corporation has to file its financial statements with the government. A non-soliciting corporation doesn't. A soliciting corporation cannot have a unanimous member agreement transferring the powers of the director to members. A non-soliciting corporation can. Then there are differences, upon dissolution, as to where the money goes. Then there are different rules for the auditing of their financial statements. But that's it.

**Mr. Chris Warkentin:** Okay. And I understand they're limited.

**Mr. Wayne Lennon:** What I'm saying is that if you make everybody soliciting, you're increasing the burden upon non-soliciting corporations.

**Mr. Chris Warkentin:** I understand in theory how this works. But in practice, I don't know an organization out there that, if they were non-soliciting and got an offer of a government grant, would turn it down. Then it causes a problem, because they have to immediately move to become a soliciting organization, having to undertake a number of things, including increasing the number of directors, including how they report to governments and the rest.

Do you see the complication? Is it something that you think...? I'm just wondering if I can get some advice.

We've heard this from a number of folks who are concerned. I happen to have some concerns about this. I'd like to put those to rest.

**Ms. Coleen Kirby (Manager, Policy Section, Corporations Canada, Department of Industry):** With respect to soliciting, as Wayne said, there are five obligations. The way the definition works is that if you have received more than \$10,000 in income from either the public or from the government, in the course of a year you become soliciting for the purposes of three years—the three years following, which we feel are the three years you're using public money and therefore should have the increased obligations.

One of the things that is in this bill that was not in Bill C-21 answers the concern that was consistently expressed about the one good fundraising year.

There is an exemption available for soliciting corporations only, that if they do have the one good year or the one government grant, they can apply to the director for a deeming of a lower amount on their income for that one year to leave them in the non-soliciting category, the scenario that's always done.

But because you have public money, we restrict to some extent where that public money goes for three years.

**Mr. Chris Warkentin:** I think you've addressed my concern, but I just want to ensure that I understand this correctly.

In order to receive a government grant, you would not necessarily have to be a soliciting organization. It's just that the following three years after that year you would have to become a soliciting organization, and then it would be up to you if you reverted back to non-soliciting. Is that correct?

**Ms. Coleen Kirby:** The thinking was at the time that you now have public money. You should not have one director; you should have three, so you have better oversight of the organization.

We didn't want somebody to do a really good fundraising year and then dissolve and split that money between the members. It's public money. We're giving you a certain time period where you can't split it between the members on dissolution. You must turn it over to another organization. You've got public money. The public should be allowed to look at what your financial statements are to determine where the money's going. Are you buying corporate jets for the CEO of this not-for-profit to travel around the country, or are you taking the money and using it for your purpose? That was very much the thinking behind it. But it would be time limited.

If you are a soliciting corporation that is not a registered charity, because obviously the tax system will put an additional requirement on you, it would only last for three years.

**Mr. Chris Warkentin:** Thank you.

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

Thank you, Mr. Warkentin.

Mr. Masse.

**Mr. Brian Masse:** Thank you, Mr. Chair.

Do you think you'll be able to have this analysis information for us in both official languages for tomorrow? I would certainly like to hear the department's response to the submissions—that is the normal practice—and not have it rushed in front of us at the last minute. In front of clause-by-clause usually makes for a better process. Or is that an impossible request and should we be looking at doing this on Tuesday?

If we come here Thursday with it just dropped in our lap, it's going to be a more difficult process. I don't want to put demands that can't be met, so we need an honest answer here, I think.

• (1655)

**Mr. Roger Charland:** We will do all we can to try to bring the documents in both languages by the end of the day tomorrow, but it's difficult to commit to more than that.

**Mr. Brian Masse:** If you can't commit to it, I think this committee needs to have a discussion about that, Mr. Chair, because I certainly don't want to set up a timeframe for it.

**The Chair:** Mr. Masse has a good point.

It was the committee's intention to go clause-by-clause on Thursday. I know you may greet that with a bit of incredulity, in that this has been in front of us a number of times. But if you can't deliver the answers and opinions to some of the suggestions from witnesses, like the Canadian Bar Association, by the end of the day tomorrow in both official languages, then I think the committee would be prepared to consider moving this to the Tuesday after the break week.

You can think about it, and by the end of this meeting today, let us know whether or not you feel you could reasonably do that by the end of the day tomorrow. That would help guide us in our discussion before we break off today as to whether or not we go clause-by-clause on Thursday or we delay that till after the break week.

**Mr. Roger Charland:** I think it may be more realistic if we got back to the clerk first thing tomorrow morning with an indication as to whether or not we can submit our views on the CBCA's 50 recommendations in both languages by the end of the day, which then might allow the committee to adjust.

I think after this it would still be difficult for me. I'd have to go back and consult with a few people.

**The Chair:** Sure, that would be reasonable, and then the clerk can coordinate with all members of the committee. We can have a discussion about what we're doing Thursday off-line and then decide tomorrow morning what we're doing Thursday.

**Mr. Brian Masse:** To be clear, I'd especially like to hear those other specific recommendations that have been made by other organizations as well. We've had very specific ones too.

I'm going to want to talk to some of those organizations as well in terms of the response, so that's why tomorrow is important. There are other organizations in the testimony. Over the last number of weeks there have been very explicit requests either to change legislation or to omit clauses. Other organizations like the United Way are struggling. They want changes in things like the previous clause 375, but I don't think they're at a point where they could specifically say to us what those are because they don't have the capacity to do so.

Has a specific dollar amount been allocated for promotion and training by the department from this bill?

**Ms. Coleen Kirby:** No. Corporations Canada has undertaken to cover off, out of its regular budget, whatever is required with respect to the transition associated with this bill. We anticipate a fair number of documents having to be written, some of which we worked on after Bill C-21. So we're starting from a base; we're not starting from square one. We anticipate workshops, across-the-country meetings, either in conjunction with national organizations or the Canada Revenue Agency or independent of our own, to run training. That has been our approach.

**Mr. Brian Masse:** So it's going to come from you and Corporations Canada?

**Ms. Coleen Kirby:** I am Corporations Canada—

**Mr. Brian Masse:** Okay, sorry.

**Ms. Coleen Kirby:** —and we have our own budget. That's independent of the A-base we get from the government, and therefore it's budgeted.

**Mr. Brian Masse:** I'd like to know what that budget number is and also the business plan on how the promotion is going to happen. Can that be tabled with the committee?

**Mr. Roger Charland:** There isn't one at this point. There may be the yearly business plan.

**Ms. Coleen Kirby:** We do a yearly business plan, but at the moment this has not been worked into it. This has unfortunately been a bill that's been on-again, off-again, so it's very much going to depend on what year or when it finally gets royal assent.

• (1700)

**Mr. Brian Masse:** Yes, but what we've heard from witnesses is a concern about how this is rolled out. I think it's a legitimate concern they're expressing. To show some type of plan.... I would hope that

the government would have something in store in terms of it being a normal process if you're going to change something like this.

I'm going to move on to my last question. In terms of the consultations in 2000, 2001, and 2005, were there any reports tabled on those consultations?

**Mr. Wayne Lennon:** A summary for 2000 and 2002 was posted on the Industry Canada website. That can be provided to the committee if you wish. We have it in both official languages.

**Mr. Brian Masse:** That would be helpful, because other groups are asking for that as well.

**Mr. Wayne Lennon:** I believe we have the 2005 one.

Yes, we have a summary of the 2005 one, which was conducted by Corporations Canada.

**Mr. Mike Lake:** On a point of order, I would comment on what Mr. Masse was mentioning. To suggest that there should be a communications plan prepared for a bill that hasn't passed yet, and when we don't even know what the bill is going to look like because we haven't gone through clause-by-clause, I think is a little more demanding than we ought to be.

**The Chair:** Okay, I appreciate that—

**Mr. Mike Lake:** There are the officials at the table in front of us—

**The Chair:** That's not a point of order, but I thank you for that, Mr. Lake.

Thank you, Mr. Masse.

Mr. Wallace.

**Mr. Mike Wallace (Burlington, CPC):** Thank you, Mr. Chairman.

One of the things we've been hearing about—and I look forward to your comments and responses—is that a few of the organizations, particularly the charitable organizations that have been represented here, talked about remedies. They feel that to make it simpler there could be a remedy section, I guess you would call it, instead of remedies throughout the document.

I've been with big charities. I used to work for Easter Seals. I've been with smaller groups. I started my own. I know the bill is trying to cover charities of all sizes. It's very difficult to have one for one size and one for another. This is trying to fit all of them. I think it did a pretty good job. That would be one thing.

I take it that departments have had somebody monitoring these meetings. Is that correct? Did you know that we were doing line-by-line on Thursday?

**Mr. Wayne Lennon:** We had an indication that it might be the case, but we haven't seen a notice of meeting.

**Mr. Mike Wallace:** I just wondered, because I think I was the one who asked the committee to make sure you guys were here today. I was expecting that maybe you'd be able to respond to some of the things we had heard, other than from the people today, of course. I didn't expect that.

But on what the bar association said a week ago now, I guess, or three weeks ago, I thought you'd be ready to tell us what you thought. That's a comment. I'll let you respond to it if you'd like.

**Mr. Roger Charland:** Regarding the first question, the remedies are generally all consolidated. The exceptions are where we felt there was a reason to do so and where the drafters felt there was a reason to do so, in light of who is allowed to use the remedies, so they kind of grouped it. That was more the drafting in light of who can initiate what remedies.

In terms of your second comment, we are ready to speak to some of the points and questions. We're more than happy to answer. What I was saying is that on the specific 50 provisions, specific with the worded text of the CBCA, and going through each of their almost motion-like recommendations, it is difficult at this point to say whether we would or would not agree to support some of their wording and proposals.

On some of the general points they were making in terms of part 6 and part 7 and whether they should stay in or not, we can speak to the issue. On that particular issue, for example, we felt that these provisions are contingency plans, so they were placed not as additional obligations, but when the situation occurs... If a given corporation were to proceed to engage in those activities, they'd have clear rules that they could follow instead of wondering what they must do.

**Mr. Mike Wallace:** So in general, based on what you've heard from the witnesses we've heard from, you're still satisfied with the bill as presented to us at this point in its current form—and we've heard from most—and that it should proceed in its current form without an amendment. Based on the testimony we've heard thus far, would that be an accurate statement?

• (1705)

**Mr. Roger Charland:** That would be accurate.

**Mr. Mike Wallace:** Thank you very much.

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

[*Translation*]

Mr. Vincent.

**Mr. Robert Vincent:** We are asking this because we are running out of time. We have been trying to adopt this bill for a number of years. It is important that we hear your comments after listening to representatives of Imagine Canada and the Red Cross, who made recommendations. They will have to live with this bill or law every week of the year.

We were interested in hearing if you believe their recommendations make sense. If yes, which amendments would you make to the bill? Do you believe that we have been mistaken with regard to certain clauses and that they should be amended based on their proposals or have you put these recommendations on the back burner while waiting for the end of the process? I do not know, I am just trying to understand.

Earlier, you were asked if you knew that Bill C-4 would be examined clause by clause on Thursday. I did not understand the interpretation of your answer. Did you know that?

**Mr. Roger Charland:** We had heard that it might happen but, since there was no confirmation, we were not sure. By the way, a representative of the department is always present to take note of what is discussed. Therefore, we knew that it was a possibility but it was not confirmed on the web site.

As I already indicated, we have listened to comments about the bill overall. Some of the comments were not necessarily new in that they had been mentioned at consultations. In our opinion, the bill in its current form is good.

I mentioned 50 specific provisions for which the Canadian Bar Association proposed very clear changes. In some cases, it was a matter of wording. Therefore, we need to know whether or not the wording improves things. That becomes an exercise that we had not —

With respect to the questions and issues discussed today, we continue to believe that parts 6 and 7 have a role to play and would clarify the position of a non-profit organization when it finds itself in that situation. That is also the case for the distinction between the definition of “soliciting” and non-soliciting”. We continue to believe that the distinction is a valid and useful one, given the nature of public information in certain cases and not in others.

In general, we are satisfied with the bill in its present form. I was really referring to specific proposals about wording that would clarify the text rather than change the bill.

[*English*]

**Mr. Wayne Lennon:** The problem we have is the problem we've had from the very beginning of the whole consultation process, which is that this bill applies to the widest possible range of organizations.

You ran into one issue today where you had the CICA and the CGA with diametrically opposed viewpoints on a particular issue. There were differences of opinion on how directors' liability should be handled between Imagine Canada and the Canadian Bar Association. There were also differences between whether soliciting and non-soliciting should be eliminated. The Canadian Bar Association said it was absolutely essential that those distinctions be made.

Since the beginning of this whole process, years and years ago—when I was much younger—we've constantly been trying to get that balance, to try to carve out a statute that does the best possible job for the widest range of corporations. It's really difficult at times to square that circle, to make it so that everybody is happy with the legislation. It's part of the reason we can't necessarily say, yes, we'll make the change because group A advocated it. I say this because group B, who may have appeared before the committee earlier or may not even have been invited, would not like it.

We heard all of those things through the consultations. It's a difficult process.

• (1710)

[*Translation*]

**Mr. Robert Vincent:** You will understand that we may feel disappointed. If I have correctly understood the arguments you just made, you find that the bill is good and will not be amended.



Those who wish to make changes to this bill find themselves in a situation of uncertainty. First, you did not check what they said. Second, you believe the bill is viable and perfect as is. Third, if we include recommendations in our report, they will also be disregarded.

**Mr. Roger Charland:** I would like to clarify one thing: we have listened and considered what they have said, and have been doing so for a number of years.

In some cases, we must try to balance things, particularly the different interests, in order to have a good bill and good public policy. That is what we did. We considered a number of the recommendations, including those made by the Canadian Bar Association.

I stated that it was too early to say whether or not we were in favour of changes to the bill. We believe that it is balanced and that its architecture is good. Some proposals were made about the wording. Is it possible to improve the wording? That is what I was referring to. Otherwise we monitor the discussions and consider the comments.

**The Chair:** All right. Thank you, Mr. Charland and Mr. Vincent.

We will stop here. I would like to thank our three witnesses for their testimony.

[*English*]

We're going to end here. Thank you very much.

What we'll do is ask you to notify the clerk tomorrow morning, as soon as you can, as to whether or not you can get us the department's response to the CBA's proposed changes. We would really appreciate it if you could get it to us tomorrow, earlier in the day, because that would allow the committee to go to clause by clause on Thursday, which would be a nice way to enter the break week. I know this has been many years in waiting for the department.

To help us get this expeditiously through committee and back to the House, it would be nice if you could have that for us tomorrow morning.

Mr. Masse.

**Mr. Brian Masse:** I would also like to hear their response to the other witnesses who have proposed changes as well. We would like to hear—

**Mr. Roger Charland:** Are we talking about specific textual propositions? We've been discussing a number of these proposals for 50 minutes.

Just to make sure we can get back to the committee with what it's expecting, are we talking about specific word changes—delete this clause, add that clause—from the CBA?

**Mr. Brian Masse:** No.

**The Chair:** Mr. Masse, I think it might be a little much to ask the department to come up with suggestions for every single broad-stroke suggestion that witnesses came forward with.

Might I suggest we ask the department for two things. First is a response to each of the specific changes requested by witnesses as submitted to us in the briefs, which are available to you.

Second, I know that Madam Kirby mentioned to us before in committee that they have a transitional plan, once this act is passed, for the not-for-profits involved. Perhaps whatever information you have on that you could also provide to the committee. I know that a number of people voiced concerns about the transitional phase from the 1917 legislation to the new legislation.

**Mr. Brian Masse:** I'd also like to hear a response—and they're going to have to provide it verbally here—to what the witnesses, the Red Cross, etc., suggested. We're going to have to go through this, either way, because there have been a number of different suggestions by different organizations here.

If there's no benefit to anything any of them has ever suggested—all of them—I'm certainly going to be asking those questions repeatedly, and to go through them publicly here. Or, if we can, some type of commentary might help expedite whether or not the particular concerns of witnesses are validated, for this or that reason, etc.

We can either do that through clause-by-clause, or if we have some type of help for that now, it might provide the department proper time or opportunity not to have to go through all of that.

If I find that some of this is not acceptable, then I'm certainly going to make sure.... I don't want the process to go through without the United Way, for example, or some other organization, being able to address something that might have been misconveyed somehow, in a sincere way.

• (1715)

**The Chair:** What I'm going to suggest then is that the specific changes requested by witnesses, which we've heard over the course of the last number of weeks, be addressed by the department.

If you could, let us know tomorrow morning whether or not you can get to all members of this committee the department's position on those suggested changes. That would be helpful.

Monsieur Vincent.

[*Translation*]

**Mr. Robert Vincent:** I agree with Brian with regard to his request. The witnesses told us that they feel the bill is perfect, that nothing should be changed. It would be too easy for the department to tell us, in its conclusions, that pursuant to our request, no changes are required and that, in its opinion, the bill should stay as it is. That is not what we want. We want to know why some of the witnesses' recommendations were not retained and why others were. I do not want to hear that out of 50 recommendations, one was retained and that we should have a debate about whether on line two we should use this or that word. I do not entirely agree with that.

I really want these people to be involved in this matter. I want those who testified to get the answers to their questions. They should not just hear that there are no changes to be made to this bill. I want a more detailed answer.

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

[*English*]

So it's clear that tomorrow morning you'll get back to the clerk.

Go ahead, Mr. Charland.

**Mr. Roger Charland:** And that's regarding wording proposals coming from various witnesses in their briefs to the committee?

**The Chair:** That's right. For the suggested changes they made, we'd like you to address each of their concerns.

**Mr. Roger Charland:** I would also point out that we provided the clause-by-clause analysis of the bill, which indicates the policy rationale and thinking behind every provision. We'd be more than happy, during clause-by-clause, to go into more detail. But we have gone through and explained the rationale and the thinking and the

whys behind every one of these provisions. I believe the committee has our clause-by-clause analysis.

**The Chair:** I would also add, Monsieur Vincent and Mr. Masse, that when we do go to clause-by-clause, officials from Industry Canada will be here to address any concerns you might bring up at any time.

Thank you.

Without further ado, we'll adjourn this meeting.

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