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Chair

Mr. Ed Fast

Standing Committee on Justice and Human Rights

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● (1530)

[*English*]

The Chair (Mr. Ed Fast (Abbotsford, CPC)): I call the meeting to order. This is meeting 49 of the Standing Committee on Justice and Human Rights. Today is Monday, November 23, 2009.

You have before you the agenda for today. We're continuing our review of Bill C-52 and have with us a number of witnesses in two different panels.

Mr. Comartin, you sent me notice about a possible point of privilege. Did you want to raise that now or at the end of the meeting?

Mr. Joe Comartin (Windsor—Tecumseh, NDP): I'd like to raise it before the end of the meeting to make sure we have sufficient time to deal with it. I'm just waiting for Mr. LeBlanc, because we had discussed this with him earlier and wanted him in the room if this requires a vote. I would suggest perhaps what we do, Mr. Chair, is take the statements from the witnesses, but before we go to questions I'll move my motion at that point.

The Chair: In the interests of being fair to the witnesses, because we have two panels, not just one panel of witnesses, could I suggest that we leave 20 minutes at the end of the meeting, say at 5:10. Would that be sufficient time?

Mr. Joe Comartin: I'd be prepared to concede that at 4:30, when the other panel comes, we start it at that point.

Bluntly, Mr. Chair, I'm concerned about it getting talked out. I need the resolution of this committee's findings for tomorrow morning based on the fact that it's a point of privilege and we have to act on it quickly or the Speaker will not entertain it. I'm very concerned about it being talked out if we only leave 15 or 20 minutes at the end of the meeting.

The Chair: All right.

I'm also cognizant of the fact that we want to be fair to both panels. If in fact we're going to deal with this after the first panel, I'm going to have to cut the first panel short by at least ten minutes; that's just the reality of it, to make sure each panel has the same amount of time. I want to be sure everyone understands that. So we'll deal with the first panel, then deal with your point of privilege, and then we'll move on to the second panel.

We have before us a number of witnesses. First of all, we have Diane Urquhart, independent financial analyst. We also have with us Gary Logan, detective sergeant retired, Toronto Police fraud squad; and finally we have, representing the United Senior Citizens of Ontario, Ken Cunningham, president.

All three of you have been briefed on the process. Each of you has ten minutes to present, and then we'll open the floor to questions from our members.

Who would like to start? Ms. Urquhart.

Ms. Diane Urquhart (Independent Financial Analyst, As an Individual): Good afternoon, ladies and gentlemen.

If I can, I would request of the French-speaking members of the committee that I may pass out this presentation I'm going to speak to today. Otherwise, I'll just start.

The Chair: If it's only in English, you can't circulate it.

Ms. Diane Urquhart: Okay. The reason we don't have it in French is that we were only invited on Thursday of last week. Unfortunately, we had a very short period of time to prepare. Otherwise, I certainly would have liked to make that available.

On Friday, November 20, 2009, PricewaterhouseCoopers released its global economic crime survey, and it determined that Canada is the fourth most fraudulent country out of 54 countries. The countries that were ahead of us and deemed more fraudulent were Russia, South Africa, and Kenya. Just behind us was Mexico and the Ukraine. This new study is quite alarming, though it's not a surprise to those of us who have worked in the investment business and who have worked with a substantial number of victims of white-collar crime in Canada.

At the moment, I'm working with the Nortel long-term disabled and the pensioners and the severed workers. As many of you are aware, the Nortel situation began as a result of allegations of accounting fraud and the executives being preoccupied first with manipulating the books and then needing to correct the books, and taking their eye off the ball in this rapidly changing industry. The victims of white-collar crime are therefore not only investors, the shareholders and the creditors of corporations, or seniors that are defrauded by unlicensed advisers. The victims of investment fraud can also be the employees of companies that are unable to turn themselves around after they have been the subject of fraud.

On September 15, Hugh Urquhart and I, the United Senior Citizens of Ontario Inc., and the National Pensioners and Senior Citizens Federation attended a media conference in the Charles Lynch Room here in Ottawa, calling for a crackdown on white-collar crime. The nine victim groups who participated in that conference were the ABCP Retail Owners Committee, the Nortel Bankruptcy Justice Committee, the Norshield Victim Group, the Earl Jones Victims Organizing Committee, the Shire Victims Committee, the Norbourg Victims Committee, the Progressive Management Victims Committee, and the Mount Rea Victims Committee. All nine of these victim groups came to Ottawa to request stiffer sentences for white-collar crime. In addition, they called for a minimum sentence period of two years, and they also called for a longer period before which a white-collar fraudster could make an application for parole, from the one-sixth that is in place today.

Basically, these victim groups indicated at the time the intention to file Bill C-52 was announced that they supported the general provisions of the bill.

Personally, as an independent financial analyst who has worked in the investment industry and has worked extensively both in the courtroom and outside of the courtroom with white-collar crime victim groups, I agree with the general thrust of the bill.

I do agree with the two-year minimum sentencing for offences that are collectively over $1 million. I think Ken will tell you in a moment that there is some confusion as to whether that applies to a single person defrauded of $1 million, or whether it is cumulatively applicable to all offences and all persons or corporations that are affected. I believe the intent of the law is the correct one. It's the accumulation of the losses that are borne by all of the parties that are impacted by the white-collar fraud.

We particularly like the provision that makes reference to extenuating circumstances leading to a judge being more likely to give a higher sentence if the persons defrauded are in personal circumstances where they were able to be taken advantage of because of age, health, and financial situation.

I agree it is important to take into account whether the rogue adviser is licensed or not. I would note, however, having spent a career in the investment business and as one who specializes in systemic fraud in products that are distributed by the licensed financial advisers of Canada, that this should not be an intent to imply that because you are unlicensed you would likely be a worse offender of the Criminal Code than if you were licensed. I can certainly say that through my experience in working with income trusts and working with asset-backed commercial paper, and as we have seen in the subprime market of the United States and in the abuses in the credit default swap market, there is systemic fraud in the licensed financial industry as well.

● (1535)

I want to note that the stiffer sentencing in the Criminal Code is not the only answer. It's important for deterrence, in my opinion, and those who work in the investment industry tend to be significant members of their communities. So if there is going to be a minimum jail sentence, there's no question, in my mind, that this will be of greater deterrence than for someone to be given sentencing that would involve community service or simple probation. So I do support the minimum two years as being a significant deterrence for people who commit financial fraud.

I want to move to a view I have that there is significant restructuring required in the enforcement systems of Canada. In addition to the National Securities Commission, which is being put forward by the federal government, we think it's critical that there be a restructuring of securities crime policing in Canada. I believe we need to move to a system where the Royal Canadian Mounted Police integrated market enforcement team is not the effective exclusive enforcer of the Criminal Code as it relates to financial fraud cases.

We believe we need to do a restructuring. My colleague Gary Logan is going to describe the nature of the restructuring that is required to improve the effectiveness of securities crime policing in Canada so that there are more investigations taking place, more successful prosecutions, and a greater ability for the Criminal Code to be used for the purpose of deterrence. But the sentencing, you would all know, is not the answer itself. You need to have successful prosecutions in the courtroom.

I'll make a final note with respect to the RCMP, which I believe is going to make presentations after us. It's my view that the RCMP should not be moving forward with a model of integrating its enforcement activities as a division of the National Securities Commission.

I attended a function last week and it has already been on the public record that the Investment Industry Association of Canada and the Canadian Coalition for Good Governance are seeking to have criminal police become a division of the new National Securities Commission, and I strongly recommend against such a model. Even in the RCMP, in policing activities today as it applies to financial fraud.... We have a letter from the head of the RCMP that indicates that no RCMP unit commander can initiate a financial fraud investigation into possible fraud that has taken place within the investment industry until they have had an approval to proceed with that investigation from a joint consultation group. The joint consultation group is made up of the self-regulatory organizations of the investment dealer industry and of the Mutual Fund Dealers Association. I put forward to you that no other democratic country, in my opinion, would have a financial fraud enforcement function. Criminal investigations require the approval of the self-regulatory organizations of the industry that is being investigated.

So I strongly recommend that the current practice of requiring the self-regulators to approve financial fraud investigations by the RCMP be terminated immediately. We also recommend that the National Securities Commission not be given the authority, under the new Securities Act or any other provision, to be the enforcement body that is administering the Criminal Code of Canada.

Thank you.

● (1540)

The Chair: Thank you.

We'll move on to Mr. Logan for 10 minutes.

Mr. Gary Logan (Detective Sergeant, Retired, Toronto Police Fraud Squad, As an Individual): First, I read through Bill C-52 and I'm very pleased with what I read, because in the years I've been investigating and dealing with corporate fraud with the Toronto Police Service, I've certainly seen a lot of change with respect to the way this is being managed. I'm very pleased, particularly with the sentencing, because, I don't care what anyone says, if somebody at the end of the day is convicted and there's the reality of their going to jail—and I think we've all witnessed this through comments and through people we've seen in the newspaper moving outside of or attempting to get back into Canada—jail certainly works. It's a definite deterrent. I've heard this from other people in dealing with people who have committed these crimes.

One thing I am concerned about—maybe not so much concerned, maybe that's a poor choice of words—is the restitution. It has been my experience, in all the years I've been dealing with this, that the restitution orders issued by the courts are really only in effect for the period of probation. At the end of the probation, if the restitution is not made, where does this leave the victim? The enforcement component of the restitution and the period of probation is very rarely ever enforced by the law after that.

The court also has the authority to issue what is referred to as a compensation order. A compensation order can be applied through the crown to the court as long as the victim is in court, at which time the judge, based on the facts and circumstances, can issue what is referred to as a compensation order. In my experience, that has always been a more favourable choice and direction to go in. Restitution I've always been a little leery of, because that only runs for the period of probation and nobody is monitoring that period of probation to ensure that victims are being compensated properly. At the end of the day, probation is over, there is no restitution, and the victims are back at square one.

So that may be something you want to consider, or at least think about, to ensure that this issue is looked at. Other than that, I'm very pleased with everything else I've looked at with respect to the changes forthcoming in the bill.

The other thing I want to speak to today, and Diane touched on it, is securities crime. I probably spent the better part of 16 or 17 years investigating corporate fraud. Over those years I've had many years of dealing within the securities industry in particular and the market where fraud and allegations of fraud have occurred.

In years gone by, there was a set procedure, a set format, whereby an intake process was set in place for all crimes relating to fraud. Victims would attend or at least deal with the police. At that stage there would be an intake process, an assessment or triage of what had occurred. Based on that, the police would make a determination, based on the facts and the evidence readily available, whether to proceed to the next step, take on the case, and conduct the investigation. That worked very well for all types of crimes, particularly fraud.

Since about 2003 there has been a change in that, a shift in who would be looking at the investigations occurring within the securities industry. From that time forward, from where I've sat and from what I've seen, to me, all that has done is increase the state of confusion for the victims and for our officers. What I mean by that is that there is uncertainty as to who really will be taking the lead in conducting the investigations. There's the uncertainty as to where the victims are able to introduce their complaints into a police environment. The way it stands now, the first person many of these victims who go to police services are going to meet will not, for the most part...and it's no fault of the officers. Officers have a very difficult time understanding fraud at the low level. This is why it's critical to have the appropriate people in place within police services who understand all the components of fraud and criminal laws that pertain to them.

● (1545)

So I'm proposing we set up a securities crime unit composed of 22 officers and one executive assistant. Quebec recently brought in 22 police officers plus three special crowns to deal with fraud, at a budget of $6 million. I've worked this out, and the way it stands nationally, with 22 plus one executive assistant, it can be done for $5 million.

It's a very effective system, a very effective unit. It works on the basis that they are very motivated and highly skilled officers who have the ability to understand and determine what is and what is not fraud. They have the ability to understand, manage, and control evidence. They're able to meet with victims and understand exactly the nature of their complaints. They can very quickly determine what is fraud, what is not, and what can be investigated. They have the ability to very quickly understand the jurisdictional authority and determine which police service has the ability to investigate the alleged crime. It may involve more than one police service.

Once it is determined that an offence has taken place, the securities crime unit prepare a package based on the documentation provided by the victim. They ensure that the package is prepared in a format that can be received by any police service in Canada, at the introduction level, on the basis that a criminal offence has taken place. Once that is done, an investigator is assigned and the investigation moves ahead.

There is always a point of reference with the securities crime unit to the police service engaged in that investigative process, and they work directly with the public. The nice thing about it is that it's a stand-alone operation.

Something that has always been criticized and has created a lot of problems and grey areas occurs when you engage a police officer in a relationship that is too close—by design or perception—to a regulator or any other person or group that has specific authorities under specific acts, and things can be piggybacked for criminal purposes on a provincial statute under that authority and used to further a criminal investigation. Whether or not that actually occurs, any time that moves forward into a criminal environment there's always the risk that the case will be finished due to concerns about compromise and movement and migration of authorities and evidence.

That perception has occurred on many occasions. In some cases certain document flows have moved from one side to the other and have affected relatively good criminal investigations. The investigations were ruined, and they were not able to move forward from that point.

This unit is completely stand-alone. There's a hierarchy that's audible as you get into it. There's public accountability on the entire system from all levels of government. It falls under a police services board. There's everything under the federal public minister. There's reporting to the Standing Committee on Public Safety and National Security. So it's completely open and transparent and is reportable through all levels of government above it.

It also works with all police services. In this day and age, I don't know why we are not engaging all of the resources currently available to us. Most police services have a fraud component within them. I know for a fact that they are very good, competent, and skilled investigators. I've worked with a number of them. I've known a number of them for years and I know their abilities. I'll tell you right now that in this country the fraud investigators across Canada are probably some of the top investigators on the continent. So when I hear stories about people saying that the police do not have the ability to understand these sophisticated types of crimes, I do not buy that for a moment.

We have to be able to get outside of the box from where we are now. The securities crime unit will engage all the resources of all the police services—including the RCMP—and get them actively involved in investigating these frauds that occur within their jurisdictions.

It's set up to work with all police services—provincial, regional, municipal, and federal. Based on that, it's a good system and it's a working system. It has worked for a number of years at different levels in police services and in policing for the basic fundamental intake assessment and investigation of crimes. All I'm doing now is looking at it on a larger scale, increasing the level, and specializing the core functions of people who take on this role in their ability to work with the public directly, prepare packages, refer to the police, work with the police, and move from that point forward.

When a complainant walks into a police division district today to talk to an officer, nine times out of ten there is a great deal of confusion as to who will conduct the investigation. Unfortunately, after 2003 most police services believed that if anything had to do with securities, the victim was automatically referred to IMET for the purposes of that investigation. That has created a lot of public frustration at the end of the day as to how these are managed.

● (1550)

I'll wrap it up at that point. That's basically what I am proposing and what I've put together.

Thank you.

The Chair: Thank you.

We'll move on to Mr. Cunningham for 10 minutes.

Mr. Ken Cunningham (President, United Senior Citizens of Ontario): Thank you.

First of all, I would like to say thank you for the opportunity of bringing a senior's point of view to the committee on this subject.

We do wholeheartedly support the amendments that are being proposed in Bill C-52. The only thing is that, in my point of view, there are a couple of things that are not there.

The first one is the point of restitution. For these people, it's not automatic; it's something that has to be applied for. The victims have to make it known that they want restitution. Many of them are senior people who do not have the skills and are not computer literate. Many of them don't even own computers, let alone being literate with them, to be able to obtain this information. So I think when the perpetrators are charged and convicted with the fraud, the point of restitution should be automatically there. As I heard earlier that it only lasts for the time of the sentence, I think this is something that should be reinstituted: that those people still owe that debt until that restitution is paid, even if it's for the rest of their lives.

Seniors are probably more vulnerable than anybody else because many of us grew up in the time and day when your name was your reputation and your means of doing business was very often with a handshake. Properties changed hands without any paperwork because two people agreed that one was going to sell a piece of property to the other one, and they shook hands on it with the price. When these people are offered something that looks almost too good to be true to them, they don't have the skills because they've never run into this in their lives. Society has changed, and that is no longer a way we can do business. We have to be more vigilant. I think Bill C-52 is one step along that road.

The other thing I notice in Bill C-52 is that the person who is the actual perpetrator of the crime is the only one responsible. Most of the people who have been charged so far are people who have worked for large companies in the investment business, and there is nothing in there that says the company has to bear a responsibility. Any place I've ever worked at, I had a supervisor looking over my shoulder, and I think probably this is the case there, but obviously the supervisors aren't looking over their shoulders in order for them to be able to do this. I think the company also bears a responsibility.

We're also in favour of the crime unit that Mr. Logan has suggested. This is because, with these seniors, when they go to report it to the police, they say, well, that isn't what they do; they've got other things to do that are higher priority, such as somebody being robbed or mugged or something of that sort. But with the crime unit, they have a special place to go where it will be looked at and some action taken on it.

We definitely support the bill as it is, and we hope further things can come of it.

Thank you.

● (1555)

The Chair: Thank you very much.

Given the fact that the time is going to be quite short—we basically have 20 minutes in which to ask questions—I would ask the committee's indulgence to restrict questions to five minutes. Is that all right?

Ms. Jennings, perhaps you would like to start.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Thank you. I just have one question, and then I'll pass it to my colleague Madame Mendes, who also has one.

My reading of Bill C-52 leads me to believe that it would only create a minimum mandatory for someone who's convicted of a general offence of fraud. It does not create a minimum mandatory for someone who's convicted of fraud affecting the market—fraudulent manipulation of stock exchange transactions, insider trading, or false prospectives, as in the case of Bre-X—regardless of whether the total amount of the fraud was $10 million, $20 million, $30 million, or $40 million. So I'd like to know if you believe that the minimum mandatory that's being proposed for general fraud should also apply to these other offences, many of which were brought into the Criminal Code in 2004.

Go ahead with your question, so that you get it in.

● (1600)

[*Translation*]

Mrs. Alexandra Mendes (Brossard—La Prairie, Lib.): Thank you for being with us today.

Mr. Logan, you mentioned the police powers of investigation that you feel are needed. I assume that you are proposing that they be national in scope. Which resources do you consider are required to establish an investigation team of that nature?

[*English*]

Mr. Gary Logan: To answer the first question, any time that anybody is incarcerated for committing a criminal offence involving fraud, I would welcome that. I'm not an advocate of house arrest; it has to be institutional. But they should be included as well. And I think there should be a minimum with respect to fraud, because we all know in this room that all proceeds of crime enter, if you allow it, other criminal enterprise and activity. To me, if we can stop it at the source, certainly it would be advantageous. So no, I agree, and that should be the case as well.

In answer to the second question, the resources would be drawn from police officers who have the ability, the training, and the understanding of the Criminal Code in both criminal evidence and evidence management, and they would be drawn from across Canada for the purposes of setting up a national securities crime unit, independent and separate. So in each region one would be established and set up to work in harmony with the existing police resources and police services, yet they would be working directly with the victims of these crimes for the purposes of assessment, review, document preparation, and introduction into the police services having jurisdictional authority for the investigation.

You can take Toronto. With the current intake system that I had a major part in putting together, I had two people working there, and over the period of a year they would assess probably about a thousand occurrences, a thousand reports. This means that the two of them would have to assess each and every one of those reports before they were brought in.

So is it something that can be realistically accomplished? Yes, it is. But it all comes down to the resources of the people selected to perform the function. And I know there are people out there who have the ability to do this.

[*Translation*]

Mrs. Alexandra Mendes: Would the RCMP be in charge of supervising this Canada-wide team, or would the groups report to their local police forces, the SQ, for example, in the case of Quebec, and the OPP for Ontario? Could you tell me how the structure would be set up?

[*English*]

Mr. Gary Logan: No, they would not. The RCMP would be involved because it is the national police service. They would probably form a key component of the members identified within that region to service that region. But the actual crime unit itself would report to the provincial board. That's where the oversight would occur. What I want to do is take it out of the federal environment where it currently exists today, completely remove that as a stand-alone. What I wouldn't want to do is put everything back into an environment where there is that chance it's going to go back to where it was.

So yes, they will be involved. Yes, they will participate actively. But no, the reporting will be structurally totally different.

The Chair: Thank you.

We'll move on the Monsieur Lemay.

[*Translation*]

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Thank you for being here.

I have been listening very carefully to the discussion for some time. Coming from the Conservatives, it does not surprise me, although I am a little surprised that section 741 of the Criminal Code, dealing with the enforcement of a civil remedy, has been so little used.

Mr. Cunningham, I suggest that you re-read section 741 of the Criminal Code, or have your legal counsel read it. It is significantly underused. The Conservatives want to include a lot of things, but provisions on restitution orders are already in the Criminal Code.

I also listed carefully to Ms. Urquhart's remarks. Do we agree that white collar criminals are probably some of the cleverest you can find?

● (1605)

[*English*]

Ms. Diane Urquhart: Yes.

[*Translation*]

Mr. Marc Lemay: Under those circumstances, whatever legislation we pass, this useless Bill C-52 that we have before us, for example, we will get nowhere until we do away with tax havens. The problem is that we are not able to follow the money. White collar criminals do not bury their money in their gardens. They generally bury it on some island in the sun, in the Caribbean, or some other tax haven.

Do we agree on that?

[*English*]

Ms. Diane Urquhart: I would make a point that there is systemic fraud in the investment products sold by the investment banks and banks of Canada. This fraud produces profits that are not taken to tax havens. These profits show up simply as return on equity for the banks and improved share prices. So from that perspective, I would say no.

In the case of many of the Quebec crimes, I would agree. For example, it's alleged that the money in the Norshield is not on Canadian soil. The problem, I would say, is not that we can't find the money, but that we don't even have anybody at the front end to start the criminal investigation and follow the money. I'm not discounting the need for greater provisions to find it. I'm saying that in many cases we don't even have the expert police working to start an investigation when the money has gone offshore. They don't have the expertise or the funds to track it down. Even with changes in the Criminal Code directed at tax havens, even with inter-country agreements, we need to take the white-collar crime jurisdiction outside the RCMP, put it in a unit with experience in forensic policing, commit sufficient funds, and assign more police to get the criminals charged, get them successfully prosecuted, and find the money.

[*Translation*]

Mr. Marc Lemay: I agree with you there, but the problem is even wider than that. You mention the people who take advantage of insider information, and I agree. But the people who steal from seniors—their retirement funds, their cash, and so forth—have to have been planning the swindles for some time.

What do we do when we feel that a major swindle is in the works? Thieves like that do not get into the business overnight; they take time to get ready. How do we go about detecting that? Can we detect it?

[*English*]

Mr. Gary Logan: Some of these activities are very difficult to detect at the front end. Most times, if not all times, police engagement comes because these offences have taken place and we have quantified victims. At one time in Ontario, I was a member of the security enforcement review committee and the joint agency intelligence liaison committee. They were regulatory and police based. We would have ongoing discussions about different trends, engagement techniques, and people. But that ended around 2003, which was when IMET came to be.

● (1610)

[*Translation*]

Mr. Marc Lemay: Thank you.

[*English*]

The Chair: Thank you.

We'll move on to the next questioner.

I want to remind everyone here that there is going to be a vote in the House, as you all have seen, in about 28 minutes. So what I'm proposing to do is allow Mr. Comartin a brief question and allow Monsieur Petit a brief question, and then we'll move to the vote.

Mr. Comartin.

Mr. Joe Comartin: Thank you, Mr. Chair.

Thank you, witnesses, for being here.

Mr. Logan, I think you have some material there that sets out your design for the model. Just so we're clear, would you leave a copy of that with the clerk of the committee.

And Ms. Urquhart, you're going to do the same with the presentation you had, please.

Mr. Gary Logan: Most certainly.

Mr. Joe Comartin: Let me go to the restitution part of it and the whole area of trying to follow assets.

Have you seen any analysis—and I'm thinking from a legal perspective—of actual amendments we might be able to do to this bill? Everybody at this committee basically supports the bill. We're just looking to see if there are ways of strengthening it.

And in that regard, on the restitution side, there were a number of us in Italy in the spring and we got a lot of information from their forces. This was one of the ways they broke the back of the mafia there—they think they've broken the back of the mafia. But they put together a whole group of people who not only led the prosecutions, did the prosecutions, but also went after the assets. That's how they broke the back of the mafia, that particular family. There are other families still operating. They haven't gotten to them yet.

Have you seen any analysis in the Canadian scene where we could strengthen the restitution? I'm thinking in terms of pursuing assets once the person has been convicted, being able to go after family members or friends who have received the assets by way of gifts or transfers. Have you seen anybody—and I'm thinking from a legal standpoint now—who's done an analysis of that and what we might be able to do?

Mr. Gary Logan: I can honestly say no, I have not. But to me, that makes absolute sense. And I do know that what we have done is this. Where we have come across family members and other people who have benefited from the proceeds of those crimes, depending on their involvement and their knowledge, they have actually been charged, and as a result of that, we've been able to attach those assets to them, to the crime. But realistically, looking at some analytical research as to that, no, we haven't done that.

The other difficulty we have, and we've seen that in years gone by with a lot of the larger cases, is with the police. I guess the mentality there is this: are we the resource that is to be used to go back to look and then detect where all of these assets have been segregated off to, or do we enforce it as the Criminal Code says: you committed the offence of fraud, you took the money, where is it? You can't explain it. Let's go. You're in. And that's pretty much where the police end it.

But I agree. If we have the ability now to move forward—and it is going to take an act to change that—and engage the police, or engage a component of the police now to trace those assets and remove those assets, as you've said, I agree with you, that is a good way of breaking the backs of organized crime. And in Canada we are now seeing a lot of that.

Mr. Joe Comartin: Am I restricted to just the one question?

The Chair: No, you have a little bit more time. You have two minute, if you want use that.

Mr. Joe Comartin: Thank you, Mr. Chair.

Ms. Urquhart, I'm not sure if you're best or Mr. Cunningham. I don't know if you've looked at the community order that this empowers the judge to take into account. So this would be a community statement rather than an individual victim statement. Have you taken a look at that and are you satisfied?

And then I have a similar question. On the prohibition order, which would prohibit somebody from ever working in this field, or at least for a period of time, could either one of those be strengthened in any way, in your opinion? Perhaps you could make comments on that.

I'm not precluding you from commenting as well, Mr. Logan, on those two sections. The victim impact for the community is a totally new concept, so I'm wondering if you've done any thinking on that.

Mr. Gary Logan: Yes, we have been for years. We always have. As a matter of fact, in a lot of the fraud investigations I've been involved with, and even the ones before I retired, we always made sure the victims of these types of crimes, particularly seniors and other groups, were identified and that victim impact statements were completed by the victims for the court. And now we see the communities specifically being targeted because of their background and the cultures within.

This would be a tremendous idea, but realistically, it would be on the back of the existing order or the existing format that they currently have in use for these types of crimes. And it was only until recently that victim impact statements were really used by people victimized by fraud. They were for a more serious—

● (1615)

Mr. Joe Comartin: A physical nature?

Mr. Gary Logan: Exactly.

The Chair: Thank you.

One final question from Monsieur Petit

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Thank you, Mr. Chair.

Thank you, Mr. Logan and Mr. Cunningham.

I have met you before, Mr. Cunningham. I mention that so that people know why I am going to ask you questions.

I would like to know one thing, specifically from you, Mr. Logan. I read your brief and I listened to you carefully. I have met you before as we have studied other matters and I followed what you said about the system by which the police would get involved.

You know what happened in Quebec. Norbourg was licensed by the government.The product Norbourg sold came from the Caisse de dépôt et placement du Québec, another government agency. Among the people who were supposed to be investigated, there was someone called Éric Asselin, who was an investigator at AMF, the Autorité des marchés financiers—the former Commission des valeurs mobilières—and who was working as a vice-president at Norbourg.

Then there is the Earl Jones case. He did not have a licence, but he was handling money, and banks were opening trust accounts for him, for goodness' sake.

Mr. Cunningham's question is relevant. Do you see any possibility of restitution in the legislation? You mentioned finding a way to get people's money back. The companies employing those people included Norbourg and the Caisse de dépôt et placement. Those are big companies. Some have been compensated because they had insurance or licences. Others have not been. Others have gone bankrupt and have been discharged of all their debts.

How do you see the bill in terms of seniors who have lost all their money? You seem to be saying that things like mandatory minimum sentences are deterrents, but I would like you to be a little more precise.

I have given you an example where the government was involved from beginning to end. How do we solve that problem? We are not talking about any Tom, Dick or Harry anymore. In Quebec, everything came from the government, from the inside people to the last ones involved,

How do you want us to go about it? Do you want a body that reports provincially? I assure you that it will not be very strong. Do you want it to be federal? Maybe that is possible. How do you see it?

[*English*]

Mr. Gary Logan: When you're talking about reporting, are you talking specifically about the securities crime unit and its ability to look at ways to obtain or redress those losses?

[*Translation*]

Mr. Daniel Petit: Yes.

[*English*]

Mr. Gary Logan: If you are, I think we're talking about two different functions. The police role operates under the Criminal Code. They have a specific set of guidelines and rules they must follow—evidence relating to criminal offences and criminal prosecution. There has to be some form of evidence that would indicate that any other member within that organization participated, had knowledge, or in any way took part in a criminal activity. Based on that, then the police would be able to use that authority to make the arrest. At the end of the day, restitution and/or recompensation would be forthcoming based on their role and the losses segregated for their component of that activity.

To look at the securities unit strictly from a criminal....and all they would be is criminal. There's no civil...there's no recovery at that stage. That is only for the purposes of intake assessment and assignment to the police service having jurisdiction. Really, there's no difference with the current system of policing as it pertains to fraud.

Now, after a criminal prosecution, there is nothing prohibiting any victim from working the civil side of it to recover, because the test and the threshold is far less than it would be on the criminal side as far as culpability or proving guilt or innocence goes.

My experience is that if you get two of them running together—a criminal prosecution, an investigation prosecution, and then you get the civil component—normally the civil component will sit sine die. In other words, when the criminal component is completed, based on the decision, the involvement, and the evidence, they will then have a stronger case to make whatever recoveries they want on the civil side. For now, you can't blend the two to attempt to make a collection. I'd love to. It would be great. But I think we'd be getting too close to a real policing state if we did that.

● (1620)

The Chair: Thank you.

[*Translation*]

Mr. Daniel Petit: Thank you.

[*English*]

The Chair: Unfortunately, we're out of time because of the bells.

I want to thank all three of you for coming.

We're going to have to make some arrangements with our next panel, because we may not be back in time.

It's customary for me to suspend at this point. Is there any will by the committee to actually adjourn? We won't have much time left when we get back from the votes.

Monsieur Petit.

[*Translation*]

Mr. Daniel Petit: Yes, but—

[*English*]

The Chair: We're suspending.

● _____ (Pause) _____

●

● (1700)

The Chair: We have a quorum, so we'll reconvene.

At this point in time, we'll allow Mr. Comartin to raise his point of privilege.

Mr. Joe Comartin: Thank you, Mr. Chair.

This is a point of privilege. I'm pressing to have it dealt with because the rules require any point of privilege to be raised at the first possible opportunity.

Mr. Chair, this involves information from me and Mr. Lemay, so this point of privilege isn't just mine. It's at least his, and realistically it's the whole committee's.

We had both sought specific information from Mr. Don Head—he's head of Corrections Canada—in the period of time where he was before us on November 4. We both had very specific questions and data we required. At the end of that session with Mr. Head, he made it very clear—and I've got the blues here if somebody wants me to read it to him—that he undertook, those are the words that he used, to provide this committee with that information. He was to provide that, and he said he needed one to two weeks. That was sufficient time for us to receive it and use it in the clause-by-clause phase of Bill C-36. In fact, it was not received from him by the time we dealt with clause-by-clause a week ago today.

I'm led to believe both from the clerk of the committee and from my discussion with Mr. Lukiwski, the deputy House leader for the Conservative Party, that he gave it to the Minister of Public Safety and National Security. Mr. Lukiwski confirmed early this afternoon that in fact the minister had it, has had it since at least last week, last Monday, has not seen it, is reviewing it, and will provide it to us in a week's time.

Mr. Chair, I think you've been around here long enough, as have most of the people sitting here today, to know that this process is not the proper process. It's one that in fact offends the work we as a committee are supposed to perform. It offends our right to information from the public service in a timely fashion that we were led to believe was there.

I want this committee to make a report and I've actually prepared that report. It's a short one of only four paragraphs. It basically sets out the history. I didn't make reference to Mr. Lukiwski because I prepared it before I had the opportunity to speak to him or he had an opportunity to speak to me. But it sets out the facts that I've just recounted, that there has been direct interference by the minister in a situation where he should not have had any involvement at all. It has made it impossible for this committee to use that data that we had sought from Mr. Head and Corrections Canada in our discussion around BillC-36, both in committee at clause-by-clause and then today in the House when we were dealing with it at report stage and third reading stage.

So what I need is a report from this committee to be given to the House overnight, so it's there in the morning, so that I can then pursue my claim for privilege in front of the Speaker tomorrow morning when I am speaking to Bill C-36.

Mr. Chair, in that regard so we're clear on this, the Speaker cannot entertain my motion with regard to privilege without hearing from the committee. The rules are quite clear on that, that he can't reach into the committee, he can't see what happened at the committee. We have to advise him of that, and that's the purpose of my motion today, to have this information passed by way of a report to the committee overnight so that it will be in front of him tomorrow morning when I move my motion on privilege.

I think those are basically the facts, so I would like to proceed on that basis. As I say, I have the wording. I can read it all again if you wish me to. I have extra copies. I did not have time to translate it, but I have extra copies of the report as I would want it presented to the House tomorrow morning and voted on this evening by this committee.

Thank you.

● (1705)

The Chair: Mr. Comartin, do you have the report in both official languages?

Mr. Joe Comartin: I do not. I did not have time to translate it. It will have to be translated overnight or first thing in the morning.

The Chair: Okay.

Is there any discussion? Mr. Woodworth.

Mr. Stephen Woodworth (Kitchener Centre, CPC): First and foremost, I'm afraid that if the motion has been read, I inadvertently didn't hear it. I would be grateful to know precisely the motion I'm being asked to vote upon.

The Chair: Mr. Comartin.

Mr. Joe Comartin: I can read the motion, which is the final paragraph of this report. All it says is:

> I therefore move that the committee report these facts and this possible obstruction by the Minister in the deliberations of this committee to the house as soon as possible so the house may consider this matter further.

That's the motion part.

The three paragraphs above it set out the facts that I've related in summary. I can read those if you wish.

The Chair: Yes, please.

Mr. Joe Comartin: They read as follows:

> On November 4, 2009 - Don Head representing Correctional Service Canada appeared before the Standing Committee on Justice and Public Safety. He was asked to provide to the Committee, via the Clerk, information and answers to a number of questions that were posed to him to which he did not have an immediate answer. He was asked to provide the information within a week or before Bill C-36 was considered clause-by-clause.
>
> The answers were not forthcoming. As a result, my staff followed up with the Committee and was informed that the information had been compiled by Mr. Head within the time specified by Committee, however, it was delayed and, as of the time of this report, still awaiting sign-off by the Minister of Public Safety and National Security.
>
> Whether or not the information was withheld intentionally or unintentionally, the Minister has nonetheless, without reasonable excuse, refused to answer a question or provide information required by the Committee, which created the possibility of a finding of obstruction by the Minister in the committee's work.

Then I go on at the end with the motion itself:

> I therefore move that the committee report these facts and this possible obstruction by the Minister in the deliberations of this Committee to the House as soon as possible so the House may consider this matter further.

The Chair: We'll go back to Mr. Woodworth, because that was in answer to Mr. Woodworth's comments.

Mr. Stephen Woodworth: Thank you very much.

If I understand it correctly, if we support this motion we are alleging that the minister does not have reasonable excuse for the withholding of this information. If I understand it correctly, we are alleging that the minister, intentionally or otherwise, has obstructed the work of this committee.

I want to preface my next remark by saying that I have a genuine respect for Mr. Comartin; therefore, I'm not in any way attempting to impugn anything he has said. However, I would be most reluctant to support a motion that alleges that the minister had no reasonable excuse for doing something and alleges the minister has obstructed the work of this committee without having had some direct indication from the minister as to his role in this matter. I am going to assume that, as nothing has been placed before me, Mr. Comartin has not had any written response from the minister about this. As a general principle, my preference, before I put my name to an accusation of misfeasance or malfeasance, would be to hear from the party that is, in effect, accused of the misfeasance or malfeasance.

Unless there is something in what I've said that is incorrect, or if there is some further information that I don't know about, I have some difficulty supporting the motion.

Thank you.

● (1710)

The Chair: Mr. Rathgeber.

Mr. Brent Rathgeber (Edmonton—St. Albert, CPC): Thank you, Mr. Chair.

Similar to Mr. Woodworth, I have some problems with the motion. I apologize that I was not back from the vote as quickly as other members of the committee, and perhaps I missed part of his presentation.

I have a question and a comment. My specific question for the mover of the motion is this. Have you been denied this information, or is it simply your allegation that it is taking longer than you would like? If it is the latter, I would suggest to this committee, through the chair, that the motion is out of order because it's premature. If the substance of the motion is that the member's privilege has been breached because information that's pertinent to the study of Bill C-36, which is what I understand is the essence of the complaint.... If it's simply a matter of timeliness, then I would suggest, Mr. Chair, that this motion is out of order. I didn't hear that Mr. Comartin has been denied information from Corrections commissioner Don Head or otherwise.

My other comment is this. I appreciate that I haven't been sitting at this table or any tables in the parliamentary precinct as long as the mover of this motion has, but procedurally, I don't quite understand why this matter is being taken, whether it is a matter of privilege... and I'm suggesting it's not, because I haven't heard that the information was denied. Even if it were a question of privilege, I don't know why it's being dealt with in the House. In other committees I have been involved with, issues of privilege have been dealt with first by the chair, and when the chair found privilege had been breached, the chair would report that matter to the Speaker and then the Speaker would follow up and provide a remedy if one were warranted.

I am asking him to answer my question, and that will determine where I go, if I go anywhere, with the rest of my argument.

The Chair: Mr. Comartin.

Mr. Joe Comartin: I'll take this opportunity to advise Mr. Woodworth as well that we are not making a determination of actual obstruction. We are simply raising the possibility that obstruction has occurred. That occurs in the wording both in the report and in the motion. So it reads “the possibility of a finding of obstruction by the Minister” and then in the motion as “this possible obstruction by the Minister”. There is no actual finding by this committee of obstruction, just the possibility of it.

To answer Mr. Rathgeber, there are really two questions there. The role of the chair may be there in terms of prematurity, but it's not the chair's responsibility to make a finding of either privilege or contempt. Only the Speaker has the authority to do that.

The reason it is being brought here at this point—I think you hadn't come in yet; I already said this—is that the Speaker does not have the ability to make any determination like that without a report from the committee where the alleged breach of privilege was said to have occurred. That is why this report is necessary.

The final point I would make is on why now and the whole question of prematurity. It is very clear from precedent that the requirement for a person alleging a breach of privilege has to be raised at the first possible opportunity. That was today. I can't raise it in the House until I get a report from this committee because the wording you always hear is that the Speaker cannot reach into the committee. The committee has to report out.

● (1715)

The Chair: Ms. Jennings.

Hon. Marlene Jennings: I appreciate Mr. Comartin bringing his motion forward, and I believe that his motion asking this committee to find that there is a possible breach of parliamentary privilege is one that in fact should engage all members of this committee, because we did receive a determination, a commitment, on the part of Commissioner Head that he would provide the information requested and provide it in sufficient time that the committee would have it before we went to clause-by-clause consideration.

Now, if there was some impediment on the part of the minister, some difficulty in reviewing the information before it was forwarded to the committee that meant he would be unable to provide it to the committee prior to our moving to clause-by-clause, knowing it was asked precisely that it be in the hands of the committee members before we moved to clause-by-clause, it would have been proper procedure on the part of the minister, through his parliamentary secretary, to inform the committee that unfortunately the minister was unable to review the information provided by Commissioner Head to him and to then release it to this committee prior to clause-by-clause.

I have been a parliamentary secretary for one Prime Minister and two separate ministers. I have been in a position where information has been requested, sometimes by government members, other times by opposition members, and that information was requested to be in the hands of the committee prior to moving to clause-by-clause. There have been situations where the minister has been unable to get through the review of the information to then approve its release to the committee, and I have been in a position where I've had to inform the committee, prior to going to clause-by-clause. It was then the committee members' decision whether to delay clause-by-clause until it received the information or to move forward with clause-by-clause. In fact, we were informed that the information had been sent to our offices.

I know I assumed that there was a screw-up in my office and that's why I had not seen the information, and it's quite possible that my other colleagues were under the same misconception. It was only after we completed clause-by-clause that we were then informed that in fact the information had been sent to the minister and that the minister had not completed his review of that information before releasing it.

So I believe there is a possible breach of parliamentary privilege that impedes my ability to work as a parliamentarian, and the ability of my colleagues, and I intend to support Mr. Comartin's motion. I would like to see the members of this committee do so, so that we can make a report to the Speaker of the House that there's a possible breach of parliamentary procedure. The Speaker can then take the process through as the procedures and rules of the House allow.

The Chair: We'll go to Mr. Woodworth, then Mr. Rathgeber, then Mr. Jean.

Mr. Stephen Woodworth: Thank you, Mr. Chair.

I will make two points. The first point is that if this information was promised and was required for clause-by-clause, then in my view, the appropriate course of action at that time would have been to raise an objection to proceeding to clause-by-clause and to have had a vote on it. I don't recall if that happened. Maybe I was asleep through it. Rather than smearing anyone, I would have preferred that we simply waited to do the clause-by-clause until the necessary information was available. In my view, that would have been the earliest opportunity.

Having said that, I wish to comment on the theory that this committee should offer up a decision on possibilities. If we're going to proceed on the basis that we will impugn people on the basis of possibility, one could imagine waiting until Mr. Comartin missed a meeting to raise some point of privilege on some allegation about something Mr. Comartin did or didn't do. He wouldn't have an opportunity to respond. Then we could simply pass a motion saying that it's possible that Mr. Comartin did something despicable and that we would like the House to consider that possibility.

Quite frankly, as people who are charged with matters of justice, it's surprising to me that anyone would overlook that fundamental principle of natural justice and not allow the minister some opportunity to comment on this before taking a decision. That would only be fair, not that we necessarily always proceed in a fair fashion. If we're going to do something that impugns the minister or even possibly impugns the minister, it would be fair to give him the opportunity to respond.

Having raised the matter at this opportunity, I don't think it would be held against Mr. Comartin under any provision that would require him to raise it at the earliest opportunity. I don't think, having raised it now, that it would hurt his case at all if we tabled the matter to a later date to allow the minister to respond. I'm not up on my parliamentary procedure, Mr. Chair, but if you'll accept it, I propose that we table Mr. Comartin's motion.

● (1720)

The Chair: First of all, Mr. Woodworth, we may be able to accept that, but I would first have to determine whether the matter indeed relates to a prima facie case of privilege. I haven't ruled on that yet. I will certainly rule on it, but I want to leave it open for the committee.

Mr. Stephen Woodworth: Then I'll withdraw my motion until such time as that ruling has been made, and we can determine whether a motion to table would be appropriate.

The Chair: Go ahead, Mr. Comartin.

Mr. Joe Comartin: On a point of order, you do not have the jurisdiction to determine the prima facie case. You simply have to determine, Mr. Chair.... I'm reading from O'Brien and Bosc on page 150:

> The Chair, however, has no authority to rule that a breach of privilege or contempt has occurred. The role of the Chair in such instances is to determine whether the matter raised does in fact touch on privilege and is not a point of order, a grievance or a matter of debate.

That's your jurisdiction, Mr. Chair. By the very fact that I've raised it as a point of privilege—you've heard from other members of the committee who are concerned that privilege may in fact have been breached—it only has to be that. Your jurisdiction and authority stops at that point. I don't see that you have much leeway here in making this determination. It's really the committee that will make that determination in adopting the report.

The Chair: I agree with you insofar as the section of O'Brien and Bosc you read. I'm not determining whether a breach of privilege has occurred, and that's why I believe my statement said whether the matter related to a breach of privilege. And I believe that's pretty clear in the rules of procedure.

I'm prepared to make that determination, although I disagree with you that I don't have much leeway in making a determination. I think it's up to the chair to determine whether the matter that is referred to, in this case your particular complaint, is something that relates to a point of privilege.

Anyone else? Mr. Rathgeber, Mr. Jean, and then Ms. Jennings.

● (1725)

Mr. Brent Rathgeber: Thank you, Mr. Chair.

I too am not as scholarly with respect to the rules of parliamentary law and procedure as perhaps my friend Mr. Comartin, but I am very familiar with the concept of undertakings as they're applied from the examination for discovery process.

I listened to Ms. Jennings very carefully and I am sure she is mistaken when she recounts what occurred on the day Mr. Head was before this committee. What he stated, if I recollect correctly—and I'd certainly be interested in another member's impression—is that he would provide the information. I don't believe there were any parameters. Ms. Jennings has stated he would provide the information in time for the committee to do its clause-by-clause examination. It's my recollection that he made no such representation.

An undertaking, certainly in the legal context—and there are a lot of lawyers in this room—is as narrow as the undertaking that is given. You can't add parameters to the undertaking after the undertaking has been given. So for Ms. Jennings to say this information would be provided in time for the committee to examine it before we went to clause-by-clause was not what he said. He said he'd provide the committee.

I still have not heard Mr. Comartin tell me that anybody has denied him this information. As I understand the complaint, it's simply a matter of timeliness. To make even a prima facie motion or to use the words of the learned Clerk O'Brien, the one that touches on privilege, I would have to submit to this committee that there would have to be at least a scintilla of inability to comply with what the witness said he would do.

As I recollect, the witness, Mr. Head, the commissioner of the Correctional Service of Canada, said he would provide certain information to the committee. There were no time parameters. He has not failed to comply with what he said he would do. Therefore, I'm asking you, Mr. Chair, to rule that Mr. Comartin's motion is out of order, it's premature. The undertaking has not not been complied with because timeliness was not an element of the undertaking that was given.

The Chair: Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you, Mr. Chair.

Obviously I'm coming a little late to this meeting, but it always interests me to participate in discussions to do with Marleau and Montpetit. I would refer the committee and you, Mr. Chair, to page three, which deals with privileges and immunities. I would like to read some of this into the record, if I may. It speaks directly to the issue, and I quote:

> The rights accorded to the House and its Members to allow them to perform their parliamentary functions unimpeded are referred to as privileges or immunities.

I would suggest that in listening to this discourse, we should take note of whether there is a positive obligation on a minister or in fact a negative obligation. Under that context, I will continue, if I may, Mr. Chair:

> Parliamentary privilege refers, however, to the rights and immunities that are deemed necessary for the House of Commons, as an institution, and its Members, as representatives of the electorate—

[*Translation*]

Mr. Marc Lemay: Whoa, whoa! Just calm down a minute!

[*English*]

Mr. Brian Jean: *Pardonnez-moi.*

A voice: Italiano—no problemo.

Mr. Brian Jean: Italian? *C'est ça.* I apologize.

> Parliamentary privilege refers, however, to the rights and immunities that are deemed necessary for the House of Commons, as an institution, and its Members, as representatives of the electorate, to fulfill their functions.

It goes on further in the same paragraph:

> ...so that it can effectively carry out its principal functions which are to legislate, deliberate and hold the government to account.

It goes on, and it refers on the next page, page 60 in particular, to a definition of parliamentary privilege.

> The classic definition of parliamentary privilege is found in *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*:
>
> Parliamentary privilege is the sum of the peculiar rights enjoyed by each House collectively… and by Members of each House individually, without which they could not discharge their functions

—is this a positive obligation or a negative obligation? Those are my comments—

> and which exceed those possessed by other bodies or individuals. Thus privilege, though part of the law of the land, is to a certain extent an exemption from the general law.
>
> These "peculiar rights" can be divided into two categories: those extended to Members individually, and those extended to the House collectively.

It goes on, and this is the part that I think is crucial. Each category can be further divided:

> ...the rights and immunities accorded to Members individually are generally categorized under the following headings:

Then it speaks about these headings in point.

The first is freedom of speech, which obviously I don't think deals with this matter. The following are freedom from arrest in civil actions, exemption from jury duty, exemption from being subpoenaed to attend court as a witness, and freedom from obstruction, interference, intimidation, and molestation. That particular point I would suggest we could come back to. It may indeed be part of the issue brought up by Marlene Jennings and also by Mr. Comartin.

The reality is that it is not a positive obligation on the minister. It's just to make sure that he does not obstruct, interfere, intimidate, or molest, which I would suggest, based on the evidence I have heard, is not at all the case. It goes on to say:

> The rights and powers of the House as a collectivity may be categorized as follows:

The first is the exclusive right to regulate its own internal affairs, including its debates, proceedings, and facilities. Obviously not—

● (1730)

Hon. Marlene Jennings: I have a point of order, Mr. Chair. I believe it is 5:30, so I'm asking the chair to adjourn.

Mr. Brian Jean: You wish to adjourn?

Hon. Marlene Jennings: Yes, and that when we return—

Mr. Brian Jean: Is it a motion to adjourn?

Hon. Marlene Jennings: I'm moving that this committee meeting adjourn, and that when we return on Wednesday we continue—

Mr. Brian Jean: I thought my argument was so good, I can't believe—

The Chair: One moment, please, if you could bear with me. The question is whether you can actually move adjournment on a point of order.

Mr. Brian Jean: [*Inaudible—Editor*]...adjournment?

The Chair: I understand that. The question is whether you can adjourn the meeting on a point of order.

Mr. Brian Jean: My understanding is that there has to be unanimous consent to continue past 5:30, doesn't there?

No?

The Chair: You cannot move a motion on a point of order. However, Ms. Jennings, when Mr. Jean is finished, you're free to move the adjournment motion, and then maybe Mr. Jean will gladly cede the floor.

Mr. Comartin.

Mr. Joe Comartin: At 5:30 we have to adjourn. You have to adjourn the committee. We scheduled this meeting, as a committee, to attend here from 3:30 to 5:30. Unless there is unanimous consent, the chair has the responsibility to adjourn this meeting at 5:30.

Those are the rules of the committees.

Mr. Brian Jean: It's a moot point. I'm prepared to cede the floor to Marlene Jennings in deference to her motion to adjourn.

The Chair: All right, Mr. Jean has ceded the floor.

Ms. Jennings, do you want to make the motion to adjourn?

Hon. Marlene Jennings: I move that this committee now adjourn; that when we return on Wednesday of this week, which would be November 25, at 3:30, the matter with which we are dealing, Mr. Comartin's motion, be resumed as the first order of business; and that Mr. Jean be given the floor.

The Chair: Mr. Rathgeber.

Mr. Brent Rathgeber: I agree with the first part of the motion, but we have an agenda for Wednesday afternoon. The pre-committee has met and agreed on an agenda. I think the second part of her motion is going to require unanimous consent, and I am not hopeful that she's going to get it. But I think the first part of her motion is in order and I think this committee should adjourn, as Mr. Comartin suggested, at 5:30.

The Chair: When Ms. Jennings attaches a condition to the motion to adjourn, it becomes debatable.

Hon. Marlene Jennings: I remove the attachment.

Some hon. members: Oh, oh!

The Chair: All right.

Is there any further discussion on the adjournment motion?

(Motion agreed to)

The Chair: This meeting is adjourned.

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