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Chair

The Honourable Maxime Bernier

Standing Committee on National Defence

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• (1535)

[Translation]

The Chair (Hon. Maxime Bernier (Beauce, CPC)): Good afternoon and welcome to the 55th meeting of the Standing Committee on National Defence, which might very well be the last in the 40th Parliament.

Pursuant to the Order of Reference of Monday, December 6, 2010, we are continuing with our consideration of Bill C-41, An Act to amend the National Defence Act and to make consequential amendments to other Acts.

We have again with us our two expert witnesses from the Department of National Defence, Lieutenant-Colonel Dufour and Colonel Gleeson.

Thank you for being with us today. I know you will be able to answer questions members of the committee may have.

[English]

We are at clause 75.

I am going to give the floor to Mr. Hawn.

(On clause 75)

Hon. Laurie Hawn (Edmonton Centre, CPC): Thank you, Chair.

Hopefully we can do this fairly quickly. There is just one clause left, clause 75. Last time there was some concern about clause 75, about the offences that would lead to or not lead to a criminal record and so on. The Judge Advocate General folks went back and developed some options that they believe will address the concerns expressed.

I would just ask them to review options 1, 2, and 3. From our point of view, JAG is satisfied with all three of the options. They are not concerned about which one is chosen; therefore, we're not concerned. If JAG is comfortable, we are comfortable on this side of the floor. So if options 1, 2, or 3 can satisfy the opposition, then we can move along and get the last clause passed and get this over to the Senate.

I will just ask our experts to—

The Chair: Mr. Harris.

Mr. Jack Harris (St. John's East, NDP): On a point of order, I'm rather surprised at the turn of events since our last meeting. It was agreed by the committee, as a way to follow through on this, that the committee members who wished to meet with the Judge Advocate

General over the period between the last meeting and this one—not the one on Monday—would get together and consult, to see whether we could come up with something that met the concerns that were raised.

That hasn't happened, to my knowledge. I don't know who else would have been consulted, but I certainly wasn't. I have seen some documents that were put on my desk in the House today. Thank you for giving them to me, but that was at two o'clock this afternoon. I obviously haven't had an opportunity to study these seven or eight pages of documents, including, apparently, some questions that other members of the committee had with respect to those options, which seem to have answers as well.

Obviously some consultation has been going on, but it hasn't been with my involvement, and some dialogue has been going on, but it hasn't been with my involvement. I don't know about Mr. Bachand. He can speak for himself.

We can certainly hear from the JAG today, but with regard to coming to some conclusion this afternoon without having an opportunity to study this further... It was a serious matter that was raised, and we had a useful discussion the last time. But clearly, if we're talking about something of this importance and there appears to be some interest in coming up with something that's acceptable, we really should have and need to have an opportunity to look at these things in detail. There are lists of offences that have been added that might be available in options 1 or 2. There are complex interrelations between the National Defence Act and the Criminal Code on various matters.

I'm not very happy to find that these ten days have passed and no consultation with us or dialogue has taken place and I find myself given a very complex document at the start of question period, which is not the best time to be studying legal documents and trying to figure out what they actually mean.

If your purpose, Mr. Hawn, is to allow for discussion of this here today, I don't see any new amendments or anything else before us and I'm not in a position to adequately address amendments today based on any of these options.

I'm happy to discuss them and consider what they might be, but if Laurie is talking about getting this to the Senate, I don't know how that's going to happen, unless he has some special parliamentary procedure that I'm not aware of whereby it goes directly from the defence committee to the Senate.

So this is a bit of an ambitious agenda, I suggest, Mr. Chairman. I would welcome other people's comments, but I haven't had an opportunity to study the implications of these options and have any dialogue with the JAG on them.

[*Translation*]

The Chair: Thank you.

[*English*]

Mr. Hawn, and after that Mr. Bachand.

[*Translation*]

Mr. Claude Bachand (Saint-Jean, BQ): I was supposed to get the floor before Mr. Hawn.

The Chair: Okay, Mr. Bachand, go ahead.

Mr. Claude Bachand (Saint-Jean, BQ): I do not want to repeat the comments of my colleague from the NDP.

First of all, I have here a document which has been handed to me by Mr. Hawn but in English only. I already have enough difficulty with legalese and lawyers, despite my great admiration for them. It is not easy to deal with these issues, so just imagine having to deal with such complex matters in a language which is not my first language. I know my English is good, but I would have liked getting the document in French.

Secondly, there is something intriguing in this document: it answers questions from the Liberals. It means that Liberals have had the document and asked questions they probably communicated to the parliamentary secretary, while we ourselves have not been consulted. I find improper this process where two parties consulted with each other while the other two parties were kept in the dark.

Consequently, I am not ready either to pass amendments to these clauses today, not before we are given some time to consider this document in French. Question period is not the best time to examine a legal document, especially in a language that is not mine. Therefore, we are not willing either today to pass these amendments that would put the final touch to our consideration of Bill C-41.

• (1540)

The Chair: Thank you.

Mr. Hawn, you have the floor.

[*English*]

Hon. Laurie Hawn: I did forward that to you guys by e-mail. We sent it to the Liberals and I forwarded that e-mail to BachaC 9 or 5—I forget what it is—and yours, Jack.

Mr. Claude Bachand: When was that?

Hon. Laurie Hawn: Last week. I can't remember the day.

Mr. Claude Bachand: Was it in French?

Hon. Laurie Hawn: No, it was not in French. So you ignored it because it was not in French. I can't help that.

The Chair: Can we—

Hon. Laurie Hawn: Whatever. We can discuss it if it makes some sense. I suggest we could still go ahead. If it makes sense to the majority of the committee, I'm not sure if we could go ahead. The fact is, it's not a direct line from this committee to the Senate. It has to go back to the House. It has to be reported to the House at report

stage. If we could do that, get it through report stage and third reading, then it would go to the Senate. If not, I guess it will die on the order paper again and we'll come back to it down the road.

The Chair: I don't want to put you in a political situation, but could you give us your point of view on the three amendments that you have?

Mr. Wilfert.

Hon. Bryon Wilfert (Richmond Hill, Lib.): I didn't get called, but I didn't ask to be called. I thought there was going to be a meeting, but none of my colleagues, at least in the Liberal Party, told me.

Was there a meeting on these, Mr. Chairman?

Hon. Laurie Hawn: No. The JAG was available to discuss it with anybody.

Hon. Bryon Wilfert: There wasn't going to be a formal—

Hon. Laurie Hawn: It was very informal.

Hon. Bryon Wilfert: When I left I thought there was going to be an informal meeting among all the parties to work out which of these options they would like. I looked at the options this morning. Obviously, it was our intent to get this bill out of here. If the consultations didn't take place—I asked Ken, and he wasn't part of it, and I know Dominic wasn't—I'm just wondering—

Mr. Jack Harris: I wasn't either.

Hon. Bryon Wilfert: Okay. That didn't happen. I just wanted a clarification.

The Chair: Let's have the consultation right now.

Mr. Bachand.

[*Translation*]

Mr. Claude Bachand: Will the consultation be based on the document before us?

[*English*]

The Chair: We're here to discuss all the amendments. We have amendments from the NDP right now, but we have a proposal also.

[*Translation*]

Mr. Claude Bachand: But it is in English only, so we refuse to discuss it. I need a French version, otherwise I refuse to discuss it.

[*English*]

The Chair: Okay.

Mr. Hawn.

Hon. Laurie Hawn: Pretend you don't have that, and we'll have the discussion from the JAG, which will be in English or French, as we do normally when we get guidance from the JAG. It isn't necessarily on a piece of paper. Throw that away. Pretend you never got it, and just carry on.

The Chair: I think that's the best way to proceed.

Could we have your point of view, Colonel Gleeson?

Colonel Patrick K. Gleeson (Deputy Judge Advocate General, Military Justice Strategic Response Team, Office of the Judge Advocate General, Department of National Defence): Certainly, Mr. Chair.

As has been noted, what happened after the last committee meeting is that there was a discussion. We went back and looked, based on the discussion or debate that took place among the members of the committee, and we essentially concluded that there were two issues that we're trying to deal with here. One is the issue of the objective gravity of the offences that might be exempted from Criminal Records Act consequences. The second concern deals with the subjective gravity surrounding the commission of those offences.

As clause 75 is currently drafted, it deals with both of those issues. First of all, the objective gravity is reflected in the four or five offences that are captured in that scheme as it is currently drafted in the bill, and the subjective gravity question is captured with respect to the punishment threshold that is described, which is currently a \$500 fine or less.

As I say, it appeared, based on our understanding of the debate, that there were concerns with both of those thresholds; that neither one of them was significant enough or captured enough potential offences, and in particular that neither captured a significant percentage of the population of offences that might be dealt with at the summary trial level. Then, we had also discussed the consequences of expressly exempting summary trial offences, as distinct from service tribunal offences, from this scheme.

Given that background, we went back to look at three potential options. Those options were generated, and there was a set of speaking points generated that were intended to simply inform an informal discussion on this matter. They formed a document that was not intended to be put forward or tabled at committee.

That document outlines the three options. Attached to it are the actual options, showing how proposed section 249.27 would be drafted to reflect the implementation of both of those options—and those options, at least in the version I have, are drafted in both French and English.

Option 1 looks at the issue of the objective gravity of the offence. Essentially it seeks to broaden the number of unique service offences that would be captured by the Criminal Records Act exemption provision, from the current five to 27 offences. The reason the number has grown by such a large number is that we started to look at offences that would be dealt with at summary trial. When we went through that list, we essentially concluded that what we were looking at was a grouping of offences that are objectively the least serious in the code of service discipline. We determined that they were the least serious because the maximum punishment prescribed for these offences was imprisonment of two years less a day—or a lesser punishment.

Given that we were getting that grouping of offences by looking at the summary trial offences, we went through part III of the National Defence Act and looked at all the offences that prescribed this minimum punishment. This is the minimum maximum punishment prescribed for any offence in the code.

We took all of those and put them in a list and then looked at that list. We exempted two offences from that list after we had a look at it. Those were offences under sections 119 and 119.2. Section 119 deals with offences in relation to the Sex Offender Information

Registration Act. Section 119.2 deals with offences in relation to DNA identification.

We took those two off the list on the basis that they reflect a civil offence almost directly. Obviously, if you breached those or were convicted of those, you would have a Criminal Record Act consequence in the civilian system, and therefore they should come out in this model.

So that is what option 1 does. It expands that grouping of five offences to include 27, and these are objectively the least serious unique service offences in the code of service discipline. That is the first part of the test.

• (1545)

The second part of the test remains unchanged; this is the subjective gravity of the offence, which is reflected by the punishment threshold, which remains a \$500 fine or less. If you are convicted of one of these offences under option 1 and are awarded a punishment—

The Chair: I'm sorry, Colonel Gleeson....

Mr. Hawn?

Hon. Laurie Hawn: I have just a quick point. Do you have those in French and English now?

Col Patrick K. Gleeson: Do you mean the list of offences?

Hon. Laurie Hawn: I mean, all of the documentation—

Col Patrick K. Gleeson: What we have is the motions for each of these options in French and English.

Hon. Laurie Hawn: Can we get whatever you have in French and English photocopied and distributed right now?

Col Patrick K. Gleeson: We'll just pass those up to the clerk.

We do not have this working instrument in French and English; that is, the speaking points that Mr. Bachand was referring to. I apologize for that, but as I said, they weren't intended to be anything other than an informal discussion document.

Hon. Bryon Wilfert: I'm just looking at the appropriate point, but of the three options that we have here—I assume, Mr. Gleeson, you have these three options that were distributed—which one has the widest exemption?

Col Patrick K. Gleeson: The widest exemption would be option 3.

Hon. Bryon Wilfert: It would be option 3?

Thank you, sir.

Col Patrick K. Gleeson: So that's what option 1 does. As I said, the punishment threshold remains the same, so if you're convicted, a \$500 fine or less is imposed and you would not have a Criminal Records Act consequence.

Option 2 doesn't touch the objective gravity question, so it remains limited to the five original offences. But what we do in option 2 is look at the subjective gravity question, and we raise the threshold. In raising the threshold, we capture severe reprimand, reprimand, a fine up to one month's pay, and minor punishments—a much broader range of offences that would be dealt with, that would be captured by this.

The third option, in response to the question asked, is the broadest of the three. It essentially expands both the objective gravity category and the subjective gravity category by merging options 1 and 2 together. So there is a much broader range of offences, coupled with a higher punishment threshold, to take advantage of the Criminal Records Act exemption.

I'm happy to address any of those in more detail, but in a broad-brush overview, that is what the three options do. They essentially reflect an option that was provided, I believe by Mr. Harris, the last time we spoke.

• (1550)

The Chair: Great. Thank you very much, Colonel Gleeson.

Mr. Wilfert.

Hon. Bryon Wilfert: Colonel Gleeson, can you tell me, in number 3, what would be the highest...? Are there concerns with regard to that higher threshold in number 3?

Col Patrick K. Gleeson: There is a public policy balancing that is going on here. As you move the thresholds in both cases, you're obviously exempting conduct that becomes both objectively and subjectively more serious from the standpoint of the Criminal Records Act consequence. But none of these options would capture Criminal Code offences. We've excluded all Criminal Code offences from this scheme—and those from other federal acts, so the Controlled Drugs and Substances Act convictions.... All of that would be excluded.

So there is obviously a balancing issue as you move along this spectrum.

Hon. Bryon Wilfert: Yes, that obviously seems to be.... I'd like to see a balance that is fair, obviously, but at the same time sends the appropriate message. We don't want to cast such a wide net that it creates difficulties down the line.

Col Patrick K. Gleeson: I would suggest that all three options, including option 3, which is the broadest, strike a balance, in the sense that option 3 does not exempt serious criminal conduct. That is really both with respect to the offences that are listed and also with the punishment threshold. Anything that involves a very serious fine would not be exempted, and anything that involved any kind of custodial sentence or a reduction in rank, which is also a relatively serious punishment at the end of the day, would not benefit from this exemption.

So as I said, the balance is struck, but obviously we're further down that balancing process as we get to option 3 than we are with option 1 or the original drafting of this provision.

Hon. Bryon Wilfert: Thank you for that, Colonel.

Mr. Chair, if I may, the question I have, which is not for these gentlemen, is.... I have my view as to which one we should go with, but I guess this is a procedural question.

Is there an intent around this table to move this out of here today, or are we just saying something like "the house is on fire, let's go mow the lawn"? Is that what we're doing? I'm not sure what we're doing.

The Chair: Mr. Hawn.

Hon. Bryon Wilfert: I'm sorry; I don't mean to be flippant, but what are we doing?

Hon. Laurie Hawn: It was our intent to move it out of here today

Hon. Bryon Wilfert: Well, that's what I thought.

Hon. Laurie Hawn: —to try to get it to the Senate.

Hon. Bryon Wilfert: Is that actually procedurally possible?

Hon. Laurie Hawn: It's procedurally possible. It's touch and go.

[*Translation*]

The Chair: Mr. Bachand, you have the floor.

Mr. Claude Bachand: Mr. Chair, I find this situation totally ridiculous and unacceptable. Two parties consulted with each other and freely exchanged about the content of letters, of explanations and various options. On our side, we were handed this document at 2 p.m., in English only, during question period, which was very raucous today, and we are expected to study this very quickly. I don't agree. What the lawyers are submitting are rather straightforward amendments, it seems to me. One line would be replaced by a whole list of sections. But we did not get any time to review them. This is unacceptable.

Mr. Hawn, we are presently checking if we received this e-mail. It seems we did not. We could discuss it later, but right now I note that members of an opposition party have been briefed, gave answers, have even expressed preferences. Compared to them, Mr. Harris and myself are placed in an unfair situation. I don't know what we are going to do. I am presently consulting our whip. There certainly has been a breach of procedures that makes this situation unacceptable.

• (1555)

Le président: We could postpone this until Thursday.

[*English*]

Mr. Harris, you have the floor.

Mr. Jack Harris: It may well be Mr. Hawn's hope that this will pass through the committee this afternoon and go on to the Senate, but it's certainly not my intention to assist that in any way. I'm the guy who proposed, by the way, an amendment that would try to resolve section 75 and I'm extremely interested in achieving the right balance, the right threshold, if that's the word, as to where the line should be drawn.

This idea of subjective and objective is an interpretation, I think, that the Judge Advocate General has placed under discussion. That's fair enough; that's his prerogative. The concern here was that, because the procedures were inadequate from a rights point of view for summary trials, something should be done to address that. We haven't really focused on where that line is.

I know there's a public policy thing, and this did require some advance discussion before meeting today. I'm still trying to go through the list of actual offences that are named here with the list of offences in the act that the summary conviction trial is allowed to deal with, to see what the jurisdiction of the commanding officer is, and which ones are left out, which ones aren't, et cetera. There are a number that are left off even this expanded list. I haven't had a chance to go through it and exercise my own judgment as to whether I agree with your designation.

I'm looking at the range of penalties allowed to a commanding officer as well, and it seems that the threshold, the bar that has been set here, is certainly higher than what was put forward in the original clause 75. Now we have two categories of punishment that would attract a criminal record. That would be anything involving a reduction in rank by one rank or detention for a period not exceeding 30 days. In other words, any detention of any kind, whether it be one day or two or ten, would attract a criminal record, despite the fact there are not the procedural protections that we talked about.

I have to say to Mr. Hawn that I was certainly prepared to try to cooperate in getting us to the point that we needed to be at. Of course, we were all away for a week, we didn't have the consultation that's required, and I think it's too much to expect this committee to deal with this today and rush it through.

As to your concern about its dying on the order paper, a lot of work has been done on this bill. We have put in place amendments that have been thought through and we've had a lot of debate on it. If this comes back immediately after the next election, then depending on how fast the government wants to move it, there's no reason that we can't take up where we left off.

So I'm not going to be railroaded. I'm not suggesting you're trying to railroad it, but you're trying to push this through without the proper consultation that we had agreed upon. We're trying to find a compromise here, but I don't think we should just take the most expansive one and put it through simply to get us to a certain point. I don't agree with that strategy, and I don't think it has been proposed.

I don't blame the Liberals, or anybody who has seen this and who had a chance to ask questions and get them responded to, but that's not the process that was agreed to. As the person who has brought this debate to the table and to the House, I certainly don't feel that this has been adequately dealt with and that we've had an adequate opportunity to study this.

The Chair: I'll give the floor to Mr. Hawn and after that to Ms. Gallant and then Mr. Dryden.

Hon. Laurie Hawn: Let me ask a question of the JAG, and this may be off the wall. What would be the implications of passing Bill C-41 without dealing with clause 75? Would that impact a whole bunch of other things within the bill?

• (1600)

Mr. Jack Harris: That's worse.

Hon. Laurie Hawn: Well, I'm just trying to make some progress here.

Is it a dumb idea—please say it's dumb, if it is—to try to pass Bill C-41 without dealing with clause 75, to just leave that out and pass the rest of it? Is that feasible?

Col Patrick K. Gleeson: It's certainly feasible, but it's.... Obviously I'm not in a position to talk about what government policy would be on that issue, but if this clause came out, the bill doesn't collapse by any stretch of the imagination.

That's all I can say on that, Mr. Chair.

The Chair: Thank you.

Ms. Gallant.

Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC): Might we just find out...? We all know there's a concurrence motion that was put in the House, so we could vote at any time. Could we just find out whether or not there's enough consensus around the table to agree to one choice or the other so that we could possibly move this through? For all the discussion we had previously on how important it was to get this through, as well as ensure that very minor offences are not included on somebody's criminal record, it would be in the soldiers' best interest to proceed. So I'm asking to call the question on consensus on clause 75.

The Chair: Thank you.

Mr. Dryden.

Hon. Ken Dryden (York Centre, Lib.): As others have said, I didn't see this until just before question period. This was an important part of our discussion from before, and I think that passing the bill without clause 75 is not a good idea. Instinctively, I feel the way Mr. Harris does: annoyed that we had some time and didn't allow ourselves the time to really focus as we need to.

That said, I don't want to lose the possibility of all the work that has been done on this having a chance to see the light of day. As it was described, option 3 is the widest option. If somebody proposed it as a motion, so that we could discuss option 3 to see how far we get in it, with the possibility of coming to a conclusion today and having things then move ahead to see whether there is a possibility that it goes through the Senate....

I think a mistake was made in dealing with the process of it. I don't think it was an absence of goodwill; it was a mistake. It's too bad and it creates awkwardnesses and worse, as Mr. Bachand said and Mr. Harris said. But I would still prefer to see whether or not we can come to an agreement on it and would ask whether somebody would be willing to propose a motion that would suggest that we adopt option 3 and then get on to a discussion about it.

The Chair: Mr. Hawn.

Hon. Laurie Hawn: I agree and would so move.

The Chair: So we have a proposal. I just want to read....

Yes, Mr. Harris? I'm sorry.

Mr. Jack Harris: All other discussions of various clauses had to do with people proposing amendments that were in fact in front of members, so how are we now avoiding that process? We're obviously discussing clause 75 and we have a proposal to discuss option 3. I don't think we actually have option 3 as such before us; we have a motion that doesn't incorporate option 3. The motion that I have, passed out here, only deals with a list of numbers for which the offender is...and it doesn't deal with the other part of option 3, which has to do with punishment. So it's not a complete—

The Chair: Just to be sure of what we are speaking about here, I will ask Mr. Hawn to read option 3, because we have numbers 07c, 07a, and 08b. Which one is option 3? These are the numbers at the top left.

• (1605)

Hon. Laurie Hawn: I'm sorry, 07a is—

Col Patrick K. Gleeson: Mr. Chair, if I may say so, motions were generated for each of the options. I believe that only option “a” was circulated, so this is the package that deals with option “c”, if that is to be circulated to the membership of the committee. Again, we have option “b” here as well.

The Chair: Will we receive that famous option 3 soon?

Monsieur Bachand.

[*Translation*]

Mr. Claude Bachand: I am directing this comment to the lawyers here. I am not a lawyer and I know very little about law. I imagine a situation where a crown attorney would table a series of documents that are in one language only.

The Chair: These here are in both languages.

Mr. Claude Bachand: Yes, but the explanations are not. Even Mr. Hawn said that I should take my document and throw it into the recycling bin. This document here is in both languages but we also need the explanations. We have them here but are told not to use them.

To continue with my reasoning, let us imagine a crown attorney who submits new documents at the last minute to support his charges. Do you think that the defence lawyer would just trust him and accept these documents without reviewing them? Certainly not.

We have here a situation where new aspects have been added without us being consulted. Furthermore, these documents have not been tabled in both official languages, except for these motions which contain a list of numbers. So I cannot go along with this process which is contrary to the principle of fairness, in my view.

[*English*]

The Chair: Thank you, Mr. Bachand.

Mr. Hawn, can you just read your proposal, your motion, in front of us?

Hon. Laurie Hawn: Option 3 is 07c. It's not just a list of numbers. It is that Bill C-41, in clause 75, be amended by replacing lines 7 to 9 on page 49 with the following...and there is the list of exemptions for which the offender is sentenced to a severe reprimand, a fine not exceeding basic pay for one month, or a minor punishment.

I would have to ask our JAG folks to expand on that, to elaborate on that, and if there were any question on any specific one of those, then they could tell you what the number is and what it means.

The Chair: Colonel Gleeson.

Col Patrick K. Gleeson: Again, Mr. Chair, this option, as I indicated earlier, looks at both the objective gravity question and the subjective gravity question, and it increases the threshold with respect to both. The five offences that were initially identified in clause 75 are now expanded to 27 offences, all of which involve a maximum punishment of two years' imprisonment or less. That is the objective gravity portion.

The subjective gravity portion deals with the punishment that may be imposed, which in the original drafting of clause 75 was a fine of \$500 or less. We now talk about a punishment that would involve a

severe reprimand, a reprimand, a fine not exceeding basic pay for one month, or a minor punishment. Essentially we've expanded the punishment threshold with respect to when the exemption would apply.

I'm more than happy to walk through a listing of what the offences cover with respect to each of those numbers that are on the page, and I can certainly provide copies of those in both languages to members of the committee as well, if there is a desire to receive those.

The Chair: Thank you, Colonel Gleeson.

Mr. Harris.

Mr. Jack Harris: I'm prepared to entertain some discussion about this, but I really don't like the idea of trying to do this on the fly.

I have a list here in front of me of the summary procedure charges. Some of the numbers that are left out here, which I had in another version of my amendment, would have included 83, 84, 85, and 86. I don't know why 86 is not in there at this point.

• (1610)

Mr. Claude Bachand: We have it in French, but it's not in English.

Mr. Jack Harris: They have it in French. We don't have 86 in English. So there must be a drafting error there somewhere.

“Quarrels and disturbances” apparently is in the French version but not in the English version. Insubordination, for example, is not included in your list. “Quarrels and disturbances” is not in the English version. “Disobedience of lawful command” is not. I'm just going down through the list here. “Cruel or disgraceful conduct” is not included. For some reason, section 98 on malingering or maiming is not included. Malingering, to me, seems rather an inconsequential type of matter, but maiming might be a little different. I can't see a consistency here in these choices.

Col Patrick K. Gleeson: Perhaps, Mr. Chair, I could walk through the list, because I think many of the items that were just identified are in fact on the list. I recognize that it's hard to sort of match up as you're going here.

Mr. Jack Harris: That's my issue, Colonel. We're dealing with this for the first time. This is the first time I've seen this motion. I realize that you may have done it some time ago, but these are complex legal matters, and there are things on the list—if you read through what's on the list you'd still be dealing with the ones that aren't on the list. And I'm not convinced, having just noticed this error, that we have the same lists in English and in French. I don't know if anybody is able to confirm that for us.

The Chair: Colonel Gleeson.

Col Patrick K. Gleeson: This is not a drafting error. This is replacing lines that are in the current bill. The lines are different on the French side compared to the English side of the page in the bill itself. So “86” is captured in the English version on the line above the line that you're reading on the amendment motion, and “86” in the French version is captured on the line that is being changed. That's why it shows up on the French version but not the English version. So 85 and 86 are both captured in this listing even though you don't see them on the motion. That's because they were already in the bill.

Mr. Jack Harris: In the original, 90 is on the same line as 85 and 86.

Col Patrick K. Gleeson: And 90 is on the list in the motion, I believe, Mr. Harris.

Mr. Jack Harris: Yes, but it's also on the same line as 85 and 86 in the original draft amendment to clause 75. That's, at a very minimum, confusing to me. I understand your point that you're only amending the next line, but if 85 and 86 are omitted from your amendment because they're included in line 6, so is number 90, but you have repeated it again.

Col Patrick K. Gleeson: Actually, in my version of the bill, on page 49, 90 is on the next line, so maybe we'll work it up—

Mr. Jack Harris: I'm dealing with the version that's attached to the thing that was sent to me today.

Col Patrick K. Gleeson: That's not an extract from the bill.

Mr. Jack Harris: All right. Well, I guess maybe we need to break and have a chance to read this stuff and see what we're dealing with. I think this is a very untoward procedure for dealing with amending legislation.

The Chair: So there is a proposal in front of us to discuss the proposal, the one from the NDP with some modifications, which we called option 3.

[Translation]

That Bill C-41, in clause 75, be amended, by replacing lines 7 to 9 on page 49 with the following:

86, 87, 89, 90, 91, 95, 96, 97, 99, 101, 101.1, 102, 103, 108, 109, 112, 116, 117, 118, 118.1, 120, 121, 122, 123, 126 or 129 for which the offender is sentenced to

- (i) a severe reprimand,
- (ii) a reprimand,
- (iii) a fine not exceeding basic pay for one month, or
- (iv) a minor punishment;

This is the subject of the proposed discussion.

Do any other members want to speak to the motion?

•(1615)

[English]

Mr. Hawn.

Hon. Laurie Hawn: We're prepared to adopt it.

The Chair: So you propose this amendment be put to a vote?

Hon. Laurie Hawn: Yes, we are prepared to adopt that amendment now.

[Translation]

The Chair: Mr. Bachand, you have the floor.

Mr. Claude Bachand: I am now ready to look at each of the sections.

I would like Mr. Gleeson to state which offences are related to sections 86, 87 and so on. Once we have that, maybe Mr. Harris, who moved amendments NDP-8 and NDP-9 will be satisfied. It might also allow us to have a more thorough discussion.

Mr. Gleeson, could you explain for each offence what the punishment might be?

[English]

Col Patrick K. Gleeson: *Oui, absolument.*

May I proceed?

Again, you need to read the amending motion with the actual draft in the clause-by-clause document of the bill, on page 49. So starting at line 6 on the English side and the French side, on the English side we start with "85"—

Mr. Jack Harris: Could you give me a moment?

Col Patrick K. Gleeson: Yes, absolutely.

Mr. Jack Harris: You're on page 49 of the draft?

Col Patrick K. Gleeson: Yes, it's page 49 of the clause-by-clause, obviously on the left side of the page, which is the bill side.

Mrs. Cheryl Gallant: On a point of order, Mr. Chair, I thought the question was being called on the NDP amendment. I'm just trying to figure out where we are.

The Chair: No, I asked to discuss this amendment, option 3, and members want to have more details about it, so they have the floor.

I'll give the floor to Colonel Gleeson to answer the question by Mr. Bachand.

Col Patrick K. Gleeson: So the first offence that's captured is 85. It was captured in the previous version as well. That is "insubordinate behaviour". You don't see that on your amending sheet because it's in the bill already, so we aren't making a change there. That line is not changing. It's on line 6 of the bill on page 49, so you do not see 85 on either the French or the English version of the motion.

The next offence provision is 86, "quarrels and disturbances". In the English version of the bill as it exists, 86 is on line 5. Therefore, you do not see it in the English motion. On the French side of the bill, 86 is on line 7. Therefore, you see 86 on the French version of the motion.

[Translation]

In French, it is offence 86.

[English]

The next offence is section 87, “resisting or escaping from arrest or custody”, “*désordres*”. Section 89 is “connivance at desertion”. Section 90 is “absence without leave”. Section 90 is an offence that was already on the list in the original version. Section 91 is “false statement in respect of leave”. Section 95 is “abuse of subordinates”. Section 96 is “making false accusations or statements or suppressing facts”. Section 97 is “drunkenness”. Section 99 is “malingering, aggravating disease or infirmity or injuring self or another”. Section 101 is “escape from custody”. Section 101.1 is “failure to comply with conditions”. Section 102 is “hindering arrest or confinement or withholding assistance when called on”. Section 103 is “withholding delivery over or assistance to civil power”. Section 108 is “signing inaccurate certificate”. Section 109 is “low flying”. Section 112 is “improper use of vehicles”. Section 116 is “destruction, damage, loss or improper disposal”. Section 117 is “miscellaneous offences” including an act of a fraudulent nature not specifically set out in another provision of the code. Section 118 is “offences in relation to tribunals”. Section 118.1 is “failure to appear or attend”. Section 120 is “ill-treatment or non-payment of occupant or person [who is billeting an individual]”. Section 121 is “fraudulent enrolment”. Section 122 is “false answers or false information”. Section 123 is “assisting unlawful enrolment”. Section 126 is “refusing immunization, tests, blood examination or treatment”. And section 129 is “conduct to the prejudice of good order and discipline”. And again, section 129 was previously on the list.

Those are the 27 offences that would now be captured under option 3 in this process. So we've expanded from the original five to these 27. Again, they're all there because objectively they are the least serious offences in the code, in that there is a maximum punishment of two years' imprisonment or less prescribed if you are convicted of them.

•(1620)

Mr. Claude Bachand: It's less than two years?

Col Patrick K. Gleeson: It's less than two years. I think I said “two years or less”, but it's less than two years—*moins de deux ans*.

Mr. Claude Bachand: It's two years less one day.

Col Patrick K. Gleeson: It's two years, less one day. *Exactement*.

Mr. Jack Harris: Thank you, Colonel.

Would you go over with me a number of other service offences, which I did have on a list of service offences that we were concerned about for another amendment? I had 83, 84, 93, 98, 100, 106, 107, 110, 111, 113, 114, and 115. Section 129 is already included. Could you go over those and say why you felt they should not be included, and why, despite the lack of procedural safeguards, these should result in a criminal conviction?

Col Patrick K. Gleeson: Section 83 is “disobedience of lawful command”, and someone convicted of it is “liable to imprisonment for life or to less punishment”. So again, we were working with the principle that they were objectively the least serious in the code. Section 83 didn't meet that standard, so it was not included in the list.

Mr. Jack Harris: They may be liable for large penalties—

Col Patrick K. Gleeson: Yes.

Mr. Jack Harris: —but you could have subjective circumstances that were trivial in nature, so they're not captured by this amendment.

Col Patrick K. Gleeson: No, they're not. As I said, the principle we adopted was the two-year minimum objective standard.

Mr. Jack Harris: That's in terms of the standard laid out in the code for maximum punishment.

Col Patrick K. Gleeson: That's correct.

Mr. Jack Harris: Okay. Well, that doesn't address the other concerns we had. A minor insubordination would attract a criminal record if dealt with by a commanding officer, under your concept.

Col Patrick K. Gleeson: Yes, it would.

Mr. Jack Harris: What about 83 and 84?

Col Patrick K. Gleeson: Eighty-four is the same situation.

Ninety-three is cruel and disgraceful conduct, with “five years or... less punishment”, so that didn't make the cut, based on the assessment we did.

That's 93. I think 100 was the next one...?

A voice: Ninety-eight.

Col Patrick K. Gleeson: Ninety-eight? Ninety-eight is malingering, aggravating disease or infirmity... Ninety-eight is on the list.

•(1625)

Mr. Jack Harris: It is?

Col Patrick K. Gleeson: Ninety-seven or... Ninety-nine is on the list—

Mr. Jack Harris: Okay. Sorry, 98 is, but 99.... Sorry, I'm looking at the wrong list.

Col Patrick K. Gleeson: Ninety-eight is the punishment again. It's five years—“exceeding five years or...less punishment”.

Mr. Jack Harris: What's that penalty?

Col Patrick K. Gleeson: Five years or less punishment.

Mr. Jack Harris: What's the charge? Sorry.

Col Patrick K. Gleeson: It's malingering. I'll correct the listing. I read 99 as malingering, but 99 is actually “detaining unnecessarily or failing to bring up for investigation”.

Mr. Jack Harris: Okay. So once again, I would point out that malingering is one of those, when we were having the discussion last time.... Despite the fact that it may, on an offence list, look particularly serious, there are degrees of malingering that I think we would all agree could be extremely trivial. We all know what malingering is; I won't even try to come up with an example. But again, the way you've approached this, it's dependent upon what's already written into the code in terms of maximum offences.

Col Patrick K. Gleeson: What we try—

The Chair: Sorry.

Mr. Hawn.

Hon. Laurie Hawn: Just on a quick point of order, our subsequent witnesses are here, and we would need unanimous consent to release them. I think with votes and stuff we're probably not going to get to them.

Mr. Claude Bachand: [*Inaudible—Editor.*]

Hon. Laurie Hawn: Yes.

The Chair: I just want to inform the members that the bells are ringing and we have to suspend our work. Or if we have unanimous consent, we can go on right now. If we suspend, we can also come back for another hour to do our work until we're finished.

I'm asking the members, first of all, if they want to suspend right now, go to do our work in the House, and come back after that—or not.

Mr. Hawn.

Hon. Laurie Hawn: That's fine, but with reference to the witnesses, I think we're probably not reasonably going to get to them, given votes and given this discussion, so I would like to suggest that we release those witnesses.

The Chair: Okay.

Monsieur Bachand, do you want to...?

[*Translation*]

Mr. Claude Bachand: I for one would have liked to find out what is happening in Libya. As you know, I have a motion and I would probably have introduced it at the time of the debate. However, I understand that we must finish our parliamentary and legislative job. I would be willing to continue. Is this a half-hour bell?

The Chair: Yes.

Mr. Claude Bachand: How much time do we have left?

If you wish, we could continue for 10 minutes.

[*English*]

Hon. Laurie Hawn: No, no, I understand that, but how long...? Because we have more votes later, correct?

The Chair: Yes, we have to go. We have a vote. Are we coming back? What's happening with our witnesses?

Hon. Laurie Hawn: Do we not have more votes later? The votes being held now are on a concurrence motion by the Liberals. We also have more votes scheduled.

Mr. Jack Harris: No, no. The vote here is a vote by the government, according to my note here—

The Chair: Okay. Sorry about that.

Members, we have votes. That's the most important thing. We have to be there. I don't mind who's voting—

Hon. Laurie Hawn: Realistically, we're not going to have time for these guys.

The Chair: Okay. We're going to ask our witnesses to leave. We won't be able to see them tonight. The question is, do we continue our work for another 10 or 15 minutes, or just suspend right now and come back after the vote?

Hon. Dominic LeBlanc (Beauséjour, Lib.): Mr. Chairman, if there's a way to get consensus, adopt this clause, and allow the JAG

and others to go on...if we can adopt this bill and arrive at a consensus, I'd try to do that quickly, before we have to leave for a vote.

Mr. Jack Harris: I'm not prepared to do that.

Mr. Claude Bachand: Me neither.

The Chair: So there's no consensus.

Is there consensus to continue to discuss that clause for another ten minutes?

Mr. Jack Harris: I don't mind hearing...for another few minutes, because there are a number of sections that I've specifically pointed out. I'm seeing a problem here with things like malingering. They don't meet the colonel's suggested way of dealing with this, but they might be acceptable if we change a few other things.

I mean, there may be a solution to this, but I've listed a number of things here. I've identified two already. Although they may objectively be difficult ones to deal with because they have longer maximums, there is a way of dealing with the subjective nature of them by dealing with the punishment threshold.

So there may be a resolution to this, but I don't think we should rush things—

• (1630)

The Chair: My question, though, is do we have unanimous consent to continue for another ten minutes?

Mr. Hawn.

Hon. Laurie Hawn: Mr. Chair, we'd like to call the question.

[*Translation*]

Mr. Claude Bachand: Mr. Chairman, the Standing Orders say...

[*English*]

Mr. Jack Harris: No, I don't...

You don't have unanimous consent, Mr. Chairman.

The Chair: Okay.

I have to suspend the work.

Do we have consensus to come back after the vote?

An hon. member: Sure.

The Chair: Okay.

We'll come back after the vote to continue our work.

• (1630)

(Pause)

• (1715)

[*Translation*]

The Chair: We are back to work. This is meeting 55 of the Standing Committee on National Defence.

We are considering Bill C-41, An Act to amend the National Defence Act and to make consequential amendments to other Acts.

[*English*]

We have an amendment by...

Yes, Mr. Hawn.

Hon. Laurie Hawn: Mr. Chair, I would like to call the question.

I know that not everybody is going to be happy with this. This may not be perfect, but we've come this far and so close. This is a heck of a lot better than what is out there now, which is nothing.

Legislation can always be revisited, but if we don't get this out of here now, in the next few minutes, we're not going to be able to hear from the Libya folks, which is important to people, and we will lose this legislation completely.

I would like to call the vote on this now.

The Chair: Mr. Harris.

Mr. Jack Harris: Mr. Chair, this is an abuse of the process of this committee. We have incorrect information, and the numbering....

I mean, it's been brought to my attention that what we were first handed out here in terms of what 99 was supposed to be, malingering, etc., is not the offence under section 99; we're dealing with 98. So this is a process that is defective.

I'm not sure you can bring a question of privilege in a committee. I don't know if you can bring a question of privilege to the House about something going on in the committee, but there has to be some way of dealing with the question that my privileges as a member, my ability to act as a member and to deal properly with legislation before the committee, is being damaged by this process, damaged by the suggestion that we can call the question on something that has hardly been explained, let alone debated, something that we haven't had an opportunity to study and to change.

I think that's an abuse of process, and I would like a ruling from you, sir, on that point.

[*Translation*]

The Chair: Thank you, Mr. Harris.

I want to remind members of the procedure of the committee. I have no authority to call the question on this amendment at this time. I have to go first through the list of members who want to discuss this amendment. Once no one else wants to speak to the amendment, I will have to call the question.

[*English*]

Donc, this is the rule from the committee that I must follow. I cannot put it to a vote right now, because I still have some members who want to discuss it. Once no one else wants to speak to the amendment, I can go on with it.

Monsieur Bachand.

[*Translation*]

Mr. Claude Bachand: I agree. We want to continue going through the list of offences that is proposed. Earlier, I offered my assistance in order to review this without haste. This would allow us to make up our minds and to reach a decision. So I believe we should keep going and I hope it can be done quickly.

The Chair: Yes.

You have no questions, Mr. Bachand? Fine.

Colonel Gleeson, you have the floor.

• (1720)

[*English*]

Col Patrick K. Gleeson: Certainly—

[*Translation*]

The Chair: Excuse me, Colonel Gleeson.

Mr. Dryden, you have the floor.

[*English*]

Hon. Ken Dryden: No, I agree with what you're saying, Chair. We're back here now, and we have progressed to looking at this as closely as we can. We have the opportunity to do so.

The Libya briefing will be very nice to have, and I hope we will still have the chance to have it, but I think we have some work to do on this first.

The Chair: Thank you.

Colonel Gleeson, can you go on with your details?

Col Patrick K. Gleeson: I think we had arrived at section 100, setting free without authority or allowing or assisting escape.

That offence has a double-tier maximum punishment provided for. One is for a term not in excess of seven years, and the other is two years or less. Given its bifurcated maximum punishment provision, it was not included.

Mr. Jack Harris: Could you explain the problems with 98 and 99, please?

Col Patrick K. Gleeson: Oh, sorry; I thought we'd done 98.

So 99 is on the list of offences that would be excluded from a criminal records act consequence and 98 is not; 98 is malingering and 99 is detaining unnecessarily or failing to bring up for investigation.

Again, 98, the malingering offence, is an offence for which the maximum punishment is life in some circumstances, or five years or less imprisonment in other circumstances.

That's the reason 98 was not included on the list.

Hon. Ken Dryden: Can you describe what "malingering" is?

Col Patrick K. Gleeson: I'll just read the offence provision for you:

Every person who

- (a) malingers or feigns or produces disease or infirmity,
- (b) aggravates, or delays the cure of, disease or infirmity by misconduct or wilful disobedience of orders, or
- (c) wilfully maims or injures himself or any other person who is a member of any of Her Majesty's Forces

And then it goes on to talk about forces cooperating.

That's the way the offence is described in the act.

Hon. Ken Dryden: Thank you.

Mr. Jack Harris: So it deals with faking illnesses or something more serious, and deals with injuring yourself or others as well.

Col Patrick K. Gleeson: Yes. That's a provision of that offence: "malingers or feigns or produces disease or infirmity".

Mr. Jack Harris: An example of that would be someone pretending to be sick when they aren't.

Col Patrick K. Gleeson: That could fall under the definition of malingering, yes.

Section 100, setting free without authority or allowing to escape, has a maximum punishment of seven years or less imprisonment.

If I miss any that were.... I made a note as I went through these, so hopefully I don't miss any.

The next one on my list is section 106, disobedience of captain's orders. This has to do with somebody on board a ship. Imprisonment for life is the maximum punishment for that offence. Again, it's an operational nature offence.

Section 107 is wilful acts in relation to aircraft or aircraft material. That has a maximum punishment of imprisonment for life in some circumstances, and in others two years or less. It has a bifurcated maximum punishment provision.

Section 110 again deals with disobedience of captain's orders. This is with respect to aircraft. Again, the maximum punishment for that is either imprisonment for life or less punishment.

Section 111 deals with improper driving of vehicles. This covers impaired driving and those types of offences. It has a five-year maximum punishment provision.

Section 113 is the causing fires provision. Again, that's a bifurcated scheme, where there's imprisonment for life or less punishment. Given its bifurcated nature, it was excluded.

Mr. Jack Harris: When you say "bifurcated", Colonel, are you talking about something that can proceed in one of two ways?

Col Patrick K. Gleeson: Well, it's not really a process issue, it's a circumstance issue that drives the maximum punishment provision. In the military justice scheme, it's not....

The military justice system is not like the civilian justice system, where there is a summary conviction and an indictable-type proceeding. There's only one type of proceeding in the military justice system.

Perhaps it's best if I just read the offence provision to you so that you can understand how it's been framed:

113. Every person who wilfully or negligently or by neglect of or contrary to regulations, orders or instructions, does any act or omits to do anything, which act or omission causes or is likely to cause fire to occur in any materiel, defence establishment or work for defence is guilty of an offence and on conviction, if the person acted wilfully, is liable to imprisonment for life or to less punishment and, in any other case, is liable to imprisonment for less than two years or to less punishment.

That's the way that offence is framed.

• (1725)

Mr. Jack Harris: And you found no way of including the lesser circumstances in these categories?

Col Patrick K. Gleeson: As I say, we worked on the principle of Parliament's objective assessment of how grave the offence could be and adopted the two years less punishment provision.

Mr. Jack Harris: But that's what appears there in the circumstances.

Col Patrick K. Gleeson: That's in one of the circumstances, exactly.

Mr. Jack Harris: Could you not find a way of ensuring...? If your principle is a two-year rule, would you not be able to easily say, where the punishment for that offence, in this particular case, is two years or less, that would include those offences, but only for those cases where the punishment is less than two years?

Col Patrick K. Gleeson: I'd have to go back and do legal research on this point, but unless a court desires to impose a punishment of greater than two years, it may not make any finding as to whether or not it was intentional.

Again, without doing that research, I can't answer that question in detail. But that would be one of the concerns I would identify. That's why we didn't include these bifurcated-type punishment offences.

Mr. Jack Harris: There's a problem here too, I guess.

Col Patrick K. Gleeson: So that's section 113. Again, 114 is "stealing", and it's bifurcated as well, but it's maximum of 14 or maximum of seven years. Section 115 is "receiving", which is improperly receiving property, and that has a seven-year maximum punishment provision.

Mr. Claude Bachand: It's receiving what, sir?

Col Patrick K. Gleeson: It says "receives or retains...property obtained by the commission of [an] offence." So essentially it's an offence involving stolen property, and again it's a maximum of seven years.

I think those are all of the offences identified on the list. If I missed any, I'm happy to go back and have a look at them.

The Chair: Thank you, Colonel Gleeson.

Monsieur Bachand.

[Translation]

Mr. Claude Bachand: Colonel, you drew up a rather comprehensive list. Could there be cases that would set a precedent? In other words, could there be offences that are not on the list but that would make their way there? How would you deal with that?

I suppose there is also jurisprudence in military law. Could a person be charged with a serious offence that is not on the list you have given us?

[English]

Col Patrick K. Gleeson: It's certainly possible that somebody would be charged for an offence that is not on this list. This is not intended to be an exhaustive list of all service offences. This is intended to identify.... As I indicated earlier, we started out with the policy view that there were a small number of service offences that could be particularly minor in nature, so minor in nature that they're the only five offences for which an individual, if the offence occurred in minor circumstances, would not get an election to be tried by court martial. It was for that grouping of offences that the policy choice was made to extend an exemption from consequences under the Criminal Records Act. That was the starting-out position. All other offences would not have attracted the Criminal Records Act exemption provision, for lack of a better term.

After the discussion among committee members, we've gone and come back with three options. Two of those options actually expand that original listing of five offences to 27 offences, but there are many other offences under both the code of service discipline, which are incorporated or brought into the code of service discipline through section 130 of the National Defence Act under other federal statutes, which are not captured here. If you're convicted of an offence that is not on this list, then you would not escape the Criminal Records Act consequence.

The Chair: Mr. Harris.

Mr. Jack Harris: Mr. Chairman, I've listened to the arguments put forth as to why the Judge Advocate General's analysis has moved to a larger sphere of offences, but I still have the problem here where he or the office has done an analysis based on what I think he called the "objective seriousness", in the sense of the maximum sentence provided for a particular offence. We see the same thing in the regular criminal law, where someone who's charged with breaking and entering into a dwelling house is liable to life imprisonment. If it's a first offence, usually they get a suspended sentence or something of that nature.

So that still causes me a lot of problems, because you have somebody who is charged with an offence that might attract these serious penalties in certain circumstances, but in fact the circumstances may be so minor as to be something that would offend the sense we raised here at committee in terms of concerns about what having a criminal record would do. On disobeying an officer, if someone tells you to shine your shoes, and you don't shine your shoes and you get fined \$100, that's a criminal record offence, whereas some of these other ones that we now have on the list, while they're not the most serious offences, are serious offences and are certainly worse than the kinds of things that could attract a criminal record.

There really is a sense of arbitrariness about this. I'm wondering if we can find a way to amend the proposed motion here to add, in addition to the list of offences there, something to the effect of "or other offences not mentioned for which the offender is sentenced to these"...A, B, C, D, or one, two, three, four. So if you had a case in which someone was charged with some technical violation of one of the other offences that we're now talking about—and that aren't on the list—and ends up getting a rather modest penalty within this list in terms of reprimand, severe reprimand, fine, or other minor punishment, that person would not have to go through the criminal records process and go to the parole board to get a pardon.

If we can come up with the wording, I think.... I see that we're almost at 5:30, and if I want to talk it out, I suppose I can just keep talking, but if we can find the wording that would allow us to do that, then perhaps I can have the satisfaction that we're getting significant progress here, and that not only are these offences listed, but there may be other offences—even though they're not on your list—where there's a minor penalty such that the person doesn't have to go through the process, doesn't end up with a criminal record, and doesn't have to go to a pardon.

Is there simple wording that can do that, in your view?

•(1730)

Col Patrick K. Gleeson: Certainly that could be achieved. That would require us simply to eliminate the listing of offences that are already there and express the idea that a conviction on any offence from section whatever up to 129, where these punishments are imposed, would not result in a criminal record.

From a public policy perspective, that would arguably create some very interesting situations where that type of blanket exemption from a Criminal Records Act consequence does not exist in the civilian justice system at all. While we talk about the military justice system and the ability to be convicted for minor offences—and granted, there's greater likelihood that this may occur in the military justice system—it's not an exclusive situation. There are minor convictions within the civilian justice system for which Criminal Records Act consequences are attracted.

So again, it becomes a public policy issue at the end of the day.

Is it technically possible? Yes. Yes, it is.

Mr. Jack Harris: Well, the public policy issue we were addressing here was the fact that people who are not under the civilian system, but rather under the military system, and who don't have the protections of the Charter of Rights application to the procedure, are ending up with a criminal record, whereas in the civilian side, it doesn't happen. One of the conversations we had the last time we discussed this here at the committee was about the possibility of leaving it up to the military if they felt something was serious enough to require there to be, from a public policy perspective, a criminal record—that it's something that could then be prosecuted in the criminal courts and the civilian courts.

Now, it was raised that this may be an issue if you're overseas and don't have access to the civilian courts in Canada. That being the case, maybe that's too bad. I don't think the public policy can be applied that surgically, if you want to say it that way. If the interest, particularly in overseas operations, is operational reasons—good order and discipline—then maybe the criminal record part is not so important.

I would be happy to let this thing go if we remove the list of offences and say that if the offender is sentenced to any of these that are here.... It's not the same list that I have in my original amendment, but if we could remove that—I don't know if there's agreement to that around the table to move this thing forward—we could perhaps continue on. If that's not going to happen, well...we're out of time, I think.

•(1735)

The Chair: Thank you very much.

I have Mr. Dryden and after that Mr. Hawn.

Hon. Ken Dryden: Just going back to the example that was presented, that of the soldier being ordered to shine shoes and deciding not to, that would be insubordination. If it was insubordination, then whatever penalty that would be applied would have to be a matter that would generate a criminal record. Is that right?

Col Patrick K. Gleeson: If I may answer, Mr. Chair, no, it would not create a criminal record under this scheme, because it wouldn't be charged as insubordination. That type of minor transgression is charged as a 129-type offence, "Conduct to the Prejudice of Good Order and Discipline", and 129 is on your list. If you were charged with insubordination, however, not in the factual circumstance that you just described, which wouldn't result in an insubordination charge.... But insubordination is not on the list.

Hon. Ken Dryden: Just quickly, then, there was another example. I think it was under malingering, under 98 or 99. The most minor example of malingering might be...? Can you give me an example of that? Would that bring with it a criminal offence or not?

Col Patrick K. Gleeson: Again, if malingering were charged, malingering is not on the list in option 3, so it would lead to a Criminal Records Act consequence, but—

Hon. Ken Dryden: What would be the most minor or among the most minor malingering offences?

Col Patrick K. Gleeson: From a technical perspective, any faking of sickness could in theory be a malingering charge, but again, I'm not aware in my 29 years of experience of a malingering charge being laid for somebody claiming that they had the flu one morning.

Malingering tends to be, as reflected by Parliament's identification of the maximum punishment that can be imposed, as engaging serious circumstances.... So again, theoretically, could it be charged? Yes. Have I ever seen it charged in minor circumstances? No. In fact, we don't do a lot of malingering charges. It's not a significant problem within the—

Hon. Ken Dryden: Instead of a malingering charge under the example you provide—somebody claims to have the flu—what might they be charged with?

Col Patrick K. Gleeson: Well, they might not be charged at all. Again, it's a discretionary thing. It may be a 129 charge. Again, it's difficult to articulate that unless you know all the circumstances in the—

Hon. Ken Dryden: Sure. Is 129 a bit of a catch-all?

Col Patrick K. Gleeson: It is. It's a very broad offence provision—"Conduct to the Prejudice of Good Order and Discipline"—and it includes breach of orders, breach of instructions, whether they be verbal or written, and there's a proving element to 129 that can be fairly complex from a prosecution perspective. But 129 is really intended to capture all of those things, that hodgepodge of military disciplinary types of things, where essentially the offender is not following instruction or direction of a general nature. That's where you would end up.

So would malingering never be charged? I certainly can't sit here and say that, but I certainly have no experience that would suggest it would be in those very minor circumstances.

Hon. Ken Dryden: What you believe is that what is there can operate both ways. Not only wouldn't there be too severe a charge being brought just because it happened to fall under a heading that generates severe consequences, but at the same time something that was also worthy of note and worthy of some kind of punishment would not go unpunished because the option would be either something too great or not at all.

● (1740)

Col Patrick K. Gleeson: I think that's very fair to say. Again, this is an exercise of discretion by charge layers and those who prosecute as to what they deal with. Again, by and large the system is intended to demonstrate fairness to both the accused and the system, and that fairness element is critical in both sets of tribunals, at summary trial and court martial. If the system isn't perceived as being fair, it's not doing its job.

This option 3 we're talking about right now is really an attempt to try to strike a balance. Is it the only balance that could be struck? Certainly not. Is there some judgment being exercised in what's currently on the table? Absolutely. Could others take a different view as to what should and should not be on that list? Absolutely. But the principle we've used in developing this list is what Parliament has determined from an objective perspective to be the most minor offences under the code. That's a grouping we've put in there, trying to rely on some principle to highlight what would go on the list and what would not.

I certainly don't dispute that we could have a long debate as to whether or not other offences in the code that Parliament has objectively said could be much more serious could also be on that list, but that's the option we put on the table so that we could articulate a principle as to why the offences were there.

The Chair: Thank you.

Mr. Hawn.

Hon. Laurie Hawn: Mr. Chair, I'm sensing that we may be getting somewhere across the way. There is common sense applied in the military justice system, as has just been outlined. From a public policy point of view, we couldn't go to the point where the military justice system eliminates all of the aspects of this that are in the Criminal Code. That would be really bad public policy, in our view.

I don't know if the discussion has alleviated Mr. Harris's concerns or not, but if he is prepared for the question to be called, then we're certainly prepared to do that.

The Chair: Mr. Harris.

Mr. Jack Harris: Chair, we all have to exercise our judgment, despite the circumstances. I think I've made very clear my distaste with the lack of a proper process here and the lack of a proper amount of time to get the best result, but I don't think the perfect should be the enemy of the good, or whatever the phrase is. With that in mind, I think we've seen considerable progress from clause 75 as drafted. Maybe we should have another go at this at another time. I don't know if we'll be given the opportunity in the new Parliament, and whether we'll all be here or not is a different matter. I accept that there is some common sense operating in terms of laying charges, and we shouldn't be too theoretical about this and maybe we should give this a chance to work because it is a step forward. Clause 75 itself is a step forward and this is a further step.

With that in mind, without making any commitments as to what might happen in the House, I'm prepared to see the question called and have this motion dealt with by the committee at this time.

[*Translation*]

The Chair: I shall now call the question on the government amendment.

I will quote the reference number that is found in the top left corner of the motion that relates to what we always have called option 3: in the English version it is e075-049-07c; in the French version it is f075-049-07b. This is what we have discussed all afternoon and called option 3.

(Amendment agreed to)

The Chair: We will now go to the proposed amendment to clause 75 moved by the NDP.

[*English*]

Mr. Harris, NDP-8,

[*Translation*]

I believe you are going to withdraw it because it had been set aside.

I see there is a consensus.

(Amendment withdrawn)

The Chair: So I will now call the question on clause 75.

● (1745)

[*English*]

(Clause 75 as amended agreed to)

[*Translation*]

The Chair: Let us move to clause 1.

[*English*]

(Clause 1 agreed to)

The Chair: Shall the title carry?

Some hon. members: Agreed.

[*Translation*]

The Chair: Shall the bill as amended carry?

Some hon. members: Carried.

Mr. Claude Bachand: On division.

The Chair: Shall I report the bill as amended to the House at the earliest opportunity?

Hon. Dominic LeBlanc: Probably not.

Some hon. members: Agreed.

The Chair: Fine, I will report to the House at the earliest opportunity.

Shall the committee order a reprint of Bill C-41?

Some hon. members: Agreed.

The Chair: Perfect, the bill shall be reprinted.

I want to thank you. This concludes our consideration of Bill C-41, An Act to amend the National Defence Act and to make consequential amendments to other Acts.

Mr. Claude Bachand: Could I put a question to the parliamentary secretary?

The Chair: Yes, Mr. Bachand.

Mr. Claude Bachand: I would like to know if it is the parliamentary secretary's intention to submit the bill for third reading tomorrow.

Is it your intention?

[*English*]

Hon. Laurie Hawn: I would like to find a way, and I'm not a procedural expert, to have this dealt with at report stage and third reading at the same time—

Mr. Claude Bachand: Both, in the House.

Hon. Laurie Hawn: —so we can get it to the Senate and hopefully get it through. Obviously, the House leaders will negotiate that.

[*Translation*]

The Chair: Before proceeding with the second part of our meeting, I will suspend for a few minutes in order to welcome our new witnesses.

I want to thank you, Colonel Patrick Gleeson and Lieutenant-Colonel André Dufour for your participation in our proceedings. You have been very helpful. Your explanations today were certainly very useful for all members.

I will suspend the meeting for a few minutes before we go to the second part of our agenda.

● (1745)

_____ (Pause) _____

● (1750)

The Chair: Good afternoon. We are resuming the 55th meeting of the Standing Committee on National Defence.

Pursuant to Standing Order 108(2), and the motion adopted on Monday, March 21, 2011, we are now going to have a briefing on the situation in Libya.

We are honoured to have with us, from the Department of National Defence,

[*English*]

Rear-Admiral Robert Davidson, director of strategic joint staff. Thank you for being with us.

Also, we have with us, Jill Sinclair. She is

[*Translation*]

assistant deputy minister, policy. Welcome, Ms. Sinclair, and thank you for being with us.

We also have with us Major-General Tom Lawson, who is Assistant Chief Air Staff, as well as Brigadier-General Bernard Blaise Cathcart, who is Judge Advocate General for the Canadian Forces.

I will give you the floor for seven minutes, after which committee members will put questions to you.

Yes, Mr. Bachand?

Mr. Claude Bachand: I tabled a motion.

The Chair: Yes, it is being distributed.

Mr. Claude Bachand: Will it be discussed later or would you prefer that it be dealt with now?

The Chair: We will deal with that later.

Mr. Claude Bachand: Very well.

The Chair: Rear-Admiral Davidson, you have the floor
[*English*]

for seven minutes—or eight.

Rear-Admiral Robert Davidson (Director of Staff, Strategic Joint Staff, Department of National Defence): *Monsieur le président*, members of the committee, thank you for the opportunity to brief you today on Operation Mobile, Canada's military contribution to the international efforts to respond to the crisis in Libya.

As you will recall, violent protests started erupting in Libya in the middle of February. In response to the emerging crisis, the government, through the Department of Foreign Affairs, began a concerted effort to evacuate Canadians. The Canadian Forces were subsequently asked to assist, and on February 25 the Canadian Forces began their operations, known as Operation Mobile.

[*Translation*]

Canada's contribution consisted of two large C-17 Globemaster strategic transport aircraft and two C-130 Hercules tactical transport planes, and about 100 personnel that were dispatched to the region to assist in these evacuations.

This was done in concert with the Non-Combattant Evacuation Coordination Centre that was stood up under UK leadership in Malta.

[*English*]

The government also directed that HMCS *Charlottetown*, a Halifax-class frigate carrying about 240 crew members and a CH-124 Sea King helicopter, deploy from Halifax on March 2 to augment the Canadian Forces presence already in the central Mediterranean in order to offer support to any potential evacuation needs as well as for other regional events.

Over 11 days of operations between Malta International Airport and Libyan airfields, the Canadian Forces contributed to a whole-of-government effort, which saw the safe evacuation of 191 Canadians and citizens of other nations from Libya aboard Canadian Forces flights. The aircraft and their support personnel were subsequently withdrawn when the evacuation mission was no longer required.

[*Translation*]

There are two UNSC resolutions on the situation in Libya guiding international actions.

Adopted on February 26, the first UN Security Council Resolution 1970 called for an international arms embargo on Libya and the freezing of the assets of individuals close to the Gadhafi regime, or implicated in major violations of human rights.

● (1755)

[*English*]

The second UN Security Council resolution, resolution 1973, adopted on March 17, consists of three main elements: protection of civilians, enforcing a no-fly zone, and enforcement of the arms embargo.

Following resolution 1973, the government directed that six CF-18 fighter aircraft deploy to Italy along with their support personnel to assist allied efforts to implement and enforce this resolution.

You should have before you a slide that lays out the current distribution of our forces in the region. With the support and coordination elements we now have roughly 400 personnel in the area.

HMCS *Charlottetown* is currently assigned to Standing NATO Maritime Group 1, a NATO ready response force that is conducting a surveillance and presence mission in the central Mediterranean near Libya.

With the decisions taken in the North Atlantic Council yesterday, we expect that this mission will soon transition into an arms embargo enforcement mission to deter and prevent any movement of arms and mercenaries to Libya. The *Charlottetown* and its Sea King helicopter are well trained and are ready for maritime interdiction operations. I can certainly explain those further, if you desire.

[*Translation*]

The six CF-18 Hornets and their supporting CC-150 Polaris tankers and support personnel are in Trapani, Italy, under the command of Lieutenant-Colonel Sylvain Ménard. They are now supporting the no-fly zone and protection of Libyans missions. This activity is under a Canadian Air Component Commander, Colonel Alain Pelletier who has been colocated with our coalition allies, in the coalition's air operations centre in Ramstein, Germany. Currently, coalition operations are being coordinated by the U.S.

[*English*]

I just want to mention that in looking at the slide you'll see a discrepancy compared to the announcements that were made today during the media briefing. There is in fact a seventh CF-18 in the region at the moment. It was provided in order to have sufficient aircraft during the transit to theatre so that we would have six in theatre should one of them break down. In fact, one of them did have a technical issue. That seventh airplane should return soon, along with one of the two tankers; it will need that support to return to Canada.

Canada's fighter aircraft and their crews are ready and trained to participate both in defensive and in offensive air missions. To date, they have flown both: defensive counter air missions, to react to potential air threats in Libyan airspace, and offensive missions, to reduce the threat that the Libyan pro-regime forces pose, both to the Libyan people and to coalition forces involved in the enforcement of the no-fly zone.

In the past 24 hours, Canadian aircraft have dropped precision-guided bombs on a ground target: a weapons storage facility. Some video of this was in fact provided during the media briefing today.

All missions are assigned by the coalition, but are approved by Canadian commanders and follow the Chief of Defence Staff's approved rules of engagement and Canadian and international law, including the laws of armed conflict. Major-General Lawson will be able to answer any questions related to capability and training of these highly trained and effective pilots, and Brigadier-General Cathcart can address any issues or questions you may have associated with the legal aspects of our operations.

[Translation]

There will also be a National Coordination Component at NATO Headquarters in Naples. This team of about 20 personnel under the leadership of Brigadier-General André Viens will be responsible for ensuring that Canadian activities are well synchronized with those of our allies.

We are ready to answer your questions. Thank you.

• (1800)

The Chair: Thank you very much.

I now give the floor to Mr. Wilfert.

[English]

Hon. Bryon Wilfert: Thank you, Mr. Chairman.

Thanks to you and your colleagues, Admiral, for being here.

First of all, I want to say that of course our thoughts and prayers are with all the personnel—I think over 380 of them—who are engaged in theatre. I think the House was very clear the other night in its discussions that we certainly support the mission.

A number of things obviously come to mind. One is that there's always this issue of how you enforce a no-fly zone and what the objectives are of that no-fly zone. At the same time, there is the issue of whether we are there to engage in supporting the non-Gadhafi elements, or simply to impose a very strict no-fly zone, and what then comes out of that? How do you know you've achieved that goal?

Secondly, there was a mission the other day for which there was concern about collateral damage. It was called off. I assume that's a judgment that is made by the pilots themselves, based on their experience, presumably to avoid civilian casualties.

On this issue of the nature of command, which is going to be shifting, I take it, from the United States over to NATO at some point, what role does and will Canada play in this command structure, at least from the military standpoint?

RAdm Robert Davidson: Thank you.

With regard to that series of interrelated questions, let me tackle the first one: what are the goals.

We're operating of course under the UN mandate, and the UN mandate's principal goal is the protection of civilians: the protection of the Libyan people from attack. That's one of the key goals we are there for. That is one of the reasons for the particular missions that

are being flown. Of course when you're going to put air resources into the country, there is the issue of risk that would apply to those air forces if they were being shot at by ground surface-to-air missiles and that kind of thing.

There is a suppression of air capability that's essential before you can fully implement a no-fly zone. Perhaps General Lawson could add a couple of points on that.

Major-General Tom Lawson (Assistant Chief, Air Staff, Department of National Defence): Thank you.

The pilots and air crews involved in the enforcement of the no-fly zone have a much clearer idea of how to carry that out than some of the more strategic questions that have been asked here. Once they're airborne, for instance, on what is a defensive, counter-air mission, they train all of their sensors—radar and electro-optical sensors—on their area of responsibility. They do that in a defensive combat air patrol some way back, and they're reactive to it.

But if they sense a target, basically a Libyan air asset, that is becoming airborne, they know they will require some sort of clearance, some sort of positive identification. And then it's clear what they have to do.

As it was with the missions that we flew, they came back with their missiles. That speaks not so much to a failure of the mission but perhaps to the effectiveness of the coalition warfare—the Tomahawk missiles and various other attacks that had taken place to that point—and also the deterrent effect of the CAF being airborne.

It's a very clear role for the air crews who are involved in it.

RAdm Robert Davidson: I would like to come back to your question on judgment.

Of course we train our pilots very well. In this particular case, I don't have the details to answer whether it was a pilot judgment or it was something done in the chain of command as information came forward, but their instructions.... It's a basic principle of the Canadian Forces to avoid collateral damage, and this was a case where someone in the chain of command, be it the pilot or someone above the pilot, received information that there was something on the ground that would have caused collateral damage had they engaged. So they made the right decision not to engage.

In the case of the attack today, it was a site that was inside a fairly well identified military area. It was clearly a military target, so they were cleared to fire.

• (1805)

Hon. Bryon Wilfert: To add to that, I have another question, Admiral. In terms of the reports we're hearing—and we've heard them in the past—that Gadhafi is using human shields around some of these areas, that is certainly going to make it even more difficult to have those kinds of surgical strikes you're looking for.

Adding to that, there is always this discussion as to whether a no-fly zone is actually effective without ground troops, which of course are not authorized. I know the minister had mentioned maybe ground troops, and we don't want to go there at this time, but how do you measure the effectiveness of a no-fly zone without being on the ground?

RAdm Robert Davidson: I think to some extent you can measure the effectiveness of the no-fly zone by the fact that the Libyan air force is not flying. We have effectively, to this point, stopped them from flying and conducting those kinds of missions—

Hon. Bryon Wilfert: But they are still continuing offensive operations.

RAdm Robert Davidson: —that would allow them to use their air force against the population.

On the section of the UN mandate that allows us to protect the people, again, there is that capacity. That is why this particular site was bombed today. It was a rearmament site for pro-regime troops who are rearming themselves to go back and attack the population, so it became a valid target.

You're right that there is a challenge if human shields are going to be used. Of course human shields are completely contrary to any reasonable person's way to conduct a conflict like this, but we can't guide their ethics.

Hon. Bryon Wilfert: I assume we have learned a lot from Bosnia, given some of these similar situations at the time as well.

RAdm Robert Davidson: This is why, sir, we put so much effort into the training of our pilots. They go through the processes, they're briefed on the target, they launch, they understand their rules of engagement, they understand the guiding principles the Chief of Defence Staff has established. If the circumstances on the ground are different from what they were briefed, they will not engage. So that's what we have already seen take place.

I don't know if I'm running too long now, Mr. Chair. There was a third question, on nature of command. Do I have time to address that?

The Chair: If it's short, yes.

RAdm Robert Davidson: As we have seen through the Afghanistan experience, the nature of a command and control regime evolves over time in a multinational environment. It can start in a coalition and it can then evolve to other organisms, such as NATO, as it did with ISAF. We're seeing a similar kind of thing occurring here. There's going to be an evolution. Those kinds of discussions are taking place in Brussels and elsewhere. I think we'll see that come to clarity and a conclusion in the coming days. That doesn't affect our ability to execute the mission in the short term, though. As I say, our forces are operating under Canadian command, being coordinated through our allies in these coordination centres that are operating. We get targets proposed to us by others, but we approve them ourselves and we make sure we're comfortable with them. And the safety and security of forces are being assured through the coordination processes that are taking place.

It's not neat, it's not as perfect and ideal as we would like. We would like to see it get to a single chain of command and clear authorities. I hope we'll see that in the coming days.

So that's how Canada is responding there.

Hon. Bryon Wilfert: Well, again, our best to all those personnel. Thank you.

RAdm Robert Davidson: Thank you, sir.

[*Translation*]

The Chair: Thank you very much, rear-admiral.

I now give the floor to Mr. Bachand.

Mr. Claude Bachand: Thank you for being with us. We would like to have you spend time with us more often. As a matter of fact, I will later be tabling a motion in order that we might meet with you on a weekly basis. This will obviously only be possible if there is not an election. We will see what the future has in store for us.

The other day, Mr. Davidson, I was concerned with the issue of command. Please tell me if I am mistaken. The air forces are presently based in Ramstein, and their coordination is being done by the Americans. However, in the case of the naval forces, it seems that they have been integrated into the Standing NATO Maritime Group 1. Therefore, command is in reality coming from different sources for air forces and naval forces.

Notwithstanding the discussions within NATO, do you believe that a single command, namely NATO, would enhance coordination between the various armed forces?

• (1810)

RAdm Robert Davidson: There is no doubt that it would be preferable to have a single command. It would be best if all the forces were under NATO command. I also believe that that is the Canadian position.

Furthermore, the situation of HMCS Charlottetown is not a problem. The frigate command is being provided by a different authority than that for our planes, but in the end, all of these forces have been assigned to the command of the expeditionary force and of the Chief of Defence Staff. For Canada, it is therefore not a problem.

Mr. Claude Bachand: Very well.

To your knowledge, how many nations are presently participating in the intervention in Libya?

RAdm Robert Davidson: I believe there are about seven or eight nations, but I am not sure.

Mr. Claude Bachand: Very well.

You will probably tell me that you do not wish to discuss the rules of engagement with me, so as to not jeopardize national security.

RAdm Robert Davidson: Yes, the rules are always under...

Mr. Claude Bachand: I do not want to put you on the spot. I have a question, however: what do we do when human shields are being used? It is a problem. Civilians are positioned around the various targets in order for us to not reach them. Is there a rule of engagement, or a rule recognized by all of the nations participating in the intervention, that prohibits firing on a target that is surrounded by civilians?

RAdm Robert Davidson: We have a process to follow for strategic targeting. It is based upon this process that we are able to determine if a target is reachable or not. The idea is to avoid civilian deaths. With a view to this, there is a process that must be followed, and it is the commanders who decide.

Mr. Claude Bachand: Based upon the most recent dispatch from Brussels, there is to date no agreement for assuming this responsibility.

It would seem that there are two problems. On the one hand, it appears that the United States are adamant that it be an American general. Obviously, that has often been the case. On the other hand, Turkey is not in favour of air strikes.

If we are saying that there is a no-fly zone, would the sole purpose of air-to-ground attacks not be the destruction of air defence batteries? Once anti aircraft batteries have been destroyed, are other targets allowed? If we want to have a protected air zone in order for allied aircraft to be able to patrol Libyan air space in complete safety, what is it that justifies ground air strikes?

RAdm Robert Davidson: Regarding the United Nations' mandate, the resolution states that we are authorized to undertake whatever is necessary to prevent Libyan forces from flying.

Mr. Claude Bachand: It states "take any measures".

RAdm Robert Davidson: Yes, that is correct. In order for the situation to be stable, for our aircraft and for that of the other allies, it is necessary that we do what is required.

It is not a very clear explanation, but the idea is to do whatever is necessary in order for the Libyans to not be able to threaten our forces.

Mr. Claude Bachand: It is the Air Operations Centre in Ramstein that decides on the targets.

RAdm Robert Davidson: There is a coordination centre in Ramstein. The Air Operations Centre in Ramstein is responsible for the coordination of the targets.

The choice of a target can come from the Air Operations Centre in Ramstein, but Canada is free to accept or refuse it.

• (1815)

Mr. Claude Bachand: You are saying that it is up to Canada to decide. Is it the two individuals who are over there, and whom you talked about earlier? Should the decision not go all the way up to the Chief of Defence Staff or the minister?

RAdm Robert Davidson: It depends on the target.

Mr. Claude Bachand: When it is a very strategic or dangerous target, then you move to the political level in Canada...

RAdm Robert Davidson: If there is an effect... We cannot launch attacks indiscriminately. We therefore have a process to verify if a

given target is appropriate, if we have all of the necessary information in order to be certain that there is not...

I will switch to English, in order to be very clear.

[*English*]

We have to be clear, when we accept a target, that we have enough information on it to be able to make a valid decision on the quality of that target, that it meets our rules of engagement.

That process is done at both the theatre level... We have a commander in theatre who is responsible for reviewing a target. If the parameters of the target exceed the authorities that have been delegated to him, then he must refer that target back to Canada.

There's a process here in Canada wherein we will review that target one more time and provide advice to the Chief of the Defence Staff, who will decide whether or not it's an appropriate target, provided it's within the bounds of the direction and guidance we've been given by government on the kind of mission that we're conducting.

[*Translation*]

Mr. Claude Bachand: How much time does that take? Is it a rather rapid decision, given that the matter must be referred to Canada?

RAdm Robert Davidson: Yes, it is quite rapid, as it takes just a few hours.

Mr. Claude Bachand: What do you think of the fact that the Americans want to have an American general in charge? That does not surprise you, does it?

RAdm Robert Davidson: Excuse me?

Mr. Claude Bachand: It is not surprising that they want the NATO operation to come under the command of an American general.

RAdm Robert Davidson: That is normal. It is now a coalition. The American generals are ready to undertake an operation as complex as this one is. Eventually, we could have command with a general from another NATO country.

Mr. Claude Bachand: I believe my time is up.

The Chair: You have 30 seconds left.

Mr. Claude Bachand: Might I move my motion now?

The Chair: No, we will first conclude this portion of the meeting.

Mr. Claude Bachand: Very well. I will do it at the end.

Thank you, Mr. Chairman.

The Chair: Mr. Harris, you have the floor.

[*English*]

Mr. Jack Harris: Thank you for joining us.

As you know, our party supported the United Nations Security Council resolution and the government action in this matter. But I have some questions about the extent of Canada's involvement.

First of all, in the most recent report, RAF Vice-Marshal Greg Bagwell, in a briefing in Italy this afternoon, said that the Libyan air force effectively no longer exists as a fighting force and that the coalition airplanes could fly over Libya with impunity. He essentially stated that the no-fly zone has been in effect and is working. That doesn't mean, I suppose, that they couldn't get a plane in the air at some time or at any time, and I'm sure that AWACS and all other surveillance equipment is in operation to make sure that it doesn't happen.

Other than being available to take someone out who's flying around in opposition to the Libyan air force, the concentration here seems to be on article 4 of the Security Council resolution. And I think that's where some people have a little concern. I know that we've seen the Arab League members be perhaps shocked by the ferocity of the attacks over the weekend, which were maybe not what they expected. Maybe they expected that only if somebody were flying around could they be stopped and shot down.

This is a Department of Foreign Affairs matter, to some extent, and Ms. Sinclair I'm sure will tell us if you can't answer these questions. I think one of the big concerns internationally, first of all, is whether there are any forces from Turkey or any of the Arab states. We've heard about Qatar. Are there any aircraft involved in this mission in terms of enforcing or acting on United Nations Security Council resolution 1973 at the present moment, or have they backed off?

● (1820)

RAdm Robert Davidson: There are a number of nations that are still participating in the mission.

Let me address the comment about whether the skies are completely safe.

What you have is an evolving situation. During the first couple of nights there were, as you know, a number of Tomahawk land attack missiles fired by other countries to take out some of the ground anti-air equipment. Some of that equipment has indeed been neutralized. But we don't have personnel on the ground. So we need to continue to watch the situation and see what happens—whether radars can come back online; whether they're repaired by the Libyans and then begin to pose a threat again. Sometimes it may be that you've taken out a radar, but you may not have taken out the missile system itself. If they can repair the radar, then that system may become dangerous again. There are a number of mobile systems, as well, that the Libyans have.

While it may be fair to say that we're in good shape at the moment in terms of control of the skies, that could change at any time. So we need to be prepared for that.

When it comes to the protection of the population, as I say, of course, that's the mission we essentially did earlier today when we engaged an ammunition depot that was resupplying. There are others that are doing that particular mission as well. They are engaging in activities that would protect the population, as you noted, under article 4 of resolution 1973.

Mr. Jack Harris: I have an important question, and it has to do obviously with the limits of the mission itself. You're telling us that the rules of engagement are not to be made public. I don't know if

that's the rule in all other air forces. My understanding was that when the Americans sign off on rules of engagement, they're a part of in fact ensuring that the public has a means to ensure that the activities are in keeping with international law and the understanding of the mission. Can anyone confirm that it is or isn't the case with other nations?

We are a little bit in the dark here. I understand the argument about it, the ammunition dump, but I'm also sensitive to the notion that article 4 doesn't authorize Canada playing a role or any nation playing a role in attempting to determine the outcome of the situation in terms of helping one side or the other. As the Prime Minister has said, at one point the Libyan people themselves have to decide the outcome of all of this.

It sounds to me like a very delicate operation. How do you get to the point of saying that this particular ammunition dump is going to be used to re-supply a force that's then going to do something that's contrary to article 4? There seem to be several leaps of logic here. How do you do that without avoiding the accusation that you're actually playing a role in deciding the outcome of what's essentially a civil war?

RAdm Robert Davidson: Maybe General Cathcart could start on the issue of rules of engagement first.

Brigadier-General Bernard Blaise Cathcart (Judge Advocate General, Canadian Forces, Department of National Defence): Thank you, Mr. Chair.

Normally, I never say never; lawyers are never that definitive. But it's the usual practice of most states and allied states in NATO not to publicly disclose the ROEs, rules of engagement, or certainly details of the ROE. They may comment generally, as we do, generally, on the process and the general overview of the levels of force being deadly or non-deadly. But as a general rule, the allies, including us, do not disclose the rules of engagement for a variety of reasons, not the least of which is that the hostile actors will be quite aware of what our tactics would be, and that would clearly be a defeating aspect of our mission.

● (1825)

Mr. Jack Harris: What about the second question?

I realize that article 4 is fairly broadly worded and is open to interpretation. We may be interpreting it one way, the British may be interpreting it another way. We have seen this argument break out in England between politicians and military people, and military people saying that they're not able to do that under the mission, and frankly they're not going to do it. They're not going to attack Mr. Gadhafi because they're not authorized to do it. Yet you have some political leaders saying something a bit stronger than that.

That kind of disengagement with what seems to me to be the clear intention of the motion is bothersome to me from this distance. I realize this is not America, and we haven't had such strong statements coming from our leaders, but we've had some things pretty close.

How do we keep on that straight and narrow there? And do you agree with the British general who said that we have no authorization to attack Mr. Gadhafi personally, that we're not looking for him, etc?

I don't want you to comment on Britain, but would you comment on that point in terms of the limits of resolution 1973?

RAdm Robert Davidson: The principle here behind the decision whether or not to engage ground targets that are not air-oriented is one of, as you note, the protection of the population. The UN resolution calls for a ceasefire on the part of the Libyan pro-regime forces. When they are visibly refusing to abide by that ceasefire, when they are going and rearming themselves, and we can observe that they are doing this and they are then firing on the population, or firing on other forces—in other words, violating a ceasefire—then we have a fairly clear understanding of whether that particular location is one that is—

Mr. Jack Harris: Can I interrupt for one second?

You just said something that doesn't seem to me to be in the resolution. I don't think we're authorized or the forces are authorized to enforce a ceasefire.

RAdm Robert Davidson: It says that acting under chapter VII of the Charter of the United Nations “Demands the immediate establishment of a ceasefire and a complete end to violence and all attacks against, and abuses of, civilians”.

Mr. Jack Harris: Yes, I understand that attacks on civilians are one thing, but a ceasefire between forces is another. Frankly, what you've said is that one of our objectives is to enforce a ceasefire. I don't—

RAdm Robert Davidson: No, what I said is our objective is to protect the population. When we can see that they're not abiding by the ceasefire and firing on civilians—

Mr. Jack Harris: Yes, and firing on civilians.

RAdm Robert Davidson: Right. If through our observations and surveillance we are seeing that they're firing on civilians, then they become a valid target.

Jill Sinclair, do you...?

Ms. Jill Sinclair (Assistant Deputy Minister, Policy, Department of National Defence): I think I would make the same point.

Mr. Jack Harris: I accept that answer, but that's slightly different from enforcing a ceasefire. Obviously, we were quite happy to support this resolution and the activity of the Canadian government because of the approach and the tactics of Colonel Gadhafi and his regime in going to retake a city or whatever, where he would bomb the population, essentially to try to soften up everybody, and then send in tanks and then send in troops. Clearly, that's recognized as being illegal under international law and what we're dealing with here. When you've said it that way, that they're violating the ceasefire and firing on civilians, then they're legitimate. Fair enough.

The Chair: Thank you, Mr. Harris.

I'll give the floor to Mr. Hawn.

Hon. Laurie Hawn: Thank you, Mr. Chair, and thank you to our witnesses for their flexibility with respect to time and so on.

I have a number of questions that are fairly short, but there may be a couple in the weeds.

Ms. Sinclair, is anybody left to evacuate Canadians who want to be evacuated? Could you comment on the success of that evacuation?

Ms. Jill Sinclair: At the risk of saying what Mr. Harris thought I would say, I'll say that really is a DFAIT lead. In terms of getting Canadians and other nationals out, as the admiral reported, those who want to go are out. So I think we feel pretty confident.

As you'll appreciate, the situation on the ground is very difficult at the moment. We had the operation running out of Malta. There were ferries and other allies and our own aircraft taking people out, so we feel very good about that.

• (1830)

Hon. Laurie Hawn: General Lawson, this question may be a bit in the weeds, but why not leave the seventh aircraft there as a spare?

MGen Tom Lawson: In fact the idea is to have six—four, a two-turn two—and there was no ask on behalf of the coalition for more than six, nor were there any more authorized than that. So in fact there is not authority. Certainly if an ask came the government would have the option to....

Hon. Laurie Hawn: In the gulf we were asked for 24 and we had 26, but fair enough.

This is pretty key, I think, in terms of target. We've talked about the authorization of targeting. General Cathcart, could you comment on the role of lawyers on site in targeting and mission planning?

BGen Bernard Blaise Cathcart: That's a very good question.

For committee members who know from my previous appearances, I talked about the office of the JAG and that we deploy legal advisers with all major Canadian Forces operations. This one is no different. We have a legal officer with the air component commander in Ramstein for the primary purpose of assisting with the targeting process. Under our formal targeting process, the targeting team that advises the commanders at every level primarily consists of intelligence officers, operational officers, legal advisers, and, where possible, policy advisers. They're all there as an integral part of the team to feed into recommendations to the decision-maker, in this case the commander at the various levels. We also have a legal adviser aboard HMCS *Charlottetown* to help in its operations.

They are very key on all aspects—not just targeting, but use of force in all circumstances. Regrettably, as we've heard in your previous session, military justice still has to be done at sea and on the ground with the troops, and the legal advisers, unfortunately, might have to advise on charges or not charges as well.

Hon. Laurie Hawn: One of their major roles, obviously, is to make sure that we are abiding by the laws of war and international standards and so on.

BGen Bernard Blaise Cathcart: Absolutely, that's the critical part, making sure that we are able to operationalize the law. We take what some may call legal mumbo-jumbo and we make it understandable for operators.

Hon. Laurie Hawn: We do that in Afghanistan and have done that in Afghanistan.

BGen Bernard Blaise Cathcart: We've done it everywhere. We've done it in Kosovo, in previous missions, everywhere we go, our land forces, maritime forces, or air forces.

Hon. Laurie Hawn: This goes back to target selection and why we pick certain targets. Without going into the details, because I know you can't, is it fair to say that we rely on a wide variety of sources of intelligence from various areas? It's a refined and exact process when we do select this ammo dump versus something else.

RAdm Robert Davidson: Yes, it's both the upfront process of taking a look at all of the intelligence and surveillance information and then of course it's reviewed through a battle damage assessment process where we want to take a look and see whether the target has been effectively engaged or not, what the results of our engagements were. That's why sometimes targets are re-engaged.

Hon. Laurie Hawn: With respect to Arab League participation, can you talk about that a little bit more? Is anybody on the ground or in the air yet from them, and what challenge is that presenting to command and control of the coalition?

RAdm Robert Davidson: Ms. Sinclair will answer that.

Ms. Jill Sinclair: Thank you, Mr. Chair.

I'll start off, if you want to take it from the operational, Admiral.

What's interesting, obviously, about this whole situation is that the Arab League and the African Union and the secretary general of the Organization of the Islamic Conference all have called for action through the United Nations. Hence, we saw the development of the UN Security Council resolution 1973. I think the full shape of the coalition is that it's still taking shape. It's still early days in a way. Qatar has certainly shown itself to be interested in participating alongside the coalition at the moment. As for other countries, I think we'll just have to wait and see who wants to join up.

Hon. Laurie Hawn: So nobody has actually shown up yet from the Arab League?

Ms. Jill Sinclair: I'm not aware if the Qataris are actually alongside anyone at the moment. Does anyone know?

RAdm Robert Davidson: The Qataris haven't started flight operations, but they're making preparations. I couldn't tell you exactly when that will take place.

If I could just address the issue of Arab League and other country involvement in NATO operations, for example, of course if you look at ISAF, there are a number of Arab countries under what is essentially a NATO command system in ISAF operating in Afghanistan. That's not necessarily a showstopper for them. You can have a NATO command structure that's hybridized to allow for some other nations to participate, with their liaison officers and participants in the chain. I think we can find a way to do it. Whether it be under NATO or under other measures will be of, course, an issue for consent among nations.

• (1835)

Hon. Laurie Hawn: With respect to organizing and coordinating an operation like that, realistically, is there any other organization in the world that could manage an operation like that, other than NATO or something NATO-like?

RAdm Robert Davidson: Well, of course the U.S. can do it on its own, and that's why it often leads off in coalitions. It has the capacity, with its global component commanders, to be able to do this kind of mission relatively rapidly. NATO can of course do it. As I say, be it in some kind of a hybrid system or be it purely NATO, it has the capacity to take this on and bring folks in.

There aren't very many other organizations. The EU has a limited command and control capability, as we've seen in some of its minor missions. The United Nations runs some missions, but they tend to be relatively minor and certainly not of the complexity of an operation like this that requires a fairly detailed air tasking order that deconflicts, for safety and security, all of the airplanes that are operating, so there are no blue-on-blue kinds of engagements. It's very complex, and normally you need a NATO or a U.S. kind of structure to deal with that.

Hon. Laurie Hawn: We haven't heard much about the Libyan navy, and I don't know what kind of a navy it has. Is the Libyan navy any kind of a factor, any kind of a threat, or any kind of concern?

RAdm Robert Davidson: There are some naval assets, but they have essentially stayed in port and are not presenting a threat at this time.

Hon. Laurie Hawn: That's probably smart.

As for Canadians playing key roles in command and control, obviously it's evolving. Are we happy with the roles Canadians have been playing in the command and control of the overall coalition structure?

RAdm Robert Davidson: Well, of course in our own national structure we've got our own, so we put a colonel, as I said, into the Canadian Air Component Command in order to do that level of coordination in Ramstein. But there are Canadians elsewhere. For example, Lieutenant General Bouchard is the deputy commander in Naples and therefore able to provide a sort of Canadian face to the—

Hon. Laurie Hawn: We've got a pretty high-level representation.

RAdm Robert Davidson: Absolutely.

The Chair: Thank you, Mr. Hawn.

Mr. Dryden, you have the floor.

Hon. Ken Dryden: I'm not even quite sure how to phrase some of these questions. I'll just start with things I would like to know, and whether you're able to tell me or not is another question.

I can imagine how, in the early stages like this, things would be fairly straightforward. I can also imagine how, as you described at some point earlier, this is an evolving situation. I've also listened to a number of the debates on news shows and news channels from the U.S. in the last few days, and the kind of speculation that is part of those shows about what the real U.S. purposes are, how far they imagine this situation will evolve, and what kinds of goals they may have.

When you have rules of engagement like this—and it's just to help me think through this—and a few different actors that are part of it, is it fairly normal for people to interpret the rules of engagement somewhat differently, from one actor to another?

RAdm Robert Davidson: That's actually an excellent question, and in my own experience I have found some interesting challenges with that. I guess I would say to you that in a coalition the differing rules of engagement present both a challenge and an opportunity. They present a challenge because it's sometimes difficult to rationalize which country is prepared to do what kind of mission. But they also present an opportunity, because some countries will be better able, by capacity, inclination, and rules of engagement, to take on some missions, and some nations will be more attuned to others.

If you're a commander of coalition operations, or even NATO operations, where sometimes nations still come with their own national restrictions—sometimes caveats, sometimes things they're more inclined to do—under those circumstances you have to find the right balance. Truthfully, you have to find the same balance among individuals. Personality often comes into play as well. Not all commanding officers are the same. Some are more aggressive, some are less aggressive, and some are cautious. They present the panoply from left of arc to right of arc, in terms of capability, inclination, energy, etc. So a commander's job is to get to know the people working for him and try to match the people to the mission, be it by nation, the skill sets they may bring to their units, and all of those things. It can be a complex business. Generally you will find that they operate with a matrix that shows the various nations and their different rules of engagement, and they use that matrix to optimize how they assign targets to get the best job done for the mission.

● (1840)

Hon. Ken Dryden: As you say, things evolve. At least some of the ranges of goals I have heard go beyond the protection of civilians to in a sense freeze certain circumstances. So a division of Libya would result. And there is certainly the discussion about regime change—going as far as that.

Is it possible for someone under these rules of engagement to interpret them in that way, so in order to achieve those goals under the rules of engagement they could interpret that this is as far as one can reasonably go? Or you can go further on that. Is that part of the complication of any kind of effort like this?

RAdm Robert Davidson: There's always going to be a limit. What I'm saying is there are sometimes people who aren't prepared to go to the limit that's been agreed to by a coalition or by an alliance. The limits are still established. We don't exceed those

limits; there's no effort to exceed those limits. But sometimes individual nations will arrive and they won't be prepared to go to even that limit, so you do have to manage that. That kind of debate takes place in the North Atlantic Council and elsewhere as nations come to an understanding of what they're prepared to do. That's why they go through a process of asking for an initiating directive to do a plan. They then approve an operations plan and then approve an actual directive that allows the mission to take place, understanding as they're going along how that mission is being designed and evolved, and taking into account how a commander who is designing the mission will keep coming back and offering his guidance on how he thinks it should happen. Then there's the political guidance that would come from the alliance, which then would provide the limitations on what he can and should do.

Hon. Ken Dryden: There are two questions I'd like to ask, and I'm sure my time is getting close to the end.

When we're talking about the involvement of Arab League nations or African Union nations, is it possible that what is going on now is that for a lot of those nations it is a kind of wait and see? They're seeing how this mission is going. They're seeing the extent to which it is going. They're seeing not only a global reaction but also a reaction of other nations that may be part of the Arab League or the African Union, and they will get involved more or less depending on what they see in these days ahead. That's the one question.

On the other question, as you describe—again, I can imagine this and picture this—as things evolve, and as you said, the discussions continue, and you have the different forums in which to have these discussions, and some are willing to go to a certain extent, others are less willing to go to a certain extent.... Is the challenge for any country once they're in the midst of something like this to get drawn along with certain actions and directions that are happening that they may find very difficult to get out of, even if the original position is not where they're interested in going?

● (1845)

RAdm Robert Davidson: I know Jill Sinclair has something to say here.

Let me give you a quick, upfront answer, which would be yes and no. Yes, nations do consider, as they're going along, how they ought to participate. The UN Security Council resolution is a direction unto itself, but nations have the ability to decide the extent to which they're going to offer resources, for example, and participate in a mission.

And to your second part, are nations going to be dragged along, the answer to that is no. Nations have the authority, the sovereignty, to make their own decisions on how they're going to play or not play at any stage. NATO, for example, operates on consensus.

Ms. Sinclair, do you want to answer that?

Ms. Jill Sinclair: Thanks.

Mr. Dryden, you're touching on the essential politics of the issues, obviously, and in fact it's not so much about the rules of engagement, it's really about what the intent of governments was when they signed up to the Security Council resolution. I think Mr. Harris asked a variation on the same question.

But as the admiral says, in terms of the ongoing debate, everyone knows there has been a vigorous discussion around the NATO table. I don't think anybody around that table is going to get dragged into anything they don't want to get dragged into. And similarly, on the discussions that took place before the Security Council resolution was actually landed, people have very specific views about this. As you say, Mr. Dryden, countries will decide what they want to bring to this effort. Some have already said they support resolution 1973, but they're going to support it by doing humanitarian operations or they're going to do very specific sets of things.

I think you'll find that as this mission takes more shape and definition—it is still very early days—countries will be determining how they get into this mission, whether they get into the mission, and what they're going to contribute. But again, I think my colleagues from the Department of Foreign Affairs might be best placed to answer this in more detail.

[*Translation*]

The Chair: Thank you very much.

[*English*]

Thank you, Mr. Dryden.

I will give the floor to Mr. Braid.

Mr. Peter Braid (Kitchener—Waterloo, CPC): Thank you, Mr. Chair. I will share my time with Mr. Boughen.

Thank you, Admiral and other guests, for being here this afternoon. Thank you very much for the important work that our Canadian Forces members are doing in Libya.

Admiral, as we know, we have six CF-18s deployed in Libya, in Trapani. That is six of how many? What's the total number of air force assets involved in the coalition effort, just to give us a sense of proportion?

RAdm Robert Davidson: As I recall, the coalition, in its force generation request, looked to have in the order of about 40-plus airplanes for the air mission and a similar kind of number for the maritime mission. There's a maritime protection piece there and other activities there that would merit the application of some air resources. I would say all up, that number is probably somewhere between 60 and 80, but I don't have it at hand. We could probably get that for you if you really wanted it.

Mr. Peter Braid: That's fine. I was just looking for a general picture, a general number. Thank you.

Approximately how long is the flying time from Trapani to the coast of Libya?

RAdm Robert Davidson: Can I leave that to my air force counterpart to answer?

MGen Tom Lawson: It's actually a fairly short ride. About 45 minutes gets you to a place where you can now perform a defensive counter-air mission, and it's a little bit longer to get right over land to

carry out offensive-type missions. But the length of time to get there is less a factor than how much time you have on station. Of course that's related to the availability of air-to-air refuelling tankers. We have two of those over there. The typical mission will last three to four hours, of which the majority will be effective time on station.

Mr. Peter Braid: Thank you.

So we have six CF-18s there now. If, as events unfold, it's determined that we need additional CF-18s to go from Canada to Trapani, how long would it take to get additional assets there, if required?

● (1850)

MGen Tom Lawson: Right. So we can go by as long as it took to get our fighters over there this time. It's about 15 flying hours to get right into theatre. That will include perhaps a stop en route for the refuelling tanker to pick up fuel. That's generally going to give you an idea.

RAdm Robert Davidson: But there'll be warning time in advance of that, so if a decision were taken it would take one or two days, depending upon the readiness we've asked our pilots to be at before they're going to be ready to start that flight. So we would keep them at a ready state based upon our expectations and we would reduce that ready state if government asked us to lean forward a bit more, in terms of being ready to deploy.

Mr. Peter Braid: Okay, thank you.

Mr. Boughen.

Mr. Ray Boughen (Palliser, CPC): Thanks, Peter, and thanks, Chair.

And certainly let me add my voice of welcome to the panel for taking time to meet with us today.

I have a couple of questions.

I guess the first question may be to our general of the air force. It would be nice to have some F-35s in your hip pocket, I would imagine, on looking at the events as they unfold in Libya.

Could you maybe share with us some of the differences between an aircraft like the CF-18s and the F-35s, the ones we're looking at purchasing?

MGen Tom Lawson: First, I should say that the CF-18s we're flying now, although they look exactly the same from the outside, have changed a fair bit as a result of the upgrade from when Mr. Hawn and I flew them. The modernization efforts that went into them have made them a world-class fighter by 2011 standards. In fact they're very, very capable, among the finest fighters in theatre.

That having been said, there's nothing that our CF-18s can do right now that wouldn't be greatly enhanced by the introduction of the F-35, with the capabilities we expect that fighter to have.

Mr. Ray Boughen: We've heard they're the new fighter of the jet age, the top of the ladder, as it were, in aircraft. Is that your take on it too, sir?

MGen Tom Lawson: Indeed. Everything that the air force has done by way of analysis of all those aircraft available to Canada suggests that there is no comparison.

Mr. Ray Boughen: Good. Thank you.

I have one other question. In terms of weapons that are needed in this conflict, how are we equipped? Is Canada doing the job getting the right armaments and whatever is needed by the military to fill our role and take our place as an equal with other nations in doing what it is that we have to do?

MGen Tom Lawson: I'll take the question on behalf of the air force. Admiral Davidson may speak on behalf of the navy.

Yes. Of course there is an air-to-air role, for which Canada is extremely well armed and equipped, not only with a radar that allows us to see at the distances that we need to see, but also with long-range and short-range weapons that protect the aircraft and the coalition.

For air-to-ground, the importance of precision-guided munitions has become very clear. Many years ago we used to drop what was called dumb bombs, where you got as close to the target as you could. With such an emphasis in the modern era on reducing collateral damage, precision-guided munitions really become the only option for western forces, and we're well equipped with those. The accuracy of those weapons has once again been well established, as illustrated by the results of the missions we've flown in recent days.

RAdm Robert Davidson: The HMCS *Charlottetown* is at a high state of readiness and has all the weapon systems they require for what they're doing.

Mr. Ray Boughen: We were doing a study with search and rescue a while ago. We were in Halifax and had the chance to be on the *Charlottetown*. It's quite a vessel. The sophistication of those vessels is almost mind-boggling. We were in the war room there and saw all the action. It was very well equipped and there was certainly a good crew. We had a great visit. They showed us around, and it was excellent.

• (1855)

RAdm Robert Davidson: Indeed, the central part of any weapon system is the people, and the sailors are very well trained.

Mr. Ray Boughen: Yes.

Thank you, Mr. Chair.

The Chair: That's it.

Thank you very much.

Before going to Mr. Bachand, I just want to thank our witnesses for being with us.

[*Translation*]

I wish to thank you more particularly for having waited, because we had to extend our work schedule. This has been most useful to all members.

Mr. Bachand, you have the floor. You have a motion to present to us.

Mr. Claude Bachand: Mr. Chairman, in accordance with procedure, given that my motion relates to the issue we are studying, I am allowed to present it straight away.

I know that people will perhaps say that I am dreaming in technicolour and that we will not be able to put to use this motion if it carries, given the high likelihood that there will be an election. I nevertheless believe that it is important to get it into the pipeline. I am told that there is still a 5% chance that there will not be an election. If such is the case, I would like us to meet with these people once a week, given that the conflict is evolving rapidly.

I know that it may seem naive to bring forward such a motion. It has however been a long time, quite frankly, since we have had such an in-depth discussion with representatives of Foreign Affairs and National Defence. Therefore, given the good will I am sensing on the part of these individuals, I would like us to commit to welcoming them here once a week. I would like this motion to be put to a vote.

The Chair: Could you read it?

Mr. Claude Bachand: I believe I have provided it to you:

That, starting from the week of March 28, 2011, the Departments of National Defence and Foreign Affairs hold a weekly briefing session for the committee about the situation in Libya.

The Chair: Thank you, Mr. Bachand.

I would have a question for you regarding your motion. Do you also have the translation?

Mr. Claude Bachand: Yes. Would you like me to read it?

[*English*]

I will put it on the record: that, starting from the week of March 28, 2011, the Departments of National Defence and Foreign Affairs hold a weekly briefing session for the committee about the situation in Libya.

[*Translation*]

Do the English and French versions correspond?

The Chair: Perfectly.

Mr. Hawn, you have the floor.

[*English*]

Hon. Laurie Hawn: I can't speak for the Department of Foreign Affairs, but the Department of National Defence has no problem with that. We'd be happy to have meetings every Wednesday, starting next week. All you have to do is support the budget.

[*Translation*]

The Chair: From what I am seeing, everyone seems to be in favour of the motion.

(Motion agreed to)

The Chair: Before members leave the room, I would like to inform them that, as chair, I will tomorrow be tabling in the House of Commons the report of the committee regarding supplementary estimates (C), as well as the report on Bill C-41, that the committee adopted today.

Furthermore, I wish to thank you for the privilege I have had of participating with you in all of these meetings. It has been a very pleasant experience to chair this committee. I have learned much as chair. I was well assisted by the clerk and the analysts as well as by you, the members of the committee.

Mr. Claude Bachand: Without forgetting the two vice-chairs.

The Chair: Ah, thank you! I was also well assisted by the two vice-chairs. As a matter of fact, Mr. Wilfert had the privilege of chairing a committee meeting in my absence.

I would also like to remind committee members that we have been a very productive committee. We had a very full program and we fulfilled it, and we did so while respecting each other's ideologies. It

has been very pleasant. There was a wonderful camaraderie within our committee. We also played the partisanship game, but with moderation, when it was necessary. Thank you very much.

Lastly, I would like to take advantage of this opportunity to thank Jean-François, Melissa, Wolfgang, the interpreters who have been with us, Cindy and her colleagues, as well as the entire committee staff.

We will most certainly be seeing each other in a future parliament. Good luck to all!

This concludes our business.

The meeting is adjourned.

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