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Wednesday, June 22, 2011

Chair

Mr. David Christopherson

Standing Committee on Public Accounts

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• (1530)

[English]

The Chair (Mr. David Christopherson (Hamilton Centre, NDP)): I call this meeting to order, please, colleagues, this being the second meeting of the public accounts committee.

Our first order of business deals with the following: publication waiver, payments of claims against the crown, *ex gratia* payments, and court awards. Then we have our report.

I would suggest we take it in the order presented in order to allow any officials who are here an opportunity to do what they're going to do, and then they can leave; we won't hold them up.

Do I have agreement from colleagues?

Some hon. members: Agreed.

The Chair: Members should consider the following motion put before you for discussion. It's not recommended....

I'm just going to put this on the table. In the steering committee, we now have a situation where it's two government members and two opposition members. We're still trying to work our way through how things can get on the agenda without being affirmed by a motion, through lack of majority, and yet there may be a desire to talk about it. We're still trying to work our way through that.

In this case, we've brought the motion to the committee so that it's before us now, but there's no recommendation yet.

The request is contained in this document from the Treasury Board of Canada, Comptroller General, addressed to me as chair. The subject line is "Public Accounts of Canada—Publication Waiver".

Does everyone have that? Okay.

The motion itself, what we're focusing on, reads as follows:

That in relation to the letter received June 17, 2011, from the Comptroller General of Canada, the Committee concur in the request for endorsement of waivers to the publication of details related to *ex gratia* payments, payments of claims against the Crown and court awards in the 2011 Public Accounts of Canada.

So the matter is before us. It's in your hands, colleagues.

Mr. Byrne.

Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.): Mr. Chair, was I to understand that the Comptroller General would be asked to appear before us?

The Chair: Yes, or representatives of his office, and they are here.

Hon. Gerry Byrne: Would we be able to invite them to the table and have the members ask some questions?

The Chair: Of course. If you have questions of them, I would ask them to please join us at the end of the table.

Hon. Gerry Byrne: If we're afforded an opportunity to ask questions of those appearing before us, I'd like to take advantage of that.

The Chair: Okay.

I'm going to ask for a little indulgence from colleagues. One of the things we haven't yet addressed is the issue of rotation. That's to happen at this meeting. So I would suggest that you allow me to just take speakers as they are and that we go with the five minutes we were looking at earlier as a way to move through this until we get to the rotation question.

Mr. Kramp.

• (1535)

Mr. Daryl Kramp (Prince Edward—Hastings, CPC): Mr. Chair, it's the government's position that quite frankly this is a wasted exercise, "how and why", and I don't want to go through an entire meeting with a whole group of questions around....

The government has no questions at all, because this is just routine from year to year to year. The question is actually very simple. We do one of two things: we either entrust the Comptroller General—

The Chair: Sorry, Mr. Kramp, but right now I'm dealing with process. I think you're debating now.

Mr. Daryl Kramp: Okay.

The Chair: I was seeking to get agreement that in the absence of a formal rotation that we've ratified, you allow me to chair the meeting as almost a committee of the whole and take speakers as they come—limited to the five minutes—and that will get us through this piece.

Mr. Daryl Kramp: No, no, Chair, that was not the understanding at the pre-committee. The understanding was that we would give a brief opportunity to have them here. We would not be doing a lot of questions. The only thing they were here to do was to give clarification if someone wanted it; it was not to have a round of questioning and on and on.

The Chair: No, calm down, it's okay; I'm just saying I'll take questions.... I don't have a rotation to go by caucus; I'm just asking permission to be able to take the speakers, if there are any, in the order that I receive them. That's all. Otherwise, I don't have a directive as to how to proceed.

I'm just asking for agreement that I'll take the calls, starting with Mr. Byrne, and the next hand I see, I'll put down. If there are no more hands, we're done, and I'll move to the motion.

Mr. Daryl Kramp: And if we all want to speak, are we going to go for the next hour and a half on this issue?

The Chair: Well, members are allowed to speak if they want, Mr. Kramp.

Mr. Daryl Kramp: No, Chair, that was not the agreement.

Mr. Andrew Saxton (North Vancouver, CPC): One question.

Mr. Daryl Kramp: One question? Fine.

Let's keep it simple. Otherwise, we're going to waste this meeting.

The Chair: Mr. Saxton.

Mr. Andrew Saxton: I would like to support Mr. Kramp. If Mr. Byrne has a question, he can ask a question, but let's not continue this on indefinitely. There should be a fixed—

The Chair: With great respect, my colleagues, I'm trying to get to Mr. Byrne. He may be the only questioner.

This shouldn't be a two-hour procedure. I'm just trying to get an okay as to how to proceed, because we don't have rules confirmed yet.

Mr. Andrew Saxton: But the whole point, Mr. Chair, is that we don't want this to go on indefinitely.

The Chair: I agree.

Mr. Andrew Saxton: So let's have a limit as to how long this is to go on for.

The Chair: Well, let's take a couple of questions and see where we are here.

Mr. Andrew Saxton: Okay. So two questions—

The Chair: A lot of us who have been around a while believe this shouldn't be a big deal. Members are entitled to ask questions. I mean, fair is fair.

Monsieur Caron.

[Translation]

Mr. Guy Caron (Rimouski-Neigette—Témiscouata—Les Basques, NDP): I would just like to say that for us, in any case, the intention is not to extend all of this. We also want to move on to the main subject, but we have to take into account the fact that this is the first committee experience for some people at the table. It would be good for those people to know what the purpose or the consequences of this document would be. We understand that it is a routine document; the chair explained that clearly. However, if there are any basic questions aimed at understanding the role of the comptroller general and the repercussions of the document, I believe that explanations could be provided very quickly. It is primarily an issue of respect for the new members of the committee. As we hold more meetings, it will become easier. I do not think that anyone wants to draw this out any longer than is necessary.

[English]

The Chair: Yes, Mr. Kramp.

Mr. Daryl Kramp: On a point of order, Chair, I would like clarification, then, that the question will be directed to this issue, to

this issue of the Comptroller General, not to the role of the Comptroller General and to where we're going to go on this.

The Chair: Oh, of course.

Mr. Daryl Kramp: We'd be here forever on that.

So if you want to keep it to this issue, let's get at it.

The Chair: Okay. I will take that as agreement and plow forward.

I would ask our guests to introduce themselves, and then I will turn the floor over to Mr. Byrne, for up to five minutes, for questions.

Ms. Suzie Gignac (Executive Director, Government Accounting Policy and Reporting, Financial Management Sector, Treasury Board Secretariat): I am Suzie Gignac. I'm in government accounting policy and reporting at the Office of the Comptroller General, Treasury Board.

[Translation]

Ms. Annie Boyer (Senior Analyst, Government Accounting and Reporting, Treasury Board Secretariat): Good afternoon. My name is Annie Boyer.

[English]

I am senior analyst at the Office of the Comptroller General, government accounting policy and reporting.

The Chair: Good. Welcome. Thank you for attending.

Mr. Byrne, you have the floor.

Hon. Gerry Byrne: Thank you, Mr. Chair.

To our witnesses, or those appearing before us, you're very, very welcome here. There's certainly no hostility. We just want to ask some simple questions and get to some simple truths.

In relation to this, from my point of view—and I'm sure this is on behalf of all committee members—it seems very, very clear and understandable why the Comptroller General, those who prepare the public accounts and those who protect the public interest, would want to protect the names of the recipients of merchant navy veterans' benefits, Agent Orange benefits, Indian residential school system benefits, and even for damages and losses, for those who are in receipt of *ex gratia* payments for damages and losses received during service in Afghanistan.

Parliament specifically debated, authorized, and approved the programs and, in essence, where that money would flow from. There has been a disclosure to Parliament and an approval by Parliament for the nature of and the discretion within those particular programs. I don't think there's anything that anyone would argue with on that point of view.

But with all respect to my colleagues, my question is that there seems to be somewhat of a creep in terms of the mandated authority that the Comptroller General is asking for here, which I'd just like to get to the bottom of. I've had some research done and have conducted my own research. This has come up on a few occasions in the past at the public accounts committee, where the overall authority to waive the publication of names has come up and questions were answered.

What seems a little different here is that we're going beyond established programs—compensation or *ex gratia* payments and other payments made arising from established programs that were actually pre-debated and pre-authorized by Parliament—to something further.

When the Comptroller General wrote to us, he asked for authority not to disclose payments to inmates. The Correctional Service of Canada obviously makes payments to inmates. The Comptroller General does not actually declare or indicate to this committee to which particular program he is referring. What I'm concerned about is that there are payments being made to inmates without any pre-authorization by Parliament or pre-consideration.

I recognize that most *ex gratia* payments are not pre-authorized by Parliament. That's their very nature. But you're asking for authority not to publish payments to criminals. I don't know where that comes from or what the program is from, but we also go a step further here. This is the creep I'm talking about, the authority creep, as it were. You're also asking for things that were never ever discussed by Parliament.

Here's what you're asking for, and I quote: “There are also a variety”—a variety—“of miscellaneous instances where names are being withheld due to confidentiality agreements relating to the payments of Claims against the Crown”—claims that may not have been adjudicated by any court system and are just a voluntary payment—“[other] Ex Gratia payments, and Court Awards”.

Now, I can understand court awards. If the court actually authorized that there be non-disclosure of an award, then I think it behooves Parliament to also acquiesce to that. But if a court award is actually published, it's already public information. I don't understand why that would be excluded from the public accounts.

As the final thing, what the Comptroller General has asked for is... he would propose to the committee to provide to the committee, in camera and on an as required basis, the names of those in receipt of payments—not on an as requested basis, but on an as required basis. There's a strong distinction in that language. Who determines what is required and who requires it? And why not as requested?

Finally, Mr. Chair, how can we request something if we don't know of its existence?

I appreciate the fact that there has been a suggestion of an in camera exercise to draw out this information, but if we don't actually know of its existence, it's difficult for us. As committee members and parliamentarians, as the safeguards of the public purse, it's difficult for us to actually request something if we don't even know of its existence.

● (1540)

There are a number of issues there. On the issues of the Indian residential school system, Agent Orange, merchant navy benefits, and even damages and losses in Afghanistan, while I would ask the Comptroller General to continue to include information, I would ask personally to—

The Chair: I'm sorry, that's five minutes.

I should have given our guests the opportunity at the beginning to give us a two- or three-minute explanation of exactly what it is that's

in front of us. So I'm going to ask you to please answer the questions that Mr. Byrne has posed but also to preface that by giving us a general presentation of a couple of minutes regarding what it is that's before us. That would be helpful.

That was my mistake. I was remiss, and I apologize to colleagues.

Ms. Suzie Gignac: Thank you, Chair.

Just as a quick preamble, included in public accounts disclosures, we disclose *ex gratia* payments of over \$100 and of under \$100 in aggregate. We also disclose payments of claims against the crown of over \$1,000, and in aggregate of below \$1,000. The third item is court awards, and all of those are actually disclosed.

We come before committee each year to identify certain items for which departments have requested that names not be withheld, and we ask you to endorse that, because we don't believe that management should be unilaterally making that decision. So we ask for your endorsement of those.

It's important to note that only the name is withheld; it's not the payment, the number of payments, or the nature of the payment. It's only the individual's name.

And in the one we put forward to you today, there are no new items. They're all items that have been agreed to in the past.

To answer your questions—and hopefully I caught them all—I'm not aware that the items for which names are being withheld are items for which names have already been published somewhere else. My understanding, with respect to the miscellaneous items, is that the majority of these items relate to cases where a confidentiality clause or other restrictive clause exists. Thus the identity of the recipient is withheld in accordance with the terms of the settlement. As examples, the miscellaneous items include settlements for grievances, settlements for claims related to wrongful dismissal, and contract disputes.

The “as required” I think is supposed to be an invitation such that if you have any questions, we will provide information as required. We would have to look at what confidentiality agreements exist, but the idea of the in camera was to invite you, if you had any specific questions or concerns. And certainly it would relate to any of the items that would be incorporated in miscellaneous instances of non-disclosure of the name.

I hope I caught them all.

● (1545)

The Chair: Thank you.

The floor is open for further speakers.

I'll give you a second time if I don't have any other first-time speakers.

I don't see any, so Mr. Byrne, go ahead, please.

Hon. Gerry Byrne: Thank you, Mr. Chair.

I don't think anyone really has any serious issues with that, except what was not proposed—and I asked for it at a separate place—was a capacity for the committee to still not be barred from accessing this information on an in camera basis, and to include that in the context of our routine motion that authorized the non-disclosure of these names.

Could you explain just a little bit further the payments made to inmates? I'm really having trouble with that one.

Ms. Suzie Gignac: If you were to look at last year's public accounts, generally the reasoning behind the payments made to inmates was that there could be prejudice, which could jeopardize the safe transition of inmates back into the public. So for one reason or another, the department has requested that we withhold the specific name but the amount of the payment and the nature of the payment are still disclosed in the public accounts.

Hon. Gerry Byrne: That's on an itemized basis—not as an aggregate—within the public accounts?

Ms. Suzie Gignac: Each award is specifically identified.

Hon. Gerry Byrne: Mr. Chair, I don't think I'd have any problem with this as long as we did not create for ourselves a blinder that would prevent us from viewing specific details on an in camera basis, either prior to or after the publication of the public accounts.

The Chair: You would be entitled to place a motion to that effect, but unless there was a decision of this committee, that would be the only way that would happen.

Hon. Gerry Byrne: I understand.

The Chair: Is there further debate?

As I am hearing none, do you want to place such a motion?

Hon. Gerry Byrne: Thank you. Maybe the clerk could help me with the wording of that which I seek to do.

Madam Clerk, I'm seeking to amend the main motion to specifically allow the committee to summon documents from the Comptroller General's office or other relevant government departments or agencies pertaining to any line item for which a non-disclosure clause has been invoked or a non-disclosure has been invoked. That's a very complicated amendment.

The Clerk of the Committee (Ms. Joann Garbig): Perhaps there could be an amendment following “the Committee concur in the request for endorsement of waivers to the publication”, and so on; you could add the words, “provided that”—

• (1550)

Hon. Gerry Byrne: Perhaps “notwithstanding the Committee's prerogative to summon”—

The Clerk: Or “provided that the Committee reserves the right to”—

Hon. Gerry Byrne: Perhaps “summon documents and hear witnesses”—

The Clerk: Or “request the disclosure of the information sought”....

The Chair: If I may, was the phrase you used “retain the right”? Is that the word you used, “retain”?

The Clerk: It was “provided that the”....

The Chair: The reason we need certain wording is that this is time sensitive. The idea is to get it approved today.

Hon. Gerry Byrne: Understood.

The Chair: So as long as you're doing your amendment in such a way that it's something else we might do after the fact, if we wish, that would allow us to be timely on the motion. If we don't pass it now, subject to a review, we're going to miss our deadline.

Hon. Gerry Byrne: Yes. I appreciate that, Mr. Chair.

I think we can accomplish both objectives very quickly today.

The Chair: Good.

Are you comfortable with the idea that we would approve it subject to the committee retaining the right to...and so on?

That works for you?

Hon. Gerry Byrne: Absolutely. That works for me.

The Chair: Okay.

That's the amendment. I think we have the gist of it.

Hon. Gerry Byrne: And it should be specifically noting the in camera nature of the request—

The Chair: Yes, of course.

Hon. Gerry Byrne: —so that the confidentiality wouldn't always be maintained.

The Chair: All right. I'll take that as a motion.

Is there a seconder? No seconder.

All right, I have a seconder.

The motion is on the floor for debate.

Mr. Shipley.

Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC): Mr. Chair, this is just a question.

Mr. Byrne, you mentioned “the motion”, and that you were going to change “the motion”. What motion? What we have in front of us I think is a process, a policy, or a regulation.

Hon. Gerry Byrne: No.

I think, Mr. Chair, you did read out a motion initially.

The Chair: There is a motion.

Mr. Daryl Kramp: Which one? Where?

The Chair: It's in the letter.

Oh, you don't have that?

I read it once, and I'll read it again. This would be the motion in front of the committee to acquiesce to the approval:

That in relation to the letter received June 17, 2011, from the Comptroller General of Canada, the Committee concur in the request for endorsement of waivers to the publication of details related to ex gratia payments, payments of claims against the Crown and court awards in the 2011 Public Accounts of Canada.

Mr. Byrne's amendment would state in the motion that the committee reserves the right to look at these in camera.

Am I correct? Are you actually requesting that they be delivered, or is it just that you're retaining the right?

Hon. Gerry Byrne: Now, what has been explained to me, Mr. Chair, is that the public accounts will not aggregate these figures, that they'll list them out. The testimony that we've heard this afternoon is that the only exclusion will be to a specific individual's name. There will be line-by-line items of...

In fairness, I'm not interested in the residential schools or the... I mean, Parliament has already authorized that. We do not need to know. We can find out on an aggregate basis the number of claimants and the total value.

As we go off that mark, as we get into territory that has not been discussed by Parliament at all, then I would like to know what the individual cases are, excluding the names so that confidentiality is maintained. Then, if we so choose, based on that information that's available to us and to the entire public, we can call forward a request for further information on an in camera basis.

That's consistent with what the Comptroller General actually wrote to us, Mr. Chair, in his letter to us. He effectively argued that the committee should retain its right to view this information on an in camera basis.

So I'm sure no one would have an objection to that. The Comptroller General himself actually set out those exact terms in his letter to us.

The Chair: All right. Let me try this and see...I want to make sure we have the right—

Mr. Andrew Saxton: Mr. Chair, I think you're getting into the weeds here. Before we deal with the amendment, can we first deal with the motion itself?

Mr. Daryl Kramp: We've never seen a motion.

Mr. Andrew Saxton: We've never seen a motion. It's news to us that there even is a motion. I have no copy of it.

So before we start getting into an amendment to a motion that we haven't even seen, let's deal with the motion.

The Chair: Well, I've read it out twice.

Mr. Andrew Saxton: You've read it, but where's the 48-hour notice?

•(1555)

The Chair: Hey look, it's your government that wants the release, man.

An hon. member: Yes.

The Chair: We're trying to accommodate the government request to give the okay by today. That's what's generating all this, so—

Mr. Andrew Saxton: I think what—

The Chair: —I'm in the committee's hands, but the goal of the committee, coming out of the steering committee, was to try to meet the deadline.

Mr. Andrew Saxton: I think what Mr. Byrne is asking for is always within the committee's prerogative to request. We're the master of our own ship and we have the right to request documents, people, and persons at any time.

I understand what Mr. Byrne is asking for, and I think it's not necessary to make that amendment, because what he's asking for is inherent within the prerogative of the committee. It's redundant to put it into an amendment. We already have that right.

The Chair: Do I have agreement that the motion is deemed to be moved? Do you agree to that? Or do you want to move it yourself?

Mr. Andrew Saxton: Let's get the main motion, but I'd like...

Okay. We have last year's motion right here, so if it's the same as last year's motion—

The Chair: Well, read what you have and I'll tell you if it's what I have.

Mr. Andrew Saxton: Okay. It was agreed:

That, in relation to the letter dated May 28, 2010, from the Comptroller General of Canada, the Committee concur in the request for the endorsement of waivers to the publication of details related to ex gratia payments, payments of claims against the Crown and court awards in the 2010 Public Accounts of Canada.

So what I would like to move is that this motion, save for the date—to be updated to today's date—and the date of the letter, be put forward for a vote at this time.

The Chair: That is exactly what's before us. The wording you've read out is exactly the same except for the dates. Okay, word for word—

Mr. Andrew Saxton: Let's put this before the committee, vote on it, and move on.

The Chair: All right. The motion is on the floor. Do you agree with that?

Mr. Andrew Saxton: Yes. The motion is on the floor.

The Chair: So the motion is on the floor, and I have someone who has moved an amendment, the amendment I was trying to get the wording of to make sure we're reflecting this properly.

Mr. Byrne, tell me how close we're getting to what you wanted.

It was to add these words: "provided that the Committee retain its right to order the production of the information whose publication is to be withheld, in confidence by the committee".

Mr. Gerry Byrne: That's perfect.

The Chair: That meets your needs? Very good.

Is there any further debate on the amendment?

Mr. Kramp.

Mr. Daryl Kramp: I'm speaking against the amendment, for the very simple reason that we already have that, as Mr. Saxton said. It's redundant right now.

If we're going to request every bit of information that the Comptroller General has right now.... These are thousands of requests that we're going to have to sift through, then, in deciding... "I wonder which one we want and I wonder which one we don't."

Either we have a Comptroller General in place to do the job or we get a different Comptroller General. Now, if we are not happy with what the Comptroller General is giving us, then we go to the Comptroller General, but to go ahead and put a blanket out now...it's just preposterous. I would certainly vote against this.

The Chair: Further debate?

First-time speakers on the amendment?

Mr. Caron, you wanted to speak?

Mr. Guy Caron: I would like to move the question at this point.

The Chair: Move the previous question? Okay. It's in order to move the previous question.

A voice: No, it's not.

The Chair: Pardon?

Okay, I'm going to have to get polished on these. I'm advised that it's out of order and that as long as you have someone on the list, you just keep on going. I do have someone on the list and no other first-time speakers.

Mr. Byrne.

Hon. Gerry Byrne: Thank you, Mr. Chair.

Am I to understand, then, since the government members are now suggesting it's redundant and not required, that in order to receive this additional documentation, no further motions would have to be adopted by the committee? We could either do this now or do it later. What I'm asking for is to actually establish a policy, through this motion, that the committee retain the right to summon these documents. And I'm assuming we would not require a motion to that effect down the road. If a certain line item in public accounts were to deserve a little more introspection and retrospection, we could ask for that information and have it received and maybe not even require a committee meeting over it.

I don't understand why committee members would, if it is a legitimate exercise, something the Comptroller General himself is suggesting the committee should retain the right to do.... I'll paraphrase some of the words of my colleague opposite. Either we think the Comptroller General is doing the right job or we think he is not. And if he's not, we should fire him. What the Comptroller General is advising this committee is to retain the right to review this information on an in camera basis. So either the Comptroller General is right or he's wrong.

All I'm asking for is something very straightforward and something very simple, something that is completely in the spirit of what the Comptroller General himself has proposed to us, which is, for the sake of clarity, that we simply add it to the motion and be done with it.

• (1600)

The Chair: Mr. Saxton.

Mr. Andrew Saxton: Since my honourable colleague keeps talking about in camera, I would like to propose that we go in camera at this time.

The Chair: Is there a seconder?

All right. All in favour of going in camera?

Hon. Gerry Byrne: Mr. Chair.

The Chair: We're in the middle of a vote. I'll take your point when I'm done.

All those in favour, please indicate. Those opposed?

Before I declare, I'll take your point of order.

Hon. Gerry Byrne: Having put a motion on the table, a motion that began debate in an open forum, is it in order to actually go in camera after a motion has been...?

The Chair: The clerk is going to double-check to make sure the motion is in order. So just bear with us a moment.

- _____ (Pause) _____
- _____

The Chair: The motion is in order. The vote was in order.

(Motion agreed to)

The Chair: And the motion carried. Therefore, we will move in camera.

Anyone here who is not a member of the committee, a member of Parliament or their staff, support staff of the committee, a translator, or our guests, please leave.

[Proceedings continue in camera]

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