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Chair

Mr. Anthony Housefather

Standing Committee on Justice and Human Rights

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• (1005)

[Translation]

The Chair (Mr. Anthony Housefather (Mount Royal, Lib.)): Good morning, everyone.

[English]

Welcome to the Standing Committee on Justice and Human Rights as we continue our meetings on remediation agreements, the Shawcross doctrine, and the discussions between the Office of the Attorney General and government colleagues. Today we're joined by the Prime Minister's former principal secretary, Mr. Gerald Butts.

Mr. Butts, it's a pleasure to have you at committee. Thank you very much for coming to share your perspectives on the matter we're studying.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Point of order, Mr. Chair.

The Chair: On a point of order, Mr. Cooper, go ahead.

Mr. Michael Cooper: Thank you, Mr. Chair.

Before we begin, given the severity of the claims that have been levelled against Mr. Butts by the former attorney general, and given that this matter has been referred to the RCMP, or that a request has been made for the RCMP to investigate, I believe it is appropriate, given the circumstances, that Mr. Butts be sworn in, pursuant to subsection 10(3) of the Parliament of Canada Act, so that he can answer questions under oath, and if he fails to tell this committee the truth and provide the answers that Canadians deserve, he would not only be liable to being found in contempt of Parliament, but he would also be liable for criminal perjury charges.

Now, I recognize that this is really in the hands of the Liberal majority on the committee, and I would implore my colleagues opposite to support this motion and do the right thing. If Mr. Butts has really nothing to hide, then I think he'd be quite open to taking the oath.

The Chair: Mr. Cooper, as you know, you can't make a motion on a point of order. Given the importance of this, I'll allow in any case to have a motion put forward for Mr. Butts to be sworn in.

I will point out what the clerk has told us at previous meetings when this issue has arisen: that nobody has been sworn in at this committee in at least 25 years, and that somebody who is a witness, no matter who they are, is bound to tell the truth at committee. They have to, or they can otherwise be found in contempt of Parliament, and as Mr. Cooper pointed out, the distinction being that if

Parliament is prepared to waive parliamentary privilege, which it has not done since Confederation, then a witness could potentially be liable for contempt.

Since Mr. Cooper has previously made this motion, and I know that we all want to get to the witness's testimony, may I suggest that we just move to a vote on the motion, Mr. Cooper?

Mr. Michael Cooper: Yes, Mr. Chair.

An hon. member: A recorded vote.

The Chair: Would you like a recorded vote, Mr. Barrett?

Mr. Michael Barrett (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC): Yes.

The Chair: Mr. Clerk, would you do a recorded vote, please? This is on Mr. Cooper's motion to swear in the witness.

(Motion negated: nays 5; yeas 4 [See *Minutes of Proceedings*])

The Chair: Mr. Rankin.

Mr. Murray Rankin (Victoria, NDP): In a similar vein, I just have a couple of preliminaries.

I think you've done this in other contexts, but I would like to ask if you would remind all members of the need to make sure the questions are relevant to the mandate that you've set out. That's number one.

Number two, if the witness has a written statement, as Ms. Wilson-Raybould did, I would ask that it be distributed so we could study it.

Third, I'd ask that you allow this witness the same courtesy that you allowed Ms. Wilson-Raybould—namely, to stay a little longer if there's a need to do so.

The Chair: Thank you, Mr. Rankin.

Number one, the witness has kindly provided a written statement. It has been copied, and I believe copies are now available in both English and French. It will be distributed to the committee members and the other members at the table.

With respect to the second question, my suggestion is.... I think we have the time, within the scope of two hours, to go for at least three rounds of questions. We will at least do that, and then we'll see where we are. I will also, in the third round, ask the committee if they're willing to have Ms. May, Mr. Weir, and people from other parties get three minutes, as I have previously done.

With respect to the third point, I will deal with questions and the line of questions when we've heard the witness's statement, but I'll remind everybody, of course, of what you're suggesting, Mr. Rankin. Thank you very much.

Mr. Michael Cooper: On a point of order, Mr. Chair, while I recognize that Liberal members have voted against my motion to swear in Mr. Butts, I see no reason why he might not voluntarily offer to be sworn in.

The Chair: Thank you, Mr. Cooper. I don't know that that's a point of order, so we're going—

Mr. Cooper.

Mr. Michael Cooper: On a point of order, Mr. Chair, perhaps he'd be given the opportunity.

The Chair: Thank you, Mr. Cooper.

I am going to move back so that—

Mr. Michael Cooper: I guess you would just prefer to ignore a simple request that perhaps he be given an opportunity?

The Chair: As the clerk has advised, that is not a point of order. It's a decision for the committee. The committee has made the decision; it's not a decision for the witness.

I appreciate your efforts, Mr. Cooper. They're always appreciated.

Mr. Butts, before we moved on to the points of order... You have been given 30 minutes. That's exceptional for the committee, so I don't want future witnesses to consider it a precedent, but we think it's really important for you to be allowed to give your version of events.

Now I am going to give you the floor, and I appreciate your being here with us.

Mr. Gerald Butts (As an Individual): Thank you very much.

I can assure all members of this committee that I will tell the truth.

Thank you for having me here today.

I would like to acknowledge that we are on the ancestral lands of the Algonquin people.

I am not here to quarrel with the former attorney general, or to say a single negative word about her personally. What I am here to do is to give evidence that what happened last fall is, in fact, very different from the version of events you heard last week. It is based on direct communications with the former attorney general and her staff, contemporaneous notes I took in meetings I attended personally, and debriefs from people who attended meetings I did not.

I want to make three important points.

First, everyone working on this file knew that the decision to direct the DPP to enter into negotiations toward a remediation agreement was the Attorney General's to make, and the Attorney General's alone. We also knew that the decision, whatever it was, would have a real impact on thousands of people, and we took our responsibility to these people seriously.

Second, I will provide you with detailed evidence that the January cabinet shuffle had nothing whatsoever to do with SNC-Lavalin.

Third, this is a story of two people who hold high office—the Prime Minister and the former attorney general—both of whom did their jobs to the best of their abilities, as did their respective staff. However, a breakdown in the trust that held the relationship together occurred, and as the point person in the PMO for the Attorney General, I take responsibility for that breakdown.

The Prime Minister gave and maintained clear direction to the PMO and PCO on this file. That direction was to make sure that the thousands of people whose jobs were and, it bears repeating, are at risk were at the forefront of our minds at all times. If anything could be done to protect those innocent people, we were told to work with the professional public service to make sure that option would be given every due consideration.

He told us to keep in mind at all times that the decision to direct the DPP rests with the Attorney General, and the Attorney General alone. We implemented that direction faithfully and with integrity.

I was personally involved in the file on only a few occasions, but it was principally my responsibility to ensure that the Prime Minister's direction was followed by PMO staff. I have no doubt that they did so to the highest standards.

So it was, and is, the Attorney General's decision to make. It would, however, be Canadians' decision to live with—specifically, the 9,000-plus people who could lose their jobs, as well as the many thousands more who work on the company's supply chain. The Prime Minister believed that this was a real and significant public policy challenge that deserved a robust and thoughtful response.

At no time did the Prime Minister or anyone in the government direct or ask the Attorney General to negotiate a remediation agreement. The former attorney general confirmed that last week to this committee.

So what, exactly, was staff talking to the minister about? We had a view, which was informed by Department of Justice advice, that it would be appropriate for her to seek independent advice from an eminent Canadian jurist or panel of jurists. We believed that this was appropriate, first, because the law empowering the Attorney General to use remediation agreements is new. Indeed, this was the first time that entering into a remediation agreement under the new regime was even possible.

Second, we felt that outside advice was appropriate because of the extraordinary circumstances of a conviction. The fact that the company involved employs so many people across the country heightened the public importance of the matter.

That was the entirety of our advice to the Attorney General, which, we made clear, she was free to accept or not.

We also made clear that if the Attorney General accepted our proposal and took external advice, she was equally free to reject or accept that advice. It was not about second-guessing the decision; it was about ensuring that the Attorney General was making her decision with the absolute best evidence possible.

Fresh in our minds was a recent Federal Court of Appeal decision that had found that the government had not concluded consultations sufficiently in connection with the TMX pipeline. That was the substance of the discussions that the PMO had with the Attorney General and the Attorney General's office.

When you boil it all down, all we ever asked the Attorney General to do was to consider a second opinion.

• (1010)

I am not a lawyer, but I have extensive experience in government. When 9,000 people's jobs are at stake, it is a public policy problem. It was our obligation to exhaustively consider options the law allows and to be forthright with people in explaining the Attorney General's decision, in order to be able to demonstrate that the decision was taken with great care in careful consideration of their livelihoods.

We learned last week that the DPP made her decision not to pursue a remediation agreement on September 4, and that the Attorney General was out of the country until September 12. In that version of events, the Attorney General made the final decision after weighing all of the public interest matters involved, and a new law, in just 12 days.

Imagine for a moment that on September 16, the day the former attorney general told this committee that the decision was made, firmly and finally, that she made a public announcement to inform Canadians of that decision. What would be the rationale? In fact, I learned for the first time while watching the former attorney general's testimony that she had made a final decision on September 16. My understanding is that nobody in the PMO or PCO knew that at the time either. In fact, it is not, to my knowledge, how the law works. My understanding, which was informed by the public service and lawyers in the PMO, is that the Attorney General's power to direct the DPP extends until the time a verdict is rendered. My further understanding is that the Attorney General is free to take advice on the decision up until that point and is obligated to bring fresh eyes to new evidence. I believe the former attorney general confirmed this in her appearance here last week. The DPP considered the matter again itself in late September, when new evidence was presented by the company, and the DPP made a fresh decision on October 9, 2018.

It was in that spirit that Mathieu Bouchard and Elder Marques had a discussion with the former attorney general on November 22, 2018. They discussed a memo prepared by lawyers in the Department of Justice that described the option to seek counsel from an eminent jurist. It was also the subject of my and the Prime Minister's chief of staff's one meeting on this file with the Attorney General's chief of staff, which I will happily answer questions about.

In any case, that was our operating assumption—that the decision wasn't made, and that we were free to inform it with advice. In the end, it was the Attorney General's alone to make, and it would be for all of us to explain. Most important, it would be for many thousands of people to live with.

Following the September 17 meeting the Attorney General had with the Clerk and the Prime Minister, I was debriefed that the next step on the file would be to have the Clerk and the deputy minister of justice meet with the minister. That is my full recollection of the

content of that meeting, which I can confirm I did not attend. That seemed like a prudent course of action to me, and I went back to doing what I was doing pretty much 24-7 in September, which was working on the NAFTA negotiations.

If the Attorney General had made a decision and communicated it to the Prime Minister and the Clerk, why would there be a next step at all? Why would the Attorney General take and solicit meetings on a closed matter?

Moreover, why would the Attorney General not communicate her final decision in writing to the Prime Minister? Minister Wilson-Raybould's preferred method of communicating complex and/or important matters is in writing, which I very much appreciate. I have studied lengthy memos from the former minister on subjects as diverse as the appointment of a Supreme Court justice, the TMX pipeline process, and the work of the cabinet committee on reconciliation. Yet, in all our texts and emails, which begin in the summer of 2013, there is not a single mention of this file or anyone's conduct on this file until during the cabinet shuffle.

If any minister is made aware of something they think is this wrong, I believe they have an obligation to inform the Prime Minister soon after they become aware of it.

• (1015)

I spoke with the former attorney general once on this file, on December 5, 2018. In three and a half years in government, we had one brief discussion about it. She raised it with me at the end of a two-hour dinner at the Château Laurier hotel. She requested the meeting via text message a few days earlier. On November 26, she wrote, "Hey there GB—do you want to chat? I have a number of things to bring up...maybe you do as well? Tomorrow after Cabinet perhaps? Thx Jod." I replied, "Sure. I'm heading to Toronto right after, but could delay 10 mins." She replied, "Happy to chat another time with you if heading to TO. Think this convo may be a bit longer than 10 mins." We could not arrange our schedules to meet for a couple of weeks. It was a busy time. We were preparing for the G20, the new NAFTA signing ceremony, and the first first ministers' meeting with Premier Ford.

Minister Wilson-Raybould solicited the meeting with me. She also raised the subject with me. She asked if I had a view on the file, and I said I understood that our offices were working together on ideas. We talked briefly about the idea of asking a retired Supreme Court justice for advice, but I noted that I had no expertise in the matter.

I believe that the “Harper” comment she referred to was in the context of that discussion, Mr. Chair. She said that what Elder and Mathieu were proposing had never been done before. I said my understanding is that remediation agreements are brand new to Canada and that the PPSC itself was not very old, having been brought into being during the Harper years. I was not making a partisan point, Mr. Chair. My suggestion was that it is a legitimate public policy discussion to have in this circumstance, and it would help clarify the Attorney General's powers in this and any subsequent case. I suggested she speak with the Clerk or the public service for more expert advice. I said that it was her call, and I knew it was her call. I have no memory of her asking me to do anything or to speak with staff about any aspect of this file. At no time did the former attorney general suggest to me that Elder and Mathieu had done anything wrong.

The context of that meeting for me is that we hadn't seen each other in a while. We had both been busy with files that were not related to each other, and the minister and I hadn't really had a chance to have good catch-up since we last had dinner at the end of July. I talked mostly about climate change, the pollution pricing policy, the Saskatchewan court challenge and the strategy to deal with the first ministers' meeting. I also asked her advice on the LAV contract with Saudi Arabia. She had on her mind the civil litigation directive regarding indigenous peoples and various other matters unrelated to the file you are examining.

We parted that meeting as friends and colleagues and exchanged personal text messages a couple of hours later. I wrote, “Nice to see you.” She replied, “Nice to see you too. Thx for the convo. Please say hello to the PM. Heard him speaking my language in his speech.... Good luck in Montreal—we stick to our guns/plan we will be good.” I just want to note that the reason she talked about that is that I had left the meeting just to go and meet the Prime Minister to go to the FMM in Montreal that evening.

Finally, on Tuesday, December 11, the minister texted me for the last time about the December 5 meeting. It read, “Hey there—couple of things. 1. KSA/LAVs—thought about it more. Have some thoughts would not mind discussing. 2. Re: Directive—I made most of changes from Elder already prior to Cabinet—can this go out? Honestly not clear as to what result was at Cabinet—hear PM wants changes but I am confident I have addressed all concerns. This is a big deal to me as you know.” The directive she is referring to is the Attorney General's directive on litigation matters involving indigenous peoples, which was issued just before Ms. Wilson-Raybould became Minister of Veterans Affairs in January.

As you will note, SNC-Lavalin is not mentioned in these exchanges at all.

I am fully aware that two people can experience the same event differently. I believed that the minister shared my interpretation of our dinner, and I only quote these messages so you can appreciate why I was so surprised to hear months later that the minister experienced that dinner as pressure. I do not see how our brief discussion of that file constituted pressure of any kind.

The second and final meeting I had on the file was with Jessica Prince, the minister's chief of staff, and Katie Telford. There was no

urgency to attend that meeting. I remember that meeting very, very differently from the account given last week.

● (1020)

I remember Ms. Prince saying that the minister didn't want to consider “political factors” in the decision and was worried about the appearance of political interference. I said that it's the minister's decision, of course, but to my mind, 9,000 people are not a political issue. It was a very real public policy problem. Either way she decided, I could not see how having someone like Beverley McLachlin give the minister advice constituted political interference.

Ms. Telford's comments were reported here last week out of context. Ms. Telford was simply saying what we say all the time when legal matters come up in the presence of lawyers: that we are not lawyers and cannot debate the law. On the op-ed point, she was simply saying that we would do our best to support the minister, whatever decision she chose to make.

That's the sum total of my personal interactions with the Attorney General on this file: a brief conversation at the end of what I thought was a good dinner, and a meeting with her staff where I sought to understand her reticence to receive advice from an independent jurist.

This, to me, begs the entire question of what exactly constitutes pressure.

According to the former minister's testimony, 11 people made 20 points of contact with her or her office over a period of close to four months. Four of these people never met with the Attorney General in person. In my case, the Attorney General solicited the meeting. That's two meetings and two phone calls per month for the minister and her office on an issue that could cost a minimum of 9,000 jobs. The minister confirmed last week that nobody ever asked her to make or not make the decision.

You now know that the subject of those interactions was whether she would take independent, external advice on the matter. We did what those 9,000 people would have every right to expect of their Prime Minister.

The Attorney General could have written or spoken to the Prime Minister at any time during this process to say attempts to contact her office on the meeting were improper and should cease immediately. The minister could have told the people who raised it with her that they were close to or crossing a line. The minister could have texted or emailed me at any time. However, the PMO's interactions with the Attorney General's office were only called into question by the Attorney General at the time of the cabinet shuffle.

I'd like now to turn to my role in providing advice for that shuffle. The January cabinet shuffle had absolutely nothing to do with SNC-Lavalin. In fact, I spent at least as much time working to prevent the shuffle from happening as I did preparing my advice for it.

On December 12, minister Brison approached me and Ms. Telford to tell us that he was not running again and that he would tell the Prime Minister later that day. The minister said that he didn't have to leave cabinet right away, but that he was going to tell his constituents two or three days later. We did all we could to dissuade him...to take Christmas to think about it, and at least give the Prime Minister a chance to talk him out of it. It would trigger a cabinet shuffle, and the Prime Minister was happy with the team he had.

I immediately sought help from people who know Minister Brison well to talk him out of it, at home in Nova Scotia and here in Ottawa. We spent the next couple of weeks trying to get him to stay.

Not to give away a political strategy in this forum, but my main political concern was our position in Nova Scotia. Mr. Casey had announced his retirement, and Mr. Fraser had told us he was thinking of not running again, but he had not yet announced it. I knew that if the Prime Minister chose a minister from the class of 2015, Mr. Cuzner and Mr. Eyking could interpret that as a signal and perhaps not run again either. In short, in the span of a few months, we would go from holding all 11 seats in Nova Scotia with strong incumbents to having five of them open in the next election.

Minister Brison's departure would put us in a difficult position. Nobody is irreplaceable in government, but Minister Brison was very important to our team. Neither the Prime Minister nor anyone around him wanted a cabinet shuffle to happen at all.

Why is all this so important? If Minister Brison had not resigned, Minister Wilson-Raybould would still be Minister of Justice today. That is a fact, and facts are very stubborn things.

• (1025)

Cabinet selections are among the most difficult tasks for any first minister. I have advised two first ministers on 13 of them. They're all unique. In this case, the Prime Minister would have just a handful of days to factor in all of these complex considerations, and I can say to you with absolute certainty that SNC-Lavalin was not one of them.

The Prime Minister directed us to think about options over the holidays, just in case. He told us he wanted to move the fewest number of people possible. He said he had done his pre-election cabinet shuffle in the summer and wanted to minimize the disruption. He reminded us that Treasury Board is an important job that few people outside Ottawa understand, but that it was vital for the basic functions of government.

We came back after Christmas to the news that Minister Brison would indeed resign. This left us with two large challenges: We needed a Nova Scotia minister and a Treasury Board chair with ministerial experience. No Nova Scotian except Mr. Regan had been a minister before, and he is the Speaker of the House of Commons. All signs pointed to Minister Philpott moving to Treasury Board. She had been vice-chair, so she had the experience to do the job. The Prime Minister agreed with this, but he was worried about the signal it would send to indigenous people.

This, to me, is the saddest part of this whole story. Indigenous people have been sent precisely the opposite message from the one the Prime Minister intended.

The most valuable thing in any government is the first minister's time. The Prime Minister spends a lot of his time on indigenous issues—a lot. He cares about the relationship deeply. He was preoccupied with the fact that we had the child and family services legislation coming up. He thought it would be one of the most important bills the government would pass. He wanted a person in Indigenous Services who would send a strong signal that the work would keep going at the same pace and that the file would have the same personal prominence for him. The right and perhaps only person who could do that was Minister Wilson-Raybould.

The Prime Minister knew there were several capable and experienced lawyers in caucus. The short list for Justice included several eminent lawyers with good backgrounds, including David Lametti. The Prime Minister chose Mr. Lametti because he is a distinguished McGill law professor, with graduate degrees from Yale and Oxford. He was also aware that it would raise eyebrows if he had three ministers in very large portfolios who all represented ridings on the subway line in downtown Toronto. That was the context in which the Prime Minister made the decision to move Minister Wilson-Raybould. It had nothing whatsoever to do with SNC-Lavalin.

The plan was a simple one, Mr. Chair: Philpott to Treasury Board, Wilson-Raybould to Indigenous Services; bring Lametti into Justice and Jordan into the new rural affairs portfolio that caucus had been lobbying for. It was a simple plan for a small, tidy shuffle.

The situation started to change on the weekend of January 5. The Prime Minister spoke to Minister Philpott in person, one-on-one, in his office on Sunday the 6th. The Prime Minister debriefed us right afterward. He said Minister Philpott was excited by the challenge, especially the digital government aspects of her new file. She said that Minister Wilson-Raybould was an excellent choice for Indigenous Services, but worried that she would see it as a demotion. Minister Philpott then told the Prime Minister that she worried that Minister Wilson-Raybould might wonder if her move were connected to the "DPA issue".

That was the first time I ever heard anyone suggest that this cabinet shuffle was in any way related to the SNC-Lavalin file.

The Prime Minister assured Minister Philpott that the shuffle had nothing to do with the file and asked her if she would help with the transition of her ministry to Minister Wilson-Raybould. She said that she would.

After that meeting, I spoke to the Prime Minister privately. He was surprised by what Minister Philpott had said. I said to him that he had to factor into his thinking the possibility that the assertion she had made would be made publicly, however far-fetched it seemed. He replied that he knew that was not why he was moving her, and he would not change his mind.

On January 7, 2019, the Prime Minister phoned the Minister of Justice and Attorney General to inform her that he was shuffling cabinet and that she would be part of that shuffle. I was present for the entire conversation, as was Ms. Telford.

•(1030)

The following is from a contemporaneous note I took during the conversation. I also have the text messages Ms. Wilson-Raybould and I exchanged afterward, and I will summarize them. We would have many conversations in the following week, and I am at liberty, under the terms of the order in council, to discuss and answer questions about them. I will do so to the best of my abilities.

The Prime Minister began the call by saying that Minister Brison's sudden departure had put us in "a tough spot". He said that he didn't want to shuffle cabinet, but that he needed our "best players" to move in order to "pitch in". He said the indigenous agenda was really important to him and to the country, as the Attorney General knew well. He said he didn't want to move Minister Philpott, but that she was the best qualified person to do Treasury Board because she had been vice-chair. He then said that would leave a large hole at Indigenous Services, and he didn't want people to think he was relenting at all on the agenda. He said he knows how much she "loves being MOJAG" but that she was one of our top people, and moving her to Indigenous Services would "show Canadians how seriously we take this."

There was a long pause on the phone. Minister Wilson-Raybould said that she was "a little bit shocked" because MOJAG was her "dream job". She said, "IS is not my dream job. I'm not going to lie about that." The Prime Minister said, "I know it is not your dream job, but it is core to this government's mission." Minister Wilson-Raybould said, "I feel I'm being shifted out of Justice for other reasons." The Prime Minister replied that he was doing this shuffle because he had to, and because he thought it was the best thing for the government and the country. He repeated that he wouldn't be doing it at all if it weren't for Minister Brison's departure. He said that when you lose a team member, everyone else has to pitch in. The call concluded.

Then Minister Wilson-Raybould did something I didn't expect. I had never seen anyone do it before, in 13 shuffles, over many years. The former attorney general turned down a cabinet portfolio. She said she could not do it for the reason that she had spent her life opposed to the Indian Act, and couldn't be in charge of programs administered under its authority. I want to say here, Mr. Chair, that I should have known that, and that, had we had more time to think of the cabinet shuffle, I probably would have realized it.

I undertook to ask the Prime Minister to consider alternatives, but I also said I had never seen a minister turn down a ministry. The obvious question is, why did the Prime Minister not leave the minister in her old job if she turned down a new one? My advice was this: If you allow a minister to veto a cabinet shuffle by refusing to move, you soon won't be able to manage cabinet. Cabinet invitations are not the product of shared decision-making. My advice was that the Prime Minister should not set the precedent that a cabinet minister could refuse a new position and therefore remain in one position for the life of the government.

Over the next few days, Ms. Wilson-Raybould and I talked and corresponded many times. I knew from those exchanges that trust had broken down between our office and the minister. I was deeply concerned by what the minister was saying. I tried to counter her

misapprehensions with repeated and, believe me, honest efforts. In the end, I was unable to do so, and here we are today.

I am firmly convinced that nothing happened here beyond the normal operations of government. Highly trained legal staff in the PMO worked closely with PCO's legal team on all aspects of the file, to make sure that the Shawcross doctrine was adhered to.

I have had some time on my hands for the first time in a long while. I have used that time to review all of my existing texts and emails with Ms. Wilson-Raybould since we met on October 3, 2013. There's a caricature in the press about what a relationship between PMO staff and a minister looks like. This, Mr. Chair, was not that.

I came to trust Ms. Wilson-Raybould as a valued colleague and friend over the next five and a half years. We had long, thoughtful, challenging discussions, both professional and personal. She and her husband Tim have had dinner at my house with my wife Jodi and our children.

•(1035)

To you, Chair, and to members of this committee, I want you to know this. I know it from long personal experience with the Prime Minister: If something improper had been happening and that impropriety had been made known to him, the Prime Minister would have put a stop to it, even if the impropriety were his own. I deeply regret that the former minister's trust and faith in the many colleagues she served alongside for three and a half years has eroded so much, and I take my fair share of responsibility for that state of affairs.

But what is happening here is not fair to the people named in her statement. They are good, hard-working people of extraordinary talent and integrity. They care deeply about their country, and they and their families have sacrificed much so they can serve it. I suspect that, like me, they learned of the former attorney general's specific allegations against them for the first time last week while watching this committee's proceedings.

It is the highest honour of my professional life to have worked with all of these people and so many others on so many important matters for so many years. I bear Ms. Wilson-Raybould no malice or animus, and I wish her and her husband Tim well in the future. Most of all, I hope that this sad episode can be resolved quickly so that people who still have the privilege of being temporary occupants of high public office can get on with their vital work.

I want to thank the many, many friends who have reached out over the past few weeks. Your kindness is the stuff of life.

I hope that what I have said today gives you the context and rationale for my resignation that I could not give you before now. It is one thing to be accused of something on the front page of the paper. It is another to be accused of it by a friend and a cabinet minister. One happens all the time; the other has never happened to me before.

The Prime Minister and I have been close friends for almost 30 years. That is well known. If I had stayed on, his actions or inaction towards me could have been used to accuse him of playing favourites—that he was choosing his best friend over a minister. I could not allow our friendship to be held against him, so resigning was the right and necessary thing to do for the office and for the Prime Minister. I appreciate the opportunity to put that on the record, Mr. Chair.

I hope my testimony today will provide the necessary information to allow the people I have worked with on critical issues, from climate change to job creation and to helping people escape poverty, to refocus their energies and efforts on their vital work.

Thank you all for your patience today, and thanks to all of you from all parties for your many years of dedicated public service.

I look forward to your questions.

• (1040)

The Chair: Thank you very much, Mr. Butts, and thank you for your public service as well.

I'm going to do what Mr. Rankin suggested. I usually am very flexible in timing, but within these meetings I am sticking to a fairly strict time frame. Before every round, I will remind everybody of how long they have, and I will stick to that with everyone. It means that, given the short time frame, I would ask the witness to please be succinct in his responses, to the extent he can, and I will also ask questioners to let the witness finish his answers, unless he's really going on too long, and I will jump in at that point.

With respect to the subject matter, let's all try to remember that the subject matter is the SNC-Lavalin issue. I will allow some latitude, but if I see that you're not getting to the point, I'm going to remind you to get to the point. Hopefully, that's fair with respect to what Mr. Rankin asked me to remind everyone about.

Then, with respect to the rounds, do I have unanimous agreement to go to three rounds for this witness, as opposed to two?

Some hon. members: Agreed.

The Chair: That's perfect. In the third round, I will again ask everyone before the third round.... Perhaps I will even do it now. Does everybody agree that at the end of the third round, Ms. May and Mr. Weir can ask a question for three minutes each?

[*Translation*]

Pardon me, we have you too, Mr. Plamondon. I didn't see you.

Does everybody agree?

Some hon. members: Agreed.

The Chair: Then it will be nine minutes at the end of the third round.

[*English*]

That's perfect.

Does everybody now have copies of Mr. Butts' statement in English and French?

We're going to start the first round—

Mr. Butts?

Mr. Gerald Butts: Mr. Chair, I just want to point out that my written statement is longer. I did my very best to shave it all down to meet the time frame. The written statement has additional detail in it.

The Chair: Perfect.

Thank you very much.

Do all members of the committee have copies?

A voice: Yes.

The Chair: Perfect.

The first round is six minutes for the Conservatives, six for the Liberals, six for the NDP, and six for the Liberals. We'll start with Ms. Raitt.

Ms. Raitt, the floor is yours.

• (1045)

Hon. Lisa Raitt (Milton, CPC): Thank you, Mr. Chair.

Thank you, Mr. Butts.

[*Translation*]

I know all Canadians are intently watching the committee today.

We're going to try to find answers for you.

[*English*]

We are going to try to get some answers for everybody who is here today.

Thank you for noting the fact that your testimony is actually shorter than your written statement. But you did have an addition in your oral testimony that isn't in this, and I want to take you to it right now.

It's at the very beginning when you were talking about this notion of a legal opinion. You said that "We had a view" from the justice department "that it would be appropriate for her to seek independent advice from an eminent Canadian jurist or panel of jurists." I assume that's.... I'd like to know when you received that view from the justice department, because it's a pretty interesting comment that the PMO would get a legal opinion from Justice.

Mr. Gerald Butts: Let me make sure I state that point clearly.

The proposal was informed by a justice department memo, which I suspect you're going to want to talk to the deputy minister of justice about later. I believe it was an options memo, Ms. Raitt.

Hon. Lisa Raitt: Yes, and Jody Wilson-Raybould mentioned that. But how did you get possession of it, Mr. Butts?

Mr. Gerald Butts: I have no idea.

Hon. Lisa Raitt: Do you remember around what time you received it?

Mr. Gerald Butts: No.

Hon. Lisa Raitt: Is it possible that it was before September 17 that you received it?

Mr. Gerald Butts: I don't think so. No.

Hon. Lisa Raitt: Okay.

Mr. Gerald Butts: I remember it in the context.... Excuse me. Sorry.

Hon. Lisa Raitt: Of course.

Mr. Gerald Butts: I respect your question, Ms. Raitt. We've known each other a long time

I believe it was in the context of the meeting of November 22, I think it was, between Elder Marques and Mathieu Bouchard and the minister, I believe.

Hon. Lisa Raitt: Just to clarify, there were three different types of legal opinions that your PMO staff were talking with Ms. Jody Wilson-Raybould about, according to her testimony, and they morphed from one type of opinion to another, starting with one kind of opinion in September and then.... But I'm not going to ask you about that. I'm going to ask you this.

Did anyone assist you with your testimony today?

Mr. Gerald Butts: Yes. I had legal counsel assist me, and some friends who have nothing to do with the provincial—not the “provincial”, but the present—government. You guys are used to this; I'm not.

Hon. Lisa Raitt: I know.

Did you discuss this with the Prime Minister?

Mr. Gerald Butts: No, I did not.

Hon. Lisa Raitt: Have you had discussions with the Prime Minister since you tendered your resignation?

Mr. Gerald Butts: He called me once to wish me well.

I will say, Ms. Raitt, this is the longest I've gone in 30 years without talking to the Prime Minister.

Hon. Lisa Raitt: Fair enough.

You mentioned texts and email addresses. Given what we're seeing in another proceeding with respect to the government and the use of personal cellphones, can you tell me if the texts with the former minister were with a personal phone or one that was issued by the Government of Canada?

Mr. Gerald Butts: These were with my PMO phone.

Hon. Lisa Raitt: These were with your PMO phone.

Mr. Gerald Butts: Yes.

Hon. Lisa Raitt: You already told us that you made contemporaneous notes detailing the conversations you had. Mr. Marques and Mr. Bouchard were clearly on this file, for the most part, on point. Did you have many meetings with them?

Mr. Gerald Butts: No.

We looked through my calendar when I was preparing this testimony. I guess someone at the office looked through my calendar while I was preparing this testimony. We could find only one meeting I had on this file, internally.

Hon. Lisa Raitt: Right.

What I'm troubled about, Mr. Butts, is that you've put out the view today that you were just asking the minister to take an external opinion to determine whether or not something or other.... I don't know what opinion was being sought.

It's interesting that you mentioned Beverley McLachlin in your written testimony as a potential person for external legal advice.

Mr. Gerald Butts: Yes. I want to be clear on that, Ms. Raitt, because I don't want to put Ms. McLachlin or anybody in the government in a difficult position.

In no way.... That was meant in the context of the Jessica Prince meeting. I said it's someone like Beverley McLachlin.

Hon. Lisa Raitt: I see. Okay.

Back to my original question, though, Mr. Bouchard and Mr. Marques, and you, according to Jody Wilson-Raybould's testimony, kept looking for a solution—a “solution”—not external advice. It would seem that you determined that there was a problem. The Prime Minister—

Mr. Gerald Butts: Yes.

Hon. Lisa Raitt:—determined there was a problem. You communicated with the PMO that there was a solution that was needed. But you tell us today that you weren't looking for a solution or an action; you just wanted her to take another opinion. So who is right, Jody or you?

Mr. Gerald Butts: I am not here to call anybody names, Ms. Raitt. But I really don't think I would have used that word. I really don't. I can't be one hundred per cent certain.

If there were any problem that I felt needed to be solved, it was to make sure that all due consideration was given to both options. That's all.

If I can add—and I think this is an important point, because people have made a lot of insinuations. I think they've been based on speculation. I don't have a strong opinion. Honestly, I don't envy either the former or the current Attorney General on this call. I really don't. I don't have a strong view either way.

• (1050)

Hon. Lisa Raitt: Okay.

Are you aware, Mr. Butts, that political considerations are not to be part of decision-making for the Attorney General?

Mr. Gerald Butts: Absolutely, absolutely.

Hon. Lisa Raitt: Why would the Prime Minister's Office, then, condone several conversations, including the Prime Minister himself, bringing these elements into discussions with the former attorney general?

Mr. Gerald Butts: I think there's a grey area in what you think is a political consideration, but I think you're also alluding to conversations I wasn't part of. I certainly never made any comment of the sort.

Hon. Lisa Raitt: So the Prime Minister never told you—

The Chair: Last question.

Hon. Lisa Raitt: Thank you.

The Prime Minister never told you that he had made a point that he was an MP in Quebec, and Mr. Marques and Mr. Bouchard, or Mr. Chin, never told you that they told Ms. Wilson-Raybould it was about an election in Quebec; it was about winning votes in Quebec and concerns about votes in Quebec.

Mr. Gerald Butts: No, and—

Hon. Lisa Raitt: They never mentioned that to you.

Mr. Gerald Butts: No. Honest to goodness, that's not true, Ms. Raitt.

Hon. Lisa Raitt: What's not true?

Mr. Gerald Butts: Sorry, nobody told me—

Hon. Lisa Raitt: [*Inaudible—Editor*] didn't say it.

Mr. Gerald Butts: No, nobody told me.

Hon. Lisa Raitt: Okay, fair enough.

Mr. Gerald Butts: Can I just have a moment to answer this? I think this is really important.

I respect you a lot, Ms. Raitt, and we've known each other a long time—not so well, but we're both from the same part of the country, as is Ms. May. We could have a tarabish game if there were one more Cape Bretoner around this table.

You know, we grew up around the same time in the same place. We know what it's like to see a company or a community collapse. Can you imagine, when we were kids and the coal mines closed or the steel mill closed, if the best explanation someone could give us was that someone thought about it for 12 days in Ottawa? That's what concerned us. That is absolutely what concerned us. It was the first time the law was ever being used, and we just wanted to make sure that every due consideration was given to both options.

Hon. Lisa Raitt: As a lawyer, I give due regard to the decision-making of the Attorney General.

Mr. Gerald Butts: I do, too. I absolutely do.

The Chair: Thank you very much. I always like exchanges between Cape Bretoners.

We'll now move to an Edmontonian, Mr. Boissonnault.

Mr. Randy Boissonnault (Edmonton Centre, Lib.): Thanks, Mr. Chair.

Mr. Butts, thank you for joining us today.

We've heard from Canadians, and they can't help but draw a negative inference from your decision to step down as principal secretary.

Mr. Butts, if you did nothing wrong, why did you resign?

Mr. Gerald Butts: I believe I covered that in my opening statement, Mr. Boissonnault, and I also covered it in my public statement. I think I was put in a position where I had to ask my colleagues to fight another colleague over accusations a colleague was making, and I think that put the Prime Minister in an impossible position, given the nature of our friendship.

Mr. Randy Boissonnault: In your statement following your resignation, and today, you categorically denied the accusation that you or anyone else in the PMO pressured the former attorney general, yet we've heard her testimony very clearly at this committee alleging otherwise. Why should Canadians believe your version of the facts?

Mr. Gerald Butts: Well, as I said to Ms. Raitt, Mr. Boissonnault, I'm not here to cast aspersions on anyone or to suggest that anybody is deliberately misleading anyone else. I do believe that it is possible

for people to draw different conclusions from the same experience. All I'm doing here is representing to you, to the best of my ability, the truth as I see it and the events as they occurred. I supplied some context in terms of contemporaneous messaging between me and the former attorney general.

I'll also say this. These are really important jobs, but at the end of the day, we're all people. When trust breaks down among people, I think it's easy to see things that have already happened in a different light.

Mr. Randy Boissonnault: Thank you.

In your statement, you said that it was important that the former AG be able to provide a rationale for not giving a remediation agreement to SNC-Lavalin. In your mind, why was it important that she be able to give a rationale for not giving a remediation agreement?

Mr. Gerald Butts: A couple of things. One is that the legalities, the law on this, are very fresh. We thought it would be an appropriate step to get seasoned, eminent advice from a jurist that would help flesh out the process around the law. That's all we were trying to do. There was nobody trying to make the AG make one decision or another.

• (1055)

Mr. Randy Boissonnault: In your testimony today, as I understand it, your discussion with the former AG was about that need for a rationale. That was the substance.

Mr. Gerald Butts: Yes, the discussion I had with the AG was literally, as I recall it, as we were about to get up from the table after two hours of talking about a bunch of other things. But yes, that's what it was about.

Mr. Randy Boissonnault: That's helpful.

Ms. Wilson-Raybould shared her perspective that it was appropriate for colleagues to draw her attention to important policy considerations related to this issue, as you've done today, related to jobs. Yet when this pressure veered into the realm of provincial politics, she then deemed it inappropriate.

Do you believe that successive meetings and raising such issues was appropriate?

Mr. Gerald Butts: What do you mean by “such issues”?

Mr. Randy Boissonnault: I mean members of the PMO talking about the fact that provincial politics are...that there's an election on the horizon.

Mr. Gerald Butts: I'm not going to pass judgment on what anyone else did, Randy—Mr. Boissonnault, excuse me.

Mr. Randy Boissonnault: Do you believe it was appropriate for people to speak with her at all after she said that her decision was final on this matter?

Mr. Gerald Butts: I do not recall, as I said in my opening statement, that she ever said that. My understanding of the law—and I will say to you what I said to Ms. Prince on December 18 or whenever that was: I'm not a lawyer, so I'm always very hesitant to get into detailed discussions of the law. That is particularly true in my interactions with the Attorney General. I don't know what I can say on that, Mr. Boissonnault.

Mr. Randy Boissonnault: No, that's fair.

In your role as the former principal secretary, you would have been privy to many important meetings. I'm interested in knowing whether you ever witnessed inappropriate pressure on the former attorney general.

Mr. Gerald Butts: No.

Mr. Randy Boissonnault: Would you have raised the issue with the Prime Minister had you ever witnessed a colleague inappropriately pressuring the former attorney general?

Mr. Gerald Butts: Absolutely.

Mr. Randy Boissonnault: Thank you for that.

We heard from Michael Wernick's testimony that while there may have been pressure, none of it was inappropriate, undue or, I think he said, unlawful advocacy. He stated that Canadians ought not to be worried about the rule of law in this country.

Are you worried about the rule of law in Canada?

Mr. Gerald Butts: Absolutely not.

Mr. Randy Boissonnault: Why not?

Mr. Gerald Butts: Why? This is one of the things that I think are really important to keep in mind. I've seen a lot of things over the last three and a half years, interfaces with other governments, in other countries; and in a lot of places, public institutions are faltering and failing. They're faltering and failing in countries that look just like ours.

Canadians should have faith in their public institutions and they should have faith in their public institutions, because they work. I have absolute confidence in this committee, in Parliament, in the independence of the justice system, in the professional public service, and in the powers of the Attorney General's office, and I want to say that Canadians should feel protected by the powers and conventions governing the relationships between these offices, not by the presence of any individual at any given time.

Mr. Randy Boissonnault: At any point, Mr. Butts, did—

The Chair: Sorry, Mr. Boissonnault, your time has expired.

Mr. Rankin.

Mr. Murray Rankin: Thank you.

Good morning, Mr. Butts. Thank you for being here.

I'd like to read to you from the letter of resignation by Ms. Philpott from two days ago and ask if you agree.

She said:

Unfortunately, the evidence of efforts by politicians and/or officials to pressure the former Attorney General to intervene in the criminal case involving SNC-Lavalin, and the evidence as to the content of those efforts have raised serious concerns for me....

The solemn principles at stake are the independence and integrity of our justice system.... Sadly, I have lost confidence in how the government has dealt with this matter and in how it has responded to the issues....

Finally she said:

I must abide by my core values, my ethical responsibilities and constitutional obligations.

I take it from your summary that you are in complete disagreement with her conclusions.

Mr. Gerald Butts: I certainly don't have a disagreement with her conclusion in the sense that she's lost confidence. That's *res ipsa loquitur*.

By the way, I should say congratulations on your retirement, Mr. Rankin. I've been an admirer of yours for many years.

Obviously, my opening statement details at length that I disagree with the former minister's perspective on this, yes.

• (1100)

Mr. Murray Rankin: All right.

Now, listen, I want to talk to you about two events. Regarding the December 5 meeting when Jody Wilson-Raybould met with you—both sought out a meeting—she testified that, “I wanted to speak about a number of things, including bringing up SNC and the barrage of people hounding me and my staff.” Do you recall her saying that?

Mr. Gerald Butts: No, I do not.

Mr. Murray Rankin: You have no memory of that.

On December 18, 2018, you talked about her chief of staff, Jessica Prince, meeting with you and Katie Telford.

According to a text that was read to us by Ms. Wilson-Raybould, which I am sure you remember, she said:

Gerry said, 'Jess,

—that's Jessica—

there is no solution here that doesn't involve some interference.'

Then she said:

At least they are finally being honest about what they are asking you to do! Don't care about the PPSC's independence. Katie was like 'we don't want to debate legalities anymore....' They keep being like 'we aren't lawyers, but there has to be some solution here.'

What solution could possibly exist if it did not involve inappropriate political interference?

Mr. Gerald Butts: Well, I think I went through that in some detail in my opening remarks, Mr. Rankin. I have a very different recollection of that meeting. I don't think I would have used the word “solution” because it's not one I would use in this context.

My basic point to Ms. Prince was that if getting advice from someone like Beverley McLachlin constitutes political interference, then it must be your position that you can't have a conversation about this file.

Mr. Murray Rankin: But if she rejected that, if that became clear at some point in time that her mind had been made up, would it not be reasonable for us to infer that the “barrage of... hounding”, to use her words, was happening? Because she told people at the highest level of your office that she wanted them to back off, that her decision was made up.

Whether that was a good decision or a bad one is really not for us to talk about. It's just the way in which that was communicated.

Mr. Gerald Butts: I would make a couple of points on that, Mr. Rankin, with respect.

One is, I don't think it was possible for her to have her decision made. My sense, and as I was briefed by the professional public service at the time, was that she was obliged to bring fresh eyes every time new evidence arose, and—

Mr. Murray Rankin: Was there any new evidence? What new evidence? We've never heard of any new evidence.

Mr. Gerald Butts: There must have been.... I am not aware of any, but there must have been some reason for the DPP herself to [*Inaudible-Editor*].

Mr. Murray Rankin: So you would accept that if there were no new evidence it would be inappropriate to continue to push her, with her having demonstrated, as she said so clearly, that by that point in time her decision as independent Attorney General had been made up?

Mr. Gerald Butts: No, I would not accept that. I would ask professionals for advice on it if that were in dispute.

Mr. Murray Rankin: Because you said, I think, in your testimony that up until the verdict, it's always appropriate to talk.

Mr. Gerald Butts: Yes, that is my understanding of the law, as I was briefed.

Mr. Murray Rankin: All right, then.

My next point, Mr. Chair, is that the witness talked about a conversation with the Prime Minister concerning the removal of Ms. Wilson-Raybould from cabinet.

I point out to everyone that we don't have the ability.... She refused to talk about that, appropriately, because the waiver that was given to her by the Governor in Council did not allow her to talk about it. We only have one account of that very critical meeting.

I would ask, for the record, that we call the witness back and ask that the Governor in Council liberate her to talk about the balance of this, or we'll never know what truly happened. I just think that's obvious.

Mr. Gerald Butts: Mr. Rankin, with respect, my understanding is not that.

My understanding is that I am covered by exactly the same waiver or liberty, whatever you want to call it, that the former minister was when she was here. The two events I am describing—the conversation the Prime Minister had with former Minister Philpott and with the former Minister Wilson-Raybould—happened successively on Sunday, January 6, and Monday, January 7. My understanding is that the waiver covers the events up until the 14th.

Mr. Murray Rankin: Her testimony, members will recall, was that she could not tell us about those events, and now I am told that she can. Therefore, with great respect, we need to hear her account of the same event.

The Chair: Thank you. Noted.

Your time is now up, Mr. Rankin.

I think it's up to every witness to determine for themselves what the order in council covers—

Mr. Gerald Butts: Yes, I did speak with legal counsel.

• (1105)

The Chair: I believe that she did speak to these events at the committee, but we will take under advisement your comments.

Here, I do note the witness's comment to Mr. Rankin. I think that to all of us who have served on the committee with him for the last number of years, his intelligence and integrity have always been incredibly appreciated at this committee and it will be a real loss to politics and to Ottawa and the national Parliament that you will no longer be here after the election.

Thank you.

We will now go to Mr. Boissonnault again.

Mr. Boissonnault.

Mr. Randy Boissonnault: Thank you, Mr. Chair.

Mr. Butts, ministers face a ton of political pressure. I think you alluded to that. Former solicitor general Wayne Easter indicated that “there's always pressure in government” and that “what one person sees as pressure, another may just see as...a day's work.” Minister Freeland has said she always feels that “when there are difficult issues, that if it comes to it, I should go personally to the Prime Minister to discuss them. I really think it's my duty to do that.” Are you aware of any instances in which the former attorney general raised this issue of pressure with the Prime Minister?

Mr. Gerald Butts: I am not. No.

Mr. Randy Boissonnault: Are you aware of her availing herself of any of the opportunities she could have had with the Prime Minister to raise this issue?

Mr. Gerald Butts: I am not.

Mr. Randy Boissonnault: At any point did the former attorney general ever raise the issue of pressure with you directly?

Mr. Gerald Butts: No.

Mr. Randy Boissonnault: We've heard testimony from the former attorney general that she felt pressure even after she asked—

The Chair: Mr. Boissonnault, I'm sorry but your time has stopped. There's something with the interpretation going on right now.

[*Translation*]

An hon. member: It's not working.

The Chair: We'll wait until the interpretation works.

[*English*]

Mr. Randy Boissonnault: How many minutes am I at, Mr. Chair?

The Chair: You are at 51 seconds, Mr. Boissonnault.

[Translation]

An hon. member: It's back up now.

The Chair: Mr. Plamondon, can you confirm that the interpretation is working?

Mr. Louis Plamondon: It seems to be working.

[English]

The Chair: Mr. Boissonnault, I'm sorry. We'll go back over to you.

Mr. Randy Boissonnault: Thank you, Chair.

Mr. Butts, we heard testimony from the former AG that she felt pressure even after she asked members of the PMO to stop. As for her own testimony, she said that after the September 17 meeting she agreed to hold another meeting with the Clerk and her deputy minister. Then on September 19 she asked that SNC send in a letter. Also on that day she sought out Minister Morneau on this issue, and her chief of staff on September 19 and October 26 invited conversations between the Prime Minister's Office and herself.

Why did your former office keep speaking to her after the former AG had indicated she'd made a decision?

Mr. Gerald Butts: As I outlined in some detail in my statement, I do not believe we were aware that the AG had made a final decision at the time.

Mr. Randy Boissonnault: What were you trying to achieve, then? Getting an external opinion or getting more information on the issue?

Mr. Gerald Butts: I can only speak to the meetings that I was personally associated with or involved in. And in my case, I still don't quite get why getting transparent advice from a Supreme Court justice on this matter is controversial at all.

Mr. Randy Boissonnault: Constituents and Canadians are curious about how many meetings actually take place on a big government file. You mentioned a file that's important to me. On a matter related to 15,000 jobs in Alberta and the west, to billions of dollars of economic development, the idea of buying the TMX pipeline would have been a new idea and would have prompted a number of meetings between the Prime Minister's Office and the ministry of Finance. How many meetings, ballpark, would the PMO have had with the finance minister's office over the purchase of the TMX pipeline?

Mr. Gerald Butts: I feel like we had at least that many meetings with the affected premier's office.

Mr. Randy Boissonnault: How many meetings...5 meetings, 50 meetings, 30 meetings? How many meetings in the first couple of weeks were held on the TMX?

Mr. Gerald Butts: On the TMX acquisition, I wouldn't want to venture a guess—

Mr. Randy Boissonnault: Ballpark.

Mr. Gerald Butts: —but probably 100.

Mr. Randy Boissonnault: Is that normal for a file that big?

Mr. Gerald Butts: For a file that big it would be for sure.

Mr. Randy Boissonnault: Okay, so it's affecting thousands of jobs.

Mr. Gerald Butts: That would be a week in NAFTA.

Mr. Randy Boissonnault: Fair enough. That's helpful.

I know that the AG has a different standard when it comes to pressure.

Mr. Butts, on a matter of great importance that affects thousands of people, on which the AG must make a decision, in your experience what's the typical number of meetings that a PMO would have with an AG or their team?

Mr. Gerald Butts: I say this with great appreciation for everybody involved. We're talking about people who had long-standing personal and professional relationships, and I seek to disparage none of them because I think it's hard enough to get people to contribute to public life in this country, and everybody involved has made great contributions.

This was a novel law. It was the first time it had ever been used, so we thought the bare minimum we needed to do in order to look people in the eye who stood to lose their jobs was to make sure we had a good reason and to build process around that. It's absolutely a bare minimum to get the best advice you can when a decision affects that many people. There's not much more to this than that, in my view, Mr. Boissonnault.

•(1110)

Mr. Randy Boissonnault: Along that line, then, if you take a look at a file like TMX, if you take a look at this issue, if you take a look at even the Supreme Court reference that you alluded to, why were there only 10 meetings over four months on an issue this important?

Mr. Gerald Butts: Honestly, I don't know.

Mr. Randy Boissonnault: Okay.

Was there a coordinated effort within the PMO to try to get the former AG to change her mind on the SNC file?

Mr. Gerald Butts: No. One hundred per cent no.

Mr. Randy Boissonnault: One hundred per cent no—how can we believe that statement?

Mr. Gerald Butts: Well, one would expect that, if such an effort existed, then I would have been aware of it, and I was not. And I know the people involved very well. Mathieu Bouchard and Elder Marques are incredibly accomplished lawyers with sterling reputations, and it is inconceivable to me that they would engage in this sort of behaviour.

Mr. Randy Boissonnault: I appreciate that.

Here is my final question. We've heard testimony and read media articles that imply there was something inappropriate about raising provincial elections. I know there's one coming up in Alberta, for example.

In your experience, in the context of intergovernmental affairs, how are electoral considerations addressed on such big government issues?

Mr. Gerald Butts: Let me give you an example that is contemporaneous with the events you're describing.

It was becoming really clear as we approached the end of the NAFTA negotiations that whatever settlement we came to on dairy policy was going to have a really large impact on the Quebec election. That did not stop us from signing NAFTA.

The Chair: Thank you. That concludes the first round.

[Translation]

Now we'll go to the second round of questions.

[English]

In the second round we have six minutes for the Liberals, six minutes for the Conservatives, six minutes for the Liberals, five minutes for the Conservatives and three minutes for the NDP.

We're going to start with Mr. Fraser.

Mr. Colin Fraser (West Nova, Lib.): Thank you very much, Mr. Chair.

Mr. Butts, thank you so much for being here. It's good to see you. I want to say thank you as well for your public service. I know you commented on others who serve the Canadian government so well, but I think your long career of public service should be duly noted as well, and I want to thank you on behalf of all of us here.

I'm wondering if you would be interested in tabling some of the text messages you referred to in your statement.

Mr. Gerald Butts: My understanding—and I worked with counsel on getting access to all of the documents I needed for this presentation and conversation—is that it's not my decision to make any longer.

Mr. Colin Fraser: Okay.

I want to follow up on a question that Mr. Boissonnault was asking you a moment ago regarding a coordinated effort in the PMO. Your answer was very clear. I just want to ask: Did you direct or even ever encourage anyone in the PMO to try to pressure the former attorney general to approve a remediation agreement?

Mr. Gerald Butts: Absolutely not, and as I said before, I really don't have an opinion on what decision either the former or the current Attorney General should make, and I am quite happy that I am not in their shoes.

Mr. Colin Fraser: As well, to your knowledge, in the close working relationship you have with the Prime Minister, did the Prime Minister ever direct or encourage anyone in the Prime Minister's Office to try to pressure the former attorney general to approve a remediation agreement or anything else with the former attorney general?

Mr. Gerald Butts: Absolutely not.

Mr. Colin Fraser: I want to turn for a moment to the couple of meetings you mentioned in your statement. The first one was on December 5, when you had dinner with the former attorney general at the Chateau Laurier. You had said, I think, that November 26 was the date she had texted you—

Mr. Gerald Butts: Yes.

Mr. Colin Fraser: —and said that she would like to have a conversation with you and that it was going to take longer than 10 minutes, and then later it got coordinated to be a dinner at the Chateau Laurier.

She mentioned in her statement that it was a meeting that you both had wanted. Is that fair to say, or would you say that it was her asking you for the meeting?

Mr. Gerald Butts: Well, I'm not sure they're incompatible statements, to be honest. I certainly responded very quickly, and I always enjoyed meeting with Minister Wilson-Raybould. So it wasn't as if she had to drag me to the Chateau Laurier.

• (1115)

Mr. Colin Fraser: You mentioned, as well, that there were a number of items that were, I guess, discussed at that meeting, which would be in the normal course of things with the minister whom you were friends with and had a number of issues that you wanted to go through.

SNC-Lavalin came up in a brief discussion near the end of that conversation. Is that your recollection?

Mr. Gerald Butts: Absolutely, yes.

Mr. Colin Fraser: And when that issue came up, what can you tell us about what was discussed regarding SNC-Lavalin at that meeting?

Mr. Gerald Butts: I covered all that I can recall in my opening statement, Mr. Fraser. I didn't give it a moment's thought at the time, afterward. I just thought, I guess the minister wanted my perspective on that.

Mr. Colin Fraser: And in the conversation, she was the one who brought up that issue with you?

Mr. Gerald Butts: Correct.

Mr. Colin Fraser: Mr. Rankin mentioned a moment ago that in her testimony, she said there was a “barrage of people hounding me and my staff”, and she wanted to bring that to your attention.

You didn't recall that. Do you recall her saying anything regarding anyone inappropriately pressuring her, or her feeling like she was not being treated fairly with regard to this matter?

Mr. Gerald Butts: No, and I believe I would have done something immediately about it. I was heading to the airport to meet the Prime Minister to go to the first ministers' meeting in Montreal, and I would have done something about it.

Mr. Colin Fraser: In the follow-up text messages and communication you had with her afterwards, it seemed as though, I guess, they corroborated the fact it was a cordial meeting that you'd had; it was a nice dinner and—

Mr. Gerald Butts: Yes.

Mr. Colin Fraser: —that there were no difficult discussions.

Mr. Gerald Butts: Yes.

Minister Wilson-Raybould and I would have dinner maybe two, three, sometimes four times a year, and we'd catch up on a whole lot of things. I learned a tremendous amount from her and I have a lot of respect for her. This is a very unfortunate series of events.

Mr. Colin Fraser: Was there any briefing that was done with anyone else after the December 5 meeting, from your point of view... anything related to conversations—

Mr. Gerald Butts: I may have mentioned the next day in Montreal that I had suggested or.... I usually debrief Katie—Ms. Telford, rather—or the Clerk maybe. I don't know. I don't have a clear recollection of it, to be honest.

Mr. Colin Fraser: Okay.

It was quoted that you had said you disliked the law and that “we need a solution on the SNC stuff”.

You made comment about that, but that's not the way you would have characterized that.

Mr. Gerald Butts: No, no. And I appeal to the first-hand knowledge of the people who have worked with me over the years on very delicate, sensitive matters, including many of you around this table, and ask you whether or not that is in keeping with my character to do such a thing.

Mr. Colin Fraser: Okay, and regarding the Harper-era law that you were talking about, you talked about the fact that there was a director of public prosecutions brought up and that that happened in the time that Stephen Harper was the prime minister. That was the context of that.

Mr. Gerald Butts: Yes, that's it. It was a chronological point, not a political one.

Mr. Colin Fraser: Okay. Thanks very much.

The Chair: Thank you very much.

Ms. Raitt.

Hon. Lisa Raitt: Mr. Butts, you said that you've reviewed your texts since you resigned from PMO. How did you still have possession of your government phone?

Mr. Gerald Butts: I acquired the ability to review my texts through my counsel. I do not have possession of my government phone.

Hon. Lisa Raitt: You don't have your phone, so you received the access to the phone. Is that what you're saying?

Mr. Gerald Butts: However my legal counsel got the texts, that's how I got them. It was through my legal counsel.

Hon. Lisa Raitt: So they did a review of records and produced the texts for you.

Mr. Gerald Butts: Well, I'm not sure what you're asking, Ms. Raitt.

Hon. Lisa Raitt: I'm asking how, if you gave up your phone when you left the PMO, you still had access to the phone to produce the texts today. You said you didn't; you received them from your legal counsel—

Mr. Gerald Butts: That's true.

Hon. Lisa Raitt: —and I'm asking who then picked the texts that you were to receive and look at.

Mr. Gerald Butts: You may recall that there was a small story on the front page of The Globe and Mail about this a few weeks ago. When that story ran, I said to myself.... Actually, it wasn't when the story ran; it was the next day when I got a very specific question

from The Globe and Mail through the office, directed at me about my meeting with Minister Wilson-Raybould. I believe they were even specific enough to say “at the Château Laurier hotel”. My first instinct then was to look at my phone and see if I remembered as correctly as I thought I did.

• (1120)

Hon. Lisa Raitt: Talking about the cabinet shuffle, your testimony is that it wasn't about SNC-Lavalin. Why then did the deputy minister of justice say that the Prime Minister wanted to talk to the new Attorney General about the SNC-Lavalin matter first thing?

Mr. Gerald Butts: I have no idea. You'd have to ask the deputy minister of justice that.

Hon. Lisa Raitt: Okay.

Do you believe that SNC-Lavalin was entitled to a deferred prosecution agreement?

Mr. Gerald Butts: No. No. Absolutely not.

Hon. Lisa Raitt: I'm going to read you a part of the mandate letter.

Did you draft the mandate letters for the ministers?

Mr. Gerald Butts: No.

Hon. Lisa Raitt: Did you have a hand in drafting the mandate letters?

Mr. Gerald Butts: I'm not sure. I think that's a subjective standard.

I probably read them before they were sent, but I don't think I had a heavy hand in them.

Hon. Lisa Raitt: One interesting piece for me is this: “As the Attorney General of Canada, you are the chief law officer of the Crown, responsible for conducting all litigation for the federal government and for upholding the Constitution, the rule of law, and respect for the independence of the courts.”

That would seem to be the marching orders for the former attorney general of Canada—

Mr. Gerald Butts: I would agree with that, yes.

Hon. Lisa Raitt: —and she was discharging her duty during this entire time.

Mr. Gerald Butts: I believe so. I have no reason to believe she wasn't.

Hon. Lisa Raitt: Okay.

You mentioned a minute ago, Mr. Butts, that Elder Marques and Mr. Bouchard have “sterling reputations” and would not engage in certain matters of politics. Now, I want to take you through the chronology, because what I find interesting is that it was consistent how many times attempts were made to either get directly to the director of public prosecutions, which is completely not acceptable.... The only connection between the director of public prosecutions and the government is through the Attorney General. Would you agree with me on that?

Mr. Gerald Butts: I would agree with that, yes.

Hon. Lisa Raitt: When Ben Chin started negotiating on behalf of SNC-Lavalin, indicating what it was prepared to agree to, as one of the chiefs that report to you, did you find that to be acceptable?

Mr. Gerald Butts: I'm sorry. Could you repeat that?

Hon. Lisa Raitt: Ben Chin, on September 6, said that SNC's legal counsel was a former Supreme Court justice and he also indicated that SNC was prepared to agree to certain things in order to get a deferred prosecution agreement. That's the testimony of Jody Wilson-Raybould. If he did that, is that acceptable behaviour, in your opinion?

Mr. Gerald Butts: I'm not going to answer a conditional question like that, because I don't know if he did it—

Hon. Lisa Raitt: Well, okay.... Mr. Bouchard and Mr. Marques said on September 16—

Mr. Gerald Butts: —but can I say something in response to your first—

Hon. Lisa Raitt: I have a whole list of these guys. You can say it —

Mr. Gerald Butts: I can imagine that you do.

Hon. Lisa Raitt: Okay.

Mr. Gerald Butts: About this idea that someone tried to directly interfere with the DPP, on February 12, my understanding is that when making a public comment on another matter—which is the one that I think you were alluding to earlier and which we should not discuss here—the DPP said that there had been no political interference in that matter or in any other matter.

Hon. Lisa Raitt: Correct, but what I'm talking about, Mr. Butts, are the attempts to be political.

I'll bring you one more. Mathieu Bouchard and Elder Marques said, according to Jody Wilson-Raybould, that the individual Crown prosecutor wanted to negotiate an agreement, but the director did not. How would members of your PMO staff have knowledge of what a single Crown prosecutor would know or not know about a DPA?

Mr. Gerald Butts: I have no idea whether or not that is factually correct.

Hon. Lisa Raitt: Okay.

As well, they indicated that the deputy minister of justice thought that she could get the Public Prosecution Service of Canada to say that “we think we should get...outside advice”. So that's the Prime Minister's Office, the justice minister and the justice deputy minister going directly to the director of public prosecutions. Would you agree that that's not acceptable?

Mr. Gerald Butts: I don't believe that they did.

Hon. Lisa Raitt: You don't believe that—

Mr. Gerald Butts: That they went directly—

Hon. Lisa Raitt: You don't believe the testimony of Jody Wilson-Raybould.

Mr. Gerald Butts: That is not what I'm saying, that is not what I'm saying.

Hon. Lisa Raitt: Well, this is her testimony, and this is what I'm saying.

On September 19, both again raised the idea of an “informal reach out” this time to the director of public prosecutions. How is that acceptable as an indication from the Prime Minister's Office to suggest an “informal reach out” from the deputy, the AG or even a member of the deputy's staff? How is that acceptable when we know that the line between the Public Prosecution Service and the politics of this country is very clear?

Mr. Gerald Butts: I agree that—

• (1125)

The Chair: That is the last question—

Mr. Gerald Butts: Can I answer it, though, Mr. Chair?

The Chair: I just wanted to let you know that it's the last one.

Mr. Gerald Butts: I agree that it's very clear. I just want to go back to the substance of my evidence that I'm providing here. I don't think.... I know the people involved. I've worked with them closely. I know the file a little bit. It just doesn't ring like something they would do on this or any other matter.

The Chair: Thank you very much.

We're going to Mr. Fraser now.

Mr. Colin Fraser: Thanks very much.

Mr. Butts, I want to pick up from where I was earlier and go now to the meeting of December 18 that you had with Katie Telford and the former attorney general's chief of staff at the time. How commonplace would it be that you would have a meeting with a chief of staff regarding an important matter that was of concern at the time?

Mr. Gerald Butts: Very. Very—we met with chiefs of staff all the time, both together and separately.

Mr. Colin Fraser: Okay.

How did that meeting actually come about? Who actually coordinated that meeting?

Mr. Gerald Butts: I don't recall. I don't recall.... As you say, my answer to your first question, Mr. Fraser, is that it was very commonplace for such meetings to happen. It wouldn't have been unusual. Particularly at that time of year, Ms. Telford and I tried to meet with chiefs of staff at the end of sessions to check in and see how things were going and that kind of thing.

Mr. Colin Fraser: Okay.

In her testimony, the former attorney general indicated that she had received a text message from her chief of staff shortly after the meeting, indicating that she was urgently summoned to the meeting.

Does that sound like a fair characterization of your meeting?

Mr. Gerald Butts: I can't think of a single instance in which Ms. Telford and I urgently summoned anyone, but as I said about my dinner with Ms. Wilson-Raybould, people can come away from the same experience with different impressions.

As I have said many times, as I'm sure you've heard me say in caucus at points, Mr. Fraser, that the longer we are all in these jobs, the more people see us as these jobs and not as people. I think that carries with it a responsibility to be conscious of power dynamics between people. I like to think—and nobody is perfect—that Ms. Telford and I were very conscious of that.

Mr. Colin Fraser: Would you say that a fair characterization of the main tenor of that meeting on December 18 was in order to discuss retaining external counsel to give an opinion about the correctness of a DPA?

Mr. Gerald Butts: I believe that's a fair characterization, but I can't be sure. I know that the biggest contentious issue that we were discussing with the Minister of Justice and Attorney General's office at that time was the directive on civil litigation matters involving indigenous people. There were concerns in different places with different people and different ministries, and most of the discussions that I recall between our office and hers at that point in time were about that subject. I'm sure that came up as well.

Mr. Colin Fraser: It was indicated in the text messages from the chief of staff to the former attorney general that you said that there was no solution here that did not involve some interference.

What do you say about that?

Mr. Gerald Butts: I think I answered that question a little while ago, Mr. Fraser, but that is not what I said.

I do remember that part of the conversation, and I think this is the heart of the matter here—does asking for external advice constitute political interference? I think that by any reasonable definition of the term, it does not.

Mr. Colin Fraser: With regard to Katie Telford, you were in the meeting, and Katie Telford had indicated about arranging op-eds. I know you touched on it earlier, but can you expand a little bit on your exact understanding of that comment that was made?

Mr. Gerald Butts: Yes. It's not a sophisticated tool in politics to ask your supporters to support you, right? It's a common practice that's probably been around for as long as there have been op-eds that whatever position the government is taking or an opposition party is taking, they seek out supporters in the free press.

Mr. Colin Fraser: I want to return for a moment to your opening statement. You mentioned that there seemed to have been a breakdown in the relationship with the former attorney general. Can you explain how you arrived at that conclusion and when that happened?

Mr. Gerald Butts: From my perspective, for most of the time we worked together, going way back to her nomination and the election campaign—which you will all remember was not a smooth sail across a calm sea—I felt like Ms. Wilson-Raybould and I could generally work things out.

I think that in the context of the cabinet shuffle, that became very difficult. I think that's when trust broke down.

• (1130)

Mr. Colin Fraser: Thank you very much.

Those are my questions.

The Chair: Thank you very much.

Now we go back to the Conservatives.

Go ahead, Ms. Raitt.

Hon. Lisa Raitt: I would like to move a motion, please, that the witness produce all communications, texts, emails and written notes between himself, Jody Wilson-Raybould, Mathieu Bouchard, Elder Marques, Katie Telford, David Lametti, Jessica Prince, Ben Chin, Bill Morneau and Justin Trudeau.

The Chair: Do you have it written out anywhere, Ms. Raitt?

Hon. Lisa Raitt: I have it only in my BlackBerry.

The Chair: May I ask a question?

Would you mind writing out the motion, allowing Mr. Cooper to ask the questions in the rest of your time, and then coming back to the motion when everybody can get a copy? I'll give you back the time to put forward the motion.

Hon. Lisa Raitt: I'm going to ask questions in this round right now, Mr. Chairman.

The Chair: Oh, sorry. I thought Mr. Cooper was asking a question.

Hon. Lisa Raitt: Certainly, I'm fine with that.

I'll continue.

Mr. Butts, did you know that on September 17, Jody Wilson-Raybould indicated that she instructed her staff to ensure they had a very detailed chronology of all meetings and conversations about SNC-Lavalin and deferred prosecution agreements because she was worried about what was going to be happening in the coming months? Were you aware of that?

Mr. Gerald Butts: I was not aware of that.

Hon. Lisa Raitt: Well, she did, which I found interesting.

We were talking about what the staff of the Prime Minister's Office were doing to try to get to the director of public prosecutions. The second type of legal opinion that was sought was different. This time, it was a legal opinion on the director's decision to not grant a deferred prosecution agreement.

Were you aware that Mr. Elder and Mr. Bouchard requested that?

Mr. Gerald Butts: I'm not even sure I know what that means, Ms. Raitt, to be honest.

You are a lawyer, correct?

Hon. Lisa Raitt: I am.

Mr. Gerald Butts: I am not.

Hon. Lisa Raitt: These are important issues, Mr. Butts. You're testifying here that you are the link between the Prime Minister and the Prime Minister's Office, yet the Prime Minister's staff were clearly over the line of appropriateness. That's testimony from Jody Wilson-Raybould, and that's my assumption based upon the facts that she put forward.

At the end of the day, you are responsible for these matters, and your responsibility flows up to the Prime Minister.

Mr. Gerald Butts: That is correct.

I am also testifying that if anyone crossed a line, it was the responsibility of the minister to inform somebody about that. I am presenting myself as the most likely person who would have been informed, and I was not.

Hon. Lisa Raitt: In her testimony, she indicated that she brought it up with you and said it was inappropriate. Your testimony is that you don't recall it that way.

Mr. Gerald Butts: My testimony is that I recall a very different conversation, yes.

Hon. Lisa Raitt: And that she did not tell you it was inappropriate for people to continuously ask her about her decision after she had made it?

Mr. Gerald Butts: I think whether or not she made it is the subject of some debate.

I will say that if a minister—any minister, especially the Attorney General—spoke to me and said that a member of my staff or any other staff was pressuring them in an inappropriate way on any matter, I would have spoken to that staff person.

Hon. Lisa Raitt: Let's go back to the section 13 memo that was written for the Attorney General for background.

When the director of public prosecutions determines there's a matter of public interest about which she needs to inform the Attorney General, she writes a memo that is for the Attorney General's eyes only—it does not go to anybody else—and she lines out exactly why she has taken the decision and why it is important.

How often did you receive, in the Prime Minister's Office, written instruction from the Attorney General on what she did or did not do on a section 13 request from the director of public prosecutions?

Mr. Gerald Butts: I am not aware of any, but—

Hon. Lisa Raitt: Why would you testify that you thought she should have provided written commentary or written notice to the Prime Minister's Office?

Mr. Gerald Butts: I didn't say she should have provided written commentary on—

Hon. Lisa Raitt: I think you did in your testimony, Mr. Butts.

Mr. Gerald Butts: —a section 13 order. I did not.

What I said was that if she had made her mind up on a matter, she would not have had to disclose the content of the order. She could simply have informed us that her mind was made up and that any attempt to open the subject with her was inappropriate, and I think a fair evaluation of the events of the fall suggests that this was not the case—that further meetings were welcomed and solicited, and advice was also welcomed.

• (1135)

Hon. Lisa Raitt: Your testimony is that on the occasion that the director of public prosecutions sent a note to the Attorney General indicating a matter of public interest, the Attorney General had the obligation to inform the Prime Minister's Office of a decision she took, because that's exactly what you just told us.

Mr. Gerald Butts: No, that's not exactly what I just told you.

What I told you was that if her mind was made up on the matter, she need not disclose anything about the content of the order. My understanding is that it would have been inappropriate if she had.

However, if there were ongoing discussions that the minister was welcoming, and in some cases soliciting, that would be inconsistent with the supposition that her mind was made up. It would also be inconsistent with our understanding of the law and the way we were briefed on how the law operates, because no verdict had been rendered in the case and it was possible that new information could come to light. In fact, not only was it possible; it happened in this case, when the DPP rendered fresh judgment on October 9.

The Chair: Your time on questions has expired. Do you want to move the motion now?

We have a copy by email, but I don't know if there's a copy that members could get. Did anybody write it down on a paper or anything that could be distributed to members?

We will read it into the record. It's not that long. Maybe people can do without a written document.

Ms. Raitt, go ahead.

Hon. Lisa Raitt: I don't have it in front of me right now, Mr. Chair. Would you read it for me? That would be excellent.

The Chair: The motion that we have from Ms. Raitt, colleagues, is this: “That the witness produce all communications, texts, emails, written notes between himself and the former Attorney General Jody Wilson-Raybould, Mathieu Bouchard, Elder Marques, Katie Telford, David Lametti, Jessica Prince, Ben Chin, Bill Morneau and Justin Trudeau.”

Is that correct, Ms. Raitt, as your motion?

Hon. Lisa Raitt: I'm going to take your word on it. Yes. It sounds right. Those are all the players.

The Chair: May I as chair make a comment?

That motion in itself would be beyond the scope of what we're doing. I think you mean to add in at the end the words “related to the prosecution of SNC-Lavalin”, because those would be the terms of reference. Okay? Then it would be receivable.

I also want to clarify something with the witness. I believe that earlier, when Mr. Fraser asked if the witness could produce certain texts, there was a reason that the witness wanted to advance for not being able to do so, which is that he's no longer a part of government and he doesn't own these texts. He can't produce them.

Is that correct, Mr. Butts?

Mr. Gerald Butts: That is correct. They are not under my control.

The Chair: Therefore, I think the words “that the witness produce” are probably also not the right words. “That the committee ask for” perhaps might be the right words.

I leave it to you, Ms. Raitt.

Hon. Lisa Raitt: Well, the witness is indicating that he can't produce them on his own, but his counsel can certainly ask for them if he wants to. However, if you think it's more—

Look, we want to get to a result at the end of this, and the result is we would like to have copies of those items. Since the witness came forward and indicated he had these items, it would be very helpful to see these items.

I'm in your hands. If you think it's easier for us to go ahead and ask for them in a different way than through the witness, then that would be fine.

The Chair: Let me check with the clerk.

The clerk is suggesting the words “that the witness” be replaced by “that the Office of the Privy Council”.

Hon. Lisa Raitt: That sounds great. Thank you.

The Chair: Thank you very much.

I judge the motion receivable.

I have Mr. Boissonnault, but Ms. Raitt, do you have anything further to say before I give the floor to Mr. Boissonnault?

Hon. Lisa Raitt: I just want to make sure that we're capturing not only the texts that may come from the government-issued phone, but that if there are any texts on personal phones or personal email accounts, those are captured as well. That is not a PCO function; it's a function of the witness.

The Chair: The clerk suggests “to the measure that the government could have access to these communications” would be the right wording, or alternatively that we simply call for the production, and we don't ask anybody specifically to produce them.

• (1140)

Hon. Lisa Raitt: That would be fine.

The Chair: I think we all understand the concept, and we will get to the right words in the event that the concept is accepted. That's basic there.

The motion is to ask for the production of these texts, emails, and communications related to SNC-Lavalin between the people mentioned, regardless of whether the device was government or personal.

Hon. Lisa Raitt: Yes. Thank you.

The Chair: Ms. Raitt, do you wish to speak to your motion, or do you want me to pass it to the next person?

Hon. Lisa Raitt: We can pass to the next person. I think it's evident and clear why we would like to have paper copies of what has been disclosed.

The Chair: Thank you very much.

Go ahead, Mr. Boissonnault.

Mr. Randy Boissonnault: Mr. Chair, I think we—

Mr. Gerald Butts: Can I say one thing to Ms. Raitt that may be helpful, Mr. Chair?

The Chair: Of course, Mr. Butts.

Mr. Gerald Butts: What I can tell you is that all of the information I have at my disposal that involves direct correspondence with the former minister about that December 5 meeting I read entirely into the record. There is nothing that I have not—actually, that's not true. There is one thing, and it's a small personal thing. It is

that Ms. Wilson-Raybould was going to meet someone after our dinner. She disclosed that to me, and I'm not sure it's appropriate for me to do that. However, the entirety of the text I have about the December 5 meeting with Minister Wilson-Raybould is quoted in my long statement.

The Chair: Thank you.

We will go back to Mr. Boissonnault on the motion.

Mr. Randy Boissonnault: Mr. Chair, based on what Mr. Butts has just said and based on where we ended up in the testimony with Ms. Wilson-Raybould, I will be voting against Ms. Raitt's motion. Mr. Butts has indicated that he has read the text into the record, and I think that is appropriate for the purposes of this study.

The Chair: Okay. Is there further discussion?

Mr. Michael Barrett: I request a recorded vote, Mr. Chair.

The Chair: Certainly, Mr. Barrett.

Before we do that, I just want to make sure there is nobody else who has their hand up.

Go ahead, Ms. Raitt.

Hon. Lisa Raitt: I just want to say something.

The intent and purpose of ensuring that we capture any text and emails between the witness and the Prime Minister's Office staff is that right now there is chronology of two members of the PMO, according to Jody Wilson-Raybould, being very inappropriate in the way in which they approached her office as the Attorney General. The witness has indicated that he has no knowledge of it, but that he believes with their sterling reputation, they would not engage.

He is their boss. I would like to see whether there are any texts associated with their reporting to him or his giving them direction. I think that is an absolutely reasonable request to be made.

The Chair: Thank you very much, Ms. Raitt.

Are there any other interventions?

Not seeing any, Mr. Barrett has requested a recorded vote.

Go ahead, Mr. Clerk.

The Clerk: If I may, may I request you to verify with the committee if there is an invitation...?

The Chair: All right, this motion is an order for production, I believe. It is not an invitation to produce, right?

Ms. Raitt, I'll look to you, but I believe what you intend is that these be produced.

Hon. Lisa Raitt: Yes.

The Chair: Okay.

So that everybody understands, this would be an order to produce these various documents from the listed individuals as related to the SNC-Lavalin prosecution.

(Motion negated: nays 5; yeas 4 [*See Minutes of Proceedings*])

The Chair: Mr. Rankin, it is your time. You have three minutes on this round.

Mr. Murray Rankin: I'd like to ask Mr. Angus to ask a question.

The Chair: Mr. Angus, the floor is yours, sir.

Mr. Charlie Angus (Timmins—James Bay, NDP): The question that's been put forward to us by the evidence of Ms. Wilson-Raybould is a concerted campaign of interference in the independence of the Public Prosecution Service by your office. That's the question before us. Her testimony provides us a picture. We have Mr. Marques and Mr. Bouchard wanting an informal reach-out to the prosecutor to go around her. She said that this would be political interference.

Ben Chin says it's about the Quebec election, which would be a completely inappropriate thing for someone from your office to say. Bill Morneau, after being lobbied, pushed her, and she told him to back off.

The Clerk of the Privy Council had numerous conversations, in one of which she said she was threatened three times, including when he said that you don't want to be on the wrong side of this prime minister.

The Prime Minister said, according to her testimony, that he wanted action because he was the MP for Papineau.

Katie Telford, according to Ms. Wilson-Raybould, said she wasn't interested in legalities, and she has you on the record as saying that you don't like the law because it's a Harper law, and then, further, that we don't get through this without intervention.

How can you then tell us this was he-said-she-said, and not a concerted campaign that you were involved in to intervene and override the decisions being taken by the Attorney General of Canada?

• (1145)

Mr. Gerald Butts: I think I detailed the reasons that I don't think that was the case.

I was present in the office for the time period described, and absolutely no effort to intervene in the independence of justice occurred, but—

Mr. Charlie Angus: But you said to Jess Prince that we don't get through this without some interference.

Mr. Gerald Butts: No, I did not say that, and I explained it—

Mr. Charlie Angus: When Ms. Wilson-Raybould testified, she was very believable to Canadians. You did not agree to go under oath, so the question is, is she wrong? Did she make that up?

Mr. Gerald Butts: I think I explained at length, Mr. Angus, what I think happened.

Mr. Charlie Angus: But I'm not getting an answer here. You may have explained it—

Mr. Gerald Butts: I am not going to—

Mr. Charlie Angus: —but I don't understand, because, as you say

Mr. Gerald Butts: Mr. Angus, with respect, I'm—

Mr. Charlie Angus: With respect, she either lied or she didn't—

The Chair: Mr. Angus, please let the witness finish his answer, and then we'll come back to you.

Finish the answer, Mr. Butts.

Mr. Gerald Butts: Mr. Angus—

Mr. Charlie Angus: It's about her credibility.

Mr. Gerald Butts: It is about what happened.

Mr. Charlie Angus: Okay.

Mr. Gerald Butts: And there are different perspectives on what happened.

Mr. Charlie Angus: I see.

Mr. Gerald Butts: I am not here to call anybody names, and you will not get me to cast aspersions—

Mr. Charlie Angus: I'm not asking you to call someone names; I'm asking whether there was interference, because facts, my friend, as you said—

Mr. Gerald Butts: "No" is the answer to that question—no.

Mr. Charlie Angus: —facts are very stubborn. It's not just her. Ms. Philpott said, "I have lost confidence.... I must abide by my... ethical...and constitutional obligations" because of the allegations of interference by your office. "There can be a cost to acting on one's principles, but there is a bigger cost to abandoning them."

Is Ms. Philpott not understanding this either?

Mr. Gerald Butts: I would certainly agree with the last statement, the statement that there is a cost to abiding by one's principles, as there are costs to abandoning them.

Mr. Charlie Angus: Thank you.

Mr. Gerald Butts: I think that in this case, as I detailed at length, there is more than one way of looking at it.

The Chair: Thank you very much. That ends the second round.

I would just note that the witness did not refuse to be sworn in; the committee voted against swearing him in, as we have voted against swearing in any other witness in these meetings.

Now we're at the third round. The third round is six minutes to the Conservatives, six to the Liberals, six to the NDP, six to the Liberals. Then we have agreed that at the end of this round, the three representatives of political parties not recognized in the House of Commons—because you need 12 seats—will be allowed to ask three minutes of questions each.

We will start with the Conservatives.

Go ahead, Monsieur Berthold.

[*Translation*]

Mr. Luc Berthold (Mégantic—L'Érable, CPC): Thanks very much, Mr. Chair.

Mr. Butts, you clearly stated in your testimony that neither Ms. Wilson-Raybould's departure from the Department of Justice nor the Hon. David Lametti's arrival there had anything to do with SNC-Lavalin.

Mr. Chair, I'd like to ask the witness why the Government of Quebec was informed several times, including here in Gatineau in late January, some 15 days after the shuffle, that the SNC-Lavalin matter was resolved and that there would be a remediation agreement, that a deal had been reached.

How could the Government of Quebec believe that an agreement was a done deal if all you wanted, when you communicated repeatedly with the former Minister of Justice and the Attorney General, was to press her to get an outside opinion? How could you suggest to another level of government that the remediation agreement was a done deal when all you wanted was to get a legal opinion to enable the Attorney General or the new Attorney General to make the right decision? That's simply inconsistent with your testimony. The idea of suggesting to another government that there would be an agreement, a remediation agreement, because there had been a cabinet shuffle and we now had a new minister is inconsistent with what you've been saying from the outset.

[English]

Mr. Gerald Butts: I'm not aware of the situation you're describing. I'm not aware of any communications between the Government of Canada and the Government of Quebec on this issue, certainly not in the time frame you're talking about—well, that's not true. I'm aware of the fact that the current Premier of Quebec raised it personally with the Prime Minister, as did the former premier of Quebec. I'm certainly not aware of what you're talking about.

• (1150)

[Translation]

Mr. Luc Berthold: Then you're not aware of any communications that might have taken place between cabinet members, members of your office and people from the Government of Quebec, indicating that SNC-Lavalin's remediation agreement was a done deal as a result of a cabinet shuffle.

[English]

Mr. Gerald Butts: I'm not aware of any, no.

[Translation]

Mr. Luc Berthold: Thank you very much, Mr. Butts.

Now I'll turn the floor over to Mr. Cooper.

[English]

Mr. Michael Cooper: Great.

Thank you, Mr. Chair.

Thank you, Mr. Butts. You indicated that you know Mr. Bouchard and Mr. Marques well. Would it be fair to say you spoke with them every day?

Mr. Gerald Butts: No. Well, I would say that for four of the weeks in question that you're examining here, I was in Washington, so it was certainly not every day in the effective time period.

Mr. Michael Cooper: But they were briefing you?

Mr. Gerald Butts: From time to time they were, on a wide variety of matters, yes.

Mr. Michael Cooper: Then you would have been aware of their activities on the file, in general terms?

Mr. Gerald Butts: In general, I would. I mean, I certainly gave them overall direction, and they would report back from time to time.

Mr. Michael Cooper: Okay.

You mentioned that you were briefed by the Prime Minister immediately after the September 17 meeting.

Mr. Gerald Butts: Sorry, I didn't hear that.

Mr. Michael Cooper: I thought I heard you say you were briefed immediately after the September 17 meeting on with Ms. Wilson-Raybould, the Clerk, and the Prime Minister.

Mr. Gerald Butts: I did not say “immediately after”, and to be honest, I don't recall whether the Clerk or the Prime Minister debriefed me on the meeting.

Mr. Michael Cooper: Did the Prime Minister ask for an outside opinion at that meeting?

Mr. Gerald Butts: Not that I know of.

Mr. Michael Cooper: Not that you know of, but we do know that on October 18, Mr. Bouchard asked Jody Wilson-Raybould's chief of staff for an outside opinion. The answer was no. On October 26, Mr. Bouchard again asked Jody Wilson-Raybould's chief of staff for an outside opinion, and the answer was no. On November 22, Jody Wilson-Raybould was called by the PMO to meet with Mr. Marques and Mr. Bouchard. The issue of an outside opinion was raised again, and again Ms. Wilson-Raybould said no. Then on December 18, at the meeting with Ms. Prince and in conjunction with Ms. Telford, you were again asking for an outside opinion. That was several months later.

What could you possibly have understood her answer to be other than no, that she had made her decision and she was not going to overturn the decision of the director of public prosecutions?

Mr. Gerald Butts: Whether she would accept external advice and whether she would overturn the decision of the DPP are two different questions. In fact, I believe the distance between those two things, Mr. Cooper, is at the heart of the matter at hand.

My perspective on this—and it was informed by professional public service advice—was that there was nothing wrong with discussing this. As I said in my testimony, I was not pressing in any way, shape or form that anyone overturn the decision. It's really important that we establish that as a fact, and it is—

Mr. Michael Cooper: No, but you were basically—

Mr. Gerald Butts: Please let me finish, sir, with respect.

It's an important fact, because it is one of the few facts that seem to be shared. The former minister testified that last week, and that was certainly my understanding.

What I said in my statement about the meeting with Ms. Prince was that I sought to understand the former minister's reticence on that file and on the concept of receiving independent advice. I made the case for doing so as a matter of sound public policy.

Mr. Michael Cooper: In other words, there was not a respect for her judgment to review the facts and review the law in the exercise of her prosecutorial discretion to overturn a decision that had already been made by the DPP, having regard for the facts and having regard for the law.

The Chair: Please just note that this was the last question. I'll let the witness respond.

Mr. Gerald Butts: Sure, and I'm happy to respond, Mr. Chair.

I should have said this more vividly at the outset, but I appreciate the opportunity to come here and speak with colleagues. The matter you're discussing is important, and I hope the evidence I've provided can aid in your deliberations.

At the end of the day, we really didn't feel that anybody was doing anything wrong. We felt these were honest discussions, and I would ask you to deliberate on the question. If this was wrong, and wrong in the way it is alleged to have been wrong, why are we having this discussion now and not in the middle of September or October or November or December?

• (1155)

The Chair: Thank you very much.

We're now going to go to Mr. Ehsassi. Mr. Ehsassi, you have six minutes.

Mr. Ali Ehsassi (Willowdale, Lib.): Thank you, Mr. Chair, and thank you, Mr. Butts, for appearing before our committee. It has been very helpful, especially your opening comments.

You delved at length into the decisions that animated the changes in cabinet—

Mr. Gerald Butts: —which I'm sure will make me a lot of friends, but I was under obligation to do so.

Mr. Ali Ehsassi: Absolutely.

You were saying in your opening remarks that the first time SNC and the issue of deferred prosecutions came up was when it was raised by former Minister Philpott. Is that correct?

Mr. Gerald Butts: In the context of the cabinet shuffle, that is correct, yes.

Mr. Ali Ehsassi: Prior to that, before you had reached out to any of the new people being appointed, was there no discussion whatsoever about deferred prosecutions or SNC?

Mr. Gerald Butts: Certainly not that I recall.

Mr. Ali Ehsassi: Thank you.

When the Prime Minister spoke to Ms. Wilson-Raybould and advised her of changes to cabinet, was there any suggestion at that point that she did not have confidence in the Prime Minister?

Mr. Gerald Butts: No.

Mr. Ali Ehsassi: Before Ms. Wilson-Raybould resigned from cabinet—

Mr. Gerald Butts: Do you mean on that day, in the debrief?

Mr. Ali Ehsassi: On the day that the Prime Minister actually called her to inform her of her new position, there was no suggestion that she had no confidence in the Prime Minister.

Mr. Gerald Butts: No.

Mr. Ali Ehsassi: Before Ms. Wilson-Raybould resigned from cabinet, did she ever suggest to you that she did not have confidence in the Prime Minister?

Mr. Gerald Butts: No.

Mr. Ali Ehsassi: Thank you.

Now, if we could go back to the issue of obtaining a legal opinion or perhaps retaining an expert, during the period that you served in

the Prime Minister's Office, for three years, were there other incidences of new legislation or a new legal regime being considered or contemplated in which the Prime Minister's Office decided to obtain a legal opinion?

Mr. Gerald Butts: I'm sure there were. It's pretty standard operating procedure, in my view.

Mr. Ali Ehsassi: I would think so.

You said that the first you heard about the need to obtain outside legal counsel was that it was one of the recommendations that was made by the Department of Justice.

Mr. Gerald Butts: I'm not sure I would.... It's been a long time since I read that memo, Mr. Ehsassi, so I don't want to be categorical about this.

I don't know if it was a recommendation or an option or.... Since we seem to be having a bit of a Jesuitical discussion about fine definitions, I don't want to say something that is incorrect.

Mr. Ali Ehsassi: Would you mind telling us one more time why you thought it was a good idea to obtain outside legal expertise?

Mr. Gerald Butts: Sure.

I thought that in a case like this, when so many people's livelihoods were at stake—and this was a shared view—that it was an obligation of the government to make sure that we availed ourselves of every...that we took a really hard look at it, because when you go knock on your doors on the weekend, you wanted to be able to look employees of the company, pensioners, the supply chain, in the eye and say, "We gave this a good hard look."

That was all that was motivating us. It was the people involved.

Mr. Ali Ehsassi: Absolutely. Thank you for that.

In your opening remarks, you also said that the first time you heard that the Attorney General had made up her mind on this issue on September 16 or 17 was last week during the course of her testimony. Is that correct?

Mr. Gerald Butts: That is correct.

• (1200)

Mr. Ali Ehsassi: Given that you were not aware of that, would it be fair to say that your expectation was that she would consult with other departments?

Mr. Gerald Butts: I want to be really careful here, Mr. Ehsassi, and I think Ms. Raitt alluded to this earlier. I don't have any sense of what is in the section 13 order, nor should I—that would be inappropriate for me—but we thought that broad consultation was really appropriate.

Mr. Ali Ehsassi: I take it that you are familiar with "Open and Accountable Government".

Mr. Gerald Butts: I am indeed, yes. Pages 66 and 67, I believe, cover this subject.

Mr. Ali Ehsassi: You've had an opportunity to read the various passages that would be relevant to this particular case.

Mr. Gerald Butts: Of course. Yes.

Mr. Ali Ehsassi: The first passage actually says that "...it is appropriate for the Attorney General to consult with Cabinet colleagues before exercising his or her powers under the DPP Act in respect of any criminal proceedings, in order to fully assess the public policy considerations...."

What does that particular passage tell you?

Mr. Gerald Butts: It tells me, frankly, that nothing inappropriate happened here.

The Chair: This will be the last question.

Mr. Ali Ehsassi: There's another passage on the same page that says, "Interdepartmental consultation is also important because of the shared responsibilities among government departments...."

Is it your opinion that the SNC-Lavalin file is one that would require interdepartmental consultation?

Mr. Gerald Butts: There is no question about it.

Mr. Ali Ehsassi: Thank you.

The Chair: Thank you very much.

Mr. Rankin is next.

Mr. Murray Rankin: Thank you.

You just said to Mr. Ehsassi that the first time you had heard about her decision being final was last week.

Mr. Gerald Butts: That's correct. I said that in my opening statement.

Mr. Murray Rankin: In her testimony, Ms. Wilson-Raybould refers to a November 22 meeting with Mr. Elder Marques and Mr. Bouchard. She said in her testimony that she took them through the Director of Public Prosecutions Act and "prosecutorial independence as a constitutional principle", etc., and they "continued to plead their case...that we could hire an eminent person". She said:

They were kicking the tires. I said no. My mind had been made up and they needed to stop. This was enough.

I gather that Elder Marques and Mr. Bouchard work for you.

Mr. Gerald Butts: They work for the Prime Minister, ultimately.

Mr. Murray Rankin: They work for the Prime Minister's Office, of which you are the director.

Mr. Gerald Butts: Yes, I and Katie Telford.

Mr. Murray Rankin: They report to you, so they knew at least, it seems, if her account is to be believed.

She then said, "I will briefly pause" about "my...state of mind", that the final decision had been made and so forth.

In my view, the communications and efforts to change my mind on this matter should have stopped. Various officials also urged me to take partisan political considerations into account, which it was clearly improper for me to do. We either have a system that is based on the rule of law, the independence of prosecutorial functions and respect for those charged to use their discretion and powers in a particular way, or we do not.

Therefore she said very clearly to your staff that this was to be the final decision.

Mr. Butts, what we're here to do is to determine whether a line was crossed—

Mr. Gerald Butts: I understand that.

Mr. Murray Rankin: —whether the line we must preserve between an independent Attorney General's function and appropriate considerations of relevant public policy factors was crossed. It seems clear from her testimony that subjectively she felt inappropriate pressure. Whether that's true or false or right or wrong, there's no doubt that's how she subjectively felt, but objectively, given all of the interventions, all the times she said no, the fact that there was no new evidence to be brought forward and the "hounding" that she claimed existed, how can we but conclude that the line was crossed?

Mr. Gerald Butts: Well, I think that 20 points of contact over four months are not a lot of contact, Mr. Rankin, and I think that if she felt at the time that the line had been crossed, then she should have been...she had lots of opportunities at her disposal to make that clear and put it on the record.

● (1205)

Mr. Murray Rankin: So telling it to your senior officials wasn't enough. It had to be someone else she had to go to.

Mr. Gerald Butts: I'm not going to comment on what happened in a meeting I wasn't present for, Mr. Rankin—

Mr. Murray Rankin: Right. That's what—

Mr. Gerald Butts: —but I do believe, as I said in my statement, that if something this wrong had happened, she had an obligation to at least inform the Prime Minister in writing. Yes, I believe that to be true.

Mr. Murray Rankin: Mr. Angus will use the rest of our time.

The Chair: Mr. Angus, you have two minutes and 40 seconds.

Mr. Charlie Angus: Thank you. I want to follow up on what my colleague started.

On September 21, she stated that this decision was no longer hers because the issue had been filed in court. It was no longer possible. You tell us that you just became aware that her mind was made up last week. I find that surprising.

On November 22, the PM asked Mr. Bouchard to meet. She told him that they needed to stop, yet you're just now aware of this.

On December 5, she said, she met with you at the Château Laurier. She said: "Gerry then took over the conversation and said how we need a solution.... He said I needed to find a solution." That's where she said that you didn't like the law because it was a Harper law.

On December 7, she receives a letter from the PM and says that this is before the court.

On December 18, there's an urgent meeting, where you said that there was no solution that did not involve interference and Katie Telford said, "we don't want to debate legalities anymore."

On December 19, Mr. Wernick pressured her to speak to the prosecutor, and she said that at that point she was “waiting for the other shoe to drop”, and the other shoe did drop. She was let go. She asked you when she was being let go whether or not this had to do with SNC, and you asked her if this was questioning the integrity of the Prime Minister.

How is it possible that you could run an office with that many people pressuring the Attorney General, and now you're surprised and didn't know what was going on around you? How can you—

Mr. Gerald Butts: That's not my—

Mr. Charlie Angus: —be credible to us when Ms. Wilson-Raybould gave us such clear, consistent testimony of a pattern of interference in an independent prosecution?

Mr. Gerald Butts: That is not my testimony. My testimony is that, as I said at the outset, I have a very different version of events, and I will say that I am not going to cast aspersions on a former colleague.

I think that I tried to explain in—

Mr. Charlie Angus: Just in fairness, I just want this on the record

Mr. Gerald Butts: Let me finish my sentence—

Mr. Charlie Angus: But I have a right to ask, because—

The Chair: Mr. Angus, your preamble was a minute and a half. I'm just going to let the witness finish the answer.

Mr. Angus....

Mr. Charlie Angus: Did she tell the truth, yes or no? That is the question. It's not whether you're trying to be mean to her. That is not the question.

If she told us the truth, then your testimony and the testimony and the credibility of the Prime Minister's Office is in question. That is the question today.

Mr. Gerald Butts: I believe that everything I have said to this committee today is the truth, and I believe I described the events as they happened.

The Chair: Thank you very much.

We'll move back to Mr. Ehsassi. Mr. Ehsassi, you have six minutes.

Mr. Ali Ehsassi: Thank you, Mr. Chair.

Now I'd be remiss if I didn't point to a third passage on page 67 of “Open and Accountable Government”.

The third passage reads, “Formal consultation may also be warranted in cases that are of significant public interest, which raise legal issues of national importance or which involve certain specialized areas of the law....”

Do you think in this particular instance it would have required that the Attorney General consult, perhaps, with the Department of Finance?

Mr. Gerald Butts: That sounds as if you're asking me to do a technical evaluation based on the meaning of the law.

I think a common sense approach to this is that you take all of the input from your colleagues, and if you think that the input isn't appropriate, you tell them it's inappropriate. If it gets to the point where you think it's as inappropriate as the former minister clearly now thinks it was, then you should inform the public at the time.

Mr. Ali Ehsassi: Thank you for that.

We heard from Ms. Wilson-Raybould during her testimony that she first received a notice from DPP regarding SNC on September 4, while in Australia. She returned to Canada eight days later, on September 12, and by September 16 she had made up her mind.

In your opinion, would that have provided her enough time to do her due diligence, to consult with the various departments?

Mr. Gerald Butts: I think I covered that in my testimony, Mr. Ehsassi. It's a challenging explanation for the people whose jobs were at stake.

Mr. Ali Ehsassi: Absolutely.

You were explaining to us today that your understanding is that when the public prosecutor is considering a particular file, any time new evidence comes to light, there should be a consideration of the matter, that one has to look at it with fresh eyes.

• (1210)

Mr. Gerald Butts: That's correct. That's my understanding.

It's also my understanding that it's not possible to come to a final decision until the court process plays out and a verdict is rendered.

Mr. Ali Ehsassi: Are you concerned that she made her final decision before she actually consulted with the Prime Minister?

Mr. Gerald Butts: I think I have a lot of concerns about this, but I'm not sure I would agree with that characterization.

I think it was incumbent upon the people who were trying to put advice and evidence in front of the Attorney General to do so, and I think it was incumbent upon her to hear it.

Mr. Ali Ehsassi: Now perhaps I shouldn't ask you what your expectations would be of others. Perhaps I should turn to how you look at this particular issue.

Do you have any regrets as to how this issue was handled?

Mr. Gerald Butts: I like to look forward in life, Mr. Ehsassi. We're all human. We all make mistakes all the time. Part of improving your professional life and your personal relationships is to examine the mistakes.

On this case, I've looked at it really closely over the last couple of weeks. I firmly believe that nothing inappropriate occurred here and that nothing inappropriate was alleged to have occurred until after the cabinet shuffle—yes.

More broadly, there are other issues, but there are probably places, times and forums for those.

Mr. Ali Ehsassi: In your opening statement you mentioned that you corresponded with Ms. Wilson-Raybould regularly. You expressed deep concern about what the minister was saying during some of those—

Mr. Gerald Butts: You mean following the cabinet shuffle?

Mr. Ali Ehsassi: Yes, correct.

You've expressed concern about that. Can you share with us today what the minister said and how that led you to determine there was a breakdown in communications?

Mr. Gerald Butts: Yes. I think that part of her characterization of those conversations...and there were at least four or five of them, and they were long and they were personal and they reflected two people trying to deal with a very difficult issue.

There was a point where the minister asked me directly if her departure from the ministry of justice and the Attorney General had anything whatsoever to do with the SNC-Lavalin matter, and I said no.

I did say...I asked her in a surprised tone whether she was questioning the integrity of the Prime Minister. It wasn't an accusation and it wasn't a threat; it was genuine surprise that someone who I had spent so much time with and that the Prime Minister had spent so much time with could interpret the request, the move, in such a dark light, to be honest.

Mr. Ali Ehsassi: Lastly, you do indicate that the Prime Minister did offer her the portfolio of Indigenous Services.

Mr. Gerald Butts: That's correct.

Mr. Ali Ehsassi: Why was that important to the Prime Minister and what did he have in mind when he offered her that portfolio?

Mr. Gerald Butts: It was very similar, as it turns out, to the....

As everyone in this committee knows, the splitting of INAC was a royal commission recommendation. When the Prime Minister, through the cabinet shuffle in 2017, I believe, in the summer—I could be wrong about that—created the new Indigenous Services portfolio, I felt he made a really strong point at the time of appointing Minister Philpott to that portfolio. She was obviously in her dream job in the Department of Health, but she took on that role because we had a collective understanding, as you folks know around the government, about how important the reconciliation agenda is. We wanted to make a very strong statement, the Prime Minister wanted to make a very strong statement, that the agenda was not going to slow down, which is why he wanted to appoint Minister Wilson-Raybould to the role.

•(1215)

The Chair: Thank you very much.

We now have Ms. May, Monsieur Plamondon and Mr. Weir, each for three minutes, and then Mr. Rankin has advised he wants to make a motion. Perhaps we can do that after we excuse the witness.

Go ahead, Ms. May.

Ms. Elizabeth May (Saanich—Gulf Islands, GP): Thanks, and I'm going to disclose that I'm friends with the witness and I would be okay with a first name basis, if that's okay with you, Gerry.

Mr. Gerald Butts: It is.

Ms. Elizabeth May: I am surprised that in your evidence you don't make reference to two people who I think played a very big role in this drama, the Clerk of the Privy Council and the lawyer for SNC-Lavalin.

I'm going to ask how it is that you don't seem to recognize that the heaviest intimidation of our former attorney general came from one-on-one meetings with the Clerk of the Privy Council on September 19 and with that following phone call on December 19?

I will let you know I completely believe every word we heard from Jody Wilson-Raybould, without a doubt, so how is it that your evidence doesn't make reference to his actions, and did you know that he was going to phone her at home on December 19 and make veiled threats?

Mr. Gerald Butts: No. I'm aware that the Clerk and the deputy minister of justice are appearing later, so I know you'll have an opportunity to speak to them directly.

I will say about the Clerk of the Privy Council, whom I've come to know fairly well over the past three and a half years, that I find the accusations levelled against him completely inconsistent with his character. He has made enormous family and personal sacrifices to continue to serve the people of Canada, and I just can't imagine a circumstance in which Michael Wernick would do the things he is alleged to have done. I find that even less credible given that I am alleged to have done things I know I didn't do.

Ms. Elizabeth May: I would only say, Gerry, that I still think that your evidence could be consistent with Jody Wilson-Raybould's to the extent that you were massively distracted by other events out of town for four weeks and could have forgotten things, but I don't find contradictions to the extent of he-said-she-said.

I'll move on to Frank Iacobucci, who is described in the one-on-one meeting that the former attorney general had with the Clerk as "not a shrinking violet". In the same period of time when there was a lot of pressure from SNC-Lavalin, Mr. Iacobucci—who of course is a distinguished former Supreme Court judge—was retained by the Prime Minister's office to handle the indigenous consultations on the Kinder Morgan matter.

Did that lead to you having conversations with SNC-Lavalin's lawyer on the subject of these threats that they might leave the country?

Mr. Gerald Butts: No, I've never had a conversation with Justice Iacobucci on SNC-Lavalin.

Ms. Elizabeth May: Can I ask, then, if you sought independent evidence of any evidence that there was a threat to jobs? This is all riding on the threat to jobs, but based on their 2018 audited financial statements, SNC-Lavalin currently has \$15 billion in back orders. They have a very secure financial situation, with gross revenues of \$10 billion.

Is there any evidence that jobs were actually going to be at stake by letting this go through the courts and letting the independent director of public prosecutions and the Attorney General do their jobs?

The Chair: That's the last question.

Mr. Gerald Butts: That's too bad.

That's my understanding from Department of Finance briefings, but I have to say it's been a long time. I can't recall anything specific.
[Translation]

The Chair: Thank you.

Now we'll go to Mr. Plamondon.

[English]

Mr. Gerald Butts: To be clear, I can't recall, I cannot cite, a specific study being done on a specific day by a specific person. I was briefed multiple times on that.

The Chair: Thank you very much for that clarification.

[Translation]

You have the floor, Mr. Plamondon.

Mr. Louis Plamondon (Bécancour—Nicolet—Saurel, BQ): I'm going to give you a taste of our interpretation in the House of Commons.

If my understanding is correct, the minister made the decision not to use this new legislation on deferred prosecution agreements after only 12 days, that is to say, in early September, September 16.

When did you, in the Prime Minister's Office, become certain that she would not change her mind or, first of all, that she had made that decision? When were you informed that she had made the decision not to use the act but instead to allow the prosecution to proceed?

• (1220)

[English]

Mr. Gerald Butts: I think it's a central contention of my testimony that it was not possible for the Attorney General to come to a final decision before a verdict was rendered, so I was never aware, until her testimony last week, that she believed she had made a final decision on September 16.

[Translation]

Mr. Louis Plamondon: During your dinner on December 5, was it she who raised the matter at the end of the meal, or was it you? It was she who raised the matter?

[English]

Mr. Gerald Butts: Yes, that's correct.

[Translation]

Mr. Louis Plamondon: She raised it, even though, in her mind, at that time, her final decision had been made since September.

[English]

Mr. Gerald Butts: I'm not sure how to explain that, because as I've said a few times, I don't believe that to be the case.

[Translation]

Mr. Louis Plamondon: Did the two resigning ministers vote for the bill a year ago, the bill that would allow these agreements?

[English]

Mr. Gerald Butts: I'm not sure.

[Translation]

Mr. Louis Plamondon: Surely the bill was discussed in cabinet. Was there unanimity?

[English]

Mr. Gerald Butts: I believe, Mr. Chair, that's outside the scope, because the matter went before cabinet last spring. I can't comment on that.

[Translation]

Mr. Louis Plamondon: I have a final question.

Under the bill, the minister or acting minister may intervene and go with an agreement instead of a prosecution. Until what point may the minister intervene? Is it true that the minister may intervene to reach an out-of-court agreement right up until the judge makes a decision, until a judgement is rendered?

[English]

Mr. Gerald Butts: Yes, I believe that still to be the case. My understanding from the briefings I got at the time was that intervention would still be possible until a verdict was rendered.

I think it's important to note, in terms of the concept of remediation agreements, where this came from it in the first place. We hear a lot about competitiveness around here, and this was an attempt to harmonize Canada's economic policy with many competing jurisdictions that already had this instrument at their disposal.

There was a rigorous debate on this topic—as there always was on most topics—and there were people on both sides of the policy, but at the end of the day it was the collective decision of cabinet that the policy was worth pursuing in the economic best interest of the country.

If I could say one more thing about DPAs, it is that I think they have been badly mis-characterized as “get out of jail free” cards. A DPA is really a court-approved reform process for a company that has committed very serious acts. Its purpose—and this is really important—is to protect people who have nothing to do with those acts from being harmed by the law.

[Translation]

Mr. Louis Plamondon: I have one final question...

The Chair: Mr. Plamondon, you're unfortunately at four and a half minutes. I'm sorry.

Thank you very much.

[English]

We're going to go to Mr. Weir.

Mr. Weir, by the way, I did check, and it is true that your question at our last meeting was the first CCF question at a committee meeting in 60 years in the Canadian Parliament, so it was quite historic.

Mr. Erin Weir (Regina—Lewvan, CCF): Well, thank you for the opportunity, once again.

Thank you, Mr. Butts, for your articulate and informative testimony.

To pick up on what you were just saying about deferred prosecution agreements, we heard last week from Ms. Wilson-Raybould that it was clear under the law that SNC-Lavalin was not eligible for a deferred prosecution agreement, and that therefore efforts to push that option were inappropriate.

I think it's clear that you and many other people believed that SNC-Lavalin potentially was eligible for a deferred prosecution agreement. I appreciate that you're not a lawyer, and I am not either, but I wonder if you can shed any further light on the company's eligibility for that type of remedy.

• (1225)

Mr. Gerald Butts: I could not shed any light on that legal matter, Mr. Weir, I'm afraid.

Mr. Erin Weir: Okay.

It seems quite central to whatever misunderstanding or disagreement—

Mr. Gerald Butts: Well, the centrality of it, though, with respect—and I'm sorry, I didn't mean to interrupt you there—is that the law is really unclear because it was brand new, and in this circumstance my understanding, as I said in my opening statement, is that this is the first case in which the law could be applied.

I think talking about these things as if they were matters of settled law, again with the proviso that I am not a lawyer, is a bit of a mis-characterization of the state of the policy, which is really fresh and has never been applied.

We thought that the more thought and advice and process that could go into this and the more transparency we could bring into the decision-making process, the better off we all were going to be, going forward. We were ploughing new field here and we wanted to make sure that all of the lessons were learned and all of the wisdom was gathered and all of the advice was given.

Mr. Erin Weir: Thanks for all the light you've shed on the cabinet shuffle in January.

With the benefit of hindsight, do you think that it was a mistake to move Ms. Wilson-Raybould?

Mr. Gerald Butts: I don't like to do retrospective recharacterizations of events. I think the government was put in a very difficult position, and I think that the Prime Minister in particular was put in a very difficult position.

I think there was no malice toward anybody, and there certainly wasn't personal malice toward anybody.

The Prime Minister made, I think, a well-informed decision about the cabinet shuffle, and had everybody on the team done what the Prime Minister asked of them, then I think we would not be having this conversation today.

The Chair: Thank you very much.

Mr. Rankin, would you be okay if we excused the witness before we move to the motion?

Mr. Murray Rankin: That's fine.

The Chair: Okay.

Mr. Butts—

Mr. Gerald Butts: Mr. Chair, I just want to say before I leave that it was a real honour to be here. I appreciate very much the work that you do, in all parties, and I hope that my evidence has contributed to a real public policy discussion.

I thank you all for your time and friendship. Thank you.

The Chair: In return, I want to thank you very much. I think your testimony was very helpful. Hearing your perspective was very helpful to our work, so thank you very much, Mr. Butts.

I am just going to suspend for one minute so everyone can shake Mr. Butts' hand, and then we'll resume.

• (1225)

(Pause)

• (1230)

The Chair: Colleagues, could I ask everyone to take their seats again?

Mr. Rankin has a motion.

Mr. Murray Rankin: Thank you, Chair.

My motion is simple. I also have three reasons in justification for it that I'd also like to give.

First of all, the motion goes like this: that the justice committee recall the Honourable Jody Wilson-Raybould to testify at her earliest convenience.

I have three reasons in support of that, Mr. Chair.

First of all is that the Liberals voted down our efforts to obtain access to relevant emails and documents earlier today.

The second reason is that she interpreted, correctly or incorrectly, the order in council allowing her to testify to not allow her to testify to events after her removal as Attorney General on January 14, 2018.

The third and perhaps most important reason for my motion to recall her is that there is a stark contradiction in testimony, which all Canadians can appreciate today. We've said that facts are stubborn things. Well, for the record, I believe Jody Wilson-Raybould and I think we do need to get to the bottom of this for Canadians.

For those three reasons, I think it's imperative that we go on the record now and invite her back at her earliest convenience.

The Chair: Thank you very much, Mr. Rankin.

Colleagues, who else wishes to speak to it? I see Mr. Fraser and Ms. Raitt.

Mr. Colin Fraser: Mr. Chair, I appreciate what Mr. Rankin is saying, as usual, but I want to make a couple of points.

First of all, when Ms. Wilson-Raybould was before our committee, I note that an invitation to table the documents she was referencing specifically in her testimony was extended, and she said she would take that under advisement.

Mr. Murray Rankin: No, it was Mr. Butts, Chair.

Mr. Colin Fraser: No. I'm referring to what Ms. Wilson-Raybould indicated to us at committee at that time, about documents she had referenced in her testimony.

With regard to additional witnesses, there will be witnesses this afternoon, obviously, whose testimony will be important.

We have, in the motion for today's meeting, established that the next meeting we have as a committee will be to discuss next steps and to determine subsequent procedures for our committee. I believe it would be appropriate to do it in that fashion: hear from the witnesses this afternoon, and then meet again in order to discuss and reflect on all the testimony and discuss next steps. I won't be supporting the motion.

The Chair: Thank you.

Mr. Cooper is next, and then Ms. Raitt.

Mr. Michael Cooper: Ms. Raitt can go.

Hon. Lisa Raitt: Mr. Chair, I'm going to support the motion, and I'm going to tell you why.

I'm very troubled by Mr. Butts's testimony in response to questions about whether or not PMO staff took actions that Jody Wilson-Raybould indicated to us that they had taken. He said he couldn't imagine that any of the players—Mr. Marques or Mr. Bouchard or the Clerk, Mr. Wernick—would do these things, and that he found it highly improbable.

If that is the case, then he is saying that Jody Wilson-Raybould did not tell this committee the truth, and she needs to be cross-examined on that fact. If the testimony of this witness is that she was incorrect, then we need to bring her back and ensure that we have the right facts for the Canadian public, because at this point we don't. We have two opposing stories that are dependent upon the credibility....

I'm going to keep my mind open and I'd like to hear back from her, because this witness was very clear that he couldn't imagine, given the character of the individuals, that they would ever take the serious actions Jody Wilson-Raybould has accused them of.

The Chair: Mr. Cooper is next.

Mr. Michael Cooper: Thank you, Mr. Chair.

I would really just reiterate the point that in light of Mr. Butts's testimony on several points, there is a direct contradiction with the testimony of Ms. Wilson-Raybould.

I have to say that I was a bit struck that in some instances Mr. Butts had a very detailed recollection of events, and then on other matters he seemed to be rather fuzzy. It seemed to me to be a bit selective. It seems to me to be nearly impossible that Mr. Butts could not recall the fact that—according to Jody Wilson-Raybould—on December 5:

Towards the end of our meeting, which was in the Château Laurier, I raised how I needed everybody to stop talking to me about SNC, as I had made up my mind and the engagements were inappropriate.

Mr. Butts said he couldn't recall if he was briefed by the Prime Minister or the Clerk of the Privy Council, but in any event he was briefed after the September 17 meeting, about which Jody Wilson-Raybould testified as follows before our committee:

I was quite taken aback. My response—and I vividly remember this as well—was to ask the Prime Minister a direct question, while looking him in the eye. I asked, "Are you politically interfering with my role/my decision as the Attorney General? I would strongly advise against it."

Again, it's a bit difficult to imagine that if this had in fact happened, that issue would not have been brought to Mr. Butts's attention. Therefore, I think that out of fairness and in the name of

getting to the truth, whatever that truth is, it is absolutely essential that Ms. Wilson-Raybould be able to come back, address those issues and be cross-examined. She should be able to speak to the matters that she clearly and repeatedly has said are relevant—namely, to events during the time after she had been removed as Attorney General but remained the Minister of Veterans Affairs, including communications she had leading up to her being removed, communications she had immediately following her removal, and her presentation to cabinet following her resignation from cabinet.

• (1235)

The Chair: Thank you very much.

Go ahead, Mr. Rankin.

Mr. Murray Rankin: I want to say to Mr. Fraser in particular that I appreciate the intervention.

The purpose of our usual rule to deal with witnesses in camera is that we don't want Canadians to see whom we've chosen—A over B. That could be embarrassing and so forth. That's the purpose, I understand, of our usual practice. There's no such purpose that's required to be met here. Here we have a situation in which Canadians had four and a half hours of testimony from someone, and we simply want her to come back. I see no impropriety in having us make a decision today in those circumstances.

I would ask that the motion be voted upon.

The Chair: Absolutely. I want to make sure there's nobody else who wants to speak.

I see a request from Ms. May.

Committee, do we agree that Ms. May may speak?

Some hon. members: Agreed.

Ms. Elizabeth May: Thanks for the latitude from my colleagues around the table.

If I were able to vote on this, I would ask that Jody Wilson-Raybould come back to respond to the evidence from Mr. Butts.

The Chair: Thank you very much, Ms. May.

We'll have a vote on the motion from Mr. Rankin.

(Motion negated: nays 5; yeas 4 [*See Minutes of Proceedings*])

The Chair: Colleagues, I would remind everybody that we have another meeting at two o'clock, which I'm sure many of you have to prepare for.

Hon. Lisa Raitt: I have a point of order.

Mr. Chair, I'm just curious. Can you remind me how it is that the Clerk of the Privy Council and the deputy minister of justice are coming back to refute Jody Wilson-Raybould's testimony for a second time? Did they ask us for it? Did we vote on it? Can you remind us exactly how they ended up on the afternoon schedule as a second go-around?

It would be great context for Canadians to understand exactly why Jody Wilson-Raybould isn't allowed to come back.

The Chair: Certainly, Ms. Raitt. I would be happy to.

There was a motion at the committee that following the testimony of Jody Wilson-Raybould, the committee would meet to consider next steps. At a meeting of the committee that followed that, the committee agreed to call Mr. Wernick, Ms. Drouin and Mr. Butts to come to testify. As part of that same motion, they said that after those testimonies were over, they would meet to consider next steps. That's where we are now.

Hon. Lisa Raitt: Thank you very much.

The Chair: Thank you, Ms. Raitt.

Colleagues, I'll see you all at two o'clock.

The meeting is adjourned.

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