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Chair

Mr. Leon Benoit

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• (1535)

[English]

The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)): Good afternoon, everyone. We'll return to clause-by-clause study of Bill C-11, the whistle-blower legislation.

(On clause 19—*Prohibition against reprisal*)

The Chair: We are currently dealing with amendment CPC-27. We have a speakers list. Mr. Sauvageau has just finished his comments, and we're going to Mr. Godbout.

Mr. Marc Godbout (Ottawa—Orléans, Lib.): Mr. Chair, I had a discussion after the meeting. We were going to investigate whether there were any provisions within existing legislation that would enable fines. Did we get any results on that? Can we have an answer?

The Chair: Mr. Heintzman, we had a bit of a conversation. If you could get into that right now, it may save some time later.

Mr. Ralph Heintzman (Vice-President, Public Service Values and Ethics, Public Service Human Resources Management Agency of Canada): We did some research in the recess, and it is in fact the case that the Criminal Code would allow a judge to impose a penalty instead of a jail sentence for infractions where they prosecuted.

If I may, Mr. Chair, I'll let Michel LeFrançois speak to that.

The Chair: Go ahead.

Mr. Michel LeFrançois (General Counsel, Secretariat Legal Services Branch, Treasury Board of Canada Secretariat): Thank you, Mr. Chairman.

What Mr. Heintzman said is completely accurate. There is a provision in the code, in sections 734 and 734.1, for your reference. What these provisions allow a sentencing judge to do upon a conviction of the kind that would be made under section 126 is substitute a fine for a sentence or use a combination of the two.

What this means in the end is that, if there were a prosecution for an offence under this bill, the judge could impose whatever manner of fine he or she thought was appropriate and not impose any incarceration at all, or a combination of the two.

Mr. Marc Godbout: Mr. Chair, that satisfies me that we have an existing provision that could address what the amendment is trying to do. Along administrative lines—I agree with Madame Thibault—I think we have a process right now in place within our public service that could be used in such cases.

So I have a problem going for this amendment.

The Chair: Thank you, Mr. Godbout.

Mr. Szabo.

Mr. Paul Szabo (Mississauga South, Lib.): I'll pass.

The Chair: Mr. Preston.

Mr. Joe Preston (Elgin—Middlesex—London, CPC): It sounds fantastic, but let me ask the question: since this is already in place and certainly could have been used today, how many public servants who have had reprisals against them have used this element of the Criminal Code to get retribution or to serve punishment upon those who reprised against them?

Mr. Michel LeFrançois: Mr. Chairman, the bill not being law, there is no such regime.

Mr. Joe Preston: So it's currently not against the law under the Treasury Board guidelines to impose reprisals against a whistle-blower?

Mr. Michel LeFrançois: What I can say, Mr. Chairman, is that it's a complete defence to any discipline that is imposed upon someone for having so-called "blown the whistle" or having disclosed in accordance with the prevailing law. It's a complete defence; it has been recognized by the Supreme Court of Canada.

Mr. Joe Preston: So the provision has already been there for judges to mete out fines against those who have imposed reprisals against whistle-blowers?

Mr. Michel LeFrançois: Perhaps I misled you.

Mr. Joe Preston: Yes, perhaps.

Mr. Michel LeFrançois: To disclose in accordance with the prevailing law, as determined by the Supreme Court of Canada, is a complete defence against a disciplinary measure that is imposed upon an employee. But there is no sanction in the public law in regard to disclosing today. This bill, of course, would usher that in.

Mr. Joe Preston: Currently it's not nice to do it, but there's no punishment for doing it?

Mr. Michel LeFrançois: There's discipline, sir. If an employee is the victim of a reprisal, the wrongdoer may be disciplined, up to and including termination.

Mr. Joe Preston: That's right, and currently we already have that in this bill under section 9. It certainly says that. It says "appropriate disciplinary action, including termination of employment, if he... commits a wrongdoing". Under the description of wrongdoing, one of the wrongdoings is a reprisal. So we already have the fact built into this bill, without any further amendments, that someone who commits a reprisal that is proven could be terminated.

I think the point of both of these amendments, both Mr. Lauzon's and Mr. Martin's, was to add some additional penalty beyond simply losing your job for criminal reprisal. You're saying that it's possible now.

Mr. Michel LeFrançois: Sir, what I'm saying is that clause 19 in the bill as it stands applies certain provisions of the Criminal Code. Because of that reference in clause 19, a judge may find someone guilty of an offence—

Mr. Joe Preston: Okay, I recognize that a judge who found someone guilty could put a fine in place. I guess I'm questioning the likelihood of a judge finding someone criminally responsible for a reprisal.

Mr. Michel LeFrançois: Well, that's a matter of criminal law, as in any other federal offence, sir. If an offence is committed under an act of Parliament, the judge must apply the prevailing law to that situation and determine whether a conviction is warranted or not.

• (1540)

Mr. Joe Preston: Can we make this in any way read that if a reprisal is proven at the point of this legislation, it must be referred for criminal prosecution?

Mr. Michel LeFrançois: I don't think you're able to do that, sir, because the administrative criminal justice system is put in place by the attorneys general of the provinces.

Mr. Joe Preston: Then we have to take in good faith that it will happen? You're offering me no other solution, I guess.

Mr. Michel LeFrançois: I would suggest sir, and Mr. Chair, that it's like any other federal statute. If the federal statute is contravened, the proper authorities shall determine whether a prosecution will occur or not, as in the case of the Criminal Code. Not every offence is prosecuted. It's no different here; it's a question of your local crown attorney's officer determining whether a prosecution should follow.

Mr. Joe Preston: That's my point; they won't determine it if it's never referred to them. So I'm just asking if we can force a referral to them.

Mr. Ralph Heintzman: I think the answer is no.

The Chair: Thank you all.

Next is Mr. Lauzon, and then Mr. Sauvageau.

Mr. Guy Lauzon (Stormont—Dundas—South Glengarry, CPC): I'm not sure that your... It's certainly not your suggestions, but the chances of the police getting involved in a problem between an employer and an employee and laying charges, and that getting to court, are very remote, I would think, so I don't think that's going to help with what I'm trying to do.

Maybe I should try to explain. I probably should have done that up front.

We've had a number of witnesses come before us who actually didn't realize they were whistle-blowing. They thought they had observed a wrong and thought they'd like to correct it. They went to their bosses, and as a result of that—at least in their opinion, and it would seem that the courts agreed with them in some cases—they were subject to reprisals. They lost their jobs after 32 years—and it wasn't one, it wasn't two; there were a number of them, most of them long-term employees, most of them pretty dedicated employees. It was that kind of thing.

I think that's unfair. I think we should have a law to encourage those people to come forth, and I, as a supervisor, a person in authority, should know that if I don't respect that, there is some penalty—a very serious penalty. It's fine to give these people the comfort of being able to make the allegation, or whatever, but I think we have to put something in there.

It seems to be extremely difficult. There has to be a way. I don't know if you people talk to people like Corporal Read or Mr. Cutler. There are a number of them. The people with the National Research Council and a number of very well-known whistle-blowing cases feel that they suffered reprisals.

How do we address that? That's really the bottom line.

Mr. Ralph Heintzman: Although my colleagues may think of some others, I think you have two avenues. One is the administrative sanctions that are already provided in the bill under clause 9, and the other would be creating some kind of an offence in the act, as this amendment proposes to do.

If you create an offence in the act, the way it is dealt with is through a prosecution. That's how it would be implemented. We're not here to comment on whether that's something...that's a policy issue for the committee to discuss. As a matter of fact, I think we can state that it's highly unlikely it would come to prosecution, simply because of the nature of the issue. It would be very unlikely for a prosecutor to take it to court, as Michel has explained. That would apply even if you were to put these penalties in the act; their effect would probably be more symbolic than practical.

Mr. Guy Lauzon: The problem, Mr. Heintzman, is that right now, if we don't do this—at least in my estimation, and correct me if I'm wrong—nothing is going to change for somebody who wants to impose reprisals against a whistle-blower. They're doing it now. How are we going to stop them from doing it? Nothing is going to change. We're still going to have the discipline process, but that's not going to be the solution. It isn't the solution now. How do we put some teeth into this so that if you as my supervisor impose a reprisal against me for whistle-blowing, you're going to pay a penalty too, and a lot more than getting a three-day suspension? Maybe you'll have to pay a \$1,000 fine, a \$5,000 fine, or something.

That's what we're trying to accomplish. We want to give some worth to what we're saying. At least that's what I want to try to accomplish. There has to be a way we can do that.

We're supposed to be making laws here, I understand. There has to be a way we can make a reasonable law. If what we're doing is not reasonable or not workable, what the heck is the sense? Is it worth maybe trying to figure out a way to do that?

• (1545)

The Chair: Mr. Heintzman.

Mr. Ralph Heintzman: Do you want me to respond, Mr. Chair?

The Chair: Yes, I would appreciate it.

Mr. Ralph Heintzman: Those are the two avenues that I can think of.

The one suggestion I might make is that if you want to make sure that visibly there is some disciplinary element attached to clause 19, it would be redundant but you could actually repeat here the words you have in clause 9, saying that someone who committed a reprisal would be subject to disciplinary action, up to and including dismissal.

Mr. Guy Lauzon: To cut to the chase, I'd like to be able to say, not only are you going to lose your job, but it's going to cost you \$10,000, or whatever that additional penalty is.

Obviously what we have in place now is not cutting it. It's not dissuading reprisals. We have to beef it up somehow.

The Chair: Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau (Repentigny, BQ): I really do not want to extend this discussion. So, I will ask a very concise question. If it does not make sense, just let me know.

Would it suit everybody if we were to adopt the following wording, even if it is redundant: "It is prohibited to make reprisals against a public servant, subject to administrative sanctions and charges under sections..."? Then, the clauses that you referred to earlier would be specified. That is it, that is all.

[*English*]

Mr. Ralph Heintzman: I can't think of any reason you couldn't

do what you are suggesting, Mr. Sauvageau. I think that it is more or less in keeping with what Mr. Lauzon has just suggested. However, my colleague just stressed the fact that it would involve mixing together both criminal and administrative law. I would like to ask my colleague Michel LeFrançois to comment on the issue.

Mr. Michel LeFrançois: It is indeed a risk, Mr. Chair, there is something else that needs to be considered, Mr. Sauvageau. Section 126 of the Criminal Code applies, whether or not it is referred to specifically. It is referred to in some legislative texts, while in others there is no reference made to it. So one may indeed wonder whether or not it really applies in some cases. So there is a risk.

Mr. Benoît Sauvageau: You are right.

[*English*]

The Chair: We'll go to the question, then.

Mr. Lauzon, briefly.

Mr. Guy Lauzon: Maybe I can make a suggestion.

We said this would probably be reviewed in five years, the whole bill. Maybe this is not doable, but is there a possibility that we review this particular issue in a year or two? I think it might have a big impact on how credible the other is. Maybe it's worthwhile making an exception, if it's a parliamentary possibility.

[*Translation*]

It could be in two years rather than in five.

[*English*]

The Chair: Mr. Lauzon, there is already in the bill a clause that allows the Governor in Council, I believe it is, to review this at any time.

Mr. Guy Lauzon: I'll just make it simplified. Are you saying what I'm suggesting here is not doable? It's not legal?

• (1550)

Mr. Ralph Heintzman: On the contrary, it's entirely doable. If the committee wants to put a fine in the bill, it can do that. That's what I said at the beginning. It's not a technical issue, it's a policy issue. Do you want to have fines in the bill, and is it worth doing?

The Chair: Madam Marleau.

Hon. Diane Marleau (Sudbury, Lib.): Before I ask the question, just remember one thing. This law is not in force now, so you're going to have a mechanism, a whole system, to deal with it, and if you put in a review mechanism in two years, you probably won't have had enough time to really know whether what's here is really functioning the way it should. That's the problem. And there are many mechanisms.

Remember, this is a whole new thing. That's why I'm saying you're trying to do some things that are already possible; there's no need to add them here. We just want to make sure that we don't divert attention from what this bill is about.

And yes, they can be prosecuted and they can lose their jobs; that's there. It's there now without your part being added.

Maybe we can call the question.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: For the next one, NDP-5, there is a line conflict. It's a similar thing; there's probably no need for discussion, but it says less than \$5,000. We referred to it earlier. The difference is that it's not exceeding \$5,000, so it's the same discussion.

Mr. Guy Lauzon: I think, actually, Mr. Martin's problem was with the minimum.

The Chair: Well, it hasn't been moved and the NDP member isn't here, so unless somebody else wants to move it, it's not moved.

(Clause 19 agreed to)

(On clause 20—*Definition of "Board"*)

The Chair: We're on amendment CPC-28, page 56 of the package.

Mr. Lauzon.

Mr. Guy Lauzon: What I'm looking for is clarification that everyone can go to the.... I guess we have to use the public service commissioner now because that's the way the law reads, but after the bill is in force, will everyone be allowed to go to the commission, every public servant? That's what I'm trying to accomplish.

Mr. Ralph Heintzman: I'm not sure what the question is, because here we're in the reprisal section of the bill. Any public servant, according to the terms you've adopted so far, can take a disclosure of wrongdoing, which includes a reprisal, to the commissioner. If they want to enforce an order related to remedying a reprisal, according to the current terms of the bill they would have to take that to one of the administrative tribunals.

That was the case in the original bill. It would have to be even more so now that the committee has decided to make this officer an officer of Parliament, because it would be impossible to have an officer of Parliament making orders to the executive.

Mr. Guy Lauzon: What I'm trying to do is this. I want the person who feels reprisal against not to have to go to the labour boards but to the commissioner. Is that doable?

Mr. Ralph Heintzman: I don't think that's compatible with what you've decided to do about the commissioner, which is to make him an officer reporting directly to Parliament. You couldn't have a tribunal reporting to Parliament.

• (1555)

Mr. Guy Lauzon: [*Inaudible—Editor*]...on a wrongdoing, but what if the person suffers reprisal? They'd have to go to the labour board, then?

An hon. member: It's still a wrongdoing.

Mr. Guy Lauzon: So they can go to the commissioner?

Mr. Joe Preston: That's not what was being said.

Mr. Guy Lauzon: Yes, we're getting a conflict.

Mr. Ralph Heintzman: Do you want me to answer that?

The Chair: Yes, if you could, please.

Mr. Ralph Heintzman: Under the bill, a public servant has two options, and they can exercise them subsequently, one after the other, or they can shortcut it.

If they believe they have been a victim of reprisal, they can make a disclosure about that to the commissioner, who can investigate it, can come to conclusions, can make recommendations to the organization. If for some reason or other that didn't remedy the matter, the public servant could then—or in fact in the first instance—go directly to the board and say, “I want an order to remedy the reprisal”.

This bill gives a whole series of powers, which you'll come to in a minute, to the board to do that, and that board would be able to impose a settlement. In fact, just to add to that, under the terms of the act, the commissioner would have standing in a board hearing to make submissions.

Mr. Guy Lauzon: You've given me comfort, and I wish to withdraw that amendment.

(Amendment withdrawn)

The Chair: Now, we're at number 12 under the RCMP package. There was a new one distributed this morning, just for everybody's notice, and it's entitled “RCMP-12 (corrected)”.

Would someone from the government side like to move that?

Hon. Diane Marleau: I so move.

The Chair: Okay. Is there discussion?

Mr. Preston.

Mr. Joe Preston: It's simply that it says the member has to have “exhausted every procedure available under that Act” before.... Proposed paragraph 2(a), I guess, is the one I'm—

An hon. member: Where are you?

Mr. Joe Preston: I'm on RCMP-12, at 2(a).

An hon. member: The corrected one?

Mr. Joe Preston: Yes. I can read English, and I have that.

An hon. member: Well, that's not the one I have.

The Chair: So what exactly would you like?

Mr. Joe Preston: Under 2(a), “the member has exhausted every procedure available under that Act for dealing with the matter”. So no, he cannot come forward—

The Chair: There is no “2(a)” that I can see, Mr. Preston. Do you mean proposed paragraph 2.1(a)?

Mr. Joe Preston: Paragraph 2(a) says the member has to have done everything under the act before he can go ahead and report a wrongdoing.

Is that what this is saying? It says it clearly to me; that's what it's saying. So he cannot go forward to report a wrongdoing until he's done everything he can do under the RCMP Act?

Mr. Ralph Heintzman: This doesn't have anything to do with wrongdoing; this has to do with reprisal. I explained that when we were considering whether to include the RCMP, there were a number of very complicated technical issues of reconciling the RCMP Act with Bill C-11, and this is one of them.

What this says is that the RCMP has a very distinctive disciplinary system. It involves very elaborate quasi-judicial hearings that work their way all the way up to the commissioner. The commissioner, at the end of that process, makes a decision that is a quasi-judicial decision; it's an adjudicative decision that is like a lower court decision and that can be appealed to a higher court.

It makes it difficult to work this with Bill C-11. So what this says is, if you are subject to the RCMP discipline system under parts IV or V of the RCMP Act, that discipline system has to take its course. When it's taken its course, then you would have an option of seeking leave from an administrative tribunal to have it reviewed, or you could simply go straight to a higher court, as you can under the RCMP Act now, to have it questioned.

But that's only for disciplinary proceedings under parts IV and V of the RCMP Act. There are other circumstances where an RCMP officer might feel they had been reprisal against. It might be they felt they were passed over for a promotion, or something like that, and this doesn't affect their rights under that.

•(1600)

Mr. Joe Preston: But the piece of the act we are talking about here.... I'm an RCMP officer. I feel I've been subject to reprisals, and I'm working my way through the system, up to and including now having been dismissed, as part of that reprisal. Could I then, and only then, go to the integrity officer with my complaint?

Mr. Ralph Heintzman: You could go to one of the boards if a disciplinary process had been undertaken under part IV or part V of the RCMP Act. If not, if it's some other type of issue, then your rights are not affected.

Mr. Joe Preston: Without getting really detailed about what part IV or part V is, you are answering my question to the affirmative. I could have been terminated by the RCMP, and that's the final act in that process before I could then go forward and say I'd been subject to reprisal.

Mr. Ralph Heintzman: I think the answer to your question is yes.

The Chair: Point of order.

Mr. Paul Szabo: Mr. Chair, with regard to the RCMP amendments, and particularly this one.... The other ones were presented to us as being consequential to the inclusion of the RCMP, but this one is a brand new item, and I think we have to do this carefully. I would like to treat it in a different fashion, as if it were an on-the-fly amendment. We would like to have a clear explanation of why the RCMP must go through their own process, whereas others don't.

Mr. Joe Preston: I believe it's because it's done in a quasi-judicial fashion, and that's why they have to go through this. I got that explanation, Mr. Szabo.

The Chair: You get your name on the list, and when it comes to your name you can deal with that.

Mr. Joe Preston: So I have the fact that because the RCMP is a quasi-judicial body in itself, including the commissioner being somewhat of an adjudicator at the end, this could go that whole route and the member of the RCMP has no other route to follow until all that has been worn out.

Mr. Ralph Heintzman: I think what the committee needs to understand is that this RCMP disciplinary system that's provided under part IV and part V of the RCMP Act is a quasi-judicial process. There are hearings. There are lawyers. There's evidence given. That's already provided in the RCMP Act; we can't abolish that. The existence of that process, and the integrity of it, needs to be reconciled with the processes established here. They are serious processes of the same kind as you would have in front of another kind of administrative tribunal.

Mr. Joe Preston: I agree with all that you've said. It does have to act its way out. But I'm giving you the case where it could actually get all the way to where an officer has been terminated by the board, and only then could he or she go to the public integrity officer or public integrity office and claim a reprisal.

Mr. Ralph Heintzman: If the matter was being dealt with under this disciplinary system, yes.

Mr. Joe Preston: Okay, thank you.

The Chair: Madam Graham, do you have additional information? Okay, thank you. I just thought I'd ask.

Madam Thibault.

[*Translation*]

Ms. Louise Thibault (Rimouski-Neigette—Témiscouata—Les Basques, BQ): Once again, I am going to make a suggestion. I do not want to replace the translators, the interpreters, and those who work to ensure the quality of language in these documents, however in paragraph 20(2.1), the proposed French reads: (2.1) A member of the Royal Canadian Mounted Police may not make a complaint [...] if the following conditions are met:

There is a problem, because the English version says “unless”, which means “unless the following conditions are met”. We should perhaps think about “unless” but in French “que si” is not said; perhaps we could say “when the conditions are met”, but we must do something to ensure that the French and English wording mean the same thing.

Thank you, Mr. Chair.

•(1605)

[*English*]

The Chair: Madam Marleau.

Hon. Diane Marleau: I think we're getting a little mixed up. I'm going to ask a direct question here. This is about reprisals, this section. Can an RCMP officer who has seen a wrongdoing go directly to the integrity commissioner without going through the internal process within the RCMP? That's the question we're interested in.

The Chair: Yes, that's the question Mr. Preston asked, and if you would have.... It wasn't? Okay. Then perhaps you would answer the question.

Mr. Ralph Heintzman: I think the answer is yes.

Hon. Diane Marleau: And that's what we're really concerned about. We want to make sure they do this thing—

Mr. Joe Preston: Then let me add to what you just said.

He has seen a wrongdoing, and he has gone to the public service integrity officer. He suffers reprisals because of it. He alleges a reprisal, but he must go through the internal disciplinary system about the reprisal, that he's now being sent down from a sergeant to a corporal, or whatever it is, because he went forward on the wrongdoing. He must go completely through that system before he can then say there have been reprisals against him.

Hon. Diane Marleau: There's another point. Remember, if he goes directly to the commissioner, the commissioner has the right to be there with him before these boards. This is the same thing—unless I'm mistaken—as when a public servant goes to the commissioner and says, “There was a wrongdoing; there have been reprisals against me”. He now has to go to a tribunal, but the commissioner can be there to come forward.

Mr. Joe Preston: Is that “will” represent him at the tribunal or “can”?

Hon. Diane Marleau: I don't know whether it's “will”, but “can”.... You would have to ask that.

My understanding is that's what this is about. This is about what they do afterwards, if there have been reprisals against them.

Mr. Joe Preston: I'm certainly not arguing with you on that point.

Hon. Diane Marleau: I'm just asking. I'm worried that we're getting mixed up.

Mr. Joe Preston: No, I'm not. This is after a reprisal. He feels that a reprisal has taken place. He must carry on with being "reprised" against—if that's the verb—until such time as the RCMP makes a ruling on it.

Hon. Diane Marleau: But it's like the internal public service board, the staff relations board, or the others. These are the ones to go to, to get....

The Chair: Mr. Heintzman, could you respond to the questions? I think you heard the questions that were asked by Madam Marleau.

Mr. Ralph Heintzman: I didn't. I apologize.

The Chair: I'll let Madam Marleau ask them again.

Hon. Diane Marleau: This particular amendment is about the process they go to if there have been reprisals against them and they want redress, which is the same thing a public servant would go through with the staff relations board or any of the others. Is that correct? Am I wrong?

Mr. Ralph Heintzman: One thing I perhaps should clarify is that if they're involved in the RCMP disciplinary system, no action has actually been taken against them and will not be taken against them until the end of the process, until the commissioner....

There may be a hearing going on, but there is actually no action being taken against them until the end of that whole process.

Mr. Joe Preston: And a judgment will be made at that time.

Mr. Ralph Heintzman: At the very end of the process.

Mr. Joe Preston: Once the judgment is made, the person could then go to the commissioner.

Mr. Ralph Heintzman: Exactly.

Mr. Joe Preston: So they've already been found guilty or there have been reprisals against them before such time as they can go and say, "Reprisals are being made against me."

Mr. Ralph Heintzman: But that's true in any case of reprisal. There would have to be an act of reprisal before you could complain about reprisal.

Mr. Joe Preston: So it doesn't happen the day that I start to be treated badly by my boss and I go forward and say, "I've been demoted because I came forward and reported my boss doing something wrong." That's a report of a wrongdoing, as Madame Marleau has said.

So the next day when I return to work, my desk is in the outhouse and that's where I now have to work. I've suffered reprisals. I report that. I must go all the way through the RCMP system of reporting the reprisal. Is that what this is saying?

Mr. Ralph Heintzman: In the disciplinary process we're talking about, and I believe I'm correct in saying this, the demotion you're referring to would not take place until the very end of the process—that is to say, after you'd had all of that hearing and the commissioner had made a decision at the end of the process—and it would then be appealable, or leave could be sought to appeal it once the reprisal had actually taken place.

●(1610)

Mr. Joe Preston: So the day I feel that a reprisal has taken place, I can walk into the public service integrity officer's office and say, "I believe a reprisal has been taken against me". Yes or no?

Mr. Ralph Heintzman: I can't give a yes or no answer to that question, because as I explained at the beginning, we're talking about two different categories of activity.

One is an ordinary type of reprisal. Let's say, people are not being nice to me at work, or something like that.

Mr. Joe Preston: All right, go with that one and see if you can get me to where I want to be.

Mr. Ralph Heintzman: You can pursue that one in the manner any public servant could pursue it. The question is, if the RCMP in the formal manners set out in part IV and part V of the RCMP Act are taking some action against you or proposing to...because they won't actually take the action until the end of that very elaborate process.

Mr. Joe Preston: Say the reprisal now is that I've received notice that I've been insubordinate because I came forward with a wrongdoing. It's something in an actual section of the RCMP Act I've been disciplined for. I cannot report that as a reprisal until after that whole system has been gone through. I must prove first I was not insubordinate or be found guilty of insubordination before I can say I have had reprisals against me simply because I came forward with a wrongdoing.

Mr. Ralph Heintzman: The result of the RCMP hearing system, which is precisely the type of recourse we're trying to create here, is a decision as to whether or not you were insubordinate. No action has been taken against you. The reason for the RCMP hearing is to determine whether there was in fact a case of insubordination and whether some disciplinary action should be taken against you. There's a whole appeal process for that. Once a decision has been made and they have actually decided to take an action, which then constitutes the so-called reprisal, you can then appeal it.

Mr. Joe Preston: To the public service integrity officer.

Mr. Ralph Heintzman: If you want to have it reversed, it'll be to the board or to a higher court.

Mr. Joe Preston: It sounds a lot like the Corporal Read case.

The Chair: Next on the list is Mr. Scarpaleggia.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): This is just to clarify; I'm sure you touched on this. When you start going through the process within the RCMP, can you also alert the new integrity commissioner or do you have to wait? I know this is what we've been talking about. The minute you start to go through the process under sections 4 and 5, can you alert the integrity commissioner that you're doing this? Somebody said before that the integrity commissioner can accompany you.

The Chair: Go ahead, Madam Marleau.

Hon. Diane Marleau: I'll just add a point. The corporal can go with his allegations of wrongdoings directly to the integrity commissioner before anything else. He doesn't even have to go up the chain of command; he can go directly there if he feels more comfortable with it.

Mr. Joe Preston: That's not what that says.

Hon. Diane Marleau: No, because it's a separate part. Remember, I've asked the question, can a constable go directly to the integrity commissioner to report a wrongdoing? That doesn't exist now. It will exist.

Mr. Joe Preston: Great, so we can report wrongdoings.

Hon. Diane Marleau: That's right.

If as a result of your reporting a wrongdoing they're going to discipline you, it's the same thing as with the public service. If there's going to be any kind of problem there, then you go to the Public Service Staff Relations Board. In the case of the constable, he has to go to the board. He's not been found in dereliction of duty until they make their judgment.

But remember, by now he's already gone to the integrity commissioner and the commissioner has already decided whether he's seen a real case of wrongdoing or not. The odds of his being prosecuted or demoted for having gone and reported a wrongdoing are by then becoming very slight indeed.

It's not going to be the same kind of regime as you have in place now, where there's no place to go when you see a wrongdoing.

Mr. Joe Preston: I'll ask a yes or no question, if I may have just one quick question, or I'll put myself back on the speaking list.

The Chair: I believe Mr. Scarpaleggia had the floor.

I'll put you back on the list.

Mr. Francis Scarpaleggia: Maybe you could answer a question Mr. Preston might be thinking of. It's a multi-step process if you're under sections 4 and 5 of the RCMP Act and you start to go from one tribunal to another. At the very end reprisals are taken against you. You don't have to start all the way at step one. You appeal at a higher level, right?

•(1615)

Mr. Ralph Heintzman: There has been no reprisal until there's an outcome of the process, because the process means that some kind of action should be taken against—

Mr. Francis Scarpaleggia: There's an outcome. Reprisals are taken against you. You don't go all the way back—what is it in Monopoly?—to “go”. You can appeal. You don't have to go through a ten-step process to appeal.

Mr. Ralph Heintzman: Once there's a decision at the end of that process, this would enable that person to go to the board to have it reviewed.

Mr. Francis Scarpaleggia: Great.

My second question is this. It's not everyone who has a complaint who will fall under sections 4 and 5 of the RCMP Act, is that correct? Is that just for officers, sections 4 and 5 of the RCMP Act? This multi-layered tribunal process is not for everyone who works for the RCMP, is it? It's just for a subset of employees?

Mr. Ralph Heintzman: It's for all members—that is, roughly speaking, the uniformed members of the RCMP, not the public servants who work for the RCMP.

Mr. Francis Scarpaleggia: Is it true to say that if you are a uniformed member of the RCMP, yes, you have a tougher time of it

because the RCMP has this system that other departments don't, but that's just the way the RCMP Act is and we can't change it?

Mr. Ralph Heintzman: That's part of the challenge of bringing a military or quasi-military organization into a similar regime for all public servants. We made it clear I think at the beginning when you were debating that policy issue that this was a technically very complicated challenge. It wasn't impossible, but it was technically complicated.

Mr. Francis Scarpaleggia: I think we've gotten the best that we can—

Mr. Ralph Heintzman: It's the process of reconciling a quasi-military judicial system with public service processes.

Mr. Francis Scarpaleggia: I think we've gotten the best we can under the circumstances, and secondly, the fact that you can go to the integrity commissioner right at the start and pursue these two things in parallel is in itself a good thing, so I would—

Mr. Joe Preston: That was the only question I wanted to ask. Am I next on the speakers list?

The Chair: No, you're not. You have a couple before you.

Thank you, Mr. Scarpaleggia.

Mr. Lauzon.

Mr. Guy Lauzon: Thank you very much.

I'd like to address my comments to Mr. Heintzman. We had, as you're probably familiar with, the Corporal Read case. Actually, the frustrating part with the Corporal Read case is that reprisals were taken against him, and some of the people he spilled the beans on were actually promoted. Are you familiar with that case? Have you heard his testimony here, for example?

Mr. Ralph Heintzman: I don't think I want to talk about individual cases, but you probably know that Corporal Read's case has just been heard and decided by the Federal Court.

Mr. Guy Lauzon: Yes, but do we want to put the average person who reports wrongdoing through that kind of grind? I don't think that's what we're trying to do here with this. This is to facilitate the reporting of wrongdoing and to guard against reprisals. How do we get through the legal hoops or barriers that seem to be in the way of doing this so that we can actually protect someone who reports wrongdoing? That's what we're trying to do.

Mr. Ralph Heintzman: I'd prefer not to talk about the Read case, but we can talk about a hypothetical case.

I think one of the ways in which the process you're putting in place could help somebody like this is that when they believe they see wrongdoing, they could actually take it to the commissioner, have him look at it and advise them as to whether in fact it is wrongdoing. One of the problems at the moment is that many people believe they're seeing wrongdoing, go out and report it publicly, and then find out later on that in fact it isn't. They put themselves out on a limb for all kinds of reasons, and there are unfortunate consequences. One of the reasons you're setting up a confidential internal disclosure process is that so people who think they see wrongdoing can actually take it to them in confidence, have it investigated, and get some advice on whether this is actually wrongdoing that they think they're seeing before they actually go out on a limb and make themselves victims.

• (1620)

Mr. Guy Lauzon: Earlier you mentioned something about the person against whom reprisals are made when he is demoted. I'd like to suggest that long before a person is demoted, there are reprisals. There's moving over to the office where there's just a desk and a chair, that kind of thing. So going up through the chain of command doesn't solve that problem.

Mr. Ralph Heintzman: Mr. Lauzon, as I pointed out earlier, those kinds of subtle reprisals could be taken as disclosures of reprisal, as wrongdoings, to the commissioner.

The Chair: Thank you, Mr. Lauzon.

Mr. Godbout.

Mr. Marc Godbout: Mr. Chair, again we have a problem with the translation. The French copy really contradicts the English version, specifically in proposed new subclause 20(2.1).

It says "a member of the Royal Canadian Mounted Police may not make a complaint...unless", and in French it says that he cannot make a complaint if he has exhausted all other recourse.

The Chair: Yes, Mr. Godbout, the House of Commons draftspeople have said that you're absolutely right. Madam Thibault had pointed this out. We should make a motion to have the French read the same as the English.

Mr. Marc Godbout: It would be after

[*Translation*]

[...] the Royal Canadian Mounted Police Act unless the following conditions are met:

[*English*]

I'll make the motion, Mr. Chair.

The Chair: Are you going to make a motion? You did. All right.

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: We still have Mr. Preston on this.

Mr. Joe Preston: I'll be very quick.

I understand that because we've added the RCMP, we've complicated our lives here.

Madame Marleau has stated that once I go forward with a wrongdoing to the public service integrity commissioner, that

commissioner would have standing at the board if I am a public servant, or at the tribunals of the RCMP. Is that correct?

Mr. Ralph Heintzman: The commissioner would have standing in front of the PSSRB, yes, but not in the RCMP, as far as I know.

Mr. Joe Preston: Could the commissioner have standing at the RCMP tribunals?

Mr. Ralph Heintzman: Theoretically...I think.

Mr. Joe Preston: "Theoretically...I think" gives me a lot of security.

Mr. Ralph Heintzman: It would be possible for this committee, through this legislation, to amend the RCMP Act, but I think that would be very unwise.

Mr. Joe Preston: I'm not sure I want to reach out there either.

Can you find me a way to give this representation the same weight as it would have if it were a standard public servant? That's not to say that our RCMP are, in any way, non-standard public servants.

I'll ask one more short one: does the commissioner have standing at all the labour relations boards?

Mr. Ralph Heintzman: Under the terms of this bill, it's in subclause 20(7).

Mr. Joe Preston: So, yes, they do?

Mr. Ralph Heintzman: Yes.

Mr. Joe Preston: Is it a fact that she can, or that she must, represent the whistle-blower at the boards?

Mr. Ralph Heintzman: She does not represent anyone—

Mr. Joe Preston: Does she have standing at the board?

Mr. Ralph Heintzman: She does.

Mr. Joe Preston: So she can make representation on their behalf?

Mr. Ralph Heintzman: The exact wording is: "The President of the Public Service Commission"—i.e., the public sector integrity commissioner—"has standing in any proceedings under this section for the purpose of making submissions".

Mr. Joe Preston: Thank you.

You do not believe they would have that at the RCMP board, though?

Mr. Ralph Heintzman: No.

Mr. Joe Preston: Okay, so there's one of our differences.

The Chair: Thank you, Mr. Preston.

As I see no one else on the list, we'll go to the question.

Shall amendment RCMP-12, the amendment to clause 20, carry?

(Amendment agreed to [See *Minutes of Proceedings*])

• (1625)

The Chair: There was a line conflict with amendment CPC-28, but that was withdrawn.

What about amendment G-11?

On amendment G-11, does a member of government want to move that? It's on page 57 of the package.

Hon. Diane Marleau: Again, this is technical. It allows an employee of the Public Service Staff Relations Board to make a reprisal complaint to the Canada Industrial Relations Board rather than to its own organization. That's basically what this is allowing it to do.

Mr. Paul Szabo: It's better independence.

Hon. Diane Marleau: It makes sure of that.

Mr. Paul Szabo: Question.

The Chair: Is there any discussion?

Madam Thibault.

[Translation]

Ms. Louise Thibault: You are going to think that I should probably change careers, even though I would not want to, even for all the money in the world.

In the French version, it reads: b) reinstate the complainant, or otherwise pay compensation to the [...]

That suggests that a judgment has been cast. Whereas in English, the equivalent of the French word "plutôt" is nowhere to be found. I would like someone to prepare a motion so that the word "plutôt" is removed.

Hon. Diane Marleau: In French...

[English]

Mr. Paul Szabo: Let's verify and correct as necessary.

The Chair: Okay.

Madam Thibault, were you making that motion?

[Translation]

Ms. Louise Thibault: Yes.

[English]

The Chair: Madam Thibault has made that motion.

(Subamendment agreed to [See *Minutes of Proceedings*])

The Chair: Now, is there any other discussion on amendment G-11?

The question is on amendment G-11.

(Amendment as amended agreed to [See *Minutes of Proceedings*])

The Chair: Now we go to amendment CPC-29, on page 59.

Mr. Guy Lauzon: Actually, I can give you a number. They were consequential to CPC-28. So CPC-29, CPC-31, CPC-32, CPC-34, CPC-36, CPC-39, and CPC-59 can be withdrawn, just to make your life easier, Mr. Chair.

The Chair: Just read the list again, please, Mr. Lauzon.

Mr. Guy Lauzon: It's CPC amendments numbers 29, 31, 32, 34, 36, 39, and 59.

CPC-35 has just been pointed out to me as well.

The Chair: What about CPC-35, Mr. Lauzon?

Mr. Guy Lauzon: It can be withdrawn.

The Chair: It would be withdrawn too. Okay.

Mr. Guy Lauzon: And I would like some comments from my fellow committee members about that action.

The Chair: Thank you, Mr. Lauzon.

Is it agreed that they're withdrawn?

Some hon. members: Agreed.

The Chair: I hope we've gotten them all.

I don't believe CPC-30 was withdrawn. That would be next, CPC-30, on page 60.

Mr. Guy Lauzon: Mr. Heintzman, is 180 days, rather than 60 days, very reasonable for CPC-30?

Mr. Ralph Heintzman: I might ask Michel LeFrançois to comment on that.

For the information of the committee, the 60-day period is already twice as long as is normally provided in these kinds of things. The normal thing in this type of legislation is roughly 30 days.

I'd also point out that if the public servant chooses to go to the commissioner as well as the board, in a sense they have 120 days already, because they have 60 days to go to the commissioner and then another 60 days to decide whether to go to the board.

Michel, could you comment on the normal practice in these types of things?

• (1630)

Mr. Michel LeFrançois: Thank you, Mr. Chairman.

What I'd add to that, sir, is that it's a basic rule of the workplace that disputes should be dealt with quickly lest they fester in the workplace and just take on proportions they shouldn't. Generally, people are required to grieve under collective agreements or statutory schemes in 25, 30, or 40 days, or so. So the 180 days is rather out of bounds and probably not warranted.

Mr. Guy Lauzon: Let me try to explain that. I agree with you that grievances are within 30 days. The problem with a reprisal or with a wrongdoing is—and I've known public servants—you lie awake in bed at night and toss and turn as to what the ramifications of doing this are. I think that extra time is well warranted in this case. It probably won't be used a whole lot, but it gives the person who's under pressure or whatever—"How is this going to affect my career?" and that kind of thing—some time to think it out. That's what the point of it was.

Mr. Michel LeFrançois: Mr. Chair, what it may cause more often than we would want is a situation where it's very difficult to reconstitute events and investigate six months after. That's the difficulty.

Mr. Guy Lauzon: It would be worth the chance.

Mr. Michel LeFrançois: It may be in some cases; unfortunately in many cases it may be quite aggravating. If an employee has to grieve other matters within a generally much short timeframe—

Mr. Guy Lauzon: This is not a grievance process.

Mr. Michel LeFrançois: But it's a workplace issue.

Mr. Guy Lauzon: No, this is whistle-blowing legislation. This is not the disciplinary process or grievance process.

Mr. Michel LeFrançois: I understand, sir, but it's still in the workplace.

The Chair: For clarification, before we go to the next person on the list, who is Mr. Martin, had the committee not agreed to change, in all of these amendments that refer to a commissioner, to “the President of the Public Service Commission”? That’s what’s required until the government’s royal recommendation—

Yes, Mr. Heintzman.

Mr. Ralph Heintzman: In the context of this part of the bill, I think you mean “the board”.

The Chair: Yes, I guess that would be right. Thank you.

Mr. Martin.

Mr. Pat Martin (Winnipeg Centre, NDP): My only comment was going to be that matters of timeliness are always guidelines only, certainly in relation to labour relations. If the limit is that this has to be filed within 60 days and somebody comes in with a valid issue at 65 days, it can always be waived. Timeliness.... Arbitrators, judges, everybody has always ruled that you shouldn’t be tripped up by timelines, in the interest of fairness. Natural justice would dictate that if you’re 12 hours late filing an important complaint, it can be waived.

I don’t think it’s necessary to put such an expansive time guideline here as a catch-all to make sure every eventuality is considered, when lateness is already considered in terms of the authority to waive those guidelines.

The Chair: Madam Thibault.

[Translation]

Ms. Louise Thibault: Thank you, Mr. Martin, but I have nothing more to add.

[English]

The Chair: Thank you.

Shall we go to the question?

Mr. Szabo.

Mr. Paul Szabo: Mr. Martin, are you making a recommendation on this clause, or were you just pointing it out?

Mr. Pat Martin: I’m recommending.... I’ll be voting against it, because I don’t feel it’s necessary to expand—

Mr. Paul Szabo: But I think your point is well taken, and I think it’s the consensus of this committee that we want to be absolutely sure the protection of the rights and the interest of the public servant are well taken care of.

I’m wondering whether or not—maybe we can ask Mr. Heintzman or any other on the panel—whether it would be appropriate, instead of changing it to 180 days, to take into account Mr. Martin’s point to say, “subject to the discretion of the commissioner, the complaint must be made...” It gives the discretion to the commissioner, in the event.

Would that be okay?

Mr. Guy Lauzon: That would be a very friendly amendment; it would get what we want.

The Chair: Mr. Lauzon, do you accept that as a friendly amendment?

Now we’ll hear comment from the experts.

• (1635)

Mr. Ralph Heintzman: Mr. Chair, the consensus at this end of the table is that if the committee wants to give the board discretion, there’s no reason you can’t do it.

The Chair: Okay, that’s a friendly amendment, accepted by Mr. Lauzon.

Mr. Paul Szabo: It would read “subject to the discretion of”—and the proper words here would be—“the board,” and then it picks up the existing language.

The Chair: All right. Is that understood?

Mr. Paul Szabo: The amendment actually is going to be withdrawn. We’re simply going to add, on the move, the phrase, “subject to the discretion of the board.”

The Chair: Right, understood?

Monsieur Sauvageau.

[Translation]

Mr. Benoît Sauvageau: Ms. Thibault and I would like to know if it is left up to the discretion of the commissioner or if it is 60 days. Have the words “sixty days” been kept?

Hon. Diane Marleau: Yes.

Mr. Benoît Sauvageau: Okay. That is fine with us.

[English]

The Chair: All right. Understood?

Yes, Mr. Heintzman.

Mr. Ralph Heintzman: Mr. Chair, I apologize for intervening.

There’s some question at this end of the table as to what the actual technical effect of this amendment is and how much of subclause 20 (3) it’s changing or removing. There are several parts to subclause 20 (3), and before you vote on it, I think you need to be clear what it is you’re changing and how much you’re removing, if anything.

The Chair: Mr. Lauzon.

Mr. Guy Lauzon: Let’s say the person went, as Mr. Martin said, 67 days or something and the commission or the commissioner agreed to that, then would it not follow naturally that it would be carried through, so the 60 days would in fact become 67 days, in that particular case? I don’t think clause 2 would be prejudiced because it’s more than 60 days, would it?

The Chair: I think the point is, at least as I understand it, is that there is an (a) and a (b).

Yes, Mr. Szabo.

Mr. Paul Szabo: Mr. Chairman, if I may, I think the intent of the committee, when we talked about the principles underlying our support for this bill, was that we didn't want to trip up the public servants, as defined, on this process. Quite frankly, no matter how many deadlines there may be, whether it's 60, and then a further 60, and a further 60, we anticipate there could be some event that takes place that may make it 61 or 65, or maybe somebody's gravely ill or whatever. We trust in the board, and indeed in the commissioner, to have that latitude. I think it's a power that we wish to extend simply because we believe the best interests of all will be served with some discretion.

The Chair: Yes, Mr. Heintzman.

Mr. Ralph Heintzman: The only point I'm making is that in the text of the bill you already had an (a) and (b). Having adopted RCMP-12, you now have a (c). So it's very important that in adopting this particular motion, you not inadvertently now strike all of that out of the bill, which I think, textually taken, you might be doing.

I think what you want to be certain of is that what you're doing here is amending paragraph 20(3)(a), to insert the words at the beginning, "at the discretion of the Board, 60 days after the date on which the complainant knew, or in the Board's opinion ought to have known", and you're not deleting (b) and (c) from the bill.

• (1640)

The Chair: But would there not have to be a consequential amendment to (b), then, to include that "during the 60-day period or other period prescribed"?

Mr. Ralph Heintzman: You could do that also, sure.

The Chair: Does that...?

Mr. Guy Lauzon: Subject to what Mr. Szabo said, let's just do it whatever way it can meet the requirements.

The Chair: As for the (c), though, we do have to find out what the (c) is, which RCMP...

Could we stand this amendment and have a look at it later, when we find out what the (c) is, put it in and have a look at it? Would that be agreed to by the committee?

(Amendment allowed to stand)

The Chair: The next is CPC-33, I believe, which is page 63 of the package.

Mr. Lauzon.

Mr. Guy Lauzon: This amendment would require compensation to the whistle-blower to be equal to the costs incurred by the whistle-blower. The original bill provides for an amount not greater than the costs incurred by the whistle-blower, but this amendment would also ensure that the amount is not less than the costs incurred by the whistle-blower.

Of course, friendly amendments are necessary to change "Commissioner" to "the President of the Public Service Commission".

The Chair: Are there comments on that?

Mr. Guy Lauzon: I think we're just trying to make sure the person doesn't lose.

Hon. Diane Marleau: If I read it properly, it says, "is equivalent to any financial or other penalty imposed on the complainant". I think that's certainly not less than what he's been penalized. I think you're saying the same thing the clause is saying.

Mr. Guy Lauzon: Then it shouldn't be that difficult to add that.

Hon. Diane Marleau: Why? You don't need to.

The Chair: Madam Marleau, I think you're in paragraph 20(6)(d).

Hon. Diane Marleau: It could be. Oh, line 9.

The Chair: Monsieur Sauvageau.

[Translation]

Mr. Benoît Sauvageau: Mr. Lauzon may be able to explain this, but the fact is that should the complainant be subject to reprisals, the board can: c) pay to the complainant compensation in an amount not greater than the amount that, in the Board's opinion, is equivalent to the remuneration that would [...] have been paid to the complainant

In my opinion, that is fine.

Mr. Guy Lauzon: Which could be less, and I do not want that to be the case.

Mr. Benoît Sauvageau: When you say in French "équivalent au plus", it never means less. That is what is written. Unless there is a problem in the English.

[English]

The Chair: Mr. Lauzon

Mr. Guy Lauzon: Madame Marleau, I think you may be looking at the wrong part. There is a part that says "is equivalent to the remuneration", but there's another part, "in an amount not greater". When you look at paragraph 20(6)(c), it says "pay to the complainant compensation in an amount not greater than the amount".

Mr. Paul Szabo: It has to be equal. The intent is that it should be the amount. Let's say "not greater and not less than". Why don't you just say "equal to"?

Mr. Guy Lauzon: Why did they say "not greater"?

Mr. Paul Szabo: Well, it's because somebody could give them a bonus or give them way extra—

Mr. Guy Lauzon: Say "equal to", as long as it's accomplished.

The Chair: There's a friendly amendment from Mr. Sauvageau: "to make equal to"?

[Translation]

Mr. Benoît Sauvageau: Mr. Lauzon, I simply read what is written in French in paragraph 20(6)c. I have nothing to amend. It reads here:

c) pay to the complainant compensation in an amount not greater than the amount that, in the board's opinion, [...]

Mr. Guy Lauzon: It is not the same thing in English. You are right.

Hon. Diane Marleau: Yes, it is. The English text says:

[English]

"an amount not greater"

[Translation]

The French words “*au plus*” mean the same thing.

[English]

That's the top amount you give them: “not greater than”.

• (1645)

Mr. Paul Szabo: So the French and English agree.

Hon. Diane Marleau: The French and English agree.

The Chair: We're just trying to square up the French and English.

Mr. Heintzman, if you could help out here, that'd be wonderful.

Mr. Ralph Heintzman: I think there's a policy issue here the committee should be well aware of before they make a decision. The reason for words like “not greater than” is to give a tribunal some flexibility about the amount of money they're going to award. There can be all kinds of circumstances in a hearing they need to take into account, and if you use language like “not less than” or “equivalent to”, then you're presenting the tribunal with an all or nothing situation. They cannot take any circumstances into account, and normally employees have certain obligations to mitigate damages or to take other actions, which a board often takes into account in deciding what is an appropriate award to make.

I think you need to know before you change it that what you would be doing would be taking away any flexibility from the board. That's all.

The Chair: Mr. Heintzman referred to some specific cases where that discretion would be helpful or necessary. We were having a discussion on this earlier, and we're looking for some of those specific examples, if you could give them.

Mr. Ralph Heintzman: I'll ask Michel LeFrançois to do that, if I may, Mr. Chair.

Mr. Michel LeFrançois: It can happen in a couple of instances. The most common one would be where someone is terminated but finds a job in a month. When that person is reinstated, they're not out of pocket the whole time they've been unemployed, so the board would take that into account. Even if the employee did not find another source of income but did not mitigate his or her losses, the board might want to take that into account as well.

Another instance would be where the board felt that the conduct of the disclosure is such that there's some responsibility or partial responsibility. In the process that ensued, the board might not want to award the person total financial compensation.

All labour boards in the country have that flexibility, and the government is of the view that the flexibility should be given in this circumstance as well.

The Chair: Thank you.

Mr. Lauzon.

Mr. Guy Lauzon: I think if we look at paragraph 20(6)(c)—this is on page 9—if we just remove from the second line the words “not greater than the amount”, it would read: “pay to the complainant compensation in an amount that, in the Board's opinion, is equivalent to the remuneration that would, but for the reprisal, have been paid to the complainant”.

That's all I'm trying to do, just eliminate the words “not greater than the amount”. Is it that difficult?

Mr. Ralph Heintzman: The technical effect of that, as I said, is to remove any flexibility from the board for deciding that in this particular circumstance there are reasons—

Mr. Guy Lauzon: But it says “in the Board's opinion”.

Mr. Ralph Heintzman: That's, in the board's opinion, what is equivalent. If you take out the “not greater than”, that means they cannot pay them less, even if they believe for some reason there are some circumstances that would suggest they should be paid less.

Mr. Guy Lauzon: It says, “is equivalent to the remuneration that would, but for the reprisal, have been paid to the complainant”.

I don't think we're going to get a \$50,000 bonus out of that clause.

The Chair: Mr. LeFrançois just explained that, Mr. Lauzon.

Go ahead, Mr. LeFrançois.

Mr. Michel LeFrançois: Thank you, Mr. Chairman.

There's one other aspect to this. What you do not want to have is a system where the employee is overcompensated. In many instances under this act, it's taxpayers' money. You don't want to be paying someone a windfall. You want to pay them their out-of-pocket. If it's an all or nothing proposition, then an employee may be wanting more money than he's due.

• (1650)

Mr. Guy Lauzon: I'm not trying to be difficult, and I'm not a lawyer—you are—but it says: “is equivalent to the remuneration that would, but for the reprisal, have been paid to the complainant”.

I don't think he's going to get any more than what would “but for the reprisal, have been paid to the complainant”—not more.

Mr. Michel LeFrançois: It may be the case, sir, that the person has had income from another source in the meantime. That's the conundrum. You leave the board the flexibility to determine that on a case-by-case basis.

The Chair: Are we ready for the question on amendment CPC-33? I don't believe there's anybody else on the list.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: Mr. Szabo.

Mr. Paul Szabo: I do have the item on the 60 days versus...

There's some language, and I'd like to make a motion to deal with that.

The Chair: We stood amendment CPC-30.

Mr. Paul Szabo: Yes. This is subclause 20(3).

I'll just explain it. We will put a phrase at the beginning, and we're going to add a new subclause 20(3.1).

At the beginning of subclause 20(3), we would add the opening phrase “Subject to subsection (3.1),”.

A voice: We need a page and a line number.

Mr. Paul Szabo: This is page 8, line 21, to amend that line by inserting, before the words “The complaint”, the following: “Subject to subsection (3.1),” and then continue, “the complaint must be made to the”, the effect of which is to add the phrase “Subject to subsection (3.1),” at the beginning of the sentence.

The Chair: And then subsection (3.1)...?

Mr. Paul Szabo: It's new subclause 20(3.1). I will give this to you. It's written out and legible.

This would go immediately after line 34.

The Chair: Mr. Szabo, could I ask a question of Mr. Heintzman, just to determine whether that is the right place? Mr. Heintzman was indicating there was a (c) in there, after (b).

Mr. Paul Szabo: I understand that. That's right, but line—

The Chair: So it's before (c), then.

Mr. Paul Szabo: It's just after line 34.

The Chair: Okay, great.

Mr. Paul Szabo: We would insert a.... Oh, I see what the problem is.

The Chair: We don't have it in front of us.

Mr. Paul Szabo: Presently, we do have a paragraph (c). We don't have the line numbers, but you will adjust the line numbers. So it's still after line 34 that we're dealing with right now.

There's going to be a new subclause 20(3.1). It will ultimately appear after paragraph (c), and it reads:

The complaint may be made after the period referred to in subsection (3), if the Board feels that it is appropriate, considering the circumstances of the complaint.

The Chair: All right. Does everyone have that?

Mr. Paul Szabo: The effect of this would be to give the board the discretion on matters under paragraphs 20(3)(a) and 20(3)(b).

The Chair: All right. Is there any discussion on that?

Mr. Heintzman.

Mr. Ralph Heintzman: Mr. Szabo might like to put an “s” on “period”, because there are several 60-day periods referred to in the clause.

Mr. Paul Szabo: Yes, “the periods referred to”.

The Chair: Okay.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: I propose the status quo for this. If someone does not know after 60 days whether he or she has been the victim of reprisals, something more than this clause might be needed, something like a psychiatrist.

I would go with the current wording. If, after five years it turns out that all those whose rights were violated only realized it three months later, they can be given more time to come forward. That is all. We need to stop dwelling on this 60-day deadline and wondering what will happen to people who only realize after 82 days that their rights have been violated. I am sorry, but we are really trying to determine how many angels can dance on the head of a pin.

•(1655)

[*English*]

Mr. Paul Szabo: And that's why the discretion is necessary.

[*Translation*]

Mr. Benoît Sauvageau: That discretion already exists in the legislation.

If someone loses his job and 70 days go by and then he realizes one morning that he hasn't gone to work for 70 days, it seems to me that there is a problem.

[*English*]

Mr. Paul Szabo: This theoretically could allow someone to come a year later, if it's at the discretion of the board, because maybe they had cancer for a year and couldn't trigger it. It is open-ended. It should be fair to the civil servants.

The Chair: Okay, to the question on the...is that a subamendment? On the friendly amendment of—

A voice: It's a new, on-the-fly amendment.

The Chair: I guess that's right. It would be a new amendment from Mr. Szabo.

I'll go to the question.

I'd better take a count. I think there were only six people who voted. Let's do it again, with a show of hands.

(Amendment agreed to [*See Minutes of Proceedings*])

Mr. Paul Szabo: Mr. Chairman, are we then going to withdraw CPC-30 with the 180 days?

The Chair: I think we had done that.

Thank you, Mr. Szabo. CPC-34 and CPC-35 are withdrawn.

Yes, Mr. Szabo.

Mr. Paul Szabo: Mr. Chairman, we are already at five o'clock. Our meeting is scheduled until 5:30. Is it that we are not interested in considering extending the time?

The Chair: We will book meetings for next Tuesday. Is it okay for 11 o'clock and 3:30 on Tuesday?

Some hon. members: Agreed.

The Chair: We will book that, but let's continue till 5:30.

Madam Thibault.

[*Translation*]

Ms. Louise Thibault: We could also meet on Thursday until midnight. That would be no problem. The night before you celebrate Canada Day would be great.

[*English*]

The Chair: We are now on NDP-6.

Mr. Martin.

Mr. Pat Martin: I'd like to withdraw NDP-6, please.

The Chair: It's withdrawn. It was not moved, so there's no problem there.

CPC-36 was withdrawn.

We're on BQ-9.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: I would like to thank Mr. Martin. He did not point this out, but after a very brief discussion, he withdrew amendment NDP-6 because he felt that it was included in amendment BQ-9.

So I would like to propose adding a new paragraph to subsection 20(6), which would read:

(6) If the board determines that the claimant has been subject to a reprisal [...], the board may [...]

a) permit the complainant to return to his or her duties;

b) reinstate the complainant [...]

After paragraph e) would come paragraph f), which would read as follows: f) pay to the complainant a maximum of \$10,000 for pain and suffering.

Yes, the complainant can be reimbursed for financial losses. However, if the person has a burnout or some other kind of pain or suffering, the board will be able to increase the reimbursement to a maximum of \$10,000 for pain and suffering. That is all.

• (1700)

[*English*]

The Chair: Thank you, Mr. Sauvageau.

Mr. Preston, then Mr. Martin.

Mr. Joe Preston: Although I understand the good intent of why we want to do this, now we have the good taxpayers of Canada paying out for pain and suffering instead of the person who committed the reprisal. We weren't allowed to find the person who committed the reprisal and somehow collect some compensation from him, but we have the taxpayers of Canada compensating people who have been reprised against. I'd love to compensate them, but....

The Chair: Thank you, Mr. Preston.

Mr. Martin, then Mr. Poilievre.

Mr. Pat Martin: I would just like to add that the reason I presented NDP-6 was to be able to introduce the idea that sometimes there are other damages above and beyond the actual dollar value of the wages lost. If we at least introduce some reference to the damages of pain and suffering, humiliation, loss of morale, the stress and the sickness that sometimes comes from harassment, etc., if we can have that listed....

The only thing I would want to make sure is that it would be at the discretion of the board and not automatic. I'm wondering if the language is adequate to ensure that not in every case will there be damages awarded for pain and suffering, only when the case meets certain tests. I don't think we need to qualify that.

Oh, "the Board may". I'm satisfied with Mr. Sauvageau's amendment and I'd like to support BQ-9.

The Chair: Thank you, Mr. Martin.

Mr. Szabo.

Mr. Paul Szabo: This is a question for the justice department officials. We're getting into this thing about determining penalties or

consequential matters for people who have been found to have committed a wrongdoing.

If we go beyond losing your job as a consequence, have we indicted someone without their having a chance to plead their case with proper counsel? And shouldn't this kind of matter, in fact, be subject to a proper review by some tribunal or court that's set up to do this? I'm not sure whether the board is in a position to assess damages, and quite frankly, if they did and it was limited here; if someone, for instance, had—

Mr. Pierre Poilievre (Nepean—Carleton, CPC): I have a point of order.

Mr. Paul Szabo: Wait, I'm not—

The Chair: On a point of order, Mr. Poilievre.

Mr. Pierre Poilievre: Yes, it seems as though the member is asking a question of the experts that does not pertain to the amendment we're considering. This amendment deals with compensation for pain and suffering, not penalties paid.

Mr. Paul Szabo: That's what I'm talking about.

The Chair: Mr. Poilievre, he's dealing with the amendment we're dealing with right now. He's just referring to some other issues.

Please continue, Mr. Szabo.

Mr. Paul Szabo: I'm not sure whether this would pre-empt or restrict or somehow affect their right to any other remedies that might be available. And to suggest that there has to be a maximum of some \$10,000.... I could pretty well imagine that there could be circumstances—for instance, chronic fatigue syndrome or severe mental illness—where they're unable to work for the rest of their lives because of the stress induced by a situation.

So I'm wondering what the practice is in law with regard to establishing the maximum. Should it not be at the discretion of the authoritative board or body that can properly assess something like this?

The Chair: Mr. Heintzman—or someone else?

Mr. LeFrançois.

Mr. Michel LeFrançois: Thank you, Mr. Chairman.

In response to Mr. Szabo's question, labour boards are quite often in the business of determining this type of damage. It's not unknown. Most labour arbitration fora, be they boards or arbitrators, have this kind of jurisdiction.

It's not awarded very often. It's not done as civil courts of law do generally; they don't use the same tests. But there is a certain amount of sophistication in this area.

In regard to whether providing this avenue would preclude the employee from going to a civil court to get a higher award, that is a risk, yes. A court may decide not to exercise its discretion because there is another avenue, another forum in which you can get these damages, even though they may be limited to \$10,000 or whatever amount.

• (1705)

The Chair: Thank you, Mr. Szabo.

Mr. Poilievre, followed by Madam Thibault.

Mr. Pierre Poilievre: The only criticism I have with this amendment is that \$10,000 seems rather modest for the kinds of pain and suffering that could be endured.

I've discussed this matter with whistle-blowers, and the horror stories they tell me amount to damages that far exceed \$10,000. So if this number is to be criticized, it's for its maximum.

Because I'm not a lawyer, my question builds on the comments of Monsieur LeFrançois, who told us that oftentimes labour arbitration boards, etc., deal with this kind of thing, and I presume civil court proceedings would as well. Is it not the case, then, that these kinds of damages should be sought in a court of law or in some other tribunal? Could you explain to us how that typically would work?

Mr. Ralph Heintzman: I'll ask Michel, but before I do, may I just clarify something? What Mr. Sauvageau is suggesting here is in addition to the powers the board already is being given by the act. Paragraph 20(6)(e) says, for example, that the board can "pay to the complainant an amount equal to any expenses and any other financial losses". So those other expenses you were talking about would be covered.

Mr. Pierre Poilievre: No, I wasn't speaking about any other expenses. I'm speaking strictly about pain and suffering, and I think for pain and suffering this might actually be a small number.

My question in particular is, what other avenues are available without this amendment to provide pain and suffering compensation?

Mr. Michel LeFrançois: Mr. Chairman, in response to Mr. Poilievre's question, I would say that in the absence of such a grant of authority to award damages, there'd be the same basic rules of civil liability as in a negligence suit, for instance. The employee or the person who's a victim of the wrongdoing would simply file an action in court.

Mr. Pierre Poilievre: Does this, then, add any value, or is it redundant, in your view?

Mr. Michel LeFrançois: Well, it's a kind of contradictory answer, but if you have the patience.... It can be a benefit and it can also have a negative effect as well.

To begin with, yes, \$10,000 is not a huge amount of money, but I'd like to remind the committee that even in the Canadian Human Rights Act \$20,000 is the maximum for pain and suffering, so it's not out of the ball park, if you will. But the negative aspect can be this. If there's a forum in which you can get up to \$10,000 for your pain and suffering and you're of the view that the pain you've gone through is much worse than that, a court you petition to complete your damages, so to speak, may or may not want to deal with it, thinking that the remedy you had below was sufficient or seeing no good reason to do this. Courts of law often react in not wanting to provide multiple forums for the same thing.

Now, that's a matter for their discretion. It's on a case-by-case basis that it's done from one provincial court to the next.

So it's a difficult question to answer, but there's a risk.

[Translation]

Mr. Pierre Poilievre: I think that if we allow Mr. Sauvageau to speak, we will be able to resolve this problem immediately.

[English]

The Chair: We actually have a list.

Madam Thibault.

[Translation]

Mr. Pierre Poilievre: He is going to withdraw his amendment.

[English]

The Chair: Monsieur Sauvageau.

• (1710)

[Translation]

Mr. Benoît Sauvageau: I was proposing this so that the complainant did not have to go before another tribunal or court to get money, since the process is long, costly and difficult. However, if adding a paragraph f) to 20(6) could penalize complainants, I withdraw my amendment.

[English]

The Chair: Agreed?

Some hon. members: Agreed.

(Amendment withdrawn)

The Chair: We're now on to RCMP-13.

Mr. Paul Szabo: I so move.

The Chair: Do you have anything to say about it?

Mr. Paul Szabo: These are consequential to inclusion of the RCMP. If members have questions, the officials can respond.

The Chair: Mr. Preston, I believe, is first.

Mr. Joe Preston: After what was said about the reprisal situation an RCMP officer may need to go through, it is now stated in RCMP-13 that after he has done that, the Public Service Labour Relations Board has to establish the procedures for hearing complaints, and that it can only be done in a specific manner, that only a full-time member of the Public Service Labour Relations Board can hear the complaint. Are we putting more restrictions in here? What is the reason for the restriction?

The Chair: Mr. Heintzman.

Mr. Ralph Heintzman: This is really just to take account, again, of the special circumstances of the RCMP and in particular the fact that you're bringing into the regime an organization that deals with matters that can involved state secrets and security, very confidential matters. This simply establishes two types of precautions. It requires the board to establish appropriate procedures to hear that kind of information, and secondly, it makes doubly sure that this is going to be heard by a full-time member of the board, to ensure it'll be properly dealt with.

Mr. Joe Preston: And that would somehow be different from everybody else's complaint?

Mr. Ralph Heintzman: It's for purposes of security—security clearance. They're easier and more likely to have the appropriate security clearances.

Mr. Joe Preston: That's it—a full-time member would have it and a part-time member would not?

Mr. Ralph Heintzman: Would not.

Mr. Joe Preston: Okay.

The Chair: Is there any other discussion?

To the question, then.

(Amendment agreed to [See *Minutes of Proceedings*])

Shall clause 20, as amended, carry?

(Clause 20 as amended agreed to)

(On clause 21—*Retroactivity*)

The Chair: We start with amendment CPC-37, which is on page 68 of the package.

Mr. Guy Lauzon: Did you want me to speak to it?

The Chair: Yes, would one of you move it, please?

Mr. Guy Lauzon: Amendment CPC-37 simply extends retroactive protection to all who made disclosures since February 10, 2004, instead of only to those who made disclosures to the committee. I think they should all be treated equally.

The Chair: Okay.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: I would like Mr. Lauzon to explain to us the difference between subsection 21(1) as it reads now and the amendment that he is proposing.

[*English*]

The Chair: Mr. Lauzon, you're trying to include people other than those who've appeared before an inquiry of the House.

Mr. Guy Lauzon: Yes.

• (1715)

The Chair: So that's the intent. Could we get your comments please, ladies and gentlemen?

Mr. Ralph Heintzman: My colleague might have a comment, but I think there is a little bit of a technical problem here, in that since this act establishes very specific procedures and refers to them, and those weren't established on February 10, if there was the policy decision here that they wanted to make a general retroactive provision back to February 10, 2004, I think you'd have to consider adding some more words to be more specific about what you mean by a disclosure.

I'm just making this up, but I think you might have to say things like “made a disclosure under the Treasury Board Policy on the Internal Disclosure of Information Concerning Wrongdoing, or under any similar policy in effect in organizations not subject to the Treasury Board policy” to make it clear what it is people did that they're being protected for.

The current version is very specific; it's about a disclosure made in a parliamentary hearing; this is referring to processes that haven't yet been established by the act. So I think you need to be precise about the processes you're referring to, the processes you want to protect.

Mr. Guy Lauzon: I think anyone who made a disclosure but wasn't at a committee or in a parliamentary hearing has the right to the same protection as those who were.

Mr. Ralph Heintzman: But in order to confer the reprisal, I think you need to be precise about the actual activity or process that is being protected. You'd need to describe it in some way—that is to say, a disclosure made in the following fashion, or under the following circumstances, or as currently established under the Treasury Board Policy, or words like that, to give it some precision.

Mr. Guy Lauzon: What if a public servant made a disclosure to his manager or whomever, and had reprisals, but didn't make it to the committee? Is he or she covered? A perfect example is Allan Cutler.

Hon. Diane Marleau: He's protected under this.

Mr. Guy Lauzon: And how's that working for him?

Hon. Diane Marleau: This isn't in force yet.

Mr. Guy Lauzon: Yes, I realize that, but we want it retroactive.

Hon. Diane Marleau: But he has the right to come back under this.

The Chair: You've heard the recommendation by Mr. Heintzman. Is that something you want to consider? Could we have him present it to the committee again so we can see it?

Mr. Guy Lauzon: And maybe we can stand it and....

You understand what I'm trying to accomplish?

The Chair: Should we stand it and bring it back in writing just a little later? Is that agreed?

Some hon. members: Agreed.

The Chair: It's agreed.

If you could do that, Mr. Heintzman, it would be much appreciated.

(Amendment allowed to stand)

The Chair: Now we go to CPC-38, on page 69.

Yes, Madam Thibault.

Hon. Diane Marleau: Excuse me, Mr. Heintzman is having a problem. He's not sure what it is you're asking him to do.

Mr. Ralph Heintzman: I don't think it's my role. I think it would be up to the officers of the committee to help the members of the committee.

The Chair: Yes, that would be....

Did you get the suggestion made by Mr. Heintzman?

Yes, Madam Thibault.

[*Translation*]

Ms. Louise Thibault: Thank you.

The problem I see with this wording, Mr. Lauzon, is that there is a small inconsistency in French. I will read the amendment in French so that we can compare it with the current wording in French. I am sorry to take up the committee's time with this, but we cannot simply decide that someone will work on this and get back to us, since I do not understand what we are dealing with here.

The original wording is as follows: 21. (1) A public servant who alleges that a reprisal was taken against him or her by reason that he or she, in good faith [...] disclosed, after...and before...

The new wording states: 21. (1) A public servant who alleges that a reprisal was taken against him or her by reason that he or she made a protected disclosure [...]

The words “protected disclosure” are not in the original text, which uses the wording “that he or she, in good faith, disclosed a wrongdoing”. From what I can understand, that is what you have changed.

I do not understand the discussion that took place. I would really like a clarification, please. I would like to know what our wonderful people will be doing on our behalf and what wording they will submit to us. Then, we could adopt it or reject it, if it uses the wording “protected disclosure”. We could vote on that right away.

● (1720)

[English]

The Chair: Are there any other...?

Mr. Szabo, you were on the list.

Mr. Paul Szabo: I knew there was going to be some difficulty trying to understand what the intent was. I think maybe the question is that we know the new commissioner has the discretion to hear anything and can act on it as well. To the extent there is a determination that there was a wrongdoing, which includes reprisals, that action may be taken. I'm not sure amendment CPC-37 helps this issue. I thought the clause as it stood was good and would work. I would prefer to leave it, knowing that the commissioner still has the discretion to respond if there are any matters that may slip through the cracks in this. I'm not aware of any, but we have that protection.

The Chair: Thank you, Mr. Szabo.

Mr. Preston.

Mr. Joe Preston: It may not say it, and I don't get it clearly from it either, but I think what Mr. Lauzon is trying to do is protect as many people as possible from any date possible. Is what we're suggesting doing that?

Mr. Guy Lauzon: Maybe we can ask Mr. Heintzman. Does it do that, Mr. Heintzman?

Mr. Ralph Heintzman: The current clause is very specific. It says it provides retroactive protection for people who made disclosures in a parliamentary proceeding from February 10 on. My understanding is you want to widen that to something else. All I'm saying is that I think you need to define what that something else is.

Mr. Joe Preston: If you include the words you suggested, that anybody who has made a disclosure under the current Treasury Board guidelines—I'm not saying this in legal language, but getting the general sense of what you're trying to say—if we said those types of words, then we're broadening it to be all public servants from some date forward?

The Chair: Madam Thibault, do you want to make a comment?

[Translation]

Ms. Louise Thibault: I think that if we want to be logical and protect as many people as possible under this legislation, we need to include the RCMP as well.

[English]

Mr. Guy Lauzon: I guess the question is, then, is that our intent, or do we just want to make it to people who came forward to a parliamentary committee?

There again, I think that's exclusive. I think we should try to be inclusive.

Mr. Paul Szabo: It's anything that's ongoing. It's broader than just coming to a committee.

Mr. Joe Preston: No, but someone who simply brought forward a wrongdoing to their boss over the last year is not covered under this if they're now having reprisals made against them.

Mr. Paul Szabo: Except under the general provision that the commissioner can receive any information, and if it's in the best interest of the public service, he would probably act.

The Chair: Mr. Heintzman, I think you've given advice that in fact that's not the case.

Mr. Ralph Heintzman: I'm sorry, Mr. Chair...

The Chair: I just want you to clarify what you said earlier. It seems to me there's a contradiction between what you've said and what Mr. Szabo just said. I'd like you to clarify that, if you could.

Mr. Ralph Heintzman: I'm not certain what Mr. Szabo just said.

Mr. Paul Szabo: It's the provisos under the bill that we've put in there. The commissioner has the authority to hear any information and may act if he or she so determines that it's appropriate to act. That may be the fallback to the extent that there's something we haven't anticipated in the current language, because it would be in the best interest of the public service to take some action or at least make some inquiry as to whether or not it would be appropriate.

Mr. Ralph Heintzman: I think it is the case. I'll ask my legal colleagues to check me on this one.

As soon as this comes into effect, a person could make a disclosure of wrongdoing about a reprisal that had taken place in some period prior to the coming into effect of the act. Exactly how long that period would be I'm not certain, but I might just add that one of the provisions in the text that the minister tabled with you last week, to make the switch to the public sector integrity commissioner, allows for the continuation of files and any disclosures already initiated prior to the coming in, under the previous policy, carried over under this act. If somebody, for example, had made a disclosure to the PSIO, that would be carried over by the new commissioner.

I wonder whether Michel has any comment on the issue of what would be possible to disclose to the commissioner after the coming into effect of the act.

● (1725)

Mr. Michel LeFrançois: The retroactive effect is a bit of a bee's nest. It's very difficult to determine at this point in time what a retroactive application of a statute like this would be. To begin with, the amendment refers to terms that only come into effect once this bill becomes law. So you have to decide, as Madam Thibault mentioned earlier, what's a protected disclosure when that definition does not exist at the point in time that is referred to in this section.

It's very difficult to ascertain the effect of this, but one thing appears to be certain: it's very confusing. It would be very difficult for us to say here today that this is what this is going apply to and this is how it's going to work out. It's very difficult. You need a crystal ball for that.

Mr. Paul Szabo: But these are limited cases. They're not going to grow. The retroactivity is established from that period. But in the event that there's someone who, under an inquiries matter, raised an issue that wasn't dealt with and that actually was still ongoing—say, the wrongdoing still exists in some fashion—the point is that the new commissioner has the authority to look into any matter that he feels is in the interest of the public service.

Mr. Michel LeFrançois: I completely agree with you, Mr. Szabo.

The Chair: Okay, thank you.

Mr. Sauvageau has the floor.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, it is 5:29 p.m. and our meeting ends at 5:30. I am not going to speak to the bill right now, but I simply want to remind members that we talked at some length about the various amendments at previous meetings. In principle, things were supposed to move quite quickly.

If my friends in the Conservative Party do not intend to filibuster this bill, but rather to have it passed before the summer, as they indicated earlier, I would appreciate it if, at the next meeting, they would present their amendments with clear arguments, as they have done since the beginning, so that it does not take us four and a half

hours to consider eight amendments and decide whether we are going to put “pale blue” or “sky blue”.

I would appreciate it if everyone cooperated so that we could speed up the process at our next meeting. Thank you very much. I have to admit that I did not find our meeting very enjoyable today.

[*English*]

The Chair: We have no more speakers on this amendment?

Mr. Lauzon.

Mr. Guy Lauzon: I think Mr. Heintzman or Mr. LeFrançois assured me that anyone who had come forward previously, if there was a file open, so to speak, is covered and will be entitled to service from the new integrity commission. Based on that, I'll withdraw the amendment.

The Chair: Mr. Lauzon has withdrawn it. Agreed?

Some hon. members: Agreed.

(Amendment withdrawn)

● (1730)

The Chair: It is 5:30, so we will adjourn the meeting for today. We'll start again, if the House is sitting, on Tuesday at 11 o'clock. You'll get an announcement on that, 11 o'clock and 3:30 on Tuesday, if necessary.

This meeting is adjourned.

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