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Mr. Leon Benoit

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Tuesday, June 28, 2005

• (1530)

[English]

The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)): I call the meeting to order.

We're here this afternoon dealing with Bill C-11, which is the whistle-blower legislation. We're going through clause-by-clause. We are currently dealing with clause 36, with amendment RCMP-18 on page 90.1 of the package.

Mr. Scarpaleggia, you have a question or a comment.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Mr. Chair, given that we're down to our last two hours before the House adjourns, I was wondering if I couldn't make the suggestion that we proceed as follows: that the individual proposing the amendment speaks to the amendment and then we ask Mr. Heintzman his view. Of course, nothing prevents us from continuing to discuss the amendment, but at least we get Mr. Heintzman's technical expertise before we get off the beaten path.

The Chair: Actually, it's up to each member to decide whether they want to ask Mr. Heintzman to respond to a question. Each of you can feel free to do that.

I want to introduce the witnesses. I think this morning I didn't do that. I'm so used to seeing you here, Mr. Heintzman, Ms. Graham, and Mr. LeFrançois, that I failed to introduce you this morning. Welcome to our committee, and thanks for your help.

Would you like, Mr. Heintzman, to introduce the other two who are with you today? Then we'll get on with the continuation of clause-by-clause.

Mr. Ralph Heintzman (Vice-President, Public Service Values and Ethics, Public Service Human Resources Management Agency of Canada): My two colleagues are the key legal advisers to our policy team. I think you're familiar with them; they're both counsels in the legal services of the Treasury Board Secretariat.

The Chair: Thank you very much.

We are now dealing with amendment RCMP-18, which is a government amendment. Would a government member like to move that amendment?

Mr. Paul Szabo (Mississauga South, Lib.): I move that, Mr. Chairman. It's consequential to inclusion of the RCMP.

The Chair: Is there any discussion?

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

(Clause 36 as amended agreed to)

(Clause 37 agreed to)

(On clause 38—*Report to appropriate Minister or governing council*)

The Chair: On clause 38 there's a Conservative amendment, CPC-52, on page 91 of the package.

Mr. Joe Preston (Elgin—Middlesex—London, CPC): Mr. Chair, it appears as though this is slightly different from the amendment I had hoped for. Maybe if you bear with me.... It's trying to make it so that the public service integrity officer “must” report to the minister responsible when either of paragraphs 38(a) or 38(b) occurs, rather than that he or she “may”.

These are both fairly serious variations to what might have happened: one is that their own recommendations weren't followed, which I've been trying to get after all day; another one is that there is an imminent risk or specific danger out there. Rather than have it as an option that “may” happen, I'd remove the word “if” and the words “consider it necessary he or she” and add the word “must” instead of “may”.

• (1535)

The Chair: Okay.

Mr. Szabo.

Mr. Joe Preston: Would you like me to refer that to Mr. Heintzman?

The Chair: Okay.

Mr. Heintzman, your comments?

Mr. Ralph Heintzman: It's not entirely clear to us what the effect of the “must” would be, because the clause starts “If the President of the Public Service Commission considers it necessary”. Well, if the commissioner considers it necessary, presumably they will do that.

Mr. Joe Preston: I removed that “considers it necessary”, sir. That was part of what I was just explaining.

Mr. Ralph Heintzman: It's not in the motion.

Mr. Joe Preston: I know it's not in the motion; that's why I went to a bit of length to suggest that the words “if” and “considers it necessary, he or she” are also removed.

The Chair: Mr. Preston, are you making a friendly amendment to your motion?

Mr. Joe Preston: Apparently I am.

The Chair: You're asking for that?

Mr. Joe Preston: If it's coming from me, it's not friendly.

The Chair: A very good point, Mr. Preston.

Just explain how you're amending—

Mr. Joe Preston: I'm amending the clause to start off with the word “the”, dropping the word “if”: “The President of the Public Service Commission”—which will be replaced in the next rewriting.... Then “considers it necessary” is gone, “he or she” is gone, and the word “may” is turned to “must”.

Hon. Diane Marleau (Sudbury, Lib.): Does that mean that every little thing has to be reported?

Mr. Joe Preston: No, only if it falls under paragraph 38(a) or 38 (b). They have to report it to the minister responsible if “action has not been taken within a reasonable time in respect of one of his or her recommendations”, or (b), if it's a life-endangering situation.

The Chair: We have Mr. Szabo, Mr. Scarpaleggia, and Mr. Boshcoff.

Mr. Paul Szabo: Mr. Chairman, if you look at the clause in the context of paragraphs 38(a) and 38(b), I think this is probably something we would want to encourage. If there are any concerns on behalf of the commissioner and there is a minister responsible, I don't think I have a great deal of difficulty with this. It's not going to harm, but I'm pretty sure that every detail related to a wrongdoing probably is good for a minister to know. I personally will support it. I don't know how the other members feel.

The Chair: Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: I agree with Mr. Szabo.

The Chair: Mr. Boshcoff.

Mr. Ken Boshcoff (Thunder Bay—Rainy River, Lib.): Even more briefly, I concur. I don't have a problem with it.

The Chair: Mr. Martin.

Mr. Pat Martin (Winnipeg Centre, NDP): We went to great lengths to make this an officer of Parliament who reports to Parliament. That means his obligation to report to a minister is secondary to the obligation to report to Parliament. I don't want any ambiguity or confusion. When it says “must”.... In the case of the sponsorship scandal, some of us believe the minister was ultimately pulling the strings of the sponsorship scandal. Were a whistle-blower to come forward with information about Groupaction or the sponsorship contractors, I wouldn't want the whistle-blower to go directly to the current Minister of Public Works at the time, because we believe that minister was directly implicated. In a case like that, if paragraph 38(a) or 38(b) had triggered this, the whistle-blower would have had to go to the former Minister of Public Works. I don't think you want to do that.

Whenever I see the word “must”, I think we really have to assess it carefully. I'm not in favour of it personally for that reason.

The Chair: Thank you, Mr. Martin.

Mr. Lauzon.

Mr. Guy Lauzon (Stormont—Dundas—South Glengarry, CPC): If you read Mr. Preston's amendments and read them in context with paragraphs 38(a) and 38(b), I don't think what Mr. Martin just pointed out will occur. If either of those clauses applies, then they will be reported to the minister. I don't see any harm done by this amendment whatsoever.

The Chair: Mr. Heintzman.

Mr. Ralph Heintzman: Could I just point out something?

I think Mr. Preston has overlooked some words, and before you vote, you may want to decide to take those out. The effect of this motion is to narrow the power or the authority this act was giving to the commissioner. What it says is “If the President of the Public Service Commission”—the commissioner—“considers it necessary, he or she may report...including, but not limited to, when the President is of the opinion that...”.

If you leave in the words “including, but not limited to”, it no longer makes any sense with the amendment. You'd have to take those words out also. This is something you need to know before you vote. You're also in a sense narrowing the scope of what it is this clause was intended to give the commission authority to report to the minister on. You're limiting it to paragraphs 38(a) and 38(b). It wouldn't make sense, in the new way in which it's been drafted, if you leave in the words “including, but not limited to”. He would need to do a second friendly amendment to his amendment.

● (1540)

Mr. Joe Preston: I can read the whole thing if you'd like.

The President of the Public Service Commission

—or “the commissioner”—must report a matter to the Minister responsible for the portion of the public service concerned or, if the matter relates to a Crown corporation, to its board or governing council, when the President is of the opinion that...

The Chair: Mr. Preston, I've just had it pointed out to me that because you're taking out the “not limited to”, you really are narrowing the scope by making that amendment. Would you want to add a paragraph 38(c) to broaden it again, “or any other matter”—

Mr. Joe Preston: That they deem necessary, or that the commissioner deems necessary?

The Chair: Yes, something like that.

Mr. Joe Preston: I have no problem with that piece also.

The Chair: Madam Thibault.

[Translation]

Ms. Louise Thibault (Rimouski-Neigette—Témiscouata—Les Basques, BQ): Since we were told to keep it short, I will do so. I oppose this amendment and I agree with the current content of Clause 38. Thank you.

[English]

The Chair: Mr. Heintzman.

Mr. Ralph Heintzman: Technically, I don't think the suggestion that was made about paragraph 38(c) would work, because you can't have an obligation to do “any other matter”.

Mr. Joe Preston: What I'm looking for is how to make it less wishy-washy than it started out. Now we have “may” if they feel it's necessary, “not limited to”, and that type of language. It doesn't even have to occur.

Mr. Guy Lauzon: It's never going to happen.

The Chair: Mr. Boshcoff is next on the speaking list.

Mr. Ken Boshcoff: Thank you.

I appreciate what Mr. Preston was trying to do with the first set of amendments, but now it's like pulling at the thread. We've unravelled this to the point now where it's not going to be as effective as what it says.

In view of Mr. Heintzman's explanation, I actually feel very comfortable with the way it's presented. Rather than us trying to wordsmith it again, I think we should take comfort in what is before us.

The Chair: Thank you.

Madam Thibault.

[*Translation*]

Ms. Louise Thibault: I yield the floor to my colleague.

Mr. Benoît Sauvageau (Repentigny, BQ): I will be as brief as Ms. Thibault was. I agree with Clause 38 as it is currently worded and I take it for granted that the Integrity Officer will be a person of good judgment.

[*English*]

The Chair: Thank you.

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

(Clause 38 agreed to)

(On clause 39—*Preparation of report*)

The Chair: For clause 39 we have Conservative amendment 53 on page 92.

Mr. Guy Lauzon: That's withdrawn.

The Chair: We're on CPC-54 on page 93.

Mr. Guy Lauzon: What I'm trying to do here in this motion is to add to the required contents of the commissioner's annual report, to make that report more specific and more substantial. I think it's significant that he or she should give a full report.

● (1545)

The Chair: Is there any discussion?

Mr. Martin.

Mr. Pat Martin: The only question is, what about the anonymity of the whistle-blower? They aren't hard to track down sometimes. If you get the nature of the complaint and the office in which it happened, if there are only six people who work there and one is ostracized, it's not hard to narrow it down and figure out who the whistle-blower was.

Mr. Guy Lauzon: I'm not suggesting it would be that specific, that we would say it's in a department where there are four or five staff members working.

Mr. Paul Szabo: Paragraph 39(2)(g) does open it up, and I suggest that, again, if we presume that the commissioner is acting in very good faith and that the disclosures made are going to be as constructive as possible without jeopardizing any of the anonymity or other privacy concerns, maybe it's already taken care of.

Mr. Guy Lauzon: Well, I don't think paragraph 39(2)(g) tells me how many infractions or....

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

The Chair: We're on CPC-55 on page 94.

Mr. Lauzon.

Mr. Guy Lauzon: It's exactly the same. We want to know the number of investigations begun by law enforcement authorities under the Criminal Code. That one, for sure, shouldn't implicate any names or shouldn't identify any people. I think it might indicate how serious the infractions are that are occurring. Let's say we had one that went to criminal investigation or we had 31; I think it would help Parliament to decide how serious the problems were.

The Chair: Thank you, Mr. Lauzon.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: I am inclined to oppose this amendment and I will tell you why. It seems to me that if a complaint has reached this stage and it can be made public, as was stated in the previous clauses, there is no need to add this point about "the number of investigations commenced [...] under the *Criminal Code*". First of all, I would hope that they won't number in the dozens. Furthermore, once it has become this serious, the general public will have been informed.

I am still thinking about the sponsorship scandal. That kind of scandal does not occur every day. Even if this paragraph (c.1) did not exist, and even if it hadn't been specified in the report that an investigation had been commenced under the Criminal Code, it would have been made public. There was recourse to the Criminal Code in the sponsorship scandal. The report would therefore have said that there was an investigation under the Criminal Code. Once again, I take it for granted that the Officer will have enough judgment to make these things public.

[*English*]

Mr. Guy Lauzon: Mr. Chair, it makes you wonder what is going to be included in the report, if we don't want to report on the wrongdoings or don't want to report what's as a result of this office. I think sooner or later we have to report what this commission is doing. As a parliamentarian, I think that's what I would like. It's nothing any different from what the language commissioner or the Auditor General reports now. Why do we not want to use statistics? Are people worried about statistics? I just don't get it.

The Chair: Mr. Heintzman, I think that was directed at you.

Mr. Ralph Heintzman: I think the problem with this, Mr. Chair, is that the commissioner would not have, and could not get, this kind of information. The police simply would not provide it to him. The only information he would have would be the cases he has referred to the police. That's currently reported by the PSIO and by senior officers, but the police never provide information in the other direction as to what they have done or intend to do with information that's provided. He simply wouldn't have this information, and couldn't get it.

Mr. Guy Lauzon: Do the police not indicate monthly how many charges are laid in different areas?

● (1550)

Mr. Ralph Heintzman: They make a charge when they make a charge, but they don't report to anybody on the charges that are laid, and they wouldn't....

Mr. Guy Lauzon: Well, they'd make a public report.

Mr. Paul Szabo: Criminal charges are public.

Hon. Diane Marleau: They are when they're laid, but not before. Once they're laid, they're public knowledge.

Mr. Guy Lauzon: Do you mean to tell me that there's a problem in asking the commissioner to report to Parliament on how many cases he referred to the legal authorities?

Mr. Ralph Heintzman: No, no, that would be fine. I think the difficulty would be in asking him to go to police authorities to find out how many of the matters he referred they have decided to prosecute. Maybe he could get that information by reading the police gazette, but he couldn't get reports back from the police, as far as I know.

Mr. Guy Lauzon: Well, if we ask Dr. Keyserlingk today how many cases in the last 12 months he referred to the police authorities, and of those how many he knows were investigated, I think he probably could give us an answer.

Mr. Ralph Heintzman: Well, I can't speak for him. I know he could give you the first information. I doubt that he's in a position to give you the second.

Mr. Guy Lauzon: We're making this awfully difficult—unnecessarily difficult, it seems to me.

The Chair: It's time for the question.

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

(Clauses 39 to 41 inclusive agreed to)

(On clause 42—*Destroying documents and things, etc.*)

The Chair: On clause 42, we have amendment BQ-12. It is on page 95 of your package.

Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: I am going to present it and ask Mr. Heintzman a few questions. If it has already been covered, I won't hesitate to withdraw it.

The present Clause 42 states that no person shall do certain things, but it doesn't say what would happen to a person who did these things. Clause 42 says that no person shall destroy, falsify or conceal documents.

The amendment put forward by the Bloc suggests that a person who infringes section 42 will be fined. If we didn't adopt this amendment from the Bloc, what sanctions would be imposed on someone who infringed section 42?

Mr. Ralph Heintzman: In this, as in other cases, there are two possibilities. On the one hand, there are administrative sanctions, which can go as far as dismissal. On the other hand, there are the sanctions currently provided in the Criminal Code. In one case, it may be as much as two years incarceration, and on the other, as Mr. LeFrançois explained, the judge may impose a fine.

Mr. Benoît Sauvageau: Your explanation is clear enough for me to withdraw amendment BQ-12.

(The amendment is withdrawn.)

[*English*]

The Chair: Thank you, Mr. Heintzman. Your explanations are very clear and very helpful.

It's withdrawn.

(Clauses 42 to 44 inclusive agreed to)

The Chair: Now there is government amendment 15, on page 96 of the package, new clause 44.1.

Hon. Diane Marleau: Can I ask if he has anything special?

Mr. Ralph Heintzman: It's a technical amendment to correct an omission. It's exactly the same as the one you already approved in RCMP-17. It simply saves the provisions of the Canada Evidence Act.

● (1555)

The Chair: Is there any discussion on this amendment?

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

(Clauses 45 to 47 inclusive agreed to)

The Chair: Now there is Conservative amendment 56 on page 98, new clause 47.1.

Mr. Lauzon.

Mr. Guy Lauzon: I'd like to add a clause that no disciplinary action may be taken against any person who in good faith makes a disclosure that upon investigation by the commissioner proves to be inaccurate or cannot be proven to be accurate. Of course, if it is done for malicious reasons...but if it's done in good faith then they have to...

The Chair: Are there any comments on 47.1?

Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: I'd like Mr. Heintzman's view.

Mr. Ralph Heintzman: I think there is a slight problem with this from a drafting point of view, in that it doesn't link the disciplinary action to anything. I suggest that if you wanted to proceed with it you would want to add words such as "because they have made a protected disclosure or cooperated in an investigation", which are used earlier in the bill. But if you do that, then you're simply restating here what is already stated in clause 19 and in the definitions of "protected disclosure" and "reprisal". In a sense, this is already covered by other provisions in the bill.

If you are to proceed with it in its form in the way it's drafted, which doesn't link the disciplinary action to anything, then it would mean that a person who made a disclosure could never again in their career have a disciplinary action taken against them, which I'm sure is not the intent of the amendment. You would want to add to it, "it could not be taken against them because they have made a protected disclosure", which would have the effect of saying what you already said.

Mr. Guy Lauzon: Under the section of protection, what we're trying to achieve here is that if somebody makes.... I think what we have to do is....

Mr. Heintzman, you've been aware of some of the testimony we've heard from the witnesses. We're trying to guard against the kinds of things that have consistently—not occasionally, but consistently—happened to whistle-blowers. What I'm trying to achieve here—and hopefully you can word it in such a way, or make some changes—is that under this section of protection we can protect someone who's trying to save the taxpayer money and trying to do the right thing. It certainly shouldn't be so difficult that it's impossible to do.

Mr. Ralph Heintzman: Mr. Lauzon, I entirely agree with you. What you're proposing here is consistent with the provisions of the bill, so consistent that it actually repeats what is already in the bill.

Mr. Guy Lauzon: Then let's repeat it under the protection.

Mr. Ralph Heintzman: That's fine with me. I'm just suggesting that if you want to do that, you add the words “because they have made a protected disclosure or cooperated in an investigation”.

Mr. Guy Lauzon: We'll add those words.

The Chair: Mr. Boshcoff.

Mr. Ken Boshcoff: We all remember the phrases “issue obfuscation” or “let's keep it simple”. Really, if it's there already... Let's just have good legislation that's uncluttered.

Mr. Guy Lauzon: What section is it, so I can get some comfort as to its being there?

• (1600)

Mr. Ralph Heintzman: If you look at the definition of “reprisal” on page 3, it says:

“reprisal” means any of the following measures taken against a public servant because the public servant has made a protected disclosure or has, in good faith, cooperated in an investigation carried out under this Act:

Then in clause 19 you have declared that it is an offence to take any reprisal against a public servant. You have said it is an offence, which makes it a criminal offence, by the way, to take any of the following measures against a public servant because he or she has made a protected disclosure in good faith or cooperated in an investigation.

All I'm suggesting is if you want to keep this, you should repeat the words “because the public servant has made a protected disclosure or has, in good faith, cooperated in an investigation”.

Mr. Guy Lauzon: I will withdraw, Mr. Chairman.

The Chair: Amendment CPC-56, new clause 47.1, is withdrawn.

(Clause 48 agreed to)

(On clause 49—*Restriction*)

The Chair: On clause 49 there is a government amendment, G-16, on page 99 of the package. Madam Marleau has moved that amendment.

Mr. Szabo.

Mr. Paul Szabo: Mr. Chairman, all the government amendments were provided by the department to do some technical clean-up, but this one is a significant principle. I hope the members will have a look at it. Much of this is boilerplate to protect those things that have to be protected.

I want to have Mr. Heintzman make it very clear to members how this is not just a clean-up amendment. This is to state some very specific points. There is a good reason for these, and I think the members should hear those reasons.

The Chair: Mr. Heintzman, could you give us an explanation?

Mr. Ralph Heintzman: This is actually less significant than Mr. Szabo presents it. Really, all it attempts to do is make clearer what clause 49 was intending to do. In the original language of the bill it said “of the kind referred to in any of sections 13 to 24, 69 or 69.1 of the Access to Information Act”. It seemed to us that it was asking rather a lot for people to have to get the Access to Information Act and look up all those sections, so it would actually be more helpful if they were specified in the bill. What we have done in paragraphs (a), (b), (c), (d), (e), (f), (g) is actually take those provisions from the Access to Information Act and put them in this bill so that you can see them. The rest is minor consequential just to fit with that.

The Chair: You have heard the explanation.

Mr. Preston.

Mr. Joe Preston: In our witnessing, Dr. Keyserlingk had some trouble with clause 49, saying that it's far too restrictive. Have the changes you've made to it fixed that? I hate to ask it, because I'd like to find it myself rather than just take your word for it, but at this moment I'll go with that.

Mr. Ralph Heintzman: I'm sorry, I didn't get the question.

Mr. Joe Preston: Dr. Keyserlingk in his interpretation to us about clause 49 said it was far too restrictive, that it would actually compromise the right of Parliament and the public to receive useful information about the activities and the investigations of the Public Service Integrity Officer.

As you were drawing this up, did you have an opportunity to speak to Dr. Keyserlingk about the troubles he had with this bill?

Mr. Ralph Heintzman: We've had ongoing discussions with Dr. Keyserlingk.

The amendments that you have in front of you don't fundamentally change the nature of the clause. I would point out that it involves a very significant override for the commissioner, which is in subclause 49(3).

First of all, the first part sets out some of the information that would normally not be in a public report because it's of a sensitive nature. However, in subclause 49(3) the commissioner is given a very significant override; that is to say, the commissioner may disclose any of the information referred to in subclause 49(1) if, in his or her opinion,

(a) the disclosure is necessary to refer any matter under section 35 or to establish the grounds for any finding or recommendation in a special or annual report under this Act; and

(b) the public interest in making the disclosure

—that is, overriding the first part of the clause—

clearly outweighs the potential harm from the disclosure.

In fact, the commissioner has the authority, if the public interest requires it, to make that kind of information public.

●(1605)

Mr. Joe Preston: Perfect.

The Chair: Okay, Mr. Heintzman.

Madam Thibault.

[*Translation*]

Ms. Louise Thibault: I am going to introduce a little humour. When I read that, I told myself that the only thing lacking is the secret of the confessional.

I will give you the example of paragraph (g): (g) information that could reasonably be expected to cause injury to commercial interests.

There have been motions lately. Suppose something happens. The Officer would need to have sufficient judgment not to disclose anything until evidence is obtained during the investigation, so as not to harm the investigation. However, I hope that when that is done, Mr. Heintzman, this provision won't be invoked to prevent the disclosure of important information. That is my first question.

Here is my second question. If it is not permitted, will there be a kind of filter, a legal or paralegal process, that will weigh the matter and inform Parliament that such and such a thing cannot be disclosed for such and such reason? I find having so many restrictions a source of considerable worry. It is as though I were being told that, for various reasons, most of the time it will not be possible to disclose things. I am rather worried. I am probably wrong, but please explain this amendment to me.

Mr. Ralph Heintzman: It is true that this Clause attempts to balance two important values. On the one hand, the Officer can make public any information that it is in the public interest to disclose. As I mentioned, subsection (3) gives him nearly unlimited authority if he judges that it is in the public interest to make a matter public.

On the other hand, this provision makes it clear that there are a number of matters that are extremely sensitive and he must have excellent grounds for making them public. Crown corporations will henceforth be subject to this Act. Paragraph (g), for example, mentions information that could reasonably be expected to prejudice commercial interests. If information is disclosed thoughtlessly, billions of dollars can be affected. There is also information that could threaten an individual's privacy. This is extremely serious. A series of things are therefore listed that are extremely sensitive and should normally not be made public. Then, after these things are listed, in subsection 49(3), the Officer is told that despite all this, if he considers that it is in the public interest to disclose these things and that the public interest clearly outweighs the potential harm, he is authorized to disclose them in his reports.

Ms. Louise Thibault: I like your Socratic approach regarding the balance between the two values. In your opinion, we can be assured that, even if subsection 49(1) is changed, with all its paragraphs (a) to (g), he may do so under certain conditions, but he may decide to do so only after weighing everything that needs to be weighed. Thank you.

[*English*]

The Chair: Are there no other comments?

Mr. Szabo.

●(1610)

Mr. Paul Szabo: In the event there was a dispute, it still could be appealed to the access to information commissioner, could it not?

Mr. Ralph Heintzman: It could be challenged in front of a court. For example, if the commissioner were proposing to reveal a state secret that would put in danger the lives of Canadians, the government could challenge that in a court.

Mr. Paul Szabo: Okay. Question.

The Chair: Thank you, Mr. Heintzman.

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

(Clause 49 as amended agreed to)

(On clause 50—*Personal information*)

The Chair: Let's go to clause 50. We have government amendment 17, on page 102.

Madame Marleau.

Hon. Diane Marleau: I'll move that on clause 50.

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

(Clause 50 as amended agreed to)

(Clause 51 agreed to)

(On clause 52—*Obligation of excluded organizations*)

The Chair: On clause 52, we have Conservative amendment number 57, on page 104.

An hon. member: That's withdrawn.

The Chair: Withdrawn?

Mr. Poilievre.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): I'm not sure when the appropriate time would be to raise this, but one of my amendments was withdrawn under the pretext that the government had submitted an amendment with similar intentions. I think the amendment I refer to was CP-40. I have since had some time to research the amendment the government put forward and have come to realize that it actually doesn't serve the intentions I was aiming for.

I'm not saying we have to address it now, but I'm wondering when would be the appropriate time for me to address that particular problem. My amendment was withdrawn, but I still think it's necessary, because I would like to see some sort of protection for contractors, etc., and I don't believe the government amendment does that.

The Chair: Mr. Szabo.

Mr. Paul Szabo: That's about the contracts. We actually withdrew a couple of proposed amendments, a Bloc one and a Conservative one to amend, I believe, clause 23 as well as clause 34, which opens it up—and it was discussed with Mr. Heintzman—so that virtually anybody who is not a public servant as defined can provide information for an ongoing investigation, or information that may subsequently lead to an investigation. That was the advice and discussion we received. There was a feeling that this particular one that was withdrawn only dealt with contractual relationships and there were others that could have.... That's the reason it was done.

Mr. Chairman, since we've had this discussion, I assume that to open that up again, unanimous consent of the committee would be required. I think respectfully we'll withhold consent.

Mr. Pierre Poilievre: Just so that Mr. Szabo and the committee are aware, I welcome very much the amendment that was put forward to welcome disclosures from any Canadian, but the purpose of my amendment was actually reprisal protection. There is no reprisal protection for contractors. They might be allowed to make disclosures, but at this point there is no reprisal protection. If a contractor or a recipient of grants were to make a disclosure, be found out, and lose future contracts, etc., there would not be protection against those reprisals.

I don't believe that particular point has been addressed, and it has not been discussed.

The Chair: Mr. Poilievre, I remember that it was withdrawn with an understanding that the government amendment would deal with the issue. You're saying it doesn't. However, we have passed clause 22.

•(1615)

Mr. Pierre Poilievre: It wasn't withdrawn, actually, because I would have been the one to have withdrawn it. It wasn't moved in the first place.

The Chair: Well, we've gone through clause 22 and passed it, Mr. Poilievre. It would require unanimous consent to return to that.

Mr. Paul Szabo: You can do that at report stage. You can get someone to move that at report stage and have a debate in the House, okay?

The Chair: Mr. Poilievre, unanimous consent has not been granted. I don't see a way of dealing with it. So report stage is the option, hopefully, if the Speaker allows it.

Mr. Lauzon.

Mr. Guy Lauzon: We're trying to get the best piece of legislation we can. I would think if Mr. Poilievre has pointed out a weakness in our legislation, probably we should take five or ten minutes to have another look at it. What is it going to cost us? We've come this far. If what he says is in fact not covered.... And maybe Mr. Heintzman can shed some light on that. If a contractor is dealing with the government, points out a wrongdoing, and then loses a million-dollar contract over it, it would be nice if he had some form of reprisal, some form of protection.

The Chair: I understand the argument, but it's how we get it back to the table.

Mr. Guy Lauzon: I think, in good faith, we should discuss it, should we not?

The Chair: Mr. Boshcoff.

Mr. Ken Boshcoff: Thank you.

Mr. Chair, in good faith, you as chair understand that if someone is missing, we bring someone else in to represent our interests here as a committee. When it comes up, those things are represented for us. I'm not saying it's good or bad. I was very much convinced. We had a lengthy discussion on that very issue by all the members who were present, including the representative for the member. So your ruling is correct that we have discussed it.

Mr. Guy Lauzon: Mr. Boshcoff, I don't think we were thinking of reprisals; we were thinking of wrongdoing only.

The Chair: Let's carry on through the bill. Before we get to the final approval, if you want to bring it up at that time we'll see if there's any will to deal with it.

Amendment CPC-57 was withdrawn.

(Clauses 52 and 53 agreed to)

(On clause 54—*Review*)

The Chair: We have amendment CPC-58 on page 105 of the package.

Mr. Lauzon.

Mr. Guy Lauzon: Because we went with an independent commissioner, does it just make sense now that the report would go to Parliament rather than to the minister?

The Chair: The government royal recommendation does that? It was my understanding.

Hon. Diane Marleau: What was the question? I didn't hear it.

Mr. Guy Lauzon: Right now, clause 54 reads, "the Minister". It won't be the minister; it will be going directly to Parliament.

The Chair: Right.

Mr. Heintzman, are you aware of what's in the royal recommendation that the government is putting forth?

Mr. Ralph Heintzman: The document that was tabled by the minister with this committee last week doesn't amend this particular clause.

The Chair: Okay.

Mr. Guy Lauzon: Then it should, because it can't be sent to a minister. It's meant to go to Parliament.

The Chair: Okay. Any other discussion?

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Clause 54 says: [...] the Minister must cause to be conducted an independent review of this Act, and its administration and operation [...]

I oppose the idea of a joint committee of the House and the Senate, but when we speak of an independent review, does this automatically mean a review by a committee of the House?

I don't know if there is a way to word it, but for my part, I would like to see the Standing Committee on Government Operations and Estimates review the five-yearly independent review. Otherwise, the committee would completely lose control of this Act once it completes its clause-by-clause review. We are talking about a five-yearly review. I would agree to having KPMG carry out an independent review every five years, but I believe that the House Standing Committee on Government Operations and Estimates should examine its report. But perhaps this is written a little further on.

[*English*]

The Chair: Thank you, Mr. Sauvageau.

Mr. Preston.

Mr. Joe Preston: I'd better ask this question now, because you just hit me with a pretty good two-by-four there.

Is it the case that not every reference to "the Minister" is leaving this bill? Will some of that stay there? Does that mean some references to "the President" will also not change? Are we being selective about what's being given to us from this royal recommendation, or is it replacing all the words we thought we were replacing?

• (1620)

Mr. Ralph Heintzman: Mr. Preston, the minister tabled with you last week all the changes he was proposing to make to the bill. I think it was actually the week before last. Of course, all the references to "President" would change to "Commissioner". That doesn't mean other unconnected sections are automatically changed. Any that appear to be directly connected to the machinery change will, of course, be altered. This is not an obvious change.

Mr. Joe Preston: This is a five-year review. It says the minister must cause it to be happening. Which minister are we talking about? If there isn't a minister assigned to this, then it wouldn't happen.

Mr. Ralph Heintzman: The minister is designated in the bill.

Mr. Joe Preston: It is?

A voice: Yes.

Mr. Joe Preston: Is it the same thing with the annual report—the minister must cause it to happen?

Mr. Ralph Heintzman: No.

Mr. Joe Preston: That's one of the changes.

Mr. Ralph Heintzman: No. It is because you're creating an officer of Parliament. The officer of Parliament reports directly to Parliament.

Mr. Joe Preston: All right.

The Chair: Mr. Szabo.

Mr. Paul Szabo: Yes, Mr. Chairman.

The review of this is going to be a very complex matter. It would certainly be important for those who are involved and have the expertise to conduct that review and do a report. Since it is going to be assigned to a minister, the committee, mirroring that minister, should then pick it up, determine whether or not there should be some changes to the act as a consequence, and look at the recommendations for changes to the act. They should have their input as well.

As you know, changes to the act are only going to occur if the minister himself actually tables a bill, so all the committee has to do is make sure all reports that are reported will be referred to our committee in any event. If that's the case, we would have an opportunity at least to see what an independent review, however that is constituted, comes up with in regard to the five years of activity under this act.

I think we're okay, although I must admit I have seen in other acts.... A bill split the Canada Revenue Agency out into a separate agency, and it's subject to a three-year review by the finance committee, or something like that. That is more an operational thing,

a little narrower than what we're talking about, and I would be concerned to force a committee to have to do something.

The Chair: Thank you, Mr. Szabo.

Is there any further discussion?

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

(Clause 54 agreed to)

(On clause 55)

The Chair: On clause 55, we have government amendment 18. It's page 106 of the package.

Hon. Diane Marleau: I will move that amendment and will ask Mr. Heintzman to give a short explanation of the amendment.

Mr. Ralph Heintzman: Mr. Chair, this amendment responds to concerns the Information Commissioner expressed to you when he appeared in front of you. It does two things. First of all, it reduces the discretionary exemption from the Access to Information Act from 20 years to five years. It limits that discretionary exemption to materials and notes that are specifically prepared for an investigation, or other materials that could reveal the identity of a discloser or a witness. So it narrows the scope both in time and in substance.

The Chair: Thank you, Mr. Heintzman.

Mr. Preston.

Mr. Joe Preston: Both of those sound like great things, but let's put it into the practical example of Mr. Cutler, as Mr. Reid did to us when he came here. He suggested that if Mr. Cutler had come forward under the sponsorship scandal, it would have buried the information for 20 years and buried his identity along with it. So does this just bury it for five years?

Mr. Ralph Heintzman: On the contrary, Mr. Preston. This bill is proposing to create the mechanisms through which someone like Mr. Cutler would actually be able to make a disclosure and have it investigated, but have it done in a way that would protect his identity, so that he would not be a victim of reprisal. The purpose is to make sure those identities are not easily available, so that a wrongdoing can be properly investigated and corrected.

• (1625)

Mr. Joe Preston: You say it's attempting to do that. Will it do that?

Mr. Ralph Heintzman: I'm not a prophet, Mr. Preston.

Mr. Joe Preston: I love the word "attempting".

The Chair: Mr. Poilievre.

Mr. Pierre Poilievre: I just have a quick comment.

You believe, though, that the changes contained here address the concerns that Commissioner Reid offered.

Mr. Ralph Heintzman: Mr. Poilievre, there have been a number of amendments made to the bill to address Mr. Reid's concerns. You recall there was an amendment also to limit the ability to make disclosures with second-hand information. That was an issue that the Information Commissioner raised with you.

I would not presume to say that Mr. Reid would be completely contented with what's here, but this is very consistent both with what the Privacy Commissioner and the Public Service Integrity Officer proposed to you.

Mr. Pierre Poilievre: Essentially what this does then is it limits the information that can be withheld to those documents that would expose the identity of the whistle-blower and also limits the number of years to five—

Mr. Ralph Heintzman: Or the specific notes prepared for an investigation.

If you remember the previous discussion, this is a standard provision for all investigative bodies. In fact, most of them have a discretionary exemption for 20 years. There is an annex to the regulations under the Access to Information Act that creates a discretionary exemption from the Access to Information Act for ten investigative bodies, and very much has been proposed here. The only difference is that in those cases it's for 20 years. In this case, because of the discussion the committee has had, the government has agreed to reduce it from 20 to five years, but the normal discretionary exemption for investigative bodies is 20 years.

Mr. Pierre Poilievre: That's not my question, though. I'm not asking about the timeframe right now, but actually about the breadth of the discretion. Which documents can be withheld, specifically? You say "notes to the investigation"—can you elaborate on what that means?

Mr. Ralph Heintzman: For the specific notes or working papers or papers prepared in the course of an investigation, the chief executive would have a discretionary exemption for five years. Discretionary exemption doesn't mean that he or she cannot release those. In fact, in the case of the ten investigative bodies that are listed in the annex to the regulations of the Access to Information Act that I referred to before, they rarely, if ever, invoke that discretionary exemption, but it's there in case it's something that could either threaten an ongoing investigation or could reveal the identities of people involved in an investigation. It's a normal form of protection for investigations. In fact, it's more limited in this case than for all the other investigative bodies that are in the annex to the regulations.

The Chair: Mr. Lauzon.

Mr. Guy Lauzon: We had a couple of witnesses who were adamant that clause 55 should be removed totally. Can we have your opinion on what the ramifications of that would be?

Mr. Ralph Heintzman: The ramifications would be pretty horrendous, in the sense that any materials that are being collected for or in the course of an investigation could be immediately made public. I don't think that you would get many people to come forward with a disclosure in that circumstance, if they were aware that their information, their identities, all of the notes for the investigation could be made accessible by anybody under the Access to Information Act.

• (1630)

Mr. Guy Lauzon: Their identities wouldn't be made accessible because they would be blacked out through access to information.

Mr. Ralph Heintzman: One of the provisions of this particular amendment is to ensure that materials that could reveal identities would be protected for a period of five years.

Mr. Guy Lauzon: Do you mean that if that law wasn't there and I asked for access to information about maybe your whistle-blowing, your name would be in the document I would get from the access to information process?

Mr. Ralph Heintzman: I think under the privacy laws, you're right, that a specific name would be blacked out. There might be all kinds of other information in the documents that, in the right hands, would easily allow somebody to identify the person involved in the disclosure.

Mr. Guy Lauzon: They were quite adamant, though, because it cuts both ways.

Mr. Ralph Heintzman: It's hard for me to imagine how any investigative body could function if it were completely subject to access to information from the moment of a disclosure. I don't think you would get any disclosures, or you would put a very severe chill on it.

The Chair: Okay.

Mr. Preston.

Mr. Joe Preston: The "head of a government institution" is labelled in here. Who would be the head of a government institution?

Mr. Ralph Heintzman: You've required all of the chief executives in the federal public sector, including crown corporations, to establish internal disclosure mechanisms. So they will have senior officers investigating disclosures.

Mr. Joe Preston: You're saying that any head of a government institution can refuse to disclose these records.

Mr. Ralph Heintzman: I'm sorry, I missed that.

Mr. Joe Preston: Well, that's what it reads, "the head of a government institution may refuse to disclose any record requested under this Act that contains information". All executives, all the people we've put in charge of whistle-blowing are the ones who could refuse to....

Mr. Ralph Heintzman: This provision protects all of the investigations that would be carried out under this act so that the investigations could be carried out with integrity and the identities of the people involved in them could be protected.

Mr. Joe Preston: Let's take it that somebody's stealing dump trucks and someone goes and blows the whistle and goes back to work. At some point later, we want to find out about this. The public feels they have a right to know. Where did these dump trucks go? Who got punished because of it? If I bring forward this information, it won't be disclosed. I ask for this information; it won't be disclosed.

Mr. Ralph Heintzman: I presume a committee can inquire into any matter. What you would not have access to would be the specific investigative records of somebody carrying out investigations under this act. You're perfectly—

Mr. Joe Preston: What else would I have left after the investigative notes were not included?

Hon. Diane Marleau: Mr. Chair, can I make a point here?

I would like to remind you, sir, that this is really about protecting public servants.

Mr. Joe Preston: I recognize that, but we had PSAC themselves telling us they don't want this in here.

Hon. Diane Marleau: That's what we're trying to—

Mr. Pierre Poilievre: A point of order.

The Chair: We have a point of order over here.

Mr. Pierre Poilievre: Is there a speakers list?

The Chair: Yes, there is.

Mr. Preston, are you finished?

Mr. Joe Preston: I just need to point out that PSAC themselves, the largest public service union, asked for this to be removed.

Mr. Pierre Poilievre: That's right.

Mr. Guy Lauzon: Adamantly.

The Chair: Mr. Preston, thank you.

Mr. Scarpaleggia, then Mr. Poilievre.

Mr. Francis Scarpaleggia: Yes. Thank you, Mr. Chair.

Mr. Heintzman, I asked one of the witnesses who came before us, Ms. Gualtieri, about this clause, and she said she felt that it was not necessary because existing privacy legislation was sufficient. To be honest, we didn't get into it in that much detail. Do you have any comment on that?

Mr. Ralph Heintzman: Well, I believe that your own legal counsel, Mr. Walsh, came before you and said that section 19 of the Access to Information Act would not be sufficient.

Mr. Francis Scarpaleggia: Okay, that's fine. I just wanted to know what you thought of it.

The Chair: Okay. Thank you, Mr. Scarpaleggia.

Mr. Poilievre.

Mr. Pierre Poilievre: I'd like to reiterate once again that it is the view of all of the whistle-blowers who came before this committee that this clause should be removed. It was the view of the Information Commissioner that this clause should be removed. It has been the view of both public sector unions that were asked to comment on it. All of the whistle-blowers that this bill is intended to protect, through their learned research on the subject, have come to the conclusion that this clause should be removed.

So my own view is that the amendment here gives very modest if not microscopic improvement to what's in the bill already. I think that anyone who wants to see transparency in government should vote to repeal the entire clause 55, because it will do nothing but cover up information.

Thank you very much.

•(1635)

The Chair: Madam Thibault.

[*Translation*]

Ms. Louise Thibault: Mr. Chairman, there is no motion to delete Clause 55. We are discussing the proposal to amend Clause 55, if I understand properly. Mr. Chairman, will you enlighten me?

I am addressing the Chair, Mr. Poilievre.

Mr. Chairman, are we discussing amendment G-18? If someone wants us to delete Clause 55, we will do so later. There is no amendment to delete Clause 55.

[*English*]

Mr. Guy Lauzon: Maybe we can ask the government to withdraw it.

The Chair: The way to handle that, Madam Thibault, is this amendment would replace clause 55. If you don't like this amendment, you vote against it. If you don't like clause 55, you vote against it. That's how we deal with it. All right?

[*Translation*]

Ms. Louise Thibault: That's right. Thank you.

[*English*]

The Chair: Thank you.

I have no more speakers, so we go to the question on this amendment, which is G-18.

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

(Clause 55 as amended agreed to)

(Clause 56 agreed to)

(On clause 57)

The Chair: There is an amendment to clause 57. It is G-19, on page 108.

Mr. Paul Szabo: Mr. Chairman, that is an amendment to the PIPEDA, and that is consequential to amendment G-18, which we just dealt with. It follows. There's the same discussion, but it is a consequential amendment to the Personal Information Protection and Electronic Documents Act; it's the same issue. As a matter of fact, so is G-20. It will be the same issue. So G-19 is just consequential to G-18.

Mr. Joe Preston: Mr. Chairman, a point of order.

The Chair: Yes, Mr. Preston.

Mr. Joe Preston: Actually, I thought I'd love to have a recorded division on that last vote we just took.

The Chair: We have had the vote, Mr. Preston. We called for a show of hands. The amendment was carried.

Mr. Joe Preston: So I could not ask for that.

The Chair: No. You should request it before we carry out the vote.

Mr. Joe Preston: I'm sorry, Mr. Chair; it won't happen again.

The Chair: Okay. I appreciate that. It makes it a lot of easier to chair.

Mr. Pierre Poilievre: We'll state on the record that the Conservative members on the committee voted against the motion, for the record.

The Chair: We are on clause 57. We'll deal with G-19 first. Mr. Szabo has explained that there are others. Is there any discussion on G-19?

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

(Clause 57 as amended agreed to)

(On clause 58)

The Chair: On clause 58, we have amendment G-20, on page 110. I believe Mr. Szabo has already spoken on that.

Mr. Paul Szabo: It's the same amendment, but on the Privacy Act. It's the same as G-18, Mr. Chair. I would call the question.

The Chair: Any discussion on G-20?

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

(Clause 58 as amended agreed to)

(On clause 59)

• (1640)

The Chair: The Conservative amendment CPC-59 is the first one. There is a line conflict. That's G-21.

Has CPC-59 been withdrawn? It's on page 112. Was that one withdrawn? It was. All right. That is withdrawn.

Then we go to amendment G-21 on page 113. Would a government member like to move that? Mr. Szabo.

Mr. Paul Szabo: Yes, Mr. Chairman, I so move. This is a technical amendment. It was required since we made an amendment to paragraph 20(1)(b).

The Chair: Is there discussion? We go to the question.

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

The Chair: On clause 59, we have amendment CPC-60. It's on page 115.

Mr. Guy Lauzon: What we're trying to achieve here is to bring the government bodies listed under schedule 1 under the permanent protection of the act, instead of allowing cabinet to arbitrarily remove them from the scope of the act.

The Chair: Okay.

Mr. Szabo.

Mr. Paul Szabo: I was about to ask Mr. Heintzman or the other witnesses to comment, please. I'm not sure of the impact of this.

The Chair: Mr. Heintzman.

Mr. Ralph Heintzman: I understand the purpose of this amendment, but this is technically not the place to do it. This is a coordinating amendment. It simply amends other acts. You can't make substantive amendments in coordinating amendments. If the committee wished to do this, you would have needed to have done it in definitions earlier in the act. Coordinating amendments are simply technical amendments that change this act to bring it into line with other acts. The PSMA will be coming into effect and will be changing certain nomenclature, so we have to reflect that here. This is not the place to accomplish a substantive change of the type that Mr. Lauzon would like to achieve.

The Chair: Thank you, Mr. Heintzman.

Mr. Guy Lauzon: Is there another way you could suggest this could be done, Mr. Heintzman?

Mr. Paul Szabo: And provide details on how to do it.

The Chair: Mr. Heintzman.

Mr. Ralph Heintzman: Well, I think you would have wanted to have done it in definitions when you were defining the public sector.

The Chair: We have passed that clause.

Mr. Ralph Heintzman: No, Mr. Chair, I believe you stood.... No, no, that's another matter. Sorry.

The Chair: We're just going to check and see if we did stand that section. I don't remember.

Hon. Diane Marleau: Can we call clause 59 while we're waiting? If it's not the proper place to do it....

The Chair: We are dealing with clause 59. This is the second amendment.

Okay, we did pass that section, so the only way to deal with it would be at report stage.

Mr. Guy Lauzon: How do the schedules work?

The Chair: Correction: that clause was stood, so it is still open. So we can revert to that when we go back to it, if you'll make a note of that.

Mr. Guy Lauzon: We just defer this. I won't withdraw it right now. We'll just defer it.

Hon. Diane Marleau: He needs to completely withdraw it, because it doesn't fit in this part.

Mr. Guy Lauzon: Let's just deal with it after we get it—

Mr. Paul Szabo: We're dealing with clause 59 right now.

The Chair: We can go back to clause 2, Mr. Szabo.

Mr. Paul Szabo: No, this amendment we're dealing with, CPC-60, deals with clause 59.

Mr. Guy Lauzon: Yes. Let's just stand it for the time being. We'll come back to it. We stood others.

Mr. Paul Szabo: What do we do next?

Mr. Guy Lauzon: Go back to do the others.

Mr. Paul Szabo: You have another one on clause 59 as well.

The Chair: We can deal with clause 2, Mr. Lauzon, when we get there, but we have to deal with this one in this clause.

Mr. Paul Szabo: Yes, but you don't have a motion on the floor to amend clause 2.

The Chair: Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, you are not unaware of the fact that we are completing our work. When I voted, I wanted to know what I was voting on. I would like to ask M. Lauzon a question, if you will allow me, Mr. Chairman.

If I supported his amendment, would that change the law? At present, in Clause 59, in the proposed paragraph (b) of the definition of “public sector”, we read: “(b) the Crown corporations and the other public bodies set out in the schedule.”

If I understand properly, this paragraph means that we will add the schedule. I would like to know what direct impact this would have on the bill.

• (1645)

Mr. Guy Lauzon: It will name them.

Mr. Benoît Sauvageau: How would this change the history of the world?

Ms. Louise Thibault: They will be in the schedule. Are they in the schedule?

Mr. Guy Lauzon: They're in the schedule?

Mr. Benoît Sauvageau: If I wrote what there is on page 2, I don't see what positive impact it would have on the bill.

It was Mr. Bourassa who said: "I am neither for nor against, quite the contrary." [Translation] I would simply like to know what this will change in the history of the world.

Mr. Guy Lauzon: Are they currently included in the schedule?

Mr. Benoît Sauvageau: You haven't convinced me.

[English]

Mr. Guy Lauzon: Are these included in the schedule?

The Chair: Yes.

Mr. Boshcoff, did you have a comment? Pardon me.

We're just trying to find out if there's another way of dealing with this.

Mr. Guy Lauzon: [Inaudible—Editor]...that schedule when this was drawn.

The Chair: Mr. Martin.

Mr. Pat Martin: It really isn't our job to agonize over how he can get his point dealt with after the fact. I'd like to go ahead with clauses 59 and 60 and carry on. At some point later in the meeting, if somebody else wants to move an amendment, that's up to them, but it's not up to all of us to agonize over how we're going to get that amendment through.

The Chair: You're absolutely right, Mr. Martin.

Is there any more discussion on the amendments?

Mr. Lauzon.

Mr. Guy Lauzon: I've determined that they are all in the annex, so I can in fact withdraw that amendment.

The Chair: Okay.

Mr. Guy Lauzon: I'd like to withdraw CPC-61 as well.

The Chair: Then we'll move to RCMP-19, page 116.1 in the package.

Mr. Paul Szabo: Mr. Chairman, that is consequential to inclusion of the RCMP. It's just necessary to help the effecting of that change.

The Chair: Thank you, Mr. Szabo.

Madam Marleau, someone has said there is an RCMP-19(a) in the package, which is actually to replace RCMP-19.

Mr. Heintzman's nodding.

It's been replaced in my package, after page 116.

Hon. Diane Marleau: It's not in our package.

The Chair: It's coming, apparently.

Is a government member soon going to discuss RCMP-19(a)?

We'll have to withdraw RCMP-19, I suppose, if we're going to....

• (1650)

Mr. Paul Szabo: I wonder if the committee would just substitute RCMP-19(a) for RCMP-19. We would just consider RCMP-19(a).

Mr. Joe Preston: Are we including the armed forces? I'd be happy to, if that's your intent.

Mr. Paul Szabo: No.

The Chair: Mr. Szabo, is RCMP-19...?

Mr. Paul Szabo: RCMP-19 is withdrawn.

The Chair: RCMP-19 is withdrawn. So we're dealing with RCMP-19(a).

Mr. Paul Szabo: The members have it before them. Again, this is because we made that decision; we had an interesting conversation, but decided to leave in CSIS and the Communications Security Establishment.

Again, this is consequential to our decision or discussion on the inclusion of the RCMP.

The Chair: Any discussion?

Mr. Paul Szabo: Question.

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

(Clause 59 as amended agreed to)

(On clause 60—*Order in council*)

The Chair: There are no amendments for clause 60.

Madam Marleau.

Hon. Diane Marleau: In here we're not given a schedule number. If you look at subclause 60(2), it says:

The reference to the "Canada Pension Plan Investment Board" in the schedule comes into force

We should change the last part—and I hope you'll accept this as a friendly amendment—to read: "in the schedule 1 comes into force".

Perhaps we could number it back. We haven't even numbered them yet.

The Chair: You'll have to explain that a little more, Madam Marleau.

Hon. Diane Marleau: We're going to be numbering the schedules. We hadn't numbered them. This will have to be amended to reflect the number of the schedule they're referring to.

It's just a very technical amendment.

The Chair: I'm told the numbering can be done without an amendment. It's done as the schedules are numbered, automatically.

Hon. Diane Marleau: Okay, good.

The Chair: Thank you, Madam Marleau.

Any discussion on that?

(Clause 60 agreed to)

The Chair: We're going back to the clauses that had been stood. Amendment G-1 on page 6 of the package....

Actually, amendment G-23, which comes a little further down, on page 119, lists the schedule that we're going to be referring to in G-1. It's probably best that we deal with G-23 first and then go back to G-1, once we know what the schedule actually is.

Would you go to page 119 of the package—I'm bouncing you around a little here—and have a look at the schedule?

• (1655)

Mr. Paul Szabo: I move G-23.

The Chair: The government has moved G-23.

Discussion?

Yes, Mr. Lauzon.

Mr. Guy Lauzon: I would like to have the Public Service Commission added to this, to schedule 2.

The Chair: An amendment has been moved by Mr. Lauzon to add the Public Service Commission.

Discussion on the motion for subamendment?

Mr. Szabo, then Madam Marleau.

Mr. Paul Szabo: The list in schedule 2 includes the officers of Parliament. I'm wondering what the consequences would be of including the Public Service Commission here. I mean, the motion is just to add them, but....

The Chair: Mr. Heintzman.

Mr. Ralph Heintzman: Perhaps I could just explain the purpose of the schedule.

If you recall, this is the schedule mentioned in new clause 14.1, proposed by the government to meet one of Mr. Reid's concerns. He wanted to ensure that the employees of certain investigative bodies who had second-hand information about other organizations would not be able to use that information for disclosures unless it was related to wrongdoing in their own organization. This simply lists the officers of Parliament who currently have investigative functions so that their investigative functions would not be impeded in that way; that is to say, there would be a chill in their relations with other organizations by virtue of the fact that people would hesitate to hand over information to them because it then might be used in the disclosure process.

That's the policy background. I guess the policy issue for the committee is whether you want to list the Public Service Commission with these officers of Parliament. As you know, the Public Service Commission is not yet—in fact, you debated that for months—an officer of Parliament. The question is whether you want to include them in this list.

The Chair: Thank you, Mr. Heintzman.

Madam Thibault.

[*Translation*]

Ms. Louise Thibault: That's precisely the question I wanted to ask. The purpose of schedule 2 was to list certain agencies, as M. Heintzman has just explained. Considering the debate we've had, which has lasted long enough, I don't see why the Public Service Commission would be included. It is not an agent of Parliament.

[*English*]

The Chair: Thank you.

Any other discussion?

Mr. Lauzon.

Mr. Guy Lauzon: If there's some wrongdoing and there's a need for redress, the commissioner will be referring to the Public Service Commission. They will be doing investigations, will they not?

Mr. Ralph Heintzman: The Public Service Commission will have no role under this bill. You've decided to take them out of it.

Mr. Guy Lauzon: Well, when they go to the Public Service Staff Relations Board....

Mr. Ralph Heintzman: The Public Service Staff Relations Board has nothing to do with the Public Service Commission.

Mr. Guy Lauzon: How is the commissioner going to make recommendations? You'd said earlier that the commissioner will make recommendations. He couldn't dictate what should happen, but he could make recommendations. Who will he be making those recommendations to?

Mr. Ralph Heintzman: The head of any organization in the public sector—a deputy head within the core public service or a chief executive in the broader public sector.

Mr. Guy Lauzon: He couldn't make it to the Public Service Commission?

Mr. Ralph Heintzman: Yes, he could, absolutely, if there was some wrongdoing in the Public Service Commission. The head of the Public Service Commission is a chief executive like any other chief executive. He would make recommendations to the....

• (1700)

Mr. Guy Lauzon: If he made a recommendation, would the Public Service Commission just accept that recommendation?

Mr. Ralph Heintzman: As far as the commissioner's recommendations are concerned, the president of the Public Service Commission would be in the same position as the head of any other public sector organization.

Mr. Guy Lauzon: So they would do an investigation?

Mr. Ralph Heintzman: If the commissioner is making recommendations, the commissioner has already done an investigation. He is providing the head of the organization with the results of his investigation and his recommendations for correcting the wrongdoing, if there was one.

Mr. Guy Lauzon: So it will be either yes or no, by whatever the department is. They won't have to determine whether they agree with the commissioner? They won't have that right?

Mr. Ralph Heintzman: Yes, they will. Sometimes there might even be....

Mr. Chair, I'm happy to pursue this, but I'm having difficulty seeing the connection with the matter at hand.

The Chair: Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Is the work being deliberately delayed or do we really have questions to ask? There are still two amendments. We could also ask this question: if the Auditor General finds that the Integrity Officer has done something that is forbidden after being appointed by the prime minister, and a civil servant lodges a complaint that is not in good faith, what will happen to this guy's wife? Some people are asking questions just as hypothetical as that.

[*English*]

The Chair: Thank you, Mr. Sauvageau.

Any other discussion on the subamendment proposed by Mr. Lauzon?

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

The Chair: Before we vote on G-23, there are several other amendments we'd stood only because the schedule number wasn't identified. That now will be included.

Just so you know, those amendments are: G-1, page 6; G-2, page 19; G-3, page 21; G-22; RCMP-6; and RCMP-10. The vote will apply to these. We won't have to go back and....

Mr. Heintzman.

Mr. Ralph Heintzman: Mr. Chair, RCMP-10 is a different schedule. It's the next motion. It's RCMP-20.

The Chair: RCMP-10 says schedule 2.

Mr. Ralph Heintzman: It says schedule 2 because it was drafted not for Bill C-11 as it now exists. With the changes you've made, you'd have to change that to schedule 3.

The Chair: Okay. And that will happen automatically. RCMP-20 is correct.

Mr. Paul Szabo: If his concern is the numbering of schedules, we can do G-23 and then do RCMP-20.

All of those schedule numbers will conform within those stood clauses? That's correct? Okay.

The Chair: We're just getting clarification here.

So RCMP-10 will not be affected.

Are we ready for the vote on G-23 and the other affected amendments?

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

(On clause 2—*Definitions*)

The Chair: Clause 2 had been stood. There was some discussion earlier that you may want to amend clause 2.

• (1705)

Mr. Paul Szabo: What are you doing with RCMP-20? That's the other schedule.

The Chair: Yes, that will come next. We're not there, Mr. Szabo. We have to go back. We'd stood clauses 2, 3, and 15. We're dealing with those now. Then we'll get to RCMP-20.

Mr. Paul Szabo: Okay. I'll move the question on clause 2.

(Clause 2 as amended agreed to)

(Clause 3 as amended agreed to)

The Chair: It's just amending the numbering of the schedule.

(Clause 15 agreed to)

The Chair: Now we go to RCMP-20, page 120.

Mr. Paul Szabo: I will move it.

The Chair: Government member Mr. Szabo has moved RCMP-20.

Discussion?

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

The Chair: Okay. We now go back to the preamble and to amendment BQ-1, page 1.

Mr. Sauvageau, that's yours. I think it has to do with an interpretation, as I remember it. Perhaps you could just move that amendment or explain what you're looking for in BQ-1.

[*Translation*]

Mr. Benoît Sauvageau: It is a bit like in the case of the Integrity Officer whose title is changed everywhere in the bill.

Mr. Keyserlingk and certain other witnesses had suggested that the words "dénonciation" and "divulgater" in the French version be replaced by the words "divulgaration" and "divulgateur" to make the law less negative or less threatening. I don't think that is much of a problem.

Do you agree?

[*English*]

The Chair: Is that agreed?

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

The Chair: Now we're on page 2, CPC-1.

On that one, I'd like to explain that CPC-1.... Well, I don't think it's necessary to withdraw. It's not admissible now; it has to be dealt with at report stage, when the royal recommendation is dealt with.

Can we deal with it at report stage?

Mr. Joe Preston: Okay, I'll let it stand until then.

The Chair: Sure.

Shall the preamble carry?

Some hon. members: Agreed.

The Chair: Shall the short title, clause 1, carry?

Some hon. members: Agreed.

The Chair: Shall the title carry?

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: I think we have to adopt the amended title, "An Act to establish a procedure for the disclosure[...]" In the French version of the preamble, we replaced the words "denonciation" with "divulgaration" and "denonciateur" with "divulgateur" and this should apply everywhere throughout the act. It should also apply to the title.

• (1710)

[English]

The Chair: Right.

[Translation]

Mr. Benoît Sauvageau: That's what has to be done to ensure consistency.

[English]

The Chair: Okay.

Is that understood? Agreed?

Some hon. members: Agreed.

The Chair: Shall the title as amended carry?

Some hon. members: Agreed.

The Chair: On the bill, there were comments earlier—and I welcome your input on this—that we haven't seen the bill actually together, with everything plugged in. Are we going to pass the bill before we actually see it?

The question is, shall the bill carry?

Mr. Lauzon.

Mr. Guy Lauzon: Can I have some clarification? I'm new at this, so I'd like to know, are we going to be able to make further amendments?

The Chair: Only at report stage, not at committee. Once the bill is carried—

Mr. Guy Lauzon: We have some changes that we want to see there. What if it comes back and the changes, as we understood them, aren't there? Would we be able to amend that at report stage?

Mr. Paul Szabo: The journals branch will help draft those things. Your whip's desk will—

The Chair: Mr. Szabo, please....

If the bill is passed, then we are done with this at committee. The only place you can make amendments after that is at report stage. That's why I was looking to you and asking about the bill, asking whether we should carry the bill. I'd had some of you express some concern that we'd never seen the bill all put together in a way that you could examine it carefully. That's why I was asking.

Mr. Poilievre was next on the list.

Mr. Pierre Poilievre: I would just voice my concern that we not pass it without seeing the full document.

The Chair: Perhaps we could have the clerk explain.

Ms. Susan Baldwin (Procedural Clerk): Let me tell you what always happens with a bill that's been amended in committee.

First of all, the bill gets amended. Then the committee agrees to the bill as amended. After that, the bill is reprinted with all the amendments the committee agreed to. That is the basis of the bill one looks at to make all the report stage amendments.

At report stage, the Speaker selects the amendments. Some of them may be inadmissible and some of them may not be selected. But I'd like to assure you that, in particular, one of the categories

selected includes the areas of the bill that were amended by the committee. If the amendment is not exactly what you like, you will have an opportunity at report stage to move amendments to the amendments moved in this bill.

Now, you would not be allowed to move a number of amendments to places where it's been debated already in committee and negated, or where no amendments were moved. But I think your major concern would be met by the Speaker's selection process.

The Chair: As we know, the Speaker has become far more selective. Far more proposed amendments are being rejected by the Speaker. You're aware of what's happened there—quite a substantial change over the past while.

Monsieur Sauvageau.

[Translation]

Mr. Benoît Sauvageau: First, I would like to see the normal process respected. I don't see evildoers and people with wicked intentions hiding behind every bush, and so I am sure that the normal procedure will be followed, as is in the case with all bills studied in committee that are sent back to the House and then studied at the report stage

In conclusion, I would like to thank the three witnesses present for their professionalism, their expertise and, in particular, their patience.

• (1715)

[English]

The Chair: Yes.

Some hon. members: Hear, hear!

The Chair: Mr. Boshcoff.

Mr. Ken Boshcoff: Thank you.

I also do not share any paranoia. I believe, with this being televised, with it going into Hansard, and with all of us here, if there's any attempt by the legislative clerk to manipulate the law—

Voices: Oh, oh!

Mr. Ken Boshcoff: —so that it isn't as amended, then I would think that would be easily detected by any of us.

I don't really need to see the final copy. I'd like to move the process along and feel that we've accomplished something this term.

I would certainly move adoption of the bill as amended.

The Chair: The clerk has informed me that she likes her job, Mr. Boshcoff, and she's assuring you that she will not do that.

Mr. Lauzon.

Mr. Guy Lauzon: From the clerk's comments, I understand that this is regular procedure, or the way it's normally done.

Ms. Susan Baldwin: Always—not just normally, but always.

Mr. Guy Lauzon: Okay. Well, if it's always done this way, that gives me a high degree of comfort.

I want to echo Mr. Sauvageau's comments. Due to my inexperience and caution, I in particular may have overstressed the patience of the witnesses. I want to thank them for their expert advice and particularly for their patience.

The Chair: Okay.

Let's deal with the bill.

Shall the bill as amended carry?

Some hon. members: Agreed.

Some hon. members: Hear, hear!

The Chair: We're not finished yet.

Shall I report the bill as amended to the House?

Some hon. members: Agreed.

Mr. Joe Preston: If you feel that's appropriate.

The Chair: If I feel that's appropriate? Don't put that kind of pressure on me, Mr. Preston.

Shall the committee order a reprint?

Some hon. members: Agreed.

The Chair: We are finished.

I would like to thank you very much, Mr. Heintzman, Ms. Graham, and Mr. LeFrançois. You spent a lot of time with us, and I think you helped us along immensely. I really do appreciate your

help, which sometimes probably was above the call of duty. I do appreciate it very much.

Mr. Ralph Heintzman: Thank you, Mr. Chair.

The Chair: Mr. Szabo.

Mr. Paul Szabo: Mr. Chairman, I'm sure you've spoken on behalf of all the members here. We appreciate the work.

I also want to point out what has happened here. It's taken a long time, but all the people around this table have played an integral role in the creation of a new officer of Parliament. It's a very rare and very exceptional achievement. This committee worked closely together, and despite the jousting on details—I've never seen clause-by-clause go on this long before—I think everyone learned from it.

So I thank all the honourable members for their good faith.

The Chair: Finally, as chair, I'd like to thank all of the help. The House of Commons staff has been of great help.

Some hon. members: Hear, hear!

The Chair: We'd like to thank all of those who are at the table and some who aren't.

Again, to all members of the committee, for your cooperation, thank you.

The meeting is adjourned.

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