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Chair

Mr. David Tilson

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•(1530)

[English]

The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): We'll call the meeting to order.

This is meeting number 4 of the legislative committee on Bill C-2. The orders of the day are, pursuant to the order of reference of Thursday, April 27, 2006, Bill C-2, an act providing for conflict of interest rules, restrictions on election financing, and measures respecting administrative transparency, oversight, and accountability.

Our guest today is the Auditor General of Canada. Good afternoon, Ms. Sheila Fraser. With her is—I hope I do this right—John Wiersema, Deputy Auditor General, and Jean Ste-Marie, Assistant Auditor General and legal adviser.

Good afternoon to all three of you. Ms. Fraser, you may have some opening comments to make.

Ms. Sheila Fraser (Auditor General, Office of the Auditor General of Canada): I do. Thank you, Mr. Chair. Good afternoon to you and to the members of the committee.

Let me begin first by congratulating all of you on your election or re-election as members of Parliament. We very much look forward to working with you in the future. We are also very pleased to be here today and would like to thank you for this opportunity to discuss aspects of Bill C-2 that affect the Office of the Auditor General.

As you mentioned, I am accompanied by John Wiersema, who is the Deputy Auditor General, and Jean Ste-Marie, our legal adviser and Assistant Auditor General.

As legislative auditors we provide objective information, advice, and assurance that parliamentarians can use to scrutinize government spending and performance. We appreciate the confidence in our work that is demonstrated in many of the provisions of Bill C-2.

Today I would like to comment on four areas of the bill that specifically affect our office: the expansion of our mandate, access to information, the process for appointing the Auditor General, and immunity for agents of Parliament.

Last year changes to the Auditor General Act addressed our concerns about audit access to foundations. We are now able to conduct performance audits in non-profit organizations that have received \$100 million or more in a five-year period. The legislative amendments also made us the auditors of three additional crown corporations. So we are now the auditors or joint auditors of all crown corporations, except for the Bank of Canada and the Canada Pension Plan Investment Board.

The current bill would expand our mandate further to what has been called “following the dollar” to any recipients of public funds who have received a million dollars or more over five years in the form of grants, contributions or loans.

•(1535)

[Translation]

First of all, let me say that I appreciate this confidence. Now I would like to explain to the members of the committee how we would intend to carry out this mandate:

It is management's job, in departments and Crown corporations, to ensure that grants, contributions and loans provided to individuals or institutions outside the federal government achieve their intended purposes. They do this by establishing the systems and procedures needed to ensure that these funds are used appropriately.

Our role as government's external auditors is to determine whether those systems and procedures are in place and how well they are working. We then report to Parliament on the adequacy of the systems, and we provide recommendations where improvement is needed. We do not believe it is our role to routinely audit recipients of grants and contributions. As previously noted, this is the responsibility of the managers of those programs. Therefore, I expect that we would rarely exercise this option.

[English]

The proposed amendment would also give us the right to audit funding to most first nations. It has been the policy of governments to encourage first nations to move toward greater autonomy and self-government. The need to build institutional capacity in first nations is an important part of this process. We have been engaged for some time in discussions with first nations and government officials on the creation of a first nations auditor general.

Furthermore, previous work of the office has shown that first nations programs are already the subject of extensive reporting and audit. For these reasons we believe we would exercise this option rarely, if at all.

Since I expect to follow the dollar only in very rare and unusual circumstances, we are not seeking additional funding to carry out this expanded mandate.

We support the extended application of the Access to Information Act to our office, as set out in the bill. In the past, we have voluntarily provided access to non-audit information, and we post our hospitality and travel expenses and contract disclosures on our office website.

We are pleased that the bill excludes our audit papers from access to information requests and view this exclusion as essential. Without it, our ability to audit would be compromised.

We also support the exemption of internal audit working papers from disclosure under the Access to Information Act. We reported in November 2004 that we found the current Access to Information Act to be negatively affecting the effectiveness of internal audit in departments and agencies.

[Translation]

We welcome a greater involvement of parliamentarians in the process for appointing the Auditor General. A secret ballot procedure, similar to the one used to elect the Speaker of the House of Commons, would prevent the process from being politicized. Divulging the specific number of votes cast for a nominee could make it difficult for that person to carry out the functions of an agent of Parliament, if it were known that a significant number of members opposed the appointment.

Other agents of Parliament and many provincial Auditors General benefit from civil and criminal immunity in relation to matters arising in the performance of their statutory powers, duties or functions. We are pleased to see similar indemnity provisions extended to my office by the bill.

This concludes our comments on the aspects of Bill C-2 that directly concern our office. As committee members are aware, there are many other parts of the bill that involve policy issues, on which we do not comment.

We would be pleased to answer any questions committee members may have. Thank you.

[English]

The Chair: Thank you, Ms. Fraser.

Mr. Owen.

Hon. Stephen Owen (Vancouver Quadra, Lib.): Welcome, Auditor General, and thank you for giving us the opportunity to hear your view of this important bill.

As I said in my opening remarks for the official opposition in Parliament, the opposition supports this bill. While we have some concern with some sections that may be improved by amendment, we are wholly in support of the continuing incremental improvement of our accountability mechanisms in Parliament and in government.

One of the difficulties, which you have pointed out in the past, about the discussions that we have, which sometimes need to be very critical about particular operations that have failed the standards that we all expect, is that it can give the impression to the public that this is a generalized problem in government. In dealing with this, I've heard you say in the past that while harsh words are sometimes necessary, and strong conclusions have to be raised, we have to be careful not to generalize it in a way that would have the public lose

the requisite respect that it needs for democratic government, either through public servants or politicians, for democracy really to work.

I refer as well to the words of Justice Gomery, in his first report, almost his introductory statement, that Canadians must understand that the overwhelming majority of public servants and politicians are honest, diligent, and effective in their work, and escape from his inquiry without blame. I appreciate your previous remarks on that.

One of my questions would be on the atmosphere of this very important work that we're doing in public, the steps that we should be taking to reinforce the idea that government is overwhelmingly honest and effective and diligent in Canada at all levels and across all parties that find themselves in government, and that this accountability bill is really targeted at the exceptions rather than the common practice.

I'd also be very interested in knowing your views of the proposed parliamentary budget officer—in particular, given that the Auditor General is an officer of Parliament as well, and you and your officials assist us as parliamentarians to do our job better in holding the executive accountable, whether there may be some efficiencies or whether there is a role of that parliamentary budget officer that would make it inconsistent with the mandate of your office. I recognize that there is one example where the Commissioner of the Environment and Sustainable Development is contained within the Auditor General's mandate. One of the issues that comes up in this very massive undertaking that we're involved in is the proliferation of parliamentary officers, which may lead to some confusion or overburdening of the administration.

We're trying to get that proper balance. I wonder if you could comment on that particular officer.

• (1540)

Ms. Sheila Fraser: Thank you, Chair.

I would agree with the member's comments that it is unfortunate at times that there is a generalization of unfortunate events to the vast majority of public servants who come to work every day with great ethics and who are actually doing a wonderful job for this country. We have said in many of our reports that we are in fact very fortunate in this country to have the quality of public servants that we do. I would agree with Mr. Owen that they're probably not getting the public recognition and credit they deserve. I think that is an issue, that there has long been a tradition of the sort of faceless, nameless bureaucrat. I think maybe people should start to question if that needs to change. I think they have been given a bit of a raw deal because of the actions of a very few.

I think it was just in our last report actually, or perhaps the report before that, where we indicated how complex and how large the federal government is. In an organization that spends \$200 billion a year, things are bound to go wrong, but a lot of things do go right. Hopefully our reports will show, and they do show in fact, that many programs are managed well, that progress is being made on addressing recommendations that we have made in the past. I guess one of the conclusions of that is that doesn't get quite as much attention as certain other reports do.

As for the budget office, we haven't really reviewed all that, though my initial reaction would be that the role of the budget office would be very different from the role of the Auditor General, in that they would be working much more closely with parliamentarians. I noticed in the act, for example, that they could do analysis that any parliamentarian would request. I see just there that there's a fundamental difference in what we do. We really do audit the systems and management practices of government and then report to Parliament for their oversight role. I think there is a fundamental difference in the mandates that would be given to the two offices.

Now, obviously in the interests of economies and efficiencies, if there are ways that the offices can share common services or do things like that, we would be glad to do that. In fact, agents of Parliament have already gotten together to discuss sharing certain common administrative systems and other ways that we can work together more effectively.

You mentioned the Commissioner of the Environment. Again, the Commissioner of the Environment really is an audit function; it is not quite so directly attached to Parliament. I think we would be open to looking at the administrative efficiencies, but I would think there are going to be fundamental differences in the mandate of that office as compared to ours.

• (1545)

The Chair: Is there a point of order?

Mr. James Moore (Port Moody—Westwood—Port Coquitlam, CPC): No. Just for clarification, Mr. Chairman, as per the rules of this committee that were set up, I ask for unanimous consent of the committee to extend the time of the committee beyond the 40 minutes that have been prescribed for the Auditor General to give her testimony.

The Chair: You ask consent? That's great, but do you have any... forever?

Mr. James Moore: For an extra full round of questioning.

The Chair: Thank you.

Mr. Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau (Repentigny, BQ): Ms. Fraser, gentlemen, thank you and welcome. We are always pleased to receive you at committees, and more particularly at this committee. Let me ask you a few questions.

I said it when the President of Treasury Board came. I will not quote you, I will paraphrase your words and you can correct me if you wish.

You said that all the rules had been broken in the sponsorship scandal. Thus we can deduce that there were rules, but that there was no political will to enforce those rules. With Bill C-2, do you think that this kind of scandal could happen again?

Ms. Sheila Fraser: Mr. Chairman, it is true that there are rules. I would even say that there are many rules. One may even think that there are too many of them. Perhaps we should come back to principles of sound management instead of creating more rules.

Long ago, we did an audit, before the legislation on human resource management was changed. At the time, we discovered that there were 70,000 rules for managing human resources in the federal government. When there are too many rules, they become irrelevant, and people can no longer tell essentials apart from non-essentials.

The sponsorship file is a concrete example of a profound lack of respect for sound principles of management and for existing rules. Several things indicate that there were problems. Internal audits had been carried out, but there was not enough follow-up to ensure that the problems that had been identified were dealt with and solved.

Certain measures in the bill, for instance the obligation of setting up an audit committee, could make the system a bit more stringent.

As far as we are concerned, our extended mandate only deals with subsidies, contributions and loans. The sponsorship file had to do with contracts. Consequently, the extended mandate we now have would not apply to contracts or sponsorship.

Mr. Benoît Sauvageau: Thank you very much for your accurate answer.

You know that I have been reading your reports with interest for quite a while. You have repeatedly recommended that you should be mandated to audit the books of certain foundations. The last piece of legislation on the budget gives you that mandate. The figures involved were rather high. I think that your initial request dealt with foundations that were receiving \$500 million. The bill gives you the mandate to audit the books of foundations that receive \$100 million or \$200 million.

If I understand the sixth point of your presentation, you seem to be hesitant about extending this mandate to apply it to subsidies, contributions and loans of about one million dollars paid to individuals or institutions. Am I right in presuming that, in your opinion, departments should carry out this follow-up and that the executive must not shirk its responsibilities to audit management?

With regard to sums of \$500 million and \$100 million, this involved certain foundations at a certain level. I think that the departments need to have the right management tools in order to carry out their responsibilities. Did I understand your sixth point correctly? In your opinion is it up to the departments to exercise this oversight?

• (1550)

Ms. Sheila Fraser: In fact, over the years, we have voiced our concerns regarding the accountability of foundations that had been set up and that had received substantial funds, billions of dollars. One of these concerns was due to the fact that the external auditor, the Parliament's auditor, had no access to these foundations' books to see how these substantial sums of public money were spent. Bill C-43, which was passed last summer, answered this concern. It was a bit different, because the foundations had been set up in such a way that departments had very little influence or control over them. Departments found it very difficult to ensure any kind of accountability.

Now, we can audit the management of foundations that have received \$100 million and more, which covers most of them. Currently, we are carrying out two audits of two of these foundations.

What the bill proposes is different. It will cover the vast majority of programs that involve subsidies, contributions and loans. Let us emphasize the fact that it is really up to program managers to ensure that the agreements concerning subsidies, contributions and loans are respected and that the program attains its intended goal. They must create a system, because this no longer involves single, isolated transactions, as is the case for foundations. Transactions come in series and require the appropriate monitoring systems. The external auditor's role consists in auditing these monitoring systems and in noting whether improvements should be made, and of course in reporting this to Parliament. We expect that this will be the normal procedure.

In very rare cases we might have to intervene, but in our opinion, this would not be done on a regular basis. We believe that it would be rather unusual for us to be called upon to audit the books of a recipient.

[English]

The Chair: Mr. Martin.

Mr. Pat Martin (Winnipeg Centre, NDP): Thank you, Chair.

Madam Fraser, thank you. It's nice to see you, as always.

I notice that under the new tasks and duties that Bill C-2 has in mind for you, you will now be the auditor for all crowns except for the Bank of Canada and the Canada Pension Plan Investment Board. I note that the auditor of record for the Bank of Canada up until recently was Arthur Andersen of Enron fame. I would much rather have you as the auditor of the Bank of Canada than Arthur Andersen. I don't know why those would be beyond your scope. I'll ask you to comment on that.

Also, Ms. Fraser, we're very concerned, on a number of levels, about this notion that you should be auditing first nations. I'm pleased to see in your comments that in your view, I think you say, you believe you would exercise that option rarely, if at all. I do remember your observations about the accounting reporting of first nations, that you actually felt that they were perhaps over-audited, or the burden of reports that they filed was excessive as it is.

I share that with you, but I go further. I don't believe the Government of Canada has any business following the money beyond when that money is transferred to first nations because of the unique relationship they have with first nations generally.

I'd ask you to expand a bit on both of those things—first, why in your view the Bank of Canada and the Canada Pension Plan Investment Board are excluded, and second, your reasoning behind first nations.

• (1555)

Ms. Sheila Fraser: Thank you, Chair.

On your question about the Bank of Canada, the discussion should probably be held with the bank or with the Department of Finance. I think a case has been made about the independence of the bank. In many countries, the legislative auditor does not actually audit the central bank. Then there was a decision made in that regard that it would be private sector auditors.

As for the Canada Pension Plan Investment Board, I should mention as well that this is not Bill C-2. This was actually Bill C-43, which was passed last summer, so we now do have that mandate. We are actually conducting the audits of the three new crowns that are new to our mandate.

Mr. Pat Martin: Yes, but that's access to information. There are new crowns listed under the access to information provisions of Bill C-2.

Ms. Sheila Fraser: But in terms of the Canada Pension Plan Investment Board, the reason that the federal government couldn't name us as auditors was that it required the consent of the provinces.

Mr. Pat Martin: Oh, right.

Ms. Sheila Fraser: Government had agreed with us and committed to us that they would work with us to have us named. So it's a question of time and getting the consent of the various provinces. We would expect to eventually become joint auditors of the investment board as well.

On first nations, we make reference to a reporting study that we did back in December of 2002. When we looked at a number of first nations to see how many reports they actually had to produce for only four government departments, we found that they had to produce 200 and more reports in a year.

Mr. Pat Martin: That's four per week.

Ms. Sheila Fraser: Four of the reports were audited financial statements, and another 52 reports were dealing with financial matters. There is often a financial report for each individual program as well as an overall financial report. Then they have to produce a whole series of other non-financial reports. And that was only for four departments. Many more departments have programs in first nations communities.

At the time, we said that there really needed to be a streamlining of the reporting, that there had to be a consolidation of reports. We asked if it wouldn't be better, quite frankly, to have people delivering front-line services rather than filling out reports. Government agreed, except that...

At any rate, we will be coming next week with a status report. I'll be glad to tell you what progress has been made or not on that. But a lot of reporting and audit already goes on in first nations communities.

Mr. Pat Martin: Just for the record, I believe the figures show that 96% of all first nations file their large annual report on time and without incident.

Ms. Sheila Fraser: That is correct, and the consequence of not filing the reports is that the funding is cut.

Mr. Pat Martin: It's dire, yes.

Ms. Sheila Fraser: If people do not produce those reports, the first nation has its funding cut, so there's a very strong incentive to produce the reports.

Mr. Pat Martin: I have national chief Phil Fontaine's comments here. He makes reference to work he's been doing with your office for the last couple of years towards an independent first nations auditor general. Can you give us a status report on that work?

Ms. Sheila Fraser: We have had several discussions with the grand chief and the AFN, as well as government officials—the Treasury Board Secretariat and the Department of Indian and Northern Affairs—on the possibility of establishing a first nations auditor general. It is still in very early stages, but they are definitely very interested in that and would really, I think, like to move in that direction. Obviously, as they say, the devil is always in the details as to how you go around this, but we have certainly indicated, both to government and to the AFN, that we will be supportive in this process.

We have also had discussions previously with the first nations of Saskatchewan, and they have also explored the possibility of setting up an auditor general for the Saskatchewan first nations.

• (1600)

The Chair: Thank you.

Monsieur Petit, go ahead, please.

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Ms. Fraser, Mr. Wiersema and Mr. Ste-Marie, good afternoon.

Let me ask you a question. You mentioned four things and I would like to discuss the one that dealt with access to information. You said two things in your opening remarks. First, one might say that you are very liberal, in the philosophical sense, when it comes to disclosing information from your office. On the other hand, you seem to be saying that because of the Access to Information Act, you had a great deal of difficulty in getting answers. Did I understand your statements correctly?

Ms. Sheila Fraser: Not quite. We disclose information regarding all aspects of office management, but we would like, as proposed in the bill, that all our auditing files, all our work sheets and interview notes and other such things be excluded from the Access to Information Act.

Our audit operations are not subject to the Access to Information Act. The Auditor General Act obliges the government to provide us with all the information we need. This is much broader than what is covered by the Access to Information Act.

Mr. Daniel Petit: Basically, you only get involved when the investigation begins. You collect data pursuant to the Access to Information Act and you say that they should not be disclosed. Am I right?

Ms. Sheila Fraser: I mean all the information involved in an audit. We believe that it should all be protected because otherwise, it could hinder our ability to carry out audits. We are entrusted with much confidential information. Afterwards, we follow a procedure in order to validate the data. Sometimes, we might have draft reports based on inaccurate data or data that may be out of context. If these reports were freely distributed, it could create problems for us and for the government, because of the erroneous information they contain. We firmly believe that audit files must be exempted from the Access to Information Act, as this bill proposes.

Mr. Daniel Petit: When you get an erroneous piece of information, you report it and state that there is an error. Can this be accessed?

Ms. Sheila Fraser: Our procedures provide for exchanges and draft reports with the department we are auditing. At the end of the process, we ask the department to confirm the accuracy of the facts. We take every possible steps to ensure that there are no errors in our reports.

Mr. Daniel Petit: Thank you very much, Ms. Fraser.

[*English*]

The Chair: That concludes the first round. Let's start the second round with Mr. Holland.

Mr. Mark Holland (Ajax—Pickering, Lib.): Thank you, Mr. Chairman, and thank you, Madam Fraser. It's good to see you again, and we certainly appreciate your coming before the committee.

I have just a bit of commentary first, and I'd be interested in your take on it. Looking through this and hearing some of the comments that have been made—and certainly I'm supportive of strengthening any measures with respect to accountability—some of these items strike me as a little bit of placebo policy, for example, as they pertain to foundations. In the previous Parliament there was certainly an effort by all parties—in part through the committee that I was on, the public accounts committee, and Mr. Sauvageau was there as well—to address many of the concerns that you had raised with respect to foundations. In a bipartisan way we recognize that the concerns you put forward regarding foundations were legitimate. They needed to be addressed, and we tried to support you in that. Fortunately, the Treasury Board did implement substantive changes that essentially—maybe not totally—addressed all of the concerns, and now what we're seeing in this legislation that's been put forward is perhaps some tweaking or additions. What I'm seeing is that they're largely really additions that you would rarely exercise or implement. So I'm wondering to what extent those are redundant or might further complicate your role in the sense that your role tends to be one that needs to be highly focused. If there is an expectation by taking on these new roles, is that going to cause difficulty?

My bigger concern, though, in this process rests with the point that Mr. Martin made on extending your jurisdiction into first nations. I know this notion of creating a first nations auditor general is certainly laudable, and I think that's the direction we should be going in. I know that there's been extensive auditing that has already been occurring there, but I'm just wondering what your thoughts are on the potential for a conflict arising. If you had a first nations auditor general and you as auditor general also had responsibility for auditing the first nations, wouldn't that create some kind of difficulty in terms of who's at the top of that food chain and who's reporting to whom? Isn't it going to further undermine, in fact, the issue of autonomy? Maybe this is more of my own commentary than something you can say, but if the objective is to give more autonomy to first nations peoples, then aren't we undermining that autonomy by casting you into an area in which you yourself have said you would rarely use the authority given to you, if at all?

• (1605)

Ms. Sheila Fraser: Thank you, Mr. Chair.

Mr. Holland is correct that our concerns about audit access or auditing of foundations were covered or addressed last summer by Bill C-43, and I guess the whole question as to whether our mandate is expanded or not is really up to Parliament to decide on. What I would say is that we believe it essential that there be the words "that the audits be conducted at the discretion of the Auditor General" so the Auditor General is the one who decides whether and how this expanded mandate would be used. I don't expect that there would be any conflict if there were to be a first nations auditor general, because as I said earlier, we would go back and look at the systems and practices in place to ensure that moneys are being spent to achieve the objectives intended. If there was a first nations auditor general, that would obviously form part of that, and it would reinforce I think the belief that moneys were being properly spent. As you said, it's all about managing expectations, isn't it?

We will have to see. We've always tried to be responsive to parliamentarians if parliamentarians have particular concerns or issues that they think an audit would be helpful in resolving, and the committee requests we have always tried to accommodate within our work plan. I guess we would need to have a better understanding from parliamentarians, if they were to ask us to do some work, of what the underlying concern is and determine whether an audit really would be the best tool to address that concern, because an audit doesn't solve everything.

Mr. Mark Holland: I certainly would agree with you that the power needs to rest with you in determining where you need to go. As committees we can raise issues or concerns and bring them to your attention, but ultimately the authority of where you go and what you pursue needs to be your own. That point I think needs to be particularly stressed.

I also have some concerns with some of the vernacular that's used. We're talking about foundations as being these awful, horrible things, but the reality is the Foundation for Innovation and many others do serve very useful functions. I think while we're trying to incrementally improve our accountability process we do have to exercise a certain degree of caution to not set labels. Earlier you had mentioned bureaucrats, but I would also include foundations and some of the good work they do. I suggest that we be judicious and careful about the type of wording and vernacular we use to describe these situations, in order not to create a situation in which we give false impressions about some of the good things they do.

Ms. Sheila Fraser: Absolutely, I agree with that totally, and I look forward to reporting on some of these broad-scope audits in which we have included foundations. For example, the Commissioner of the Environment will be coming in the fall with a report on climate change, and the Foundation for Sustainable Development Technology plays a large role in that. So we are looking at that in the broader aspect of climate change initiatives.

The Chair: Thank you.

Mr. Lukiwski.

•(1610)

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): Thank you, Mr. Chair.

Welcome to the committee. It's a pleasure.

I notice many other members of this committee have had an opportunity to meet you before, and as I said just a few moments ago, it's my first opportunity. I am a big fan. I do want to point out what I'm sure many other parliamentarians and Canadians have said in past years, that you have, I believe rightfully so, the reputation of being somewhat of a Canadian hero for all of the work you did in the sponsorship scandal. Quite frankly, I think the work you did there is not only laudable, but I think it was the genesis for what we are dealing with right now. So thank you. I'm very pleased to see Canadian taxpayers' interests are being served so well.

The questions I did have, have already been addressed by other members of the committee, but I do want to ask you one more that I'm curious about. It's on the appointment process, where you have suggested that you were in favour—and please correct me if I'm wrong—of having a secret ballot in the process of appointing your position, because you feel that if the actual vote count were known, and those who opposed perhaps the appointment of a particular Auditor General were known, it might have an adverse impact on the ability of the Auditor General to perform his or her duties. The counter argument to a secret ballot, of course...and I'm sure probably some on this committee would say, well, I believe in the concept of stand and be counted; it's important for our constituents to know how we vote on issues, particularly with appointments of officers of Parliament.

So I'd just like you to comment on your belief that a secret ballot is the way. How adversely would your ability to do your job be impacted if you knew that, say, 40% of parliamentarians perhaps did not vote in favour of a specific appointment?

Ms. Sheila Fraser: Thank you. I went through obviously a very different appointment process, which was I think a rigorous process, where there was a search committee, a selection committee, and then a recommendation, and consultation with the opposition parties. There wasn't a vote, obviously, and there wasn't a review by a committee before that.

It is absolutely essential for any agent of Parliament to be viewed as non-partisan and completely objective. I would caution the committee that any process that is put in place for the appointment of an agent of Parliament cannot become politicized. To sit in front of parliamentarians and know that a certain party or 40% voted against you I think would be extremely uncomfortable. Speaking personally, individually, if that were the process, I don't think I would accept the appointment if there was not...if it was to be open, it would have to be unanimous consent. Otherwise, what sort of a position is somebody going to be in to be working for people and knowing that 40% didn't want them? I just think it could make it very, very awkward, and it has the risk of politicizing the process. I don't think you should have people lobbying for these positions or trying to.... It shouldn't become a beauty contest, I guess is what I'm trying to say.

That's why we say that something like the procedure used for the Speaker, where the person is voted, named, but then there are no actual results given afterwards, and then it becomes a unanimous decision.... I would prefer something like that.

Mr. Tom Lukiwski: Thank you very much for your comments.

I have no more questions.

The Chair: Mr. Sauvageau.

[Translation]

Mr. Benoît Sauvageau: Since we do not have much time, I'm going to be asking short questions and I would appreciate short answers.

Clauses 304 to 308 of Bill C-2 amend the Auditor General Act. Do you want to see amendments to clauses 304 to 308, and if so, which clauses do you want amended?

Ms. Sheila Fraser: We are not calling for amendments to the bill. It is up to Parliament to determine what the law should be. We have simply stated how we would implement the provisions of the bill if it were passed. So we are not calling for any amendments.

• (1615)

Mr. Benoît Sauvageau: If the act were in force and you could investigate all the grants of one million dollars and more, you would not do so systematically, it would be done on a random basis. For example, if a department is not doing its work properly, there are potentially two entities responsible for that: either you or the department. If we were to give you this power, is there not a risk that a department could subsequently say that if funds were misappropriated, the Auditor General could have looked into the matter?

Ms. Sheila Fraser: Our role is to audit to determine whether an adequate system is in place. If no such system exists, we would report on that and we would expect the department to correct the situation. Otherwise, there would be a follow-up to report on the situation.

The prime responsibility always lies with the department and with the government. We do not have the resources required and it would not be appropriate for us to audit everything that goes on in the federal government. There could be misappropriations that we would not see, and I would not feel responsible for that.

Mr. Benoît Sauvageau: Let me give you an example. This is not what the Conservatives wanted to do, but if the Department of Industry were to give a grant to Bombardier, you would not audit Bombardier's books to determine whether the money was handled properly. It would be up to the Department of Industry to do that.

Ms. Sheila Fraser: That is correct.

Mr. Benoît Sauvageau: Fine, I understand.

Now, with respect to the accountability of the Department of Indian and Northern Affairs, you say:

We have engaged for some time in discussions with First Nations and government officials on the creation of a First Nations Auditor General.

Do you think that as it is worded at the moment, Bill C-2 somewhat distorts this focus with respect with a First Nations Auditor General?

Ms. Sheila Fraser: I do not think so. We have recently had discussions with representatives of the Assembly of First Nations and the Grand Chief. They still want a First Nations Auditor General. How will we achieve that, what form will it take and what will the structure be? That has still not been determined. There are

still a great many details that have to be worked out. The fact that the Auditor General of Canada has such a mandate would not prevent the creation of a First Nations Auditor General. This would be an institution for their own development and their own accountability.

Mr. Benoît Sauvageau: Do you think that you should have a mandate to audit the grants and contributions of aboriginal communities, or should you, rather, audit the Department of Indian Affairs and Northern Development, which determines whether the money has been managed properly?

Ms. Sheila Fraser: We are already auditing the department's books. The first nations are already subject to audits by private sector firms. As mentioned previously, if these audits are not done and are not forwarded to the department, its funding is interrupted. A financial audit is already done of all first nations, or almost all of them. So many audits are being done.

In fact, the first nations will have to have their own institution for auditing the management of the first nations accounts and should report to this institution. The creation of a First Nations Auditor General position goes further than accountability to the federal government. This auditor will play a different role, but will also have to satisfy the federal government.

[English]

The Chair: Thank you.

Mr. Poilievre.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Do you believe the first nations should proceed with an independent auditor general of first nations?

• (1620)

Ms. Sheila Fraser: The Assembly of First Nations has indicated that they would like to establish an auditor general for first nations. We are supportive of that.

Mr. Pierre Poilievre: You are supportive. What would be their function?

Ms. Sheila Fraser: The function would be a bit like the function of the Auditor General for the government. I guess there would be a question about all the auditing that's currently going on by private sector firms, if that would remain or not, but they could also do broadly scoped audits. They would be in fact reporting to the communities. It wouldn't be an exercise of accountability in reporting to just the federal government but rather to the people of those first nations.

Mr. Pierre Poilievre: Okay. What I don't understand is that if we agree that there is a need for a first nations auditor, there isn't one now, so presumably the need for a first nations auditor signals to us that certain auditing or accountability mechanisms do not presently exist.

Ms. Sheila Fraser: Yes.

Mr. Pierre Poilievre: What would be the problem with your office filling that void in the meantime?

Ms. Sheila Fraser: The mandate that would be given to me would be only in regard to federal funds that are given to first nations, and the reporting would be to the Parliament of Canada. A first nations auditor general would audit all of the funds, all of the moneys, be it government transfers or own-source revenues, and would report to first nations people, not to the Parliament of Canada.

Mr. Pierre Poilievre: Right. But ultimately the reports would be made public and they would be available to first nations people if your office made them. Just because your office would not be able to go as far should not be a reason for us not to proceed at all.

Ms. Sheila Fraser: I guess we could easily get into questions of policy here. If it is the policy that first nations should move toward self-government, they should have in place their own institutions that support self-government.

Mr. Pierre Poilievre: That's a normative statement that many of us would find admirable, but the fact is they don't. We've all agreed that no auditor general exists for first nations people right now. We've all agreed that there should be something of that sort. But there is no guarantee whatsoever that there will be in the immediate future. As such, the money that is being transferred to these reserves is the money of the Government of Canada. As you correctly pointed out, we're not talking about auditing moneys that are raised on the reserve through legitimate activities on those reserves. This is money that comes from the federal government to organizations that are not self-governing bodies.

Ms. Sheila Fraser: Perhaps I could just remind the member, Mr. Chair, that these funds are audited. These communities, small communities—the majority of them are under 500 people—produce over 200 reports a year to four departments. When we did that audit, those departments did little, if anything, with those reports. So the responsibility to actually manage and make sure that the funds are being used appropriately lies with the federal government and the bureaucrats, not an external auditor. There should be management systems in place that will provide sufficient information to government and to Parliament as to how those funds are being used and what outcomes are being attained.

Mr. Pierre Poilievre: When we talk about transfers to grant recipients or to corporations, we don't just say, "Trust the ministry. Trust the department." We don't say that the department should really look into it and take care of it themselves. We assign an auditor general to that mandate.

So why, in this one single situation where we don't have self-governing agreements, should we make a glaring exception?

Ms. Sheila Fraser: Absolutely. Our role is to look at those systems and practices in place and to ask if they are adequate or not, if any improvements should be made. I can tell you that we've been doing probably, on average, two audits a year in the Department of Indian and Northern Affairs. There are a lot of improvements that we keep noting. Many improvements should be made to the management systems. But we're not making a separate category; we're saying the same thing for any grant and contribution and any transfer program. The same thing would apply to the grants, the loan to Bombardier, or the loans that are made by EDC for export development.

We saying that those organizations should have in place the systems and practices to make sure that those funds are being used in

accordance with the terms and conditions of the program and that they are achieving the outcomes. In the case of first nations, we're also saying that there is a project that we've been working on to establish an auditor general for first nations.

• (1625)

The Chair: Thank you.

Mr. Martin, go ahead, please.

Mr. Pat Martin: Madam Fraser, some day when they build a statue for you on Parliament Hill, it will probably have a little plaque underneath with some of your more famous sayings. One was, "They broke every rule in the book". Everyone loves that one. The second most popular one I think is pointing out the appalling lack of documentation. I remember very well your using that phrase.

One of the big letdowns for us in Bill C-2 that we're talking about has been that they promised to put in the access to information changes that we'd all been working toward for years, and then they pulled them out just before the bill went ahead. One of the justifications for doing so was that if that information were subject to more access to information requests, it might be driven underground. In other words, there might be even less documentation for our use, for your use, etc. Has it ever come up before that access to information has a perverse effect sometimes in forcing an oral culture to develop instead of a documented culture? Would you agree that there should be mandatory documentation as per our recommendations, and even make it an offence to fail to produce documentation as you go about the business of government? Can you share any views on that?

Ms. Sheila Fraser: Thank you, Mr. Chair.

It is the case that access to information has negatively impacted upon documentation. We mention it here in this opening statement about internal audit. When we did the review of internal audit in government we were told that access to information was affecting the timing of reports and whether reports were written or not. There are oral reports on internal audits. It is really affecting their effectiveness. That is why we support better protection of audit working papers under access to information, because it is impeding our ability to work.

Mr. Pat Martin: I'm sorry, I don't quite understand what you mean by that. Can you say the last part again?

Ms. Sheila Fraser: We talk about protecting audit working papers, and not letting them become public for a variety of reasons. One is that in the process of an audit you validate facts, and you could have drafts of reports that are in fact incorrect. Also there is information that is given that is confidential. If people were to know that in interviews what they said would become public, I don't think we would get the same kind of information we're getting.

Mr. Pat Martin: Wasn't it the draft report or the draft interim audit of the sponsorship scandal that was first ATIPed and blew open the whole—

Ms. Sheila Fraser: No, actually it was a report that had been produced under a contract that the department couldn't find, and then they found out that there were other ones that were very similar. So it wasn't the internal audit. It's not the fact that working papers in the internal audit become public but more what is actually done with the internal audit report once it's produced that is the issue.

So, yes, I think access to information has an effect on documentation. Now, is the solution to make it a requirement and to have sanctions? I don't know. I hesitate to comment on that.

Mr. Pat Martin: I understand. Actually that's very helpful.

Your office pops up quite a bit throughout the action plan and even of course in the bill itself. Did the government consult with you about all of the aspects that included you?

• (1630)

Ms. Sheila Fraser: We did have discussions with government on the proposed changes.

Mr. Pat Martin: Are there any changes in here that you advised against in those discussions?

Ms. Sheila Fraser: Let's just say we had good, vigorous discussions on certain items, and we believe it is really up to Parliament to decide the kind of mandate it wishes to give its auditor. We wanted to be sure that the words "at the discretion of the Auditor General" were very clear in any expansion of our mandate. We did bring forward—

Mr. Pat Martin: Do you see that, where you need to know?

The Chair: I think we're going to have to conclude and move on to Mr. James Moore.

Mr. James Moore: I was wondering if Ms. Fraser could indulge me and the committee just a bit. I wasn't going to have an intervention, but the issues raised by Mr. Martin and Mr. Poilievre piqued my curiosity.

In my district I have one aboriginal reserve. We've had a real hell of a time getting some accountability out with regard to that reserve...and some specific environmental issues. I know this has been a long-standing issue in this country and previous Parliaments, the whole issue of accountability of first nations.

I remember back in the 37th Parliament—Mr. Owen remembers, because he was in Mr. Chrétien's cabinet—the First Nations Governance Act that was put forward by then Minister Bob Nault. What was then proposed was seen as a real push to get accountability with some real controversies that I know Mr. Martin and others had on that.

I know this goes a little beyond the Accountability Act, but basically there are three proposals. There is the First Nations Governance Act, which I know you are aware of, put forward by Minister Nault when he was Minister of Indian Affairs. Now we have the federal Accountability Act. Then there is the proposal for an auditor general specifically for first nations. Perhaps you could just take a couple minutes and speculate on which of those three avenues is the respected voice for accountability in governance.

The reason I ask the question, of course, is that first nations benefit from accountability. I agree with everything Mr. Martin said, and what you said, about the reality of accountability for first nations communities, but a lot of Canadians don't see that. A lot of Canadians are frustrated, not necessarily about first nations communities but about the bureaucracy associated with the department here and not seeming to get full access to information that's of concern to a lot of Canadians in a lot of communities.

I guess I would just ask you to talk a little about those three options—auditor general for first nations, the federal Accountability Act and what we've proposed, and the First Nations Governance Act of a couple of years ago—and the pros and cons of each, what might be the best mix.

Ms. Sheila Fraser: Mr. Chair, obviously I'm not prepared to get into an analysis of this. We haven't studied each one of these bills in any great detail, especially the governance one of a few years ago.

It might be interesting for the committee to know that quite a few years ago we did a study on accountability of first nations to the federal government. I guess if I could leave you with one thought, it would be that accountability is more than just reporting, and accountability is more than audit.

Accountability is about a relationship between two people. There has to be good trust. There has to be cooperation. There has to be consultation. People have to have a desire to make these things work. If we fall back into believing it's just the Auditor General or somebody auditing the money, that to me is not really about accountability. Yes, the government transfers a lot of money into these first nations, but it's about what is being accomplished at the end of all of this.

I can say quite frankly that in many of the reports we have issued—and we have a status report coming next Tuesday that will look at 37 of the recommendations we've made in first nations communities—there are serious issues there. I think most people would agree that there are unacceptable conditions. Often the department does not know what the conditions are, and they're not making the progress that one would expect. It's about how the department as well is measuring its outcomes, and what the performance indicators are. In order to do that well, it requires the cooperation of first nations communities.

To me, saying that we're going to send the Auditor General in to audit isn't accountability, quite frankly. We may have fundamental differences of opinion on that. It's a lot more than producing 200 reports a year. It's really about establishing relationships. It's also putting the practices and the institutions in place in those communities that will support their own development and will support their accountability to their people. That's why we have been supportive of the idea of a first nations auditor general, because that goes to the whole idea of building institutions.

• (1635)

The Chair: That concludes the second round. Although we're now 22 minutes over the 40 minutes, we did agree to go another round.

Mr. Tonks and then Mr. Murphy.

Mr. Alan Tonks (York South—Weston, Lib.): Thank you very much, Mr. Chairman.

Madam Auditor General, the act is the Accountability Act, and in both the Gomery Commission report and your reports there were indications of systemic breakdowns that occurred as a result of the lack of checks and balances and the completion of the accountability loop. I'm sure the committee would agree with you that the audit is not the sole methodology with respect to closing the accountability loop, but to paraphrase something—and it's probably totally wrong in context—the audit is still our best protection against the worst that could happen in administrations that are huge and complex.

This legislation suggests that the deputy minister will be the accountable finance officer in each ministry. Would it be possible for you to give an overview with respect to your relationship with the internal audit committees, how this interfaces with your perception of ministerial oversight, and what your role is with respect to audits, both internal and external, that may point to systemic weaknesses and what the role of the Comptroller General is with respect to closing that accountability loop?

Thank you, Mr. Chairman.

Ms. Sheila Fraser: Thank you.

I guess I should start by saying that the Auditor General of Canada is the external auditor of government. The Comptroller General is, if you will, the person who sets the policies and the procedures and who has the oversight role for the internal audit. He has actually been working very actively to try to strengthen that function within government. Internal audit is really a function for the management. It's a way for management to ensure that systems and practices are working as they should within the department and to provide that information to senior management.

One of the difficulties we have noted, and that I think you will note regarding many of the high-profile audits that we have done in the past few years, is that there were internal audits that identified those problems repeatedly in some cases. But the internal audits weren't taken seriously enough and corrective action wasn't taken. So the introduction of an audit committee with external people, hopefully, will bring a little more rigour into the system and will help the deputy minister, or the heads of the agencies, in addressing some of the management problems. It is our hope that if those are addressed then the external auditor won't be reporting on them.

So there can be very good collaboration between internal audit and external audit. We want to make sure that our work is coordinated, that we're not looking at the same things, if possible. The external auditor will rely on the work of the internal auditor. We work very closely with the Comptroller General obviously on a lot these issues because we have the same objective, which is to improve management within government. We have different roles, but we are all trying to get to the same place.

The Chair: You have a little bit of time, Mr. Murphy.

Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.): That's great.

I have just one quick question—which may be the meat of some giddy accounting parties because I can't imagine your having the answer to this—and one serious question. The unserious question is whether the \$1,000 whistler-blower amount is a taxable amount, in that it doesn't arise from employment and could be considered a general damage in the law because it arises from a damage of the employment situation. You can think that one over and discuss it with your accountants at the cocktail party.

The serious question is—and it's the meat of your report or your précis—that systems and procedures should be in place, and they should be working, and you would report on the adequacy of the systems and provide recommendations for improvement with the new foundations that you oversee or have prevalence over. What I'm asking you is whether you are not underestimating the work that might be required for the million-dollar foundations. There would be more of them. I'm presuming—which is dangerous—that the million-dollar foundations might not have the sophisticated systems and procedures in place, just because of a function of budget, that the one hundred million-dollar foundations that you already look at have. Might you therefore—as you say, you're not going to need additional funding—expect that there will be more work involved with the foundations that frankly have fewer resources to put systems and procedures in place? It's an assumption and you can respond to it as the expert.

• (1640)

Ms. Sheila Fraser: Thank you, Chair.

When we referred to systems and practices, we were referring to the systems of the departments that manage the programs. For example, we would expect the Department of Industry, which gives loans to the private sector under various programs, to have a system in place that would allow it to know whether the terms and conditions of those funding agreements are being met and if the program is meeting its objectives.

We're not necessarily referring to the systems and practices of the individual recipients. Obviously, the departments should take some sort of risk consideration for that. For example, the Department of Heritage will deal with many small non-profit organizations, and when they are giving them money, either grants or contributions, one would expect them to take that into account. How good is the management within that? We're saying that is really the responsibility of the department. It is our responsibility to look at how well that department system or framework of control has been established and if necessary to make recommendations to it about how to improve.

I would just mention, if I may, Chair, that next week in our status report we have an audit on grants and contributions programs in five departments where we are reviewing if progress has been made on addressing past recommendations.

The Chair: Thank you.

Mr. Petit.

[*Translation*]

Mr. Daniel Petit: Ms. Fraser, I would like to ask a question that is both quite simple and somewhat complicated.

The people of Canada see that their country is sending millions of dollars abroad. Very often, people think that this money is not being spent as was agreed upon. For example, if I were to send \$44 million to Haiti, the intent would be to help the country, but I would not be there to check that that is in fact what happened. The people of Canada are not present either. However, you have a responsibility to see whether the program is meeting the objectives that were set, such as helping the people, and whether the conditions are being met, such as not using the money to purchase weapons.

Could you explain to me how your audit power could apply even outside the country? This is another sovereign nation and I do not know how this would work. It seems there is a grey area that I am unable to grasp at the moment.

Ms. Sheila Fraser: Mr. Chairman, let me give you the example of CIDA, which does a great deal of development work and contributes to a number of programs in various countries.

We have done audits in the past. We have studied how CIDA manages its programs and how, in the case of contributions, it ensures that all the terms and conditions are met and checks whether the money was spent for the purposes for which it was intended.

CIDA has been doing project audits for two or three years. Sometimes, the auditors can even detect expenditures that do not qualify for funding. In such cases, CIDA recovers the money.

In our recommendations, we said that CIDA was not recovering the money fast enough. However, the agency itself has set up an audit system to ensure that the terms and conditions are met. It tracks the situation and analyzes the results obtained.

Finally, we audit the framework and the systems, and we make recommendations, for example that CIDA must be more rigorous in recovering and tracking the money. However, the basic system is already in place.

• (1645)

Mr. Daniel Petit: Thank you.

[*English*]

Mr. Pierre Poilievre: Mr. Chair, is there time for another question?

The Chair: Yes, there is.

Mr. Poilievre.

Mr. Pierre Poilievre: Ms. Fraser, you mentioned some areas where you think we may have gone too far in expanding your powers. Is that a fair characterization?

Ms. Sheila Fraser: Not really. What I'm saying is that Parliament will decide what powers they wish to give us. We are really telling you how we expect to use them. There obviously could be things that change in the future, but at this point in time, this is how we would expect to implement that.

Mr. Pierre Poilievre: Is there any area where you believe your mandate should be expanded in the Accountability Act or in previous legislation?

Ms. Sheila Fraser: No.

Mr. Pierre Poilievre: So you really believe your office has the powers it needs to do a good job for the Canadian people.

Ms. Sheila Fraser: Yes.

Mr. Pierre Poilievre: Good. That's good to know, because if there were additional powers that you needed, that's something the committee could examine in the amendment stage.

Finally, I'd just make a point on the aboriginal issue. I have found since we started working on the Accountability Act that we've met with all sorts of stakeholders and have consistently gotten the same message from most of them: we love the Accountability Act; we just don't want it to apply to us. We've gotten that from all sorts of groups, both with regard to the ATI provisions and to expanding the scope of the Auditor General's authority.

I think we have to be consistent. Any group that is getting significant public funds—this is taxpayers' money, after all—should be subject to the same degree of accountability. You've been an exemplary tool of accountability on behalf of the Canadian people, and I would like to see you empowered as much as possible.

That's where we're coming from with that particular provision to follow the money. I think you should take the “follow the money” provisions as the supreme compliment that we have trust and faith in your work.

Ms. Sheila Fraser: I do. I thank you very much. I appreciate the confidence that is displayed by this bill. We look forward to continuing to work for Parliament. If there are areas of particular concern that parliamentarians have, we would obviously be very interested in hearing that and in being able to assist you in any way we can.

Mr. Pierre Poilievre: Thank you.

The Chair: Excuse me just a moment.

Monsieur Sauvageau.

[*Translation*]

Mr. Benoît Sauvageau: Thank you, Mr. Chairman. I had not asked to speak, but if you are giving me the opportunity, I will take it. I apologize for my surprise.

How would you react if the budget official position created in the Library of Parliament were to be included in your duties?

I am sorry if my question is not clear. A budget official has been appointed to the Library of Parliament.

Ms. Sheila Fraser: Mr. Chairman, as I explained previously, we believe that the mandates of those who prepare the budgets are very different from those of the Auditor General. However, if there is a willingness to share certain administrative or other systems...

Mr. Benoît Sauvageau: You are a generous-minded person.

Ms. Sheila Fraser: Currently, all officers of Parliament are studying this question in order to determine whether it would be possible to share systems in order to make efficiency gains all round.

Mr. Benoît Sauvageau: Thank you. I have no other questions.

[*English*]

The Chair: That appears to be it, Ms. Fraser.

You'll be interested to know we've spent twice as much time with you as we have with any other witness.

Ms. Sheila Fraser: I'm flattered.

The Chair: I want to thank you and your colleagues for coming this afternoon and sharing your wisdom with us. Thank you very much.

We're going to recess just for a couple of minutes.

•(1649) _____ (Pause) _____

•(1653)

The Chair: We're going to call the meeting to order, please, ladies and gentlemen. I'd like some order.

Folks, this meeting is televised. We have photo ops going on here.

Subject to the wishes of the committee, we're going to return to this subcommittee report. The only item we haven't dealt with is item number 4, and we were in the middle of debate.

Does anyone else have anything to say?

Mr. Owen.

Hon. Stephen Owen: In our last discussion, we had addressed the idea of treating them separately, so that there might be different considerations for each of these.

With respect to the first part, where we say "each witness or group of witnesses", I worry about the situation, for instance, in which we're talking about the Director of Public Prosecutions, and it's most efficient to organize a panel that includes the Canadian Bar Association, the society of law societies, and whatever—people who are logically grouped together in a panel for efficient consideration of the issue—yet they bring forward different positions.

In order to give them the opportunity to express different opinions, I suggest an amendment that for such a situation we say "that each witness or group of witnesses presenting a common position", and then continue with "have a total of ten minutes".

•(1655)

The Chair: Have you finished?

Hon. Stephen Owen: To anticipate that...for instance, this morning we had representatives generally referred to as the machinery of government—PCO, the Treasury Board, and such—and it was very logical to restrict these, but if they were divergent organizations.... There have been lots of statements in public, and I can imagine situations in which groups have different points of view but it's very efficient for us to deal with them as a panel. I wouldn't want us to then leave them in the position of having to scrap over ten minutes to express different points of view.

The Chair: Conceivably you could have four 10-minute sessions, which causes a problem if the time limit is 40 minutes. I don't want to be part of this debate, but I'm anticipating what you're going to be asking me to do and I can see I'll have a problem.

Hon. Stephen Owen: My point is that we should have a longer session or have them in separate sessions, but not put divergent witnesses in the situation of having to debate with each other.

The Chair: Mr. Poilievre.

Mr. Pierre Poilievre: This debate was thoroughly exhausted in yesterday's subcommittee, which produced this result, and now we're getting an extensive debate again today with a different position.

The reality is that we have entrusted the clerk to group witnesses, based on a reasonable, logistical approach that will allow each witness to make a short presentation and be questioned thereafter. It's impossible for us to define which witnesses share common views precisely, and if we accept this amendment, we're going to be engaged in a constant debate as to which groupings of people share a common view.

If I invite FAIR, which supports whistle-blower protection, and we invite Allan Cutler, they both support whistle-blower protection. They also have very different ideas on what that protection would look like. Are they viewed as having a common or a different view? It's entirely subjective.

The decision of the subcommittee yesterday was that the clerk would look at the witnesses and find a logistically doable way of putting them into groups, so they could make their presentation in a reasonable timeframe. That was the decision we supported yesterday. To drag out a further procedural debate today is duplicative and wasteful. We had a good decision yesterday. Let's move forward and trust our clerk to put together witness groupings that can function.

[*Translation*]

The Chair: Mr. Petit.

Mr. Daniel Petit: Since I was not at the meeting of the Subcommittee on Agenda and Procedure yesterday, I would point out that we received the first report of the Subcommittee on Agenda and Procedure this morning. I would like to thank you for your question, Mr. Owen, because it allows us to clarify certain things and to determine whether we are headed in the right direction. The first paragraph of the report reads as follows: That the Committee authorize the Clerk to contact witnesses and attempt to find groupings that reflect the overall desire of each party, and that each grouping be focused by subjects to the extent possible;

So we are going to be giving the clerk this power. I think it is very broad. Paragraph 4(a) states that each witness or group of witnesses have a total of 10 minutes in which to make an opening statement. I think this would be long enough, because some preliminary work has been done. The clerk assumes responsibility, and when she presents the group, our questions will focus on an aspect of the subject that is different from the one the clerk looked at. It is my opinion, therefore, that the amendment put forward by my colleague, Mr. Owen, should not be adopted. It is as though we assume that every individual chosen by the clerk has a different idea and is entitled to 10 minutes. Thank you.

•(1700)

[English]

The Chair: Ms. Jennings.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Very briefly, this is not to participate in this debate but to ask a question of clarification. I would like to know what exactly are the rules, if any, for legislative or standing committees regarding witnesses and the amount of time they're given. I'd like to know what the current status quo is.

The Chair: I don't think there are any. I think each committee sets out its own rules, which is what we're going through now. In fact, as we all know, rules can change in the middle of a committee. So in answer to your question, unless someone can draw something to my attention, I don't think there are any rules on this particular topic. We're trying to set forth a rule.

Hon. Marlene Jennings: If I understand you correctly at this point in time, in fact, the status quo is that witnesses would have unlimited time within the time limit at the beginning of the session and at the end of the session.

The Chair: Well, you've had a lot more experience in this thing than I have. My observation is that the clerk goes back and says, do you want to make a few preliminary comments? I think what got this discussion going—and I'm nervous about talking about it because the in camera proceeding was confidential—or my recollection of why we got into this was that we were talking about the topic of groupings. That's how this debate has surfaced.

Hon. Marlene Jennings: Thank you for the clarification.

The Chair: I have Mr. Martin.

Mr. Pat Martin: Thank you, Chair.

I think it might be helpful for the committee to take into consideration some of the research that our whip's office has done. If I could just have two minutes of your time, the aboriginal affairs committee has 10 minutes. These are the rules they've adopted.

The Chair: I'm going to repeat what I said to Ms. Jennings: the rules could be all over the map, as each committee can have its own rules.

Mr. Pat Martin: Yes, but the point I was going to make is that they're not all over the map; they're all at 10 minutes. I've got about 18 committees here.

The Chair: Okay, sorry, Mr. Martin, you're right. You finish what you want to say.

Mr. Pat Martin: Thank you.

I think it's helpful. The rules of the access to information, privacy and ethics committee from the last Parliament read:

That witnesses be given 10 minutes to make their opening statement, and if they have additional information it should be deposited with the Clerk of the Committee.

The rules from the agriculture and agrifood committee read:

That witnesses be given up to 10 minutes for their opening statement; that at the discretion of the Chair, during the questioning of the witnesses....

The Canadian heritage committee states that witnesses be given up to 10 minutes for their opening statement. The citizenship and immigration committee states that an organization be given up to 10

minutes for their opening statement. The environment committee states that witnesses be given 10 minutes to make their opening statement.

The rules of various committees are as follows: the finance committee states that witnesses be given up to 10 minutes for their opening statement; for fisheries and oceans, that witnesses be given 10 minutes for their opening statement; for foreign affairs, 10 minutes; for government operations, that witnesses be given five to 10 minutes for their opening statement; for health, five minutes per member, and that the chair direct the first two questions to the members of the official opposition; and for human resources and skills development, that in the hearing of evidence, witnesses be allowed a maximum of 10 minutes for their presentations

Industry gives 10 minutes maximum; justice, 10 minutes maximum; national defence and veterans affairs, 10 minutes maximum; official languages, 10 minutes maximum; status of women, 10 minutes maximum; transport, 10 minutes maximum; and the Library of Parliament committee gives 10 minutes for their opening statement. Scrutiny of regulations has none

So that's all of them. It's not only common, it's ubiquitous. There are not "no limits", as Marlene pointed out. The standard is that there are limits in every committee. If we have to go around this again, I don't know if I can stay. It's driving me mental.

•(1705)

The Chair: I know.

Monsieur Sauvageau.

[Translation]

Mr. Benoît Sauvageau: I would like to ask Mr. Martin a question, through you, Mr. Chairman. I agree with him one hundred per cent, without the slightest doubt or hesitation, and I am convinced that Ms. Jennings does as well and probably the Conservatives too. So on this point we have unanimity.

I want to know whether we are talking about 10 minutes for each presentation by a witness or for each group of witnesses. We agree, as is the case with all committees, to give each witness 10 minutes. That is what is done in all committees, and we thank you for reminding us of that.

However, my question...

[English]

Mr. Pat Martin: That's wrong. You're deliberately misconstruing what I said to you.

Mr. Benoît Sauvageau: No. I want to ask you a question.

The Chair: I'm losing control here. We don't want that to happen.

[Translation]

Mr. Benoît Sauvageau: The question I want to ask Mr. Martin through you is this: is it 10 minutes per witness or 10 minutes for each group of witnesses? That is my question.

[English]

Mr. Pat Martin: If I could answer—and this is not my whip's language, this is the language from the actual rules of the committee. Let's use access to information as an example. It states that witnesses be given no more than 10 minutes for their opening statement—so multiple witnesses, one statement.

Agriculture and agrifood states that witnesses be given 10 minutes for their opening statement. In other words, the opening statement may have multiple witnesses associated with it. So I read that to mean 10 minutes total for the opening statement of the witnesses.

Canadian heritage states that witnesses be given up to 10 minutes for their opening statement. They all use similar language. Maybe I'll table this.

The Chair: Someone's going to say it's not in both official languages.

Mr. Pierre Poilievre: Call the question.

The Chair: Are you ready to vote on this, or do you want to go on again?

Some hon. members: Go on again.

The Chair: Mr. Sauvageau, you still have the floor.

[Translation]

Mr. Benoît Sauvageau: When the President of Treasury Board appeared and had three people from his office with him, that was a group of witnesses representing Treasury Board. When the Auditor General appeared and was accompanied by two assistants, that was a group of witnesses. When three different unions appear, that is three witnesses. Is that how I am supposed to interpret paragraph 4(a)?

I repeat what I said, because Mr. Poilievre seems to agree with me. We have been discussing the same thing for a while now. When the President of Treasury Board appears with two assistants, that is a group of witnesses. When the Auditor General appears with two assistants, that is a group of witnesses. When three different unions appear, that is three witnesses...

Oh, that does not work at all! We are being misled. A little earlier, there was a group of witnesses from the Office of the Auditor General, the Auditor General and two of her assistants. You said yes before.

[English]

The Chair: I have two people who wish to speak. Do we want to vote, or do you want to go on for a little bit more?

I don't see any hands, so, Mr. Owen, I want you to repeat your amendment if it's still there.

Hon. Stephen Owen: Thank you. My amendment reads:

That each witness or group of witnesses presenting a common position have a total of ten minutes in which to make an opening statement

The Chair: All those in favour of the amendment? Opposed?

(Amendment negated)

•(1710)

The Chair: We have the original clause 4 a) to vote on.

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

The Chair: We'll move on to clause 4 b).

I voted in favour of 4 a), which says that each witness or group of witnesses has a total of 10 minutes in which to make an opening statement.

Mr. Sauvageau.

[Translation]

Mr. Benoît Sauvageau: Mr. Chairman, I would like you to clarify something for me. If there is a tie when we vote on item 4(b), will the rule set out on page 859 of Marleau-Montpetit apply? Allow me to read the rule:

Casting vote.

Like the Speaker, the chair of a committee votes only to break a tie [...]

As you have just done.

Marleau-Montpetit goes on to say the following:

By convention, the chair will normally vote in such a way as to maintain the status quo [...]

On the matter of how meetings are conducted, it is stated on page 855 of Marleau-Montpetit that:

As there is no limit in committee to the number of times of speaking or the length of speeches, committees may, if they choose, place limits [...]

The rule is that there is no limit on speaking time, other than when questioning witnesses. If I am correct in my understanding of Marleau-Montpetit — and you can check for yourselves on pages 855 and 859 — convention dictates that you should vote to maintain the status quo when there is a tie. Am I correct in my understanding of these two rules?

[English]

The Chair: I voted to maintain the status quo.

Was that your question?

•(1715)

[Translation]

Mr. Benoît Sauvageau: Mr. Chairman...

[English]

An hon. member: I have a point of order, Mr. Chair.

The Chair: We're all having a great time here, aren't we? But the vote has come to a conclusion. We're now on to motion 4 b). I understand what you're doing is anticipating a tied vote. We're not there yet, so let's see what happens. It may be exciting. Let's just wait. It may be unanimous. It could be all defeated. I hate hypothetical situations.

We have a motion on the floor with respect to motion 4 b). Is there any debate on it? All those in favour of motion 4 b)? All those opposed?

It is six votes to six.

The chair votes against the resolution. I'm sure you're all interested in the reason, which I don't have to give. The status quo would change the way we do things, and this motion would change the way we do things, so I will vote against that resolution.

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

The Chair: We're going to go to you next, sir.

We have finished the report.

Mr. Sauvageau, you gave us a notice of motion. You could read the motion, and then you could comment on it.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, although I do not have a copy of the motion to hand, I know it by heart. It reads as follows:

That this committee call on the government to immediately proclaim Bill C-11 [...]

[*English*]

The Chair: I'm going to read it, because I have it all written down here. The motion reads:

That this committee calls on the government to immediately proclaim Bill C-11, an act to establish a procedure for the disclosure of wrongdoings in the public sector, including the protection of persons who disclose the wrongdoings.

That was the wording of your notice of motion, sir.

[*Translation*]

Mr. Benoît Sauvageau: Mr. Chairman, that is exactly what I was going to say. Thank you very much.

Firstly, I would like to draw attention to the speed and professionalism with which the Library of Parliament staff helped me to prepare my arguments in support of this motion. I would like to take this opportunity to thank them.

Allow me to explain why I believe the government should immediately proclaim Bill C-11 from the 38th Parliament, even though, once again, for the record, we have no intention of employing delaying tactics to slow down the passage of Bill C-2.

It is my intention to table before the committee a list of the 600 bills that were adopted between 1988 and 2000. Six hundred bills were adopted over this 12-year period. For each of these bills, you will be informed as to how much time elapsed between first reading and Royal Proclamation. We will calculate the average time it took for the 600 bills. In doing so, I will show you that we have absolutely no interest in delaying the passage of Bill C-2, and everything to gain by studying it thoroughly.

I shall, therefore, table this list, along with a table comparing bills C-2 and C-11. They will be provided in both official languages. It shows that 14 elements of Bill C-2 would be amended if Bill C-11 were immediately proclaimed. The most important measure would be the creation of the tribunal provided for by section 201 of Bill C-2. It has been explained very clearly to me that this change

could be introduced with transitional provisions, even if Bill C-11 were to be proclaimed immediately. For the benefit of my colleagues on the committee, I will provide them with a copy of the comparative analysis in both official languages.

By turning our attention to the 600 bills that were previously adopted, we have shown that if the government truly wants to offer immediate protection to public servants who have witnessed wrongdoing, all it has to do is proclaim Bill C-11. I admit that it is not perfect, but it was good enough to win the support of the Conservatives and the New Democrats in the last Parliament.

Bill C-2 provides that Bill C-11 be preserved, but in an amended form. It is good enough to be worth keeping. I propose that Bill C-11, which has gone through the legislative process, be implemented as an interim measure while we study Bill C-2. It would allow public servants to have immediate protection.

That is all I have to say. Thank you, Mr. Chairman.

[*English*]

The Chair: Thank you, Mr. Sauvageau.

As chair, I have examined the motion as to its procedural acceptability and have arrived at the following observation.

In the last Parliament, Bill C-11 was given royal assent on November 25, 2005. It contained a provision for its coming into force to be fixed by order of the Governor in Council. To date, no proclamation has been issued for its coming into force. The essence, sir, of your motion is to call on the government to proclaim the statute, the Public Service Disclosure Protection Act, which is being further amended by Bill C-2.

This is the crux of what I'm saying to you: the mandate of this legislative committee is to examine Bill C-2 and report it to the House with or without amendment. The committee has no authority to go beyond this mandate to comment on the actions of the Governor in Council regarding the proclamation of other statutes, even those that may be amended by Bill C-2. Therefore, sir, I rule this motion inadmissible on the grounds that it goes beyond the mandate of the committee.

Thank you.

That appears to conclude the business of the committee for today. We are adjourning the committee meeting until tomorrow afternoon at 3:30 p.m., in this room.

Thank you very much. The meeting is adjourned.

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