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**Chair**

**Mr. David Tilson**

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## Legislative Committee on Bill C-2

Wednesday, May 17, 2006

• (1540)

[English]

**The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)):** Good afternoon.

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

Our guests today are from the Assembly of First Nations. We have three representatives. We have the chief executive officer, Richard Jock; we have the chief of staff of the national chief's office, Bob Watts; and we have the special adviser, accountability, Daniel Wilson.

Good afternoon, gentlemen.

Do you have a point of order, Mr. Poilievre?

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

**The Chair:** It doesn't take long to get points of order in this place.

Go ahead.

**Mr. Pierre Poilievre:** That's right. I'll make mine to the point.

Some of the members have asked me to make a very quick clarification about an article that was in the paper today. It cited quotations from yours truly in which I mentioned that I had become convinced—by Mr. Martin, in fact—that the \$1,000 reward for whistle-blowers would not be proceeding through the committee.

I just wanted to clarify that it's still in the draft bill as it's written right now. All my comment referred to was a prediction that it would not go beyond this committee and would not ultimately end up in the Statutes of Canada.

**Hon. Stephen Owen (Vancouver Quadra, Lib.):** I have a point of order, Mr. Chair.

**The Chair:** Yes, Mr. Owen.

**Hon. Stephen Owen:** I don't want to take issue with the fact that Mr. Poilievre may have been convinced by Mr. Martin, but I would like to put on the record that it was I who first suggested that we remove that provision.

Perhaps Mr. Martin was just more persuasive than I.

**The Chair:** Does anyone else have anything to say?

Mr. Murphy.

**Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.):** Mr. Chairman, just on that point of order, I think Mr. Poilievre did the right thing and the respectful thing in telling us, soon after he mentioned to the press that a fairly important part of the legislation might not seek favour in the final go-round with the government.

I would appreciate, Mr. Chairman, that such statements be made, when possible, through the committee—to the committee, under the committee, in the committee, with the committee. That might make the workings here a little more democratic. As good as the member of the press was in eliciting that comment, I don't think it's the way we should conduct the affairs.

I think everything's fine.

**The Chair:** I'm not going to tell any committee members how—at least outside this committee—to conduct themselves.

I guess the question remains, though, for all committee members, whether this means this issue is dead, or should members of the committee still ask questions on it?

**Mr. Pierre Poilievre:** It's their choice.

**The Chair:** Their choice?

Mr. Martin.

**Mr. Pat Martin (Winnipeg Centre, NDP):** I think perhaps it's useful for us, because if we have a limited amount of time to hear and question witnesses, maybe we can all drop that particular subject and move on to other questions. So it may be an economical measure that Mr. Poilievre has taken there that will save us all a lot of time and streamline our activities.

**Mr. Brian Murphy:** Mr. Chairman, just to follow up on that, wouldn't it make sense, then, that all of the prospective witnesses be advised that this...? We have to have some sort of formal admission that that is no longer part of their discussion and therefore their preparation. It might save some time.

Do we look for a motion down the road? Is that what we should do?

The chair is open to that. Maybe I'll be bringing a motion with the proper notice on this point. How's that?

**The Chair:** Okay.

Gentlemen, I'm sorry for the delay. We have those from time to time.

As you know, you can if you wish make some preliminary comments, and then members of the committee will have some questions of you. Thank you for coming this afternoon and for giving us your views.

**Mr. Richard Jock (Chief Executive Officer, Assembly of First Nations):** Thank you.

On behalf of the Assembly of First Nations, I'd like to thank the chair and members of the Legislative Committee on Bill C-2 for this invitation.

We would like to begin by being very clear with regard to our overall view with respect to the general issue of accountability.

First of all, first nations in Canada do already have a very fundamental accountability relationship, one that we think is unique in Confederation.

It is very clear also, as evidenced by the comments of the Auditor General yesterday, that the existing relationship has dramatically failed in terms of realizing the outcomes we all hoped for. We further believe that Bill C-2, as structured, will not achieve the objective of improvement of accountability for spending on first nations issues.

Third, we have recommendations and a process that we have been engaged in with senior officials and with members of government that will attain this overall objective of accountability, but we feel equally that the current process with this draft legislation puts that process and that kind of thinking at risk to a large degree.

We also have concerns with the effect of Bill C-2 as a matter of law, in terms of fairness, and in terms of practicality. I'll go over that briefly.

The question on law is that this aspect of the legislation appears to be inconsistent with section 35 of the Constitution of Canada, in that it represents an infringement on the inherent right to self-government.

In terms of fairness, in this act first nations governments are treated differently from other governments. It has the effect of singling out approximately 98% of first nations governments among all governments in the world who are recipients of funding from the Government of Canada for application within this act.

Third, in terms of practicality, first nations are already subject to greater oversight than any other level of government. In her remarks the Auditor General also made the point very clearly that in fact first nations are overburdened by unnecessary duplication of scrutiny.

• (1545)

**Mr. Bob Watts (Chief of Staff, National Chief's Office, Assembly of First Nations):** First nations are anxious to improve the accountability relationship. The "Accountability for Results" initiative, which has been going on for almost two years, demonstrates this commitment on a national level. The Auditor General referred to this initiative in her comments on May 9. We know it will prove to be more effective than the existing provision in Bill C-2. As the Auditor General indicated, Bill C-2 will not contribute to greater accountability with respect to first nations. It will not have a positive effect and puts at risk first nations-led efforts to improve accountability in a practical and effective manner. Two of

those efforts are—and you've heard of this, again, from the Auditor General—the idea of the first nation auditor general and a first nation ombudsperson.

As you've heard from the Auditor General, accountability is a relationship that is about much more than monitoring and audits. The Auditor General did not seek the expanded mandate in Bill C-2, and even if it is granted, we suspect from her testimony that she does not intend to use it, as she knows it will not be helpful in terms of increasing accountability.

Our recommendations are pretty straightforward. We recommend an amendment to Bill C-2 to treat first nation governments equally with other governments. We also seek the support of this committee for the Assembly of First Nations' "Accountability for Results" initiative.

It's important, I think, for members to know that for the past three months we haven't been able to move further on this initiative. It was moving with good speed, but I think some folks thought the initiative may be in conflict or may be a duplication. For whatever reason, that initiative hasn't moved forward. We've had the opportunity over the last three months to make great strides; we haven't done that, so we need your support.

Third, in this regard we've tabled papers with the committee to put on record an amendment to Bill C-2, and we've provided a copy of our position paper describing the Accountability for Results initiative.

I'd like to thank the chairperson and the committee for allowing us to make our opening comments. We're prepared to receive any questions the committee may have.

**The Chair:** Mr. Jock and Mr. Watts, thank you very much. I know there will be some questions for you.

Mr. Owen.

**Hon. Stephen Owen:** Sure.

Thank you, gentlemen, for being here.

I would just ask very simply, was the Assembly of First Nations consulted by the government prior to the tabling of Bill C-2?

**Mr. Richard Jock:** No.

**Hon. Stephen Owen:** Thank you.

**The Chair:** Okay.

Monsieur Sauvageau.

[Translation]

**Mr. Benoît Sauvageau (Repentigny, BQ):** First of all, I'd like to thank Mr. Poilievre for his initiative to drop the \$1,000 issue from our deliberations. I think that's a good thing. Other amendments could be put forward along the same lines in order to improve the flow of our discussions in committee.

You proposed an amendment to clause 42(4). Do you have any other amendments to Bill C-2 to propose to us?

• (1550)

[English]

**Mr. Richard Jock:** Just that one.

[*Translation*]

**Mr. Benoît Sauvageau:** You just have that amendment, but it is vital and essential to you so that Bill C-2 does not apply to you.

I'd like to go back briefly to the Auditor General's intervention. You answered Mr. Owen that you were not consulted in the drafting of Bill C-2. When the Auditor General appeared before the committee, she implied that consultations were underway between the first nations and her office on the establishment of an Auditor General position for first nations.

Can you fill us in on those discussions, and what are your thoughts on that Auditor General position?

[*English*]

**Mr. Richard Jock:** Thank you.

Where we're at... This has received general support. It's an idea that's been presented to the chiefs and assembly. We have been directed to develop the idea more fully, including the appropriate reporting relationships, items like what is the scope of independence and responsibility, all of those details; how it would be implemented potentially in an incubation process through the existing Auditor General; and to report to the chiefs and assembly with a full implementation plan. So it's at the stage of further developing that idea and going for a full mandate. But it has been very well received as a concept by chiefs and assembly, and we envision approximately a two-year timeframe to fully implement that in an appropriate and considered fashion.

[*Translation*]

**Mr. Benoît Sauvageau:** It seems to me that your amendment to Bill C-2 is intimately connected with the discussions and negotiations with the Office of the Auditor General aimed at providing effective accountability for first nations.

I saw but haven't read your document entitled: "Accountability for Results—Executive Summary." The Auditor General said that you have about 250 reports, if not more, to do every year. In your opinion, is the Department of Indian and Northern Affairs Canada sufficiently accountable and is its accountability effective? Do you think that the accent should be placed on your communities or on the department that provides grants and contributions to your communities?

[*English*]

**Mr. Richard Jock:** I think there are a couple of parts to that. One is that part of the plan for accountability for results is really to develop as well a whole series of different approaches that contribute to accountability. One of the ideas that is important within that is mutual accountability—that the department is as responsible for good outcomes at the community level as we are, and further, that communities are directly responsible for their citizens and should be transparent in terms of fully accounting for the resources that are received on their behalf.

Under that we have a number of initiatives that are key to a sustainable and continued accountability process. A key part of that is reporting—but relevant reporting. What is envisioned is that we take a look at those reports in order to streamline them so that they can be really useful—eliminating numbers of reports and coalescing

into more outcome-style reporting, so that what we are doing is more effective in terms of communicating.

We also have initiatives under way to develop and implement financial management standards. There are some very interesting developments and institutions. The first nations finance association is developing a whole model and certification process for community financial officers. This is an important part of the capacity building that is a key to effective accountability, as well.

We also have developed ideas about an ombudsman, which would be an important way to assure that important information is collected with respect to potential allegations of service, to deal with those in a straightforward and clear way and to accurately report on those. We see that as a benefit to all levels of government in terms of clarity and making sure the facts of individual instances are very well looked at, as well as looking at how to restructure the actual process of payments so that it actually makes sense.

I would also ask my colleagues to address any areas that I may have not covered.

• (1555)

[*Translation*]

**Mr. Daniel Wilson (Special Advisor, Accountability, Assembly of First Nations):** To answer your last question, we could add the fact that yesterday, the Auditor General commented on the efforts of the Department of Indian and Northern Affairs Canada

[*English*]

to provide accountability to the Government of Canada and their failure, but also the failure of the Government of Canada to provide true accountability to first nations.

These were points that I think came very clearly through not only her description of 35 years of initiatives that have not succeeded, but also through her review of 37 recommendations, dating as far back as 2000, of which 15 have not been acted on in a satisfactory manner and 34 have not been completed. This is a failure of INAC to provide accountability to its government through your officer, the Auditor General, and it's a failure of the Government of Canada to provide accountability to first nations, for whom those programs are actually designed.

**The Chair:** Thank you.

Mr. Martin.

**Mr. Pat Martin:** Thank you, Chair, and thank you to the witnesses for being here.

It seems to me that the government must be starting from a couple of assumptions in the clause that they recommend for the Auditor General to be able to oversee the spending. The first is that they must view the money transferred to first nations as the government's money, that you're just spending the government's money and they have some right to comment on how it's spent.

The second assumption seems to be that the appalling social conditions in many first nations communities must be due to maladministration, corruption, or some combination of the two.

I'd like you to set the record straight on both of those facts, because personally I find it offensive, given the denial of the historic relationship between first nations and the federal government, on behalf of the Crown in the first case, and denying the....

Well, I'll let you speak.

**Mr. Bob Watts:** Thank you for that question.

I think it would be the position of most first nations in Canada that the moneys they receive are part of a payment with respect to an historic relationship between the Government of Canada and first nations. It may be with respect to education as a treaty right; it may be health care as a treaty right; it may be housing as a treaty right. So all the payments that first nations are receiving, although voted through Parliament, are part of an historic and ongoing relationship between the Government of Canada and first nations that's alive today as it was ten years ago, as it was a hundred years ago in many of our communities.

In regard to the idea that somehow or other moneys that are voted for and sent through contribution agreement to first nations are somehow being diverted or used for purposes other than what they've intended, as the Auditor General pointed out, and has pointed out time and time again, moneys sent to first nations are accounted for over and over and over again. The problem isn't a question of reporting and accounting; the problem is with respect to program design, of putting controls in the hands of first nations to ensure that the programs and services are designed to meet the needs of their people.

A very low percentage, less than 3%, of first nation audits raise any concerns. Most of those are dealt with right away. It may be that some papers were missing from the audit, it may have been something that had been overlooked, and that's rectified immediately. So it's a much smaller percentage than 3% that raise any real concerns with respect to how money is handled in first nation country.

• (1600)

**Mr. Pat Martin:** So looking at it the other way, 97% of all first nations file their mandatory audits on time and without incident.

**Mr. Bob Watts:** It's a stellar track record.

**Mr. Pat Martin:** It's better than most government departments, I would respectfully point out.

The appalling social conditions, many of us would argue, are because of a lack of resources more than a mishandling of those resources, but we don't probably have time to go into that a great deal.

There's a famous study, which perhaps some of my colleagues haven't seen, by a Dr. Stephen Cornell, from Harvard University, where he studied best practices among a number of first nations all over North America, Canada and the United States, and what he found is that there was a direct proportionality between those communities with the healthiest economic and most stable economic picture and the degree of self-determination, autonomy, and self-governance. Can you help us to make that link?

**Mr. Bob Watts:** I believe Dr. Kalt and Dr. Cornell have appeared before parliamentary and House committees here over the last few

years and have gone over that report. As you've indicated, sir, their findings draw a direct line between healthy economies and healthy people and the degree of self-reliance and self-determination, having programs and services that are designed for the people, by the people, having culturally appropriate institutions that support those programs and services. There's a direct line between all those things.

The Auditor General in fact I think helped support that yesterday when she talked about how there's a direct relationship between the involvement of first nation people in programs and service design and the likelihood that those programs and services will meet the needs of first nation people. While perhaps those things may be like common sense, she also indicated 35 years of difficulty making that happen here in Canada.

**Mr. Pat Martin:** I think it's worth pointing out, in what little time I have left, that a lot of people think the \$7 billion or \$8 billion, or whatever it is, in total spending from all government departments must be a massive amount of money. I think it works out to about \$7,800 per head, which is about what we spend per high school student per year in high school, but that has to meet housing, health, education, roads, infrastructure, sewer and water systems.

It boggles my mind, frankly, how this myth has been allowed to foster throughout the country, but I don't find it helpful, in this context, to imply by this clause that the problem of the appalling social conditions must be mismanagement, somebody must be squandering or stealing that money.

What do the affiliated chief and councils that you deal with have to say about that point of view?

**Mr. Richard Jock:** One of the key points is that, as you've pointed out, really since 1996 there hasn't been relevant inflationary or per capita increases to keep pace with our young and burgeoning population. Essentially it's led to this situation where our per capita costs for the things that you've described as being regular kinds of service that every person would expect in this country....

In a sense, we're getting a much lower expenditure level. That then creates the kinds of difficulties and problems that you've described. We agree, and we've published a study on the myths. We can send copies of this report to this committee. In fact, we are planning to send it to all parliamentarians.

So it is one of those misconceptions that we think is not helpful overall in terms of being able to then make plans and address those same problems.

• (1605)

**The Chair:** Thank you, Mr. Martin.

Mr. Jock, you're welcome to send anything you wish to the committee. If you can send it to the clerk, she'll distribute it to members of the committee.

Mr. Poilievre.

**Mr. Pierre Poilievre:** Thank you for being with us today.

I am intrigued by the apparent consensus amongst first nations regarding the need for a first nations auditor general. What is unclear to me is that if we need a first nations auditor general, then presumably that first nations auditor general would be doing something that is not already being done. And that's what worries me. You're suggesting that first nations do need a pan-national auditor to complete work that is not currently being done, but on the other hand you're not prepared to have the Auditor General do it in the interim.

I do see that as a bit of a contradiction. Perhaps you can unravel it for me.

**Mr. Richard Jock:** Part of the interest here is that, as accountability is becoming a more important issue nationally, this is a first nations accommodation, if you will, to what seems to be a national interest. At the same time, it's respecting the idea that was described within *The Harvard Project*, which talks about the cultural match for institutions, that we not simply take institutions, apply them, and expect success. We've seen that this does not work.

This is a way to look at accountability, to look at all the elements of accountability that are necessary to have appropriate capacity, provided and funded at the local level, and to provide for some of the standards and tools to measure that accountability. This would be part of an overall process and overall plan that we see as being important. I would point out that it's not one single element.

So we don't see it in conflict. We see it as a way of evolving it to be consistent with Canada's agenda but to be parallel and distinct and appropriate with that agenda.

**Mr. Pierre Poilievre:** You're saying that it would be more appropriate, given the cultural differences of first nations, to have a uniquely first nations auditor general. Did I hear you right?

**Mr. Richard Jock:** That would be the opportunity to design that institution. To have that examined and then theoretically, or hopefully, approved by the chiefs in Canada, that would be the process.

**Mr. Pierre Poilievre:** Are you saying the reason you'd rather not have the Auditor General of Canada and would rather have a first nations auditor is due to a cultural difference?

• (1610)

**Mr. Richard Jock:** That's part of it—a “cultural match”, not the cultural part of it.

**Mr. Pierre Poilievre:** Are the generally accepted principles of accounting culturally dependent? Do they change from one culture to another, or are they not principles that can work for financial management in any culture?

**Mr. Richard Jock:** What we would say is that all of the elements of accountability need to be addressed as well, and those would need to be recognized. For example, with the Auditor General of Canada there's a very clear management structure, as expressed through departments; there is very clear funding provided for the financial structures, for all of the accounting provisions; there's the Department of Finance. What we would say is that all of those elements would similarly need to be financed and put in place as well for a truly accountable system of first nations government. To look at audit in exclusion would be incomplete.

**Mr. Pierre Poilievre:** I understand that, and we're not trying to look at it in exclusion. But the point this Accountability Act tries to get at here is that you have recognized the need for a first nations auditor general. This individual would presumably be doing some sort of job. In the absence of that position right now, presumably that job is not being done. You can tell me you're filling out all kinds of forms and filing an assortment of audits, but if that were sufficient you wouldn't need a first nations auditor.

Finally, if 97% of the forms are filled out and audits are completed on time and without incident, I don't think you'd have anything to worry about with the Auditor General. She'd have no particular reason to conduct specific audits of specific reserve accounts or activities. If everything is perfect as it is, in the way money is spent, you shouldn't have any concern whatsoever about the Auditor General having this rarely exercised power, should you?

**Mr. Bob Watts:** I think it's important, as Richard has commented as well, that we're not talking about a comptrollership function with first nations; we're talking about an auditor general who looks beyond finances at questions of outcomes, of how programs are designed, of appropriateness. All of those things need to be taken into account.

What we're talking about here through Bill C-2, and from what we've looked at, is the development of a different ethics infrastructure, if you will, in Canada. We've already started working on that. We have our own cultures and traditions to draw on to add to that ethics infrastructure in Canada, and we want to do it and we're going to do it. That's part of what we're talking about in terms of our contribution.

I also want to quote this from the Auditor General's testimony:

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; it goes to the whole idea of building institutions. For us, those institutions are going to be supportive of our governments, of our people, and we'll have relationships with other institutions in Canada so that we have the best practices and the best programs and services for our people.

**The Chair:** Thank you, Mr. Watts.

Mr. Owen, do you have some questions?

**Hon. Stephen Owen:** Thank you.

Very briefly, I refer the committee to a study further to the Cornell study from Harvard, an extremely important one from a professor named Chandler at the University of British Columbia. Rather than relating the level of self-determination or self-government to economic outcomes, it's related to the level of youth suicide, which is perhaps one of the greatest tragedies in any society when it occurs. That work is carrying on to widen its scope now to relate to a number of other quality-of-life issues in aboriginal communities.

That's only to add emphasis to the point that's been made: that self-determination in culturally appropriate ways and strong relationships between orders of government is an extremely healthy thing, and to be sought after.

I don't have a question.

•(1615)

**The Chair:** Ms. Jennings.

**Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.):** Thank you, Mr. Chair.

[*Translation*]

I'm sorry I couldn't be here for the first part of your presentation. But, being a bit of a speed reader, I did manage to read the brief you submitted and to hear what you said after oral question period.

I'd like to explore one of the points you raised. There's a huge myth about the financial assistance the Government of Canada has been providing to aboriginal communities for over a century. The myth of so-called handouts exists in the general population, among whites and other non-aboriginals.

You talked about the Crown's fiduciary responsibility toward first nations, in part because the white people—the French first and later the English—came and confiscated land. This was land that wasn't won through war. Later, other land was transferred under treaties, and in exchange, the Crown had a duty toward first nations.

That responsibility still exists because there was no expiry date in the treaties. For example, if I sign a contract with Mr. Poilievre without indicating any expiry date, I will be obliged to give him a sum of money, for example, or to look after him or his descendants in perpetuity. So, even 200 years later, that agreement is still valid and the obligation still exists.

In my opinion, all parties that have been in power in Canada have wronged the first nations by failing to educate people of French or British origin and people of all other ethnic origins who arrived subsequently.

Does that make sense?

[*English*]

**Mr. Bob Watts:** Thank you for the question.

Absolutely we'd share that view. It's clear that for most first nations people in Canada there is a treaty relationship between the Crown and first nations. There are also places in Canada where there is no treaty, and right now they're in a treaty-making process. What I think we've said to each other here in Canada is that's representative of our relationship; it's representative of how we've chosen to live together here; it's how we contracted each other; it's how we have

mutual obligations to each other. And as you indicated, those things are forever. It's part of the foundations of this country.

And now we also see on the government agenda something we find really interesting. We're talking about fiscal imbalance. A lot of people think fiscal imbalance is only about the federal and provincial governments. We're arguing we have a role in fiscal imbalance.

Some people have talked about it as revisiting 1867. We want to be at the table because we want to revisit 1867. We're part of the fiscal federation. Our treaties are part of that; our people are part of that, and we want to be involved in those discussions as well.

**The Chair:** Monsieur Petit has a little under four minutes

[*Translation*]

**Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC):** Good afternoon, Mr. Jock.

I have just one question for you and it's very straightforward. Your proposed amendment to the definitions in Bill C-2 excludes you completely. Is it true that the aim of your amendment is to exclude you from the application of the act? Is that your goal or is it a compromise that you are suggesting to us?

•(1620)

[*English*]

**Mr. Richard Jock:** Yes.

**Mr. Daniel Petit:** Yes? Okay.

Merci.

**The Chair:** Madam Guay, you have hardly any time at all, just three minutes.

[*Translation*]

**Ms. Monique Guay (Rivière-du-Nord):** Thank you, Mr. Chairman.

The goal of aboriginal people is full autonomy. Efforts must therefore be made to create tools that will enable you to reach that goal through treaties and agreements and assistance from the federal government.

If there were an aboriginal Auditor General, would that person have to be as fully transparent as what is provided for in Bill C-2? Would that person report to Parliament, like all auditors general do? Would that person be accountable?

In your opinion, if Bill C-2 doesn't apply to you and you appoint an aboriginal Auditor General, would there be as much transparency as if you were covered by Bill C-2?

[*English*]

**Mr. Richard Jock:** I think there are two elements to your question, and it is a good question.



One element is that certainly, through a process of development, which we envision would include an incubation process within the Office of the Auditor General itself, we see the five principles of accountability being the same, regardless of whether it's a first nations government or a non-first-nations government. I think that what would be of interest to us is the development of the institution and a look at cultural match in terms of how some of the elements of transparency are carried out.

For example, at a community level for a first nation, it may be much more important to have ways of achieving transparency that match up with the local community, such as through a regular event or a feast or a regular annual gathering. These may be more culturally appropriate ways of addressing transparency than publishing something in a gazette or in a document. We would look for ways of expressing and carrying out those five principles in a way that makes sense.

The other element is that what we are asking when we request our exclusion from this bill is that first nations governments be treated the same as all other governments. Essentially, the way it's stated now, first nations governments are singled out for application in this legislation. So I would ask why first nations governments are being singled out in this process.

Second, if the Auditor General has already clearly stated her opinion on the value of engaging in this kind of exercise under this bill, and has clearly given a considered opinion, an apolitical opinion in my view, why is this still being considered, given that feedback? To me, this is beginning to look like it's a provision that makes no sense and is for no reason. If that is the situation, then I would ask why. And I have not heard a reason why.

**The Chair:** Thank you, Mr. Jock.

Mr. Watts, Mr. Wilson, thank you to the three of you for coming this afternoon and giving us your views. I know the committee will consider your comments. Thank you very much.

**Mr. Bob Watts:** Thank you very much.

**The Chair:** We will have a brief break for a couple of minutes.

• (1620) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1625)

**The Chair:** Okay, I'd like to reconvene the meeting.

Our next guest comes from the Assemblée des Premières Nations du Québec et du Labrador, Ghislain Picard, who is the regional vice-chief. We also have Ellen Gabriel, who is the president of Quebec Native Women Inc. Good afternoon to both of you, and thank you very much for coming in.

Ms. Gabriel, I understand you are going first. Thank you.

As you have probably gathered, we have opening comments and then members of the committee will put questions to you.

Ms. Gabriel.

• (1630)

**Miss Ellen Gabriel (President, Quebec Native Women Inc.):** [*Witness speaks in her native language*].

Good afternoon.

The Quebec Native Women's Association supports our brothers at the Assembly of First Nations and the Assembly of First Nations of Quebec and Labrador and their efforts toward developing accountability and transparency in our communities. We acknowledge, however, that most of our communities are already engaged in good practices, and a vast majority submit their annual audits every year.

The biggest stakeholders are our people, and the most vulnerable are our women and children. A more efficient allocation of resources will benefit everyone, in particular native women who desperately need more shelters and programs that deal with non-violence. Yet as Sheila Fraser pointed out in her report, our cash-strapped communities are already overburdened with reporting requirements, and these reports are seldom read.

Therefore, we need to ask how accountable INAC is to us, how much of the money supposedly allocated to first nations communities is eaten up by inefficient bureaucracy. As it stands now, approximately 35% of the moneys allocated to aboriginal peoples is actually given to first nations communities. Therefore, we are concerned that the government wants to impose yet another layer of Canadian bureaucracy on our communities, without any meaningful consultation. This would benefit no one, neither the Canadian public nor aboriginal peoples. Furthermore, this is paternalistic and goes against the government-to-government relationship that exists between first nations and the Government of Canada. It also goes against our efforts of becoming self-determining peoples once again. We therefore support the notion of an independent aboriginal auditor general and we believe that native women should be involved in the criteria and the development of this position.

In order to promote a healthier relationship between the Government of Canada and aboriginal peoples, the following are a few of the recommendations of our organization: that the Government of Canada streamline the existing reporting requirements of first nations communities in order to make them more efficient and less burdensome, as in the previous recommendations of the Auditor General of Canada; that the Government of Canada take efforts to reduce the bureaucracy of INAC so that more of the budget allocated to aboriginal peoples actually reaches aboriginal peoples living on and off reserve; that the Government of Canada support aboriginal peoples in their efforts to build accountability frameworks and the development of an aboriginal auditor general and ombudsperson; that the process of developing the role of an aboriginal auditor general and ombudsperson include equitable representation of aboriginal women.

We agree with the principles of accountability and transparency, but the process should be in concert with aboriginal people. The imposition of unilateral decision-making by the Government of Canada will always be met with resistance.

Once again, I emphasize that it is time to forge a new relationship between our peoples that is based upon mutual respect, honesty, and integrity.

Thank you.

**The Chair:** Monsieur Picard.

[*Translation*]

**Le vice-chef Ghislain Picard (vice-chef régional, Assemblée des Premières Nations du Québec et du Labrador):** Thank you very much.

[The witness speaks in his own language].

Good afternoon. I am honoured to be here before you today and particularly to share this forum with my sisters, the aboriginal women of Quebec, with whom we have had quite a close relationship for many years.

I began my intervention with greetings and an introduction in my language. I think it's important for you to know that it is alive and well and forms the backdrop of our identity and place on this earth and in all of creation.

First of all, I would like to salute the leaders and the people of the Algonquin Nation, to whom we owe this opportunity to meet on their ancestral land, which they have never renounced. I also salute the representatives of the Assembly of First Nations, who went before us today. They made a presentation to the committee with which the representatives of the Assembly of First Nations of Quebec and Labrador are fully in agreement. I would also like to express all of my gratitude to this committee for giving us this opportunity to speak today on Bill C-2, the Federal Accountability Act.

My name is Ghislain Picard, and I am the Regional Chief of the Assembly of First Nations of Quebec and Labrador. The AFNLQ represents the 38 first nations communities of the land that many people know as Quebec and Labrador. The people and nations that make up the AFNLQ. AFNLQ are the Cree, the Atikamekw, the Naskapis, the Innu, the Abenakis, the Huron-Wendat, the Mohawk, the Algonquin, the Malecite and the Mi'gmaq.

Please understand that my comments today are intended to convey a point of view that may seem difficult for some to accept, but I do this with the greatest respect for Parliament.

• (1635)

[*English*]

My presentation is short and to the point. I leave you with three simple messages:

One, I hope to have you begin to understand your obligations and Parliament's obligations to account to first nations for successive government's actions that have inhibited our very survival as peoples and nations.

Two, to have Parliament begin to honour its obligations to first nations by removing any reference to first nations in Bill C-2 and find alternative negotiated arrangements to deal with improving first nations' accountability for funds they receive that are voted by Parliament.

Three, the AFNLQ accepts the notion of accountability.

You are charged with examining a bill that approaches accountability from a distinct but limited point of view. First nations, on the other hand, view accountability broadly. Canada has yet to account

fully to its constituents and to first nations for its poor performance. And by the way, this could be a quote from the Auditor General's report yesterday. First nations are pressing Canada to account for and resolve our original jurisdiction in relation to Canada and full compensation for land theft and ongoing control and benefit from our lands and resources.

Let's examine the definition of "accountability". In short, it is to show and take responsibility for actions and expenditure of funds, including the setting of goals, effective means to reach them, efficiency in performance, and results achieved.

First nations apply the definition to Canada in its broad, historic, and contemporary context. In other words, Canada sets unilateral goals for first nations. It devises plans to absorb us into the body politic. It ruthlessly applies its plan to our adults and children alike, and the results are poverty, isolation, lack of opportunity, decline of unique cultures, youth suicides, little or no economy, third-world infrastructure, harassment of traditional practices, and the list goes on.

You are wrong if you think I was referring only to historic times. For example, the inclusion of the clause in Bill C-2 that gives the Auditor General new powers to audit first nations governments is just one more, in this case, recent and contemporary example of unacceptable unilateral behaviour affecting first nations jurisdiction.

My comments are not just rhetoric. The Royal Commission on Aboriginal Peoples and countless studies, including one from Harvard University, established that the socio-economic well-being of first nations depends on the recognition and implementation of first nations jurisdiction and first nations control over our territories; in other words, the practical, on-the-ground improvement of living conditions is tied to such recognition.

The Royal Proclamation of 1763 requires Canada to negotiate its relationship with first nations. Most of the aboriginal title in Quebec is still not resolved. The terms of negotiations are so restrictive that Innu resources, for example, are being stripped from the land while negotiations drag on.

Canada's Constitution, the treaties and the courts, all supported by many studies, require the federal government to resolve the relationship with first nations through negotiations, to act in our best interest, and to uphold the honour of the Crown. Parliament shares those obligations. It votes money, passes legislation, oversees the government, and upholds the Constitution, all responsibilities that include legal obligations when addressing first nations matters. Each of you, as members of Parliament, shares in those obligations, yet I would be surprised if you are given any training, orientation, or information about that obligation. It is perhaps convenient to leave that duty to others, to your colleagues who have an interest, whose ridings include or border reserves, or those who are given specific responsibilities to deal with first nations. That is not good enough.

•(1640)

Unless you all collectively and individually accept and enforce the legal obligations you adopted when you voluntarily ran for office, Canada will continue to lurch in an ineffective, inefficient, and unaccountable direction as it relates to first nations.

[*Translation*]

The AFNQL recommends that this committee amend the bill to drop any reference to first nations and that it recommend to Parliament that the government be directed to develop jointly through negotiations with first nations suitable alternative arrangements to adjust improvements to first nations accountability for funds voted by Parliament.

The AFNQL also recommends that this committee seek independent legal advice on its obligations under law in relation to first nations and provisions relating to first nations in this bill.

Although the following recommendation may go beyond your mandate, I place it on the record nonetheless. The AFNQL further recommends that this committee recommend to Parliament that it contract independent, constitutional and legal advice regarding its collective and individual members' obligations under law to first nations, generally and that it develop and implement jointly with first nations training, orientation and information packages for all MPs about their obligations in relation to first nations.

Let there be no mistake. The AFNQL supports the notion of accountability. First nations leaders are currently accountable to the people who elect us. There may be room for improvement but it is not through unilaterally imposed legislation that improvements will be made. It is not accountability measures in legislation that will define the relationship between first nations and Canada. It is the relationship with Canada that will define suitable accountability measures.

I want to close my remarks in the beautiful Innu language. I will express the hope that someday the Innu and all first nations in Quebec and Labrador are fully respected in Canada and here in Parliament by having simultaneous translation of all debates in our language.

[*The witness speaks in his own language.*]

Thank you very much.

[*English*]

**The Chair:** Thank you, Monsieur Picard, Ms. Gabriel.

Each of the four caucuses may have questions for you.

We'll start with Mr. Owen.

**Hon. Stephen Owen:** Thank you, Monsieur Picard, Madam Gabriel, for your two presentations, which I think we found to be very straightforward and clear, if not self-evident.

As we had discussed earlier in this committee, and it was reinforced by the Assembly of First Nations presentation and both of yours, the responsibility of the Crown, as represented by the Government of Canada, under section 35 of the Constitution is to treat aboriginal people with the respect to which they are entitled through historical rights as well as the inherent right of self-government, and I think the suggestions you've made for the removal of the reference to aboriginal people and first nations in Bill C-2 is in line with that understanding.

As members of Parliament, we look forward to further consultation with you to achieve the accountability that you seek and the Auditor General has supported in terms of both a first nations auditor general and the creation of a first nations ombudsperson office.

Thank you for your presentations.

•(1645)

**Mr. Brian Murphy:** Do we have Liberal time left?

**The Chair:** You do, Mr. Murphy, yes.

**Mr. Brian Murphy:** Thank you, Mr. Chairman.

I'll get right to your recommendations. I understand the first recommendation. Are the second and third not alternatives to the first? Because if we were to omit or drop any reference.... And it's not just reference. In fact, if this proposed law did not intrude on the sovereignty of first nations, and therefore was eradicated from it.... I gather the second and third recommendations are more advisory and really wouldn't be needed.

My supplementary to that, as I go on to the second and third, is that the independent legal advice and other advice that we might seek.... This committee, frankly, might have trouble deciding how strong to make the coffee some days, so we're not likely to agree on who should be the independent legal adviser—unless you want to offer up Mr. Morgan, who's probably looking for some advice to give. But seriously, it might be very difficult for us in our structure. We have the Library of Parliament, excellent staff. We've had a number of witnesses from various federal departments to advise us, and after all, we are Parliament. So I was wondering if we could really make that work.

What would be the need—I understand your brief—to have independent legal advice if we are...and I won't say “just” to minimize it, but if we are really a committee of Parliament? The advice we receive from our parliamentary advisers is non-partisan. That's really all we can do in this context. What you're looking for is laudable, but maybe not achievable in this simple committee.

I'd like your comments on that.

**Le vice-chef Ghislain Picard:** I would say, just very briefly, that it is because of that non-partisanship that this kind of advice would be useful. I certainly feel that the onus is really on you, as representatives of Parliament, to provide that kind of opinion.

I mean, our mind is clear on the issue. We've been advising you for decades on what those obligations are, but somehow nobody seems to understand. If it weren't so, we wouldn't be finding ourselves constantly before your courts, trying to make that very point.

It seems to me it's a very vicious circle. We try to find ways to negotiate some of the tough issues that we are confronted with from time to time. When that process fails, most times there's no alternative for us but to present our case before the courts. Then that circle starts all over again. The courts send us to the negotiating table.

We ask, why don't we find ways to get that kind of opinion whereby, very objectively, from Parliament's point of view and from our first nations point of view, we can look at it and debate it? This has been going on for too long. We feel we have to find ways to provide peace.

[Translation]

**Mr. Brian Murphy:** The first part of my question is this: if we agree on the first recommendation—and I certainly think that on this side, we all agree—is it necessary for us to consider the second and third?

**Le vice-chef Ghislain Picard:** Obviously, in our opinion, adopting the first recommendation is desirable. I think that even with a fair process—where everyone, including the first nations—benefits—we will constantly be confronted with these same issues. If it's not under this bill, it will be under the next, as was the case for the previous bill. We are constantly faced with this litigation, ultimately.

In addition, I think that the second recommendation could apply in this context, quite directly, in fact, but could easily apply to other legislative processes affecting us.

• (1650)

[English]

**The Chair:** Thank you, Monsieur Picard.

Monsieur Sauvageau.

[Translation]

**Mr. Benoît Sauvageau:** Thank you very much, Mr. Chairman.

Mr. Picard and Ms. Gabriel, thank you for your presentation. My first question is for Ms. Gabriel, but I won't forget you, don't worry.

You said in your presentation that 35 per cent of the money allocated went to the communities. I'm not very good at math, but are we to conclude that 65 per cent of the money is spent on administrative costs?

[English]

**Miss Ellen Gabriel:** Yes, you can, if you look at the bureaucracy within INAC and the amount of money it takes to run INAC. I think the figure was taken from a document published by the Assembly of First Nations a few years ago.

[Translation]

**Mr. Benoît Sauvageau:** I am by no means questioning the figures you just gave us, but I am going to ask a question. It seems to me that the ratio is completely inadequate, unsuitable, that's for sure. In your opinion, what would be a good ratio? It seems to me absolutely terrible that 65 per cent of the money is spent on administrative costs by the Department of Indian and Northern Affairs Canada. In your opinion, what would be an acceptable ratio?

[English]

**Miss Ellen Gabriel:** I would say that in the ideal world 100% should go to aboriginal communities. That is where we would be able to become more self-sufficient, more self-determining, be able to save our languages, be able to deal with the violence against aboriginal women and the problems in our community. As it exists, with the programs already being decided and the criteria being predetermined by INAC, we are very limited. In a sense, we are handcuffed from growing because of insufficient resources.

I guess as it devolves, if we see a devolution of the Department of Indian Affairs, that could happen. But that's in an ideal world.

[Translation]

**Mr. Benoît Sauvageau:** A proportion of 65 per cent of the money is spent on administrative costs, and yesterday, the Auditor General's report said that the department follows virtually none of the Auditor General's recommendations. That's quite perplexing.

**A voice:** It's troubling.

**Mr. Benoît Sauvageau:** Mr. Picard, I want to make sure I understand correctly. I come back to what Mr. Murphy said.

Your first recommendation is this: "That the bill drop any reference to first nations". Since you say you support those who went before you, you are in favour of the proposed amendment that would add to the excluded recipients:

(d) members of the council of a band as defined in subsection 2(1) of the Indian Act [...]

Is that what you want?

**Le vice-chef Ghislain Picard:** In a way, we support the Assembly of First Nations, who went before us today. Obviously, our starting point is much more specific to the first nations of Quebec and Labrador. In fact, it rounds out the national position that was put to you a bit earlier.

**Mr. Benoît Sauvageau:** But you can't be more excluded than excluded. If you are excluded, that would suit you fine.

**Vice-Chief Ghislain Picard:** Le vice-chef Ghislain Picard If we are excluded, keep in mind that we are still in agreement with the principle of accountability.

**Mr. Benoît Sauvageau:** Yes, we'll come back to that. So, you are to be excluded from Bill C-2, but not from accountability, that's for sure.

Let's turn to the other thing now. Do you also agree with those who went before you and the Auditor General on an aboriginal Auditor General position for your communities? Is that an acceptable accountability solution to you? How should that auditor be appointed?

Let me give you an example. There is an environmental Auditor General, who works under the aegis of the current Auditor General and is completely independent, in that she files annual reports. You are probably more aware than I am of the operation of the Office of the Environmental Auditor General. Would the aboriginal Auditor General have a similar position?

I want to get this right. The Auditor General said that there were negotiations, and the previous witnesses told us that it was desirable to have such a position. Do you envisage a position similar to Ms. Fraser's? Is that what we are to understand?

• (1655)

**Le vice-chef Ghislain Picard:** Absolutely. As a matter of fact, our presentation today referred to the Harvard University study, which also says that first nations have to be given a chance to create their own institutions.

It is also a matter of appropriation that goes beyond culture. I listened to the comments and discussion a bit earlier. For our community, it would be a matter of pride and reclaimed dignity if we had our own institutions, which would complement existing institutions.

Besides, in Quebec, we did manage a few years ago to set up a sustainable development institution. If we were given the means, it would be an institution that could easily compete with what already exists in terms of data in Quebec, for example. Quebec has the *Bureau d'audiences publiques sur l'environnement*, which deals with environmental studies.

We have hoped for a long time that the institution would have the same capacity. It's a matter of identity, of recognizing our communities as entities in their own right.

**Mr. Benoît Sauvageau:** Thank you.

Do you think the Department of Indian and Northern Affairs Canada has efficient and effective accountability? Some would impose new accountability requirements on you. In your opinion, does the department with chief responsibility for transferring funds have effective and efficient accountability? Are there improvements to be made before new requirements are imposed on you?

**Le vice-chef Ghislain Picard:** I'm going to add to the answer to the question you asked Ms. Gabriel a bit earlier by saying that it would probably be a good idea. There is some doubt about the ratio of what goes to the communities as compared to what is kept in the federal machinery for administration. There are no data on that currently, but it would be helpful to have that data.

Let me add a comment. The situation is a bit ironic. For five years, the Department of Indian and Northern Affairs Canada—and I'm talking strictly about the Quebec region—has been scheduling annual meetings for planning for the next year, but we are not included in any of them. And yet we are supposed to be the ones, on behalf of the communities, who benefit from that administration, but we are not there. The same thing happens with accountability at year end. The accountability is done internally, and that is totally unacceptable.

[English]

**The Chair:** Thank you.

Mr. Martin, go ahead, please.

**Mr. Pat Martin:** Thank you, Chair.

Thank you, Monsieur Picard and Madame Gabriel.

In listening to your report, I was wondering how the Government of Quebec would react if Parliament passed powers for the Auditor General to go into the province of Quebec and audit their books, and not just audit their books, but comment on their processes and their outcomes and their priorities, and really have an effect. Doing so would be seen as a breach of sovereignty. It would be seen as an insult. Does that analogy reflect the thought process that motivates you today?

**Le vice-chef Ghislain Picard:** I certainly would not like to respond on behalf of Quebec, in terms of how they would react. I think the royal commission said it best: the whole notion of the relationship between Canada and aboriginal people has to be reviewed. Here we are in 2006, and we still have a department that has complete responsibility and jurisdiction over peoples. Is this the right era? I find that has to be reviewed. I think the royal commission recommendation was really to the point.

I feel that we also have to review the whole fiscal relationship between Canada and aboriginal people. To me, that may be where the solution lies, in terms of why it is that the whole notion of transfer belongs to Canada and the provinces. We're there, too, and we've been asking that the relationship with Canada be revised and adequately adjusted to who we are, as peoples.

To go back to your question, I think certainly Quebec would find it very unacceptable, so we find it unacceptable to us, as well.

• (1700)

**Miss Ellen Gabriel:** I think that is an excellent analogy. For many, many years, we have been saying that we, as aboriginal nations, have been treated as wards of the state, and we continue to be treated as wards of the state.

The Government of Canada has much to do to improve its relationship with aboriginal people, but, more importantly, to improve its relationship with and treatment of aboriginal women. We find ourselves in situations in which women have been forced to live off reserve, and do not receive program moneys or services. I think there's a long way to go in rectifying the injustices that have been done.

This is perhaps not the right forum for it, but with regard to how moneys are spent on behalf of aboriginal women, I think there needs to be more consultation. As well, as I said, aboriginal women need to be involved in every aspect of decision-making, and have equitable representation. If there is going to be a national aboriginal ombudsperson or auditor, aboriginal women have to be involved in the discussions on what the criteria for that will be, because we are the ones who pass on the language; we are the ones who have kept the culture alive, along with the men; and yet we have been treated as second-class citizens.

Here is a good example: I am not a chief, so my opinion is considered less valuable because I represent aboriginal women; as an aboriginal woman, I don't find that acceptable any more.

**Mr. Pat Martin:** Thank you.

Thank you also for raising the issue of consultation. I know Mr. Owen started his first questioning of the AFN representatives with this same question, but if what is happening could be viewed as an infringement upon constitutional rights, or existing aboriginal or treaty rights, the courts have held that sometimes such an infringement might be necessary, but in such a case there has to be justification, and there has to be consultation. And consultation in the truest sense of the word is not just posting on a wall what you're going to do to someone, or telling them, here's what's going to happen to you; consultation is a two-way dialogue where you accommodate some of what's put forward by the other party.

So was there any consultation that you know of in the development of this notion that the Auditor General should have the right to have control over first nations?

**Miss Ellen Gabriel:** Not so far as I am aware of. No, there was no consultation.

**Le vice-chef Ghislain Picard:** None whatsoever for us.

**Mr. Pat Martin:** That's a problem.

I also want to, in the last minute I have, thank you for using your own language in your opening and your ending. The former regional vice-chief from Manitoba, where I'm from, Francis Flett, made a very compelling point one time. He just recently passed away, actually. He said at a House of Commons committee, "Our laws are in our language." And then he went on to explain: "I don't just mean that our laws are spoken in our language; I mean that our laws are *in* our language—it makes us who we are." I think it makes your argument very strong when you bring that cultural benchmark to the presentation that you make.

Thank you.

**The Chair:** Thank you, Mr. Martin.

Mr. Petit.

[*Translation*]

**Mr. Daniel Petit:** How much time do I have?

[*English*]

**The Chair:** You've got five minutes, sir, so you can just go all you want.

• (1705)

[*Translation*]

**Mr. Daniel Petit:** My question is for Ms. Gabriel.

I'm going to repeat what you said earlier. I think it's extremely important to know that you only get 35 per cent of the money for Indians living on Indian land. If I understood correctly, the remaining 65 per cent is apparently swallowed up by the officials at the Department of Indian Affairs. That means that white people are gobbling up—so to speak—65 per cent of the money that is supposed to go to you. Is that what you are saying?

[*English*]

**Miss Ellen Gabriel:** That's an approximate number. It's not an exact number, but it's an approximate number. It's safe to say that it's more than 60% that goes to administrative dollars.

[*Translation*]

**Mr. Daniel Petit:** If I understood correctly, in reality, the problem stems from the fact that you don't get the money. You are a bit irritated by the fact that the money is withheld by white people at the Department of Indian and Northern Affairs Canada and doesn't reach the aboriginal communities. Did I understand your intervention correctly?

[*English*]

**Miss Ellen Gabriel:** Yes, that's exactly what I'm saying.

[*Translation*]

**Mr. Daniel Petit:** Okay. Were you here at the beginning of the meeting, when the request was made for Indian bands to be excluded from Bill C-2? Have you read Bill C-2, the so-called Federal Accountability Act? You seem to be saying that you support accountability, but that you would like to participate as an aboriginal woman in the accountability discussion. Did I understand correctly?

[*English*]

**Miss Ellen Gabriel:** I was saying there are other ways of doing this besides including aboriginal communities in this act.

As some first nations have said—Chief Picard has said—we are for transparency, but we don't feel this is the proper act in which to include aboriginal people because of our stance on sovereignty, and because of the simple fact that there are two laws in Canada—one for ordinary Canadians and one for aboriginal people—and making a mix like that, if you want to look at it in practical terms, really doesn't work.

More than that, it's an assertion that the moneys allocated for aboriginal people—yes, the Canadian taxpayers pay into that fund that goes to aboriginal communities, but that money is our money. That money has been earned through the minerals and resources Canada has used to become a rich country. It has been taken from our lands; people are living on our traditional territories that have never been ceded.

We have to have a different relationship and within that relationship is the infrastructure, the administration of the moneys that affect the realities and the needs of aboriginal people.

I don't know if I have made myself clear.

Chief Picard might have something else to say.

**Vice-Chief Ghislain Picard:** Le vice-chef Ghislain PicardNo, you've made yourself clear.

**The Chair:** Yes, you have about a minute.

**Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC):** Thank you, Chief Picard and Madame Gabriel, for being here.

In the moment we've got left, I just want to delve into your first recommendation a little bit more where you're saying you had asked the committee to amend the bill to drop any reference to first nations, but then engage in some sort of a dialogue to try to come up with suitable alternatives to ensure accountability of any money Parliament votes to first nations people.

You've obviously given this a great deal of thought. Do you have any written recommendations we could peruse, giving us some ideas how we can find alternatives that would still achieve the accountability you say you agree with us we both want to achieve? Do you have any specific recommendations or alternatives you could present to this committee to examine?

• (1710)

**Le vice-chef Ghislain Picard:** I wouldn't be able to go that far, but I certainly feel there is an existing framework for a dialogue and a cooperative approach between first nations and government. To me, it's all in there.

It's only a matter of what you are willing to discuss. If it's accountability, then you have to discuss it in the spirit of how we understand it.

Obviously the relationship between Canada and aboriginal people is different from the relationship between Canada and Quebec and the relationship between Canada and any other municipality in this country because the *toile de fond*, if you will, is different. It's both historic and more and more legal. So we have to look at it from this point of view.

**Mr. Tom Lukiwski:** Is that the time?

**The Chair:** It's the 40-minute time. You've lost two minutes somehow, but if you feel strongly about it, I'm sure the committee will give you another two minutes.

**Mr. Tom Lukiwski:** My final comment, Chief Picard, was we have received amendments from a number of different witnesses thinking the amendments would make this bill stronger. I don't think we've met anyone yet who has stated categorically or unequivocally that they disagree with the spirit of the bill, but many of them have suggested we could entertain amendments presented by witnesses to make the bill stronger. And that's been very helpful, I believe, to this committee.

That's the genesis of my question to you. If you have any specific recommendations.... If we were to drop references to first nations people from this bill, as you would recommend, alternatives may still achieve the same spirit we're both trying to achieve. Any specific recommendations you have would be extremely helpful for this committee, and if you can present them to us now or in the next few weeks, it would be helpful.

**Le vice-chef Ghislain Picard:** I can only repeat what was said in the previous presentation, that the idea of an auditor general for first nations is certainly an alternative that is supported by our membership. The idea of an aboriginal ombudsperson is certainly a concept that is acceptable to our membership as well. You have alternatives there.

If you need to provide a more clear framework in terms of accountability per se, then we do have the Auditor General's reports over the last five years. They bring a lot of doubt to the way in which government has been accountable to our own membership.

So it does provide a lot of food for thought. We're certainly willing to provide our own experience and expertise. I think the whole idea is to be able to be on the same level, the same playing field if you like, in terms of how we approach this whole issue.

**The Chair:** Thanks to both of you for coming this afternoon. Thank you very much.

That concludes the witness portion of the meeting. The committee has some business to attend to.

There are two motions. I'm going to have a brief recess before we get into those. I'm going to suggest that because one of the motions might involve getting into lists, perhaps it would be appropriate that the business portion of the meeting be held in camera.

Does anyone have any objection to that?

**Mr. Pierre Poilievre:** I do. I have an objection to that.

**The Chair:** Then I guess we'll hold it as a public session.

We'll now recess for a moment or two.

• (1710)

\_\_\_\_\_ (Pause) \_\_\_\_\_

• (1715)

**The Chair:** Let's reconvene.

Our business consists of two motions. We will deal with them one at a time. They are brought by Mr. Poilievre.

Mr. Poilievre, you can introduce your first motion.

**Mr. Pierre Poilievre:** Thank you, Mr. Chair.

This motion seeks to expand the sitting time of this committee in order to broaden the ability of this committee to hear more witnesses and to have more discussion.

**The Chair:** I'd like you to move the motion, please, and then you can make your comments.

**Mr. Pierre Poilievre:** Okay.

I move the following:

That the committee add the following four meeting blocks for the week of May 29-June 2:

Monday: 3:30-5:30 p.m.; 6:00-9:00 p.m.

Tuesday: 6:00-9:00 p.m.

Wednesday: 6:00-9:00 p.m., and;

Begin meetings at 8:00 a.m. on Tuesday and Thursday

May I discuss that, Mr. Chair?

**The Chair:** Yes, you may make your comments, Mr. Poilievre.

**Mr. Pierre Poilievre:** The purpose of this motion is to accomplish a number of objectives to which all committee members have attested their support. All committee members have said they want to have vigorous scrutiny of this proposed legislation. All committee members have said that when it's finalized, they want the bill to be passed promptly into law so that it can begin to take effect as soon as possible. All committee members have said they would prefer to have the work done, if possible, before summer so they can be back in their constituencies when the House recesses.

This motion seeks to accomplish all those goals. I take committee members at their word when they say they are interested in prompt passage of the Accountability Act. They've all voted in favour of the Accountability Act as it is. They've all said that they want to work in good faith to pass it into law. If those are truly their intentions, I see no reason why they would not want to devote the maximum amount of time to achieving that end.

At the same time, numerous committee members have said they have found it difficult to hear from all the witnesses they would like to hear from. That's been a consistent complaint by one or two members of the opposition. If that complaint is sincere, then surely they'll want to vote in favour of a motion that allows them more time to hear from witnesses.

In conclusion, I suspect this motion will not be at all controversial, because it does seek to achieve the things that all the members of the committee claim they want to achieve. I look forward to a vote in its favour.

Thank you.

• (1720)

**The Chair:** Thank you, Mr. Poilievre.

Monsieur Sauvageau.

[*Translation*]

**Mr. Benoît Sauvageau:** With all due respect to Mr. Poilievre and his excellent comments, I am opposed to his motion for a number of reasons.

I have been on committees for a number of years, and generally when witnesses appear before us, we have a document prepared by the researchers with suggested questions. I sincerely believe that our researchers did that because they had time to do it, and that they're not doing it now because they don't have time, and yet we are only sitting 10 hours per week. If we sit 48 hours per week, logically, they will have less time, and so will we.

This is the first time I have been on a committee where we didn't have a document to prepare us to hear witnesses. In my view, it's not a mark of great professionalism. I would like to think that Mr. Poilievre agrees with me about that.

I am going to give a few examples to show that the bill needs to be considered quickly, of course, but that we still need time to study it seriously. I am referring to the part that deals with the political appointments commission. In my opinion, the decision announced yesterday by Mr. Harper to eliminate the political appointments commission, rather than to appoint someone else, is going to change our consideration of Bill C-2 somewhat.

For example, you announced, and it's a good thing, that the \$1,000 reward would be eliminated. That shows how important it is to have witnesses. All of the witnesses proposed amendments. I submitted a document from the library that indicated that for the 600 acts passed between 1988 and 2000, the average length of time between first reading and royal assent was around 200 days. We are even willing to accelerate the process in order to cut that time in half, but I think it's a bit much to go from 200 days to 15 days.

Page 840 of Marleau- Montpetit says the following: "While the average length of a committee meeting is two hours," twice a week, "a committee may choose to meet for a shorter or longer period..."

We voted that the committee, rather than meeting twice for two hours every week, would meet for 10 hours every week. We have just greatly increased the number of sitting hours. So we have been very cooperative and have shown that we are prepared to give quick consideration to the legislation.

For all of these reasons, which seem rational to me, we are going to oppose the motion. I would ask you to forgive me in advance, Mr. Chairman, because I don't want to presume what the outcome of the vote will be, but should there be a tie, does the chair's vote have to maintain the status quo?

[*English*]

**The Chair:** I think it's an improper question to ask me when there's no tied vote. If there's a tied vote, the chair will look at the rules and ask for a few moments to consult with the clerk. I'll do my best to honour the rules of this place, but so far...I don't know.

Is there any other debate?

Madame Guay.

[*Translation*]

**Ms. Monique Guay:** Mr. Chairman, there are a lot of questions here. We have before us a work plan that we passed yesterday. I hope we are going to stick to it with the amendments that we made to it, which included the 10 associations. It would have been completely crazy to bring them all together for 90 minutes.

So we adopted a work plan, and I think it's too soon to say that on June 6, we will already be ready for clause-by-clause consideration of the bill. The committee sitting hours make no sense, and the witnesses are having trouble following us.

[*English*]

**The Chair:** Just so you know, we're dealing with item one. We're not at item two yet.

[*Translation*]

**Ms. Monique Guay:** I know, Mr. Chairman.

I'd like to come back to the committee's hours. There are people writing to me to say that they've been asked to produce a document the same day. It makes no sense. If we increase the number of hours, it will be even worse.

Also, it doesn't make sense to ask members who have other tasks to be at the committee's meetings constantly. That means that we are going to have to ask any old member from our parties to come here. That's called fast tracking, and I don't agree with it. Let's stick to the schedule we set for ourselves. If it has to be reviewed later, we can do that, but for the time being, we should just follow the work plan we have before us.

• (1725)

[*English*]

**The Chair:** Is there any other debate on the motion?



**Mr. Brian Murphy:** I just reflect, as a new member of Parliament, that one of the orientation sessions had a respected and distinguished speaker—committee member, Conservative—who said that you can expect to prepare three hours for every one hour of witness. By my tally, if we go with this motion we'll be sitting about 24 hours a week. If we do that—listening to this eminent Conservative—we'll be up to 72 hours a week. There is this thing called the House over here that our whips want us to sit in sometimes. Then there are some other things.

I find it ironic that something as important as accountability—if this went through, respectfully—would be put through in a very haphazard fashion. Unless Mr. Poilievre can lead the way, as he did in *The Ottawa Sun* this morning, and say, “Well, look, let's not waste time discussing the \$1,000 whistle-blower item”.... That's probably two or three hours we wasted on that. If that's a giveable and there are other things we can work toward closing the issues on, why don't we spend some time doing that, as opposed to putting witnesses through unnecessary preparation?

I just think it's a little premature to do this. There have to be other ways, from my municipal background, that people can work to narrow the issues. That's why I'll be voting against it, I guess.

**The Chair:** Is there any other debate?

**Mr. Pierre Poilievre:** Sure.

This is an honest effort to give more time to this important act and at the same time see that it is enacted within a reasonable time period. It's also a motion that ensures we will continue debate. An important principle of committee life is to continue debate and maximize the amount of debate that can happen.

Thanks.

**The Chair:** I have no idea whether I'm in order myself for making these comments, but I'm going to make a couple of comments.

The chair and the clerk are bound to arrange for witnesses and arrange for the process. If this motion carries, then we will either fill up that time or we will not fill up that time. The concern for the clerk and for me would be that if this motion were to carry, I wouldn't want to be sitting here without witnesses. If that occurred, it would be terribly embarrassing to the committee, terribly embarrassing to this place.

I don't even know whether it's appropriate for a chair to make suggestions, but I'm throwing this out as a thought: the words “as required” or “at the call of the chair”.... For example, right off the bat we have meetings from 3:30 to 5:30 p.m. and from 6:00 to 9:00 p.m. on our first Monday back. I just raise that question. I'm just alerting the members of the committee that it is conceivable that if we abide by this motion, if it carries, then all of a sudden we might not have anything to do.

I'm wondering whether that's crossed anyone's mind or not.

Mr. Lukiwski and then Mr. Sauvageau, go ahead, please. Mr. Sauvageau had his hand up first, I think.

[*Translation*]

**Mr. Benoît Sauvageau:** Mr. Chairman, I don't know if my question is in order. Bill C-2 is probably very important. A motion

was passed by the Standing Committee on National Defence to reassess the relevance, conditions and reasons for our participation in the Afghanistan conflict. How many hours per week does that committee sit? Can anyone tell me? I have no other questions.

• (1730)

[*English*]

**The Chair:** No one at this end of the table seems to know that, sir.

Excuse me?

[*Translation*]

**Mr. Benoît Sauvageau:** I'm told it sits four hours per week. Just for the purposes of comparison. That's all I'm saying.

[*English*]

**The Chair:** Okay.

Mr. Lukiwski, I think, was next.

**Mr. Tom Lukiwski:** Yes. My point, Mr. Chair, briefly, is that I certainly will be supporting this motion because I'm motivated, obviously, as I think a few other members are, to try to do the due diligence but to get it done, again, before the end of June.

We have many things going on in our ridings. I suspect that Mr. Sauvageau also does because of the amendment that he had presented earlier saying that if we have to sit in the summer, let's start in August rather than July. I'm assuming that he has many events, as I do, many commitments, as I do, in July. So clearly I would like to do what we need to do to thoroughly examine this bill, but also to be out of here in a reasonable time—by the end of June, I would suspect.

It seems to be a concern that by altering the schedule to expand the sitting times as his motion proposes, we would inconvenience, in some manner, the witnesses who have already been contacted. My point is that we have a break week coming up, and I would suspect that the clerk or others could probably reschedule or get more witnesses in. That would give them from now until May 29—approximately ten days—to accommodate their schedules, to get to the committee on its expanded time schedule. I don't think it would be a true inconvenience for any witnesses if we gave them that much time in advance.

If there are a lot of witnesses, as everyone suggests there may be, we should be able to schedule them and have a packed week when we return from break. If that ends the witness list, we would be able to get into the clause-by-clause examination, where I think, quite frankly, Mr. Chair, we're going to see the majority of work done.

Once we have heard the witnesses with all the amendments—and many of them have been very useful and I think good amendments—we'll get down to the clause-by-clause examination, which is the meaty work of this committee, to get this bill passed. I think the sooner we can get to the clause-by-clause examination, the better served Canadians will be. So that's why I'm voting in favour of this motion.

**The Chair:** Yes, Mr. Poilievre?

**Mr. Pierre Poilievre:** I'll just say I don't, respectfully, believe that the chair's concern will materialize, because we have ten days between now and the effect of this motion. This motion does not take effect until May 29, so there's plenty of time for the clerk to get in contact with witnesses to fill those time periods. We did so on one or two days' notice at the beginning of the committee's work.

Finally, there's no question that there will be enough witnesses because the opposition keeps telling us that there are many witnesses that we need to hear from, and that they're all just waiting to come, and there is much testimony that this committee needs to hear. Clearly, there shouldn't be any problem filling these time slots if there is that overwhelming demand that the opposition speaks of.

**The Chair:** Okay.

Monsieur Petit.

[*Translation*]

**Mr. Daniel Petit:** I'm going to support this request because it's time-limited. We're talking about four meetings, from May 29 to June 2. Nothing else is being added.

If I understood correctly, we would supposedly reach clause-by-clause consideration after that. There may be some doubt, but we're only talking about four new meetings. That's no big deal.

I had asked Mr. Poilievre to suggest to the opposing party—sorry, it's an old habit—to sit during the break week. I was told that was impossible because everyone was busy.

I was willing to do that. We would have followed the same schedule with ease. But now, we're going on vacation, indirectly, and adding four meetings. That's why I would support the decision.

[*English*]

**The Chair:** Do you have a point of order?

I have a list. I have Mr. Tonks next.

A point of order.

[*Translation*]

**Mr. Benoît Sauvageau:** I wanted to raise a point of order.

I believe the committee is televised. Mr. Petit just said we were going on vacation next week.

• (1735)

[*English*]

**The Chair:** Okay.

Mr. Tonks.

**Mr. Alan Tonks (York South—Weston, Lib.):** Mr. Chairman, I'll be very brief.

When this came up at the steering committee I suggested to Mr. Poilievre that he table this motion. And there was a very brief discussion around the approach that we're going to use to consider amendments.

It was my inference that we—

**A voice:** Careful. The steering committee was in camera.

**Mr. Alan Tonks:** That wasn't during the steering committee; it was after that.

Now I forget where I was, Mr. Chair. I'm sorry.

**The Chair:** You were talking about your conversation with Mr. Poilievre.

**Mr. Alan Tonks:** Yes, I think that this is important, if I could remember it.

It was that the additional hours, that approach be tabled against the development of some sort of a methodology that we are going to consider amendments. Other than more deputations, we really haven't talked about a schedule of how we're going to deal with amendments. And I'm not suggesting that we should deal with amendments as the Martin-Poilievre mechanism that has developed. I'm very envious of that. I would hope there's one that I can be included on for the next round so I could get credit for it.

Mr. Chairman, seriously, I don't think the committee is at all opposed to extended meetings, whether it's within the framework suggested by Mr. Poilievre or another one, if it's against a work schedule. And that work schedule is how are we going to go through the clause-by-clause?

If we don't have any sense of and any intake of suggested amendments, I think we're just going to be spinning our wheels. So my suggestion would be that we table this motion and that members give consideration, or that our parliamentary research give consideration, as to the methodology that we will be using, whether we can prioritize amendments, and that we can start scheduling part of our work program on actually that clause-by-clause, but much more focused than just starting at the beginning and going through the bill.

If that makes sense, Mr. Chairman, I put it forward.

**The Chair:** Is that a recommendation or a motion?

**Mr. Alan Tonks:** I would move that as a motion to table.

**The Chair:** Okay.

We have to vote on that, don't we?

Just give me one second.

**Mr. Alan Tonks:** And I don't know whether you can do it this way. In another place you were able to do this. It would be tabled for the purpose of providing a methodology whereby we would be able to match the schedule of hearings to the consideration of amendments. So that would be on you, Mr. Chair. You could have the steering committee, it could be with staff, put forward some suggestions so we could get on with that.

**The Chair:** I don't think there's a debate on this, is there?

Could you repeat your motion to table?

**Mr. Alan Tonks:** As I was saying, Mr. Chairman, I'm not sure whether you can table with a further instruction. That would be my—

**The Chair:** It's sort of a conditional table.

**Mr. Alan Tonks:** Yes, the motion is to table, and that you, along with research, provide a methodology for the consideration of amendments. And then the matter will come back to the committee.

**The Chair:** Mr. James Moore.

**Mr. James Moore (Port Moody—Westwood—Port Coquitlam, CPC):** The way parliamentary procedure works is that Mr. Tonks has made a motion to table. It doesn't matter why he's made it. He's made clear why he's made it, and that's fine, and that can be discussed, but there's a motion to table that can't be debated. You have to go straight to a vote.

• (1740)

**Mr. Alan Tonks:** Okay, I accept that.

I appreciate, Mr. Moore, that it would be for that purpose, so I would continue with the motion.

**The Chair:** Okay, we'll have a vote.

Mr. Tonks has moved that the motion that is being debated be tabled. Do you understand what we're doing?

**Hon. Marlene Jennings:** Sir, would you just hold on one moment.

They're not quite clear what "motion to table" means, so their legislative assistant is explaining it in French.

[*Translation*]

**Mr. Benoît Sauvageau:** Mr. Chairman, in order to table a motion, isn't there a requirement for notice of... Isn't unanimous consent required?

[*English*]

**The Chair:** All those in favour of the motion to table? Opposed?  
Six for and six against.

The chair votes against the motion.

(Motion negatived: nays 7; yeas 6)

**The Chair:** So we're back on Mr. Poilievre's motion.

Again we have six for and six against.

The chair votes in favour of the motion.

(Motion agreed to: yeas 7; nays 6)

**The Chair:** We have motion two, Mr. Poilievre. Where are we in time here?

Yes, Monsieur Sauvageau.

[*Translation*]

**Mr. Benoît Sauvageau:** You haven't explained your vote, which goes against maintaining the status quo. Given that it's 5:30 p.m., isn't the unanimous consent of the committee required in order to continue the meeting?

**Ms. Monique Guay:** You don't have our consent.

**Mr. Benoît Sauvageau:** You don't have ours. Thanks a lot for voting against the status quo. He doesn't have to explain why he voted against, but according to Marleau-Montpetit...

**Mr. Pierre Poilievre:** He voted in favour of continuing the debate.

[*English*]

**The Chair:** The meeting is adjourned until nine o'clock tomorrow, in this room.





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