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## Standing Committee on Finance

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EVIDENCE

**Tuesday, May 4, 2010**

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**Chair**

**Mr. James Rajotte**



## Standing Committee on Finance

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• (1530)

[English]

**The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)):** I call to order the 15th meeting of the Standing Committee on Finance.

Colleagues, we are continuing with our study of Bill C-9, An Act to implement certain provisions of the budget tabled in Parliament on March 4, 2010, and other measures.

We are continuing our discussions with officials from various departments as we go through the various parts of this bill. We want to thank the officials for being with us here today. We hope to finish it this week sometime, but we'll see how things go today, as Mr. Pacetti says.

Colleagues, we'll go back to the five-minute rounds, and if you do have any questions, please indicate to the clerk.

We are on part 15, Canada Post Corporation, the amendment to the Canada Post Corporation Act.

Are there any questions?

Mr. McKay and then Monsieur Paillé.

**Hon. John McKay (Scarborough—Guildwood, Lib.):** Obviously this is a fairly controversial measure among some. Do you have any studies that indicate there will be jobs lost by virtue of this?

**Ms. Katherine Moynihan (Director, Portfolio Management, Crown Corporation Governance - ADC, Department of Transport):** No, we don't. These companies have been active in Canada for some 20 years. Canada Post has been competing with them during that time. If the bill passes, it will protect the jobs of employees in the industry.

**Hon. John McKay:** The first argument is job loss. The second argument is that it will affect post offices negatively in rural Canada. What is your response to that?

**Ms. Katherine Moynihan:** The government recently established the Canadian postal service charter, which sets its expectations for Canada Post. The service charter clearly says that rural postal service is an integral part of Canada Post's universal service obligation.

As part of the service charter, the government also continued the moratorium on the closure of rural post offices. That moratorium has continued without any change since it was established and confirmed in 1994, so I wouldn't expect any impact.

**Hon. John McKay:** I would have thought that most of the business done by remailers has nothing to do with rural Canada.

**Ms. Katherine Moynihan:** I would expect there may be some companies in the remail business that are operating in rural Canada, but I don't have details.

**Hon. John McKay:** Yes; they may operate in rural Canada, and that's not been a business that the post office has enjoyed for 20 years, so the impact on rural Canada would have to be pretty modest.

The third argument I've heard is that this is really the thin edge of the wedge, that this is going to erode exclusive privilege, and that the rights of Canada Post will be negatively affected by this particular provision. What are your comments to that?

**Ms. Katherine Moynihan:** We don't expect a large impact on Canada Post. As I said, the government has made its expectations clear in the Canadian postal service charter. Canada Post has already started annual reporting on those service commitments. Canada Post recently said that the revenue risk was in the neighbourhood of \$40 million to \$80 million, on a revenue base of \$7.3 billion, so 0.5% to 1% of its revenues, and that's the risk. However, these companies have been operating for 20 years. Canada Post has been competing with them and will continue to compete with them if Bill C-9 is passed with this provision.

**Hon. John McKay:** I understood at one point that Canada Post was in the remailing business.

**Ms. Katherine Moynihan:** I have heard that.

**Hon. John McKay:** Yes.

You mentioned \$40 million on gross revenues of \$7 billion. Would that be \$40 million new dollars that would be realized if in fact the remailers all went away today?

**Ms. Katherine Moynihan:** Canada Post expressed it as a revenue risk.

I can't answer your question exactly. I don't have that information.

**Hon. John McKay:** I don't know what a "revenue risk" means.

**Ms. Katherine Moynihan:** It could be interpreted as there could be a further reduction in Canada Post revenues of \$40 million to \$80 million.

**Hon. John McKay:** A further reduction beyond what it is currently? The remailing business constitutes, what, \$200 million to \$300 million?

**Ms. Katherine Moynihan:** I don't have solid estimates on the size of the industry. Given the legal questions about the business they're in, we don't know as much as we would like to about them. The Canadian International Mail Association has indicated there are hundreds of companies, thousands of jobs in the sector, but I don't have a total revenue in the industry right now.

It is somewhat difficult to get because many of the companies are involved in a number of other industries. There's a small and medium-sized business component of the remail industry. These are people who are producing catalogues, producing envelopes, doing graphic design and other printing services. Part of their service package is remail, so it would be difficult to carve out exactly how much is the outbound international mail.

• (1535)

**Hon. John McKay:** I'm still a little confused as to whether Canada Post will be up \$40 million or down \$40 million. If it's an opportunity lost to Canada Post, that means they couldn't increase their revenues \$40 million. If, however, they're not doing the business and the business is actually in the order of \$200 million or \$300 million, it might actually be more money than that.

**Ms. Katherine Moynihan:** My interpretation of Canada Post's estimation is that this is a revenue risk. If the legislative change is made, they could lose—could lose—between \$40 million and \$80 million, but they will be continuing to compete with the remail industry in Canada.

**Hon. John McKay:** Okay. Thank you.

**The Chair:** Thank you.

*Monsieur Paillé, s'il vous plaît.*

[Translation]

**Mr. Daniel Paillé (Hochelaga, BQ):** We're going to get back to the figures, if I may. When we talk about millions of dollars, you can say there is a big difference between \$40 million and \$80 million, the difference between the minimum and the maximum is fairly big. I know it's just one paragraph, but given that we are talking about lost revenue, is that revenue, which is currently the Canada Post Society's exclusively, profitable? Does it make a profit from it?

**Ms. Katherine Moynihan:** Canada Post does make a profit.

**Mr. Daniel Paillé:** How much?

**Ms. Katherine Moynihan:** Excuse me?

**Mr. Daniel Paillé:** How much profit does it make with the privilege that is being taken away from it?

**Ms. Katherine Moynihan:** I can't answer that question exactly. I can give figures for the 2009 financial statement, but I don't have the annual report recently tabled in Parliament with me.

**Mr. Daniel Paillé:** We know that the Canada Post Corporation makes profits. But is it happy to have a competitor for that portion of its business? Is that taking a sacred cow away from it, a golden calf? What is that taking away from it?

**Ms. Katherine Moynihan:** That question would really have to be put to the people at Canada Post. I can say, however, that...

**Mr. Daniel Paillé:** You are the one who is here, Ms. Moynihan.

**Ms. Katherine Moynihan:** Yes. Canada Post has said there was a risk of revenue loss, as I explained to Mr. McKay.

**Mr. Daniel Paillé:** Is it a risk of lost profits, or of lost losses? This is plainly something important. In fact, announcing that the exclusive privilege will be taken away is one way of saying that competition is going to intensify.

The Canada Post Corporation, and I think it says this somewhere in its charter or its report, has to operate in a financially independent manner. The Canada Post Corporation therefore has to finance its activities responsibly. If its profits go down, it will obviously have to find some elsewhere.

In addition, you told us that all the jobs were protected. That concerns me a little—I am thinking of my colleague Mr. Gagné, who is a businessman. When a company's business is cut back, it's too bad, but generally, there are people who lose their jobs. We are told that the Canada Post Corporation will now have to keep them all, when competition will be growing in one of the markets where it operates, although no one knows whether it is a market from which it makes profits.

I'm also wondering about something else. Since the Canada Post Corporation's head of finance has to find money elsewhere, is he going to increase postage rates in Canada, that I have to pay, for example, if I want to send a letter to my good friend Mr. Wallace, because they will lose the transfers, or the international mailing? There are a lot of questions.

**Ms. Katherine Moynihan:** Yes, there are.

[English]

Certainly Canada Post has been aware of the government's intention to change this provision. It was first introduced in Bill C-14 in 2007. Canada Post has been producing corporate plans that have been approved by the Governor in Council since then, so I would say that Canada Post has already taken this into account, expecting that at some point in the near future the change would happen to the legislation.

That said, I have to go back and say again that these companies have been working in Canada and have been active for some 20 years.

• (1540)

[Translation]

**Mr. Daniel Paillé:** These are not corporate bums; they are good people, we agree.

[English]

**Ms. Katherine Moynihan:** Many companies have been doing this. Canada Post has taken legal proceedings in the past to protect its exclusive privilege.

There is currently a stay on an injunction. It has allowed companies in the remail business to continue their operations. That stay has been extended a couple of times, given there was legislation in the House. It is now in place until December 31 of 2010.

[Translation]

**Mr. Daniel Paillé:** Is the government's decision to do that, first, in the Budget Implementation Act, when there is other legislation somewhere that does exactly the same thing... Where does that come from? Could we say, with all due respect, that these companies, that have been here for some 20 years now, have succeeded, by lobbying the government of Canada, in grabbing a little bit of the postal business, and now the first thing they are going to do is say: thank you, what's next?

[English]

**Ms. Katherine Moynihan:** The amendment will clarify the legal status of the industry that has been operating for many years. It will protect jobs in the industry. It will give Canadian business the opportunity to choose amongst providers for international mail service. Canada Post will still be allowed to compete in the international outbound mail business.

[Translation]

**The Chair:** Thank you.

Mr. Généreux, please.

**Mr. Bernard Généreux (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC):** Thank you, Mr. Chair.

Good afternoon. I want to be very sure I understand. Canada Post has already had competitors in this business for over 20 years or about 20 years.

**Ms. Katherine Moynihan:** Yes, that's true.

**Mr. Bernard Généreux:** That is indeed the truth. I am going to refer to Mr. Paillé, who just said I am a businessman. And I am a businessman.

Given that they already have competition, they know exactly what to expect. They already expect this. We are agreed, they have competition when it comes to remailing outside Canada.

[English]

**Ms. Katherine Moynihan:** *Oui; on dit* "outbound international mail".

[Translation]

**Mr. Bernard Généreux:** So they already have competition.

There is a probability that they will lose \$40 to \$80 million in business out of I don't know how many billions of dollars.

**Ms. Katherine Moynihan:** Yes, that's right.

**Mr. Bernard Généreux:** Is this a probability they have evaluated?

**Ms. Katherine Moynihan:** Canada Post did that estimate.

**Mr. Bernard Généreux:** When you're in business and you may potentially lose market shares, you roll up your sleeves and ask how you are going to work to develop that new business or to make sure you don't lose the profit margins you have in various areas.

Do you know how many businesses there are in Canada in this area and how many jobs may be dependent them?

**Ms. Katherine Moynihan:** The Canadian International Mail Association has estimated that there are hundreds of companies and billions of employees.

**Mr. Bernard Généreux:** Millions..., you're saying...

**Ms. Katherine Moynihan:** Excuse me: millions of employees... Thousands.

**Mr. Bernard Généreux:** If it were billions of employees that would be nice.

If I am not mistaken, the United States and many European countries already allow competition in their remailing market. This isn't something new in Canada. In any event, Canada has also been doing it for 20 years.

[English]

**Ms. Katherine Moynihan:** *Oui, c'est cela.* It's been legal in the United States for many years.

I'm not sure if it's throughout the European Union, but it is predominant in the European Union. Many of the remail companies operating in Canada are in fact offshoots of European postal administrations.

**Mr. Bernard Généreux:** Okay.

**The Chair:** *Merçi.*

We'll now go to Ms. Crombie, please.

**Mrs. Bonnie Crombie (Mississauga—Streetsville, Lib.):** Thank you very much.

I'd like to welcome the witnesses. I'm sorry I missed your testimony.

My largest issue is the underhanded way that part 15 was included in a omnibus bill. I think it deserves to be debated on its own merit. It reflects a very profound policy shift, one that could potentially open the door to deregulation in other crown corporations.

I wonder if you might want to address that, please.

**Ms. Katherine Moynihan:** I don't really think I'm in a position to answer your question. I'm sorry.

● (1545)

**Mrs. Bonnie Crombie:** Did you or anyone in your department provide policy advice to the minister on whether or not this should merit its own discussion?

**Mr. Ted Menzies (Macleod, CPC):** I have a point of order, Mr. Chair.

**The Chair:** Go ahead, Mr. Menzies.

**Mr. Ted Menzies:** These people are here to provide background information, not to provide a policy debate for you.

**Mrs. Bonnie Crombie:** I'm just asking their opinion, sir.

**The Chair:** They're here just for background, Ms. Crombie; they can't....

In terms of policy, we could bring the minister forward, where obviously we'll have political...but these officials are here for background information for members.

**Mrs. Bonnie Crombie:** Okay. Well, let's continue.

For me, part 15 certainly is a large step toward removing the exclusive privilege of Canada Post, and for me, in any case, it reflects a profound policy shift.

I'm concerned because of the way our crown corporations are structured; they're here to provide universal, affordable, and accessible access for all Canadians. In your opinion, what effect might opening up exclusive privilege Canada Post business to international remailers have on Canada Post?

**Ms. Katherine Moynihan:** Canada Post has recently estimated that the revenue risk is between \$40 million and \$80 million on a revenue base of \$7.3 billion. These companies have been in operation in Canada for over 20 years. The provision in Bill C-9, as in the previous Bill C-14 and Bill C-44, does not change Canada Post's powers or its mandate, which is to offer a universal postal service in a financially self-sustaining manner. We don't expect a significant impact.

**Mrs. Bonnie Crombie:** In my opinion, there is a profound power shift, and it does expose Canada Post, and it does alter their exclusive privilege. I would think—this is my opinion, at least—that the \$40 million to \$80 million remailer industry that you've described represents revenues that should be attributed to Canada Post. How would they otherwise make up this revenue fall? And will they be seeking to enter that business?

**Ms. Katherine Moynihan:** Canada Post has been active in outbound international mail for many years. It will continue to compete in the industry, despite any change that may be made to its exclusive privilege. This simply clarifies the legal standing of the outbound international mail industry, which, as I say, has been active in the country for over 20 years. Canada Post has been competing through that time.

**Mrs. Bonnie Crombie:** But doesn't it in fact completely disregard an upper court decision in Ontario?

**Ms. Katherine Moynihan:** The Ontario Superior Court of Justice commercial list had given an injunction against G3 Worldwide Canada, also known as Spring, or Spring Canada, but that court put a stay on that injunction. That stay has been renewed a couple of times, and it is now active until December 31, 2010.

**Mrs. Bonnie Crombie:** It's very much my opinion that this opens the door to deregulation and perhaps privatization, which may be the agenda in any case.

Could you tell us if you think there could be an impact on rural or remote delivery of Canada Post?

**Ms. Katherine Moynihan:** I would not expect so. It is a fairly small potential impact on Canada Post revenue, and also the government issued a Canadian postal service charter in September 2009 that laid out expectations for Canada Post service. It specifically noted that rural postal services are an integral part of the universal service obligation of Canada Post. The service charter also continued indefinitely and without any change the moratorium on the closure of rural post offices.

**Mrs. Bonnie Crombie:** I would suggest to you that the charter is toothless. Otherwise, I think it would be entrenched in regulation rather than just be a charter.

I'm wondering if you think this deregulation opens the door to possible further deregulation or privatization, whether in Canada Post or in other crown corporations.

**Ms. Katherine Moynihan:** This is a minor change to Canada Post's exclusive privilege that will essentially legalize an industry that has been active in Canada for 20 years.

**Mrs. Bonnie Crombie:** I think you will find that the stakeholders believe that this is a very profound change, not a very minor change, to the exclusive privilege of Canada Post.

**The Chair:** Thank you.

*Monsieur Carrier, s'il vous plaît.*

[Translation]

**Mr. Robert Carrier (Alfred-Pellán, BQ):** Thank you, Mr. Chair.

Ms. Moynihan, you said earlier that the Canada Post Corporation is expecting to lose between \$40 and \$80 million in revenue as a result of this legislation. However, I don't recall whether you specified that this is net revenue or gross revenue.

In other words, would the revenue that is lost ultimately produce a profit, or would it fall under unprofitable operations? I think it is important to know that in order to evaluate the bill.

• (1550)

**Ms. Katherine Moynihan:** Canada Post said it was a risk of lost revenue. We are talking about gross revenue, but not an impact on the corporation's net situation.

**Mr. Robert Carrier:** In any event, when we talk about gross revenue, there is necessarily a net revenue called profit, or loss, at the end of the fiscal year. It is important to know that when we want to assess the bill.

**Ms. Katherine Moynihan:** That may be, but I have to say again that it is a risk of lost revenue—only a risk. I don't imagine that this change is going to happen very fast in the market, because the companies that do remailing have been doing business in Canada for decades.

**Mr. Robert Carrier:** So you don't want to give me any information as to whether this is a matter of risking lost profits or eliminating a loss, ultimately. You just want to talk about gross revenue.

**Ms. Katherine Moynihan:** Yes.

**Mr. Robert Carrier:** We have no information. You have it, surely, but it is difficult for us to assess. We have to understand the impact of Part 15 of this bill: if Canada Post is losing revenue at the end of the year, there will be consequences for the regular postage rates that will be charged to the public as a whole.

**Ms. Katherine Moynihan:** That may be, but we are talking about the potential for a loss of less than 1% of revenue. Canada Post has a really large revenue base. If we look at the estimates for the corporation's performance for the years to come, we see that remailing is not what is going to make the difference between profit and no profit.

**Mr. Robert Carrier:** In any event, for myself, I am going to settle for that half-answer.

As well, earlier, you said that at present there is already competition. But because Canada Post has the exclusive distribution privilege at present, which the bill wants to take away from it, what is the purpose of competition, at that point? I don't understand what the role of the competition is, given that remailing has to be done by the Canada Post Corporation, which has the exclusive right to it.

[English]

**Ms. Katherine Moynihan:** Essentially, if the change is made, it will be clarified that remail is legal in Canada. If the change is not made, I would expect that the stay on the injunction would not be extended. There's a lot of conditional in there, which is why I didn't attempt to say it in French. If this were not to go through and the injunction were not to be extended, the remail businesses would have to stop their activities. Some of that business could go back to Canada Post. It may go outside the country.

[Translation]

There is a part of this industry that... Companies that print catalogues, for example, take their products to the border and mail them via the United States Postal Service. So if remailing were not legal in Canada, that type of service could be done by companies in the United States instead of Canadian companies and Canadian employees.

**Mr. Robert Carrier:** Ultimately, you seem to be saying that the bill will regularize a situation that to a large extent already exists. Is that it?

**Ms. Katherine Moynihan:** Yes.

[English]

**The Chair:** *Merci*

We'll go to Mr. Wallace, please.

**Mr. Mike Wallace (Burlington, CPC):** Thank you, Mr. Chair.

I have two things. The first is with regard to the numbers that Canada Post is quoting you. You've been clear numerous times, and I just want to be sure about this.

The remailers have been in business for 20 years in this country. The numbers they're saying that they potentially could lose—have they already built that in as revenues that they've already lost because they're in a competitive marketplace with these other businesses? Or is this additional money that they think they might lose if they become in line with the law?

• (1555)

**Ms. Katherine Moynihan:** I'm not sure if the statement I had from Canada Post was as specific as that. The quote I have is that it is a revenue risk of \$40 million to \$80 million on a total revenue stream of \$7.3 billion, and the corporation intends to vigorously compete for that business.

**Mr. Mike Wallace:** Okay. So if they come in front of us in the future, I will ask that specific question.

Have you been in the department on this file for a number of years, if you don't mind me asking?

**Ms. Katherine Moynihan:** I've been with the department for two years, but I arrived after Bill C-14 was first tabled.

**Mr. Mike Wallace:** Thank you.

I'm not sure if you're aware...and you can just tell me if you're not. I want to quote something for you.

I really wish Ms. Crombie was here. But I will send it to her, don't you worry.

The discussion was that this was a shift in policy, and the quote is this:

Canada Post is pursuing injunctions against a number of small Canadian businesses that are in the business of international re-mailing, some of which have been in business for 20 years. Thousands of employees will lose their jobs, hundreds of businesses will close and Canada will lose \$150 million in business. What will it be: monopolistic abuses by Canada Post or vigorous competition from small business?

And it asks if the minister will use his authority to tell Canada Post to withdraw its assault on small business.

That was a quote from John McKay when he was Parliamentary Secretary to the Minister of Finance.

Had you heard that quote before?

**An hon. member:** No. She wasn't even there.

**Mr. Mike Wallace:** I have to ask a question, so—

**Voices:** Oh, oh!

**Mr. Mike Wallace:** —that is my question.

I'll take that as a no, but I appreciate putting on the record that this was actually Liberal policy that the Conservatives thought was so good we put it forward, making it happen, because they could never do it.

Thank you, Mr. Chair.

**The Chair:** Thank you.

We'll go to Monsieur Paillé, and then to Monsieur Mulcair.

[Translation]

**Mr. Daniel Paillé:** Mr. Généreux continued in the same vein when he said it already exists. So either the bill serves no purpose, if it already existed, or, as you seem to have been saying for two or three answers, it is to legalize a situation that has been going on for 20 years. That means that for 20 years, Canadian companies, that are going to compete legally with the Canada Post Corporation in this area, have been carrying on a business in Canada that is flatly illegal. At that point, we are saying, because an order has been made, that it is easier to grant a pardon than to have asked permission. That is what you seem to be telling us.

As well, with all due respect to the people at the Department of Finance, since I have been in your position in another department of finance, when you are required, you, the people in the Department of Finance, I don't really know how, to come and defend a bill about the Canada Post Corporation, I understand that sometimes your answers will be less precise than when you are asked a genuinely tax-related question.

[English]

**Ms. Katherine Moynihan:** I would perhaps address an earlier part of your question.

**Mr. Daniel Paillé:** Yes, indeed.

**Ms. Katherine Moynihan:** It is only going back a number of years that Canada Post began to take legal action against some of the companies involved in remail in Canada. The courts have found that, despite arguments to the contrary, outbound international mail was part of Canada Post's exclusive privilege as defined in the Canada Post Corporation Act.

So I don't believe that this change *ne sert à rien*. It will clarify that outbound international mail is not part of Canada Post's exclusive privilege, which is a view that had been held by many, for many years, before the court pronounced otherwise.

• (1600)

[Translation]

**Mr. Daniel Paillé:** In a similar vein, concerning the examples you gave, you talked about a printer who would choose to print outside Canada for something that could be done... I have the impression it could be the reverse. As long as the Canada Post Corporation had the exclusive power, although for 20 years it was obviously having a market taken away from it, that meant that to print the *Reader's Digest* or comic books—I want to speak at Mr. Wallace's level...

**A voice:** Oh, oh!

**Mr. Daniel Paillé:** Sorry.

Would this interfere with the development of batch printing by large Canadian printers, if the Canada Post Corporation were to retain the exclusive privilege?

[English]

**Ms. Katherine Moynihan:** I would expect that Canada Post may be able to bring back some of the business that could be done or is currently being carried out by some of these smaller businesses if this amendment were not passed, but we believe that some of that business may go outside the country.

[Translation]

**Mr. Daniel Paillé:** A good effort, madam.

**Le président:** Thank you.

Mr. Mulcair, you have the floor.

**Mr. Thomas Mulcair (Outremont, NDP):** Ms. Moynihan, it is still your turn. You have to understand our role here. I know you are in a delicate position, and you are here to try to defend something that comes from a political directive. But I'm not trying to draw you into the political side of the issue. As an elected member, I want to get information that is as objective as possible, and that will enable me to make a considered decision. So I have a few questions that call for an objective answer.

If this part of Bill C-9 is enacted, how much will the Canada Post Corporation lose?

**Ms. Katherine Moynihan:** I can't answer that, because there are no figures. It is only a risk of lost revenue. Because it depends on other changes in the market. If more remailing companies set up in Canada, the impact could be larger.

**Mr. Thomas Mulcair:** I'm going to ask you the question another way, even if you can't answer me with specifics.

In the past I have held a deputy minister position and I have been a minister, like Mr. Paillé. I know how it works. There are things written, there are documents, there are analyses that have been done of it. Am I mistaken?

**Ms. Katherine Moynihan:** Yes, however, because of the situation in this industry, which we can describe as delicate, it is difficult to get a lot of information about this industry. When we talk about the potential impact on Canada Post, we are talking about a possibility. You know...

**Mr. Thomas Mulcair:** So documents were prepared to assess the possible scenarios. Is that correct?

**Ms. Katherine Moynihan:** Yes, and in another way, no.

**Mr. Thomas Mulcair:** As an elected member, I want to see those analyses that have been done by your department. Can I have them?

**Ms. Katherine Moynihan:** I imagine the studies will be subject to the Cabinet confidence policy. I can find out, but I imagine...

**Mr. Thomas Mulcair:** The thing is, the Cabinet in question is asking us to vote for or against a bill, based on information we don't have. It is a great pleasure to meet you this afternoon, Ms. Moynihan, but you are giving me nothing that clarifies it for me and enables me to make that decision.

[English]

**Mr. Ted Menzies:** I have a point of order, Mr. Chair.

**The Chair:** Go ahead.

**Mr. Ted Menzies:** Having been a minister, Mr. Mulcair would know that there is cabinet confidentiality.

If you wish that information, rather than asking this witness, I would suggest that you ask the minister—

**Mr. Thomas Mulcair:** Mr. Chair, first of all, that's not a point of order.

Second of all, if my colleague is telling us—

**An hon. member:** Mr. Chair—

**Mr. Thomas Mulcair:** If my colleague is telling us that as a member of Parliament—because he is no more than that—he actually has information to cabinet documents—

• (1605)

**The Chair:** Order, order.

**Mr. Thomas Mulcair:** —then we should have the same rights he has.

He's a parliamentary secretary. As we know, they've decided that they're just members of Parliament because the Lobbying Act, for example, doesn't apply to them.

**Mr. Ted Menzies:** Are you talking about anything relevant here?

**The Chair:** Order.

**Mr. Ted Menzies:** Perhaps you should.

**The Chair:** Order.

**Mr. Thomas Mulcair:** That was on his time and not on mine.

**The Chair:** That's right.



If there is a request, we can make a request. I don't know specifically what documents we would be—

**Mr. Thomas Mulcair:** We've just been told that studies and scenarios and modelling have been done as to the potential costs. The member of Parliament who is sitting in the corner over there decided that he knows that they're cabinet documents. We have no such information. If he has been given access to cabinet documents, we should be given the same access, because he's just a member of Parliament, as we are.

**The Chair:** As the chair, I will make the request that if there are any documents that can be made available to the committee, please make them available to the clerk and they will be made available to all members.

[Translation]

**Mr. Thomas Mulcair:** Thank you, Mr. Chair.

My second question is about the number of jobs that might be lost, because that is part of the larger issue.

We know that the Liberals support this amendment to the Canada Post Corporation Act. Mr. Wallace's quotation from Mr. McKay is a good example that shows the Liberals' support for this effort by the Conservatives. As well, if Mr. Wallace wants to supplement his reading of the Liberal record, I would inform him, if he wants to expand his Liberal sources, Mr. Chair, that Joe Volpe has said exactly the same thing as John McKay in the past.

I would like to know, Ms. Moynihan, whether you have information for us concerning the number of jobs that might be lost at Canada Post, if this were passed.

**Ms. Katherine Moynihan:** If the bill is not passed, thousands of jobs in the remailing industry are threatened. If the bill is passed, no job losses at Canada Post are predicted.

**Mr. Thomas Mulcair:** So you have models from which you can make that statement. Mr. Chair, I am asking to see the models that led to that conclusion.

**Ms. Katherine Moynihan:** As I said earlier, the percentage of revenue that Canada Post risks losing because of remailing is relatively minimal. As well, Canada Post has collective agreements that give its unionized employees a lot of job security. That is why I can make that assertion.

**Mr. Thomas Mulcair:** Mr. Chair, I will conclude by congratulating Ms. Moynihan and thanking her. Too often, the committee meets people who have had to demonstrate sufficient knowledge of French for the positions they hold, but never use it before the parliamentary committee. Ms. Moynihan made valiant efforts to give answers in French for most of the questions in French. I would like to congratulate her and thank her.

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

We will continue with Mr. Paillé

**Mr. Daniel Paillé:** I would like to come back to the number of jobs. Of course, we will be able to see that from the models requested by Mr. Mulcair. You say that if the bill is not enacted, the private sector could lose thousands of jobs. I am trying to understand. That means that \$40 million would be generated by thousands of jobs. I am thinking that the \$40 million does not

represent just the revenue that would be in question. Clearly with thousands of jobs, a lot more work and revenue is generated than \$40 million. I am trying to understand this threat. We are told that if, for example, the Liberal Party voted largely with us against Bill C-9, and it didn't pass, the private sector would lose thousands of jobs. I don't see how thousands of jobs could be lost solely because of \$40 million.

If you are right, that means there would be the opposite effect on the Canada Post Corporation. Plainly, remailing is not going to double overnight. If the Canada Post Corporation continues to do it exclusively, with its employees, without adding any, thousands of jobs will be lost.

On the other hand, you say that if the private sector enters this market, thousands of jobs will be preserved. The Canada Post Corporation will not eliminate jobs. This means there is some inefficiency somewhere. I am trying to understand.

• (1610)

[English]

**Ms. Katherine Moynihan:** I think I have to separate the two numbers.

The estimate of the number of companies and the number of employees is based on what is active in Canada today. Right now there are hundreds of companies and thousands of employees in the remail business. There will be a decision point, when votes happen on this bill, and there may or may not be a change.

If there is a change, if the law is adopted as proposed, those hundreds of companies and thousands of jobs would be expected to continue.

It may be that new companies will move into the remail business and do more business and maybe hire more employees. That is where we start into that revenue risk for Canada Post.

[Translation]

If the bill is enacted, more companies will be doing remailing and there will be less work at Canada Post. We can imagine there will be lost revenue estimated at between \$40 and \$80 million. However, we do not foresee job losses at Canada Post because of two facts, as I explained earlier. The impact on Canada Post's revenue would be quite minimal, on the order of 0.5% or 1%, and we are talking about quite a large company. In addition, Canada Post's collective agreements give its unionized employees job security.

**Mr. Daniel Paillé:** If you will allow me, Mr. Chair, I concur in Mr. Mulcair's request.

**Le président:** There are 30 seconds left.

**Mr. Daniel Paillé:** You really have to have a good, thorough econometric model, to give as many details as you are giving. It is based on hypotheses for the development of this system. It would be very nice to see that model.

**The Chair:** Thank you, Mr. Paillé.

Mr. Généreux, you have the floor.

**Mr. Bernard Généreux:** Am I mistaken, madam? Remailing happens a lot between Canada and the United States?

**Ms. Katherine Moynihan:** Yes.

**Mr. Bernard Généreux:** Am I also mistaken when I say there are companies like Transcontinental and Quebecor that have printing plants, which I know a little about, being a printer myself, throughout North America?

They are the two main players in North America. I'm not part of them, unfortunately. They do a huge volume of business between the two countries, Canada and the United States. The jobs Mr. Paillé referred to have been around for 20 years. When you say thousands of jobs could be lost, are we agreed that these are jobs that already exist?

**Ms. Katherine Moynihan:** Yes, that's right.

**Mr. Bernard Généreux:** I'm not a minister of finance, but I can understand that in business, positioning may be strategic. You may decide to print things in the United States because they have to be remailed and it is easier to do it from there, and so on. I understood the mechanics behind it, I don't need any proof other than what you are giving.

In any event, if Canada Post is doing the job, and I think that corporation does an exceptional job in Canada, it can even go and try to get market shares, starting when it is deregulated.

**Ms. Katherine Moynihan:** Excuse me?

**Mr. Bernard Généreux:** I think Canada Post can go and try to get new market shares if it is deregulated.

**Ms. Katherine Moynihan:** Ah, yes.

**Mr. Bernard Généreux:** Canada Post has been facing competition for 20 years and it estimates that it might lose \$40 to \$60 million, or perhaps \$80 million. It could earn \$40 to \$80 million, if they do the job.

[English]

**Ms. Katherine Moynihan:** Canada Post is experiencing a number of challenges and is always looking for new revenue generation opportunities.

**Mr. Bernard Généreux:** Thank you.

**The Chair:** *Merci.*

We'll go now to part 16, amendments to the Canada Deposit Insurance Corporation Act.

Can I go to part 17, then...?

•(1615)

**Hon. John McKay:** Can someone tell me what is meant by, "Clarify rules that apply to the assignment of derivative contracts to a bridge institution"?

**Ms. Sandra Dunn (Chief, Financial Sector Stability, Department of Finance):** Sure. In budget 2009, CDIC received the power to create a bridge institution if there was a non-viable financial institution, and it was determined they didn't—

**Hon. John McKay:** What's a "bridge" institution?

**Ms. Sandra Dunn:** If the CDIC board didn't want to close a bank that was determined to be failing.

**Hon. John McKay:** Okay, so—

**Ms. Sandra Dunn:** So this is another tool that CDIC now has, which essentially would take a failing bank, put it into receivership, and create a new bank. CDIC would transfer assets and liabilities from the failing bank into the new bank, which is called a bridge institution.

**Hon. John McKay:** Okay. That's helpful.

**Ms. Sandra Dunn:** Over a period of time, it would try to market that institution and put the viable institution back into the free market.

**Hon. John McKay:** You strip out the liabilities, put the assets into the institution, and try to sell it off?

**Ms. Sandra Dunn:** Yes, it essentially protects insured depositors in the new institution and whatever other assets and liabilities it would bring in.

Just to clarify with respect to derivatives, CDIC could transfer derivative agreements into the new institution.

**Hon. John McKay:** And now it can't?

**Ms. Sandra Dunn:** It can, but there was some more clarification sought in terms of whether CDIC could choose which parts of the counterparty agreements could come in, so this essentially says if derivatives are being transferred over CDIC can't cherry-pick among the counterparty's derivatives. They have to take all derivatives within one counterparty.

**Hon. John McKay:** What is the factual situation that drives this desire to create these bridge institutions and derivatives that follow from there? What are the facts that drive the necessity of this legislation? Can you give me an example of an institution that you wanted to treat this way and couldn't?

**Ms. Sandra Dunn:** The U.S. uses this from time to time where there is an institution that they think has some value to it but they don't have a buyer on the ready, and yet they think that over time they could maintain enough value in it that it could be sold back into the market. The option would be to just close down the institution, pay out the insured depositors, and let the institution go into liquidation. That may be destabilizing event, depending on what's happening in the rest of the market.

**Hon. John McKay:** So we don't actually have a Canadian factual situation.

**Ms. Sandra Dunn:** No, it's a new power. It has never been used in Canada but it was determined that it would fill a hole in the toolkit essentially that CDIC currently had. And in looking at how the U.S. used it, they thought that it was worthwhile adding to CDIC in last year's budget.

**The Chair:** Thank you.

*Monsieur Paillé, s'il vous plaît.*

[Translation]

**Mr. Daniel Paillé:** I am aware that this expands the powers of the CDIC, the tools in its box, as you said, but is there a problem at present? The Minister of Finance is fond of telling us that the Canadian banking system is one of the best regulated in Canada and that this is why, in the last financial crisis, Canada did not have the same kind of disruptions as the United States. If I understand correctly, you want to prevent a potential situation by adding tools to the box?

**Ms. Sandra Dunn:** These are really technical amendments. I don't mean to say a problem is foreseen in the financial sector. As you said, the sector is well capitalized, there was no problem in the financial sector. In any event, the objective is really just to clarify the law or add a clarification to it, to improve it overall.

• (1620)

**Mr. Daniel Paillé:** But still, it is not being done for no reason, so it is thought that one day it might be useful to have these clarifications. The comparison with the American situation was made, but the situation of Canadian banks in comparison with the situation of American banks is very different. We essentially have six banks in Canada, but if one of them were to go bankrupt, would that box of tools be sufficient? Would we not have to have a much more extensive set of measures, considering the "too big to fail" aspect, given the very major role the Canadian banking system plays and how concentrated it is?

I am wondering whether these amendments are not going to open the door to the chartered banks being used as tools of the government of Canada at some point.

[English]

**Ms. Sandra Dunn:** I would just say that all governments and all authorities have realized how important it is to have a robust toolkit for resolution. Canada evaluated its toolkit last year and determined to add a few extra powers to CDIC. These amendments were certainly not made because one foresaw that the Canadian system was more vulnerable than it was a year ago. It was simply that certain stakeholders either asked for clarification in terms of how derivatives contracts were being treated or that CDIC itself had identified some amendments that would make the payout of a deposit determination more effective, more efficient, and quicker to protect deposit insurers.

With respect to the "too big to fail" issue that you've raised, this again is one tool in a toolkit that Canadian authorities have in order to deal with large banks. We have a wide variety of supervisory tools that are available in order to address the viability of large banks, but clearly it's a policy issue that all G20 governments are moving forward with.

**The Chair:** Thank you.

We'll move on to part 17, entitled "Federal Credit Unions".

I assume that there will be some questions here.

Monsieur Paillé.

[Translation]

**Mr. Daniel Paillé:** These legislative changes are in fact very complex. If I understand correctly, we currently have Canadian chartered banks and provincial cooperatives, for example the Mouvement Desjardins in Quebec, which is well known, and this would be adding the possibility of having federal cooperative banks.

How many people in Canada have specifically asked for this kind of technical amendment?

**Ms. Jane Pearse (Director, Financial Institutions Division, Department of Finance):** There was a discussion 10 years ago with the Proponent Group, a group of large cooperatives that would like there to be a federal model as proposed in Bill C-9. As well, we

received a request for support from the Credit Union Central of Canada, which would like there to be a federal model for cooperatives here in Canada.

• (1625)

**Mr. Daniel Paillé:** How can we be sure that they will be regulated in a standard way? We would have three kinds of financial institutions in Canada, and each of them could have a branch on the same street corner. We could have a bank, a caisse populaire and a Canadian cooperative bank.

How can we be sure that by enacting this part of the Bank Act, the situation will not turn into a regulatory shambles or a hodgepodge of institutions? The situation could become unmanageable, in that there might be competition problems similar to what we were just talking about for the Canada Post Corporation, arising out of what kind of regulation an institution will be subject to.

We have a Canadian banking system that works very well, it should be said, and a system of cooperatives that also works very well. So why would the government of Canada interfere in this area of jurisdiction and start shuffling the cards, as we say where I come from?

**Ms. Jane Pearse:** I think there are a few answers to give.

First, all these financial institutions exist today, as you explained. But some are under federal government responsibility, while others are under provincial responsibility. Now, we are creating a model that would give cooperative institutions a choice between the federal model and the provincial model. There is really no change in this regard. It is simply a question of the type of regulation, of supervision, for each type of institution.

Second, the objective of the amendments to the Bank Act is really to establish the same style, the same type of rules for the other Canadian banks as for the cooperative institutions that exist at present. So there is really no difference between the regulatory rules that apply to cooperative institutions, as compared to the rules that apply to the banking institutions that exist now.

**Mr. Daniel Paillé:** A cooperative institution is, by definition, provincial. If it wants to become a federal cooperative bank, will it have to abandon its provincial status and become exclusively federal? Can it have "dual nationality"?

**Ms. Jane Pearse:** No, a choice has to be made between federal regulation and provincial regulation. There has to be approval from the province to become a federal institution.

**Mr. Daniel Paillé:** So the province will have to authorize a cooperative to abandon its provincial status and become an institution governed by the federal government. So the government is continuing to promote free choice in some of its policies, except for some well known ones. I don't want to play politics, however, other...

**The Vice-Chair (Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.)):** Thank you.

[English]

May I ask a quick question?

I notice here that to differentiate between a federal credit union and a provincial, you have to add the term “federal” or “bank”. But then that would defeat the purpose of being called a credit union if it's going to have the name “bank”.

What is the purpose of that?

**Ms. Jane Pearse:** We've had many conversations on this issue with various stakeholders. Some stakeholders feel very strongly that they do want to use the term “bank”; others feel very strongly that they do not.

The legislation has provided for flexibility. The only criterion that is in legislation right now is that if this institution wants use the name “credit union”, they have to put the name “federal” in front of it, to distinguish from a provincial credit union.

•(1630)

**The Vice-Chair (Mr. Massimo Pacetti):** Okay.

**Ms. Jane Pearse:** But many credit unions don't use either “bank” or “credit union” in their names. That too is allowed.

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you.

Mr. Carrier.

[*Translation*]

**Mr. Robert Carrier:** Good afternoon. If I understand correctly, this is a new system that relates to both the cooperative sector and the bank sector. In Quebec, there is the Mouvement Desjardins. Caisses populaires are well established in Quebec. The clause in question talks about cooperatives. What will these institutions be called? Will they be called “banks”, “cooperatives”, or...

**Ms. Jane Pearse:** As I explained before, each institution can choose its own name. It can choose the word “bank” or the term “cooperative”. One thing is clear, however. If the institution uses the word “cooperative”, it has to add the word “federal” so there is a clear distinction between provincial cooperatives and federal cooperatives.

**Mr. Robert Carrier:** I think that makes things more complex. In Quebec, was the Mouvement Desjardins consulted about this aspect of the bill? The banks themselves are ultimately going to have new competition, from a cooperative. Were these two financial institutions consulted?

**Ms. Jane Pearse:** In recent years we have consulted the cooperative system concerning the development of the federal model. We have also had discussions with the Canadian Bankers Association and the Credit Union Central of Canada regarding this model and the key decisions that directly affect the question of each institution's name.

**Mr. Robert Carrier:** Is that the same kind of consultations as there were for harmonizing taxes with the government of Quebec?

**Ms. Jane Pearse:** No idea.

**Mr. Robert Carrier:** You say there were consultations, but you aren't specifying whether these two financial institutions agree on what you are proposing. After discussing it, and things can be discussed, that's fine, are you presenting them with a done deal, that they are going to have to organize themselves around?

**Ms. Jane Pearse:** I had a discussion with Desjardins, for example, and also with other cooperatives throughout Canada, and

with the Credit Union Central of Canada, after Bill C-9 was introduced. In general, their reaction was positive. The Canadian Cooperative Association is happy with the federal model.

**Mr. Robert Carrier:** What is the main advantage in creating this new type of financial institution? Will they fill a gap that could not be filled by the banks or the existing cooperative movements?

**Ms. Jane Pearse:** In recent years, there are cooperatives that have become rather sizeable in their own provinces. They are, in a way, too big for their provinces, or in other words...

•(1635)

**Mr. Robert Carrier:** Do you mean they are limited within their province?

**Ms. Jane Pearse:** Yes, that's right, thank you.

[*English*]

The big credit unions are looking for a way to become more competitive across Canada and to offer services to their bigger clients that are currently doing business across Canada.

So right now, if you're a large credit union, especially in B.C, Alberta, the Atlantic provinces, and Quebec, some of them feel that they are being constrained by their provincial system, and that if they had the opportunity to go across Canada, they could be very successful doing that.

[*Translation*]

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you, Mr. Carrier.

Mr. Paillé, you have the floor.

**Mr. Daniel Paillé:** I have some questions to ask about the concept that you can be a shareholder in a co-op. That seems to be contradictory from the outset.

Clause 1931 of Bill C-9 talks about the right to issue shares. It also says there is no right to vote. But a little later, it says that there is a right to “receive any of the remaining property”. In a co-op you invest five dollars, and the Mouvement Desjardins, for example, has had exceptional growth through its own capital.

Is that not a major contradiction? I'm a little surprised to hear you say that consultations were held and the Mouvement Desjardins, for example, is in complete agreement. It seems to me that this is subject to interpretation. It would mean that if Desjardins decided to do that, it would have to have its own federal name, that is understood. But there is a kind of dichotomy. A cooperative with shares: that seems completely contradictory to me. I would like to know more about the idea behind all that.

[*English*]

**Ms. Jane Pearse:** I'm sorry; I'm not sure I understand which clause you're referring to.

[Translation]

**Mr. Daniel Paillé:** For example, you have clause 1931, which is quite long. There are also others farther on. That being said, without going clause by clause, let's stick with the basic principle. Alphonse Desjardins invented financial cooperatives, in Canada and particularly in Quebec. The principle was that they would not be companies with share capital, and so there is no remaining property that can happen in the event of bankruptcy, there is no division among the shareholders, and you get only your own capital back.

So inventing a system of "Inc." cooperatives runs counter to financial logic. I am wondering whether this simple thing doesn't mean that we turning the cooperative system into something else, that to all intents and purposes this allows individuals, and even corporations, to take control of cooperatives, of small cooperatives. In other words, it risks turning the cooperative system, which it has to be said is working very well in Canada, into something else, and turning it into institutions like the chartered banks.

**Ms. Jane Pearse:** I would like to reply to one part of the question, and then I will ask my colleague to reply to the rest.

First, I want to correct one of my comments. It isn't the cooperative system in general that is perfectly in support of every part of this bill.

• (1640)

**Mr. Daniel Paillé:** That is a good clarification.

**Ms. Jane Pearse:** Certainly there are stakeholders who want changes, a difference in the model, for example. But still, as a general rule, we have had very good response to this bill. That was on the first part.

On the second question, I think Will can answer.

[English]

**Mr. Will Kendall (Economist, Strategic Planning and Trade, Financial Sector Policy Branch, Department of Finance):** Sure. I can probably talk a little bit about the shareholding element. And I apologize for not speaking French.

To address one of your concerns—that credit unions could use shareholdings to take over other credit unions and kind of get around the membership ownership of credit unions—I guess I would say that the bill ensures that credit unions are still owned and controlled by their members. The ability, or the flexibility, I guess I would say, to issue shares allows them to pursue greater avenues of raising funds, but at the end of the day, the members still own and control it. The shareholders have very limited rights compared to the members.

[Translation]

**Mr. Daniel Paillé:** One last...

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you.

No, the time has expired, Mr. Paillé.

Mr. Mulcair, you have the floor.

**Mr. Daniel Paillé:** My goodness, you are less flexible than your predecessor.

**The Vice-Chair (Mr. Massimo Pacetti):** Yes.

**Voices:** Oh, oh!

**A voice:** Bogeyman!

**Mr. Thomas Mulcair:** Thank you, Mr. Chair.

I have a comment concerning the terminology—the answers are well covered.

All of the provinces have legislation governing this type of institution. In several provinces' credit union statutes, they use the French title "Loi sur les caisses populaires". I would offer the example of Manitoba, but the same is true in several other provinces, since it's the same translators using the same sources. Of course "caisse populaire" is not a registered trade-mark of the Mouvement Desjardins, it is used as a generic term for "credit union". In the English version, they say the Credit Union Act.

Now, I see that the federal terminology is different. It also provides for the possibility of a provincial institution, with your system of double access, with permission and agreement. That being said, what will be done if there is a credit union in Manitoba that calls itself a "caisse populaire"? Will we not end up with the term "caisse populaire" at the federal level.

Mr. Kendall is indicating yes. Don't hesitate to answer, Mr. Kendall.

[English]

**Mr. Will Kendall:** Well, as Jane said, the provisions of this part of the Budget Implementation Act don't preclude certain names, except that if you are going to be a federal credit union and you want to use the term "credit union", you would also have to use the term "fédérale".

[Translation]

**Mr. Thomas Mulcair:** So, if it is a Manitoba establishment, to take an example I am very familiar with, because I was there when those statutes were translated, we might end up with a "caisse populaire fédérale" in Manitoba. Is that correct?

**Ms. Jane Pearse:** If there is a credit union that...

**Mr. Thomas Mulcair:** That applies for it.

**Ms. Jane Pearse:** ...that follows the regulations under Bill C-9, that is registered as a federal institution, then certainly that financial institution might have activities in Manitoba, for example.

**Mr. Thomas Mulcair:** It's a question of terminology. Some people might be surprised to learn that when this chapter is enacted, we are creating establishments that will be calling themselves "caisses populaires fédérales".

**A voice:** No.

**Mr. Thomas Mulcair:** Okay. That's all, but "what's sauce for the goose is sauce for the gander", as a great philosopher from the Outaouais once said, Mr. Chair. I am certain that Quebec can easily enact legislation that would say that from now on our caisses populaires will call themselves banks.

**The Vice-Chair (Mr. Massimo Pacetti):** Mr. Paillé, it is your turn.

**Mr. Daniel Paillé:** Let's talk about the employees, the staff, the workers at a credit co-op who are currently under provincial jurisdiction, a co-op that will call itself a "caisse populaire fédérale", to use my colleague's expression. Will all of the labour law that applies to those employees then come under federal jurisdiction as well?

**Voices:** No, no.

**Mr. Daniel Paillé:** You don't seem to be sure.

• (1645)

**Ms. Jane Pearse:** It is legislation that relates to the supervision and regulation of the financial institution. Each institution has to follow the laws, the labour laws, in general.

**Mr. Daniel Paillé:** In the analysis done by the Minister of Finance before proposing this measure, he failed to take into account the fact that there will undoubtedly be major impacts on labour law, on labour law legislation, on protection of the right to work. For example, concerning language laws in Quebec, if a Desjardins co-op becomes federal, at that point, does the Official Languages Act no longer apply?

**Ms. Jane Pearse:** There is now a choice for other types of financial institutions that come under provincial or federal jurisdiction. For example, insurance companies can have...

**Mr. Daniel Paillé:** Yes, we're familiar with federal charter and provincial charter.

**Ms. Jane Pearse:** That's right. So each insurance company can be taken in as a provincial institution. It is possible for the institution to change system and change jurisdiction, to become a federal institution, for example. This proposal is more or less equivalent to installing a door between the two systems.

**Mr. Daniel Paillé:** If I continue with my scenario and the Quebec Desjardins corporation decides to come under this bill, do each of the caisses populaires and all the institutions, centrals and so on, have to initiate a process or is it rather the Mouvement Desjardins as a whole that can come under federal jurisdiction, at a single stroke?

**Ms. Jane Pearse:** I don't know. It depends...

**Mr. Daniel Paillé:** I will come back to the language question. If that were done, would all employees of Desjardins—and there are a lot of them in Quebec—cease to come under Quebec jurisdiction?

**Ms. Jane Pearse:** First, there are...

[English]

Every credit union membership would have to make a decision that they wanted to convert from provincial to federal jurisdiction, whether that credit union is in British Columbia, Alberta, or Quebec. It would have to be the membership of the credit union first who would have to decide that they wanted to convert, then there would have to be approval by the provincial government and approval by the federal Office of the Superintendent of Financial Institutions that they were prepared to move into federal jurisdiction.

On the question about whether it would be each caisse populaire, or whether it would be Desjardins, I don't know enough about the legal structure of the Desjardins movement to know which would be the appropriate level that would...where the membership would make that decision. So I don't know the answer to that.

[Translation]

**Mr. Daniel Paillé:** You have done estimates, undoubtedly. The Department of Finance is recognized for the excellence of its estimates. Have you produced estimates or models that would tell us how many credit unions, elsewhere than in Quebec, because obviously the request will probably come from somewhere other than Quebec, would come under federal jurisdiction? What would be the banks' reaction then?

**Ms. Jane Pearse:** We haven't done estimates of that. Yes, a number of cooperatives are interested in the proposal. They have spent resources to monitor the issue. The Proponent Group covers most of the largest cooperatives throughout Canada. There are 11 or 12 credit unions in the group.

But other, smaller cooperatives, with members across Canada, seem to favour the federal option.

• (1650)

**Mr. Daniel Paillé:** Let's talk about the specific activities of the cooperative movement. In Quebec, for example, Desjardins can sell insurance directly to its members, while the banks can't do that. Once this provision is in place, is there not a risk that the banks will be thinking, and I will quote my colleague, in Latin: "what's sauce for the goose is sauce for the gander"?

So the chartered banks could think to themselves that since Desjardins is selling insurance, and that cooperative may be federal, and I am of course saying "may" be, they now also want to sell insurance in Quebec or elsewhere throughout Canada?

**Ms. Jane Pearse:** Under this proposal, each institution that becomes a federal institution, under the bill, will only have the powers that exist at the time for banks.

**Mr. Daniel Paillé:** So if Desjardins or another cooperative institution that currently sells insurance wants to become federal, it would have to limit its activities and stop selling insurance.

**Ms. Jane Pearse:** That's right. The same constraint exists at present in the case of the banks.

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you.

We have completed part 17.

We can move on to parts 18 and 19. They deal with the same subject. So we can do them at the same time.

Mr. Regan, you have five minutes.

**Hon. Geoff Regan (Halifax West, Lib.):** Thank you, Mr. Chair.

I am pleased to be with you today to discuss this subject.

I am going to wait for the officials to be here.

[English]

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you to the previous witnesses.

Sorry about that.

If we can get the witnesses for parts 18 and 19, it would be appreciated.

We might as well do parts 18 and 19 together.

[Translation]

Robert, we will try to do parts 18 and 19 at the same time.

[English]

Thank you to the witnesses.

Mr. Regan, the floor is yours.

**Hon. Geoff Regan:** Thank you very much, Mr. Chairman.

Let me start with part 18, which deals with the Atomic Energy of Canada Limited. I'd like to ask whichever witness is appropriate to answer this.

I guess you don't normally ask the witnesses to introduce themselves and say what they do and so forth. Maybe they'll tell us when they answer the question.

**The Vice-Chair (Mr. Massimo Pacetti):** They'll be able to answer you during your questioning. There's a lot of bright people at Finance.

**Hon. Geoff Regan:** I have no doubt of that whatsoever.

And these are the folks from NRCan, who are also very bright, of course.

**The Vice-Chair (Mr. Massimo Pacetti):** Yes, sorry, they're from NRCan.

**Hon. Geoff Regan:** What is the rationale for putting these provisions concerning the sale of AECL in the budget bill, Bill C-9? Why not debate this separately in the House of Commons? We have, for example, what was Bill C-20, now Bill C-15, on nuclear liability. That's being debated separately, running separately through. Why not AECL?

**Mr. Ted Menzies:** Chair, this is a question for question period, not for the officials. The officials are here to provide background information on the decision that is in Bill C-9.

**Hon. Geoff Regan:** So there's no reason from the department about that?

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you, Mr. Menzies.

If there's anybody who—

**Hon. Geoff Regan:** There's no solid rationale?

Pardon me, Mr. Chair.

**The Vice-Chair (Mr. Massimo Pacetti):** If any of the witnesses would like to answer, you're more than welcome to answer the question. If not, you are not obligated to, because it is probably a political question. But if anybody does have the answer, it may help Mr. Regan by giving him some background.

I'll leave that open to the witnesses.

**Hon. Geoff Regan:** Any volunteers?

**Mrs. Cécile Cléroux (Assistant Deputy Minister, AECL Restructuring, Department of Natural Resources):** We can provide the answer that the decision of government was made public in December 2009 to proceed with the divestiture of part of AECL, and that decision includes being able to provide certainty to

investors and remove the long-term uncertainty to employees. That's why we're proceeding so swiftly.

• (1655)

**Hon. Geoff Regan:** Okay. It doesn't really tell me why it's in Bill C-9, but I'll move on.

I see Mr. Menzies is anxious for that.

**The Vice-Chair (Mr. Massimo Pacetti):** Mr. Regan, I just want to remind you that you have five minutes, and it's with questions and answers.

**Hon. Geoff Regan:** Thank you very much.

So what kind of power does this give cabinet? I mean, would it allow cabinet to sell 100% of AECL to the South Koreans? Would it allow cabinet to sell 100% of AECL to the French, for example?

**Mrs. Cécile Cléroux:** The bill provides for flexibilities to be able to consider the proposal, which will be binding, coming from investors in the coming months. These proposals, which will be examined by cabinet, include taking into account all of the interests of Canada: the question of energy security, the question of safety, the question of all of the provisions of investment, making sure that we have the best deal for Canadians.

All of that is provided in the bill to provide the flexibilities, but cabinet will have to examine all of that based on the objectives that were made public back in May 2009, and reiterated in December 2009.

**Hon. Geoff Regan:** I wasn't asking about the history of the development of this. I'm simply asking if my impression is correct that this allows cabinet to sell 100% to the South Koreans or the French.

**Mrs. Cécile Cléroux:** The possibility of selling 100% is part of the provisions in the bill. The question of who would be the potential beneficiary of the sale is part of the cabinet decision to be taken in due time, based on the information that will be provided at the time.

**Hon. Geoff Regan:** Sounds like a yes, Mr. Chairman.

All right. So are there any guarantees of review under Investment Canada? Let's say in the event that it was sold to Canadian companies or a Canadian consortium, what, if any, mechanisms would there be to ensure that it wouldn't be then broken up and sold to some foreign company?

**Mrs. Cécile Cléroux:** It is premature to determine the outcome of the process that is under way. This is part of the cabinet decision to be made when we'll be examining the binding offers that will be forthcoming.

**Hon. Geoff Regan:** Of course, the difficulty is that we're being asked to pass a provision in a budget bill—which is not really where this belongs—and then to leave it up to cabinet without any more discussion about how this all is going to work. So when they make these decisions, we're not going to have the opportunity in the House of Commons to have much of a debate, it sounds like, or any.

If it's a 100% sale, what protection in the legislation is there for the 30,000 jobs at AECL in Canada; for the intellectual property, which basically belongs to Canadians; and for the investment the Canadian taxpayers have put in over very many years?

**Mrs. Cécile Cléroux:** The main assets of AECL are definitely the resources—the human resources, which are part of the...the part that is being considered to be sold, as well as the intellectual property, which has been developed over the last 50 years. So this is part of the elements that will be taken into account when cabinet will be examining the proposals that will be forthcoming.

**Hon. Geoff Regan:** Is there any protection in this legislation—being considered by this committee—for those elements, for those assets, for those 30,000 jobs in Canada?

**Ms. Jenifer Aitken (Senior Counsel, Legal Services, Department of Natural Resources):** I'm from legal services, so I can say that there's nothing in the language in the bill that speaks to those issues.

But I'll let Ms. Cléroux speak to it more broadly.

**Mrs. Cécile Cléroux:** The decisions that will be made will be based on the objectives that have been made public, and definitely the jobs and the question of the intellectual property are part of the elements that investors are currently asked to take into account when they make the proposals that will be forthcoming.

So the decisions of cabinet will be based on the proposals that will be presented, and we'll have to make sure that they answer the three objectives that have been made public.

**Hon. Geoff Regan:** So if the personnel are one of the—

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you. You can come back to it.

We're doing rounds of five minutes.

We'll have Monsieur Paillé, and then Mr. McCallum.

[Translation]

**Mr. Daniel Paillé:** Good afternoon.

This is a comprehensive privatization process. Have an analysis and contract been assigned to a broker?

**Mrs. Cécile Cléroux:** There are financial consultants currently helping us regarding the process initiated in December 2009. They are helping us carry out the privatization operations in order to get offers on the part of Atomic Energy of Canada Limited that relates to the CANDU reactors. Only the commercial part of the Crown corporation is regarded as being privatized.

• (1700)

**Mr. Daniel Paillé:** So the financial consultants have been retained only to examine the commercial aspect and not the valuation of the corporation's entire assets.

**Mrs. Cécile Cléroux:** That's right.

**Mr. Daniel Paillé:** I assume that this part will eventually be broken up to be sold. Obviously, it isn't assets that will be sold, it's a company.

**Mrs. Cécile Cléroux:** What we receive from investors, the offers that will be considered, will be among the factors studied. They will be presented to Cabinet. Cabinet will make a decision on the operation that will have to be undertaken to proceed with the sale of the commercial part. At present, in the legislation, all the options are covered, and this gives the government the flexibility required.

**Mr. Daniel Paillé:** I have to say that it is very well written and it sets out all the powers needed by the people who will then be doing the work.

Concerning the brokers you have retained, are there several of them? Was there an invitation to tender? May we know who was selected?

**Mrs. Cécile Cléroux:** The tender process was initiated by our colleagues at Public Works and Government Services Canada. Under that process, a firm was selected. It is N M Rothschild & Sons Limited.

**Mr. Daniel Paillé:** Has that firm done a valuation of the assets to be sold, based on whether it is sold 100% or in separate pieces?

**Mrs. Cécile Cléroux:** Studies were done before the operation initiated in December 2009. That led to the decision announced in May 2009. When that decision was announced, a summary was also done of the analyses that had been done before. It can be accessed on the Natural Resources Canada Internet site.

**Mr. Daniel Paillé:** I assume that the summary doesn't set a maximum price.

**Mrs. Cécile Cléroux:** That's right, because that is part of what potential investors are being asked to evaluate.

**Mr. Daniel Paillé:** We are both following the same reasoning. For the sale of the company, have investors already been approached by N M Rothschild & Sons on behalf of the government of Canada, in spite of the fact that the legislation has not been enacted?

**Mrs. Cécile Cléroux:** The process was initiated in December 2009. A number of investors were solicited. The operation is underway. We are committed to ensuring that the process will happen quickly.

**Mr. Daniel Paillé:** Was a teaser sent to some potential investors?

**Mrs. Cécile Cléroux:** The process includes information relating to the government's initial expectations, how to get offers, as in the course of any other privatization operation.

**Mr. Daniel Paillé:** Is it at the confidentiality agreement stage?

**Mrs. Cécile Cléroux:** They were signed by the investors a long time ago. That goes back to when the operations were initiated, in December 2009.

**Mr. Daniel Paillé:** So by including the confidentiality agreement, we can say, the basic document was detailed enough to be able to proceed with the sale of the company. You know exactly what assets will be included in the dower package.

**Mrs. Cécile Cléroux:** Starting in December 2009 we said that the part in question was the nuclear reactor division of Atomic Energy of Canada Limited. That is the part that is the subject of transactions with private investors.

**Mr. Daniel Paillé:** Concerning the division that will be sold, if I take the Hydro-Québec contract for repairing or upgrading the Gentilly-2 plant as an example, I would like to know whether that contract will be part of the dowry in the package the eventual purchaser acquires.

**Mrs. Cécile Cléroux:** That is part of what is currently being examined by potential purchasers. It is premature to determine what offers will be submitted to the government and what decision will be made when the time comes.



**Mr. Daniel Paillé:** But the maintenance contracts are specifically part of the commercial bill for the company to be sold.

**Mrs. Cécile Cléroux:** The maintenance contracts and the contracts for extending the useful life of the reactors are part of the potential package that can be considered by investors.

**Mr. Daniel Paillé:** The Quebec employees who are located on McGill College Avenue in Montreal, would they necessarily be transferred to the privatized company?

**Mrs. Cécile Cléroux:** That will depend on the offers to be considered and the decisions to be made by Cabinet when the time comes.

**Mr. Daniel Paillé:** The ones who do research in Mississauga, will they be affected?

**Mrs. Cécile Cléroux:** It will depend on the offers submitted.

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you. You have already gone over the five minutes you were allowed.

[English]

Mr. McCallum for five minutes, then it will be Ruby Dhalla, followed by Monsieur Mulcair.

• (1705)

**Hon. John McCallum (Markham—Unionville, Lib.):** Thank you.

Thank you to the witnesses for being here today.

My first question has to do with the possibility of a 100% sale to any kind of entity, foreign or domestic. I've heard it said that foreign purchasers of CANDU reactors would very much be unlikely to buy if they had no government backing, because you're talking about an asset that might last for 50 years. I remember, when I was briefly NRCan minister, visiting China on behalf of AECL, and the government element was critical.

Is this an issue? Would a country, whether it's Korea or China or any country, buy such an asset without some sort of government involvement or backing?

**Mrs. Cécile Cléroux:** It is premature at this time to determine what proposals will be presented by the potential investors. All proposals will be examined and governed by decisions of the Governor in Council—

**Hon. John McCallum:** No, but that's not the question. I know we don't know what it is. It's a hypothetical question. I'm saying if the buyer buys 100% of the company and there is no government role any more in AECL, is that not an issue in terms of sales of reactors?

**Mrs. Cécile Cléroux:** This is one of many elements that will be considered in the binding offers that will be proposed and deposited by the potential investors.

**Hon. John McCallum:** Can you tell me, though, as somebody with...?

I'm not quite sure who all the people are here.

**Mrs. Cécile Cléroux:** We're NRCan, and they're another group.

**Voices:** Oh, oh!

**Hon. John McCallum:** My question is really a policy question for somebody who knows that industry and that market. Is it a good

contention, or does it make sense to say, that without government backing, certain governments around the world would be less inclined to buy because they don't have that guarantee?

**Mrs. Cécile Cléroux:** It is a consideration, as many others are on the table, that will be taken into account in the proposals that will be presented.

**Hon. John McCallum:** No, I'm not asking you whether it's a consideration. Has some analysis been done of that issue?

**Mrs. Cécile Cléroux:** It is a consideration that is part of the elements that will be considered by government in the binding offers that will be presented in the coming months.

**The Vice-Chair (Mr. Massimo Pacetti):** Maybe I could help: have you seen any other situations, other than in Canada, where a nuclear reactor would have been sold without the interest of a foreign government?

Is that correct, Mr. McCallum?

**Hon. John McCallum:** Yes.

**Mrs. Cécile Cléroux:** What we see is that there are different companies, different models that exist. As you know, this is a sector that is evolving as we speak. It is a sector that is going through a new renaissance, so this is part of the elements in an evolving market. This is part of what cabinet will have to consider when they examine the binding offers that will be presented.

**Hon. John McCallum:** I have one more question. I hope the chair's intervention didn't eat into my time.

This has to do with refurbishing. I think a lot of the revenue for AECL comes from refurbishing existing reactors. One concern would be if the company were purchased by, say, Areva, a foreign-owned company that might want to get rid of the technology of CANDU reactors. If there were no capacity in the future to do refurbishing, then many existing reactors around Canada would have to purchase new reactors and wouldn't be able to get refurbished.

Is that a consideration or a concern?

**Mrs. Cécile Cléroux:** This is part of the consideration that will be taken into account by cabinet when binding offers are examined.

**Hon. John McCallum:** Mr. Chair, I don't understand what is the point of having these witnesses if they just give that rote answer to every question.

It's meant to be a serious question. Why don't we get a serious answer?

**Mrs. Cécile Cléroux:** Because it's premature for us to speculate on what offers will be presented. That's why you are getting these kinds of answers. We don't know at this time what will be the elements of what's going to be presented, and—

**Hon. John McCallum:** But an answer to my question is not contingent on knowing the outcome. It's a question about whether this is a serious concern or whether there are reasons for it not being a serious concern. It affects owners of reactors around Canada and around the world.

**Mrs. Cécile Cléroux:** We are answering you: this is part of the considerations that are on the table. It's one of the serious concerns, but there are many on that file. It is one of the topics that will be part of the decision-making in the future.

**Hon. John McCallum:** Thank you.

**The Vice-Chair (Mr. Massimo Pacetti):** Ms. Dhalla.

**Ms. Ruby Dhalla (Brampton—Springdale, Lib.):** Thank you very much.

It's actually one of my first times at the finance committee, and it's ironic that we're discussing atomic energy. Just a few weeks back, I had a chance to talk to some of your employees, including one of the scientists. I can tell you that there is a great deal of anxiety in terms of this individual's job, but he was telling me about the experience of other people employed. There is a great deal of anguish and anxiety. These individuals actually brought forward a couple of questions.

First, has an analysis been done within the workplace on the impact that a private owner would have for AECL?

• (1710)

**Mrs. Cécile Cléroux:** In the process that is under way, this is part of the studies being made by AECL themselves. This is part of the elements that will have to be taken into account as the government makes the decision about divesting, or not, this component of AECL.

**Ms. Ruby Dhalla:** Were any of the engineers, scientists, or other employees at AECL consulted during the process? Or will they be consulted?

**Mrs. Cécile Cléroux:** There wasn't extensive consultation to be undertaken on those topics, but the channel of communication is open. There have already been meetings, with the different representatives of employees, to be able to listen to their concerns and for us to be able to adjust the process going forward, taking those concerns into account.

**Ms. Ruby Dhalla:** One of the things you mentioned was that investors have been solicited for the purchase. Can you share with us how many investors have been solicited and how many offers have been put forward so far?

**Mrs. Cécile Cléroux:** Since the divestiture concerns a commercial entity, we cannot divulge at this time the different companies that have been included. Everyone has signed a non-disclosure agreement, and this is part of the process that is ongoing. So at this time it is premature to be able to share that information.

**Ms. Ruby Dhalla:** I have a special interest in Canada-India relations. We know that the Prime Minister was there in late November of last year. India currently has about 17 reactors, which are only providing 2.5% of the energy for their particular population. I know that countries such as India and, as John said, China have expressed an interest. Can you perhaps share with us, on the number of investors that have been solicited, whether any component of that includes foreign ownership?

**Mrs. Cécile Cléroux:** The variety of investors that have been solicited are really based on the potential to make the Canadian nuclear industry a flourishing one, so the investors that have been solicited include those potential investors.

**Ms. Ruby Dhalla:** So they do include foreign investors.

**Mrs. Cécile Cléroux:** They include companies, investors, that have the potential for proposals that will make the Canadian nuclear industry flourish. This is the only thing we can say at this time.

**Ms. Ruby Dhalla:** I think the concern, from people I've spoken to and from what I can hear from other colleagues who have expressed their questions to you as well, is again an anxiety for the 30,000 jobs that we have here, even if there is a foreign ownership that does take over and that agreement is considered by cabinet. Will a protection be put in place for those 30,000 jobs of AECL employees?

**Mrs. Cécile Cléroux:** It's not 30,000 jobs at AECL, per se. You're talking about the amount of direct and indirect employment related to the nuclear industry in Canada. As to the approximate number of people who are part of the reactor division, we talk about roughly 2,000 people; that's a round number, an approximation.

Those jobs are part of the objectives that have been put forward by government, part of the elements that will be taken into account when examining the binding offers that will be forthcoming.

[Translation]

**The Vice-Chair (Mr. Massimo Pacetti):** We will now move on to Mr. Mulcair.

**Mr. Thomas Mulcair:** Thank you, Mr. Chair.

The concept of conflict of interest is part of our work, on a daily basis. If you look at the ownership of the Rothschild company, you will see that the main shareholders are still well established, particularly in Paris. The family, the five brothers, have opened businesses in a number of cities, including Vienna, Frankfurt, Paris, London and another that escapes me at the moment. Mr. McCallum very correctly pointed out that AREVA is one of the companies for which it would be commercially very advantageous to kill off AECL and stop production of the CANDU reactor, which is a competitor. As well, one analysis suggests that certain parts of the design of the CANDU reactor, if we consider how it is designed, in today's world, involves real accident risks.

I would like to know whether the conflict of interest relating to the CANDU reactor, whether real or potential, and involving the other companies owned by Rothschild and AREVA, will be included in the equation before this big contract is awarded to N M Rothschild & Sons.

**Mr. Jean-Frédéric Lafaille (Policy Director, AECL Review - CANDU, Department of Natural Resources):** The process that led to Rothschild being retained was managed by Public Works and Government Services Canada. That question would have to be put to their representatives because the contractual relationship between Public Works and Government Services Canada and...

• (1715)

**Mr. Thomas Mulcair:** To be sure we understand each other clearly, my question is this. Was an analysis done of the possible conflict of interest between Rothschild and AREVA? Thank you for the clarification, Mr. Lafaille.

My second question relates to the CANDU reactors. Historically, since it was designed and first brought on line, has there ever been an action in damages arising out of an accident at any CANDU reactor?

**Mrs. Cécile Cléroux:** We are going to have to answer you later. Because we aren't representatives of Atomic Energy of Canada Limited, we don't have that information with us. We will find out and send you the information.

**Mr. Thomas Mulcair:** The bill currently being examined, Bill C-15, which seeks to reduce the limit in the event of nuclear accident to \$650 million, is that part of the proposals? In other words, is passage of the bill assumed in discussions with potential purchasers of Atomic Energy of Canada Limited?

**Mrs. Cécile Cléroux:** According to our information, one isn't conditional on the other.

**Mr. Thomas Mulcair:** That is a very important piece of information, thank you.

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you, Mr. Mulcair.

We will now move on to Mr. Carrier, Mr. Regan and Mr. Paillé.

**Mr. Robert Carrier:** Thank you, Mr. Chair.

Good afternoon, Ms. Cléroux.

If I understand correctly, you spoke a little earlier about the part of AECL's operations. The reactor part, only, accounts for about 2,000 employees. How many employees are there at AECL?

**Mr. Jean-Frédéric Lafaille:** There are about 5,000 employees.

**Mr. Robert Carrier:** You say that this relates to the reactors, but I didn't see that in the bill. I am looking at clause 2141, concerning the powers given to AECL. Those powers allow it to sell or dispose of some or all of its assets, to sell or dispose of some or all of its liabilities. So it doesn't have the clarification you gave, that this relates primarily to the reactors.

Is this an orientation that arose along the way? I don't think it appears in the bill.

**Mrs. Cécile Cléroux:** The announcements that were made in May 2009 and December 2009 clearly indicated that what could be the subject of a transaction is the CANDU reactors portion and not the Atomic Energy of Canada Limited research and development portion. The bill is drafted in such a way as to allow it to go ahead for some or all, because it had to be worded that way. At present, the research and development component of Atomic Energy of Canada Limited is not part of the transaction process underway.

**Mr. Robert Carrier:** But the bill does still allow you to sell all of the assets. For the moment, it has been decided that only the reactor portion would be put up for sale.

**Mrs. Cécile Cléroux:** The bill allows for greater latitude. However, it is very difficult to privatize things relating to research and development that are connected with the government's fundamental missions. At present, the only thing on the table for privatization relates to the nuclear reactors.

**Mr. Robert Carrier:** Let's talk about isotope production, which is a somewhat sensitive subject in this country. Is that still part of AECL's vocation, does it have to ensure that enough isotopes are produced?

**Mrs. Cécile Cléroux:** The universal nuclear research reactor is still part of the research and development division of Atomic Energy of Canada Limited. It is not part of the component that is being considered for privatization.

**Mr. Robert Carrier:** Thank you, that answers my question.

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you.

Mr. Regan, you have five minutes. Go ahead, please.

• (1720)

[English]

**Hon. Geoff Regan:** *Merci, monsieur le président.*

At the beginning I asked about why a department of the government didn't want to have this debated in the House, and I seem to have my answer. Whenever we've asked a substantive question, we've been told it's premature to answer.

My question, I guess, is when will it be mature? What more appropriate opportunity will members—representatives of the public—have to ask questions to examine the sale of AECL?

**Mrs. Cécile Cléroux:** Right now this is part of Bill C-9. If it's approved, we will have the possibility to move forward. Decisions will be made by the Governor in Council, and these discussions will take place in cabinet.

**Hon. Geoff Regan:** So there's no opportunity other than this for members—representatives of the public, elected MPs—to examine the issues around this sale, because it's going to be left to cabinet entirely.

Let me ask a question to the legal counsel. Is there anything in the bill that would prevent the government from breaking up the CANDU division and selling it piece by piece?

**Ms. Jenifer Aitken:** As various people have pointed out, the bill is broad. It doesn't specifically say anything about CANDU division, so it allows for the sale of assets. It doesn't specify the specific assets, but the plans are what Ms. Cléroux has indicated.

**Hon. Geoff Regan:** Is there any restriction on cabinet and Governor in Council—any restriction on cabinet whatsoever—provided in the legislation?

**Ms. Jenifer Aitken:** The restrictions on cabinet would come from elsewhere: international obligations, policies that have been expressed. But there's no wording in the bill that I could point you to about that.

**Hon. Geoff Regan:** Thank you very much.

Has Rothschild told the bidders not to lobby government, not to lobby AECL, etc.?

**Mrs. Cécile Cléroux:** When investors accepted to undertake the current process, part of the non-disclosure agreement included the question of non-lobbying. Their point of contact in the process is Rothschild on behalf of Natural Resources Canada.

**Hon. Geoff Regan:** In relation to part 19, the participant funding issue, this sounds like a court challenges program for the National Energy Board. Is that a good way to describe it?

**Mrs. Cécile Cléroux:** We are not the people to answer on part 19.

**Hon. Geoff Regan:** We have someone who is, though.

**Mr. Terry Hubbard (Director of Policy, Major Projects Management Office, Department of Natural Resources):** I'm sorry, you caught me a little off guard there. Could you please repeat the question?

**Hon. Geoff Regan:** It sounds like a court challenges program—in other words, funding for the public to be represented at the NEB. How would that work?

**Mr. Terry Hubbard:** The intent of the program is really to enable meaningful participation of all stakeholders, the public and aboriginal groups, in the public hearing processes of the National Energy Board and the Canadian Nuclear Safety Commission in relation to facilities, so the construction of new facilities to support—

**Hon. Geoff Regan:** Can you explain why the government would do this—in this case—when it has withdrawn that ability, in the case of the Charter of Rights, with the court challenges program, by killing it? How is this different?

**Mr. Terry Hubbard:** I can't speak with any knowledge with respect to the second program that you referred to, but with respect to the new programs that we're looking to create for the Canadian Nuclear Safety Commission and the National Energy Board, it's really about supporting timely and meaningful participation in these programs.

Over the last number of years we've heard from stakeholder groups—landowners, aboriginal groups—that there's a real need for funding to support their participation in these programs, that to really bring their views, their concerns, their issues about these projects into the process, they need some funding to be able to participate.

**Hon. Geoff Regan:** Thank you.

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you, Mr. Regan.

Mr. Paillé.

[Translation]

**Mr. Daniel Paillé:** You drafted the bill so the legislation would be broad. In terms of legislative choice, either you make it precise and specify that a particular asset is being sold, or you make it very broad. Plainly, you have made it very broad. So even though that is not part of the intentions announced in 2009, it would allow you to sell everything.

Am I mistaken in saying that in Chalk River, for example, if there were to be a market, and because there is no sunset clause in this bill, any government could eventually sell the rest, relying on this bill? I assume my interpretation is correct.

• (1725)

[English]

**Ms. Jenifer Aitken:** I'm sorry, I missed the question—if it was being directed at me.

**The Vice-Chair (Mr. Massimo Pacetti):** Anyone can answer it. Who's best qualified to answer it?

If you'd like, you can each take a crack at it.

**Ms. Jenifer Aitken:** Mr. Chair, I apologize for that.

**The Vice-Chair (Mr. Massimo Pacetti):** No, that's fine.

**Ms. Jenifer Aitken:** The bill does provide that its provisions can be brought into force by the Governor in Council so it won't necessarily all be enforced at once.

But to answer the question about whether it could be used with respect to the whole of AECL, I think that's correct, it can be; so it's not....

[Translation]

**Mr. Daniel Paillé:** You can't disclose who is on the list of potential purchasers, or where they come from, or how they're connected with these issues, etc., and I understand that very well since I have had that experience in the past. But am I to understand that it is all corporations that are on the list of potential purchasers?

**Mr. Jean-Frédéric Lafaille:** That is one of the things that are protected by the rules. We can't share that kind of information.

**Mr. Daniel Paillé:** I don't want to know the names. I just want to know whether they are all corporations.

**Mr. Jean-Frédéric Lafaille:** They are corporations, yes.

**Mr. Daniel Paillé:** If they are corporations, that means they are not other governments. To get to my real question, is it possible that a foreign government might buy the business? Are there foreign government enterprises that are on the list to buy these assets at present?

**Mr. Jean-Frédéric Lafaille:** You will understand that this is information that is protected by confidentiality agreements, and that we cannot disclose it. However, corporations were approached. That I can tell you, but I cannot go further than that.

**Mr. Daniel Paillé:** Right. So it could be government enterprises.

**Mr. Jean-Frédéric Lafaille:** Hypothetically, yes.

**Mr. Daniel Paillé:** Potentially. Right.

That's it.

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you.

**A voice:** Could I have a moment?

**The Vice-Chair (Mr. Massimo Pacetti):** Go ahead, if you can do it quickly.

**A voice:** No, I'll do it later.

**The Vice-Chair (Mr. Massimo Pacetti):** Right.

Mr. McCallum.

[English]

**Hon. John McCallum:** Me?

**The Vice-Chair (Mr. Massimo Pacetti):** Yes. You're Mr. McCallum.

**Hon. John McCallum:** I know, but I thought you were giving him an extra minute.

**The Vice-Chair (Mr. Massimo Pacetti):** Let's go.

**Hon. John McCallum:** Okay. Thank you.

I just have one quick question. I'm interested in the comparison of the sale of CN with the sale of AECL. My recollection is that in the case of CN, the purchaser wasn't given the certainty of cabinet having full control. But there was a bill that had to pass through the House, and it did.

Why is the process that was followed with CN...why does AECL have to follow this process for purposes of certainty on the part of the buyer, whereas the CN case did not, and indeed went through the House?

**Mrs. Cécile Cléroux:** The government determined that the best tool to be able to provide the authorities and the flexibilities to be able to go forward swiftly with the transaction process towards the divestiture was using Bill C-9.

**Hon. John McCallum:** Okay, but the CN bill went through the House after the identity of the purchaser was known, so it could be debated. This bill is going through with no knowledge as to who the purchaser is and whether that's a good or bad thing, and all the authority is left to the cabinet.

So I guess my question is why the big difference between the way CN was devolved and the way the government is proposing to devolve AECL?

**Mrs. Cécile Cléroux:** I cannot answer directly that question, but the members might want to take into account that, depending on the transaction or the proposal that will be retained by cabinet, we might need to go back to Parliament to seek other authorities that right now we're not provided through Bill C-9.

There might be further discussion at Parliament in due time, but this is premature at this time. The various flexibilities have been asked, through this bill, to be able to proceed swiftly with the proposals and the divestiture of the CANDU reactor division.

**Hon. John McCallum:** Okay. Thank you.

**The Vice-Chair (Mr. Massimo Pacetti):** Okay, good.

• (1730)

[*Translation*]

There is only one minute left. However, I would ask the witnesses to stay for two or three more minutes. I am going to give Mr. Carrier and Mr. Paillé two additional minutes each. So we can conclude the discussions on this part.

Go ahead, Mr. Carrier.

**Mr. Robert Carrier:** I have a quite simple but quite important question. I am aware of the fragility and importance of the nuclear power we are currently discussing, but this is a budget implementation bill.

As a parliamentarian, I find it disastrous to see us discussing it so quickly, to see us acting so quickly, when this is a very important decision that should have been the subject of a proper bill, given the level of responsibility. You are senior officials who will then be administering these decisions. I would not want to be in your position and have to make such serious decisions when the subject is dealt with quickly in part 18 of the budget implementation bill. I don't know what you think about that.

Do you believe there should have been more thorough discussion by parliamentarians so they could suggest amendments that might be made to the bill, to protect public safety? We talked about maintaining the Gently-2 plant a little earlier. You answer that for now you don't know whether that will be part of the sale. What do you think about what is happening at present?

**The Vice-Chair (Mr. Massimo Pacetti):** Ms. Cléroux, you have the floor.

**Mrs. Cécile Cléroux:** Mr. Chair, I hope the member is well aware that I am not here to give my opinions. I am here to provide information about the content of the bill.

**The Vice-Chair (Mr. Massimo Pacetti):** Mr. Paillé, you have the floor.

**Mr. Daniel Paillé:** I would like to make two brief remarks, Mr. Chair.

First, I am sure that the current debate will convince the people in the Liberal Party to all be present for the vote.

Second, I would like to recognize the quality of the answers given by senior members of the public service. Thank you, Ms. Cléroux.

[*English*]

**The Vice-Chair (Mr. Massimo Pacetti):** Thank you.

We're done parts 18 and 19. We'll start tomorrow with part 20, environmental assessment, and part 21, the Canada Labour Code, and so on and so forth.

Thank you to the witnesses. I guess you are dismissed.

The meeting is adjourned.





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