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Chair

Mr. Robert Oliphant

Standing Committee on Public Safety and National Security

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• (1630)

[*Translation*]

The Chair (Mr. Robert Oliphant (Don Valley West, Lib.)): Welcome to the 40th meeting of the Standing Committee on Public Safety and National Security.

Let me welcome the ministers.

[*English*]

Welcome to all our committee members.

We are continuing our discussion around a national security framework. However, we are particularly dealing with Bill C-22 today, which has been introduced in the House and has received approval at second reading to come to this committee for consideration.

We're delighted to have both Minister Chagger and Minister Goodale with us today to present remarks.

They each have up to 10 minutes. I understand they may not take all the 10 minutes.

[*Translation*]

We will begin with Minister Chagger.

[*English*]

Hon. Bardish Chagger (Leader of the Government in the House of Commons): Thank you, Mr. Chair.

Colleagues and all present, I am pleased to be here with the Minister of Public Safety and Emergency Preparedness to discuss Bill C-22. The bill would establish the national security and intelligence committee of parliamentarians.

Within Canada's Westminster system, Parliament is the primary forum for democratic accountability. By its very nature, parliamentary business is by default open and accessible to Canadians. However, this presents a challenge with respect to the review of classified information regarding national security and intelligence activities.

The purpose of Bill C-22 is to provide for a structured and responsible framework to securely share highly classified information with parliamentarians. When our government took office, we committed to doing things differently. One of my key priorities as government House leader is to make Parliament more relevant by empowering parliamentarians and strengthening our parliamentary institutions.

Bill C-22 is an important step forward in that regard. It will allow for a more meaningful engagement with parliamentarians in reviewing classified national security matters in a way that has never been done before. It will provide assurance to Canadians that government agencies are exercising their powers appropriately and are subject to appropriate oversight. I have no doubt that we can all agree with this objective.

[*Translation*]

Bill C-22 is designed to provide the committee with a broad, government-wide review mandate. This includes the power to review any national security matter, including an ongoing operation, carried out by any department or agency of the federal government.

I would note that this is unique to Canada, and no other Westminster model we examined, namely the U.K., Australia and New Zealand, provides for such a broad scope. We believe that this government-wide perspective is essential to enable the committee to perform reviews of our national security system as a whole, and to advise whether it is functioning effectively and efficiently while also respecting Canadians' rights and freedoms.

[*English*]

The bill establishes the mandate and powers of the committee of parliamentarians. This ensures the committee will act with full independence from the government in deciding which matters to review, and in reporting its findings and recommendations to Parliament.

As is the case in other Westminster countries that have established similar committees, such as the U.K., the bill provides for certain safeguards on the most classified information and to ensure that the committee's work does not disrupt or interfere with government operations.

I would like to discuss some recent criticism of these measures. The Prime Minister's review of the committee's report prior to tabling has been characterized as muzzling the committee. This is an inaccurate characterization. I would like to note that other Westminster countries that have well-established national security committees also provide for similar reviews of committee reports prior to public release. This review would be done in consultation with the chair of the committee and for the sole purpose of ensuring that the reports do not contain classified information. The Prime Minister will not have the authority to alter or redact the findings of the committee on the grounds that they are critical or embarrassing to the government.

Rather, it is the committee that has sole authority to determine the direction and conclusions of its public reports, including how to redact any classified information. How any redactions are done is decided by the committee itself and not the Prime Minister. If the committee wants to use blacked-out lines, as in an access to information request, the committee can do so. If the committee wants to denote a redaction with an asterisk, as the U.K. committee does now, they will be able to do that. It's up to the committee.

• (1635)

[*Translation*]

Some have commented that the committee lacks independence because of certain restrictions on accessing and reviewing some operational information and activities.

Mr. Chair, members of this committee will be examining each of these provisions in detail and we look forward to hearing their views. However, I would like to highlight that other international models either prevent their committees from reviewing operational matters, or limit such reviews to past operations only. We have taken a significantly different approach, where the committee's mandate and powers allow it to examine any matter it chooses.

[*English*]

The restrictions in the bill are intended to help prevent the committee's review from inadvertently interfering in or disrupting an active operation. This will ensure that ministers remain fully accountable to Parliament for government activities and for taking corrective actions when needed. This is a fundamental principle of our system of responsible government.

[*Translation*]

Bill C-22 fulfills the government's commitment to establish a committee of parliamentarians. It provides parliamentarians with access to classified information so that they can directly assess government activities, thus strengthening the democratic accountability of those activities.

[*English*]

I don't think that was 10 minutes, but that's good for now, Mr. Chair. *Merci*.

The Chair: *Merci*.

We'll continue with Mr. Goodale.

Hon. Ralph Goodale (Minister of Public Safety and Emergency Preparedness): Thank you very much, Mr. Chair.

It's a pleasure to be back with you once again, accompanied this time by the government House leader; my deputy minister, Malcolm Brown; and also, from the Privy Council Office, Ian McCowan and Heather Sheehy.

The topic today, of course, is Bill C-22, the national security and intelligence committee of parliamentarians act.

[*Translation*]

The establishment of a rigorous parliamentary oversight mechanism of national security and intelligence activities was one of the crucial points of our election platform in the last campaign. It's a significant component of the steps we are taking to ensure the safety of Canadians while protecting our rights and freedoms. As I have clearly indicated on many occasions, Bill C-22 is the cornerstone of our approach, but it is definitely not the only measure we are taking.

[*English*]

Our multi-faceted approach to national security includes creating an office of community outreach and counter-radicalization with funds that were committed in the last budget; improving the no-fly system, particularly with respect to redress and appeal mechanisms; ensuring full compliance in all respects with the Charter of Rights and Freedoms; protecting the right to advocate and protest; providing greater clarity regarding warrants; better defining terrorist propaganda; mandating a full review of anti-terror legislation after three years; and consulting Canadians, including parliamentarians, subject matter experts, and members of the public about what else should be done to achieve the dual objectives of protecting both our security and our rights.

It was in the context of these consultations that I appeared before you a few weeks ago. I know that this committee has since travelled the country to hear Canadians on this broad topic of national security. I very much appreciate your engagement, and I look forward to receiving the report that you will file, which will be an important contribution to this unprecedented national conversation about Canada's national security framework.

I'll turn specifically now to this one element of that framework that we have before us today, specifically Bill C-22. It will create, as you know, a committee of parliamentarians with extraordinary access to classified information so they can examine the security and intelligence operations of all departments and agencies of the Government of Canada.

This is something that most of our allies have had for many years, or at least some variation thereof. It's an initiative for which many in this country have been advocating for many, many years, including this very committee back in 2009; other parliamentary committees, including those in the other place; the Auditor General; and at least two judicial inquiries.

Bills quite similar to Bill C-22 were introduced by the Martin government back in 2005 and by several MPs and senators over the past decade. Unfortunately, none of them were adopted. Canada has, therefore, remained an anomaly among our allies when it comes to national security accountability. At long last, this legislation will fix that gap.

For just a few moments, I'd like to look more closely at how our proposed committee—that is, the Canadian committee—compares to those of our allies who have Westminster-style parliaments.

First, the scope of the Canadian committee's mandate would be distinctly broader than is the case in most other countries. Bill C-22 mandates the committee to review “the legislative, regulatory, policy, administrative and financial framework for national security and intelligence” as well as “any activity carried out by a department that relates to national security or intelligence”.

In other words, the committee would be empowered to examine activities across the entire federal government, including operational matters, and to follow the evidence wherever it leads.

● (1640)

It's estimated that some 20 departments or agencies would be covered. That list, I emphasize, is open-ended. It's wherever the evidence leads.

This is in contrast, for example, to the British committee, which requires a memorandum of understanding between the committee and the U.K. Prime Minister in order to examine anything beyond the work of three specific agencies: MI5, MI6, and GCHQ. If the British committee wants to go beyond those three agencies, it actually has to negotiate a memorandum of understanding with the Prime Minister.

Similarly, the Australian committee is limited to conducting statutory reviews of legislation and the administration and expenditures of particular agencies. In fact, in Australia a parliamentary resolution or ministerial referral is required for the committee to even look at additional issues related to those same agencies. You can see that the language in the federal law here in Canada is substantially broader.

With respect to our Canadian committee's access to information, a matter that several members raised during the second reading debate, again I think it's useful to examine the way that these committees work in other countries.

In the U.K., a minister may prevent information from being disclosed to the committee on the grounds that it is sensitive information that in the interest of national security should not be disclosed. That's the British rule.

In New Zealand, a witness may decline to provide information to the committee on the grounds that it is sensitive and that it would not be in the national interest to disclose it. It is up to the Prime Minister to overrule if he or she determines that disclosure is desirable in the public interest.

In Australia, ministers can issue certificates preventing witnesses from giving evidence to the committee in order to prevent disclosure of “operationally sensitive information”.

Our allies have lists of types of information that cannot be disclosed, such as in Australia, for example, information that would or might prejudice national security or the conduct of foreign relations; in New Zealand, information likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences; and in the U.K., information that might provide details of “operational methods”.

Clearly, our allies recognize the need for some discretion to ensure that committee investigations do not jeopardize security, and we agree with that principle. That's why, for example, Bill C-22 allows the minister to step in if he or she determines that a review would be injurious to national security. However, because of the extensive scope of the Canadian committee's mandate, and because Bill C-22 deliberately does not bar the committee from examining operational matters, our Canadian version will have investigative authority that generally exceeds that of its equivalents elsewhere.

It might also be noted that if there is a controversy between the committee of parliamentarians and the government, the fact that there is a dispute about some activity or some information is something that the committee is perfectly at liberty to report upon. If the committee, consisting of seven members of Parliament and two senators, reports an accumulation of incidents where the committee does not appear to be getting the co-operation of the government, that in itself will become a very serious discipline on the government. The controversy will not go away until the committee gives the all-clear signal.

Finally, another matter that was frequently discussed at second reading was the committee's annual report and additional special reports. The House leader has made reference to this. I simply want to underscore the importance of it. As is the case in the United Kingdom, the committee—that is, the Canadian committee—will send its reports to the Prime Minister before those reports go to Parliament. And as in the case in the U.K., the Prime Minister may have certain elements redacted on the grounds of security.

● (1645)

I don't think any of us would agree that this is unreasonable. When we're dealing with classified material, classified material needs to remain classified, but that is the only purpose for referring the report to the Prime Minister. He is not in a position to otherwise edit, alter, add to, or change the committee's report. It is simply for the purpose of protecting classified information. I suspect that this power in the Prime Minister would be used pretty infrequently in any event, because the committee itself would not want to publish classified information. I think we all have a common interest in making sure that such information is protected. Otherwise, the committee can say anything it wants to say, and at any time.

[*Translation*]

The suggestion was to indicate in the public report the parts that have been redacted, and I'm open to that possibility. I'm actually open to any good-faith proposals that might help us to achieve our dual objective of ensuring that Canada's national security framework is working effectively to keep Canadians safe while protecting our rights and freedoms.

[*English*]

As you study the bill, I encourage you to keep in mind also the international context in which this committee will exist and in which our Canadian arrangements need to be seen as credible. Those who have gone before us in other countries in developing this kind of review and oversight have all recommended to us that we start prudently and that we learn by experience.

The MPs on this committee will need to become familiar with the unique and extraordinary role and responsibilities they will have. The committee will need to earn the trust and the confidence of the public, and equally the trust and the confidence of the agencies they oversee, along with the other review bodies that already exist in the federal system.

On this point, I would quote former Senator Hugh Segal, who had this to say about how to get this committee started on the right foot:

The model suggested in Bill C-22, namely a committee of parliamentarians, chosen by order in council, as opposed to a parliamentary committee elected by the various parties in the House and the Senate, is the right choice and mirrors the initial form of oversight chosen by the United Kingdom....Moving to where the U.K. committee of parliamentarians is now, after decades of operation and a proven track record on trust and discretion, would be a...mistake....

You might remember that when this bill was introduced in June, one of Canada's foremost experts in national security law, University of Ottawa Professor Craig Forcese, said that the committee created by Bill C-22 will be a stronger body than its U.K. and Australian equivalents. I agree with that. He also said that it will be a dramatic change for Canadian national security accountability. I agree with that too.

Bill C-22 will finally give Canada the necessary parliamentary scrutiny of security and intelligence matters that we have lacked for far too long. Then, down the road a bit, after five years of working experience, we will have the opportunity to review the legislation and amend it at that time if we believe it is then necessary.

Mr. Chairman, may I just close with the observation that I notice that the makeup of this committee has changed since my last visit here. May I welcome Mr. Clement as the critic for the official opposition. I wish him well in his new responsibilities.

● (1650)

The Chair: Thank you, Ministers.

I knew that Minister Goodale would be able to take up by the time left over by Minister Chagger.

We'll turn to seven-minute rounds of questioning now. Just as a reminder, you're welcome to question either of the ministers or their officials.

Mr. Brown has been with us before.

To Mr. McCowan and Ms. Sheehy, welcome to the most effective parliamentary committee that exists on the Hill right now.

I'm not biased. I know you like effectiveness.

I will open the questioning with Ms. Damoff.

Ms. Pam Damoff (Oakville North—Burlington, Lib.): Thank you very much.

Thank you to both ministers for being here today and also for your leadership in bringing this bill to us. We were on the road, as you mentioned. Although we weren't studying Bill C-22, oversight came up repeatedly in our meetings. It's something that the public has been asking for, so we're very pleased to see this before us now. Certainly this is only one piece in the puzzle of oversight.

I'll let either one of you answer these questions. I'll put it out to whoever thinks is best suited. Can you let us know how you envision the committee working with the current oversight bodies—the RCMP's civilian review and complaints commission, the commissioner of the Communications Security Establishment, and the Security Intelligence Review Committee, or SIRC?

Hon. Ralph Goodale: Ms. Damoff, they all have to work together in a co-operative manner. The bill, in clause 9, instructs the new committee of parliamentarians to work together with each other to ensure that they are covering the ground that needs to be covered but as much as possible avoiding duplication. That's a general instruction. This may be an area where at some point we will need to provide more definition. That could be done through regulations, for example.

I think it's wise to start by saying to the new committee of parliamentarians and the other review bodies that you all have the public interest at heart. You all have different talents and strengths, and different resources to bring to bear. Spend some time with each other understanding how you can best work together.

If they cannot work this out in a collaborative way, which is the hope expressed in clause 9, then the government may need to provide more explicit instruction, but I think it's wise to at least give them the opportunity to see what working arrangements they can arrive at themselves. I know from talking to the administrative people who work at SIRC, for example, that they are quite looking forward to this new collaborative arrangement. They believe that the committee of parliamentarians will bring something very valuable to the process of oversight and scrutiny, that they obviously have something of value to contribute, and that they can develop a collaborative relationship. If that doesn't materialize, then the government will need to be a bit more prescriptive, but I hope it comes by consensus.

● (1655)

Ms. Pam Damoff: That's great. Thank you.

Hon. Bardish Chagger: Perhaps to build off what Mr. Goodale said, the mandate I've received as government House leader is actually the commitment of putting in place a different style of government and actually empowering parliamentarians to take leadership roles. As Mr. Goodale said so eloquently, each parliamentarian has something to offer, and Bill C-22 is just an important step in the right direction.

Ms. Pam Damoff: Thank you.

Could you fill us in on how Bill C-22 responds to the recommendations that Justice Dennis O'Connor made in the Arar report?

Hon. Ralph Goodale: He was quite emphatic in his work in suggesting that this was a serious gap in the Canadian architecture. In putting together Bill C-22, we're responding to one of his principal recommendations. It's also consistent with the findings of Mr. Justice Iacobucci in his public inquiry as well. There will be, I'm sure, different administrative arguments about this structure versus that structure. We have tried to take on board, in our consultation here, what a whole variety of previous parliamentarians have done, what the public inquiries have done, what the Auditor General said, and also the experiences of other countries.

I think we've come up here with a unique Canadian model that best suits our circumstances. Providing a committee of parliamentarians to bring this new dimension of oversight to the Canadian security and intelligence community is something we've never had before. Mr. O'Connor and others said to fill the gap, and this legislation in fact does that.

Ms. Pam Damoff: Thank you.

In your opening remarks you talked about how you had taken the best parts in different parts of different countries. I know you met with the U.K. Intelligence and Security Committee of Parliament. You have had discussions with other countries as well. Could you elaborate a little bit more on how that's all reflected in Bill C-22?

Hon. Ralph Goodale: A lot of the specific advice I mentioned in my preliminary remarks was about how to deal with certain activities, how to deal with certain information, and whether there should be a list of boilerplate types of information that would not normally be provided to the committee.

Let me just give you, as an example, the identities of sources. I think everyone agrees—in fact, there's explicit legislation elsewhere on the books in Canada—that those identities need to be protected. Withholding the identity of a particular source of certain security information doesn't in any way impinge upon the committee's ability to do its job.

The summary of what we took into account was included in those opening remarks, but I think the key principle I heard over and over again from the British and others is to begin in a prudent way, begin in a cautious way. Then, and as the committee develops a track record, experience, and expertise, and as its body of research begins to expand, at a future date you can change the law accordingly—

• (1700)

The Chair: Thank you, Minister.

Hon. Ralph Goodale: —but you're dealing with something important here, which is national security, so don't make a premature mistake.

The Chair: Mr. Clement, you have seven minutes.

Hon. Tony Clement (Parry Sound—Muskoka, CPC): Thank you, Chair.

Thank you, Ministers and officials, for being here.

It's great to be on this committee. I acknowledge the work that has to be done on this. We had a difference of opinion in the previous Parliament, but that difference of opinion is now settled. Now we have to make it work. If I can misquote Lady Macbeth, who said, "If it were done when 'tis done, then 'twere well it were done quickly", in our case it's "twere well it were done right". That's our responsibility.

I'm going to go back to the Liberal Party election pledge. The promise was to "create an all-party committee to monitor and oversee the operations of every government department and agency with national security responsibilities". That was the Liberal pledge.

Now, what we see in, for example, clause 14 of the bill is a veritable kitchen sink of exclusions from what the committee can look at. The Queen's Privy Council, cabinet documentation, and so on; I get that—although PCO is very broad sometimes in their definition of what is cabinet documentation, so we have to ward against that. Ongoing defence intelligence activities; I get that. Disclosure of the witness protection program sources; I get that. Then there is "information relating directly to an ongoing investigation carried out by a law enforcement agency" that could lead to prosecution, which could be pretty well anything that the security agencies are doing.

As my first question, how can we make sure that this committee is effective if there are so many exclusions? To the extent that anything that is ongoing is excluded, aren't we just a second security and intelligence review committee at that point? What is so special that we can say this committee can do when ongoing activity is all excluded from the purview of the committee?

Hon. Ralph Goodale: That section, Mr. Clement—and again, welcome—refers to a police investigation; not any ongoing activity but an ongoing police investigation.

Hon. Tony Clement: But presumably every investigation has a police investigation—or many do; many will have a police component to them.

Hon. Ralph Goodale: Maybe, maybe not, but the objective here is to make sure that the work of the committee is not impinging on a police investigation and in some way compromising that investigation.

If there is more appropriate language that you might consider or recommend, we're certainly prepared to take it into account. It's not intended to seal off a great area from public scrutiny. That is exactly the opposite of what we intend here. If there is some more precision in that language that we could maybe consult with the Department of Justice on, we could see how it could be more appropriately phrased.

Hon. Tony Clement: I appreciate that offer, Minister, because I think we all want this committee. If we're going to have a committee, let's make sure it's effective—

Hon. Ralph Goodale: Exactly. That's the whole point.

Hon. Tony Clement: —and not wasting everyone's time.

Similarly with the PM's ability to redact; I believe, Minister Chagger, you turned to that topic in your remarks. You said that it's to only to be used sparingly to protect certain classified information.

Again, I point to the language in the bill, which is broad and expansive. I put it to you that if there's a way that we can take what you have said in your remarks and apply them to amendments to this legislation, it might be helpful to define exactly what the PM can redact and what he or she cannot. Otherwise, it's too expansive and the committee could be left without critical information.

Hon. Ralph Goodale: I take it you're basically referring here to clause 21. Again, if you think the language there doesn't properly capture our intention, we can look seriously at remodelling that language. The only purpose for a reference to the Prime Minister is to protect classified data.

• (1705)

Hon. Tony Clement: Similarly with ministerial vetos; again, I understand the need for sparing and rare cases of ministerial vetos, but again, we don't want to drive a Mack truck through that and leave the committee toothless in doing the job.

Hon. Ralph Goodale: One of the disciplines on the process... The committee could certainly do this, but if you think we need to make it explicit, empowering the committee to report on the number of times they've run into a difficulty with a minister, simply that public exposure would draw public attention to whether or not there's a chronic problem.

Hon. Tony Clement: Can I now turn to the role of the announced chair of this committee, to Mr. McGuinty? I'm not sure which one of you wants to take this on.

First of all, when the member for Ottawa South was announced, he was reported to be receiving a bump-up in his salary of about \$42,000. Has that started yet?

Hon. Ralph Goodale: No.

Hon. Tony Clement: He's not being paid right now?

Hon. Ralph Goodale: No. At this stage there is no committee, therefore there is no chair, and therefore there is no payment.

Hon. Tony Clement: But I note that I seem to know that there is a chair, because it was announced by the government. I'm just wondering what his role was when he visited London, for example. I believe there was a meeting with MI5 or one of the British organizations. Can you elaborate a little bit on that?

Hon. Ralph Goodale: He participated in discussions, both in London and here in Ottawa, with various representatives of the U.K. committee and their security organizations, just to assist in the work of consulting in advance of this legislation.

Hon. Tony Clement: The other thing is about meaningful consultation with the parties and with Parliament. I would put it to you, sir, that appointing or declaring a committee chair before the bill has even been put before this committee or before being voted on by Parliament is a fairly unusual and curious procedure.

Hon. Ralph Goodale: The point of the consultation, Mr. Clement, was to get going as rapidly as possible. There was a window of time back in January-February, when I had the opportunity, some space on the calendar, to engage in the consultation. I wanted to be sure that in that process, whether the consultation was here or in London, I had the benefit of another set of eyes and ears and someone who could participate with me in that process. It all helped to refine the detail that went into the legislation.

There was no special remuneration for that. A committee chair only gets paid when the committee exists and the chair is officially in place.

The Chair: Thank you, Minister.

Thank you to Mr. Clement, our newest member of the committee.

I also want to point out that Ms. Watts is the second-newest member since you were here last, and is adding great value.

Hon. Ralph Goodale: Is that great value in comparison to Tony, or...?

Voices: Oh, oh!

A voice: That goes without saying.

The Chair: Monsieur Dubé.

[*Translation*]

Mr. Matthew Dubé (Beloeil—Chambly, NDP): Thank you, Mr. Chair.

[*English*]

Minister, thanks for being here.

I want to quote what the Prime Minister said when we were debating Bill C-51:

An oversight body looks on a continual basis at what is taking place inside an intelligence service and has the mandate to evaluate and guide current actions in "real time."

That is crucial and must be amended, if we are giving CSIS the new powers proposed in Bill C-51.

That's not necessarily what this committee is doing, but I want to go back to Mr. Clement's point about the information that's available, because, Minister Goodale, you quoted Craig Forcese. Professors Atkey, Forcese, and Roach said in *The Globe and Mail* that they were very concerned about the Prime Minister's ability to redact reports, but also about how much information is shared.

You and Mr. Clement had an exchange over law enforcement investigations, but there is also defence intelligence and special operational information which, as defined by the law, is very broad and leads to a web of instances whereby you basically find yourself in a situation where anything that can even be inferred from the information being given to the committee could be considered off limits to the committee.

Without that information, how can the committee be expected to do its job? That's the first part of the question. Second, if we have a concrete amendment for you to allow that information to be shared, would you accept that?

• (1710)

Hon. Ralph Goodale: To answer the latter part of the question first, we're prepared to look seriously at all amendments and give them a fair consideration.

On your reference to redaction by the Prime Minister, again, referring to my answer to Mr. Clement, if the language in clause 21 is—

Mr. Matthew Dubé: Minister, I don't mean to interrupt you. I did mention that in one of the quotes, but specifically about the information that's accessible to committee, those three categories and how broad that is.

Hon. Ralph Goodale: What we want to have here is a committee with a broad mandate and narrow limitations. If there is some part of clause 14 that you think is expressed in too general a set of terms, we're prepared to look at possible amendments to tighten it up.

On the point about redaction, the purpose of that is solely to protect classified information. If the language in clause 21 is thought to be too broad, we can also look at tightening that as well.

[*Translation*]

Mr. Matthew Dubé: Thank you very much.

My next question is about the election of the committee's chair. According to the current wording, the chair is appointed by the Governor in Council on the recommendation of the Prime Minister. Of course, we share Mr. Clement's concerns about the fact that we knew the identity of the chair before we even knew the bill.

Actually, the U.K. committee chair feels that, in order to earn the public's trust, parliamentarians must be granted more powers, including the power to choose the chair of the committee. That's one of the ways the U.K. has dealt with that.

Is that something you would be ready to consider?

[*English*]

Hon. Ralph Goodale: I think the issue of electing the chair is something that might be preserved to the five-year review when we get there.

I think we have to recognize that, at the moment, where the buck stops in Canada on national security is with the Prime Minister, whoever he or she may be at any given moment in time. The Prime Minister is now in the process of creating a committee of parliamentarians to assume a portion of that responsibility. As this process gets started and established and the authorities are devolved and so forth, the Prime Minister still retains, ultimately, that onerous responsibility. I think it's reasonable, in the first instance, for the selection process to be handled in the way described in this legislation. That may change in future, but we have to walk before we run.

Mr. Matthew Dubé: If the chair of the U.K. committee is saying that, for them, they realize that having that independence—or at least the perception of independence, because perception is important, as we all know in politics—to perceive that the committee is really on its own, and not having someone leading it who is named by the Prime Minister, what stops us from doing that now when we already have that example we can follow of how important that is for the public trust?

Hon. Ralph Goodale: First of all, you have to build the public trust, and—

Mr. Matthew Dubé: Isn't that one way to do it—by electing the chair and not having a chair hand-picked by the Prime Minister?

Hon. Ralph Goodale: Remember how the U.K. experience started. As Senator Segal described in the quote that I read into the record, it started with a different structure, with more prime ministerial responsibility that was gradually devolved over time.

The advice from Senator Segal, but also the advice from the U.K. committee, is to start prudently, start cautiously, and allow the committee the time to earn its credentials, both in the public arena and among the security agencies that it needs to oversee. Gradually, as that credibility grows, then structures can be changed.

Mr. Matthew Dubé: My question then would be to the government House leader.

If we're okay with electing chairs for these parliamentary committees, like the one we're at now, what would stop us from doing it at this committee, where it's so critical to gain the public trust and have that perception of independence?

Hon. Bardish Chagger: I would have to echo the comments made by the minister in regard to this being a step that's long overdue. It's the first of its kind. If you look at our Five Eyes allies, they all have similar committees. We're the ones who don't have one.

What we've done is we've taken, I would say, some good consultations and some good information to take a substantial first step. If you look at some of the endorsements this work is getting, they're saying it's a large step as a first step, but that's because we actually have people we can look to.

I think when it comes to, just as the minister said, the buck stopping, when it comes to national security, with the Prime Minister, appointing a chair this time.... That's why the review mechanism is so important and that's why I think improving the system is so important. Part of my mandate is doing government differently. I think when it comes to improving upon the work that's been done, not to go on—

• (1715)

Mr. Matthew Dubé: Minister, if I may, we can elect chairs of these committees and that gives parliamentarians more independence, which is part of your mandate, and that's great. Are these parliamentarians less independent, then? Is this somehow the lesser parliamentary committee if they can't select their own chair and we, as parliamentarians on this committee, do so?

Hon. Bardish Chagger: This is a parliamentary committee. We're actually advancing a committee of parliamentarians. It's actually quite different. That's where I think it's important to note that there is no history to a committee of parliamentarians like this in Canada.

Mr. Matthew Dubé: There is the U.K. example and they love electing the chair. They say that's been great.

Hon. Bardish Chagger: We don't live in the U.K., we live in Canada.

Hon. Ralph Goodale: That was after 15 years; not initially.

The Chair: Thank you, Ministers.

Go ahead, Mr. Mendicino.

Mr. Marco Mendicino (Eglinton—Lawrence, Lib.): Thank you, Mr. Chair.

Thank you to both of the ministers for appearing and for all their hard work in shepherding this legislation into law.

Minister Goodale, you spoke at some length about the committee of parliamentarians' mandate to conduct a review of ongoing operational activities. One expression you used was that the committee will be able to “follow the evidence wherever it leads”.

There are some limitations to that statement. Mr. Clement pointed out what some of those limitations are in the draft legislation. You have summarized the rationale underscoring those limitations by saying that for obvious reasons, we have to be very cautious about allowing classified information, information that would be injurious to national security, into the public realm. I think that's a sentiment that all members of this committee would share.

What I would like to ask you about, though, are what you described as the general powers of investigation of this committee. There are some other contexts from which I think we can draw. If you were to look at the legislation under the CSIS Act, which provides SIRC with its mandate, there are some statements there that describe the powers of investigation generally. If you go to the National Defence Act, the commissioner of the CSE is empowered to

conduct certain investigations by being granted powers that are exactly the same as those of a commissioner of inquiry under the Inquiries Act.

Can you take a moment and talk about what kinds of powers generally that you envision this committee having? Will it have the capacity to enter the premises, to examine documents, or to summons or request witnesses to testify before that committee?

Hon. Ralph Goodale: They will have the authority to request all of that, Mr. Mendicino. The expectation here is that the agencies—CSIS, SIRC, CSEC, CBSA, all of them—will respond in a very fulsome way to anything that the committee asks. If one of the agencies has a problem with a request from the committee of parliamentarians, then they would go to the responsible minister and the minister would have to make the judgment call about whether they have a point or not.

If the minister feels that in fact there is some injury to national security that's risked in a certain set of circumstances, then the minister would need to explain that to the committee. If the explanation is not satisfactory, the bully pulpit that's available to the committee will be a very powerful tool in the court of public opinion.

The committee would also, I think, like to use the other powers of the other review bodies to make sure that the full scope of inquiry is accomplished effectively. That's where the two levels of organization need to work together.

• (1720)

Mr. Marco Mendicino: Thank you for that. You have anticipated the second area of my questions today, and that is to help you build on your answer to Ms. Damoff about how parliamentary oversight will collaborate with existing civilian oversight.

As I understood or comprehended from your answer today, you would like to see that process develop organically rather than prescriptively at this stage. But do you see some benefit—without being overly telegraphing at this moment—that as the committee of parliamentarians reaches out to SIRC, perhaps the commissioner of the CSE, and other review bodies, they should be talking about protocols around the exchange of information, around the referral of investigations and complaints, so that we can see a robust inquiry as the circumstances may dictate?

Hon. Ralph Goodale: I would think they may well want to enter into memoranda of understanding or protocols for how they will function efficiently and effectively with each other. That will take a bit of exploration. But that would be one vehicle by which to ensure that they have the ground covered, they're not leaving any gaps, and they're not duplicating.

But it's interesting, when you look at the resources that the committee of parliamentarians will have and add to that.... I know you can't just do a one-to-one addition here, but take into account the resources available to the commissioners at CSEC and SIRC, and the CRCC. That is quite a pool of talent, substantially larger than would be available to the British committee, for example. So I think you can be confident that the resources available combined in all of the review bodies, including this new committee, will be quite significant.

Mr. Marco Mendicino: For my last question, Minister Chagger, perhaps you could just elaborate a little bit on why you believe this legislation does support the principle of an independent committee.

Thank you.

Hon. Bardish Chagger: I have to say that part of the structure we have within the parliamentary system, of this legislation even coming to committee, for us to have these conversations, is only going to make this legislation better. I believe when it comes to the mandate that Canadians have given us to advance a more open, more transparent government to empower parliamentarians, this is a step in the right direction.

We know time and time again that there has not been a mechanism of such in place. That's where I have to agree that the pieces need to work together. Having legislation like this in place, and having these meaningful conversations, will allow us to arrange for those details in, I believe, a more collaborative way rather than trying to infringe upon people's territories as we've done in the past.

I think this is a step; we brought it out, we had a conversation during the campaign, we continued those discussions and engaged with Canadians, and now we're here at this table being asked these tough questions. I think that is going to put us in a very good spot to start.

I'm actually excited that we are looking to review it, because I know, as the Prime Minister says, better is always possible.

The Chair: Thank you, Minister.

Ms. Watts.

Ms. Dianne L. Watts (South Surrey—White Rock, CPC): Thank you very much.

I just want to talk a little bit about openness and transparency and being an independent committee.

The common thread we saw when we went across the country was around having an elected chair. It is around transparency and around openness. With a chair already picked back in January, that doesn't instill any openness or transparency or confidence, frankly.

I do want to come back to a couple of points within the context of the bill. So the committee reports to the Prime Minister. The appointments are recommended by the Prime Minister. The chair is appointed by the Prime Minister.

Ms. Chagger, you said, "How any redactions are done is decided by the committee itself and not the Prime Minister." Well, this is in direct conflict with the bill as it's written in subclause 21(5), where it says that after consulting with the chair, the Prime Minister, if he is of an opinion...he directs the committee to change the report.

I'd like to get your comments on how that's transparent, how that's open, how that instills confidence with the general public, and how that is empowering parliamentarians.

• (1725)

Hon. Bardish Chagger: I thank you for that comment. I will echo the comments my colleague has made in regard to coming to this committee. If there's any new wording that you might like to provide, we would definitely be open to it.

When I read the same—

Ms. Dianne L. Watts: Okay, let me just jump in, because we have limited time. What I'm hearing you say is that, under this clause that I've just read, we can amend, within this committee here, this clause that would allow—and I'm using your words again—that the committee itself, not the Prime Minister, would look at redacting information.

While I get the issue around national security and the buck stopping with the Prime Minister—I totally get that, and I don't think there's an argument there—I think it's about how the structure is set up and how we're going to move forward. A bill is a bill, and the language is very important. We can offer up some amendments, but what assurances do we have as parliamentarians that this will in fact be passed?

Hon. Bardish Chagger: I'm going to actually get my deputy to comment, but I just want to also say that, when it comes to the GIC appointments, and it comes to the people who will be on the committee, the Prime Minister will be consulting the leaders of the opposition and third party and so forth. This is not the approach that's intended. Sometimes the way we read things is different for different eyes. But I'll get you a clarification—

Ms. Dianne L. Watts: Well, the words are right here; I can read it to you. I didn't make it up.

Hon. Bardish Chagger: I read the same paragraph and I got a different.... You should see my comments, actually. I took it the opposite way of it, so it's interesting.

Ms. Dianne L. Watts: Yes. Well, this is the bill. This is the actual bill that was—

Hon. Bardish Chagger: I do too.

Ms. Dianne L. Watts: Okay.

Mr. Ian McCowan (Deputy Secretary to the Cabinet, Legislation and House Planning and Machinery of Government, Privy Council Office): Actually, it's the right clause in terms of the provision that has been under discussion. What I would say on that is that the intention is for the Prime Minister to make a determination with respect to the types of information that are flagged in subclause 21(5), indicate that to the committee, and then it's for the committee to determine basically how to adjust the report with respect to that information.

As was indicated by Minister Goodale in his earlier comments, there are probably a number of ways that could be done, but there's sort of a two-step process, if you will: first of all, the Prime Minister indicating that some of the categories that are flagged in 21(5) are in play; and then it's over to the committee to determine basically how to adjust the text, whether it's blacking out or some other means, in order to look after those concerns.

Ms. Dianne L. Watts: Right, and as I said, it's "after consulting the Chair of the Committee". It's written right here. The pending legislation here is in black and white, and we need to make...and I think we're doing the clause-by-clause going through this to make amendments afterwards.

I just want to make sure that...because there's a difference between intent and actually making sure we have the appropriate wording. I think, as my colleague has said, this is something we want to get right. We want to move forward and make sure that everything is covered off and that this isn't just a committee that is perceived as being governed by the governing party.

Hon. Ralph Goodale: Could I add a thought here, Mr. Chair?

The committee produces a report and submits it to the Prime Minister. This subclause 21(5) obliges the Prime Minister to consult with the chair of the committee about the content of the report, specifically to identify those things that are mentioned in subclause 21(5) that would be injurious to national security. Then the Prime Minister essentially turns the issue over to the committee again.

If there's nothing in the report that is injurious to national security, then fine, done, it's all over. If there is something, there are two ways you can do it. The Prime Minister can say, well, I'm going to rewrite your report for you, or he can say, no, here's the problem: this element of information is injurious to national security, so please adjust your report to make sure that classified information—

Ms. Dianne L. Watts: And I totally get that—

The Chair: I need to stop you there.

Hon. Ralph Goodale: The pen stays in the hands of the committee, not the Prime Minister.

The Chair: Thank you, Minister.

Thank you, Ms. Watts.

Mr. Di Iorio, we're going to squeeze in a few more minutes.

[Translation]

Mr. Nicola Di Iorio (Saint-Léonard—Saint-Michel, Lib.): Thank you, Mr. Chair.

I had some questions about parliamentary immunity, the related restrictions and benefits, but I will ask those questions in another forum and in a different form.

I would also like to add my thanks for the tremendous work that has been accomplished.

My first question is for the honourable Leader of the Government in the House of Commons, Ms. Chagger

My understanding is that the committee is independent from Parliament under the bill. Under those circumstances, will Parliament be authorized to study issues similar to the ones selected for study by the committee?

• (1730)

[English]

Hon. Bardish Chagger: The committee—

Mr. Nicola Di Iorio: The committee will be examining their own agenda. What prevents Parliament from examining the same issues?

Hon. Bardish Chagger: It's the access to information. The committee that we are proposing will have access to information unlike anyone else. That's why the seriousness of this legislation is so vast; you will have access to information that parliamentarians in general would not have access to. Not only will you have access to that information, you will have, as the minister said earlier, the right to ask for access that we've never had parliamentarians ask for before. If it's being denied, it will have to be explained as to why it's being denied. This committee will have the ability to report on that, to say it has been denied. I believe that is a substantial difference from where you're coming from and where this legislation is coming from.

[Translation]

Mr. Nicola Di Iorio: I also have a question for the honourable Minister Goodale.

Could you tell us which are the most pressing issues that the committee should address, in your view?

[English]

Hon. Ralph Goodale: With every passing day, Mr. Di Iorio, there's a new set of urgent issues that the committee could well examine. Let me provide an illustration. It's in provincial jurisdiction, so it wouldn't be directly applicable, but in the context of the controversy in the last number of days in Montreal about police activities with respect to the media, there may well be concerns among the members of this future committee about the rules, regulations, procedures, and due process that apply to those sorts of investigations. It may well be that the committee would say we need to look at that: we need to determine whether all the proper standards are being adhered to and to make sure of two things—are we being effective in keeping Canadians safe, and are we safeguarding and respecting our rights and values and freedoms in an open and democratic society?

There will be a vast array of important questions that this committee will need to turn its attention to when it's finally established. I think one of the challenges for the committee, coming right out of the gate, will be establishing its own priorities. It's critically important that the committee establish their own priorities. The act provides an authority for the government to ask the committee to look at something, but first and foremost, the committee itself needs to decide what's important. Then they conduct the investigation in whatever way they deem appropriate, in whatever order.

[Translation]

Mr. Nicola Di Iorio: If we look at the situation that was reported in the media yesterday about the police surveillance of a journalist, there would certainly be a concurrent jurisdiction for that. You referred to the provinces, but Parliament certainly has jurisdiction over the activities and work of peace officers.

[English]

Hon. Ralph Goodale: That's true, that would not fall within the purview of the—

[Translation]

Mr. Nicola Di Iorio: Using that concrete example, can you tell us how the committee would act under those circumstances?

[English]

Hon. Ralph Goodale: In that particular case, it's beyond the committee's jurisdiction, because it's at the provincial level. But if it involved the RCMP, for example, and if the issue were national security—obviously that's the ambit of the committee's focus, that it has to relate to national security and intelligence—the committee would have the authority to examine the full scope of what's going on and make a report in due course to Parliament and to Canadians if they found that there was something wrong.

• (1735)

The Chair: Thank you very much, Minister.

Thank you, Mr. Di Iorio.

That ends our time commitment with the ministers. We'll take a break and then continue with officials for the remainder of the hour.

• (1735)

(Pause)

• (1735)

The Chair: I'll call us back to order.

This truly is an august group of witnesses. Thank you all for being with us today as our committee finds out your opinions with respect to oversight, which does touch on some of you.

We'll begin our second round of questioning, again at the top, with Mr. Erskine-Smith for seven minutes.

Actually, first let's take a couple of minutes just to introduce the witnesses. I think that would be good. We know most of you, but a couple of you are new.

[Translation]

We will start with Mr. Coulombe.

[English]

Or no, excuse me, we'll start with Ms. Lizotte-MacPherson.

Please introduce yourself and your agency.

Ms. Linda Lizotte-MacPherson (President, Canada Border Services Agency): Linda Lizotte-MacPherson, Canada Border Services Agency.

[Translation]

Mr. Michel Coulombe (Director, Canadian Security Intelligence Service): Michel Coulombe, Director of the Canadian Security Intelligence Service.

• (1740)

[English]

Ms. Heather Sheehy (Director of Operations, Machinery of Government, Privy Council Office): Heather Sheehy, director of operations at the machinery of government, Privy Council Office.

Mr. Ian McCowan: Ian McCowan, deputy secretary to the cabinet for governance at PCO.

Mr. Malcolm Brown (Deputy Minister, Public Safety, Department of Public Safety and Emergency Preparedness): Malcolm Brown, deputy minister of Public Safety Canada.

Commissioner Bob Paulson (Commissioner, Royal Canadian Mounted Police): Bob Paulson, RCMP.

Mr. John Davies (Director General, National Security Policy, Department of Public Safety and Emergency Preparedness): John Davies, director general, national security policy, Public Safety.

Mr. Dominic Rochon (Deputy Chief, Policy and Communications, Communications Security Establishment): Dominic Rochon, deputy chief of policy and communications from the Communications Security Establishment.

The Chair: Thank you very much for being here.

Mr. Erskine-Smith, we'll begin questions with you. You have seven minutes.

Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.): Perfect. Thanks very much.

I think we're all on the same page that a review is important. CB-SA we don't have reviewed, but the other three bodies that we're going to talk about, the RCMP, CSE, and CSIS, currently have review mechanisms.

For the officials of those four bodies, does anyone have any issue with the information you're currently required to give over to the respective review agencies? Is there any concern at all about the information you have to give over? No? Okay.

That leads me to this question, then. I understand from Professor Forcese that in fact the review agencies have more access to information than the parliamentary committee as designed under Bill C-22. Why wouldn't this committee have the same access to information as the review bodies, if none of the agencies have any concerns with the sharing of that information?

I'll put it to Mr. Brown or Mr. McCowan.

Mr. Ian McCowan: I guess I would say there are a couple of differences here. First of all, the review agencies all have a complaints function as part of their framework, and they operate in a quasi-judicial frame. They're a slightly different creature, if you will.

Also, what's trying to be achieved here in terms of this proposal is something that's fundamentally different, I would argue, in a couple of ways. First of all, the design is to give parliamentarians direct access to information on national security matters, and to do so in a way that's right across government.

You referenced the review agencies. Obviously, they operate in three particular spheres. What this committee does is give a broader frame in terms of being able to pursue national security and intelligence matters right across the board.

Mr. Nathaniel Erskine-Smith: I forget from which minister we heard it, but there's to be a collaborative arrangement between the expert review bodies and this parliamentary committee. If the parliamentary committee has less access to information than the review agencies, is that not going to impede that collaborative spirit?

Mr. Ian McCowan: The statute, as you'll have seen, allows for the transfer of information back and forth between the review bodies and the committee in certain defined circumstances. There's also a request that ideally they work in a way to try to avoid duplication.

I think Minister Goodale did a good job of describing what it is hoped will unfold here in terms of the committee operating in conjunction with the review bodies, and—

Mr. Nathaniel Erskine-Smith: I do understand that they're to work in conjunction. Professor Forcese noted, though, that if you have certain bodies with certain access to private information and you have a parliamentary committee that's going to work with those bodies but can't access the same information, according to Bill C-22, isn't that going to impede their ability to work together in some instances?

Mr. Ian McCowan: I guess what I'd say, again, is that there are different purposes here. In terms of the review bodies, again, there is, for example, a complaints function and there's a quasi-judicial frame. So it's not exactly the same frameworks that are being compared here. What we've tried to do is maximize the co-operation possible between them, recognizing that they're obviously looking at areas that have some similarities at times.

Mr. Nathaniel Erskine-Smith: We see “injurious to national security” at least three times, in clauses 8, 16, and 21, and probably more times. When it comes to the exclusion of information in the legislation from our allies, the inclusion is very specific and defined in the legislation. I notice there's no definition of “injurious to national security”. Shouldn't we have a definition in the act?

Mr. Ian McCowan: There's no definition for national security intelligence and there's no definition for injurious to national security. These are terms that are used elsewhere in the legal framework. They are felt to provide the necessary guidance in terms of the relevant decisions that you just referenced.

I think Minister Goodale indicated earlier, though, in terms of suggestions for amendments, that he was willing to look at whatever the committee might offer up on those fronts. I guess what I'd

say is that the words that were used were the best we could find in terms of trying to fashion the necessary threshold.

• (1745)

Mr. Nathaniel Erskine-Smith: When it comes to the ability for the minister to exclude, we have paragraph 8(b), where the minister can actually shut off investigations directly, and no reasons need to be provided to the committee. We have under clause 14 a number of exclusions, and no reasons need to be provided to the committee. But then we see, in clause 16, reasons do need to be provided to the committee. I wonder why. If I look to the U.K., the minister is compelled in all instances of refusal to provide information about that refusal. Shouldn't we be doing the same thing?

Mr. Ian McCowan: As you noted, there's only the one instance in the statute where reasons are required. If the committee feels that determinations are being made in an inappropriate way, obviously they will be able in their reports to make note of that and to flag the fact that in their view there is a problem that is occurring.

The various clauses that you referenced are different decision points. The first one talks about the review of national security matters at a high level, and then the other ones talk about access to specific information.

In terms of answering your question, what I'd say is that the bottom line is that if the committee is not satisfied with what they're seeing, they're perfectly at liberty to note that in their report.

Mr. Nathaniel Erskine-Smith: Talking about the interface between the committee and the agencies, it's interesting to note that, obviously, this bill was significantly modelled on the U.K. legislation. In the U.K., my understanding is that the committee interacts directly with the agencies, and the idea there is really to establish trust between the agencies and the committee, at the end of the day.

I think the minister made a good point that this is a first step. We need to build not just public trust, but trust between the agencies and parliamentarians. In this bill, those interactions and the request for information all flow through the minister. I wonder, wouldn't we be building up more trust between agencies and this committee of parliamentarians if there was a direct interface and the parliamentarians were asking for information directly from the agencies?

Mr. Malcolm Brown: The presumption is in fact that the requests, because each minister is responsible for each of the agencies, technically would flow that way, but practically, our expectation is that each of the heads of agencies and their staff, as appropriate, responding to whatever demands for information that a committee may have, would appear before the committee on a regular basis. There is nothing in the legislation that would preclude that from.... The legislation is very permissive in terms of the committee being able to meet with and talk to whoever they like.

The Chair: Thank you, deputy.

Mr. Miller.

Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC): Thank you very much, Mr. Chair.

To all of our witnesses, thank you very much for being here.

I had some questions that I would like to have asked the ministers, but of course there's never enough time. What I want to ask about here is that Ms. Chagger mentioned about doing things differently and that goes from everything from how chairs are selected to money for access to ministers, etc.

I think, Mr. Brown or Mr. McCowan, as deputy ministers you may be the ones to answer this. Going forward, since we're doing things differently, does this mean that all committees, standing committees, special committees, etc., will now have the chairs appointed by the Prime Minister?

Mr. Ian McCowan: I'm not sure how much further I can add to what the minister said earlier other than to say that this committee is an unusual committee. It would be a statutory committee of parliamentarians, a creature of the executive, not a creature of Parliament. It's fundamentally distinct and different from the other committees that you mentioned, where I understand there is the election of chairs. There is a distinction between the two.

Mr. Larry Miller: That's a good point, that it's something different. Back in 2008 we had an unfortunate listeria outbreak in Canada. Unfortunately, a number of Canadians died as a result of that. There was a special committee formed and what have you. By chance I was elected as chair of that committee. A number of us were of course appointed to the committee, but the chair was elected. It was a different kind of committee as well, but the chair was still elected. What makes this different?

• (1750)

Mr. Ian McCowan: I'm not familiar with that particular committee. All I can say in terms of what makes this one different is that it is a creature of the executive, similar to how the U.K. started out when they first went down this road. In that manner, it is distinct and different from the other committees of Parliament. Beyond that, I'm not sure what I can add to what the minister said earlier.

Mr. Larry Miller: Okay. I respect that. I don't agree with it. It's not that I disagree with you, but just with the point of it.

Mr. Goodale, when he was here, implied, or rather said, that this committee is new, so it basically doesn't need to learn from the examples from Britain or anyone else. We know that Britain had this committee in place for a long time. I believe in 2013 they did a review of it. They made some major changes to do with the committee reporting to Parliament, not the Prime Minister, etc. Would it not be prudent to learn from other countries' mistakes, I could say? I don't think the British framework was a mistake. It's just that you learn over time. They made some changes, and Canada isn't adopting that.

Mr. Ian McCowan: I think the minister, when he responded earlier to a question in this area, indicated that similar to the U.K. we were starting with a certain basic framework. In the U.K. it was over a fairly long period of time before they made it a committee of Parliament. As the relationships grew and the committee grew, if you will, they hit a point where they decided to move over and become a parliamentary committee.

Obviously something you'll have noted is that a five-year review is built in. I imagine there will be a regular review of the statute. Assuming that the bill is passed in its present form, parliaments of the future will be able to review if we reach a point when the evolution that happened in Britain will happen here. I guess we'll have to see how that unfolds.

Mr. Malcolm Brown: If you'll permit me, I would also add that I think the committee in the proposed legislation that's before the committee is in fact in many ways substantially more broad than the committee in the U.K. in terms of scope and the degree to which the mandate of the committee...ability in terms of looking at, as the minister's been very clear, ongoing operations.

I think actually not in every case, but I think if Minister Goodale were here, he'd point to areas where it's not just simply a cookie-cutter approach with a model of 15 years ago.

Mr. Larry Miller: Okay. You know, when he did that, it was a pretty cheekish comment that basically because this committee was new we shouldn't learn from other countries.

At any rate, I'll go back to some earlier questioning about Chair McGuinty and his travel to Britain, I believe, to London and France. Travel isn't free. Obviously somebody paid his travel. Who would have paid that travel? Was it the government, your department...?

Mr. Malcolm Brown: I believe it was the Department of Public Safety, but I can confirm that for you.

Mr. Larry Miller: Even though he hasn't been elected as chair, that was paid.

Mr. Malcolm Brown: That would be correct.

I'll confirm that. If it's incorrect, we will correct the record.

Mr. Larry Miller: Certainly. Thank you.

My last question is a question for the witnesses here from CSIS, Mr. Paulson from the RCMP, and SIRC. Do any of you see anything, in this framework or oversight committee, that would make you nervous? Every now and then things come up, unfortunately.

I'll open it up to each of you. If you could comment briefly on it, I'd appreciate it.

Commr Bob Paulson: There's nothing, from my point of view.

Mr. Larry Miller: Okay. Thank you.

Mr. Michel Coulombe: The same here: nothing. We've been living with the SIRC review for 32 years, so we're used to it. Nothing makes me nervous.

Voices: Oh, oh!

Mr. Larry Miller: I still have a bit of time, gentlemen. Is there anything, Mr. Coulombe or Mr. Paulson, that you think should have been added to make the system work better?

Commr Bob Paulson: Well, no, I've long been a proponent of a committee of parliamentarians to look into national security. From my point of view, I think the challenges and the nature of our work are very complex, and I think the more we can share with people, the better it will be understood.

Mr. Larry Miller: Thank you.

• (1755)

The Chair: Thank you very much.

Thank you, Mr. Miller. I would have given you more time if you'd brought some international prize-winning ice cream from your riding.

Voices: Oh, oh!

The Chair: Monsieur Dubé, you're next.

[*Translation*]

Mr. Matthew Dubé: Thank you, Mr. Chair.

My question is mostly for the officials from the Department of Public Safety and Emergency Preparedness, or perhaps for those from the Privy Council Office.

The minister claims that the power of the Prime Minister to review the reports seeks to protect classified information. Actually, the bill states that the information could be injurious to “national security, national defence or international relations”. Unless I'm mistaken, that definition seems much more vague to me. For instance, in terms of international relations, that might refer to information that puts the government in a tight spot.

Why was it written in that way? Why not simply specify that the Prime Minister could remove any classified information from the report?

[*English*]

Mr. Malcolm Brown: I'll let Ian respond on the drafting question, but I'll say two things very quickly. One is that I think on the nature of the information, the threshold would be very high. The expectation is that it's not just that it's inconvenient. The other is a specific suggestion you had in terms of classified: it's probably all classified. Much of the information that will be shared with the committee will be classified, and the degree to which agencies and ourselves are prepared to work with the committee to ensure that as much information as possible is released....

In terms of the specific wording, I'll turn to Ian.

Mr. Ian McCowan: Yes, the intent was to try to get as specific as possible in requiring that whatever the redaction is fits into one of these specific categories. These categories exist in other parts of statutes, but the aim was to be specific in tying a redaction request to a very specific rationale in subclause 21(5).

[*Translation*]

Mr. Matthew Dubé: In other words, you don't think it's possible to be more specific than that or to have a definition that would really limit that.

[*English*]

Mr. Ian McCowan: I think Minister Goodale indicated in answer to an earlier question that he was open to suggestions from committee members on any possible amendments he was willing to consider.

I would think in that spirit, if there is an alternate formulation that you think better captures the spirit and intent of what the minister's described, I imagine that they would certainly be willing to look at whatever suggestion you had.

Mr. Malcolm Brown: Certainly the intent is to be very economical with any redaction that might be required. You can look at examples in recent U.K. reports where it's a few words and in some places it's more, because of the nature of some of the reports they've done. In other cases, no element of a report is redacted even though it contains references to what I am sure my U.K. colleagues would view as very sensitive, but there's still a way to provide as much information publicly as possible.

[*Translation*]

Mr. Matthew Dubé: Thank you.

The other question I had is about the information we can access. For instance, in terms of the operational information that will not be disclosed, the existing definitions are vague, in the sense that everything implied by the information would also be restricted. That's what we more specifically call inferences. Actually, the legislation is there to prevent government employees from speaking.

Do you think it's really necessary to apply the same restriction to a parliamentary committee? That's actually very broad, given the information being shared with the committee. Why was it necessary to limit the information provided to such an extent?

[*English*]

Mr. Ian McCowan: Could you give me a few more specifics on the scenario that you're concerned about here?

Mr. Matthew Dubé: If I look at “special operational information”, for example, and all the idea of inferences also being part of that understanding in terms of access to information, my understanding is that it's broadly defined, specifically when we think of government employees and wanting to have the law be as broad as possible.

Why was it necessary to apply it that broadly to a committee of parliamentarians who are tasked specifically with review and oversight?

• (1800)

Mr. Ian McCowan: My colleague might have some more thoughts, but the objective of the statute is to give as much access to sensitive information as possible to parliamentarians. The flip side of that is that there are some checks and balances in terms of the information.

I think you're referring to clause 16 in terms of the reference to special operational information. In order for that to kick in, you would have to fit under, as you're aware, not only the definition of special operational information in the Security of Information Act, but you'd also have to have a determination that it was injurious to national security. Those two items together present a discrete requirement, two conditions that need to be met, which from the perspective of drafting is certainly a fairly contained requirement.

Was there something within the specifics of one of the elements of the SOIA that you were concerned about?

[*Translation*]

Mr. Matthew Dubé: My understanding is just that it's very vague. It may be interpreted in various ways and thereby block access to a great deal of information.

[*English*]

Mr. Ian McCowan: What I would say to that is if in fact during the course of the operations of the statute any of these exemptions are used in a way that the committee determines to be, in their sense of it, too heavy-handed, the committee can certainly make note of that in the report.

One of the checks and balances embedded here is that with the annual reporting mechanism it's possible for the committee members to aggregate, if you will, their experience in terms of dealing with the various agencies. If they determine, for example, that in relation to one department there is an issue in terms of how clause 16 is being applied, that's something they could make note of in their report.

Mr. Malcolm Brown: As I understand it, and my colleagues might want to intervene here as well, the phrase "special operational information" is actually very precise and it's quite narrow, and it's in the context of having a particular impact on an ongoing operation that is at a critical point, not that it would be indefinite but sharing that information at a critical point, or it might be information that is particularly sensitive to sources, and so on. It's actually quite a precise phrase, so it might be worthwhile exploring the context around that.

Mr. Matthew Dubé: Just really quickly, if I look at a list of things here that can be included in SOI, you have targets of intelligence agencies, signal intelligence capabilities, efficacy of encryption systems, protection of sensitive networks from foreign hackers. Don't all those things go to the core of the mandate of this committee, that this committee would want to look at?

Mr. Malcolm Brown: Yes, but it's the interplay of those issues along with the potential damage. The mere fact that those issues are subject matter that the committee addresses doesn't necessarily preclude those issues from being shared with the committee. I think the question becomes one where a head of the service, the RCMP, feels that there is a particular risk associated with it, and the practical obligation will be that the head of the service or agency involved will have to have an engagement with the committee. The committee can then say, no, we would still like to have that information. Then there's engagement with the minister.

Mr. Matthew Dubé: Beyond engagement, that's how it's defined, right?

Mr. Malcolm Brown: But it's in the context of a very specific and narrow understanding of that interplay of the risk. It's not just all information in that context, but also that the sharing of that information will be injurious to national—

The Chair: I need to stop you there.

Mr. Dubé rarely goes on long, so I gave him a little latitude today, but I'm afraid he's at the end of his time.

Mr. Spengemann.

Mr. Sven Spengemann (Mississauga—Lakeshore, Lib.): Thank you, Mr. Chair.

I'm going to take us back to a more general level. I'll just return to the minister's comments that our fundamental task here is to balance two public goods, our charter rights on the one hand and effective public safety and security on the other. I want to put it to you that probably the most important asset that we share as elected officials across to the bureaucracy is public trust, and it's public trust in government.

I want to ask each of the four representatives of our security establishments and agencies if you could give us your views on the expectation of this committee once formed and how it could help your organization to improve or strengthen public trust in government.

We'll go in the order in which you're listed on the agenda, starting with Commissioner Paulson.

• (1805)

Commr Bob Paulson: I agree with the premise of the question. It's absolutely vital to the success of our organization and our mission that we have the trust and confidence from Canadians in our ability to do our job. That comes from I think a detailed understanding of the complexities that attach to our work. In that regard, I think, we will be completely forthcoming with the committee on how we approach these national security investigations, what the challenges are, what the risks are, and in doing so broaden the ambit of understanding of those challenges. So I think it's a very important step.

Mr. Sven Spengemann: Thank you.

Director Coulombe, what are your views?

Mr. Michel Coulombe: I would agree with what Commissioner Paulson just said; it's to have a more informed discussion. For example, he mentioned challenges. What is the threat environment out there in terms of classified information? What is really the threat? What are the gaps in terms of tools available to us? I think you would have that informed discussion with parliamentarians and then the public would know that we can have that discussion with members of Parliament.

Mr. Sven Spengemann: Thank you.

Madam Lizotte-MacPherson.

Ms. Linda Lizotte-MacPherson: Thank you.

I think trust is absolutely essential for us to fulfill our mandate, trust with Canadians and parliamentarians. I think the role of the committee is key in terms of increasing awareness and understanding of the domain, particularly understanding the threat environment, and some of the gaps. This is a complex area, so I think a more comprehensive understanding and dialogue will be very beneficial.

Mr. Sven Spengemann: Deputy Chief Rochon.

Mr. Dominic Rochon: Not surprisingly, I'm going to agree with my colleagues, but I will say that it will be a welcome opportunity to provide a picture from the security and intelligence community. Often when something happens, we're often questioned either through the RCMP lens or the CSIS lens or the CSE lens. I think this will provide a nice opportunity for the security and intelligence community to speak with one voice, and the committee will have an opportunity to strategically look at the community as a whole. I very much welcome the opportunity to be able to have that.

Mr. Sven Spengemann: That's helpful.

I have a couple more specific questions, if I may, and I'll put them to whoever's wanting to answer.

With respect to international intelligence sharing, I'm assuming that in each of your four areas that's something you're invested in quite heavily; the security and intelligence establishment is heavily networked internationally. What constraints, if any, do you see with respect to this committee's ability to examine defects or even best practices in international intelligence sharing, because it involves other jurisdictions to which this committee would need access?

Mr. Ian McCowan: To the extent that the information is in the control of any of the departments, it's fair game for the committee to look at it. In order for the committee not to have access, one of the exceptions would have to apply, so either something in clause 14 or something in clause 16, but as long as it's in the control of the department it would be part of the discussion for the committee.

Mr. Sven Spengemann: To take that further, let's assume that there's an instance where intelligence should be shared with another jurisdiction, and that jurisdiction is not forthcoming to the extent it may have been in the past. Is it in your view within the ambit of this committee to then approach that other jurisdiction and make enquiries?

Mr. Malcolm Brown: I'm not sure I understand the scenario. The committee wouldn't be in receipt of intelligence any longer...?

Mr. Sven Spengemann: It may even be a scenario where intelligence is not shared that should have been shared.

Mr. Malcolm Brown: It's hard to know what you.... Proving the negative is a challenge, so I think it would be a—

Mr. Sven Spengemann: To put it in more simple terms, would the committee be in a position to approach another jurisdiction to make inquiries with respect to the quality and extent of the common practices of intelligence sharing?

Mr. Malcolm Brown: I think the committee would be free to approach whoever they would want. There would be no extra legal obligation on other countries to respond.

Mr. Sven Spengemann: Have there been any preparatory discussions with other jurisdictions in anticipation of Bill C-22, that this committee may make inquiry on the practice of—

• (1810)

Mr. Malcolm Brown: Partners are aware of our activities and the proposed legislation before Parliament.

Mr. Ian McCowan: What I'd say is that it's really up to the committee to decide where they want to go in terms of where they can explore. The statute gives them a certain range of powers and there are certain restrictions, but within this framework it's up to them to decide where they want to pursue, and we'll just have to see where they take it.

Mr. Malcolm Brown: I'm probably going to regret saying this, but I would put it in the inverse and ask how this committee—this committee of Parliament—would feel about these officials being called before a committee of another country.

Mr. Sven Spengemann: Sure, that's understood.

Mr. Malcolm Brown: I do think there's a flow to this.

Mr. Ian McCowan: The limits of the information in the statute, as you know, are focused on information being held by departments. I think it's an open question on just how far the committee could go in that direction, if that's where it chooses to go.

Mr. Sven Spengemann: It's culture change, it's evolutionary, and practices may dictate the outcomes in the future.

My last question, time permitting, is this. What constraints, if any, do you see in terms of public engagement in the area of security overall? We all represent this committee as being the link to the public, but in light of classification levels and a subject matter that perhaps is not well understood by the public, how good a link will this committee be to the Canadian public?

Mr. Ian McCowan: I think the annual reports will be an opportunity for parliamentarians to speak to Canadians once they have had a chance to immerse themselves in the issues, the documents, whatever issue they choose to pursue. Once they have done that, they're going to have a regular chance to write a report. Canadians will get a chance to see that report and what the committee's assessment is of the wider range of activities that are going on in this country.

The Chair: Thank you, Mr. McCowan.

Mr. Clement, you have five minutes—five real minutes.

Hon. Tony Clement: Okay.

I'm just going to drill down a little bit more, ladies and gentlemen, on the definitional issue. I can see both sides of this issue, “injurious to national security” as an example of that, where it's hard to define. The fear would be that, if we define it, something would be excluded that in essence shouldn't be excluded, or vice versa. That's the issue before us.

I'm reminded of the American jurist who said about another issue that you can't define it, but you know it when you see it. I understand that, but I think we should at least try to create some parameters that we can all live with. You see it in clause 16 and then in clause 21. In clause 16 it's part of "special operational information", plus "injurious to national security". Then in subclause 21(5) you have a whole list that includes disclosure "injurious to national security, national defence or international relations".

Something injurious to international relations could be.... I mean, somebody has to help us define that, because I can see us easily getting into a disagreement on what is injurious to international relations. That, to me, is even less defined than injurious to national security.

Deputy, perhaps you could expand your thoughts on how we could nail this down just a little bit more without getting into a situation where we've created a dilemma. I would appreciate your, or any of your colleagues', addition to this testimony.

Mr. Ian McCowan: I think you summarized the tension very nicely. Obviously, there are other risks that arrive with being more specific. I think Minister Goodale indicated that he was willing to look at whatever suggestions the committee might come up with in terms of alternate language. I think there are definitely some possibilities there.

I would make three points just in terms of clause 16, which was the subject of the earlier questions. First of all, it is a ministerial discretion. So assuming that the threshold and the task stays exactly the way it is right now, the minister of the crown who is responsible for the agency in question has to sign off that that standard has been met in the circumstances.

Second, if the committee is not satisfied with how that exception is being applied consistently across a period of time, they can make note of that in the report. Those are clear checks and balances that exist in the system.

My third point is just a clarification that the one reference to special operational information is defined in the Security of Information Act. So there is some precision around that particular term, but I take your earlier point that there are a number of the other thresholds that are cast at a higher level.

• (1815)

Hon. Tony Clement: Sorry, I don't have the Security of Information Act before me. Could we just read into the record what that definition is, if anybody has it?

Mr. Malcolm Brown: No, I don't actually have the definition. I'm sorry, Minister. I have a different section of the act in front of me for different purposes.

The Chair: Could we ask you to submit that?

Hon. Tony Clement: Mr. Coulombe might have it there.

Mr. Michel Coulombe: It's a long definition, because there are six or seven categories. I can provide a copy, if you want.

Hon. Tony Clement: It looks like I have it in front of me right now, so I'll review that in time.

Do we have time for Madam Watts to ask a question?

The Chair: She will get five minutes.

Hon. Tony Clement: I'm done with my questioning for now.

The Chair: Okay.

Let's push on to Mr. Di Iorio, *s'il vous plaît*.

[*Translation*]

Mr. Nicola Di Iorio: Thank you, Mr. Chair.

Thank you all for your valuable contribution and outstanding work.

My question is for Commissioner Paulson and Director Coulombe. If other people wish to add to the answer, that would also be appreciated.

Clause 8 states:

The mandate of the Committee is to review

(a) the legislative, regulatory, policy, administrative and financial framework for national security and intelligence;

(b) any activity carried out by a department that relates to national security or intelligence, unless the appropriate Minister determines that the review would be injurious to national security;

Something bothers me. The members of the committee are sworn to secrecy, correct? The members of the committee cannot disclose the information they receive. So if they cannot disclose the information they receive, how could sharing information with them be injurious to national security?

Mr. Coulombe, Mr. Paulson, in your organizations, people work in secret, in teams and a number of people are already familiar with the information. How would disclosing the information to seven or eight more people compromise national security?

[*English*]

Mr. Ian McCowan: Perhaps I could start, and then my colleagues can add in as they see fit.

Paragraph 8(b) is very much focused on determining whether or not there is a certain review, as opposed to information. At a higher level, is there a certain review of a certain matter that would be injurious to national security and, as a result of that, wouldn't be appropriate to pursue?

For example, if there was an act of ongoing operation where in some dimension of it there was a potential injury to national security and the minister determined, in these circumstances, that it was appropriate, there would be a limit there. But it could well be—when you are looking at the application of 8(b)—that, if the committee wants to look at a certain area, perhaps there is only 10% of what they want to look at that would engage 8(b), and there is 90% that could proceed. As they, then, proceed against that particular 90%, there are the subsequent provisions that exist in terms of access to information and exemptions that apply. But 8(b) is focused, at the higher level, just on determining whether there is a specific matter that, in and of itself, is beyond review.

I would invite my colleagues to comment further as they see fit.

[*Translation*]

Commr Bob Paulson: I have nothing else to add.

Mr. Michel Coulombe: I could provide an example. The problem is more related to the timing than to the sharing of information.

Take, for example, what happened on August 10. Had that lasted for three or four days and had it been a counterterrorism investigation—fast-paced with a lot of resources involved—and had resources been assigned to send information to the committee, that would have been a distraction from the operation in progress. In a case like that, we would ask that the review be postponed.

Once again, the problem has more to do with the timing than with the information being sent to the committee.

• (1820)

Mr. Nicola Di Iorio: My question is for Mr. McCowan.

In reading subclause 11(1), we see that there is no time limit. That's odd. Information is disclosed to the members of the committee, but there is no indication of how long they have to keep it secret.

[*English*]

Mr. Ian McCowan: They need to keep it confidential.

Mr. Nicola Di Iorio: Forever? Life?

Mr. Ian McCowan: Yes.

Mr. Malcolm Brown: There is the same requirement for public servants.

Mr. Nicola Di Iorio: So just as a lawyer carrying on his mandate has to retain the secrecy of whatever was entrusted in the course of his profession, it's the same thing here?

Mr. Ian McCowan: Exactly, and as my colleague noted, this is similar to the requirements that are imposed on public servants who have access to this kind of information.

Mr. Nicola Di Iorio: What if it is otherwise disclosed—for example, if WikiLeaks makes the documents public?

Commr Bob Paulson: Then I start an investigation.

Voices: Oh, oh!

Mr. Nicola Di Iorio: Then it's protected, because it comes back to national security.

Mr. Malcolm Brown: Then I think it gets interesting in the context that, if information is in the public domain, it gets very complicated. It's hard to give you a precise general response, because what might be in a WikiLeaks leak might be one slice of a broader piece of information.

This advice I wouldn't give parliamentarians or any member of the committee, but if a staff member or a former employee were to say, "Oh, well, it's on WikiLeaks, so I can talk about everything I've learned on that issue", I would counsel them to be very careful.

The Chair: Thank you.

Ms. Watts.

Ms. Dianne L. Watts: Thanks very much.

I have just three questions. In drafting Bill C-22, did each of the agencies provide input?

Mr. Malcolm Brown: Each of the agencies was briefed and kept informed. I think there was ongoing consultation. There was certainly close consultation...the role I play, or my department plays, in the portfolio, and other partners around town.

Ian, would you add anything?

Mr. Ian McCowan: As part of the development of the process, a range of actors who were implicated around town were consulted on the development of this.

Ms. Dianne L. Watts: Okay, so they were consulted and had input into the contents of the bill?

Mr. Ian McCowan: Yes, and also ultimately the legislative drafting section of Justice takes that and puts it into the frame that's before you now.

Ms. Dianne L. Watts: Okay.

Going across the country, we heard a lot from a lot of people in the five or six cities that we were in about the different organizations working in silos and just in terms of the different cultures in the different organizations. I do want to hear whether that sharing of information and working together is a factual statement or whether there's more work to do around that—and I don't want an answer from you two.

Voices: Oh, oh!

Ms. Dianne L. Watts: Is it just in terms of developing the relationships and sharing, or is there formal...?

I'd like a really brief answer.

Commr Bob Paulson: Maybe I'll start and talk about the sort of crucial relationship with the service and to a lesser extent with other partners. We have a very developed and sophisticated framework that has guided our relationship. It is a very successful relationship. It's very active. We're sharing and comparing information. For example, my colleague spoke about the events of the recent Driver case. That's a very good example of how we collaborated not only with the service but with the FBI and others. It's very active and strong.

Ms. Dianne L. Watts: Does anybody else want to add to that?

No? Okay. It's all good.

Bob, in terms of some of the resources that have been reallocated and moved into national security, can you talk about the gap that's left within the organization to fulfill other obligations across the country?

• (1825)

Commr Bob Paulson: I spoke to this committee the last time I was here in fact about the impact on our financial integrity work and organized crime work by taking those skilled investigators and bringing them to work on national security files. But it's always a question of priorities and assessing priorities. It has been a gap and a challenge in those other areas.

Ms. Dianne L. Watts: We also heard that pulling people away from border security meant there were gaps in the integrity of the border services. Is that a fair and accurate statement?

Ms. Linda Lizotte-MacPherson: We continue to look at what our priorities are, where the gaps are, and align and realign resources. That's something we do on an ongoing basis, depending on threats. We'll adjust depending on the needs.

Ms. Dianne L. Watts: Okay.

Thank you.

The Chair: I would like to take the chair's prerogative to ask one question of Mr. McCowan here.

With respect to clause 21, but elsewhere in the bill, it refers to the person of "the Prime Minister". I would like your understanding of the interpretation. Is that the person of the Prime Minister? Is it the Prime Minister's Office? I don't see any delegation and I don't see any other classified person, so I read it as only one person.

Mr. Ian McCowan: I read it the same way.

The Chair: Okay. I wanted to clarify that and have that on the record. We're not talking about the Clerk of the Privy Council. We're not talking about anybody else. It is the person.

Mr. Malcolm Brown: Yes. The Prime Minister is free to seek advice, as is any minister.

The Chair: Seek advice, and show the draft report from the committee of parliamentarians?

Mr. Malcolm Brown: Oh, is that the question you're asking?

Ian is the expert, but certainly in the context of a ministerial perspective, the minister will be seeking advice from officials when he is in a dialogue with the committee, or, frankly, with agency heads about what's appropriate information to share. He may choose not to take the advice of the agency heads and, in fact, direct them to share information. The minister will seek advice from a variety of quarters, with the role of the Prime Minister...

Mr. Ian McCowan: The Prime Minister is given this express power in the same way that ministers are given express powers elsewhere in the statute. He's capable of taking advice from different quarters, as ministers are, in terms of making various decisions under statute. In terms of the framing of the statutes, the decision is framed in terms of the decision of the Prime Minister.

The Chair: It's the decision of the Prime Minister. I'm just reflecting on Mr. Di Iorio's comments regarding privacy, secrecy, and those sorts of issues. When one asks for advice, they have to ask a question that is based on something. How does that happen? This feels different from a minister getting advice on other issues. I don't know whether it is, though. If it isn't, I would like to know that.

Mr. Ian McCowan: The Prime Minister would have to consult in terms of the nature of the information in question. I mean, you can't, obviously, consult in quarters where it wouldn't be appropriate to consult in terms of sensitive information. It sounds like you're interested in more detail on—

The Chair: To be clear, I'm not worried about this Prime Minister.

Voices: Oh, oh!

The Chair: You never know about the future.

Mr. Ian McCowan: If it would be helpful to the committee, I'm certainly willing to undertake to see if there is additional information that we can provide to the committee in terms of how this particular provision would be approached.

The Chair: I would like that. Thank you very much.

Mr. Mendicino, go ahead.

Mr. Marco Mendicino: I don't think I have much time, do I?

The Chair: Well—

Mr. Marco Mendicino: I don't in any way begrudge the chair for using his prerogative. If I had to share my time with anybody at this table, it would be him.

I would just say thank you to all of the witnesses for their evidence today.

The Chair: I was going to beg the committee's indulgence to go for three more minutes for you and three more minutes for Mr. Di Iorio, if the committee and the witnesses are willing.

Mr. Marco Mendicino: I'm happy to yield my time to Monsieur Dubé.

• (1830)

The Chair: Monsieur Dubé.

Mr. Matthew Dubé: I have one last question. I'll keep it short, being mindful of the later hour than we're used to.

[*Translation*]

My question is on subclause 8(b), which allows a minister to prevent an investigation.

Could you tell me what the reasoning is behind that provision? Many other aspects of the bill and pieces of legislation in force ensure the confidentiality of the investigation. It's confidential. Why would the minister prevent the members of the committee from conducting it to begin with, even though the report might not become public, depending on the various discretionary aspects subsequently exercised?

[*English*]

Mr. Ian McCowan: I can start, and my colleague can join in as he sees fit.

I want to give you a good answer to your question. If you look at other Westminster jurisdictions, take the issues of the reviewing of ongoing operations. A number of other Westminster jurisdictions don't allow that. A number allow for it in a more limited fashion than what's being contemplated here.

Given that this is a very broad potential right for the committee to pursue, there has to be a check and a balance in the same way that all of the other Westminster jurisdictions have checks and balances. Indeed, as I say, some of them, in the example of ongoing operations, don't even allow any of that to be reviewed by the committees that are parallels to the one that's being contemplated here.

In this instance, you would have to have a minister convinced that this threshold is met in a given instance. Perhaps it would only be met for a period of time, and after some period of time it would be possible for the committee to look at it, but the bottom line is that it's a check and a balance, which is similar to what you see in all other jurisdictions, again, based on the extraordinary brand of information that the committee would have at its disposal.

Mr. Malcolm Brown: I would very quickly go back to the example that the director of the service gave, which is an ongoing operation that, depending on timing, is at a particularly critical point, and the actual shift of the resources required to respond effectively to what the committee is asking is having a material impact.

It's a very high threshold. As Minister Goodale has said, regular exercise of this check and balance, as Ian has described it, will be a problem. I think you will expect to see it exercised very, very rarely. Certainly, the direction described by Minister Goodale is one that, if it were exercised, it probably would be very rare and temporal, as in "not that particular issue at this time but very soon, as soon as possible".

Mr. Matthew Dubé: Is that threshold defined or is it just assuming an ideal world?

Mr. Malcolm Brown: Again, it's like one of the other questions I had earlier. It's hard to create a definition that fits with every possible scenario. I think it is in the practice of that relationship that the minister has talked about—and that many members have—that relationship over time between members of the committee, the service heads, and the various ministers of the cabinet, that people will begin to assess, well, we know we're going to get to that point, so do we need to do that today or can we wait until that particular issue...?

There may be times where there is a conflict, and that's where the role of the minister will come in. It's hard to provide that kind of definitional precision, that is not, as Mr. Clement described...of you're defining something in, or you may be defining something out, as opposed to actually creating a forum where the members of the committee, the agency heads, and ministers actually have a dialogue, in a safe place that's secure, that says, "Well, here's the rea-

son." It's a very different context than what has traditionally governed the nature of the dialogue with parliamentarians, and a much more open one.

The Chair: Thank you, Deputy. I hope you see our committee as effective, and now magnanimous as well.

I don't want the committee to move for a minute. I have a couple of things I need to do.

It's great to be surrounded by such fine public servants, so on behalf of the committee, thank you not only for today but for your work on the safety, security, and human rights of Canadians.

Committee members, I want to make just one suggestion for a change to our calendar. We'll have a lot of quality time. We have four more meetings on Bill C-22 with witnesses. Right now, we have the amendments scheduled for November 23 at noon. I'm going to suggest that we move that to the end of day on the 23rd.

On the 25th, I have work with the clerk and analysts. On the 24th, we will receive the summary of evidence from the national security framework studies thus far. Unfortunately, that evidence won't be able to inform your amendments—I know you're already writing them—but it will be able to inform our discussion about the amendments when we come to clause-by-clause on Tuesday, November 29. Clause-by-clause was going to be on the 24th. We're moving it to the 29th so you can get the summary of evidence on the 24th and use it in your deliberations. Is that okay?

I have two more things. Mr. Dubé has presented a notice of motion. We will deal with that on Thursday at our meeting, so we'll take five minutes. I draw that to your attention.

I also want to note that it is Chad Richards' last day in working with Mr. Miller. He served Mr. Miller well this year, and he served our committee well.

Good luck with your next venture. Thank you.

Some hon. members: Hear, hear!

The Chair: The meeting is adjourned.

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