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Chair

Mr. Kevin Sorenson

Standing Committee on Public Safety and National Security

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• (1530)

[English]

The Chair (Mr. Kevin Sorenson (Crowfoot, CPC)): I call the meeting to order.

Good afternoon, everyone.

This is meeting 55 of the Standing Committee on Public Safety and National Security, on Monday, October 29, 2012. This afternoon we'll continue our consideration of Bill C-42, An Act to amend the Royal Canadian Mounted Police Act.

On our first witness panel we have, from the Government of Yukon, by video conference from Whitehorse, Mr. Thomas Ullyett. He is the assistant deputy minister of legal services.

Welcome. I trust you can hear us loud and clear?

Mr. Thomas Ullyett (Assistant Deputy Minister, Legal Services, Department of Justice, Government of Yukon): Yes, Mr. Chair, we can hear you very well.

The Chair: Thank you.

We're also pleased to have, here in our committee room today, from the Mounted Police Professional Association of Canada, Mr. Patrick Mehain, president, and Mr. Rob Creasser, media liaison for the British Columbia branch of the association.

I would welcome an opening statement from both groups.

Perhaps we'll go all the way to Whitehorse for the first one and invite Mr. Ullyett to make his opening comments.

Mr. Thomas Ullyett: Thank you, Mr. Chair, and members of the committee.

We're proud to appear before the committee. We're particularly proud because our member of Parliament, Ryan Leef, is a member of your committee.

The comments I make this afternoon are on behalf of Mike Nixon, Minister of Justice and Attorney General for the Yukon. Minister Nixon has asked me to make the remarks that follow.

I should say two things at the outset.

First, our comments today are of a more general nature. They are not technical comments on the amending bill, as such, on Bill C-42. We don't have any particular difficulty with the amending provisions as provided in Bill C-42.

Second, our comments are not particularly lengthy, but I'll provide, if I could, Mr. Chair, a brief opening statement.

The Government of Yukon is in support wholeheartedly of the changes that are found in Bill C-42. We are in support largely because the concerns that we've seen across the country in relation to the RCMP are concerns that are found in the Yukon as well.

We did our own policing review and issued a public report two years ago, in December 2010, called "Sharing Common Ground". Many of the findings in that report, and the recommendations, dovetail with the changes in Bill C-42, so we are very much in support of the effort that Parliament is making in this regard.

Mr. Chair, I should just stop there and ask how long you're anticipating I would have for opening comments.

The Chair: Generally we give a 10-minute range. Right now you're at two and a half minutes.

If you want to shut down before ten minutes, that's fine. Otherwise, when we get to ten minutes, I may try to get you to wind things down.

The committee would love to question you, as well, following your presentation.

Mr. Thomas Ullyett: Well, then, Mr. Chair, I will continue.

Like many places in the country, Yukon is now working under a new police services agreement. As you know, there is a new 20-year agreement in place. These changes come at a very opportune time. In fact, during the negotiation for the new agreements we now have, the need for reforms about many of the things contained in Bill C-42, including public complaints and internal disciplinary systems of the RCMP, were raised by the Yukon government and other contract partners. Certainly in terms of the discussions we had with our colleagues at Public Safety Canada, we anticipated that the RCMP's legislative regime would be changed. That was our understanding, so we are happy to see that come. We're also aware of the Reform Implementation Council's work and their recommendations made in that regard.

We certainly support the concept that it's difficult for an organization, much less a police organization, to change and move forward into the 21st century with archaic legislation. That's another reason we are supportive of the changes. As I mentioned a moment ago, Mr. Chair, Yukon had conducted extensive public consultations in 2010 on policing as part of the policing review. That policing review was instituted as a result of an in-custody death in police cells of a gentleman named Raymond Silverfox in 2008. That led to the RCMP, the Yukon government, and the Council of Yukon First Nations to collaborate on an extensive policing review, resulting in the report called "Sharing Common Ground" two years ago.

During the course of that review, we heard from members of the public about the internal discipline system and what they felt was a baffling and very opaque system, a system they generally found to be remote and inaccessible. This is what we heard from Yukoners with respect to the complaint process. It was also a system that did not seem to be tuned in to the cultural sensitivity and realities of policing in a northern remote area of Canada.

Many of the 33 recommendations, Mr. Chair, that are found in the "Sharing Common Ground" report relate to the very changes being made in Bill C-42, such as the internal disciplinary system and the public complaints system. As I mentioned, we are supportive of the changes because the Yukon public asked us to make changes, and we know the changes fall within federal jurisdiction. You would certainly hope that the new civilian review and complains commission will shore up what is seen as a gap in terms of complaints and by complainants with the system.

Here in Yukon, we ventured into arrangements with Alberta to establish a regime for the investigation of serious incidents involving RCMP members, utilizing Alberta's serious incident response team—ASIRT, as it is called. Certainly Bill C-42 is in sync with that, providing independent investigations for serious incidents and changing the policy into legislation.

• (1540)

Finally, Mr. Chair, I would say that the implementation of these legislative changes, we hope, will strengthen the partnership that we have as a contract partner with the RCMP and that the actual practice on the ground will be mirrored by the very good intentions that are set out in Bill C-42.

Those are my opening remarks. Thank you.

The Chair: Thank you very much, Mr. Ulyett.

We'll now move to our next guests, Mr. Mehain and Mr. Creasser, please.

Mr. Rob Creasser (Media Liaison, British Columbia, Mounted Police Professional Association of Canada): Thank you, Mr. Chair, and this committee for recognizing the need to hear the views of the rank-and-file members with regard to Bill C-42.

My name is Rob Creasser, and I am the national spokesperson for the Mounted Police Professional Association of Canada and a retired 28-year member of the RCMP. With me is Corporal Patrick Mehain, a current serving member in Coquitlam, B.C., with 15 years of service.

One major problem that exists in the RCMP is the tremendous power imbalances within the organization. Bill C-42, rather than mitigating these issues, will only make them exponentially worse.

Staff Sergeant Abe Townsend, when asked about whether the staff relations representatives were consulted on Bill C-42 during the drafting stage, stated they had not been, yet in the commissioner's own testimony before the Senate Standing Committee on National Security and Defence in Ottawa on June 21, 2012, he stated that he views the SRR program as vital in the RCMP.

This dichotomy is not a surprise to us, because this is the way the consultative process works in the RCMP. Management only consults when they want their directives transmitted to the rank and file, yet the staff relations representatives still hold out hope of meaningful consultation. In the meantime, members of the force continue to face bullying, harassment, and undue delays in resolving their grievances.

While there are many provisions of concern in the bill, we will focus on four major headings under the following: charter violations, independence of the RCMP from political interference, extreme powers given to the commissioner, and women's issues and harassment. We will also provide three simple steps to remedy the major issues of harassment, intimidation, and bullying in the RCMP while making it more accountable.

Under charter violations, with reference to ordered statements and proposed subsections 40(1) and 40(2), the requirement that compels a member to make a statement even if it is self-incriminating is contrary to charter rights and must be removed.

Ex parte warrants for the discipline process under proposed subsection 40.2(1), again, are a violation of the charter rights of members against unreasonable search and seizure. It is surprising, because by Commissioner Paulson's own testimony police officers had a vital role to play in drafting this bill and yet these very obvious charter violations, which RCMP members would not be allowed to commit during criminal investigations, are somehow okay when it comes to dealing with citizens who are members of the force.

On independence from political interference, the appointment of the commissioner and deputy commissioners at pleasure in proposed subsection 5(3) opens the office of the commissioner up to the problem of political interference in police matters. The commissioner and deputy commissioners of the RCMP should serve at the pleasure and be answerable to an independent bipartisan parliamentary committee in order to prevent the RCMP from being used to promote political motives.

Chief Superintendent Craig MacMillan highlighted various problems in the RCMP in his doctoral thesis, "A Modern Star Chamber: An Analysis of Ordered Statements in the Royal Canadian Mounted Police", yet Chief Superintendent MacMillan has completely gone against his own research into the culture of the RCMP in helping draft Bill C-42.

This highlights yet another of the main issues that Bill C-42 does not actually remedy, this one being that the current promotion system has been used very effectively to silence those members who point out issues, first by promising promotions and then, when that does not work, by threatening their careers by withholding job and promotional opportunities.

On national security, under proposed subsections 31(1.3) and 31(1.4), the Minister of Public Safety has the right to direct the RCMP to take an action under the guise of national security, but the minister does not have to provide any evidence of the threat. The RCMP has been ordered to violate existing Canadian law in terms of the use of torture-related info. As police officers, we are sworn not only to protect life and property but also to bring those who violate our laws to justice.

● (1545)

Terrorism is a concern, but we can draw from the experience of our compatriots across the pond in the United Kingdom and set up a national security committee, which would include members from all political parties in Parliament and would also have as members the heads of the RCMP, CSIS, CBSA, and CSE, as well as special judges who would hear the evidence the government has and make the final decision. That way we involve those entrusted with national security and also those who are sworn to protect Canadian and international law decisions.

On power given to the commissioner, here we refer to proposed paragraphs 20.2(1)(c), 20.2(1)(e), 20.2(1)(g), 20.2(1)(i), and 20.2(1)(k) and proposed subsections 20.2(3) and 20.2(4). The Commissioner of the RCMP has always had the ability to get rid of members who have contravened their sworn duty to uphold the law. We agree that this process needs to be streamlined, but Bill C-42 gives the office of the commissioner much too much power. The RCMP has had problems with commissioners who have abused this power in the past.

We also have concerns with the requirement for a member to attend a doctor of management's choosing.

On firing people for economic efficiency, the force spends tens of thousands of dollars to recruit, train, and equip members, and then it fires these members, thus essentially flushing the money spent and the investigative experience gained by these members down the drain. When times improve, we have to spend taxpayers' money to start the process all over again. This provision also leaves the employment of members open to the problem of becoming another tool for harassment and bullying by managers.

Another issue is the power of the RCMP commissioner, under proposed subsection 20.2(4), to delegate authority to subordinates for dismissals. The RCMP is predominantly made up of small work sites—detachments—so quite low ranks could be making decisions that reflect the entire force, yet training is sorely lacking.

Finally, on women's issues and harassment, there can be no grievance in respect of the right to equal pay for equal work under proposed subsection 31(1.2). Gender discrimination and harassment are two of the most troublesome areas in the RCMP. This provision in the bill actually works to legitimize the problem of treating female and minority members in the RCMP as being unequal members in the force.

Under Bill C-42, there is no provision for the protection of whistleblowers within the force. Bill C-42 expressly prohibits a member from speaking publicly about issues within the force and lays out sanctions that the member will face for doing so.

If Bill C-42 is passed in its current form with the charter violations and avenues for continued abuse of power by managers, rather than correcting the issues that have plagued the RCMP, our Parliament would be promoting the bad behaviour and cronyism by legitimizing this type of behaviour.

In Chief Superintendent MacMillan's doctoral thesis, he stated:

One finding from the research is that the form of employee representation in the R.C.M.P., which was created, paid for and run by management, contributes to the actual or perceived vulnerability of members. Unlike other police employees who enjoy some protection by membership in an employee association, this feature is lacking in the R.C.M.P. Members simply do not have the numerical, moral or financial support to challenge improper actions by management. Denying the right to choose the form of employee representation by members undermines the R.C.M.P.'s newly proclaimed empowerment and management philosophies.

If Parliament is truly interested in beginning the process to address the problems that currently plague the RCMP, there are three simple and yet powerful steps that can be taken.

● (1550)

The first step is to bring in a process of collective bargaining to deal with employer/management-labour relations in the RCMP.

The second step is to bring in a process of independent binding arbitration to resolve grievances that cannot be resolved between management and labour. Make sure the arbitrator is independent of the influence of government, Treasury Board, RCMP management, and RCMP labour representatives. In the Vancouver Police Department, for example, grievances take, on average, a maximum of 28 days to be settled. The RCMP process takes much longer, and some have gone on for seven years or more.

Finally, the third step is to enact legislation that repeals section 96 of the RCMP Act and thereby allow the members to have the ability to have a free and truly democratic vote to elect independent, member-funded labour representatives.

The rank-and-file members of the RCMP are proud to serve the citizens of this country in all capacities, from the municipal level to international areas. All we ask is to be treated with the same dignity and be afforded the same rights as every other Canadian citizen.

Thank you.

The Chair: Thank you very much, Mr. Creasser.

We'll move to Mr. Leef for the first round of questioning. You have seven minutes.

Mr. Ryan Leef (Yukon, CPC): Thank you, Mr. Chair, and thank you to all of the witnesses for attending.

Good day to Mr. Ullyett and Mr. Ford in Whitehorse.

Mr. Ullyett, I have in front of me the executive summary for the “Sharing Common Ground” report you referred to in your opening statements. I’ll read a quick sentence here, to put some things into context.

Part of the first page in the executive summary

SAYS: We have heard many accounts of policing excellence, including stories of RCMP members going above and beyond their normal duties. The purpose of the Review is to improve the quality of policing services for all citizens in the territory.

A bit further on, they recommend the establishment of Yukon Police Council, with a mandate to ensure that community needs and values are reflected in territorial policing policies and practices....

Then they recommend a makeup of that kind of council. Is there any appetite or effort right now in Yukon to have a separate police council, or is the government currently satisfied with using the current processes?

Mr. Thomas Ullyett: Thank you for that question, Mr. Leef.

Following the recommendation in the “Sharing Common Ground” report that a police council be established, the government did move forward to establish an independent police council. That council has met on a number of occasions. It has done some public consultations, all with a view to providing recommendations to the Minister of Justice. Those recommendations have either just been provided or are imminent to Minister Mike Nixon.

I can say, Mr. Leef, that I did attend one of the public sessions of the police council convened in early September at the Kwanlin Dün First Nation Cultural Centre in Whitehorse, and I was quite amazed by the number of groups and individuals who had come forward to speak to the council.

Does that answer your question?

Mr. Ryan Leef: Yes, it does, absolutely.

In part of those meetings, now or in the future, will the public there be made aware of any of the recommendations and changes in Bill C-42, outside of the efforts that I make in the territory?

Mr. Thomas Ullyett: Most certainly they will, through a number of mechanisms, most generally through the Yukon Department of Justice website, where we have a specific number of pages. We also have a specific site for the Yukon Police Council, and there is also general advertising, both traditional and through social media.

● (1555)

Mr. Ryan Leef: I brought up several times in committee that a lot of these things tend to shift their focus on the needs of the community members, or at least the focus of conversation doesn’t always shift to the front-line members of the RCMP.

In these consultations, have you heard from front-line members of the RCMP? Particularly during the police review, did you hear from the front-line people who deliver policing services in the communities in the Yukon? If so, what were their comments?

Mr. Thomas Ullyett: During the policing review, one of the three co-chairs was the commanding officer for M Division, Peter Clark. Through that review, an incredible number of comments were received from the general public, but it did not by any means

preclude the front-line members, as you say, of the RCMP. They have had opportunity, and have exercised that opportunity, to provide comment.

I expect that will continue in the future.

Mr. Ryan Leef: Great. Thank you very much for that.

Mr. Creasser—did I enunciate your name correctly, sir?

Mr. Rob Creasser: Yes, sir.

Mr. Ryan Leef: Thank you.

You mentioned in your statement the charter violations section. Perhaps we can quickly go back to that aspect. Are you saying there’s a section in the act that is ordering statements on members when there are Criminal Code violations conducted by members that is superseding the fundamental rights of the Charter of Rights and Freedoms?

Mr. Rob Creasser: I believe it’s under section 7.

Chief Superintendent MacMillan noted in his thesis, when referring to ordered statements, that even in code of conduct matters that don’t involve the Criminal Code per se, these statements can be used in subsequent civil and other processes. That’s obviously a concern to us.

We understand the need to be accountable for one’s actions. In Chief Superintendent MacMillan’s thesis, he looked at other police departments, and he found that, to be honest, there wasn’t the need for these types of statements, and that they were able to effectively investigate their members without the necessity of an ordered statement.

Mr. Ryan Leef: Okay.

How much time do I have, Mr. Chair?

The Chair: You have about 30 seconds.

Mr. Ryan Leef: Thank you.

You had touched on that, and I just wanted to clarify it. I was thinking that the charter would still apply in the Criminal Code aspect of things, and I think you clarified a bit in terms of whether or not those sections of the Charter of Rights and Freedoms would actually apply.

You really did focus a lot on the negative aspects of what you see. Is there anything positive that you see coming out of this legislation?

Mr. Rob Creasser: Absolutely.

I think you have to look at the RCMP front line as also being stakeholders in this process. I think it’s alarming that you have 24,000 people who are going to be clearly affected by this legislation, but there was no consultation prior to getting to this point. You have about 120 pages of legislation. It would have been nice to have been in on the ground floor.

The Chair: Thank you. We’ll leave it at that.

We’ll go to Mr. Garrison, please, for seven minutes.

Mr. Randall Garrison (Esquimalt—Juan de Fuca, NDP): Thank you to both of the witnesses for appearing today.

I want to start with a quick question to Mr. Ullyett regarding policing in the Yukon.

Are there any RCMP who police in the Yukon who are not under your contract? In other words, are there RCMP officers stationed there who do federal policing responsibilities that are not under your policing contract?

Mr. Thomas Ullyett: Yes, Mr. Garrison, that is certainly the case. The great majority of police officers here are under the police services agreement, but some are not.

Mr. Randall Garrison: You referred to your agreement with Alberta to have civilian investigation of use-of-force incidents. Is that agreement only for those who are covered under your contract, or does that include all of the incidents that might take place in the Yukon?

Mr. Thomas Ullyett: Just give me one moment, sir, to make sure I have an accurate answer for you.

We believe the agreement with Alberta concerns all serious incidents.

• (1600)

Mr. Randall Garrison: That's whether or not it was someone policing under the contract or doing federal policing.

Mr. Thomas Ullyett: That's our understanding.

Mr. Randall Garrison: The question we asked other witnesses who work at the national level was whether or not that provokes any problems with federal policing across the country, but that's not really a question I can pose to you. Thank you for clarifying that point.

I'd like to turn to our other witnesses and say very much how we appreciate your being here. We have had very little chance to hear from rank-and-file RCMP members. I appreciate that it may not always be the most comfortable position to come and testify before a parliamentary committee, whether you're a retired member or a serving member, so thank you very much.

I think it was a very clear presentation. Some of the things you talked about are actually beyond the scope of the bill, unfortunately. The questions of collective bargaining and the repeal of section 96 are, I think we've agreed at the committee, beyond the scope of this bill for various reasons.

What we're trying to look for on our side are some improvements to the bill. One of the things that others have expressed some concern about is whether the streamlining of the disciplinary process would allow time for dispute resolution or adequate appeals for the members.

Could you say a little bit more about this streamlined process?

Corporal Patrick Mehain (President, British Columbia, Mounted Police Professional Association of Canada): The issue we see with Bill C-42 is that streamlining takes away from the due process that all members should be entitled to with regard to a fair hearing, etc.

The way we look at it is that the commissioner and his officers are able to make decisions based on whether you provide a statement or not. They could make a decision that could affect your career, fire

you, or do anything they want, so you either have to testify or ultimately you could face a decision of being fired.

One of the problems with the grievance system we have is that, as the RCMP, we can grieve anything. If I don't like anything, I can grieve absolutely anything.

We agree that this whole process needs to be speeded up and addressed and certain things designated that can or cannot be grieved. The problem we have, as you stated, is outside the scope of this bill. There is too much that isn't addressed or isn't under our collective agreement that we can understand. As a member, I can say I understand I can do this or that, and management can say they understand they can do this or that.

One of the problems we have had historically is that we're supposed to be governed by the Treasury Board, yet there is a caveat in every part of the RCMP Act that allows the commanding officer or the officer in charge to change that ruling simply because it makes his business line much better or more effective, regardless of the fact that we're supposed to be governed by Treasury Board. The way we see it is that the bill, as it is now drafted, provides the commissioner too much power. As Rob stated earlier, the commissioner has always had the ability to fire people. That has never been an issue.

Mr. Randall Garrison: Would you think it would be a significant improvement if the external review committee recommendations, when the committee was dealing with disciplinary measures that might involve dismissal or some other serious impact on a career, were made binding on the commissioner?

Cpl Patrick Mehain: We're always seeking an independent, binding resolution. Too often we hear the commissioner or senior management or whoever is making that decision say it's nice that you're giving me this recommendation, but I don't really necessarily agree with it. If it's binding, absolutely. If it's binding, fair, and independent... Our fear is that it's going to be a binding recommendation made by a group of officers or people who have some sort of influence on the actual situation. That's the fear we have.

Mr. Randall Garrison: But you would be happier if it were the external review committee.

Cpl Patrick Mehain: Absolutely.

Mr. Randall Garrison: Okay.

What I was going to ask you about you have talked about already, and that concerns the powers of the commissioner. When you raise these charter questions, do you see those two things as related? In other words, do you think it gives the commissioner too much power to order those things that would violate rights? Are those two linked?

Cpl Patrick Mehain: Absolutely. The charter allows due process for the average citizen of the country, so simply because we wear the red serge does not mean that we aren't entitled to that same process. Whether it's an internal process or a criminal code process, that doesn't mean we shouldn't have those same protections under the charter.

If you give a man supreme power to make absolute decisions without due process, due consultation, you'll inevitably run into situations in which that charter or those rights have been violated.

Mr. Randall Garrison: You'll have to excuse me, but are these new powers that you are saying do not exist at the present time?

•(1605)

Cpl Patrick Mehain: The commissioner already has the power to fire people, so this is expanding his power by removing a few policies that are in place that make him go through certain steps to ensure due process.

Mr. Randall Garrison: Right now there is not an ability to compel statements, but if you don't give a statement, the commissioner could still fire you.

Cpl Patrick Mehain: Yes, if you don't provide a statement the commissioner can still find against you.

Mr. Randall Garrison: Yes, but right now he can't technically compel a statement.

Cpl Patrick Mehain: It's not written in there that—

Mr. Randall Garrison: It's not in the law.

Can you say a bit more about the *ex parte* warrant? Is that about search and seizure of evidence in a complaint or a disciplinary charge against the member?

Cpl Patrick Mehain: That's correct.

The Chair: Time's up, but go ahead.

Cpl Patrick Mehain: In the bill the commissioner or the investigator would have the power to go to court and say there's evidence of something in this officer's house and they need to go in and seize all his property, based on the RCMP Act internal complaints process, whereas—unless you correct me—I do not believe you can do that at present.

The Chair: All right. Thank you very much.

We'll come back to Mr. Norlock, please, for seven minutes.

Mr. Rick Norlock (Northumberland—Quinte West, CPC): Thank you very much, Mr. Chair.

Through you to the witnesses. Thank you for appearing today, both by video conference and in person.

Having 20 years of police experience, I think I can relate to some of the things you're saying.

With regard to the charter and making statements, under the police act in some provinces, such as the Police Services Act in Ontario, as a condition of your employment you keep a notebook. That notebook is owned by the citizens of Ontario, not the individual officers, and what you put in there is basically a work record. I think it is necessary, therefore, to state that when we're sometimes talking about an officer giving information against himself, 90% of the time it's the information contained within the notebook, or the notes relating to your investigation. That investigation is a matter of work record.

You mention the charter. I always speak as if we're speaking to the people at home who don't understand. In Ontario, of course, it's a little bit of a different situation, so when you say charter rights, are you referring to a police officer who has been charged with a criminal code offence? Is that what you're referring to—that it's

against the charter for that officer to give information against himself?

Cpl Patrick Mehain: That is correct.

Mr. Rick Norlock: That is correct, but you're not referring to information that he or she has gleaned from their investigation.

Cpl Patrick Mehain: No.

Mr. Rick Norlock: Okay, thank you very much.

I think it's important to make that distinction. Some people, such as the average civilian who is not a police officer working within the police community, wouldn't understand that.

To go back to Bill C-42, I am interested to know why you don't believe that a timely resolution to problems or complaints wouldn't be in the best interests of the officers themselves. This committee has heard evidence from other witnesses....

Mr. Creasser, these questions are for Mr. Mehain, since he's a serving member, but please feel free to kick in if necessary.

In your opening statement you said it has taken up to seven years. Under proposed Bill C-42, many or most of these complaints would be dealt with in a far more expedient manner. I'm interested to know why you don't think that's a good thing.

Cpl Patrick Mehain: We do think that's a good thing. What we're saying is that Bill C-42, the way we have read it, provides an avenue for a speedier investigation against a member without that member being able to defend himself.

The complaints that go on nowadays have gone on for the last 15 years. They have gone on since the inception of the RCMP. There is a grievance process in place under which a member has 30 days to file a grievance. They are then given set deadlines to respond.

Management has zero deadlines. The reason the grievance process goes on and on isn't because of the membership: it is because management is too busy, because they have everything else and this is thrown at their lap, or they don't care or are somehow implicated in the complaint.

Mr. Rick Norlock: The way I understand it, Bill C-42 also encourages management—as a matter of fact, it legislates management—to make decisions in a timely manner. In what you referred to that happened in the past against a member, the member may very well be innocent. If it takes seven years, that member is living under the weight of an accusation. In my experience, most or many of these complaints or grievances, when investigated, usually come out to the benefit of the officer.

Isn't it better to have a timely response? You say yes, it's timely, but there is no demand on management to give a timely response. My reading is that it legislates management to give that timely result. You can elaborate somewhat on the answer because we have a couple more questions, but isn't it better than what you have now? At least it's moving in the right direction.

In other words, you may not have the full loaf of bread, but it's better than what you have right now. Would that be correct?

•(1610)

Mr. Rob Creasser: I think, sir, you are correct, but only in terms of the timeline. I think a speedy timeline is beneficial. Having been under the weight of one of those complaints that dragged on and on for years, I can tell you it does drag on you. I think the bill has improvements in that resolution period, yes.

Mr. Rick Norlock: I would like to go back to some of the testimony we heard from Ian McPhail, the current interim chair of the Commission for Public Complaints Against the RCMP, who recommended that since members of the commission are provided immunity for exercising their duties and powers, those same immunities should be extended to the chairperson.

Would you see having this immunity as beneficial to the chair of the commission in his or her duties? In other words, as you have said in some of your intercessions here, it would be so that they wouldn't have undue pressure put on them.

Mr. Rob Creasser: I would agree with that. I would think the chair should be immune.

Mr. Rick Norlock: Mr. Mehain, do you agree?

Cpl Patrick Mehain: I agree.

Mr. Rick Norlock: Thank you.

This question, once again, is more for people at home.

Canadians have asked for action in regard to the behaviours of a few. I think it's important for everyone out there to know that it's only a few of the thousands of RCMP, a few of the individuals within the RCMP. Our government is trying to give Canadians that assurance.

Do you not believe that it's a positive step to implement immediate amendments to the discipline process as we perhaps work towards an even better system in the future?

The Chair: Thank you, Mr. Norlock.

Go ahead, Mr. Creasser.

Mr. Rob Creasser: I think it's important that it does happen quickly, but one of the disturbing issues for me is that up until this point, the official representatives of labour relations in the RCMP knew nothing. I can tell you that the members out there who are educating themselves about the RCMP or this new bill are calling it the Patriot Act for police. They're worried.

I think everybody would have been much more comfortable if the members, the 24,000 employees of the RCMP, had been viewed as stakeholders in this process. Having worked alongside some of those people who have been in the media for all the wrong reasons, I am very vested in making sure they don't work alongside me.

The Chair: Thank you, Mr. Creasser.

We'll now move to Mr. Scarpaleggia, please, for seven minutes.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Thank you, Chair.

Mr. Creasser, this has been a very interesting presentation, because you've made it very concrete. Up until now we've had a lot of talk about organization charts and process, and this really makes it real in many ways.

You made the statement—and correct me if I misunderstood—that the people representing RCMP on labour issues don't know much or aren't aware of much. I don't mean to put words in your mouth and I know you weren't trying to be disrespectful, but do you say they don't know what's going on? I know you didn't mean it in those terms.

Mr. Rob Creasser: Simply to clarify, sir, they may well be aware of the bill, but that certainly has not been communicated to the 24,000 employees. They may well be aware of what's taking place, but communication about this bill has not been transmitted to the front-line membership.

•(1615)

Mr. Francis Scarpaleggia: Do you feel that if you had a veritable union, in the strict sense, this problem would not occur? I mean if you were unionized in the strict sense.

Mr. Rob Creasser: I think there would be more engagement from our members, yes.

Mr. Francis Scarpaleggia: I agree with Mr. Norlock. There are problems within the RCMP, but we don't want to tar the vast majority of superb officers with the same brush. That's not what I'm trying to do, but we know there are problems, and you mentioned the fact that there are problems in the current culture.

I'm not quite sure I understood what you feel are the root causes of those problems, of that imperfect culture. Some people have told us that if we have a culture in the RCMP of letting things go by, it's because the arbitration processes are too long. The minority of members who have done something wrong feel this will go on for years and there's not going to be any sanction, really, and this sends a message to everybody else in the organization that complaints may not amount to much or be taken seriously for a long time.

You're saying these processes that we have today are due process—you call them due process—and maybe they have to be strengthened. I'm only trying to understand what you feel the reasons are for the current situation inside the force.

Mr. Rob Creasser: First and foremost, most of the high media profile issues that we're focusing on as matters that have obviously caused concern to the public and for us deal with the front line.

I have to tell you, sir, that probably a couple of the worst days that I experienced in my service occurred when I was in the public accounts committee room when former commissioner Zaccardelli and current Deputy Commissioner Barbara George testified before that committee. I have never been more ashamed to be a member of the RCMP than I was in those two days.

Commissioner Zaccardelli lied to the committee. Deputy Commissioner George gave such misleading testimony that I'm sure if she had been in front of a provincial court judge, she would have been found in contempt. As it was, she was found in contempt of Parliament.

So the issues are not only the ones that make the newspapers.

Also, to address your issue about culture, in Chief Superintendent MacMillan's thesis, he said the following:

Although police are frequently considered to be a homogenous occupational group with the same interests at all levels, this thesis shows this is not the case. Due to history, tradition and rank structure, the RCMP is a perfect example of two cultures operating within a single police structure.

Mr. Francis Scarpaleggia: So there is one culture that is appropriate and good, and there is another that is, I suppose, harming the force. Is that what you're saying when you say there are two cultures?

Mr. Rob Creasser: Well, the cultural difference I was referring to, sir, was the management executive versus the front-line operations.

Mr. Francis Scarpaleggia: Right.

How did the executive culture become so negative, from your point of view? How did that happen?

Mr. Rob Creasser: To be honest, they've never been held to account, not to the same level. There is a saying within the organization that the further you move up in the rank structure, the less accountable you are for your actions. I firmly hold to that belief.

Mr. Francis Scarpaleggia: But if the minister has the power to dismiss the commissioner—

Mr. Rob Creasser: Does he?

Mr. Francis Scarpaleggia: Well, we were talking about how the commissioner serves at the pleasure of the government, so he or she has the power to dismiss, I would think. However, that's something you disagree with, because you feel that compounds the problem in some way, so I'm not clear on what the answer is.

You say that a committee of Parliament should do the hiring of the commissioner for a fixed term, but as a practical matter, if you have a majority government, the government is going to be a majority on the committee. It's simply an extension, in many ways, of the will of the government, so it's not clear to me where the answer lies from your point of view.

• (1620)

Mr. Rob Creasser: The view of the association would be that you keep government out of it. If you're going to hire a leader, you create a board made up of, say, police chiefs from across Canada. You shortlist a bunch of candidates and come up with the best candidate, and you keep Parliament out of it.

Mr. Francis Scarpaleggia: I think that is the way it works in municipal forces.

Mr. Rob Creasser: Yes.

Mr. Francis Scarpaleggia: That's fine, Mr. Chair. Thank you.

The Chair: You still have time for an answer if you want to elaborate.

Mr. Rob Creasser: Well, he's correct. It does work that way in other....

I'm concerned, and our membership is concerned, about politics interfering with our organization at the highest levels.

The Chair: Thank you.

We'll now move to the second round of questioning. These are five-minute rounds.

Madame Doré Lefebvre is first.

[*Translation*]

Ms. Rosane Doré Lefebvre (Alfred-Pellan, NDP): Thank you kindly, Mr. Chair.

I want to start by thanking the witnesses for joining us today, both in person and from Whitehorse, up north.

If you don't mind, my questions will be for the gentlemen who are sitting around the table today, Mr. Creasser and Mr. Mehain.

Bill C-42 supposedly tackles sexual and psychological harassment, or workplace harassment in general, within the RCMP. Will it really change anything in terms of the sexual and psychological harassment that goes on?

[*English*]

Cpl Patrick Mehain: We haven't seen any change since Commissioner Paulson came in and said he was going to get rid of the dark-hearted people. It continues today.

The commissioner sent an email to Staff Sergeant Chad out in British Columbia because he responded to a video message the commissioner sent out to the RCMP talking about his concerns related to the force. Staff Sergeant Chad responded, and the commissioner took it upon himself to belittle him in an email, telling him he was doing a disservice to him and asking how he dared to talk to the commissioner in that manner.

If that isn't rank with intention of harassment in asking exactly who he is in talking to the commissioner, I don't know.

It starts at the top. The commissioner hasn't done anything yet, and it may be because he doesn't have the power and the processes in place. That really doesn't help the situation, but there has been no serious change in regard to what's going on.

Several complaints have gone ahead; it's all been window dressing, saying how they're going to deal with it, yet nothing has been done. It still goes on. There are still multiple complaints coming forward.

[*Translation*]

Ms. Rosane Doré Lefebvre: Even if Bill C-42 were to give the commissioner more power, it would not change the facts or necessarily prevent harassment within the RCMP?

[*English*]

Cpl Patrick Mehain: It may, but part of the problem is that it's management, whether that's a non-commissioned officer, a corporal of my rank, or all the way up to the commissioner. We're generally the ones who are conducting the harassment, because you're the supervisors.

There is a big fear among the membership to say anything against their bosses for fear of being classified as a troublemaker, a problem child, or whatever. Those managers, whether they're corporals, sergeants, staff sergeants, officers, or whatever, continue to harass through giving them negative duties to do, or assignments they don't really want to do, or making belittling comments, or going over their work with a fine tooth comb, simply making it generally troublesome for them coming to work. It happens today. It's still going on. Members have told me, prior to my coming here, that they won't be complaining; there is no point in complaining, because nothing is ever done.

With regard to Bill C-42, if members aren't allowed to speak or aren't allowed to blow the whistle, nobody is going to be talking, so while you've effectively muzzled the RCMP and got rid of the problem by shutting us all up, it doesn't take away the difficulties.

[Translation]

Ms. Rosane Doré Lefebvre: I understand.

When you read Bill C-42, you see that it gives the commissioner the flexibility to go back on decisions made by the review committee further to its recommendations. That is already the case. In my view, that is what happens most of the time. One witness told us that more than half the cases were reviewed by the commissioner after the recommendations had been made.

Do you think a measure like this will help change the culture internally? A number of members have told us that a cultural change on the inside is necessary. Will Bill C-42 and its measures help bring about that cultural change within the RCMP?

• (1625)

[English]

Cpl Patrick Mehain: I guess time will tell.

As you said, the commissioner already has the ability to review and agree or disagree with the external review committee. Honestly, I don't know. I'm hopeful.

We would like the bill in place to modernize the RCMP Act, but we have concerns with certain aspects of it. Our concern is that it gives management, specifically the commissioner, much too much power. He has to have his power reduced, in our opinion, as opposed to increased.

[Translation]

Ms. Rosane Doré Lefebvre: Briefly, I want to come back to sexual harassment cases. Unfortunately, there have been many in the RCMP. It's a shame to see. I know that in other police forces, things proceed more quickly and sexual harassment cases are largely prevented. That isn't the case with the RCMP.

Do you have any comments on that or solutions you can suggest?

[English]

Cpl Patrick Mehain: The investigations are still ongoing. Every time something has come forward, a sexual harassment complaint or a harassment complaint, it is taken fairly seriously. That is my perception of the situation.

You know, investigations need to be investigated. One of the problems has been that members have not come forward with those

harassment complaints or sexual harassment complaints because they felt it was pointless, nothing was going to happen, and the member perpetrating the harassment wouldn't be dealt with fairly or properly, so why would they put their career at risk?

The Chair: Thank you very much.

Before we go to the next question, I have one question that I would like to put.

Earlier you were talking about the ordered statement. Your concern was that you felt that the ordered statement could be used against you in a further civil or criminal code charge. However, the act already says that you're compelled to give a statement but that the statement can't be used against you. That's what the RCMP Act says now.

How do you believe that this bill changes that? I can't see any change in Bill C-42 that would change that. In the old act it says you're compelled to give a statement but that the statement, under no circumstance, can be used against you in a criminal charge or civil suit.

Cpl Patrick Mehain: It is. It is on a regular basis. Regardless of what that says, it's used on a regular basis against the member, no matter what the legislation says. Regularly, we're investigated.

The Chair: You're basically saying that this isn't something that changes with Bill C-42.

Cpl Patrick Mehain: No, and that's something that needs to be addressed. There has to be something that will hold the RCMP accountable, to say this isn't going to happen any more.

The Chair: Okay, thank you.

Go ahead, Mr. Hiebert, please.

Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC): Thank you, Mr. Chair, for taking the question right out of my notes. I appreciate you jumping in and opening the door for this, because I have a similar question.

You made the statement that it's unfair or unwise or unconstitutional for a member to self-incriminate. I'm trying to put my mind to the situation in which, let's say, a serious action has taken place. If somebody's been part of a criminal activity and wasn't in the RCMP, that person would be asked to make a statement, or they would hire a lawyer, but in this case, how do you get to the bottom of the complaint if the person involved is not put in a position of having to respond?

Cpl Patrick Mehain: We've always had to provide an account of our actions. What this is saying is that you must provide a statement now. It says you will sit down with me, I'm going to interview you, and you're going to provide that statement.

An account of my action is, "I got on duty; I went to the scene; this is what happened; here are all my notes; here's my report, and this is my action. If you have some more questions, here's my lawyer, we'll answer those questions for you", and there you go.

You're right that they're the same protections a citizen has. If you commit a murder, I will ask you questions, but you have that right not to talk and you have a right to speak to a lawyer, and if you can't afford a lawyer, a lawyer will be paid for.

As we've seen in the RCMP, the commissioner will review every time you're under investigation and he may withdraw that support. He may withdraw that legal funding for your lawyer to protect you under certain self-incriminating investigations.

Mr. Russ Hiebert: So you're distinguishing between an account and a statement?

Cpl Patrick Mehain: That's correct, yes.

Mr. Russ Hiebert: An account is your activities, but how was the statement different again?

Cpl Patrick Mehain: If you ask me to come in for a statement, we'll sit down, and you will say, "Okay, tell me what happened", and I'll give you my account of the story. Then you will start interviewing me on what you may consider are inconsistencies or ask other questions you want me to further explain.

• (1630)

Mr. Russ Hiebert: It's like a cross-examination.

Cpl Patrick Mehain: Exactly, yes.

Mr. Russ Hiebert: You don't have a problem giving information from your book, as my colleague has suggested; it's this additional investigation that poses questions to you without your having counsel that you're concerned about.

Cpl Patrick Mehain: That's correct, absolutely. We should all have to account for it. We've said that all my notebooks aren't mine; my notebooks belong to the RCMP, and they're kept for 100 years.

The Chair: Thank you.

I apologize, Mr. Hiebert, but our time is up on this. We have to go in to our next hour and the next round. When I pose a question in a case like that, it's a question that our table has. In order to prepare the study, sometimes I'll jump in, and it will be from the table.

To both witnesses today, from Whitehorse and here, we very much appreciate your input to our discussion and debate and consideration of this bill. We thank you.

After you leave here, if you think you wish you had answered a question in a different way or that you would have expanded on it if you had more time, please feel free to submit those to our clerk. He'll be certain that we get those extended answers. We'd appreciate it.

We thank you, folks. We're going to suspend. We invite our next guests by video conference to prepare.

Thank you.

• (1630)

(Pause)

• (1635)

The Chair: I call this meeting back to order.

In our second hour, we have a panel of witnesses today as we continue our consideration of Bill C-42.

We'll hear from the Quebec Mounted Police Members' Association. Gaétan Delisle is the association's president, Staff Sergeant André Girard is the treasurer, and Mr. James Duggan is the association's legal adviser.

We also have Tom Stamatakis from Vancouver, the president of the Canadian Police Association, ready to testify. Also to testify by

video conference, we have Alok Mukherjee from Toronto, the president of the Canadian Association of Police Boards.

We welcome each of you.

We will begin with the Quebec Mounted Police Members' Association. Please give us your prepared statements. Then we'll move on to statements from others and then to a round of questioning.

Monsieur Delisle, go ahead.

[Translation]

Staff Sergeant Gaétan Delisle (President, Quebec Mounted Police Members' Association): Thank you very much, Mr. Chair.

I retired from the RCMP 3 years ago. I was a staff sergeant at the time. I spent 40 years with the RCMP, 33 of them as a division staff representative, meaning I represented members internally. Initially, you heard from Mr. Townsend. I did the same type of work he did. I spent 33 years representing RCMP members. I think I am well-placed to describe what happens in harassment cases, disciplinary measures and so forth.

However, I would like to point out that the current version of the RCMP Act was initiated in 1976, in response to the famous Marin report, put out by the commission headed by Justice René Marin. I hope you have a look at the report and the 200 or so recommendations it made. Two of the main recommendations called for the independence of both the external review committee for public complaints and the external review committee for RCMP member grievances. The report recommended not only that they be independent, but also that their decisions be binding. It took 10 years for that recommendation to become law. It did not happen until 1988. So a tremendous amount of work went into that component.

In addition, two years ago, Bill C-43 was introduced in the House of Commons. My colleague will cite a few passages from it later. That said, since the legislation was passed, this is where things stand.

One of the things I want to draw your attention to is the fact that multiple reports have been prepared: the Brown report, the Université de Montréal report and the submissions pertaining to the task force. I have them all here so you can look at them. You will see precisely what the RCMP's problems are as regards harassment, intimidation and the inability of senior management to show accountability in this area. I say "show accountability" because all this time, these people have not been held accountable to anyone, as my colleague pointed out.

That is why, as parliamentarians, you always have this ambiguity on your hands, in terms of how to handle a large organization like the RCMP. They are not formally accountable to anyone.

For comparison purposes, a police chief is accountable to a board. So a group of individuals review his or her decisions. Those decisions are made independently. As you can see, the brief we provided to the committee was prepared with organization and concision in mind. We wanted you to understand exactly what we mean.

I will give you an example of the kind of decision made regarding grievances filed by members. Decision TG-192—which I will leave with you—says this:

• (1640)

[English]

This grievance also challenged a Force decision not to uphold a member's complaint of harassment.

[Translation]

That's just one example of a decision, but you'll see there are many.

The decision rendered reads as follows:

[English]

The Commissioner disagreed with the Committee's finding of harassment with respect to the first incident and denied the grievance.

[Translation]

That has always been the case at the RCMP because the committees aren't independent in their ability to make a decision. That's what happens when you leave the decision to a person in a position of authority. That is how things work at the RCMP now, and this bill won't change a thing. You'll see the same kinds of situations triggering all the investigations that have taken place and that will continue into the future.

[English]

The Chair: You're at about *cinq minutes*. You have 10 minutes for the whole group.

[Translation]

S/Sgt Gaétan Delisle: I think they're going to let me speak.

Let's not delude ourselves here. The point of Bill C-42 is to give the commissioner of the RCMP more power. But, as you can see from our brief, he already has all that power. Conversely, if we had independent labour relations tribunals or other specialized tribunals, you would see a major change in labour relations.

The committee has heard from division staff representatives such as Mr. Townsend. They told you first-hand that they were responsible for labour relations and represented all the members of the RCMP. And yet, all of them told you that they weren't consulted on Bill C-42. Imagine what kinds of work relationships occur in an organization that has 17,000 officers across Canada. Don't kid yourselves. These individuals don't represent members because they are paid. These people work for the organization and are promoted from within. I know, I used to be one of them.

But you won't see regular members coming here to testify. In fact, I tip my hat to my colleagues who have already appeared before you. The reason is quite simple. My colleague, André Girard, who was also a division staff representative, and I have both been the targets of harassment complaints. My colleague wasn't even able to

represent himself. Mr. Girard had sent a letter to the solicitor general expressing his views on certain practices within the RCMP. Don't kid yourselves. It has to be done.

Do I still have a minute or two?

[English]

The Chair: You have three minutes.

[Translation]

S/Sgt Gaétan Delisle: Mr. Girard will take over.

Staff Sergeant André Girard (Treasurer, Quebec Mounted Police Members' Association): Thank you, Mr. Chair.

Distinguished members, we cannot thank you enough for the opportunity to address you today. I am going to speak rather quickly since we're short on time.

As my colleague mentioned earlier, I retired from the RCMP in early June 2011. I served the force for 35 years, retiring at the staff sergeant level. I spent over 30 years, 20 of them immediately prior to my retirement, as a division staff representative, and I was elected a total of eight times, almost consecutively.

I want to bring up an issue that has caused me some confusion. Bill C-42 stems from Bill C-43, which made its way to second reading on December 13, 2010. That bill was called An Act to Enact the Royal Canadian Mounted Police Labour Relations Modernization Act and to Amend the Royal Canadian Mounted Police Act and to Make Consequential Amendments to Other Acts.

The bill was sponsored by a key Conservative minister, Stockwell Day. Mainly, the bill sought to establish an entire labour relations regime where an independent arbitration system would be governed by the Public Service Labour Relations Act.

When introducing the bill in the House, Minister Day referenced an Ontario court ruling. He said and I quote:

It is an act that would meet the demand of the court and say that certain provisions would have to be followed, certain constitutional guarantees of representation by members would be put in place, but it would leave that choice to RCMP members. That is the nub of the issue. Those are the minister's very own words.

He went on to say:

There are a number of grievance- and disciplinary-related areas in th[is] particular modernization that would assist the public and assist RCMP members.

Finally, he said:

I believe there is some support for having this legislation in place pending a final ruling [because, at the time, the matter was before the Court of Appeal for Ontario] so that whatever happens, the members of the RCMP, the men and women who have committed their lives to keeping us safe, to serving us as admirably as they do, will have the assurance that a mechanism will be in place that will not leave their concerns unattended whichever way the final ruling in court goes...I would invite careful analysis of this particular modernization act. I hope that we will find support for it. This is being done in a non-partisan way...

Thank you.

• (1645)

[English]

The Chair: Thank you very much.

You came in 10 seconds under the wire. That was very well done.

We'll move out to Vancouver, please, to Mr. Stamatakis and the Canadian Police Association.

Mr. Tom Stamatakis (President, Canadian Police Association): Mr. Chair and members of the committee, thank you for providing the opportunity to address you today regarding Bill C-42, the Enhancing Royal Canadian Mounted Police Accountability Act.

I'm speaking today on behalf of the Canadian Police Association, an organization that represents over 50,000 front-line law enforcement personnel across Canada in over 160 member associations, including some members of the RCMP.

I have just a few brief opening remarks, and then I'd be happy to answer any questions you might have.

I'd like to begin my remarks by saying that as police officers, whether within the RCMP, a provincial police force, or a municipal police force, having the confidence of the public we serve is of paramount importance. While there's no doubt that recent events have put our colleagues within the RCMP under the microscope, we cannot emphasize enough that the men and women who make up Canada's national police force are, by and large, a credit to our country and the communities they represent.

Bill C-42 contains a number of positive elements. However, there are some areas of this proposed legislation that cause concern, and I'd like to take this opportunity to briefly highlight those, particularly from the perspective of a front-line police officer.

The first area I'll touch on is that there is no doubt that streamlining the discipline and grievance process for RCMP members is a desirable goal. Bill C-42 provides the commissioner with extraordinary powers in this regard, powers that go beyond what one might find in other police services across Canada.

For example, in Ontario, a police officer who is subject to a disciplinary process retains the right to appeal the decision to the independent Ontario Civilian Police Commission, a quasi-judicial body that provides an impartial review of the process and ultimately a decision.

Without any additional, and most importantly, independent avenue for appeal, I would suggest there is a possibility that RCMP members could lose faith in the impartiality of a process against them, particularly in situations in which the commissioner has delegated his authority for discipline.

Clause 40 of Bill C-42 is another area of serious concern, as it deals with investigations when an RCMP member has contravened the code of conduct within the force. First, the legislation specifies that an officer can be compelled to testify against herself or himself. Second, the legislation sets out the conditions under which a warrant can be issued under the RCMP Act to potentially search the residence of an RCMP member, under the direction of the commissioner of the RCMP or another officer who has been delegated that authority. That's particularly troubling when we're dealing with largely an administrative process designed to deal with conduct issues that arise through the RCMP officer's employment.

Unfortunately, both of these provisions, while hopefully well-intentioned, are seemingly violations of the basic Charter of Rights and Freedoms that all Canadian citizens enjoy and that should not be

ignored simply because someone is a member of the RCMP. In fact, I can only imagine the public outcry that would follow should our front-line officers conduct their own criminal investigations under provisions similar to those included within Bill C-42.

A final area that I'd like to highlight comes out of the testimony this committee has heard regarding avenues of redress that RCMP members might be able to take following a ruling that calls for the dismissal of an officer.

Officials from the Department of Public Safety, including Mr. Richard Wex and Mr. Mark Potter, pointed out that judicial review was always available for an officer who wished to appeal a commissioner's ruling under the new provisions of this legislation.

Unfortunately, this runs up against a long-standing issue that the Canadian Police Association has been trying to address, which is that the RCMP remains the only police service in Canada that continues to be denied the right to associate.

There's no doubt that judicial review is an important aspect, but, as this committee knows, taking a case through the court process is not without cost, and without an association to represent the member or to help defray the cost, this avenue may be beyond the means of an officer who has just recently lost employment based on a discipline judgment in what most often will be largely an administrative process.

• (1650)

Obviously this is only a brief overview of the concerns that the Canadian Police Association has on this legislation. I'd be happy to expand on or clarify any of these areas for the benefit of committee members during our question and answer period, or on any other areas I might be able to assist members with before you begin your substantive deliberations on this legislation.

To conclude, there's no doubt that our colleagues within the RCMP face unprecedented challenges, but there needs to be a sense of balance. We cannot take steps to restore or enhance the public's confidence with the RCMP at the expense of weakening RCMP members' own confidence with their employer. There is room for management and front-line officers to come together, as evidenced by the collective agreements arrived at with provincial and municipal police forces across Canada. I hope this committee is able to amend Bill C-42 at this stage in order to best find that balance that allows the RCMP to continue its role as Canada's national police service.

Thank you for your time, and I'd be happy to answer any questions.

The Chair: Thank you very much, Mr. Stamatakis.

We'll now move over to Mr. Mukherjee, please. He's the president of the Canadian Association of Police Boards.

I'd also say before we begin that in one of those rooms there seems to be a fair bit of background noise that makes it a little difficult to hear as clearly as we would like. If you can straighten that out on your end, it would be appreciated.

Please go ahead, Mr. Mukherjee.

Dr. Alok Mukherjee (President, Canadian Association of Police Boards): Thank you, Mr. Chair.

Members of the committee, thank you for giving us an opportunity to offer our comments on this legislation that is very important to our organization, as it is to you and to the government.

The police boards and commissions that make up our members are responsible for the governance and oversight of more than 75% of the municipal police in Canada. They manage the police services of their municipalities, set priorities, establish policy, and represent the public interest to civilian governance and oversight. It is from this perspective of governance and oversight that we generally welcome Bill C-42.

It was over five years ago that we were consulted, and I was one of them, by officials of the Department of Public Safety regarding issues of governance and oversight for the RCMP. We believe that Bill C-42 is a good step forward in enhancing accountability, modernizing the force's human resources practices, and strengthening civilian oversight. It is to be hoped that these measures will increase public trust in the RCMP, which, as Minister Toews and others have noted, has suffered of late.

To this end, we applaud the objectives stated in the preamble to the proposed legislation.

Rather than dealing with any specific element of the bill, I wish to comment generally on some of the proposals with respect to governance and oversight in terms of the implications of certain provisions.

Our interest in effective governance and oversight of the RCMP is twofold. First, insofar as the RCMP provides contract policing to local communities, we believe that it should have a system of governance similar to that for municipal police services. Second, insofar as RCMP engages in joint operations and integrated policing with our municipal police services, we believe that it should be subject to effective oversight similar to that which exists for its municipal counterparts.

Local governance in jurisdictions where the RCMP provides contract policing is an important issue for us, as it should be for the force and the government. About 65% of the RCMP's budget, we are told, comes from contract policing. Further, in addition to providing policing services to provinces and territories, the RCMP serves more than 200 municipalities and 165 aboriginal communities across Canada.

The proposed legislation does attempt to address some local concerns. While beneficial, they are not measures that enhance local governance in contract policing jurisdictions. We would urge you to give consideration to this area in your deliberations. A report on RCMP municipal contract policing prepared for the Federation of Canadian Municipalities in 2009 makes the following observation:

A number of characteristics are generally accepted as essential to good governance; these include being accountable, transparent, responsive, effective and efficient, equitable and inclusive. Most respondents had concerns with governance in RCMP municipal policing on these fronts.

Accountability to the community is perceived by many municipalities to be a lower priority within the RCMP than accountability to RCMP headquarters.

Attention to governance generally, and not only to local governance, is largely absent from Bill C-42. We—that is, the CAPB—submit that strong governance would greatly enhance the RCMP's accountability and transparency. This is, for us, a matter of great importance, particularly given the increased powers proposed to be vested in the commissioner by Bill C-42. It is one that we have discussed extensively during our consultation with public safety officials.

• (1655)

We submitted a letter to your committee dated October 18 that deals with this subject at some length, so I will not say much more about it other than that in our respectful submission, adopting a modern, effective governance system for the RCMP will build confidence by ensuring greater accountability to elected officials, taxpayers, and most importantly, the communities served by the RCMP.

I would now like to talk about effective oversight as distinct from governance, particularly from the point of view of communities that do not have contract policing but whose police services are nonetheless involved in joint operations and integrated policing with the RCMP.

The current situation is unacceptable, as I discovered in my role as chair of the Toronto Police Services Board during the G20 summit in Toronto. While the police service that we oversee—that is, the Toronto Police Service—was held accountable by a system of provincial and local oversight, the RCMP was not subject to anything that came close for its role in this highly sensitive integrated policing project with significant national security implications.

The current oversight mechanism, the CPC, as has been noted by several witnesses appearing before you, is woefully inadequate. I believe that the provisions in Bill C-42 will go a long way in filling this gap. We are heartened by the fact that the proposed CRCC will have the power to undertake reviews of the RCMP's policies and procedures, have access to more documents than is the case at present, be able to compel evidence, and deal more expeditiously with public complaints.

We are also very supportive of the ability of provincial ministers responsible for policing to initiate investigations and of provincial oversight agencies to undertake independent and joint investigations. These are good measures and should contribute to greater public confidence.

We do, however, share the concerns that have been expressed already about some of the other provisions of the bill. We fear that they could undermine true, effective oversight. In particular, we would urge you to review the justification for the limits on what documents the CRCC may not have access to, the ability of the commissioner to cause an investigation to be suspended because of the possibility of a criminal investigation, the ability of the commissioner to refuse to investigate a complaint that in the CRCC chair's view it would be in the public interest to investigate, the absence of service standards requiring the force to take timely action when such standards are envisaged for the commission, and the lack of what interim CPC chair Ian McPhail in his comments to you called "a robust review regime".

We share Staff Sergeant Abe Townsend's concern regarding the concentration of that much power in one office, on the one hand, and the inability of the commission on the other to make compelling recommendations. Those are Staff Sergeant Townsend's words.

Finally, we take issue with Director General Mark Potter's characterization of handling of public complaints as CRCC's core business and with Bill C-42's subjecting of reviews to availability of resources, among other considerations. Unless these imbalances are fixed, we are afraid that despite all the enhanced powers given to the new commission, it will be seen to exist on the sufferance of the very institution and the very head that it is supposed to oversee. We do not think that this will contribute to achieving the objective that Bill C-42 seeks, namely greater public trust through greater accountability.

I'll be glad to answer any questions, and thank you very much.

• (1700)

The Chair: Thank you all for your testimony.

We'll move into our first round of questions. We're going to cut it back a little bit to about six minutes. Everyone will have the opportunity to ask a question.

Go ahead, Mr. Hiebert, please.

Mr. Russ Hiebert: Thank you, Mr. Chair.

In the previous round of testimony we heard the witnesses and some of the questioners ask about the use of statements, and in my last and only question it was in reference to criminal investigations. I would like to bring it back to the area of code of conduct investigations.

The statement was made that it was improper to compel a member to provide a statement in that scenario as well. I would like to hear from everyone on the rationale behind that, because my understanding in looking at the code of conduct content is that this is the kind of information or disclosure that would be necessary to address a public concern, which is what we're trying to do here.

We're talking about rude or disrespectful behaviour, making a false statement, or misusing alcohol or drugs. This is the kind of behaviour that any employee would be held accountable for in any employment setting. I'm wondering why a police officer engaged in this kind of activity should not be compelled to provide a statement and answer questions as to why they were engaged in this behaviour

when almost any other employee would face the same questioning by an employer.

The Chair: Thanks, Mr. Hiebert.

Go ahead, Mr. Duggan.

Mr. James Duggan (Legal Advisor, Quebec Mounted Police Members' Association): I would have to take issue with you, Mr. Hiebert. Almost all employees, including the employees who work in the public service, have a right against self-incrimination and are not obliged to provide a statement that could result in their being disciplined or being dismissed.

I think that we would all agree with you that where the public interest is involved, a balance has to occur, and that the balance has to reflect some of the concerns expressed by several of the witnesses here, including Mr. Mukherjee, the witness for the CPA, and Mr. Townsend, as well as in the question from Mr. Scarpaleggia.

What you have as a difficult task here is to balance the rights of the members of the RCMP against being subject to absolute and arbitrary power by a commissioner who is in fact judge, jury, and executioner while at the same time balancing the public interest in making sure of the institution.

The RCMP was a great pride to our country and has fallen into disrepute because of the actions of a few members, so you don't want to throw the baby out with the bathwater. That's what you're going to be doing if you give more power to somebody who already has absolute power. To me your question about forcing members of the RCMP to give up all of their rights and incriminate themselves in that context, with great respect, betrays an ignorance over how the system actually works. Section 5 of the RCMP Act says that the commissioner has absolute authority and power over members of the RCMP. Can you tell me why somebody in that position needs more power?

• (1705)

The Chair: Perhaps we would hear from some of the others as well. Only two minutes are left.

Let's go to Mr. Stamatakis.

Mr. Tom Stamatakis: One concern is that there doesn't appear to be any distinction between the types of examples of conduct or misconduct that Mr. Hiebert is referring to versus allegations of criminal misconduct. That's one big concern.

The other thing is that in other provincial statutory regimes that exist to deal with police misconduct, there is an obligation to provide a statement. I would tend to agree that typically in an employee-employer situation, employees are obligated to account. In those provincial statutes that have been established to deal with misconduct, there are also protections for the officers so that when those statements are provided in response to a complaint around rudeness or what would typically be viewed as minor or less serious misconduct, there are protections so that those statements can't be used in some other form. Bill C-42 doesn't appear to contain any of those similar kinds of protections.

We have to recognize that when you are dealing with police officers, it's not just going to be an investigation into misconduct within the context of a police act or within the context of the Royal Canadian Mounted Police Act; there typically will be a civil suit. There will probably be some kind of a coroner's inquest. There may be a public inquiry. There may also be a criminal investigation.

That's where you have to find the balance. You have to create the mechanism for an employer, whether it's the RCMP or some other municipal or provincial police force, to be able to get the information they need and to be able to respond to the public, but while doing that, provide some protection so that information can't then later be used in some other process that puts the police officer in a significant amount of jeopardy, and even the organization in some jeopardy, with respect to civil litigation or other risk management issues.

The Chair: Thank you very much. We're out of time on that question. I will take note here that Mr. Mukherjee didn't get the opportunity to answer that question. I'll certainly give him time on the next round.

Mr. Garrison is next.

Mr. Randall Garrison: Thank you very much again to all of you who are appearing here today in person or by teleconference. We do appreciate your testimony and we think it has been very interesting and important. We would have like to have had more time, but the vagaries of scheduling and certain limits imposed by the government have meant that we have less time than we would have liked.

Mr. Stamatakis, when you talk about the ordered statements and the question of warrants for seizure of evidence, are you asking us today simply to delete that section from this bill? Would that be the solution?

• (1710)

Mr. Tom Stamatakis: In my view, yes, that would be the solution.

Again, there has to be some distinction between the types of conduct issues you are looking at. I can't think of any other example in any kind of statutory regime or oversight process that is designed to deal with issues that arise from employment in any other sector or within any profession in which there is this wide authority to search. Most police officers—and the public—generally would expect that if there's an allegation of criminal misconduct, the investigating body would enter into a criminal investigation. Then they would have all the provisions that are available to them through that process to search where appropriate.

When we are dealing with an administrative process looking at issues related to employment, I can't think of a time when it would be appropriate for a person's home to be searched to obtain documents that are typically widely available in the workplace in any event. That would be our submission, yes.

Mr. Randall Garrison: Okay.

Dr. Mukherjee, I would like to ask you about your comments on subjecting the ability of the commission to do independent reviews to limitations. The bill raises the question of resources. It also says it would be prohibited if an incident was being investigated by any other government entity. Should these two limitations be reviewed or removed from the act to make it more independent?

Dr. Alok Mukherjee: I think those are the—[*Technical Difficulty—Editor*]

It is important for the commission to be able to identify a pattern and then initiate an investigation. I don't think those reviews should be subject to availability of resources or other investigations.

I can give you an example. In Toronto recently, relating to the G-20, the Ontario Independent Police Review Director decided to undertake a systemic review even as he was dealing with individual complaints. At the same time there were a couple of other reviews going on, such as by the Ombudsman of Ontario and by the Toronto Police Services Board, through an independent reviewer. What we found was that each of these reviews brought out different pieces of information. They did not conflict with one another and they produced a very rich array of findings that was very beneficial. I don't think there should be restrictions.

The other concern I had is that sometimes the spectre of criminal investigation can be used to stop or deter such reviews from happening forever. I have faced that personally in Toronto, where a similar argument has been used to stop some very significant reviews from taking place in the public interest. Those criminal investigations will never be concluded, so those reviews will never take place. We have to worry about the impact of these restrictions.

Mr. Randall Garrison: Thank you very much, Mr. Mukherjee.

Any little time I have left I'd like to give to Madame Doré Lefebvre.

The Chair: We'll make sure she gets her time.

[*Translation*]

Ms. Rosane Doré Lefebvre: Thank you kindly, Mr. Chair. And thank you to my colleague. I will keep it short.

Mr. Girard and Mr. Delisle, I appreciate both of you being here and giving the committee the benefit of all your experience. I think we really need it.

When you read Bill C-42, you see that the appeal process for a member begins and ends with the commissioner. I would like to hear your take on that.

S/Sgt Gaétan Delisle: If you have a look at our brief, you will see that we are pretty clear on that issue. Obviously, access to the process must absolutely go through an external channel. An independent body must have the power to make a decision because, as Mr. Duggan pointed out, the commissioner currently holds the decision-making authority on sanctions. He reviews the allegations and makes the final call.

I'll give you a typical example. When a recommendation regarding a member is made, all the commissioner has to do is reject it as he sees fit. We believe it's obvious that this cannot continue.

• (1715)

Ms. Rosane Doré Lefebvre: You spoke about the independence of committees and tribunals. Bill C-42 allows the commissioner to overrule any decision. I know you suggested independent committees, but are there other solutions that members need in place?

S/Sgt Gaétan Delisle: A royal inquiry commission said it in 1974. I contributed, in fact. I was pleased to learn that, five years ago, the movement served by the Toronto representative was asked what it thought about the content of Bill C-42. The suggestion isn't ours. Bill C-43 sought to make it independent. I don't think I need to prove anything in that regard, since the government itself sponsored the bill. So from that perspective, it's obvious.

Ms. Rosane Doré Lefebvre: Thank you.

[English]

The Chair: Thank you very much.

We'll go to our next questioner.

That will be Ms. Bergen and Mr. Hawn, please.

Ms. Candice Bergen (Portage—Lisgar): He'll go first.

The Chair: Go ahead, Mr. Hawn.

Hon. Laurie Hawn (Edmonton Centre, CPC): Thank you, Mr. Chair.

I'd like to start with Mr. Mukherjee and give an opportunity to chime in with a response to what Mr. Hiebert's question started. It was with regard to the power of the commissioner.

Dr. Alok Mukherjee: Thank you for that.

Actually, I'm in agreement with what Mr. Stamatakis said. There has to be a balance and a distinction made between criminal investigations and other types of conduct with investigations.

My concern is that quite often these conduct matters, which to my mind are labour relations matters, are dealt with as if they are criminal matters, and the due process has been confused. There is a balance that is needed, as Tom said. I don't think there is an inability to carry out a proper conduct investigation within the scheme that is proposed.

Hon. Laurie Hawn: Thank you.

Sticking with the powers of the commissioner, there has been a lot of talk about the commissioner having too much power, and so on. We've talked generally in that vein. What specifically would you suggest, Mr. Girard or Staff Sergeant Delisle, to restrict the power of the commissioner?

S/Sgt Gaétan Delisle: You asked us what we thought about Bill C-42. Bill C-42 enhances the power the commissioner already has in the law.

Hon. Laurie Hawn: How would you restrict that? How would you take away the powers of the commissioner?

S/Sgt Gaétan Delisle: Are you only working on Bill C-42 or do you want to impose some other stuff? Can you do that as a committee? I don't think so.

Hon. Laurie Hawn: I'm asking you, if you were writing Bill C-42 or if you were restricting the powers of the commissioner, what would you restrict his powers to? How would you restrict them?

S/Sgt Gaétan Delisle: That's exactly what we've been talking about.

Hon. Laurie Hawn: Well, give me something specific, not just that he has too much power. What would you specifically do to restrict his power?

S/Sgt Gaétan Delisle: Okay. It's with regard to any power that he has over the administration of the force. A member can go before a grievance process; give that independence to the grievance advisory board. It would be the same thing that is in the RCMP act right now. Do the same thing on discipline. You have an external review committee; it's exactly the same thing. Take away that power.

The commissioner has the power to suspend someone. I was suspended without pay for having been elected mayor in Saint-Blaise-sur-Richelieu. It was done just like that. That same situation can happen tomorrow morning with anybody.

The issue, though, is when you want to appeal that decision, where do you go? Right now you go to the commissioner, so if you want an example, take away that decision-making after the external review committee, just as any other type of employee-employer relationship.

Hon. Laurie Hawn: So the commissioner is not part of that appeal process or that review process, in your view?

S/Sgt Gaétan Delisle: He is the last person.

Hon. Laurie Hawn: But he's still there. You're not taking away his ultimate power.

S/Sgt Gaétan Delisle: Why do you have an external review committee? It's to review a situation that has arisen. If you have some people who are paid to do a job and they come to their conclusion, that conclusion should stand.

● (1720)

Hon. Laurie Hawn: Okay, I don't disagree, but then you just said the commissioner still has ultimate authority above that. Did I misunderstand what you said?

S/Sgt Gaétan Delisle: That's the truth.

Hon. Laurie Hawn: And you're saying that's right or that's wrong?

S/Sgt André Girard: What happens is that the commissioner has the last say. You heard Madam Ebbs testify in front of the committee. The committee members around the table gave an opportunity to Madam Ebbs on many occasions to say what she would like to have in a perfect RCMP Act, as seen from her point of view. She never answered the question properly.

Instead of asking to have a power to render decisions that would be binding and not just recommendations to the commissioner, she did not say that. That leads me to the impression that the only thing she was concerned about was protecting her own job. Unfortunately, it has to go much further than that in order to create that balance between the membership and the organization, in which, as Mr. Delisle mentioned, the commissioner has ultimate powers right now.

Hon. Laurie Hawn: Thank you.

Mr. Stamatakis, I'll ask you this, but anybody else can chime in.

We talk a lot about the culture of the RCMP. People talk about the bill changing the culture. I would submit that a bill at best would be a framework for a culture change; the change in culture has to come from the people, not the bill. That starts with the leadership and works its way down.

I think it ultimately comes down to a matter of a culture of trust in both directions, trust up and trust down, which I think needs to be led by the leadership initially. That's just personal opinion.

Do you agree with that? Do you see any sense of commitment to change the culture within the leadership of the RCMP, or do you get any sense of a willingness to go a step in that direction by the membership, to eventually come together in the middle and change the culture?

I think only people can change the culture. A book can't change a culture.

The Chair: Thank you, Mr. Hawn.

Go ahead, Mr. Stamatakis.

Mr. Tom Stamatakis: Thank you, Mr. Chair.

I agree with you. I'll answer by touching on the question he just asked.

I don't think it's an issue of restricting the authority of the commissioner at all. I think the commissioner, like any police chief in a municipal or provincial environment or any CEO of a private company, has to have the appropriate authority in order to run that business or provide that service.

It's about giving people who are involved in the dispute or who disagree with the commissioner's decision—particularly with respect to a conduct issue that could lead to dismissal—an opportunity to go to an outside independent body or person to have that dispute adjudicated and to get to a final and binding decision that everybody then lives with. This is exactly what happens across this country in every municipal police force and every provincial police force.

If you get into a scheme that has those outcomes, it will build the relationship between the front-line police officers and the leadership, who have to take the leadership role in the positions they're in, so that they can come to an appropriate working relationship in which there is no tolerance for inappropriate behaviour or conduct, but there are fair and appropriate systems in place for those matters to be dealt with properly. Then you can get to outcomes that allow for a productive working relationship, which ultimately allows for better service to the public, increased public safety, increased morale, and a better quality of life in our communities across this country—and that is what every police officer wants, including the front-line officers with the RCMP and the leadership of the RCMP.

The Chair: Thank you, Mr. Stamatakis.

Probably our last question of the day will go to Mr. Scarpaleggia. You have six minutes.

[*Translation*]

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

I want to thank the witnesses for their statements.

Once again, it was very educational. In fact, this is the first time we have heard from officers on the ground.

I realize that you believe the external review committee lacks independence. The commissioner can reject a recommendation. But, aside from that, would you say the grievance or complaints review

system as a whole is overly complex? Does it have too many steps right now?

We often hear how long it takes for a case to work its way through the system. If someone isn't satisfied with a decision at one level, that person can file an appeal at another level. Then, at the very end, the person can take their case to the external committee, but it takes a very long time to get to that stage.

Do you think the system needs some streamlining so that cases can move along more quickly?

• (1725)

Mr. James Duggan: I would like to respond, if I may.

There is no need to reinvent the wheel if you want the RCMP commissioner to have the decision-making authority and to assume his responsibilities.

For example, let's consider a dismissal case. Normally, in labour relations, the responsibility for running a business lies with the employer. The employer makes the decision to dismiss an employee, who can then file a grievance or use the system to challenge the dismissal. The system works quickly. The employee or officer can access an independent tribunal.

Usually, a decision in a dismissal case takes between 6 and 12 months. I practice labour law. I have argued hundreds of dismissal cases involving the RCMP. On average, it takes 7 months for a case like that to be settled.

Mr. Francis Scarpaleggia: If the commissioner took swifter action and dismissed the person in the very beginning, would the case go directly to the external committee? Would it happen sooner? I don't understand.

Mr. James Duggan: Perhaps I condensed my answer too much. I was trying to compare the commissioner to a business owner, who is in charge of making the necessary decisions. If there's a bad apple, as they say, and someone poses a problem from the RCMP's perspective, then the commissioner must assume his responsibility.

That system applies in every other police force in the country. The commissioner has the absolute authority to suspend someone without pay and get rid of the problem officer. By the same token, the dismissed officer can file a grievance, which goes before an independent tribunal.

Mr. Francis Scarpaleggia: Instead of going through several steps at different levels.

Mr. James Duggan: Yes, the steps set out in the RCMP Act give the officer in charge one year, from the time the identity of the problem member and the alleged contravention become known, to request an investigation.

Mr. Francis Scarpaleggia: I see.

Mr. James Duggan: Once that year is up, the recommendation is submitted to three RCMP officers who hold a hearing. It takes three years before the hearings begin.

Mr. Francis Scarpaleggia: I don't mean to cut you off, but I'm short on time.

If I understand correctly, then, former minister Stockwell Day held a view that was at odds with the approach taken in Bill C-42. He didn't share the same view. It would't be the first time, for that matter. In fact, on Bill C-30, which deals with Internet surveillance, the minister at the time, Mr. Day, did not agree with the position taken by the current minister, Mr. Toews.

Your comment speaks precisely to the fact that Mr. Day saw things differently.

[English]

Mr. James Duggan: With all due respect, it's what they call "Romnesia" in the United States. That's the situation of having accepted certain principles, but flip-flopping from one day to the next and doing the opposite.

In Bill C-43, what this Conservative government provided for was access to collective bargaining and for a balanced and fair approach for members. After a decision in the Ontario Court of Appeal, Bill C-43 was completely disregarded, and now we have Bill C-42.

• (1730)

Mr. Francis Scarpaleggia: "Romnesia". I like that. That's good.

Am I done, though, Mr. Chair?

The Chair: Yes, you're done. Thank you very much.

I want to thank all the witnesses for appearing before our committee today.

Actually, you have...I don't know if it's the honour of saving the best for the last or whatever the deal is, but this will be the last of the testimony that we hear before our committee.

To our committee, I would remind you that we begin clause-by-clause study on Bill C-42 on Wednesday.

I would also remind all members here of the original motion that was agreed to. I'll just read the last part of that motion or what was agreed to:

That amendments to Bill C-42 be submitted to the Clerk in both official languages before 9 p.m. on Monday, October 29, 2012, and that these amendments be distributed to members in both official languages before the end of the day.

Just so you're completely aware of what this means, it means that our clerk will be working here. He's brought in extra staff to work here as long as he has to, to make certain that the amendments are circulated and in your mailboxes tomorrow.

We've agreed to have these amendments in today. Please honour that.

With that, I again thank each of you for your testimony.

The meeting is adjourned.

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