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# **Standing Committee on Access to Information, Privacy and Ethics**

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**EVIDENCE**

**Wednesday, June 5, 2013**

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**Chair**

**Mr. Pierre-Luc Dusseault**



## Standing Committee on Access to Information, Privacy and Ethics

Wednesday, June 5, 2013

• (1545)

[Translation]

**The Chair (Mr. Pierre-Luc Dusseault (Sherbrooke, NDP)):** We will begin the 84<sup>th</sup> meeting of the Standing Committee on Access to Information, Privacy and Ethics, which concerns Bill C-461.

In the first hour, we will hear from the Privacy Commissioner, Ms. Jennifer Stoddart. She is here with Ms. Kosseim, who is Senior General Counsel and Director General of Legal Services, Policy and Research.

Mr. Boulerice, you have the floor.

**Mr. Alexandre Boulerice (Rosemont—La Petite-Patrie, NDP):** I have a proposal to put to the committee concerning the time allotted for Ms. Stoddart's evidence.

**The Chair:** Go ahead.

**Mr. Alexandre Boulerice:** We have just left Parliament, where votes were held. I believe that, despite the delay, we could nevertheless give the commissioner an hour, as was initially planned. In that way, we could hear her evidence and have enough rounds so that all members could ask their questions.

**The Chair:** I plan to give the commissioner an hour, unless we run out of questions to ask her at some point. Otherwise it will be an hour, which will leave us 45 minutes for the second item on the agenda, clause-by-clause consideration. If those 45 minutes are not enough, we will have to schedule more meetings.

Without further ado, I will let Ms. Stoddart make her presentation. Committee members will then ask questions.

Thank you for being with us, Ms. Stoddart. You have the floor.

**Ms. Jennifer Stoddart (Privacy Commissioner of Canada, Office of the Privacy Commissioner of Canada):** Thank you, Mr. Chair.

[English]

Mr. Chair and honourable members, thank you very much for inviting me here this afternoon for your study of Bill C-461, the CBC and public service disclosure and transparency act.

As you said, Mr. Chair, the senior general counsel is with me in order to respond to your more technical legal questions.

First, for some context, from the outset I'd like to acknowledge that the amendments to the Access to Information Act and the Privacy Act in the bill raise complex and highly topical issues related to open government. We take it as given that most citizens would like to see greater openness in public institutions. Accountability

plays a central role in our democracy and in Canadian society. Indeed, in September 2010, all of Canada's federal, provincial, and territorial access to information and privacy commissioners signed a resolution to promote open government as a means to enhance transparency and accountability.

[Translation]

As you are aware, Bill C-461 amends both the federal Access to Information Act as well as the Privacy Act.

As Privacy Commissioner, I will limit my remarks to those amendments that implicate privacy. I understand that you have already had the opportunity to hear from my colleague Ms. Legault, the Information Commissioner, on the amendments pertaining to access to information.

At a high level, Bill C-461 revises the definition of "personal information" found in section 3 of the Privacy Act to specify that certain categories of information are "non-personal" information for the purposes of release under access to information requests.

Specifically, the elements no longer deemed personal information would include: the classification, salary and responsibilities of any federal employee whose salary is equal to or greater than the minimum salary of the first level of the Deputy Minister category, currently set at \$188,600; the classification, salary range and responsibilities of any position held by a federal employee whose salary falls under the first level of the Deputy Minister category; and the details of any reimbursed expenses incurred by any federal employee in the course of their employment.

Now I will tell you about existing practice in government.

To better situate these proposed amendments in the broader drive for openness and accountability, I would like to briefly touch on comparable measures that already exist in various sectors and at various levels of government.

The Public Service of Canada already makes publicly available its rates of pay for all of its positions, up to and including those at the Deputy Minister and Chief Executive Officer levels. Similarly, for Governor-in-Council appointments, the Privy Council Office website lists detailed salary ranges for each position, which incidentally include those of the Office of the Privacy Commissioner of Canada.

The Treasury Board Secretariat has also implemented a series of measures that apply across the federal public service for the proactive disclosure of financial and human resources-related information such as travel and hospitality expenses for senior government officials, the reclassification of government positions, and contracts above \$10,000.

At the provincial level, some governments use thresholds to disclose the salaries of public sector officials. According to our research, Manitoba has the lowest threshold at \$50,000, whereas Ontario and Nova Scotia adopted \$100,000 thresholds, and British Columbia a \$125,000 threshold. While Manitoba, Ontario and Nova Scotia disclose the names and salaries of all officials and employees earning over the established threshold, British Columbia only releases the names and salaries of a public sector organization's CEO and the next four highest ranking executives.

In the private sector, publicly-traded companies must also disclose all compensation paid to their Chief Executive Officer, Chief Financial Officer and next three top-paid executives. This includes all shares, options and bonuses, and applies to those earning more than \$150,000 in total compensation.

Given these examples, it would appear that disclosure of salaries for individuals in leadership roles within organizations, in both the Canadian public sector and private enterprise, is already best practice.

• (1550)

[English]

In the opinion of my office, and taking into account best practices elsewhere in Canada, the disclosure of the salaries of the most senior officials in the federal public sector does not represent a significant privacy risk relative to the goal of transparency and the broader public interest. With respect to the disclosure of position classifications, job descriptions, and reimbursed expenses, my understanding is that this kind of information is already disclosed upon request in many government departments and agencies under the existing access to information regime.

Within my own office, our director of human resources and our chief privacy officer indicate to me that were we to receive an access to information request tomorrow for an employee's classification, salary range, work description, or reimbursed expenses, we would disclose this information. This would be in accordance with our access to information and privacy responsibilities and our general commitment to transparency and accountability to Canadians.

Given current practice, and the broader public policy aim of institutional transparency and accountability, these disclosures do not represent serious privacy implications.

I thank you once again, Mr. Chair, for this opportunity to present my office's views on this bill. I look forward to your questions.

• (1555)

[Translation]

**The Chair:** Thank you for your presentation.

Now I will give Mr. Boulerice a chance to ask some questions.

You have seven minutes.

**Mr. Alexandre Boulerice:** Thank you very much, Mr. Chair.

Commissioner, thank you very much for your very interesting testimony. Now I would like to go a little further with my questions.

Do you think that section 68.1 of the Access to Information Act and section 69.1 of the Privacy Act are functional in the present system? Very simply put, do they work?

**Ms. Jennifer Stoddart:** We make relatively little use of those sections. I have learned from reading certain Federal Court decisions that those sections could be drafted more clearly.

Perhaps our general counsel can give you a better answer.

**Ms. Patricia Kosseim (Senior General Counsel and Director General, Legal Services, Policy and Research, Office of the Privacy Commissioner of Canada):** Yes, as several witnesses have mentioned before the committee, the provision as it stands in our act and in the Access to Information Act suffers from a lack of clarity in that it provides for both an exclusion and an exemption from the exclusion. I believe the purpose of the amendment was to clarify its intent, particularly in light of the Federal Court of Appeal decision.

**Mr. Alexandre Boulerice:** It is my understanding that, during the judicial process, the CBC and you, as Privacy Commissioner, reached a certain agreement in October 2010 on the exclusions provided for in section 69.1.

Can you tell us a little more about that agreement? Can you also tell us how many times the CBC claimed the exclusion provided for in section 69.1?

**Ms. Jennifer Stoddart:** I believe our general counsel is in a better position than I to give you an answer.

**Ms. Patricia Kosseim:** You are alluding to an access to information request concerning which a complaint was filed with our office regarding the interpretation and application of section 69.1, which is the relevant section in our case.

We had experienced the same situation as the Information Commissioner. The CBC at the time had adopted the position that the commissioner could not see or view the documents in question. We therefore issued an order demanding to see the documents and thus wound up in Federal Court as it was deliberating on the matter involving the Information Commissioner.

Our case did not make it to the decision stage as we reached an out-of-court settlement that was agreeable to the complainant and the CBC. The Federal Court therefore did not have to render a decision because we had managed to reach that settlement.

**Mr. Alexandre Boulerice:** Does CBC/Radio-Canada often claim the exclusion provided for under section 69.1?

**Ms. Patricia Kosseim:** No, not often. In that specific case, we had to apply the interpretation of that section, but to my knowledge that does not happen often.

**Mr. Alexandre Boulerice:** Thank you.

How much time do I have left, Mr. Chair?

• (1600)

**The Chair:** You have three minutes.

**Mr. Alexandre Boulerice:** Good.

As you probably know, many of the people who have come to testify before us on Bill C-461 had quite major concerns about the protection of journalistic sources.

Our interpretation of the bill as it stands is that information on programming, creation and journalistic work will be protected provided it concerns the CBC's independence. In our view, under the current interpretation, independence means independence from the federal government.

Many people who came here asked whether it was possible, for example, for someone to file an access to information request to determine what company or individual the program *Enquête* would be investigating. In that case, the journalist might perhaps be compelled to provide the applicant with information on ongoing investigations.

Do you view that kind of practice as a threat from your privacy perspective?

**Ms. Jennifer Stoddart:** I am not an expert on the Canadian Broadcasting Corporation Act or on matters pertaining to the rights of journalists. However, it seems to me that, under the wording of the amendment introducing the new subsection 18.2(1) of the act, the CBC would be able to state that such disclosure could reasonably be expected to prejudice the corporation's journalistic independence. I think that a request for information on a program that has not yet been produced could fall into that category. However, I am not an expert on these matters.

**Mr. Alexandre Boulerice:** That would be the case, except if independence only means independence from the federal government.

Things have really been going well in the past two or three years since your agreement with CBC/Radio-Canada in October 2010. That is what I understand.

**Ms. Jennifer Stoddart:** I believe that is the case. The CBC is not very high on the list of organizations that have been the subject of complaints filed with the Privacy Commissioner.

**Mr. Alexandre Boulerice:** We cannot say it has a poor record.

**Ms. Jennifer Stoddart:** No, not in our view or that of the public, since it is the public who file the complaints.

**Mr. Alexandre Boulerice:** That is also somewhat our feeling about the bill before us today. It comes down to that good English expression:

[*English*]

“if it ain't broke, don't fix it.”

[*Translation*]

The CBC has earned an A grade for privacy and access to information. Ultimately, we are dealing with a bill that does not make much of a contribution. It solves no problems. There does not appear to be a crisis as far as you are concerned or as regards access to information.

Thank you.

**The Chair:** Have you completed your question?

**Mr. Alexandre Boulerice:** That was not a question; it was a conclusion.

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

I now hand the floor over to Mr. Warkentin for seven minutes.

[*English*]

**Mr. Chris Warkentin (Peace River, CPC):** Thank you very much, Mr. Chair.

I think many of my constituents would disagree with Mr. Boulerice. Many of my constituents do have some questions about CBC and do want those things answered. But we have to get a bill through this committee, one that will work and that will respect, obviously, the balance that's necessary in terms of protecting journalistic rights, the rights of a journalist to keep their sources confidential, and of course, the right of the public to know where their resources are being allocated. We're working on just that—to get the balance right.

You said in your testimony, Commissioner, that currently, if somebody were to ATIP your office, you would release the information with regard to an employee's classification, their range of salary, their work description, and the reimbursed expenses that they have received.

Do you know if that's the same requirement that CBC would be under right now?

**Ms. Jennifer Stoddart:** I can't speak to the practice at CBC, but that's our reading of our obligations in terms of access to information legislation.

**Mr. Chris Warkentin:** I think that's information that obviously the public may, from time to time, want to find out. I think that maybe is an issue, and that's why it's an important clarification within the legislation that my colleague is undertaking, to ensure that CBC is fully aware of the roles and responsibilities they must undertake when trying to collect this information.

We did hear concern with regard to.... CBC wrote a letter, actually, to our committee outlining some concerns with regard to journalistic information that might be disclosed to a secondary agency like CRTC, so from the corporation to CRTC. Their interpretation of the amendment that has been presented and proposed is that CBC could withhold information if it involved a journalistic source. But if they released that information to CRTC, in an effort to comply with their obligations to CRTC, the CRTC may, as a secondary agency, actually have to release that information.

Have you looked into that at all, or undertaken a review of that concern?

• (1605)

**Ms. Jennifer Stoddart:** Not really, honourable member. I believe this is mostly an access to information issue. That's unless you're talking about some personal information, or...?

**Mr. Chris Warkentin:** Well, let's consider the possibility that it would be personal information that had been released to a secondary institution. Should we be concerned that a secondary institution would release information that a primary institution shouldn't release?

**Ms. Jennifer Stoddart:** As I recall, there's an obligation on the secondary institution to consult. This is not their personal information, or they got it from another institution, so I believe they cannot simply.... You can only release personal information in very strict situations, and usually to the person to whom it belongs, whose personal information it is. So that does not seem to me a very likely scenario, but I don't know if our general counsel has...?

**Ms. Patricia Kosseim:** I think the same question was also posed, if I recall, to earlier witnesses, and there is the concept of custody and control—which government institution has custody and control of the information? In this case, it would be the CBC. If an access requester for personal information or other information were to seek access to that information, the appropriate department to address that request to would be the CBC.

**Mr. Chris Warkentin:** Is a journalist's source considered personal information?

**Ms. Jennifer Stoddart:** If it's a human source, a person, yes. That would be personal information of that person, yes.

**Mr. Chris Warkentin:** Well, that does give me great comfort. I think we've heard a lot of concern from a number of different journalist organizations that were concerned about these matters. I appreciate your interpretation.

The CRTC falls under your purview as well, in the same way that any other agency does. Is that correct?

**Ms. Jennifer Stoddart:** Yes, that is.

**Mr. Chris Warkentin:** Okay. So the CRTC would operate the same and be required to maintain information in the same way as the CBC or any other government institution.

**Ms. Jennifer Stoddart:** Exactly. They're all covered by the Privacy Act, the CBC more recently, I believe, since 2006.

**Mr. Chris Warkentin:** Thank you.

In terms of the information with regard to your office, getting back to the issue of the disclosure of salaries, job descriptions, and

reimbursed expenses, does that apply to all civil servants regardless of what they're paid?

**Ms. Jennifer Stoddart:** Yes, that's my understanding. It's one of the exceptions to personal information in the Privacy Act.

**Mr. Chris Warkentin:** Okay. So there is no limitation, then, to wage...to receive that information.

**Ms. Jennifer Stoddart:** No.

**Mr. Chris Warkentin:** That answers my questions.

Thank you.

[*Translation*]

**The Chair:** Thank you.

Now we will hear from Mr. Byrne.

[*English*]

**Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.):** Thank you, Commissioner, for appearing before us.

To reverse the circumstance, would there be a liability to the Canadian Broadcasting Corporation if they were to release personal information that subsequently could be deemed by the target of the release to be outside the scope of their right for privacy? Is there a liability issue?

**Ms. Jennifer Stoddart:** Well, the person could make a complaint and we could investigate. Supposing it had been incorrectly released by CBC, we would deem the complaint well founded, but at that point there is no further sanction.

That takes me into the question of Privacy Act review, which this committee studied some years ago at great length. I think it's a problem that there are no sanctions in the law now for an institution that misuses Canadians' personal information.

**Hon. Gerry Byrne:** That's an interesting point. There was another circumstance, which may be related but in the sense of the responsibility and the duty to protect, and that was the loss of some personal information in another agency, Human Resources and Skills Development Canada. There is no specific legislative liability within the Privacy Act for those who fail in that duty to protect, to keep the statute whole.

**Ms. Jennifer Stoddart:** The only liability is that they can be publicly named. If a complaint can be made, well founded, we can go to Federal Court, in fairly limited circumstances, to get an order, but there are no damages, for example. There are no specific sanctions on individuals who misuse personal information.

• (1610)

**Hon. Gerry Byrne:** Are there specific statutory mechanisms that you know of that provide indemnity from damages, or is that subject to...?

**Ms. Jennifer Stoddart:** No, there's no scheme for damages in the Privacy Act.

**Hon. Gerry Byrne:** There's nothing. Okay, understood.

I want to talk a little about the court of appeal. The party who is involved in a request deems that they are protected from releasing information based on the statutory provisions, or journalistic integrity, or whatever, and they proceed to withhold information on that basis. There was a case where it had to be taken to court for an adjudication.

Would it be sensible to have or would you have any recommendations as to whether or not there could be an intermediary step? Court actions by anyone, even the Privacy Commissioner, are very complex and very expensive. It's not something that's afforded to a normal citizen very often. Is there some sort of in-between step that you might be able to recommend or suggest?

**Ms. Jennifer Stoddart:** I recently looked at the evolution of privacy legislation around the world. I note that some of them introduce class action options. These are usually written in such a simple way that ordinary citizens can easily go to a court or one person can constitute a class on a certain topic.

In the one case where we were in court with CBC, to my recollection we did not take CBC to court. We made an order for the information under our law. We do that very rarely, because most organizations comply with us. They then went to Federal Court on judicial review—that is, questioning the legality, the appropriateness, of our decision.

**Hon. Gerry Byrne:** Could you see a value to having the greater enforcement power within the Privacy Commissioner's office for these types of decisions?

**Ms. Jennifer Stoddart:** Absolutely.

**Hon. Gerry Byrne:** Would you be able to expand on that a little bit?

**Ms. Jennifer Stoddart:** This committee did go into this question in some depth years ago. We stand by all those recommendations.

I guess the issue is basically that privacy is not taken seriously enough, both in the private sector—I've spoken about this recently—and in the public sector unless there are clear rules and some kind of sanction or accountability.

We have had several cases that were quite sad, in fact, of people who suffered some kind of damage from the actions of a federal organization, either a government or another. In fact one person who went to court under the Privacy Act was told what we all suspected, that there were no damages. Even though this may have had, I believe, a huge consequence on this person's career, and what was done to him was wrong under the Privacy Act, there were no damages.

That's an example of where I think Canada should move forward and join most other countries that now realize these are sanctionable actions.

**Hon. Gerry Byrne:** Mr. Chair, how much time do I have left?

**The Chair:** One minute.

**Hon. Gerry Byrne:** Thank you.

Would you be able to elaborate on what specific role you might suggest your office might potentially be able to hold in terms of being a quasi-judicial body determining whether or not...notwith-

standing the fact that you have established with us that there are no damages that would flow? In the actual determination of a failure, of a fault, you can write up a decision, but it's not actually enforceable in any specific means or mechanism. Is that correct?

**Ms. Jennifer Stoddart:** That's right, yes.

**Hon. Gerry Byrne:** Would you like to make to the committee a specific recommendation, or a general recommendation, as to how that might be dealt with?

**Ms. Jennifer Stoddart:** Perhaps I could refer the committee to the previous work we've done on that question, and—

**Hon. Gerry Byrne:** Forgive me, Ms. Stoddart, but I'm a guest to this committee. The other members would probably be more aware of that than I would be.

•(1615)

**Ms. Jennifer Stoddart:** Yes. Okay.

Well, I guess it's perhaps a challenge to resume that, but certainly for the Privacy Commissioner to be able to go to court and seek enforceable orders it would be, I think, a step forward.

I also think that the public, increasingly, can look after their own privacy matters by giving them a simplified access to Federal Court.

**Hon. Gerry Byrne:** Understood.

Thank you.

[*Translation*]

**The Chair:** Thank you.

I now hand the floor over to Mr. Carmichael.

[*English*]

**Mr. John Carmichael (Don Valley West, CPC):** Thank you, Chair.

Thank you to our witnesses for appearing today.

Commissioner, I think I've had most of my questions answered through earlier testimony and some of your presentation today, but I'd like to just clarify something. The private member's bill, Bill C-461, does not really distinguish between general information that the CBC possesses and information that the CBC possesses that would reveal the identity of confidential journalistic sources.

I wonder if you could go a little deeper and give us your view on that situation specifically.

**Ms. Jennifer Stoddart:** Honourable member, I'd like to be able to give you more information, but as I say, I'm a specialist on neither CBC and journalistic sources, nor access to information.

I really don't have anything that I could helpfully add.

**Mr. John Carmichael:** You've done it all; that's it.

**Ms. Jennifer Stoddart:** Well, no, but we don't deal with a lot of these issues. They are usually referred to the access to information—

**Mr. John Carmichael:** I just want to make sure we're properly assessing all of the input relative to journalistic integrity, protecting journalists who come forward and giving adequate thought to this. So I appreciate that. I'll let that part go then.

I want to go back to some of your material today. In your presentation you talked about the sunshine list, and granted, while the disclosure of information that we're talking about today isn't really a sunshine list, could you comment, give us your thoughts, about the differences among the various provinces as to their position on what level is appropriate for disclosure of salaries, bonuses, etc.?

I'd also like to get your position or your perspective on this. When you talk about private corporations and publicly traded companies—and obviously we've limited that to the top three or four people—do you think that goes deep enough? Again, we're dealing with a situation here where we have...and I want to come back to that specifically after I hear from you on this.

**Ms. Jennifer Stoddart:** In preparing for this appearance, we did some research on the various provincial disclosure requirements. Some provinces have none. There is a range of requirements. I tried to give you an idea of the range.

**Mr. John Carmichael:** I think you've done that well.

**Ms. Jennifer Stoddart:** I wonder if the ranges also are linked to the size of the civil service. They're not necessarily. I see, for example, that Nova Scotia publishes salaries of all officials earning \$100,000 or more. Those are salaries, I read, not salary bands, which is what we do federally. Ontario seems to do the same, and the size of the civil service in Ontario is very different from that in Nova Scotia.

So there's a wide range, I would say. There are probably very few that don't have any publication of salaries now. The ones that don't are Prince Edward Island and Quebec. I read here that they don't disclose pay figures, but my recollection is they will give classification ranges according to a Supreme Court decision in 1999. I don't have any information on Yukon, but all the others seem to post salaries over a certain level.

**Mr. John Carmichael:** Going back to your comments, I have a list in front of me of all the various compensation levels within government specifically, and as I understand it—and please correct me if I'm wrong—right now any information that is contained in these lists on an individualized basis can be accessed through the Access to Information Act. If I submitted to you an access to information request on a specific individual or job role, I could access that information through your office.

• (1620)

**Ms. Jennifer Stoddart:** Yes, or you could through the office where the individual works. Right now you would get the salary band. It would say that this individual has this job and this job pays, let's say, between \$60,000 and \$80,000. You don't get the exact salary of the individual.

**Mr. John Carmichael:** But that would be across the entire public service?

**Ms. Jennifer Stoddart:** That's my understanding.

**Mr. John Carmichael:** That's by individual, specifically for that individual.

**Ms. Jennifer Stoddart:** You could get their classification and job description.

**Mr. John Carmichael:** Would that include bonuses or any type of incentive that might be part of their salary range as well?

**Ms. Jennifer Stoddart:** The existence of the incentive or bonus, if there is one, would probably be disclosed but not the actual amount that the individual received. So it would be like the salary range. It tells you they're in a job that pays, depending on...but not the exact detail. So I think that would apply to bonuses as well.

**Mr. John Carmichael:** All right.

What's my time?

[Translation]

**The Chair:** You have 1 minute and 15 seconds left.

[English]

**Mr. John Carmichael:** I don't think I have any more. I think I'll call it there. Thank you.

Could I share my remaining time with my colleague?

[Translation]

**The Chair:** With pleasure.

Ms. Davidson, you have the floor.

[English]

**Mrs. Patricia Davidson (Sarnia—Lambton, CPC):** Thanks very much, Commissioner, for being with us again.

I want to go back to what Mr. Carmichael was saying about the provinces. You talked about the varying levels that they have implemented. Does any of it have to do with the fact that they were implemented at different times? The only one I'm familiar with is Ontario's and that was some 18 years ago, when \$100,000 was a heck of a good wage and there were very few people who met that \$100,000 threshold. Now the names of those on the \$100,000 list fill newspaper pages.

Are the disclosure requirements of the other provinces long-standing? The fact that the level has not been raised in almost 20 years causes a bit of concern. Do you have any idea when the other ones were implemented?

**Ms. Jennifer Stoddart:** Yes, I do. In looking at this, I think that's a very important point.

Nova Scotia publishes the salaries of all officials earning \$100,000 or more. That was adopted in December 2010. Newfoundland posts the salaries and expenses of elected officials. That was in 2007. In Ontario, as you said, it was 1996.



On the other one, the public sector salaries over \$50,000, which is the policy in Saskatchewan, these are available online dating back to 2005-06. On Alberta, I just have information about government ministers' office expenses, which are posted online. That started in April 2007. B.C. executive compensation disclosure statements were made available online starting in 2008-09.

I think that's all I can tell you about the dates. Generally, it's a fairly recent trend, I guess, but the oldest one seems to be Ontario.

**Mrs. Patricia Davidson:** Thank you very much.

[Translation]

**The Chair:** Thank you.

Ms. Borg, you have the floor.

**Ms. Charmaine Borg (Terrebonne—Blainville, NDP):** I too would like to thank you for being here today.

My first question concerns the Privacy Act as such, and its section 69.1, which concerns journalistic activities. I would like to know why you think legislators use the word "activity" in the act, not the word "source".

A few witnesses explained to us that there was a significant difference between the two, but I would like to know what you think about it.

**Ms. Jennifer Stoddart:** Ms. Borg, I honestly have nothing to tell you on that subject. As I told you, since we do little work with this part of the act, I do not know. We have not examined the question very closely as there is no obvious privacy-related aspect to it.

I do not know whether our senior general counsel has any comment to make.

**Ms. Patricia Kosseim:** It is interesting to note that the present Privacy Act does not refer to activities, but rather to "journalistic, artistic or literary purposes". It uses the word "purposes", not "activities". It is slightly different in our act.

•(1625)

**Ms. Charmaine Borg:** That is fine. Thank you very much.

I have another question, but I do not know whether you will be able to comment on it.

Canada's Information Commissioner has said that the word "independence" could be interpreted as meaning independence from government. I would like to know whether you have any similar concerns about the Privacy Act.

**Ms. Jennifer Stoddart:** I have no concerns from reading it. Some rules of legal interpretation state that the simplest, most obvious interpretation must be adopted.

The bill includes the words "could reasonably be expected to prejudice the Corporation's". The government is therefore not concerned. That is what I understand.

**Ms. Charmaine Borg:** You would not interpret it in that way.

**Ms. Jennifer Stoddart:** No, it clearly states "prejudice the Corporation's." It uses the possessive form. In French, it states "de la Société". I think that applies solely to the CBC.

**Ms. Charmaine Borg:** Thank you.

I would like to go back to the exclusion and the reason why it was included in the act. Do you think it is warranted by the fact that the CBC really plays a special role, one not necessarily the same as that of the government, its agencies and its departments? Its role is very different since it is a journalistic business that makes use of sources. Do you think the exclusion that has been put in place is fundamentally warranted?

**Ms. Jennifer Stoddart:** Do you want to know whether exempting it from the obligation to disclose files is warranted?

**Ms. Charmaine Borg:** I am talking about the present system, about the current exclusion.

**Ms. Jennifer Stoddart:** You are talking about the one provided for in section 69.1?

**Ms. Charmaine Borg:** That is correct.

**Ms. Jennifer Stoddart:** Given the importance of freedom in our societies, this kind of exception is frequently established for artistic, creative and journalistic purposes, in particular, in the information protection laws of other countries that we have studied.

**Ms. Charmaine Borg:** I am giving my remaining speaking time to Ms. Mathysen.

**Ms. Irene Mathysen (London—Fanshawe, NDP):** Thank you, Ms. Borg.

[English]

Thank you very much for being here, Commissioner.

I have a question, and it relates to whistle-blowers. It's very important for our democracy to have people within the public sector who can report on problems or things that they regard as difficulties. Of course this becomes even more significant in regard to the recent revelations about health and safety standards and the lack thereof in Public Works. We know that very recently there's been a loss of life and injury.

With that in mind, do you consider the proposed changes sufficient in protecting the anonymity of whistle-blowers?

**Ms. Jennifer Stoddart:** I don't know that this addresses the question, honourable member, of the anonymity of whistle-blowers. I believe it is covered in the whistle-blowing legislation.

I think general counsel has more information on that. Perhaps I can refer the question to her.

**Ms. Irene Mathysen:** Thank you. I'd appreciate it.

**Ms. Patricia Kosseim:** With respect to the specific amendment being proposed, do I understand that you're speaking about the source of the information that would be provided—i.e., it could be a whistle-blower or it could be any other journalistic source more generally?

**Ms. Irene Mathysen:** Yes. That would be helpful.

**Ms. Patricia Kosseim:** As I think was mentioned earlier, the revelation of the name of the source would be protected, of course, as personal information that would not be disclosed under an access to information request. There is protection already provided for in the current regime, as it would be under the amendment.

Recently the Supreme Court, in 2010, looked at the protection of journalistic sources. Although they didn't entrench charter protection, they did say the common-law rules of privilege in the Wigmore criteria would continue to apply. So there would certainly be protection through the courts to withhold that information in cases where the public interest did not justify their disclosure. The common-law protections would continue to apply.

• (1630)

[Translation]

**Ms. Irene Mathyssen:** Thank you very much.

**The Chair:** Thank you, Ms. Mathyssen.

Mr. Boulerice, do you wish to ask a supplementary question?

**Mr. Alexandre Boulerice:** Ms. Stoddart, do you believe that disclosing the large salaries of public service employees is an effective transparency measure?

If that is your opinion, should that measure also apply to the political staff of ministers and to people working in the Prime Minister's Office?

**Ms. Jennifer Stoddart:** As I said, I am not necessarily an expert on transparency or access to information, which are closely related matters. However, we hope that public disclosure of the salaries of people who earn large amounts of money will have the effect of guiding the actions of those people since they would then be in the public spotlight. I believe that is the general idea behind this.

Is that measure effective? I do not know whether a study has been conducted on the subject, but I would note the case of federal superior court judges, whose salaries have been publicly disclosed since 1906. It appears that that measure has generally been effective since, with few exceptions, it has resulted in irreproachable behaviour on the part of judges across Canada, in contrast to the situation in countries less democratic than Canada. That is all I can tell you on that subject.

What was your second question?

**Mr. Alexandre Boulerice:** I asked you whether this measure should apply to the political staff of ministers and to staff in the Prime Minister's Office.

**Ms. Jennifer Stoddart:** As Privacy Commissioner of Canada, I am obviously in favour of extending the democratic rules applicable to many public service employees as far as possible. Our office recently conducted a study on the non-application of the Privacy Act to political parties.

In principle, I am in favour of extending the acts as far as possible, although that has not yet occurred in any other country.

**Mr. Alexandre Boulerice:** In privacy and access to information cases in an institution, somewhat as in the CBC's case, which we are currently examining, if we draw comparisons with what is going on internationally, we realize that the commissioners concerned generally have full powers in an exclusion-based system. However, that is not the case for us under the present act.

Do you think that might be an alternative to the bill before us today?

**Ms. Jennifer Stoddart:** I think, and I also believe it is the opinion of Ms. Legault and her predecessors, that the Office of the Privacy Commissioner and that of the Information Commissioner need more powers to ensure their respective rules are enforced, which does not often occur.

I would not be able to tell you whether that is an alternative to this bill.

**Mr. Alexandre Boulerice:** It is a matter on which you are not going to state an opinion.

**Ms. Jennifer Stoddart:** I have not thought about it. I would not be able to respond immediately.

**Mr. Alexandre Boulerice:** Do I have a minute left for one final question?

**The Chair:** Be very brief.

**Mr. Alexandre Boulerice:** With regard to disclosure of the large salaries of public service employees—we are obviously not talking here about clerks, for example—should the threshold be set at \$100,000, \$200,000 or \$440,000?

**Ms. Jennifer Stoddart:** I believe that decision is up to you, sir. I would simply point out that practices of this kind are now commonly accepted for the highest paid employees. They are not considered a violation of privacy. I cited the example of judges. That system has been in place for more than 100 years.

**The Chair:** Thank you.

Before closing, I would also like to ask you a question, with your permission. It is very simple.

Do you view a person's salary as personal information? For example, if someone asked about the age and salary of a government employee, the salary would be disclosed, but what about that person's age? Is age considered personal information? Do you also think that salary constitutes personal information?

• (1635)

**Ms. Jennifer Stoddart:** Salary is generally viewed as personal information. However, it is exempted under the present Privacy Act precisely so that pay scales can be disclosed.

**The Chair:** Thank you.

This concludes your testimony. Thank you very much for coming to meet with us and for taking the time to answer our questions.

I now suspend proceedings for a few minutes, and then we will move on to the second item on the agenda.

• (1635)

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

• (1635)

**The Chair:** We will go straight to the second item on the agenda, clause-by-clause consideration of Bill C-461.

Pursuant to Standing Order 75(1), clause 1, which concerns the short title, is postponed. I therefore call clause 2.

(On clause 2—*Canadian Broadcasting Corporation*)

● (1640)

**The Chair:** Mr. Boulерice, do you have a question?

**Mr. Alexandre Boulérice:** Unless I am mistaken, the period set aside for discussion and comments has started, has it not?

**The Chair:** Yes. In fact, since I just called clause 2, amendments may be moved. We must proceed in the order in which we received the amendments. In this case, we received the Conservatives' amendment first, but they are free to move them or not.

Is there any discussion or amendment respecting clause 2?

Mr. Boulérice, you have the floor.

**Mr. Alexandre Boulérice:** I want to move an amendment to clause 2. It reads as follows—

**The Chair:** Just a moment.

Mr. Butt, do you want to move the amendment you sent us? You are first. It is up to you to decide whether you want to read it.

[*English*]

**Mr. Brad Butt (Mississauga—Streetsville, CPC):** It's been circulated, so I don't think I need to read it into the record if it's not required.

[*Translation*]

**The Chair:** All right.

Does anyone wish to speak to the Conservatives' amendment to clause 2?

Mr. Boulérice, you have the floor.

**Mr. Alexandre Boulérice:** Thank you, Mr. Chair.

It is important to put the entire bill in context. I see this amendment as an attempt by the Conservatives to protect journalistic sources in a way. This is an issue that has been raised several times by various groups. It was mainly raised by professionals working in the field, sometimes by those from the CBC, but not exclusively by them.

In this brief comment, I also want to provide some context for this bill, which concerns access to information. It does not address just any federal government organization but rather one organization in particular, the Canadian Broadcasting Corporation. It has a long history as well as a unique mandate and role in the television, artistic and news landscape. I think it is important to bear that in mind to ensure that the unique mandate and special role of the Canadian Broadcasting Corporation are preserved for decades to come.

This institution, which recently celebrated its 75<sup>th</sup> anniversary, has made a contribution to Canada's identity and to our cultural life. That contribution has been greatly appreciated by all Quebecers and Canadians. Things have been done at the CBC that have never been done elsewhere and that could not have been done elsewhere. It is therefore a precious jewel.

On this point, it is worth citing the Fédération professionnelle des journalistes du Québec on the values that must be defended when talking about CBC/Radio-Canada.

Note that the corporation's mandate includes specific items such as local and regional coverage, which is much more intensive and greatly appreciated by communities not generally covered by the major private networks. This makes it possible to tell stories about all the provinces and regions of the country. These are stories that have shaped our collective imagination both in Quebec and elsewhere in Canada. For adults, those stories were told through documentaries, news reports and investigations and, for children, through cartoons that stimulated our children's imaginations on Saturday and Sunday mornings.

With respect to the values that should be defended, I refer to the brief submitted to us by the Fédération professionnelle des journalistes du Québec, which states, with respect to the relevance of a public broadcaster:

The Standing Committee was not given the mandate to consider the appropriateness and the pertinence of a public broadcaster in Canada. Parliament has decided on this issue decades ago when it launched the CBC. Yet, it is the subtext to C-461, as if there was an elephant in the room.

The FPJQ has always defended the existence of a strong public broadcaster as an irreplaceable vector of public interest information. The Federation opposes any measure that would diminish this role.

That is obviously an opinion that the New Democratic Party shares.

The FPJQ continues as follows:

The mainstream media are facing, worldwide, economic difficulties that affect their ability to inform the public in a professional manner. ...we must be careful not to weaken one of the most important news organizations in the country, which has received many prestigious awards for the quality of its information.

The second value that, according to the federation's presentation, must be defended is the independence of the CBC as a public broadcaster. This is the independence that we have discussed, the interpretation of which, in accordance with the terms of the bill before us, we feel is not very clear. The FPJQ states:

It can be difficult to accept the idea that an organization funded largely by public funds should not be held fully accountable, as any other Crown corporation.

Still, it is a reality that we must accept since the CBC operates in a very special and unique field, information and journalism.

To digress briefly, it is not just information that must be considered, but also programming. However, I will come back to that later.

The FPJQ's presentation continues:

In this field, the value of a media company, regardless of its structure of property, is its independence from all the powers in place. In the CBC's case, we must especially protect and warrant its independence from the various governments that come and go at the helm of the State.

"The status of the broadcaster is a defining feature of the CBC and helps to distinguish it from other Crown corporations. It has the status of a diffuser, and as such, it is in charge of its editorial decisions and it takes full responsibility for them, to the exclusion of executive power of the State."

The Broadcasting Act explicitly stipulates in article 46, paragraph 5:

"The Corporation shall, in the pursuit of its objects and in the exercise of its powers, enjoy freedom of expression and journalistic, creative and programming independence."

•(1645)

One cannot freely report if one is not independent. And if one does not freely inform, one is not in the news business but in the realm of promotion, publicity or worse, propaganda. The free flow of information and the freedom to report it is a feature of the CBC, unlike some of its counterparts in authoritarian regimes, where state-sponsored information is censored and controlled.

The FPJQ intervened several times in its some 40 years of activity to protect the CBC's independence against the threats made by successive governments.

This is obviously a value that is dear to us. I thought it was important to recall the position of the Fédération professionnelle des journalistes du Québec on this point.

It is important to note that the CBC contributes in a way to the protection of linguistic minorities. I am mainly thinking of the coverage that francophones outside Quebec obtain through RDI and local Radio-Canada programming. That would probably not be the case if free market forces alone gave free rein—

**The Chair:** Mr. Warkentin has a point of order.

[English]

**Mr. Chris Warkentin:** Mr. Chair, I do appreciate Mr. Boulerice's attempt to encapsulate the entire testimony that we heard on this bill in his intervention, but the discussion we should be having right now is about the amendment, and the amendment was about journalistic sources.

I heard from the onset, from his deliberation, that it seemed he would be supporting this amendment. I'm wondering if we could either bring the discussion back to the actual amendment, or if he would seek to I guess clarify and finish his point, so we can continue to move on.

[Translation]

**The Chair:** Since he had already been speaking for some minutes, I was going to mention to him that he should stick to the amendment as closely as possible.

Your comments must address the amendment, which ultimately concerns section 18.2 of the Access to Information Act. I can allow you some leeway, but your comments must focus specifically on the amendment, not on the bill in general. I will let you continue in order to see where you want to go, but you should try to link this to the amendment we are discussing.

Mr. Angus, do you have a point of order as well?

[English]

**Mr. Charlie Angus (Timmins—James Bay, NDP):** No. I want to be on the speakers list.

[Translation]

**The Chair:** In that case, Mr. Boulerice, you may continue.

**Mr. Alexandre Boulerice:** Thank you very much, Mr. Chair. You know how I like to set the scene so that we can really understand the issue. That is simply what I was doing, Mr. Chair. Thank you all the same for rigorously calling me to order.

I will therefore go immediately to the matter of information sources, but first I think it is important to say at least once that we Canadians benefit from CBC/Radio-Canada's unique mandate and role since we have the opportunity to tell our stories at extremely low cost.

Mr. Warkentin, I agree that \$1 billion is a lot of money. However, this public broadcaster costs \$34 per Canadian annually. As we say in Quebec, that is a real bargain compared to the United Kingdom and Japan, where a public broadcaster costs \$90 to \$100 per capita, or to Germany, where it costs \$147 per citizen. So it is important to remind people that our public broadcaster really does not cost us a lot of money. That is a piece of information that is not widely disseminated.

I see the intention concealed behind the amendment respecting journalistic sources presented by our Conservative Party friends. In the circumstances, I do not think that amendment is enough to paper over the cracks and reassure all the stakeholders who have appeared before this committee. They told us how this amendment jeopardized journalistic work and could even lead to the disclosure of crucial journalistic information and perhaps to the disclosure of certain sources.

This amendment also raises another question regarding the ability of CBC journalists to do their work if this kind of threat is held over them like a sword of Damocles. This bill would weaken the act and take us from a system of exclusions to one of exemptions. Journalistic work might then be jeopardized by an access to information request made by a company or citizen six months later. Potential witnesses or whistleblowers would then simply decide not to speak to CBC journalists, knowing that they might lose their protection if the information they disclose does not affect the crown corporation's independence from government. That is our interpretation. This is a danger, since the doors will be opened and journalists will then have to fight and go to court.

For example, we saw how the serious work done by journalists on the *Enquête* program, who met with people over several months, led to the Charbonneau Commission. That is genuinely useful to Quebec right now. That commission would probably not have been struck without the protection afforded to journalistic sources. We feel that protection should not be jeopardized. However, that is the aim of the amendment that Mr. Butt has presented to us.

Journalists operate on the basis of trust. From the moment you cast any doubt, you undermine the mutual trust necessary for a witness to open up and provide privileged information, even though that may jeopardize his or her career or physical safety. If that kind of doubt arises, witnesses may go and see competitors such as CTV, if they are anglophones, or TVA if they are Quebec francophones. That is what was revealed by many who wrote to us or who testified on this point.

In our debate on journalistic sources, it is important to recall certain comments that were made by organizations that are major players in this field. I am going to read those comments in English, Mr. Chair, because they were sent to us in that language.

For example, the Fair Accountability Initiative for Reform told us this:

●(1650)

[English]

FAIR believes that Bill C-461 will seriously disadvantage the CBC in securing information from confidential sources about matters that affect the public interest.

Whistleblowers looking for a trusted journalist to make public a serious disclosure of wrongdoing are likely to be terrified—with good reason—of the possible consequences of being identified. If they know that a CBC journalist may have to disclose his or her source to a third party, while other journalists do not, this will be a very strong incentive to avoid the CBC....

Over the past six years we have taken calls from more than 300 bona fide whistleblowers on our confidential information hotline....

Whistleblowers are typically role-model employees. Contrary to some portrayals, they are not disloyal, under-performing, disgruntled employees. In fact, they are much more likely to be respected high-performers who are intensely loyal to the organization and its mandate....

Becoming a whistleblower is often not a choice. It happens because, simply by doing their job properly—auditing finances, inspecting engineering work, investigating crimes, treating patients—some employees come across information that it is their duty to report....

...whistleblowers do not consider [non-disclosure] an option. Their moral code, their sense of duty, or their professional code of ethics do not allow this....

[Translation]

I think it is clear from FAIR's testimony that whistleblowers are a particular type of employee who want to do right. They want public funds to be well administered and legislation to be complied with. They must deal with credible journalists who will be in a position to protect them. We have seen journalists willing to go to prison to protect their journalistic sources. That is because they are professionals and they are doing their job.

Canadian Journalists for Free Expression also calls for Bill C-461 to be rejected. That organization believes that the bill is so poorly designed and so jeopardizes the CBC's journalistic integrity that it cannot be repaired with amendments. It must therefore be withdrawn or rejected. In its view, it has become clear that the primary goal of the author and supporters of Bill C-461 is to permit disclosure of the compensation of all public officials. The CBC is merely a politically vulnerable means to achieving that. It is an easy target.

The author of the bill himself acknowledged that it constituted a piecemeal reform, one consisting of vaguely related elements, although he did not admit the harmful effects it would have on the general enforcement of access to information regulations.

We are very concerned about this abuse of judicial procedure. If Parliament wishes to compel public servants to disclose their compensation, it should imitate other Canadian parliaments and adopt a clear and simple bill obviously designed to achieve that objective. The aim of Bill C-461 is to do the same thing, but in a roundabout way, which has the collateral effect of discrediting Canada a little more. It makes the access to information and privacy system even more complex and exposes it to political manipulation.

Regardless of committee members' opinion of the CBC and compensation of its executives, they certainly do not want to nullify its ability to carry out its journalistic mandate. They believe that current regulations, which have been clearly explained by the courts, work very well and provide effective protection for the CBC's confidential sources, its independence from government and its intrinsic right to freedom of expression.

Once again,

●(1655)

[English]

“if it ain't broke, don't fix it.”

[Translation]

People agree on the interpretation of section 68.1 and are concerned about the collateral damage that might be caused if Bill C-461 were passed. If it were merely a matter of disclosing the salaries of senior officials, that would have been feasible, but we are proceeding here by means of a bill that affects the access to information of a crown corporation that also does journalistic work. That is where the problem arises and where the situation could be dangerous for working journalists.

The Canadian Media Guild recalled that Parliament and legislators should—

**The Chair:** Just a moment, Mr. Boulerice. Mr. Warkentin has a point of order.

[English]

**Mr. Chris Warkentin:** I just wanted to inform my colleagues—and I know my colleague is going to get to the point here shortly, and I'm sure he is in the midst of doing that, so I don't want to interrupt—and I did want you to know, Chair, that I will not give consent to adjourn this meeting at 5:30. I expect that we'll continue through the evening if necessary.

Obviously, my colleague has an important point to make, and we'll listen to that. Then I hope we'll get a chance to vote on this at some point.

[Translation]

**The Chair:** Yes, that is my impression too. I will not adjourn the meeting as long as Mr. Boulerice has the floor, since he wants to complete his remarks.

Mr. Andrews, do you have the same point of order?

[English]

**Mr. Scott Andrews (Avalon, Lib.):** I have just one question, Mr. Chair. If the government wishes to do such, don't they have to do that when they have the floor? I don't think they can interject during, to give a point of order on that.

I'm not quite sure of the rule on that. I'm just asking for some clarification.

[Translation]

**The Chair:** I want to clarify one point.

That was in fact not a motion; it was merely an expression of intent. I do not consider it a point of order. It was simply an intent of which I was informed. There was no motion.

I will allow Mr. Boulerice to continue, unless Mr. Angus has a point of order.

[English]

**Mr. Charlie Angus:** Yes. My colleague is discussing a very key issue, which is about journalistic sources and integrity, which, if this bill is done wrong, will have long-term consequences.

I find it appalling that my colleagues on the other side feel they can maybe intimidate us by saying we're staying till midnight. Rather than listening to the issue here—

**Mr. Chris Warkentin:** [*Inaudible—Editor*]...I was talking to the chair.

**Mr. Charlie Angus:** If they want us to stay till midnight on an issue like this, then we'll stay. We can do this in a reasonable manner, or if they want to do what they do in every committee, and in the House, and attempt to bully the opposition into being quiet about a major issue—

**Mr. Chris Warkentin:** Point of order....

**Mr. Charlie Angus:** —which is the issue of journalistic sources, then we certainly can talk.

• (1700)

[Translation]

**The Chair:** Mr. Angus, that is not a point of order. I will therefore have to interrupt you.

Mr. Warkentin, do you have a point of order? No, then in that case, I am going to allow Mr. Boulerice to continue to speak to the amendment.

**Mr. Alexandre Boulerice:** Thank you, Mr. Chair.

Coming back to the importance of protecting journalistic sources, I repeat that we believe the amendment presented by the Conservative Party still fails to address all the concerns that have been submitted to us.

There were other, much more effective ways of doing that, but the Conservatives preferred to head in this direction, thus raising quite serious concerns within the profession across the country. If there had been a genuine concern to enable the Information Commissioner to do her job, we could perhaps have drawn on foreign legislation that grants full authority to obtain documents and determined whether the access to information request is legitimate. Instead of that, they have restricted the definition of "activities" to that of "independence", which has somewhat inflamed the situation.

On this point, the Canadian Media Guild, which is concerned with matters pertaining to the right to information, told us this during the hearings:

We are concerned that the impetus behind Bill C-461 is to strengthen the hand of the CBC's media competitors and to weaken the Corporation's journalistic integrity and ability to protect its confidential sources.

We are really addressing the issue of protection for journalistic sources. Most of the bill's opponents pointed out this particular feature. It did not concern disclosure of the compensation of the most highly paid employees, a point on which most people could agree.

The Guild also said this:

If the supporters of this bill really want the Access to Information system to work better—and we would agree that this is desperately needed—then they should bring forward a comprehensive package for reforming the Act, with careful

consideration for how it intersects with the Privacy and Broadcasting acts. For example, the House of Commons and the Senate should be put under the act as they are in most modern freedom to information laws and in other parliamentary democracies.... The Information Commissioner should receive order-making powers....

That is not provided for in the bill or in this amendment. Bill C-461 addresses none of these changes.

The Guild also noted the following:

If one of the objectives of C-461 is to achieve greater transparency about the salaries paid to employees of Crown Corporations, of which the CBC is only one, as well as those of government departments and agencies, then it should address that directly and comprehensively, naming all the departments, corporations and agencies involved and thoroughly examining the relevant privacy issues.

We can also address the issue of the bureaucracy. I recall a comment by Mr. Carmichael that I thought was interesting. He talked about the danger involved in creating a new registry. That is an explosive word, and I do not think the Conservative government intends to create more registries, red tape and bureaucracy.

The Guild also told us this:

Bill C-461 cannot be salvaged—

**The Chair:** One moment, please, Mr. Boulerice. Can you read more slowly, please? The interpreters do not have the document in hand.

**Mr. Alexandre Boulerice:** I apologize. I will try to do better.

As I was saying:

Bill C-461 cannot be salvaged, even by extensive amendments. The government and Parliament have no place in the newsrooms of the country. Bill C-461 turns an outright exclusion for CBC journalism into an exemption based on an injury test that could be fought by each applicant in court. This would place conditions on CBC's journalism that exist for no other news organization in Canada. This is an affront to the principle of freedom of the media. Some have argued that such demands of the CBC would be unconstitutional. Bill C-461 moves further away from what is really needed: additional measures [to provide protection] from the government and powerful interests.

There are journalistic sources, but also the issue of programming. Mr. Chair, I am sure that we will have occasion to talk about this later since the CBC is in a competitive market, particularly as regards advertising purchases.

In the years immediately after the CBC was put under the *Access to Information Act* in 2007, the corporation admittedly experienced serious problems in responding to access requests in a timely fashion. That problem has been rectified, as exemplified by the "A" grade recently awarded to the CBC in the most recent report card by the Information Commissioner of Canada.

The author of the bill reminded us during his testimony that Canada had fallen to 56<sup>th</sup> place out of 90 countries with regard to transparency. My impression is that this bill will solve nothing, that it will jeopardize journalistic sources and that it will also be an attempt to solve a problem that does not exist. There are enough federal government departments and agencies that have transparency and access to information problems. This direct attack on the CBC could have been avoided.

The Guild is not the only organization concerned about journalistic work. Ms. Maryse Bertrand, who is Vice-President, Real Estate, Legal Services and General Counsel at the Canadian Broadcasting Corporation, wrote to you, Mr. Chair. I believe she testified before this committee.

While this legislation proposes to increase the public's access to information held by removing the specific exclusions provided in law to the Canadian Broadcasting Corporation, Bill C-461 may undermine the Corporation's ability to do its job as mandated by Parliament.

As the Information Commissioner pointed out in her submission to the Committee, the Federal Court of Appeal ruling is clear: The Commissioner can review documents held by CBC/Radio-Canada in order to determine whether the exclusion under section 68.1 applies, except when it comes to journalistic sources. We are both satisfied with that decision and have been working well together to process our outstanding cases.

C-461 would remove the 68.1 exclusion completely. As we noted in our appearance, public broadcasters in Ireland, Great Britain, and Australia all have exclusions from their Freedom of Information laws for journalism, programming and creative activities. The exclusion exists in order to ensure that these public broadcasters are subject to freedom of information legislation without compromising the very job they are mandated to do. It is unclear why that situation should be different for Canada's public broadcaster.

Indeed, Mr. Chair, they are not clear at all. That is our criticism of this bill, which risks jeopardizing one of the most effective newsrooms in Quebec and Canada.

Vice-President Bertrand continued as follows:

Our specific concerns are the following:

By changing "journalistic, programming and creative activities", to "journalistic, programming and creative independence", C-461 limits the protection of CBC/Radio-Canada's activities to areas where the Corporation can prove damage to its independence.

● (1705)

Under the system of exemptions, the burden of proof is now on the CBC. Mr. Bob Carty, of the Canadian Media Guild, told the committee about the proof of prejudice to its independence from the government. He told us this:

...a pharmaceutical company eager to know what we are finding out about the deadly side effects of one of its drugs could argue in court that the release of my journalistic materials, even sources, in no way compromises the CBC's independence from government and Parliament. The release would damage my credibility, the CBC's journalistic integrity, and quite possibly subject us to a lawsuit to prevent the material from being broadcast.

**Going back to Ms. Bertrand's letter:** By failing to specifically protect journalistic sources, C-461 may undermine the ability of CBC journalists to secure the trust of sources, obtain confidential information, and report to Canadians. To be clear, this is not a question of whether the Commissioner can be trusted to see confidential information. The issue is whether confidential sources will trust in CBC/Radio-Canada journalists knowing that their identity will be shared with the Commissioner's office. We must disagree with the Commissioner's belief that journalistic sources are adequately protected elsewhere. They are not.

That is Ms. Bertrand's point of view.

Furthermore, like judges who do not need to see the names of sources in order to decide if they should be protected, we believe the Commissioner does not need access to such names in order to decide that information is at the heart of our journalism. This is why the decision from the Federal Court of Appeal specifically excludes the Information Commissioner from viewing journalistic sources in the current law.

We are not talking about redacting a document to remove only names, but rather about all the information, context, dates and places that might help identify a whistleblower or person working in close co-operation with the commissioner.

I want to close with Ms. Bertrand's conclusion. I will also let my colleagues give us their comments on the amendment that has been presented to us.

Ms. Bertrand writes as follows:

If Parliament wishes to update Canada's Access to Information Act, we believe that it should do so, as part of an overall review. As the Commissioner told the Committee, changes to Access to Information "demand thoughtful, unified action and are not easily amenable to a piecemeal solution. Piecemeal efforts result in unintended consequences which it is now clear, would be the case with this piece of legislation, however well-intentioned.

For these reasons, we believe that the Parliament should not proceed with C-461.

In our humble opinion, the amendment designed to protect journalistic sources is inadequate. In fact, the entire bill should be reviewed. The protections provided for the CBC's journalistic, creative and programming work should be strengthened. However, that is not what we see before us.

In light of these preliminary remarks, Mr. Chair, I would like to say that we will vote against the amendment.

● (1710)

**The Chair:** Thank you.

The next person on the list is Ms. Borg.

I remind you that we are talking about the amendment.

**Ms. Charmaine Borg:** Thank you.

I would like to congratulate my colleague. His comments were very comprehensive, based on the information and quite brief. He could have spoken at length on this very interesting topic.

First, I consider it quite unusual that transparency should be demanded of the CBC. Transparency is very important. Everyone in a democratic society looks for it, but the fact is that we have a government that is not very transparent at all. The Information Commissioner has said on numerous occasions that there is a genuine problem of access to information. Scientists may not speak publicly and even librarians are not allowed to give conferences. It is therefore quite unusual to set transparency as the objective of this bill—which, incidentally, we do not think will achieve that goal—whereas the government itself has no best practices with regard to transparency. The Parliamentary Budget Officer, for example, has to petition the Federal Court to obtain the documents he needs to do his job.

The amendment shows the haphazard manner in which the bill has been put together. No thought was given, when it was drafted, to the fact that it was important to protect journalistic sources. I am pleased to see that this amendment has been introduced. I think it will improve matters somewhat. However, it does not attack the root of the problem. Journalistic sources are very important. The CBC is really very important to my fellow citizens. However, if it is unable to guarantee the confidentiality of its journalistic sources, it will be difficult for it to compete with the major news and media companies. It is very important to protect those sources.

Although we support this amendment, it does not address the root of the problem. In fact, the bill creates more problems than it solves. The Information Commissioner stated in her testimony that it was important to amend and update the Access to Information Act but that that should not be done haphazardly, that is to say by correcting one thing and then another. That means focusing too much on one specific issue, which is then politicized.

Information regarding confidential sources has come to us from various sources. Letters, in particular, have been written. I would note that I am receiving an enormous number of emails from people who are opposed to this bill. I think it is our duty to discuss them and to think about them very seriously. The Canadian Media Guild, more particularly, spoke specifically about protection for confidential sources. In its view, this bill would unfortunately jeopardize that protection. We want to ensure that the CBC remains competitive and continues to be the organization that is so much appreciated by my fellow citizens and colleagues.

This bill generally addresses CBC/Radio-Canada, not the problem of transparency. The intent may have been to attack that problem, but it unfortunately does not go far enough in that direction. In short, although the amendment improves matters somewhat, we will be proud to vote against this bill.

That sums up my comments. I am sure my colleague Mr. Angus will add to them.

• (1715)

**The Chair:** Thank you.

Mr. Warkentin, you have the floor.

[English]

**Mr. Chris Warkentin:** I'm fine, thank you.

[Translation]

**The Chair:** Mr. Angus, it is your turn.

[English]

**Mr. Charlie Angus:** Thank you, Mr. Chair.

To follow my two colleagues, I think what's really important to talk about here is the importance of the work of the journalists.

I heard Mr. Butt and Mr. Menegakis say earlier that the CBC is no friend of ours, but I think that whether you like CBC or not is—

[Translation]

**The Chair:** Mr. Menegakis, you have a point of order?

[English]

**Mr. Costas Menegakis (Richmond Hill, CPC):** On a point of order, I never used those words in my life, sir.

**An hon. member:** I think you were hearing it.

**Mr. Costas Menegakis:** No.

[Translation]

**The Chair:** That is not a point of order, but thank you nevertheless.

[English]

**Mr. Costas Menegakis:** I would like the member to take that back. I've never uttered those words in my life.

**Mr. Charlie Angus:** I think it was your colleagues.

[Translation]

**The Chair:** Mr. Angus, you have the floor.

[English]

**Mr. Charlie Angus:** Anyway, Mr. Chair, this isn't whether or not I drive off the road on Sundays when Stuart McLean comes on, or I change the channel on the *Lang & O'Leary Exchange*, or I scratch my head at some stuff I hear. Canadians have a love-hate relationship with the CBC. We love some stuff. Other stuff drives us crazy. It's our public broadcaster and that's our relationship.

The issue here is what the journalists do. This is our discussion. I appreciate my colleague, Mr. Butt, trying to clarify because certainly Mr. Rathgeber has tried to come forward with some issues in terms of accountability. I'm intrigued by some of them, but the issue of independence was clearly an untested word and would give us problems in the courts.

I'm worried about the narrow definition of “confidential journalistic source” because it does not give the context of journalistic activities. I worked for 12 years as an independent journalist and I ran a magazine. We were involved in a number of investigative pieces, and you realize that it's not just the source. It's where the source comes from. It's the context of the source. When I heard the other day “the name will get blotted out”, that's not necessarily the most important thing. If someone wants to find out the source, where something came from, they want to find out the context of it because you can find out a great deal of things. If you want to find out what the investigation is, if you want to find out what that journalist was doing, it's the activities of the journalist that are crucial here.

This is really important because CBC, as the public broadcaster, is the only media institution in this country that is subject to issues of access to information. The other media companies in this country do excellent work. In my region, CTV is our news service on television. Sun Media runs our newspapers. They're out in the field. They do work, but they're not subject to access to information. It's a different set of standards. So the only thing we want to make sure about is that journalists are all working on the same playing field.

That is the important issue here. It's not attack the CBC or pro-CBC versus private sector broadcasters. The difference is that we cannot allow the journalists to be caught up as though they are somehow government bureaucrats, because if they're treated under the same rules as government bureaucrats or government institutions, then the Canadian public will certainly lose out.

It's really important to point out as well that if you've worked in the field as a journalist you know that a source doesn't go and knock on the door of the corporation. They go to the journalist. It's the relationship between the journalist and the source. They didn't go to CTV with the Mike Duffy scandal. They went to Bob Fife, and Bob Fife broke the story because of who Bob Fife is.



There may be some people who would love to know how Bob Fife found out what he found out. I certainly would love to find out how Bob Fife knew what he found out. I'm feeling my sources just aren't good enough here. If I could do access to information I might not find the source, but I could find out generally how Bob Fife found that out. That would be very important for someone, but Bob Fife, fortunately, is not subject to access to information.

Nobody calls CBC's 1-800 number and says, I'm a whistle-blower. They go to Terry Milewski because Terry Milewski has the reputation, or they go to another individual journalist. For example, if you wanted to break a really good story you would go to David Akin. You wouldn't call the *Sun*, and I would certainly know that Althia Raj would do an excellent job. In fact, I might have called Althia Raj a few times myself with whistle-blowers, and I certainly wouldn't want anyone to be able to access information and find out that we won't say the name but the phone call came from Timmins—James Bay. It certainly could have been one of my neighbours. Althia can deny it, but I think she has received those calls in the past from me, with me saying a little birdie told me you might want to listen.

This is what we're talking about. How do we define the protection of what the journalists do? It's the journalistic activities. It's not the name. It's the activities that are important.

I'm looking at this motion and I don't believe it covers what needs to be covered and what we've heard from independent journalists. We've heard from the CBC, and I understand CBC's concern because they're in a competitive fight. They're a public broadcaster, but they're also a semi-private broadcaster and the media game is a tough business. They have their competitors and certainly the ongoing war with CBC and Quebecor is one for the books. Somebody is going to write that book. I'm not going to write it, but somebody will write that book.

• (1720)

That's a side issue to what we're debating now, which is ensuring that when a journalist meets with someone that person can know they are fully protected.

There's a long history—not just in Canada, but certainly in the United States as well—of journalists being willing to go to jail. That's the journalist's code. You have to be willing to do everything to protect your source. If you can't protect it through the corporation because you're subject to access to information, and if you can't say you can guarantee that it won't be out there in an access to information request—because things do get out through access to information—your word isn't really much good for anything.

Certainly we're big believers in access to information. I'm always upset when I see blacked out redacted documents from the government. In fact, the more I make requests, the more redacted they seem to get all the time. Occasionally you do find significant things through access to information. Sometimes mistakes are made under access to information.

What we believe is important here is to ensure that it's not just the source, it's not just the name, it's not just the person who is going to be blacked out, because we know that would be blacked out anyway. It is the activity that the journalist is engaged in. Sometimes when a

journalist is on a story it's a dead end. Certainly there might be mileage. Certainly a journalist went to a place. Why were they going to that place? What were they spending that money on? Why did they take a hotel? Why were they flying there? They are going there to establish the relationship with the source to break the story. This is the important thing. It's not just the name. It's the overall context within which the journalist works.

This is why we don't believe this particular amendment is clear enough. We believe that we need to have the language around the activities of the journalist. That would reassure us that at the end of the day the public broadcaster, just like any journalistic institution in this country, would have the independence to do its work without intimidation.

I use the word “intimidation”, Mr. Chair, to provide context so my colleagues understand why we have been so strong on this in the opening round. It's not that we're trying to be obstructive here.

When someone is involved in a long-term investigation, they could be going after organized crime. They could be going after a corporate interest. There could be millions of dollars at stake. If someone wants to find out where the leak is coming from, they're going to do what they have to do, and they will certainly go through freedom of information if they can. They're going to find out everything they can and they will fight it. They will fight it with the Information Commissioner. They will fight it with the courts, because it's important to them.

We heard the example about a set of a pharmaceutical trials that might be going wrong, and someone on the inside is telling. Certainly the pharmaceutical industry is going to want to know why the public was informed.

This brings us back to the role of the whistle-blower. The whistle-blower is not the rat. The whistle-blower is often the person who's very concerned about the public interest and thinks that what they are being asked to do is wrong. But there is nobody they can go to above them to say it is wrong. The whistle-blower puts their career on the line because they believe the public has a right to know. The person they go to is often the journalist, because at the end of the day it's the journalist's role to tell those stories and to make sure the facts get out.

The journalist knows—and their institution knows—that if they're wrong, big lawsuits await. This isn't an easy business. This is a tough business, but it's based on your word to your source. This is what we want to maintain, that the individual journalist working in the field can go back to their source and say, “I will ensure that if you give me this information, that if I have the information, you will be protected.” That is absolutely essential.

I don't think Mr. Rathgeber in any way intended to undermine the independence of journalists. I certainly respect what he has tried to do, but laws have unintended consequences and the language around the law is very important.

I appreciate the amendment to try to clarify the language, but just saying “journalistic source” is not clear enough. Thank you.

• (1725)

[Translation]

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

The next person on my list is Mr. Andrews.

[English]

**Mr. Scott Andrews:** Thank you, Mr. Chair.

First, I have just a thought on some of Mr. Angus' testimony. It got me thinking about how, recently, this government and the Department of National Defence will go through any means necessary to find out how stories get leaked and how they get out to the media. It just reminded me of that occurrence this week and of how important it is to protect journalistic sources. I think we need to do that, and today there are a couple of amendments here to do that.

For my question, I'd like some clarity from the legislative clerk or the library staff we have here. In looking at the first clause, or proposed section 18.2, as it's referred to in the bill, as Mr. Rathgeber has put it in the bill, it says, "could reasonably be expected to prejudice the Corporation's journalistic, creative or programming independence". I'd like to go back to the "prejudice" part, because I think we heard testimony in a couple of examples from the commissioner that this type of prejudice or injury-based test is something that is similar to the national security and CSIS issues that come before her.

I was wondering if this wording and the prejudice test are similar to the national security and the CSIS departments', which has been brought to our attention through the deliberations. I was wondering if the analysts or the legislative clerk could tell us if this prejudice test is in any other statute regarding national security. Would this be something that's similar if the clause here goes unamended?

• (1730)

[Translation]

**The Chair:** Before handing the floor over those who would like to answer that question, I would recall, as we said at the start of the process, that the legislative clerk is here to answer procedural questions and to determine whether amendments are in order, not to answer questions of a legal nature such as the one just asked. Mr. Butt is in the best position to answer that, since he drafted and moved the amendment. The legislative clerk will not answer that question since it is of a legal nature.

Mr. Butt, do you have something to say?

[English]

**Mr. Brad Butt:** It's pretty clear what it says.

[Translation]

**The Chair:** Mr. Warkentin, do you want to answer Mr. Andrews' question?

[English]

**Mr. Chris Warkentin:** Thank you.

I don't know if I can answer the question of Mr. Andrews directly, but there are two things. Number one, I think we could probably get an official here from the justice department if necessary, if that would be the will of the committee, to answer questions such as

those Mr. Andrews asks. That's the first offer. That could possibly happen, I understand.

The second point is that I think the context of what the government seeks to do here is essential. The first thing is to make this amendment, but then it comes shortly before the next amendment, and the next amendment will also help clarify the intent of government.

We believe it's important that all journalists in the country are treated equally, regardless of what institution they serve at. We believe it's important that there be an ability for the taxpayer to find out information that is relevant to taxpayer expenditures and that does not in any way impact the protection of journalistic and confidential sources, so we have proposed this amendment. There will be another amendment, which you have already seen and which will effectively change the process.

Right now, what we propose is a situation by which the corporation can turn down a request for information if they believe that it relates to a source material. If somebody wants to challenge that, they can challenge it in the courts. They will not take it... If the amendments succeed in collaboration, then it will not go to the Information Commissioner, because we believe that while the Information Commissioner is well versed in a number of things, she's not well versed as it relates to the protection of confidential sources.

So we believe that CBC reporters and Radio-Canada reporters have to have the same rights and the same protections as every other journalist in this country. It has been established all the way up to the Supreme Court of Canada that confidential journalistic sources, in the protection of that, also protect information that would lead one to find out who those folks are, so the issue of activities will be covered in that.

We believe the courts are best suited to protect journalistic integrity and journalistic sources, so we will leave it in the court's hands. The courts that have consistently protected the information from being released. We believe that CBC reporters should be subject to the same system and the same protections as every other reporter in the country, and that is what is proposed with the two amendments.

[Translation]

**The Chair:** Mr. Andrews, you still have the floor. Do you have any further comments?

[English]

**Mr. Scott Andrews:** No.

[Translation]

**The Chair:** Mr. Warkentin was also on my list.

Just a moment, please. I am told that someone wants to answer Mr. Andrews' question.

[English]

**Mr. Miguel Bernal-Castillero (Committee Researcher):** Thank you, Mr. Chair.

Mr. Andrews, to your question as to the word “prejudice” in the Access to Information Act, I refer you to sections 14 and 15 of the act. They talk of when a disclosure “could reasonably be expected to be injurious to the conduct by the Government”, in the case of section 14, and in the case of section 15, “could reasonably be expected to be injurious to the conduct of international affairs”. Similarly, paragraph 16(1)(c), the Access to Information Act talks of “disclosure of which could reasonably be expected to be injurious to the enforcement of any law of Canada”.

The way the Access to Information Act is currently written doesn't create a prejudice test using the word “prejudice”, but rather an injurious test or an injury-based test where, again, the standards are reasonability and the cause of, in this case, injury. So the wording, as proposed, is different. The Access to Information Act does contain certain, while not identical, rather similar tests.

I hope that helps answer your question.

• (1735)

[Translation]

**The Chair:** Mr. Angus, you have the floor.

[English]

**Mr. Charlie Angus:** Yes, thank you. I know we were just discussing one motion at a time but my colleague Mr. Warkentin had made reference to the other amendment that is supposed to deal with this. My concern is that the other amendment says specifically it would reveal the identity of any—

[Translation]

**The Chair:** Those principles must be observed. We cannot refer to an amendment that has not yet been moved. It is still up to the Conservatives, who are the sponsors of the amendment, to decide whether to move it. At this point, we cannot refer to an amendment that has not been moved and that has not yet been made public.

[English]

**Mr. Charlie Angus:** Okay, Mr. Chair, it might not be appropriate but it's on the record. If we're going to get through this—and I don't want to spend all night here. But if you limit it to the identity of a journalistic source, you're talking about the name of a person, and that's the problem. Identity of a journalistic source is saying that this is not going to be released. That wouldn't be released anyway.

The problem with this is if we are just saying “source” as a person, then we're not talking about the issue of journalistic activities. I understand what my colleagues are trying to do, but they are creating a very narrow scope. This is not about the journalistic work, it's only about the name. I say the best way to deal with this would be if we just amended the amendment with “to reveal the identity of any journalistic activities”.

[Translation]

**The Chair:** Mr. Angus, what amendment are you talking about?

[English]

**Mr. Charlie Angus:** I'm speaking of the main amendment, but we were told there was a subsequent amendment that would cover off our concerns. In my subsequent amendment, I'm concerned because it identifies a person, not anything to do with what the sources are—

[Translation]

**The Chair:** From what I understand, the amendment you want to amend has not yet been moved. We could wait until later, once we get there, to move a subamendment.

[English]

**Mr. Charlie Angus:** So this is the issue. If we can find a word that ensures that journalists' sources are their activities as well.... This is our issue, the journalistic activities, so that someone can't track where major journalists are going, what they are doing, what story they are on, through all the efforts that these journalists are doing in their day-to-day business of gathering evidence. The name alone is not sufficient. If we could find a word, we'd be very happy.

[Translation]

**The Chair:** Mr. Andrews, you are still on my list.

[English]

**Mr. Scott Andrews:** I just want to thank you for getting that piece of information for us because sometimes, I guess, when we change legislation we're not consistent with the exact wording. That's why I was concerned about having in the first clause, the word “prejudice” when it should probably be “injurious”. I was hoping we could give that some consideration, that's all.

[Translation]

**The Chair:** We go back to Mr. Warkentin.

[English]

**Mr. Chris Warkentin:** Thank you, Chair.

To Mr. Angus's point, the activities are already protected under the bill. The amendment doesn't hope to encapsulate every provision. The word “activities” is already in the bill. Not every protection will be in the amendment. The amendment just goes further to protect. I think you have to read this in the context of the bill. It's there. There are officials who could answer these questions better than I can.

Is there a desire from committee members to have officials from the justice department here to help answer some of these questions?

• (1740)

[Translation]

**The Chair:** If that is the committee's wish, of course, but it must be on the subject of amendment CPC-1. I do not want anyone to talk about the second amendment, to which you have been referring for some time now. If the committee wishes to allow a departmental official here in the room to answer questions, I am at the committee's service.

[English]

**Mr. Chris Warkentin:** Do you want the officials here?

[Translation]

**The Chair:** I am told they are already here. That is why I am asking the committee whether it wants to hear them.

[English]

**Mr. Chris Warkentin:** They're here? Okay. Pardon me.

[Translation]

**The Chair:** We can invite them to sit down and answer more specific and more technical questions since, from what I understand, the government's amendments were drafted by the Department of Justice.

Does a committee member wish to ask a question? We are still on amendment CPC-1.

[English]

**Mr. Chris Warkentin:** Let's go to a vote. We can go to a vote, I think.

[Translation]

**The Chair:** If there are no further questions and no one wants to speak, I am prepared to call amendment CPC-1.

I am going to read it so that it is clear for everyone:

That Bill C-461, in Clause 2, be amended by replacing line 10 on page 1 with the following:

18.2 (1) This Act does not apply to any information that is under the control of the Canadian Broadcasting Corporation and that would reveal the identity of any journalistic source.

(2) The head of the Canadian Broadcasting

(Amendment CPC-1 carried on division)

**The Chair:** Now we go to amendment NDP-1, which also amends clause 2.

Before we go to debate, I will read the amendment for those here present:

That Bill C-461, in Clause 2, be amended by replacing lines 12 to 15 on page 1 with the following:

"requested under this Act if the information contained in the record relates to its journalistic, creative or programming activities."

Mr. Boulerice, you have the floor.

**Mr. Alexandre Boulerice:** I am very proud of the work done by my colleague, who put the word "activities" in his amendment. That much more broadly covers the protection of journalism and journalists. It is an excellent amendment.

**The Chair:** Does anyone else want to debate it?

It appears not. We will therefore vote.

(Amendment NDP-1 negatived)

(Clause 2, as amended, carried on division)

(Clause 3 carried on division)

(Clause 4)

**The Chair:** Now we go to clause 4, for which we have received three amendments. The first was from the NDP and it reads as follows:

That Bill C-461, in Clause 4, be amended

(a) by replacing lines 17 to 19 on page 1 with the following:

"4. (1) The portion of paragraph (j) of the definition "personal information" in section 3 of the *Privacy Act* before subparagraph (i) is replaced by the following:

(j) information about an individual who is or was an officer or employee of a government institution or an employee of the office of a minister of the Crown that relates to the position or functions of the individual including,

(2) Subparagraph (j)(i) of the definition "personal information" in section 3 of the Act is replaced by the following:

(i) the fact that the individual is or was an officer or employee of the government institution or minister's office,

(3) Subparagraph (j)(iii) of the definition "personal information" in section 3 of the Act is replaced by the following:

(b) by replacing line 2 on page 2 with the following:

"the government institution or minister's office an annual salary"

(c) by replacing line 9 on page 2 with the following:

"the government institution or minister's office an annual salary"

(d) by replacing line 19 on page 2 with the following:

"reimbursed by the government institution or minister's office,"

I will render a decision on the admissibility of that amendment.

Bill C-461 amends the Privacy Act by amending the definition of "personal information" as it pertains to the executives and employees of a federal institution. The purpose of the amendment in question is to extend the scope of the bill by subjecting the employees of a minister's office to the definition of "personal information".

*House of Commons Procedure and Practice*, second edition, states, on page 766:

An amendment to a bill that was referred to a committee *after* second reading is out of order if it is beyond the scope and principle of the bill.

The Chair is of the view that adding the employees of a minister's office would extend the application of the provisions of Bill C-461 to a new group of employees, which constitutes a new concept that is beyond the scope of the bill. Consequently, in my view, the amendment motion is out of order.

Mr. Angus, do you have a point of order?

• (1745)

[English]

**Mr. Charlie Angus:** Thank you, Mr. Chair. I appreciate your recommendation on this. I think what's important to point out, though, is the issue of accountability. We know that the Information Commissioner—

**A voice:** Mr. Chair, you just ruled it out of order.

**Mr. Chris Warkentin:** Are you challenging the chair?

**Mr. Charlie Angus:** Perhaps. You haven't heard me yet. I can keep it for the next amendment. I'll be heard one way or another. You can have me now, or you can have me at length later.

The issue is that—

[Translation]

**The Chair:** You may not debate the amendment that you have moved, since I have ruled it out of order in accordance with our procedures.

My decision was based on the fact that the amendment was beyond the scope and principle of the bill. Consequently, you may not debate it. You may nevertheless try to challenge my decision if you wish, but I am upholding it unless committee members think differently.

I see no other members who want to speak to this point.

• (1750)

[English]

**Mr. Charlie Angus:** Sorry, Mr. Chair. I think—

[Translation]

**The Chair:** Mr. Angus, do you have a point of order?

[English]

**Mr. Charlie Angus:** Yes, I think you did this incorrectly. Normally the motion is read, the person who moves the motion gets to speak to it, and you then decide whether to rule it in or out of order. You've ruled it out of order before I've had a chance to speak to it.

[Translation]

**The Chair:** We received the amendment in advance and I ruled that it was out of order. Consequently, it may not be debated.

[English]

**Mr. Charlie Angus:** But I mean, just under standard procedures. If you want to stay all night, we'll stay all night. I'm just clarifying the rules here. Normally the person moves it, he speaks to it, and the chair then decides whether it's admissible.

[Translation]

**The Chair:** There may have been some misunderstanding on this subject. When I called amendment NDP-2, which concerns clause 4, I read the amendment myself. Normally it is the member who moves it who should read it. It was at that point that you could have read it and perhaps explained it. However, since I read it and you did not indicate at the outset that you wanted to read it or explain it, I informed the committee of my decision immediately after reading the amendment.

[English]

**Mr. Charlie Angus:** I allowed you to read it because of my great respect for you, not because I thought I wasn't going to get a chance to speak to it. It's because I have such great respect for you. I love the way you speak when you read legalese, so I did not want to be seen interrupting a person I have great respect for. However, the form is that the person who moves the motion speaks to it and then it's ruled in or out of order, and that's not what happened here.

[Translation]

**The Chair:** All right.

Now we will move on to the next amendment, that of the Conservatives. This is the amendment moved by Mr. Butt.

Do you want me to read it or do you want to read and explain it?

[English]

**Mr. Brad Butt:** I'll read it into the record just so we can.... He might rule it out of order so I want to be able to read it just so people back home think I really do work here.

So the amendment is:

That Bill C-461, in Clause 4, be amended by replacing lines 1 to 16 on page 2 with the following:

(iii) the classification and responsibilities of the position held by the individual,

(iii.1) the total annual monetary income of the individual from the government institution if that income is greater than the maximum total annual monetary income that could be paid to a Deputy Minister,

(iii.2) the salary range of the position held by the individual if their total annual monetary income from the government institution is equal to or less than the maximum total annual monetary income that could be paid to a Deputy Minister,

(iii.3) the expenses incurred by the indi-

to complete the clause.

[Translation]

**The Chair:** All right.

Just before I allow debate on the amendment, I remind you that another amendment to clause 4 has been moved. It is an amendment from the Liberals. If the Conservatives' amendment is adopted as is, that will cause a problem for the Liberal amendment that follows. It may not be adopted as currently worded.

I wanted to recall that point so that you bear in mind that adopting the amendment currently submitted will have consequences for the Liberal amendment. There will be a problem regarding the wording of that amendment.

Mr. Andrews, you have the floor.

[English]

**Mr. Scott Andrews:** Thank you for that piece of advice because my amendment is coming later. I'll try to include remarks on my own amendment as well, as it doesn't look like I'll have an opportunity to include them.

This particular amendment will essentially gut this bill. It's removing the classification for a DM 1, to the top of the DM 4. You have to put it in perspective. To put this in context, it's important to look at the salary ranges and the maximum performance pay, in 2012, for a Governor in Council appointee's cash compensation for the EX and DM groups.

The DM 1 level, which is being proposed by Mr. Rathgeber, is the appropriate level. He spoke to it, saying that it would go with inflation. It wouldn't be like the sunshine list that is rigid at \$100,000. It would move as these levels move. This was reasonable to put into his bill.

Just so we have it in perspective, a DM 1 minimum salary is \$188,600 to a maximum of \$221,800, with a maximum performance award of 26%. I'm hoping that this particular amendment from the Conservatives will talk about, as they've put in here, total annual monetary income. That's a point that I'll have some questions on in a moment.

Does a person's annual monetary income also include their performance award, or is their performance award something separate? We want to make sure that it captures the performance.

With regard to DM 2 level, the minimum is \$216,900 to \$255,100, with a maximum level performance award of 33%. The DM 3 is \$242,900 to \$285,700, with a maximum performance award of 33%. This gets to the thrust of this amendment to take it to a DM 4, which begins at \$272,000 and goes to a maximum of \$319,900, with a maximum performance award at the highest of all DM levels, up to 39%. Theoretically this amendment would take the salary disclosure from \$188,600 to \$319,900, plus the performance award to a maximum 39% or \$124,076. That's a total disclosure of anyone in the government who makes more than \$444,661.

I think this will eventually take this bill to maybe zero people in government making that amount of money. It takes out the thrust of this bill. It nullifies the intent of what it is trying to accomplish here, which is to disclose people with salaries around the salary of the people who sit around this table. Anyone who is over the salary of the people in the legislatures should be disclosed. That's the intent of this bill, and this will gut it.

When you look at the total annual monetary income, we want to make sure it includes the classification salary of any applicable bonus or performance award. It is important that if you're going to talk about someone's salary that you talk about it as the total envelope of someone's salary. This amendment will basically make this bill null and void because it won't disclose anybody's salary. If anybody in government is making more than \$444,000, I'd be very surprised.

The government is trying to gut this. There's no intent to have more openness and accountability, and I will not be supporting this amendment. But I want to make sure that my concern over the total annual monetary income does include the maximum performance award.

• (1755)

It's funny that at a DM 4 level you would get the maximum performance award, highest of all the DMs.

I think this amendment should not be passed, because this bill will be rendered useless.

[*Translation*]

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

Mr. Boulerice has the floor.

I remind you that we are talking about the amendment.

**Mr. Alexandre Boulerice:** I agree with my Liberal Party colleague. I believe that this part of the bill has just been diluted, if not emasculated. Even a figure of \$188,000 seems a little high to me. It could have been our salary, that of a parliamentarian, a member or even a senator. That would have been all right.

We ultimately have a fishing net so big we will never catch fish with it.

That is all.

• (1800)

**The Chair:** Mr. Angus, go ahead.

[*English*]

**Mr. Charlie Angus:** Thank you, Mr. Chair.

I am quite dismayed by this amendment. It's an open attack on a private member's bill that's attempting to do something about accountability.

Mr. Rathgeber came here in good faith. He's not asking for a sunshine list. He's not asking for the "gotcha" moment. We know the sunshine list, which was brought in by the Conservatives in Ontario. They were going to go after all those civil servants. Then it got bigger and bigger, and it's actually kind of meaningless.

However, the issue of salaries does have a certain level of importance in terms of access to information and accountability.

I certainly appreciate Mr. Rathgeber's concern here. There's not much that Conservatives and New Democrats agree on, other than the fact that we often don't really like each other. My grandmother was an old CCF, but my grandmother loved Diefenbaker. I'm not afraid to say that. There are elements where New Democrats and Conservatives sometimes come together, and one is on the issue of accountability. It's on the issue of being outsiders and coming to Ottawa and wanting to know that your tax dollars are being spent properly.

When they create a provision that would hide the salaries of people making \$378,000 a year or \$400,000 a year in the civil service, I ask what happened to that party of Preston Manning's. Where is the accountability here?

What we're seeing again in the Senate, the secrecy and the spending and the outrageous abuse of the public trust, and the fact that the public is not even allowed to find out what's happening with that money, is an affront to democracy.

I also find it appalling that we have a president of the Treasury Board, Tony Clement, who always seems to be beating up civil servants in the media. We have hard-working civil servants, people who do good jobs, and the public service is an important term. It's not to be denigrated because they are public servants. It's a very important institution and there are hard-working people throughout every aspect of the public service.

It seems odd that an amendment would be brought forward to actually undermine the spirit of the bill and to protect the upper mandarins.

Again, the DM 1 classification that Mr. Rathgeber had would begin at about the \$180,000 mark. That's above what a member of Parliament makes. There are certainly people who would argue that you should set the standard at what an MP makes, or maybe what a senator makes. But at \$180,000, that's the low end of where that goes. That actually goes up to people who are making about \$280,000 a year with their bonuses.

If you asked most Canadians whether that should be accessible to the public, they'd say yes. What that's about, Mr. Chair, is that perhaps in some department something went wrong and someone failed in their duty, and the public interest was compromised, and someone wanted to know what was going on in that department. Then they found out that the person in charge of that was making \$430,000 a year and was getting bonuses when the problems were going on. That's when you need that information.

The fact that they would move it up to the upper level of absolute protection, so that the bare minimum of people being protected are making \$270,000.... The beginning base of the DM 4 is \$272,000, where they start, but it goes up to \$444,661.

My honourable colleague from the Liberals said he doubts anybody makes that. I would put to him that I doubt anybody will find out who makes that, because they're certainly concerned about protecting it. Why in God's name would they be worried about protecting salaries at \$450,000 a year in the public service if there weren't perhaps many people making them?

This is not fair. It's not fair to the spirit of the bill, which is to have some levels of accountability. My colleague, again, I don't want to say Mr. Rathgeber did not set this up as a "gotcha" thing. This is about transparency and accountability to the taxpayer. I'm shocked that we now have a government that believes that keeping salaries at that high level...and it's not to say that people may not be deserving of those high salaries, but to keep them covered, to keep them from the public, is undermining all the principles of what that party once told Canadians.

We certainly think this amendment is wrong and has to be opposed.

• (1805)

[Translation]

**The Chair:** Thank you.

As no one else is on my list, we will put it to a vote.

(Amendment CPC-2 carried)

**The Chair:** As I said earlier, the Liberal amendment is no longer possible because the clause in question has just been completely altered.

Mr. Andrews, you have the floor.

[English]

**Mr. Scott Andrews:** Thank you, Mr. Chair.

In the spirit of openness and accountability and to make sure that we are totally clear, the thrust of my amendment is, and it would be easily a friendly amendment, that be paid to a deputy minister, "the classification, salary, including applicable bonuses and performance awards".

So, to make it admissible, would the government like to make a friendly amendment to mine, to take out the DM 1 reference in the bill and to replace it with, to be paid to a deputy minister, "the classification, salary, including applicable bonuses and performance awards"?

Would the government be open to making sure that it captures the full envelope of one's salary? In the government's amendment, it talks about "total annual monetary income". I don't know if it includes that. I'm not a lawyer, so I don't know the answer to that.

[Translation]

**The Chair:** I would like to point out that it will no longer be possible to change clause 4 as part of this process. The legislative clerk has informed me that it would be possible to make amendments by moving a subamendment to the Conservatives' amendment in

order to include what you requested. The fact remains that it is now impossible to amend clause 4.

As no one wishes to speak, we will now vote.

(Clause 4, as amended, carried)

(On clause 5—*Canadian Broadcasting Corporation*)

**The Chair:** Now we will go to clause 5.

We have received an amendment from the NDP.

Do you want me to read it or do you want to read it yourself, Mr. Angus?

[English]

**Mr. Charlie Angus:** Mr. Chair, at this stage, I would prefer to read it into the record myself because I see what a ruthless bunch I'm playing cards with here, and I don't want to be sitting in my undershirt at the end of this round.

That Bill C-461, in Clause 5, be amended by replacing lines 25 to 27 on page 2 with the following:

"the information relates to its journalistic, creative, or programming activities."

[Translation]

**The Chair:** Is there any debate on the amendment or do you want to explain it?

[English]

**Mr. Charlie Angus:** Thank you.

We're looking at the bill under proposed section 28.1. The wording "creative or programming independence" was certainly raised as a concern by numerous witnesses. It was problematic. It was untested. It did not cover the scope, and the question would be interpreted as independence from what? From government? That's not the issue we're concerned about. The larger issue is ensuring that the programming and journalistic and creative activities of the organization are able to be protected.

First, we've already spoken of the journalistic element, and I can certainly elucidate it if people have forgotten or gotten off track. The issue of creative and programming activities is important as well because this is an organization in competition with other media outlets. It's a tough business in this country. Whatever you're doing in your creative and programming activities, your number-one competitor is going to want to find out.

This isn't about the parties they are throwing. This is about what they're doing, how they're seeking out programming, and what they're engaged in. "Independence" does not cover it enough because it doesn't give us the clarity, and we've heard that, so we wanted to return to the language "journalistic, creative or programming activities". It's the activities. It's the work being done. That's our amendment.

• (1810)

[Translation]

**The Chair:** Does anyone want to discuss it?

I have Mr. Warkentin on my list.

[English]

**Mr. Chris Warkentin:** No, sorry.

[Translation]

**The Chair:** All right. If there is no one else, we will proceed with the vote.

(Amendment NDP-3 negatived)

(Clause 5 carried on division)

(On clause 6—*Canadian Broadcasting Corporation*)

**The Chair:** We have received an amendment from the Conservatives, moved by Mr. Butt. I will let him read and explain it.

[English]

**Mr. Brad Butt:** Thank you, Mr. Chair. I move:

That Bill C-461, in Clause 6, be amended by replacing line 30 on page 2 with the following:

(3) This Act does not apply to personal information that is under the control of the Canadian Broadcasting Corporation and that would reveal the identity of any confidential journalistic source.

(4) Sections 4 to 10 do not apply to personal

The rest of that's fine.

[Translation]

**The Chair:** Is there any debate on the amendment?

Mr. Angus, you have the floor.

[English]

**Mr. Charlie Angus:** Well, again, this was being offered to us by our Conservative colleagues to reassure us that they were not going to undermine the independence of journalists doing investigative work. What they've told us, however, what they've given us, is that they would simply protect the identity of any confidential journalistic source. That identity means simply a person, and we would assume that the name would be blacked out anyway

In terms of the issue of sources, it's not just the person. It's the work that's done to build the case for the story. That's what they're leaving wide open with this. They're simply saying it's a person and that's what's going to be excluded. We're not getting the larger issue, which is the ability of the newsroom and the institution to say, "No, we are not going to put forward the activities that the journalists were involved in to protect the overall integrity of their work".

I find that this falls very short of what we were promised.

[Translation]

**The Chair:** Does anyone else want to speak to the amendment?

It would appear not; so we will go to the vote.

(Amendment CPC-3 carried)

(Clause 6, as amended, carried on division)

(Clauses 7 and 8 carried on division)

(On clause 1—*Short title*)

**The Chair:** Now we will consider the short title.

Mr. Angus, you have the floor.

[English]

**Mr. Charlie Angus:** Mr. Chair, pursuant to Standing Order 97.1 I move that the committee report to the House a recommendation that Bill C-461, an act to amend the Access to Information Act and the Privacy Act (disclosure of information), not be further proceeded with and to give the reasons therefore.

[Translation]

**The Chair:** Are you introducing a motion?

**Mr. Charlie Angus:** Yes.

**The Chair:** All right. Do you have it in writing?

**Mr. Charlie Angus:** Here it is.

**The Chair:** Very well.

Is there any debate on this motion?

[English]

**Mr. Charlie Angus:** Mr. Chair, again, this is not to undermine the right of the—

•(1815)

**Mr. Costas Menegakis:** I have a point of order. The chair had called for a vote on the short title. You're not doing that, and we're going on to this?

**The Chair:** It's in order. It's a standing order.

[Translation]

We are going back to—

[English]

**Mr. Costas Menegakis:** You were on the short title. This doesn't speak to the title. This speaks to something else.

[Translation]

**The Chair:** I was reading the question, but I was interrupted. So we will go back to the short title later on.

Now we will continue debate on the motion introduced by Mr. Angus.

[English]

**Mr. Charlie Angus:** I think what we've seen here is that we had a member who brought forward a bill who had two concerns. He had his concerns about the CBC, and he had concerns about ensuring there was some equilibrium of balance of information. He felt if he was asking the CBC for this he would, on the other hand, expect some measure of transparency within the federal departments, which at this point in many key areas does not exist.

We certainly had problems with the bill, but in good faith we actually asked Mr. Rathgeber to come back a second time. We wanted to give him the full opportunity to discuss this bill.

We felt that in terms of the CBC issue...and he spoke to us about trying to find the language. He was very clear about trying to find the language, in terms of ensuring there was no inordinate undermining of the work of journalists. That was the issue. It wasn't the corporation itself, but it was the work of journalists.



We had hoped that our Conservative colleagues would work with this, but in fact what they presented us was of such narrow scope that they're actually leaving the journalist teams at an extreme disadvantage, which their colleagues in other news agencies do not face, because other journalists are not under access to information. Only the CBC, as a government institution, is. So what we've been offered here is that the name of the source will be protected, but that's not sufficient. We heard that from independent journalists. It is incumbent upon us, as parliamentarians, to ensure the work of journalists in this country is not undermined in any way. This bill does not do that.

On the second element of the bill, in which it was my colleague's desire to actually shed some light so that citizens and taxpayers had a sense of accountability of what was happening in the federal departments, it was not an attack on the departments and not an attack on the civil service, but a sense of where are the upper salaries? What's happening? This was so that people could at some point, if they felt there was perhaps a problem with a decision made in a certain department, or that within a department decisions had been made and yet somebody was getting bonuses and somebody's salary.... That is something that should be part of the public record. He was not suggesting the sunshine list but the right of access to information.

It's one thing my colleague and the New Democrats certainly are concerned about, that Canada is now falling further and further behind. We have countries that were previously dictatorships that have better access to information laws for their citizens than this country. Canada was the world leader; we are now one of the world's laggards. What people see when they see Canada is a country where basic rights to information are getting harder and harder to get. When they're protecting the salaries of everybody under \$444,000 a year, they put such a blanket over the work of the federal civil service that no accountability is possible through this bill.

What I've seen is that the Conservative Party has come together to actually put the old horse's head in the bed of one of their own members, who's trying to basically come forward in his way and in his right as a member of the House of Commons to bring forward legislation that can be acted upon. The party has decided to leave him high and dry. I think that's wrong. I would rather have this bill not go back. I'd rather have it stopped because of what's happened here, than to support it going forward.

[Translation]

**The Chair:** Mr. Andrews, do you want to speak to the motion?

[English]

**Mr. Scott Andrews:** Thank you, Mr. Chair.

I too support the motion proposed by the NDP for the same reasons, and perhaps one that's even a little bit personal to me.

I was the only one within our Liberal caucus who supported Mr. Rathgeber and his bill. I truly did believe that his intent was noble, and that where he was trying to go with this particular piece of legislation was to open up and have more transparency and accountability.

I would have even went as far as to believe the Conservative Party on their amendments regarding journalistic sources. I thought that

was an honourable thing to do, but they've limited what "journalistic source" will mean, and they don't totally protect journalistic sources.

Then the final straw to drop on this bill was the gutting of the disclosure of salaries. So it's very disheartening that we see this here today. For those reasons I will no longer be supporting Mr. Rathgeber's bill. I thought it was noble in his intent and his willingness to be more open and accountable, but obviously his philosophy doesn't hold true through the Conservatives. They will go out there and tell him they tried to protect the CBC's interests through journalistic sources, but it's quite obvious that they have not.

So I'll support the motion as put forward by Mr. Angus.

• (1820)

[Translation]

**The Chair:** Thank you.

Since no one else is on the list, I am going to call the motion.

(Motion negated)

**The Chair:** So we come to the point I reached a few minutes ago. We were discussing the short...

Mr. Angus, you have the floor.

[English]

**Mr. Charlie Angus:** Yes. I want to speak to the title.

[Translation]

**The Chair:** First, let me finish. I was saying that we had come to the short title.

Is there any debate?

Mr. Angus, you have the floor.

[English]

**Mr. Charlie Angus:** Yes. I think we need to amend the title. To call it the public service disclosure and transparency act would be a bit of a joke at this point.

We could call it the CBC act. We could call it the lack of disclosure and what is the opposite of transparency? Opaqueness. Maybe we could call it the public service lack of disclosure and opaqueness act. I think that...

[Translation]

**The Chair:** You must choose a title if you want to move an amendment.

[English]

**Mr. Charlie Angus:** Okay. I would call it the CBC and the lack of disclosure and opaqueness act.

[Translation]

**The Chair:** Upon reflection, the Chair finds that the amendment is unfortunately out of order.

[English]

**Mr. Charlie Angus:** Again, I'm not challenging the chair. As I said, you are this generation's Stanley Knowles. I'd like to know why clarifying the title is not in order. I should hear what that is from O'Brien and Bosc. It would certainly be helpful.

[Translation]

**The Chair:** In my view, no change has been made to the bill that would warrant the choice of words you propose to use for the short title.

[English]

**Mr. Charlie Angus:** Mr. Chair, this is not about public service disclosure and transparency. It's the opposite. It would be very Orwellian for us to go forth with a bill with a title that said making peace is war.

[Translation]

**The Chair:** Mr. Angus, I remind you that there is no debate once I have ruled that the amendment is out of order. You may always challenge my decision, but you may not debate your amendment.

[English]

**Mr. Charlie Angus:** My colleague has a point of order.

**Mr. Alexandre Boulerice:** No, I have an amendment.

[Translation]

**The Chair:** We are still on the short title. Is anyone moving another amendment?

Mr. Boulerice, you have the floor.

**Mr. Alexandre Boulerice:** If we want to reflect the exact content of the bill, we must have a title that corresponds to that content. I am not going to use my hon. colleague's words, but I think we could call it the Act respecting the transparency of public servants earning more than \$444,000 a year, except those in the Prime Minister's Office.

**The Chair:** I am going to consider the admissibility of that amendment.

Can you please give it to us in writing, Mr. Boulerice? That will make it easier for me to determine whether it is in order.

• (1825)

[English]

**Mr. Charlie Angus:** On a point of order, I didn't fully hear the title. Could you repeat it? I would like it to be clear before it's ruled admissible or not.

[Translation]

**The Chair:** I can read it. I have the text, unlike Mr. Boulerice. The proposed title is the Act respecting the transparency of public servants earning more than \$440,000, except those in the Prime Minister's Office.

In my opinion, that amendment is also out of order.

[English]

**Mr. Scott Andrews:** I have a point of order.

[Translation]

**The Chair:** Mr. Andrews has a point of order.

[English]

**Mr. Scott Andrews:** Thank you, Mr. Chair.

Maybe we'll try one more time. The act...

[Translation]

**The Chair:** Just a moment, Mr. Andrews. You may not introduce an amendment by raising a point of order. Please clarify your intention.

[English]

**Mr. Scott Andrews:** I'd like to propose an amendment then, Mr. Chair.

[Translation]

**The Chair:** All right, you may introduce an amendment.

[English]

**Mr. Scott Andrews:** That the short title read "an act to amend the Access to Information Act and the Privacy Act (disclosure of little information, or as long as you make more than \$450,000 a year) act".

Would you like a copy of that?

[Translation]

**The Chair:** I would like to have it in writing, please.

[English]

**Mr. Charlie Angus:** I think "opaqueness" sounded more legalistic than that, though.

[Translation]

**The Chair:** In fact, you have not amended the right title. We were on the short title, but you gave me a copy of an amendment to the long title.

So we were dealing with the short title. For your information, it appears on the first page of the bill, before clause 2. The short title is clause 1.

The amendment is of course out of order.

Now let us vote on it.

(Clause 1 carried on division)

**The Chair:** Now let us go to the title.

There is no amendment.

Mr. Angus, you have the floor.

[English]

**Mr. Charlie Angus:** My colleague had an amendment for the long title. Could you read the long title and we can compare it so we see whether it's in order or not?

[Translation]

**The Chair:** I can read the title to you, since I still have a copy of it. However, first you have to move it.

[English]

**Mr. Scott Andrews:** Yes, I'd like to move the amendment that I tried to on the short title.

[*Translation*]

**The Chair:** All right. I will read the title in English:

[*English*]

“an act to amend the Access to Information Act and the Privacy Act (disclosure of little information, or as long as you make more than \$450,000)”.

[*Translation*]

I would like a moment to think about it.

Does Mr. Andrews want to explain the reasons for his amendment before I make my decision?

[*English*]

**Mr. Scott Andrews:** Well, I think my amendment speaks for itself as we've seen what has happened today to this particular bill. So I think it is fitting when we report it back to the House that it be read out as proposed.

• (1830)

[*Translation*]

**The Chair:** The Chair rules that the amendment is out of order because it is frivolous. That is my decision.

Now we will proceed with the vote.

Shall the title carry?

**Some hon. members:** On division.

**The Chair:** Shall the bill, as amended, carry?

**Some hon. members:** On division.

**The Chair:** Shall the Chair report the bill, as amended, to the House?

**Some hon. members:** Agreed.

**The Chair:** Shall the committee order a reprint of the bill, as amended, for the use of the House at the report stage?

**Some hon. members:** Agreed.

**The Chair:** That concludes the clause-by-clause consideration of the bill. I shall duly report it to the House at the appropriate time. Thank you for your patience. We will see each other again on Monday.

I remind members that they have until tomorrow at 5:00 p.m. to make any recommendations on the Conflict of Interest Act.

The meeting is adjourned.





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