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Chair

Mr. Joe Preston

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• (1100)

[English]

The Chair (Mr. Joe Preston (Elgin—Middlesex—London, CPC)): Good morning. We'll call to order meeting number 49. Today we're in public.

We have Mr. Williamson with us in the first hour to talk about the order of reference for his Bill C-518, an act to amend the Members of Parliament Retiring Allowances Act.

Mr. Williamson, we're happy to have you here today. We will have you make your opening statement, and then we will ask you a bunch of really hard questions, and from there decide where we're headed.

Mr. John Williamson (New Brunswick Southwest, CPC): Thank you for inviting me here today to discuss my private member's bill, Bill C-518. Quite simply, this bill will penalize politicians who break the law by taking away their parliamentary pensions.

In a moment I'll suggest amendments for this committee to consider which I believe will improve the bill, but I'd like to begin by highlighting the current law. Members can already be disqualified for a pension for breaking the law if they are forced from office, but as we've witnessed, a member will be paid a parliamentary pension if he quits before being fired by his colleagues. The purpose of my bill is to close that loophole.

Here's what the bill will do.

First, it will add a clause to the Members of Parliament Retiring Allowances Act to take into account the situation where a senator or a member of Parliament is convicted of an offence which arose out of conduct that occurred while that individual was in office. It does this by using the same mechanism that is already in place for politicians who become disqualified for their offices.

The law already takes into account the situation where a member is deemed disqualified. It states that a member will receive their pension contributions plus interest as a lump sum when a member ceases to be a senator by reason of disqualification or is expelled from the House of Commons. The change being proposed is that whenever a senator or a member of Parliament is found to have committed certain crimes while in office, the member or senator should have their pension revoked whether or not that person is still holding that office.

The second thing I want to accomplish with this bill is to make sure that it will be applied to all future convictions of politicians, including those for past malfeasance. For this reason I've included a

section clarifying that the changes contained in the bill will apply with respect to any person who is or was a member of the Senate or the House of Commons and was convicted after the date I introduced this bill, which was June 3, 2013.

Some wonder if the law can be modified to repeal an entitlement and if the law can apply retroactively to the near past when the bill was tabled and include a crime that occurred before even that date. The answer is yes.

Yes, we can repeal a parliamentary entitlement. As I mentioned, the law already provides under what circumstances that can be done. There is certainly no issue, I believe, on a go-forward basis, that is, when the criminal charge and conviction all happen after the bill is law. Thus, regarding the retroactivity on convictions after the tabling date of June 3 for crimes committed before that date, the answer is yes, and yes again, with certainty. Colleagues, it can be done, for it has already been done.

Legislation passed in 2013 in Nova Scotia strips the pension of any lawmaker convicted of a crime for which the maximum punishment is imprisonment for not less than five years. The start date was May 6, 2013, which was when the bill was tabled in the provincial legislature. The result, in June 2013, was that an independent MLA lost his pension after pleading guilty to fraud and breach of trust charges arising from an expense scandal. That member had collected tax dollars after filing 10 false expense claims in 2008 and 2009, and today he is not eligible to receive an MLA's pension.

Some have expressed concern that this bill is too harsh. The bar that I set in the bill as it currently stands would strip away the pensions from any MP or senator who commits a crime with a maximum punishment of two or more years, which I later suggested in debate be raised to five years. It is conceivable that somebody could be guilty of a crime without the offence being tied to parliamentary duties. That should not be grounds for losing a pension, I believe.

I think honourable members will agree that if we proceed with my bill, we should do so thoughtfully and carefully to avoid unjustly revoking parliamentary pensions. I am therefore suggesting that changes be made, changes that I have not raised before in the House.

A document was sent to you, I believe this morning, that lays out 19 criminal offences. If I have time, Chair, I'll just read them quickly, and that will pretty much wrap up my statement. Do I have time to read them?

● (1105)

The Chair: Sure.

Mr. John Williamson: This list is available in English and French. These are all indictable offences for which the penalty is at least five or more years. The 19 include: intimidating Parliament or a legislature; bribery of officers; frauds on the government; contractors subscribing to election fraud; breach of trust by a public officer; perjury; contrary evidence with intent to mislead; fabricating evidence; obstructing justice with dissuasion; theft over \$5,000; criminal breach of trust; possession of property over \$5,000; false pretence, property over \$5,000; draw document without authority; obtaining, etc., based on forged documents; fraud over \$5,000; falsification of books and documents; false return by a public officer; and, secret commissions.

These modifications would keep the spirit of the bill entirely intact and I believe would address the concerns I've heard from honourable colleagues.

The Chair: Thank you, Mr. Williamson. Thank you for staying on time. Fantastic.

We'll go first to Mr. Reid.

Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC): I thought Mr. Lukiwski was first and I was second.

The Chair: Mr. Lukiwski and then Mr. Reid.

Okay, you're interchangeable. That works well for me.

You have seven minutes, please.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): Thanks very much.

John, I want to probe a little bit.

How did you come by this bill? What was your motivation to bring this bill forward?

Mr. John Williamson: My motivation actually goes back to my days with the Canadian Taxpayers Federation.

I was sitting in my Ottawa office, as I recall. I was there when Senator Lavigne was found guilty of several crimes, fraud and breach of trust being two of them. He was set to be expelled by the Senate. Ultimately, Lavigne resigned before he was to be expelled, thereby keeping his parliamentary pension. He served his time in jail, and while he was in jail he was collecting a parliamentary pension. Today he's a free man—guilty, a dishonourable senator—and he continues to collect a pension worth \$67,000.

I remember the outrage of taxpayers across the country when it was announced that he had been found guilty of fleecing taxpayers yet was entitled to retain his pension, frankly because of a loophole in the law. Had he not been able to resign, he would have been ejected from the Senate and would have therefore lost his parliamentary pension.

This bill closes that loophole. If you commit crimes against taxpayers, you steal money from taxpayers and you're found guilty in a court of law—which I think is very important, in that it's not Parliament, not a partisan body deciding your guilt; it is a court of law—that should be enough to trigger the loss of a pension.

Mr. Tom Lukiwski: I'm sorry, John, I should know this and I apologize. Is this only applicable to crimes that have occurred—you say a theft of taxpayers' dollars—by abusing his or her parliamentary status? If there is an outside crime not related to Parliament and is indictable, a penalty of over five years, will that trigger this as well?

Mr. John Williamson: It's my intent that it should be narrowed to our duties as members of Parliament.

I've heard examples about sitting on a board, for example, and you're convicted of a crime there. Should that apply? My thinking is that it should not necessarily. The aim is to get at crimes that have occurred through one's conduct as a parliamentarian.

We're all put in positions of trust with tax dollars, whether it's our own expense accounts or those of the government at large, individuals in cabinet or another position of authority. My purpose is to focus on measures that have occurred out of the conduct of one's duty and not beyond that.

I believe we should narrow the scope to the 19 charges I have laid out because someone raised a very good point. We all drive a lot in our ridings. I know I certainly do. Even at the five-year threshold, which is the threshold that the NDP government included in Nova Scotia, if I were to, God forbid, hit someone in my riding and kill that person, even under the five years, that would trigger a loss in pension.

The purpose is not to have someone, through a momentary lapse of judgment or in error lose a pension; it's for the ongoing or deliberate fraud or actions that I think these 19 charges that I've laid out cover.

● (1110)

Mr. Tom Lukiwski: Thank you. That clarifies it.

I understand completely what you're saying about being charged with involuntary manslaughter or for hitting someone while driving. However, if you were convicted of a heinous crime—rape, murder, manslaughter—you're saying that your bill wouldn't trigger a loss of pension.

Mr. John Williamson: No, it wouldn't. We've seen that case even with some public servants. I've chosen to narrow it in a way that focuses on our duties as members of Parliament or senators.

Mr. Tom Lukiwski: How much time do I have, Chair?

The Chair: You have two and a half minutes.

Mr. Tom Lukiwski: The final question maybe depends on the length of the answer.

Could you provide us with information? Had your bill been in effect years ago, say 30 or 40 years ago, how many instances would there have been in Canada where either senators or members of Parliament would have lost their pension?

Mr. John Williamson: I probably could provide that. We could go through.... I think Senator Lavigne would be a good example.

Mr. Tom Lukiwski: I wonder how common this has been.

Mr. John Williamson: That's a really good question. I actually don't think it has been terribly common, much as the House of Commons over its entire history has thrown out only four members—one of them twice, I believe. Along the same thinking, this is not something where we're going to see members of Parliament or senators losing pensions left, right, and centre. Actually, if anything, it is a deterrent. If individuals are found guilty, they will lose a pension, but I don't believe you'd find probably more than a dozen or two examples. I'd be surprised if you found more than a dozen over the last 10 or 20 years, as you suggested.

Mr. Tom Lukiwski: Again, going back to the motivation, you're thinking that this bill will be fairly widely publicized if it's passed into law. Do you feel that the deterrent aspect of this bill could perhaps play a role in convincing more senators and members of Parliament to be actually honourable, as their title suggests?

Mr. John Williamson: Yes, I do. I think we all work hard as members of Parliament. We're well remunerated, but another of the benefits of service is a pension after we've served our time here. These are generous pensions. We've changed them; we're making them less generous, but they do provide for income in retirement. I think that's something that no member would want to play around with, and currently, with that loophole, that's not a problem.

I do think it would provide greater deterrence to bad behaviour.

The Chair: Thank you, Mr. Lukiwski.

We'll go to Mr. Scott, for seven minutes, please.

Mr. Craig Scott (Toronto—Danforth, NDP): Mr. Williamson, I want to follow a bit on Tom's questions.

Regarding the list of 19 offences, they have an animating idea of connection to office—that's the way you've explained it—but then there's an added layer. You seem to be suggesting it includes offences that somehow or other go to abuse of the taxpayer.

I'm wondering whether there are any crimes on this list that you would have an overarching provision for to say that if this crime is committed in relation to office.... I'm looking at possession of property over \$5,000, theft over \$5,000. These are clearly crimes, but as explained, they don't necessarily cover only offences in office.

Will there be an overarching provision in your amendment, which we're going to have to work for, to say that it's these crimes as long as they are committed in these circumstances? Is that the way you envision it?

Mr. John Williamson: Absolutely. I have something written up. I didn't include it in today's testimony, but it's very much along those lines, that it would be very much in the conduct of one's duty as a member of Parliament, or senator, for that matter.

Mr. Craig Scott: Okay, that clarifies it. I can see the list narrowing, but the list also covers stuff that doesn't seem to fit exactly what you were saying in total.

Thank you.

The other question is whether you've considered whether or not at the threshold level.... You've narrowed it now by crimes, the least serious of which carry five years, and others much more. Have you considered the whole issue of the sentence as a trigger?

•(1115)

Mr. John Williamson: I have, and it should not matter. The sentence itself should not trigger the loss of pension; rather it should be the crimes that someone is charged with. In the case of Lavigne, for example, it was only, I believe, a six-month sentence for the various crimes that he was found guilty of. I don't believe the actual conviction should be a factor here, and that follows the spirit of the Nova Scotia law, as well. It's the charge that matters, and the finding of either innocence or guilt.

Mr. Craig Scott: Okay.

You mentioned in your comments that it's important that this be triggered not by a political decision of Parliament, but by a finding of a court of law. I just want to clarify that what you mean is that a court in a criminal trial will have found the person guilty, and they will have convicted, but you're not talking about a separate court-of-law process. That is the trigger.

Mr. John Williamson: Yes.

Mr. Craig Scott: Currently disqualification, the termination of a senator, once they have been convicted of a crime, is actually in the Constitution, so the idea of following from that disqualification to, let's call it, the added punishment of withdrawal of a pension, there's a seamless thread there.

With respect to MPs, can you help me a little bit more in knowing what the seamless thread is? I'm not saying there's a principal distinction between senators and MPs, but as a matter of law, do we already have this or is this actually adding it?

Mr. John Williamson: That's a good question. The process is more nuanced when it comes to members of Parliament. For senators, as you said, there's a step-by-step process for ejection. For members of the House of Commons, it's at the discretion of the House, but it is much less.... It's not as defined.

My view with respect to this bill is.... I guess you could say I've put aside the expulsion. That's irrelevant for this bill because if it passes, you would lose your pension, except for, of course, what you contributed plus interest. You would lose your pension just by being found guilty of one of these crimes. Expulsion doesn't matter. You don't need to be removed from the House of Commons.

Does that answer your question?

Mr. Craig Scott: Yes. It makes it clear that at least the two are going to be covered even though there's more of a platform already for senators.

I understand a key element here is you're making sure somebody can't sidestep this by quitting. If the crime has been committed while you're in office and the conviction occurs later, the fact that you have resigned in between doesn't matter.

Mr. John Williamson: Precisely.

Mr. Craig Scott: This is the last question I have, but my colleague might want to follow up on it in the second round.

In many ways, I think what you have come to us with alleviates some serious concerns we had, but now the other concern is the effect on third parties, mainly family members.

Obviously, when we talk about pensions, people immediately think of spouses, but there can also be other family members, such as children. We all believe, I guess, that children should make their own way in life and not rely on parental pensions, but there may be some children, say with disabilities, children who for good reasons are taken care of by the parents and for whom a pension would matter.

I'm wondering if we could talk some more, and maybe not only in my session, about what safeguards you have in mind for making sure that the purely innocent are not affected by this, or at least if they are affected, that we have done it with open eyes.

Mr. John Williamson: That is a question I have heard. I've thought about it, and I'll answer it like this.

In my riding, if someone abuses the EI system, they don't get their EI, even though they might have family at home. If someone is convicted in a court of law of a crime, and that person is the breadwinner and they go to jail, the family is in trouble. We haven't made special allowances for that. In the same vein, I believe that in this case the measures should apply. If someone commits a crime against taxpayers and is found guilty in a court of law, the pension should be revoked.

Here's my safeguard. We have made some significant changes to the pension allowances for members of Parliament. We're contributing more now than we were when we were elected in 2011, and after the next election it's going to go up even higher. We'll be contributing about \$38,000 a year. I'll just pull a number; in 10 years that's \$380,000 plus the interest that has accrued. That will go back to the member should the member be found guilty. That's still a sizeable amount when you compare it to other members of the Canadian public who themselves through bad decisions and bad choices could also face hard times.

I think as a body we need to put ourselves on the same level as every other Canadian out there, and while I don't believe we need a special mechanism to assist other family members, I do believe that by reimbursing pension contributions we're talking a significant amount of money.

I suppose that's my remedy to that question, and highlights that I have given it some thought. However, I do think we can't put ourselves in a class that's different when on other matters we expect Canadians to take responsibility for their actions when they are judged to be poor ones.

• (1120)

The Chair: Thank you.

Mr. Lamoureux, seven minutes.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Chair, I'd like to continue on that particular point, and perhaps add a different twist to get a better understanding.

Let's say that you were a member of Parliament for 15 or 20 years and in your last couple of years maybe you made some relatively stupid decisions which ultimately led to some sort of a conviction.

What you're proposing would wipe it out entirely even if it was in the last couple of years one served as a member of Parliament.

Mr. John Williamson: No, that's not true. I'm not proposing to wipe it out. Again, what is in the current law is that if members are expelled, they lose the taxpayer matching amount. They don't lose what they contributed. That is returned to them, as well as any interest that was earned on it. For example, if someone served for 15 or 20 years, according to the pension plan we're operating under, that could conceivably be \$1 million. We will contribute about \$38,000 a year, and over 10 years that's \$380,000. If you multiply that again, you're getting close to \$1 million once you factor in the interest.

These are numbers off the back of an envelope, but I want to be very clear that we're not taking away everything. We're returning what the member contributed, plus interest.

Mr. Kevin Lamoureux: If I pick up on the idea of a spouse, quite often, as you will know yourself, John, spouses get quite engaged in the whole process. Pensions are often tied into divorce proceedings. If a member of Parliament who has been around for many years goes through a divorce after a decade, there is a certain entitlement that would be assigned to that spouse in a court proceeding. All that would be for naught if in fact there was a conviction four or five years later.

Am I drawing the right conclusion on that?

Mr. John Williamson: Yes, except for one small point. I would say that the individual would still have rights to the amount that was returned to the member who was found guilty.

Mr. Kevin Lamoureux: But for that period of time in which there were no real problems, no issues, and the MP was on the straight road and all that kind of stuff through those 15 years, and the divorce, that spouse will be—

Mr. John Williamson: Yes, and I've heard these arguments, as has my spouse. Her response was, "Well, don't break the law." That's going to be the view of Canadians as well: don't break the law.

Mr. Kevin Lamoureux: Yes, even after divorce court, don't break the law.

Mr. John Williamson: Don't break the law, so....

In our constituency offices we all hear tough cases where individuals go through divorce proceedings where one person's circumstances have changed and the courts still expect payment and they go after those funds. I'm not saying that these are easy decisions and that it doesn't cause difficulty for that individual when the court decides the individual still owes so much money, for example, because of a divorce proceeding. But, again, I don't think we should put ourselves in a situation that is all that different from what other Canadians have to face day in and day out.

• (1125)

Mr. Kevin Lamoureux: Okay.

I'll pose this question in an innocent fashion. There is a lot of controversy around a number of senators today; I think there are four or five. Do you feel that this legislation could affect any of those senators?

Mr. John Williamson: I do. That's why in the bill I tabled on June 3, 2013, there is a provision that, regardless of when it passes, it will apply to any convictions after that date on a go-forward basis.

Mr. Kevin Lamoureux: After the date it passes?

Mr. John Williamson: No. Any charges laid after June 3, 2013, will be covered by this bill. That is very similar to what they did in Nova Scotia. It was made retroactive to the day it was tabled, not from the day it was passed through the legislature.

Mr. Kevin Lamoureux: Have you had any feedback from the other house in regard to the legislation? Are they supportive, or can you give any sort of indication?

Mr. John Williamson: No, just what I've done through researching their web page, and of course, reading the news reports of that one individual, one independent MLA, who was found guilty and lost his pension. Again, this law was passed in Nova Scotia in 2013. This is for crimes that he committed in 2008 and 2009. There's a real-world example of where this law has already been put into place and resulted in one MLA in Nova Scotia losing his parliamentary pension.

Mr. Kevin Lamoureux: Finally, can you provide some sort of commentary, your thoughts, with respect to other people who are in trust, whether it's our police forces, civil servants, especially the upper-end civil servants? They all have public pensions that are given to them. What are your thoughts in regard to that particular issue?

Mr. John Williamson: I would have no problem if another member or the government were to come forward with a bill that included similar provisions for public sector workers. I decided to focus my bill on the houses of Parliament and on their members, in part to ensure I didn't bite off more than I could chew as a backbench member trying to stickhandle it through.

In principle, I would certainly agree with expanding this law to others in the public service, absolutely. I would applaud and vote for any legislation that came forward, whether from the government or from another member.

The Chair: Thank you.

We'll move to Mr. Reid for four minutes, please.

Mr. Scott Reid: I want to pick up on the return of contributions issue. I'd been meaning to raise that had it not been raised. This would mean, I assume, that effectively if someone lost their seat after anything less than six years' service they would get a return of contributions plus interest anyway. Does it mean that this piece of legislation would have no impact on anybody who has fewer than six years of service?

Mr. John Williamson: It's a good point. It likely would, yes.

Mr. Scott Reid: All right. That's not unreasonable.

I was going to mention, along with some other concerns, that anybody who has fewer than six years of service and loses their seat through no fault of their own, especially if it's one of these waves where one party is swept out and another one is swept in, they suffer all the same consequences as someone who is convicted of a crime, in terms of what happens to their potential pension benefits. Plus they lose their salary.

The other thing I wanted to ask is with regard to the issue of saying this goes into effect, assuming it's passed by both houses and gets royal assent, as of the date on which you tabled it. You say this is what was done in Nova Scotia.

The obvious thought that occurs to me is, am I not right that the charter says you cannot be found guilty and subjected to a penalty that has been made more severe after the date on which you were initially charged with the crime? Do you see what I'm getting at here? It seems to me that anybody who was charged with a crime prior to the date on which the bill was actually enacted, some future date, might be in a situation where they cannot actually suffer this consequence. Am I not right that this is how a court might interpret this?

• (1130)

Mr. John Williamson: It's an argument. The example we've seen in Nova Scotia refutes that. The charges occurred before the bill was even tabled. The crimes occurred long before, even years before, the bill was tabled, yet ultimately the member was found guilty.

Mr. Scott Reid: That's not the subject of any litigation you're aware of.

Mr. John Williamson: Not that I'm aware of, no.

Mr. Scott Reid: No. Okay. That's the obvious question. Maybe it's just too expensive to litigate on something on that, from the point of view of the former member.

This would have relevance, I assume, to some of the people who are involved. I assume, for example, that Senator Lavigne, Senator Harb.... Senator Lavigne, I think his charges all predate.... We can't do anything about him.

Mr. John Williamson: Yes, I agree.

Mr. Scott Reid: What about Senator Harb or Senator Duffy? What about those guys?

Mr. John Williamson: Neither has been found guilty in a court of law.

Mr. Scott Reid: Fair enough. Assuming there's a guilty verdict, would they be caught within the legislation?

Mr. John Williamson: I believe so, yes.

Mr. Scott Reid: They would. All right. That's helpful to know.

That may be all I have to ask.

Ultimately, in those cases, Duffy and Harb but not Lavigne, in the event they're found guilty, it would come down to whether or not it is possible to backdate the penalty. In fact, if the more restrictive interpretation I was taking is found to be the one that's valid, then in effect they would be able to retain their pensions.

Mr. John Williamson: I am aware of the argument you've made with respect to the courts but I also believe that this body, this House, this Parliament also has responsibility for setting and removing the pay and benefits that its members receive. I don't know if a court has ever found that is not the case.

I am aware of that argument and I have considered it. Again, the real-life example, I believe, refutes it. As well, I think the mandate we're given under law to set our pay and benefits also permits us to decide under what conditions they would be revoked.

The Chair: Thank you.

We'll go to Madame Latendresse, who I believe is sharing the time with Mr. Christopherson.

[*Translation*]

Ms. Alexandrine Latendresse (Louis-Saint-Laurent, NDP): Thank you, Mr. Chair.

Mr. Williamson, I will come back to the issue my colleague discussed. I want to talk about more specific points regarding dependants.

According to the example you gave, right now, if someone goes to prison, their family suffers. Of particular interest to us is the fact that, if an individual who has worked all their life in a mine commits a crime after retirement and goes to prison, the pension for the work they did throughout their life will continue to be paid to their spouse. I think certain aspects have to be taken into account. In life in general, pension is a resource spouses count on.

If I have understood correctly, you will move an amendment proposing that the compensation provided go directly to the spouse. Is that right?

Mr. John Williamson: No, not exactly. It is not up to us, but rather up to the families and the courts to decide how the money will be distributed. The goal of the amendment is really to determine whether there is a connection between crimes and our duties, as parliamentarians. I was not talking about an amendment that would affect families.

To use your example, in the case of a member who serves for 10 years to 20 years, we see that, after 20 years, about \$1 million is accumulated. That is a lot of money. Yes, the amount is lower than if a crime had not been committed, but I think it is reasonable and sufficient.

In my opinion, additional amounts for the family are not necessary.

Thank you.

• (1135)

[*English*]

Ms. Alexandrine Latendresse: Mr. Christopherson.

The Chair: You have two minutes.

Mr. David Christopherson (Hamilton Centre, NDP): Very good. Thank you, Chair.

I want to make sure I've got this right, John. The Constitution provides right now for senators to lose their pensions under certain circumstances and certain convictions, but if they retire early, they can get out from under it. Part of what you're doing is closing that loophole so you can't get around your medicine.

But there is nothing that applies to MPs specifically in the same matter. Is that left to the ability of the House to decide for itself what it does to members?

Mr. John Williamson: Those are two different questions. On the question of expulsion, it is more vague—

Mr. David Christopherson: I'm just talking about—

Mr. John Williamson: —but if a member is removed the taxpayer-funded portion of the parliamentary pension is lost.

Mr. David Christopherson: Under current law?

Mr. John Williamson: Under current law, as it is on the Senate side.

Mr. David Christopherson: What is the difference?

Mr. John Williamson: What triggers removal in the House is more nuanced than it is on the Senate side.

Mr. David Christopherson: Okay. I'm not quite there. I want to work this—

Mr. John Williamson: Let me put it this way. How you're removed is different on both sides, but the end result, loss of pension, is the same.

Mr. David Christopherson: Thank you. That's my segue to the second point.

Your suggestion is that it not be tied to expulsion. My first thought was we had to have a list of all the indictable offences here, all kinds of clauses and overarching this and that, to make sure we're not inadvertently doing anything wrong. Expulsion, arguably, is one of the strongest measures the House can take. If you deny someone the right to take their seat, you've pretty much done what you can. That's a high threshold.

Why wouldn't that trigger it if it's based on wording that it's an indictable offence? The trigger then is being expelled. You didn't feel that was the right trigger to go to, yet my first thought, just off the top of my head, upon hearing your thoughts was that this is an easier way to define when we're getting into this level of severity. Could I have your thoughts on that?

Mr. John Williamson: Sure. I think there are two.

One, I consider a verdict in a court of law to be a very high threshold already, innocence or guilt, particularly of the 19 charges I've laid out here, all indictable, all with penalties of five or more years. These are all what we would call serious crimes. That in effect takes it out of our hands, if you like. It's not up to us to vote on individual cases. If you're found guilty in a court of law, that's it.

The Chair: Thank you, Dave.

We'll go to Mr. Lukiwski for four minutes.

Mr. Tom Lukiwski: Just to pick up a little of what David was saying, there was an example very recently, and in fact, we'll be discussing a bit of that in the last half of this meeting, that could have resulted potentially in expulsion. One of our colleagues was charged with overspending on his campaign. This has been resolved.

Currently, if someone is found guilty of overspending in his or her election campaign, the penalties are optional, up to the sentencing judge, of course: a fine or up to a year, or I think in some cases up to five years, in prison. If in fact someone is found guilty of deliberately overspending and given jail time, and we have another example right now with Mr. Del Mastro, he would then, I believe, be expelled from the House.

Mr. John Williamson: Not necessarily.

Mr. Tom Lukiwski: If you're given jail time?

If someone were expelled, if the House, for example, determined.... If one of the MPs received jail time for some violation and the jail time was less than five years, but the MP was expelled by a vote in the House of Commons, your bill would not have an impact on that.

• (1140)

Mr. John Williamson: That's correct. In fact, the expulsion.... On our web page, being found guilty of a crime in the House of Commons is not necessarily reason enough to expel them.

Mr. Tom Lukiwski: And you're comfortable with that.

Mr. John Williamson: My bill doesn't seek to change that. My bill seeks to—

Mr. Tom Lukiwski: No, I understand that, but you've considered it.

Mr. John Williamson: To be honest with you, Tom, I've not considered that. In the last year I've been dealing with individuals throwing any manner of criminal conviction at me. I have not considered the idea that a conviction should automatically result in a member losing his seat. I can ponder it and get back to you, but I'd rather not give an opinion right now.

Mr. Tom Lukiwski: I'm not being critical of your bill here. I honestly don't know the answer to this myself. I'm just raising the question. If a member were expelled for some reason but not convicted of a punishable crime, an indictable crime, in a court of law, but were expelled because the House believed his offence, or whatever he did, was serious enough to expel him, do you believe in this case that your bill should have provisions to cover that, that the MP should lose his pension?

Mr. John Williamson: I probably don't, actually, no. First of all, the examples where individuals have been thrown out are rare—Louis Riel, twice, for example, and I think another member for spying against the nation. They are very infrequent to begin with.

Again, the whole point behind this in using the courts is that it doesn't become a political football for us. To throw a member out is so extreme anyway that I don't even think it would come down to a partisan question. The expulsion is secondary to this bill. It really is the crime, and that's where I want to keep the emphasis, not on a decision of the House as to whether we should throw someone out even for a minor crime and should that trigger the loss of a pension.

Now, should this body decide otherwise, fair enough, but I have found in the last year that most members are throwing up red flags. I've tried to come forward with a bill that keeps the spirit of my bill but works in a way that's not going to unduly punish individuals. I mean, individuals really have to take deliberate and consistent actions to be charged by one of these crimes, and that's when a pension would be revoked.

The Chair: Thank you.

The analyst is sharing with me that if a member is expelled, it does remove their pension. So to answer your question....

Now, is that removed if the resignation happens before the ultimate expulsion?

Mr. John Williamson: Yes. If the member resigns first, they keep the pension. That goes to the heart of this bill.

The Chair: All right. So the same thing works, but there is an automatic removal of pension if someone is expelled.

We'll go to Mr. MacKenzie, please, for four minutes. I've been very lenient today, but we're trying to keep this within this hour.

Mr. Dave MacKenzie (Oxford, CPC): In some ways I look at this as a solution looking for a problem. We don't have a lot of these instances. In some cases, what we've been talking about here, expulsion....

If we went back to something more recent, a former cabinet minister after he left was charged with an offence. Would that apply to him?

Mr. John Williamson: I believe it would, because the charges came after the tabling of my bill on June 3, 2013.

Mr. Dave MacKenzie: Okay.

One of the other things, and I think Mr. Reid brought this up, is that if you're not here six years, and you haven't put in the time for pension, as we say, it would have no effect, right? What about the severance or separation pay that someone here less than six years gets?

Mr. John Williamson: It doesn't touch it.

Mr. Dave MacKenzie: I guess the message is that if you're going to commit a crime against the House, do it—

Mr. John Williamson: Do it early.

Voices: Oh, oh!

The Chair: Oh, you people who plot.

Mr. Dave MacKenzie: The other part of it is I think what my colleague across the floor asked about: a spouse receiving a portion of a pension. I'm not sure where we are in this whole stage. We've changed the rules, but it could very well be that a divorce occurs before anything happens. The spouse has the portion of the pension that he or she would be entitled to. Then this kicks in.

What happens to that previous pension?

• (1145)

Mr. John Williamson: Again, there will certainly be a reduction in the pension.

Mr. Dave MacKenzie: But it wouldn't be for the spouse, right? The spouse would still get 100% of the 50% they were entitled to.

Mr. John Williamson: Potentially, and this would have to be determined by a court, they would receive whatever percentage, whether it's 50% or more or less, of the pension that is returned to the felon.

Mr. Dave MacKenzie: No, but my point is that someone is charged. The spouse says "I'm out of here", gets a divorce, gets a settlement before there is a conviction registered, and gets her or his share of the pension. I don't think we could touch that at that point.

Mr. John Williamson: As I understand it, and the lawyers will correct me if I'm wrong, in a divorce proceeding one party pays the other a percentage of their income, whether it's 40%, 50%, 60%.

Mr. Dave MacKenzie: They also get a portion of the pension.

Mr. John Williamson: I believe that's the same difference. They get the income stream. The pension will be reduced under this, but there will still be a return to the member who's found guilty of a crime, a return of their contributions over the year, which I will remind the committee, is significant. After the next election we'll be contributing upwards of \$38,000 a year to our pension—

Mr. Dave MacKenzie: But that's not a gift. That money was already contributed to the member, and whatever they get back will be less taxation, and so on and so forth.

Mr. John Williamson: Right. That's the point of the bill.

The Chair: Mr. Christopherson, for four minutes, and let's see if we can finish off here.

Mr. David Christopherson: To pick up on that thought, I don't know; you're the legal expert, but it seems strange to me that you would be able to go in and undo a legal deal that has already been done. However, that's a detail at this point that we're going to have to come to grips with.

Mr. John Williamson: Very briefly, circumstances change all the time in people's financial standings, whether one has a bad year on the stock market, whether one's job changes, and those changes affect parties all the time that were married and are now divorced and payments are made. Those payments are often reduced because of those financial changes. I don't see how this is all that much different from that.

Mr. David Christopherson: Again, I'm the furthest thing in the world from a lawyer, but it would seem to me that it's likely the current laws would already dictate whether or not that could be touched. I don't see us delving into that here, and whatever the implications are they are in a court case, so it's ultra vires our discussions here, but I think it's a significant issue. My gut's with Dave. I suspect it would be very hard to undo that. Since the money is there, there's already a revenue stream. It's not a matter of whether the money's not there; it's whether or not they are entitled to it. Legally they are entitled to it after the fact. So 10 years later their horrible spouse they divorced for all good reasons did something that doesn't surprise them at all, but why should it impact on their life going forward.

Having said that, it will be dealt with elsewhere.

Mr. Tom Lukiwski: Are you speaking from personal experience?

Voices: Oh, oh!

Mr. David Christopherson: We won't go there, Chair. We're going to stay in a happy, happy place today.

I'm still trying to understand, John, the difference between what the current laws are in terms of how they are applied to senators currently versus MPs. The Constitution requires that senators either be expelled upon conviction or lose their pension upon being expelled.

Could you give me the differentiation between us and the other place?

Mr. John Williamson: When it comes to losing...and I apologize, Tom. I should have known the point the analyst raised. Whether you're a senator or a member, if you're expelled from either house, you forgo the taxpayer top-up of your pension, and you receive back only what you contributed plus interest.

Mr. David Christopherson: That's current.

Mr. John Williamson: That's current. Yes.

Mr. David Christopherson: Okay, but currently, what's the differentiation, if any, between how the rules are applied to senators versus MPs?

Mr. John Williamson: For expulsion?

• (1150)

Mr. David Christopherson: Anything to do with this bill.

Mr. John Williamson: It doesn't touch on expulsion, so you're asking me a question that has nothing to do with the bill.

Under the law right now, in either house, if you quit before you're expelled, you can hold onto your pension, which is precisely what Lavigne did. This bill would close that loophole. If you're found guilty, whether you're thrown out or not, whether you quit or not, you lose the taxpayer top-up of your pension.

Mr. David Christopherson: I'm still having trouble with this fundamental piece. There's no difference then at all in terms of how pensions and penalties are dealt with when it comes to senators versus MPs.

Mr. John Williamson: Right. Once you're expelled. Exactly.

Mr. David Christopherson: Prior to being expelled though.

Mr. John Williamson: The mechanism for expulsion is different, but that is tangential to this bill. Whether a member is expelled or not doesn't impact the loss of a pension under this bill.

The Chair: This bill was if he is found guilty of one of the 19 charges you provide here.

Mr. John Williamson: That's right.

Mr. David Christopherson: Would this apply to senators too?

Mr. John Williamson: Yes.

Mr. David Christopherson: What gap is this filling?

Mr. John Williamson: It's closing the loophole that when they have an appointment with the hangman tomorrow because they are going to be expelled and they quit the night before and they keep their pension, it would remove that.

Mr. David Christopherson: That's all that's being done here is closing that?

Mr. John Williamson: Yes.

Mr. David Christopherson: Everything else we're talking about here is just—

Mr. John Williamson: Details, yes.

Mr. David Christopherson: —to get there, just to close that one loophole.

Mr. John Williamson: It's already in the law. The removal of pension is already in the law, but there's, some have called it the Lavigne rule, where you resign the night before and you're out of town with your parliamentary pension.

Mr. David Christopherson: Can I ask one more question? Do I have time?

The Chair: I'll give it to you. We're not quite to the top of the hour and you're on a good path.

Mr. David Christopherson: Thank you, Chair. I appreciate that.

Once we stayed in that happy place, we were good.

In the summary of the bill, John, and I know you're going to make an amendment, it says "prosecuted by indictment and for which the maximum punishment is imprisonment for not less than two years and when the offence arose out of conduct that in whole or part occurred while the person was a member", but it doesn't say, "in the course of their duties".

Mr. John Williamson: I know. I'm open. I've heard this before. I didn't mention it in my notes, but I actually have a little amendment already. I can read it to you right now.

Hold on a second. If you'll indulge me—

Mr. David Christopherson: Well, I'll indulge you if the Chair indulges me.

The Chair: Were you going to add "in the course of their duties" to that?

Mr. John Williamson: It's not popping up quickly so I won't belabour it, but I would certainly include something like that so it covers the precinct here.

Mr. David Christopherson: Okay, that's good.

Thank you, Mr. Chair. I appreciate the latitude.

The Chair: I'm going to pull this to a close and thank Mr. Williamson.

If you have some of those amendments clearly thought out and they can be given to us as we head towards clause-by-clause study, we surely would like them.

Another question I have, if you don't mind, is whether you are suggesting there be any witnesses on this bill. If there are none, then great and we'll move forward, and if there are, we'll do it, and as I said, the suggested amendments.

Are there any other questions from members on how to wrap up John's testimony today?

Mr. Scott.

Mr. Craig Scott: Depending on John's answer on whether he has other witnesses, I want to speak to that.

Mr. John Williamson: On the amendments, there are actually some that I already have. It was discovered that there was a difficulty in the English versus the French versions of the bill which will have to be corrected. I do have amendments with respect to cleaning it up. I can advance something to you with respect to the 19 charges. On the 19 charges, all I have right now is the Excel sheet, but we can clean that up.

With respect to witnesses, should you decide to call in people, to be honest, I'm not sure you need to. This is probably a matter for members to decide. However, I would suggest officials from the Nova Scotia government, or the House there.

I would suggest David Wilks, as well, who is my seatmate and a former RCMP officer. He was instrumental in helping to draft the criminal offences that I've included today. David has a very good understanding of the law and its application, and frankly, the seriousness and indictable nature of these crimes, which I think is important to our understanding of what kind of threshold I'm laying out here today. These are serious crimes. When individuals are found guilty, it's a serious matter.

If you want to get a flavour of the public mood on this, I would urge you to invite my former colleagues from the Canadian Taxpayers Federation who have made passing this bill an important measure. They will echo some of what I've said today, but as I said, I think they will give you a sense of the public's opinion about these matters. That might be informative for members to hear.

● (1155)

Mr. Craig Scott: Mr. Chair, in discussion later, I would like to keep the door open to possibly following up on Scott's question on retroactivity, with somebody from the University of Ottawa, for example, a constitutional law person.

Mr. Scott Reid: Sounds like you have someone in mind.

Mr. Craig Scott: It's probably the same person you have in mind.

The Chair: Could you ask them a question rather than have them come here to ask them the question?

Mr. Craig Scott: Quite possibly, yes. I'm open to that.

That's an issue which I think we have a duty to ask about. It touches on the Constitution, and private members' bills aren't vetted as such by the justice department.

There's another possibility. Again, it could be an inquiry, but we are changing the Criminal Code, so I wouldn't mind suggesting that a justice official sign off on whether the wording from the amendment works. It's kind of a technical thing.

I have a feeling that we won't ask for this because I think we're now clear on the philosophy, but possibly a criminal law professor could take us through this connection between committing crimes and there being other punishment flowing from it. I have a feeling that given what John has said about the fact that expulsion already triggers those same consequences and he's now just choosing a different mechanism, that may not be needed. However, the first two I think I probably need.

The Chair: Okay. We will discuss that under committee business as we step forward on this.

Mr. Williamson, thank you for coming today and sharing this with us. It's been a great hour and a great enlightenment with respect to your bill.

We have a number of reports and other discussions that need to take place. Let's suspend for a couple of minutes while we go in camera.

[Proceedings continue in camera]

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