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Chair: Mr. Ben Carr



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• (1105)

[Translation]

The Chair (Mr. Ben Carr (Winnipeg South Centre, Lib.)): Good morning, everyone.

[English]

I hope you've had a good couple of days since we last saw one another.

I call meeting number 127 of the Standing Committee on Procedure and House Affairs to order.

Today, we commence the clause-by-clause study of Bill C-377, an act to amend the Parliament of Canada Act with regard to the need to know.

To colleagues and, particularly, to our witnesses, this is a friendly reminder that if your headsets are not in use, please make sure that they are put on the stickers in front of you in order to avoid doing damage to the health and well-being of our interpreters, who are working so hard on our behalf.

We have a number of officials with us today, who are here to provide guidance when necessary.

I would like to welcome Tracy, chief of strategic policy from the Canadian Security Intelligence Service. From the Department of Public Safety and Emergency Preparedness, we have Justin Chan, director of counterterrorism policy. From the Privy Council Office, we have Sean Jorgensen, director general and chief security officer. From the Royal Canadian Mounted Police, we have Chief Superintendent Jeffrey Beaulac, acting chief security officer of departmental security. From the Treasury Board Secretariat, we have Adam Hatfield, executive director of policy on government security.

Thank you very much to our officials for being here.

Colleagues, there were obviously a number of changes and moving pieces over the course of the past couple of days, but I believe we have landed in a place that should allow for what I hope is a fruitful and efficient discussion today. I ask for everybody's patience. We should not be frustrated with colleagues should they have questions or a need for clarity, given how much has changed over the course of the past few days.

(On clause 1)

The Chair: With that, we are going to begin. The first amendment that was put forward was G-1.

Mr. Terry Duguid (Winnipeg South, Lib.): Mr. Chair, we decline to move G-1 and G-2.

The Chair: Colleagues, G-1 and G-2 will not be moved.

Seeing nobody else wishing to speak to this, we are going to move to our next amendment, which is CPC-1.

Mr. Ruff, I believe you would like to move the amendment and speak to it, so the floor is yours, sir.

Mr. Alex Ruff (Bruce—Grey—Owen Sound, CPC): Thank you, Chair.

I'm sure everybody has a copy of CPC-1, so I don't need to read the whole thing.

The purpose of moving this is to take out this whole reference to "need to know", which was a concern that was shared with the committee by the officials. This is because, as much as that terminology is used within the community as the first turnkey, there's recognition that it provided some confusion and ambiguity. By bringing it forward and just changing.... The whole intent of my bill, as I've stated very clearly—

The Chair: Mr. Ruff, I'm sorry. We have a bit of a technical, procedural issue that we have to deal with very briefly.

I'm going to suspend. I'll inform you of what that is, and we'll get back to it.

• (1105)

(Pause)

• (1110)

The Chair: Colleagues, thank you for your patience.

Mr. Ruff, I'm going to ask you to begin again.

We are now at CPC-1. Mr. Ruff, would you like to move it and speak to it? The floor is yours.

Mr. Alex Ruff: Thank you, Chair. I will just read it in.

I move that Bill C-377, in clause 1, be amended by replacing lines 15 and 16 on page 2 with the following:

eration of their application, deemed to need that security clearance.

As I was trying to explain earlier, this addresses the concerns that were raised by the officials last week about the term “need to know”. It clears up that ambiguity and clearly focuses on the fact that, as I've mentioned in all my speeches and testimony, the only purpose of my bill is to allow parliamentarians to apply for secret security clearance. It has nothing to do with how the government controls access to that information or ever disseminates it.

The purpose of my bill, to clarify, is just to apply for that security clearance, so that's why I'm putting this change forward.

The Chair: Colleagues, just as a reminder for this process, as I know it's been a while for some of us, now that the amendment has been moved, members can of course speak to it. Once the list is exhausted, we'll move to a vote.

Ms. Mathysen, I saw your hand up.

Ms. Lindsay Mathysen (London—Fanshawe, NDP): I just want to hear from the witnesses here, because there were considerable questions raised at a previous meeting about all the moving parts of this bill. I want to hear the witnesses' opinions on this amendment and whether some of the questions that were raised about security, admissibility and so on will be cleared up by this amendment.

Mr. Justin Chan (Director, Counter-Terrorism Policy, Department of Public Safety and Emergency Preparedness): Thank you for that.

Good morning, MPs.

I would open by saying one thing about this particular amendment: I think it clarifies the fact that the intent of the bill is to get security clearance, the need for that. We have no other comment. It does clarify it.

I don't know whether any other colleagues have anything to say.

Mr. Adam Hatfield (Executive Director, Policy on Government Security, Treasury Board Secretariat): Good morning, folks. Thank you for the opportunity to be here.

We would not know how to interpret language like “Deeming—need to know” in our security policy. This amendment removes that language and is much clearer, so I have no further concerns.

Ms. Lindsay Mathysen: Okay.

The Chair: Madam Clerk, I'll ask you to call a vote on amendment CPC-1.

(Amendment agreed to: yeas 11; nays 0)

The Chair: We will now move to CPC-2.

Mr. Ruff, I believe you would like to move the amendment. The floor is yours.

Mr. Alex Ruff: Thank you, Chair.

I move that Bill C-377, in clause 1, be amended by adding after line 16 on page 2 the following:

(1.1) An application referred to in subsection (1) is to be processed and managed as though it were made by a person appointed by a minister under subsection 128(1) of the Public Service Employment Act.

There was logic when I did this. I looked at some of the language that I think the government considered. However, as was rightly pointed out, if we just refer to the standard on security screening laid out in the Treasury Board guidelines, that's a regulatory document, a policy that is subject to change, because it's not linked to legislation. We could have a challenge with the Parliament of Canada Act being out of sync with policies that exist across the government. That's a legitimate concern, so it was rightly pointed out.

We have the Public Service Employment Act, which addresses that and links it, so if any changes occur that impact the PSEA, the PSEA takes precedence. The reason I specifically picked subsection 128(1) is that it's the part that refers to anybody employed in a minister's office. We, as parliamentarians, are not public servants. We're elected or appointed parliamentarians, part of the legislative branch, so it made perfect sense to link us to those same types of positions that would be employed, such as exempt staff in a minister's office, to follow under the exact same conditions, because it made a lot more sense to link us that way.

That was the reason why I did that. It makes it clear what it links to. It's linked to legislation, not just a policy. At the same time, it links us to those equivalent, or as close as possible to equivalent, positions that exist outside of the actual public service.

I'll leave my comments at that for now, Chair.

• (1115)

The Chair: Seeing no further commentary, I'll ask the clerk to call the vote on CPC-2.

(Amendment negated: nays 7; yeas 5)

The Chair: Mr. Duguid.

Mr. Terry Duguid: Thank you, Mr. Chair.

I would like to move the following amendment from the floor. My staff have emailed it to the clerk in both official languages.

I move that Bill C-377, in clause 1, be amended by adding after line 20 on page 2 the following:

Prohibition

(3) A member or former member of the Senate or the House of Commons must not knowingly disclose information to which they were given access under a security clearance, except if the disclosure is made during an in camera meeting of a committee of the Senate or the House of Commons, or of a joint committee, and every individual in attendance has also been granted the necessary security clearance by the Government of Canada.

While we wait for the email to be distributed, I'll offer our reasoning on this side.

This amendment provides a necessary safeguard measure to prevent inappropriate disclosure of classified information to individuals who have not been granted a security clearance by the Government of Canada.

The Chair: Thank you, Mr. Duguid.

Colleagues, just before I turn the floor over to Mr. Ruff, for clarity, because there were so many changes in terms of numbers, I'm going to read the reference number to make sure that everybody is following. The reference number for the amendment that Mr. Duguid just moved from the floor is as follows: 13323960. I'm seeing nods, so we're in agreement.

We have Mr. Ruff, followed by Ms. Mathysen.

Mr. Alex Ruff: Chair, I do have concerns here.

First, I actually want to address, as a point of order, the admissibility of this amendment. This amendment actually talks about the control or access to classified information, which was never part of the intent of my bill. My bill is only dealing with the applications for security clearance, and this talks about how the government controls or disseminates information, how it could be shared or not shared, which has nothing to do with the intent of my bill. My bill is only to set into law the privilege of parliamentarians to apply for a security clearance. This is, to me, well beyond the scope.

To get to a point I want to address...and I do want to ask the witnesses this. I think a few of them can weigh in. As you know, how information is controlled is subject to the individual departments from the DM level down. However, obviously, PCO would be the lead—that would be my intent and it would be my guess—on how information would be shared, if it is ever shared with parliamentarians.

My first question to the witnesses is this: Just because somebody has applied for security clearance and has even passed that security process, are they granted access to classified information just because they have clearance?

• (1120)

Mr. Sean Jorgensen (Director General and Chief Security Officer, Privy Council Office): The answer is no.

Mr. Alex Ruff: Does everybody agree with that across the witness board? Excellent.

Second, the process that was used for previous scenarios, as we laid out during my testimony and during the debate here, on previous committees that were formed, ad hoc committees, when information was shared.... Actually, cancel that.

My point is that, with the amendment to my bill and the way the bill currently stands, with no further amendments, if it were to pass as it is right now in the legislation with the approved amendment, would that in some way interfere with or inhibit the government actually putting in place a step like what this amendment proposes? Is this basically somewhat the status quo for the way the government...? The government could put into execution this exact process.

If my bill passes, does that in any way stop the government from doing this when it comes to the sharing of classified information?

Mr. Adam Hatfield: I think I can address some of that, sir.

Currently within the Government of Canada, the highest-level overarching policy that governs how security is managed is the policy on government security set by the Treasury Board. That policy

defines a number of aspects. Security screening is one of them, but it is built assuming that all of those aspects are there.

Currently, the policy on government security does not apply to parliamentarians. It applies to public servants, so the question of how a department would engage with an individual who's not subject to the policy on government security, even though they have a security clearance, is an unasked question. That would be new for us, and we would have to figure out how to deal with that at the time.

Mr. Alex Ruff: My question here may be more for Mr. Jorgensen in terms of his experience. We've had past experience where classified information has been shared with parliamentarians once they have a security clearance. The Winnipeg lab issue is one example. There are others. So we do have a process in place that we have come up with. When I say "we", I mean the government.

My question, though, is that, if my bill were to pass.... Again, we have lots of parliamentarians who have security clearance. I had one long before I got put on NSICOP. I had a top secret security clearance that was still current, held by PSPC, and the government did not give me access to any information. My point is that the fact that a parliamentarian has a security clearance does not in any way inhibit the government from putting safeguards in place before they would share classified information.

Just having a security clearance grants a parliamentarian access to squat. That's my point. It's just a step they need to go through before they can get to step two or three.

Mr. Sean Jorgensen: Thank you for that question, Mr. Ruff.

If I may, I think the issue here is that the safeguards being brought forward are very much meant to do what you saw in the NSICOP Act, for example. Knowing that NSICOP was going to get access to the information that it does, they put the safeguards in beforehand.

It seems to be in the same spirit that you're seeing these amendments being proposed. The government, people in this committee, would like to see those kinds of safeguards to ensure that when that moment comes, we have those safeguards in place and there's no ambiguity as to how we would address that with you.

Mr. Alex Ruff: I think that's actually a good idea. I encourage the government to bring forth that sort of clarity. But the purpose...and this is why I'm making the case that this is beyond the scope of my bill. My bill has nothing to do with that. My bill allows parliamentarians to apply for a security clearance. That's it. It doesn't talk about the sharing of information. It doesn't talk about granting access to anything.

Again, my question goes back to this: If the bill were to be passed as currently written and currently approved, including the amendment, would that somehow stop the government from putting those safeguards or processes in place?

• (1125)

Mr. Adam Hatfield: No, it would not, but it would require those safeguards to be put in place for the clearance to have any effect.

Mr. Alex Ruff: I'll leave my comments at that, Chair, on this issue of admissibility.

I think there are other people who may want to speak to it.

The Chair: Mr. Ruff, I need clarity from you here. Are you challenging the admissibility of the amendment?

Mr. Alex Ruff: Yes.

The Chair: Okay. Then this is a non-debatable point, which needs to go right to a vote.

[*Translation*]

Ms. Marie-Hélène Gaudreau (Laurentides—Labelle, BQ): I have a point of order, Mr. Chair.

The Chair: One moment, please.

[*English*]

Mr. Alex Ruff: I thought, when I asked if we challenged the admissibility, that we were able to explain the rationale.

The Chair: No, no, you have. I'm first clarifying that you're challenging the admissibility.

Mr. Alex Ruff: I am.

The Chair: Okay.

I'll rule on this in a moment. Following my ruling, it is not a debatable point. It goes right to a vote. That's what I'm explaining to the committee.

Mr. Blaine Calkins (Red Deer—Lacombe, CPC): That's only if he challenges your ruling.

The Chair: Yes, that's if he challenges my ruling.

That's what I'm explaining, that it's not a debatable point.

[*Translation*]

Ms. Gaudreau, you have a point of order.

Ms. Marie-Hélène Gaudreau: I just wanted to say that we shouldn't forget the interpreters, who do an excellent job.

I personally understand some English. However, we need to ensure that all the discussions are interpreted correctly. I would like to ask all the members of Parliament to speak calmly. When emotions run high, we tend to speak quite quickly. We shouldn't do that.

Thank you, Mr. Chair.

The Chair: Okay. Thank you.

[*English*]

I have consulted with the legislative clerks on the matter of Mr. Ruff's challenging of the admissibility. I disagree with Mr. Ruff. I'm accepting the advice that has been provided to me by the legislative clerks on this matter.

Should there be a challenge, which is my assumption, we will go to a vote.

Mr. Alex Ruff: I challenge the chair.

The Chair: The challenge of the chair has been brought forward by Mr. Ruff.

We are now going to vote on whether to uphold the ruling that I've just given.

For clarity, Mr. Ruff does not believe that what Mr. Duguid has just moved should be admissible. I am saying that I disagree with Mr. Ruff. I believe that it is within the scope of the bill and that it is admissible. Mr. Ruff has challenged that ruling.

We are now voting on my ruling, and then we will continue.

(Ruling of the chair sustained: yeas 7; nays 4)

The Chair: For clarity, colleagues, on what this vote means, my decision is carried. The amendment is admissible.

On the speaking list, I have Ms. Mathysen, followed by Mr. Calkins, followed by Mr. Duncan, followed by Mr. Cooper.

Go ahead, Ms. Mathysen.

Ms. Lindsay Mathysen: To better clarify this amendment, I would like to make a subamendment to it.

I don't know if you want some time for the clerk to distribute it in both official languages.

[*Translation*]

The Chair: One moment, please.

[*English*]

Colleagues, the clerk has sent you an email that contains the subamendment, in both official languages, that Ms. Mathysen is about to speak to. If you'd like a printed copy, then I'm going to suspend and wait until there's a printed copy that gives members the opportunity to review it, at which point I will go back to Ms. Mathysen, who will continue moving the subamendment.

• (1130)

Ms. Lindsay Mathysen: Would it be helpful to read it in and then suspend?

The Chair: I'm just going to suspend now so that the request can be fulfilled. Everybody will have it in printed form.

Ms. Mathysen, the floor will be yours when we resume, and then we will move forward with whatever next steps we decide to take on that.

We're briefly suspended.

• (1130)

(Pause)

• (1145)

The Chair: Colleagues, thank you for your patience.

Ms. Mathysen, the floor was yours, and you were in the process of presenting a subamendment to the amendment that Mr. Duguid put forward. We paused because members asked for a physical copy in both official languages, which is now in front of all members.

I'm going to ask you to present the subamendment that you were speaking to, from the beginning, please.

Ms. Lindsay Mathysen: Thank you, Mr. Chair.

I'll read the amendment with the subamendment so that it is as changed:

(3) A member or former member of the Senate or the House of Commons must not knowingly disclose information to which they were given access under a security clearance through section 13.1 of the Parliament of Canada Act, except if the disclosure is made during a special committee of the Senate or the House of Commons, or of a joint committee, under an agreement with all House leaders of recognized parties and complies with established procedures and practices for the secure handling, storage, transportation, transmission and destruction of information or documents, including any requirement found in a Treasury Board policy, guideline or directive.

I think this keeps the intent of the amendment and is in line with existing practice. I think it's important to recognize that committees, even in camera, don't have the capacity or the infrastructure to deal with the documents that we would be talking about and with the clearances, and so on. I hope this actually goes back to what Mr. Hatfield was talking about in terms of meeting Treasury Board requirements.

The Chair: Thank you, Ms. Mathysen.

I have a list of three speakers who would like to speak to your subamendment. The current list is Mr. Calkins, followed by Mr. Duncan, followed by Mr. Cooper.

Mr. Calkins, the floor is yours.

Mr. Blaine Calkins: Thank you, Chair.

Notwithstanding the fact that I think the committee has erred in the admissibility of the original amendment and now the subamendment, this becomes incredibly problematic because we're now getting into the overthinking portion of the intended scope of Mr. Ruff's original legislation, which is simply to grant members of Parliament the ability to apply for a security clearance.

If I am reading this subamendment correctly, it says, "a member or former member of the Senate or the House of Commons must not knowingly disclose information to which they were given access". If we're looking at the original amendment, it says, "of a joint committee, and every individual in attendance" in an in camera meeting. Who's allowed to come into an in camera meeting? Each one of us is allowed to bring our legislative assistant. The Standing Orders and the rules that we make for the committee also allow somebody from the whip's office. The way I interpret that is that it means everybody in attendance, which means we'll have to work against ourselves by asking our staff to leave. If they don't have the security clearance, the meeting would not be allowed to proceed and the sharing of information would not be allowed to proceed. It's the same with the whip's office.

It seems reasonable that everybody in attendance should have the security clearance. I'm not suggesting that. The problem is that not a single witness we've heard from in this place has indicated or spoken to whether or not this is necessary. I have no indication from any of the testimony that I've seen that.... For example, every one of the staff members we hire has to sign a confidentiality agreement. Anything they learn or any information they come to while they're

in our employment cannot be released during employment or after employment.

I am sure that when classified information is shared with those who need to know it, there are protocols and measures in place to make sure that information stays secure under certain penalties. I think that's the place to put that enforcement in—not in Mr. Ruff's legislation, which is simply trying to give members of Parliament some of the privileges to do what we've been elected to do, which is to see information.

I don't like the amendment, and I certainly don't think the subamendment has made anything more clear.

It says, "under an agreement with all House leaders of recognized parties". In a joint committee with the Senate, does that include the House leaders of the Senate groups? The Senate is structured and organized differently than the House of Commons when it comes to House leaders and the various political entities there. It says, "of recognized parties". I don't even think the Senate has recognized parties. I don't think this wording is compliant with how the Senate internally operates its own practices and procedures, so how would we do that under a joint committee with the House of Commons and the Senate? How would they do that if senators were just in their own Senate committees? I don't think the language and wording in here applies at all.

Furthermore, there's not a single person from the House administration or the Senate administration here today, insofar as the clerks or the procedural clerks from either of those houses are concerned, to speak to the implications that I'm raising about how we would be able to comport and conduct ourselves within the framework of our current Standing Orders and how we operate at the committee level.

Mr. Chair, I would urge my colleagues to revisit this. If these situations come up where a committee needs to have access and the members therein need to have access to classified information, those members who have already had a security clearance have it, and those who have yet to do so can simply go through that process. As with the Winnipeg lab documents and the Afghan detainees, these kinds of arrangements can be worked out at the time. We don't need to go down the rabbit hole and discuss these items at this particular point in time.

Frankly, I see these measures being put in place to stall and stymie the debate of this particular piece of legislation. I don't think they particularly add any value at this time. Frankly, they tie the hands of the intention of this bill, which is to simply grant the ability of members of Parliament to apply. They don't give us anything that.... These amendments are presuming that people have access to information. They've gone way further than the intent of the legislation. They've gone down a road where things can simply be worked out and put in place once Mr. Ruff's legislation, as intended, is passed.

• (1150)

I will be voting against not only the subamendment but also the original amendment. I don't doubt the intention of the person who moved the amendment, but I doubt it's based on anything we heard here as testimony. Frankly, there is nobody, to my knowledge, among the witnesses present today who can speak about the implications of my privilege as a member of Parliament and how these amendments, if passed, would infringe upon it.

The Chair: Thank you, Mr. Calkins.

Mr. Duncan, the floor is yours.

Mr. Eric Duncan (Stormont—Dundas—South Glengarry, CPC): Thank you, Mr. Chair.

Good morning to colleagues and to the witnesses helping us out with this thorough clause-by-clause.

I'll build on what Mr. Calkins said.

I want to start by saying this: Through all of this, including the amendment he proposed, which we passed a few minutes ago, Mr. Ruff has made a very concerted effort to narrowly target the issue at hand here. I think, for example, that the amendment that he proposed and we passed further clarifies what this is. It goes back to the right of parliamentarians to apply—end of story. The amendment and subamendment here are getting into secondary and later phases that are not affected. It does not jeopardize our national security, intelligence or classified documents in any way.

As Mr. Ruff asked our witnesses again this morning to confirm, and what Dr. Giles said in testimony to us on Thursday.... I'll read what was said on Thursday and reiterate it again here this morning:

A security clearance is sometimes misunderstood or portrayed as a special designation, a set of privileges or an earned qualification like a rank.... Since clearance holders work in every part of government, a security clearance does not automatically grant the holder access to all information or assets at that level of clearance.

We've gone on to have many conversations or debates about the need for safeguards, which I don't deny. I'm not denying we need to have safeguards. There's no discussion or debate on that. However, what Mr. Ruff has put a concerted effort into doing is narrowly dealing with the right of parliamentarians to apply for a clearance. This does not automatically mean that a parliamentarian gets one. They still have to go through the process like everyone else. It further clarifies that it does not mean that once.... For example, if I were to apply and be granted this, I can't suddenly walk up to any of you and say, "I'd like to see the following 15 documents on X, Y and Z." The safeguard already exists for any of the quarter million clearances that were applied for in the last decade. If you're a staff member for a minister in the public service, being given that clearance does not give you, as Dr. Giles said the other day, a right to go on from there.

When we talk about the subamendment and amendment being proposed, and our argument about scale and it being out of scope, it is Mr. Ruff's intention of how we're doing this, because, at the end of the day, that safeguard is there. Anybody who gets the clearance does not automatically get.... The point Mr. Calkins raised, which has been raised a few times in discussions of Bill C-377, is that if a parliamentarian receives it, it's there. They are more turnkey-ready

should a committee or an individual parliamentarian.... For example, if they are a victim of foreign interference, they are more turnkey-ready and prepared. At that time, as we saw with the Winnipeg lab and the Afghan detainee documents going back a few Parliaments now, a lot of the details are negotiated at that point in the discussion. We say, "This committee, special committee or whatever it may be, needs to see X, Y and Z." Those can be negotiated or discussed as part of a disclosure to parliamentarians in a certain setting at that time. That's been done in the past. That is a safeguard at the time when the decisions are made.

I'll go back to make the same argument again, one we've repeated. Mr. Ruff has done a very good job of clarifying, umpteen times—I have lost track—this legislation and what he's proposed in good faith through an amendment. We've seen other efforts he's made and will be making again for the right of a parliamentarian to apply. Right now, if I were to put in an application, I would be rejected. This is just the right to apply to get the clearance. That's the end of the story. It does not entitle me or any parliamentarian to extra information or any other right going from there. What it can do is get more people at that level prepared to receive it, in the event we need it.

• (1155)

I think part of the effort and the reason for the continued expressed intent from Mr. Ruff is that if more members can get up to that level on various committees, as they choose, with the right to apply and to have that, I think, from a national security perspective, in the important roles we have in passing the budgets that you all work under and in passing the legislation that you interpret and operate in, it gives that opportunity, down the road, should the need or the circumstance arise, to have this clearance, to have it prepared and to be ready for it. I think that is essential.

The subamendment and the amendment that are proposed here, I will say again, are above and beyond the scope of Mr. Ruff's bill and his intentions. He's made that very clear. It is not to say that safeguards should not exist. The argument is that they do exist already because, again, when someone applies for and passes a security clearance, it does not automatically mean they're granted access to a single document because of that aspect.

I'll leave my comments there and will continue to encourage my colleagues to reject this subamendment and amendment. Let's get back to the scope and the level that Mr. Ruff is dealing with. It is very reasonable. It is very narrow and targeted for a specific reason. I think we could have a very good piece of legislation that does not jeopardize any safeguards that are there. They can use the existing ones that are in place now for the circumstance.

I'll leave it at that, for now, for my comments.

• (1200)

The Chair: Thank you, Mr. Duncan.

Mr. Cooper, the floor is yours.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you very much, Mr. Chair.

While I fully respect your ruling on the scope of the amendment, at least that it is within scope on a technical basis, this really does add a whole new layer to what is a two-sentence, one-clause bill.

I think it is important that we understand what the purpose and effect of the bill put forward by my colleague Mr. Ruff would be, because it seems, with the greatest respect to some of my colleagues here in this committee, that it has been lost on some members. It's not to say that the concerns about protecting classified information and around national security that they raised are illegitimate—they are legitimate—but they have, really, nothing to do with the purpose and effect of this bill if it were to come into law. To that end, I underscore that this two-sentence, one-clause bill would amend the Parliament of Canada Act so that every member of Parliament and senator can apply for a secret-level security clearance—nothing more, nothing less. That's it.

It doesn't in any way provide that, upon making an application, the member would therefore receive a security clearance. That would be left to the government. The bill doesn't change that. In the event that the member receives the secret security clearance, it wouldn't provide that they would be entitled to access any information. That would be left, again, in the government's control. There are protocols in place around sharing such information with persons who have a secret security clearance, and information is shared to persons who have such a designation on the basis of a need to know. The bill doesn't impact that. It simply provides that a member can get their foot in the door with respect to the application process.

The reason there is a need for this bill is that, as it stands, members of Parliament and senators are more or less unable to get their foot in the door unless they already have a security clearance from their prior careers, such as my colleague Mr. Ruff, who has a top secret security clearance. He has a clearance as a result of his appointment to NSICOP but, prior to that, he had such a clearance as a result of his service in the Canadian Armed Forces. There are other examples of that. However, there is something fundamentally wrong, in my opinion, when members of Parliament—338 people, 338 Canadians, each elected to represent about 100,000 people—who deal with matters of national security, foreign affairs, public safety and national defence, all of which fall within the purview of what we do as members of Parliament, are somehow unable to even get our foot in the door to apply, not for a top secret security clearance but a secret security clearance.

● (1205)

There are several differences between a top secret and a secret security clearance, but one key aspect is that a secret security clearance does not disclose sources and methods. It does provide a member who might have that, and who might be able to establish a need-to-know basis for why they would like to have access to information, some further background, further understanding. That would actually provide, in some of these issues that we have been facing on matters of foreign interference and so on, greater transparency to the member in a classified setting. This could perhaps provide clarity and actually address concerns that might be raised

where there isn't a basis, but the member might raise it because they don't have access to information that could help shed light on whatever concern they have.

In the last 10 years, 250,000 applications have been made for a secret security clearance. When Mr. Ruff appeared to present his bill, I asked him how many of those 250,000 secret security applications had been turned down. The number was 23 out of 250,000.

Somehow, we have 338 members of Parliament who can't get their foot in the door. Of course, ministers have security clearances, their staff have clearances, even interns in ministers' offices have clearances, but I as a member of Parliament representing about 125,000 people can't even get my foot in the door. How does that make sense? It doesn't.

All Mr. Ruff's bill would do is say that I can get my foot in the door. Then, if I made that decision, basically, I would have my entire life examined to determine if I was trustworthy and if there were any other concerns or red flags. If I passed that, then I'd have a clearance, but again, that is nothing more than receiving that accreditation. I'd still have to establish a need to know, and it would still be within the control of the government to share anything with me. I could have such a clearance and have no information of a secret classified nature revealed to me.

Now, you could have a discussion about issues and processes around how the government controls information and how it's shared, but that is, again, not the purpose of this bill. This bill has nothing to do with that. It is about as narrow in scope as one could draft, hence it being a two-sentence, one-clause bill.

● (1210)

I would have thought, given how straightforward it is... I would also add that it was, in fact, a unanimous recommendation of this committee that there be processes in place for members to be able to receive security clearances to better understand national security matters. NSICOP has weighed in on it. It's been raised at the national inquiry on foreign interference. Given all of that, I would have thought that this bill would get out of committee after one meeting.

There are some members who seem to think it's funny.

Ms. Lindsay Mathysen: Oh, no. That was something I said.

Mr. Michael Cooper: I don't find this very funny.

Ms. Lindsay Mathysen: You're funny in your own way.

Mr. Michael Cooper: I find it dispiriting that we have members insulting me. That underscores the tone we have and why this is so disappointing.

We have someone like Mr. Ruff, who served his country in the Canadian Armed Forces for 25 years, has a very good understanding of matters of national security, has received security clearance at the highest level, has held that for a number of years and sits on NSICOP. Therefore, he has a unique perspective as a member of Parliament. We have certain members who don't have that background, don't have that experience and don't have that knowledge, and they didn't even have the courtesy to talk to him. They table-dropped a bunch of subamendments that have nothing to do with this bill. I will submit that there's one basis for that. They don't want this bill to pass. They would rather gut the bill.

It's passing strange for a party like the NDP, which has never been in government and hopefully never will be in government, to go against members of Parliament being able to get their foot in the door to apply for secret security clearance. I thought the NDP was all about accountability. I guess, now, under the leadership of sell-out Jagmeet Singh—

Ms. Lindsay Mathysen: On a point of order, I'm really sorry that I made the member mad, but maybe he can focus on the comments he was going to make about the bill, as opposed to trying to insult my leader.

Thank you, Mr. Chair.

The Chair: Mr. Cooper, I didn't quite catch whatever exchange happened a few moments ago, but nonetheless, if you could, keep your remarks to the matter at hand. Thank you.

Mr. Michael Cooper: Under the leadership of sellout Jagmeet Singh, this is a party that—

• (1215)

The Chair: Mr. Cooper, there is a point of order.

Ms. Lindsay Mathysen: You were told once, and you were asked once kindly.

Mr. Michael Cooper: Everyone knows Jagmeet Singh is a sell-out.

Ms. Lindsay Mathysen: Mr. Cooper—

Mr. Michael Cooper: Mr. Chair, going back to the subamendment—

The Chair: Mr. Cooper, I have the floor now.

What I'm going to do is suspend so that everybody can catch their breath, maybe have some water, maybe have a bite to eat and maybe use the washroom. We'll see where we are when we come back from that suspension.

• (1215)

(Pause)

• (1235)

The Chair: Colleagues, we are resuming debate on Ms. Mathysen's subamendment.

Mr. Cooper has been subbed out for the moment, so we'll go to the next speaker on the list, who is Mr. Ruff.

The floor is yours, sir.

Mr. Alex Ruff: Thank you, Chair.

I want to go back to my testimony a little bit and to the history behind how I came up with this bill in the first place. It's very relevant to my concerns around the amendment and the subamendment, which is really discussing how we put in the proper safeguards around classified information.

I looked at this. I think I said this in my testimony. When I first conceived of this idea, I was thinking that I was going to make it mandatory for every MP—I couldn't handle senators—to get a security clearance. If they fail it, it should be publicized in the news, etc. As I dug into that with the appropriate people to help draft the legislation, I quickly ran into the issue of parliamentary privilege and issues that I recognized would actually interfere in the democratic rights of Canadians to some extent or to run for office.

As I dug more into it, I quickly realized that I can't solve this. I can't do justice to it in a private member's bill where I am limited to a couple of hours of debate, if it gets through and we get it to committee, get some testimony on it, get some experts forward and then properly get it to ground on a suitable solution to tackle the whole ambit of how it potentially interferes or not in parliamentary privilege, etc. I talked to different parliamentarians across different parties. I understood that there's actually a wide divergence of opinion on what the best way to do this is and what Parliament's and parliamentarians' rights are, so I said that I can't do that.

What can I do? I can fix an obvious stumbling block that I've seen under two different consecutive federal governments. They've run into situations where ad hoc committees had to be put together and people had to get a security clearance, and it took umpteen months or sometimes years for people to be approved. It could have been that people who were originally going to sit on some of these committees maybe were not suitable to get a clearance, and then these parties had to put forward new names to get clearance. It takes forever, which ultimately degrades the public's trust in our democratic institutions and processes. As well, we've had committees—you can look historically at the defence committee and other committees—where we've had witnesses testifying and saying that they can't tell us something because we don't have a security clearance.

How could I fix this? I thought about it and I said that the first step I can actually put in place is to allow a parliamentarian—an MP or a senator—to have the right to apply. That's it. I realized I can likely solve it with unanimous consent from all members. I thought they'd recognize that as parliamentarians they should have the right to apply for a security clearance. That's it. That's the whole purpose of the bill and that's all the bill states, that parliamentarians have the right to apply for a secret security clearance.

The intent behind it was never to get into and potentially handcuff, hinder or debate how the government of the day protects classified information—in this case, secret information, because my bill only deals with the secret level. Those steps and processes already exist. This amendment and the subamendment talk about putting safeguards in place that the government already has the ability to and does put in place.

Let's build on that. Let's look at some examples.

Mr. Jorgensen, I'll put you in the hot seat first. In your past experience, I know you were directly involved with the ad hoc committee on the Winnipeg lab. How long did it take to get all the members who ended up looking at those files security-cleared?

• (1240)

Mr. Sean Jorgensen: I don't have an exact number for you. I wasn't prepared for that.

Once the decision was made and the MOU was signed, it actually didn't take very long. I would point out that it was that process that took a long time.

Mr. Alex Ruff: It was to get that MOU and that process in place.

Mr. Sean Jorgensen: That's correct.

Mr. Alex Ruff: What about the actual security clearances for the individual members?

I don't need the names, but how many members ended up getting access to those documents?

Mr. Sean Jorgensen: There were eight members.

I can tell you that my team always prioritizes those requests, and we get them done in a week or two.

Mr. Alex Ruff: In a week or two, so they can be done very quickly.

I'm going to pick on you because of your previous employment as the director of operations at the NSICOP secretariat. Without naming names, how long does it take, now at a higher level, for some of those security applications to get processed for a top secret clearance?

Mr. Sean Jorgensen: With respect to NSICOP, it's the same thing. We would prioritize them, and they can have them very quickly.

Mr. Alex Ruff: They can. I know mine happened very quickly, but in talking to previous members of that committee, for some of them it took months.

Mr. Sean Jorgensen: Let me put it this way: The clearance can happen very quickly.

Mr. Alex Ruff: It can happen quickly if it's a priority, but it is one step in the negotiation.

Let's go back to the Winnipeg lab. What safeguards did the government put in place for those eight members of that ad hoc committee?

• (1245)

Mr. Sean Jorgensen: For those eight members, only four of whom were actually allowed to attend at a single time, the safeguard was an oath, and the oath essentially replicated what you have seen at NSICOP.

Mr. Alex Ruff: Is there anything classified about the oath itself?

Mr. Sean Jorgensen: No, the oath that you have taken as a member of NSICOP is online, I believe, but in any event it's not classified, no.

Mr. Alex Ruff: It's the exact same oath that the members of NSICOP have taken.

Mr. Sean Jorgensen: I believe it is.

Mr. Alex Ruff: All right.

There was nothing preventing the government from putting in that safeguard and telling those members that if they wanted access to those classified documents, they had to swear an oath.

Mr. Sean Jorgensen: There is nothing preventing that.

I think it is important to note, however, that those members never waived their parliamentary privilege.

Mr. Alex Ruff: That's an excellent point. In fact, I think that's a very valid point that may come up as part of a future discussion, or maybe another amendment.

Again, I'm not talking about parliamentary privilege, because the amendment and the subamendment don't actually talk about parliamentary privilege; they just talk about a process. The process that's laid out in the amendment and the subamendment, again, is more of a statement of what they should or shouldn't do, but ultimately this process... The government, if it chose today... Let's pretend my bill never got debated and wasn't part of the discussion here today, but a committee or a group of parliamentarians.... Let's just pick somebody. Let's just say that, before I was put on NSICOP as a member with top secret security clearance, when I got elected, I had asked to see, based on my background, the daily intelligence brief that is produced by the Canadian Forces at the Canadian joint operations command. I want to see that document every day; I want to know.

Would the government likely grant me access to that document just because I had a top secret security clearance?

Mr. Sean Jorgensen: I can't speculate. If the minister of defence wanted to grant you access like that, he or she could do that.

Mr. Alex Ruff: Now, again, I'm a bad example because I had top secret clearance and there are different.... For the members sitting here, when you do get a TS, there are additional safeguards and protections that are put in at that level. But at the secret level, let's pretend the minister gave that approval and said, you know what, Ruff, you're allowed to see this. What would be the safeguards?

If you're not the right person, we'd better have the DM of defence here, as the department responsible.

Let's park the defence; let's look at law enforcement, the RCMP. Let's say Mr. Calkins is being targeted by foreign interference. He has a secret security clearance. He has applied and he has it. It's hypothetical. CSIS might want to jump in and answer this. If he had a secret security clearance, would you be able to brief him at a much higher level of specificity and detail?

Mr. Sean Jorgensen: Do you mind if I quickly respond?

I think it's really important as a factual matter to note that all of the security clearances we give under TBS were purpose-built for the public service, so there are plenty of safeguards in place, but there is no safeguard equivalent to your immunity under parliamentary privilege.

Mr. Alex Ruff: That's fine for sharing of information. I'm not questioning it.

What's the safeguard for exempt staff, subsection 128(1) of the PSEA?

Mr. Adam Hatfield: With any kind of security policy framework, part of the strength of that policy framework is monitoring compliance and enforcing it. For an exempt staff member of a minister's office, if they are chosen as a candidate for that job, before they are offered the position they must pass the security clearance process. If they perform any action or there is any reason to believe they should not continue to hold a security clearance, they could lose their job. They could lose their employment, and they could suffer other consequences, legal consequences, as a result of that. They do not enjoy parliamentary privilege.

• (1250)

Mr. Alex Ruff: Yes, I don't question that.

Do exempt staff swear an oath?

Mr. Adam Hatfield: Exempt staff do not swear an oath.

Mr. Alex Ruff: The exempt staff, the interns, do not swear an oath to get a secret security clearance.

If my previous amendment had passed, which would have made the process for applying for security clearance applicable under the PSEA subsection 128(1), what would the consequences be for a parliamentarian who improperly disclosed any information? Would the recommendation be back to strip them of that secret security clearance? Would they lose it?

Mr. Adam Hatfield: It's very difficult to speculate. If a parliamentarian released classified information in the House of Commons and claimed parliamentary privilege on it, my understanding is that they are not subject to any kind of legal or civil liability as a result of that. Could their clearance be revoked? It certainly could be, but that would be the only impact.

Mr. Alex Ruff: That's my point.

Right now, when we put.... We've had that case. Let's go back to the Winnipeg lab. Those members of Parliament who were part of that committee swore an oath—the safeguard that was put in place by the government—got access to classified information, and did not waive their parliamentary privilege. Have they leaked any of that information publicly?

Mr. Sean Jorgensen: To the best of my knowledge, they have not done that, but you can't change parliamentary privilege through an MOU.

Mr. Alex Ruff: I understand.

That is all great. My point is that it's a decision that the current government—just looking at the most recent example—has already decided to put in place as a process. They swear an oath, and the government accepts the risk that a parliamentarian could stand up and disclose that information. The government decided that it was in the best interest of the Canadian public, of our country, to share that information, to allow people to apply to get a security clearance to get access to that information. They accepted that risk.

My bill does not stop the government from doing that or even doing more. They could ask any parliamentarian, as a condition.... Just because they have a security clearance.... If they want access to anything, they have to follow the following safeguards.

Again, I am not opposed to safeguards. What I am opposed to is an amendment to a bill that doesn't.... We didn't hear testimony. We didn't debate that. We didn't bring it forward. I didn't bring it forward as part of a thing to tackle because that, to me, is something that is worthy of a legitimate in-depth debate and discussion in the House of Commons, to allow all 300-plus members who don't have the privilege of sitting on this committee and having this debate right now, and the 100-plus senators, to actually debate that.

To be fair, the senators will eventually see this, regardless, if it goes through in whatever form, and then they'll have a chance to study it properly. For those of us who have gone through second reading, where I was limited to two hours of debate, the only person who had to answer questions was the sponsor of the bill. Everybody else had spoken to it. I sat there, and the government put up a parliamentary secretary who spoke for 10 minutes on a bill he hadn't even read before he spoke to it. If you listen to my reply, I called him out on it.

An hon. member: Was it me?

Mr. Alex Ruff: No, it wasn't you. It was the MP who speaks 10 times more than any other parliamentarian in the House of Commons. He was caught on it a couple of days later because he made the mistake of being honest with me.

My point is that this amendment and subamendment.... Not that I am opposed to safeguards. I am 100%.... In fact, my opinion may be much more draconian than those of a number of the members around this table, and even the officials sitting here, on what the necessary safeguards would be and what the potential punishment should be if somebody discloses information that compromises our capabilities, our techniques or our sources. I have zero time for that.

The point is, that is worthy and it's important that the discussion and debate are done in a proper, wholehearted manner, right up front. What the legislation and the intent behind the legislation that has been put forward.... In fact, I would argue that it should not be a private member's bill to figure out what is the best way to protect classified information that may or may not be shared with parliamentarians. That is worthy of a government bill that could come forward and lay out the intent, why they're doing it and what the concerns are.

I would argue that we have a great example with foreign interference in this country, where people with the highest security clearance have leaked information. They have the consequence of going to jail for decades should they get caught, and it didn't stop people from leaking information.

I am all about the safeguards, but that needs to be discussed and debated in a wholehearted manner in the House, at a committee with all the people who actually have the time and effort to consider the implications of parliamentary privilege.

Let's look at parliamentary privilege. For NSICOP, we waive it. As an individual, I have no issues. I signed that in two seconds. I don't need parliamentary privilege, ever. It doesn't bother me in the least. I will stand by my word, whether I say it in the House or out on the street, and I will willingly accept the consequences and the accountability for anything I say. If I say it here, I'll walk out and say it on the street. I have no issues with that. That's who I am.

• (1255)

The issue is that this is being challenged. I'm not a lawyer here. I think they were seeking leave at the Supreme Court just yesterday or the day before, challenging it and saying that Parliament and the NSICOP Act should not be able to take away parliamentary privilege. This is a huge issue. If they are questioning that for NSICOP, where members are cleared to the highest levels and have access to information that a lot of the cabinet doesn't have access to, then I think it's worthy of a proper debate and analysis with the appropriate people at all levels before we try to go down this path.

I'll shut up for now. I know some of my other colleagues have other points that they want to make.

Ultimately, I would just ask my colleagues in this committee to consider this: Do they think parliamentarians have the same rights as a summer intern to apply for security clearance?

Second, if we're going to do that and allow them to apply, before you give them access to anything, a proper debate on safeguards should occur, in a properly non-time-constrained aspect, to make sure we are not interfering in a parliamentarian's ability to represent their constituents and do their job. They need to understand up front what compromises, weaknesses or risks they are putting forth by our passing this amendment and subamendment, which, again, go way beyond the scope—I know I lost that argument, Chair—of what the intent of my bill is.

I'll leave my remarks at that for now, Chair.

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

We are at one o'clock, colleagues. We will continue our conversation, but I'm going to adjourn the meeting.

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