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(1530)

[*English*]

The Chair (Mr. Rob Anders (Calgary West, CPC)): Hello, everybody. We're starting off yet another one of our Standing Committee on Veterans Affairs meetings, and today we're trying to delve into, if you will, the veterans bill of rights. We're also studying the Veterans Independence Program and the veterans' ombudsman. So we ask our committee members as well as the witnesses today to try to focus their remarks on those types of things to give us feedback in terms of how we'll set up the ombudsman and how we can improve the independence program and as well the bill of rights.

I don't know who would like to make their presentation first. All right, Sean...I'm going to try your name, sir. Is it Bruyea?

Mr. Sean Bruyea (As an Individual): Bruyea, that's correct.

The Chair: Okay, wonderful. All right, you have the floor, sir.

Mr. Sean Bruyea: Thanks. Good afternoon, Chairman and other committee members. I thank you all for inviting us here today. More importantly, I congratulate all of you on the creation of the Standing Committee on Veterans Affairs.

I am Sean Bruyea and joining me here today are Perry Gray and Tom Hoppe. Mr. Hoppe presently sits on the advisory

committee to the DND/CF ombudsman, as he has done for the past four years. He is also Canada's most decorated soldier for bravery since Korea. Mr. Hoppe and Mr. Gray are both veterans of the former Yugoslavia and both are very passionate advocates for the rights of veterans and their families.

Chairman and committee members, I also congratulate Prime Minister Harper for taking the first steps to fulfill his promise to immediately create an ombudsman for Veterans Affairs Canada and a veterans bill of rights. I would also like to thank Minister Thompson for making the ombudsman and the bill of rights his highest priorities. These initiatives are long overdue. An ombudsman for veterans was first recommended by the Woods Commission in 1967. It also follows years after Australia and the United States have created similar bodies to ensure the fair, just and equal treatment of veterans and a confidential recourse for all should the system fail.

We all recognize that what we are trying to achieve here today, from whatever viewpoint, directly affects the men and women who as we speak are putting their lives on the line for us in Afghanistan. We are not talking abstracts. We are talking real flesh and blood.

I will focus on the issue of the ombudsman for VAC including the role, vision and mandate as well as emphasizing the reasons for creating the ombudsman sooner rather than later. Indeed, it has never been more urgent to create an independent ombudsman. The first wave of young Afghanistan veterans is coming home to face the yet untested provisions of the new Veterans Charter.

Many of you know that the Veterans Charter was created in great haste and passed in the House of Commons in only a single day on May 10 of last year. Based on the tacit support of groups who primarily represent the veterans of Korea and the Second World War and for whom the new Veterans Charter's provisions do not apply.

As a result the current Minister of Veterans Affairs is concerned about the new Veterans Charter. A perfect storm is brewing and it has seven unlucky coinciding components. One, a quarter of a million aging war veterans plus their families and survivors are putting increasing demands on the current health care system; two, hastily passed, untested legislation through Bill C-45; three, overworked under-resourced VAC front line staff trying to maintain old programs while implementing new ones; four, the inability or unwillingness to keep previous ministers' promises to review the Veterans Charter every four months; five, VAC bureaucratic opposition to the creation of an ombudsman, especially one with real powers; six, repeated ministerial and government statements recognizing the debt owed to all our veterans; and seven, young wounded veterans returning from Afghanistan at a time when the federal government is trying to increase the recruiting for the Canadian forces.

I suspect that the Prime Minister's recognition of the significant possibility for error with potentially tragic consequences is one of the reasons he encouraged the creation of this committee and proposed the creation of an ombudsman as one of its first priorities. While I applaud the government support for the creation of the ombudsman, it is important that the office be powerful, independent and impartial. The current process is unlikely to produce that result.

When the DND/CF ombudsman was first created, the process was initially given to a general who wrote up plans for the most ineffective and weak form of an ombudsman, the organizational ombudsman, who had no powers of reporting or investigation and was far from independent. Andr Marin and his team then spent the next year fighting to create an independent office with true powers of investigation. Currently, an assistant deputy minister from Veterans Affairs has been assigned the task of carrying out consultations and drawing up a plan for the bill of rights and an ombudsman.

Frankly, allowing Veterans Affairs to design the office that will have power over them is like asking railways to redesign the Canadian Transportation Agency, or allowing banks to decide how best to restructure the Office of the Superintendent of Financial Institutions. It is potentially scandalous and it is certainly neither accountable nor transparent. As the saying goes, justice must not only be done, it must also be seen to be done.

(1535)

In order for an ombudsman and a bill of rights to be created properly and immediately, either an individual outside the process or an independent and competent committee could be promptly appointed to have 10 weeks or so to prepare the model for an ombudsman.

The VAC ombudsman should be a neutral third party. It should be an independent and impartial office ensuring fairness to all, including VAC employees involved in the process for the care, treatment or re-establishment to civil life of any veteran or RCMP member and the care of their families or survivors. The VAC ombudsman must strive to bring positive change to the entire community involved or affected in this process.

Oftentimes there is no reason to reinvent the wheel. Andr Marin's 1998 action plan, The Way Forward, provides groundwork which applies to a VAC ombudsman as well. A ombudsman for VAC would

provide ongoing opportunity to address complaints and concerns and to foster change when any injustice and unfairness exists. The VAC ombudsman role would be to work within the existing mechanisms in an impartial and independent manner. The VAC ombudsman would not only respect the existence and role of available avenues, but reinforce them by allowing every reasonable opportunity for VAC to resolve its own issues before the ombudsman would formally intervene.

There are two basic roles that a VAC Ombudsman would need to assume: individual representation and systemic monitoring and reporting.

Individual representation could come about if a veteran falls through the cracks. As the website for the Ontario Ombudsman states:

If you feel a provincial government organization has treated you in any way that is unfair, illegal, unreasonable, mistaken, or just plain wrong, you should bring your matter forward to the ombudsman.

Feeling of injustice is crucial here. Perhaps the problem can be resolved with information or a quick telephone call to the department or a referral to an administrative review. The goal is to provide assistance, not to worry about offending the mandate of the bureaucracy. We are often dealing with suffering individuals, not players in a chess tournament.

One of the roles of a VAC ombudsman would be to track the pattern of individual complaints, hence the role of systemic monitoring. If a critical mass is reached in the number of complaints or seriousness and magnitude of the issue in any particular area, then the ombudsman could initiate a systemic investigation. This is perhaps the greatest value to the stakeholders as such systemic monitoring and reporting can articulate the problem and recommend timely changes so that no further veterans or other stakeholders drive over the same pothole, let alone fall in.

Those able to access the ombudsman office would include, but would not be limited to veterans, serving CF and RCMP members, the families of all, their practitioners, VAC employees, and contract providers. The scope of the mandate should be relatively simple, all programs, policies, regulations, and legislation related to and or handled by Veterans Affairs Canada. This is a view that is publicly supported by Ontario Command of the Royal Canadian Legion.

While it is true that legion members have access to representation at no cost, and there are multiple levels of redress within the Disability Pension and Awards System, Ontario Command supports an ombudsman in all affairs related to veterans.

Many observers have testified that is precisely the injustices and inefficiencies in the disability pension decision, review and appeal process, which makes this the most problematic of all VAC's programs. According to one of Canada 's leading experts in veterans legislation, Harold Leduc, who now sits on the Veterans Review and Appeal Board,

Veterans Affairs has a tried and tested pension adjudication system which includes a review and appeal process. Currently, this system is

broken as far too many files are being appealed through the Veterans Review and Appeal Board. The current broken system needs to be fixed if it is to be credible and if the programs of the new Bill C-45 are to build on this administrative process. Although VAC agrees that the status quo is problematic, Veterans Affairs Canada will not fix the problem. Resolving this step in the process will result in fewer files being forward to VRAB and would make the process more efficient, saving money, pain and suffering. An ombudsman review could motivate Veterans Affairs to repair this broken process.

You will find in the reference material that we provide the first ever VOICE ombudsman's report on Veterans Affairs that we released last fall. Its hundreds of contributors agree with both Ontario Command of the Legion and others that amongst other programs the pension system is indeed broken. Even the Auditor General

Found inconsistencies in the level and nature of the services provided by the department in counselling applicants. This is a serious problem, because the quality and completeness of the application is important in obtaining the right pension decision the first time.

(1540)

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In order for a VAC ombudsman to be truly independent, impartial, and effective, we have included a list of 14 considerations, most of which are the minimum required to create a real ombudsman rather than an impotent, neutered office with largely elusory powers. Most notable are the powers of investigation; the power to report publicly on the ombudsman's own initiative; and the power to initiate investigations on the ombudsman's own motion. It is the power of accountability to the public that brings about change, as evidenced by recent scandals here in Ottawa , and in the corporate world. If the ombudsman cannot rely on the power of moral suasion from the public, then the power to bring about change diminishes greatly.

Other mandatory considerations are, protection for persons coming forward. This protection should be similar to philosophy behind the whistle-blower legislation. Confidentiality is a given, but the resolution of individual cases often requires that names be revealed. Most veterans are reluctant to come forward for fear of losing the benefits from VAC upon which the veteran and the family may be totally dependent. I can personally tell you that the bureaucracy has a myriad of subtle, and not-so-subtle, ways of threatening or removing that security for those who have spoken out.

Disabled veterans have to know that they will be free from review, audit, or reprisal of any form by VAC should that veteran come forward. In order for the ombudsman to be truly independent, impartial, and effective, the office must have the necessary resources from both funding and manpower. I've included a list of required resources, mostly from an organizational perspective, to make a VAC ombudsman with teeth. A sufficient pool of skilled investigators is crucial here. You also note that an independent office requires a number of integrated sections such as finance, admin, record retrieval, and one of the more important, an integrated communications cell to coordinate with the media and the public in accessing the necessary powers of public opinion to bring about change.

There has been much talk of the ombudsman being an office of last resort. In principle, this would be true. However, considering that the last resort, in many cases, has not been reached for some World War II veterans, and many veterans of the conflicts and services of the 1990's are still being run through the system, a true last resort in VAC may never come. Therefore, a much more flexible approach must be taken. Should the complainant feel there is an injustice, there is no reason why he/she cannot talk with the ombudsman's office. The office can make referrals for effective review mechanisms or perhaps a telephone call or a letter to the appropriate directorate, which could save the complainants months, if not years, of review and appeal.

For example, the Ontario ombudsman is also called an office of last resort. But, it received more than 23,000 complaints

last year. Ninety-nine percent were resolved by referral, provision of information, ombudsman third party intervention, or even a quick telephone call to the department concerned. Only 78 major investigations occurred and there were between 100 to 200 field investigations.

There is not doubt that the details in setting up an office of the AC ombudsman can be complicated, however, as Andr Marin stated:

Access to the office of the ombudsman could be granted simply by the Minister of Veterans Affairs signing a ministerial directive, or more appropriately, the Canadian Forces veterans affairs ombudsman office, having coordinate jurisdiction, could be entrenched in statute, with the ombudsman reporting to the Minister of National Defence on CF DND issues, and to the Minister of Veterans Affairs on issues related to veterans affairs.

The truth is that departmental organization is a technical obstacle, not an impediment to doing the right thing. It is a maximum of good government that technical obstacles never be allowed to impede doing the right thing. Instead, technical obstacles should be managed and overcome. For the ombudsman, doing it right means letting the right people do it. Giving the process to more study than necessary, or leaving it in the hands of the very bureaucracy which requires oversight, is unjust and wrong. Independent agents can be brought on board with the stroke of a minister's pen. Timelines can be declared and made public and the faith of their veterans and families can be restored. Election promises for the immediate creation of an ombudsman can be fulfilled. The creation of the ombudsman is an urgent matter, yet we must learn from the missteps of the new Veterans Charter, by taking the steps to ensure that our new VAC ombudsman is powerful, independent, and impartial. We must ensure that our VAC ombudsman is created right and created right away.

Thank you, Mr. Chairman and honourable members of the Standing Committee on Veterans Affairs. We look forward to your questions.

(1545)

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Thank you, Mr. Chairman and honourable members of the Standing Committee on Veterans Affairs, we look forward to your questions.

The Chair: Thank you very much for your presentation. I think I'll go so far as to say that of all the presentations we've heard so far, that was one of the more detailed ones we've heard about proposals for how to set this up.

Mr. Cuzner, you're first up for the Liberals, welcome to the committee.

Mr. Rodger Cuzner (Cape Breton Canso, Lib.): Well, thank you very much, Mr. Chairman. I'm looking forward to doing some good work with this committee, a very important committee. Certainly, the presentation today was excellent. I thought there were some great points brought forward, and very detailed.

Just with the office, there is a risk, or from some corners they've issued some concern that there's a potential this might offer another layer of bureaucracy, if I could get your comments on that.

As well, you'd made a comment on some of the appeal processes and the fact that they appear to be broken, or you've stated that they are broken. Are there processes that we would be able to dissolve and there'd be no need of some of the processes that are in place there now? So if you could, maybe elaborate on those first two points, anyway.

Mr. Sean Bruyey: Thank you, sir.

I think, of course, with reference to the question about more bureaucracy, we must always be concerned in government about creating more bureaucracy than necessary. However, there is a misconception in some circles about what an ombudsman does--I've heard that comment before.

The fact is an ombudsman actually exists outside the bureaucracy, it exists as sort of a mail clerk that's able to look at the volume of mail coming in and is able to put it in the right spot, and to see from the outside, from the big picture, what needs to be done. So it actually increases the efficiency of the bureaucracy.

I could see real money savings, and I can certainly see that the debt we owe to our veterans in dignity and respect for their sacrifice will be upheld by ensuring more rapid response and systemic improvement.

As far as the system as it exists now, the legislation, the Pension Act, I personally find is a superior act. It's generously written to help support the veteran, to give the benefit of the doubt, the programs allow protection for the veteran. I think there are regulations and policies also within the department that are so written. The problem is they're not being followed and there's no one to enforce them to follow those regulations.

The committee has heard before when it existed as a subcommittee the fact that, for instance, VRAB does not track any of its decisions. There's no ability to make systemic improvements for what right now is sitting at VRAB--I believe 7,000 files are back-logged--in terms of dealing with that. There's no way of understanding why so many files are going to VRAB. No one's sitting down and tracking that.

An ombudsman could track that. An ombudsman could make the recommendations at the department level and perhaps at VRAB level so that maybe VRAB has the power--and I think this is open for consideration--to say to the department, You know what? You should have ruled on this the first time, and send it back rather than cutting off the options of appeal and review by having the board review on it. It's an expensive process to send it to VRAB when an administrative review at the department could solve the problem quickly.

(1550)

Mr. Rodger Cuzner: So there's the sheer volume of the backlog of the 7,000 files. Is there a concern as well that some of the work that's coming out of there, is it rubber-stamping previously made decisions, or a lack of end follow-up? Is it the quality of the work that's being done on the files as well, or...?

Mr. Sean Bruyey: Sorry, sir. At the VRAB level or at the department level?

Mr. Rodger Cuzner: At the department level.

Mr. Sean Bruyey: At the department level. I'd like to read a quote that was--

Mr. Rodger Cuzner: Really, I guess, both levels.

Mr. Sean Bruyey: For sure.

The Woods committee noted--and I'll have to find that for you in a second--the problem is there exists far too much secrecy still at the pension adjudication system within the department. We don't know who makes those decisions, we don't know upon what basis they make those decisions: there's no consistency in terms of the documents or letters that are sent out after the decisions are made.

That problem also exists at the VRAB level where there's far too much secrecy. It was noted in the Woods report in 1967 that the process has to be opened up to more transparency and accountability, and 40 years later we're saying the same thing. I think an ombudsman would...it has to be the vehicle to do that because all other attempts have failed.

Mr. Rodger Cuzner: I take from your comments and your presentation as well that you'd like to see this totally independent ombudsman. Do you see any benefit in some type of connection with the ombudsman for the Department of National Defence? Is there any synergy there, or should it be totally independent?

Mr. Sean Bruyca: That's a very important consideration. If they exist in a corner jurisdiction, then the linking is not a problem in terms of cooperation between DND, CF and Veterans Affairs Canada. However, if they are to be both independent and separate then there has to be a liaison between the two because there is much overlap. For the clientele, serving members in the CF could easily be Veterans Affairs Canada clients, so it will require, in any form of ombudsman's office, that between the two they will have to closely work together.

Mr. Rodger Cuzner: You had indicated inconsistencies in some of the pension supports and services. Are there any consistencies in the inconsistencies? Are we seeing it by region of the country? Are we seeing it by campaign? Are we seeing it by maybe the nature of the disability or the challenge that the veteran might face? Is there anything like that or is it just all over the place?

Mr. Sean Bruyca: I don't want to broad-brush because there are some excellent employees in Veterans Affairs Canada and, from what I understand, some of the people on BRAV are excellent people.

There is a problem perhaps with management of the entire system. The consistency that we see is that there seems to be a real lack of ability, especially at the headquarters level, in understanding what it is to deal with a disabled client. That is ironic since that is the reason for the department's existence.

Do you want to comment?

Mr. Perry Gray (As an Individual): If I may, I'd like to read a quote. This is a quote from Deputy Minister Jack Stagg to the parliamentary subcommittee, this august body's predecessor, and this is what he said:

What we found in the pension system was it was a kind of perverse system, in effect, because we had quite a large number.... We took a number of files between 1998 and 2002 and looked to see how many people were coming back to us for additional pensions. People were making this their life's work. We had people coming back anywhere from 9 to 17 or 18 times, looking to boost a pension.

Mr. Stagg added:

We try, of course, in Veterans Affairs, to be fair and to judge rationally how sick or how disabled someone is from the services they rendered for Canada . They will tell us they are sicker than what we believe--

and I must emphasize what we believe--

--or what they can prove, and it becomes a kind of adversarial battle.

I'd like to point out to all the committee members that the basis for any application by a veteran to the Department of Veterans Affairs is based on medical information provided by professional medical practitioners. It is not based on what I may think I need. The big complaint we have, and it points directly to what you said about consistencies within the inconsistencies, is that they are taking these assessments made by doctors and saying that they are not true to the extent to which the doctor has stated. In many cases it's very difficult for the practitioner to define in reasonable terms that are

acceptable to the department exactly what the extent of the problem is.

I will give you a specific example of this. According to Minister Thompson, there are practically 9,000 veterans who have been diagnosed with post-traumatic stress disorder or related operational stress injuries. According to DND, the majority of these people suffer from a long term disability that severely restricts their employment outside of the military, and yet these 9,000 people often are assessed at a disability level of 25% to 30%, and based on what Mr. Stagg said, they then have to go back between 9 and 17 to 18 times, and prove that the original assessment was unfair.

I hope you can understand why this is a very traumatic experience for people and very well illustrates the problems that veterans experience currently with the appeal and review system.

Thank you, sir.

(1555)

The Chair:

Mr. Cuzner, you've already had 10 minutes, so no, Mr. Cuzner. You've had 10 minutes.

Monsieur Perron.

[*Franais*]

M. Gilles-A. Perron (Rivire-des-Mille-les, BQ): Merci, monsieur le prsident.

Perry, Sean, et Tom, merci d'tre presents. Nous ne sommes pas ici pour faire le procs des anciens combattants, nous sommes ici pour parler de l'ombudsman. Lorsque vous commencez me dire que cela fonctionne bien ou non au ministre des Anciens combattants, vous me perdez et je deviens un peu frustr.

Pour commencer, vous n'y tes pas all avec le dos de la cuillre dans votre expos. Je vous en remercie. C'est intressant et sincre. Toutefois, qui est le responsable de votre ombudsman? De qui relve-t-il?

[*English*]

Mr. Sean Bruyeya: My wife.

Mr. Gilles-A. Perron: It could be.

Mr. Bev Shipley: Good answer.

Mr. Sean Bruyeya: *Je m'excuse.* Is it possible to get the question of Monsieur Perron clarified in terms of the boss of what?

(1600)

Mr. Gilles-A. Perron: You described what an ombudsman shall be.

[*Franais*]

C'est ce que vous avez écrit. Vous numériser toutes ses fonctions. Toutefois, vous ne parlez pas de qui il relève. Est-ce qu'il relève d'un comité de la Chambre, du ministre des Anciens combattants ou au premier ministre? Qui est son supérieur?

[English]

Mr. Sean Bruyey: I think the veterans going overseas and going to wars have for more than a century fought for Canada. We don't go and fight for an individual or for a political party, in spite of the good work of the parties, so I think that an ombudsman who's going to ensure that that sacrifice is honoured and upheld should report to all Canadians, to Parliament. It should not be filtered by a political party or by a minister, I believe.

There are also practical reasons for that. The Veterans Review and Appeal Board does need to have some oversight. There is very little accountability. That's been noted through multiple presentations over the past decade. The ombudsman would offer that accountability.

VRAB reports through the minister to governor in council, so the ombudsman, in order to have proper oversight, would have to report to either governor in council or Parliament in order to ensure the effective operation and oversight of VRAB.

[Français]

M. Gilles-A. Perron:

[English]

Mr. Sean Bruyey: In the sense that I don't think an ombudsman would have the same sweeping powers of an Auditor General in terms of being across many departments. But I think we're talking about the sacrifice of some very noble and important Canadian citizens.

I think there have to be some powers after years of difficulty in dealing with predecessors of the Veterans Review and Appeal Board and of dealing with previous organizations in forms that the department took so that we have to get someone who can get to the bottom of this. It's a very complex bureaucracy at Veterans Affairs.

I think merely reporting to the minister will not allow the timelines and effectiveness of an ombudsman's office to be optimized, so I think it's very important that--

[Français]

M. Gilles-A. Perron: la page 4 de votre nonc, vous dites: Qui aurait accès au bureau de l'ombudman. Vous runissez l'arme actuel avec les anciens combattants dans le même pot. Lorsque la question des anciens combattants faisait partie du Comité permanent de la défense, il y avait un ombudman et vous avez donc celui-ci parce qu'il s'occupait trop de la défense nationale et pas suffisamment de l'arme. Si on crée ce poste d'ombudman, est-ce que les membres des Forces canadiennes vont dénoncer cela? Cela ne devrait pas être complètement spar.

[English]

Mr. Sean Bruyey:

[Français]

M. Gilles-A. Perron: On essaie de réduire le temps de réponse parce que je veux poser un maximum de questions.

Est-ce qu'il s'agit de ton rapport? L'as-tu envoy ceux qui sont en train de pondre le travail d'un ombudsman? Est-ce que tu l'as envoy tous les gens du comit? Est-ce que le ministre des Anciens Combattants l'le-du-Prince-douard, t'a demand ton point de vue sur un ombudsman? As-tu eu l'occasion de leur exprimer ton point de vue, oui ou non?

Parce que si tu travailles tout seul dans ton coin, cela ne vaut pas la peine. Or, si tu travailles en groupe avec nous, cela va bien aller.

[English]

Mr. Sean Bruyca: This is the first opportunity that we've had the honour of tabling the report to the committee members, and we're hoping that it will be of value to you in your work.

I have submitted copies of the report to the major six organizations. I have no idea what they think of it or what they're going to do with it. I've also submitted it to the minister, as well as the deputy minister, for distribution within the department for those people concerned. I've heard no word back on any of it. This is the only feedback I've received on the report in terms of an official capacity, right here, right today.

The Chair: You have 40 seconds left if you wish, Mr. Perron.

Mr. Gilles-A. Perron: Thirty seconds?

Thank you, and I hope to see you again.

The Chair: That was short and brief.

We don't have our NDP member today.

So Mrs. Hinton, are you interested in asking questions?

Mrs. Betty Hinton (Kamloops ThompsonCariboo, CPC): Yes I am. Thank you.

There's just one comment that came from Mr. Perron which I might be able to help clear up. It is my understanding that the ombudsman for defence, once you have been discharged from the army, you've finished your service, you don't have access to that ombudsman anymore. So that's the rationale behind this ombudsman. That's not correct? that was certainly my understanding. I'll let you answer that later on. There are a few things I wanted to say.

I've known Mr. Bruyca, it feels like, for a long time. Louise Richard as well has been very instrumental. So I probably will never get another chance to say this and have it on the public record, so I'm going to say it today.

Having talked with Mr. Bruyca and with Louise Richard and with many other veterans across this country, there were a lot of obstacles that I was completely unaware of that they faced. Because of the discussions we've had over this quite extended period of time, I went forward to the leader of my party who was the leader of the opposition at the time, expressed all of these concerns that were being told to me across the country, and was told by the leader who is now the Prime Minister to put forward a piece of legislation to go to the conference for the Conservative Party of Canada. I did that. And two of the seven things in those pieces of legislation were:

A Conservative Government will treat all veterans with respect and will create a Veterans Bill of Rights to ensure that all disputes involving veterans are treated quickly, fairly and with the presumption in favour of the rights of the veteran.
--

The second one is:

The Conservative Party would immediately enlist the services of an Ombudsman with a mandate similar to that of the National Defence Ombudsman

I say that for one purpose and one purpose only. I know that you feel that sometimes you have been beating your head against the wall and that no one is hearing you. I'm here to assure you that you have been heard; that those concerns you brought forward as a modern-day veteran have been echoed by traditional veterans;--he example I could give you is Lt. Col. Al Trotter who went through the same kinds of problems that you went through and we finally resolved his after a year and a half--and this ombudsman position is being brought into existence because of people like you and people like Al Trotter who told us what their needs were.

So I will have a question for you. But I want to tell you that from my perspective, you, Louise, Perry, Tom and all the people like you who've talked to us over the years, you leave a living legacy that will go on long after you will. There will be an ombudsman in place and today's discussions are for us to hear from you again what you think that position should be about, what you think the power should be.

It'll be this committee that will discuss these issues and we will try and come up with the best alternative for all veterans concerned. So the value that you bring to this table when you give us your opinion and your experience is tremendous. I know that sometimes it feels like you're not being heard and I want to tell you that you are being heard and that your legacy is tremendous.

So I'll give you an opportunity, if you like, to just maybe put a bit more detail into some of the things you raised in your opening comments because I know it's a limited amount of time and the field is open. Go for it.

(1605)

Mr. Sean Bruyey: Thank you very much.

Ms. Hinton, thank you very much. I appreciate your comments. I will pass on your comments to other veterans I know that have been fighting and I'm sure it will mean just as much to them if not more.

In the attachment that I provided there are a number of considerations, the minimum considerations, for creating that ombudsman. I'd like the committee to consider those seriously in order that the ombudsman truly be something that represents and respects the dignity and legacy that veterans have provided to Canada and the sacrifices that they've endured.

On a more focussed level in terms of the ombudsman is that there's going to be a lot of fear within the bureaucracy. There's no doubt there will be fear, however, I would like to emphasize that the ombudsman is there for the bureaucracy too and not only for the employees that perhaps may feel they're not being managed properly or they have some sort of grievance, it's also for the managers. It's an effective tool.

When I was in the military as a manger and a leader I wanted to know the truth. I wanted to know what was really going on with the men so that I could ensure that team was the most effective possible for carrying out that job. I would hope the same philosophy exists within Veterans Affairs, that those managers, whether it be the DM, the ADM, all the way down to district supervisors, would want to know what the truth is out there in terms of their effectiveness, services and programs, or if they really are dealing with their client service base.

I think one of the most ironic things about Veterans Affairs is that you have a department that I believe is unique, and please correct me if I'm wrong, in that a department is 99.9% dedicated to providing client service, yet there's no client

service response and no mechanisms for monitoring whether the veteran or the services are being carried out effectively. Yes, they have internal mechanisms, but we certainly don't see how those measurements are carried out.

If I walk into a Staples or Home Depot, I don't walk by the cash register to see what can they can get out of me first, I walk by the customer service counter. How can they help me? How can they encourage the relationship of trust? That has to be the key factor, we have to re-instill trust between the department that provides this service and the veterans who are all about trust. That's what going into battle is all about, trusting the man beside you, trusting your leaders, and trusting your subordinates.

Veterans Affairs I think has to have a mindset change in terms of what it means to be in the military. Probably indicative of the fact that Veterans Affairs doesn't understand that is that they've advocated under the new charter priority hiring. Yet, Veterans Affairs has, from what our recent statistics show, and I can show this on my hand, less than five employees that were previously in the military.

I think if Veterans Affairs wants to live up to the fact that they want to employ veterans and understand the culture, then I think they have to step forward and listen to people like veterans like us and an ombudsman that can be a more powerful and articulate representative of veterans like us.

(1610)

Mrs. Betty Hinton: Do I have more time?

The Chair: You're at seven minutes and thirty seconds.

Mrs. Betty Hinton: There's openings on [*Editor's Note: Inaudible*], there you go.

: Ms. Hinton, I'd also like to remind the committee of what the minister said last week. This echos what Sean was talking about.

The minister said last week that time is on our side. That there is a 29 or 30 year period to fix the glitches within the new Veterans charter.

I vehemently disagree with that. I also disagree with his statement that the glitches will be fixed in the new Veterans charter if this government or a future government decides to do it.

You rightly said that everything that is in your election statement, which I have here, has to be done in a context that's meaningful, which means immediate is not translated as 29 to 30 years, or sometime during the next 10 years. Immediacy has a different meaning to those of us that sit on this side of the table.

Also, reflecting on some of the shortcomings that were discussed at the last committee meeting, it's been over 50 years and we're still waiting for the Agent Orange problem to be resolved. We have had veterans from World War II who have not had their cases resolved. It has to be a question of timeliness, not eventually.

Thank you.

The Chair: All right, thank you.

Mr. Sean Bruyca: Sorry, I just wanted to add a quick comment. It's a compliment. I'm wanting to complimenting the committee.

Perhaps we didn't make it clear, we'll also be willing, if you have questions about the bill of rights, and we can give you a limited response on VIP.

I wanted to compliment the committee and echo what MP Hinton, member of Parliament, Betty Hinton, has said about the fact about this committee, the previous members were very important in bringing about changes to VIPs. So I just wanted to pass on that compliment to you. We're not just here to complain.

The Chair: I'm sorry, just to let you know, some of the last people we've had, we have 10 minutes a go, but it's not because the question answerers are the ones who are taking more than seven minutes, it's our witnesses.

Now we're over to the Liberals again.

Mr. Valley, you're up.

Mr. Roger Valley (Kenora, Lib.): Thank you.

So I take it that I get 10 minutes. Thank you for that.

The Chair: Only seven on your own, and what they do is their own decision, sir.

Mr. Roger Valley: Okay.

Thank you for coming today.

I'd like to refer to page 2 of your comments. It says, halfway down the page:

...it is important that the office be powerful, independent and impartial.

You go on in the next paragraph to explain that the ombudsman that was created for DND and CF, at the start they didn't have that ability. It appears from your statements a little bit later on that was corrected through a major effort, and it didn't take too long. So it's working for the armed forces right now and you need an independent set-up for the veterans. And you go down farther to talk about how this is being set up.

So my first question, a brief question, is: an assistant deputy minister of Veterans Affairs has been appointed to set this process up, and you take issue with that. Can you tell me when that person was appointed, and how that came about? Is it very recent? We know the election was on January 23. We know there's been five months. Can you tell me when that happened, quickly?

(1615)

Mr. Sean Bruyey: The first I heard about it was about six weeks ago...no, eight weeks is probably more accurate, eight weeks ago that Keith Hillier had been appointed to the position. I had a chance to have one consultation with him. He appears to be just a super guy and a super manager, but he's also a VAC employee, and no disrespect to Mr. Hillier, there has to be impartiality in this process. If I can quote Perry, who gave me a very colourful quote concerning the bill of rights and the ombudsman being drawn up by a VAC ADM, it's not unlike having the Criminal Code written by the offenders of the Criminal Code or having the inmates run the prison.

Mr. Roger Valley: Or the fox in charge of the hen house.

Mr. Sean Bruyey: Exactly.

Mr. Roger Valley: I'll take you a little bit farther down the page, and then you make quite a strong statement, and I'd like to quote you.

It is potentially scandalous and it is certainly neither accountable nor transparent.

So we haven't started out on too good a footing.

We got the issue started. In a number of months we have a deputy minister that may have all the abilities in the world, but the fact is, as you point out very clearly, this is an employee of the department that's going to set up the rules for this.

Did you want to comment on how you arrived at that line, it is...neither accountable nor transparent? I think I agree with you at this point.

Mr. Sean Bruyey: Thank you.

I think this also goes back to your question about when did the ADM get appointed to this position?

Unfortunately, this culture of secrecy not only exists in the pension adjudication and the Veterans Review and Appeal Board, it exists through the entire consultation process, for whatever it may be the new Veterans Charter, the bill or rights. Whether it be changes to programs and policies, the stakeholders, the veterans receiving those services, are rarely, if ever, informed until after the fact. There's far too much attention being given to representatives from six organizations, the wonder work that these organizations do, but even if their entire membership were consulted represent less than 17% of the entire veteran population. They've admitted on many occasions that they don't have time to consult their membership.

So what we're talking about is a culture within the department that doesn't feel it needs to consult with its stakeholders because they're too large in number, but the point is we're the customers. I think the department should start listening to the customers.

Mr. Roger Valley: Another point you make throughout your presentation of the powers of the minister, and you feel the minister has the ability to correct this very quickly, if he wanted to?

Mr. Sean Bruyey: Yes. The minister could write a letter right now. He could set up an interim ombudsman or an interim ombudsman committee to work in conjunction with the committee here. There could be timelines set, milestones for when they would like, first of all, let's say, the proposals. Then, once those proposals are decided on by the committee here, and by the PMO or the PCO, the legislation could then be drawn up for submission to Parliament. This could all occur before Christmas, all those steps and milestones, if it were set up properly by the minister.

Mr. Roger Valley:

That brings me back to the last question I had for you. In a perfect world, you spoke about 10 weeks for a certain program to set up this with individual, and I forget the term you used, private company, not a private company, I can't remember how you phrased it. But you say this could happen, you mentioned Christmas and that's six months away. Do you feel that it should take that long or do you feel with the power of the minister it could be quicker? I want to know in a perfect world, I mean you're here today because we asked for your opinion. We would like to know if you had the ability of the minister right now to do this, what time line would you put on this?

Mr. Sean Bruyey: I would immediately appoint an individual. I would take two weeks to find an interim ombudsman or

interim committee to set it up. I would give no more than another 10 weeks for them to draw up their proposals and then I would let the mechanisms of government, if it's going to be legislated obviously we need time to write that legislation. I would have that legislation go forward and I'm not sure of the timelines for that but if it's not to be legislated and reported directly to the minister initially, then I think that can occur immediately after the decision is made on the model. So I think three months, it could happen.

(1620)

Mr. Roger Valley: That wasn't ten minutes.

The Chair: No but it was more than you were allotted so you did well, five minutes and thirty seconds, thirty-one, to be exact.

Monsieur Gaudet, with the Bloc.

[*Franais*]

M. Roger Gaudet (Montcalm, BQ): Merci monsieur le president. Bonjour messieurs. Je voudrais faire une petite mise au point. Plus tt, dans votre discours, vous avez mentionn la Commission Woods. Est-ce en 1967 ou en 1972?

Dans votre expos, il est crit 1972. Toutefois, vous avez dit 1967.

[*English*]

Mr. Sean Bruyey: I made a mistake, unfortunately, 1972 was my initial mistake but it was 1967, I did some research late last night. And 1967, by the way, was the release of the report, the commission sat between 1965 and 1968.

[*Franais*]

M. Roger Gaudet: Avez-vous dpos votre rapport la Lgion canadienne? Avez-vous eu des commentaires?

[*English*]

Mr. Sean Bruyey: Not a word, nothing.

[*Franais*]

M. Roger Gaudet: Merci. La nouvelle charte des anciens combattants prvoir des indemnits d'invalidit et d'autres programmes d'aide l'intention des anciens combattants et des Forces canadiennes, votre avis un ombudsman serait-il capable de vraiment aider les anciens combattants insatisfaits des programmes de radaptation et d'aide au placement?

[*English*]

Mr. Sean Bruyey: I think the new Veterans Charter in principle was written with the approach necessary to get some of the CF veterans to make that transition. During the Senate testimony that occurred before they passed it in the Senate, in May of last year, what was pointed out is that the charter has this huge gap of not dealing with the veterans who most need help, who are most disabled. And that gap has still not been addressed. There has been a commission of what's called a special needs advisory group. To date there is no mention of that group on the web site and there is no mention of that in the *Salute!* newspaper that goes out to the veterans. There is no way to contact them if someone wants to make a

representation. Their minutes are kept confidential, they are sworn to confidentiality, and we have no idea what's being discussed in terms of monitoring those special needs.

So in terms of the rehabilitation I think the big question about the Veterans Charter has to be at what point does bureaucratic efficiency in making sure that money is not being wasted cross the line and force veterans into compromising positions. I don't think that veterans should have to be forced into the workplace in order to receive benefits. I don't think we should put that sort of mistrust on veterans. I think we should trust them that they will be ready to work when they're ready. And I know that from all the veterans that I know who are disabled, they are very upset if they are unable to work and they do everything possible. I don't think there's a question of them trying to defraud the government, so putting that conditional workfare onto veterans to receive benefits, I think, is unconscionable.

[*Franais*]

M. Roger Gaudet: Selon vous, quand l'ombudsman serait-il prt entrer en fonction? Que souhaitez-vous pour que l'ombudsman entre en fonction le plus rapidement possible? Quand aimeriez-vous qu'il soit nomm et qu'il entre en fonction? Si cela fait 35 ans qu'il est nomm...

[*English*]

Mr. Sean Bruyca: That's true, Monsieur, that one of the important things, we could get the ombudsman off and started, but that's for him to actually start setting up his office, so there's the practicalities of staff training, of hiring, that would all be involved, but the sooner we could get the initial step, which is the model, the mandate, the legislation in place, then the sooner that training can occur.

Of course there will be a steep learning curve, but working closely with stakeholders and with the DND ombudsman, I think that they could come up with a working model, probably in less than a year from the time that he's given the word go.

Mr. Tom Hoppe (As an Individual):

It's all going to depend on the training of the staff. Right now, the current ombudsman's intake calls for the year were, I think, around 2,000, and he had 4 intake-call personnel to accept those.

If you're going to look at a veterans community of 400,000 or 700,000 veterans, even if you have 30,000 intake calls coming in, you're going to have quite a large staff that needs to be trained to understand how to deal with those intake calls and also to understand which ones are actual complaints and which ones are not, and also, which ones may go back to the DND ombudsman. I think that's where your delay is going to be--in that training time to get that staff up and running and to find the staff to fill those positions.

The Chair: Now we're over to the Conservative party. Mrs. Hinton looks very keen here.

Oh. Mr. Shipley.

(1625)

Mrs. Betty Hinton: I'm going to split with Mr. Shipley.

The Chair: Okay.

Mrs. Betty Hinton: I have just a couple of things to say now that the time taskmaster here has let me speak again.

There are openings on the veterans appeal board. You just have to apply, go through the right method, go through the computer. You can do it. It's easy to find out. We can give you details after if people are interested in applying.

I happen to agree with you. I think it would be very beneficial to have someone who has served in the military be part of the VRAB board.

In regard to one of the other comments that was made, Mr. Valley asked how fast this would happen in a perfect world. Well, we're in a very imperfect world, so what we've tried to do as a government is to include all parties so that we can get feedback from all different parties in the House of Commons. We want to be able to hear as many different witnesses as we can so that we can pick the correct model the first time and make this work for veterans.

Unfortunately, summer is coming--there goes two months out of that time period that you're referring to. So it may not be as quick as you want, but it's going to be quick. We want to consult thoroughly on the bill of rights and the ombudsman with all those who are going to be affected.

The other thing is that Mr. Gray mentioned he wants to see things happen more immediately. I can certainly understand that point of view, but I would point out to him that we have a 7,500 backlog of veterans waiting for resolution. We have agent orange and agent purple, which are well underway and which we hope to have solutions for in the very near future. We're doing the ombudsman and the bill of rights right now. I suppose if I were going to try to say something positive, I would tell you that we're very good at multitasking, but sometimes you can only take on so many things at one time.

We are trying. Veterans are very important not only to the government but to every member of this committee. We will get it right, and we will get it right as quickly as we can.

Mr. Shipley.

Mr. Bev Shipley (Lambton Kent Middlesex, CPC): Thank you very much.

I really appreciate having the three of you come out and talk to us as individuals. I think the reality is that this is where the rubber meets the road. We've had some great presentations at this committee. I think you'll find that all of us are wanting to work to make as good...and that's why we're working towards this ombudsman. We all agree on it. Mrs. Hinton has said that we want to make it right the first time.

Can I go to the model? You've laid out the 14 issues. I'm not questioning them; I'm just trying to get a little better understanding.

On 1, true and robust investigative powers, could you expand a little bit on that?

On 7, the legislated protection for those who come forward, similar to whistle-blower provisions, I don't know that you can answer this but as we look at our federal accountability act, which brings in new criteria for whistle-blowers, would that not encompass this? It's a question I don't know the answer to. Mrs. Hinton is shaking her head no. So then I guess you could speak a little about what you would see in that.

Then expand just a little bit more on 12. We've had a lot of talk, a lot of discussion about the close relationship between the Department of National Defence and the CF ombudsman--want to have that relationship and yet you want that separation. Maybe you could help a little bit on those three.

If I have any time left, I have another question.

Sean.

Mr. Sean Bruyca:

I'll try to be brief so that you can get another question in, Mr. Shipley.

I'll do 1 and 7 and then Tom is going to talk about 12.

The robust investigative powers. This is crucial to the Ombudsman's Office. Expanding upon that, this would give them the powers to call up files or to enter into the files of the department. They could compel the department or those involved to provide testimony as to the situation being investigated.

The investigative powers would also be, in large part, enhanced by the training of the investigators so we want to make sure that some good quality staff on board.

In the models that we see in Europe, in both Germany as well we see even in Canada, at home, with the CBC Ombudsman, that it's the powers of investigation that make the ombudsman. If they cannot bring the department to the table, if they can't get the department to respond within x number of days, then basically their investigation runs up against a brick wall. So we have to make sure that they have more robust powers in order to carry out that investigation and that way we get better results, more timely results, and more efficient results.

As far as 7, with the Whistleblower Act, I'm not sure where that would lie too. Would this be an addition to the Whistleblower Act? Would we put in an amendment for veterans? Because traditionally, I think, the Whistleblower Act is looking at public employees or federal service employees. I don't think we're being original here, but hopefully we can emphasize that veterans are a unique class. They are totally dependent. They have a fiduciary trust with the government because they depend on basically everything if they are seriously disabled on the Department of Veterans Affairs.

We have to protect them to make sure that if they're going to help improve the system by coming forward that they have also robust powers of protection and that it's detailed because bureaucratic harassment can be extremely broad-reaching and extremely subtle. So we have to make sure that there are very well defined protections for those veterans coming forward.

(1630)

Mr. Tom Hoppe: To answer your question on the connection between the two offices, under the current mandate for the CF Ombudsman, former members can go back with a complaint. The issue then becomes where is the dividing line between a VAC member and a former member of the Canadian Forces? So that's going to be something that has to be worked out. And it could be worked in the legislation when it is written.

The other thing that has to be taken into account is the transfer of information. If the information that the current CF Ombudsman has is confidential and private, is he able then to release that information to the VAC Ombudsman and vice versa? That's going to have to be put into legislation.

The connection between the two offices is going to have to be seriously looked at in order to ensure that nobody falls through the cracks because the soldier will cross between the two because they are so closely linked.

The Chair: Mr. Shipley, my heart goes out to you, but we're over time.

Mr. Rota.

Mr. Anthony Rota (NipissingTimiskaming, Lib.): I had two questions and what I'll do is I'll start with my second one because it kind of ties into what Mr. Shipley was talking about.

Perry, Sean, Tom, thank you for coming out. It's nice to see you all again. I know you've done a lot of work and I read through this and there has been a lot of thought go into it, not that there was any doubt in my mind initially, but it's nice to see it all packaged very well.

My question is relating to the model that see happen. We've looked at different models from around the world basically. Australia has one where it's all encompassing, Germany has one, and Britain has one that's independent. And you're kind of leaning towards having an independent ombudsman strictly for Veterans Affairs.

I guess I'm just thinking out loud here, but would it make sense to have it be a division or a part of the CF Ombudsman? And I'm thinking that because some of the cases start while you're in the military and then follow through to when the person retires or comes out of the forces. So I guess that's one of my concerns. Would it not be better to have one? It would allow us to hit the road running and it would allow the continuity.

Now it's a question, it's not a statement. I know you've put a lot more thought into this than any of us have, so I'm just wondering what your thoughts are on something like that?

Mr. Sean Bruyey:

After we released a report in November, you'll see that there's a chapter on three models, and the pros and cons of each model--it's a pretty general approach. Since then, I've come to understand, first of all, I think veterans would be grateful for whether it's independent or combined with DND. So I just want to make that point clear.

Mr. Anthony Rota: Okay, so there's no....

Mr. Sean Bruyey: I think for us here, we'd be very grateful for an ombudsman. The important thing is to make it real, not window dressing.

I agree with you 100%, there are some economies to be saved by the Canadian compromise instead of completing putting it under DND or to completely make it separate. I think there could be two subdirectories of the same ombudsman that perhaps some sort of independence within that same department.

You're absolutely right, the training time for bringing people online would be minimized, there would be economies of scale in terms of cost savings with infrastructure sharing. I think that also there is what I would call a prestige dividend that comes with the ombudsman for both departments coming forward and representing issues, both in the public and towards official bodies like this.

Furthermore, there's also the point that you made, is it would make the transition much easier. It is a very complex process, transitioning from DND to VAC. So there could be some corporate knowledge there that could be shared, and veterans would be less likely to fall through the cracks in a makeup like that.

(1635)

Mr. Tom Hoppe: I think the one issue you have to look at is if the DND ombudsman is reporting to the Minister of Defence and now he's looking after Veterans Affairs, who's his boss? He has two to go to.

On the resources side, if you take a look at the DND ombudsman taking 2,000 intake and all of a sudden, say, spiking

up to 30,000, what's that going to do to his office as well?

Personally, I would like to see a division of the two just because of the nature of who you're going to answer to. Unless you make it that they answer to Parliament, well, then you make it a separate body and it answers to Parliament, then that resolves that issue. I think you'll find the two-boss thing could create a problem.

Mr. Anthony Rota: By making it answer to Parliament, would it make it that much stronger? It seems to be a much better model and it would have the continuity.

Again, it's nice to say we have the economies of scale, dollars, but we're dealing with human lives. To me, it's more the continuity from one level to another so that individual doesn't get everything dropped out from under him and then you start ending up with, I'm sorry, I can't get your history from that department because they won't release it, or...you know the games that get played within bureaucracies--just that thought.

A question regarding VRAB. How would you see the ombudsman working with VRAB? Would they be working together, or would it just be a report and then VRAB would have to respond to whatever report the ombudsman would come up with?

Mr. Sean Bruyey: VRAB is obviously a very delicate matter because they have to have some sort of independent authority as a tribunal. However, there is legislation that applies to VRAB. There are policies that apply to VRAB and resources that must be managed. The oversight would ensure that the legislation is being followed.

I believe it was you, Mr. Rota, who pointed out in testimony last year, making the very clear point that there is no tracking of cases when VRAB makes decisions. It's nice to treat all of those individuals as separate cases, but at the same time there has to be some sort of legal precedent if they claim that they're a quasi-legal tribunal.

So in terms of VRAB, I think there could be a close working relationship, especially in understanding the boundaries of crossing the line into the area of tribunal proceedings. At the same time, VRAB needs to be accountable in terms of upholding the legislation.

As it presently stands, in the Pension Act and the VRAB Act there are two mechanisms for sending files back to the department. VRAB at this time, in spite of numerous pleas, will not articulate what the conditions are for sending a file back to the department. An ombudsman would come in and say, Wait a minute, why are we convening a tribunal for a file that could be sent back to the department under certain conditions? So that's an example where the ombudsman would be able to work to greater efficiency.

Mr. Anthony Rota: Can I just ask one thing for Mr. Cuzner? I'm going to ask it anyway. Can I have the document that Mr. Gray quoted from? Period. I asked it.

The Chair: I'm sorry, Mr. Rota, my job is to be the time-keeper, this is my role.

Now I have to go over to the Conservative Party. I wonder if Mr. Mayes, or Mr. Sweet, or Mr. Shipley have any questions.

Mr. David Sweet (Ancaster Dundas Flamborough Westdale, CPC): First, thank you very much for the high quality information that you're giving us.

I want to mention a couple of things. First off, I share your concerns around the (inaudible) and the amount of cases, close to 60% of the cases that are granted new benefits after the department and there has not been a real analysis about

why that is happening and we share those concerns. Just so you know, that's taking place.

Also, Mr. Gray, I think all of us here in some way, shape or form--certainly I have--have been on the other side of feeling when injustice is done and at this committee we're trying to make sure that we go through this process and have capable wise people such as yourself give us information so that we can make sure that this process is done right. So I just wanted to say to you that every minute that ticks by, I'm passionately aware of that, and at the same time we want to deliver for our veterans the best possible answer for all their concerns for the future. So listening to stakeholders, taking the time to vet the information, making sure we make a quality decision, these are of paramount importance to us.

You had mentioned that there was no response from the legion regarding your report. What about any of the other organizations? You mentioned six other veterans organizations. Did you get any response from them?

(1640)

Mr. Sean Bruyey: No. None whatsoever.

Mr. David Sweet: Now excuse my ignorance. This is my first time being on this committee. How many years have you been an advocate for the concerns and rights of veterans?

Mr. Sean Bruyey: Since I started entering the process in 1997.

Mr. David Sweet: I need to ask you because we got to this conversation because again, it's our concern to get as much quality information as we can, have some of your efforts been around trying to develop good communication lines amongst all these other organizations so that you can get consensus, well, maybe not consensus, really, but an accurate feeling of what the broad spectrum of veterans are feeling from all the different areas and of course most currently now from Afghanistan.

Mr. Sean Bruyey: No, no, for sure, I know that Perry and Tom are itching to respond to this one because this is dear to everyone's heart.

First I want to say that all veterans organizations do a great service to all Canadians and the veterans they serve. At the same time, there has to be a separation. The sort of exclusive relationship that exists between only a few of those veterans organizations and Veterans Affairs to the exclusion to the vast majority of clientele they serve is an injustice and that has to end and that's what an ombudsman will help do.

I'll pass it over to Tom in one second. First of all, freedom of representation and assembly, of course, are fundamental rights that we all recognize in the western world. There also should be freedom of not associating, that in order to get his or her case heard, a veteran should not be forced to go through an organization. A veteran should be able to deal directly with the department and receive the fair and equal and just treatment. Even the legion put that in its bill of rights and I commend them for that. That's a very important point. Equality is fundamental to all bills of rights throughout the world and I think that would have to be considered in a bill of rights, yes, with great weight.

Mr. Tom Hoppe: To answer your question a little further, I've been involved in this for over nine years, especially with the organizations. There's a transition that's happening right now. The soldier in Afghanistan at this point in time really doesn't have a voice. Most of the veterans organizations, the traditional ones, in one of the major ones, two-thirds of the membership have never been in uniform. The remaining third are former World War II and Korea vets.

So when these people sit at the table, the traditional veterans organizations tend to have a larger voice than the modern-day veterans organizations and the modern-day veterans organizations are very small in number. So when things

like the bill of rights, Bill C-45, is formulated, it is done from a different view. Of course, the person who is impacted by it is the modern-day soldier serving in Afghanistan .

So the ombudsman can help in that situation where they're not just looking at one generation or one era of conflict. They're looking at the client itself and I think that's going to be crucial because as much as the organizations are doing wonderful work, you don't find many young members in there. It's very exclusive.

Mr. David Sweet: To clarify my comments, certainly I do think they're all doing good work and when institutions work well, not only in and of themselves, but inter-institutionally, then it creates a synergy for better communications. That's our concern here at the committee, that we get more communication.

Finally, I just wanted to ask, so I can get a handle on your experience, have either of you had involvement with the Canadian forces ombudsman and if you have could you give us an idea about your involvement. Obviously you'd be happy about that because....

Mr. Tom Hoppe: I've been on the advisory committee for four years for the ombudsman, so I've been there when Mr. Marin, about a year after or so he started I was there and now with Mr. Ct in that level, so I've seen the development of the office through that committee, and also members of the forces that I've directed to the office who have needed help. I've seen their results as well.

Mr. Sean Bruyea: I had mentioned about threats to the security of veterans coming forward. I said that personally I've experienced that because there has been a situation going on for the past 18 months since I made the first public call for an ombudsman where there was a notable increase in the scrutiny, auditing, harassment, denial mechanisms that exist in the department.

I had to approach the ombudsman after all mechanisms in the department at the time had failed. The ombudsman was sympathetic, but clearly said that his mandate does not help me for speaking out in favour of an ombudsman. So he made a few phone calls, the office made phone calls on my behalf, however, it's clear the department was not obligated to deal with him in any form whatsoever. So there's an example of how the veteran can fall through the cracks when the one mandate ends and the other one begins.

(1645)

The Chair: Mr. Sweet, I just want to let you know your five minutes is up, but the NDP is not here and then it reverts back to the Conservative Party, so even though it's at 6 minutes, 30 seconds, there are still another three and a half minutes left on the Conservative side if somebody wishes to pick that up.

Mr. Colin Mayes (OkanaganShuswap, CPC): I just want to comment that I think the ombudsman, just the fact that the person will be in place, will cut down the number of appeals that have to be made just because the people who are working with the veterans and with the cases know that somebody else is watching over their shoulder to make sure they are fair in their assessments. I found in my previous life in local government that, as a mayor, when I knew things were happening and I could see what staff were doing and how they were relating to our customers in the municipality, it seems there were less problems and I had less phone calls.

So I think just that fact will cut down the work load to the review board and appeal board. I think that's a very positive argument for an ombudsman, not just the fact that it's going to independent and have the ability to be an advocate for the vets. I think that's an important issue that needs to be stated.

The Chair: Would you like to comment on that, sir?

Mr. Sean Bruyeya: Certainly.

Yes, I agree 100%. In fact, in the investigations that Marin made throughout the world, whether they be in Norway or Israel or Germany about the ombudsman models and here in Canada with both private and public sector, one of the key factors was they had the big stick. Because they had it, they didn't have to use it, because it brought the parties to the table and brought about resolution. I agree with you 100%.

The Chair: There's still a minute and 40 seconds left.

Mr. Perry Gray: If I may, I just like to touch on another reason the ombudsman is important.

The Bureau of Pension Advocates was set up so that any veteran or client of Veterans Affairs would have access to a legal advocate. The problem is that like the Veterans Review and Appeal Board, it is seen to be part of VAC. Therefore, trying to get veterans to trust lawyers who work within the department is itself a problem, and knowing that you're dealing with an independent body may encourage people to come forward and state what they have in terms of a grievance.

The Chair: All right, thank you.

Now it's over to our friends at the Bloc.

Monsieur Perron.

[*Franais*]

M. Gilles-A. Perron: Monsieur Bruyeya, vous avez fait une remarque qui m'a fait sursauter. Lorsque vous mentionnez que: titre individuel, je devrais tre capable de... , je suis d'accord avec cela. Par contre, nous n'en sommes pas rendus ce stade, mais nous sommes rendus l'tape de trouver un ombudsman.

Notre difficulte je vais donc essayer de parler en votre nom, chers collgues c'est de venir bout d'tablir une loi, un rglement, qui ferait consensus et pour ce faire, on ne peut pas se permettre d'aller frapper la porte de 250, 300, 350 000 membres. Donc, il faut essayer d'tablir une moyenne gnrale.

Je suis conscient que les lois que nous faisons ne sont pas des lois quitables, mais ce sont des lois qui sont tablies pour la moyenne. Cela ne sera jamais applicable la loi puisque l'un dira: La loi n'est pas faite pour moi et que l'autre dira: La loi n'est pas faite pour moi , galement. Or, nous essayons d'tablir une loi qui va plaire ou qui sera quitable la plupart des gens.

Alors, lorsqu'on discute d'un tel dossier, vous devez comprendre qu'il faut que nous ayons la vision moyenne. Selon nous, il est de plus en plus intressant qu'il y ait des groupes qui viennent nous parler et qui ont thoriqement d questionner leurs membres. Alors, si vous representez, par exemple, 50 000 personnes, vous parlez de 50 000 voix et non une personne, mais bien 50 000 personnes. Alors, c'est la raison pour laquelle il est important qu'il y ait des groupes qui viennent nous rencontrer pour nous faire part de ce qui fonctionne et ce qui ne fonctionne pas, et quelle est votre vision par rapport un ombudsman.

Alors, je voulais seulement vous dire que vous m'aviez fait sentir mal l'aise en disant: J'aimerais parler en mon nom personnel . Alors, je vous invite faire des commentaires ce sujet, si vous le dsirez.

(1650)

[*English*]

Mr. Sean Bruyca:

I think this is, once again, insightful and cuts right to the heart of the matter, Mr. Perron and I agree with you 100%. This is why an ombudsman is so important, when an organization comes up and says that they represent x number of individuals, whether it be in favour of the charter or whether it be in favour of a bill of rights of how it's to be constructed.

Canadians trust, and I think as Parliamentarians you have to trust, that they're telling you the truth, that they do actually represent all the views of their membership. However, in the case of something like the Veterans Charter, it was absolutely impossible for those representatives to have consulted their membership. That's the tragedy in the whole deal. I agree that we cannot go and talk to 210,000 Veterans Affairs clients. That would be absolutely absurd. But the department has made things highly secretive, highly inaccessible in terms of, for instance, the Veterans Affairs CF Advisory Council, which provided excellent work but never were its minutes ever made public and it was suspended without notice. The members, to this day, have never received a letter telling them why they don't meet any more.

The special needs advisory group was in the same situation in terms of secrecy. They were sworn to confidentiality about not just taking the testimony of individual clients but about of all the issues discussed. So I think that there can be, in the Canadian fashion, a middle road, in terms of not consulting. We can't consult with everyone but we can certainly do a lot better than the secrecy that's been carried out so far.

The Legion set an excellent example with their bill of rights. They posted it on their web site and asked for input from their membership. In that sense we have faith that that represents a large number of their members. Why can't Veterans Affairs do the same thing in terms of reaching out, especially with the high technology forums we have today, to try to get input in that form, to open up. The bill of rights now is sitting, apparently, at its fourth or fifth draft and not one of the general VAC clientele has access to even one, nor have the committee members seen the draft. That's absolutely absurd that there's no accountability and transparency in such a consultation process, I think, from a personal point of view.

Mr. Tom Hoppe: Just to add to that, I was a member as an executive in one of the six organizations, and I have yet to see any passage of the bill of rights. I'm a member of that organization. I haven't been consulted and I'm at the executive level. So people aren't being consulted and that's just an example. That needs to change.

The Chair:

Now it's over to our friends with the Liberals, and Mr. Valley.

Mr. Roger Valley: Thank you.

I just want to clarify what I thought I heard when I asked you about a perfect world, and we all know it's not a perfect world. I thought I heard you mention that to get this ombudsman in place your thoughts would be to have somebody start in a couple of weeks while the program was being designed. Was what I heard correct?

Mr. Sean Bruyca: Yes, but at this point it is. For instance, if the DND CF ombudsman is going to be involved in the process, then they should be sitting down right at the table to see what sort of mechanisms are being discussed--mandate, role, vision.

If it's too difficult to decide on that individual at this point, then appoint an interim, independent body or person to do such a thing, someone who would have the respect of all the political parties concerned. There would be an independent voice in there for oversight, objectivity, and impartiality, all the concepts that we talk about as being an ombudsman's office. Those concepts also have to be in the creation process and not only in the operation of the ombudsman's office.

Mr. Roger Valley: So with that person in place then during the time it took to get it right, you would be able to live with that because you'd be providing the service to the veterans as you see fit.

A number of times it was mentioned--I mentioned it before and you've mentioned it a couple of times--that we're starting on a process and my question to you in the end is going to be, what other avenues are open to you?

You're here before us today. You're talking about it. You feel we're taking a few missteps, if I could put it that way, by appointing the assistant deputy minister. You're using neither accountable, nor transparent. You have an issue with this.

What other avenues are open to you besides coming to us? Have you made this presentation to the minister? How else do you carry that very strong point because you've obviously thought about this a lot. So how do you carry that forward? What other avenues are open to you?

(1655)

Mr. Sean Bruyca: Thank you for asking that question. In fact, I have carried out all those mechanisms in terms of speaking directly with the minister personally. He was very generous in providing me with two hours of his time back at the end of March just before the passage of the new veterans charter, and I made that point very clear to him. First of all that the ombudsman comes first; not the bill of rights.

With Mr. Hillier, I also made it very clear to him, with all due respect, that he should not be the one writing it up. He said, Well, who should be writing up the bill of rights? The ombudsman should be, because it's a bill of rights that is supposed to ensure independence, impartiality, fair and equal treatment for all. I mean, it's rights of veterans. Veterans Affairs should not be writing up the rights of their clientele. As you said, it's the fox running the henhouse.

I'm grateful for those mechanisms. They've still fallen on deaf ears so I'm having a great deal of hope that the fact that this is a standing committee and the fact that you ladies and gentlemen are all very passionate about this issue, that you'll be able to make sure that the process and the end result are both impartial, effective, and independent.

Mr. Roger Valley: That begs the question, are we going to have time if they're writing this up as we speak. We know that we're about to go into a period where the House is not sitting so how are we going to impact that because this process is going to carry on when this House closes for the summer break. Are there any other options open to you?

Mr. Sean Bruyca: Well, there's the ombudsman option. The most powerful tool of the ombudsman is always to bring this issue to the public eye. At the same time, I think all avenues have to be exhausted before we go that route.

I think there is nothing wrong with the minister at this point taking it away from the ADM, thanking him for his wonderful work, and then giving it to that independent person who could be decided on in the next two weeks. That person does not have to be the ombudsman or that committee does not have to be the ombudsman. They could work over the next 10 weeks.

To give you an example, Andr Marin, with his paper, *The Way Forward*, started from scratch with absolutely nothing in September, 1998. In December, 1999 he handed the minister a 250-page analysis which went through great exhaustive analysis of all ombudsman models and recommended the model that we eventually have today. That was eventually published in January, 1999. We're only talking September to January. That's why I say this could easily happen before December.

Mr. Roger Valley: Very quickly, I would suggest to you that we have our job to do and we'll do the best we can with the committee and the 12 members who make it up. You have tools and you have some very strong language because I can

tell you, this government's mantra is accountable and transparent so you can use your own words against them if that's what you're seeking.

Thank you.

The Chair: Fair enough.

And now over to the government side. We have five minutes on the Conservative side for whoever wishes to pick that up.

Mr. Bev Shipley: I've only got one actually, and I want to go back to Mr. Gray's comment back earlier where you had talked in terms of the diagnosis, the Veterans Review and Appeal Board, and I think there was a concern that many of those diagnoses that an individual goes to the board with come from a doctor--most of those are medical; you go to the doctor--with a doctor's diagnosis and recommendation on it. Yet there's a sense that's not recognized. Is there a concern that the make-up of the board, then--I don't know how it's made up, quite honestly--maybe doesn't have the professional people required on it, of medical, military, the make-up that would be seen to understand the situations that come before the board?

Mr. Sean Bruyey: Thank you very much, Mr. Shipley. I mentioned Harold Leduc. I think he was hopefully the turning point in terms of the type of person that RAV is going to be appointing. Long-term, involved in veterans legislation, even though he was a member of an organization and president and started it up, he had always taken an independent and partial view to respecting the rights of all veterans, no matter what war, rank, age they had, or they came from.

Yes, there has to be I think on the board a mix of three factors. There has to be, like you said Mr. Shipley, medical expertise; there has to be legal expertise; and there has to be an understanding of the military culture that wrote those files, that created that person who's sitting in front of them when they make their decision. I think having two without the third would be a great loss and a disservice to the veterans.

(1700)

Mr. Bev Shipley: I guess my concern would always be that it gets--and I don't know, but I'd hate to see it overloaded with political. That's not what this is about. It's about having the expert people on that review board who can make the best judgments and make those in an efficient and effective manner.

Mr. Perry Gray: The one step that most concerns me is in the making of the first assessment within the department, and that was what I was addressing in my comment. When a person is released from the military they go through a process of review and it's determined whether or not they should be retained, retrained or released. When a person is released, they can be released for a number of different reasons, one of which is medical reasons. In order to be released medically, you must have a condition that precludes you from doing certain things in the military. That is all based on what a doctor or doctors think.

When that gets sent over to VAC, someone unknown--because it's very difficult to ascertain from the department who makes these assessments--decides at what level of the table of disabilities you will fall. If more of these decisions initially were better made and were made with accountability and transparency, then there would not be an average of 6,000 cases annually going to the Veterans Review and Appeal Board.

I mentioned 6,000 because on average there's only 4,000 releases from the military every year. So that indicates to you that there's a gross difference between how many people appeal and how many people get released. I can't say specifically what the percentage is, but to me that means there are too many people questioning the initial assessment.

The Chair: Thank you for your comments.

Monsieur Valley.

Mr. Rota.

Mr. Anthony Rota: May I ask just a question that Mr. Cuzner had asked? Mr. Gray had quoted something and Mr. Cuzner had asked if he could have a copy of that quote. I'm not sure what it was because it is right when it started. He had asked me to say that and I, unfortunately, ran out of time. But if he can get a copy of that or if you want to make it available to the committee, could we get a copy of that report?

Mr. Sean Bruyey: Yes, apparently it's been translated, I've been told.

Mr. Anthony Rota: Oh I see, that's what's holding it up. Okay, very good then. So we will get it. Very good. Thank you.

The Chair: Back over to the Conservative side. Are there anymore questions there? No.

I would like to thank our witnesses for their presentations. I have to say that, as I stated at the beginning of this, I think it was one of the more substantive ones we've had in terms of going into the guts of what the ombudsman is to look like. I appreciate the work you gentlemen have done on that. Thank you for your appearance today.

Mr. Sean Bruyey: Thank you very much. Thank you members and Chair. Thank you very much.

The Chair: Just before we all head out, I think that Mr. ? Perron? would like just a couple of minutes to comment about the report.

[?Franç]

M. Gilles-A. ? Perron? Monsieur le ? prsident? , ? je? ? ne? ? sais? pas ? si? ? vous? ? avez? vu le rapport de Sean. ? intressant? . ? Cependant? ? il? est ? assez? ? ardu? lire, ? difficile? lire car ? si? Sean ? tait? encore ? ici? ? il? ? di ? d'Ombudsman? , ? RARM? , ? du? ? projet? de ? loi? C-45. ? Je? ? ne? ? sais? pas ? s'il? ? serait? possible, Mich pas, ? mais? ? que? Michel ? nous? ? fasse? un court ? rsum? des parties ? vitales? , le ? coeur? , les ? poumons? , le sa de la ? couleur? des ? cheveux? . ? Je? ? crois? ? que? ? tu? ? pourrais? ? complter? ? cela? en ? cinq? ? ou? six p: pas ? officielle? , ? mais? ? cela? ? nous? ? aider

(1705)

[English]

The Chair: Mr. ? Perron? , I see head nodding going on. I think that's a ye

Fair enough.

Sometimes people say to me, Rob, how do we get stuff across to politicians? They talk about giving us these ? mondo documents and everything else, and I say that if you boiled it down to one page, you'd have a really tremendous amount of success. I said as soon as it goes to two or three pages, you'd be surprised how quickly it goes over to the staff and whatnot for consideration. It's the way these things work.

Thank you very much, and we'll work on that.

The meeting is adjourned.