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

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**EVIDENCE**

**Wednesday, November 3, 2004**

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**Chair**

**Mr. David Chatters**

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

Wednesday, November 3, 2004

• (1540)

[English]

**The Chair (Mr. David Chatters (Battle River, CPC)):** We have a quorum, so we should get started.

Pursuant to the order of the House of Friday, October 8, 2004, the main estimates 2004-2005, vote number 40, Office of the Information Commissioner of Canada, under Justice, have been referred to our committee. They would be our highest priority, but the committee will also study the annual report from the Information Commissioner for 2003-04.

I first would like to introduce our witnesses who have come before us today: the Hon. John M. Reid, Information Commissioner of Canada; Alan Leadbeater, Deputy Information Commissioner of Canada; and Ruth L. McEwan, director general of corporate services.

I would invite you, Mr. Commissioner, to present us with your presentation of about ten minutes, and then we'll go to questions.

**Hon. John Reid (Information Commissioner of Canada, Office of the Information Commissioner of Canada):** Monsieur le président, thank you very much.

I'd like to first acknowledge the historic creation of this committee. Matters of privacy, openness, and ethics don't always get to the top of the priority list of government, and these matters have long needed a parliamentary committee to champion their cause.

I'm delighted we're finally getting a true parliamentary home for the access to information office. Perhaps it will no longer be necessary to say of our annual reports, as did my predecessor John Grace, that for all the parliamentary attention they received, we might as well have put them in a rocket and sent them to Mars. So I'm very grateful to be invited here today.

I'm also pleased that my annual report, dated June 2004 but tabled in Parliament on October 6, has been referred to the committee. Because estimates are normally considered in the spring, just before our annual report is continued, no committee in the past has had the benefit of discussing budget matters in the context of information contained in an up-to-date annual report, so this too is a first.

What are our immediate challenges? It seems clear that this committee will soon be asked to review a bill reforming the Access to Information Act. There's some uncertainty as to whether this will be Bill C-201 or a yet-to-be-introduced government bill, but all parties and the government appear determined to modernize and

strengthen the Access to Information Act. You may count on me and my officials to assist you in your deliberations when they begin.

I've already informed Parliament of my wish list for reform, in the form of a special report that I tabled in 2002 in response to the government's internal task force report on access reform. We'll make copies available to you when you require it, and it's also online at our website.

I won't repeat my wish list, but I will talk about the main reason for this meeting: the resources my office has. In this regard, I want to point out that unless the office is properly resourced, I cannot ensure, on behalf of Parliament and the public, that the government lives up to its obligations for openness. As it stands, our resources are entirely inadequate.

When I became commissioner six years ago, the then director of finance came up to me and he said, "Mr. Commissioner, the first thing you have to learn is that you are bankrupt". Nothing has changed except that we have gone deeper into bankruptcy.

We are in a financial crisis. The cause of that has been that resources have not kept pace with the workload that is imposed on the office. The workload is made up of Canadians who have complained that they did not get the information they asked for from the government.

With respect to the heart of our organization, the investigator group, the office has been unable to replace retiring or departing investigators and now has a current investigator complement of 23, which is well below the number of investigators required to complete the forecasted annual workload of received complaints. On top of this deficit, there's a growing backlog of incomplete investigation that is now equivalent to a year's workload for the office.

With respect to the non-investigatory group, this office has seriously depleted its capacity in the last ten years in order to transfer resources to the investigator group. The office has moved from two assistant commissioners to one deputy commissioner; from an executive director of operations and two directors of investigations to a director general of investigations and reviews and a director of operations; and from a director of legal services and a director of litigation services to a single director of legal services. I want to say, Mr. Chairman, that I am very much obliged and grateful to the extra work those people have done to keep the office afloat over the last six or seven years. It could not have been done if they had not been prepared to put in considerable extra hours.

As well, we have given up our public affairs, our research, and our education and training capacity, in order to put whatever resources we have towards the investigations.

Despite repeated attempts to convince Treasury Board to properly fund the full range of the commissioner's mandate, including several exhaustive reviews by independent, outside consultants, taken jointly with the Treasury Board Secretariat, emergency and partial funding has only been forthcoming.

● (1545)

The resource crisis was a matter of discussion by the parliamentary committee on government operations and estimates during the Information Commissioner's appearance earlier this year. Some members asked whether the inadequacy of the resources may be the government's way of weakening the commissioner's ability to investigate and expose cases of improper government secrecy. They also wondered if the government is using its authority to grant and withhold resources in order to undermine the commissioner's effectiveness and independence.

I did not then, nor do I now, consider it necessary to impute bad faith to make the point that there is a real problem of inadequate funding for the commissioner and that the real result is a weakened ability to do the job Parliament has asked the Information Commissioner to do.

We currently have a submission to Treasury Board for additional funds. The magnitude of increase to base funding that my office requires is approximately \$2 million. This is a big increase of some 30%, but that's because there has been no increase over the last eight or nine years. We hope this will be approved and it will be the end of our need to come back to the House for supplementary estimates, as we have had to do in the last three years. We want to get back to the quality of service the public deserves, yet we may need your help, because there's little incentive for the government to help make the office strong.

I'm also urging government and this committee to work with the officers of Parliament to find a new funding mechanism that will be more independent of government. The approach taken by Parliament in the funding of the Ethics Commissioner provides an interesting alternative. In that approach, the Ethics Commissioner proposes a budget to the Speaker of the House of Commons. Once the Speaker is satisfied, likely after a review by the Board of Internal Economy, the budget will be forwarded to Treasury Board and will, without change or reduction, be included in the government's spending

estimates and the funding made available to the Ethics Commissioner.

In closing, I want to remind members that the Access to Information Act delivers a tremendous bang for the buck. The entire system, including departmental processing mechanisms and the Information Commissioner's office, costs less than a dollar per year per Canadian.

I urge the committee to make it a priority to nurture and protect this vital tool for fostering accountability in government. I ask you to bear in mind these words of a former member, John Bryden, speaking during second reading of Bill C-462 in April of this year:

This initiative of bringing transparency and accountability to government has always been an initiative of all members of the House, regardless of party. It has not been an initiative of government.

Thank you, Mr. Chairman.

● (1550)

**The Chair:** Thank you, Commissioner. We appreciate your remarks, particularly in light of what John Bryden's bill suggested: the greatly expanded role of your office. I think it makes your comments even more relevant, and I assure you our members will want to ask you about those things.

We'll start with the opposition first.

Mr. Hanger, for seven minutes.

**Mr. Art Hanger (Calgary Northeast, CPC):** Thank you, Mr. Chairman.

Thank you, Commissioner, for being here. I can appreciate the fact that you may find of value a committee in which you and others can now express your viewpoints openly and we can express ours back to you. I look forward to being part of this committee and certainly to working toward improving whatever conditions need to be improved, as a member of the opposition.

I've looked at the Auditor General's comments, sir, in reference to officers of Parliament. One of the concerns the officers had expressed—the Auditor General, at least—was that they negotiate their own budgets with officials of Treasury Board Secretariat. Is it the same situation with you?

**Hon. John Reid:** Yes, we try to negotiate, but you have to remember that there is a tremendous imbalance between our ability to negotiate and their ability to negotiate.

**Mr. Art Hanger:** Just on that point alone, what mechanism do you think would work the best as far as setting that budget is concerned? Would it be a group of parliamentarians who are specifically to look at the budgets of all of the officers of Parliament? What other suggestion would you have?

**Hon. John Reid:** The suggestion I have played around with for some time is that we should look at the way in which budgets are set in Alberta and British Columbia for the information commissioner. There, the committee itself sits down and works over the budgetary figures with the commissioner and then makes a recommendation that is followed by the government. I think that's an appropriate way to go.

I do like the approach Parliament has taken with the Ethics Commissioner, and I would find that acceptable myself. But I do think that when we deal with the financing of the role of the officers of Parliament—remember, we're there to be the watchdogs for Parliament—Parliament itself should take responsibility for the funding of those offices.

I think it's unreasonable to expect the government, which is being watched by these offices, to also have to be the funder. Nobody likes to be investigated. I've been investigated and I didn't particularly enjoy it, and I'm in the business of doing investigations. It's very difficult to be generous toward your investigator, so I think Parliament should take the major role.

Those are two ideas I have played around with.

**Mr. Art Hanger:** You mentioned the excessive costs, the workload having to generate.... I would assume complaints that have been filed are part of it. Is your office not fighting yet several court cases too that came out of lawsuits mounted by the Prime Minister's Office? Are they still ongoing?

**Hon. John Reid:** Judge Dawson has come down with a decision and in all cases supported the position taken by the access to information commissioner. The Department of Justice has determined to appeal one of those cases, and it has to do with the sanctity of solicitor-client privilege. The idea is that the commissioner should not see solicitor-client privilege, that it should be isolated from him, as the cabinet document is. My view is that in the law I understand it to read that those documents are to be seen by the commissioner.

Now, whether they are released or not is another question because there's an exception that deals with solicitor-client privilege. In this case, the appeal is that I cannot see them in the first place, and therefore anything marked by a lawyer that has solicitor-client privilege on it would be automatically privileged; the information commissioner could not see it and could not determine whether or not the material in it was actually solicitor-client or not.

•(1555)

**Mr. Art Hanger:** Would you consider these lawsuits acceptable or are they frivolous?

**Hon. John Reid:** When the original case went to court by the Prime Minister, the trial judge at the Federal Court found in favour of the Prime Minister. That was overturned by the Federal Court of Appeal. I have to say that since one judge in a position to make a decision found one of those cases to be appropriate, I don't think you can say they're frivolous. You have to say they were serious cases.

**Mr. Art Hanger:** There were somewhere in the neighbourhood of 26, were there not?

**Hon. John Reid:** There were two sets of cases. One was whether or not I had the right, as Information Commissioner, to see documents that were in the Prime Minister's domain, or ministerial domain. That was settled when the Federal Court of Appeal said the Information Commissioner did in fact have the right to see those.

Then there was another section of cases that were brought forward by the government that attacked the powers of the Information Commissioner—the ability for him to do his job. Those have all been settled in favour of the Information Commissioner, with the exception of the solicitor-client privilege.

**Mr. Art Hanger:** If I may ask this one other question, you're tied up attempting to fulfill your mandate and investigate complaints, and then you have lawsuits launched against your office. I assume that to fight those particular lawsuits, that comes out of your budget.

**Hon. John Reid:** Yes, but I did have a meeting with the Department of Justice early in my regime, and they basically told me to hire the legal advice I needed when I got into this kind of a situation and send the bills and they would support me.

**Mr. Art Hanger:** Did they?

**Hon. John Reid:** They never protested the bills when they were sent, so Treasury Board has not caused us any trouble on that. We did have to use outside counsel because of the nature of the cases. We do not have inside counsel who can do that kind of work.

**Mr. J. Alan Leadbeater (Deputy Information Commissioner of Canada, Office of the Information Commissioner of Canada):** Could I just clarify? The Treasury Board has given us a \$200,000 frozen allotment that is to be used for these purposes of outside counsel when we have a litigation situation. That's the only reason we can use the money, and in fact for the period covered by these lawsuits you mentioned, I think we spent about \$190,000 of that on those lawsuits.

**The Chair:** Your time has expired.

Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ):** Thank you, Mr. Chairman.

If I have understood you correctly, regarding access to information requests by citizens, you said that you have a one-year backlog in dealing with requests.

Was the backlog always that high since you became the Information Commissioner? Is it still growing? Will it reach a year and a half?

[English]

**Hon. John Reid:** Cumulative.

[Translation]

**Mr. Mario Laframboise:** Is it always going to be cumulative?

[English]

**Hon. John Reid:** Oui. When I began, we had probably about a four-month backlog. That was back in 1998. It's now a full year. Each year it becomes more difficult.

[Translation]

**Mr. Mario Laframboise:** All right.

If I understand correctly, your funding was reduced. You had \$4.2 million for privacy matters in 2003-04 and your budget was reduced to \$4.02 million. So you had budget cuts.

Was your funding also cut between 2003-04 and 2004-05?

[English]

**Hon. John Reid:** Perhaps Ms. McEwan could explain that.

**Ms. Ruth McEwan (Director General, Corporate Services, Office of the Information Commissioner of Canada):** Actually, no, we haven't had a reduction in budget. I'm not sure.... If you could give us a little more information, that might be useful, because we haven't had a reduction in budget. We have had frozen allotments. Is that what you're referring to?

[Translation]

**Mr. Mario Laframboise:** That's what I understand. It's on page 29 of the French version.

[English]

It's page 27 in English.

[Translation]

This is your planned spending for privacy matters. It went from \$4.201 million to \$4.020 million. Was it your decision to cut your spending?

•(1600)

[English]

**Ms. Ruth McEwan:** That's the Office of the Privacy Commissioner.

[Translation]

**Mr. J. Alan Leadbeater :** This is for the Office of the Privacy Commissioner.

**Mr. Mario Laframboise:** Excuse me.

**Mme Ruth McEwan :** It's all right.

**Mr. Mario Laframboise:** So your budget was always the same.

**Mr. J. Alan Leadbeater :** It's almost the same.

**Mr. Mario Laframboise:** That's fine.

[English]

**Hon. John Reid:** We did have financial problems. When the government agreed to split the offices of the Privacy Commissioner and the Information Commissioner in two, we were asked how much it would cost under this new regime. We said it would cost us approximately \$325,000 a year for the new costs and there would be \$400,000 in transition costs.

We did not receive the \$400,000 in transition costs. But we had to bear a whole range of costs, because all of a sudden we had a corporate affairs unit that was not big enough or strong enough to meet all of the demands that Treasury Board put upon us. At that point we had to let people go, and they retired.

We did take, in effect, a loss because we had this new burden imposed upon us by Treasury Board. In that sense, you are absolutely right. There was a cutback on the available funds that we had to do our work, because we had to divert everything to meet the requirements of Treasury Board.

[Translation]

**Mr. Mario Laframboise:** You said you would need \$2 million more. Then you said that you may be interested in the funding approach taken in the case of the new Ethics Commissioner.

Are you asking for \$2 million in additional funds and a funding approach similar to that of the Ethics Commissioner?

[English]

**Hon. John Reid:** Because this is the regime we are under, we have submitted to Treasury Board an application to increase our base funding that would take us up to that level. We don't know when that will be handled by Treasury Board. But they have had our application for some time and we are anxiously awaiting whatever decision they take.

We are in the position right now where we can't go the route of the Ethics Commissioner, or any other route, until Parliament determines that's the way we should be funded. In the meantime, we must go through the route of making application to Treasury Board, and that we have done.

[Translation]

**Mr. Mario Laframboise:** Would a funding formula similar to that of the Ethics Commissioner allow you to save money or will you still need more funds later?

What would the benefit be? Is it better management?

[English]

**Hon. John Reid:** The amount of money is important to us to be able to discharge the obligations we have under the act. How we get that money, whether it comes through the Ethics Commissioner or through a parliamentary committee or through Treasury Board, is another question.

I'm a former member of Parliament. I would prefer to see parliamentary agents funded directly in some way by Parliament. Then Parliament would have to take the responsibility as to whether or not we performed. I think that's where the responsibility should be.

[Translation]

**Mr. Mario Laframboise:** You said that you presently have 23 investigators and that you have been unable to replace those retiring. Do you expect to lose more employees that you will be unable to replace in the short term?

[English]

**Hon. John Reid:** We have had some investigators depart whom we have been unable to replace and we are down from the complement we had before.

We were able to cut back a little bit because we received some money from Treasury Board and we were able to use that to pay overtime to a number of people, but we found you can't pressure them too far because there is only so much they can do.

We have done everything we can to increase productivity. I think we've been successful in doing that because the figures will show that we have been able to produce more with fewer resources, but we've reached a point of limitation in the human component of our organization.

•(1605)

**The Chair:** Time is up.

Mr. Lee.

**Mr. Derek Lee (Scarborough—Rouge River, Lib.):** Thank you.

Mr. Reid, I took a look at your opening remarks in your annual report 2003-2004 and I was struck by your adoption of the rhetoric I usually hear from question period. I sit on the government side and I thought that was a strange way for you to try to get the attention of government-side MPs, referring to the sequencing of opposition one-trick pony allegations of continuing scandal. If things are really that bad, you must find it awfully difficult to do your job.

**Hon. John Reid:** Because of the court cases that we have had, we have been tied in knots for the last three years. It has taken enormous intellectual resources as well as a considerable amount of money from other operations to be able to defend the office against the legal challenges by the government. These do not come inexpensively.

**Mr. Derek Lee:** Well, the expenses are in any event always being borne by the taxpayer.

When you set your budget, do you feel you should be able to set a budget in a manner that's unrestrained and unrelated to the expenditures in the rest of government, or do you think the expenditure controls generally in place for all of government—which are there now, which weren't there 10 years, 20 years, or 30 years ago, but which are there now—are appropriate to your office as you set your budget? You're suggesting a change in the way you set your budget or that your budget is set.

**Hon. John Reid:** No, what I—

**Mr. Derek Lee:** In a way that would have fewer constraints. In other words, you make a proposal, send it to the Speaker, and the Speaker sends it on for action.

**Hon. John Reid:** The proposal I'm making is to shift the locus of the decision away from the Treasury Board and into the hands of members of Parliament.

I fully expect that under any regime that would be created we would still have to go through all of the requirements we now go through, and that would be appropriate. But the question is, who should have that responsibility?

**Mr. J. Alan Leadbeater:** It's not a question, Mr. Lee, of feeling we don't have to justify our expenditures and our expenditure plans. We want to, but we want to justify them not to the people we investigate, but to Parliament, who is our master.

**Mr. Derek Lee:** But Parliament doesn't have a financial gatekeeper. Money goes through this place like a sieve. It's Treasury Board that is the gatekeeper of the public purse. Yes, we in Parliament vote, as we will on your budget, but without a gatekeeper that can read the riot act to all of the ministries, all of government, and, believe it or not, to Parliament—and that happens from time to time because we do accept limitations on our budgeting around here—there won't be any expenditure controls. So why don't you just duke it out with all the other ministries and everybody else and go to Treasury Board and try to play by the rules instead of wanting to set your own agenda and your own budget.

**Hon. John Reid:** We do that right now.

•(1610)

**Mr. Derek Lee:** Good.

**Hon. John Reid:** What I'm coming here to tell you is that—

**Mr. Derek Lee:** It's tough.

**Hon. John Reid:**—from the point of view of what I am mandated to do in my legislation, there's a gap. The question is, who should make the decision as to how large that gap should be? Who should say that the Information Commissioner should run a year behind in terms of his ability to get stuff out the door? Should it be Treasury Board, who may well have a vested interest, or should it be members of Parliament, who have mandated these special offices to do certain things?

I feel it's a parliamentary responsibility when Parliament has mandated an organization to do particular things.

**Mr. Derek Lee:** We have four-year lineups in the immigration ministry. One year for the bureaucrats in Ottawa doesn't sound that bad to me.

**Hon. John Reid:** I want to correct that. It is not the bureaucrats. It is citizens of Canada who have asked the question and who have not been satisfied.

**Mr. Derek Lee:** Now, your office, quite properly, and in a job well done, serves the public who have complaints and difficulties getting access. Your office has done that very well, and your predecessors have done that well, for many years now.

Do you accept that in addition to the money you spend on your office, on behalf of Canadians and on some occasions on behalf of parliamentarians, there also are millions and millions of other dollars being spent by ministries—according access, giving out the information, making photocopies, doing searches, dealing with complaints? Has anyone ever added up how much all of...?

I'm not saying it's not worth it, but do you know how much the rest of the government spends on access? If you do, could you tell us now?

**Hon. John Reid:** I know there's been a study by Consulting and Audit Canada on the costs of access and privacy legislation. I quoted the figure today of about a dollar per Canadian per year for running all of the access side—that is, the formal process.

Now, what nobody has ever done is to take a look at what it costs the government if somebody calls up and asks for a document or a series of documents and the government just goes and produces it. But many departments will come and say, no, go use the access act. When you use the access act, the cost becomes much more expensive.

So I have always been a believer that government should be much more proactive about getting material out. It would be far cheaper if departments took the approach that when they get a call they produce the information.

**The Chair:** Time's up, Mr. Lee.

Mr. Broadbent.

**Hon. Ed Broadbent (Ottawa Centre, NDP):** Thank you, Mr. Chairman.

I'd like to begin by saying, Mr. Reid, that unlike my Liberal colleague on the other side, I share your concern about the method of funding, precisely because the government, it seems to me, is in a conflict of interest position vis-à-vis your own office. On the one hand, the office, as you well point out, is set up to conduct investigations into their activities. As you also point out, no one likes to be investigated. Therefore, they're not entirely, to put it euphemistically, in an impartial position vis-à-vis other departments. My colleague says you should "duke it out" with other departments for money, but other departments aren't in the business of criticizing the government the same way.

So I'm entirely sympathetic to your argument. In fact, I came here with the intention of asking you questions about the funding of the Ethics Commissioner. I see you think it's a very good idea. I for one, and on behalf of my party, think it is a good idea. Ultimately it's going to be the court of public opinion, if we shift the responsibility to the Speaker—i.e., as you point out, the Board of Internal Economy, which is the House leaders of all the parties.

I think that's a very good idea. You report to us. It gets the government, in one sense of the word, out of the conflict of interest position itself in funding your operations. If the shift is to the Speaker's office, and if parliamentarians start being totally profligate in the funding of your operation, then we'll pay for it in the court of public opinion, too. I want to indicate that your proposal for changing the decision-making process, the funding of your office, is one that my party supports.

In relation to that, because of the delays, as you've pointed out, and the absence of increases in your budget, I think your own request for, off the top of my head, another \$2 million is something we could support as well. Do you want to elaborate a bit on that? Again, it's perhaps a self-serving position that you're in...[*Technical difficulty—Editor*]...for independent funding, and I acknowledge that. You've already addressed the issue in general terms, so perhaps you want to expand on that. Is this a minor interest on your part to change the manner of decision-making funding, or is this a major concern you have?

•(1615)

**Hon. John Reid:** It has become a major concern, and it has become a major concern because of the problem of how we fund these special organizations in an appropriate way. It's not just my office; it's the Privacy Commissioner, the Auditor General—all of us.

The question is, what formula do you want to have to make sure that the offices are appropriately funded but under parliamentary control? How do we set it up so that the decisions taken about, and the control of, these offices, which are uniquely parliamentary institutions, will exist with members of Parliament?

I accept Mr. Lee's argument in terms of the general government. There has to be a gatekeeper, and there has to be somebody who tries to maintain control. My argument is that these are special organizations that are designed to investigate government for a whole variety of purposes. It is not a healthy situation for the person being investigated to also be the funder. That's the essence of my argument.

**Mr. J. Alan Leadbeater:** I think it's also worth saying that in the provinces, where the officers of legislatures are funded through the legislatures, it doesn't mean they get everything they ask for. We've talked to our colleagues many times, and sometimes they envy us, going to Treasury Board.

So it's not a question that we think we want to shop around to find the forum where we'll get the most dollars. It's just what makes most sense intellectually in terms of the types of relationships and the mandate of the offices.

**Hon. Ed Broadbent:** One alternative that came forward, when I discussed this problem with colleagues, was that government might pass an act, for example, and give you long-range funding built into the act, with a certain escalator clause over five years, or something like that. Would you think that's an acceptable alternative, or would you stick with the proposal you made in your opening comments?

**Hon. John Reid:** Mr. Chairman, I think it's healthy for everybody that we, like everybody else, come here each year to justify the funds we need. Circumstances change, and it may well be that if we can get some funding from Treasury Board to deal with the backlog, and we can get that backlog down, then we can give up some investigators, or won't need them.

I would like to have a system where I come forward every year to be fully accountable, to justify what we're trying to do and how we're trying to do it, and to make sure that everybody feels they're getting value for the money that goes into this office and into the system.

**Hon. Ed Broadbent:** I agree, and I like the answer very much. In other words, you want to come back every year to justify directly the money you're getting, but you want the decision-making process to be a little different, with which, as I've said, I agree.

The other question I raise at this time is on Bill C-201. Do you have a view on that bill?

**Hon. John Reid:** Yes. I'm excited by the idea that there's going to be some reform to the legislation. We have a very strong act. It has survived a lot of challenges. I hope the changes that come forward will be positive for the right of access.

There are some things I like about that bill. There are some things I don't like about that bill.

**Hon. Ed Broadbent:** Could we hear both?

**Hon. John Reid:** One of the things I like is the idea that cabinet documents would come into the Access to Information Act. We could see them to determine whether or not the documents there are truly cabinet confidences. We've run into problems where they have claimed cabinet confidence on items that were not cabinet confidence. We can't see them, and have had to work from the outside. So I like it that they would come in. I don't have a problem that they would still be outside the act from the point of view of people getting them, but at least we could see them and we could ascertain what they were.



I don't like the proposal that comes with it, that says the discussion papers would no longer be available to members of Parliament and to the public. Discussion papers are a part of the cabinet documents, and there is an exception to the exclusivity that allows those discussion papers to come out. I think that's a very heavy cost to pay, because those discussion papers can be extraordinarily useful to members of Parliament and to the general public.

So there's something I like and there's something I dislike.

• (1620)

**The Chair:** Time is up.

We'll start the second round with Ms. Jennings for three minutes.

**Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.):** Thank you, and I'll try to be very brief.

I too share the concern of your office and yourself about the funding stream and the framework in which funding flows to your office. I do think it's something this committee should look at. Obviously, we may wish to look at other parliamentary officers who come under our jurisdiction and perhaps set into place some kind of independent...that comes through Parliament. You could submit... and there would be a check and balance and a scrutiny, an oversight. Once there's an agreement it would go to the Speaker and then flow forward.

I have to say, though, Commissioner, that I am really taken aback by some of the language in your report, particularly in chapter 1. I've never seen that kind of language in a report of an independent agency set up by a government. Reading through it, I find part of it to be contemptuous of government.

**Hon. John Reid:** Which part?

**Hon. Marlene Jennings:** To give you an example, on page 3 in the third paragraph it says:

In this reporting year, the tenure of a new Prime Minister, Paul Martin, began. Prime Minister Martin came to office with an express intention to improve the quality of Canada's democracy—including the transparency of its federal government institutions.

That's certainly factual. Then you go on to say, "Words such as "openness", "transparency", "accountability", "integrity" are on his lips."

When I read that, I find there's a certain amount of contempt in there.

If I go on, in the last two lines of the second-to-last paragraph on page 5 you talk about Mr. Chuck Guité testifying under oath. You say "that sponsorship records were not kept in order to evade the Access to Information Act". You may have also wished to cite in that case testimony by other employees of the sponsorship branch that records were in fact kept and they did not know what happened to the records. So there is contradictory testimony, and I think in fairness that would need to be done. We had testimony that detailed records were indeed kept and that those records mysteriously disappeared.

**Hon. John Reid:** With respect to—

**The Chair:** The time is up, I'm sorry. But maybe you can work in a response to that as we go.

Mr. Tilson, three minutes.

**Mr. David Tilson (Dufferin—Caledon, CPC):** I'll give you a chance, Commissioner; I won't have to read the paragraph, because I was going to read it too.

When Mr. Lee was talking about agendas, that paragraph suggests you're probably going to have an agenda set for you. The new legislation that may come that will include all officers of Parliament will give you an agenda.

It is rather alarming when you look at what this paragraph in your report says and what the proposed legislation is going to say, when you say the resources are entirely inadequate. That's assuming nothing happens, I gather.

So my question is, how do you pull this off?

**Hon. John Reid:** The hope is that if in fact there are new obligations imposed on us, there will be funding to look after them. If there's not, then we will still have to meet those obligations. We will have to do the best we can with what we have.

**Mr. David Tilson:** But you won't be able to.

**Hon. John Reid:** I won't be able to meet the expectations unless the resources are there.

**Mr. David Tilson:** What is the additional amount?

**Hon. John Reid:** We're asking for some \$2 million, and we have worked out in some detail why we require it. As I indicated in my opening remarks, we stripped ourselves of everything so we could put everything we had into the investigations, because that's what we're about. But it's becoming more and more difficult.

• (1625)

**Mr. David Tilson:** When I look at this, there's no change.

**Hon. John Reid:** This year's budget is last year's budget.

**Mr. David Tilson:** Just so I'm clear, that's assuming Treasury Board continues to pay your legal bills.

**Hon. John Reid:** That's correct.

**Mr. David Tilson:** But you're just going on good faith.

**Hon. John Reid:** We have to.

**Mr. David Tilson:** Yes.

How many investigators do you have now?

**Hon. John Reid:** We have 23.

**Mr. David Tilson:** If you're required to do all of these things—it's not clear; we're speculating what you may have to do, but I'm sure you're good at that—how many investigators do you think you might need?

**Hon. John Reid:** To do one year's backlog requires 23 investigators.

**Mr. David Tilson:** That's excluding everything else—

**Hon. John Reid:** That's just to get the backlog.... That doesn't deal with the fact, as Mr. Laframboise has pointed out, that we have a cumulative deficit that mounts every year because we have more material coming in than we have investigators to deal with it.

**Mr. David Tilson:** It also assumes you're not going to be obliged to do these other things we've been talking about.

**Hon. John Reid:** That's correct.

**Mr. David Tilson:** It also assumes you're not going to give anybody a raise.

**Hon. John Reid:** Well, if there are raises, Treasury Board normally makes up the extra.

**Mr. David Tilson:** Ah, indeed.

How much time do I have? I have 30 seconds. I'm going to pass, thank you very much, sir.

**The Chair:** Mr. Bains.

**Mr. Navdeep Bains (Mississauga—Brampton South, Lib.):** Thank you very much, Mr. Reid, for coming here today.

As a newly elected member of Parliament, I'm also glad to see a separate committee formed to address issues of accountability and to make sure that people have access to information. I do see a slight conflict of interest in the present set-up.

In order to find meaningful accountability to address some of the concerns, do the Information Act and the changes we discussed, in any shape or form, pose any threat to confidentiality between government officials and ministers? Would that inhibit, in your opinion, government officials from sharing some information with ministers...for them to be able to make informed decisions?

**Hon. John Reid:** Some of the strongest exemptions in the act deal with the confidentiality of advice given to ministers by civil servants. The whole cabinet confidence exclusion is a powerful tool. There is a clause in there that says when civil servants meet to discuss ideas, that is also outside your ability to get it. We can see that to investigate it and make sure it's there, but it does not go out. So there is very good protection, and in the section of my annual report dealing with mythologies—page 7—I have outlined them.

**Mr. Navdeep Bains:** In some of the changes you discussed with Mr. Broadbent, you indicated you wanted to expand it to make sure that confidentiality that exists with cabinet—you wanted changes in that. Is that correct?

**Hon. John Reid:** No. On the situation now, clause 69 of the act says that cabinet documents are outside the act. That means I cannot see them and you cannot have them. Mr. Martin's bill now is proposing that those cabinet confidences come back into the act, but there would still be an exception; they would not go out. That would allow the Information Commissioner, when he does an investigation, to ensure that what is there is truly cabinet confidence and not necessarily something that gets swept up into it. We have had a number of cases where we have found material that has been swept up into the cabinet confidence.

**Mr. Navdeep Bains:** So it's to your discretion, essentially. You want to have the power to—

**Hon. John Reid:** It would allow the Information Commissioner to see all of this material, just as he can see all of the security material and all of the material he gets from the RCMP, CSIS, or whomever. This is the only exception.

**Mr. Navdeep Bains:** You feel that would not cause any issues with government officials sharing or discussing...

**Hon. John Reid:** It means it would be on the same level as information given to ministers. So the Information Commissioner, in

his investigation, could see the material, but there would be an exception in the act that it wouldn't go out.

**Mr. Navdeep Bains:** Okay.

**The Chair:** Your time is up.

Ms. Deschamps.

[*Translation*]

**Ms. Johanne Deschamps (Laurentides—Labelle, BQ) :** I am very happy to speak for the first time in this committee. I've just been elected. I am also very happy to welcome you here so you can enlighten us and explain what you do.

I will start by getting back to what Ms. Jennings said about your report. I'm a little concerned about some statements in this report. I am referring to the second paragraph of page 7, which reads :

Despite this outstanding record of user responsibility, a recent report prepared by government insiders proposed that using the Access to Information Act be made harder, more expensive, slower...

What concerns me, Mr. Commissioner, is whether you have to bow to these pressures. What I want to know is how can your work be made more transparent.

• (1630)

[*English*]

**Hon. John Reid:** I have no choice but to take the pressure. It is part of the job. So when you become Information Commissioner it means this is a constant.

In the case of Professor Savoie's comment, that's why I felt it necessary to explain in some detail the exceptions for advice to ministers. There has been no change in the protection provided to civil servants speaking truth to power, speaking to ministers and speaking to cabinet, so that their ability to carry on their job is not impeded in any way by the Access to Information Act.

Mr. Leadbeater reminds me that there was a task force report about two years ago of insiders looking into the access to information regime, and it made a series of recommendations, a number of which we have accepted and a number of which I'm opposed to. I issued a special report to Parliament on the legislative changes they had proposed. So this discussion about changing the legislation has been going on for some time.

The task force report basically wanted to double the amount of exclusions and exceptions to the act. I don't think in my judgment that this is the appropriate way to be going. We should be seeking ways to open it up, rather than to close down the system.

**The Chair:** Time is up.

Mr. Hiebert.

**Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC):** Thank you, Mr. Chair.

Thank you, Mr. Reid, for being here to address the committee today.

Unlike some of my colleagues on the committee, I don't read your report as being overly critical. In fact, I view it as being more a reflection of frustration on your part as you try to exercise your duties.

I was wondering if you could answer for us, apart from more money, which we fully recognize is the top of your concern, what more do you feel you need to do your job effectively. If that's too broad a question, perhaps you could prioritize one or two things you're thinking of that you would need to do your job more effectively.

**Hon. John Reid:** What has happened, Mr. Chairman, is we have found a whole range of things that we are not doing. For example, I have no ability to monitor what happens in Parliament, and I paid a heavy penalty for that last year when I discovered that there had been changes in the ethics act that took material that had been under the Access to Information Act for 21 years out of that act. By the time I was able to discover this, it was the last day of hearings in the Senate and they graciously heard me, but it was too late to make a change. So I have to do a much better job in monitoring what happens in Parliament, and I don't have the ability to do that.

Secondly, the largest number of court challenges to the Access to Information Act is in what we call section 44, which is a section that says that where a department agrees to allow material to go out and there's a third-party interest, the third party can go to court to prevent it from going out. There's a whole flock of those, about 50, but we haven't got the ability to monitor what's going on there. What we're trying to do now is go in and hit two or three of these a year with what resources we have to make sure we can understand what's happening.

So those kinds of things, which are within what we're supposed to do, we cannot do because we do not have the resources to do that.

My plea is to allow us to have the infrastructure to be able to serve Parliament and to make sure the act is appropriately honoured by everybody in the system.

•(1635)

**Mr. Russ Hiebert:** Just to clarify, I hear you saying that you have sufficient authority. There's no problem with your ability to access information; it's simply the lack of resources to follow through with your responsibilities.

**Hon. John Reid:** That's correct.

**Mr. Russ Hiebert:** So there's nothing as far as expanding your powers is concerned, or that sort of thing, that you think needs to be considered by our committee?

**Hon. John Reid:** No. I see no reason for an increase in power or authority. I'm very satisfied that I have the tools I need to do the job in law. What I do not have are the resources to make them effective.

**The Chair:** I believe Mr. Zed wants to add a comment.

**Mr. Paul Zed (Saint John, Lib.):** Thank you, Mr. Chair.

**Mr. Derek Lee:** If I may, I have a privilege item I'd like to raise with the committee—

**The Chair:** Of real privilege?

**Mr. Derek Lee:** Yes, it's a matter of privilege. And I'd like to bring it to the attention of the witness and members, if I may.

**The Chair:** Very quickly.

**Mr. Derek Lee:** I'll take thirty seconds or less. It's real.

In the Information Commissioner's report, he did refer, as Ms. Jennings mentioned, to the alleged testimony of Mr. Guité. In another committee of the House now we're dealing with the issue of witnesses' testimony and the absolute prohibition on impeachment of any parliamentary witness' testimony outside of Parliament.

This is contained in a public report. I simply bring to the attention of the Information Commissioner the issue of Parliament's continuing efforts to protect our witnesses, and you have wittingly or unwittingly raised this issue in your public report.

I just leave the issue with you without getting into too many details, but I wanted that to be on the record.

Thank you.

**The Chair:** So noted.

Mr. Zed.

**Mr. Paul Zed:** Thank you, Mr. Chairman.

I have a couple of questions. What I'm hearing you say is that there's an insatiable appetite out there amongst Canadians for information, and in this age of technology how to categorize that information and how to control it is one of your challenges.

So money will fix that. Is that what I'm hearing?

**Hon. John Reid:** Money will allow me to discharge my obligations. Right now I'm not discharging my obligations the way the legislation sets out what I am to do, and it's a resource-driven issue.

The point I think you're making is that it's not the law, it's how we're financed, and what resources we have.

**Mr. Paul Zed:** What I'm really getting at is some of the challenges you've suggested you might have in the future.

You currently are telling us you can't even do your job now, if I'm to believe the information you've presented. Correct?

**Hon. John Reid:** If you look at the tables and whatnot, you will see that our performance in terms of satisfying Canadians is deteriorating every year.

**Mr. Paul Zed:** Satisfying a benchmark that, in your view, Canadians want.

**Hon. John Reid:** No. I've said it somewhat differently. I've said that when I came in we were probably about four months backlogged. We're now a year. That's a continuing—

**Mr. Paul Zed:** I want to get to the point on the crown corporations issue.

**Hon. John Reid:** Yes.

**Mr. Paul Zed:** You, I assume, believe that the crown corporations should be subject to access to information requests?

**Hon. John Reid:** As should all parliamentary officers.

**Mr. Paul Zed:** All right.

So what's the impediment then, in your view, to adding them, other than the fact that there is a legislative barrier to it at the moment?

If we were to add crown corporations tomorrow, we would have requests amounting to 2 million to 4 million?

**Hon. John Reid:** There's no legal impediment to putting the crown corporations under the act. It's simply an order in council by the government, so the ability to do that is not one of difficulty.

In terms of whether or not we get complaints and everything, it depends upon how good they are in satisfying the demands. We have departments that are very good and we get very few protests. We have departments that are not so good and we get lots.

So it depends upon what response the department chooses to take. If you take a look at the report cards contained in the report, those that have As don't have many problems. Those that have Fs create a lot of difficulty for themselves and for us.

•(1640)

**Mr. Paul Zed:** If you could state for this committee what's the general view as to why you get an F, that would help.

**Hon. John Reid:** Right now we do that on the basis of whether or not you meet the criteria of 30 days once you get the application for information going out.

When I came in, that figure was about 40% or 45%. That figure today has gone down to about 15%. So there has been a tremendous improvement by government departments in meeting those criteria.

There will always be a certain number of those that cannot be met within the 30 days, simply because of the nature of the request, and sometimes the nature of the department, and we acknowledge that.

**Mr. Paul Zed:** Thank you, Mr. Chairman.

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

Mr. Hanger, please.

**Mr. Art Hanger:** Yes. Along that line of crown corporations, I think there was an effort to amend the act once before to include corporations and other...I think there are something like 250 foundations, associations, and other government-created bodies. Of course, Canada Post, the Pension Investment Board, and Health Canada would be some of them. The Blood Services, too, I see.

Every one has come under some scrutiny in the past, but nothing could be officially done. Is that correct, as far as accessing any kind of information to resolve a matter?

**Hon. John Reid:** You have the right to ask, but they have the right not to give you anything. It's only when you have a legal right to ask and to obtain the material that information flows. I would say that if crown corporations provided people with the information they were asking for there wouldn't be a demand for them to come under the act. There are some organizations that have developed regimes where they do provide information to people who ask, and I think that's very healthy.

**Mr. Art Hanger:** Would the Canadian Wheat Board be one?

**Hon. John Reid:** I cannot say because I can only talk about what I see, and I only see the complaints as they come in.

**Mr. Art Hanger:** I see.

**Hon. John Reid:** In my annual report you'll see that we have categorized all of the types of requests we get as well as the number that have come from each department.

**Mr. Art Hanger:** The Liberals seem to be concerned about your opening statement, your chapter 1 presentation here in the annual report. Certainly it's very much to the point, as you have attempted to fulfill your mandate. In opposition, quite frankly, I don't find it offensive at all but rather very direct language spelling out a problem that you see in your office. It's probable it would take that form given the fact that this problem has existed for some time and hasn't been resolved.

There's a backlog of 1,000 cases requiring...you have 26 investigators right now—

**Hon. John Reid:** Twenty-three.

**Mr. Art Hanger:** And you say it would take another twenty-three to clear up that one-year backlog.

**Hon. John Reid:** In one year.

**Mr. Art Hanger:** In one year, providing there aren't any other additional changes to the act, like including crown corporations and the investigations that come out of there.

**Hon. John Reid:** That's correct.

**The Chair:** Time's up.

Mr. Bains.

**Mr. Navdeep Bains:** I guess there seems to be general consensus on the notion that we want to expand the act to have a wider scope to include crown corporations. I have heard in your remarks before that you indicated that an additional \$2 million of funding would assist you to provide you with additional resources to tackle that in terms of crown corporations.

**Hon. John Reid:** That would bring me up to date with the backlog.

•(1645)

**Mr. Navdeep Bains:** Up to date with the backlog so you can proceed.

**Hon. John Reid:** But that doesn't include crown corporations. That just says this is what I have on my table now.

**Mr. Navdeep Bains:** That's for the backlog then.

**Hon. John Reid:** That's right.

The timeframe we're supposed to operate under comes out of a parliamentary committee that did the examination of the act three years after the act had come into effect, and their timeline for us was 90 days. Well, I'm sorry, I don't even come close to 90 days.

**Mr. Navdeep Bains:** Okay. So if you get the \$2 million and you are able to reduce or eliminate the backlog, you incorporate crown corporations. But before I go in that direction I just want to regress a bit.

What are some of the tangible results that you have achieved in the past year as part of your activities? When you refer to the bang for the buck, so to speak, in terms of using tax dollars effectively, making sure they're used in a manner that gets the best return, can you highlight some of those tangible results?

**Hon. John Reid:** Yes, we have to produce a performance report. We have been able to outline that in quite some detail.

I'll ask Alan Leadbeater, the Deputy Information Commissioner, to go into that.

**Mr. J. Alan Leadbeater:** For purposes of our own self-assessment on our performance, we like to consider our office a form of alternate dispute resolution. We've been set up by Parliament to help Canadians get their disputes with government settled without having to go to court. You may know that under the American system, under the Freedom of Information Act, you go to court directly if you have a dispute with government.

Out of I think it was probably 1,300 complaints under investigation last year, we had fewer than 1% we were unable to resolve without going to court. So we had 0.8% of cases, which I think worked out to something like about eight cases, that had to proceed to court. We're hopeful that even some of those eight will collapse on the courthouse steps into resolution. It is, by that measure, probably the most effective alternate dispute mechanism in the country, not just in access to information. So that is one of our big measures.

The second measure is that Canadians have the right, when they come to us, if they're not satisfied, to go to court after they've been to our office. We haven't had a case, in this past year, for example, where an individual has gone to court after coming to our office and has received more information from the court.

So those are two ways that we assess our own performance.

**Mr. Navdeep Bains:** Thank you.

**Hon. John Reid:** On pages 13 and 14 you will find all of the performance outlines we have done. And there are some, on pages 13 and 14, where we have met expectations and there are some where we have not met expectations. We have been pretty frank in outlining where we have been successful and where we have not been.

**The Chair:** Thank you.

Mr. Laframboise.

[*Translation*]

**Mr. Mario Laframboise:** I think your report is fine. You were absolutely right when talking about a government that really wants to be transparent in your presentation in chapter 1. The first thing such a government has to do is to say to the people that they can access all information and ask all questions. In the positions that were cut, I see there is no one left with responsibility for public affairs.

What are you going to do with an extra \$2 million? Is it only for research or are you going to try to promote what you're doing and say to the public that you exist? If we were to give you an additional \$2 million, do you know exactly what you would use it for?

[*English*]

**Hon. John Reid:** The first thing we would do is tackle the backlog. The second thing we want to do is to look into systemic problems.

We want to do something on communications because we do not have any communications at all at the present time.

We have to do something about our operating manuals because there's been a flurry of judgments in the last four years and we have to update our operational manuals; they lag at the present time.

We'd like to take some money and put it into legal services so we can look at these section 44 cases and also be able to provide a better analysis of parliamentary legislation as it goes through and how it affects us.

We want to hire a full-time financial officer. Right now we do not have one. Madam McEwan has been doing all the work. We now have been able to get somebody in, but we don't have money to pay for him. But we had to do this. When we were under audit by the Auditor General, we had to go outside and hire consultants to do our basic financial statements because we don't have the capacity in-house to do it. We were criticized by the Auditor General for that, but we have to operate on the basis of what we have.

We also have a problem in terms of translation costs, which are significantly above what we had looked for.

We have had to cut off training for our staff in a serious way. We would like to go back and meet the government's objective of spending 3% of salary on training. And we also have to spend some money on the Public Service Modernization Act.

Those are the things we want to do. They're not rocket science. They're just the sorts of ordinary things that you would anticipate we should be doing.

But we're in this situation because in order to protect the integrity of the investigations we have simply collapsed a whole bunch of other things so we can maintain service to Canadians. But we are now finding that the office infrastructure is beginning to crumble because we can't do all of the other things we have to do.

• (1650)

**The Chair:** Ms. Jennings.

**Hon. Marlene Jennings:** You've raised something really important, the question of some basic things or services or human resources that normally an agency, particularly an oversight agency, should have access to, such as a financial officer, but you've been unable to.

You're a small organization. Even if you got the extra budget you're asking for to wipe out the backlog, etc., you're a small agency and may not be able to support a full-time financial officer, say. What would you think if Parliament, given that you are an officer of Parliament, provided a package of services to its officers and agencies, a financial officer, for instance, so that you and the Privacy Commissioner and the Ethics Commissioner, etc., who may not be able to justify having a full-time person for that, would still have access to them? Would that be something that would be of interest to you?

**Hon. John Reid:** I would love to explore that, because I recognize that with a small agency and the demands that are imposed on us by Treasury Board, our overhead is very large. At one time, when we had the joint office with the Privacy Commissioner, that overhead was kept under some control. So there's no question that sharing with others is very good.

I have noted one thing since we have been split off: I now have much more accountability from the staff doing that work than I did before when there was a corporate affairs officer who was responsible to both commissioners. If both commissioners didn't agree, then nothing happened. That, unfortunately, was the history.

I would love to find a way to be able to farm some of this out. We did some personnel experimentation with the Department of Public Works. Unfortunately, they were unable to meet their own criteria, and we had to get out of it because they were simply not capable of producing what we required. So if the House of Commons would want to do that, taking into account my other suggestion that we be financed through the House and through Parliament, I would be happy to go that route.

**Hon. Marlene Jennings:** Thank you.

**Mr. David Tilson:** You started to talk about what you would do with the \$2 million. Can you give the committee a written breakdown of how you would spend that \$2 million?

**Hon. John Reid:** I would be delighted.

**Mr. David Tilson:** Can you undertake to give us a further written breakdown of the details with respect to what the funds in the estimate will cover?

**Hon. John Reid:** Yes.

**Mr. David Tilson:** Thirdly, could you give us an organizational chart showing all positions and their salary ranges?

**Hon. John Reid:** Yes.

**Mr. David Tilson:** You talked briefly about some departments being good departments and some departments being bad departments. Can you identify within your annual report what departments are the worst offenders for providing information?

• (1655)

**Hon. John Reid:** It's all laid out here in exquisite detail.

**Mr. David Tilson:** I'm looking forward to your telling me where it is. Since I just got it this morning, I haven't had a chance to look at it.

**Mr. J. Alan Leadbeater:** If you look at page 21...and you'll find it in exquisite detail on pages 24 and 25 of the annual report.

**Mr. David Tilson:** Well, I got that sooner than....

Pages 24 to 25?

**Mr. J. Alan Leadbeater:** Pages 20 to 21 show the top 10 complaints against institutions and the list of the top 10 against whom complaints were found to have merit. Pages 24 to 25 are a breakdown per institution of where the complaints come from.

**Mr. David Tilson:** How much time do I have?

**The Chair:** A minute.

**Hon. John Reid:** Let me say that if you turn to page 79 there are the report cards we have done on a whole variety of institutions. There are 12 of them this year, and we have graded each of them on

their effectiveness and explained how the grading goes on. We have given a full report as to what happens in those departments—along with our recommendations. In cases where we have had them on the list for longer than that, follow-up recommendations are included as well.

**Mr. J. Alan Leadbeater:** The actual report card grades you'll find at pages 16 and 17.

**Mr. David Tilson:** How much time do I have now?

**The Chair:** Not much.

**Mr. David Tilson:** Then I'll pass. Hopefully, I'll get another chance.

**The Chair:** Mr. Lee.

**Mr. Derek Lee:** The Information Commissioner has made it really easy for us, Mr. Tilson. I can see a few Fs on the report cards there, along with A, B, C, D. So good job. It makes it easy for us to see where the difficult areas are.

I want to raise an area of difficulty that caught my attention and I was wondering about your view of it. The ATI arrangement was set up originally, generally, for citizens. Over time it came to be used by businesses and people who actually went into the business or quasi-business of requesting information. They are real ferrets and they do it perpetually. There are a few of them around the country, and there's nothing wrong with it. They're getting information for their own purposes or other people's files, whatever the reason. They're high users, really high users.

Do you have any views about excessive use by certain users that might be addressed by better user fees, or a better structure of user fees, in a way that wouldn't prejudice the average citizen from getting access?

**Hon. John Reid:** Treasury Board estimates that about 40% of the requests come in from business. About 5% come from journalists, about 5% from members of Parliament, and the rest basically from citizens. Those percentages are only approximations because when people come in and they provide...if a law firm comes in, you know darned well it's not the law firm that's looking for it; you know there's a client.

When some of the people are in the business of asking questions, you know they're not doing it necessarily on their own hook. So that tends to be classified as business as well. So the bulk of the users still tend to be the ordinary citizens.

**Mr. Derek Lee:** I'm sure I recall.... I did work with the House informal committee of members who were working on this issue over the last couple of years. There was one category of user that had huge, huge numbers of applications—and I'm not mentioning any names or any categories—but it seemed to me that such degree of use was never envisaged. That degree of use, the intensity of use by one, two or three applicants, was never envisaged in the original intent of the act. It looked like an abuse but it really wasn't, but it was causing government, and perhaps your office from time to time, to undertake costs in a major way.

• (1700)

**Hon. John Reid:** Well, there are three things. First, Canadians basically are not heavy users. When the act was passed 21 years ago, the idea was that we would be set up for 50,000 applicants in the first year. It took 10 years to get there. Of the applications that we get for documents, 90% contain less than 100 pages.

When you have people who act on behalf of others to get documents, there are a number of reasons for that. First of all, these people actually understand the filing system of the Government of Canada, what there is of it, better than the Government of Canada.

Secondly, a lot of people want information but do not want their names to appear. We have had a number of cases where, contrary to the Privacy Act, names have been released throughout departments, so they want to protect their interests.

Even if you went after the so-called heavy users, you're not really getting away from the business. Those people are going to find other ways of getting the information, or finding other people to act for them. In many cases the government is better off, and you are better off, using one of these people because they actually know what it is you want. They know the filing systems and they know where it is and can be much more effective and efficient. There's a tendency for people who don't understand the system to ask for a heck of a lot more information than they need. So there are both sides to that.

Having said that, we have had a number of cases where there have been people who... I originally had the judgment of who would fit under the category of frivolous and vexatious requester. It turned out that in all of those cases I was wrong, because in one case the individual has won a number of cases against the government because he was able to get the documents he was entitled to. It's very difficult to say.

Now, I have always said that if Parliament wanted to pass a section stating what is frivolous and vexatious, that's okay, but you have to define what it is because it's very difficult for you to understand what is a frivolous or vexatious case unless you understand what that person making the request is all about and where he's coming from.

I know the Province of Ontario does have that frivolous and vexatious clause, and they tell me it has only been used once in 10 years. It's very difficult to pin down.

**The Chair:** Mr. Broadbent.

**Hon. Ed Broadbent:** Mr. Reid, members around the table from all parties have raised the question about crown corporations coming within your gamut. Could you tell me why they were excluded in the first place?

**Hon. John Reid:** I understand there were a lot of crown corporations that were very effective in lobbying the government of the day when the lists were being created, and those that weren't all that effective were included in the act.

Let me say in justification that there were some crowns that were operating in the business world and there was a feeling they ought not to be under the act. Atomic Energy Canada comes to mind and CBC comes to mind, and there were a number of others. I think it

basically had to do with how effective you were at lobbying the government of the day back in 1984.

**Hon. Ed Broadbent:** In that context, would it be too much of a burden for you and your staff to provide us—maybe you've looked at this already—with a list of those you think should be included? Following your own reasoning now, you seem to be inclined to accept the idea that maybe some of them should not be. Could you provide us with a list of the two types?

**Hon. John Reid:** The view I have is that wherever there is government money—

**Hon. Ed Broadbent:** CBC has government money.

**Hon. John Reid:** —there ought to be access to information. I think if there is a case where they have information that is sensitive and they need a special exemption, they should have that. For example, the CBC might argue that what is really important is not to protect its financial information but to protect its reporters. I wouldn't have a problem with accepting an amendment to the act to provide that kind of protection.

For a lot of the other corporations, if you look at the act, there is protection for a whole range of information. For example, there's a clause that says if this information will cause harm to the Government of Canada's financial situation.... In other words, if I gave out this information, my competitive position and therefore the government's investment would decline; that information would be protected under the act.

So there is a whole range of protections that are in the act, and I think if any crown corporation feels threatened by the act, we should look very carefully at whether or not there are special exemptions they require, and if they are required for very good reasons, then I think they should be provided.

• (1705)

**Hon. Ed Broadbent:** So if, for example, this committee recommended that the crown corporations be covered, if I have understood you correctly, there are already provisions in the act that would enable them to provide justifiable arguments for refusing to provide certain kinds of information.

**Hon. John Reid:** Exactly.

**Hon. Ed Broadbent:** Okay. I'm conscious of time here.

In addition to the budgetary information you said you could provide to the committee for the \$2 million, could you give us an estimate of what...? If we recommend, for example, that crown corporations be included, how much of an increase would it entail to do that job?

**Hon. John Reid:** I don't think I could provide you with that kind of an estimate because it all depends on what kind of job the crown corporations decide to do. If they decide to obey the law and get the material out, I don't see that we'll have any problem.

If you look at the statistics, what you find is that only 10 or 11 departments really account for about 75% of all our work. If you have crown corporations, and include the foundations and whatnot, I don't think it will generate much work if they get down and do the job the law says they're to do.

**Mr. J. Alan Leadbeater:** I think we can give an estimate.

**Hon. John Reid:** Okay, we'll give you an estimate.

**Hon. Ed Broadbent:** You'll give an estimate. Thank you.

Final question. Is the NCC within your framework?

**Hon. John Reid:** The NCC is.

**Hon. Ed Broadbent:** Thank you.

**The Chair:** Ms. Deschamps.

[*Translation*]

**Ms. Johanne Deschamps:** Can you explain something so I can personally understand? Getting back to chapter 1 of your report, maybe you can also clarify what you expect from this new government. Can you tell me what you meant by “self-serving folklore”?

[*English*]

**Hon. John Reid:** I have been criticized because I came out in support of the government in my report, when I came out and said they had done things that I thought were appropriate and that no other government had been able to do, by forcing us to put the hospitality material on our website, by putting all the contracts that government puts out over \$10,000 on the web. That's opening transparency to a degree in those areas that we've never had before. I applauded the government for that. I was very happy they had done that. I think that's a good step forward.

There are problems we have to face up to and that we have to grapple with. I used the quotation from Monsieur Guité because it is very typical of what I hear within the public service. I was not surprised when he made that statement. I think the statement was an honest statement by him. We have run into this problem throughout our time.

I became interested in the question of government documentation when I was reading files and finding out that we couldn't find information. We had to have second and sometimes third searches before we would accumulate what we thought was the complete file. I discovered the problem has been that in the last 30 years government does not have a very competent filing system. We've seen reports by consulting companies sponsored by the Privy Council that indicate the government can't find the information it has and needs for its own decision-making process.

I think one of the things that has to be done is that there has to be a cultural change within the Government of Canada, because right now the default position of most civil servants is to say, don't write it down, don't keep a record, and we'll try to run this on an oral basis.

The Government of Canada is one of the most complex organizations in the country, and I don't think you can run complex organizations on an oral basis. In point of fact, there are only two places that I've been able to discover in the Government of Canada where records are kept. One of them is the Privy Council confidences of the government and the other one is the Parliament of Canada. But if I go into any other department and look for minutes of decisions, I won't find them as often as I will find them.

There is a job to be done. It's one of the things I have tried to press since I became commissioner, that we have to do something about document management. Treasury Board has taken some steps. We now have the “Management of Government Information” document

out, and I hope they will be able to push that as fast as possible. It's very important that we have the record of what we do in our country.

● (1710)

**The Chair:** Thank you.

Ms. Jennings.

**Hon. Marlene Jennings:** Very briefly, talking about the issue of crown corporations—those that are not already under the purview of the legislation being brought into the ambit of that legislation—I find it interesting that some of these corporations have, you would almost say, a commercial mandate in the sense that they have competitors from the private sector. Looking at page 24, where you list all of the agencies and government institutions, I see the Business Development Bank and I see that there were a total of two complaints—one of which is not resolved, one of which is not substantiated. If I look down, CMHC has a total of three complaints—two resolved, one not substantiated. They have competitors in the marketplace. Do they tell you that coming under the authority of the Access to Information Act has hindered their ability to compete?

**Hon. John Reid:** The Business Development Bank tells us that all the time.

**Hon. Marlene Jennings:** They do tell you that, that it hinders.

**Hon. John Reid:** The fact of the matter is that the law protects all of the confidential information they have, and there's never been a complaint to the courts or to us that they have given out information that violated anybody's rights. The law is very clear in terms of protecting that kind of information.

What most people do is they ask for documentation from the Business Development Bank that has an impact in terms of the general public. For example, one of those cases we had was for the legal fees and other fees that the Business Development Bank incurred in its court case against its former president. That was certainly legitimate. They argued that they didn't have to give that out. But when the Prime Minister was asked to give out the costs of his legal fees when he was suing the Information Commissioner, he was quite happy to do that, and it was done.

**Hon. Marlene Jennings:** But is the BDC asking to be taken out of access to information, or do they just disagree with being in it?

**Hon. John Reid:** They just disagree with being in there and they disagree with the idea they should give out anything. There's new administration in there now, so we'll see.

**Hon. Marlene Jennings:** So it was the old administration—

**Hon. John Reid:** It was the old administration.

**Hon. Marlene Jennings:** The new administration may not share the same view as the old one did with regard to the legislation.

**Hon. John Reid:** That's correct.

**Hon. Marlene Jennings:** What about CMHC?

**Mr. J. Alan Leadbeater:** Those who are covered do not come to us if they don't want to be covered. They may be going to government to ask government to take them out from under the act. They wouldn't come to us normally to do it because we don't have the authority to take them out from under the act.



**Hon. Marlene Jennings:** I know you don't. Parliament has the authority. However, we all know that you would have a good sense as to whether or not an agency that comes under the ambit of the legislation is unhappy with the fact.

**Mr. J. Alan Leadbeater:** Oh, most are unhappy with being under it.

**Hon. John Reid:** Most departments are unhappy too.

**The Chair:** Time is up.

**Hon. Marlene Jennings:** We're already under it under the conflict of interest code for MPs.

**The Chair:** Mr. Hanger.

**Mr. Art Hanger:** You mentioned earlier that an audit was done on your office.

**Hon. John Reid:** Yes.

• (1715)

**Mr. Art Hanger:** When was that?

**Hon. John Reid:** It started in January—

**Mr. Art Hanger:**

**Hon. John Reid:** —of this year, and the final meeting will take place in a week or two with the Auditor General. In the meantime, we have signed financial statements from the Auditor General and we have gone through everything.

You should understand that the office had never been audited before in its 21 years of existence. This was the first audit that had ever been done.

One of the difficulties with small agencies is that the Auditor General is set up to do large institutions, but finds it very difficult to do small institutions. It was a long period of time to get this audit done because of the dilemma.

**Mr. J. Alan Leadbeater:** They're doing all small agencies.

**Hon. John Reid:** They're now doing all the small agencies, and I understand there will be a final report made public on all of us at some point. In the meantime, I can tell you that we have gone through the audit, that we have signed statements, and that it is the first audit in 21 years.

**Mr. Art Hanger:** Well, I look forward to seeing that report. When will it come due?

**Hon. John Reid:** It will be up to the Auditor General to release it.

**Mr. J. Alan Leadbeater:** We look forward to it as well.

**Hon. John Reid:** We're anxious to see it, because we haven't seen it either.

**Mr. Art Hanger:** And just quickly, if you don't get your additional \$2 million in funding, where do you see the department sitting? Where do you see your office...?

**Hon. John Reid:** Well, I will come back next year and tell you my tale of woe again.

**Mr. Art Hanger:** You can tell us your tale of woe, but what I'm curious about is this. Taking all things into account, you have 23 investigators; you actually need more than that—

**Hon. John Reid:** Yes.

**Mr. Art Hanger:** —and looking at just the way your increased overhead could consume additional funding, you might be fortunate if you can hang on to those 23 investigators. I don't know what your circumstances are here, but—

**Hon. John Reid:** Mr. Lee has raised that point, and I think it's certainly legitimate.

But I go back to my original point: who should be the ones to say how an officer of Parliament's operations should be? I think it shouldn't be Treasury Board. I think it should be members of Parliament. But there's no appeal from a decision by Treasury Board. When they make their decision, whatever it happens to be, we will do what we can to live with it.

**Mr. Art Hanger:** Thank you.

**The Chair:** Colleagues, we have an item left over from before that we have to deal with and we only have a few minutes.

But if you really want to, you can get a short one in, Mr. Bains.

**Mr. Navdeep Bains:** If we have time later, I'll ask it.

**The Chair:** Ask it now, if you're going to ask it.

**Mr. Navdeep Bains:** Just very quickly, on page 16 of the commission's report in the 2004-05 estimates, you indicate the total expenditures are \$5.2 million. Is that correct?

**Hon. John Reid:** Page 16?

**Mr. Navdeep Bains:** Yes.

**Hon. John Reid:** It's \$5.169 million.

**Mr. Navdeep Bains:** I'm sorry, that was just a little bit of rounding.

**Hon. John Reid:** That's okay.

**Mr. Navdeep Bains:** One thing we've been hearing is that we need additional funding. I want to get clarification about the \$5.2 million.

The bulk of it seems to be going towards salaries and wages, and there seems to be a minimal amount for operating expenses. The corporate services amount has gone up a bit from \$943,000. Have you found any best practices or some sort of internal savings in terms of your practices? Obviously wages are something you can't control; that's a fixed cost. But this is a discretionary component. Have you found any savings in it?

**Hon. John Reid:** There are no savings in salaries. The only way you can save money on salaries is to cut staff, so there's no way out of there. We can't do very much about most of our costs; they're mostly fixed. Even what we have to spend on corporate management is fixed almost, because Treasury Board demands that we have a certain quality of staff to be able to produce the kinds of reports they demand on a regular basis. My recollection is that it is about 100 reports a year we have to do for Treasury Board for a variety of things.

**Mr. Navdeep Bains:** What about technology and software, for example? Sometimes, the way a corporation is structured, yes, the physical heads are needed there, but other tools can be provided to help you reduce your staff.

**Hon. John Reid:** Oh, well, we would love to give you and the committee a demonstration of the software we have put together.

**Mr. Navdeep Bains:** I know this is intensively driven by human resources, but obviously, if you have the right tools, you don't need quite so many people.

**Hon. John Reid:** We have put together a suite of tools for our staff and for our lawyers to enable them to be much more efficient. We got a great boost in productivity from that.

**Mr. Navdeep Bains:** That's where I was headed, towards discussing productivity.

**Hon. John Reid:** Yes, that's what we've done. If any members are interested, we'd be delighted to give you a sample of the kinds of things we can now do to make the investigators much more efficient. It has been very effective for us.

• (1720)

**Mr. Navdeep Bains:** Yes.

**Hon. John Reid:** We have two programs, and we have referenced them a bit in the annual report and in the—

**Mr. Navdeep Bains:** When were these introduced? Were they introduced in the last fiscal year?

**Hon. John Reid:** They were introduced about two years ago. We were on the bleeding edge in putting this material in. The copyright of this material rests with the Crown, so what I've done is go to the ombudsman's' forum and to all of the other officers of Parliament to give them demonstrations of it, so if they want, they can pick it up at no cost—unfortunately, because we can't get any money back from them on it.

**The Chair:** Thank you. The time is up.

We have another item we have to deal with, but I would like to thank you for coming before the committee and for your candid and thoughtful comments. By the interest generated, I'm sure we'll have you back before very long. Thank you very much for coming here and sharing your ideas with us.

**Mr. David Tilson:** Can I ask a question, Mr. Chair?

**The Chair:** Yes.

**Mr. David Tilson:** I asked for some information, which they've undertaken to give us. We may not have any other questions on it, but we may have questions on those—

**The Chair:** We've taken note of your requests, and we'll follow up on them. We will call the witness back if we need to.

**Mr. David Tilson:** Thank you.

**The Chair:** Thank you very much.

Colleagues, I think we've distributed a draft motion that is before you, which the committee asked the clerk at the last meeting to draft on our behalf. I'm at your pleasure and will deal with this now if you want to.

Would you move it, Mr. Broadbent, because you were the one who basically suggested we should do it?

**Hon. Ed Broadbent:** I so move.

**The Chair:** Is there any discussion on the motion?

**Mr. Derek Lee:** Is there a quick explanation of what the section 28 report is?

**The Chair:** The clerk has suggested I read it into the record first, and then we'll give you that explanation.

The motion reads:

That the Committee request that the Standing Orders and the Conflict of Interest Code for Members of the House of Commons be amended to provide that reports of the Ethics Commissioner pursuant to section 28 of the Code may be referred to the Standing Committee on Access to Information, Privacy and Ethics.

Now let's turn to the explanation of section 28.

**The Clerk of the Committee:** I read the code for the first time yesterday, I have to admit.

Under the code that's appended to the Standing Orders and is deemed part of the Standing Orders—which I discovered yesterday—section 27 of the code is the section under which the Ethics Commissioner undertakes an inquiry either on behalf of a member asking for an inquiry concerning another member in terms of whether the code has been respected, or initiates his own inquiry if he suspects a member is not following the code.

Then you go to section 28, which is the report of the results of the inquiry of the Ethics Commissioner. Pursuant to section 28, the report is given to the Speaker to table in the House. It does not provide for any reference to any committee.

There's quite a procedure outlined in section 28 that says the House deals with the matter, and then it spells out how and how many hours it spends in the House. If the House doesn't deal with it within a specified time, it's deemed adopted by the House. There's no reference at all to committees. The only reference is that if the House does not agree with the report, they can send it back to the Ethics Commissioner with further directions.

This is asking that the code and the Standing Orders provide that if the House so wishes, they may refer it to a committee, and we think it should be this committee. Otherwise, there is no provision to refer any to committee. I put a "may" in there because the House may very well be able to dispose of this very quickly and not debate and question in the House, without sending it to committee. I'm not making an obligation that every report be considered in committee, because the code presently says the House will probably deal with it. That's why it's drafted that way.

**Mr. Derek Lee:** So in the code now and in the Standing Orders now there is no provision for reference to any committee, and it is the apparent intention that the report prepared by the Ethics Commissioner go to the House only.

• (1725)

**The Clerk:** That's right.

**Mr. Derek Lee:** If we were to recommend this, we would be recommending into a vacuum. In other words, even though there's no apparent intention to refer such a report to any committee, we're saying that in the event the House might want to, it should be referred to this committee. Have I got that?

**The Clerk:** Exactly. That's the intention.

**The Chair:** Anybody else?

Go ahead, Mr. Tilson.

**Mr. David Tilson:** So it's just a suggestion. We may or may not even have jurisdiction to make such a move.

**The Clerk:** Yes, you're right, and it states that a request was made, because at the moment it's the House leaders who are considering the mandate of this committee's different drafts. We should address letters to the House leaders, but...*[Technical difficulty—Editor]*... request, because the House leaders are meeting this afternoon on, among other things, our mandate.

For all I know, it could be the procedure committee that's going to be dealing with our mandate tomorrow. Once I find out where the negotiations are being held, I'll prepare the letter for the chairman's signature. I would assume at the moment that it would be the House leaders. If the House leaders have already dealt with the matter and sent it to the procedure committee, we could address the letter to the chairman of the procedure committee.

**Mr. David Tilson:** Just on that, shouldn't we wait and see—

**The Clerk:** That's up to the committee.

**Mr. David Tilson:** I know. I'm just musing.

Shouldn't we wait and see if this is on the House leaders' agenda, and see what happens before we make any requests? I don't have any problem with it. It may be that it's more appropriate for it to come from that end.

**The Chair:** I'm kind of leaning your way, David, because the Clerk of the House of Commons suggested to me—and I believe you had a conversation too—that the procedure and House affairs committee is named in the code as dealing with issues of ethics. I think that's the section we want amended. Maybe we need a little more time to work on this and bring it back.

**Hon. Ed Broadbent:** Mr. Chairman, do we know that the House leaders are dealing with this specific item?

**The Chair:** Yes.

**Hon. Ed Broadbent:** If we know they are dealing with it, then I would agree.

**The Chair:** Whether they'll come to any resolution or not today, we don't know, but we know they're dealing with it.

**Mr. Derek Lee:** Could I make a suggestion? Could we just have the chair send this draft to the Clerk of the House? The Clerk of the House will be advising the House leaders, and at least they'll know we're interested in it.

**Hon. Ed Broadbent:** Having moved the motion, I think it's still useful to pass it. If we all agree with this, it shows them where we stand, because if it hasn't come up at today's meeting it may come up at another. It would be advantageous for us to send that message.

**Mr. Paul Zed:** I agree. That makes eminent sense.

**The Chair:** I just have some doubt about whether section 28 would be what we want to refer to. In our discussions, I thought it was the consensus of the committee that we really weren't interested in bringing issues of members in perceived conflict to this committee; it was issues dealing with the disclosure of documents and the code. That isn't section 28, so I'm not sure—

**Hon. Ed Broadbent:** To be quite candid, I'm not sure precisely which section it ought to be. I'm relying on the clerk's advice here.

Speaking for myself, I would like both categories of matters referred to this committee. There should be one committee that deals with these issues—

**The Chair:** With all issues of ethics.

**Hon. Ed Broadbent:** Yes. Now that the House has created an ethics committee, which is new, I just think all ethics issues should be referred to it.

**The Chair:** That's all right with me.

Is there any other discussion?

**Mr. Derek Lee:** I just think we're jumping into it half-loaded and half-prepared. There may be other elements of this, as the chair has pointed out.

**A voice:** *[Inaudible—Editor]*

• (1730)

**Mr. Derek Lee:** No, half a deck of cards is what I meant.

**Some hon. members:** Oh, oh!

**An hon. member:** The hole's getting deeper.

**Mr. Derek Lee:** There's nobody on the religious right here, is there? This is all going in the wrong direction.

I think it's premature. We ought to be indicating to the clerk that we'd like to adopt this for the purpose of clarifying ambiguities in the mandate of our committee. It won't do any harm if we adopt it and send it on for reference, but I personally wouldn't want to adopt it and send it to the House in a report.

**The Chair:** No, that wasn't the intent. It was just a letter to the House leaders at this point.

**Mr. Derek Lee:** So are we going to adopt it and send it somewhere, but not to the House in a report?

**The Chair:** No, if we adopt it unanimously, we'll draft a letter either to the House leaders or the procedure and House affairs committee, but that's already—

**Mr. Derek Lee:** But it would not be reported as a formal report to the House.

I'm happy to do that.

**The Chair:** Mr. Laframboise.

*[Translation]*

**Mr. Mario Laframboise:** Mr. Chairman, I don't think there is any problem adopting it. House leaders will decide. If they don't agree, they will say so. By agreeing to this motion, we will show our solidarity in this matter. They will give us an answer later.

*[English]*

**The Chair:** Good.

Marlene.

**Hon. Marlene Jennings:** Given that normally when a motion is adopted by a committee and it implies some kind of change to the Standing Orders, it usually does go to the House. Then we might want to just amend the actual motion so that it would read:

That the Committee request that the House leaders consider amending the Standing Orders and the Conflict of Interest Code for Members of the House of Commons so as to provide that reports...

—and so on and so forth. That also then authorizes the chair to send a letter to the House leaders with this motion.

**Hon. Ed Broadbent:** I take that brilliant wording as a friendly amendment and fully accept it.

**Hon. Marlene Jennings:** And that it was, sir.

**The Chair:** Does anybody else have a comment?

Mr. Hiebert, go ahead.

**Mr. Russ Hiebert:** I support that amendment, but I also want clarification.

Chair, you raised a question about individual ethics concerns versus the Ethics Commissioner. Can you explain for me how, at the present time, ethical questions of individual MPs are dealt with by the House of Commons?

**The Chair:** That's in section 28, which was just read to you. They don't go to any committee; they go to the House. The reference to section 28 was some of my concern.

**Mr. Russ Hiebert:** If that's the case, I would like further information or further discussion on the consequence of having all of those issues come before our committee, because I'm not sure that's what we want as our mandate. We should consider that carefully.

**The Chair:** It doesn't come here unless the House decides to refer it to a committee. The House has the right and the responsibility to deal with it in any way it sees fit, so it doesn't happen automatically.

**Mr. Art Hanger:** I don't know if this has been cleared up or not, but the letter will deal with this particular motion and it will refer to the conflict of interest code for members, as well as reports that are from the Ethics Commissioner.

**The Chair:** We don't know what our mandate is going to be when somebody produces it, but my understanding is that it already includes the code of conduct of cabinet ministers and parliamentary secretaries and other issues of conflict of interest. It's only members that the question is about. As a committee, we felt that if we're going

to deal with issues of conflict of interest, then all of those issues should come to this committee.

**Mr. Art Hanger:** Yes, and not just on members.

**The Chair:** Yes, that's right.

**Mr. Art Hanger:** Okay, the letter should reflect that then.

**The Chair:** Am I on the right wavelength here?

**Mr. Art Hanger:** I think you are.

**Hon. Marlene Jennings:** We already have, under the Standing Order that created this committee—

**The Chair:** No, actually we don't yet, but we're expecting that.

**Hon. Marlene Jennings:** It's in there.

**The Chair:** No, we don't have anything at the moment.

• (1735)

**Mr. Navdeep Bains:** No, there was a section that was read to us that indicates—

**Hon. Marlene Jennings:** Yes. The report, the—

**Mr. Navdeep Bains:** —the three components, and mandate was —

**A voice:** That's just a title, just a name.

**The Chair:** There are drafts all over the place, but nothing has been passed yet. That's what the House leaders are talking about.

So do we want to pass this to make our views known to the House leaders, so that we get our oar in the water at least?

**Mr. Derek Lee:** Yes, get the oar in the water.

**The Chair:** All in favour of the motion?

(Motion agreed to [See *Minutes of Proceedings*])

**The Chair:** Thank you.

The meeting is adjourned.







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