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Chair

Mr. David Chatters

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Tuesday, May 10, 2005

•(0905)

[English]

The Acting Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): Good morning, ladies and gentlemen. This the Standing Committee on Access to Information, Privacy and Ethics. We are meeting today, pursuant to Standing Order 81(4), on the main estimates 2005-06, vote 15, Office of the Ethics Commissioner, under Parliament, referred to the committee on Friday, February 25, 2005.

We have before us today Ethics Commissioner Bernard Shapiro.

Good morning, Commissioner.

Mr. Bernard Shapiro (Ethics Commissioner, Office of the Ethics Commissioner): Good morning.

The Acting Chair (Mr. David Tilson): I thank you very much.

I believe, members of the committee, there is a statement the commissioner is going to present to us. I will ask the commissioner to do that.

Before you do, though, Commissioner, I notice you have a number of colleagues at the table. Could you introduce those members to the committee, and then follow with your statement? Thank you.

Mr. Bernard Shapiro: Thank you very much.

I'm glad to introduce them. This Ms. Lyne Robinson-Dalpe, who is in charge in our office of finance and administrative affairs;

[Translation]

Ms. Micheline Rondeau-Parent who is in charge of Communications and Parliamentary Relations.

[English]

I introduce also Bob Benson, the deputy commissioner; André LeVasseur, who is in charge of dealing with the public office-holders; and

[Translation]

Diane Champagne-Paul, who is in charge of Legislative Affairs.

Thank you, Mr. Acting Vice-Chair and members of the Committee. I am pleased to be with you today.

This is my first appearance before any committee within the Estimates review of my office's budget. As an introduction to our 2005-06 Budget requests, I would like to review shortly some of the key issues, challenges, milestones and accomplishments of my first

year in office, and particularly some of the developments since I first appeared before you last December.

In doing so, I will concentrate on four key issues: the transition of my office into a parliamentary entity; the building of dialogue with our parliamentary clientele in the administration of the code; the administration of a revised Code for Public Office Holders; and examinations done pursuant to either the Parliament of Canada Act or the Members' Conflict of Interest Code.

[English]

As I have already mentioned here to you, as well as in other fora, the biggest operational challenge of my first year was the transition of the former Office of the Ethics Counsellor within Industry Canada from the executive branch of government to a parliamentary environment, in accordance with the Parliament of Canada Act. Although the first act to propose the creation of my position and my office was tabled some years ago, it seems that no one in the Prime Minister's Office, the Privy Council Office, or the House of Commons itself actually thought through the means for effecting such a transition. This and the decision of a number of previous staff to stay with the public service rather than join a Parliament group at the new Office of the Ethics Commissioner were the two key difficulties of the transition period. The results were serious delays in our ability to complete our work in a timely way.

Although this transition is not yet complete, today I am really very happy to report that most of the issues seem behind us. I would like to acknowledge and thank this committee for its support in that regard, which was very important, and also commend the quality of the parliamentary services that we are receiving—they are in fact excellent. The necessary staffing actions have now been completed.

And with reference to my staffing, my office's total complement of 34 is now comprised of a mix of former employees of the Office of the Ethics Counsellor—a total of 10—and new employees with the Office of the Ethics Commissioner. I believe this mixture provides a reasonable balance of expertise on issues specifically related to the administration of the codes, along with the additional perspective and expertise needed to work effectively in the new parliamentary environment.

With respect to the administration of the first Conflict of Interest Code for Members of the House of Commons, we have conducted several consultations and information sessions with members of the House, mostly through caucuses and the Standing Committee on Procedure and House Affairs. As well, we conducted a survey this spring of all members of the House of Commons, and I shared the results of this survey with all members last month.

With respect to members' requirement for filing of their disclosure statements, I am pleased to report that all members but one are now in compliance with the code's filing requirement. As well, in consultation with the subcommittee appointed by the Standing Committee on Procedure and House Affairs to that effect, my office has been working on a revised and streamlined confidential disclosure statement. We expect to propose a new form for the subcommittee within the coming days.

With respect to members' disclosure summaries in the public registry, I'm happy to report that as of yesterday a total 163 disclosure summaries—about 52%—are now available in the public registry. My office has made its first priority to get the remaining summaries in the public registry, and most of my personnel are now devoted to this on a day-to-day basis. We expect to have completed that exercise by the end of June.

With respect to public office holders, the Prime Minister, on October 7, 2004, tabled a revised Conflict of Interest and Post-employment Code for Public Office Holders. The revisions were the first since I took office last May. The substantive revisions relate to more stringent requirements with respect to political activities and fund raising, as well as other issues, such as personal solicitation; annual reporting for trustees and managers of blind trusts; expanded restrictions on post-employment conduct by former ministers; and new provisions concerning acceptance of invitations to special events, gifts, hospitality, and other similar benefits.

Finally, my office has been involved in its first examination pursuant to the Parliament of Canada Act requested by the honourable member for Calgary-Nose Hill into several issues related to the former Minister of Citizenship and Immigration. As well, we have recently received a first request for an examination pursuant to the members' conflict of interest code. I will of course release both of these reports as soon as I can.

● (0910)

[*Translation*]

I will now speak to our overall budget request for 2005-06.

It totals \$4,675,000. It covers four key programs or activities of my office: operations of both the legislative and executive branches; Communications and Parliamentary Relations; Corporate Services; and Policy.

[*English*]

With respect to the apportionment between our activities, 58% of our total financial requirements will be devoted to the administration of the codes under my responsibility. That is, the members' code as well as the Prime Minister's code for public office-holders. The remaining of the budget would be shared out as follows: 15% for corporate services; 14% for communications and parliamentary relations; and finally, 13% for policy development.

With respect to these budgetary items, 75% of our budgetary request is to cover salary and staffing resources for all programs and activities. Over and above the salary expenses, the second biggest item is professional and other services. For 2005-06 I am requesting \$910,000, and most of it—about \$700,000 of that amount—covers three items.

First, there is \$500,000 for investigation and legal advice relative to examinations we may be asked to undertake. We are currently in the process of developing a standing offer for such services.

Then there's \$100,000 to cover our memorandum of understanding with the House of Commons on the provision of information services. In that regard, I have to add a side note—or a sidebar, one might say. At the time of the estimates preparation, the cost of this arrangement had not been established, and the House of Commons IT services have since confirmed the amount of \$305,000 as opposed to the \$100,000 in our request for the main estimates. Depending on other levels of activity, the variance may need to be addressed through supplementary estimates; that remains to be seen.

Finally, there's a one-time \$100,000 requirement for translation costs. This requirement is for the current year only, as a contingency fund for reimbursement to the parliamentary translation services until it can adjust its own budgetary envelop to accommodate my office as a new parliamentary customer. This is expected to be done no later than 2006-07, and may in fact be earlier, depending on what they can arrange in their own affairs.

[*Translation*]

The remaining of the professional and special services would cover items such as temporary help services, security services, training and various membership fees, as well as Pay and Benefits Services from PWGSC.

I would now like to talk about some of my office's priorities for the current year, for each of our four areas of activities.

● (0915)

[*English*]

The first would be operations, legislative affairs. The immediate priority is an amended disclosure statement form. Along with the Subcommittee on Disclosure Statements of the Standing Committee on Procedure and House Affairs, my office has been reviewing the form with the view to simplifying and clarifying the questionnaire through an internal working group now enlarged to include the subcommittee's parliamentary researcher. I have undertaken to present a draft revised disclosure statement to the subcommittee by the middle of this month, and it will be ready. That's our most urgent priority for the immediate future.

Ongoing priorities include two or three others. One is to ensure that all members of the House of Commons are in compliance with the Conflict of Interest Code for Members of the House of Commons. The second is to provide confidential advice, on request, to members of the House of Commons, and the third is to conduct inquiries upon request of members of a member of the House of Commons.

In the area of executive affairs, but sticking with operations, we have again a number of priorities, and these are ongoing priorities.

One is to ensure that all public office-holders appointed are in compliance with the code. The second is to provide confidential advice to public office-holders and to the Prime Minister. The third is to conduct examinations upon request of a member of Parliament against a minister, minister of state, or parliamentary secretary. The final one is to provide briefing sessions to ministers' offices with a focus on their dealings with crown corporations, quasi-judicial tribunals, and the provision of letters of support and recommendations for their constituents.

The third area of our activity is communications and parliamentary relations, and we have a number of priorities here—really an internal priority and an external priority.

Priority number one is communication with the public and development for the first time of a website for the Office of the Ethics Commissioner. As previously discussed with this committee, we have now removed all ties with previous government service providers of our website, which is Industry Canada's Strategis site, and have now temporarily replaced it with a one-page website with key links to various documents and other kinds of resources. However, we are working with the House of Commons IT services to develop our own website available as a stand-alone site, accessible as well from the parliamentary system.

The second priority is communication with members and the media. We will release two reports on examinations, including one tabled in the House according to the members' code, and a June 2005 tabling in Parliament of two annual reports, one dealing with activities related to the members' code, and one dealing with activities related to public office-holders, including the Prime Minister's arrangement for recusal. Information sessions for members and their staff and media will be provided as needed, and tabling in the House, as we are required to do, of a sponsor travel report in January 2006.

A third priority for this particular area relates to information management—to enhance the system of information management and the internal reference centre, as well as support framework for external communications. This would include the development of research capabilities, information and education tools, including the publication of various fact sheets, brochures, and interpretation bulletins, in support of both the members of the House of Commons and public office-holder codes.

In the area of corporate services, we have a number of priorities as well.

The first is the development of a comprehensive information management tool that has not been available in the office previously. In order to manage the flow of information within the office, the corporate services branch, in cooperation with the House of Commons Information Services, will develop a management tool that will track all client information, including internal and external information. This new system will make it much more likely that we can deliver effective and efficient services to the clients of the office.

The second priority is the development and management of our human resource policies and procedures, which is an internal matter, but the office wishes to further develop its so-called employer of choice environment. We all seem to want to be employers of choice,

but we at least want to be good employers, to put it perhaps in a more mundane way. In order to do so, the corporate services branch will benchmark on other parliamentary entities' human resources services and implement tools and services in support of human resources development.

Then there is the review of policies and procedures relating to blind trusts and blind management agreements. With regard to this priority, the corporate services branch will review the office's internal processes to eliminate redundancies and increase our level of service to clients. The process will also reflect all changes introduced into any revisions of the conflict of interest codes, as well as validate the calculations for appropriate reimbursement.

Finally, in terms of an area for the office, we have policy development. This is the most embryonic of our departments. We're just trying to get our minds around it and trying to get the people appropriate to develop this area. It has a number of priorities in the immediate future, and the first of these is a policy handbook in relation to both the public office-holders' and the members' codes. This is an internal priority to which I attach great importance, particularly in light of the recent turnover of advisers within my office. This priority should go a long way towards providing consistent and timely advice with respect to particular issues of concern for both public office-holders and members of the House.

● (0920)

The second priority would be the preparation of interpretation bulletins in support of the Prime Minister's and the members' codes. This is an external priority. It should contribute significantly to the education and information of our clients, the media, and the public at large in understanding some of the key ethical issues involved in both codes and their interpretation. It is my intention to make these bulletins available on our website.

Before I finish, I want to share what I consider to be some good news. I have pointed out over and over again that it's been a difficult year, in the sense of trying to situate the office appropriately in the parliamentary environment, as opposed to the public service environment. There's been an enormous turnover of personnel. This provides a lot of gaps, since it takes a number of months to advertise, recruit, etc., and make those kinds of choices.

Through all this up and down and around, so to speak, which got very aggravating from time to time, I have to thank publicly the members of my own staff—not specifically the ones sitting next to me, but the ones who aren't in the room right at the moment, because through all that they not only maintained their levels of productivity, but increased them dramatically. Over the past 10 or 12 years, the office has been able to complete an average of about 760 files year. This year, we managed to complete almost 1,500. Despite the various kinds of problems that I mentioned, despite my feeling that our advice was not nearly timely enough, we were able to dramatically increase the productivity in terms of the number of files actually handled, and I don't think we gave up anything on the quality side. Even on the most difficult days, when the staff seemed to have disappeared entirely—for reasons that were appropriate, I have to say—we never went below 76% of the productivity rate we had on the average in the past 12 years, and overall we were up. We handled about twice as many cases as is usually the case. I regard that as good news, despite there being other kinds of news in my own report.

[Translation]

With this brief overview of our upcoming priorities, I conclude my remarks. However, please allow me to wish a speedy recovery to the Committee's Chairman, Mr. Chatters.

I will be pleased to answer any questions and provide more details on any budgetary issues or related items.

[English]

Thank you for your attention.

Merci beaucoup.

The Acting Chair (Mr. David Tilson): Thank you, Commissioner.

I'm sure members of the committee will have some questions for you. As you know, the first question and answer round is seven minutes for each caucus.

First is Mr. Lukiwski, from the official opposition.

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

Good morning, Mr. Shapiro.

Mr. Shapiro, I have a number of questions. I know we only have seven minutes, so I'll attempt to keep my questions brief and direct, and I would appreciate it if you could keep your answers succinct as well, so we can get through the questions.

I want to deal with the issue that is most topical today. The news reports have it that there will be a report coming down on the investigation your office has conducted with Ms. Sgro. I have a couple of questions, sir, on that.

You hired outside counsel to do the investigation. I'm wondering why that was, sir. As I interpret in your report here, was it because your office did not have adequate resources to deal with that investigation in-house?

Mr. Bernard Shapiro: That's correct. It became quite clear to me, with a very brief look at the material provided for me in launching

the investigation, that there were going to be enormous differences about what the facts actually were. In that context, I felt we needed really professional help not available in my own office to do the fact-finding phase of the investigation.

Mr. Tom Lukiwski: I guess the real problem I have here, sir, is the firm you selected.

Now, to me, sir, it appears that one of the most basic, fundamental premises of any good member of Parliament would be, if nothing else, the appearance of propriety. I would suspect, sir, that in your office it should be even more fundamental and more paramount.

The firm you selected is a fairly well-known Liberal law firm. In fact, Mr. Scott is now representing former Prime Minister Chrétien in his legal efforts to stop the Gomery commission. Did you not think, sir, that it would be important to assure the public that your office was handling this matter in a non-partisan manner?

● (0925)

Mr. Bernard Shapiro: I think there are a number of issues. I have to say, just by way of a side comment in the first place, it's not easy to identify a law firm that has no previous or current connections with any of the political parties in Canada. That's a very difficult thing to do in a city like Ottawa.

I was also concerned at the time, however, that speed was important. We had to launch the investigation immediately. I did not even think, quite frankly, about whether or not person A or law firm B was Liberal or Conservative or some other particular flavour. What I did think about was the expertise of the person involved; that is what seemed most critical to me.

Mr. Scott is the only Canadian to have been president of the American Trial Lawyers Association. He's had loads and loads of experience in this area. He was counsel to the Parker commission of inquiry. I felt that's what spoke loudest to me at the time, the question of the competence of the person involved, rather than the particular reputation. That's how I thought it through. You may find that satisfactory or not.

Mr. Tom Lukiwski: Again I'm going back to the question of the appearance of propriety. Did you not think it would be incumbent upon your office to do some sort of background check to vet politically, to try to ensure to at least the public's satisfaction that you were hiring a firm that would be at least politically neutral? This is a firm that is fairly well known, sir, for its Liberal connections.

Mr. Bernard Shapiro: I'm sure it was much better known to you than it was to me at the time; I'm a newcomer to Ottawa. I think that's probably true, but again I think it's difficult to find a firm that somebody doesn't have a complaint about. I felt the appropriate thing was to focus on the competence of the person involved. The whole legal system depends upon the fact that lawyers are in fact unbiased in that particular way.

Mr. Tom Lukiwski: How much money have you paid this firm to date, sir?

Mr. Bernard Shapiro: I think it would be about a hundred and... I don't remember the exact detail. In the report itself the specific details will be given, but it's about \$150,000.

Mr. Tom Lukiwski: They conducted the investigation proper into the allegations levelled at Ms. Sgro. Is that correct?

Mr. Bernard Shapiro: They conducted the fact-finding phase of the investigation; that's correct.

Mr. Tom Lukiwski: Would that be available to the public, sir?

Mr. Bernard Shapiro: No, that's a confidential report to me.

Mr. Tom Lukiwski: My understanding is from media reports... and it may be incorrect, but the media reports seem to suggest that she will be cleared of all charges. Beyond that, sir, will there be any level of detail given to the public and to this committee?

Mr. Bernard Shapiro: This gives me an opportunity to explain where we are relative to this report. The report will speak for itself. I'm not going to forecast what it's going to say. There was also a media report last night that it will be issued today, which it will not. That's a mistake that comes from wherever.

In any case, the report itself is written and it has been translated; I received the translation yesterday. However, there are two difficulties, one very minor and one that may turn out to be major. I don't know yet and I'm in the midst of trying to find out.

The minor one is that Ms. Sgro has yet to review the report. That's not her fault; I have not had it ready for her to review it. It is required by the act that she have an opportunity to do so. But that's a minor issue, and I'm sure it can be arranged quite quickly.

Another more complex legal issue has emerged. I'm not competent to talk about it in detail, but I'll try to share some idea so you have some notion. That is, as a precaution we sent the draft report to be reviewed by our lawyers, and there is some question about my statutory authority to actually issue the report. So I'm going to have to clear that up. We've asked for a legal opinion and received it from Mr. Scott. We are going to ask for another legal opinion—hopefully from someone more carefully chosen, in terms of what you raised—and we will have to wait to see how that develops. I'm not quite sure.

It came out of the blue, something I had not thought about. I don't know if I could have thought about it, actually, but nevertheless it has arisen. It just happened yesterday, and I'm in the midst of trying to clarify it so that we can prepare, hopefully, to issue the report.

Mr. Tom Lukiwski: Within the parameters of your office, sir... I understand this is the first examination your office has conducted. I have a twofold question. I know we're running out of time. Is the complainant—in this case it would be the member for Calgary—Nose Hill—allowed, since they made the complaint originally, to examine any portion of that report?

Mr. Bernard Shapiro: No. The only requirement of the act is that the person about whom the complaint is made have an opportunity to review the report.

Mr. Tom Lukiwski: In future, sir, do you plan to have investigations of this sort conducted in-house, or are you going to continue your practice of hiring outside firms?

• (0930)

Mr. Bernard Shapiro: I think it will depend on the requirements of the particular case.

Mr. Tom Lukiwski: I should preface this. I notice that in your budget you are allocating, I think, \$500,000 for—

Mr. Bernard Shapiro: I'm not even sure that's the correct amount, because I can't know how many complaints are going to

come toward me. I have no experience. The office has no experience on which to base it. So it's clear that's just a provision. We'll see.

The second case that I've received, which was under the other code, under the code for the members of the House, is, I believe, likely to be handled entirely within the office. So it will depend on the needs of the specific case. I don't have a principle in mind, at least not until I have further experience.

Mr. Tom Lukiwski: You mentioned that the media report is not factual, that the report will not be delivered today. You mentioned, of course, that you have some difficulty. When would you anticipate this report being released?

Mr. Bernard Shapiro: I have the standard response to that, which is “as soon as possible”—which is very aggravating to actually say, let alone to hear, but I think that is the case. I will issue it on the day that I am able to do so. It remains to be seen.

As I said yesterday, a problem arose that might have a quick resolution or might not. I'll just have to wait it out and see.

The Acting Chair (Mr. David Tilson): Mr. Laframboise.

But first, just for clarification, am I to understand, then, that this report would be released to three people: the person who is complained about, the Speaker, and the Prime Minister? Is that what you said?

Mr. Bernard Shapiro: No, I don't think so. It's released to the person who made the complaint in the first place, the member for Calgary—Nose Hill; to Ms. Sgro; and to the Prime Minister. It will be made public at the same time, so anyone will have access to it.

The Acting Chair (Mr. David Tilson): Oh, they will have access to it.

Mr. Bernard Shapiro: It will be on our website when we get it out.

The Acting Chair (Mr. David Tilson): Monsieur Laframboise.

[*Translation*]

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

Mr. Shapiro, I shall take as an example the inquiry on Ms. Sgro so as to look somewhat closer at your budget. You are requesting an amount of \$500,000 for investigations and legal advice. This is what you are requesting in your budget.

I consider investigations and legal advice as two different things. You have hired a law firm to conduct an investigation. I see a problem with this because I am not sure that the kind of issues raised within an investigation are always legal issues. This is why I presume that the investigators you will hire will not necessarily always be members of the Bar. Some investigators are not lawyers. If I take the example of Judge Gomery—as we cannot avoid watching him—he did not necessarily use firms specialized in investigations to make his inquiries.

Your report was prepared by a law firm. According to some people, this firm is closely tied to the Liberals. I would say that it might not have been a good idea to use a law firm for that kind of investigation. Don't you think so?

I do not blame you. You chose a law firm and you had to do it quickly. However, if you have some expertise in that field and if you are saying that you need \$500,000 for investigations and legal advice, I hope that you will choose firms specializing in investigations, ones that are not necessarily law firms. The function of law firms is to protect just about everybody and as it is probably the case here, they will want to make sure that the person under of the investigation will be absolved of any wrongdoing.

When you launch an inquiry, it is to get the facts, to verify if allegations made are founded. This is the work of an investigator rather than a lawyer. I would like you to provide some clarification around this issue.

Mr. Bernard Shapiro: I entirely agree with you. In the case of Ms. Sgro, I hired someone who is not a lawyer for another aspect of the investigation.

Each situation is unique. I agree that we may have used an inappropriate word to describe the resources we will need for our future investigations. I don't know yet what type of investigations will need to be launched.

I agree with you. You are right.

• (0935)

Mr. Mario Laframboise: Very well.

You had requested an amount of \$100,000 to cover the Memorandum of Understanding with the House of Commons but you are now told that it will cost \$305,000. Except for the extra \$205,000, you seem to be satisfied with the amounts allocated for the next budget year. Is that right?

Mr. Bernard Shapiro: Yes. I must tell you that when Members of Parliament discussed the Bill last year, we had foreseen a \$6 million budget. However, we will not need that much. It won't be necessary. I believe that we will have enough money for the coming year.

Mr. Mario Laframboise: So you are confirming that your staffing problems have been dealt with.

Mr. Bernard Shapiro: Exactly.

Mr. Mario Laframboise: You had problems with the production of reports and Members' disclosure summaries because of a lack of staff. This problem does not exist anymore.

Mr. Bernard Shapiro: Yes.

Mr. Mario Laframboise: As concerns your expenditures, you are requesting \$910,000 for professional and other services over and above salaries cost. I am not talking about the \$500,000 for investigation services. What does that amount of \$910,000 for professional and other services include?

Mr. Bernard Shapiro: I shall ask Ms. Robinson-Dalpé to answer your question.

Ms. Lyne Robinson-Dalpé (Director, Corporate Services, Office of the Ethics Commissioner): Thank you.

Professional and other services include temporary help, for instance. If we must replace temporarily an employee on a leave-of-absence, we shall get our resources in the temporary help budget. Fifty thousand dollars have been earmarked for this.

As you have been told, for translation services, we have an envelope of \$100,000. We also have membership fees because the Office of the Ethics Commissioner is a member of several organizations. Ten thousand dollars have been earmarked for this. For staff training, which is also part of that budget item, there is an amount of about \$60,000.

We also have a service agreement with Public Works and Government Services Canada for employees' compensation services. We do not have our own compensation service because our staff resources are too limited to have a full-time employee. For that reason, we are using the services of PWGSC. Those are shared services. Our cost for this year will be \$45,000.

We also have security services, security guards and hospitality costs. We will have a \$10,000 hospitality budget for this year.

Mr. Mario Laframboise: If I am not mistaken, it doesn't include the extra \$205,000 for the Memorandum of Understanding with the House of Commons.

Ms. Lyne Robinson-Dalpé: You are right. When we prepared our budgets for this year, unfortunately, we had not yet signed the Memorandum. We have now signed it knowing that the extra \$205,000 would have to come from our funding envelope. It will depend on the number of investigations we will have to undertake. If we do more than expected and must use the \$500,000 entirely, we shall come back to the Committee and ask for Supplementary Estimates in September or December next year.

Mr. Mario Laframboise: Your budget has to go through the Office of the Speaker of the House of Commons. However, you discuss your budget with Treasury Board. Is that right?

Ms. Lyne Robinson-Dalpé: No. Discussions on our budget are really between Mr. Shapiro and Mr. Milliken, the Speaker of the House. Then, the Speaker submits our budget to the Treasury Board.

Mr. Mario Laframboise: When we raised the issue with the Speaker at the Standing Committee on Procedure and House Affairs, we were under the impression that his role was only to receive your requests and that he then submitted them to the Treasury Board without any comments. He seemed to act only as an intermediary.

• (0940)

Mr. Bernard Shapiro: You could imagine other procedures. This is the process that is used currently. I cannot make any comments on what the Speaker does.

Mr. Mario Laframboise: Do you negotiate with the Speaker? Have you negotiated your budget with him?

Mr. Bernard Shapiro: We had a discussion...

[English]

The Acting Chair (Mr. David Tilson): Gentlemen, you're well over your time.

Mr. Bernard Shapiro: Sorry.

The Acting Chair (Mr. David Tilson): We'll have to continue this on another round, Mr. Laframboise.

Ms. Jennings is next.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Thank you, Mr. Chair.

Thank you very much for your presentations.

I want to come back to the issue of the number of employees, the job descriptions of those employees, the process by which the employees were hired. I'd also like to touch on the issue of the outside consultants, or whatever one wants to call them, who were hired to do the fact-finding on at least one complaint.

My colleagues on the other side have some concerns about the fact that the firm to which the lawyers belong contributed to a political party, indeed the Liberal Party of Canada, over a number of years, and insinuate—and I'm not saying that in a pejorative sense—that this could in fact disqualify them. Regardless of what political party a law firm may or may not have contributed to, I'm simply concerned about the actual process by which, once a decision has been made that the internal staffing is not adequate to carry out a particular function, your agency and you yourself decide whom you're going to contract with.

In the public there's a lot of discussion now about the legal fees that the lawyers working for the Gomery commission, who are actually commission lawyers, are receiving—Maître Bernard Roy, a million-and-something dollars for a little over one year's work; Maître Courmoyer, eight-hundred-thousand-and-something. So I think it would be more than reasonable to ask how you determined the expertise that was needed, and then how you actually went out to choose and determine that it's this lawyer or it's this law firm, rather than another law firm. Was there an open call for tender?

Mr. Bernard Shapiro: The answer to that question is no.

Hon. Marlene Jennings: Why not?

Mr. Bernard Shapiro: Let me put it this way. My office was simply not ready to handle what actually came. It was a much more complex investigation than we were expecting the first time around, and we knew that time was serious. We couldn't just wait around to do a lot of things, so we decided we wouldn't do that this first time around, and we'd have a sole-source contract, so to speak.

The only question I asked was for some advice on who was competent to do this kind of thing. The answer to who was competent will vary depending on who you ask, for sure. Nevertheless, that was the issue.

Hon. Marlene Jennings: Who did you ask, who was competent?

Mr. Bernard Shapiro: I asked my own staff.

Hon. Marlene Jennings: Your own staff.

Mr. Bernard Shapiro: That's right. I think this is why, as I said in my opening statement, we're now in the midst of trying to get a standing offer process established so that we don't do that again. I recognize it's not the best way to do things, and not the most appropriate way, but I felt, given the time constraint, given what seemed to me to be clear expertise of the person involved, this would be a reasonable way to at least get the process going. It would not be appropriate as a general policy, for sure.

Hon. Marlene Jennings: Okay.

The other question is in terms of the employees you have who are investigators. What is their background? What is their professional background that qualifies them to be investigators?

Mr. Bernard Shapiro: We do not have a job description called “investigator”. We have no employees of that kind at all. The only professional employees, as I would call them, that we have are the advisers who deal directly with our clients over the confidential disclosure statements and other kinds of advice they might require. We have a number of people in the office who do have law backgrounds. We do not have anyone in the office who has been an active lawyer in recent memory, so that we don't have that particular expertise in the office.

One of the issues I've been struggling with is whether we ought to have our own internal legal facility, which would make sense. It turns out to be very expensive and it's not yet clear how often I will need such assistance. I'm not willing to go for a permanent establishment in advance of having more experience with the inquiries, so I know whether or not one could justify the costs. Clearly, if there are many inquiries, it clearly would justify the cost, and if not, then it wouldn't.

• (0945)

Hon. Marlene Jennings: Okay, I understand that indeed there is not one employee who would be deemed an investigator, and there is not one employee who has professional past experience as an investigator, either at a provincial level or the federal level, with some tribunal that actually conducts investigations for fact-finding. The actual decision-making may be somewhere else.

Mr. Bernard Shapiro: That is correct. We have a number of employees in the office who've done, I would say, related work in the Office of the Ethics Counsellor, but not in the formal way in which we're describing it now. I would say it would depend on experience, in the sense that if each year we have two complaints, as we've had this year, there would be no reason at all to develop such expertise in the office. If we had 20, or even 10, then there might well be, on an average basis.

Hon. Marlene Jennings: Yes.

My issue is not whether you should have... I just wanted to establish whether or not you had individuals on staff who had the kind of professional experience to be able to conduct those kinds of fact-findings when we're talking about actual complaints. I'm not talking about the disclosure and...I'm not dealing with that.

Mr. Bernard Shapiro: I understand.

Hon. Marlene Jennings: Then my subsequent questions are these. Have you begun to develop an actual description for that kind of position? Depending on the number of complaints at some point, you may, as you said, become of the opinion that it's justified to have someone on staff, or the number of complaints may never justify having a permanent person—but you'll still have to develop an actual job description and requirement in terms of professional background, training, etc., so that when you do go outside, you already have that in place and are able to do the standing offer, or whatever. Are you in the process of developing it?

Mr. Bernard Shapiro: We're doing two things. My first choice had been to think of a position that would combine two things. One is legal background, to do the kind of thing you're talking about, and the other is policy interest. If we couldn't afford a full-time lawyer who had sufficient experience to be affordable, so to speak, we could have someone who would have a legal background with a particular interest in policy development, so he could work both sides—a joint position. We have, in fact, developed a tentative job description for that position. I'm finding it very hard to find such a person, even on an informal basis, let alone a formal basis.

The Vice-Chair (Mr. Derek Lee (Scarborough—Rouge River, Lib.)): That would be time, Marlene.

Hon. Marlene Jennings: I have just one comment.

I would suggest that perhaps rather than looking at a lawyer, you may wish to look at someone who has a law enforcement background.

Mr. Bernard Shapiro: That's an issue I hadn't actually pursued, but it's an interesting suggestion.

Hon. Marlene Jennings: There are a lot of very capable police officers.

The Vice-Chair (Mr. Derek Lee): Ms. Jennings, let's keep the add-on really short here.

Hon. Marlene Jennings: Well, my understanding is that the chair allowed the two previous questioners to go beyond their 10 minutes—substantially.

The Vice-Chair (Mr. Derek Lee): Thank you, Ms. Jennings.

Hon. Marlene Jennings: You're welcome.

The Vice-Chair (Mr. Derek Lee): Next is Mr. Broadbent, for seven minutes.

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

I have four questions I would like to get out to you; hopefully you will have time to answer in my period in the first time around; if not, we can get back to Mr. Shapiro.

I want to preface my comments by making it very clear, because I'm going to make reference to this particular government in the number of questions I have, that from my point of view it has absolutely nothing to do with the political composition of the present government. It could be Conservative, it could be Bloc, or maybe—even more remotely, in some people's minds—in an early future it could be an NDP government.

The points I want to raise are, for me at least, substantively important, and since you're early in your mandate it's pretty important to get clear the kinds of relationship you have with the government and the kinds of processes you use to judge particular cases.

I want to get back to one question that has been raised already, and that is the particular firm you used in the case of Ms. Sgro. I just want to put on the record—and I also want it to be clear, from my point of view, if you'll excuse me, without in the slightest wanting to sound condescending on my part—that I don't think there is anything unethical about what you did in doing this. But I think it was a serious mistake in judgment, and I want to indicate why.

There are firms that deal with a number of different political parties; there are some that concentrate on some to the exclusion of others. This is all entirely appropriate in the private sector. There are some that don't have, in their wisdom, particular dealings with any political party.

My point is that this particular firm is extraordinarily well known as a Liberal firm. I would just like to put on the record here, because you've already commented and may not want to elaborate on what you said, that the firm in question donated \$165,000 to the federal Liberals between the years 2000 and 2003; donated more than \$25,000 to the Prime Minister's campaign for the leadership of the Liberal Party, and that's Mr. Martin's campaign; has three lawyers representing Liberals before the Gomery inquiry; and just recently, to continue with its association with the Liberal Party, appointed Mr. Gar Knutson, a former cabinet colleague to none other than Ms. Sgro. So this is a well-established Liberal firm, and I would have thought, from the point of view of the classical idea of justice not only being done but being seen to be done, it was not a good decision to get this firm in particular to do this work.

The second point I wanted to raise is.... You may want to comment on that again, and I leave that to your discretion, but the other three questions I would like to get out are the following.

Why didn't you issue a public statement explaining rulings in the cases of former Liberal cabinet members Lyle Vanclief and John Manley and why they were exempt from the two-year cooling-off period before becoming lobbyists? That's one question.

The next question is, on August 4 of last year, you said that from your point of view it was a first priority that you would review and update the list of policy-making processes the Prime Minister, given his personal financial interests, should be excluded from. To my knowledge, that hasn't been done, and as I said, as of last August you said it was a first priority.

Finally, the former ethics commissioner was judged by a federal court last July to be biased and thus to have prevented a fair and impartial assessment of complaints brought forward by Democracy Watch alleging unethical activities by certain cabinet ministers, ministerial staff, and lobbyists. I'm sure you're familiar with the case. The judge at that time, I repeat, thought your predecessor was not in an unbiased position on these, and the judge went on to note that with your coming on the scene these cases should be picked up again and reassessed.

• (0950)

My question is, again, has that process started? Are they being reassessed, and if not, why not?

Mr. Bernard Shapiro: I'm not going to make any further comment on the legal firm. I think that I don't.... I had not—let me put it that way, and I'll certainly think about it again, because you've raised the issue—thought of making public statements about various kinds of advice that I give relative to issues that arise. On the two cabinet ministers in question, I don't remember the details of the case, so I don't want to say more than I know.

When asked, I generally regard those kinds of issues not as private or protected in some special sense, as I would do when asked for confidential advice, but if I'm asked for my opinion, which happens many times a day, I don't issue public statements about them when I give the advice. Maybe I should; that's another approach, and I'd be glad to think about it. I certainly haven't done it, but there was no reason other than that.

Hon. Ed Broadbent: Could we stay with that for a second? It seems to me to be a particular.... I understand the distinction of members and so on. We bring certain questions, a whole range of which may not necessarily become public if you offer your judgment.

• (0955)

Mr. Bernard Shapiro: Right.

Hon. Ed Broadbent: My concern in these cases is that on the surface a publicly established rule was broken—that is, there was supposed to be a two-year cooling-off period, and there wasn't. You gave the go-ahead for that. You may have good reasons; I don't know.

Mr. Bernard Shapiro: I hope I did at the time; I don't remember right at the moment.

Hon. Ed Broadbent: I hope you did too, but on the surface, you know the rule has been laid down, and they're being exempted from the rule. I think that's a case in which a public declaration of your reasons would be useful.

Mr. Bernard Shapiro: I think that's useful advice, actually. I'll try to follow it the next time this happens. I try to make that happen as rarely as possible. I don't like having exceptions unless the answers are compelling. I'm sorry I don't remember the specifics of the case, because I would be glad to respond to you at another time if you'd like to know. I'd be glad to tell you.

On the question of August 4, which is the date of the statement that had to do with the refusal process with the Prime Minister, etc., I think my priorities underwent a dramatic shift, I have to say, from about the end of July until about the end of September, when I recognized we were not in a position to respond to the onslaught of work that would come, in the beginning, to operate the code for the members of the House of Commons. We just had no capacity to deal with the huge number of things that were going to happen, so I put that matter aside, quite frankly, and I'm not going to return to it until I get through the issues related to the members of the House of Commons, which should be at the end of June. I hope to get to them again sometime this summer.

That's the reason. I guess it's a danger you always face when you have a dynamic organization—dynamic in the sense that things change around a lot in it. Then you're asked to indicate your priorities through some time in the future, because these change. That's the reason; it hasn't got to do with my thinking it's less important, some sort of principle, because I don't believe that. Then—

Hon. Ed Broadbent: Could I clarify that again?

The Vice-Chair (Mr. Derek Lee): Mr. Broadbent, you have left three questions with Mr. Shapiro, and we're over the seven minutes.

Hon. Ed Broadbent: Okay, I can come back.

The Vice-Chair (Mr. Derek Lee): Perhaps you could just let him answer. Thank you.

Mr. Bernard Shapiro: Do you want me to respond?

The Vice-Chair (Mr. Derek Lee): Yes. Could you complete as quickly as you can.

Mr. Bernard Shapiro: On the question of the court's decision, there were two issues from my point of view. First of all, part of it related to the question of the lobbyists registration branch, which is now no longer a part of my office; it's a part of Industry Canada. It is my understanding that the person dealing with this in Industry Canada wrote a letter to Democracy Watch to indicate this was the case—it's now here, etc.—and asked them to please let us know if they were still interested in pursuing this. We have not heard, which doesn't mean to say I couldn't have asked myself—I didn't—but that's why it wasn't pursued.

The Vice-Chair (Mr. Derek Lee): Good. Thank you.

I'll go to Mr. Powers for three minutes. We're on three-minute rounds now.

Mr. Russ Powers (Ancaster—Dundas—Flamborough—Westdale, Lib.): Thank you, Mr. Chair.

I apologize, I'm coming back to the agenda item before us—the estimates.

The first question, Dr. Shapiro, is with regard to integrating the brand new department. It was perhaps somewhat of a challenge to integrate, to put together, the \$4.7-million budget you're proposing. Could you very briefly take us to the components of basically putting together...? I mean, you've done very well in your presentations, but obviously putting together, as you indicated... The question is on the difficulties of the commissioner, and things like that, in creating this working budget.

Then I have a question on staffing, if we have time.

Mr. Bernard Shapiro: I'm going to make a general comment about putting the budget together, and then I'll refer to Ms. Robinson-Dalpe, who knows the details far better than I do.

Generally speaking, we started from the work to be done and what we have to accomplish in the next year—what has to be done, how many files are going to have to be dealt with, etc.—a whole series of questions of that sort and guesses about how many examinations there would be, etc. Then we tried to price out each of these components in order to put a total budget together. So that's how we did it. There's nothing very imaginative about it. We just tried to do that and tried to keep in mind that we needed a certain flexibility.

For example, we have staff who are particularly specialized in the Prime Minister's code, and other staff who are particularly specialized in the code for the members of the House of Commons. We have to be able to interchange these staff, as we're doing now. We're putting everybody on the House of Commons side, simply because that's where the priority is at the moment, to try to get that first group through. We tried both to estimate the work—estimate its cost—and then to introduce some flexibility into the budget, because there are so many unknowns. We have so little experience.

I'll ask Ms. Robinson-Dalpe if she wants to add anything to that.

•(1000)

Ms. Lyne Robison-Dalpé: Basically, the big percentage of our budget is salaries. As Dr. Shapiro has referred to, the employees within the office are doing most of the work that's required. That represents 75% of our budget. The other big amount is 19%, which is the consultant or professional services that I have alluded to earlier, and then there are the requirements the office has with regard to travel. Dr. Shapiro will be travelling.

On the public office-holder side, they also do tours across the country to meet with their clients and explain the different perspectives. We have set a budget, and it only represents almost 3% of our total budget, but still it's another component that is required.

The remainder is basically supplies—how much the office will use in supplies, and rental of equipment and so on and so forth. As I said, overall, 94% of our budget is salary dollars and professional services.

The Vice-Chair (Mr. Derek Lee): We're just over three minutes. If it's not a short question, we can come back.

Mr. Russ Powers: Okay.

The Vice-Chair (Mr. Derek Lee): Mr. Epp, for three minutes.

Mr. Ken Epp (Edmonton—Sherwood Park, CPC): Thank you very much.

Thank you, Dr. Shapiro, for being here today. I understand you've had a very busy year. I want to tell you that I think I have a little bit of a sense of the pressures you have felt.

I have a few questions with respect to your budget. The first one is a general one. As taxpayers, we're spending a lot of money. You're asking for almost \$5 million to operate your organization. You have a staff of some 34, I think you said, to administer this code. My general question is this: in your opinion, now that you've been doing this work for about a year, is the ethical behaviour of members of Parliament and cabinet ministers enhanced by the work that you're doing?

Mr. Bernard Shapiro: When I asked myself why I would take this job in the first place, I said to myself, well, I could hope that if it were successfully done, one could imagine a future in which Canadians had a heightened level of confidence in their federal institutions and in the politicians who represent them. I think that would be the appropriate end result.

I think it's wrong to begin by assuming that the behaviour of people subject to the code is unethical to begin with, and the purpose of the code is to make them suddenly ethical. That is not the case, and it would not happen in that way. You can't legislate people into behaving ethically. It's simply not possible. What you can do is specify a standard and hope that over time more and more people will want to reach it, and therefore will.

The whole system is based on faith; that is, when we get the confidential disclosure statements, we don't audit them, we review them. There's a very big difference. We assume that what people are telling us is the truth, and we have no reason not to make another assumption. We've never been disappointed, thus far at least. We've never found a case in which it wasn't true.

So I think that the question really is whether as a result of the expenditure of this money, people will respond to standards that they perhaps hadn't thought about. Most people, after all, want to do the right thing. They're not looking around for how to do the wrong thing and get away with it. They're looking around for how to do the right thing. I think this will specify what the standard is, because often people intend to do the right thing but get into difficulty because of how other people perceive it—we were talking about that relative to the law firm just a few minutes ago—rather than wanting somehow to get away with something.

I think the amount of money, although not small, is small relative to the objective in mind, which is increased confidence in our government institutions. I think that, if handled carefully and if done sensitively, I suppose, or imaginatively, it would be very much worth the investment that the Canadian public is making.

Mr. Ken Epp: Then the second question I have has to do again specifically with your budget request. You're asking for about \$600,000 in support of policy. It seems to me that policy was given to you by the legislation that established your office and that gave you the mandate of what you have to do. So why do you need \$600,000 a year for people to develop policy?

•(1005)

Mr. Bernard Shapiro: There are several reasons. You're right that the core policy was given by legislation, but that doesn't mean that the legislation itself is entirely clear. If you look at the codes, whether you're talking about the Prime Minister's code or you're talking about the code for the members of the House of Commons, these are based on a series of quite general principles, very much like in a common law tradition. Over time, they get interpreted in a variety of ways, and precedents get set for how things are to be operated and what it is they actually mean.

I think it's very important for our office—and this is something we have not done before—to codify and make available to everybody just what this set of precedents is, and therefore just why it is that we're proceeding in a certain way and have certain interpretations rather than others. Over time, if we can be clear about that, then of course it makes it easier for you—I don't mean you personally, but for people subject to the code—to ask yourself whether we have the right policy and what alternatives to that policy there might be.

So part of the policy issue is just developing clearly what the precedents are and what the current interpretations are, so that people can understand them much more clearly than they can at the moment.

Then, of course, it seems to me there is the question of whether or not the current policy is the right policy or the best policy that can be managed under the circumstances. It is not up to my office to change the policy. It would be up to us to recommend to whoever the appropriate authority is—it would be the House of Commons in one case and the Prime Minister in the other case—and talk about revisions to the code, changes that might be helpful, that might make it possible to be more efficient in the operation of the office, etc.

Neither of those tasks is a small task, so I think the money being requested for it will be worth it.

The Vice-Chair (Mr. Derek Lee): Thank you, Mr. Shapiro, for that good answer.

We'll come back, Mr. Epp, if we need to.

Mr. Powers, for three minutes, and then Mr. Boulianne.

Mr. Russ Powers: Thank you, Dr. Shapiro.

You indicated there were some challenges with regard to staffing. Was that the traditional changeover or opportunities with individuals, or was it perhaps the uncertainty of a new department being developed, or all of those things?

Mr. Bernard Shapiro: It's hard for me, of course, to know exactly what was in the minds of various people, but I can give you my response.

I think the disruption in the staffing primarily came about because in order to be a permanent, full-time member of the Office of the Ethics Commissioner, you have to leave the public service in order to join the parliamentary service, so to speak. I had a large number of colleagues—I think about 10—who felt that this was an unnecessary restriction on their mobility options for the future, that there would be many more options for their own future development.... And I think they were right in this case. I don't say they should have left, because I was sorry to lose them, but I could understand the reason. They said, look, I'm going to have many more options in the future if I stay inside the public service, and therefore that makes more sense for me as I think about my future career. That was immediately balanced by other people who stayed, who liked the work, who liked the office, and who thought that this would be interesting for them in the future.

So I think that's all it really was. It turned out to be a major disruption simply because the process of then recruiting, testing, assessing, and trying to make choices between many applicants takes several months to do, in which case all the work that was being done came to a standstill, and we had to proceed. But I think that's behind us now.

Mr. Russ Powers: On the \$4.7-million funding envelope, does it include any additional enhancement of staffing?

Mr. Bernard Shapiro: I think the actual number of budget positions is 35. Am I right about that? It's not 34, because 34 is what we currently have. I think it's 35 positions that are included altogether.

Mr. Russ Powers: Do you believe you have adequate funding for ongoing professional training for your staff? It sounds as if they're very specialized and require—

Mr. Bernard Shapiro: I regard us as having two challenges in that respect. One is to make sure that every staff member has a professional development opportunity every year. In an office as small as mine, you have to keep two things in mind. One is, what do we need in order to enhance our own...and the other is, what do they need as they think about their future careers? It can't always be inside this office, because the office is too small for that. I think we have a big budget for the first time. I think it's about \$60,000 for that in the coming year. We are going to try to keep to our objective of something for everybody every year. We want to avoid the temptation that many groups fall into, of focusing professional development on so-called professionals in the group. Everybody needs to be enhanced in some way during the year.

●(1010)

Mr. Russ Powers: Thank you, Mr. Chair.

The Acting Chair (Mr. David Tilson): Mr. Boulianne, please.

[*Translation*]

Mr. Marc Boulianne (Mégantic—L'Érable, BQ): Thank you, Mr. Chairman.

Welcome to you and your team, Mr. Shapiro. I wanted to ask you a general question. I listened to you carefully. You have met several challenges. I believe that you have also reached several targets. We talked earlier about integration, for instance. It was not easy. You also met your productivity goals. You have congratulated your staff and mentioned the quality of services. I believe that it has been a success.

You surely have other challenges facing you. You have already appeared once before this Committee. If you had only one goal to reach in the short or medium term, what would it be and what means would you use to reach it?

Mr. Bernard Shapiro: We have set ourselves several goals and there are different ways to reach them. For instance, our immediate goal is to create a new confidential disclosure statement. This is our first priority. We want to do it within one week or two and surely before the end of May with the help of the sub-committees working with us.

We need a lot of flexibility. We have a priority for the coming month and others for the two, three or four months to come. We are always reorganizing in order to reach our immediate and long-term goals. We must constantly juggle to find a balance. We never know what we will do with our staff six months from now as we keep facing new challenges. Flexibility is very important.

For my colleagues, it also has to be interesting. We have a lot of work to do. If they don't find an issue interesting, there will be another one in a few months. They have a lot of interest in these issues. There is not a single way of working but a variety of different ways.

Mr. Marc Boulianne: As concerns integration, you said that it has been successful. Could it still be improved and how?

Mr. Bernard Shapiro: No. I am satisfied for the time being. After months and months of problems everything is set in place. Some days I thought that nobody was willing to welcome us here in Ottawa. But now, everything is working very well and I am very satisfied. The level of service is absolutely wonderful.

Mr. Marc Boulianne: Thank you.

[*English*]

The Acting Chair (Mr. David Tilson): Mr. Lee.

Mr. Derek Lee: Thank you.

I'll just preface my three minutes of questions by congratulating you and your office for bringing the new operation on stream. I realize it's a little bit like putting a new saddle on a new horse, and there's a break-in period. I'm sure some of my colleagues didn't always make it easy for you, but in any event the system's in place.

I had noted the overall cost. If I'd known this as it began, I'm not so sure I would have voted the way I did. The average cost for this program of ethics counselling, ethics filing, is over \$15,000 per MP. I just did the math. I divided the \$4.6 million by 308 members, and I got over 15,000 bucks a head, which is a lot for filing a few pages of paper once in Parliament. But you didn't create those costs, I know. This is simply the costs you were faced with, as you set up the operation.

Can I ask you if the Senate costs of implementing the legislation would be over and above the \$4.6 million? Is that correct?

Mr. Bernard Shapiro: That is correct.

And let me make, I think, an arithmetical correction as well. One has to remember these costs include the 1,500 full-time and 2,300 part-time order in council appointments, not just the members of the House of Commons.

• (1015)

Mr. Derek Lee: Oh, that's right.

Mr. Bernard Shapiro: The budget includes all those others.

Mr. Derek Lee: I'm sorry.

Mr. Bernard Shapiro: It's not that it's not expensive; it's just not quite that expensive.

Mr. Derek Lee: There are a lot of other pieces of paper you can look at, as well.

Mr. Bernard Shapiro: Exactly.

Mr. Derek Lee: Yes, okay. Thank you for clarifying that.

In arranging your budget, what we spoke of here earlier indicates that with your staff, you've put together your budget and sent it off to the Speaker. He sends it off to Treasury Board for inclusion in the estimates. Wherein is there, if it exists, the challenge function that this committee has looked at earlier?

Mr. Bernard Shapiro: I don't think it exists at the moment—though it ought to. There are a number of different ways you could imagine it. It could be with the Speaker of the House of Commons. There are other proposals this committee has considered, and any one of them might be made to work.

Mr. Derek Lee: On another item of business, the committee has been looking at the funding mechanisms for officers of Parliament. You're a brand new office, and your job isn't to challenge. Your job is to get the work done. But have you had any thoughts about the challenge function?

Mr. Bernard Shapiro: No one has actually spoken to me about any of the proposals I've seen. So I don't really know. But of the various proposals that have come across my desk, the one I found most interesting was a challenge mechanism that included people who were familiar with the task at hand. This way you don't lose the independence of the office by having a challenge function incorporated in people who are your own clientele. Whatever version people might choose, however, I'm sure we could accommodate it.

Mr. Derek Lee: I just wanted to get your views on the record.

Mr. Tom Lukiwski: Dr. Shapiro, I'd like to ask you about the changes you're planning to the disclosure statement. I should preface my remarks by saying that I think I'm going to be happy, though I'll

have to wait to see what the changes are. When you made your presentation to our caucus, many of our members, myself included, felt that some of the items contained in the current disclosure statements were a little invasive.

I appreciate that you're looking for conflicts of interest. Clearly, if a member of Parliament has an ownership position in a firm that does business with the government, this is something you have to look at. But some of the information you were requesting seemed to be a bit invasive, particularly when it came to things like spousal amounts on RRSPs or credit card balances.

Could you give the committee a general sense of some of the changes you may be looking at with respect to the disclosure statements? Are some of the elements that our members were concerned about in the current statement going to be addressed?

Mr. Bernard Shapiro: The creation of the form was difficult for us to undertake. We had no capacity, given the electoral situation at the time, to consult with the appropriate committee to decide what should be in or out. So we put as much in as possible. I thought this was the safer response. But this turned out not to be very acceptable from most people's point of view.

We have been listening carefully to the responses we've been getting. We're hoping for the form to be shorter. It is intrusive. I've done the form myself, for myself, and I know how intrusive it feels. We hope to have the questions formatted in an easier way—more yes-or-no responses and fewer long blocks of information. There are changes we hope to bring forward that will reduce the questions about cash deposits and things of that sort. Please keep in mind that the code includes a need for us to have a list of every asset and liability of \$10,000 or more. We can't obtain this list without asking what the assets and liabilities actually are. We need this for our review.

We're also hoping to be able to also identify, with each question, the item in the code that requires the question to be asked. We want to bring together the code, which is the law, and why a particular question has to be asked.

We would like to do a couple of other things. Instead of asking people to let us know the material changes within 30 days, we'd like to do the whole thing on an annual basis. This way you would include material changes only once a year.

We're looking for ways to make it more user friendly. But it has to relate to the code. Of course, the code itself could also be changed, but that's a different question.

• (1020)

Mr. Tom Lukiwski: I appreciate that assets over \$10,000 have to be reported, but there's a difference between assets and liabilities.

Mr. Bernard Shapiro: Yes, of course.

Mr. Tom Lukiwski: Why anyone has to know my wife's credit card balance is beyond me.

The Acting Chair (Mr. David Tilson): Thank you, Mr. Lukiwski.

Mr. Broadbent.

Hon. Ed Broadbent: You're saying a year ago it was a priority to review and update the policy decision-making processes of the PM, together with his personal financial interests. You said that you were doing this because of things that had happened since, particularly issues related to MPs. I would suggest that the accountability priorities here are wrong. It may be of interest to you to know what my bank account is, but it has absolutely nothing to do with the power and position of the Prime Minister.

The Prime Minister is in cabinet, making decisions that affect the whole country and even the world. He has serious financial interests that could affect cabinet decisions. Therefore, his financial interests are a major matter of public policy, not a minor one, a much more serious matter than the interests of MPs who aren't in cabinet.

Haven't you got your priorities wrong? Shouldn't the interests of the PM and the cabinet decisions he should not be participating in receive a higher priority than attention to individual MPs?

Mr. Bernard Shapiro: There are a couple of things, one minor and one more major.

The minor thing is that your opinion about the need to deal with MPs is not the same as that of all of your colleagues who are also MPs. The number of calls we get—and that's why we haven't responded to them this week—is enormous, so there is pressure in the office to be able to respond to individual MPs on a variety of different grounds, which I don't resent.

Hon. Ed Broadbent: Can I interrupt to clarify this and have a discussion?

You might say to the typical MP, "Yes, clearing up this issue is one matter, but as you will know, the Prime Minister is making rather important decisions affecting the whole country every day and I'm also obligated to deal with that issue. Wouldn't you think it has greater priority?" If you said that, I suspect most MPs would say that of course the Prime Minister's case is a priority.

Mr. Bernard Shapiro: They may. I'll try it out. I haven't tried that particular response. It's an interesting way of putting it, and I'll certainly try to think it through.

The major part of the issue is that I don't think you should take from my response that we're entirely inactive on the Prime Minister's side. We do review all the cabinet documents every week to see which ones the Prime Minister must be recused from. This will all be part of the annual report that will come out in June, case by case by case. So we're not inactive on the file. We try to be as careful as we can, but we have not responded to the issue that you specifically raised, which is whether there are issues with our seeking recusals and getting them. We've never had a complaint from the Prime Minister to say no, he shouldn't.... If we ask for a recusal we get it. But in trying to define those issues, either more broadly or less broadly—both options are available—we haven't proceeded on that ground, as we ought to, quite frankly.

I think there is another point relative to recusal that needs to be thought through. I've put some effort into it, but I'm not satisfied. I mean the question of how an unelected official such as me can decide which issues the Prime Minister cannot be Prime Minister about and which issues he can. It's a complex constitutional issue. I know it's a responsibility of mine and I don't want to neglect it, but it

is a difficult constitutional issue to deal with. Although the conflict of interest challenge is enormous, as you've just pointed out, he was elected and I was not. That's no reason to defer—I don't mean it in that kind of way, and he's never given me any indication that I should—but it is an issue that I'm seized with and finding it difficult to deal with at the moment.

• (1025)

Hon. Ed Broadbent: Okay.

I have a final question. It's on the cases that the Federal Court, in effect, threw out, or the eight cases brought forward by Democracy Watch last July.

In their judgment about those eight cases, as I've already indicated, they said your predecessor was in a biased position and this prevented a fair and impartial consideration. They furthermore indicated that the new office, namely your office, was coming into being and that it should deal with that. Now, it seems to me you're being mandated by a court to take follow-up action, and it doesn't require a request by anyone else that your office should pursue this. Subsequent to the court's ruling, I would add, the Department of Justice reached the same conclusion as the Federal Court did in all eight cases.

So we have a court saying this and we have the federal Department of Justice saying it. My question is, why didn't you just follow up on these cases on your own?

Mr. Bernard Shapiro: I answered the question in the first case. I felt it was adequate to ask, if you wanted this matter pursued, to please let us know. Whether I shouldn't have proceeded that way is another question, and I'll think about it again.

Hon. Ed Broadbent: But I'm told you asked about only two of those cases.

Mr. Bernard Shapiro: It seemed to me at the time—and I can't remember the individual cases—there were only a couple that related directly to our office as opposed to the office that inherited the lobbyists registration branch, which would be in Industry Canada.

Hon. Ed Broadbent: I may be wrong in this—

Mr. Bernard Shapiro: And so may I.

Hon. Ed Broadbent: —but I think all eight were related, and there were only two that you raised—

Mr. Bernard Shapiro: You may be right. I'll have to check, and I will certainly get back to you.

The Acting Chair (Mr. David Tilson): We have pretty well doubled your time, Mr. Broadbent, but there were no other questions, unless anyone else....

That appears to conclude the questions, Mr. Commissioner. I thank you and your staff for appearing. Thank you very much, sir.

Mr. Bernard Shapiro: Thank you.

The Acting Chair (Mr. David Tilson): Ladies and gentlemen, we do have a matter that was carried over from last week, which was in camera, and I think we will continue with that. Before we do that, we will recess for a few minutes to allow people to vacate the committee room so that we can proceed with the matter we were discussing last week.

[Proceedings continue in camera]

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