



House of Commons
CANADA

Standing Committee on Access to Information, Privacy and Ethics

ETHI • NUMBER 002 • 2nd SESSION • 39th PARLIAMENT

EVIDENCE

Tuesday, November 20, 2007

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Chair

Mr. Paul Szabo

Also available on the Parliament of Canada Web Site at the following address:

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•(1105)

[English]

The Chair (Mr. Paul Szabo (Mississauga South, Lib.)): Good morning, colleagues.

This is meeting number two of the Standing Committee on Access to Information, Privacy and Ethics.

Our order of the day, under committee business, is planning of future business, and as agreed at the last meeting, we have the three commissioners, who will be giving us no more than—

Mr. Pat Martin (Winnipeg Centre, NDP): A point of order, Mr. Chair.

The Chair: Yes, Mr. Martin.

Mr. Pat Martin: Mr. Chairman, I didn't know if it would be necessary for me to intervene at this time, until I understood what you have planned here. I was optimistic—

The Chair: Mr. Martin, that's not a point of order.

Mr. Pat Martin: Well, my point of order, Mr. Chairman, is that I believe we should be dealing with the motions about future business first and then hear from the witnesses.

The Chair: That's also a motion. You cannot make a motion under a point of order.

Now, we have before us the access to information—

Mr. David Tilson (Dufferin—Caledon, CPC): A point of order, Mr. Chairman.

The Chair: Mr. Tilson.

Mr. David Tilson: I see some cameras leaning over your shoulder, Mr. Chairman, and I don't know who those cameras are. If it's the media, that's one thing; if it's the parliamentary people, that's fine. It's just a little unusual to have cameras leaning over the shoulder of the chairman. I just leave that with you. You are setting a bit of a precedent if you're allowing it.

The Chair: Thank you, Mr. Tilson.

I was advised at ten o'clock that there was a request that the media be permitted to televise—

Mr. David Tilson: Obviously, there was a request.

The Chair: —and I was advised directly by the clerk. Maybe the clerk could advise the—

Mr. David Tilson: Well, people can make a request all they like. I'm just saying that in my brief experience in this place, it's highly unusual and irregular for the media to.... They can interview people out in the halls; they can watch it on television, if it's televised by the

parliamentary channels. I don't know what the media is going to do with these things. They're taking pictures of me as I'm speaking here. God knows what will happen.

I'm just saying I've never seen a committee where this happens like this.

The Chair: Thank you, Mr. Tilson. You're quite right. I'm aware that the normal practice is that 24 hours' notice be given, and 24 hours' notice was not given. If it's the wish of the committee, we will ask that the cameras be removed.

Mr. Martin.

Mr. Pat Martin: Mr. Chairman, the order of business that we're at right now is planning of future business, and I would like to—

Mr. David Tilson: We're moving along, Mr. Chairman.

It's a point of order. Are the cameras going to stay or are the cameras going to leave?

The Chair: We're on the issue of the cameras.

Mr. Sukh Dhaliwal (Newton—North Delta, Lib.): Are you going to take a vote on the cameras?

The Chair: No. I'm just asking if it is the wish of the committee that the cameras be removed.

Mr. Sukh Dhaliwal: No, they should stay, because we....

The Chair: I think that given that 24 hours was not...it would require unanimous consent of the committee to allow the cameras to stay.

Would someone care to make a motion that with unanimous consent the committee ask the cameras to be removed?

Mr. David Tilson: There's a lot of theatre going on in here, Mr. Chairman. I don't think it's appropriate.

The Chair: Okay. I see none. I'm going to move on with the agenda then.

I would like to introduce—

Mr. Pat Martin: On the agenda, Mr. Chairman—

The Chair: No, we're on the cameras.

Mr. David Tilson: Are you saying there was unanimous consent? I keep saying there isn't. I don't know how you're getting that interpretation from me.

The Chair: No. I asked if there was someone who was prepared to make a motion for unanimous consent that the cameras stay, otherwise they're going.

Is there someone who cares to move that motion? There is no motion.

We are on the order of the day. It's planning—

Mr. David Tilson: So they're going, then, are they, Mr. Chairman? That's what you just said.

The Chair: No.

Mr. David Tilson: They're not going? Okay.

Mr. Dean Del Mastro (Peterborough, CPC): Okay, fine, I'll table a motion.

The Chair: Are you going to make a motion?

Mr. Dean Del Mastro: I'd like to table a motion that the cameras be removed.

The Chair: That they be removed?

Mr. Dean Del Mastro: Yes. There wasn't adequate notice.

The Chair: Okay. Mr. Del Mastro has moved a motion that the cameras be removed. All those in favour?

Mr. Sukh Dhaliwal: Mr. Chair, can we have a discussion on this?

The Chair: No.

All those in favour?

(Motion negatived)

The Chair: I'd like to introduce the Ethics Commissioner, Mary Elizabeth Dawson, the Privacy Commissioner, Ms. Jennifer Stoddart, and the Access to Information Commissioner, Mr. Robert Marleau, who, as agreed by the committee in the last meeting, have come before us. They are limited to five minutes to advise the committee of their particular priorities and recommend to the committee priorities for consideration by the committee and the steering committee for future business.

I will start with Mr. Marleau.

Mr. Marleau, please, five minutes.

[*Translation*]

Mr. Robert Marleau (Information Commissioner, Office of the Information Commissioner of Canada): Thank you, Mr. Chairman.

It is a real pleasure for me to be here this morning to outline the priorities for my Office and hopefully assist the committee in setting its agenda of activities at the beginning of the second session of the Thirty-ninth Parliament.

[*English*]

I have distributed to you a document that will provide you with some background information for your review.

I apologize for not getting it to you any earlier, but my staff worked all weekend to put it together and translate it on time.

[*Translation*]

During my appearance last April on the consideration of the 2007-2008 Estimates, I indicated that we would not be asking for any money for that period to cover any specific changes with regard to the Federal Accountability Act. Now that we have more information, we are making a precise submission on our budgetary needs in order to comply with our obligations as well as the increase in our investigative workload. Our dialogue with the Treasury Board Secretariat on future funding requirements is positive.

• (1110)

[*English*]

A second area of improvement in priority is our service delivery. Although the office has maintained a consistent record of resolving almost all complaints without recourse through the courts, our record of timeliness in conducting our investigations is not as impressive.

In the 2006-07 fiscal year, the average turnaround time for investigations was about 12 months, as opposed to our standard of service of 30 days for administrative complaints and 120 days for denial of access complaints, and we have a significant backlog. At the end of the 2006-07 fiscal year, 1,030 investigations were in backlog status. We've devised a strategy and set challenging goals that are expected to be fully implemented during the fiscal year 2009-10.

[*Translation*]

Preliminary results of our complaints handling process review support the creation of a dedicated intake function and an early resolution function. This initial analysis also points to the need to review our service standards.

Since April 1, the number of complaints has doubled. It is too early to draw conclusions on the reasons for the increase, but, if the trend continues, as they say on election night, we need to re-evaluate our backlog strategy. We will provide you with an update in the spring of 2008, when our analysis is completed.

[*English*]

A third priority is continuing to monitor performance of federal institutions engaging in systemic and repeated breaches of the act. This is done through the report cards, where a federal institution can have a mark of A, for ideal compliance with statutory deadlines, down to an F, for alarming non-compliance. However, we've realized over the years that the current program may not have completely reflected or communicated ongoing efforts by institutions to improve compliance, or, on the flip side, it might not have clearly identified the reasons why specific institutions were consistently performing badly. This committee has played a crucial role in monitoring the results of the report cards by calling in poor performers before the committee to address their compliance record and propose a strategy for improvement.

We're currently reviewing our approach to increase the effectiveness of the report cards to ensure that contextual elements that may affect the overall performance of selected institutions are captured. We want Parliament, and more particularly this committee, to have a more complete institutional picture of their performance, if and when you decide to review them. We plan to table the result of this more comprehensive analysis in a special report on the fiscal year 2007-08 next fall.

Mr. Chairman, I will be sending you a letter explaining that process and its details following this meeting.

The concept of "duty to assist" is also a recent addition to the ATIA, which now requires the head of an institution to make every reasonable effort to assist the requester, to respond to the requester accurately and completely, and to provide access to the record in the format requested. This is called "duty to assist". I believe that Parliament added those words to the statute for a reason. I believe that Parliament expects concrete and visible leadership. Heads of institutions should therefore lead by example in developing meaningful implementation of the new provision within their jurisdiction. For some it's an inherent part of the job; for others it will require a change in attitudes and culture. We will closely monitor developments relating to this new responsibility.

[Translation]

We will continue our efforts on the reform of the Access to Information Act. This is an ongoing priority of the Office. I am on record as stating that the Act is very robust. Any amendment to it should be approached with caution.

However, after 25 years of existence, there are many aspects of the legislation that either need to be fine-tuned or strengthened. Other aspects may not have been initially considered and their inclusion would greatly improve this service to Canadians. The Federal Accountability Act, adopted in 2006, was an initial stab at an update, but not an attempt to reform the Access to Information Act.

[English]

This committee has already clearly expressed its position to the government on reform of the ATIA. We have held informal discussions with Justice officials. We're trying to identify common ground on issues raised in the open government proposal. There is no indication, however, that reform is a short-term government priority.

Honourable members, I have provided you with a quick overview of the priorities of my office for the next few years. I have not listed them in any particular order of precedence. Legislative reform and report cards are two priorities that may intersect with those of the committee; the latter will only come up in the fall of 2008. Should you decide to pursue legislative reform, then it will become our first priority and we will do all that's required to assist the committee in its deliberations. You may wish to have further clarification on this.

• (1115)

[Translation]

Thank you for your attention, Mr. Chairman and committee members. I am ready to answer your questions.

[English]

The Chair: Thank you kindly.

I would now like to hear from Ms. Jennifer Stoddart, the Privacy Commissioner, for five minutes, please.

Ms. Jennifer Stoddart (Privacy Commissioner, Office of the Privacy Commissioner of Canada): Thank you, Mr. Chairman.

Since I last appeared before you, I believe in May, you and my office have been very busy. I take the opportunity to thank you for the thoughtful report you published on the review of PIPEDA. The Minister of Industry has responded to that, and, as you know, there is ongoing consultation on that till mid-January.

We have also tabled with you, via the Speaker, our report on the Privacy Act and our report on PIPEDA, and we also tabled our departmental performance review just last week, I believe.

In mid-September we held a very successful 29th international conference of data protection commissioners, and we were honoured to have the Speaker, Mr. Milliken, open that conference to a large audience of international attendees.

Mr. Chairman, the world of personal information, of which privacy is a part, is a world that's instantaneous now. It crosses borders. It is technologically driven. It is changed by business and culture, and, in turn, it is changing the way we do business and changing our cultural values. It is changing human values about privacy and intimacy, of what is public, and the values around the conservation and sharing of personal information. I give you the example of networking sites, which have become extremely important as a social phenomenon in the last year.

I draw your attention to the blog on our website that we started in mid-September in order to better communicate with the younger generation of Canadians with whom it's a challenge for us to communicate in our present regulatory form.

[Translation]

This leads me to my suggestion for your activities in the short term, in light of the world I have just described. I think it is very important that in the area of privacy, this committee focus not on what has been done, but on what we can do in the future in terms of preparation and prevention. In this context, Mr. Chairman, I would suggest two things.

First, continue with your work on identity theft. You began that last May, and you held a number of meetings on the subject. I would suggest that you continue with round tables and hear from a number of witnesses from across Canada, witnesses who would be interesting to people generally if these meetings are televised, witnesses who must be heard. You will remember that we demonstrated that identity theft is not just a federal problem. It is also a provincial, municipal and international problem, and a number of stakeholders must be involved. Witnesses I would suggest include the Minister of Justice, the President of Treasury Board, the commissioners of the provinces and territories, Mr. Flaherty—who was formally an expert on reform in these areas—the RCMP, Industry Canada et Professor Geist.

My second suggestion would be that you begin reviewing the Privacy Act. To help you with this, I distributed our latest document on suggested changes to the Act, which is dated June 2006. Changes could still be made to it. You may want to hear from professionals working in the area of privacy, human rights advocacy groups and of course the Minister of Justice.

Those are my suggestions, Mr. Chairman.

The Chair: Thank you very much.

• (1120)

[English]

Commissioner Dawson is next, please, for five minutes.

Ms. Mary Elizabeth Dawson (Ethics Commissioner of Canada, Office of the Ethics Commissioner): Thank you, Mr. Chair.

[Translation]

Thank you for the invitation to appear before you today. I took office in July 2007, so this is my first appearance before your committee since my appointment. I look forward to working closely with the committee in the future.

[English]

I will begin by outlining the mandate of my office.

The position of Conflict of Interest and Ethics Commissioner was created by amendments to the Parliament of Canada Act in the Federal Accountability Act. My office is an independent parliamentary entity reporting directly to Parliament. It replaces the former Office of the Ethics Commissioner that was created in May 2004.

Under the Parliament of Canada Act I'm responsible for administering conflict of interest regimes applicable to parts of both the legislative and the executive branches of the government. The Conflict of Interest Code for members of the House of Commons, drafted by the Standing Committee on Procedure and House Affairs and approved by the House of Commons, has been in effect since 2004 and was most recently amended in June 2007.

Members of the Senate are subject to a separate conflict of interest code.

The Conflict of Interest Act, which was part of the Federal Accountability Act, came into force on July 9, 2007, the day I took office. It applies to some 3,000 senior officials known as public office-holders under the act. They include cabinet ministers, parliamentary secretaries, ministerial staff, etc. The largest group is the governor in council appointee group, with 2,400 people.

Except for the most senior leadership positions, employees of the Public Service of Canada are not covered by the Conflict of Interest Act. Public servants are subject to the Values and Ethics Code for the Public Service of Canada, issued as a policy of the government. Similarly, the judiciary is not covered by my act.

Now I will say a few words about the priorities for the first year of my term. As with any new organization, I face many challenges in the realm of organization. However, I've already put into place a revised organizational structure that strengthens our strategic, legal, and communications capacity. In addition, I've established the

following priorities for my first year in office based on my desire to meet my objectives of clarity, consistency, and common sense.

First there's the imperative of applying the new law for public office-holders and the MP code clearly and consistently. We're undertaking a detailed analysis of both of them to get better interpretive guidance for the staff in my office.

Second, my focus is on prevention. My office is always available to provide confidential individual advice to public office-holders and members of the House of Commons. We encourage them to seek that advice.

Third, one of the objectives of the act relates to encouraging competent people to seek and accept public office. While I must respect and work within the act, I intend to apply it with common sense and due consideration to the people who are bound by it.

Fourth, an ongoing priority is to provide clear information on the act and the code to the persons covered. For example, my office completed a first mail-out to all public office-holders, providing them with a copy of the act and a summary of the provisions. As for members of the House of Commons, recent revisions to the code mandate the commissioner to undertake educational activities for members and the general public regarding the code and the role of the commissioner.

In that context, in the coming months I plan to put emphasis on educational activities aimed at not only the persons who are subject to the act and the MP code, but also the public at large, so they can better understand the mandate. I believe this is one area where your committee can help. We share a common objective of sustaining and enhancing, where possible, public confidence in our system of government and our public institutions. I'll be pleased to hear your suggestions on how we can together move forward on this.

Finally, I'm required to report annually on the act and the MP code. I intend to use these annual reports to highlight what appears to be working well, as well as problem areas.

Let me briefly outline the budgetary process and level of resources, if I still have a bit of time.

The Parliament of Canada Act outlines the budgetary process for my office. Prior to each fiscal year my office prepares an estimate for the funds required. The estimate is considered by the Speaker of the House, who then submits it to the President of the Treasury Board, who in turn tables it in the House with the estimates of the government for the fiscal year.

Because of this provision in the Parliament of Canada Act, the budget of my office is not subject to the review of the panel that was created as a result of the recommendations of this committee to examine the budgets of the other entities that report to Parliament. However, your committee is responsible for reviewing the expenditures of my office and reporting them to the House of Commons.

• (1125)

[Translation]

Just a few words on the reporting requirements for my office.

[English]

The Parliament of Canada Act provides that by June 30 every year I submit two reports on the activities of my office for the previous fiscal year.

One report deals with the activities relating to the members of the House. That report is referred to the Standing Committee on Procedure and House Affairs.

The second report relates to my activities concerning public office-holders under the Conflict of Interest Act. That's the report that's reviewed by your committee.

In addition, the MPs' code stipulates that I prepare an annual report on supported travel undertaken by the members, to be tabled in the House by January 31. That report goes to the Standing Committee on Procedure and House Affairs.

I look forward to discussing my reports, expenditures, and other relevant issues with this committee once these documents have been tabled.

[Translation]

As I mentioned, the challenges of setting up a new organization are many. I am confident that with the help of the dedicated and experienced staff of the office, and with the guidance of the Standing Committee on Procedure and House Affairs and your committee, we are up to the task in meeting these challenges.

[English]

The Chair: Thank you very kindly.

Colleagues, we are in this round table of proceedings. I want to indicate to the committee that we have six notices of motion that have been duly made. We will be considering these six motions after we have had a little bit of a round table on either your recommendations—or pitch, as it were—for future planning of the committee's work, or you may wish to inquire of the commissioners for further clarification. I hope the commissioners will stay.

I have Mr. Wallace first.

Mr. Martin.

Mr. Pat Martin: Mr. Chairman, you have just invited more ideas about planning. We have notices of motion waiting to be heard.

The Chair: Yes, thank you.

Mr. Pat Martin: You've just extended the meeting by inviting submissions for more ideas.

The Chair: Our order of the day is recommendations for future business, or planning of future business, and that's why we raised—

Mr. Pat Martin: And you have notice of a motion to that effect, which I think you're duty bound to deal with.

The Chair: Yes, and we will at this meeting, but we're going to finish what we just started.

I'm going to hear from Mr. Wallace first, Mr. Dhaliwal second, and then Mr. Hiebert.

Go ahead.

Mr. Mike Wallace (Burlington, CPC): Thank you, Mr. Chairman. I really have two very short questions.

I was on the committee as it was previously constituted in the last session. You provided us with a book, and I've highlighted the places where you talk about the Privacy Act as a priority. There is a motion coming in front of us to look at the Privacy Act.

My question to you is simply this. We started on the identity theft issue, and you have it down here as one of the five key issues. Can it be rolled into a discussion on the Privacy Act, or would you consider that a different and separate study and you believe we should just continue with and finish the identify theft study, the non-criminal aspects of it, and then head to the Privacy Act? Or could it all be combined together?

Ms. Jennifer Stoddart: Mr. Chairman, I think it would be preferable to follow the latter course you suggested and finish the identity theft hearings, because they just don't involve federal public sector legislation, but private sector legislation, criminal legislation, provincial legislation, and the viewpoints of many partners, and so on.

Mr. Mike Wallace: Okay, thank you.

My final question is for Mr. Marleau. You've been in the job for a little while now, and we at this committee have been tasked with... When the Federal Accountability Act was tabled, I recall that your predecessor's report on the Access to Information Act had some suggestions, though I forget what he actually called the document.

Have you had a chance to review that document yet? And if we ever get there, would you be prepared to come to talk to us about what those suggestions were?

Mr. Robert Marleau: The answer to that, Mr. Chairman, is yes, we have reviewed it. Parts of the open government proposal of my predecessor have been made moot by the amendments in Bill C-2, and others may also have been overtaken. But we've done a further analysis of the open government proposal. We've documented the sources of the recommendations. We informally shared that analysis with the Justice Department officials in a small group working together to see if we can find common ground and maybe establish a list where we have differences of opinion.

That's as far as we've gone, but I'd be happy to share that with the committee if it wishes.

• (1130)

Mr. Mike Wallace: Thank you very much.

The Chair: Mr. Dhaliwal, please.

Mr. Sukh Dhaliwal: Thank you, Mr. Chair.

I would like to thank the Information Commissioner, the Privacy Commissioner, and the Ethics Commissioner for coming here and telling us about their progress, the challenges they face, their vision, and for sharing that with our committee.

I know, Mr. Chair, the priority today is that Canadians want to know the truth on the matter of Mr. Mulroney, and the integrity of this government is in question. I would like you to see that we move to those motions as soon as possible.

The Chair: We do have those motions and we will deal with them.

We have Mr. Hiebert, please.

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

My question is for the Privacy Commissioner. I wonder if you can tell us, in light of the urgency of addressing these privacy issues that you named and the implications they have for our culture, for our values, when the Privacy Act was last reviewed.

Ms. Jennifer Stoddart: I believe, Mr. Chairman, it was in 1986 that it was last formally reviewed.

Mr. Russ Hiebert: So it's been more than 20 years since—

Ms. Jennifer Stoddart: A House of Commons committee looked at it, yes.

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

The Chair: Mr. Tilson, please.

Mr. David Tilson: Thank you, Mr. Chairman.

On that, Ms. Stoddart, isn't there some legislation that says we must review that within a certain period of time?

Ms. Jennifer Stoddart: No, Mr. Chairman, the honourable member is thinking of PIPEDA, where it's every five years, the private sector privacy act. But this was created in 1982, and there was not an automatic revision clause in it. Sorry, there was one, but it was reviewed once and then it was not renewable.

Mr. David Tilson: That's a long time, 1986.

Mr. Marleau, on the report card topic, I may have misheard what you said. Are you telling me that the report card, under your jurisdiction or under your term of office, won't be made available until fall 2008? Did I hear you correctly?

Mr. Robert Marleau: That's correct, Mr. Tilson. What we're trying to do is close it out at the end of the fiscal year, but that's too late to put in the annual report, which has to be tabled before the end of June. Therefore, we'll use section 39 of the statute to file a special report with Parliament in the early fall.

Mr. David Tilson: The reason I ask is that, as you've stated, the committee has actually looked at both. We looked at some that got an F and some that got an A. The purpose was to find out the good stories and how they can recommend to the others how to improve their ways. It might even help in preparing for the test you're going to give in the next little while.

My question to you is whether or not it would be appropriate to review the gradings the Information Commission has already given. Presumably there were some last year.

Mr. Robert Marleau: That's right, and a part of the process every year is to introduce a new series of institutions, but to follow up on those that we graded the year before.

Mr. David Tilson: Would it be useful to get into that now?

Mr. Robert Marleau: Indeed, that's what we're doing—

Mr. David Tilson: No, I'm asking whether it would be useful for the committee.

Mr. Robert Marleau: Certainly, the annual report was tabled in June. It's permanently referred to the committee. If you wish to follow up on any of the gradings we did in the last annual report, absolutely.

Mr. David Tilson: You could assist us with that.

Mr. Robert Marleau: Completely.

Mr. David Tilson: Thank you, Mr. Marleau.

Thank you, Mr. Chairman.

The Chair: Madame Lavallée, please.

[*Translation*]

Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ): Thank you, Mr. Chairman.

Welcome, Mr. Marleau, Ms. Stoddart and Ms. Dawson. I am very pleased to see you here this morning. I have a number of questions for you, but I'm sure you will understand that this may not be the right time to ask all of them.

However, I would like to comment on the Access to Information Act. In the last 15 years, Parliament, the Senate and the Bryden Committee have all reviewed the legislation in depth. The previous commissioner even put forward a new bill. In addition, our committee unanimously passed a motion in December 2005 calling on the House of Commons to accept the strengthened and modernized Access to Information Act that had been drafted by the commissioner of the day. The year 2005 is not that long ago. During the election campaign, the Conservatives actually promised to include a new, strengthened and modernized Access to Information Act in the future accountability act, Bill C-2.

And what did they do? They included a few minor points, but that was all. They did not keep the promise they made during the election campaign. But I did remind them of the commitment they made in February 2006. I came back to this committee. Some motions were passed to have the new legislation strengthened and modernized. In addition, when the Justice Minister, Vic Toews, appeared before the committee in June 2006, he took the initiative of speaking to us about the act. He told us to take our time, to look into it as a committee, to do some analysis and study. We told him that the bill had already been drafted and that he had it before him.

In the end, we repeated our request. We even gave him a deadline—December 15, 2006. We heard nothing more about it until he was replaced by the leader, Stephen Harper. On several occasions, we asked the new minister, Rob Nicholson, to appear before the committee. Of course, Mr. Wallace will remember this. Never ever did Mr. Nicholson agree to appear before us to talk about the Access to Information Act.

Last June, our committee asked all the senior officials to appear, because the minister would not come. Finally, he changed his mind and agreed to come. He was supposed to appear before us in October, but the session was prorogued.

For all these reasons, I would really like to ask Mr. Marleau to speak on this matter and to tell us whether in his opinion, the minister should appear before the committee to present a new Access to Information Act as he promised...

• (1135)

[English]

Mr. Dean Del Mastro: On a point of order, Mr. Chair—

[Translation]

Mrs. Carole Lavallée: ... however, I will not ask the question, because I want to be able...

[English]

The Chair: Madame Lavallée, I very much enjoy your enthusiasm, but we do have to keep to the order of the day. We will certainly address that question, if you wish, at committee, if we can maybe have a motion to the committee to have a discussion with regard to that.

I would like to move on now to Mr. Del Mastro, please.

Mr. Dean Del Mastro: Thank you, Mr. Chair. I promise I will get to a question.

Ms. Dawson, I fought the last election on the Federal Accountability Act, largely, because I believed Parliament needed to be held to a higher ethical standard. I wanted Canadians to feel confidence in the federal Parliament. Your office is a creation of the Federal Accountability Act, and I welcome it wholeheartedly.

You made a number of statements about the reporting, and so forth, that you will be doing, the powers given to your office.

Just very quickly, is it your opinion that the creation of your office should provide Canadians more confidence in Parliament, that you will be able to report to them largely on Parliament, and that the Federal Accountability Act will be effective in assuring them that the House is held to a higher ethical standard?

Ms. Mary Elizabeth Dawson: I certainly hope so. My office will do everything they can to facilitate that.

As I said, I was underlining particularly the preventative aspect of this. I'm hoping people will continue to come to my office, as they do in large numbers, and check on what they're thinking of doing. I think that's in fact probably the most effective use of the act.

Mr. Dean Del Mastro: Thank you very much. I appreciate that.

The Chair: Finally, our last questioner is Mr. Van Kesteren.

Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC): Thank you, Mr. Chair, and thank you, witnesses, for attending again.

Formerly, at committee, Ms. Stoddart, you indicated that the Privacy Act—I'm sorry, PIPEDA—needs tweaking. For the most part, you were quite satisfied with the way things are going.

There was an article in the paper, and you alluded to more changes needing to be made. I'm curious. Have you changed your position because of our study? Can you elaborate on where you think we should be going with that?

Ms. Jennifer Stoddart: With PIPEDA? Yes.

The world of regulation, or the attempt to regulate personal information by traditional means—that is, law—moves very quickly. One of the changes that is surging to the forefront of attention is data breach regulation.

There has also been a very interesting document just tabled, I think the day before yesterday, by a committee of the Alberta legislature that goes into some other very practical, slight changes; for example, definition of employee information and of exactly what you could do as an employer with employee information, in terms of giving references, doing reference checks, and so on. Incorporating them into PIPEDA would make the act clearer for business, particularly for small businesses where people often don't have the myriad of advisers that larger businesses have. Some of those changes coming out of Alberta could I think be incorporated.

• (1140)

Mr. Dave Van Kesteren: You indicated, too, that we need to study identity theft. Would you agree, then, that before we make those changes to PIPEDA, we need to first establish identity theft and have a thorough study of it?

Ms. Jennifer Stoddart: Yes, I would suggest as a priority to continue the study of identity theft and have publicized hearings at which different people could provide input on the problem, because it spills over the jurisdiction of the federal government into others. I think that would be a great contribution, just to make the public aware of it through your hearings.

Mr. Dave Van Kesteren: Thank you.

The Chair: Thank you very much, colleagues.

I appreciate everyone's cooperation in having a useful dialogue without taking up the whole one hour.

I want to thank all of the commissioners for taking the time to present to us and to assure you that the good relationship this committee has built up since its inception will continue. We look forward to working not just on a reactive basis but rather on a proactive and a cooperative or collaborative basis with all of you.

Now we will be moving on to some motions that we have before us. You're welcome to stay and listen, but I don't believe there is any further business for you, so if you need to excuse yourselves, please do.

Colleagues, we have five motions that have been submitted to the committee for—

Mr. Mike Wallace: Have all five met the criteria in terms of notice? I moved four motions that I think are within the notice period.

The Chair: Mr. Martin actually put one in yesterday. I believe it was transmitted to the clerk at around 4 o'clock—somewhere around there.

Mr. Pat Martin: We go by the “one sleep” rule here, in my experience. The one sleep rule is the way we've conducted ourselves at this committee.

Mr. Mike Wallace: I have one from Mr. Martin. Are there two from Mr. Martin?

The Chair: Yes, there are. There is a final one. I will just highlight for the members what they are, and it is my intent to deal with motions in the order in which they were submitted for notice.

The first motion was from Mr. Martin with regard to looking at the Airbus thing—basically, the whole thing.

Then Madame Lavallée was the second to submit a motion, and it is a motion dealing with the same subject matter, but dealing with it only during the time of the current government, basically from January 2006.

The third one submitted is from Mr. Hiebert, whose motion is that we commence a comprehensive review of the Privacy Act.

Then Mr. Hubbard is number four, and Mr. Hubbard's motion is similar to Madame Lavallée's, to deal with the current government with regard to the Mulroney affair.

And finally, Mr. Martin submitted another motion yesterday. Proper notice was given. It basically is calling for Mr. Mulroney and Mr. Schreiber to appear on specific dates, and he will speak in more detail to that.

Mr. Mike Wallace: Can we get copies of that, Mr. Chair?

The Chair: It was given proper notice, according to the clerk, but not circulated because he had to get it translated. It wasn't submitted translated, but that's not necessary.

Mr. Russ Hiebert: Was it 24 hours?

Mr. Mike Wallace: Mr. Chair, I have a point of order. I was in my office all morning this morning, after one sleep, and not one e-mail on it. So I have four motions, not five. I would like a ruling on whether that fifth one is out of order for today. I don't mind it as a notice of motion for the next meeting, but there's no way we should be dealing with it, not seeing it, at a quarter to twelve.

The Chair: Just a moment. Mr. Wallace, what you've done is basically, on a point of order, made a motion that we rule it out of order. I think I have another matter, an overriding matter, that will make this a little bit moot.

Mr. Mike Wallace: Okay, let's hear it.

The Chair: Colleagues, you are all familiar with the mandate of the committee. It's in the Standing Orders, page 84 of the Standing Orders, under paragraph 108(3)(h). You also know that at the beginning of the mandate of committees, there is a catch-all phrase under paragraph 108(2)(e), which says, with regard to committees: "other matters relating to the mandate, management, organization or operation of the department, as the committee deems fit." It is referred to as the general powers clause, and it means that the committees basically are the masters of what they do. However, at the beginning of 108(2), there are four exceptions: (3)(a), which is the Procedure and House Affairs Committee; 3(f), which is official languages; (3)(h), which is our committee; and (4), which I believe is standing joint committees, which is the Library of Parliament.

Under our mandate, you will note, under 108(3)(h), subparagraphs (i), (ii), (iii), (iv), and (v) all relate to work pursuant to reports from the commissioners or references from the House. The motions before us do not fall under the mandate with regard to those items.

The only item under which we have some latitude is with regard to subparagraph 108(3)(h)(vi), and it reads, "proposing, promoting, monitoring and assessing of initiatives which relate to"—blah, blah, blah—"ethical standards relating to public office holders".

Yesterday I was advised that there have been questions raised about the admissibility of these motions under the mandate of the committee. I also wanted to confer with the...right now we don't have a principal clerk, but we have an acting principal clerk of committees who is responsible for all of them. I wanted to ask for an assessment and advice. There is some ambiguity. Their suggestion and advice to me, as the chair, was to come to the committee and ask for the sponsors of those motions for which notice has been given to put on the record their arguments as to the admissibility of the motions pursuant to the mandate of this committee under the Standing Orders.

I have spoken to Mr. Martin, Madam Lavallée, and Mr. Hubbard, since those are the three items that have come into question by the principal clerk of the committees. Mr. Hiebert's motion clearly is in order.

At this time, I am going to accept the advice and recommendation of the acting principal clerk of committees and our clerk and ask each of the members, as I've given them previous notice, to put on record their statement with regard to the admissibility of their motion under the mandate, specifically subparagraph 108(3)(h)(vi).

I'll begin in order of submission.

Mr. Martin.

• (1145)

Mr. Pat Martin: Mr. Chairman, now that I have the floor, in actual fact—

The Chair: The admissibility of your motion is the question that is—

Mr. Pat Martin: Well, Mr. Chairman, I have the floor, and I would like to move the motion that I submitted on November—

The Chair: Order, Mr. Martin. I can't do that because—

Mr. Pat Martin: Mr. Chairman, you don't get to dictate the order of these meetings. You've already taken an hour that we didn't really want to spend on your choice of study. We've been waiting patiently to put our motions forward.

• (1150)

The Chair: Yes, and we will, but—

Mr. Pat Martin: I don't mind giving my rationale in the context of the motion. I'd like to move—

The Chair: I would appreciate it if you would give your argument with regard to the admissibility.

Mr. Pat Martin: I will move the motion and I will speak to my motion, and that will include the admissibility.

The Chair: No. Mr. Martin, the question of admissibility has come up. That has to be resolved prior to the motion being eligible to be moved. I'm not going to consider the motion to be moved.

Mr. Pat Martin: No motion has been moved to date.

The Chair: I understand that.

Mr. Pat Martin: So you can't rule on its admissibility or not.

The Chair: Well, sure, because I will not be able to allow it to be moved if it's going to be out of order.

Mr. Pat Martin: In the context of arguing why I believe this committee should undertake this study, I will be arguing admissibility and why I believe it's within the mandate and jurisdiction—

The Chair: As I explained to you, Mr. Martin, the acting principal clerk gave the advice that he needs to hear the subtleties of how we get this under the mandate, and the advice he gave me was to ask the movers to have an opportunity to at least make their case. Otherwise, they may very well come back and say that the motions are out of order. As a courtesy to the members, I wanted to give them an opportunity to make that case.

Mr. Pat Martin: Here's how I see it. I'll move my motion. You either rule it in order or out of order, and we will challenge the chair or not challenge the chair based on your ruling. That's how I see it unfolding.

I'm starting to sense some kind of strategy here to delay and stall the progress of this committee.

The Chair: No.

Mr. Pat Martin: Well, no, not from the government side, for a change.

I'm going to move this motion now. You can rule it out of order or whatever, and then I will challenge the chair based on that ruling. You're not going to keep this motion off the floor any longer.

The Chair: Notice has been given to the members. Everybody is aware of what the motion is.

The chair has every prerogative to consult with the clerk or with the principal clerk of committees on admissibility. I have to make the final decision, but I'm going to do so with the advice of the resources I have available to me, those being the clerk and the principal clerk.

Mr. Pat Martin: When I move my motion, then you can rule it in order or out of order as you see fit.

The Chair: I can't. I will not rule on a motion if I don't know whether it's admissible. I'm sorry, I cannot do that.

Mr. Pat Martin: I'll give you a good argument as to why it should be admissible, and that can help guide you.

The Chair: Please.

Mr. Pat Martin: If the senior clerk says it's ambiguous, that it could go either way, then it will fall to the chair to make up his mind, based on the information you have.

Let's proceed.

I move the motion:

That the Standing Committee on Access to Information, Privacy and Ethics undertake a review of matters related to the Mulroney Airbus libel settlement; including any and all new evidence, testimony, and information not available at the time of the settlement so as to determine if there were violations of ethical and code of conduct standards by any public office holders; and to report to the House on its findings, conclusions and recommendations.

I'd like to speak to the motion now that I have moved it.

The Chair: Mr. Martin, I'm going to move that motion out of order pending the resolution of whether or not the motion is admissible.

I'm going to move now to Madam Lavallée for her comments.

Mr. Pat Martin: Mr. Chairman, on a point of order, I'd like to speak to my motion before you decide to rule it out of order or not.

The Chair: Mr. Martin, I'm sorry I can't do that. The motion is not in order at this time, given that the decision with regard to admissibility has not been taken.

I'm going to give the floor to Madam Lavallée—

[*Translation*]

Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ): On a point of order, Mr. Chairman.

[*English*]

The Chair: Yes, Mr. Guimond.

[*Translation*]

Mr. Michel Guimond: You have just made a ruling, and I would like to say that I am challenging it, Mr. Chairman.

[*English*]

The Chair: There is no decision.

Mr. Michel Guimond: Yes, you took a decision.

The Chair: I cannot receive the motion until I can get advice—

Mr. Pat Martin: You ruled it out of order.

The Chair: No, I said I cannot accept the motion, I cannot entertain the motion—

Mr. Pat Martin: Well, I challenge that decision.

Mr. Michel Guimond: We challenge this decision.

Mr. Pat Martin: We challenge the chair.

[*Translation*]

Mr. Michel Guimond: As part of the same point of order, Mr. Chairman, I would point out that in the House, Speaker Milliken often says committees are masters of their own procedure. As I understand it, the acting deputy clerk or the deputy clerk gave you some advice. I believe you're acting in good faith. You received some advice, but in the context of this committee, we do not have to agree with the acting clerk.

It is said that committees are masters of their own procedure, and we are. You ruled that Mr. Martin's motion was out of order. With all due respect, Mr. Chairman, we are challenging your decision, and I would call for a vote on this ruling.

● (1155)

[*English*]

The Chair: Let's be clear, Mr. Guimond. I did not rule.

I explained in great detail that the clerk and the acting principal clerk have raised questions about admissibility. Rather than make a decision, because this is a new committee and the provisions do not match other committees—they do not have the general powers—this is an area in which they want to hear the argument, with regard to subparagraph (vi), as to admissibility. They will then give me their advice and recommendation on the admissibility of any of those motions.

The next person on my list is Mr. Hubbard.

Hon. Charles Hubbard (Miramichi, Lib.): Mr. Chair, I—

Mr. Pat Martin: A point of order, Mr. Chair.

The Chair: We're still debating your—

Mr. Pat Martin: No, you're not, Mr. Chair. You moved on. You ruled that my motion could not be entertained now. Then there was a point of order. Your decision was challenged.

The Chair: Yes, but he's speaking on the motion.

Mr. Michel Guimond: I asked for a vote.

The Chair: There was no motion for a vote.

Mr. Pat Martin: Mr. Chairman, for heaven's sake, the only motion is whether to uphold the decision of the chair.

The Chair: Yes, but it's a debatable motion.

[*Translation*]

Mr. Michel Guimond: I'm sorry, Mr. Chairman, but you should check with the clerk. A motion challenging a ruling by the chair is not debatable. It must be voted on immediately.

[*English*]

Mr. Pat Martin: That's right.

The Chair: Mr. Martin attempted to move his motion, and I said that subject to getting the advice from the clerk and the principal clerk, based on the interventions made by the movers of those motions, I would not entertain the motion until I had advice from the clerk.

As you know, a chair can take whatever time is necessary to consult prior to making a ruling. I have taken this step because I know how important this issue is to members.

Mr. Guimond is correct. He's challenging my position with regard to whether or not I can rule that I will not accept the movement of that motion at this time, because I had asked for the interventions with regard to the argument whether a matter was going to be admissible under the mandate, to assist.

Mr. Guimond is absolutely correct. If the chair has been challenged on a decision taken or a ruling, it is then subject to a vote without debate.

Is that your understanding, Mr. Guimond, and the committee?

[*Translation*]

Mr. Michel Guimond: That is exactly what I was calling for, Mr. Chairman.

Thank you.

[*English*]

The Chair: The question before the committee is whether or not Mr. Martin effectively should be permitted to officially move his motion without our getting a determination of admissibility. That's not debatable. I'm sorry.

Does everyone understand the question? I'm being challenged, and Mr. Martin will in fact formally move his motion, which is debatable, and he will start debate on his motion.

This is not debatable.

Mr. David Tilson: I'm not debating it. I want to be clear what we're voting on.

Mr. Martin made a motion. Are we voting on opposing you, that you ruled it out of order, or are we voting that he can't make the motion?

• (1200)

The Chair: Mr. Guimond has challenged my decision.

Mr. David Tilson: I understand. I'm just trying to figure out what he's challenged.

[*Translation*]

Mr. Michel Guimond: I will start again.

Mr. Martin had already tabled a motion. The chairman informed us that the acting deputy clerk had told him this motion was out of order and that if Mr. Martin wanted a different interpretation, he would have to present some arguments.

Mr. Martin asked for the floor, and rather than...

[*English*]

The Chair: Order.

Mr. Guimond, you're in full flight. I have a feeling it's going to take a little bit more time. The time for this meeting has expired—

Mr. Pat Martin: You son of a bitch! I have a point of order!

The Chair: —and I'm going to adjourn.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

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