



House of Commons
CANADA

Standing Committee on Access to Information, Privacy and Ethics

ETHI • NUMBER 006 • 2nd SESSION • 40th PARLIAMENT

EVIDENCE

Monday, March 2, 2009

—
Chair

Mr. Paul Szabo

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

<http://www.parl.gc.ca>

Standing Committee on Access to Information, Privacy and Ethics

Monday, March 2, 2009

• (1535)

[English]

The Chair (Mr. Paul Szabo (Mississauga South, Lib.)): Good afternoon, colleagues. This is meeting number six of the Standing Committee on Access to Information, Privacy and Ethics. Our order of the day, pursuant to Standing Order 108(2), is briefings from two of the commissioners connected with our committee.

In the first hour we have Madam Mary Dawson, the Conflict of Interest and Ethics Commissioner.

Welcome, Commissioner. I know you've had a very busy time, particularly after an election. We've had a renewal of requirements in terms of declarations by public office-holders and others. I know the members are very interested to find out the state of the union within your commission and look forward to your words.

I would invite you now to address the committee.

Ms. Mary Dawson (Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner): Thank you, Mr. Chair. First, may I congratulate you on your re-election as chair of the committee.

I thank the committee for the invitation to appear before you today. I look forward to working with all of you.

[Translation]

I understand that most members are new to this committee. I am pleased to be here to tell you a little bit about my mandate and role and to update you on some of my office's recent activities.

[English]

The position of Conflict of Interest and Ethics Commissioner was created by amendments to the Parliament of Canada Act included in the Federal Accountability Act. I took office on July 9, 2007.

[Translation]

My office is an independent parliamentary entity reporting directly to Parliament. I administer two conflict of interest regimes.

[English]

The first one is under the Conflict of Interest Code for Members of the House of Commons. The code was drafted by the Standing Committee on Procedure and House Affairs, approved by the House of Commons in the spring of 2004, and came into effect on the commencement of the 38th Parliament in October 2004. I carry out my duties in relation to the code under the general direction of the Standing Committee on Procedure and House Affairs.

The second regime I administer is under the Conflict of Interest Act. It applies to some 2,700 public office-holders, defined under the act to include cabinet ministers, parliamentary secretaries, ministerial staff and advisers, and most Governor in Council appointees. About 1,000 of these 2,700 are designated as reporting public office-holders, and they're subject to additional rules and reporting requirements under the act.

The Conflict of Interest Act came into force on July 9, 2007, the very same day on which my appointment was effective.

There can be some confusion about the scope of my role, so I'll say a few words about what's outside my mandate.

My responsibilities do not extend to senators or to the judiciary. Senators are subject to their own code, which is administered by the Senate Ethics Officer. Public servants are subject to the Values and Ethics Code for the Public Service of Canada, which is established by the government.

I've also noticed some general confusion in the public as to my relationship with this very committee. This has occurred particularly when this committee has held hearings on particular ethical issues. It's sometimes assumed that my office is part of these deliberations. In fact, we are two separate and independent entities. The role of my office is to assist and advise members and public office-holders on their compliance obligations, to receive confidential reports and maintain a public registry, and to conduct investigations into alleged breaches of either the act or the code.

As for my reporting relationship with Parliament and with your committee in particular, the Parliament of Canada Act requires that I provide two annual reports, to be presented by June 30 for the previous fiscal year. One deals with the activities relating to members of the House of Commons and is referred to the Standing Committee on Procedure and House Affairs. The other one relates to my activities concerning public office-holders under the Conflict of Interest Act, and it's referred to your committee. You currently have my 2007-08 annual report, which I've provided to you among your briefing materials.

I've used these annual reports to highlight successes, issues, and challenges, and I intend to continue to do so. In addition to my annual reports, your committee is also responsible for reviewing my office's proposed expenditure plans or estimates and reporting them to the House.

When I appeared before this committee in November 2007, I outlined the priorities I had established for the following year. I am happy to report a number of operational and organizational improvements and accomplishments.

My focus has been and continues to be prevention. My office has undertaken a variety of activities to ensure that public office-holders understand their obligations under the Conflict of Interest Act and that we apply its provisions with consistency, clarity, and common sense. For example, we've issued guidelines on gifts and reimbursements relating to trusts, as well as information notices addressing issues of general interest relating to political activities and post-employment. We've also issued a notice clarifying how the new tax-free savings accounts, introduced in January 2009, relate to compliance requirements for public office-holders.

My staff and I have met with various groups of public office-holders, including heads and members of federal boards and tribunals, and ministers and their staff, to discuss the application of the act to their situations. These sessions are of particular importance for ministers' offices because of the relatively frequent changes in staff. I've also accepted a number of opportunities to speak publicly about my role, in an effort to increase the overall awareness of the ethics regimes for public office-holders and members of Parliament.

• (1540)

In the fall of last year, as we prepared to implement the new administrative monetary penalty scheme, we established a system of warning notices in relation to some of the disclosure deadlines outlined in the act. These warning notices have been very effective in promoting compliance without actually having to impose a penalty. Monetary penalties are, of course, intended to encourage compliance with the act rather than to punish.

In an election year the bulk of our work continues to be in the area of advisory services where compliance measures are reviewed or established not only for members of Parliament but also for all cabinet members, parliamentary secretaries, and their respective staff. Our advisers have been providing effective and timely services in this regard within the timelines specified in the act.

In the last year we've achieved a noticeable reduction in backlogs in the area of annual reviews. In fact, I think we've probably just about eliminated them, which I'm delighted about. By adding new tracking tools to our internal management database, we're now in a better position to manage our ongoing requirements under the act.

The extra work brought about by the election has been accomplished, in addition to responding to the numerous regular requests for advice that my advisers deal with every day and the more routine processes involved in bringing other new reporting office-holders into compliance with the Conflict of Interest Act.

We've redesigned our corporate website to make it more user friendly, and a number of information notices and guidelines can now be found on our website. We've also improved the public registry to make it more comprehensible to the general public. This new registry will be operational within the next two weeks. We've also developed an electronic public registry for members of Parliament, which will be operational shortly as well.

I've continued to make a number of organizational changes to better reflect the needs of the organization, in particular streamlining the upper management of my office. I have eliminated the position of a single deputy commissioner and replaced it with two assistant commissioners directly responsible for particular operational areas. Those two officers are the assistant commissioner of advisory and compliance, who oversees the provision of advice to clients; and the assistant commissioner of policy and communications, who oversees outreach and communications activities and assists the office in the development of clear and consistent policies and procedures.

I have a fully staffed legal services group under the direction of a general counsel, which assists my office with the interpretation of the act and the code, the conduct of examinations and inquiries, and other legal work.

The director of corporate services and her staff provide us with human resources, financial, and IT support. She has contributed much to the improvement of our record systems. I've also hired an executive adviser, who will assist me with the management of workflow in the office. She begins on Thursday this week, and I'm looking forward to that.

As for my priorities, as I've often said, I've been very impressed by the dedication to the public interest that I've seen on the part of public officials, whether elected or appointed. A continuing priority will be to support and facilitate public office-holders and members of the House of Commons in complying with the act and the code.

We will develop and put into place a coordinated outreach strategy to provide ongoing education for those subject to the code and the act—members and public office-holders—as well as the public at large and other stakeholders. We will continue to enhance and improve the information on the act and the code found on our website, and we'll continue to develop a records management system to improve the completeness and comprehensiveness of files, as well as the efficiency of the workflow.

As to members of the House of Commons, I am pleased to note that my office has recently published on our website four disclosure statement forms necessary for members to comply with their compliance requirements under the code, following their concurrence by the House. I expect to work with the new subcommittee of the Standing Committee on Procedure and House Affairs created to study the rules on gifts under the Conflict of Interest Code for Members of the House of Commons.

In conclusion, I have not addressed any budgetary matters or any issues related to my office's resources, and I assume I will address these as well as the budgetary process that applies to my office during your committee's review of my proposed main estimates for 2009-10, which I believe were referred to your committee last Thursday.

I'm already working on my next annual report, and I intend to raise a number of issues and challenges I have faced in interpreting and applying the act.

•(1545)

[Translation]

As my annual report will automatically be referred to your committee, I look forward to further discussions with you on this, as well as on my office's expenditures, already referred to your committee. Finally, I would also encourage members to consult my website for further information.

[English]

I thank you for your attention, and I'd be pleased to answer any questions you may have.

The Chair: Thank you kindly.

I think we're going to move directly to questions because our time is going to be short.

Mr. Wrzesnewskyj, please.

Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.): Thank you, Chair, and thank you, Commissioner.

Commissioner, what is the dollar limit for gifts that one can receive from foreign governments?

Ms. Mary Dawson: There's no differentiation about who you receive them from, but if you're talking about the act, there's a \$1,000 limit. Under the code, there's no limit. Then there are different limits for reporting.

Mr. Borys Wrzesnewskyj: So there's a \$1,000 limit, but should it come in the form of travel to foreign countries, and a person is wined and dined, allowed to stay in five-star hotels, there's no limit as long as they report that they may have been on this \$10,000 trip sponsored by a foreign government? Is that correct?

Ms. Mary Dawson: The sponsored travel is dealt with completely separately and it's just a matter of reporting the amount. Yes, there's no limit.

Mr. Borys Wrzesnewskyj: I know you just apply the rules, you don't set them, but doesn't that seem to indicate an inconsistency? All other forms of gifts have this very specific limit, yet when it comes to travel by members of Parliament who legislate, put policy—especially foreign policy—in place, there's absolutely no limit on the amount of wining and dining that may happen overseas, far away from Ottawa.

Ms. Mary Dawson: I can't really comment, because it is a matter of policy, but one comment I suppose I could make is that as far as I'm concerned, disclosure is more potent than anything else, and at least it has to be disclosed.

•(1550)

Mr. Borys Wrzesnewskyj: It has to be disclosed, but whether or not the public follows all of the procedures is a different matter. Do MPs tend to recuse themselves? For instance, with members of the foreign affairs committee, are you aware of any situations where members have taken these sorts of trips—some would call them junkets—and then recused themselves from the decision-making processes in regard to countries in which they've travelled where someone else has covered their costs?

Ms. Mary Dawson: I have no examples of recusals in that area at all.

Mr. Borys Wrzesnewskyj: In your studies of the rules put in place by most other countries, would they have much more stringent rules in regard to this particular area than Canada does? If so, is there any reason you may be aware of as to why we've allowed this to slip by?

Ms. Mary Dawson: Generally speaking, I find that Canada has relatively more stringent rules than other countries in these areas, but I actually have not looked into the question of sponsored travel. I could do so if you would like me to.

Mr. Borys Wrzesnewskyj: That would be tremendously helpful, especially looking at western countries and how they deal with parliamentary travel overseas.

Moving on to a different question, I noted that in 2008 there were reports from only 52% of the 416 public office-holders, or I should say it was this number who met the deadline. What percent have since still not met requirements, not just the deadline? It's basically that half didn't meet the deadline.

Ms. Mary Dawson: Yes. It's significantly higher now. I'm just in the process of gathering those figures. We're not at the end of this fiscal year yet, but we're in the process of gathering them for our next annual report. But I can say that we've put a huge effort on the 60-day and the 120-day deadlines because of the penalty scheme we were asked to impose. I felt that we could not start imposing the scheme until we had a really good handle on the processes to get the reports in.

I can say that we basically don't have anyone at the moment missing the 60-day deadline, and on the 120-day deadline, it's a little more difficult to actually administer that one, because sometimes it takes more of the 120 days to sort out the intricacies of certain trust arrangements. But they're in very good shape.

Mr. Borys Wrzesnewskyj: I was referring to the 2007-08 deadline, when every second public office-holder out of 416 seemed to miss the deadline. And it's not that perhaps people are lax. It seems to indicate to me, and I could be wrong, that perhaps adequate notice or adequate information hasn't been provided to those public office-holders that this is an absolute requirement. Would that be a fair assumption?

Ms. Mary Dawson: Yes. I inherited this office a year and a half ago, and what you're referring to is the fall-out from the previous office. As I said, one of my first priorities was to get the timelines into shape, and I think we've done so. Definitely, when I came in I found there was a lot of backlog.

Mr. Borys Wrzesnewskyj: Looking at 2007-08 once again, there were 110 individual trust arrangements, and it says at a cost to the crown of not quite \$700,000. I'm surprised that it's less than \$7,000 per trust arrangement. What exactly is taken care of in those trust arrangements for those public office-holders?

Ms. Mary Dawson: It's mainly stocks and investments. It's just the cost of the trustee to administer those investments.

What I found was that some people weren't claiming anything for those and other people were claiming. We have guidelines on our website, and some people claimed more than the guidelines, but they can only get the amount that's in the guidelines, which we've determined is a fair value. Those are the figures we've found.

• (1555)

Mr. Borys Wrzesnewskyj: How many members of Parliament—

The Chair: You're at seven minutes already.

Madam Thi Lac, please.

[*Translation*]

Mrs. Ève-Mary Thaï Thi Lac (Saint-Hyacinthe—Bagot, BQ): Thank you very much for appearing before us today, Ms. Dawson. I have a number of questions for you.

You mentioned in your statement that some individuals were subject to the former conflict of interest code, but that they are not covered by the new act. Why did you not apply the new act to everyone?

[*English*]

Ms. Mary Dawson: I did apply the act to everybody who was covered by the act. That's the short answer. There were some changes from the code to the act.

[*Translation*]

Mrs. Ève-Mary Thaï Thi Lac: I see. What are—

[*English*]

The Chair: You do not make the act yourself.

Ms. Mary Dawson: No.

The Chair: It's the government. She's just applying the act, and I don't think she can explain what happens when an act changes and somebody is no longer in the scrutiny process.

You're not responsible for the act itself.

Ms. Mary Dawson: That's right.

I'm having trouble hearing the questions. I'm sorry, but that's why I'm answering you in English. It's because I'm getting the English. If you'll excuse me....

[*Translation*]

Mrs. Ève-Mary Thaï Thi Lac: I see. What are the differences between the former conflict of interest code and the new act? What are the main changes?

[*English*]

Ms. Mary Dawson: The main changes in the code are probably the application of investigations beyond ministers and parliamentary secretaries to anybody covered by the act. That's probably the biggest change. The other is the possibility of applying penalties under the act. That did not exist before under the code. Those are the two main changes.

[*Translation*]

Mrs. Ève-Mary Thaï Thi Lac: You are hoping people will be better at meeting deadlines in the future, particularly in the implementation of the new regime for the upcoming fiscal year. You spoke about penalties. What are they?

[*English*]

Ms. Mary Dawson: The maximum penalty that I can impose is \$500, and they're all related to deadlines that are missed. It's not for failure to comply with the conflict of interest rules; they're for

deadlines. They're called administrative monetary penalties and they're like fines effectively.

[*Translation*]

Mrs. Ève-Mary Thaï Thi Lac: I see.

You were asked to look into the Dimitri Soudas case. You said that because of the date on which the request was made, it was shown that Mr. Soudas had not violated the 2006 code.

Can you provide me with some explanation regarding this statement?

[*English*]

Ms. Mary Dawson: Mr. Soudas was investigated, but he was basically exonerated in my report. He was found to have not failed to comply with the predecessor of the act.

It gets very confusing, because before the act there was a code for public office-holders. Now there's a code for MPs but an act for public office-holders.

[*Translation*]

Mrs. Ève-Mary Thaï Thi Lac: Would the decision regarding Mr. Soudas have been the same or different under the new act?

[*English*]

Ms. Mary Dawson: I think the decision would have been the same. I basically found that he had done the job expected of him as an assistant in the Prime Minister's Office. He had simply looked into a long-standing court case that had gone on for about 10 years. It was quite reasonable that he asked the department what was going on with that. I found that he had not interfered with the process at the public service level.

• (1600)

[*Translation*]

The Chair: Thank you, Ms. Thaï Thi Lac.

Mr. Siksay.

[*English*]

Mr. Bill Siksay (Burnaby—Douglas, NDP): Thank you, Mr. Chair.

Thank you for being here today, Ms. Dawson. I mentioned to you earlier that I saw some of your educational and outreach work the other morning at a presentation you made, and it was very good. I know that was helpful to everybody in the room.

Ms. Mary Dawson: Thank you very much.

Mr. Bill Siksay: I have a couple of questions on the complaints you receive. Can you receive complaints directly from the public that you would investigate?

Ms. Mary Dawson: I can receive complaints and I have the power to self-initiate a complaint, but I'm not required to follow up on a complaint unless I think there are reasonable grounds. Then it's at my discretion as to whether I follow it up.

Mr. Bill Siksay: You are required to follow up on complaints from members of Parliament and senators.

Ms. Mary Dawson: Yes.

Mr. Bill Siksay: Is that the only group of complaints that you are required to follow up on?

Ms. Mary Dawson: I think Parliament can ask me to do one too.

Mr. Bill Siksay: When you get a complaint from the public, is a different process involved? Do you determine whether or not you're going to investigate it? That sounds like an investigation of sorts in its own right. What happens when you get a public complaint?

Ms. Mary Dawson: There's a different process under the MPs' code and under the act. I assume you're asking about the act.

Mr. Bill Siksay: Sure.

Ms. Mary Dawson: Under the act there aren't too many rules around it, so I would basically follow the same process if I were going to self-initiate as I would follow for one requested by an MP or a senator.

Mr. Bill Siksay: When you reach a conclusion, are there categories of conclusions? Do you offer opinions that are different from a ruling? I probably don't have the right language for that, but are there different ways that you would offer advice or rulings?

Ms. Mary Dawson: I have to come to a decision on the complaint made, so I would come to a conclusion. But I've found that each of the three, four, or five reports I've put out is different, and I handle each a little bit differently. For example, in one of them I actually suggested that if Parliament wanted to make a change maybe they'd like to consider it. But that only happened in one, because that was the only one where it was relevant. There are differences in each report, and there aren't any rules in the act or the code around what's to be in the report.

Mr. Bill Siksay: I'll come back to the first question that Madame Thi Lac asked around folks who aren't covered by the new act who were covered under the previous code. You mentioned that there are some public officer-holders who aren't covered but have voluntarily agreed to comply. Is there a category of people who have been missed? Can you categorize the folks who aren't included now who were included before?

Ms. Mary Dawson: The definition of a public office-holder is not the clearest in the world, and some areas could be improved by some amendments. With the example you gave of the people who were asked to voluntarily comply, the wording of the act refers to people appointed by the Governor in Council. These people were not appointed by the Governor in Council; they were appointed by somebody else and approved by the Governor in Council, so technically they were not caught by the act.

My sense is that with an act, particularly when it's an onerous thing, you have to apply the strict wording and not go beyond that.

There weren't very many of those people, incidentally. There may have been between five and ten.

Mr. Bill Siksay: Do you think it requires a change to the legislation to be clearer and to catch all of those folks?

Ms. Mary Dawson: If the government wants to catch them, it would have to amend the legislation.

Mr. Bill Siksay: Do you have a suggested wording for a change or what that might look like?

Ms. Mary Dawson: I haven't been asked to give it, but I could do it.

Mr. Bill Siksay: Okay.

I noticed that there are also some other anomalies. For instance, you've talked about the summer student in the minister's office. Can you say a little bit about the kinds of problems that has raised?

Ms. Mary Dawson: I've made the observation that a summer student in a minister's office is under exactly the same rules as a minister or a deputy minister. Sometimes this creates some problems for that summer student. For example, if they're relying on a McDonald's job for the year, they have to give that up in order to be able to work in the minister's office. The other problem with short-term appointments is that sometimes they're gone before the end of the 120 days that they have to comply. Certainly if there were anything they had to divest, which in the case of students is probably fairly unlikely, there's a problem if their tenure is about 120 days, because it's silly to divest and then immediately get it back again.

I wouldn't exactly call them anomalies, but there are difficult situations in applying this act sometimes. There's a different range of categories of people covered by the act, and sometimes one size doesn't fit all perfectly.

• (1605)

Mr. Bill Siksay: Is there a way of fixing that in terms of the legislation? Is there a fix possible that you would see?

Ms. Mary Dawson: Sure.

Mr. Bill Siksay: Can you say something about what that might look like?

Ms. Mary Dawson: It would just be a matter of looking at the specific problems and writing an exception or adjusting it slightly.

Mr. Bill Siksay: There's a similar situation with assets of \$20,000 or less and the requirement to divest those, and I think you've made some interpretations there as well.

Ms. Mary Dawson: I had to determine what was sufficiently small to fall within the exception, and I've set that rule at \$20,000. The reason I set it there was that you can't get a trustee to take a case that has less than a \$20,000 value, basically, so it seemed a sensible limit.

Mr. Bill Siksay: There was some press recently about the number of dinners that MPs and senators are invited to, and the fact that they're getting fancier. I know you don't deal with senators, but do you have any concerns about those kinds of events?

Ms. Mary Dawson: With respect to gifts, which invitations to dinners are, it entirely depends on who it's from and what it's for. If you're invited to an expensive dinner by your boyfriend, it's fine, but if you're invited to an expensive dinner by somebody who wants you to make a decision for them, then it may not be so fine. It depends entirely on the circumstances.

The Chair: Thank you, Mr. Siksay.

We have to move now to Mr. Hiebert, please.

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

It's good to see you again, Ms. Dawson. Thank you for being here.

What sections of the code do you spend most of your time focusing on adjudicating?

Ms. Mary Dawson: Do you mean the act or the MP code? Actually, it's gifts, whichever one you're asking about.

Mr. Russ Hiebert: That's fine, and we've had a lengthy discussion about that.

Are there sections that are the subject of complaints by past or current public office-holders, and are there improvements that could be made that would address those complaints that would still preserve the basic principles behind the act?

Ms. Mary Dawson: Do you mean complaints about how the act applies?

Mr. Russ Hiebert: Yes.

Ms. Mary Dawson: I think there probably are some. There probably could be some improvements in the act. The act is not bad, though, but there are small areas in the interpretation of the act that from time to time I come upon that are difficult cases. There's not much discretion in that act. That's the other change, perhaps, from the code. There was more discretion in the code. I'm not left with an awful lot of discretion, except in certain cases that are specified.

Mr. Russ Hiebert: Right, so the complaints that you're hearing deal more with the grey areas, areas you would prefer to have some discretion over.

Ms. Mary Dawson: Yes, it would be easier to have discretion in some areas, but there are advantages to having clearer rules as well, which is why I have some focus on establishing guidelines so people know where I'm going. There's room for interpretation even within the four corners of the act as well, but it's the difficult cases. There are some instances, and I can't think of any off the top of my head, but here and there throughout the act there are places where a little more discretion might help, as with the summer students, for example.

Mr. Russ Hiebert: Yes.

I note that there's a general five-year ban on lobbying for many former public office-holders or staff persons after they leave office. But I also note in the code—or it may be in the act, I'm not sure—that sometimes there are exceptions to the rule. Could you explain under what circumstances there would be an exception to that rule?

Ms. Mary Dawson: Actually, you're going to have a chance to speak to the lobbying commissioner in a little while. That's under the Lobbying Act, which I don't administer. She should speak to that.

• (1610)

Mr. Russ Hiebert: Fair enough.

Mr. Chair, I'll share the balance of my time with Mr. Poilievre.

The Chair: Thank you.

You have four and a half minutes left.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Great.

Thank you very much for being with us, Ms. Dawson. At the outset, let me thank you for your work. I have found, as a public office-holder, that there's been a very big improvement in just the basic administration in terms of response times to the questions we regularly pose to get your advice, to set up our trusts, and so on. So congratulations on that.

On the question of the act versus its predecessor code, I'm wondering if you could tell me what the distinctions are between the former code for public officers and the present act as it relates to blind trusts.

Ms. Mary Dawson: I can't think of any particular distinction. The rules are pretty well the same.

Mr. Pierre Poilievre: They're identical.

Ms. Mary Dawson: Yes.

Mr. Pierre Poilievre: When were those rules established?

Ms. Mary Dawson: They would have been established in 2004, I think, when the code was established.

Mr. Pierre Poilievre: Okay.

You mentioned the limitation on gifts. You said \$1,000 earlier. Did I hear that right?

Ms. Mary Dawson: That's the maximum for a gift you can receive as a public office-holder.

Mr. Pierre Poilievre: And the maximum you can receive before being obliged to report a gift is \$200?

Ms. Mary Dawson: Yes. But if it's under \$200, it doesn't make it right, necessarily.

Mr. Pierre Poilievre: Right. Of course.

How have you found compliance with these rules so far?

Ms. Mary Dawson: With the gift rules?

Mr. Pierre Poilievre: Yes.

Ms. Mary Dawson: Gifts are very difficult to monitor, because I only know about them when somebody tells me about them. I can't go out and investigate everybody to see whether they've received gifts. I'm entirely reliant on their coming forward and telling me. And a great many people do; most people do. Most people, as I said, are very concerned that they're complying with the law.

Mr. Pierre Poilievre: Right.

Ms. Mary Dawson: But in fact there's no way for me to know whether I'm getting reports on all the gifts that are being received. I'm actually trying to do a bit of work on that, to figure it out. I've dealt with a few ministers' offices now. There was a delay in reporting gifts, a very noticeable delay, which came to light last summer in a newspaper article.

I've worked with several offices now to set up a system whereby every two weeks they report any gifts they've gotten. That has rectified the problem quite a bit, but there's still work to be done. I'm trying to figure out who else I ought to go and establish a system for. I don't know whether I...

You know, I have certain people who consistently report gifts. And there are only certain types of people who get gifts, actually. Usually they're prime ministers and so on, or people who are out on trips and what not. Probably there are subject areas where gifts are more likely, but I haven't finished figuring out what to do about that.

Mr. Pierre Poilievre: You said in your remarks, "As I have often said, I have been very impressed with the dedication to the public interest that I have seen on the part of public officials, whether elected or appointed." When you look at the ethical comportment of Canadian public office-holders of any political stripe, whether they be elected or appointed, how would you compare them in terms of the standards observed in written word and also in practice elsewhere in the world? How are we doing?

Ms. Mary Dawson: Well, so many different countries are at different stages of development in this world. In many countries, the whole problem is corruption, huge corruption. We don't really have that problem here in Canada. I get a number of visitors from various countries asking me about corruption, and they're speaking on a whole different level from what we're dealing with.

So generally speaking, I think we compare extremely favourably.

Mr. Pierre Poilievre: Thank you.

The Chair: Thank you very much.

I think the Liberals are going to pass on this.

I'll go to Mr. Plamondon right now.

[Translation]

Mr. Louis Plamondon (Bas-Richelieu—Nicolet—Bécancour, BQ): I would like to welcome you to the committee, Ms. Dawson.

What is the overall budget of the Conflict of Interest and Ethics Commissioner's Office? The reason I ask is that you said you hired two consultants, then two more. You seem to have an unlimited budget. Was this hiring done under your initial budget?

• (1615)

Ms. Mary Dawson: The budget is \$7.1 million. Of this amount, \$4.5 million is for employees' salaries.

Mr. Louis Plamondon: I found one of your decisions quite surprising. When Democracy Watch asked you to look into possible violations of the act by the Prime Minister or his office, the Attorney General or a number of cabinet ministers, you said that because there was insufficient credible evidence, you would not conduct an investigation.

Why did you not start by investigating to see whether there was any basis to the allegations before rejecting the request made by Democracy Watch? You rejected this request by Democracy Watch out of hand, even though your role should have been to investigate and subsequently respond.

[English]

Ms. Mary Dawson: The difficulty is that in order to get the facts I have to institute an investigation, so it's a bit circular. I require at least some evidence to satisfy me that there's probably something there to investigate.

The difficulty I had with the Democracy Watch requests was that they were all over the place. They were very imprecise, and it was very unclear exactly what he was asking for. He was asking me to find that the Prime Minister, every single cabinet minister, and every single senior public servant who was appointed by either Mr. Harper or Mr. Mulroney had done something wrong. There wasn't enough precision in what he was requesting to justify going into a huge investigation like that—and I do have discretion. He had no particular standing to request an investigation—only an MP or a senator has standing to do that. So it would have been a personally initiated investigation if I had decided to do it, and I just didn't have enough to go on.

[Translation]

Mr. Louis Plamondon: When you referred to the Mr. Soudas affair, you said that he had been exonerated and that if he had been covered by the new act, you were of the view that he would have been exonerated by it as well.

I am quite surprised that in your view there is not automatically interference when the Prime Minister's chief of staff raises questions about a particular matter. It is not difficult to figure out that this individual is trying to influence someone or some decision. I think that there is an automatic possibility of an investigation.

[English]

Ms. Mary Dawson: I did a very complete investigation. I interviewed 16 individuals, including the Prime Minister, to see exactly what had happened. I found that Mr. Soudas had only attended two meetings. Nobody had any sense that he'd applied any pressure at all. He was asking why this case had been running for 10 years, and why people weren't able to move forward with it. I found that he had not involved himself in the decision at all. So my observation was that if a Prime Minister or a minister can't ask what the heck is going on in a department, I'm not sure what they can do.

[Translation]

Mr. Louis Plamondon: Yes, but this can be done in a letter, through correspondence, not by going to a committee at which the chief of staff is present. There is a much more direct possibility of interference in that case than if information is requested in a letter.

• (1620)

[English]

Ms. Mary Dawson: Yes, but I don't think the fact that you attend and talk to somebody in person automatically makes you guilty of interference.

Anyway, the report is there, quite fulsomely written out, and my rationale is set out there. I feel quite comfortable with that decision.

The Chair: Thank you.

Mr. Siksay, please.

Mr. Bill Siksay: Thank you, Chair.

Ms. Dawson, one of the other things you mention where it's been difficult to follow all of the obligations is post-employment advice. The act requires you to advise people before their last day on the job; there are obligations, yet you often don't know when that last day is. Can you talk a little bit about that and how you see that issue being solved?

Ms. Mary Dawson: Actually, the act doesn't require me to advise anybody about anything. It's interesting. We take a lot of measures that aren't required under the act just because we're trying to inform people about their obligations. There is no requirement, for example, for us to tell people they ought to put their disclosure statements in, but we do it. To avoid penalties, we actually give a series of warnings that they're coming up to their deadlines.

Similarly with the post-employment, it's really our initiative that has us send out post-employment letters as soon as we hear that somebody has retired or has left the public service as a public office-holder.

What I would comment on is that after they have gone, there are no further requirements that they submit any reports, although there are some rules that go on for a year or two, and in fact for life, as I say, for some of the rules. There is no reporting requirement. I'm not saying there necessarily ought to be, but there aren't many tools to follow up with a post-employment person as to what's going on there.

Most things would come to our attention through press reports.

Mr. Bill Siksay: Your annual report states, under timing of post-employment advice, that the act requires that the commissioner advise public office-holders.

Ms. Mary Dawson: Yes, that's a technical problem with the act, because we very frequently don't hear about people who have left their positions until after they've left. There's not much we can do about that except continue to work with the people who should be telling us.

Mr. Bill Siksay: One other question, which we were discussing before the meeting started, is about what happens to gifts that are forfeited. You were mentioning that there isn't a consistent policy. Are there problems associated with not having a consistent policy on the disposal of forfeited gifts?

Ms. Mary Dawson: I actually don't think so. I've had the archivist say he falls heir to an awful lot of gifts left over, but there is in fact a Treasury Board policy. The policy is that it's left up to the individual departments to decide what to do with forfeited gifts. Most departments, I believe, have rules and several options as to what will happen to those gifts. Sometimes they're sold, sometimes they're in surplus, and sometimes they're auctioned off for charity. They do a variety of different things, all of which is okay under the general rules.

Mr. Bill Siksay: Is there not a concern about auctioning and donating them to charity, for instance, that some benefit would come back to the person who had received that gift? You know, at least goodwill for providing....

Ms. Mary Dawson: Actually, it belongs to the crown if it's forfeited, so it comes from the crown.

Mr. Bill Siksay: Thank you.

The Chair: I have just a couple of points.

I was initially concerned about the number of delinquents on the reporting requirements under the act. The number that I think Mr. Wrzesnewskyj raised was that only 52% of the 416 new reporting public office-holders during 2007-08 actually met the deadline. How many of those still have not? This is from March 31, 2008, and the 60 days thereafter, but have they not yet met the deadline?

Ms. Mary Dawson: I think they're all cleaned up. I put a real effort in to clean up all the backlog when I came in, and I understand it's finished. So we're now dealing with the current cases.

The Chair: Okay.

With regard to 2008-09, the 60-day reporting requirement has already passed.

• (1625)

Ms. Mary Dawson: Yes.

The Chair: So we have about.... Well, it doesn't matter how much time we have in the current fiscal year remaining, but we have people, I assume, who as of today still have not complied with the requirements for fiscal 2008-09.

Ms. Mary Dawson: What makes you say that? As far as I know, they've all complied.

The Chair: You reported that 52% for 2007-08 had not met their deadline.

Ms. Mary Dawson: Right.

The Chair: And your answer to the question was that they're all cleaned up.

Ms. Mary Dawson: Yes. Either they've left or we've dealt with them.

The Chair: Now, moving one fiscal period forward, which is April 1, 2008, to March 31, 2009, for any new public office-holders even following the election, there is a requirement to file compliance within, I believe, 60 days, right?

Ms. Mary Dawson: Right.

The Chair: Okay. How many people still have not met that 60-day compliance requirement in the fiscal year 2008-09?

Ms. Mary Dawson: We're talking about under the act, not under the code?

The Chair: Yes.

Ms. Mary Dawson: There are none. We don't have a backlog there now. I'm being handed a note: it's 0% in 60 days.

The thing is we instituted a process whereby after 30 days we phoned them up and said, look, you have 30 days left, and you'd better get moving. After 50 days we did the same thing. Part of the impetus was to get the darned things done, but the other part of the impetus was that we didn't feel we wanted to impose the penalty scheme without giving some people some warning. So I'm telling you we've cleaned up our act there. There are none.

Now, on the 120 days it's a little more complicated, because sometimes a case is complicated and you can't get it done in 120 days. But if we're negotiating with them and trying to sort out the information, we're satisfied, and only 10% have not met the 120 days.

The Chair: So there's good faith there.

Ms. Mary Dawson: I'm very happy with the results.

The Chair: That's great.

Finally, have you had an opportunity to look at the applicable or comparable legislation in other Commonwealth jurisdictions to determine whether there are any differences that might be helpful for us to consider?

Ms. Mary Dawson: My staff have, and I haven't had a chance to read it yet, but I'm doing that in preparation for my annual report.

The Chair: Okay, thank you kindly.

Are there any further questions from members?

We'll have Mr. Siksay, and then we'll be done.

Mr. Bill Siksay: I have one quick question, Ms. Dawson.

I think I heard you suggest that there should be some kind of conflict of interest test before the divestment of certain assets. I'm wondering if you could say a bit more about your experience with that and whether this might be a helpful thing to consider. Can you explain the problem and what that might look like?

Ms. Mary Dawson: Divestment, particularly these days, is of significant concern to people because of the economic situation. They're very nervous about handing over their assets to somebody else to look after. Also, divestment can mean either selling something or putting it into trust, and nobody wants to sell their stuff these days, so there's a particular problem right now.

But there's a general problem, I think, which again I will discuss in my annual report this year. I'm just working through the arguments now. I think there is a question of whether it's necessary that the divestiture rules apply as broadly as they do without a conflict test.

Mr. Bill Siksay: So there will be more to come.

Ms. Mary Dawson: There will be more to come.

The Chair: I want to thank you.

I'm reminded that there is still some interest with regard to the travel issue in other jurisdictions. If your commission could please provide us with any information you might have to respond to Mr. Wrzesnewskyj's question, that would be very helpful. It can be directed to the clerk for circulation to the members.

Ms. Mary Dawson: Okay. We'll look into that. I'm not sure how long it'll take, but I'll try to do it in the next couple of weeks.

The Chair: Well, how about we give you—what is the access to information limit?—30 days, but there'll be no 120 extension.

Ms. Mary Dawson: We'll get what we can to you.

The Chair: Thank you very, very much for your appearance and your assistance to the committee, as we get to know you better. As I said to you the last time we saw you, I hope you consider this committee to be your partner. As issues and concerns arise, we would like to work with you to address them and to resolve them, if necessary.

• (1630)

Ms. Mary Dawson: Thank you very much. I look forward to it.

The Chair: Thank you. I'll suspend until we get our next witness set up.

•

_____ (Pause) _____

•

The Chair: We will resume our meeting.

We now have before us, from the Office of the Commissioner of Lobbying, Ms. Karen Shepherd, the interim Commissioner of Lobbying.

Welcome to you, Ms. Shepherd. It's the first time we've seen you. Since this is a new area of responsibility, I'm sure there are a lot of things on your part that could be of interest to the members.

I understand you have an opening statement, and I hope you will introduce the colleagues you brought with you today.

Mrs. Karen Shepherd (Interim Commissioner of Lobbying, Office of the Commissioner of Lobbying): Thank you.

[*Translation*]

Mr. Chairman and members of the committee, I am pleased to be here today to discuss the mandate and activities of the Office of the Commissioner of Lobbying.

• (1635)

[*English*]

I have prepared short remarks, which have been distributed.

I am accompanied today by our legal counsel, Mr. Bruce Bergen, and by Monsieur Pierre Ricard-Desjardins, our director of operations.

Mr. Chairman, I thought that for the benefit of new members I would briefly explain the history of Canadian lobbying legislation. In the information kits that were distributed in advance, we have included a document entitled "Key Events in the History of the Canadian Lobbyists Registration Regime", which we thought might be a useful reference document.

The first Lobbyists Registration Act came into force in 1989, but for all practical purposes, the disclosure requirements were no more than what you would find on a business card. In 1996 the Lobbyists Registration Act was amended to require a lobbyist to disclose more information, such as which departments they were lobbying, the subject matter, and the means of communication they were using. The 1996 legislation also introduced a requirement for the former ethics counsellor to establish a code of conduct. The Lobbyists' Code of Conduct came into force in 1997. In 2005 the Lobbyists Registration Act was once again amended to enhance transparency by requesting lobbyists to disclose additional information, such as whether they were former public office-holders.

[*Translation*]

On July 2, 2008, the Lobbying Act came into force, creating the position of Commissioner of Lobbying and the Office of the Commissioner of Lobbying. These changes were contained in the Federal Accountability Act. I was appointed as Interim Commissioner of Lobbying for an initial period of six months, which, in January 2009, was extended for another six months.

[*English*]

Accountability is the foundation upon which Canada's system of responsible government rests. Strong accountability assures Parliament and Canadians that its departments and agencies are using public resources efficiently and effectively and that they are promoting and safeguarding ethical practices. Transparency and accountability in lobbying of public office-holders contributes to the confidence and integrity of government decision-making.

The Office of the Commissioner of Lobbying is implementing and administering the Lobbying Act in accordance with the clear direction of Parliament and Canadian's desire for increased transparency and integrity within federal institutions.

As interim Commissioner of Lobbying, I believe that my principal responsibility is to ensure that lobbying activities conducted at the federal level are carried out in a transparent and ethical manner. The Lobbying Act aims to improve transparency by making it a requirement for lobbyists to register their lobbying activities and to file monthly communication reports when they are meeting with certain types of public office-holders. Increased disclosure requirements allow parliamentarians and Canadians to know who is meeting with senior holders of federal public offices.

[*Translation*]

"Public office holders" are defined as virtually all persons occupying an elected or appointed position in the federal government, including members of the House of Commons and the Senate, their staff, officers and employees of federal departments and agencies, members of the Canadian Armed Forces and the Royal Canadian Mounted Police.

[*English*]

The Lobbying Act ensures that lobbying activities conducted at the federal level are open and transparent. This legislation, like the previous versions of the Lobbyists Registration Act, is based on the principle that free and open access to government is an important matter of public interest, that lobbying public office-holders is a legitimate activity, that it is desirable for public office-holders and

Canadians to know who is engaged in lobbying activities, and finally, that a system for the registration of paid lobbyists should not impede free and open access to government.

Lobbying is defined as communicating with federal public office-holders, whether formally or informally, for payment, with respect to the making, developing, or amending of federal legislative proposals, bills or resolutions, regulations, policies, or programs; and the awarding of federal grants, contributions or other financial benefits. In certain circumstances, arranging meetings with public office-holders is also lobbying. The act provides for three categories of lobbyists: consultant lobbyist, in-house lobbyist for a corporation, and in-house lobbyist for an organization.

The act specifically excludes from the registration requirements public submissions before parliamentary committees or any other federal bodies that are a matter of public record and, therefore, are considered to be transparent; submission to a public office-holder with respect to the enforcement, interpretation, or application of a federal law or regulation by that official; and communications restricted to requests for information.

All lobbyists are required to disclose certain information within time limits specified in the act. The information includes, as the case may be, the name of the client, the corporate or organizational employer, the names of the parent or subsidiary companies that could benefit from the lobbying activity, the organizations and corporations that are members of a coalition, the subject matters lobbied, the names of the federal departments or agencies contacted, the source and amount of any government funding received, and the communication techniques used. Corporations and organizations must also provide a general description of their business or activities.

• (1640)

[*Translation*]

The responsibility for filing a disclosure rests with the lobbyists themselves in the case of consultant lobbyists and on the most senior officer in the case of corporations and non-profit organizations.

The information disclosed in the lobbyists' registration system has been publicly available on-line since 1996 and is available 24 hours a day.

[*English*]

The Office of the Commissioner of Lobbying continues to make improvements to the lobbyist registration system to make it easier to register on and search that system. The registration system is the office's core instrument for recording the registration information of lobbyists. The registry, although it's already at the forefront of electronic registration, is more flexible and responsive than ever before and provides users with better information. I believe that recent upgrades to the system have made the registry a world class model for other lobbying jurisdictions.

The coming into force of the Lobbying Act has greatly affected the way we conduct business at the Office of the Commissioner of Lobbying. First, the Lobbying Act established the office of the Commissioner of Lobbying as an independent officer of Parliament, with the authority to enforce the Lobbying Act and the Lobbyists' Code of Conduct. The Commissioner of Lobbying now has enhanced investigative powers, as well as a formal mandate, to establish outreach and educational programs.

The second major change brought about by the Lobbying Act was the creation of a new sub-category of public office-holder. The Lobbying Act defines designated public office-holders as persons occupying senior positions, such as ministers of the crown, ministers of state and their staff, deputy ministers, associate deputy ministers, assistant deputy ministers, certain positions designated by regulation, and several positions of comparable rank. I have defined comparable rank in an interpretation bulletin to include those at the EX-4 level or the equivalent salary range.

Another significant change brought about by the Lobbying Act is related specifically to designated public office-holders. There is now a requirement for lobbyists to file monthly communication reports when communicating and meeting with these individuals. The monthly communication reports, as with the registrations filed by lobbyists, are available online in the lobbyists registration system.

[Translation]

In addition, designated public office holders and identified members of prime ministers' transition teams are subject to a five-year post-employment prohibition on lobbying after leaving such a position.

[English]

The Lobbying Act now includes a mandatory requirement for online registration, rather than the historical use of peer profiling by lobbyists. Prior to this requirement, more than 99% of lobbyists registered online; therefore, this is not viewed as an additional burden.

Another key amendment to the Lobbying Act that I would like to highlight is the extension of the period during which possible summary conviction infractions or violations may be investigated and/or prosecuted, and a doubling of the monetary penalties associated with such infractions.

To ensure that lobbying is done ethically and with the highest standards, the Lobbying Act provides for the Commissioner of Lobbying to develop a Lobbyists' Code of Conduct. The Lobbyists' Code of Conduct was established in 1997 and is currently still in use. It sets out objectives to enhance public confidence and trust in the integrity, objectivity, and impartiality of government decision-making. The Lobbyists' Code of Conduct, like other professional codes, establishes mandatory standards of conduct for all lobbyists communicating with federal public office-holders. As such, it forms a counterpart to the obligations that federal officials must honour in their own codes of conduct when they interact with the public and with lobbyists.

● (1645)

[Translation]

The code sets goals in terms of integrity, honesty, openness and professionalism by which lobbyists must abide. It also contains eight rules that set out specific obligations or requirements. The rules fall into three categories: transparency, confidentiality and conflict of interest.

[English]

Lobbyists have a legal obligation to comply with the code and the act. Under the Lobbying Act, the Commissioner of Lobbying can conduct an investigation if he or she has reason to believe that an investigation is necessary to ensure compliance with the code or act. The investigative powers of the Commissioner of Lobbying allow him or her to diligently enforce both the act and the code.

The Commissioner of Lobbying now has a clear and strong mandate to develop and institute educational and outreach programs designed to provide parliamentarians, departments, agencies, lobbyists, and Canadians in general with a better understanding of lobbying. We seek to ensure that lobbyists and the public office-holders with whom they communicate and others interested in lobbying activities fully understand and appreciate the rationale and requirements of the Lobbying Act.

I believe that by enhancing both the awareness of the act's requirements and the nature of lobbying as an activity, compliance can be better assured.

Although educating people about the act is important, violations of the Lobbying Act and the Lobbyists' Code of Conduct have been, and still are, dealt with appropriately.

[Translation]

Mr. Chairman, this concludes my remarks. I hope that I have given you and members of the committee an overview of the lobbying legislation.

I thank you for your attention and I now look forward to answering any questions you may have.

[English]

The Chair: Thank you, Ms. Shepherd.

We'll move to questions, and we'll start with Mr. Wrzesnewskyj, please.

Mr. Borys Wrzesnewskyj: Thank you, Commissioner.

You were only to be in place for six months, and a year has gone by. When do you expect a permanent commissioner to be in place?

Mrs. Karen Shepherd: I'm aware that a selection process is under way. I am not privy to any of the details; the process is being managed by PCO.

Mr. Borys Wrzesnewskyj: Have you found it difficult to function not knowing how much longer you're going to be there? Have you found there are departmental difficulties? For instance, will the coming report this year be as fulsome as it should be?

You may end up having another extension. Has it affected the work you're supposed to conduct?

Mrs. Karen Shepherd: I have not found it affects the work I've had to conduct. In terms of the office I set up, obviously I had to replace myself, so I have a director of investigations in place. One of the things required by the act, or which I felt I needed to do as an agent of Parliament, was to hire a lawyer, which I've done in the six months. I've had a briefing binder prepared for a new commissioner coming in, and when I was reappointed for the next six months, we updated the binder.

In making decisions, I'm aware that a commissioner may come in, so I'm not making any drastic decisions in terms of organizational changes, but it hasn't stopped me, for example, from granting exemption requests. I granted one exemption request, which is already on the system.

In terms of the report you were asking me about, I think the report would be the same if there were a commissioner in place. Would it go further? Perhaps.

Mr. Borys Wrzesnewskyj: How many lobbying companies have you investigated during your term?

Mrs. Karen Shepherd: There are two ways of answering that question.

Mr. Borys Wrzesnewskyj: How about with numbers?

Mrs. Karen Shepherd: The reason I say so is that we have active files open, and I believe we have opened 61 over time and currently have 43 active files. But more than that, one of the things we do is—

Mr. Borys Wrzesnewskyj: Let me just stop you there. There are 43 currently active files, and you've investigated 61. Is that correct?

Mrs. Karen Shepherd: Yes, but I'm just going to verify the numbers. Since 2005, we have initiated 61 administrative reviews, as we call them, and 10 investigations have been open since 2005.

• (1650)

Mr. Borys Wrzesnewskyj: Okay, so 18 files were closed. Were they closed because you were satisfied with your investigations? That's the first question.

You just mentioned there are 10 ongoing investigations. What kinds of issues are we dealing with in those particular 10?

Mrs. Karen Shepherd: Ten investigations were initiated under the previous regime. Four of them have been closed and have actually been tabled with Parliament. I'd have to go through all of the details, but they dealt primarily with individuals who had not registered.

Mr. Borys Wrzesnewskyj: When you go in to investigate a company, are there any requirements for them to keep a standardized logbook of all interactions they have had with public office-holders?

Mrs. Karen Shepherd: There's no requirement under the act for them to keep specific records, except there's now the new requirement in the Lobbying Act for monthly reporting. Should they meet with a designated public office-holder and they have arranged the meeting, then they must file a monthly communication log.

Mr. Borys Wrzesnewskyj: In regards to the potential loopholes that exist, there was supposed to be a five-year cooling-off period, in which you're not supposed to lobby if you've been a public office-holder.

How do you approach a situation where someone's hired by a company but doesn't directly do the lobbying, but goes about it indirectly? They indirectly achieve what they can't do directly. How would you go about establishing penalties or establish whether or not that conduct is perhaps slipping through the cracks? How do you report on that in your annual report?

Mrs. Karen Shepherd: I understand that one of the points the government intended was that the pre-designated public office-holder could not take advantage of anything they might have gained, or personal connections, while in that post and use it for lobbying activities. The act, then, is very specific as to what constitutes communication: the individual must be paid and must be communicating with the public office-holder.

Mr. Borys Wrzesnewskyj: So the way the regulations have been written, this meets the letter of the regulations but doesn't necessarily pass the smell test. Is that what you're saying?

Mrs. Karen Shepherd: Again, at this point the act has just come in, so I really find it too early to comment further. It's something that Parliament may want to look at when the act comes up for review.

Mr. Borys Wrzesnewskyj: Okay, thank you.

There's another potential loophole. For instance, in the finance committee, the opposition members of Parliament have a majority of votes. They can be very influential in minority governments, yet there's no requirement under the definition of public office-holders to disclose lobbying efforts made to committee members on very influential important committees. How do you view that particular situation?

Mrs. Karen Shepherd: I'm trying to see if I understand your question fully. If the individual is a designated public office-holder and it's about a financial benefit, which I believe would be the case with most of the issues being discussed by the finance committee, it wouldn't matter whether the lobbyist had arranged the particular meeting or the designated public office-holder. That would have to be reported.

Mr. Borys Wrzesnewskyj: Okay.

My understanding is members of Parliament are not covered under "public office holder".

The Chair: It depends on the act. Under the Parliament of Canada Act, and with the Conflict of Interest and Ethics Commissioner, it's true that MPs are not public officers. But for purposes of the Lobbying Act, MPs are considered public office-holders.

Mr. Borys Wrzesnewskyj: Oh, so they would be covered.

Mrs. Karen Shepherd: I think there are two things there. MPs are public office-holders, but not designated public office-holders. But if there were communication going on with public office-holders, then they would need to look at whether they needed to file.... There would still be an initial registration being filed. The question might be whether a monthly report might be required.

Mr. Borys Wrzesnewskyj: Finally, I noted that it states that certain members of the armed forces would be covered, and certain members of the RCMP also.

At what level of office-holders in those two departments would it have to be reported?

• (1655)

Mrs. Karen Shepherd: No matter what level they are at in the RCMP or armed forces, they would be public office-holders. So if a consultant lobbyist were communicating with a person at any level there, then they would have to register. In house, they would become part...and they would have to factor in the significant amount of duties to determine whether registration was required.

In terms of monthly reporting being required, it would depend on the level the individual was at. In the regulations, the government designated seven particular positions in the armed forces. In my interpretation bulletin, I've determined that anybody at an EX-4 level or the equivalent salary range would be considered a designated public office-holder, and any communication that had been arranged with those individuals would have to be captured in the monthly report.

The Chair: Thank you very much.

Madam Thi Lac, please.

[*Translation*]

Mrs. Ève-Mary Thāi Thi Lac: Good afternoon, Ms. Shepherd and welcome to the committee.

As you know, the Federal Accountability Act received royal assent in 2006. Most of its provisions came into force shortly after that. I fail to understand why the provisions on lobbying came into effect only last July.

Why was there such a long delay?

Mrs. Karen Shepherd: I must say that I honestly have difficulty answering the question, because we were not responsible for the legislation. At the time, Treasury Board was responsible for enforcing the act.

Mrs. Ève-Mary Thāi Thi Lac: You made the following statement in your presentation:

[...] the Commissioner of Lobbying can conduct an investigation if he or she has reason to believe that an investigation is necessary to ensure compliance with the Code or the Act. The investigative powers of the Commissioner of Lobbying allow him or her to diligently enforce both the Act and the Code.

Given that the act sets forth offences and criminal sanctions for violations of the act, does this mean that you must cease any investigation and inform the appropriate authorities if you have reasonable grounds to believe that a person has committed an offence under the act?

Mrs. Karen Shepherd: Yes.

Mrs. Ève-Mary Thāi Thi Lac: Would it not have been more effective to allow the Commissioner of Lobbying to complete his or her investigation rather than resorting to criminal sanctions, which are governed by an outside organization?

Mrs. Karen Shepherd: Since the act does provide for criminal sanctions, I have no choice but to ask the RCMP to investigate.

Mrs. Ève-Mary Thāi Thi Lac: Would it not be more effective if you were to complete your investigation before turning over the file?

Mrs. Karen Shepherd: I think it would, but it is up to Parliament to change the rules in order to give me the power to do so.

Mrs. Ève-Mary Thāi Thi Lac: We know that the lobbying legislation obliges lobbyists to make a monthly report. We also know that the legislation gives you the authority to check whether the information lobbyists provide is accurate and true.

Do you use that authority regularly?

Mrs. Karen Shepherd: Yes, we have established a process. So far, we have checked some 13% of monthly reports up to the end of November. Moreover, and that is something very good for us, public office holders regularly examine those monthly statements, and have noted that there could be errors in the system.

Mrs. Ève-Mary Thāi Thi Lac: Generally, what do you observe in looking at those statements?

Mrs. Karen Shepherd: In the 13% of the monthly statements we have checked so far, we have noted an error rate of approximately 7%.

• (1700)

Mrs. Ève-Mary Thāi Thi Lac: How did you select the 13% of the monthly statements that you examined?

Mrs. Karen Shepherd: That is a good question. In fact, each month some 600 reports are generated within the system. One person in my office has been given the task of checking the system regularly, to determine where errors might occur. In order to be more efficient, we can send a letter to the public office holder and determine whether there is more than one entry for a given person.

That is quite new. After about four months, we will determine if we wish to change our procedures. We are therefore open to suggestions.

Mrs. Ève-Mary Thāi Thi Lac: You indicated how you selected the 13%. Are we to believe that, within a given time period, everyone who has submitted statements will be checked? Do you make random checks, or spot checks?

Mrs. Karen Shepherd: If we find errors, we communicate with the public office holders in question. We go back to the lobbyists themselves, since they are responsible for the statement, and we ask them to make any changes needed.

At present, it is not possible for the lobbyists themselves to make those changes, but we ask them to respond within 10 days so that we can enter the changes in the system ourselves.

Mrs. Ève-Mary Thāi Thi Lac: Your acting position has been extended by six months. In addition, you said that there was an ongoing process that might culminate in the appointment of a permanent commissioner once your second acting term is over.

Is that correct?

Mrs. Karen Shepherd: Frankly, I don't have any details on that.

Mrs. Ève-Mary Thāi Thi Lac: Thank you.

[*English*]

The Chair: Mr. Siksay, please.

Mr. Bill Siksay: Thank you, Chair.

Thank you, Ms. Shepherd, for being here with your colleagues.

I want to come back to Mr. Wrzesnewskyj's question about the number of active investigations under way. I wonder if you could tell me how old those files are. When were the complaints made, or when did the investigations begin, and how long is it taking you to clear investigations?

Mrs. Karen Shepherd: On the investigations side, the six that were remaining were opened sometime between 2005 and 2007. One of the reasons for the delay with the investigation, as you may be aware, was that there was a court case filed on the four that we did table with Parliament. When we received the results of the decision from the court in March 2008, the decision of the judge actually questioned the registrar's ability to investigate breaches of the act where the individual had not been registered. We obviously didn't agree and asked for a stay. They actually said it affected our administrative reviews, which is the fact-finding stage of most of our files.

We were granted the stay in July or August. But on the investigation side, in terms of proceeding with them, we didn't know whether the court was going to uphold the decision, and the last thing we wanted to do was to have more reports being tabled in Parliament. We did not get that result until December. In February, the individual asked for leave to appeal to the Supreme Court. We have 30 days to respond.

As well, there is a transition position that will allow the commissioner to look at the investigations previously done under the other regime.

Mr. Bill Siksay: It has come up already that there's a difference between the definitions of public office-holder in the Lobbying Act and the Conflict of Interest Act. I'm wondering if that's proven to be a problem in terms of the work that you do, or are there other areas where there are differences between those two pieces of legislation that might complicate the work you have to do?

• (1705)

Mr. Bruce Bergen (Senior Counsel, Office of the Commissioner of Lobbying): I don't think that has really been a problem to date. The definition of public office-holder in the Lobbying Act has not changed from the Lobbyists Registration Act. So it's a long-standing definition.

The definition of a designated public office-holder is a subset of that much larger group. As Karen mentioned, I think there have been some growing pains, with people being unclear whether or not they are designated public office-holders under the Lobbying Act. So that's manifesting itself in the monthly reports and in reports being filed where the meetings are not with designated public office-holders.

There was also a bit of a complicated transition that the previous member asked about, in terms of the gap. As you may have heard from the Conflict of Interest and Ethics Commissioner, she was appointed in July 2007, six months after the Federal Accountability Act was passed and received royal assent, but a full year before the Commissioner of Lobbying was created under the Lobbying Act. So there is a transition period with respect to, for instance, the conflict of interest code for public office-holders being subject to the five-year ban under the code prior to the five-year ban coming into force in the Lobbying Act.

I think there may be some individuals for whom this has created a difficulty or a lack of clarity in how the two acts work together. From the lobbying side, from July 2008 and going forward, it has not really been a practical problem, simply because the act is quite clear about who is a designated public office-holder and who is a public office-holder.

Mr. Bill Siksay: Ms. Shepherd, you mentioned that the code of conduct for lobbyists was developed in 1997 and has still been in effect from that day. Has it been revised since then, or does it need revision? What is its status?

Mrs. Karen Shepherd: Good question. It has not been revised to date, other than by the previous registrar, who changed the opening message. The previous message from Howard Wilson, the registrar who had brought in the code in 1997, indicated that a breach of the rule would be necessary to determine a breach of the code. And Michael Nelson, the previous registrar, had changed the preamble to say that it's not just the rules, but that if you broke a principle, he would consider that. I think, given the importance of the Lobbying Act—and the spirit is quite important as well, as we were saying earlier—I've not seen reason to change that at this point.

Is that something I would look at as commissioner? Yes, I might.

Mr. Bill Siksay: It seems that there's been some significant changes in the area since 1997. Does that not affect the code of conduct in some way? Would the new legislation, for instance, not have implications for the actual code?

Mrs. Karen Shepherd: The principles of the act have not changed. The four principles I mentioned during my introductory remarks are actually the same four principles in the code. I don't see the changes in the act affecting that at all.

Mr. Bill Siksay: There's been some discussion in the media recently about dinners and receptions that MPs and cabinet ministers are invited to. They're getting more elaborate, fancier, or better, depending on your perspective, I guess. Do you have any concerns about the participation of public office-holders in those kinds of events?

Mrs. Karen Shepherd: The act is quite specific in terms of the paid lobbyist and types of communication. We have had individuals call our office saying they were doing such-and-such an event and asking whether they need to register it. The act does have formal communication as well as informal communication. They may say that it's just a meet-and-greet. We'll say that if it's a meet-and-greet, that's fine, but they need to be cautious. If it were to enter into talk about changing a policy, then they may want to look at whether they need to register that event.

The Chair: Thank you.

Mr. Dechert, please.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Ms. Shepherd, thank you for your presentation today.

I note that in the Federal Accountability Act there is a five-year ban on lobbying for former public office-holders once they leave office. There is a possibility of exceptions being made to that rule. I wonder if you could describe under what circumstances such exceptions might be made, or that perhaps have been made.

• (1710)

Mrs. Karen Shepherd: I would probably start with what the act says, and that's very much what I did in looking at the exceptions. The act is pretty clear that while the commissioner can grant an exception, it needs to be done in accordance with what Parliament intended.

Some of the reasons given in the act are whether a person was acting, for example, for a short period of time, or whether they were doing student or administrative work. Others are whether the new employer would benefit from the experience or knowledge that they gained. Those are some of the reasons that are currently in the act, which I will be looking quite seriously at in a report coming forward.

Mr. Bob Dechert: For clarification, if an individual had new employment that was fairly unrelated to what they had done as a public office-holder, would there be a possibility that they would be excepted in that circumstance?

Mrs. Karen Shepherd: That would be one of the factors. But first it would be what they were actually doing while they were in government. The act is quite specific in terms of designating certain individuals and wanting to ensure, as I mentioned earlier, that they could not use personal contacts that they may have gained. In passing the act, Parliament saw five years as being the time limit to reach that objective.

It's not an easy, clear-cut answer. I will look at each case in terms of its merit.

Mr. Bob Dechert: Have you had many of these sorts of applications thus far?

Mrs. Karen Shepherd: Since July, when the act came into force, seven exemption applications have been put in.

Mr. Bob Dechert: There were only seven applications. How many have been granted?

Mrs. Karen Shepherd: I have only granted one to date.

Mr. Bob Dechert: You mentioned earlier about the monthly reports that lobbyists and public officer-holders are required to file about communications.

Mrs. Karen Shepherd: I'm sorry if I was misunderstood. The lobbyist is required to file the monthly communication entry. The requirement in terms of the designated public officer-holder is if they were requested by me to verify that entry.

Mr. Bob Dechert: Once these reports are filed by the lobbyists, what do you do to confirm the accuracy of those reports? How regularly do you exercise that power to verify the accuracy?

Mrs. Karen Shepherd: Since we put a process in place, we're verifying roughly 40 entries a month. Between July and November we verified more than 300 entries, which is roughly 13% of the communication entries that had been filed. The responses we've received seem to indicate an error percentage of about 7%.

The next stage is to go back to the lobbyist. It's their responsibility. We can't just change it because a public officer-holder said it. The act requires that the lobbyist create and verify. We have asked the lobbyist to come back to us and request that we make the change in the system.

What we're working on, which we hope will make things even more efficient, is to allow them to go in themselves to make the changes. Some lobbyists have realized that they've made an error with the date, and they have asked if they can change it.

Mr. Bob Dechert: So the sort of error you're finding in here is with dates as opposed to the substance of the communication.

Mrs. Karen Shepherd: Yes, the errors have tended to be dates. But Bruce also mentioned that sometimes people are not clear on the designated public office-holder, so they include directors general. But there are also some who feel that because it's free they want to make sure they're protected, so they put in their names. We're trying to educate lobbyists and even public office-holders about the type of information we can collect. The act was quite specific about what we can actually put in the system.

Mr. Bob Dechert: Would you say that people tend to over-report at this point, as far as what's required by the legislation?

Mrs. Karen Shepherd: There may be some of that, but it's too early to tell.

Mr. Bob Dechert: How does it compare with what's done in other countries like the United States? Are there any comparisons that you can think of, as far as the accuracy of filing and reporting is concerned?

• (1715)

Mrs. Karen Shepherd: I'd have to get back to you on that. I'm not aware of any.

Mr. Bob Dechert: Okay. Thanks very much.

You mentioned that there is a requirement for public education about what your office does and what the requirements are. How do you carry out that educational mandate? Can you give us a description of the things you've done to date?

Mrs. Karen Shepherd: As I was saying earlier, we're quite pleased that this is now official mandate, because since I joined the organization in 2004, we've always felt education to be a priority. You reach more people through education than even compliance. So with the particular mandate, one of the things we've been currently working on is a strategy that will address the short, medium and long terms.

Prior to the act coming into force we did a series of what we called implementation notices—I think some of them are in your packet—talking about the changes that were coming forward with the act. We developed 25 tutorials, which are available in both official languages. We sent out packages to deputy heads, with notices reminding them that this category of designated public office-holder was coming up, for example, and that they should inform staff accordingly. We sent out mass mail-outs. We developed presentations, such as the one we submitted to you, that were put online. Since April we've conducted more than 33 outreach activities, where we met with universities, organizations, consultants, and even departments.

I'm proud of the fact that it's working, because there were more than 22,000 hits to the system in July and August, to either download some of these tutorials or access information.

Mr. Bob Dechert: So there's been a lot of interest in what you're doing.

Thank you very much.

Are we out of time?

The Chair: Yes, we're out of time for you, Mr. Dechert.

Mr. Wrzesnewskyj has a brief intervention, as well as Mr. Dreeshen, and Madam Wong. So we'll deal with those three, and I think we'll be done.

Mr. Wrzesnewskyj.

Mr. Borys Wrzesnewskyj: I will be splitting my time with Ms. Simson.

The Chair: Absolutely.

Mr. Borys Wrzesnewskyj: Going back to the 61 investigations, were there any multiple offenders among them? If you don't have the information handy, I guess this would be available through an access to information request. But to cut through the paperwork, perhaps you could provide this committee with a list of those 61. That would certainly help in our work toward transparency in knowing what's going on in the world of lobbying.

Mrs. Karen Shepherd: On your question about multiple offenders, the four reports that were tabled were on the same lobbyist. As for providing the names of the cases that have been under review, the act requires that I conduct investigations in private. That has been extended to administrative reviews as well, because you don't know if there will be reason to believe they should be forwarded to the investigation stage.

Mr. Chair, I'll have to defer to you as to whether I can be excused, due to privacy under my act, from answering the details of the questions.

The Chair: Would that information be available under access to information, or would it be blacked out?

Mrs. Karen Shepherd: Bruce is going to answer you further.

Mr. Bruce Bergen: With respect to access to information, in the Federal Accountability Act there were a number of changes made, subsequent to section 16 of the Access to Information Act, to add specific provisions in relation to the work of the Conflict of Interest and Ethics Commissioner and this commissioner here as well, the

Commissioner of Lobbying. So there's actually now a specific provision in the Access to Information Act that indicates that for ongoing investigations and investigative activities of the commissioner, in the event an access request is submitted, the commissioner can refuse to release information because there's an ongoing investigation.

The second subsection of that new provision indicates that when it's all finally over with—that is, the investigation is completed or in the end does not actually commence, or all litigation has ended—then the material in that investigative report would all be subject to release under the Access to Information Act.

Parliament has tried to address that, I think, in the Federal Accountability Act and to deal with the investigative provisions in the Lobbying Act. Actually, the Lobbyists Registration Act and now the Lobbying Act have been quite clear that, as Ms. Shepherd mentioned, investigations are to be conducted in private.

Then there is another provision in the part of the act that deals with code of conduct investigations, section 10.4, which indicates that material that's collected or created during the course of those activities by people in the office is also supposed to be maintained in private as well, unless it's necessary. For instance, if you find evidence of wrongdoing, then you might refer all that material to the police.

• (1720)

Mr. Borys Wrzesnewskyj: So the ongoing ones, you seem to be indicating, perhaps would not be available. But there are a number that have been closed, so perhaps those could be provided.

Mr. Dechert had a question about requests for exemptions around the five-year rule, that there were seven such requests. Would it be possible to get the information on those? Those are no longer ongoing, so I think—

Mrs. Karen Shepherd: They are ongoing. I said there have been seven exemption requests to date. I've granted one, which is posted.

Mr. Borys Wrzesnewskyj: So that's the one, then, that you could provide us information about.

Mrs. Karen Shepherd: It's actually available right on the website, in terms of the report.

Mr. Borys Wrzesnewskyj: Could you tell us who it is?

Mrs. Karen Shepherd: The one I've granted is Guy Bujold. He is the former interim head of the Space Agency.

Mr. Borys Wrzesnewskyj: And I have a quick final question. You cease investigation when it appears authorities have to be called in. Are there any cases of that sort at the present time?

The Chair: That's the last question. Carry on.

Mrs. Karen Shepherd: We have referred a number of cases over to the RCMP, and it has made decisions on all the ones we have sent over.

The Chair: Thank you kindly.

Mr. Dreeshen, please.

Mr. Earl Dreeshen (Red Deer, CPC): Thank you.

First of all, I'd like to congratulate you on the educational component. I appreciate that, and I know you've done a lot of work in that regard.

I guess one of the questions I would have is this. Do you intend to present an annual report at the end of 2009? And can you perhaps share some of the preliminary findings you might have with us today?

Mrs. Karen Shepherd: The first answer is yes. The act actually requires a report be tabled on June 30.

Mr. Bruce Bergen: It's prior to June 30—within three months of the end of the fiscal year, or something like that.

Mrs. Karen Shepherd: At this point we would be commenting, I guess, on some of the findings we've had with communication entries, some of our successes I mentioned with the outreach activities. We usually do our normal statistics, if you've looked at previous annual reports, as to number of firms and so on being lobbied. I would be commenting maybe on the exemption requests and how things have gone and the processes we've put in place.

Mr. Earl Dreeshen: The other question I have is that I'd like to get some clarity on the Lobbying Act and the lobbyists' code of ethics, if you could just comment on that. The act doesn't talk about punishment for violations of the code, and I wonder if you could describe that, if there's a difference between what your investigation would find to be illegal versus a violation of the code.

Mr. Bruce Bergen: The act contains criminal sanctions, in essence, for breaching the act. The most common or potential violation would be a failure to register, as when one is engaged in lobbying activities for which one should register. There are also provisions for fraudulent disclosures. That might be a little more difficult to do if you were seeking to do that.

So those are the sanctions. As Ms. Shepherd mentioned earlier, the limitation period for a prosecution has been extended in the new Lobbying Act, under the Federal Accountability Act, and the penalties have been increased as well, so that sanction is a stronger one at this point.

With respect to the Lobbyists' Code of Conduct, the sanction for a breach of the code has always been, since 1997, that the registrar—and now the commissioner—would have reason to believe they should commence an investigation. There would be an investigation following that, and a report of the findings of the registrar, or now the commissioner, and the conclusions would be tabled before both Houses of Parliament.

So the sanction, I think, was to be a shining of the light upon the activities in question and a report that would be public. In fact, I believe the case of Mr. Makhija has been mentioned in the four reports in question. This one individual was investigated by Ms. Shepherd's predecessor, the registrar, and his four reports were indeed written and tabled before both Houses of Parliament in early 2007—in March, I believe it was. Those are publicly available and in fact have been online at the Office of the Commissioner of Lobbying website.

So that is the sanction for breaches of the code, and that hasn't changed in amendments to the Lobbying Act.

●(1725)

Mr. Earl Dreeshen: Thank you.

The Chair: Thank you.

And finally, Madam Wong. Welcome.

Mrs. Alice Wong (Richmond, CPC): Thank you very much for coming to the committee. Despite the fact that I just came in to substitute for another member, I do have a question.

I am very interested in the education side, because right now you mention that the general public has been made aware of the... And on page 11 of your letter to us, you state: "I believe that by enhancing both the awareness of the Act's requirements and the nature of lobbying as an activity, compliance can be better ensured" and that "educating people about the act is important".

My question is, has any effort been made to ensure that people from different cultural backgrounds are also aware of the implication? Very often some of the lobbying can be done in another language other than English and French, and some of the activities may be considered to be culturally appropriate yet violating some of the codes of ethics or whatever. Has that been dealt with, or do you have any intention to do that?

Mrs. Karen Shepherd: As we look at our outreach strategy over the short to long term, that is something we should be keeping in mind, so I thank you for raising that.

Mrs. Alice Wong: Thank you.

The Chair: Thank you very kindly, Madam Shepherd. I appreciate your appearance and helping the committee to get a better sense of the state of the union within the commission's purview. And as I had indicated to the Ethics Commissioner, we hope that as long as you or your successor are there, you would consider our committee to be an ally of sorts to work on issues as they come forward and to keep us abreast of developments and areas on which this committee can assist in making sure your responsibilities are fully discharged, because when that happens, then our responsibilities are discharged. So I appreciate that and thank you.

Mrs. Karen Shepherd: My position definitely is that this position does report to Parliament, which is you, so very much I see you as an ally in working. It's like reporting to the boss, so yes.

The Chair: Okay. Well, we appreciate that. Thank you very kindly.

Colleagues, I'd like to give you some idea of my thinking for our meetings.

As you know, we have Mr. Marleau on Wednesday. As with the other commissioners, it is his overview presentation to the committee. He also tabled a report to Parliament last week. I have been advised that Mr. Marleau is going to be leaving ten recommendations with us for updating the Access to Information Act, and we will probably not have time to do them justice. I think the members will have to have an opportunity to look at them, and I think we will probably need an opportunity to examine Mr. Marleau and his officials about the basis and rationale for those. I suspect that's something the committee would like to do. Then the committee will decide whether or not it wants to take it any further in terms of witnesses, such as the Minister of Justice or any other persons, and potentially prepare a report. I don't think we have to arrange a steering committee to do that. I think members are well aware of the matter.

But I am also aware that the commissioner is going to be away for some period of time in April. So I've asked the clerk to find out availabilities of not only the commissioner but also of the justice minister. I've also asked the clerk to contact the Privacy Commissioner to give us a response about whether or not she feels any further witnesses are necessary for us to complete our little work on the Privacy Act that was carried forward from the last Parliament. I hope to have that answer.

Mr. Hiebert, there was no draft report prepared in the last Parliament. But you have had circulated to you—and I believe all members have received it—a summary of the testimony. I've asked the researchers to pull together an appropriate report, given the work done, for the consideration of the members.

So that's where I am, and if you have any questions, I'll be happy to answer them.

Mr. Hiebert.

• (1730)

Mr. Russ Hiebert: Sure. Which topic have you asked the researchers to prepare a report on?

The Chair: I've asked for a draft report on the Privacy Act for our consideration

Mr. Russ Hiebert: On the performance of the Privacy Act?

The Chair: Yes.

Mr. Poilievre.

Mr. Pierre Poilievre: Yes, I think I had mentioned in a previous meeting my desire to hear testimony from the Public Sector Integrity Commissioner. Has there been any progress in choosing a date to invite her to appear before this committee?

The Chair: Yes. The issue is that they are not...

Mr. Pierre Poilievre: I understand that, and I think that her role is linked to some of the discussions we're having on access, on privacy, on registered lobbyists, and on a whole series of other subjects. So as the committee is its own master, we are certainly in a position to ask her to testify, and I'm sure there wouldn't be an objection to hearing from the Integrity Commissioner.

The Chair: Okay, now that I understand the context, maybe what we can do is just contact them and find out how this fits in and how it might assist the committee in any of its work, quite frankly, as we go down the road. And we won't be issuing reports. But we do have a break week following next week, so I'm trying to.... If we can't get the access work done because of conflicts of dates with either the Minister of Justice or Mr. Marleau, we will try to do the privacy. One way or the other, we're going to do one of those the following week, but it really is the availability of the people involved in those. But now that I understand, we'll certainly inquire and find out whether that might be helpful.

Mr. Wrzesnewskyj.

Mr. Borys Wrzesnewskyj: For the sake of clarification, on a previous committee in a previous investigation, I asked witnesses for information that I'd also requested through ATIP. The information and documents that came through ATIP were blanked out to a large degree; the documents provided to the committee were full and complete.

So just to clarify, can't the committee request documents—and if there are privacy issues, we do have the option of going in camera to review those particular documents—and in the case of a commissioner, wouldn't the commissioner be compelled to provide those documents to committee? After all, the commissioner is an officer of Parliament and that is work that's being done on our behalf.

The Chair: To the extent that there's any information left out for the standard ATIP request, that is pursuant to the application of the law, and notwithstanding how great we are, I'm pretty sure we're not going to get the information, because then all of a sudden we will have breached the law ourselves, even in camera. The commissioner has an act to follow. But if you have any specific examples, you may want to address that directly to either the Privacy Commissioner or the Information Commissioner. We can't get more than what the public can get under the same act.

Is there no further business?

The meeting is adjourned.

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

**Also available on the Parliament of Canada Web Site at the following address:
Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante :
<http://www.parl.gc.ca>**

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.