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Chair

Mr. Paul Szabo

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•(0905)

[English]

The Chair (Mr. Paul Szabo (Mississauga South, Lib.)): Order, please. This is the 37th meeting of the Standing Committee on Access to Information, Privacy and Ethics. The order of the day is pursuant to Standing Order 108(2), the study of the review of the ethical standards in the *Guide for Ministers and Ministers of State*.

This morning our witnesses from the Privy Council Office are Mr. Joe Wild, assistant secretary to the cabinet, machinery of government, and Eileen Boyd, assistant secretary to the cabinet, senior personnel.

Welcome to both of you. I appreciate your taking the time to come and assist the committee to better understand the subject matter before us. I understand that you do have an opening statement, and I know that the members will want to engage in some dialogue with you after that.

Welcome, and please proceed.

Mr. Wild.

Mr. Joe Wild (Assistant Secretary to the Cabinet, Machinery of Government, Privy Council Office): Thank you, Mr. Chairman.

Mr. Chair, I'd like to thank the committee for inviting us to discuss the ethical standards contained in *Accountable Government: A Guide for Ministers and Ministers of State*. With me today is my colleague, Eileen Boyd, assistant secretary to the cabinet for senior personnel.

[Translation]

With your permission, I would like to begin by giving you a brief overview of the purpose and content of *Accountable Government*, including some background on the constitutional context in which this document and its standards of conduct arise.

[English]

Accountable Government provides high-level, principles-based guidance to ministers on the structure of Canadian government and their roles and responsibilities within that framework. This includes, among other important subjects, key principles of responsible government in the Westminster system; the structure of federal institutions, particularly those of the executive; rules for the conduct of cabinet business; relations with Parliament; administrative duties; consultation and coordination; and standards of conduct for ministers and other government officials.

This essential information helps members of a ministry, individually and collectively, support the Prime Minister in

managing the business of the Government of Canada. At the core of the standards of conduct in *Accountable Government* are high-level ethical guidelines whose fundamental objective is to ensure that ministers and other public office holders uphold the highest ethical standards and make decisions in the public interest. In addition, the guide indicates that ministers are expected to comply with the Conflict of Interest Act, not intervene in judicial or quasi-judicial proceedings, respect the arm's-length relationship of the various agencies and crown corporations that may fall within their portfolios, and exercise discretion with regard to any invitations they may receive.

Additional guidelines are laid out in annex H in relation to political activities. These guidelines state that public office holders should not participate in a political activity where it may reasonably be seen to be incompatible with the office holder's ability to discharge their duties in a politically impartial fashion. Of course these particular guidelines do not apply to those public office holders whose roles and functions are necessarily of a political or partisan character, namely ministers, ministers of state, secretaries of state, parliamentary secretaries, or their staff.

The standards of conduct set out in *Accountable Government* must be understood within a larger constitutional framework—specifically, that in Canada, as in other Westminster parliamentary systems, it is by convention the Prime Minister who is responsible for forming and leading the ministry. The formation of a government is a defining responsibility of the Prime Minister. In so doing, the Prime Minister advises the Governor General on the appointment of other ministers. Flowing from this effective power of appointment and his overall accountability for the executive, it is the Prime Minister's authority to establish standards of conduct for ministers and other public office holders in the executive whose appointment he recommends. This includes standards above and beyond the requirements of the law the Prime Minister may set out as the basis on which he or she makes appointments.

[Translation]

It is the Prime Minister who must answer to Parliament and ultimately to Canadians for the conduct of the ministry and government. The Prime Minister must gage when the conduct of ministers—even conduct that may be entirely lawful—falls short of his expectations and what he can defend in the political forum of Parliament.

[English]

Consistent with this responsibility, the Prime Minister may ask for the resignation of ministers at any time. The Supreme Court of Canada has acknowledged this, most recently in the Dunsmuir case, where the court stated that unlike other public office holders, ministers do not have a contractual relationship with the crown.

The standard of conduct set out in *Accountable Government: A Guide for Ministers and Ministers of State* lets ministers know what the Prime Minister expects of them. It is worth noting that until recently, such documents were considered confidential as between the Prime Minister and the ministry; for example, both Canada's guidance for ministers and its United Kingdom counterpart were secret documents until into the 1990s.

As part of ongoing efforts to increase government accountability and transparency, *Accountable Government* is now a public document. While the Prime Minister may effectively dismiss ministers at any time, other public office holders are not governed by the same constitutional conventions. In wanting to ensure that public office holders would discharge their function with integrity and in a non-partisan manner, the government has made compliance with the "Ethical Guidelines for Public Office Holders" and the "Guidelines for the Political Activities of Public Office Holders" a term and condition of appointment. The Privy Council monitors these guidelines, ensuring certification documents are provided prior to an appointment being made and providing advice based on the general principle and the guiding factors laid out in the guidelines.

[Translation]

Before I conclude, I'd like to say a few words about the relationship between the statutory scheme created by the Conflict of Interest Act, and the principles and standards laid out in *Accountable Government*.

[English]

As members know, a key component of the Federal Accountability Act was to strengthen conflict of interest rules for ministers and other public office holders by strengthening and enshrining in the law the conflict of interest and post-employment code for public office holders via the creation of the Conflict of Interest Act, and creating the new Office of the Conflict of Interest and Ethics Commissioner as an independent officer of Parliament with a mandate to administer and enforce the act.

By enshrining conflict of interest rules for ministers and other public office holders in legislation and entrusting its administration to an independent officer of Parliament, Canada became the only Westminster country to have created a statutory regime for ministers in this area.

An important consideration in legislating the conflict of interest regime was that this was determined to be an area in which it was possible to set out precise rules, compliance, and reporting standards. On the other hand, it was not considered desirable or even feasible to define ethical conduct in terms of adherence to statutory rules, nor can the role of an appointed official, however vital, fundamentally displace the responsibility of the Prime Minister for the ethical standards of his or her government.

● (0910)

[Translation]

Mr. Chairman, that concludes my opening remarks, and we would be pleased to address any questions the committee may have.

[English]

The Chair: Thank you kindly.

We'll go right to questions.

Mr. Wrzesnewskyj, please.

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

Thank you, Mr. Wild, for appearing before our committee.

Mr. Wild, did any of the public office holders, ministers, ask you for your advice prior to some of the cheque presentations that have been ongoing over the last number of months?

Mr. Joe Wild: No.

Mr. Borys Wrzesnewskyj: If a minister had approached you, your office, for advice to find out whether or not it was ethical to replace, on these large mock-up cheques, the logo of the Government of Canada, to replace the maple leaf, with the Conservative Party logo, what would your advice have been?

Mr. Joe Wild: I don't really want to enter into speculation, nor do I think it's necessarily my role to provide advice to ministers on a question such as that. The communications policy and the federal identity program are under the purview of the Secretariat of the Treasury Board of Canada. It would be those officials who would provide advice on compliance with those policies.

Mr. Borys Wrzesnewskyj: Are you aware of any ministers asking those officials for their advice on whether or not to replace the maple leaf with the Conservative Party logo on these presentation cheques?

Mr. Joe Wild: I'm not aware, but neither would I be in a position to be aware.

Mr. Borys Wrzesnewskyj: Thank you.

Taking off your civil servant hat, were you surprised when you saw photographs of Conservative MPs, some of them public office holders, holding these cheques that held their personal signatures, that replaced the Government of Canada logos with the Conservative Party logos?

Mr. Joe Wild: While I appreciate the offer to take off my civil servant hat, I can't. It is permanently attached.

Voices: Oh, oh!

Mr. Joe Wild: Unfortunately, I don't think that's an area where I can express a view.

Mr. Borys Wrzesnewskyj: Perhaps if I bump into you at the local Tim Hortons, I'll be able to ask you—when you don't have that particular hat on.

I note that in your opening statement, you made it quite clear that ultimately it's the Prime Minister who is to hold these public office holders, the ministers, to account for their ethical behaviour. Is that correct?

Mr. Joe Wild: Yes.

Mr. Borys Wrzesnewskij: We're in a situation right now where the Ethics Commissioner has told us that it's not within the act for her to be able to look into the ethical conduct, although I believe she has some 50 ongoing investigations on this matter and she'll come back to us.

It seems to have been suggested that perhaps the PCO would have the authority to look into this matter. But it seems from your statement that fundamentally the one person who's responsible for this type of misconduct is the Prime Minister.

● (0915)

Mr. Joe Wild: I think the way one should approach these kinds of questions is to look at how responsible government and the constitutional conventions that inform our basis of government are formulated. The Prime Minister is responsible for determining whether or not he has confidence in a given minister to carry out his or her duties as a minister. The Prime Minister can seek the resignation of any given minister at any time if he feels that person no longer carries the confidence placed in him or her.

In terms of specific considerations on any given case, I think a whole set of issues and factors go into determining what kind of a response is appropriate. I'm not in a position to comment on a specific incident around cheques. I think the testimony of the Clerk of the Privy Council, along with the Secretary of the Treasury Board, before the operations committee of the House of Commons two weeks ago more or less sets out the perspective of the Privy Council Office.

Mr. Borys Wrzesnewskij: Your statement says the Prime Minister ultimately must answer to Canadians for the conduct of the ministry and the government. The Prime Minister must gauge when the conduct of ministers, even conduct that may be entirely lawful, falls short of his expectations.

What if the Prime Minister's expectations of the ethical behaviour of his ministers does not match the ethical expectations of Parliament and of Canadians at large? Is there any other recourse? The buck stops at the Prime Minister's desk.

Mr. Joe Wild: I think the way the Westminster system is designed is that the role of Parliament is to hold the government to account for how it is governing and ultimately that accountability is discharged through the electoral process.

I think at the end of the day the way the system is designed to work is that if there is a large disconnect between a Prime Minister and his ministry and their expectations around conduct and those of the general population of parliamentarians, those disconnects play out through the mechanisms that Parliament has to hold a Prime Minister and a ministry politically accountable through question period, appearing before committees, those sorts of things; then, ultimately, for the population it's through an election.

The Chair: Thank you.

We'll move on now.

Just to let the members know, Monsieur Dorion is going to be a permanent member of this committee. So welcome, Monsieur Dorion and your colleague visiting today, our friend, Madame Faille.

Madame Faille, vous avez la parole.

[Translation]

Ms. Meili Faille (Vaudreuil-Soulanges, BQ): Thank you, Mr. Szabo.

I'm pleased to sit on this committee, especially given that the issue of ethics has been greatly affecting the public service, recently. Over the last few years, I've been sitting on the Standing Committee on Government Operations and Estimates. I now sit on the Standing Committee on Public Accounts.

The commissioner mentioned that under the present act, she could not intervene on ethical matters and that her role was rather limited. Could you give us your opinion on this matter and explain the rationale for comments she made at the meeting held last October 20th?

Further, could you tell us where we can get details on the relationship between public office holders and lobbyists as well as individuals not registered on the lobbyists' registry? I would like to know how and where this information is to be found and how Treasury Board and the Privy Council perceive the matter.

● (0920)

[English]

Mr. Joe Wild: With respect to the first question on the role of the Conflict of Interest and Ethics Commissioner in relation to ethical matters, there are a couple of things to point out. One is that certainly the commissioner has a role to play in terms of conflict of interest, which is a subset of ethics. As well, the post-employment regime that is set out in the Conflict of Interest Act is another subset of ethics.

The role she plays vis-à-vis the guidelines for members of Parliament also contains ethical considerations, but her role stops short of enforcing or administering the ethical standards that are set out in accountable government. The Prime Minister certainly has the opportunity to ask for advice from the Conflict of Interest and Ethics Commissioner on any ethical matter the Prime Minister wishes to, but ultimately the commissioner is not placed in a role of displacing the responsibilities of the Prime Minister for the ethical tone of his or her government. Ultimately, it is the Prime Minister who must answer politically to Parliament and to Canadians for the conduct of the ministry and government.

With respect to the question on lobbying, there is certainly a Lobbying Act. There is a Commissioner of Lobbying, who is an agent of Parliament. That act sets out and defines what constitutes lobbying activities. It sets out the—

[Translation]

Ms. Meili Faille: I understand the Lobbying Act. However, I would like to know what your guidelines are and what authority the commissioner has in a case where a minister, a deputy minister or a public office holder meets with individuals whose names are not entered in the registry.

[English]

Mr. Joe Wild: The Lobbying Act is clear in that the burden is placed on those who are engaging in lobbying activities to register. The act provides for investigatory powers by the Commissioner of Lobbying to investigate situations where it comes to light that someone who should have been registered has not registered.

It also provides for a penalty regime that includes fairly substantial fines in the event that someone violates the provisions of the Lobbying Act. But again, the Lobbying Act is very much about putting the burden on those who are engaging in lobbying activities to identify.

[Translation]

Ms. Meili Faille: Public office holders are therefore not accountable if they have repeated meetings with these individuals. In the case of the Prime Minister, for instance, those accompanying him and advising him carry out some checks before such meetings are held.

Do you know whether there are any public office holders who are currently the subject of investigations? Do you have the power to investigate or is that solely within the commissioner's mandate? Does she have this authority?

[English]

Mr. Joe Wild: The Commissioner of Lobbying clearly has the authority to investigate if someone is engaging in lobbying activities who is not registered when they should be registered. The law does not create penalties for public office holders who meet with people who should be registered but haven't. Again, the law is designed to put the burden on those who are engaging in lobbying activity to register, and there is a robust investigatory set of powers around the commissioner to investigate situations where that does not occur.

• (0925)

[Translation]

Ms. Meili Faille: Is that a problem for you? Does it make you uncomfortable?

[English]

Mr. Joe Wild: On the laws and expression of the will of Parliament, we're working through the implementation of that law, and I'm certainly not aware of significant issues or problems in terms of the administration of the Lobbying Act.

[Translation]

Ms. Meili Faille: With respect to appointments, namely to the IRB, can the president of a quasi-judicial organization carry out investigations or intervene if he believes there's a conflict of interest, or is that your responsibility?

[English]

Mr. Joe Wild: The Conflict of Interest and Ethics Commissioner has the responsibility to investigate complaints—either self-initiated or brought forward by members of Parliament or senators, either in their own right or on behalf of a member of the public—with respect to whether a public office holder has gotten himself into a conflict of interest. The role of the commissioner is to investigate those complaints and provide a report. Ultimately, the Prime Minister would determine whether any consequence or recourse is necessary.

The Chair: Mr. Siksay.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Thank you, Chair, and my thanks to Mr. Wild and Ms. Boyd for being with us this morning.

Does the need for this *Accountable Government* document indicate some belief that there's a failing in the Conflict of Interest Act? Are there deficiencies in the act that need to be squared with another document?

Mr. Joe Wild: No, I don't think so. *Accountable Government* has had various titles over the years, but it's a document that was first produced in 1974 by Prime Minister Trudeau. It gets updated every time there is a change in prime ministers, and occasionally in between, when certain things change in the landscape.

For example, the 2008 guide contains annexes on ethical conduct and political activities that were introduced in the 2007 version of the guide. This was introduced as a result of the Federal Accountability Act, which was based partly on the Conflict of Interest and Post-Employment Code for Public Office Holders. It took part of that code and legislated it. It left the ethical guidelines part unlegislated. At the time of the Federal Accountability Act, the government had announced in its action plan that those ethical guidelines would find their way into accountable government, which is in fact what happened once the Conflict of Interest Act came into force.

So no, I don't think you can trace the existence of *Accountable Government* to any view that there's an insufficiency in the Conflict of Interest Act. It was all part of a regime designed to legislate certain things and leave others to judgment.

Mr. Bill Siksay: Is there a problem with an accountability document that begins with the principle of cabinet solidarity? It's prominently placed. Clearly, it's a big deal when it comes to forming a cabinet and a government. Does that cause ethical problems stemming from the overriding importance of cabinet solidarity?

Mr. Joe Wild: No, I don't think so. In a Westminster system, the collective responsibility of ministers to cabinet and the consensus decision-making process are absolutely fundamental. One could argue that it's the defining characteristic of a Westminster system. It's what differentiates that system from a republican government in which you have various levels of government that all have power and collide, so as to end up either in deadlock or in some compromise.

The beauty of the cabinet system is that by bringing together a collectivity of ministers from across the country and driving decision-making on a consensus basis, public policy is developed in a way that attempts to meet the expectations of Canadians. Ultimately, of course, it's a matter of political judgment.

I think the notion of individual ministerial responsibility to Parliament for the conduct of his or her department is perfectly compatible with the notion of collective responsibility. The idea behind collective responsibility is that once the government has made a policy decision, all stand behind that decision. If a minister feels he cannot in good conscience stand behind that policy decision, then his option is to resign from cabinet.

To my mind, there's nothing incompatible about, on the one hand, having a government speak with one voice and, on the other hand, having individual ministers responsible for the powers, duties, and functions that they're discharging under their statutory mandates.

• (0930)

Mr. Bill Siksay: I understand that annexes G and H are requirements, that compliance with those is a requirement or condition of appointment of someone to a ministerial position. How exactly is that certified, or how is that certification done? To whom is the certification made?

Mrs. Eileen Boyd (Assistant Secretary to the Cabinet, Senior Personnel, Privy Council Office): I can speak about the public office holders who are Governor in Council appointees.

With respect to Governor in Council appointees, it is a term and condition of employment. Before someone is appointed, the nominee must sign a certification document stating that they will comply with both the ethical and the political guidelines.

Mr. Bill Siksay: Excuse me, Ms. Boyd. Forgive my lack of knowledge about the proper terminology, but does that include ministers and ministers of state?

Mrs. Eileen Boyd: No. By Governor in Council appointees, we're referring to deputy ministers—

Mr. Bill Siksay: I'm asking specifically about ministers and ministers of state. What is the certification process for them?

Mr. Joe Wild: For ministers, I'm not aware of a specific certification that they sign. Again, there's a difference between the position of ministers and GIC appointees. Those who are appointed by the Governor in Council have certain rights under contract law. A certification, and so on, is an important process point that you have to take if you want to make it clear that under the conditions of the contract of their appointment there is an obligation to follow these ethical standards and guidelines.

Mr. Bill Siksay: Again, my question is about ministers and ministers of state.

Mr. Joe Wild: I know and I'm getting there. I'm sorry for taking a while to get there. It's just that the distinction is important because there's a necessity to do it from a process perspective for GIC appointees that does not exist for ministers, because ministers have no position of contract. The Supreme Court of Canada has confirmed this. Ministers are basically there at the complete and utter whim of the Prime Minister, so there is no expectation of procedural fairness, of reasonableness—

Mr. Bill Siksay: Do ministers just promise the Prime Minister that they're going to uphold this, and it's not part of their oath of office? How do ministers make their compliance, or their intention to comply, clear about these annexes?

Mr. Joe Wild: It is part of their oath of office. As they're sworn in as a privy councillor, part of the oath speaks to upholding the highest values of public integrity.

Mr. Bill Siksay: And this would include the definitions that are included here.

It's curious to me that annex H is included in a guide for ministers and ministers of state, because what annex H seems to do is exempt them from the terms of the guidelines, in a sense. It talks mainly

about other public office holders, not about ministers and ministers of state.

Why is annex H included in these guidelines, given that it just seems to exempt them and that's the operative part of that annex for ministers and ministers of state?

Mr. Joe Wild: I think there are a couple of things about accountable government. It does play to a multitude of audiences in the sense that not only is it important for ministers and ministers of state to understand how the system of government basically works, it's also important for deputy ministers and other senior appointees to understand how that system works. While the guide says "A Guide for Ministers and Ministers of State", it applies equally to other public office holders.

Annex H is doing two things. It's making clear for public office holder appointees through the Governor in Council what the rules are in terms of their capacity to be involved in political activity. It also makes clear—and this part would apply to ministers, and so on—the prohibitions around the use of government property for partisan political purposes.

• (0935)

Mr. Bill Siksay: Is there a separate guide for other public office holders, other than ministers and ministers of state, that would parallel this document?

Mr. Joe Wild: There is a document called *Guidance for Deputy Ministers*, as well as a guide for heads of agencies. Those lay out some of the principles of the Westminster system that speak to them. In particular around political activities, there's legislation that governs public servants. In terms of ethics, there is also the Values and Ethics Code for the Public Service. Again, that would apply to public servants.

Mr. Bill Siksay: Could you provide those parallel documents to the committee, the ones that pertain to deputy ministers?

Mr. Joe Wild: Sure. They're all available on the PCO website; it's not a problem.

The Chair: Maybe you could provide us with the web link and the members can print up as many copies as they wish. Let's save paper.

I was also looking on your site for the oath of office for swearing in ministers. For some odd reason, it wasn't there. Was it taken off?

Mrs. Eileen Boyd: I think it is there, but we can certainly provide you with the link, if it's not there.

The Chair: If it's not there, could you send us a copy of it?

Mrs. Eileen Boyd: Certainly.

The Chair: There has been a lot of discussion about whether ministers are in or out, when we talk about public office holders. I understand Mr. Siksay's question, because the certification process is different for ministers than for all other public office holders, who have a contractual relationship. The point is that ministers can't sue if they're let go or something like that. That's probably the differentiation.

So that everybody understands, the term “public office holders” includes ministers and goes all the way down, through all other order in council appointees. You can refer to footnote 14 in the document or you can print it from the PCO site, for greater certainty.

Mr. Del Mastro, you have the floor.

Mr. Dean Del Mastro (Peterborough, CPC): Thank you, Mr. Chairman.

Perhaps while I have the floor I would ask that we temporarily move to item 2 under orders of the day to consider motions, and then we can return to questions. It's just to make sure that we have time to deal with motions today. The other day we ran out of time before we got to motions. It's just a procedural matter. Perhaps we could move quickly to item 2, and then I would get on with questions for the witness.

The Chair: The committee is master of its own agenda. I think we had better take a straw vote on this.

I assume you have moved that we suspend the current proceedings, move to complete motions, and then come back to this. Is that the gist of the motion?

Mr. Dean Del Mastro: Yes, it is.

The Chair: Does everyone understand the request in the motion of Mr. Del Mastro?

All those in favour? Opposed?

(Motion negatived)

The Chair: The chair believes that we should continue with our witnesses, but I want to assure the member that we will complete the full agenda today.

We're back to Mr. Del Mastro for questions, for eight minutes.

Mr. Dean Del Mastro: Thank you, Mr. Chair.

Mr. Wild, you correctly pointed out in your responses to Mr. Wrzesniewskij that, with the Westminster parliamentary system, when Canadians feel that governments aren't upholding the ethical standards they've been elected to uphold, they throw them out through the democratic process. That's what we saw occur to the Liberal Party in 2006. We witnessed Canadians punish them in the 2008 election. Canadians just punished them again in four by-elections with four third-place finishes, including a terrible showing in Montreal, which has to cause concern to a party whose bastion of support tends to emanate from around the city of Montreal. It has to be very concerning.

We know that between the years 1993 and 2005 we didn't have this; we didn't have accountable government. We witnessed abhorrent abuses of taxpayers' dollars, and certainly what Justice Gomery referred to as a culture of entitlement had formed. We saw an elaborate kickback scheme invented whereby money was doled out beyond the reach of Treasury Board, with more than \$360 million paid directly to Liberal operatives who then took money in unmarked brown envelopes and.... We don't know who gave or who directed that the money be given to these Liberal operatives or bagmen. These individuals then took that money in brown envelopes and gave it to Liberal riding associations in Quebec, but we don't

know which Liberal riding associations received that money. In fact, more than \$43 million couldn't even be accounted for.

This was over \$360 million. Let's call a spade a spade: they did this because they were using it as an unfair advantage over the Bloc Québécois. They didn't feel they could hold them off in the province of Quebec without using taxpayers' money in an illegal fashion to do so.

Do you think that Canadians deserve to know which Liberal operatives operating out of the Prime Minister's Office directed this theft of more than \$360 million from taxpayers? Do you think those people should be held accountable? Do you think they deserve to know where the missing \$43 million went? Do you think that public trust will continue to be challenged if we don't get answers to these questions and hold those Liberal members accountable for their crimes?

● (0940)

The Chair: Excuse me. The last part I think is inappropriate for the record. I'm not sure whether there were any Liberal members identified in the Gomery report, and certainly there was no determination of crimes.

I would ask Mr. Del Mastro to withdraw the reference to that phrase.

Mr. Dean Del Mastro: Unfortunately, Mr. Chair, this is where you and I disagree. I think the theft of \$360 million plus in taxpayers' money is a crime. I can understand perhaps where you have a different view of this, but I will not withdraw those remarks, because that was a crime.

The Chair: We're not going to have a debate on this, Mr. Del Mastro, but I have offered you an opportunity just to be correct.

Mr. Dean Del Mastro: No, I think that was a crime, sir.

The Chair: Well, that's not what I pointed out. I pointed out that you said that “Liberal members”...and there was no issue here with Liberal members. And certainly there was no determination by any jurisdictional body that there was a crime.

I raise with you that we should be judicious in the way we describe things. To be honest is always a good thing.

Mr. Dean Del Mastro: Yes, Mr. Chair, and that's why over \$360 million of taxpayers' money, funnelled to Liberal riding associations, is a crime, sir. And you will stop interjecting into my questions just because you may not like the answer.

Do you think Canadians have a right to know who is responsible for this? And more, do you think that until those questions are answered, Canadians will continue to question the ethical standards of government? Frankly, the Liberal Party told them they should always question government.

Mr. Joe Wild: I want to point out one thing, which is that accountable government, under a different title and a different form, was in existence from 1993 to 2005. As I said, it dates back to 1974, and it has been in place in various forms. There are changes that are made by various prime ministers when they come into office.

On the issues surrounding the sponsorship program, I don't have anything to add beyond the government's response to Justice Gomery's inquiry.

Mr. Dean Del Mastro: Thank you, sir.

I'll give the balance of my time to Mr. Dechert.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thanks, Mr. Chair.

And thank you, Mr. Wild, for your remarks.

You mentioned in your opening comments that a key component of the Federal Accountability Act was to strengthen conflict of interest rules for ministers and other public office holders. You said:

By enshrining conflict of interest rules for ministers and other public office holders in legislation and entrusting its administration to an independent officer of Parliament, Canada became the only Westminster country to have created a statutory regime for ministers in this area.

I thought that was quite interesting. Could you tell us what other countries with similar systems of government do, if they don't do what we do? For example, what is done in the U.K., and how would you compare Canada to the U.K. and other Westminster-type countries in that regard?

● (0945)

Mr. Joe Wild: Most of the Westminster countries take what some commentators would call an integrity-based approach to ethics and conflict of interest, in that it's done through a series of guidelines and guidance documents.

The United States, which does not have a Westminster system, is probably one of the most legislated systems when it comes to conflict of interest.

Canada has basically moved, you could say, partway towards that, in the sense that it's trying to balance both the integrity-based approach that most Commonwealth countries take, of having softer concepts such as honesty and integrity remain in a guidance document, while taking concepts that could be more readily reduced to a set of rules—those mainly being conflict of interest and post-employment conduct—and establishing a rules-based system around them in law.

Those are really the main differences. Australia and New Zealand operate on a set of guidelines, and in the U.K. they have a set of guidelines. But if you put it on a sort of spectrum, you would probably find the U.K. having the least amount written down, with Australia and New Zealand next, and then Canada further along that spectrum.

Mr. Bob Dechert: Would you say there has been a significant increase in the rules governing ministers since 2006?

The Chair: I'm sorry, we're way over. It's nine and a half minutes already.

Mr. Bob Dechert: Okay, I'll have another opportunity.

The Chair: Sure.

Mr. Wrzesnewskyj and Madam Simson are going to split the five minutes left.

Mr. Borys Wrzesnewskyj: Thank you, Chair.

Mr. Wild, I'd like to continue where we left off in the first round. You've stated that the Prime Minister must answer to Parliament and ultimately to Canadians for the conduct of his office and his ministries.

Then you appeared to say that ultimately, if there's a disconnect between the ethical standards of the Prime Minister and his ministries and the expectations of Canadians and Parliament, it's up to Parliament, I guess, through our institutions, through the mechanisms that we have at our disposal, to hold the Prime Minister and his ministries to account on this ethical disconnect. Is that correct?

Mr. Joe Wild: Yes.

Mr. Borys Wrzesnewskyj: Would one of those institutions of Parliament that we have at our disposal to conduct such an inquiry or investigation...would a standing committee of Parliament, such as this one on ethics, be one of those venues?

Mr. Joe Wild: I certainly don't see any reason why Parliament can't establish whatever standing committees it wishes, to conduct whatever business it wishes, so long as it doesn't offend the constitutional division.

Mr. Borys Wrzesnewskyj: So it appears we're in a situation here where the commissioner has stated that she's not quite sure that within the act she has the power, and you've made it quite clear that the ball is back in our court, as Parliament, to finally do the job here when there's an ethical disconnect between the Prime Minister and the expectations of Canadians.

I have a quick question. The act states that you cannot use public office for private interest. The symbolic cheques advertising government infrastructure spending: that is the taxpayers' money, is it not?

Mr. Joe Wild: I'm sorry, the...?

Mr. Borys Wrzesnewskyj: The spending on infrastructure projects. It's the taxpayer who is funding those projects.

Mr. Joe Wild: Yes.

Mr. Borys Wrzesnewskyj: As for the Conservative Party logo being placed on cheques that are advertising that spending, in whose interest would it be to put this private entity's logo on advertising that is being paid for by the Canadian taxpayer?

● (0950)

Mr. Joe Wild: When it comes to the specifics of the cheques, I'm not particularly in a position to comment on those areas. I'm not an expert on the government's communications policy or the federal identity program, and as I mentioned before, I think these questions were fairly fully canvassed with the clerk and the secretary of the Treasury Board before the government operations committee.

So I'm not really in a position to talk about the specifics around what occurred in terms of any given cheque. It's not something that I was involved in.

Mr. Borys Wrzesnewskyj: I'm not asking about—

The Chair: Mr. Wrzesnewskyj, you only have a minute and a half left, if you want to share. You decide.

Mrs. Michelle Simson (Scarborough Southwest, Lib.): You go ahead.

Mr. Borys Wrzesnewskyj: Thank you.

Hypothetically, though, in your opinion, is it ethical to place a logo of a private interest on advertising that's being funded, and solely funded, by the Canadian taxpayer?

Mr. Joe Wild: Again, I'm not the expert on the policies around communications and advertising. I think those are questions that are better put to the secretary of the Treasury Board.

Mr. Borys Wrzesnewskyj: In your recollection, has this ever occurred in the past?

Mr. Joe Wild: I don't know.

Mr. Borys Wrzesnewskyj: Thank you.

The Chair: Thank you.

Mr. Dechert, please, for five minutes.

Mr. Bob Dechert: Thank you, Mr. Chair.

When we were speaking a few minutes ago, Mr. Wild, we were discussing how the Federal Accountability Act had enshrined the conflict of interest rules for ministers and placed that administration in the hands of an independent officer of Parliament.

Would you say the rule governing ministers' conduct is stricter now than it was prior to 2006?

Mr. Joe Wild: It's stricter certainly in the sense that you've gone from a code to a set of laws, and I guess in the writing down of those laws, one has to be more specific in the terminology that is used than you would be in a code.

In other words, a code can have some inherent flexibility of interpretation in it. When you reduce things to statute, you tend to have to minimize the amount of scope of interpretation as much as you can so that there is a common understanding to enhance capacity to actually adhere and comply with the law.

Mr. Bob Dechert: Okay. Does the fact that an independent officer of Parliament now oversees and administers that code have an effect on making enforcement of these rules different from what it was previously?

Mr. Joe Wild: It's certainly different, particularly in the sense that in establishing the office, the statute defines investigatory powers that are more encompassing than for any of the predecessors.

Mr. Bob Dechert: Could you take us through a few examples of how the 2008 edition of the guide is different from the previous editions?

Mr. Joe Wild: The 2008 edition is new from the 2007 edition, but the differences between those two editions are fairly minor.

Mr. Bob Dechert: How about between 2007 and 2006 or previous editions?

Mr. Joe Wild: There are far more substantive differences in the editions of 2006 and 2007, in that 2006 predates the Federal Accountability Act. The 2006 edition was issued by the Prime Minister upon coming into office in February.

The 2007 edition is post the passing of the Federal Accountability Act so it contains sections dealing with the role of deputy ministers as accounting officers. It contains annexes G and H, which were not there before, ethical conduct and the political activity guidelines.

Ethical conduct used to be in a code, and when the Conflict of Interest Act was brought into force through the Federal Accountability Act, the ethical portions were put into annex G.

There is usually some cleanup of language going on. We're continually parsing language.

Those would be the major changes. Certainly annex H is a change in the sense that it did not exist in that form prior to 2007.

Mr. Bob Dechert: Thank you very much.

You mentioned that you and your colleagues have been busy with the implementation of the Federal Accountability Act. Has that been a significant task? How has it changed the regime for lobbying the federal government, as opposed to what was in place prior to the Accountability Act?

• (0955)

Mr. Joe Wild: My particular role in implementation was in my previous job, when I was executive director of strategic policy at the Treasury Board Secretariat. I was responsible for coordinating the government's implementation of the legislation. Much of that work had been completed by the time we got into 2007.

Since then, much of the focus in terms of lobbying in particular... There was some focus on finding a candidate to be the lobbying commissioner. From my perspective, it's more in watching and understanding how the commissioner is interpreting and implementing that legislation. That's primarily what we're looking at as we head toward the potential of the five-year reviews of the Lobbying Act being triggered in another year or two.

Mr. Bob Dechert: Thank you. Do you consider the Accountability Act and its rules to be an improvement on the previous system?

Mr. Joe Wild: Aspects of the Accountability Act have changed how the government functions in some very fundamental ways. In particular, I would suggest that the accounting officer regime and reminding deputy ministers of their role in the management of their organizations has had the desired impact on the system in improving and heightening the management capacity of deputies and departments. It's difficult because one doesn't necessarily want to bring a lot of value judgments into these types of scenarios. I think the Accountability Act brought more transparency, more oversight mechanisms, and has clarified the roles of deputy ministers around the management of their organizations. One can debate whether all of these have contributed significantly to the better management of the Government of Canada or not.

The Chair: Thank you.

Mr. Dorion, please.

[Translation]

Mr. Jean Dorion (Longueuil—Pierre-Boucher, BQ): Thank you, Mr. Chairman.

Mr. Wild, if I understand correctly, you are the individual in cabinet responsible for the machinery of government. I would imagine that you advise the Prime Minister on the application of the guide we received this morning. Is that correct?

[English]

Mr. Joe Wild: I wouldn't say that it's my job to advise the Prime Minister on specific situations that may arise in terms of how to apply the principles in accountable government; it's certainly my job to advise the Prime Minister in terms of the writing of accountable government. If asked, certainly we would provide our advice on how the Westminster system operates, the roles of the Prime Minister, the roles of the Governor General, and so on. If you're asking if I play a role in providing advice to the Prime Minister on a situation where there's a question of the ethical conduct of a minister, I do not.

[Translation]

Mr. Jean Dorion: Earlier on, you were asked a very specific question. Do you believe it is in keeping with the ethical guidelines to use the Conservative Party logo on cheques for grants to be paid out of public funds, in other words taxpayers' funds? You answered that you were not an expert in that area. Do you not see that type of answer as affecting your credibility when you appear before a committee like this one?

[English]

Mr. Joe Wild: Ultimately, Mr. Chairman, the members of the committee will judge whether I have credibility or not. I give the best answers that I can. Do I think it affects my credibility? No. I think I'm answering as one would expect a public servant to answer questions that are asking a public servant to go beyond the role public servants play when they appear before committees.

[Translation]

Mr. Jean Dorion: Mr. Chairman, I will now hand over the rest of my time to my colleague.

Ms. Meili Faille: My question is to you, Mr. Wild.

The Privy Council Office holds regular meetings with the Conflict of Interest and Ethics Commissioner. Is that correct?

Mr. Joe Wild: Yes.

• (1000)

Ms. Meili Faille: When was the last time she met with you to inform you of the limits of her mandate and of the changes she would like to see brought to it?

Mr. Joe Wild: Could you repeat your question?

Ms. Meili Faille: When was the last time she met with you to inform you of the limits of her mandate and changes she would like to have brought to it?

Mr. Joe Wild: You are asking when the most recent meeting took place.

[English]

There's nothing structured, in the sense that we have a regular meeting with the Conflict of Interest and Ethics Commissioner. We will occasionally have dialogue around the interpretation of provisions of the legislation. She will occasionally ask for our views on certain aspects of the legislation given the role that we played in crafting it. But it's nothing more than that.

[Translation]

Ms. Meili Faille: Perhaps you could consult your agenda and tell us chronologically over the last few years what has happened with

respect to requests from the commissioner. I am certain she wants to fulfil her mandate pursuant to the expectations of government and of the machinery of government. I would imagine she meets with you regularly. I would like you to consult your agendas and see when the most recent requests were made by her, so you may inform the committee of your dealings with the commissioner.

My second question is to you, Ms. Boyd.

Are you made aware, systematically, of public office holders who are the subject of investigations for reasons of conflicts of interests or other types of investigations where there is some suspicion of potential conflicts of interest?

Could you also tell me what would be the penalties provided and what the process is? Would these people be put on leave without pay, with pay, are they transferred? Would a deputy minister, who himself has been appointed, have the power to direct such an investigation?

I'm asking you all these questions because it seems as though there are no guidelines as to who is responsible for managing the application of the code as such.

[English]

Mrs. Eileen Boyd: Perhaps I could comment on some of our processes, because I think that might address some of your questions.

When we have a Governor in Council appointee, whether it's a deputy minister, a CEO, a chair of a crown corporation, or a head of a federal agency, we make sure that, number one, they understand the requirements of the position. When we post some of these Governor in Council appointees on the public website, the notice of vacancy, in the cases when we do post a notice of vacancy, will specify that the guidelines are a term and condition of appointment. Prior to being appointed, we ask that Governor in Council appointees sign a certification form so that they understand that it is a condition of appointment.

The Conflict of Interest and Ethics Commissioner sets out the regime for reporting public office holders: essentially full-time Governor in Council appointees and, to a lesser extent, those Governor in Council appointees who are only public office holders, that is, those who are part-time Governor in Council appointees.

Prior to the actual appointment, we have a discussion with individuals to make them aware of the obligations under the Conflict of Interest Act. Once somebody is appointed, the person is required to certify to the Conflict of Interest Commissioner within 60 days. At that point, it is the Conflict of Interest Commissioner's role to determine whether there's a conflict of interest. If at any time during the tenure of a Governor in Council appointee she feels there is a need for investigation, that is certainly her role. She does not interact with PCO. She does not inform us of who she's investigating, and she does not consult with us. That is her independent role, and it is up to her to determine what the penalties need to be or what the changes need to be. In some cases, it may be a divesting of their assets, and in some cases it may be some other measures that need to be taken.

• (1005)

The Chair: Thank you.

We'll go to Mrs. Davidson, please.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Thank you, Mr. Chair.

Thank you very much, Mr. Wild and Ms. Boyd, for appearing before us this morning.

We've talked a little bit this morning about the public service, just briefly, and about a couple of questions that have come from the other side. I think it's very clear that ministers and ministers of state must respect the non-partisanship of the public service of Canada and not seek to engage public servants in work that is outside their appropriate role. I think we've heard a few comments here this morning that have attempted to politicize the public service of Canada. I think that's totally wrong.

I would like to ask whether you believe this guide does enough to protect public servants so that they don't compromise their ethics.

Mr. Joe Wild: Does the guide do enough to protect public servants so that they don't compromise their ethics?

The ethical rules for public servants are found in their own code of values and ethics. Basically, everyone in the public service has a responsibility to live those values and ethics, to talk about them, and to ensure in the way they conduct their work that they're respecting them. Every one of us in the public service carries with us those ideals of being non-partisan, of providing the best professional public policy advice we can to the government of the day, and of loyally implementing the agenda of that government. Certainly I think writing down these expectations helps. Trying to be as clear as one can be in writing about the role of the public service and its relationship with ministers helps. But at the end of the day, it's about the individual actions individual ministers, members of Parliament, senators, and public servants take. How each of us conducts our relations with each other and how that plays out determines whether we're protecting that notion of a non-partisan professional public service.

Mrs. Patricia Davidson: Thank you.

We're all aware that certainly the centrepiece, or one of the centrepieces, of this government's agenda was to transform the accountability regime applicable to the federal government. We've heard a lot of discussion about that this morning. We enacted the Federal Accountability Act, the legislative basis for this transformation. That's been put in place. Can you demonstrate or give me an example of how this has positively impacted public office holders in their day-to-day duties?

Mr. Joe Wild: One change arising out of the Federal Accountability Act was the introduction of the accounting officer model and the impact it has had on the attention and care that deputy ministers pay to the management of their organizations. I don't want to overstate this, because I think deputy ministers have always paid attention to the management of their organizations. But the accounting officer model helped to clarify the roles of the minister and the deputy in their partnership in ensuring that departments of government are well managed.

I think about my days in Treasury Board. The current clerk and former secretary of the Treasury Board have said before various committees of the House of Commons that this was a significant

shift in the symbolism and mentality of the systems of government. It recognized that it was important for deputy ministers to ensure that the best possible public policy advice was being provided to their ministers and that they were paying attention to the management of their organizations.

Mrs. Patricia Davidson: We talked a little this morning about the changes to the guide and the different stages it has gone through. Can you tell me how long you've been developing or working on this guide? It was revised in 2008?

• (1010)

Mr. Joe Wild: The current edition is from 2008, and revisions to the guide come about in one of two ways. Either the Prime Minister asks us to sit down and revisit it, or we suggest to the Prime Minister that it may be time to revisit it because certain things have changed. Normally when there is a change in Prime Minister, they want to take an examination of the guide, as it is their statement to their ministry of their expectations. Those are typically the triggering events for when changes can occur to the guide.

The Chair: Thank you.

Mr. Siksay is next. Then I have Madam Simson.

I have one more Conservative slot. Does someone else want to fill it? All right, you can let me know.

Mr. Siksay.

Mr. Bill Siksay: Thank you, Chair.

Mr. Wild, you mentioned that annex H was a new addition to the guidelines for ministers and ministers of state. Can you tell me why it was added? What was the thinking process? Was there anything similar to it in previous editions of this guide?

Mr. Joe Wild: Ms. Boyd may want to jump in here if I get a little bit off track, but annex H is basically a culmination of practices that have been developing around advice provided to public office holders on political activities. The desire was to get it all down in one place, thus annex H was born.

I don't want to suggest that there was a complete vacuum before annex H, but there was nothing written down that had been coherently thought through and articulated in one place, setting all of this out. That's what annex H basically represents.

Mr. Bill Siksay: Annex H doesn't really deal with ministers and ministers of state, except to exempt them from the provisions of annex H. Is it to guide them on how to deal with the public office holders who work in their departments? I'm still curious as to why there's a new edition to this guide, since it really only exempts ministers and ministers of state from the provisions of the annex that's being added.

Mr. Joe Wild: As much as anything else, it's about finding a place where you can speak to public office holders. This guide is disseminated and is part of the orientation sessions we hold with new appointees. I understand it is primarily directed at ministers and ministers of state, but it does speak to all public office holders in various forms.

Annex H is very specifically targeted at non-political actors—ministers, ministers of state, and so on. But the importance of annex H is to ensure that everyone has a clear understanding of what the rules are. That's why it was made public. We chose this document to put it in. I guess one could argue that we should do it as a stand-alone, or something like that, but this was the vehicle we chose. The only other aspect is that annex H speaks to ministers and makes it clear that government property and public servants should not be used for partisan political purposes.

Mr. Bill Siksay: It doesn't say that. The clear statement is:

It should be noted that these Guidelines do not apply to those public office holders whose roles and functions are necessarily of a political partisan [nature]...

It doesn't say "except for using your office for political purposes" or "your department for political purposes".

Mr. Joe Wild: Annex G gets into that, and again, it's how the two operate together.

Mr. Bill Siksay: I want to ask another question on a different topic. It seems clear that it's the Prime Minister himself who is responsible for the application of the guide and the provisions in it. Is there someone who assists him? Is there a staffed position that would assist in that? Is there someone who would advise the Prime Minister on that?

Mr. Joe Wild: I think the Prime Minister is free to seek advice from wherever he wishes on this, whether it is his staff, whether it is the Privy Council Office, whether it is outside, independent people.

•(1015)

Mr. Bill Siksay: Would a minister or a minister of state seek advice directly from the Prime Minister? Or is there someone who would advise them on any questions they would have about being in conflict with the provisions of the guide?

Mr. Joe Wild: It may depend on exactly what provisions we're talking about. If a minister has questions about how the cabinet system works, he may actually sit down and have a discussion with his deputy minister about that, or the clerk, but if we're talking specifically about the standards of conduct, one would expect that those are the questions that a minister would engage the Prime Minister or some of the Prime Minister's staff in.

Mr. Bill Siksay: What are the possible consequences of a breach? Is firing or resignation the only consequence? Are there other possibilities?

Mr. Joe Wild: I don't think it is the only consequence. There is an ambit of consequences from the informal to simply having a discussion, saying "Don't do it again", ramping all the way up to the ultimate of either a firing or a resignation.

Mr. Bill Siksay: To your knowledge, has the code been operational in any way? Since they were issued, has anyone been disciplined under the provisions of the code, specifically in that period?

Mr. Joe Wild: I don't know either way.

Mr. Bill Siksay: With regard to consistency of the application of the code, is that entirely up to the Prime Minister? In one case we've seen a minister resign, or maybe pushed to resign over missing documents. In other cases we've seen ministers who may have been involved in having received a benefit of fundraising that may have taken place in a government agency that has connections to their

office, or as a result of lobbyist activity by those who are registered to lobby them, and yet there is no resignation in that case. Is consistency an issue? Is that solely the Prime Minister's jurisdiction, to ensure consistency in the application of the provisions of the guide?

Mr. Joe Wild: It is absolutely up to the Prime Minister to determine in any given case what are the appropriate consequences.

The Chair: Thank you.

Madam Simson, please.

Mrs. Michelle Simson: Thank you, Mr. Wild and Ms. Boyd, for appearing before the committee.

I'm looking at page 31, under "Standards of Conduct", specifically to "Ministerial Conduct", which states:

Ministers and Ministers of State must act with honesty and must uphold the highest ethical standards so that public confidence and trust in the integrity, objectivity and impartiality of government are maintained and enhanced.

I bring this up because I'm specifically referring to a *Globe and Mail* article this morning with respect to the abuse of the ten percenters, the MPs' franking privilege. Today's *Globe and Mail* states:

One sent out by Foreign Affairs Minister Lawrence Cannon and other Tory MPs shows a picture of a little girl, with text that says the Conservative government worked to stop criminals who target children, while the Bloc Quebecois "prefers candy sentences." A headline said: "Your Bloc MP voted against protecting children."

I'd like to ask both of you, as an opinion, how much trust, integrity, objectivity, and impartiality did the conduct of this minister instill in the public by signing and sending out this message across Canada? I ask for your opinion.

Mr. Joe Wild: I don't have one. It is not for me to opine upon any specific circumstance or set of facts in terms of the application of this particular guide.

Mrs. Michelle Simson: In other words, it is the Prime Minister who actually sets the pace in terms of any kind of conduct. That is the only recourse. The public has no recourse for the abuse of their funds and for ministers signing messages like this, other than electorally. But at that point we could be bankrupt, with all the money that's going out the door in terms of these kinds of flyers. That is the only recourse the public has.

•(1020)

Mr. Joe Wild: I think it depends on what one is talking about. If you're talking about... Again, I don't want to talk about specific facts per se, but there are many systems in place in government to protect against fraud or fraudulent use of funds, those sorts of things. In terms of whether or not a given exercise of judgment crosses a line in terms of a standard of conduct, such as the one here, ultimately it's for the Prime Minister to judge whether that conduct is sufficiently egregious to warrant asking for a minister's resignation. Ultimately, parliamentarians and the public will hold the Prime Minister to account for that decision.

Mrs. Michelle Simson: You can only do that electorally, so it could be several years, you'd agree, before you have the opportunity to do that.

Mr. Joe Wild: I don't think I can agree with that in minority Parliament situations. But in a typical majority Parliament situation you'd be on a four- to five-year clock, yes.

Mrs. Michelle Simson: Okay. Thank you.

The Chair: Thank you.

Mr. Wild and Ms. Boyd, I think this has been helpful to the committee, for its knowledge. There is that one little thing about annex H, which does not apply to ministers and ministers of state and people who are in political life. It's annex G that is really the guideline to ethical conduct.

These annexes, G and H, apply to all other public office holders.

Mr. Joe Wild: Correct.

The Chair: This document is a guide, called *A Guide for Ministers and Ministers of State*. Why would it exclude all those other public office holders?

Mr. Joe Wild: Do you mean just in terms of the title? I mean, it's just a title.

The Chair: You told us when we started off that this document is the Prime Minister's guide. He is solely responsible for upholding whatever it says in here, and it's his decision whether something happens. Yet in here are ethical guidelines for public office holders beyond ministers and ministers of state.

Mr. Joe Wild: Right, but those public office holders are all public office holders where the Prime Minister recommends their appointment to the Governor in Council. Again, it's part of the layer of appointments the Prime Minister has responsibility for.

The Chair: No, I understand that, and I think you're quite right. The title sort of gives me a problem because it tends to be restrictive when in fact it's not. It is a fact that should a public office holder other than a politician—an order in council appointee, say—be found to be in breach of some aspect of annex H regarding political activities....

No, there are no more speakers. Mr. Allison, you know we're finished. The chair is just trying to clarify for the committee.

Who is responsible for advising the Prime Minister about an alleged breach?

Mrs. Eileen Boyd: Perhaps I can just clarify one point that you referred to earlier. The reason annex H is also included in this particular guide is that ministers do have portfolio responsibilities, and as Joe indicated, ministers do make recommendations to the Governor in Council with respect to appointees. Ministers do have to understand what the obligations are of the public office holders because they are the ones who are not only putting forth the recommendation, but should there be some type of a breach, the minister would also have to be involved with respect to a need to terminate an appointment, for example.

Public office holders serve either during pleasure or during good behaviour, so there is a process that would involve, obviously, the minister making a recommendation to the Governor in Council. They do need to understand what their obligations are as ministers

vis-à-vis making Governor in Council appointments. I just wanted to clarify that.

The Chair: That's helpful, so that everyone understands that the other public office holders, other than the politicians, are subject to the Conflict of Interest Act and to the bylaws and operating policies and practices of the agency or authority to which they have been appointed.

That's great. We're done.

Thank you kindly. It has been very helpful. You're excused, because we have some other business to attend to now.

I don't want to suspend. I want to just move right on to make sure we have time to deal with the issues still before us. We'll circulate for all members copies of both motions that are outstanding in our committee business, in case members don't have that.

Colleagues, the first motion, by date of notice, is Mr. Poilievre's motion, which is before you. I won't read it.

Mr. Poilievre, would you care to move your motion?

• (1025)

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Actually, I'd be prepared to defer it. Thank you.

The Chair: You don't want to deal with your motion today?

Mr. Pierre Poilievre: I'll defer it.

The Chair: Okay.

The second item is a notice of motion by Mr. Del Mastro. I would like to advise the members that when I received the motion I asked for the clerk's advice. I also asked the Auditor General to examine the motion and give me some information as to the rules of the game under which she operates. I have, in both official languages, the response from the Auditor General, dated November 13. She says:

Dear Mr. Szabo:

Thank you for your letter dated 9 November 2009, informing me of the motion before the Committee, to request that my Office "conduct a full audit of the sponsorship program to determine which federal Liberal riding associations received stolen funds, and to clarify for Canadians who received the missing \$43 million dollars".

I wish to inform the Committee that we do not have the authority to undertake this audit as our mandate is limited to federal departments and agencies.

Further, my Office has already conducted a full audit of the sponsorship program, the government of the day commissioned a public inquiry and the RCMP has investigated this matter.

I hope that this information is helpful....

We can circulate copies of this to the committee.

For information purposes only, the committee's mandate is included under Stand Order 108(3)(h). We have dealt with this before, but the first five subparagraphs under (h) refer to matters related to the Information Commissioner, the Privacy Commissioner, and the Conflict of Interest and Ethics Commissioner. The only part of our mandate that remains would be subparagraph 108(4)(h)(vi), which says that we can propose, promote, monitor or assess "initiatives which relate to access to information and privacy across all sectors of Canadian society and to ethical standards relating to public office holders".

The motion by Mr. Del Mastro refers to an investigation and asks the Auditor General to conduct an audit. We are not authorized to review her work or specifically direct her to do anything, and the Auditor General says she cannot do that because it's beyond her mandate. Also, in regard to determining which federal Liberal riding associations have stolen funds, we have no responsibility for political institutions and associations.

The clerk's opinion and advice is that this motion is out of order—
 ● (1030)

Mr. Dean Del Mastro: I challenge the chair.

The Chair: Just one moment.

Mr. Dean Del Mastro: You never even gave me the opportunity to speak to my motion.

The Chair: Excuse me, would you just hear me out?

Having consulted with the Auditor General and reviewed the Standing Orders under which this committee is authorized to operate, I have to concur with the opinion of the clerk that this motion is beyond our mandate as laid out in the Standing Orders. Accordingly, I'm ruling the motion inadmissible because it's out of order.

Thank you.

Mr. Dean Del Mastro: I challenge the chair.

The Chair: There has been a challenge to the chair. The challenge is not debatable. We must put the question now, and I would like a recorded division, please.

Mr. Bill Siksay: On a point of order, does the challenger get to state their reasons?

The Chair: No, it's not debatable.

Mr. Bill Siksay: That doesn't strike me as debate.

The Chair: It's not debatable. This is a challenge to the decision of the chair. It's not for discussion.

Shall the decision of the chair be sustained?

The chair does not get a vote on a challenge. In a tied vote, the chair's decision is sustained.

(Ruling of the chair sustained: yeas 5; nays 5)

The Chair: That's dealt with.

Mr. Poilievre, would you like to address your motion?

Mr. Pierre Poilievre: Sure.

The Chair: Okay, please.

Mr. Pierre Poilievre: I think all members can share some pride in the achievement of the Federal Accountability Act. In a committee room, not so different from this one, members of all parties worked on the Accountability Act. They helped to institute it, pass it, amend it, approve it, and send it to the Senate, where it passed. I think in the end, the Accountability Act was unanimous. I would like to acknowledge the good work of people like Pat Martin, the late Benoît Sauvageau, and others, who all made valuable contributions to passing it.

It has been recognized by the leading experts as the most important change to the Access to Information Act since 1983. Given that we have been discussing the Access to Information Act, Mr. Chair, I think it would be appropriate to acknowledge the importance of the Accountability Act to ATIP. Thus, I call on my distinguished colleagues here today to join me in supporting this motion.

The Chair: Does everyone understand the motion by Mr. Poilievre? Are you ready for the question?

Would you like a recorded division, or are we just going to do it by hands?

● (1035)

Mr. Pierre Poilievre: A show of hands is fine.

(Motion negated)

The Chair: Thank you.

The meeting is adjourned.

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