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

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**EVIDENCE**

**Tuesday, December 14, 2010**

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**Chair**

**The Honourable Shawn Murphy**



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

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•(1530)

[English]

**The Chair (Hon. Shawn Murphy (Charlottetown, Lib.):** Order, please. I would like to extend to everyone a welcome.

This meeting is called pursuant to the Standing Orders. It's a bit of a continuation of a meeting we held a couple of months ago, and also perhaps a look into something we'll be doing shortly, I understand, and that is the five-year legislative review under the Lobbyists Registration Act.

The committee is pleased to have before us today, for the first hour and a half, from the Office of the Commissioner of Lobbying, the commissioner herself, Karen Shepherd. She is accompanied by the deputy commissioner, René Leblanc, and senior counsel Bruce Bergen.

Colleagues, at five o'clock we will deal with the minutes of the steering committee that took place earlier today and then go in camera to hopefully conclude the final report on the Google study, which we've done for quite some time now.

I understand that Mrs. Shepherd's presentation is going to be a little longer than normal because of the nature of the presentation.

Mrs. Shepherd, the floor is yours.

**Mrs. Karen Shepherd (Commissioner of Lobbying):** Good afternoon, Mr. Chair and members of the committee.

[Translation]

I am pleased to be back with you today to discuss my investigation process. I will also briefly discuss the upcoming legislative review and will be pleased to answer any additional questions you may have concerning the recent amendments to the Designated Public Office Holder Regulations.

I am accompanied by Mr. René Leblanc, Deputy Commissioner, and Mr. Bruce Bergen, senior counsel.

I have a PowerPoint presentation that summarizes the key points I wish to address today concerning the investigation process. I believe you were provided with a copy.

[English]

The Lobbying Act came into force in July 2008 to increase the transparency of lobbying activities and help raise the confidence level of Canadians in the integrity of government decision-making.

My mandate has three components: establish and maintain a registry of lobbyists, which is our main tool to increase disclosure

and transparency; reach out to lobbyists, their clients, and public office holders to raise awareness about the act; and ensure compliance.

Today I will focus primarily on how I ensure compliance with the Lobbying Act and the lobbyists' code of conduct. My investigation team currently consists of a director, four senior investigators, and a compliance officer. Every year I report to Parliament and to this committee on my activities in this and other areas. The investigations team is responsible for conducting administrative reviews and investigations. The team also verifies monthly communication reports and conducts exemption reviews. In addition, they monitor publicly available information such as media articles, social media, and the registry of lobbyists to identify potential breaches of either the act or the code.

In addition to identifying potential breaches from our own observations of the media and other publicly available information, anyone can make an allegation and inform my office about a suspected breach of the Lobbying Act or the lobbyists' code of conduct. I take all allegations seriously and evaluate each of them before I decide on a course of action. However, if I suspect that the subject matter may be under investigation by a peace officer, such as the Royal Canadian Mounted Police, I will contact them to determine whether or not I should suspend looking into the matter.

Since the coming into force of the Lobbying Act in July 2008, I have had to suspend looking into two files. If no one else is looking into the matter, I will initiate an administrative review if I suspect that a breach of the act or the code has occurred. Contraventions of the Lobbying Act are primarily linked to registrations. These include failing to register as a lobbyist, failing to register within the time limit, failing to provide the required information in the registration, failing to comply with a request for information, and failing to clarify or correct information in the registry of lobbyists.

Knowingly making false or misleading statements in a registration or any other document is also a contravention of the act. With respect to the lobbyists' code of conduct, it is important to note that it is not a statutory instrument. There are no fines or jail sentences for breaches of the code. The act instructs me to table a report on investigation in both houses of Parliament when I conclude an investigation into a breach of the code.

I would like to turn your attention to the administrative review, which is the fact-gathering portion of the investigative process. This process is intended to provide me with sufficient information to determine whether I should pursue the matter by initiating a formal investigation or if an alternate course of action is preferable. During an administrative review, my investigators will attempt to determine if there was an offence under the act by answering questions such as the following. Was the activity a registerable communication? Was the individual paid to engage in lobbying activities? If they were in-house lobbyists, did they meet the significant part of duties threshold? Was a meeting arranged in advance?

For breaches of the code such as rule 8, they will try to determine the extent to which a lobbyist may have advanced the private interest of a public office holder.

The administrative review process is extensive, because it may lead to an RCMP investigation. In addition, any decision I make may be the subject of an application for a judicial review in Federal Court. The length of time it takes to complete an administrative review will vary in each case, depending on the complexity of the file, the availability of witnesses, and other factors.

An administrative review can lead to one of four possible outcomes.

The review is closed because the allegation was not well founded. The reason that allegations are not well founded include that it was not a registerable activity, that it was not undertaken for payment, and that the subject did not meet the significant part of duties test. In these cases, I advise the subject and the complainant of this outcome in a letter. Since July 2008, I have closed nine files because the allegations were not well founded.

- (1535)

It is also possible that I close the administrative review even though the allegation is well founded. In cases where I consider the offence not serious enough to refer to the RCMP, I may choose to take measures that I consider better suited to ensuring compliance with the act. These measures may include educating the subject or requesting that a correction be made to the registry of lobbyists. These files are also subject to further monitoring. This is important if I want to be in a position to show intent or negligence should I eventually decide to refer the matter to the RCMP. Since July 2008, I have closed 16 files where the allegation was well founded and such measures were employed.

In cases when I determine that the allegation is serious and appears to be well founded, I can initiate a formal investigation if I have reason to believe that an investigation is necessary to ensure compliance with the Lobbying Act and the lobbyists' code of conduct. Further, if I have reasonable grounds to believe that an offence has been committed under the Lobbying Act or any other act of Parliament, I must refer the matter to a peace officer.

[Translation]

Since July 2008, I initiated eight investigations. The investigations process is similar to the Administrative Review. One of the main differences is that once an investigation is initiated, I can summon witnesses to give evidence and I can compel the production of documents. To date, my experience is that witnesses are cooperating

and responding to our inquiries, and I have not had to use these powers.

At the conclusion of an investigation, the investigations team presents me with a report summarizing the case. The Act requires that I provide the subject of an investigation with an opportunity to present their views. To ensure due process, it is my policy to provide the person with a copy of the investigation report that I receive from the investigations team and give the person 30 days to respond.

[English]

Since July 2008 I have referred six files to the RCMP. I provide them with a comprehensive and well-documented case, including all the supporting evidence. When I refer a file to the RCMP, the act instructs me to suspend my investigation until the matter has been dealt with. Once the RCMP or the federal prosecutor has dealt with the matter, I may choose to resume the investigation as an investigation under the lobbyists' code of conduct, if I have sufficient grounds to do so.

The Lobbying Act includes penalties that may be imposed upon conviction. A fine of up to \$50,000 and imprisonment for up to six months may be imposed on summary conviction for knowingly giving false information, making a misleading statement, or failing to file a return. The maximum fine goes up to \$200,000 and imprisonment for up to two years for a conviction by way of indictment.

If a person is convicted of an offence under the Lobbying Act, I may also prohibit that person from engaging in lobbying activities for up to two years. However, no charges have been laid to date under the Lobbying Act.

As I mentioned earlier, the lobbyists' code of conduct is a non-statutory instrument, and there are no fines or jail sentences associated with breaches of the code. I am required, however, to table a report on investigation in both houses of Parliament to disclose my findings, conclusions, and the reasons for these conclusions, once the investigation into an alleged breach of the code is complete.

In preparing a report on investigation to outline my findings and explain my reasons for them to Parliament, I consider all the information before me to reach my own conclusions on the file. I consider the report that was submitted to me by my investigations team as well as the views presented by the subject.

I expect to table a number of reports on investigation this fiscal year. My reports on investigation are primarily intended to expose wrongdoing and deter the lobbyist from repeating the offence. My predecessor tabled four reports to Parliament in 2007 in which he determined that the allegations of unregistered lobbying were well founded and that the result was that the lobbyist under investigation had breached the lobbyists' code of conduct. Reports to Parliament also provide an incentive for all lobbyists to comply with the act and the code.

In closing, I would like to share my views with you about issues that you may wish to consider in the context of the legislative review. Approximately 5,000 lobbyists are registered to lobby federal public office holders, and every month hundreds of communications with designated public office holders are disclosed by lobbyists.

The issues I wish to raise with you are based on my experience in enforcing the act. Several lobbyists have been coming forward to voluntarily disclose that they were late in registering. It is encouraging to realize that a growing number of registrants are disclosing breaches of the act voluntarily. This year alone nine of the 23 administrative reviews initiated by my office were the result of voluntary disclosures.

However, my experience in enforcing the act has caused me to consider possible amendments that could be considered during a legislative review. For instance, are the compliance measures available to the commissioner appropriate, given the range of possible infractions? The only enforcement option at my disposal for a breach of the act is a referral to the Royal Canadian Mounted Police.

Penalties were increased when the Lobbying Act came into force, but so far no one has been charged. It appears that both the RCMP and the federal prosecutor have a high threshold for initiating a prosecution. As a result, prosecutions have not been commenced in 10 of the 11 cases referred to the RCMP since 2005. One case is still with the RCMP for consideration.

In the only lobbying case that has resulted in a sanction, the Attorney General elected to address the violation of the federal Lobbyists Registration Act by means of an alternative dispute resolution. This case ended with a requirement for the individual to write an essay outlining his experience and describing the lessons to be learned by former government employees whose subsequent activities require registration under the act.

● (1540)

For less serious transgressions, such as late filing of monthly communication reports, I do not believe the public interest would be well served if I were to refer such a file to the RCMP. In my view, such an offence does not warrant a criminal investigation. However, late filings do negatively impact transparency, and habitual late filings may warrant a type of sanction, such as an administrative monetary penalty, which is not currently available under the Lobbying Act but exists in some provincial lobbying legislation and in other federal legislation.

Another consideration is whether the legislation is capturing the individuals it was intended to regulate. Currently the act does not require the registration of organizations or corporations whose employees do not collectively spend a significant part of their duties on lobbying federal public office holders or who are not paid to do so. In considering these issues, I would put in a word of caution about the potential burden changing these provisions may represent for some. In that respect, it is important to keep in mind the principles on which the act is founded, in particular that free and open access to government is an important matter of public interest.

The information being disclosed in monthly communication reports may also be worth reviewing. Currently, monthly communication reports do not always indicate who is actually at the meeting. In the case of in-house registrations, for instance, only the senior reporting officer is listed in a monthly report, rather than the lobbyists who are present at the meeting. While there is an argument for requiring that senior decision-makers in corporations and organizations must be accountable for filing monthly communication reports on behalf of their firms, I believe it would be more transparent to also include the names of those actually engaging in lobbying activities and meeting with designated public office holders.

I would also like to submit that the determination of what is oral and arranged communication is not always as straightforward as one would think, and deserves some attention.

I would like to conclude my remarks with a few comments on the new regulations, which came into force on September 20 of this year. Since I already addressed this issue in some detail the last time I was here, I will be brief.

Members of Parliament and senators have always been considered public officer holders under the Lobbying Act. Before September 20, lobbyists were required to file an initial registration when they communicated with you for payment with regard to certain subjects. Since September 20, lobbyists are also required to disclose oral and arranged communications with you and monthly communication reports.

● (1545)

[*Translation*]

You may be interested to know that, in October alone, the number of monthly communication reports jumped to 1,600, from an average of about 600 in the months prior. The Registry of Lobbyists has easily absorbed the increased volume.

As designated public office holders, the five-year prohibition now applies to you. As a result, you will not be able to work as a consultant lobbyist nor be employed to lobby on behalf of a not-for-profit organization when you leave office. However, the Act allows you to be employed as an in-house lobbyist by a corporation, but only if lobbying does not constitute a significant part of your duties.

The Lobbying Act provides me with the power to grant exemptions to the five-year prohibition if granting an exemption would not be contrary to the spirit of the Lobbying Act. To date, I have received sixteen applications and have only granted four, all of them based on exceptional circumstances.

[*English*]

When the new regulations came into force, I sent an information package to members of Parliament and senators as well as to speakers of both houses of Parliament. Since then, I have contacted the party caucuses of the Senate and House of Commons and offered to go and explain the amended regulations and answer questions.

Finally, since September 20 my office has received about 100 inquiries from lobbyists, members of Parliament, and senators requesting additional information about the new regulations.

[Translation]

I want to thank you for your attention and I will now be pleased to answer your questions.

[English]

**The Chair:** Thank you very much, Ms. Shepherd. You've raised a number of interesting issues, lots of grist for the parliamentary mill here.

We're going to start the first round, seven minutes.

Mr. Easter, you're number one.

**Hon. Wayne Easter (Malpeque, Lib.):** Thank you, Mr. Chair.

I can't help but sit here and think, my God, we can create some complicated systems, for sure.

I do want to get to some specific questions in a minute, and I do thank you for your very well-detailed remarks.

• (1550)

**The Chair:** Excuse me, Mr. Easter, there may be an issue with the translation.

Okay, sorry.

**Hon. Wayne Easter:** Okay.

I think your remarks are very well thought out in layman's terms and should be helpful.

In page seven of your remarks you talk about the only enforcement option at your disposal for a breach of the act is referral to the RCMP. Some other parliamentary officers have power of investigation, which you really can't investigate with similar authority to the RCMP. Do you believe it might be desirable for you to have such powers or quasi-powers?

**Mrs. Karen Shepherd:** Actually, I do have the power to investigate, as I was indicating. I can open an investigation if I believe it is necessary to ensure compliance with the act and the code, and once I have that power I can summon testimony and witnesses.

What I was referring to, though, was that in the course of either my administrative review or even during or after an investigation, if I have reasonable grounds to believe that a breach of the act has occurred, then I must transfer the file at that point to the Royal Canadian Mounted Police.

**Hon. Wayne Easter:** I think you do make the point in here that has been brought up several times before. There have really been no prosecutions. Would it make sense, then, to have a system of penalties at your disposal rather than having to go through the prosecution of the RCMP? I think we've said at this committee several times that if the RCMP is looking at violations of the Lobbying Act versus some other situations where they have very serious crimes, then you know where they're going to spend their time. So do you think it would make more sense to have, under the act, a system of penalties that you yourself could impose?

**Mrs. Karen Shepherd:** I would see a continuum as some of the other federal acts have, where, for lesser transgressions—as I was saying, for late filings or for some other reasons—I may determine an interim monetary penalty would be better. For more serious

transgressions, I think there's still be an argument to refer those to the Royal Canadian Mounted Police.

**Hon. Wayne Easter:** On some specific cases, in April my colleague Marlene Jennings asked you to investigate Rahim Jaffer and Patrick Glemaud for possible violations of the Lobbying Act. Your office confirmed, I think in July, that you were following up on that request and opening an investigation. In October you confirmed that the investigation continues. It's now December. Can you update us on the status of that investigation?

**Mrs. Karen Shepherd:** Actually, I've officially opened an investigation on that file because I felt it was necessary to ensure compliance with the act and the code. As I indicated during my opening remarks, I have a process that I'm required to follow during the act, so in doing an investigation, if I find at any point that I have reasonable grounds, I must refer it to the RCMP if there's been a breach of the act. I also need to give the applicants time to present their views.

What I can say to the committee is that this is one of the files that I consider to be a top priority. I actually put my director of investigations as the lead investigator on the file. He knows that my wishes and the public interest are served by working on this as expeditiously as possible. So I don't have a time element right now in terms of reporting back to the committee, but I do have a commitment to the committee in that I am working on this as expeditiously as I can.

**Hon. Wayne Easter:** So how do we learn the outcome of the investigation? There are two sides to this coin, in fairness to the two individuals, indeed to the Conservative government itself. They're certainly under a certain cloud while the investigation continues. It's an unknown what the results will be. So there is the matter of timing. And how do we find out where it's at? How do they in fact clear or not clear their name in a timely fashion?

• (1555)

**Mrs. Karen Shepherd:** One of the reasons, aside from the fact that I thought I had reason to believe an investigation was necessary to ensure compliance with the act or the code, was that given the public interest on the file, I officially opened the investigation so that I would be tabling my findings and conclusions and reasons for those to Parliament, no matter what the outcome.

**Hon. Wayne Easter:** I think you indicated in your remarks that six files were referred to the RCMP. There were also the 16 administrative reviews. Can you update this committee on the status of these reviews and whether or not any of the files referred to the RCMP have led to charges? I take not, from your remarks.

**Mrs. Karen Shepherd:** Of the six that I referred to the RCMP, five of them are currently back with me for reassessing in terms of determining what are reasonable grounds to proceed. One of them is still with the office.

**Hon. Wayne Easter:** So what about on the 16 administrative reviews, in looking into administrative breaches? What's the story there, which was code of conduct?

**Mrs. Karen Shepherd:** I'm sorry, Mr. Easter, can you refer me to where you're...?

**Hon. Wayne Easter:** You indicated that you initiated 16 administrative reviews to look into alleged breaches of the Lobbying Act or the lobbyists' code of conduct. This was back at another hearing. I believe it was in October. What's the status of those?

If you don't have it at your fingertips, you can....

**Mrs. Karen Shepherd:** This one I would have to get back to committee on. I've opened 23 administrative reviews alone this year, so I can get back to the committee on the status of this. The numbers change regularly, so I'd have to go back to those 16.

**Hon. Wayne Easter:** Okay. This issue has been in the news recently. Another parliamentary committee was studying the case of a former staff member of Conservative MP Kelly Block, Russell Ulyat, who leaked confidential budget documents to five registered lobbyists.

I expect you're familiar with that incident from the media. The lobbyists' code of conduct states: "Lobbyists should conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists." It also says: "Lobbyists should observe the highest professional and ethical standards."

Does anything about this particular case concern you, especially given the behaviour of the five lobbyists who seem to be involved?

**The Chair:** Bruce or...?

**Mrs. Karen Shepherd:** I've been following the issue, and as you say, the lobbyists' code of conduct—

**Mr. Pierre Poilievre (Nepean—Carleton, CPC):** On a point of order, Mr. Chair, I think it is indeed unfair for the member to ask the witness to comment on a case that she might not even have in front of her, that she has not been prepared to comment on, and for which all she has are media reports referenced by a member of the opposition in this room. I think we owe the witness and Canadians the professionalism to operate on a higher standard than that.

**The Chair:** Mr. Poilievre, the way I look at this is that would be up to the witness to answer if she's not prepared to answer the question. This is in the public domain. We're not going to get into the details of the investigation. We're not going to get into the minutia of the allegations, but it was a very fair question to put.

Are you doing an investigation? Have you started an investigation? When do you expect to conclude it? If you haven't, the witness can answer that question. It's fairly simple. We're not going to get into the details. Those are fair comments that are very much in the public interest and the public has a right to know.

**Mrs. Karen Shepherd:** I'm aware there was a committee appearance, I guess, at lunch today, so I haven't had a chance to follow it.

In terms of opening a review, at the time, the question I will have to look into, and I'm prepared to do so, given the public interest, is to determine whether there was breach of the code of conduct. But I've not commenced anything as of yet.

• (1600)

**The Chair:** Thank you very much, Mr. Easter.

We're going to go to Madame Thi Lac, *pour sept minutes*.

[*Translation*]

**Mrs. Ève-Mary Thaï Thi Lac (Saint-Hyacinthe—Bagot, BQ):** Thank you, Mrs. Shepherd, for being here once again. I know that you appear quite often before the committee.

I would like to clarify some of your statements of this afternoon. On page 4 of your brief, you say that "it is also possible that I close the Administrative Review even though the allegation is well-founded".

Have you ever done so? Have you ever closed an investigation even though the allegation was well-founded?

[*English*]

**Mrs. Karen Shepherd:** Yes, I have, because in a few of the cases.... I actually have indicated this on one of the takeaway slides.

[*Translation*]

As I said, some cases do not deserve to be referred to the RCMP. For example, with their voluntary disclosures, some lobbyists have told us that it took them some time to register. We looked at the issue and analyzed the cases to see if that was the first time, if there was some history there, and if they had indicated to us that it would not happen again in the future.

**Mrs. Ève-Mary Thaï Thi Lac:** That may be the answer to my second question, Mrs. Shepherd. You are referring to cases where the offense may not be serious enough for a referral to the RCMP. I am talking about that kind of offense.

A bit further on, you mention 16 cases where the allegations were well-founded but where you used non-legal measures. What were those measures?

**Mrs. Karen Shepherd:** They might have been administrative monetary penalties, had I had that power. At this time, I have no power.

**Mrs. Ève-Mary Thaï Thi Lac:** You also mention that you can...

**Mr. René Leblanc (Deputy Commissioner, Office of the Commissioner of Lobbying):** Could I add a word, please?

**Mrs. Ève-Mary Thaï Thi Lac:** Absolutely.

**Mr. René Leblanc:** I believe that Mrs. Shepherd did not understand your question. I believe that you were referring to cases where we find that there is a well-founded offense but for which we take measures other than a referral to the RCMP. Was that your question?

**Mrs. Ève-Mary Thaï Thi Lac:** Yes, it was.

**Mr. René Leblanc:** Those measures would be education or information measures, to make sure that the lobbyists have a good understanding of the legislation and of its requirements.

Does that answer your question?

**Mrs. Ève-Mary Thaï Thi Lac:** Yes, thank you.

Among the powers that you do have, you said that you might also prohibit a lobbyist from engaging in lobbying activities for up to two years.

Have you ever used that power?

**Mr. René Leblanc:** Once again, the prohibition would only apply if there had been a judgment against the person. In the case we are talking about, there has never been such a judgment and so the Commissioner has never had the opportunity to apply that rule.

**Mrs. Ève-Mary Thāi Thi Lac:** All right.

Further on in your brief, you refer to “the names of those actually engaging in lobbying activities”.

I would like you to explain the word “actually” in that context.

**Mr. René Leblanc:** I will answer because you are speaking very fast.

The word “actually” simply means that, in cases where there are meetings with designated public office holders that should be reported in the monthly reports, the persons who were present at those meetings are not necessarily identified in the reports. Those who have to be identified as in-house lobbyists are the senior reporting officers of the Corporation who must be registered.

• (1605)

**Mrs. Ève-Mary Thāi Thi Lac:** In answer to my colleague Mr. Wayne Easter, you referred to the public interest. Could you explain what you mean by the public interest in this context?

**Mrs. Karen Shepherd:** Are you referring to the reason why I will produce a report?

**Mrs. Ève-Mary Thāi Thi Lac:** Yes.

**Mrs. Karen Shepherd:** It is to demonstrate the transparency of lobbying as well as the transparency of my mandate. It is also in the interest of lobbyists or other persons who would want to see what happens when there is an offense.

**Mrs. Ève-Mary Thāi Thi Lac:** All right.

You also said that you granted an exemption request for exceptional reasons in only four cases. What were the exceptional reasons that led you to grant those exemptions?

**Mrs. Karen Shepherd:** It was, for example, because the person had worked as a lobbyist only for a very short period of time. The last time I granted an exemption, it was to a student who had fulfilled some administrative functions for a very short period of time.

**Mrs. Ève-Mary Thāi Thi Lac:** Finally, we have also talked about the definition of a lobbyist. I believe that the opposition and the government do not agree on what really is a lobbyist.

We, at the Bloc Québécois, believe that there are people who act as lobbyists and are not registered when in fact they should be.

Do you believe that the scope of present legislation is broad enough or that there are indeed people who act as lobbyists but are not registered because of a gap in the Act?

**Mrs. Karen Shepherd:** This is one of the issues that I said could perhaps be looked at during the legislative review. I was referring exactly to that kind of issue. If organizations or corporations do not exceed a significant amount of time, they do not have to register. So, they are practising lobbying without being registered. Also, if they are not registered, they do not have to produce a monthly communication report. This is a situation that really should be looked at, I believe.

That being said, it might create problems for non-profit organizations if that percentage is eliminated.

That is why I think this matter should be discussed during the administrative review.

**Mrs. Ève-Mary Thāi Thi Lac:** Thank you very much, Mrs. Shepherd and Mr. Leblanc.

[English]

**The Chair:** Mr. Siksay, you have seven minutes.

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

Thank you for being here again, Commissioner, with your colleagues.

I want to look at this sheet about RCMP referrals and get a bit more information about what's here, and particularly about the referrals that have been returned to your office.

It is my understanding that even though they've been returned there are two categories: “returned after consultation with the crown” and “returned by the RCMP for other reasons”. Is it still possible for you to take action on those files, even though they've come back from either the federal crown or the RCMP?

**Mrs. Karen Shepherd:** I can continue—as I indicated in my opening remarks—to examine whether I still have reasonable grounds to believe that a breach of the code has occurred. Then I can continue with the investigation once the matter has been dealt with.

**Mr. Bill Siksay:** Are any of those five cases still open? Are you still pursuing those five cases?

**Mrs. Karen Shepherd:** Yes. There are four of them.

**Mr. Bill Siksay:** Do you have a timeline on when we might expect something from your office on those cases, given that the RCMP and the crown have decided they're not going to pursue them?

**Mrs. Karen Shepherd:** I've had a number of cases on the books, and I can come back on those particular ones. In speaking with my director of investigations and looking at our timelines and what we need to do on some of the files, I hope to table three files some time in February when the House is back; a couple in the spring; and then—I'd like some advice from the committee on this—probably a couple in the summer, depending on when the House recesses for the summer.

Investigative reports are important enough that back-door tabling them, which is always an option during the summer months, would not be advisable, and I should hold them until the fall. So if I can get some advice from the committee that would be useful.

• (1610)

**Mr. Bill Siksay:** Okay.

Now with regard to the three referrals returned from the crown, they were there for two years. Is that right? Is there some automatic process whereby they come back after that length of time?

**Mrs. Karen Shepherd:** Could you say that again? I'm sorry, they're referred—

**Mr. Bill Siksay:** You said there were three referrals returned after consultation with the federal crown to your time limitation.

**Mrs. Karen Shepherd:** It's not because they were with the RCMP for two years. When the Lobbying Act came into force, the period of time within which a matter could be investigated and charges could be laid was extended. Previously everything had to be done in two years. So you can imagine my office looking into it, reviewing it, sending it over to the Royal Canadian Mounted Police, and then they would do their own fact-finding before they would....

So for a couple of the cases we had on file, because when they occurred there was, I guess, a question in terms of a legal point—and I can ask Bruce if he wants to interject—we looked at them and determined that because the act had extended the time limitation to five years, they actually fell within the time limit for prosecution.

But in discussions between the RCMP and the prosecutor's office, there was some concern, as I understand it, that they might lose on that technicality.

**Mr. Bill Siksay:** Okay.

**Mr. Bruce Bergen (Senior Counsel, Office of the Commissioner of Lobbying):** That's it, in a nutshell. A legal issue would arise because of the change in the limitation period, and the prosecutors weren't convinced that was necessarily the best way to go to have that. That would be the first issue addressed.

**Mr. Bill Siksay:** For the two that were returned by the RCMP for other reasons, has your office done any analysis of them? Do you see a shortcoming in your investigations process? Because you say here that the “subject-matter did not lend itself to a strong likelihood of conviction” or that there was “insufficient evidence”.

Have you done any analysis within your office to see if there is a systemic problem there? Or is it very specific to those two cases?

**Mrs. Karen Shepherd:** I'd say it's very specific to their cases. It's one of those things for which, when we're sending something over, we really do spend a lot of time trying to make sure the file is complete and comprehensive. In one case we had determined that the individual had registered, and one of the reasons people register is that they are paid. Then they looked at the file. They were having difficulty, but we are continuing with the file.

**Mr. Bill Siksay:** Okay.

On page four of your opening statement you talked about the 16 files for administrative review that you have closed since July 2008 but said that some of those are subject to further monitoring. Can you tell us what is involved in the further monitoring that your office does?

**Mrs. Karen Shepherd:** For example, we'll keep an eye out for other allegations arising in the media and for other things that come in on the registration side.

I can actually say that in one file where it is noted that the registration provided accurate information, there was a question. When we looked at it, the individual had properly registered as a consultant lobbyist, but there was some question as to whether they were an in-house lobbyist or not. Because they were properly registered, I closed the file, and gave them what we call an “education” to sort of beware. The individual performed the same function again with the same government institution, so instead of

doing the administrative review, which is my normal process ramping up to an investigation, I instructed the director of investigation to actually open an investigation right away. That's why when we are keeping an eye out, there is a bit of a ramping-up process.

**Mr. Bill Siksay:** On page 7 you mention “habitual late filings”. Are there many habitual late filers, or are you tracking many people who fall into that kind of category?

**Mrs. Karen Shepherd:** Well, that's one of the things we've been putting in place. It's an interesting phenomenon that we're starting to have those who are coming forward and voluntarily disclosing. So I've been putting a continuum in place, but between my director of registration client services and my director of investigations, we are keeping an eye to see whether this is a recurring problem with some individuals.

**Mr. Bill Siksay:** Also on page 7 you mention this alternative dispute resolution process. Does writing an essay meet your standard of what needs to be done when somebody is found in violation of the act?

**Mrs. Karen Shepherd:** It's a good question. When someone breaches the act, I would like to see something a little bit more severe than an essay.

Go ahead.

**Mr. Bruce Bergen:** If I can say a few words, in that case it was quite a unique case because it involved an individual who was under investigation for breach of both the federal Lobbyists Registration Act and the provincial Lobbyists Registration Act, so there were two prosecutors involved and two very similar pieces of legislation. And in fact under the provincial Lobbyists Registration Act, the prosecution did proceed, and in the end there was an absolute discharge for the individual. But there were some unusual circumstances in that case.

•(1615)

**Mr. Bill Siksay:** Thank you.

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

Mr. Poilievre, you have seven minutes.

**Mr. Pierre Poilievre:** I'm interested in the compliance costs the regime has imposed upon non-profits. Could you share with us any information you might have on the experience that non-profits have had in following the rules instituted under the Federal Accountability Act? We've had a fair number. Your provisions came into effect about four years ago, so we should have a record to review. What are your thoughts?

**Mrs. Karen Shepherd:** For the lobbying, that came into force into July 2008, so it's been a couple of years.

As to the costs, what I've heard is more anecdotal evidence—non-profits deciding to look at whether they're hitting the “significant amount of duties” test. Some have determined not to register. These are firms that might have registered if they felt they were hitting 15%. Re-looking at it, they're choosing not to register, because of the burden. If they don't need to register an initial registration, then they don't have to file monthly communication reports.

**Mr. Pierre Poilievre:** Does that reduce the amount of interaction they are undertaking with governments? Has it in any way affected their operations, from what you can discern?

**Mrs. Karen Shepherd:** I don't have information on that. The only thing I've heard from some is that if they're not hitting the "significant amount of time", they're choosing not to register, where they might have registered in the past. I don't know whether they're continuing with the same level of activity, or whether they've actually reduced it.

**Mr. Pierre Poilievre:** Are there any ways in which the lobbyist registration system, particularly as it relates to the registration of contact with public office holders, could be made simpler, easier, less cumbersome so that the organizations could file the information and at the same time keep the current level of disclosure in place without any compromise?

**Mrs. Karen Shepherd:** Internally, we've done what we can with the registration system. We've tried to make it as easy as possible for them to manoeuvre through dashboards, to cut and paste, and even to go back and forth between languages. However, the problem I've heard from some has to do with the monthly communication report. They're trying to keep track of who's actually communicating with whom, and whether they need to file the monthly reports. I have to admit I'm not sure how we can make that any easier.

**Mr. Pierre Poilievre:** Sorry, I didn't understand that last...

**Mrs. Karen Shepherd:** The monthly communication reports—

**Mr. Pierre Poilievre:** I'm aware of what they are. I didn't understand the last remark you made.

**Mrs. Karen Shepherd:** It's just that it's the 15th of the month and they have to keep track. Some organizations and corporations have chosen to reduce the number of people communicating with the federal government.

**Mr. Pierre Poilievre:** I understand. So their challenge has been trying to do a survey of their organization to find out who is—

**Mrs. Karen Shepherd:** They don't want to find themselves in breach of the act. When I'm looking at monthly communication returns, I see a lot of confusion or over-reporting, because they would rather over-report when there are no negative consequences than find themselves in breach or in the newspaper for not having filed.

**Mr. Pierre Poilievre:** Do you think the reporting of contact between lobbyists and public office holders has improved transparency for the public?

**Mrs. Karen Shepherd:** Given how often I see it being used, I would say it has improved transparency.

**Mr. Pierre Poilievre:** Do you think there's something we could do to enhance the reporting, make it more effective, increase the value added for the public?

**Mrs. Karen Shepherd:** For the monthly reports right now, I think it makes sense to have the senior officer certifying the monthly communication return. However, I believe there is an argument for listing the lobbyists who actually attend the meeting. It's quite conceivable that the CEO wouldn't attend the meeting. His VP of government relations or finance is attending the meeting. But on the reporting, it just shows the CEO; it doesn't show who actually attended the meeting.

• (1620)

**Mr. Pierre Poilievre:** Is that a statutory requirement or a regulation?

**Mrs. Karen Shepherd:** It's in the regulations.

**Mr. Pierre Poilievre:** So it would require an order in council change if it were to be...

**Mrs. Karen Shepherd:** Yes, that's correct.

**Mr. Pierre Poilievre:** Are you at the stage where you're prepared to recommend that change to the government? Forgive me, if you already have.

**Mrs. Karen Shepherd:** I would say so.

**Mr. Pierre Poilievre:** You are. So you would recommend that the requirement be for the individual and the organization who made the contact to be specified in—

**Mrs. Karen Shepherd:** The actual registration. In the spirit of full transparency, we would like to see who's actually attending the meetings. I think it would add quite a bit.

**The Chair:** Mr. Albrecht.

**Mr. Harold Albrecht (Kitchener—Conestoga, CPC):** In your opening statement you referred to some of the steps the investigators take to determine whether there was an offence. One is payment. Does that mean that any person paid any amount would qualify for an investigation, an administrative review? I'm referring to the threshold, the 20% that relates to the amount of time they're spending in actual lobbying.

**Mrs. Karen Shepherd:** In respect of the first question, one of the elements is whether there was a payment or an expectation of payment. That's one of the criteria: communicating on a registerable activity with a public office holder. All of those would be elements the investigator would be looking at.

For an in-house organization and corporation, an additional element would be the "significant amount of duties" test.

**Mr. Harold Albrecht:** And that percentage is...?

**Mrs. Karen Shepherd:** It has been interpreted as 20%.

**Mr. Harold Albrecht:** The other point you make has to do with whether the meeting was arranged in advance. Does that mean that a person who happened to meet a lobbyist at a social function and was discussing business would not be required to register that contact, even though it was obviously for the purpose of securing a contract or some type of government help?

**Mrs. Karen Shepherd:** That's one of the those areas of confusion, because of the "oral" and "arranged". That's obviously a registerable communication: meeting at that social event and trying to obtain the grant or the contract. The organization or corporation would need to include that in determining whether they're hitting the significant amount of time that's registerable.

**Mr. Harold Albrecht:** I'm sorry, whether they're which?

**Mrs. Karen Shepherd:** Whether they're hitting the significant amount of time, because that's a registerable communication. If they just happen to bump into each other and start talking, they would not need to file a monthly communication report. But if you were at a social event and the lobbyist asks to meet you in the corner in ten minutes, and you agree, then it has become "arranged".

**Mr. Harold Albrecht:** Okay, thank you.

**The Chair:** I have one point I want your comments on, Ms. Shepherd, and I think I've raised this with you before. I've listened to your testimony, I've read all of the materials, and I see what I consider to be a major problem with either your legislation or the way the legislation is enforced, and that is the lack of any demonstrable consequences for a violation of either the act or the code.

You've described here today that when you investigate a situation, and you see there is a violation, it goes to the RCMP. The RCMP have limited resources. They're dealing with serious issues—burglaries, murders, rapes, and home invasions. They're probably not very interested in this violation, as your statistics show. And even if the RCMP were interested, the file would go to the public prosecutor and he or she probably would not be interested. They have limited resources. Not every crime gets prosecuted and they have a certain amount of discretion. In this case, they probably wouldn't prosecute it. In one case, the prosecutor had the lobbyist write an essay.

This is not all your fault; it's not a reflection on you. But since lobbying registration came into force 22 years ago, we've never had a charge. No one has ever been charged with a violation of the act, and we've only had one person in all those years report it to the House. So the public would be looking at this and seeing that there aren't any demonstrable consequences. They would infer that lobbyists act with impunity, whether it's an act violation or a code violation.

If this is allowed to continue, I believe it will eventually bring your office into serious disrepute. Do you share my thinking? Do you see the requirement for a major legislative overhaul? This situation cannot be allowed to continue.

•(1625)

**Mrs. Karen Shepherd:** On the lobbyists' code of conduct, the one option available to me—and it was available to my predecessor—is to table a report to Parliament. There were four reports on one individual.

**The Chair:** They were on one person.

**Mrs. Karen Shepherd:** Yes.

What may be of interest, when you think of the consequences of name shaming, this individual had us in court until yesterday trying to have the reports removed from Parliament and have it determined that he wasn't performing lobbying activities that were registerable.

For some of the lobbyists there is quite a lot of concern about having their names in a report to Parliament. Some lobbyists have told me I take a very tough stance on rule 8, although I believe it's consistent with the court case that came out on conflict of interest. I think part of that is because if I were to find them in breach of rule 8 there would be a report to Parliament. They consider their names to be of value.

There is something there, so early in the new year I need to get some of the reports out, but they will be on the code of conduct, not fines or jail terms.

**The Chair:** We're into the second round of five minutes.

Mr. Easter.

**Hon. Wayne Easter:** Thank you, Mr. Chair.

I want to start where I left off. I think I have this right. There has been no investigation as yet initiated by you into the five registered lobbyists to whom a Conservative staffer provided confidential pre-budget documents. Is that correct?

**Mrs. Karen Shepherd:** I've been watching the situation, but I have not officially opened something. I will be.

**Hon. Wayne Easter:** On my next question, you can either consider it specifically at committee this morning—there were certainly individuals named—or put together a hypothetical situation as if this had happened.

The specifics became very clear this morning at another committee, where lobbyist Andy Gibbons stated that he received the report from Kelly Block's assistant on November 18. He transmitted a paragraph of a summary of that evidence to a client, Merck Frosst. He also stated that he informed the committee about this on November 23, five days later.

I have two questions, and you can consider them hypothetically. First, the fact that he shared part of this confidential report with a client is a concern. What are your thoughts on that aspect of it? Second, it took this registered lobbyist more than five days to report this to the committee. Could those two points be considered a breach of the lobbyists' code of conduct?

**Mrs. Karen Shepherd:** I just indicated that I'm going to look into this issue, because I think those are important points. On the negative impact, I'm not prepared to speculate at this point without looking into the matter.

•(1630)

**Hon. Wayne Easter:** One of the difficulties in this case is—

**The Chair:** Excuse me. You can ask the witness whether she's going to do an investigation, but we're not going to get into the investigation. I think you've plowed that ground enough.

The principle here I'm enforcing is that we're not going to substitute our investigation for the work the commissioner. You can ask her if she has started an investigation, if she will start one, and when she expects to conclude it. I think that's probably where we'll limit the questions.

**Hon. Wayne Easter:** Mr. Chair, it's not enough to plow the ground; it's nice to plant a crop.

**The Chair:** It's late in the year, Mr. Easter. It's wintertime.

**Hon. Wayne Easter:** I'll come back to the questions the chair raised earlier on penalties and decisions in investigations.

I imagine you have fairly extensive knowledge about other lobbying commissioners in other jurisdictions. Can you give us examples of how the powers of investigation in other jurisdictions compare with yours? Are there models in Canada or elsewhere that we could use as examples—what I think the chair was pointing out earlier—that provide some consequences for violations of the code or the Lobbying Act?

**Mrs. Karen Shepherd:** That's something, Mr. Chair, I could do a proper analysis of in the provinces and provide the committee with some additional information.

What I can say at this point is that in Alberta and British Columbia, the possibility of administering monetary penalties exists in their legislation. That's something that's in their legislation. When I look at some of the federal legislation, Commissioner Dawson, with the conflict of interest code, has the ability to issue some penalties for individuals who don't fully disclose information to her.

I know that some federal institutions, such as the Canada Border Services Agency, for example, have a continuum. I think that's one of the things I would like to do some analysis of and provide the committee with the results in looking at our legislation, where an administrative or monetary penalty would make sense for lesser infractions. But I still think there's a reason to send some of the more serious ones to the RCMP.

So when you asked about an overhaul of our legislation, I'm not sure it would be a complete overhaul, but I think there need to be some changes on the enforcement side if we're trying to show consequences faster.

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

Mr. Albrecht, for five minutes.

**Mr. Harold Albrecht:** Thank you again, Mr. Chair.

I refer again to your opening comments. On page 8 you referenced that since September 20, lobbyists are also required to disclose oral and arranged communications with MPs in monthly communication reports. And then you go on to say there's been a jump in volume of 1,000 and that you have "easily absorbed" that increase.

I guess the obvious question is how could you possibly have absorbed that level of increase? Or is it simply a matter of adding a bunch of names to an Excel spreadsheet?

**Mrs. Karen Shepherd:** The lobbyist registration system is a web-based electronic system. It's a very robust system, so it can easily handle the additional volume of monthly communications.

**Mr. Harold Albrecht:** Okay, so you're simply recording the contacts.

**Mrs. Karen Shepherd:** Yes, but because of the—

**Mr. Bruce Bergen:** The input is by the lobbyists themselves.

**Mr. Harold Albrecht:** Right.

**Mrs. Karen Shepherd:** Yes.

**Mr. Harold Albrecht:** But there would be no organization on your part to organize and collate those lobbyists?

**Mrs. Karen Shepherd:** They go right into the system. One of the determinations made when the Lobbying Act was coming into force, given the importance of the 15th of the month for transparency, was that these communications would go directly onto the system, onto the website, so that they'd be visible by the 15th of the month.

And then what we're doing, as the act allows me to do, is to take a random sample. For example, last month, given the change, we sent out a number of letters to MPs to verify 81 communication entries.

• (1635)

**Mr. Harold Albrecht:** But it would stand to reason, from my perspective, that if there's an increase in recordings, there would also be an increase in the random sampling. Otherwise we're simply diluting the number of random samplings we're taking. Or is that—

**Mrs. Karen Shepherd:** We're trying to maintain an average of 5%. For example, we send out a number of letters, and instead of maybe sending out 30 or 40, whatever the random sample was, it's now almost 80.

**Mr. Harold Albrecht:** So in spite of the increase in the numbers of registrations and the increase in random samplings, you're able to handle it, which I'm glad to hear, and you are not requesting additional funding.

The other point you made in your deck, on page 9, is that you have the power to summon attendance or to compel the production of documents, but you've never had to use that power. I think that's a good indication there's been a high degree of cooperation—

**Mrs. Karen Shepherd:** Yes.

**Mr. Harold Albrecht:** —which I'm glad to hear.

Finally, I have a question regarding the eight investigations. You indicate that you have had 47 reviews and that 32 were completed, but eight investigations have been opened, and then in parentheses you indicate that one of those investigations was opened without an administrative review.

I'm just wondering what the criteria would be to jump immediately to an investigation without having gone through the administrative review.

**Mrs. Karen Shepherd:** As I was answering Mr. Siksay earlier on how we monitor and then maybe make further determinations, this individual was a registered lobbyist and there was a question as to whether the person had breached rule 2. In the first time around, it was questionable. It was determined that the individual hadn't intentionally done so.

**Mr. Harold Albrecht:** Intentionally.

**Mrs. Karen Shepherd:** He had not done so intentionally, so I sent him a letter with a warning.

Subsequently, the individual did the same thing, with the same government institution. So given that I had done an administrative review and warned him, his repetition of the same activity I thought warranted actually opening an investigation. That's when I decided it was necessary to ensure compliance with the act and the code.

**Mr. Harold Albrecht:** So instead of a second round of having offended once, the second time you went straight to the....

**Mrs. Karen Shepherd:** Yes, on that particular case, I thought it was warranted.

**Mr. Harold Albrecht:** Thank you.

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

Monsieur Guimond.

[Translation]

**Mr. Claude Guimond (Rimouski-Neigette—Témiscouata—Les Basques, BQ):** Thank you, Mr. Chair.

Good afternoon, lady and gentlemen.

I would like to come back to the last question of my colleague Mrs. Thi Lac. You said that, in the review of the legislation, we should define very clearly what is a lobbyist and what is the work of a lobbyist.

Did I understand correctly that answer you gave earlier?

**Mrs. Karen Shepherd:** I may have misunderstood the question. I thought she was asking me if I believed that other lobbyists should be included in the definition.

At this time, we refer to consultant lobbyists and in-house lobbyists. The problem is that the Act refers to activities. Is the person being paid? Does she deal with changes to pieces of legislation or to regulations when communicating with a public office holder? That would be the test for being registered.

In the case of in-house lobbyists, one must also look at the issue of a significant amount of time. It may be interpreted differently for different persons. Some people decide not to register. My position is that this would be the opportunity to see if there are other persons who should be included.

I know that some critics claim that they are people who do a lot of lobbying without being paid. My concern is that, when I look at the principles of the Act, I cannot ignore the fact that having access to government is an important matter. One has to take account of those citizens who simply want to talk to a parliamentarian or their MP. That is one of my concerns.

The city of Toronto, for example, does not use the expression "a significant amount of time". It is not in the legislation. Instead, they have decided to include several exemptions, for instance for many recreation organizations and community organizations. So, Parliament should discuss who should really come under the Act.

• (1640)

**Mr. Claude Guimond:** From what you are saying, we will need several paragraphs for a clear definition of a lobbyist.

**Mrs. Karen Shepherd:** Yes.

**Mr. Claude Guimond:** When you appeared last October, you refused to reveal the nature of your investigations. Since then, Mr. Robert Walsh, the parliamentary legal adviser, sent a letter to the committee, on November 2.

Have you read Mr. Walsh's letter?

**Mrs. Karen Shepherd:** Yes.

**Mr. Claude Guimond:** Based on that letter, do you now intend to answer all the information requests that this committee will make in the future relating to your current investigations, in camera of course, as mentioned in Mr. Walsh's letter?

**Mrs. Karen Shepherd:** As I indicated when Mr. Easter asked me if I was looking at the issue of Green Power Generation and Mr. Patrick Gléaud and Mr. Jaffer, if the matter is in the public domain, I am ready to disclose if I am doing an investigation or not.

**Mr. Claude Guimond:** That is a little better.

**Mrs. Karen Shepherd:** In such a case, because it is in the public domain, I believe that it is in the interest of the public to know if I am investigating or not. As soon as possible, I will give the date when I

will submit my report to Parliament if I decide to launch an investigation.

**Mr. Claude Guimond:** All right. Thank you.

[English]

**The Chair:** Monsieur Guimond, I want to clarify something, because it is important.

Mr. Walsh didn't indicate that the witness would answer every question, but Mr. Walsh was quite clear that it would be up to the committee, not the commissioner, to decide which answers we would demand. But certainly this committee has to act at all times in the public interest.

[Translation]

**Mr. Claude Guimond:** Thank you, Mr. Chair.

Have you been consulted by the government before it announced the tightening of the rules for ex-MPs who became lobbyists recently?

**Mrs. Karen Shepherd:** That is interesting because, during my outreach, I talked to officials of the 20 departments where there is the most lobbying activity. That was just after Parliament had decided to include the parliamentary secretaries in the definition of public office holders. The government said it would look at the issue and might expand the definition to include senators. After that announcement, I met with Mr. Day to talk about the legislation and I took that opportunity to indicate that if the government only had included that to the definition, the registry system would have been able to accommodate the change. That is the only recommendation I made.

[English]

**The Chair:** There are four more questioners. I'm going to have to limit them to four minutes each.

Mr. Calandra, four minutes. Then it's Mr. Siksay, Mr. Easter, and Mr. Poilievre.

**Mr. Paul Calandra (Oak Ridges—Markham, CPC):** Thank you, Mr. Chair.

Thanks again for coming. I appreciate that.

First let me say I'd really like to see what some of the other provinces have done, a bit of a comparison, so I'd really appreciate that. But this is just more of a process question.

So a complaint is made and it's brought into your office, and that's when you start the administrative review. You assign an investigator to it and you start an administrative review. What does the administrative review entail? So what are you going through during that process?

**Mrs. Karen Shepherd:** What happens, and we've actually been refining it, is I actually will officially sign off a document asking the director of investigations to commence an administrative review. And like I say, it's fairly extensive. The investigator will develop a plan in terms of determining what elements need to be proven. For example, for consulting, whether it was paid registerable communication with a public office holder, we'll do the necessary background research from publicly available information, conduct the necessary interviews. There will be analysis of a report presented to me, which actually will show clearly the elements and the facts under each, with a recommendation in terms of what to go forward with. That's why, depending on the complexity of the file, it can be anywhere from a month to a year, depending on what we're trying to prove.

One of the things that could happen at the end of the day, and it did happen with my predecessor, was if I decide to close an administrative review, it's judicially reviewable by the complainant. So if the complainant decides that no, they didn't like my decision—and it happened with the Barry Campbell case, where we were actually taken to court—one of the reasons I asked that that particular process be as extensive as possible is to ensure that if I were to close it at that point, I could.

● (1645)

**Mr. Paul Calandra:** It may be a stupid question, but who are your investigators? Where do you get them from? What types of experiences do they have in doing this? If we were to give you additional resources or powers to initiate penalties, are the individuals who you have right now.... I don't want to say "reliable", that's a bad choice of words, but are you confident in the investigative team that you have, if we were to increase your powers to penalize people?

**Mrs. Karen Shepherd:** Actually, I'm very pleased. I have full confidence in the staff and the director of investigations who I have running the directorate right now. Files that I get in front of me go through quite an extensive.... Once they even get on his desk, they're extensively reviewed to make sure that everything is there, let alone the i's are dotted and the t's are crossed.

In terms of the monetary penalties, depending on where we went with the scheme, I've only got, as I indicated, a small shop right now. Putting in a system of monetary penalties I think people could accommodate. I have staff that could accommodate that. We'd come up with a scheme. But I think I would probably need additional resources, because one of the things with putting in a monetary scheme is probably whether I have an appropriate appeal process and so on to do some things.

**Mr. Paul Calandra:** The only thing I worry about with monetary policy—I equate it sometimes to photo radar—is if you can afford to pay, it's not a big deal.

I know, as an insurance broker before I was elected, there was a temporary suspension of licence for those who were not living up to their responsibilities. Is that something you would suggest? Does the industry itself...? Part of being an insurance broker required constant retraining in order to have your licence renewed. Every year you had to provide proof to the registrar that you were being retrained.

Does the industry have that? Is that another function you could consider? Have you ever thought of suspending licences in addition to monetary penalty?

**Mrs. Karen Shepherd:** Right now the only way I could.... Somebody would have to be criminally charged under the act. That is a possibility. I think that's something else, which is why the analysis might be interesting. I think the city of Toronto actually has the ability, if somebody is not being compliant, to deregister them from the system, which would then put them in breach of the act, depending on where we are in the sanction.

In terms of doing something like administering monetary penalty, one of the other things I would probably look for is something in the act that requires me to publish the names, maybe on my website. For example, when I grant an exemption review, I post it on the website and must do so without undue delay.

I think that along with the administrative monetary penalties it would be important to combine the two, because even if, yes, they can afford to pay—if it's only \$200 to \$300, or it could be more for a big company, even thousands of dollars—their names showing up on a list is something that I've determined means quite a bit to them, actually.

**Mr. Bruce Bergen:** May I add something to that last question, Mr. Chair?

**The Chair:** Go ahead.

**Mr. Bruce Bergen:** Just to be clear, there's no licensing requirement for lobbyists. Anyone may register to be a lobbyist, and is required to register if they're engaged in those activities. Once they do that, they're required to adhere to the code. But there's no licensing body; there's no body that looks over that. There are advocacy groups on behalf of lobbyists: the Government Relations Institute of Canada and the Public Affairs Advisory Committee. But there's no licensing requirement per se. That's quite distinct.

**The Chair:** Mr. Siksay, for four minutes.

**Mr. Bill Siksay:** Thank you, Chair.

Commissioner, on page seven of your presentation today you say it appears that both the RCMP and the federal prosecutor have a high threshold for initiating a prosecution. The chair has expressed his opinion that the RCMP and the federal prosecutor have other—maybe this is the wrong word—more serious issues to contend with, more serious criminal matters to deal with, and that the referral from your office wouldn't be a priority for them.

Are you both saying the same thing?

● (1650)

**Mrs. Karen Shepherd:** That is a good question.

The files that are going over to... I can't comment on their priorities in terms of where my files fit. They do spend quite a bit of time going through them and discussing things, which is why sometimes I don't get a file back within a month saying "Sorry, we're not going to proceed."

One file that literally just came back to my office this week, in the letter that came back, said in one of the elements that if they actually got more information, they might reconsider it. That will have to be a decision whether I get that and send it back, or continue with the code.

**Mr. Bill Siksay:** So your experience is that they've been taking the referrals that you send to them seriously, even if they haven't led to charges. Are you confident with that?

**Mrs. Karen Shepherd:** Yes.

**Mr. Bill Siksay:** I want to test another suggestion. I'm testing the chair's suggestions this afternoon. He suggested that because there haven't been charges or people reported to Parliament, that somehow the system isn't working. Do you agree with that kind of statement?

**Mrs. Karen Shepherd:** There's no evidence other than the reports to Parliament in terms of a code of conduct violation. It also depends on what we're looking at. If there are fines or jail terms as the penalty we're looking at, then yes, it's a very valid point, because there's been no evidence of anybody every being charged or jailed.

What I'm finding interesting is that for an act that may not.... We're looking at whether there are the right sanctions in place, and I'm getting a number of voluntary disclosures coming forward. These individuals are realizing that there's something and they don't want to be found to be maybe in breach later on through something being brought to my attention or from other means. They're coming forward.

**Mr. Bill Siksay:** Does that fear factor run out at some point, though? Does it require that somebody gets raked over the coals publicly at some point, or charged, to maintain that kind of commitment that folks don't want to get into trouble with the act or the code?

**Mrs. Karen Shepherd:** When I'm looking at the late filings—that's what I was saying with transparency—right now it's not worth sending something to the RCMP if somebody's late, even if they're late a couple of times, unless I clearly see they're maybe missing key policy decisions that are constantly occurring, so is there an attempt or negligence on their part.

Having something in between might help with ensuring that people actually do file on time.

**Mr. Bill Siksay:** Mr. Bergen, when I was last questioning I was asking about the alternative dispute resolution and the essay. You mentioned it was a case where there was also a provincial prosecution and that this had proceeded to a charge, I believe. Can you tell us which province that was? Has that province got better legislation, that they actually get something that moves to a prosecution?

**Mr. Bruce Bergen:** It was one of the provinces Ms. Shepherd did refer to earlier; it was British Columbia.

I know you're a member of Parliament from British Columbia, and you might recognize the name Mr. Ken Dobell. He's the person in question who was lobbying on behalf of the City of Vancouver with the Province of British Columbia and a couple of different federal departments.

At the time, British Columbia's Lobbyists Registration Act was very similar to our federal Lobbyists Registration Act, prior to the

changes put into place by the Lobbying Act. British Columbia has now in fact amended their act and toughened it up to include one thing that was lacking at the time, which is administrative monetary penalties.

In a way, it's a bit of apples and oranges, but that's the situation.

**Mr. Bill Siksay:** Thank you.

**The Chair:** Mr. Easter, four minutes.

**Hon. Wayne Easter:** I won't take the four, I don't think, Mr. Chair.

Thus far I have ended up being one of the top five most lobbied MPs on the Hill, and I sometimes wonder who is lobbying and if they're registered lobbyists or not.

I meet with a lot of people from the farm movement. They're farmers. They do not have to be registered, correct? If the representatives are from the official farm body that is lobbying on legislation or issues relative to the agricultural community, then they do have to be registered. Am I correct in that?

• (1655)

**Mrs. Karen Shepherd:** Aside from being obviously paid and communicating, as you indicated, on a registerable activity, there would also be the test as to whether they're hitting the significant amount of time and whether registration for even the association would be registered.

**Hon. Wayne Easter:** Okay.

**Mr. Bruce Bergen:** If I may, in other words, if say the Kings County potato growers association were an entirely voluntary association and people weren't paid in that organization, it would not be required to register. There's no payment involved.

On the other hand, if the Prince Edward Island potato growers association—I'm making this up—had a large organization and a group of people, executive and employees, who were paid to operate within that organization, and they lobbied federal public office holders, they would secondarily have to meet the 20% "significant amount of duties" test.

**Hon. Wayne Easter:** Good. I think that covers what I need.

I guess the concern from our side is making sure we have the list of the when, the who, and basically what the issue is. These new changes create a fair bit more work in MPs' offices as well.

Thank you.

**The Chair:** Mr. Poilievre, four minutes.

Mr. Albrecht?

**Mr. Harold Albrecht:** I wasn't planning on asking this, but Mr. Easter asked a question and the response was different from what I understood earlier.

Mr. Bergen, you just said they would have to meet the criteria of being paid and spending 20% of their time.... Okay, I'm glad that was clarified. I was under the impression earlier that it was either/or. It's both—and.

**Mr. Bruce Bergen:** The way the act is written now, under the section 7 requirements to register, if an organization or a corporation that actually pays people is doing lobbying activity, but to a very minimal amount, they're not required to register. I think that's exactly what Parliament intended by putting the significant amount of duties test in there. That has been interpreted as 20% over these many years.

**Mr. Harold Albrecht:** To follow up on that, theoretically a municipal employee could lobby a member of Parliament on behalf of a particular project, but because they're only spending 2% of their time lobbying—

**Mr. Bruce Bergen:** They're exempted. Employees of other levels of government in Canada are exempted from the Lobbying Act.

**Mr. Harold Albrecht:** That's another good point of clarification.

**Mr. Bruce Bergen:** Provincial, municipal, aboriginal band council are not required to register because that's communication between levels of government and not registrable lobbying activity.

**Mr. Harold Albrecht:** Thank you.

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

I have just a couple of remaining points, Ms. Shepherd, in your annual report for 2008-09. And I'll just get you to give me a written answer to this, through the clerk.

This is on page 22: "One investigation report has been submitted for the Commissioner's consideration, with a remaining five still under review." Can you give us what exactly happened to those other five? We don't need the names or the details, just what happened to the five that were under review. This would have been as of March 31, 2009.

As my last issue, Ms. Shepherd, I've listened to your evidence all afternoon, and when I look at these investigations they seem to take an inordinate amount of time, especially when they go to the RCMP and back. Even when they're in your office, some of them go on literally for years.

I have two points on that. First, do you really think you're being fair to the people being complained against? They expect due process. Second, are you not running the risk, if it ever did go to court, of meeting the charge by the defence of due process and your prosecution would be unsuccessful, mainly because of the time it took the investigation to be concluded and all the red tape that goes on in your office before these things are adjudicated?

**Mrs. Karen Shepherd:** According to the terms of due process, one of the reasons it's taking some of the time it does is to make sure I have all the relevant information before me, because people's reputations are at stake.

In terms of the time, you're right: some of them have taken some years. One of the things is we were staffing up, as we have been doing over the last few years. I'm now at a comfortable level. We've been refining processes. I'm not expecting things to be taking years any more. Once I start tabling in the new year you will see more of a regular process.

When I look at the administrative reviews—and I think it's on one of my charts in terms of open and closed—we're starting to keep pace of the administrative reviews on a regular basis in terms of what

we open and close. We are trying to take care of that issue in terms of the length of time.

● (1700)

**The Chair:** That concludes the questions. We're going to suspend for a minute and go in camera.

Before I do that, Ms. Shepherd, on behalf of every member of the committee, I want to thank you and Mr. Bergen and Mr. Leblanc.

**Mr. Paul Calandra:** Before we suspend, I wonder if we could potentially deal with my motion in public session.

**The Chair:** We can, but I'm going to allow them to.... Okay, we'll stay in public to deal with that, if you want to.

Thank you for your appearance here today. Do you have any closing remarks you want to make to the committee?

**Mrs. Karen Shepherd:** No.

As I said to the committee, there is something I would like some direction or advice on. On the reports that may come up or may be finalized in the summer, like the investigative reports for example, my thinking is that if a report is finished sometime in the summer and the House and Senate aren't sitting, these are something I should probably hold to the fall, when both houses are back, rather than finding a way to table by the back door. That's something you could get back to me on.

**The Chair:** We can discuss that.

**Mrs. Karen Shepherd:** I'd appreciate your views. Thank you.

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

If I may, at this point I'm going to deal with a motion. Mr. Calandra gave proper notice of a motion. It's very short. I'll read it:

That the committee study access to information at the Canadian Broadcasting Corporation, and invite members of the CBC executive and other witnesses to testify in this regard.

Before I ask Mr. Calandra to speak to the motion, I do want to point out—and these have been circulated—this issue was discussed at the steering committee and it was unanimously agreed that we would call the executives of the CBC and the information commissioner to appear before us at a meeting in February, so I guess there is a certain amount of duplication here.

Mr. Calandra has the motion. It doesn't make any difference.

Mr. Calandra, you have the floor.

**Mr. Paul Calandra:** Thank you, Mr. Chair.

I'll be brief, because it would appear that now we'll probably have unanimous support for the motion. As I said, it's just an opportunity for us to do what we're supposed to do and allow both sides to come in and talk about how they can perhaps resolve the issue with respect to access to information. Again, if it would appear that everybody's in agreement with it, we could dispose of it quickly and get to the rest of the items on the agenda.

● (1705)

**The Chair:** Ms. Bennett.

**Hon. Carolyn Bennett (St. Paul's, Lib.):** There's such little institutional memory around this place. Doing the work of committees by motion is the lowest way that we can demonstrate a consensus. That's what steering committees are for. I don't know why we use motions as political hammers to say "I thought of it, you didn't", or whatever trick this is. We've already agreed to do the study; we don't need the motion.

I don't understand why we can't make these committees work by consensus. I am indeed frustrated by it. In some committees parliamentary secretaries are tabling work plans, for heaven's sake. We can't carry on like this.

**The Chair:** Ms. Bennett, can I interrupt you?

In fairness to Mr. Calandra, this is in context. And the members of the committee deserve a little apology, perhaps from me and the staff here. What happened was this matter was discussed—as everyone on the steering committee recalls—at the steering committee probably a couple of weeks ago. It was unanimously agreed to, but for some reason we got into another issue about the e-consultation and it wasn't put in the minutes, it wasn't presented to the committee for ratification. So no one knew about it, so Mr. Calandra was quite proper to bring this motion to the floor. From my recollection of the steering committee—and you were there—it was agreed to but it wasn't followed up in the proper course, and that should be pointed out to members of the committee.

Really, colleagues, I don't think this needs a lot of debate.

Madame Thi Lac.

[*Translation*]

**Mrs. Ève-Mary Thāi Thi Lac:** Mr. Chair, I only want some clarification from Mr. Calandra. This motion asks the committee to "invite members of the CBC executive", which seems clear enough. However, it also refers to "other witnesses to testify in this regard". I would like to know what he means by "other witnesses". Who would prepare the list? Would the parties have to provide a list? Who would be those witnesses? That is what I want him to clarify.

[*English*]

**Mr. Paul Calandra:** Mr. Chair, I—

**The Chair:** I'm just going to keep to the list, Mr. Calandra.

Mr. Albrecht.

**Mr. Harold Albrecht:** Mr. Chair, it's quite obvious that Ms. Bennett is frustrated, but I think this committee should be reminded that at some point or another, in most committees, every member has had the privilege of putting a motion forward to initiate a study.

The other part that's important to remember, and that you've pointed out already, Mr. Chair, is that this motion was tabled before the subcommittee met today.

**The Chair:** No, no, Mr. Albrecht. The subcommittee discussed this and talked about it at least three weeks ago.

**Mr. Harold Albrecht:** With all due respect, Mr. Chair, this motion by Mr. Calandra was tabled before the subcommittee reported its action today. On the basis of that, I think it's important that we consider the motion. The intent is the same; the motion was presented, and I do think that along with Ms. Thi Lac's concern is

that at some point when we indicate that we're going to go into a new study, we do in fact invite members to submit potential lists of witnesses, which are then considered by the committee.

So I think this is in order, and I think the more time we waste debating whether or not a motion should be tabled and received I think is a moot point.

**The Chair:** Mr. Poilievre, very briefly.

**Mr. Pierre Poilievre:** Just to address both issues, again, this motion was brought forward before the subcommittee reported the seventh report. At least that's my understanding of it.

**The Chair:** But after it was discussed at the subcommittee.

**Mr. Pierre Poilievre:** I don't raise that to impugn anybody's management. I think the seventh report came to us in a reasonable amount of time. It's just a matter of coincidence that the member put forward a similar motion, almost identical to what is found in the seventh report. Studies are always initiated by motion, by the way. They actually don't exist—

• (1710)

**Hon. Carolyn Bennett:** No.

**Mr. Pierre Poilievre:** If I could just finish my sentence....

**The Chair:** One speaker at a time, please. The translators can only handle one speaker.

Mr. Poilievre.

**Mr. Pierre Poilievre:** Even if a study is initiated at subcommittee and put into a report format, somebody has to move the report.

**Hon. Carolyn Bennett:** That's not true—not for it to get on the agenda. I chaired the disabilities subcommittee. We never had a vote—

**The Chair:** Order, please. One speaker at a time.

Mr. Poilievre.

**Mr. Pierre Poilievre:** So if something has to be moved, it can only be moved by a motion, which is a fact, not an opinion. Therefore, every study that is ever initiated is initiated in some way, shape, or form by a motion.

**Hon. Carolyn Bennett:** No. By consensus. You will do a study—

**Mr. Pierre Poilievre:** Often people provide consensus to those motions, which is exactly what we're seeing—

**The Chair:** Okay, Mr. Poilievre, I think that's—

**Mr. Pierre Poilievre:** I don't believe I had a chance to speak, Mr. Chair, because I was interrupted three or four times. I appreciate your efforts to bring order to the committee.

I would like to address the second issue that was raised by Madame Thi Lac. I think we generally would deal with witnesses in the same way as is always done, which is that the subcommittee puts together a witness list and, if there are no objections, that list is carried out and the witnesses are called before the committee. This motion does not suggest any other course of action than what is normally the case.

**The Chair:** Mr. Calandra.

**Mr. Paul Calandra:** In reference to what Mr. Poilievre and Madame Thi Lac said, sure. I didn't put in the motion who the witnesses would be. As a committee, I think we could figure that out together, and it seems as if we're moving in this direction anyway.

**The Chair:** Yes, the witnesses will be discussed at the steering committee.

(Motion agreed to)

**The Chair:** The next item is the minutes of the steering committee. The first item is redundant, so we're talking about the second item, and that basically is the whole e-consultation process that we've talked about before on the committee.

By way of summary, we have done a fair amount of work on this. We've involved the House of Commons and the Library of Parliament, and we have a paper that is the next step in the process. There is some involvement of third-party consultants. If this is approved, we will present a budget, and we'll get quotes from the third-party consultants. But once the budget is developed, that will go back to the liaison committee. But this is the next step in the process.

Mr. Poilievre, and then Mr. Albrecht.

**Mr. Pierre Poilievre:** I'm not sure that I can endorse the initiation of a study, an e-consultation of this kind, when it just seems that there could be a so much easier approach to doing an e-consultation. I'd be interested just to know exactly what kinds of costs would be involved in simply arranging for a Facebook page for the committee, which would allow people to submit their comments, which would allow them to actually vote on propositions that the committee could offer before them through the like and dislike function, which would allow people to join the site in a way that would indicate that they're interested in the discussion.

In fact I'm not really aware of any form of e-consultation that this committee would require on open government that could not be executed through a simple Facebook page. Even long, detailed essays or compositions that members of the public might like to submit to this committee could be done through the Facebook e-mail function. Or if attachments were required, they could be done through a simple public display of an e-mail address that could easily be sent. Or if someone doesn't use electronics, of course, we could continue to use old-fashioned snail mail.

I'm having a lot of difficulty understanding why we should pay thousands of dollars for consultants to set up websites and online surveys, and whatever else might come to mind, when there exists, at the click of a mouse, resources that are readily available for that sort of interaction right now. I think that in a time when the country is increasingly focused on fiscal restraint, we should lead by example and send the signal that we're going to seek cost-effective ways of communicating with the Canadian people.

I think Facebook has more people on it now than most countries have population, meaning that there's widespread access to it. And anybody who would be interested in participating in an e-consultation would already have a computer and an Internet connection and therefore would be capable of contributing through a Facebook function. Finally, if they don't have access to Internet and

they perhaps use a public library, there too they are not banned from using Facebook.

Now, there might be other existing online networking services that might serve the purpose better than Facebook. I simply put it forward as one example of infrastructure that is already in place so that we don't have to spend exorbitantly on consultants for something that can easily be provided through simpler means.

Thank you.

• (1715)

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

I'd like to get this done, and we also have the Google study. So I'm going to hear briefly from Mr. Albrecht, Madam Bennett, and Madame Thi Lac. Let's limit them to two minutes each.

Mr. Albrecht.

**Mr. Harold Albrecht:** Thank you, Mr. Chair. I will be under two minutes.

I concur with many or all of the comments that my colleague made. But in addition, if we were to look at the analysts' suggested list of witnesses, which I have no argument with, there are 38, at least.

**The Chair:** We're not talking about the witness list now, just the e-consultation part.

**Mr. Harold Albrecht:** But it's very possible that we could be asking witnesses to give their input. I just want to conclude that anything we can do to reduce the costs and have that input either via electronic means or, if necessary, through video conferencing, as opposed to making a large request for resources....

**The Chair:** Okay. Very briefly, Madam Bennett, Madame Thi Lac, and then I want to put the question. And we'll deal with the Google report too.

**Hon. Carolyn Bennett:** I'm quite shocked that this was actually agreed to at the steering committee meeting. We agreed to go forward. We agreed that serious, meaningful citizen engagement on something as important as open government requires a serious, scientific approach, with appropriate analysis and the ability to actually hear what the people of Canada are saying.

The honourable member can set up his own Facebook site whenever he wants to on open government. But we expected that this could be a pilot for the way government operates in 2.0. We need to go forward.

The last meaningful consultation a parliamentary committee did was Senator Kirby's. And then there was the one we did in the disability committee in 2002-03. We have been at an absolute standstill in allowing ordinary Canadians, who don't necessarily know how to ask to be witnesses, to consult and advise government.

I feel extraordinarily strongly that we should go forward. We agreed to it last week. I don't know, honestly, what the member is saying. Let's see what the consultants say.

As the honourable member knows, \$250,000 has been set aside at the liaison committee to do expressly these kinds of activities. It's never been tapped, because there is always someone on the other side thinking that less is better and that democracy should be cheap.

We have to spend the money to do this properly.

• (1720)

**The Chair:** Thank you, Ms. Bennett.

We'll have Madame Thi Lac, very briefly.

[*Translation*]

**Mrs. Ève-Mary Thaï Thi Lac:** I want to add two things. Obviously, whatever is discussed by the steering committee is confidential. So, I will not deal with the issues that have been raised in those meetings. However, I believe it is a matter of responsibility. We all know that only one member of each party attends the meetings of the steering committee.

I am surprised by what you said this morning, Mrs. Bennett, because I think that the proper action this morning would have been for you to express your position to the member of your party attending the meeting. I am surprised to learn here what your position is. I believe that the other MPs from all parties who are not members of the steering committee have to communicate their position to the representative of their party.

Here is my second point. I might not agree with the way you use Facebook. My staff received some training last week on the tools and on Facebook and I was quite surprised by the conclusion and warnings of the trainer. That person told us that, when one puts one's photograph on Facebook, it becomes the property of Facebook. Even if you close your account, Facebook remains the owner of everything you put online through Facebook, not of the links you have used. So, before thinking that the committee might use a tool like Facebook, I believe we should get more information because the information in tiny characters that we usually do not read or perhaps do not fully understand might be very significant. As I said, all your data, your photographs and your videos become the property of Facebook. So, I think we should use another tool than Facebook. Personally, as an MP, I am thinking of removing my profile from Facebook because I do not think it is a good tool. And it would be even less so for a committee such as ours.

[*English*]

**The Chair:** Thank you very much, Madame Thi Lac.

I'm just going to put the question.

**Mr. Pierre Poilievre:** Chairman, I am on the speakers list.

**The Chair:** Well, you've already spoken, Mr. Poilievre. What is this about?

**Mr. Pierre Poilievre:** I notice here bullet 2 in the seventh report. I read the paragraph regarding the study, and it doesn't even have a budget.

**The Chair:** We can't get a budget until we....

**Mr. Pierre Poilievre:** I don't know why we'd approve an expenditure before we actually know what it is.

**The Chair:** We're not, Mr. Poilievre.

**Mr. Pierre Poilievre:** It says "That the committee undertake an e-consultation process for the purpose of its study on open government. The e-consultation"—

**The Chair:** This is approval in principle.

**Mr. Pierre Poilievre:**—"will be done according to the terms set out in the document entitled 'Plan for an E-Consultation Process'". It is a document I have read, and I don't see any costing in there, either.

This motion proposes that we go ahead with the e-consultation, not that we consider it or that we do some research to consider the possibility of doing it.

**Hon. Carolyn Bennett:** It's approval in principle.

**Mr. Pierre Poilievre:** It says here that we should do it.

At the very least, if you say that this does not commit us to an expenditure, then the seventh report should be amended to say that the Library of Parliament be tasked to come back with a budget—a start-to-finish, firm, set budget—we can be certain about before we actually vote on it. Otherwise, you're asking us to vote on the commencement of a process for which there is no set budget.

**A voice:** We don't do budgets.

**The Chair:** They don't do budgets.

We can come back to it, Mr. Poilievre, but I think this was discussed.

Maybe I'll speak to this. This has been talked about for quite some time at the steering committee. There seems to be—

• (1725)

**Hon. Carolyn Bennett:** A lack of communication.

**The Chair:** Mrs. Bennett, please.

This is a step in the process where we can't go any further, to go out there to see what the budget will be, but there's no way we're going to do it until it comes back before this committee—and more importantly, until it goes to the liaison committee. There are a number of steps in this process and this is just one of them. If it's shut down by this committee at this point in time, we can't go any further. We cannot develop the business plan further. We cannot go to seek any kind of input from third-party consultants. This basically ends it, if that's the will of the committee.

I'd like to put the minutes of the steering committee to a vote.

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

**The Chair:** I know there are only a few minutes left. I would like to deal with the Google study if it's possible. That has been circulated. It's been before the committee on a number of occasions. We held it up last time waiting for additional information. That information has been received by the committee and circulated.

I believe, Mr. Siksay, you were the one who raised—

**Mr. Harold Albrecht:** Did you want to go in camera?

**The Chair:** Oh, I'm sorry, you're right. Thank you very much, Mr. Albrecht.

*[Proceedings continue in camera]*

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