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Chair

Mr. Joe Preston

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• (1100)

[English]

The Chair (Mr. Joe Preston (Elgin—Middlesex—London, CPC)): I call the meeting to order.

I thank you all for attending today. As you can see, we are in public and we are video-recording today. We are having our study on the review of the conflict of interest code for members.

We have Madam Dawson with us today. Madam Dawson, I will let you go ahead with your opening statement and introduce the folks who are with you. Then we'll have a round of questioning after that.

I do apologize, as I have to leave at about 11:55. Mr. Comartin, the co-chair, has suggested he will take over the chair. When you see it happen, it is not a coup; it is just a friendly replacement for today. I have some constituents in town. That is my version. It may be a coup after I've left the room, of course, but we will wait for that to happen.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): On a point of order, Chair, do we have written copies of Madam Dawson's opening statement?

The Chair: We'll distribute what we have.

Madam Dawson, welcome.

Ms. Mary Dawson (Conflict of Interest and Ethics Commissioner): Thank you.

I'll introduce my colleagues first. Lyne Robinson-Dalpé is the head of the compliance and advisory section. Eppo Maertens is in charge of investigations. Nancy Bélanger is our general counsel.

[Translation]

Mr. Chair, I would like to thank the committee for inviting me to appear before you today.

I note that there are a number of new members who have joined the committee since I last appeared before you in October 2010. I look forward to continuing to work with you.

I am pleased to have this opportunity to contribute to the five-year review of the *Conflict of Interest Code for Members of the House of Commons*. This is an excellent opportunity to explore how well the code is working and how it might be improved.

[English]

I've previously worked with the committee to provide input on possible amendments to the code. In particular, I was pleased to see that many of the suggestions I made for changes to the gift provisions were adopted by the House of Commons in June 2009.

I also submitted suggested amendments largely to do with the disclosure and inquiry provisions of the code, and included draft language to the committee in March and October 2010. With the view to taking a comprehensive approach, my current submission does include these proposals.

As requested by the chair, I've provided a written submission to the committee recommending various amendments to the code for your consideration. They are designed to strengthen and clarify the code's provisions. I plan to make this submission available on my office website tomorrow. In my presentation today I will provide some context for these recommendations, which I have developed based on my experience administering the code since 2007, and highlight several in particular.

I make several recommendations with respect to the administration of the code. I've noted, for instance, that the code does not impose deadlines for members to complete the initial compliance process on their annual reviews. This sometimes results in delays of many months. I'm suggesting that the code should be amended to include a 120-day deadline for completing the initial compliance process and a 30-day deadline for completing the annual review process, with discretion for the commissioner to extend the deadline if appropriate.

Imposing deadlines will underline the importance of members achieving compliance with the code in a timely manner. Moreover, introducing a mandatory requirement that new members meet with my office within that 120-day period will enhance our current efforts to ensure members are fully aware of how the code applies to their personal situation.

I'm also seeking authority to issue guidelines and standard forms under the code without having to obtain the approval of the House of Commons. These tools can help members better understand their obligations under the code and streamline and expedite administrative processes. The approval requirement set out in section 30 has, in the past, caused significant delays, and I believe also limits the independence of my office, so I recommend that this requirement be removed.

Several other recommended amendments are aimed at encouraging and enforcing compliance with the code. To ensure that all members fulfill their reporting obligations in a timely way, I recommend that the commissioner be given the authority to impose administrative monetary penalties up to \$500 for failures to do so, as is done in the Conflict of Interest Act, and to make notices of penalty public.

I also encourage the committee to consider whether imposing sanctions for substantive breaches of certain provisions to the code would further strengthen this aspect of the code. I believe it would provide a transparent and effective alternative to conducting an inquiry where the facts of a situation are not at issue. I also propose that new compliance obligations be added to the code. In previous reports I have raised the suggestion that members be prohibited from personally soliciting funds where doing so would place them in a conflict of interest. I also believe that broader disclosure and recusal obligations are needed to prohibit members from furthering the private interests of relatives or friends.

I believe that sponsored travel should be subject to an acceptability test, the same as other gifts and benefits. This would ensure that members do not accept travel when it could reasonably be seen to have been given to influence them.

● (1105)

My recommendations to the committee also include amendments related to the disclosure and declaration of gifts. Despite ongoing efforts to raise awareness of the code's gift revisions, I have found that the gift provisions are still not clearly understood, and gifts are not consistently reported. Many members mistakenly believe that gifts are automatically acceptable if they are valued at less than \$500. In fact, the value is not a criterion of acceptability; it is the threshold for public declaration.

I have come to the conclusion that the best way to deal with gifts and other benefits would be to significantly lower the threshold for public disclosure below which gifts and benefits could not reasonably be seen to have been given to influence members. This would mean that almost all gifts would need to be disclosed to my office and publicly declared. I recommend that this threshold be set at \$30. All gifts valued at \$30 or more, or with a total value of \$30 or more from a single source in 12-month period, would have to be disclosed to my office. If acceptable, they would be publicly declared. That is the add-on here.

I recognize that there is a significant difference between the current threshold of \$500 and the \$30 threshold I propose. I believe that in making this change, members would pay more attention to the question of whether gifts they receive are acceptable. This change would ensure transparency and would also enable my office to assist members in adhering to the acceptability provisions of the code. We would be working on the assumption that a gift valued at less than \$30 would not reasonably be seen to have been given to influence a member. Token gifts below that amount would not be subject to an acceptability test.

One area of gifts that has been particularly challenging is the acceptance by members of invitations to meetings, receptions, and information sessions at which meals or refreshments are offered. There appears to be a widely held perception among members that these gifts are not covered by the code or that they could, in all cases, be considered customary hospitality. I do not read the code that way. I would ask that members consider whether they wish to amend the rules relating to invitations to events where meals or refreshments are offered.

● (1110)

[*Translation*]

Other recommendations in my submission to the committee seek to improve the provisions of the code relating to inquiries. These amendments would do several things.

First, they would permit me to make public my reasons for not proceeding to an inquiry after a preliminary review, when the allegation that prompted the review is in the public domain and making my reasons public is in the public interest.

Second, they would require members who request an inquiry to refrain from commenting publicly on the matter until I have confirmed that my office has received the request and I have notified the member who is the subject of the request.

Third, they would help me obtain the information I need to carry out my compliance and investigative roles, by giving me express power to summon witnesses and compel documents. They would also require that I be given direct access to any document requested from the House of Commons.

[*English*]

Finally, I'd like to address the different procedural requirements under the act and the code so as to explicitly permit me to issue a single report on investigations I conduct simultaneously under both regimes.

Another set of recommendations in my submission to the committee is aimed at harmonizing the Conflict of Interest Act and the conflict of interest code to ensure consistency of language and process. The fact that these two regimes have similar, but not identical, provisions is a source of confusion, particularly for those members who are also ministers or parliamentary secretaries and are subject to both regimes. I recommend that Parliament consider harmonizing the act and the code where appropriate.

My final recommendations are in the area of political interests and partisan behaviour.

Political conduct is largely beyond the scope of both the code and the act. Still, I believe that there is a need to address the confusion resulting from the lack of clear rules governing the ethical aspects of politicians' partisan behaviour. I would suggest that the House of Commons consider implementing a separate code of conduct to address the political conduct of members and their staff.

As I mentioned earlier, the amendments I propose are based on my experience of the past five years. In developing them, I have sought to identify and address the main issues that have created challenges in the effective administration of the conflict of interest code for members of the House of Commons.

[*Translation*]

My remarks today merely serve to highlight some of the recommendations I have proposed in my written submission.

The submission itself provides greater detail on what I am proposing. If required, I would be pleased to provide the committee with draft language for any of the areas I have raised, where I have not already done so.

I believe these amendments will, if adopted, strengthen the code, and help maintain and enhance public confidence and trust in the integrity of members.

[English]

Mr. Chair, I hope that after its study the committee will see fit to recommend that the House adopt these recommendations.

I will be happy to answer any of the committee's questions.

The Chair: Thank you very much. That was very well done on the overview.

We will go first to Mr. Albrecht, who will have seven minutes.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Thank you, Mr. Chair.

Thank you, Madam Dawson and your team, for being here today. Thanks for your work on our behalf. Thanks for your efforts at outreach to the different caucuses to help us try to understand the code and the complexities that are there.

I think you will find a great degree of agreement on much of your report, and probably some concerns on other parts.

By the very fact that I'm going to recommendation number 9 might imply that I'm not too concerned about some of the ones prior to that, although some of my colleagues might be. I'd like to ask some questions regarding recommendation 9. Before I do that, I would like to read a bit of the preamble in your report, because it is important to understand where I'm coming from in my question later on.

You indicate:

The practice of sponsored travel, where an individual, an organization or a country funds travel by a Member to attend a particular conference, promote a regional company or interest or visit a region, is permitted under the Code and is specifically excluded from the acceptability test under the gift provisions. There is a striking paradox here, whereby an inexpensive gift from an organization seeking to influence a Member would not be acceptable, but a trip to a foreign locale sponsored by the same organization would be permitted, without question or scrutiny.

It is that last part with which I would take issue. It would be my contention that it is subject to scrutiny, because currently for all foreign travel there is a pretty stringent requirement that the member who has engaged in that travel needs to file a report within a certain period of time after he returns. In that context, it's certainly open to public scrutiny.

You go on in the last paragraph to indicate:

Adding an acceptability test would put to rest any concerns over whether the sponsored travel could reasonably be seen to have been given to influence a Member in the course of their duties. If travel is acceptable under the new test, the current practice of making a public declaration and providing supporting documents should be continued.

I certainly endorse that.

My concern with this recommendation is that it appears to put a very subjective evaluation on what foreign travel might include. I would be interested in having some input from you as to what kinds of criteria you would implement to have an acceptability test that would go actually further than what is currently there with the public

being able to scrutinize the fact that a member travelled to country ABC for a certain purpose.

I'd be interested in your feedback on some of those initial questions.

You indicated earlier, to be fair, that you're happy to provide draft language. Maybe I'm getting ahead of that, but I want to be up front with my initial concerns about this issue because it does seem to be very subjective and may be difficult to get a handle on.

• (1115)

Ms. Mary Dawson: The interesting thing is that I have had some experience in applying a conflict test when a member is a parliamentary secretary or a minister. Whenever that situation arises, the sponsored travel is not excluded from the gift provisions of the act. It is excluded from the gift provisions of the code. Therefore it is doable.

I've also observed that in the case of ministers and parliamentary secretaries, there is a higher level of chance there would be some kind of a conflict because they have specific executive obligations. That is not to say that on occasion there may be some conflict with a member, for example, if in a committee or something he were dealing with some particular subject matter having to do with the country that was sponsoring his travel. I don't think those situations would arise very frequently, but to be consistent with what's happening to ministers and parliamentary secretaries, I'm asking whether there shouldn't be some kind of scrutiny of whether there's a conflict when these trips are accepted.

I agree with you that the fact they're made public goes a good way to putting those into the public domain, but what our office would do would be to exert some more scrutiny on what exactly that MP is involved in to see whether there is some specific issue there.

Mr. Harold Albrecht: I'm having difficulty grasping how it would be perceived as a potential conflict.

For example, if I'm a member of a particular committee and I travel to a country to understand that country better, so that I can do my duty in a more informed way as a parliamentarian, I'm having difficulty understanding how anyone, the public included, would see that as somehow a conflict of interest in terms of educating myself to do my job more effectively.

Ms. Mary Dawson: Yes. I don't think it will happen very often. I really think....

I can't make up a situation now, but I'm just thinking that if some really expensive trip were given to some MP, and there were some piece of legislation there that favoured a particular country, then maybe there could be a conflict.

As I said, it would happen much more frequently with a parliamentary secretary or a minister. I don't think this is going to give grief to too many MPs if you make this change. It just adds a level of scrutiny.

Mr. Harold Albrecht: Okay.

How much time do I have, Mr. Chair?

The Chair: Two minutes.

Mr. Harold Albrecht: Okay. I want to share my time with my colleague Mr. Lukiwski.

Mr. Tom Lukiwski: And I know that my colleague Mr. Kerr will take the second round, so just quickly, I'd like to pick up on what Harold was talking about in terms of the subjectivity of some of your recommendations. To me it comes down to, in many cases, the matter of definition.

I have some difficulty with some of your recommendations, and I'll give you two quick examples.

Your recommendation six states:

That the Code be amended by adding prohibitions against personal solicitation of funds by Members where to do so could raise concerns relating to furthering private interests.

Would this prohibit MPs from participating in charity fundraising events, such as telethons and things like that? I mean, where do you draw the line?

I'll give you another example with respect to the definition of "friend", and that's in recommendation seven, which states as follows:

That sections 8, 9 and 10 of the Code be broadened to include a prohibition against Members furthering the private interest of a relative or friend.

Well, "relatives" are easy to define, but how do you define "friend"? You know, what is a friend, what is an acquaintance?

You go on to talk about friends in recommendation eight in terms of a prohibition against participating in any discussion, debate, or whatever that might further the private interest of a friend.

That's almost impossible to really enforce. How do you define who is a friend and who is merely an acquaintance—or somebody you might have run into at a cocktail reception?

Mr. Harold Albrecht: Yes: my NDP friends.

Mr. Tom Lukiwski: How do you plan to enforce this when it's almost unenforceable?

• (1120)

Ms. Mary Dawson: Most of the issues you raise I've had to struggle with under the act for five years.

I have in fact a pretty clear definition of what I consider a "friend". It's somebody who's close; it's not an acquaintance or a business buddy.

Mr. Tom Lukiwski: How do you define that?

Ms. Mary Dawson: The thing is, I don't think you could actually ever put a definition down there. You have to kind of just....

Anyway, I have some tests with respect to my act that I follow. They're quite clear, and they're out in my guidelines under the act. The thing is that these rules are largely in the act anyway, so I'm suggesting that some of them could be considered for the code as well.

I agree with you that in all these areas there's a certain level of interpretation that I have to apply, but what I do try to do is make public how I'm interpreting these things.

Of course, if there's any particular exception you want to put into your code, you're free to put them in.

The Chair: Thank you, Madam Dawson.

Mr. Comartin, for seven minutes.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Thank you, Mr. Chair.

Thank you, Madam Dawson, for being here.

When I read your report and the 19 recommendations that went with it, I must admit that my first reaction was "Where's the problem?"

You do not in the report, that I could identify, give any specific problems in terms of conflict of interest or abuse going on among the members. In spite of that lack of evidence in that regard, we have all these recommendations.

It's almost like—I'm going to be blunt here—looking for a problem that doesn't exist and then creating a solution for it. That was my reaction to the report.

I'd like your comments on that.

Ms. Mary Dawson: I think I could tell you some of the problems in some of these.

For example, with the deadlines, there's a significant difference in the speed with which I get disclosures and annual reviews from members and from people under the Conflict of Interest Act. The reason is that there's a deadline set out in the Conflict of Interest Act.

So all I'm suggesting on those two is that we get a defined deadline within which people have to get this stuff done.

Mr. Joe Comartin: But let's be specific on that. How many non-compliants do you have?

Ms. Mary Dawson: Lyne, I think you have the statistics.

Mr. Joe Comartin: Let's take it after an election and you have a substantial number of new members of Parliament.

Ms. Lyne Robinson-Dalpe (Assistant Commissioner, Advisory and Compliance, Office of the Conflict of Interest and Ethics Commissioner): For the last election, for example, we had 111 new MPs and all the others were returning. As of seven months later, there were still about 20 of them who had not provided their final documents to make them public. Of course, public declarations have to be put on our website in the public registry for the public to have access to them, the sooner the better, because the purpose of the code is to increase transparency in that regard. Basically, we find that seven months after an election is a bit long to obtain the information and to make it public, given their obligation with regard to the code.

Mr. Joe Comartin: That's 20 out of 308. I'm going to suggest I was one of them, because we had difficulty getting some documentation of some of my wife's assets. I don't think it was seven months, but it was pretty close to that before I got it.

Of the 20, how many had valid reasons for not being able to complete because they couldn't get the documentation you were requiring?

Ms. Lyne Robinson-Dalpé: I can't say how many. There was a handful that were maybe valid. Some people were out of town, some people could not access the documents, could not obtain the information from their spouses, so there were a number of reasons for people not getting.... In some cases people did not get back to us, so we had to revert to other procedures. But seven months is still a long time, and I'm only saying in the last stretch. Basically, after 120 days we still probably had more than half—I'd have to go back and look at the statistics, but probably more than half of the MPs were still outstanding after 120 days.

•(1125)

Ms. Mary Dawson: If I could go down the list—obviously we're not going to have time in your time—I could go down each of those things and identify what prompted the request for the recommendation. I'm not sure if you want me to continue to do that down the—

Mr. Joe Comartin: Let me switch to another problem I have. If we implemented all of these 19 recommendations.... I'll simply use one example. If we did the meals, it's not unusual for members of Parliament to go to four or five receptions every evening—I won't say every evening, but two or three times a week, because some are more dutiful than others in getting to the receptions. But based on this, we would have to file a report. If we had any gifts over \$30, we would have to file a report.

I'm wondering where you expect us to be able to find the time to do that and still perform the rest of the duties we have as MPs. Have you done any analysis, in fact, of how much time we would end up spending on reporting?

Ms. Mary Dawson: You know, I have a great deal of difficulty in the whole area of gifts and invitations, because people aren't telling me about them. I get virtually no information on gifts or invitations under \$500, and yet people tell me they're getting invited six and seven times an evening to something or other.

There's a disconnect there, so what I'm trying to do is shed a bit of light on what goes on. I've been trying for four years to find out what the heck goes on up here, on the Hill, and it's very difficult to find out. It's only recently that people have started telling me that they go to millions of these receptions, and I think they would bear a little bit of scrutiny. The people who put on these receptions are the people who have the money to put on the receptions, so is there discrimination in who has access to MPs? There's a whole area there I don't have very much information about.

I would also wonder how many people get more than a couple of gifts over \$30. I don't know how many gifts you guys are being given because I don't get told about them either.

Mr. Joe Comartin: Let me use an example. We regularly get books given to us, and very few of those books.... I must get two or three a week, and I think that's probably pretty standard. Some of them are the nice big picture books. Others are documentaries on problems. I doubt if any of those I get are under \$30.

Ms. Mary Dawson: Who gives them to you? People from abroad or people—

Mr. Joe Comartin: Constituents. Municipalities give us picture books of their municipalities. You get conservation authorities giving us books. Going down the list, you have a lot of non-profits who give us books. The list is almost endless.

Ms. Mary Dawson: You see, I'm in the position of not knowing what you're getting, and I can't seem to get that information. Maybe there's a list of several things, like books, that you want to exclude from that rule, but simply because you have to report them doesn't mean you can't accept them. What it means is that at least we're seeing what is flowing in to MPs from people, and there's no way of finding that out now. In theory, you should be checking with my office to see whether they're acceptable, but there seems to be an inability—not on everybody's part, I have to say—a feeling if it's under \$500 you don't have to worry about it.

That's why I'm suggesting we collapse the dichotomy between what's reported and what has to be scrutinized for acceptability. Basically what I'm doing is saying let's have only one test so people don't confuse the two of them.

The Chair: Mr. Comartin is absolutely right. It could be as many as four or five on a given night; in a week, twenty or thirty. I don't report those. Usually I won't attend them, unless a member of my constituency is at that reception, if it's agriculture-related, or if it's related to manufacturing.

Is there some way we can make it so it's the holder of the reception's responsibility to tell you they're going to have something and what they will be doing at it, instead of 308 members all having to say "I attended and took a sandwich"?

Ms. Mary Dawson: All of them would not be unacceptable—that's the other thing about it. My big problem is that there is a veil of secrecy. It's probably not a deliberate veil of secrecy, but there's a—

The Chair: Yes, wander around—they're here.

Ms. Mary Dawson: Yes, but there is no way of—

The Chair: I've had the sandwich.

Ms. Mary Dawson: A sandwich is probably all right. But is somebody wining and dining you in an expensive way, looking for something from you? That's the question.

•(1130)

The Chair: Is there a simplification to what you're asking? If someone is going to hold the reception that MPs are going to be at, they just tell you they're holding a reception and MPs are going to be at it. That's better than you receiving reports from 308 of us that we went to a breakfast for the egg farmers.

Ms. Mary Dawson: Yes, that would certainly help. Maybe there is somebody or other who knows of all the receptions that are going on. I don't know.

The Chair: Yes, Harold knows them all.

Anyway, that's enough from your chair today.

Mr. Gameau.

Mr. Marc Garneau (Westmount—Ville-Marie, Lib.): Thank you, Mr. Chair.

I don't want to flog this reception thing to death, but let's say that my friend Laurie Hawn and I go to a high-end reception. He has a glass of wine and one oyster, and I have three glasses of wine and six of the shrimp. I'd be doing a mental calculation of whether I've exceeded the \$30 threshold. If there is a way to simplify it, that would be great. I think the chair has proposed something good, if we can go in that direction.

But getting to serious things, in your 2010-11 annual report you noted that "there was a need for some guidelines on the involvement of members in political fundraising events, particularly in the case of ministers and parliamentary secretaries". Could you expand a little bit more on that, please?

Ms. Mary Dawson: Is that my report on the code?

Mr. Marc Garneau: It's the 2010-11 annual report.

Ms. Mary Dawson: That's on the code, yes. I noted that there are fundraising prohibitions in the act but not in the code. I've had several investigations, and I've touched upon the question of whether I'm looking at them as an MP or as a minister. There is generally more danger for contraventions under the act than under the code, because people under the act have more power in some ways. It's when somebody is trying to influence somebody with power that the problem arises. In theory, it seems to me there should be a rule in the code parallel to the one in the act. It would require a rule that you can't fundraise where it would put you in a situation of enhancing a private interest.

Mr. Marc Garneau: You seem to be suggesting that we should, first of all, harmonize the two documents, the code and the act. I sense that you would like to take the code in the direction of the act so that in many cases you're dealing with the same rules for both.

Ms. Mary Dawson: Yes, and there are some cases where I will be suggesting that the act go more along the lines of the code. For example, the inquiry rules are clearer in the code than they are in the act. There are improvements in both directions that could be made. A number of improvements could be made in the code. I don't expect to find many guilty people under these enhanced rules, but there is still a possibility of having some situations that should be covered.

Mr. Marc Garneau: One of your recommendations is this 120-day deadline. If somebody doesn't meet that 120-day deadline for providing the required information—let's say under the code—could that person be subject to a \$500 fine?

Ms. Mary Dawson: I have discretion as to whether to apply the penalty, and in many cases I don't even think of applying a penalty because there's a legitimate reason. To not impose a penalty goes along with discretion.

Mr. Marc Garneau: Some MPs are upset with the fact that they have to provide what they consider to be too much information on their spouses' personal.... I happen to believe that is a reasonable requirement, but I'd like to hear in your words why the requirement exists with respect to the disclosure of information from spouses.

Ms. Mary Dawson: It's because in a marriage you're in it together. What's good for you is usually good for your spouse and vice versa. It's information that I think is important to have.

I stress as well that this information is not made public. Only very general, broad statements are made public. But it assists us in seeing whether there is anything we need to discuss with the individuals

with respect to potential conflicts, because conflicts go not only to you but to your family. If I had my way, it would be a little broader than that, which is in my other recommendations.

• (1135)

The Chair: Thank you, Mr. Garneau.

Mr. Kerr, you have four minutes.

Mr. Greg Kerr (West Nova, CPC): Mr. Chair, Mr. Hawn has to leave, so I'm going to give him a very brief part to start.

The Chair: Okay. Mr. Hawn, go ahead first.

Hon. Laurie Hawn (Edmonton Centre, CPC): Thank you, Mr. Chair.

Thank you, Madam Dawson.

Recommendation six talks about solicitation of funds. I do a lot of charity work, and I'm sure most of us do. I do a lot of charity walks. I simply register for most of them, write them a cheque for a couple of hundred dollars, and go to the walk. Often I speak at it to welcome people, thank them for coming, and that sort of thing. The one exception to that is for HIV/AIDS in Edmonton. I've been the top individual fundraiser for a number of years, obviously soliciting funds, as I think most of us do for things like that, to the point that in these last couple of years they have used my name from the point of view of "Let's beat Laurie Hawn", which is fine. They haven't done it yet, but that's okay.

Is that a violation? When it talks about benefiting a friend or family, if I had a family member suffering from HIV/AIDS and I'm doing that, is it a violation of the code? How far do we go with that?

Ms. Mary Dawson: No. With charities there are broad class exceptions to private interests. If it's not targeted to a narrow group of people, then you don't have a problem.

The problem in fundraising is that if somebody is looking for something from you, then you may be able to use that fact to fundraise from them. That's not normally the situation you're talking about, but that's what the rule is about.

Hon. Laurie Hawn: So if I'm doing a charity walk, soliciting colleagues to contribute to that walk doesn't violate anything.

Ms. Mary Dawson: No, because it wouldn't appear that a private interest would be involved there.

Hon. Laurie Hawn: Okay, that's good. Thank you.

Mr. Greg Kerr: You were brief.

Hon. Laurie Hawn: I was.

Mr. Greg Kerr: Thank you, and I am surprised.

Thank you, Ms. Dawson. I'm very pleased.

Time is very limited, but I'm going to comment on the meal thing, as we all have.

First, I think it's really important that we've had a chance to chat briefly about some of this.

When I think back on this, what you do is incredibly important, and the clarity of what you do for us is incredibly important. But I think if there were guidelines, an additional booklet, or something you could provide.... A lot of MPs, particularly those starting off, are very new and inexperienced and at that stage are likely to make innocent mistakes.

Ms. Mary Dawson: You've given me the perfect opportunity to say that the problem with guidelines is that I have to take them through this committee, and that is quite slow.

Mr. Greg Kerr: That's understood, and I don't want to give my friends over there an immediate chance to go back over it, but I am saying that it's a chicken-and-egg thing to a degree. Anything you could do to tighten up, even an opinion page, is extremely important as a warning.

On the gift thing, we're going to keep changing the number over the years. It seems to happen, and it's important.

I'll tell you the problem with the reception and meal thing. Unlike what some people think, MPs do put in very long days, and often this is a targeted time to have discussions to learn about something on a national basis. If I'm here from Nova Scotia, and a national event is sponsored out west, whatever it might be, that's one of the best learning curves we have to do that; otherwise your committee is doing other things. If there's a suggested way to somehow get you a list of all the receptions and so on and let you analyze it, I think that would be great.

For me to have to think beforehand and decide whether I go to one because they might influence me is not going to happen. It's unlikely that would ever take place. We don't stop to think every time as to what exactly they're trying to do. Everybody is trying to influence politicians all the time. That's part of the job. It's called politics.

We want to do it right. We get in trouble enough all by ourselves without adding to it. With this kind of thing, it's not just about the receptions, but it's important that we could somehow determine the best way to do it, because our committee has to make a decision, and I think we've got a way to go to reach that point.

Ms. Mary Dawson: It's a difficult problem, because I've never felt that I've had all the facts to figure out an appropriate solution. But I would say that I would not have a problem if you folks wanted to figure out what it is you wanted to exclude from these rules. The problem I have is that they're not excluded at the moment. What we need is to define what it is that you don't want to be caught by.

• (1140)

Mr. Greg Kerr: We'll be back and forth on this, and I'm looking forward to getting a copy of your guidelines as a follow-up. But I think—

The Chair: Thank you, Mr. Kerr.

Mr. Greg Kerr: I was going to say that the idea of putting a list together....

Voices: Oh, oh!

Mr. Greg Kerr: If the chair had not used all the time on this issue, wondering about egg sandwiches or whatever it was—

Voices: Oh, oh!

The Chair: Thank you, Mr. Kerr.

I apologize if I've taken any of your time today.

Next we have Mr. Cullen.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): I'll be very quick and then I'll pass to Madame Turmel.

In seven years that you've been on the job, how many breaches—

Ms. Mary Dawson: It's five years, actually. It just seems like seven.

Mr. Nathan Cullen: It seems like more, I know.

How many breaches of the code have you been able to conclude?

Ms. Mary Dawson: I think it was five. Oh, breaches; sorry.

Mr. Eppo Maertens (Director, Reports and Investigations, Office of the Conflict of Interest and Ethics Commissioner): There were two inquiries that we completed under the code.

There were five inquiries that we conducted. In two of those we found breaches, and in three we didn't.

Mr. Nathan Cullen: In recommendation 14, you would like to be able to tell the public as to why you were unable to complete an investigation, and publicly release the reasons for not pursuing the matter?

Ms. Mary Dawson: That addresses the issue of misinformation that's put out. It happens, on occasion, that somebody will send me a request for an investigation, and their whole purpose in sending it is to blacken somebody's name—not always, of course, but sometimes. All I'm asking for there, when there's misinformation out there, is a way I can cover it. I am prohibited from saying anything about it.

The other case is when something absolutely does not fall within my mandate.

Mr. Nathan Cullen: And you need to be able to say that?

Ms. Mary Dawson: I'd like to be able to say that.

Mr. Nathan Cullen: Yes. We want to work with you on this. You're the ethics watchdog.

Ms. Mary Dawson: Yes.

Mr. Nathan Cullen: You are there to make sure that the public has some confidence that MPs are not being overly influenced by one group or another.

Ms. Mary Dawson: Right.

Mr. Nathan Cullen: I guess one of my concerns is, is there not a risk of trivializing that particular role in chasing those egg salad sandwiches around, when really what I think folks are concerned about is MPs taking very expensive trips to lodges or something that would look like a privilege given to a politician that the average person would never expect in their daily work? I guess that's my concern, and maybe you're hearing that concern from members on the committee.

The Prime Minister went to a reception last night of a wildlife association. I don't think he was unduly influenced by being there.

Reporting each of those out, do you see the risk there of trivializing the matter?

Ms. Mary Dawson: I agree with you. I agree with you that it's a difficult question, and I don't know how to solve it exactly, because I don't know what I'm dealing with, but I'm starting to learn.

Mr. Nathan Cullen: Okay.

I think you're going to see some recommendations from us.

The Chair: Thank you.

Go ahead, Madam Turmel.

[Translation]

Ms. Nycole Turmel (Hull—Aylmer, NDP): Thank you very much.

I can appreciate why it is an all-around good thing when members and public office holders fulfill their duty to report potential conflicts of interest.

You made 19 recommendations. I am thinking about the workload that could generate. Nathan mentioned the number of complaints you had received and the number you had investigated. I am looking at it from a workload perspective.

I want to come back to the amendments. What prompted you to propose amendments like the one designed to reduce the disclosure threshold for gifts from \$500 to \$30? That also has to do with solicitation and fundraising. Say I host a dinner costing \$30 in my riding, and people attend, they may expect something in return. So how do you define this?

Then, you have the whole friend aspect. Ms. Dawson, you know as well as I do that when you become a public figure, everyone is your friend.

Ms. Mary Dawson: Yes, but not in actual fact.

Ms. Nycole Turmel: That is the part I really have trouble with.

What are the biggest challenges preventing you from doing your work?

Ms. Mary Dawson: As I see it, the whole gift issue, which we discussed, is a big problem. We have to establish a clearer definition of what we want to regulate. I would say that is a common problem.

Some of my suggestions won't be very difficult to implement at all. It is simply a matter of a word or two. Most of the suggestions are to make the system better. I would say that a few of them are not all that complicated. Gifts are another story; that is complicated.

What's more, I would point to the public component as the biggest challenge. That is why I called for a much lower limit on gifts. Perhaps \$30 isn't the right number. That was a suggestion. Five hundred, however, is too high. There has to be some transparency for less expensive gifts as well.

• (1145)

[English]

The Chair: Thank you, Madam Turmel.

Mr. Zimmer, go ahead.

Mr. Bob Zimmer (Prince George—Peace River, CPC): Thank you, Mr. Chair.

Thanks for coming again today.

I have similar issues as my colleague Ms. Turmel concerning recommendation seven. You used the words “a prohibition against members furthering the private interest of a relative or friend”. She referred to friends as “I have 105,000 friends in the riding”. You can go that broad with it.

Certainly I represent everybody in my riding, and I think it's my job to represent those interests. So when you're saying that I have an obligation to recuse myself from participating in “discussion, decision, debate or vote where he or she may be in a position to further a private interest”, a “private interest” could be a job, could be ownership in a company, could be all these things. I consider that my job, to do the best I can do for those constituents and friends. In saying such a broad...and not just broad, but to use such strong language as a “prohibition” is concerning, to say the least.

I know you're trying to get to the bottom of this, but you're going a little too far in saying what you're saying. Just clarify, please.

Ms. Mary Dawson: Okay.

Well, I think you're interpreting “friend” a lot more broadly than I would ever interpret it. A decision came out some years back, relating to the Toronto Port Authority, where somebody went to the point of calling another person his “friend” and there was an issue of conflict there. I determined that he may have called him his friend, but he wasn't really a friend for the purposes of this act. When you've got a “friend”, in the context of a relative or a family member, it's somebody who is close to you. It's somebody you might give a Christmas present to, or it's somebody.... It's not your 150 constituents that—

Mr. Bob Zimmer: My riding is a big oil and gas area. My brother works in the industry. I have many friends who work in the industry. So when I go to a particular discussion about this, or I promote a certain point of view that my constituents expect me to promote and I personally agree with, how can I recuse myself from that? I become.... You know, I don't get it.

Ms. Mary Dawson: There are a number of exceptions, such as “broad class of people” and “general application rules”. For example, everybody's under the tax statute, so that's never going to create a problem—that's if you're working on a piece of legislation, I'm making that connection.

If you looked at my guidelines under the act, I wouldn't apply my rules much differently under the code, assuming they said the same thing approximately. I interpret “friend” as being quite a narrow group of people, more like family, a long-term close friend, not somebody you've met through business or through your work, unless they become a really close friend.

With respect, what was the other issue, not friend, but...?

Mr. Bob Zimmer: That's pretty much it.

Do I have much time, Mr. Chair?

The Chair: You have a minute.

Mr. Bob Zimmer: I had another question on interpretation. What do you consider your role as Ethics Commissioner? Are you to interpret the act, or is your job to follow the act?

•(1150)

Ms. Mary Dawson: I think it's the same thing. It's the code or the act we're talking about, I guess. My job is to interpret it and apply it. If there are broad provisions, I have to determine how to apply those broad provisions, and I try to be as transparent as I can be as to how I'm interpreting it.

Mr. Bob Zimmer: Coming back to what I asked, though, I guess that is the concern. I understand that there's a certain amount of interpretation in our jobs. You use strong language—"prohibition"—and then you have "interpretation", which you yourself say you use. I guess it becomes a deep concern to us to give you even more power to interpret and to act on that.

Ms. Mary Dawson: I invite you to make any exceptions or to have more precision in your code as you feel necessary. What I'm doing is telling you the way I'm interpreting now. This is an opportunity, if you don't like the way I'm interpreting it, to narrow it in some way or to establish some exceptions. Maybe you don't want receptions covered at all, or whatever.

This is the same thing I went through when we got the rules for the gifts changed a couple of years ago. Those gift rules from two or three years ago said that you couldn't receive a gift. There was no conflict test. Nobody was ever telling me about receiving their gifts, so I said that this was a farce. I didn't want to be administering an act nobody was complying with.

It's better to narrow it a bit and have at least a comprehensible rule. I'm saying that if you want to narrow it some more in some way, go ahead.

The Chair: Thank you, Mr. Zimmer.

Madame Latendresse, you're up.

[*Translation*]

Ms. Alexandrine Latendresse (Louis-Saint-Laurent, NDP): Thank you kindly, Mr. Chair.

Thank you for submitting your report.

I want to start by saying that we are on your side. We really do want to see the code and the act made better. We feel it is critical to hold members and ministers to a very high ethical standard. That is absolutely paramount.

Where I think the problem lies when you talk about friends—and it has already come up a lot—is really in the limit. As mentioned, it is obviously very easy to determine who is a family member. I understand your position: for you, it is very limited.

At the same time, however, it becomes difficult for me, as a member, to read the code and know precisely when an acquaintance has entered the realm of friendship sufficiently that I need to disclose a conflict of interest to the commissioner. So it becomes rather tough to understand how you are supposed to navigate that. I don't quite know the best way to define it clearly so we don't inadvertently end up in a conflict of interest situation.

Ms. Mary Dawson: I don't have the definition set out in the act with me, but it is rather narrow and specific.

[*English*]

Ms. Nancy Bélanger (General Counsel, Office of the Conflict of Interest and Ethics Commissioner): It is regular social interactions. It's pretty much bottom line. It's more than an acquaintance or somebody you've met through professional association. It's someone with whom you've had sort of a long-standing relationship and who you see regularly. That's pretty much it.

[*Translation*]

Ms. Alexandrine Latendresse: You said there were five inquiries in the past few years. The outcome was two breaches and three non-breaches. Is that correct?

Ms. Mary Dawson: Yes.

Ms. Alexandrine Latendresse: How many complaints did you receive?

Ms. Mary Dawson: Mr. Maertens, could you answer that please?

Mr. Eppo Maertens: I don't know the exact number, but it was somewhere between 20 and 30.

Ms. Alexandrine Latendresse: Just 20 to 30 complaints.

Mr. Eppo Maertens: Those had to do with the code. There were also numerous complaints under the act. We're talking about 60 or so.

Ms. Mary Dawson: On the whole, I believe there were 100 complaints, were there not?

Mr. Eppo Maertens: Yes.

Ms. Mary Dawson: So 100 complaints in all.

Ms. Alexandrine Latendresse: How do you determine when a complaint does not warrant an inquiry? Does it have to do with the complaint being inadmissible or outside your mandate?

Ms. Mary Dawson: Normally, either the complaint is outside our mandate because we don't have the necessary authority, or there is no evidence. There must be reasonable grounds to believe that a breach occurred. The complaints that we get are often not based on reasonable grounds.

•(1155)

Ms. Alexandrine Latendresse: Given the recommendation of our previous chair, do you think it would be sufficiently acceptable to require the organization hosting the reception to notify you of the event and the guests invited?

Ms. Mary Dawson: I have to think about that. I don't have any jurisdiction over those companies or people; they aren't bound by the code. It could be a bit tricky. I am not quite sure how we could do that.

Ms. Alexandrine Latendresse: Thank you.

[*English*]

The Vice-Chair (Mr. Joe Comartin): Mr. Lukiwski.

Mr. Tom Lukiwski: Again, I thank you for your appearance.

This is not really a question. From the government side, we have no more questions. We've certainly gone over your list of recommendations. Some we agree with, some we don't, and some we think we could, but there needs to be some clarification.

As you've already pointed out, you're looking for some direction from this committee. I think it would be far more helpful if this committee, rather than having you sit there and hear us whining and bellyaching or whatever the commentary is, sat down and came to grips with a lot of things that you're recommending here, and get to a point where the committee could give you some guidance as to what the committee thinks would be an appropriate set of guidelines.

From our standpoint, even though we could probably continue this conversation for many hours, we're going to stop our line of questioning now. I think it's more incumbent upon, and more important for, the committee to start dealing with these issues, and then come back to you, Madam Dawson, with our list of suggested recommendations and guidelines. Then perhaps we could engage you in a good dialogue at that time.

Ms. Mary Dawson: I think that's an excellent suggestion.

The Vice-Chair (Mr. Joe Comartin): Mr. Cullen, are you sharing your time with Madame Turmel?

Mr. Nathan Cullen: I'll see how it goes. I don't think I'll take my full five minutes.

The Vice-Chair (Mr. Joe Comartin): Four.

Mr. Nathan Cullen: Thank you, Chair.

Very similar to Mr. Lukiwski's comments, Ms. Dawson, we have a common cause, which we also share with the public, and that is accountability. We all remember people being entitled to their entitlements. That culture can be created around this place and people forget that connection and accountability to those we represent. That's clear in purpose.

Have there been some or many moments in your tenure when you saw what you thought was a breach of the code and you were not able to pursue it because of the particular construction of the act or your job?

Ms. Mary Dawson: It wouldn't have been a breach. If it had been a breach, I would have pursued it.

Mr. Nathan Cullen: Would you like me to rephrase the question?

Ms. Mary Dawson: Well, that last little recommendation, about separate rules for political activities, I stay away from that area. I don't think it's intended to be covered by the code or the act. I think there's a gap there, and there should be some rules.

Mr. Nathan Cullen: I was curious about that one. There's not a lot written after it. It's a sensitive one, obviously, as you said.

You say in recommendation 19: "That the House of Commons consider implementing a separate code of conduct to address the political conduct of members and their staff". What are you talking about when you mention "political conduct of members and their staff"?

Ms. Mary Dawson: There are lots of newspaper articles and notice of things that politicians sometimes do that are a little unpleasant, or unfair, or whatever. I think—

Mr. Nathan Cullen: Are you talking about question period in particular?

Ms. Mary Dawson: Not necessarily. People misrepresenting the situation of another MP, or something. It's the thrust and parry of politics, shall I say. I think sometimes they're overstepped.

The one I commented on was the cheques. Do you remember the cheques a couple of years ago?

Mr. Nathan Cullen: The big cheques, yes.

Ms. Mary Dawson: That was not covered by the act. I don't know that it should have been covered by the act—I don't think so—but it was inappropriate that those cheques were purported to be issued by the government—

•(1200)

Mr. Nathan Cullen: And had a party logo on them.

Ms. Mary Dawson: And it had the party logo on it.

Mr. Nathan Cullen: And you made comment to it.

Ms. Mary Dawson: I made comment. In fact I issued a report, I guess, but I did not find a contravention, because I don't think it's covered by the act.

Mr. Nathan Cullen: But you posed the question: should it be?

Ms. Mary Dawson: Well, I'm not so sure that I'm the person to make those decisions in the political realm. I'm not so sure, but there at least should be politicians putting their heads together as to how far they think other politicians ought to be able to go in things that are improper, impolite, lying, whatever.

Mr. Nathan Cullen: I have one final question to that, because what you said is an important thing, yet it's difficult to find that definition in that grey zone between the thrust and parry of politics—

Ms. Mary Dawson: Right—

Mr. Nathan Cullen: —and someone crossing a line.

What's your concern? Is there a concern about a deterioration of the conversation within our political realm? Is it a loss of faith from the public?

Ms. Mary Dawson: My concern is the reputation of politicians. I mean, this whole thing is about assuring the public that these politicians are good guys, basically, and when you see some of the stuff that goes on, sometimes it oversteps, I think. But again, I am not sure it's me; it may be—

Mr. Nathan Cullen: But you want that conversation.

Ms. Mary Dawson: There needs to be a conversation on that.

Mr. Nathan Cullen: We share common purposes.

Ms. Mary Dawson: Yes.

Mr. Nathan Cullen: Thank you, Chair.

Ms. Nycole Turmel: How much time is left, Mr. Chair?

[Translation]

The Vice-Chair (Mr. Joe Comartin): Fifteen seconds left.

Ms. Nycole Turmel: Have you looked at distinguishing between activities on or related to the Hill, to which all members are invited, regardless of political stripe, and events—receptions or meals, for instance—to which a single person is invited? Have you thought about handling those scenarios in two different ways? It might be appropriate to assume that, if everyone is invited to attend, the event does not warrant disclosure.

Ms. Mary Dawson: Yes, I think it would be possible to make that distinction. The likelihood of a problem goes up when a single member or only a few people are invited to a major event.

The Vice-Chair (Mr. Joe Comartin): Mr. Garneau, you have the floor.

[English]

Mr. Marc Garneau: Thank you.

I have a question on the issue of gifts. There are gifts that are material, and we can try to cost them and usually get fairly close to that. There are gifts that are immaterial, such as somebody staying at a fishing lodge, let's say. Even if they bring their food and their sleeping bag, they are staying in the place.

Do you have a process by which you interpret or make a decision about, for example, a night of lodging and how much that is actually worth, or do you discount that completely?

Ms. Mary Dawson: No, we would look at that. Each case is different one from the other. You have to just kind of take a look at the situation and—

Mr. Marc Garneau: But you do try to quantify it in terms of... Because you do have this \$500 threshold.

Ms. Mary Dawson: Certainly, yes.

Mr. Marc Garneau: Okay. Very good.

Thank you.

The Vice-Chair (Mr. Joe Comartin): I'm going to ask a question. This is really about something that came from the brief we received from our analysts.

With regard to the penalties—that recommendation of financial penalties—there was some suggestion that it in fact may require an amendment to the Parliament of Canada Act for us to be able to impose penalties. The House does not have the ability to impose penalties on the individual members. In certain cases we can hold back money from their pay, but there is no provision anywhere for us to be able to impose penalties.

My basic question.... From looking at you, Ms. Dawson, I'm assuming you haven't caught this point, but I'll ask the question anyway. Have you caught the point and have you sought a legal opinion?

Ms. Mary Dawson: No, I haven't looked into that issue.

The Vice-Chair (Mr. Joe Comartin): It's something further we will have to take up with you as we're looking at this.

Ms. Mary Dawson: Yes.

The Vice-Chair (Mr. Joe Comartin): Are there any other questions? No? All right.

Thank you, Ms. Dawson. The committee is quite clear on the need for some changes, and we'll be back in touch.

Ms. Mary Dawson: Thank you very much.

The Vice-Chair (Mr. Joe Comartin): That is it, unless there are any other issues. No?

The meeting is adjourned.

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