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# **Standing Committee on Procedure and House Affairs**

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**Chair**

**Mr. Joe Preston**



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•(1105)

[English]

**The Chair (Mr. Joe Preston (Elgin—Middlesex—London, CPC)):** We'll go ahead and get started so that we can keep on schedule today. We have a couple of great witnesses with us today to share some fantastic information about codes of conduct, we hope.

Mr. Fraser, nice to have you here. We know that you will also introduce who you brought with you, but let's go ahead and start with opening statements. Then we're going to ask you really hard questions.

Please, go ahead.

**Mr. Paul Fraser (Commissioner, Office of the Conflict of Interest Commissioner of British Columbia):** Thank you very much, all of you, for the invitation to join you today.

With me is Alyne Mochan, who is the legal officer and adviser in my office and who has made an important contribution to the written materials that have been circulated.

At the request of the committee, we have prepared a written submission that addresses several of the specific recommendations made to you by Commissioner Dawson. We look forward to our discussion of them with you.

In this brief oral statement this morning, I hope that you'll permit me to speak briefly about some of the broader issues that are engaged in your federal code and in conflict of interest legislation generally across Canada.

In doing that, I note that the committee has also said that it's looking for general input into your review of the conflict of interest code and any recommendation that the commissioner may have for the committee to consider in reviewing the code. Having come this far, I guess you would expect that I would have a couple of ideas of my own that I will throw in and tease you with or bore you with. If there is time in the Q and A perhaps you can explore them.

There are key differences between our legislation in British Columbia and your federal code. It may be helpful for me to to comment on certain of those features that I think are working well in British Columbia and have worked well in British Columbia for 25 years. British Columbia and Ontario of course were the pioneers in this country in comprehensive conflict of interest legislation. Canada was really the last of the major jurisdictions to join in that effort in 2007.

However, I want to say that the code is an impressive piece of legislation and includes many of the provisions that people have

been toiling over in this tent in British Columbia for over 25 years. A number of the issues that were raised—some of them solved, some not—have wound up in the code.

In approaching the whole idea of amending it, I do so with the knowledge that you've done a pretty good job already. I say that in the context of the fact that in British Columbia we've had our legislation in place for 25 years. It's been amended substantively only once, and that is one of the reasons and consequences that it's become frankly outdated and a bit old. You have a mandatory review process; we don't. The opportunity given by your code to take part in a mandatory review is actually fairly rare in Canada. The only other jurisdictions are Alberta, New Brunswick, and Nunavut. The rest of the jurisdictions are on their own.

As we have found in British Columbia, if you don't have a mandatory provision requiring that the act be looked at on a five-year basis or any kind of basis, then what you have is a certain resistance to change. You don't have an opportunity as people who are working in the area to come forward and say, "Look, this is what is happening elsewhere. This is what we should be doing. This is how we should be modernizing our legislation."

The code isn't perfect, of course, but the code certainly is a good amalgam of all the experience that's happened in this country.

Let me talk a bit about the appointment of the commissioner and that process. That may be rather introspective, but I think it's kind of important in terms of how conflict of interest legislation has been accepted by the members that it supervises across the country and by the members of the public who are, as we know, jaundiced to some extent in terms of the work that we do.

Your code requires consultation with party leaders, followed then by a resolution of the House with respect to the appointment. In British Columbia we have an all-party special committee that's struck to recommend the appointment of the commissioner. It's the only jurisdiction in Canada that has such a committee, which is populated on the basis of the support that the parties enjoy in the House. The practice has been that the committee must be unanimous in making a recommendation. If it isn't unanimous, then the committee is dissolved and a new committee is formed.

When the committee is unanimous, the convention is that the appointment recommended by the committee will be approved by the legislative assembly upon the motion of the Premier, and that all-party investment in the appointment process has proved to be very valuable in British Columbia.

Elsewhere, where the appointment has been made either by a Premier or by a cabinet order-in-council in Canada, there has been trouble, as we all know, and commissioners labouring under that impediment, if you like, have been called everything from hacks to shills to everything else. As you can see, some of us have the hide of a canal horse and we're still here. I'm here after seven years and having been reappointed once—I expect on the basis that better the devil you know than the one that you don't—I'm prepared to take that for whatever it may be worth.

Apparent conflict of interest is another significant difference in our legislation. One of the principles in your code is the expectation that members will fulfill their duties with honesty and uphold the highest standards so as to avoid a real or apparent conflict of interest. In British Columbia, we're the only jurisdiction in which apparent conflicts of interest are prohibited.

The test is as objective as you might hope and it is as follows:

For the purposes of this Act, a member has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed person could properly have, that the member's ability to exercise an official power or perform an official duty or function must have been affected by his or her private interest.

It's different from all of the other jurisdictions in Canada.

Regarding self-initiated investigations, your code provides the commissioner with that power. In British Columbia I have no plenary jurisdiction. I have no power to go out and sniff the air and initiate an investigation, but unlike only three other jurisdictions in the country, in British Columbia members of the public can make a complaint and request an opinion. We have an active media in British Columbia, as some of you may have noted, and it has always occurred to me that with an active media, but also because all of those people out there can, and I can tell you they do, ask for opinions, I'm quite sure that nothing is going on in British Columbia that hasn't reached somebody's attention and will ultimately reach mine.

Reporting material changes is very important in the code. Members have to report material changes within 60 days. In British Columbia, our practice or act—and we have only an act; we don't have an act and a code—provides that you must within 30 days report. The policy that informs that provision in our act is that the public should have access to the information on a timely and current basis and essentially know, literally on a monthly basis, how a member's holdings have changed. So as the sessions progress it would be possible for a member of the public who is skeptical about what people had to say about certain topics or certain legislation being considered would be able to see what happened in the last three, four, or five months up to the debate.

In terms of the commissioner's advisory role, an important part of the work we do and an important part of the work of commissioners across the country is to provide advice and opinions to members. We have the advantage that the commissioner lacks federally. We have the advantage of numbers. We have 87 members in our House and I must under our act meet with them annually. I look forward to it. I'm not sure they do, but I do. We have an interesting discussion where they can see, hopefully, that I bring to the task a certain practicality and common sense. I can do a bit of preaching, if you like, not much,

but I mostly provide encouragement to people to come by the office and speak to me. It seems to be working.

As for integrity, your code talks about maintaining and enhancing public confidence and trust in the integrity of each member. I've recommended to our province that we amend our act to have similar expectations. The difference is that I'm hoping that those provisions—and I'll read you the provision that we're suggesting—will in fact be enforceable. It's difficult for me to imagine that a conflict of interest regime should not pay direct attention to ethics.

●(1110)

All conflicts of interest are not ethical problems, as we all know, but the way in which people comport and deport themselves, as your code reflects, is something that I think members of the public are entitled to know is being supervised.

In our country we have really an approach that says we will abandon any notion of prohibition in terms of how people conduct themselves with a more realistic approach of disclosure. As some wise person once said, sunshine is the best disinfectant. That's the whole basis on which conflict of interest in this country proceeds—that if you are forced to disclose, if it's a requirement that you do so, and you do so under timely conditions, then at the very least, members of the public can make up their own minds about the extent to which what you have influenced you in terms of your own conduct and your private interest.

The language we're looking for is the language that the Northwest Territories uses. It is:

Each member shall

- (a) perform his or her duties of office with honesty and arrange his or her private affairs in such a way as to maintain and enhance public confidence and trust in the integrity and ethical conduct of the member;
- (b) arrange his or her private affairs and act generally to prevent any conflict of interest from arising; and
- (c) make all reasonable efforts to resolve any conflict of interest that may arise in favour of the public interest.

I have to say, that recommendation to a committee such as this in British Columbia was the most contentious of the suggestions that we made, but in the end the committee was unanimous in confirming that the language should make its way into the act.

Very quickly under disclosure, we insist on having the nature of the holdings disclosed, as opposed to the value. We don't want our legislation to become essentially an instrument to figure out the net worth of members, so we only care about how you're invested. We are concerned that we align in our act with your code the right to suspend any inquiries that have been started if a charge is laid, and so on.

Mr. Chair, I know that I'm close to my time. I just want to mention three things, which we may or may not want to discuss as part of your request for general information in our Q and A.

The first is this. Neither the code, nor our act, nor other legislation—no, I guess there's a couple of jurisdictions that have it—have an exit disclosure. It's difficult I think for members of the public to think that a person could serve for a period of time and not, at the time that they cease to hold public office, have to make a disclosure at that moment. It's hard, I suggest with respect, to argue against that.

The second is blind trust issues. We have devised in British Columbia a practical, simple, and inexpensive solution to those people who want to trade equities whilst being members of the House, both in terms of being members of the cabinet and private members. It's the only province in Canada that does it. I'm happy to share with you the arrangements that we have made with various of the large equity firms so that a member can, if they're prepared to surrender their discretion in terms of how they're invested and never actually receive a formal statement telling them what they have. What they do receive is information from time to time about how well they're doing but not what they have. They can abandon it at any time, but they can stand in the House at any time and speak with the certain knowledge that they did not know what their investments were.

As a byproduct of that, we make sure that the investment houses communicate with the members' accountants so that information that would be necessary for the filing of trust returns is communicated privately between the accountants and those people preparing the return, to the exclusion of the member.

• (1115)

Those are a couple of issues, sir, that you may or may not be interested in discussing, and those are my opening remarks.

I've given you my written views on the various specific recommendations made by Mary Dawson, and my lips got tired reading through them again. I'm happy to go through them, but I'm not going to be able to do it in five minutes. I'm going to assume, if I may, that members will have read them and that we can proceed.

**The Chair:** It's a good assumption that they have.

**Mr. Paul Fraser:** Thank you.

**The Chair:** Your opening statement has brought to mind a number of questions on my part. I know the members have the same reaction.

Ms. Mochan, do you have any opening at all, or are you just going to participate in our questions?

**Ms. Alyne Mochan (Legal Officer, Office of the Conflict of Interest Commissioner of British Columbia):** I will just assist Mr. Fraser, if he has a question.

**The Chair:** That's excellent.

**Ms. Alyne Mochan:** I only want to add, concerning the access disclosure statement, that there aren't any other jurisdictions in Canada that require it. That was a recommendation from the Oliphant commission, and we thought it was a good idea.

**Mr. Paul Fraser:** Ms. Mochan is here for the hard parts.

**The Chair:** That's great. It takes four or five people to provide me coverage.

We'll go to questions, then.

Mr. Lukiwski, you're first. Take seven minutes, please.

**Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC):** Thank you very much, Mr. Fraser and Ms. Mochan, for being here.

As you probably know, we've been studying changes to the code and the recommendations made by the commissioner on and off for the better part of three years now, I guess. Some of the reason for that

has been due to the fact that we've had other issues come before our committee, and some, I suspect, was because of our not wanting to deal with it in a timely fashion. Nonetheless, I think your appearance here today will be helpful, although I suspect it may raise more questions than it provides answers. We'll see how it goes.

I appreciate the fact that you've provided us with a glimpse of how British Columbia deals with its act.

The first question I have is a general one. You mentioned that you have an act rather than, as we have, a code and an act. One provides legislation that deals with every member of Parliament, and a second one is layered over it—that's the act—and pertains to public office-holders, those being parliamentary secretaries and cabinet ministers.

Do you think that having just one code in British Columbia is sufficient, or did you consider at any time a second layer to deal with public office-holders?

• (1120)

**Mr. Paul Fraser:** We've always only had simply the act, and we've always only had jurisdiction solely over members. We have no jurisdiction over public office-holders who are not members, so there's never been a need to differentiate, if you like, or to have different standards, if indeed such differentiation is necessary. We have had the benefit of simply administering a single piece of legislation. Simple is better in terms of administration.

We have recommended that we have jurisdiction over deputies and some political appointees. Those recommendations were not accepted by the committee that received the recommendations, and my sense is that they would be quite contentious. We have not had any sense, within the deputy community or within the larger political community, that the recommendations we made in respect of political assistants, and so on, would find any favour.

You've been at it a long time. We were at it a long time and have received a unanimous recommendation on some of our recommendations, but still no legislation.

**Mr. Tom Lukiwski:** I'm just asking for your opinion on this one. In our definition of public office-holders we're talking about elected officials, whether they be members of cabinet or parliamentary secretaries. We have different standards, for anything from disclosure to...you name it.

I guess my question would be this. In your opinion, is that necessary?

**Mr. Paul Fraser:** I'd prefer to say this. On the level of disclosure and on the level of what cabinet ministers, as distinct from other members, should need to disclose or do, there is a difference, which we've been able to accommodate in our act. For example, cabinet members cannot operate a business. Believe it or not, they also cannot practise a profession, although I've dealt with that as a matter of interpretation. As long as you are just retaining membership in your profession, it doesn't amount to practising.

But there is a difference between what members of the cabinet have to abandon and what other members don't have to abandon. We've been able to provide easily for that difference in the act, which is quite a simple document.

Insofar as the larger issues are concerned—the issues of principle—my view has always been that the principles are the same. There is no need. If we were asked to provide both a code and an act and to make the same differentiation as between types of membership in the House, I would resist that idea.

**Mr. Tom Lukiwski:** Thank you for that. I appreciate it.

I know I have only a few moments left, so I want to now go to apparent conflict of interest.

One of the challenges we've had is with definitions. For example, in the code there is a provision that talks about apparent conflict of interest involving friends. The definition of “friends” has always been a challenge for this committee. What constitutes “a friend”? Is it a casual acquaintance or someone you've been closely associated with for 25 or 30 years?

**In your act, you say:** For the purposes of this Act, a member has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed person could properly have, that the member's ability to exercise

And it goes on.

How do you define “reasonable perception”? Who determines that? Who is the arbiter of that? One could certainly argue on both sides of the issue, that you did or did not have a reasonable perception. How do you get around the fact that many times there's no precision on definitions that relate to conflict of interest?

• (1125)

**Mr. Paul Fraser:** The approach we take is a very objective as opposed to subjective one. It's not, for example, what the commissioner thinks is an apparent conflict of interest that carries the day. It's what the reasonable person thinks—reasonably well informed and bringing, fairly, an assessment to the situation. That's actually the whole basis on which the law of negligence in this country is based, and it's very much the same in our situation.

It's case by case; there's no question about it. Coming up with a formula of what will be or not be, in a black and white situation, an apparent conflict of interest has really everything to do with the circumstance that brings you to that point in time. It's why contact between our office and the members—there are only 87 of them, so it's easy to maintain it—is so valuable. People will come and do come.

**Mr. Tom Lukiwski:** I'm sorry to interrupt, but who makes the determination of what is reasonable?

**Mr. Paul Fraser:** I do, ultimately, based on all of the information I have gathered. But I do so on an objective basis, not on the basis of the member's saying, “I didn't intend any of that” or not on the basis of my reacting to the fact that I wouldn't, in those circumstances, have reacted that way. It's as objective, I think, a set of criteria as you could possibly have. If you set out to chemically create something that was more objective, you'd have a hard time replicating what is there.

**The Chair:** Thank you.

We'll go to Mr. Scott.

There are seven minutes for you, Mr. Scott.

**Mr. Craig Scott (Toronto—Danforth, NDP):** Great; thank you, Chair.

Thank you very much, Mr. Fraser and Ms. Mochan. Thanks very much for a very cogent written brief and the separate oral presentation.

I'm going to try to cover—if not in these seven minutes, then afterwards—about half a dozen structural issues, leaving aside some of the ones Tom has already talked about.

Give just a very quick yes or no or one sentence answer on this. I was fascinated by the appointment procedure. The question, though, more broadly is this. Is this done for other officers of the legislature?

**Mr. Paul Fraser:** Yes, sir.

**Mr. Craig Scott:** It is? Okay. Thank you. For this democratic reform critic, that is a really interesting procedure that I wasn't aware of, and it has helped me think more broadly.

Second, can you elaborate a little bit on summoning witnesses and compelling documents? Does it include compelling testimony or simply summoning witnesses?

**Mr. Paul Fraser:** It certainly allows us to summon witnesses and it allows us to put them under oath. After that, I guess all bets are off. The reality is that we've had no problem. It seems that having that power is viewed by those people who are in that situation as being appropriate.

**Mr. Craig Scott:** Okay, great.

The third issue is suspending inquiries. You would like to have in your act something parallel to ours. The first clarification is of the expression you used, “the right to suspend”. You would have the discretion to suspend, but the wording in the document suggests more that it would be an obligation to suspend. Which of the two is it?

**Mr. Paul Fraser:** I would see it as an obligation. In fact, there's a real, live example. One of the former premiers of British Columbia, Premier Glen Clark, was ultimately charged with giving a bribe in respect of construction on his summer cottage. Before the charge was laid, a complaint or a request for an opinion was made with respect to his conduct and an inquiry was launched. The inquiry proceeded. Then the charge was laid, but the inquiry continued to proceed, albeit in camera, which was something that they did rather on the wing. There wasn't anything in the act that could help them out on that.

The criminal proceedings ended with an acquittal. After that, the result of the proceedings that occurred in front of the conflict of interest inquiry was announced, and he was found to have been in conflict of interest.

• (1130)

**Mr. Craig Scott:** You used the language in the text of “other investigation”. For example, there could be a professional society investigation. Do you mean it to be that broad, or only criminal?

**Mr. Paul Fraser:** I take your point, and I see the danger if we were to say “any other investigation”.

It says:

...require the suspension of an investigation or inquiry in the event that the same matter is the subject of a criminal or other investigation.

**Mr. Craig Scott:** Does it say “or other”?

**Ms. Alyne Mochan:** Yes. I was going to clarify that this was a recommendation and it was accepted by the committee that reviewed our act.

**Mr. Craig Scott:** However, it's not yet in.... Okay.

**Ms. Alyne Mochan:** I must have worded it badly.

**Mr. Craig Scott:** I might come back to the issue of whether that needs to be nuanced. One of my concerns is that this automatic obligation can actually end up burying something because of how long external investigations take sometimes. That is my concern.

I want to talk about exit disclosures. I found that very interesting. What is the exit disclosure about? Is it about what you currently have at that certain point in time, or does it include what you are moving on to?

**Mr. Paul Fraser:** It's about what you have at the point of leaving.

**Mr. Craig Scott:** Okay.

My next question is about appeal. One of the things we've been discussing amongst ourselves is whether there should be a better form of recourse for members to appeal beyond the commissioner. Is there any such thing in the act, effectively or clearly in terms of written procedure, and do you think that's a good idea?

**Mr. Paul Fraser:** Our act is very clear. There is no appeal.

**Mr. Craig Scott:** Have you given that any consideration? Is there no appeal to the legislature itself, either?

**Mr. Paul Fraser:** No.

**Mr. Craig Scott:** Did that come up in the discussions?

**Mr. Paul Fraser:** No, it never has. As a collateral from your point, though, and this is important, in British Columbia we cannot punish anybody. We cannot decide that they will be fined. In your code, you can. All we can do is make a recommendation to the House about a penalty. If the House decides not to accept our recommendation, that's fine. If the House decides to accept the finding that leads to the recommendation, it also has to accept the recommendation.

**Mr. Craig Scott:** In that stage of the procedure, does the member get to speak to the thing, either as a matter of the general House procedure or as part of the act? That would be a built-in kind of appeal, but if they don't get to speak, then....

**Mr. Paul Fraser:** Yes, and I share your concern. The fact is that there is nothing in our act that guarantees a right of audience to the member. I note the provisions of the code, and that's why I am a fan of the code. I think the fairness of that is manifest and is something that we need.

**Mr. Craig Scott:** I suspect I'm over time.

**Ms. Alyne Mochan:** Can I just add something there, too?

The member does have an opportunity. If during the process the commissioner thinks he is going to find against the member, the member can make further submissions to the commissioner. That's before the report is released. There is no appeal after it's released, but during the process there is an opportunity.

**Mr. Paul Fraser:** That's a good point.

**Mr. Craig Scott:** I am going to get to my sixth point, which is a structural point about statute versus the code in the form that we

have. There is a separate distinction between a statute-like, detailed language, although you've indicated that your act is a fairly simple document, in your language, versus a more general, common-sense language that not only MPs but the public can understand. You could have each kind of language in either kind of document. Do you have any sense at all of whether you prefer statute versus code, and great precision versus being closer to general principles?

**Mr. Paul Fraser:** I think that most members, and most members of the public, would prefer precision to vagueness. If that leads you to conclude that it must be in a statute, that would be going too far, as far as I am concerned. But I think precision is necessary and certainly is the guidance that members need and the public wants.

● (1135)

**Mr. Craig Scott:** Thank you.

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

Mr. Lamoureux, you have seven minutes, please.

**Mr. Kevin Lamoureux (Winnipeg North, Lib.):** Thank you. I have a number of questions.

First, welcome to both presenters.

In regard to having things done in a timely fashion, you first get elected as an MLA, or a member of Parliament in our case. There are certain expectations that you have to fill out applications or paperwork, and so forth. You mentioned that you meet with them on an annual basis. There is an annual requirement for us to provide updates. Do you find it is an issue at all for you in terms of receiving those documents? You made reference to the 30 days, or 60 days, whatever it was. Do all of them comply?

**Mr. Paul Fraser:** Yes, we insist on that. We have a fairly careful process of making sure that we monitor the requirement of the 30-day material change form coming in. What we do is make the information public by filing it with the clerk. Your code, as I understand it—this is a bit tangential—basically requires the person to file, but it's the making it public part that we consider to be equally important.

**Mr. Kevin Lamoureux:** So you don't have any issues in terms of people responding in the timely fashion as required.

**Ms. Alyne Mochan:** Are you also talking about the general disclosure, full disclosure?

**Mr. Kevin Lamoureux:** Yes.

**Mr. Paul Fraser:** Well, we have people who miss the deadlines that we impose. They're casual deadlines, but they're unofficial deadlines because there's nothing in the act insofar as the disclosure is concerned, except for material changes, and that is in the act.

**Mr. Kevin Lamoureux:** What authority or power do you have if you were to have individuals who were not submitting?

**Mr. Paul Fraser:** It's just the power of embarrassing them, I suppose, among their colleagues and with the caucus, and the caucus chairs and the caucus whips are readily available to us if that becomes necessary.

Alyne is dying to say something.

**Ms. Alyne Mochan:** Under section 22 of our act, if someone absolutely refused to file a disclosure then we could recommend a penalty, but in our experience it doesn't get to that stage.

**Mr. Kevin Lamoureux:** Who would that recommendation go to?

**Ms. Alyne Mochan:** It would go to the House.

**Mr. Kevin Lamoureux:** And you would come up with the penalty.

**Ms. Alyne Mochan:** Yes, it would be extreme if the member refused to file the disclosure statement within the time provided in section 16. We could come down hard if we absolutely needed to.

**Mr. Kevin Lamoureux:** Do you fill out your own forms? Do you have to get approval by any committee for changes or anything of that nature to your forms?

**Mr. Paul Fraser:** In terms of the forms themselves, they are prescribed by a regulation to the act. In fact, the form can't be changed, because it's an order in council, except by a new order in council formally changing the regulation, which is the form. That is cumbersome and difficult and is not something that I would like to see continuing going forward. The concern, I think, and it's a legitimate one, is always that you not have commissioners going off on a frolic of their own and suddenly deciding that they want to ask for all kinds of information that has no nexus to the obligations that members have in the act. I think that's, to some extent, why there's some hesitancy. Commissioner Dawson has suggested that this is a power that she would like to have and I can understand why. At the moment, it's a power that you have.

With that pro, there are other cons, for example. This committee is a huge benefit to your commissioner. I'm going to say that in the abstract. We do not have a committee to which we report. We report to the legislative assembly, which sounds better than it is because it's a pretty awkward fit. The fact that this committee meets as regularly as it does with the commissioner, I think, must be of great assistance to everybody, both in terms of exchanging ideas and making sure that however things are going, they appear to be, from everybody's point of view, satisfactory. I wish we had such an arrangement in British Columbia.

**Mr. Kevin Lamoureux:** What about your powers to be able to talk to the media. You get an elected official who says that they've asked the commissioner to investigate this. It makes a great news story. It goes to the commissioner and the commissioner says, "No comment." To what degree do you have the authority to be able to talk to the media?

• (1140)

**Mr. Paul Fraser:** The practice that we have is simply to say to the media who inquire that we have either been consulted or an official complaint has been filed and we have no further comment. In any request for an opinion—I'm using "request for an opinion" and "complaint" as being interchangeable—either way that's confidential. I make no public comment to the media except to say that I have received a request for an opinion.

Typically, as a practical matter, it doesn't become a problem because the member or the member of the public—and remember, that's our largest frequent flyer group—will have gone public before they even send us a letter, although some members have done that in an attempt to, I think, garner a headline too early. I've read very

carefully—and I know there's a limited time and my questions impinge on your time—what Commissioner Dawson has had to say, and I frankly agree with her completely in terms of wanting to be able, not to be mute, but not to be a source for the press. I also agree with her in terms of being able to say that there's nothing to this in her view, so that a person's reputation, which has partially been destroyed, can perhaps start to be rehabilitated.

**Mr. Kevin Lamoureux:** I guess that's a very important point in the screening process. Some that have absolutely zero merit at first glance versus those that seem to be quite serious at first glance.

To what degree do you have the flexibility to be able to react in a timely fashion? Are there things we could do?

**Mr. Paul Fraser:** Do you mean "react" in the sense of how quickly the process begins? It begins very quickly.

**Mr. Kevin Lamoureux:** I mean begin and resolve, if it's frivolous.

**Mr. Paul Fraser:** If it's frivolous then it quickly begins and quickly ends. If it's not frivolous but is complicated, then that's obviously going to take more time. On its face, if it's frivolous, if it's vexatious, if it's all of those adjectives, which have been used for years in describing people's access to the courts and so on, then it's over soon.

But there has to be more than just a fly-by or an indication on a gut basis that this thing sounds crazy so it must be. We do things that will allow us, as far as we can, to find out quickly if there's anything to it.

What we do almost immediately when the short process has happened is to write to the person and say we have made some preliminary inquiries and ask if they have any more evidence. Is it just suspicion? Is it something else? Give us everything you've got if you want us to decide at this stage whether we're going to take it further. If we can't be satisfied that there's some reasonable, probable grounds for doing so, then we're out of there.

That has proven to be successful. People who are serious, and who have what they think is a serious complaint, will follow up very quickly.

**The Chair:** Thank you.

Mr. Lukiwski, you have five minutes, please.

**Mr. Tom Lukiwski:** Thanks very much.

I'll home in on one question I have and see if any of my colleagues have other questions. I have many.

Currently I just want to deal with the disclosure aspect of your presentation, where you said that you require members to disclose the nature of their investments rather than their value.

I get why you've gone that route, but does not the value have some impact when determining whether or not there's a reasonable expectation of conflict of interest? If I am a minor shareholder, say I have a thousand dollars' worth of shares in a publicly traded company, perhaps even through a mutual fund, and some other member has a majority of shares in the same company, do you not think the difference in value of those two investments might have some bearing on potential conflict of interest?



**Mr. Paul Fraser:** I think the mutual fund example is a bad one, in the sense that it's so broad and so broadly held that—

**Mr. Tom Lukiwski:** Say, direct shares then.

**Mr. Paul Fraser:** On a direct share basis, it of course depends on the company. If it's a public company, no, because most of those are so widely traded. If it's a private company we require a disclosure of the member's interest. We call them private, controlled companies, if they qualify for that definition, based on whether the member has control.

In all the work we do, we don't worry about size, in the sense that in our practical experience it's very unlikely that we're going to have someone who is that wealthy. Indeed, that's proven to be the case. However, for example, we insist on taking things to the next step. Mutual funds are an interesting example. People can say if they have 10,000 shares or if they have 1,000 shares, the difference is really inconsequential. My investment can't influence them and they can't influence me.

But if you have funds that are sector-specific, and if in our milieu you happen to be, for example, the minister of mines and all your mutual funds are in the mining industry, then that very easily takes you into the next step, as you can see. So we insist on having the names of every fund, and we'll Google it randomly and check.

I don't want to dismiss your point, which is a valid one, about does it matter if a person has a \$100 million in a particular phase of the market and another person has a \$100? Although those are two obviously wildly polarized examples, I think it's a slippery slope.

At some point, you have to decide, what the threshold is for that being important. Frankly I just don't know where that would be.

• (1145)

**Ms. Alyne Mochan:** I would also just like to add with our act we also have the apparent conflict of interest, so even if someone had a few shares, that could be seen as being important to the public.

**Mr. Tom Lukiwski:** I'll say this only for example purposes—I'm not trying to score any cheap political points—but we had a sitting prime minister, a former prime minister, whose family had controlling interest in Canada Steamship Lines. So it would seem to me that in that particular case, even though that was held in a blind trust, that would have more bearing on whether or not there was a conflict of interest because of both his position and the value of the shares, than some individual member who might have had a \$1000 invested in the same company.

**Mr. Paul Fraser:** Yes. I understand that point.

**Mr. Tom Lukiwski:** One of the things we, with Commissioner Dawson, have been dealing with is gifts that are given to MPs and what value the gift has to be before you actually make the disclosure. We also talked about acceptability. Commissioner Dawson has put that before us. In British Columbia, how do you deal with the acceptability? For example, in British Columbia, obviously tourism is a big industry, skiing is a big industry. If a member were given a ski pass, would that be considered acceptable?

**Mr. Paul Fraser:** I'm going to ask Alyne to answer this. Alyne is the maven of gifts. This little brochure is one that she authored and that has been bicycled around the country and just about everybody has now, with acknowledgement, accepted. Gifts are the bane of the

existence of every conflict of interest commissioner in this country. This is an attempt to not only help members, but sometimes, as you can imagine, even though it says in fine fashion that this isn't gospel and you must consider every case, it helps your assistants more than it does you.

So the poor person who's sitting in the constituency office or in your Parliament Hill office who has a problem or thinks that you may have a problem, has an opportunity to look at something like this.

**Mr. Kevin Lamoureux:** Do you have an extra 308 of them?

**Ms. Alyne Mochan:** I think Commissioner Dawson actually has a very good gifts bulletin as well.

**The Chair:** Please, you helped us with this too but I want a copy of your book.

**Ms. Alyne Mochan:** Ms. Dawson does have a good gifts.... It's in a little bit of a different format, but she does have a very good gifts form.

• (1150)

**Mr. Paul Fraser:** They're on the website, but we'll....

**The Chair:** Okay, great. Thank you.

**Ms. Alyne Mochan:** We have a provision similar to other jurisdictions. Basically, you're not supposed to be accepting gifts in relation to your duties unless they're what we call—what's our phrasing?—incident protocol or social obligations.

To answer the ski hill question, that would not normally be something that you would need to do to carry out your duties. We have seen other instances where it's something that you would do. Regarding airport lounges, we've said that's something where you could actually go to find a quiet place to work, so something like that might be acceptable.

We take a very case-by-case look at it, but we do have a similar issue to Ms. Dawson's. She's expressed that there's a misunderstanding between the acceptability level and disclosure level. Our disclosure level is \$250 rather than \$500. Most members—because we have the bulletin and we have the regular meetings with Mr. Fraser—do understand that the first question is, “Who is the donor, what's it going to look like, and how is it related to my role? Can I accept it?” It's not the dollar amount.

But we do get many questions about different circumstances, a lot related to travel, that kind of thing too. We encounter very similar issues to Ms. Dawson. Hopefully with our resources, we can refer people to that quickly and they can take a look.

**The Chair:** Super. Thank you.

Monsieur Blanchette, you're up. I was pretty free with Mr. Lukiwski's time. Please try to keep it around five minutes, but I'll be a bit flexible.

[Translation]

**Mr. Denis Blanchette (Louis-Hébert, NDP):** Thank you, Mr. Chair.

Thank you to the witnesses.

My comments will be in the same vein as my colleague's.

You seem to have a slightly different philosophical approach. You say that you are more interested in the nature of the gifts rather than their value. But their nature is by definition imprecise and vague. This is more a matter of judgment on the part of the person who must evaluate it, assess it—such as someone in your position—and for the person who receives the gift.

We are discussing things that happen between human beings. The capacity to influence someone is variable. My colleague and I may have very different powers of influence. I may be more sensitive and he may be more virtuous than I am, for instance. It is quite difficult to measure.

So, how can you rate the nature of a gift, when basically everyone is going to be using parameters such as cost, or the actual value? How do you work with all of those parameters in British Columbia?

[English]

**Mr. Paul Fraser:** Well, you raise a profound issue. From my point of view, it underscores that any test that is to be superimposed upon a transaction or a piece of conduct has to be very objective and not subjective. In coming up with a solution based on a principled objective test, which is what I think we have in British Columbia, you take into account what everyone has had to say about what occurred and weigh it up.

At the end of the day when you've done that, if all that remains is a determined approach by the person who has apparently misbehaved that their conduct was fine but the rest of the world, in a small sense, is opposed to it, then I think you have your answer. Frankly, it's because the issue is as profound and as complicated as you indicate, sir, that we have increasingly had members seeking advice early on.

We have a provision in our act that says that not only can members of the public request an opinion, and not only can members request an opinion with respect to the conduct of other members, but members themselves can request an opinion. Increasingly, our work is more devoted to that category than to either of the two others. People will come and we'll have a relaxed, fulsome conversation in circumstances where the person has every opportunity, without there being bombs going off in advance, to discuss whatever it is they have in mind. So far it's worked.

I'm being discursive and I don't want to take up your time, but if this is helpful... When we started 25 years ago, the conflict of interest regime was effectively a kind of killing field for members of the legislative assembly. All of the requests for opinions were coming from members against other members. It was tragic. It did nothing for the reputation of the House or the people involved in it.

In the seven years that I have been involved in the job, thanks largely to the preventative approaches, if you like, the sort of prophylactic treatment of my predecessors, we've had two members complaining about members. I view that as progress.

If you put the statistic out on a raw basis, people would say, "What's this all about?" That's progress. If you ask me now how many members are coming in and asking confidentially for comprehensive opinions, I can give you statistics that would impress you in that respect, and of course, the members of the public are our wild card.

• (1155)

[Translation]

**Mr. Denis Blanchette:** You talked about the level of acceptability. We are increasingly heading toward greater transparency, and so the degree of social acceptability is important. This is an evolving concept. What was acceptable 20 years ago may not be today, and what is acceptable today may not be 10 years from now. This is all quite fluid.

In connection with the level of acceptability, you talked about the concept of a reasonably well-informed person. You already have experience and so you can see the evolution there. However, in your assessments, how can you take the reasonably well-informed-person evolving concept into account? Of course this is defined differently from one generation to another. The way my father was reasonably well-informed differs from the way my son is. Those are two completely differently worlds, but you have to evaluate the same case. How do you go about doing that?

[English]

**Mr. Paul Fraser:** We do that essentially by simply doing the best we can to understand the mores of the day and to overcome, as my children encourage me to do every day, our age. I'm alive, as we all have to be, to the fact that there are generational changes and generational views.

You can't have dinner with my children without them texting during dinner. Your father and my father probably wouldn't have approved of that, but it's one of the mores of the day. That's perhaps a ridiculous example, but it is one. Toleration is difficult for all generations.

Interestingly enough the demographics in our group of 87 people are probably the same as those in your group of 308 people. Those in their fifties and up predominate, there are very few young people, and about one third are women. There's some pollination and some cross-pollination, but I think one must understand that's the reason commissioners don't have to be reappointed. They are considered for reappointment and it's pretty quickly evident whether they're yesterday's person or today's.

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

Mr. Richards, we're going to go to you for five minutes to finish this off.

**Mr. Blake Richards (Wild Rose, CPC):** Thank you, Mr. Chair.

Thanks for being here. I have a few questions for you.

First, with regard to the reporting threshold for gifts, I think your reporting threshold in B.C. is \$250 and our commissioner is recommending the amount be less than \$500, as it is currently. I'm just kind of curious about your reporting threshold. I know it's \$250 and it was indicated to us that it is similar to the threshold in most other jurisdictions. How long has that been in place and do you have it set, whether it's indexed along inflation lines or it's reviewed regularly? Obviously a gift of \$250 was not the same 10 or 20 years ago as a gift of \$250 is today.

I'm just curious as to how long that's been in place and whether it's adjusted on any kind of regular timeline or indexed in any way.

•(1200)

**Mr. Paul Fraser:** It's always been that amount since the beginning.

**Mr. Blake Richards:** It's been that amount since when?

**Ms. Alyne Mochan:** It's been that amount since 1990.

**Mr. Paul Fraser:** It's been that amount for 25 years.

**Mr. Blake Richards:** It's never been adjusted in that time. Okay.

Second, in relation to gifts, we've had a suggestion from Commissioner Dawson regarding attendance at receptions.

You've indicated to us that her recommendation that a reception to which all members are invited, which obviously would apply to situations here in Ottawa when people are in session at Parliament, is great when you're talking about a parliamentary reception. But a number of times various members here in committee have raised the question about local events.

You can pick whatever city you'd like in Canada—Toronto, Calgary, Winnipeg, Vancouver, or wherever you want to choose—and you can use the example of someone holding a reception there and maybe wanting to invite elected officials from the area. They may invite all the members of Parliament from that area and they might invite members of the legislative assembly or local municipal officials, etc., but of course they wouldn't invite all parliamentarians from all across the country.

I know you indicated that this isn't an area you're particularly concerned about for British Columbia, but I just wanted to see if you had any opinions or thoughts on how that might look if you put in that requirement.

We could even be more specific than that and talk about your own specific riding or a community in your riding. Of course they wouldn't invite all members of Parliament, but they might invite me and the local provincial representative and the local municipal representatives.

What are your thoughts on something like that when it applies to a reception to which all members of Parliament would be invited? Do you think it might be worth looking at something such that locally all officials would have to be invited, or something along those lines? I'm just wondering whether you've had any thoughts on that.

**Ms. Alyne Mochan:** We don't differentiate between those kinds of gifts or travel or invitations and so forth, and others. They would have to meet the same acceptability test that other gifts would. In an example like that, if it was a local event and you were the local representative and it was related to your role, then obviously that would be acceptable. There wouldn't be an issue there.

Where we've run into some things has been for things that are not related. For example, if it were the symphony and you were not the local MLA, why would you be invited to that? Again, we look at who the donor is and what the circumstances are. Certainly for something like that, if it's a constituency or a regional event and you have a proper role there, then that fits that part of the protocol.

**Mr. Blake Richards:** That actually might bring me pretty nicely to the next question I wanted to ask. One thing that relates to that as well is within some of the changes and recommendations that were

being made by our commissioner, where there is more of a strict timeline on the annual reporting process, as an example, and I think there are others as well, where there's a very strict deadline in which members must complete that process.

One of the things that I feel...and you do hear it anecdotally from members from time to time here. I don't know if you hear it from members there as well. This is about the standards in terms of service, and maybe consistency in rulings as well, but more the standards in terms of the service. When you're talking about requiring members to complete their review, is there some kind of a service standard required of the commissioner's office as well? I guess it would kind of apply to that, where you're talking about applying some common sense but trying to apply to each situation depending on the circumstances. Obviously that would require a member to proactively come for advice on whether something would be acceptable for them to attend or not attend.

Has there been any consideration given in B.C., or what are your thoughts, on applying a specific service standard or a timeline in which those kinds of responses would be required from the commissioner's office in order for members to be able to make determinations as to what's appropriate for them to attend or not attend, or accept or not accept?

•(1205)

**The Chair:** I wish we had time for the answer.

No, I'll allow it. Go ahead.

**Mr. Paul Fraser:** We have a sort of self-imposed set of guidelines. We report extensively in our annual report on these statistics. We are very conscious of being timely in our responses.

I mean, we live in the real world, as you do, and we don't see us residing in an ivory tower. If you have a problem, it's typically a problem that you, or your assistant on your behalf, needs to have solved right away in as practical, principled, and thorough a way as time will permit. It's not like having judgments reserved, if you're talking about going to court. It's not like, "We'll get to that tomorrow." Most of it is done very quickly. Notwithstanding that we have only one full-time employee in our office and everybody else is part-time, including me, there's an urgency involved in what we do. It's an urgency that is not only obvious; it's an urgency that essentially has to do with whether or not we are providing the service that members, who have, Heaven knows, given up what they've given up for public service, deserve.

That's my commercial, sir. Thanks for letting me answer that.

**The Chair:** Thank you.

That brings us to the end of our time.

Yes, Mr. Lukiwski.

**Mr. Tom Lukiwski:** I have a point of order, Mr. Chair, if I may.

I'll just throw this out to all members of the committee. We've had Mr. Fraser and Ms. Mochan come a fairly long distance. We're certainly fine from our standpoint if there's a willingness for another round. If you have more questions, we're certainly willing to do that. I just hate to see these two people come all this way if there are still unanswered questions.

We're quite willing, if you wish, to have another round to participate in that.

**The Chair:** Is it okay with you? We're happy to have you stay and answer some more questions.

**Mr. Paul Fraser:** We're delighted, if that includes my ability to be able to explain to you the hold-mail accounts on the blind trust side that I mentioned. I think you'd find this to be rather interesting.

**The Chair:** Okay; no, then.

**Voices:** Oh, oh!

**The Chair:** Perhaps you could start with that and then we'll do a round of questions.

**Mr. Paul Fraser:** All right.

**The Chair:** Yes, Mr. Scott.

**Mr. Craig Scott:** On a point of order, Mr. Chair, that's great, but I'm just suggesting that it could be more open than just another round. Anybody else who has questions...because we may not—

**The Chair:** I'll be pretty flexible.

We've been pretty flexible. We'll keep there.

Go ahead.

**Mr. Paul Fraser:** Here's the deal. Blind trusts have frailties, as we've discussed here this morning. We have a formal blind trust arrangement, as does Commissioner Dawson. The real need is for people to be able to stand in the House and speak to any subject that comes up without there being an assertion or an accusation that there's a ventriloquist dealing with them and the ventriloquist is their portfolio.

We've had some interesting situations. We had a premier of the province, Gordon Campbell, who was negotiating with Alcan to renew some arrangements up in Prince Rupert with respect to one of their installations. The government and Alcan were in heavy negotiations and suddenly there was a complaint that the premier had shares in Alcan. It was obviously a conflict for him to be, in those circumstances, negotiating with Alcan. That came to our office before I arrived, but just as I was arriving.

Mr. Campbell, as it turned out, had 10 shares in Alcan. More importantly, because we're worried about how and not how much, Mr. Campbell got statements every month from his brokerage firm, but he never read them because he didn't have time. Most of us around this table would probably put ourselves in that same category. He had no idea that the broker to whom he had given all kinds of discretion had made that quite small purchase. Anyway, that was an embarrassment to him.

That led us to discuss whether there was some way we could easily and effectively deal with that kind of thing. We have what we call hold-mail accounts, which are exactly as the title would describe. All of this only works if members are prepared to give to their brokers complete discretion on how they will be investing. If you're not prepared to do that—and some people aren't—then this isn't for you. If you are prepared to do that—and most people now do give that kind of discretion, as a practical matter, to their brokers anyway—then what you're saying to your broker is to go out and

make the investments you want, but hold the mail. Don't tell me in a statement what I have. I want to receive a statement from you, but I only want to do it in bottom-line, global terms. I want to know how much the account is worth because I want to see whether you're driving me to the poorhouse or whether you're being successful. I can get that weekly, monthly, quarterly, however.

We found immediately that the brokerage firms and the securities industry, which are obliged by every law in the land to make full disclosure of everything and tell their clients everything, went nuts. They said they couldn't possibly become involved in a scheme that would prevent them from giving information out to clients. We negotiated that and got a few of the large firms on board by explaining why we were doing it.

Then we had a problem in the sense that shares in some companies create or attract dividends, and that money is income that has to be disclosed for tax purposes. That's why there's now a side agreement whereby the accountant for the member and the broker correspond, to the exclusion of the member, in terms of reporting.

The bottom line is that we have a lot of people who are probably living their financial lives in exactly the same way that they used to, but they were running the risk before of standing up and saying something that might be interpreted as having been influenced by the fact that they had shares in Bell Canada, or they had shares in something else. It costs nothing. The large firms will do it for nothing. They'll only do it because of the competition and because we got some people on board early who were prepared to understand why it's important.

● (1210)

It's something that every member should have, in my view, to help to inoculate yourself from assertions of conduct based on investments.

**Ms. Alyne Mochan:** It also makes disclosure very easy. You just say "hold mail", no other details are required.

**The Chair:** It's fantastic. I know right where those envelopes are that I haven't opened yet. You're right. In practicality, we all live in that world, so why not formalize it and make it work?

**Mr. Paul Fraser:** Right.

**The Chair:** Mr. Opitz, you have a couple of questions.

**Mr. Ted Opitz (Etobicoke Centre, CPC):** Actually I just have one really. You talked about objectivity versus subjectivity. Ultimately though the buck stops with you because you're the guy who makes the decision.

If you find your objectivity compromised in any way, or you can't come to a decision, how do you resolve that? Who do you go to for advice?

**Mr. Paul Fraser:** Upstairs, I guess.

I had one incident, Mr. Opitz, where I handed off a file because, to my astonishment, a member who had asked me to express an opinion told the press—not me, but the press—that he had an apprehension of bias if I were to deal with it, so I passed that off to Commissioner Gerrand from Saskatchewan, who dealt with it. That's an easy one. It's obvious.

I think the member or the requester, because it applies equally to members of the public, is entitled to a fulsome explanation of a decision, which we release to the clerk who sets it before the Legislative Assembly. We release it publicly when the member releases it, if the member does, and with the member's consent otherwise. So people have an opportunity to read it and ask whether this person is living in a dream world, whether he is some kind of ideologue that no one should have to suffer, if he is being too soft in all of the circumstances.

• (1215)

What you see is what you get. Sure, it's perhaps a long way between appointment dates, but you get a reputation. I haven't been attacked actually for any of the decisions I have rendered—at least not openly. No doubt there have been disappointed people in some cases. I'm not aware...except in Alberta, frankly, where within the recent past the commissioner there was attacked by the press and by members of the House and the public was left to come to its own judgment based on the decision.

I share your concern. I'm alive to it. If we were simply putting up a sign that said yes or no, that would be one thing, but if you're going to give reasons, as you must, then people can decide whether you're meeting the objective test or whether you are not.

**Mr. Ted Opitz:** You answered my question but I have just a supplemental on that. The only person you can really hand off to is another commissioner in another jurisdiction, so basically the same rank level.

**Mr. Paul Fraser:** Yes, that was my view then. It happened that we wanted somebody who was well experienced. There are other jurisdictions that have some provisions. We have none for what should happen under those circumstances. We were making it up as we went along. We've now made a recommendation, which the committee in B.C. has accepted, that the chief provincial court judge could, at my request, appoint somebody. But it helps to have somebody who has had some work in this area and the decision in that particular case was very well accepted.

**Mr. Ted Opitz:** Thank you.

**The Chair:** Great.

Mr. Christopherson, you have a couple of questions

**Mr. David Christopherson (Hamilton Centre, NDP):** Thank you very much. I very much enjoyed this.

I just wanted to raise one issue. One of the things that we've been struggling with is trying to get a common-sense approach to some of the gift areas, and I'm sure that remains one of your constant bugaboos to deal with on all sides.

Here's the thing. Under our laws right now, someone could hand any one of us a cheque for \$1,500, straight up. Here's \$1,500 to help you get re-elected. I haven't even looked at the darned thing carefully, but two or three weeks ago we all received a paper bag that had soap and some other products—

**The Chair:** A mousetrap.

**Mr. David Christopherson:** —that kind of thing, and I have no idea who it came from. Normally I give most of it away. If I could use it in my apartment, I throw it in the apartment, but we had one

similar to that a couple of weeks before and we were advised that we needed to send it all back. It's just the practicality of it. Nobody here is trying in this day and age to find a loophole where we can get secret gifts. I think you understand that's relatively rare.

It's that practical idea. I don't know what to do with this darned thing. Under the last direction we had, I would be expected to rewrap it in a courier format, I guess, and send it back. But it just doesn't seem to make common sense that someone could give me \$1,500, someone I know who's saying, "I like you, Dave. Here's \$1,500 of my hard-earned cash. I want you to get re-elected," yet some group, practically anonymously, sends me a bag of products to promote something—I don't know what it is—and suddenly this is like a major issue and we're violating all kinds of rules.

We're having trouble understanding, and I'll end with this. We're struggling with the common sense of that \$1,500 and that you can do this. There's a declaration at \$500. There's a \$200 threshold at one point, and oftentimes the code and the loss are two different things. Then we get down to what looks like small potatoes, yet it's being made into a big deal. I'm sitting here. I have the darned thing in my office. I don't know what to do with it. By rights, I should spend all that money and time and send it back, but I have to tell you, I begrudge that because I have other things for my staff to be doing rather than messing around with that kind of thing.

So I'd like your thoughts, sir, on how you approach that common-sense idea of what's okay and what isn't okay.

• (1220)

**Mr. Paul Fraser:** First of all, we're sympathetic to that, as opposed to saying, "You're trivializing the problem and get over it". For anyone who wonders about those people who operate in the environment that we operate in on both sides of our, I'm going to say, partnership, they'll understand the meaning of that. It has been my experience without exception that people aren't in the business of public service as members to get rich or to accept gifts under the table. They're there to make a contribution and hopefully not get absolutely poor in the meantime because they have some pension rights and they have a fair salary. Beyond that, what do we do?

I've not been faced with the situation that you've described. I have said to people who have received gifts—not in an abundance of a Niagara Falls of gifts like this was—to just give it back or send a note thanking them and indicating them it's not something that you can accept: no offence, we know it's well intended, but, etc. That's worked.

What I have found is that dealing with caucus representatives is invaluable in terms of understanding what the caucuses themselves are prepared to think is reasonable treatment. Not that everybody has to come up with a homogenized solution, but everybody has this problem and everybody's solution is going to make a difference. We don't want to have solutions that are in search of a problem, but we want to make sure that when the problem arrives there is a response that seems to be uniform.

We have had situations arise where—as you do every day and we know this—people are giving you token gifts as a thank you simply for taking time out to come and speak to them. We understand that. It's part of what this country is all about. It's comity, it's appreciation of others, and it's courtesy. How does all of that translate in our real world?

At this very moment, for example, we're trying to deal with a situation where some members who have gone out and spoken at, I'm going to say, neutral audience situations have had said to them by the organizing committee of the event, “We would like to make a charitable donation in your name as opposed to giving you a trinket.” We've had members come forward and say, “Well, what do you think of that?” We're at the stage in that analysis where we're trying to figure out what the donor is like. Is the contribution going to be made to a registered charity? That's important. Who is the donor? Is the donor someone who would be seen objectively as being acceptable? What's the amount? Then the problem arises, “Well, I don't want to be embarrassed by having to ask what the amount is because that will be a reflection of whether they think I was worth it”. We're grappling with all of that.

• (1225)

In your situation, I would basically take everybody's grab bag gifts together and off it goes to the homeless shelter. Anybody that wants it there could take it. That's a practical solution. Throwing it out is another solution if you want to. I find that solution on humanitarian grounds to be less acceptable than the first one, but it's difficult.

**Mr. David Christopherson:** If I may, sir, just from a practical application point of view, where \$1,500 is legal and is basically a promotional gift...

I don't know what it's worth. The last time somebody said it was worth \$120. I can't imagine how, but okay.

**Mr. Paul Fraser:** Are we talking about a political contribution to you?

**Mr. David Christopherson:** No, I'm talking about going back to the example I gave.

**Mr. Craig Scott:** The first part of your example. The political contribution to you—

**The Chair:** The \$1,500 is a political contribution.

**Mr. David Christopherson:** Yes, but that's the context. I'm saying that's legal, someone could do that. But somebody can't send me a bag of whatever that they've sent to everybody else without asking for anything other than this is a sample of what we do and maybe they're going to have a day on the Hill or something. The reason I'm following up is that your inclination was similar, that we ought not have it. I'm simply trying to understand the why of that.

**Ms. Alyne Mochan:** Could I jump in?

**Mr. David Christopherson:** Yes.

**Ms. Alyne Mochan:** I think the basic principle of the gifts provisions is that you shouldn't be benefiting, getting perks, just for being an MLA, or an MP in your case. So the gifts that are acceptable for you to receive are those that are related to your position in terms of protocol or thank you gifts. But where it's getting freebies because of your role, just because you're an MLA and you haven't done anything, you haven't given a speech, you haven't

shown up to do anything, you're simply sitting in your office and a bag comes to you, it's similar to getting a ski pass. That's an extra benefit you're getting just because of your position. What's off about it is that it's something you're getting as a perk simply for being an MLA or an MP.

**Mr. David Christopherson:** What about a reception, just to play devil's advocate?

**Ms. Alyne Mochan:** That's a little different though. If you're going to a reception in your official capacity and you're there in your role, you're doing something and it's a thank you. But as I understand it, you're saying that you get sent stuff. A member of the public, if they look at that, would think it's a little off, your just getting gifts.

**Mr. David Christopherson:** A medal from the Governor General, I get that, and that's just for being.

**Ms. Alyne Mochan:** I guess, but those are the sort of subtleties that we think of as sort of the principle for not accepting a bunch of extra stuff out of context.

**The Chair:** Thank you.

I have Mr. Richards and Mr. Lamoureux and I need it to be very short.

You get one question because I know how long they are.

**Mr. Blake Richards:** That's not a problem, Mr. Chair. Thank you for that.

I will make it short actually. It's a quick follow-up on the previous question I asked about the service standards. You indicated that you had a sort of internal self-imposed standard that you applied to yourself.

I can certainly say that my experience with our commissioner is that when I've had to ask, I've always gotten a speedy response. There has never been any issue. I have heard from others that maybe that wasn't the case, but in my experience there has been no issue at all in terms of this.

Because we are looking at our legislation, should we look at formalizing something in terms of a service standard? Would that be something you would think would be advisable or suggestible, that maybe a service standard would be good, especially because we are talking about things like clearing attendance at events, clearing acceptance of gifts? Obviously, those can be time sensitive for members, so is that something we should look at?

**Mr. Paul Fraser:** We have separated the financial aspect of that, in terms of reporting and in terms of keeping statistics, from everything else. I don't know what the system is here, but every year the officers of the legislature are required to go before the finance committee and present a budget, and on that basis uniformly be told there is no money. Then everybody goes away and we come back the next year.

But in the course of all that we have to defend, and we should have to defend, how we're spending the money and how effective it is, which is why the statistics that I referred to are kept. If we're claiming a certain amount of money for wages and for administration and we're not providing statistics about how we're delivering those services and how often and so on, then there's a disconnect. That's why we keep those statistics and that's why, in my view, that financial process is important.

I'm very reluctant to take the step that I think you're suggesting. I mentioned incidentally that I think this committee's presence is of some great assistance and it is because you are the real world. While everybody reports to parliaments or legislatures, you can't possibly get feedback except in these kinds of circumstances, which are very helpful.

I'm not sure that answers your question, but that's how we deal with it in terms of showing people that they're getting value for service.

• (1230)

**Mr. Blake Richards:** As I'm told I'm allowed only one question, I'll have to say I think that does really answer the question.

Thank you.

**The Chair:** Maybe Mr. Lamoureux will ask what you wanted to ask.

Mr. Lamoureux, go ahead for one quick question, please.

**Mr. Kevin Lamoureux:** With regard to your last answer, I understood you to say that you meet with the other opposition parties and the government. Is it the House leaders you meet with?

Now I only get the one question, so I'm going to put it in two parts.

**Voices:** Oh, oh!

**Mr. Kevin Lamoureux:** I would think there is a benefit. Sometimes around the table, we might be offside or we're thinking, "Why doesn't the commissioner do this?" This is a very formal group. You don't want a formal group like this beating up on the commissioner or ganging up or saying, "Well, what about this? What about this?", and all this kind of stuff, but sometimes there could be informal discussions. It sounds as if you have some sort of informal discussions.

Do you believe that you, as a commissioner, benefit from having those informal discussions with the party designates?

**Mr. Paul Fraser:** The answer to that is yes.

There will be various levels of tolerance among my colleagues across the country, in response to your question. Some will see it in terms of protecting the independence of their office and so on. I get

that. I understand that. But in terms of being effective in the work I do, where I do it, I have accepted invitations to go to speak to caucuses when they have requested, and those sessions have been helpful. I have made it a point after an election to meet especially with the new members and to talk to them as part of their, if you like, initiation. I have spoken to caucus chairs on occasion when I've considered that there's a problem looming. I will continue to do all of those things.

Some of my colleagues may have no appetite for that, but I find that it has been helpful to me in the sense that it allows people to figure out, as one of your colleagues was essentially raising, whether I am a person they can talk to, whether I am realistic, and whether I am somebody who seems to understand what the problems are. I do those things without apology and quite happily.

**The Chair:** Thank you.

Mr. Scott, go ahead with a question, please.

**Mr. Craig Scott:** I give my question to Mr. Richards.

**Voices:** Oh, oh!

**The Chair:** I like that attempt—

**Mr. Craig Scott:** Does that not work?

**The Chair:** No.

**Mr. Craig Scott:** I have no questions.

**The Chair:** Great.

We thank you for coming and sharing with us, and we thank you for staying for some extra time to make it work today.

I thank my committee for making sure that I won't get to eat lunch today.

**Voices:** Oh, oh!

• (1235)

**Mr. Paul Fraser:** Thank you.

Thank you very much to your clerk and staff for having been so kind in making the arrangements. I must say you are being very well served, with respect, by your analysts. The material that they presented for you has been excellent.

**The Chair:** Regardless of what the rest of the committee says about them, I think they're the best they could possibly be.

**Voices:** Oh, oh!

**The Chair:** We will suspend for just a couple of minutes while we go in camera.

*[Proceedings continue in camera]*







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