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

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**EVIDENCE**

**Thursday, May 5, 2016**

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**Chair**

**Mr. Blaine Calkins**



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

Thursday, May 5, 2016

• (0850)

[English]

**The Chair (Mr. Blaine Calkins (Red Deer—Lacombe, CPC)):** Good morning, colleagues. I'd like to welcome you all back to this meeting. This is meeting number 12, pursuant to Standing Order 108 (3)h(i). This is another meeting on the study of the Access to Information Act.

We are very privileged today to have with us for the full two hours the honourable Scott Brison, President of the Treasury Board. Accompanying him is Ms. Jennifer Dawson, who is the deputy chief information officer. We will have an opening set of comments from the minister.

Minister, we have the full two hours. Usually, we keep it to around 10 minutes, but if you need a little more time I think that's more than fine. We will then go around the room and go through questions until everybody is satisfied. We thank you very much for making yourself available for this very important study.

Mr. Minister, welcome. We'll start with your opening comments.

**Hon. Scott Brison (President of the Treasury Board):** Thank you, Mr. Chair.

I also want to welcome our parliamentary secretary, Joyce Murray, and all of you committee members.

On June 2, it will be my 19th anniversary as a member of Parliament. At that point, I will have spent about two years in government and the rest in opposition. I've been on committees of Parliament for 17 of those years, and I tell you, it is from that perspective that I value the important work done by committees of Parliament. We intend on fortifying the roles of committees and of parliamentarians as we work on legislation and consult with Canadians. I thank you for the important work that you do on this committee.

I'm pleased to be here with Jennifer, our deputy chief information officer, to speak with you about access to information reform.

[Translation]

I would like to thank the members of the committee for their proactive approach to exploring the Access to Information Act and offering solutions to make it serve Canadians better.

[English]

This act is out of date. It hasn't been updated significantly since receiving royal assent, back in 1983. This is incredible given how much Canada has changed, particularly in terms of the changes to

how information and data are produced, stored, and shared. All those areas have been revolutionized. Email, social networks, and smart phones rule the day, and we need to modernize ATI to reflect these realities.

We also must change the culture around government information. We need to move toward a culture of "open by default" when it comes to information. Our Prime Minister has recognized that for a long time. In opposition, he actually tabled a private member's bill, Bill C-613, to help modernize the act. During the campaign, our platform made commitments in terms of modernizing the act. These were actually reflected in my mandate letter, which, as you're aware, has been made public, as have all the mandate letters of ministers.

In my mandate, the Prime Minister asked me to:

Work with the Minister of Justice to enhance the openness of government, including leading a review of the Access to Information Act to ensure that Canadians have easier access to their own personal information, that the Information Commissioner is empowered to order government information to be released and that the Act applies appropriately to the Prime Minister's and Ministers' Offices, as well as administrative institutions that support Parliament and the courts.

Now that we're in government, we're acting on these commitments to strengthen and revitalize access to information.

Later today, I am issuing an interim directive on the administration of the Access to Information Act. I'd like to begin by speaking to you today about some of the immediate changes we would like to implement and intend on making today. This directive is guided by the principle that government information belongs to the people it serves and should be open by default.

[Translation]

It guides institutions on how to administer the act in ways that are consistent with our commitments to more open government.

[English]

It emphasizes that government information belongs to the people.

The directive stresses that providing access to government information is paramount to serving the public interest. It enables public debate on the conduct of government institutions and strengthens the accountability of government to its citizens, and indeed, the role of citizens and of parliamentarians.

The interim directive also stipulates that, from today forward, all fees apart from the \$5 application fee will be waived. When feasible, requesters will receive information in the format of their choice, including open, reusable, and shareable formats.

[Translation]

These concrete measures make early progress on our commitments.

[English]

This is just the beginning. We are also moving forward with a two-step legislative plan I announced recently. We split the legislative reform into two phases and issued a directive right away specifically so we could make improvements to the Access to Information Act immediately.

Next we will table legislation that will include the implementation of the rest of our platform commitments. We also will bring forward significant improvements identified through public consultations and through the work of this committee. These measures will shed more light than ever before on the government.

One, we will give the Information Commissioner the power to order the release of government information. Two, we will ensure the act applies appropriately to the Prime Minister's and ministers' offices, as well as administrative institutions that support Parliament and the courts. Three, we will implement a mandatory five-year review starting in this mandate to ensure the act stays up to date and consistent with modern needs and technology. Four, we will improve response times by addressing the problem of frivolous and vexatious requests to ensure the purpose of the act is respected. Five, we will improve performance reporting. We want to make sure evidence guides our decision and we can measure results.

[Translation]

These are significant changes. Take, for example, expanding the application of the act to ministers' offices. For the first time, Canadians will have an expanded view into the decisions of government.

• (0855)

[English]

This is significant reform that will involve every department, every minister's office, the Prime Minister's Office, the courts, the Information Commissioner's office, and this committee. We are engaging with Canadians in Parliament because we need to get this right as we work to develop the proposed legislation.

Your committee's input will be important to this process, and I particularly value the committee's advice on how to proceed on some of the government's commitments. I would like to address a few of those.

One, what is the best approach to enable the Information Commissioner to order the release of government records, and what are the implications for the commissioner's other responsibilities?

Two, what special considerations would need to be taken into account in extending access to information to the Prime Minister's Office, ministers' offices, and administrative institutions that support Parliament and the courts? How can those considerations be addressed?

Three, we've now eliminated all fees except the basic \$5 administrative fee, but we need to filter vexatious and frivolous requests if we want to make the system timely and efficient. I would ask this committee, is the \$5 fee the best way to do that, or is there a better way? I know there's been witness testimony on different approaches to this, and I'm looking forward to hearing your views and through your report informed by witnesses what some of your ideas are in terms of the best way forward on this.

Another question is, would the public interest be best served by allowing institutions and the Information Commissioner discretion to not process access to information requests or complaints that are frivolous or vexatious, and how would that be determined?

Another question is, how should we assess performance of the access to information program? Ongoing measurement of the performance of it is important so that we can understand how this is working from a results perspective.

These are important questions. Once we've completed our consultations, we intend to introduce legislation in late 2016 and early 2017. I stress the work of this committee is important as it will inform our crafting of this legislation.

The second step of updating the ATI legislation is to launch a full legislative review, which will begin immediately after the first phase of legislative changes and will be completed some time in 2018.

This mandatory five-year review will guarantee that no government in the future can allow the Access to Information Act to become as outdated and out of touch as it currently is. It will provide a more in-depth assessment of how we can continue to build on the changes we've introduced and whether those changes are meeting their objective of better serving Canadians.

Some have asked why are we waiting until 2018 for the full review. Very simply, we want to understand how the first round of legislative changes is working. We want to better understand those changes and how they're working before the whole legislative review, the first of reviews that occur every five years after that.

Colleagues, I want to reiterate these proposed reforms are just the beginning. We're committed to more open and transparent government. Our budget reinforced that commitment with specific investments, including doubling existing resources to open government initiatives, \$11.5 million over five years for Treasury Board Secretariat's open government activities, and \$12.5 million over five years to enhance Canada's access to government information, including Canadians' own personal information.

These are important investments in open government.

[*Translation*]

Open and transparent government is the way forward. If citizens understand why their government takes a particular course of action, if they have been engaged from the beginning, if they have access to the same information government has, they will have more confidence and trust in the outcomes.

[*English*]

The idea of engaging Canadians early, and providing them with more of the same information we as legislators and as members of government have as we make decisions, is simple—that we believe in the collective wisdom of Canadians. Engaging them early means that better decisions can result from more open engagement, and that those decisions will also co-emerge with more public support because the public has been engaged from the beginning, as has Parliament.

Canadians have waited a long time to have their access to information regime modernized to meet current needs. I look forward to working with this committee. Your input and advice on how we can make improvements to the system is of great value.

We look forward to answering your questions.

● (0900)

**The Chair:** Thank you very much, Minister. We appreciate it very much. As a committee, we look forward to going through this process with you.

We will proceed to our questions right now. We have a seven-minute round for the first four questioners. We'll start with Mr. Lightbound.

**Mr. Joël Lightbound (Louis-Hébert, Lib.):** Thank you, Minister, for being here today with us.

For my first question, I will start with what you just mentioned about the budget. I'll do it before Mr. Jeneroux does, because I am sure he will talk about the budget.

You mentioned that in the 2016 budget there is \$11.5 million over five years for the Treasury Board, and \$12.9 million over five years to enhance the government's open government ambitions.

I was wondering if you could tell us maybe a little more concretely how that is going to help the government try to achieve a more open government, and how the money is going to be used. In your mind, is it sufficient?

**Hon. Scott Brison:** First of all, investments in technology and human resources are key to this. These investments over the next five years will help.

At the Treasury Board, as a central agency, we reach into every department and agency and have relationships across the Government of Canada, so part of what we do on an ongoing basis is evaluate, for instance, the capacity of any department or agency to comply with central mandates of the government, including to modernize access to information, as we move forward.

One of the things we intend to do is work closely with all departments and agencies to ensure that we have the resources and the people in place to meet our commitment to open government as the access to information law changes. This is extremely important. It is a significant change, and I want to be the first to tell this committee that as you make significant changes there will always be challenges. The only way to avoid challenges or potentially even errors in implementation is to do nothing. We intend to make significant changes, and we will do our darndest to get it right. As we move forward, we are going to encourage public servants in departments to take intelligent risks and to make good decisions, but we understand the gravity of what we are seeking to achieve.

**Mr. Joël Lightbound:** We heard from Professor Drapeau, from the University of Ottawa, who talked about the role of ATI coordinators, who deal with the bulk of the access to information demands within each department. He mentioned in his remarks here that ATI coordinators “need the status, independence, and authority” that would flow from a Governor in Council appointment. That was his recommendation. We have had other witnesses who have disagreed with Mr. Drapeau.

I would like to hear your thoughts on what an improved role for ATI coordinators could be.

**Hon. Scott Brison:** I'd be interested in the committee's views on that. I can say as a minister that the practice of ATIP coordinators within departments is independent. For ministers and ministers' offices, the practice is not to communicate or engage with ATIP coordinators. They are independent, and decisions on ATIP requests, as an example, are made at the officials' level and ought not be influenced by ministers or ministers' offices.

As I understand now, these officers are in fact independent as public servants, and that can be one of the things you address in your report.

Jennifer, do you have any additional—

**Ms. Jennifer Dawson (Deputy Chief Information Officer, Treasury Board Secretariat):** Yes. From my perspective, I would say that ATIP coordinators definitely are facilitated and acting in an impartial manner. There's a limited delegation of discretion under the act, and ATIP coordinators act in a manner that is distinct from the rest of the operations of the department. Again, in support of what the president has said, we welcome views of the committee, and that's something we can take a look at.

• (0905)

**Mr. Joël Lightbound:** My other question is regarding the timeline you've outlined. I see that the full review will occur no later than 2018. Do you think this will leave enough time to see if the changes made to the legislation in 2017 are effective? If we start that review no later than 2018, right after the changes have been made, the initial changes, will that leave enough time to really assess the efficiency of the first wave of changes?

**Hon. Scott Brison:** It's a good question. I believe it will give us some time. Obviously, when you make significant changes, a longer period of observation and measurement of results and unintended consequences will give you more information, but we felt it was important to establish and implement the first review.

Again, this review will occur every five years. Regardless of whatever government is in place, every five years there will be a mandatory review of access to information, which will prevent the situation that we're in now. An act in 1983 that hasn't been modernized since then—you think of it. In 1983, K-cars were hot—well, to the extent that K-cars ever were hot. The point is you weren't born.

**Mr. Joël Lightbound:** I wasn't born.

**Hon. Scott Brison:** Mr. Lightbound wasn't even born at that point. Thanks for making me feel old here.

**Mr. Joël Lightbound:** Anytime.

**Hon. Scott Brison:** We are in an absolutely digital world now. Fax machines were still a big deal back in 1983. We never want to be in this place again, and I know we won't be if we get this right in terms of the ongoing review.

**The Chair:** That pretty much wraps that up, as entertaining as that was becoming.

We now move to Mr. Kelly for seven minutes, please.

**Mr. Pat Kelly (Calgary Rocky Ridge, CPC):** Thank you, Minister, for coming to see us today. We really appreciate having you here.

I listened carefully to what you had to say, and I would agree with much of what you said, particularly the necessity of modernizing this legislation. I don't think there's any doubt about that. You mentioned in your speech the attention to the value of committee work and I think you said the fortification of committees and whatnot. However, I have to point out that you went on from there to announce a whole series of changes that you are making without the benefit of hearing a report from this committee.

You mentioned—it's in the budget, in fact—that you are going to an order-making model. You announced today that you are dispensing with all fees, other than the \$5 application fee. We have spent the last 11 or 12 meetings of this committee—no, we spent some of them on privacy, but we've spent a number of hours of committee time toward hearing witnesses who have given us expert opinion on what steps the government should take, and yet here we are being told what steps you're taking without being able to deliver our report, which will be out in June. We're working quickly, focusing our attention to this.

I'd like you to comment on how the process that's under way is actually one that reinforces the importance of committee work.

**Hon. Scott Brison:** Thank you very much, Pat.

This is one of the challenges of being in government, and you'll understand this, because we're all politicians here. Before the election, the Prime Minister made commitments as part of a private member's bill. In our platform we made commitments. In my mandate, those commitments are reflected.

Now, if I didn't keep those, if our government didn't do that, I'll bet you dollars to doughnuts that you would say we were breaking our promises.

• (0910)

**Mr. Pat Kelly:** You could have said you're waiting for the committee—

**Hon. Scott Brison:** We're actually keeping our promises, but let me tell you that we are also committed, and we've made that commitment, to evidence-based decision-making, which means that if you and this committee can help inform us on ways we can improve on some of these measures, we will take your advice seriously. I mean that.

I flagged one area today, for instance; the removal of all fees except for the \$5 one. I've read some of the testimony of witnesses before this committee, and they've made some compelling cases in terms of different models on this. I've talked to the chair about it, and he mentioned Sweden's model in terms of some of this.

You're doing important work here, Pat, and I take it very seriously. We as a government take it seriously. We don't view committees as branch plants of ministers' offices. You are here, as important legislative vehicles, to produce and to evaluate public policy. Rest assured, your work will feed into our legislation. But there are some commitments that we have made to Canadians to which we are absolutely committed. That's important, but your work here can help strengthen those and improve those.

**Mr. Pat Kelly:** I certainly hope so. I would have thought, though, that in terms of promises made and promises kept, it would have taken you only a few more weeks to wait until this committee reported.

**Hon. Scott Brison:** But keep in mind...you're right, and that's why I think the timing of this committee is excellent. Over the next several months we will be able to benefit from the work of this committee and through other consultations, including with the Information Commissioner and her office, the Privacy Commissioner and his office, and other stakeholders and experts. This committee is a vital part of that.

**Mr. Pat Kelly:** I'm certainly not, by using this example, prejudicing the outcome of our report. We'll weigh all of the evidence we've heard from a variety of witnesses.

For example, Professor Drapeau made, in my view, a very compelling presentation to this committee. Among other things, he suggested...well, he didn't suggest, he said quite explicitly that the existing ombudsman model for access to information is the correct model. In his opinion, the failings and shortcomings of access to information owed more to misallocation of resources within the office and a pervasive culture of secrecy within government departments. It transcends all governments and goes back decades.

Were we to support that, for example, and recommend retaining the ombudsman model, you have already said in your budget that this is not what you're going to do. So how much weight will this committee carry when you make your decisions?

**Hon. Scott Brison:** We will be guided by evidence.

I've known Michel Drapeau for a long time, in fact back to the late nineties, when you and I first met. He's an intelligent, sage person. Of course we'll look at what he has to say, and what others say. We will be interested in these views.

We will be interested in your report, but not just your report. I've been on these committees. The reports are good, but sometimes some of the witness testimony that doesn't necessarily make it into a report is also helpful. You learn something through some of that testimony. We intend on following both the report and the testimony that helps inform the report.

I go back to the fact that your work here is important, and it will help us as we determine how to move forward. We won't have the legislation ready to introduce until late this year or early next year. There will be plenty of time to review the work of this committee. On an ongoing basis, when the legislation is tabled, it will come to Parliament, and this committee will have an opportunity to go at it again.

• (0915)

**The Chair:** That's very true.

Thank you very much, Mr. Kelly.

We'll now move to Mr. Blaikie for seven minutes.

**Mr. Daniel Blaikie (Elmwood—Transcona, NDP):** Thank you, Mr. Minister, for being at the committee.

One of the challenges for Canadians and for parliamentarians, with the new government, is trying to read the tea leaves, as it were, to get a sense of what they can trust government to follow through on and where they ought to be skeptical, and to do the work of holding government to account.

What we see, even here today in the document, is a directive to be open by default. That's something the Prime Minister talked about before and during the last election. I'm trying to square that with the parliamentary budget officer's assessment of the information provided to him as part of the last budget, about which he says:

The Government did not provide [as per best practice] detailed tables that identify the impact of changes to its adjustment to the private sector forecast and...

How is it that a culture that's open by default fails, in this new context, to provide the information that heretofore had routinely been provided to the parliamentary budget officer?

**Hon. Scott Brison:** We have great respect for the work of the parliamentary budget officer. When the Department of Finance provided, I believe a two-year projection, they did so on the basis that we are in very volatile times. Much of our economy is dependent on commodity prices, which as we know have gone through a remarkable drop in the last period. The Department of Finance felt that it was more realistic to provide projections over a two-year than over a five-year period.

But let me—

**Mr. Daniel Blaikie:** I take the point about volatility. Am I to understand from this that the department didn't make attempts to forecast past those two years?

**Hon. Scott Brison:** The amount of information that was provided—the two-year information—was based on being able to provide with confidence projections for Canadians as part of the budget document. Two years made more sense.

The fact is, though, that we listened to the parliamentary budget officer and we provided to the Department of Finance five-year projections. We didn't argue or quarrel with the parliamentary budget officer when that office raised that concern. The Department of Finance—the government—responded. That's part of a dialogue. We're not going to get into fights with officers of Parliament. We won't agree on everything, but we will seek to respect their wishes. We did, in this case.

The other thing, too—and I suspect you're going to mention it—is that the parliamentary budget officer also had very positive things to say about the government's practice now of projecting lapses. The parliamentary budget officer thought this was a significant step forward.

As we move forward, and as we did in this case... We listened to the parliamentary budget officer in terms of the two-year projections. The Department of Finance, my colleague Minister Morneau, released up to the five years. This is a dialogue.

**Mr. Daniel Blaikie:** Indeed, and one hates to curtail dialogue, but at the same time, I think part of the idea of a culture of “open by default” is to reduce the amount of dialogue and therefore the amount of time it takes to get access to information.

Canadians have dialogue all the time with government about access to information requests. Usually it's because they're not getting the information. This is one of the rare cases in which I think a reduction in dialogue is actually a sign of progress. It means Canadians and parliamentarians, in this case the parliamentary budget officer, are getting that information in the most timely way possible, which is the point of being open by default.

**Hon. Scott Brison:** I broadly agree with you, by the way, that the more information we can put out there the better, so that we're all dealing with the same information. I broadly agree with that.

**Mr. Daniel Blaikie:** My next question has to do with the duty to document. If there's virtue in acting quickly in an interim sense—and I think there is—one thing I would have liked to see included in those interim measures is a duty to document. In the meantime, we're potentially losing important information because it's not being written down. I wonder why there is no provision for some kind of duty to document in this interim directive.

**Hon. Scott Brison:** Actually, this is something that could be addressed as part of the legislative changes.

The first batch of legislative changes would be later this year and early next year. There has been some expert testimony on duty to document and on models in other places.

● (0920)

**Mr. Daniel Blaikie:** My concern, and the reason I think it would be important to have some sort of provisional directive, is that a lot of time is going to pass between now and whenever some future ATI reform bill passes, and in the meantime, there's activity happening in ministers' offices, I presume.... I'm not in them, but I presume so—

**Hon. Scott Brison:** Well, there is.

**Mr. Daniel Blaikie:** —and if it's not documented, then it's activity that people may not have access to.

**Hon. Scott Brison:** There is policy that already exists within the government, but in terms of how we can strengthen the policy, that can be an area to Mr. Kelly's point in terms of what areas the committee can provide advice. That could be one of the areas where you can look at other models. Jennifer may want to provide some insight in terms of policy that exists now.

**Ms. Jennifer Dawson:** Just to add to that, existing information management policies, rather than access to information policies, do capture a requirement for employees to document decisions and decision-making processes. Part of that is also to assist in terms of audit trails, and ensuring there's a solid record of how decisions are taken and when they are taken. There is currently a policy requirement that does apply to public servants, although you won't find that language in the access to information that you might have reviewed.

**Hon. Scott Brison:** One of the things you may look at is how we can strengthen that in terms of policy as part of legislation.

**Mr. Daniel Blaikie:** You've expressed an openness and perhaps a decision to move ahead with order-making powers for the Information Commissioner. I'm wondering if, as part of that, you were also intending to grant the Information Commissioner the power to review documents that have been deemed confidential under any number of secrecy provisions under the current act, so there is an independent third-party review of decisions about whether something is a cabinet confidence or not.

**Hon. Scott Brison:** That distills down to the argument between exclusions and exemptions in terms of some of these things. We're open to your views as a committee on this. There are different models with their strengths and weaknesses around this exclusion versus the exemption policy. There are clear areas, including security, national security issues, and privacy issues among them where we would all agree on where there has to be either an exemption or an exclusion depending on that. The question is, to what extent can the Information Commissioner have access to

cabinet confidences and then discern from there, or whether there should be absolute exclusions in certain areas, such as around national security.

I think there would be broad consensus that exclusions can make a lot of sense. There are different models and the wheelhouse of this committee, as you're studying some of those, would be interested. What I would ask for in terms of your advice—and I'm not trying to direct the work of the committee, but it would be helpful in terms of some of these models—is what you see as the strengths and the weaknesses. Put some thought to that, and the researchers as well, in terms of the strengths and weaknesses of some of these models. A witness may say “I like this particular model”, but the work of the committee and the library as you look at them, is what are the strengths granularly and what are the weaknesses? That can help inform our line of thinking as well.

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

We've exceeded the time, but it was an important answer. At the risk of interjecting on a question the committee member had, I have a personal interest in response to one of the questions. Ms. Dawson, you said there are policies. I'm surprised you said there are policies. I would be curious to get my hands on a copy of a sample policy in one of the departments, if that's possible, to submit to the committee.

**Ms. Jennifer Dawson:** Yes, that's the policy on information management, and we can provide that.

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

We'll now move to Mr. Saini for seven minutes.

**Mr. Raj Saini (Kitchener Centre, Lib.):** Thank you, Minister, for being here, and Ms. Dawson.

Minister, I have a question for you. It's a question on timeliness for responding to requests that are asked. We have the Swedish ambassador who came here, and he said whenever a request is made to the Swedish government they act upon it immediately. In Ontario, the information commissioner has said the average request takes about 40 days. We had the Newfoundland commissioner who came here, and who said they act upon requests within a few business days.

What does the department feel would be the right sort of time frame—and this won't pertain to every request because some requests will be more detailed than others, but on average—to respond to information requests?

● (0925)

**Hon. Scott Brison:** I think Sweden and Finland were the first to enact an access to information regime going back... in Sweden it was 1776 when they brought in access to information. They're bound to have it pretty good by this point.

In Newfoundland, and you're saying Sweden...I think we need to ensure both in terms of technology and IT and resources that we can respond quickly.



This question of frivolous or vexatious requests is an important one. We're doing research now to determine to what extent these can impede what are considered legitimate...but we also don't want to prevent people.... Broadly, there are people who may think that their request is absolutely significant, and we want to take every request seriously. We are looking at ways to improve service. Part of it will be resources to ensure that departments, broadly, and access to information have the resources they need, but part of it could be process as well.

What are bottlenecks in the process now that are preventing us from acting more quickly? That's something that we're looking at now. Jennifer may want to comment on that, but we are looking at where there may be unnecessary bottlenecks.

**Ms. Jennifer Dawson:** In terms of the time frame, what I can provide by way of context is that currently over 60% are in that range of requests being met within the existing 30-day time limit. We're obviously wanting to improve performance against the time limits that exist today.

I think that something the committee may wish to consider is this. What would be the implication of changing the time limit in terms of those performance standards, and what would be required as an investment if one were to set a more ambitious timeline?

**Mr. Raj Saini:** Just to follow up, you mentioned in your opening comments about a government open by default. My worry is that if you do that then you're also going to have international requests for information.

We can get to the \$5 fee later, but my worry is that because you have a regime that is funded by the Canadian taxpayer, that is in place for the benefit of the Canadian taxpayer or the Canadian public, that you may be inundated with certain requests from outside the country. How do we prioritize that Canadian requests will be met and not caught up in a backlog? How do we differentiate or prioritize that Canadian requests made by Canadians would be met in a certain time frame, and that international requests would also be met? How are you going to apportion how these things are met?

**Hon. Scott Brison:** I know Sweden treats requests the same, whether they're international or domestic.

My instinct, and this is just my instinct, is that our priority will be citizens of Canada. As we develop this, there will be inevitable challenges in implementation. As I've learned both as a former minister of Public Works and now at Treasury Board, implementation is always the challenge. My instinct is that we would focus on Canadian citizens first.

Let's be clear, with open data today any information you provide to a citizen of Canada becomes available as the citizen wants to share it internationally or with anybody else digitally.

My instinct on this, and I'd be interested in the committee's views on this, would be initially at least to focus it on Canadian citizens. There may be unintended consequences to that approach that I'm not aware of or haven't thought of.

● (0930)

**Mr. Raj Saini:** I have a quick follow-up. You made the announcement that the only cost to accessing a request would be \$5. From what I understand, or from testimony that has happened

with other witnesses, they've said that the \$5 to process that would be very onerous and would be actually a cost to the government.

In some jurisdictions they have eliminated the \$5 cost to access information, but they've put a time frame on the amount of time that could be utilized to fulfill that request, whether it be five hours or 10 hours. What's your opinion on that? Should there be a hybrid of both? Should we stick to the \$5 cost and allow it to be open ended? You talked about vexatious requests and that somebody could just dump on the system and keep people busy over a period of time. Should there be some sort of hybrid towards that, or do you feel that the \$5 cost is sufficient? I'm just worried about the system getting backed up.

**Hon. Scott Brison:** I indicated some openness on this question in my remarks for a reason. My view on this has been formed by some of the testimony before this committee, and I'm interested in this. There is a difference of opinion around it. The theory is that the \$5 represents a hurdle, and a hurdle that will prevent or help reduce some frivolous or vexatious requests. There is a difference of opinion on that.

The administrative cost of processing it is interesting as well. Thanks to IT—the capacity to process credit cards and that sort of thing—it has been reduced significantly in recent years. We have proposed one approach. That approach is part of a commitment we've made, so we take it very seriously, but we're also committed to evidence-based decision making, and if there's a better way....

The other thing to keep in mind is that any changes we make as part of the first legislative changes can, when there's a more comprehensive legislative review, be changed, if we find something is not optimal or is not working well. It's legislation, which means, from an evergreening perspective, that the legislation can always be updated and modernized, at the very least every five years. It can be modernized and updated before five years, if in fact there were a compelling change to be made. Or even without the legislation there can be a directive issued by the government, if we felt that something was not working well or if something could work better.

**The Chair:** Thank you. This is a great conversation we're having here.

Mr. Jeneroux, we go to you for up to five minutes, please.

**Mr. Matt Jeneroux (Edmonton Riverbend, CPC):** Yes.

Thank you, Minister, Ms. Dawson, and Ms. Murray, for joining us here today and taking the time, and your staff as well, to come to committee.

You spoke in the beginning, Minister, about your fondness for committees and the work of committees, particularly when you were in opposition. I hope we can send you back there in about three and half years and that you can continue your opposition work on committees.

**Voices:** Oh! Oh!

**Mr. Matt Jeneroux:** However, that being said, I have a duty on my end, and I have about four and half minutes to ask you questions. I'll interrupt you, if that's all right. It doesn't mean I don't like you; it's just because I have to get a through a number of questions here.

That being said, the question that Mr. Lightbound referred to and you've touched on somewhat concerns the budget, at page 208. You mentioned "...informed by consultations with the Information Commissioner, stakeholders and...Parliamentarians...."

That was March 27. I wasn't consulted. Being a parliamentarian, I wasn't consulted, though perhaps the members on the other side of the table were consulted. We weren't. That leads me to think that this was a plan going ahead all along.

You then made comments on April 6, I believe, when you were speaking to the Canadian Open Dialogue Forum 2016, that you would be appearing before this committee in the process, because:

I believe the parliamentarians who were elected to speak for Canadians should have a say in this. ...

Once we're informed by our consultations and the committee's advice, we'll move forward to amend the Act.

We've seen, as just highlighted in the budget, that you're moving towards an order-making model without the advice of the committee, to date. Then, as shown in your comments—again not yet with the advice of the committee—you've now made some changes to the fees.

It's curious. You referenced your platform, which I happen to have in front of me. There's one sentence, and nowhere does it indicate that we're going to an order-making process. And you say there are no fees, not just a \$5 fee.

Could you perhaps elaborate some of this advice that you've received from stakeholders and from parliamentarians to date?

● (0935)

**Hon. Scott Brison:** Thank you very much. I appreciate it, and I can tell you that if you did send me back to the opposition at some point in the future, I enjoyed my work on these committees, and I considered it valuable. I hope you enjoy your time and view it as valuable as well.

This is not a new issue around access to information. In Parliament, particularly for those of us who've been around—Mr. Calkins has been around a while, I've been around a while—these are long-standing issues. The Information Commissioner has over a period of time made her and her office's views clear. There is a body of information to feed into this.

That doesn't obviate the need for and the importance of the work being done by this committee. This is early in the process. We will be taking seriously the work of this committee, the report, and also other evidence or testimony to this committee, as we shape this. But let's be clear, there are commitments we've made, both to Canadians but also in terms of my mandate letters, that we take seriously. There's an overriding commitment in terms of evidence-based decision-making, and if you have some thoughts—

**Mr. Matt Jeneroux:** You can say, Minister, that there are commitments made to Canadians, but nowhere is it indicated that the order-making model is where we were planning to move to. Quite

frankly, we were working rather diligently here on the committee to determine if that was the right model, yet in the budget it came forward saying that's what we plan to do.

That's essentially my point: where was this made public to Canadians that this is what you were planning to do?

**Hon. Scott Brison:** What model would you prefer to the order-making model?

**Mr. Matt Jeneroux:** Well, that's exactly why we're at this committee. That's exactly why we're sitting here studying it. We're bringing in experts from across the world, really, to come and provide that advice. To think that the Prime Minister has gone and decided this is the model that he prefers seems to have completely trumped a lot of the work we're doing here on the committee.

**Hon. Scott Brison:** Please don't assume that at all. We are intelligent enough to listen. Your thoughts, shaped by the testimony you hear at this committee, will be helpful. If there are better models and if there are things we can do to strengthen our approach, I assure you, Mr. Jeneroux, we will take that advice seriously.

I'd be interested in your thoughts in terms of what some of the other models are. There are best practices, potentially, within Canada and other countries from which we can learn. The overriding approach of our government is to listen and to take this into account. We want to be guided by evidence, not ideology. We would really appreciate the input of the committee and the people you're hearing from.

**The Chair:** That uses up that particular round of time.

I would remind colleagues that we are in the five-minute round.

[*Translation*]

Mr. Massé, you have five minutes.

● (0940)

**Mr. Rémi Massé (Avignon—La Mitis—Matane—Matapédia, Lib.):** Thank you, Mr. Chair.

Thank you, Mr. Minister, for being here today. Your presence is greatly appreciated.

I have no doubt that your staff worked very hard to provide you with all the necessary information. I would like to thank them for being here and for supporting you in this process.

Unlike Mr. Généreux, I would say the platform was clear; it did indeed mention the order-making process. I can read out what the platform says.

[*English*]

It said that we would expand the role of the Information Commissioner, giving them the power to issue binding orders for disclosure. This was public. It was there. So I have no concerns. Canadians read our platform, and they made a clear decision on October 19.

[Translation]

You announced a very clear direction this morning, and we appreciate that, of course. I would like to hear more about this direction and the extent to which it will support quick access to information.

**Hon. Scott Brison:** Thank you very much for your question.

I know you have a lot of experience as a public servant. Your perspective is valuable for the committee and for our work.

As of tomorrow, we will be moving toward a more open model.

[English]

That model will be “open by default”.

[Translation]

This will require a change in culture in government. Policies have to be changed. This morning, I announced immediate changes to our policies. We have to listen to Canadians and work very closely with the committee. We will table a bill in late 2016 or early 2017 that will reflect these changes.

[English]

As we present those changes, starting off the changes will immediately help, but the first round of legislative changes that will make the Access to Information Act apply appropriately to ministers' offices and prime ministers' offices, that's a significant step. Increased powers for the Information Commissioner is a significant step.

Other changes that you identify as a committee, based on your work, can help inform that first round, but keep in mind that legislation will be back here in Parliament after it's introduced for legislative review, and you're going to have another go at it. There's an opportunity to do that work, but these are significant changes, and again, since 1983. This is a significant step forward.

This is not a partisan issue, by the way. One of the things that I always enjoyed about committees is that when they work well, they're inherently less partisan than what goes on in the chamber of the House of Commons.

Keep in mind there will be governments of different stripes in the future, and some of you in opposition now may be part of government in the future, and it's with that perspective that this is an issue that's too important for partisan division. This is something that is really important to get right for all of us.

I think this committee is a good place to conduct that evaluation.

[Translation]

**Mr. Rémi Massé:** Thank you.

[English]

**The Chair:** Mr. Massé, I'm sorry we're at the five minutes, but I'm sure we're going to have more time. If you have more questions I'm sure we can come back.

Mr. Jeneroux.

• (0945)

**Mr. Matt Jeneroux:** Thank you.

I guess something that Mr. Lightbound might remember is that in 1990 and 2000 there were changes made to the Access to Information Act. It's not all dated pre-Lightbound. That's just a point of clarification.

Hoping to get a yes or no answer from you, Minister, do you support giving the commissioners access to the cabinet confidential documents?

**Hon. Scott Brison:** As we've said, the Access to Information Act for ministers' offices and prime ministers' offices will apply appropriately.

In terms of cabinet confidences, matters of national security, as an example, may be discussed within a cabinet around, for instance, a terrorist threat or classified information that is deemed top security clearance information. Personal information on Canadians, this is something the Privacy Commissioner has some views on, as an example. Information that can move markets and some types of financial information and changes—

**Mr. Matt Jeneroux:** Certain ones you would be open to and certain ones you wouldn't. Is that your position?

**Hon. Scott Brison:** The discussion between exclusion and exemption is one in which I am open to your input. You have judgment on both. You have been a provincial legislator as well. This is something where there are different models.

Even in Sweden, which has been cited to me as having a very well-evolved and comprehensive access to information regime, there are restrictions in place. These include, for instance, documents related to national security, central financial policy, supervisory activities of public authorities, and personal information. That's in Sweden.

I think you can see that there are reasonable limitations that people would understand.

**Mr. Matt Jeneroux:** You're a very experienced politician so it was a very long yes or no answer, minister.

**Hon. Scott Brison:** You're pretty experienced too.

**Mr. Matt Jeneroux:** Thank you.

In the budget, you indicate \$11.5 million over five years will be going to two departments for these changes. One of the major changes in front of us, which one of my colleagues on the other side indicated, is that it would be open to international customers.

We had immigration here in front of us. We had a defence deputy in front of us. Both of them said that this would be huge, that this would be difficult to manage under their current budget. I'm curious as to the indication that only \$11.5 million is there. Are international requests now off the table?

**Hon. Scott Brison:** Well, of the \$11.5 million, a significant part—I'm informed about \$9 million—will be on website development, and \$2 million to develop capacity. There are also privacy issues to address as part of that, from an IT perspective.

We don't underestimate it, and I take your point very seriously. Enterprise-wide IT-type solutions are tough for a company. They're tough for government. We know the challenges. In the Auditor General's report on Shared Services Canada under the previous government there were real challenges. I'm not being partisan when I say, "under the previous government" because there has not been a government that has not had challenges with enterprise-wide IT solutions.

I still have some level of PTSD from my experience with IT procurement from way back when I was Minister of Public Works. This is a tough area.

I agree with you that these investments are quite modest. We will use them prudently and respect taxpayers and tax dollars. We will also evaluate whether it's the right quantum of resources, both in terms of technology and people to do what we're committing to.

● (0950)

**Mr. Matt Jeneroux:** I have one final comment. You mentioned partisanship.

It won't be a question. I promise, Chair.

In terms of the partisanship of the committee, we were working in a non-partisan way until the budget came out. When the budget came out I think it surprised a lot of us on this side of the table.

That's just a comment.

**The Chair:** Fair enough. Your time is up, Mr. Jeneroux.

**Hon. Scott Brison:** I want to give him every reassurance that we're open to your ideas and suggestions. If that helps to get rid of any unnecessary partisanship, I'm glad I was able to help.

**The Chair:** I appreciate you turning the temperature down on the boiling pot there, Mr. Minister.

We'll now turn it over to Mr. Erskine-Smith.

**Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.):** First, thank you, Minister, for attending today.

In the backgrounder I have before me entitled "Government proposals to revitalize access to information", it says:

In 2014-15, federal institutions spent over \$67 million in direct costs to administer the Access to Information Act.

That was for staff and business systems for processing requests. It doesn't include costs associated with business areas, and searching for and reviewing documents.

Do we assess the costs of folks reviewing and searching for documents? As an evidence-based decision-making government, are we trying to capture that time and the cost to government of that time?

**Hon. Scott Brison:** A \$60-some million figure is what I'm familiar with. By the way, the amount of fees we collect is pretty tiny compared with that. We have about \$300,000.

Jennifer may have some insight in terms of some of the other costs.

You've made a good point. You can't manage what you don't measure. The degree to which we actually understand some of the less obvious costs really is important as we're making decisions.

Jennifer.

**Ms. Jennifer Dawson:** I would say that, to date, we have not tracked those costs outside of the direct processing cost. We have close to 70,000 requests annually, so we haven't tracked the indirect costs associated with that as part of the tracking process associated with moving all of that material through.

**Mr. Nathaniel Erskine-Smith:** Would we be able to be provided with a full breakdown of that \$67 million?

**Ms. Jennifer Dawson:** Do you mean the direct cost spending?

**Mr. Nathaniel Erskine-Smith:** The direct cost, the \$67 million.... Could we receive a full breakdown at this committee?

**Ms. Jennifer Dawson:** I will see what I can provide, yes.

**Mr. Nathaniel Erskine-Smith:** Thanks very much.

With respect to the timeline, I understand we have an interim directive as of today. We are looking at a first phase of review, and the ministry has identified certain changes within your mandate letter, but you are open to other changes. Then, in 2018, there is going to be a larger consultation process that comes to fruition.

I am a backbencher, and I am very happy to see this government empower committees. I share Mr. Blaikie's concern about acting as quickly as possible on the duty to document and some other items that are in Ms. Legault's report. We are going to get a report from this committee out in June. Ideally, we are going to talk about the duty to document, extension rules requested by departments, and extending the Access to Information Act to other bodies, not just the ministers' offices and the Prime Minister's office, but also to publicly funded bodies. Ms. Legault has proposed changes in that regard, with a threshold of \$5 million of funding or over 50% of funding. We will also make proposals with respect to exclusions or exemptions, sanctions, and the duty to report destruction.

The more we put into that June report, the more I would like to see in that initial phase of changes. I wonder if you could comment on that. Are you looking for around-the-edges changes in proposals to the first phase that you have identified, the changes you have already identified? How much can we pack into that first phase to actually get this done within our mandate?

**Hon. Scott Brison:** First of all, starting immediately, we are making some changes. I am open to.... I have laid out what our platform commitments are and what our mandate commitments are. If you have just suggested ways we can strengthen those, that's fine. If there are some other things we can move forward that could be part of the first phase of legislation, we would be interested in that.

Part of issuing the directive today was that we wanted to have some early deliverables to get some things done in the short term as we are working to ensure that through the first phase of the legislative changes, late 2016 and early 2017, we do the others. Those will be focused on what we have already proposed that can be strengthened and improved by the work of this committee, and if there are some other areas.

For instance, in terms of the policy of information management within government now, that information is available to the committee. There may be things we can strengthen in terms of that practice now. It is something we would be interested in.

● (0955)

**Mr. Nathaniel Erskine-Smith:** I appreciate wanting to do a full consultation in 2018. I would just note that the Office of the Information Commissioner, obviously, did a fulsome consultation in advance of her recommendations. We are doing a consultation here, and Newfoundland, I would add, did a fulsome consultation before making their changes. I spoke to the Canadian Journalists for Free Expression, and they claim that is the gold standard in Canada. I think we can already look to consultations that have occurred to make our changes.

Thanks very much, Minister.

**Hon. Scott Brison:** Thank you very much.

**The Chair:** Thank you.

We have Mr. Blaikie left on our official rounds of questioning. If any other colleagues would like to be put on the list, we will simply move to ensure that all members of Parliament's privileges are respected and they have an opportunity to ask questions.

Mr. Blaikie, you are up for three minutes, please.

[*Translation*]

**Mr. Daniel Blaikie:** Thank you very much.

Through my communications with the Information Commissioner, I understand that the commissioner's office had a backlog of 3,000 complaints and that it receives about 2,000 complaints per year.

Does Budget 2016 provide additional resources to the commissioner's office, failing which the complaints of thousands of Canadians will not be processed?

**Hon. Scott Brison:** I met with the commissioner recently and we agreed to continue discussing important aspects of her work and the work done by her office. Resources are an important issue and I take it seriously. We will ensure that the commissioner has the necessary resources to do her work. Discussions are ongoing because it is very important for the commissioner's office to have the necessary resources to carry out its very important work.

[*English*]

**Mr. Daniel Blaikie:** We've heard about the importance of the work of the Information Commissioner, and there are some other examples with the government. For instance, a lot of members express concern and support for expanded palliative care in Canada, but it's hard to square the idea that something is a priority of the government when it doesn't appear in the budget.

How do you square those things? When you were in opposition, and you saw the previous government doing something like that, would you not have said at that time that if it doesn't appear in the budget, and if there isn't money attached to commitments that require money in order to implement, that it's not a priority of government?

**Hon. Scott Brison:** I was darn good in opposition, so I understand the role you're playing. It's an important one as a challenge function to the government, and we want you to hold us to account. When you talk about palliative care, our health minister is working closely with provincial governments. One of the things with health care is that it's a shared responsibility. We transfer funds, but we also want to work closely with the provincial governments.

My understanding is that Manitoba has quite a strong home care policy for instance and quite a well-developed palliative care policy.

**Mr. Daniel Blaikie:** We also have a history of NDP governments.

**Hon. Scott Brison:** Until recently.

One of the things I learned over a long time here is that no party has a monopoly on values or the desire to serve Canadians well. There have been good governments of all stripes, both provincially and federally, although there is one that hasn't yet had an opportunity federally. The point is there are good ideas, and I cited some: Manitoba for instance, with what you've done on immigration over the years. You have a great model for immigration. It's something that we can learn from in Atlantic Canada. I cite the Manitoba model. I just want good ideas, I don't care what party they come from. You might even have a good idea for us. I'm looking forward to it. I bet you do.

**Voices:** Oh, oh!

● (1000)

**The Chair:** If that's not the most optimistic thing I've heard all day at committee, then I don't know what is.

Colleagues, we now are just going to move in the order in which people indicated to me.

I have Mr. Kelly, then Mr. Patina, and then Mr. Long. Let's keep it all at about five minutes, and then we'll see what time we have left, and we'll go from there.

Mr. Kelly.

**Mr. Pat Kelly:** Thank you.

We don't want to be bogged down in partisanship, and I completely agree the issues that are before us are not partisan. I frequently find myself agreeing with and enjoying the thoughtful questions my Liberal colleagues and Mr. Blaikie ask. I also noticed sometimes in these matters when a member of the government is confronted with either a question or facts that make them uncomfortable, they mention partisanship and talk about the need for evidence-based decision-making.

Minister, can you address a question that Mr. Jeneroux asked and talk about the evidence that has guided these interim decisions? Also, can you make a commitment, if you're able to, that if this committee makes recommendations based on much of the evidence we've collected from other provincial commissioners—for example who think that privacy and access to information should be combined or to reject the order-making model—you will reverse the decisions you've already made?

**Hon. Scott Brison:** We will consider the recommendations you're making.

Keep in mind, any changes we make will only be in the application and the evaluation of the implementation, and the results of those that we'll be able to fully evaluate. We will be taking seriously all the recommendations of this committee. If there are some recommendations that are not just based on the recommendations, but on the testimony that contributed to those recommendations, maybe that approach is better.

We also have a reality that I have a mandate letter where there are certain key commitments we've made that have been based on a significant amount of research and work in building a platform and a mandate letter. I can tell you, if there was something I felt was compelling and changed my mind on some of this, I would certainly talk to our government, and our Prime Minister, and I'd say this is something.... Politicians are sometimes attacked for changing their mind. They're always saying they flip-flopped or whatever. The politicians who worry me are the ones who don't change their mind when they're faced with new facts or evidence. They're the scary ones. There should be nothing wrong with politicians who when faced with the facts change their minds. When the facts change, I change my mind.

**Mr. Pat Kelly:** That would be refreshing. Perhaps many politicians lack the courage to admit that they've changed their mind, and they try to deny that they've flip-flopped.

**Hon. Scott Brison:** Hell, I even changed my parties.

**Mr. Pat Kelly:** Yes, indeed.

**Some hon. members:** Oh, oh!

**An hon. member:** Come on back.

**The Chair:** Timing is everything.

**Mr. Pat Kelly:** I don't know how the rest of my colleagues would feel if you wanted to come back, but....

We haven't talked, actually, about one of the key recommendations that many of the provincial experts have made to this committee, and that is whether access to information and privacy ought to be handled by one commissioner.

We also heard, and this goes to some of Mr. Erskine-Smith's comments, about allocation of resources. These offices spend a lot of money on internal services. We've also heard the concern from Professor Drapeau about the misallocation of resources.

Would you be open to combining those two offices should this committee recommend that? We've heard some strong recommendations in that direction.

●(1005)

**Hon. Scott Brison:** There's an important tension, in some ways, between privacy and access to information. I view that positively. I do think, and this is my instinct, not having had the benefit of all the testimony and your report, that having distinct offices does have its advantages. I'm interested in looking at other models. There will be times when the Privacy Commissioner will quarrel with what the Information Commissioner wants in a particular area.

I'm interested in the best possible model. These are officers of Parliament. There are stakeholders with whom to have these discussions. The resource question, which was raised earlier, is an important one as well. We take all those questions seriously. What is the best approach? This will be valuable.

Did you see some of the benefits of having separate offices?

**Mr. Pat Kelly:** We're collecting our evidence. We haven't been through the process of making a final determination, but it was one that each of the provincial commissioners we heard from as witnesses.... There's been much evidence from many witnesses on the strength of the Newfoundland and Labrador model, which, as with the other commissioners, is a single commissioner.

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

We can come back to that. I think we'll have more time. We'll try to keep it to five minutes, as we do for the second round.

Just as a reminder, in this particular environment we're all parliamentarians at the table. Usually it's the witnesses who are answering questions and the committee members who are asking them.

Mr. Brison, you have a 17-year history of being around the table asking questions.

**Hon. Scott Brison:** I know, I know.

**The Chair:** I'm sure that's a habit for you.

**Hon. Scott Brison:** But I want to listen.

**The Chair:** Yes, but....

Mr. Bratina, five minutes, please.

**Mr. Bob Bratina (Hamilton East—Stoney Creek, Lib.):** On the notion of timelines, and 1983, and where Mr. Lightbound was at the time, in 1965 I began my broadcasting career in Stratford. They handed me a tape recorder and said, "Go and interview John Diefenbaker." There was an election at the time. I asked him a question, and his answer was, "I'm sorry, I don't understand the question." We'll see if I've learned anything in 50 years.

**Voices:** Oh, oh!

**Mr. Bob Bratina:** Peter Moon was there from *The Globe and Mail*. He said, "Sir, what are your views on education?", and he got a 10-minute answer. I learned: you ask simple questions.

Recommendation 6.1 states: “The Information Commissioner recommends that institutions be required to proactively publish information that is clearly of public interest.” You’re engaging with institutions right now, and the public, to determine what information is of public interest. Should the information that is proactively published be made accessible only to Canadians—we talked about this earlier—or foreign civilians and institutions as well?

The question I have is with regard to this notion of public interest. In my long broadcasting career I was all through the Watergate stuff and what was of public interest. Would you reflect on that, on what is the public interest?

**Hon. Scott Brison:** Thank you, Mr. Bratina. Every time you speak with that baritone voice I think you must have been a great broadcaster, and also a politician municipally.

The Nixon White House isn’t exactly the model we’re seeking.

One of the things about proactive disclosure is that it actually cuts the administrative costs in some ways and the processes of access to information. Your chair mentioned that to me the other day, and it is true that the degree to which we actually put the information out there so people don’t have to go through a request process....

Some of this has just happened technologically. When I was first elected in 1997, and when I had a speech to write, I used to do so many requests to the Library of Parliament to get information for a speech. Today, when I’m writing a speech at my house in Chéverie, Hants County, Nova Scotia, I go on Google and google the stuff, and I’m using the same Internet search engine that some kid in grade 8 writing a paper is using. There’s been a democratization of information without any change in laws. We’re the ones—and I’m talking about government collectively—who have to catch up.

This is just putting the information out there and determining what information.... What I like about what technology has done in terms of democratizing information, and what we are seeking to augment in terms of modernizing access to information, is that if you give the public and the parliamentarians as much information as possible, and as close as it can be to the information from which we’re making decisions, I think there can be a convergence in terms of what the best ideas are, because we’re guided by the same information. The degree to which we eliminate that delta between the information the decision-makers have, say, in a cabinet room and the information the parliamentarians or Canadians have can create the opportunity for better decisions to co-emerge with more broad support.

I’m quite excited about this.

•(1010)

**Mr. Bob Bratina:** I just have a moment. In the report “Striking the Right Balance for Transparency”, the Information Commissioner recommends various offences and penalties for cases where the act is being violated. Where would you be on the notion of penalties?

**Hon. Scott Brison:** There are penalties now, in fact. Anyone who obstructs the Information Commissioner in the performance of the commissioner’s duties or functions under the act is guilty of an offence and liable upon summary conviction to a fine of \$1,000. There are others. If you destroy or alter records, or falsify or make false records, there are fines for that to a maximum of \$10,000.

There are penalties currently. I’d be interested in how they compare with other jurisdictions. I haven’t done all of that research yet.

**Mr. Bob Bratina:** Thank you.

I’ll leave it at that, and I’ll pick that up later.

**The Chair:** Thank you.

That was about five minutes anyway, Mr. Bratina, so I appreciate that very much.

We’ll move on to Mr. Long, please.

**Mr. Wayne Long (Saint John—Rothesay, Lib.):** Thank you, Minister Brison. I appreciate your being here today.

I just want to applaud you for your passion and conviction and for being a strong advocate for access to information. I think it’s refreshing for all of us to see somebody as open, transparent, and forthright with answers as you have been for us. I want to thank you for that.

I think it was very nice to hear Commissioner Legault come out and say that she applauds the government for our spirit of co-operation in our early days. I think that’s a very positive thing.

I just want to focus on a few of her recommendations. One of the things she suggests is the mandatory five-year review. That’s going to allow basically every government, every mandate, to have a review. I just want to get your thoughts on that and why you feel that’s important, and follow up on how you think the reviews should be and will be conducted.

**Hon. Scott Brison:** Certainly. We appreciate that Commissioner Legault said some positive things. From time to time she won’t agree with us, and we appreciate hearing from her when she doesn’t agree with us as well.

In terms of the five-year review, we just don’t want to get back to the same place we’re in now. I take your point, that there have been some changes, but there haven’t been significant updates since 1983. Given the degree to which there has been a revolution in digital and information technology since then, this is an area that needs....

If anything, we think we’ve been through a period of incredible change. The rapidity of change will only increase. As we move forward in ensuring a five-year review, it doesn’t mean that this committee can’t review and suggest amendments between those mandatory five-year reviews; it just puts a stake in the ground.

•(1015)

**Mr. Wayne Long:** Thank you.

I didn’t realize that you’ve been actually up here for—what?—18, 19 years?

**Hon. Scott Brison:** It’s 19 years on June 2.

**Mr. Wayne Long:** My, oh my. I told my friends and my wife, if I were here for more than eight years, to get the hook and pull me out, so congratulations.

**Hon. Scott Brison:** This is a very seductive place, Mr. Long. When you get up here, you—

**Mr. Wayne Long:** We’ll see. It’s different from hockey, I see that.

**Hon. Scott Brison:** I can tell you and some of your new members: as exciting as Ottawa is, make sure you spend lots of time in your constituencies. I wouldn't be here, elected seven times, if I had been seduced totally by Ottawa. The people of Kings—Hants know my commitment there. Work hard in your constituencies, particularly in the first six months, the first year. Work your butt off in your constituencies; it's really important stuff.

That's gratuitous advice from somebody who's been around, some would say, too long.

**Mr. Wayne Long:** Thanks for the advice. I appreciate it.

You've been up here for quite a while and have been through different governments and different parties. One prevailing thing we've talked about, no matter what witness has been in, is the culture—the culture of delay and the culture of secrecy. We, this government, have been called laggards, and so on and so forth. Recognizing that culture doesn't happen immediately but happens over time, and that culture certainly is something that can change with the proper leadership, how in your opinion has the culture of secrecy, the culture of delay developed, why has it developed, what have you seen, and when did it really take a sharp turn?

**Hon. Scott Brison:** I think every government gets elected with the best of intentions. The test of a government is to remain true to those values.

My view of committees and the work of committees has been formed as somebody who served on committees for a long time and who took the work seriously and became frustrated sometimes. This is the fifth committee, of both Senate and House, that I've appeared before since becoming Treasury Board president.

Some of the toughest questions are actually asked sometimes by Liberal members, and I think that's a good thing. We don't as a government provide questions to government members to ask us. We want to hear from them, because you're legislators; you all have a responsibility. This is something that's in our Parliament. It's not just opposition members who have a responsibility to hold the government and the cabinet to account, but government members, and not just in a caucus room, but at a committee. This is valuable.

I don't want to be partisan; I just want us to do the kinds of things that are consistent with what we've committed to, both in terms of specific commitments but also broadly in terms of an open and transparent government and trusting people, trusting Parliament, and trusting citizens to help us inform the decisions we take as a government. I think we'll get better decisions.

**The Chair:** Thank you very much, Mr. Long. That's about five minutes. I'm trying to keep it to that, in fairness.

Every member of Parliament now has had an opportunity to ask questions. I still have Mr. Massé, who I think wanted one more follow-up question, and then I have Mr. Blaikie—if you can keep it brief, because you've had well over 10 minutes already—and then we'll go back to Mr. Jeneroux for the same reason.

Oh, Ms. Murray, if it's the will of the committee, I think there's nothing wrong with that.

I have something anecdotally to add to the conversation that you and Mr. Long were having. I had a mayor of a small village in my

constituency whom I was very fond of. I found out that he wasn't running again. I asked him why, and he said, "Politicians are like diapers: they should be changed regularly, and often for the same reason."

**Hon. Scott Brison:** Mr. Calkins, if I could respond to that, I have twin daughters two years old, and my day begins with doing exactly that.

**The Chair:** Some of us end up stuck here, and that seems to be the way it goes.

Mr. Massé, go ahead, please.

[*Translation*]

**Mr. Rémi Massé:** I have another question for you, and I think it follows from what my colleague Mr. Long raised earlier. There has been a lot of talk about the culture that makes it difficult to access information. The government is the largest employer in Canada. There are so many departments and programs. As a result, there is a tremendous amount of information and documentation.

Access to information is a great idea, but people must truly have access and be able to publish it. I would like to hear your thoughts on information management and how access to this information can be facilitated.

• (1020)

**Hon. Scott Brison:** Thanks once again for your question.

It is not simply a question of changing culture; we must also take action. To some extent, it depends on technology, information technology and human resources.

It is always difficult to change, to implement changes throughout government. Shared Services Canada, for instance, was a big challenge for the previous government and it remains a challenge for the current government.

[*English*]

For us going forward, you've been a public servant.

[*Translation*]

Our public service in Canada is outstanding. For a government such as ours, which has an ambitious and progressive agenda, these are very important issues. To implement another program, we will have to work very closely with the public service. To this end, we have to restore respect for the public service.

This will require a change in culture, in approach, in information technology, and in human resources. We must restore openness, along with respect for the public service and for Parliament. This is all important.

**Mr. Rémi Massé:** In discussions with various witnesses, there was reference to a portal to improve access to information.

In this regard, I would like to hear about the open by default model.



[English]

**Hon. Scott Brison:** This is a good question. It goes back to my earlier conversation with Mr. Calkins briefly this week in terms of this, and Mr. Bratina mentioned this as well. The more information we actually put out there that is open by default, the lower the administrative burden in terms of ongoing.... Right now the onus is on citizens to prove why they deserve to have the information. With open by default, the onus is on government to say why the citizens don't deserve that information. That's where we have to evaluate the reasons why something can't be out there.

I find it compelling, and again I ask the committee to understand that as we move in this direction, it will take time and we will err sometimes as we're doing this. You can't make significant changes in government, or business, or any organization without sometimes making mistakes. I would rather us make mistakes and move forward with an agenda that is moving towards progressive and open and transparent government than to sit still.

[Translation]

We will try to make major changes in order to make government more open and more transparent.

[English]

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

Mr. Blaikie.

**Mr. Daniel Blaikie:** I'll start by reassuring the minister it's not my intention to be inappropriately partisan on committee and humbly submit that sometimes when an exposition of fact is characterized as or feels partisan, it can have as much to do with the partisan loyalties of those hearing those facts as it does with the partisan loyalties of those presenting them.

• (1025)

**Hon. Scott Brison:** That's right.

**Mr. Daniel Blaikie:** Given that, I would say—just to put into historical context the sense of urgency I feel about getting a duty to document within the interim directive—that in 2006 a new government had been elected and had made a lot of noise about accountability and transparency in government. They had proposed at that time, or undertook once they were elected, to carry out that reform in a two-step process. They were going to bring in certain measures and did, and there were some independent officers of Parliament created, and there was some activity. Then the second step never came. In fact, things got significantly worse.

You're a non-partisan champion of access to information and someone with great knowledge of the kind of institutional inertia of government. Given that historical example, would you not say it is important, on some of these things that have been well researched and consulted on at various levels within Canada and internationally, that we get a number of those important changes done as soon as possible, so we don't end up in a situation such as I mentioned where the follow-through on the larger reform doesn't happen because the culture of government either takes over or changes, depending on how you want to characterize it?

**Hon. Scott Brison:** Thank you very much. Let me be clear. I am a partisan. I just suggested that the work of the committees can be less partisan. I know you understand that, and I also know the role

partisanship plays in this, and that's not an entirely destructive one. There's a reason for that.

You're suggesting we're not moving fast enough. Mr. Kelly is suggesting we're moving too fast. It's like the three bears thing. We're trying to get it just right.

**Mr. Daniel Blaikie:** You're not Goldilocks in that analogy, are you?

**Hon. Scott Brison:** Not yet.

The fact is we have made specific commitments. We're making some changes now. We've laid out a time frame within which we will implement specific and important changes. When I was in opposition, leading up to the 2011 election, it was my motion that led to the government of the day ultimately being found in contempt of Parliament by the speaker for not providing information on costing of legislation at that time. I'm not saying that to be partisan, but I'm saying I have some history on this in terms of understanding, and it's not just that specific government. Governments tend to be covetous about information and that's why we have to not just seek to change a culture, but also change the legislative framework and the rules, and update the legislation so there's some hard ground from which all governments will operate.

This should not be partisan, and I go back to my example. What frustrated me at the time was that some of the members of Parliament, the members of committee, who were part of the governing party, didn't seem to realize that when the government's not providing information to Parliament, it's denying not just opposition members, it's also denying governing members the information they need to do their jobs. There's a basic constitutional and fiduciary responsibility for members of Parliament to hold government to account, particularly around budget measures and spending.

One broader discussion we were having...we were reforming the estimates and budget processes to make them more transparent and you've participated in an opening briefing on that. As we move forward this is going to be important work as well, in order to hold governments to account on that.

Time will tell. We're committed to implementing this agenda, and there will be challenges to it, but we're committed to implementing the agenda and moving forward with a more open and transparent approach.

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

We have three more colleagues—Mr. Jeneroux, Ms. Murray, and I think Mr. Saini had one quick question.

Just as a reminder to everybody, we actually have an adversarial system. It purposely is designed that way.

• (1030)

**Hon. Scott Brison:** That's right.

**The Chair:** We have the cut and thrust of debate, and the good ideas bubble to the top, to the benefit of all. Sometimes we get bogged down in the first one, and we forget a little bit about the second one. That's when things get partisan.

**Hon. Scott Brison:** Sure.

**The Chair:** But this committee's not working that way, I can assure you, Mr. Minister. We're working on the second. We're still focused on that.

Mr. Jeneroux, you have up to five minutes, please.

**Mr. Matt Jeneroux:** Thank you, Mr. Chair.

Thanks again, Minister. Although I appreciate a lot of the storytelling and reminiscing around here, I'd like to get back to some of the task at hand. Hopefully you're not seeing it in a too partisan way, but if you were able to answer the questions a bit more directly, it would be appreciated.

As one final comment, with regard to your comments about moving too fast being our criticism of the process, I just want to be clear that it's not necessarily our criticism of the process; it's moving unilaterally, not necessarily too fast. I'm just clarifying the record there.

I want to get back to my previous question on the cabinet documents and then being open to the commissioners. You seemed to be open to the idea of certain ones, but when it came to public safety, I think you indicated a number of times that of course that would be kept confidential. However, there are certain things we've seen recently that aren't necessarily open and where it would be beneficial to certain commissioners to be able to access that.

I will use the example of the Minister of Justice. Her husband works for an organization that lobbies her department. Currently there is nothing the Ethics Commissioner can do, in terms of the cabinet documents, to ensure that's not being abided to....

I'm hoping that you're open to removing some of these types of ethical screens in the cabinet documents so that it's not just based on the public safety and privacy, which we're aware of, but also so that we can have more understanding, as can the Ethics Commissioner, that this is not affecting her job or compromising her department.

**Hon. Scott Brison:** We cooperate fully with the Ethics Commissioner, with Ms. Dawson's office. For those of us who have been members of Parliament before, we all work with her and her office on an ongoing basis as ministers, and previously as members of Parliament, and we will continue to do so.

I want to ensure that she—

**Mr. Matt Jeneroux:** The point is, though, that she can't verify that you are cooperating, particularly where it comes to the Minister of Justice and her husband. It seems to be a direct conflict of interest, but the Ethics Commissioner does not have access to the documents to be able to verify that.

That's where I'm hoping you will be able to provide a yes or no answer, which would be great, on whether that would be something you would be open to.

**Hon. Scott Brison:** I'm absolutely open to providing a yes or no answer if you ask me a yes or no question, but you're asking a pretty complex question. It's my view and my understanding that all ministers of our government have engaged fully and honestly with the Ethics Commissioner, and take very seriously her recommendations and any approach to ensure there's no conflict.

Anything we can do to strengthen it, we're open to that. Our ministers take that responsibility very seriously.

**Mr. Matt Jeneroux:** I guess that's a roundabout yes, perhaps.

Just quickly, yes or no, would you be open to the Ethics Commissioner having access to cabinet confidential documents when it pertains to instances like the justice minister and her husband?

**Hon. Scott Brison:** Well, even in Sweden's example there are cabinet confidences that are protected around certain measures. Take a justice minister as an example. In her work, she would have.... A cabinet deals with public security, national security, financial policy, which is government or cabinet broadly, supervisory activities, public authorities. This is from Sweden, Mr. Jeneroux.

What I'm saying is that there are—

• (1035)

**Mr. Matt Jeneroux:** But we have a specific example that I'm pointing out, with her husband being in conflict of interest with the justice minister.

**Hon. Scott Brison:** I'm not being argumentative, but I don't believe the commissioner has said that. In fact, I'm certain she hasn't said that there is.

**Mr. Matt Jeneroux:** She can't verify it; that's the point. She can't verify it through the cabinet confidential documents. You know this, Minister. I was hoping to get a yes or no answer; however, it doesn't seem that you're open to that today.

**Hon. Scott Brison:** I can assure you that the Minister of Justice is somebody of the highest ethical standard, and I feel very strongly about that.

**Mr. Matt Jeneroux:** We would love to verify that as well.

**Hon. Scott Brison:** That is consistent with the Ethics Commissioner's opinion that in fact there's not a conflict here—

**The Chair:** I think we've exhausted this—

**Hon. Scott Brison:** —but I appreciate that very much.

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

Ms. Murray, welcome to the committee.

**Ms. Joyce Murray (Vancouver Quadra, Lib.):** Thank you very much, Mr. Chair. I appreciate the opportunity to join in this discussion.

I want to talk a bit more about the culture of secrecy, because that seems to be a key thing that has come up at this committee. I acknowledge that I'm here as a visitor and so haven't been part of your previous discussions.

One of the members talked about information systems and the difficulty of organizing information. I think it was Mr. Massé. I just wanted to note, with the report of the Auditor General this week, that in his remarks to the public accounts committee that was certainly a theme: that data is not being used effectively. I think that is a challenge.

What I wanted to bring forward is the idea of risk aversion as being one of the bases for the culture of secrecy. Risk aversion is a long-term aspect both of the political side, but I think also of the bureaucracy side. I think that is directly connected.

Minister, you're working on public service renewal. One thing you've talked about is that you want to get young people into the public service. In terms of public service renewal, there has also been discussion about having a culture in which it's okay to fail or to try something that doesn't work. I want to ask you what your thoughts are about how these things connect: enabling the public service to take risks without there being terrible consequences, and then how that might connect with the idea of a culture of secrecy.

**Hon. Scott Brison:** Thank you, Joyce.

Joyce and I first met when she was a cabinet minister in B.C. and I was Minister of Public Works. We were dealing with issues of shared services between the federal and provincial government—that was back around 2005, I believe—and she brings with her that experience.

We need to renew our public service. We have a first-class public service. One thing is that the average age of new hires within the public service now is 37, which would seem ancient to Mr. Lightbound over there. Millennials represent the most digitally connected generation in the history of Canada, but also the most educated and informed, and we need to find ways to attract them. They want to know that they can make a difference, and the only way you can make a difference is if you can try new things. The problem is that if you try new things, some of those things won't work out, and if you create a culture of fear in the public service that if you try something that fails you're going to be in trouble, that cover-your-butt kind of culture is anathema to innovation.

We have to create a culture of intelligent risk-taking within the public service enabling some level of entrepreneurialism within it. Mr. Long has been an entrepreneur. I don't see any reason why the best instincts of entrepreneurs cannot be harnessed in government, in both politics and the public service. We want to do that.

That's why I've been totally transparent this morning, saying that as we do these things we will err sometimes and will try something that doesn't work, or we may find that something we hadn't thought about makes a lot of sense. We can hear from you and others. We really want to do that.

For young people who want to make a difference, public service still represents one of the best places to do it, in the government as a public servant, in politics—and in opposition as well as in government. Don't take for granted for one moment the opportunity, the privilege you have to make a difference, wherever you sit in the House of Commons. There is no bad seat in the House of Commons.

• (1040)

**The Chair:** Agreed.

**Hon. Scott Brison:** There's no place from which you can't make a difference.

**The Chair:** Committees do look better from the chair, that's for sure.

Thank you, Ms. Murray

We're going to move on quickly to Mr. Saini.

**Mr. Raj Saini:** I have one question for you Minister. We're investing a lot of time and energy into coming up with a framework we believe would satisfy government and the public. My only worry is, how are we going to disseminate this information to the public, and how are we going to educate the public as to what we're doing, the rights and obligations, or the rights they have and the obligations we have?

How do we disseminate this information so the work we've done here doesn't stay in a bubble or doesn't stay located to certain privileged access, or to certain institutions or people? How do you feel the education rollout should happen? Should it happen from the commissioner? Should it happen from the government? Should it be a hybrid model? All this work is being done for the benefit of Canadians. How do we make sure they receive that benefit?

**Hon. Scott Brison:** That's a great question. It's one I have not thought of before. Part of it will happen organically because when you make an announcement it gets carried. There will be stories on it. News will carry on that. You make a good point. To what extent should we proactively promote these changes? I'd be interested in the committee's view on that. The one thing about social media is that the ability to do that cost effectively is significant through social media. We do want to get the word out about these changes, so that people are aware of them.

My initial thought would be some of it happens organically, but I think we need a proactive approach, particularly in terms of social media making people aware of it and being able to participate in it. Your point is quite good. People who may never have thought of seeking this information may think of it as important, as opposed to the people who think all the time about this, and are the only group of people who are the stakeholders and who are aware of it. I haven't thought it through, but maybe part of your report could be on how we could disseminate some of the information.

**The Chair:** We have just a minute left. If colleagues don't mind, I have a quick question for you, Mr. Brison, dealing with frivolous and vexatious requests. Part of this deals with an issue I dealt with when I was a member of this committee years ago in a previous Parliament, and it involves Mr. Drapeau, who was also a witness, where a crown corporation, namely the Canadian Broadcasting Corporation, would hide behind a clause concerning journalistic integrity and not provide information many people thought was sufficient.

Frivolous and vexatious would in my mind impugn the motives of the person who was asking the question, and I think we need to be careful about these things. I don't disagree that it happens. Common sense would often tell you when something is being frivolous and vexatious, but how do we quantify that in language so we get clear instructions and directions to those who would be administering those policies?

I would be curious if you, sir, had any thoughts on the recommendations from the commissioner who talked about having more access to information in our crown corporations and not necessarily directly government departments? I know she has some recommendations there, and I think the Canadian Broadcasting Corporation would fit into that. Do you have any comments, sir?

•(1045)

**Hon. Scott Brison:** I think for any agency of government, whether it's a department, an agency, or a crown corporation, the transparency bus has left the station. These changes we make as a government in terms of overarching policy will affect everyone and will have an impact. I think for all intents and purposes, the demands for more information from all agencies associated with the crown will grow. You can't make these kinds of changes without it affecting crown corporations at some level.

We will work with the information commissioner, and we will work with crown agencies. That includes everything. That includes port authorities, as an example, or airport authorities. Anywhere you are managing public assets, or expending tax dollars, there will be some level of .... Anyone who says to me the reasons .... You had better have some reasons, whether it's national security, or privacy, or something. There are compelling reasons, let's be clear, but they had better be compelling.

**The Chair:** I agree. Thank you very much for that answer.

Just as a matter of curiosity, there are three members of Parliament at this table today, who were born after Access to Information. Sir, you are going to be having a birthday in the very near future, I won't name the date, but I wish you many happy returns, I've calculated your age both on the Gregorian calendar and on the after Lightbound calendar. I won't say what that number is, but we wish you a very happy birthday.

**Hon. Scott Brison:** Thank you.

**The Chair:** We thank you so kindly for coming for a full two hours.

**Hon. Scott Brison:** Thank you.

**The Chair:** Colleagues, thank you for your collegiality around the table today.

**Hon. Scott Brison:** Thank you very much. I appreciate it.

**The Chair:** This is most helpful.

The meeting is adjourned.

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