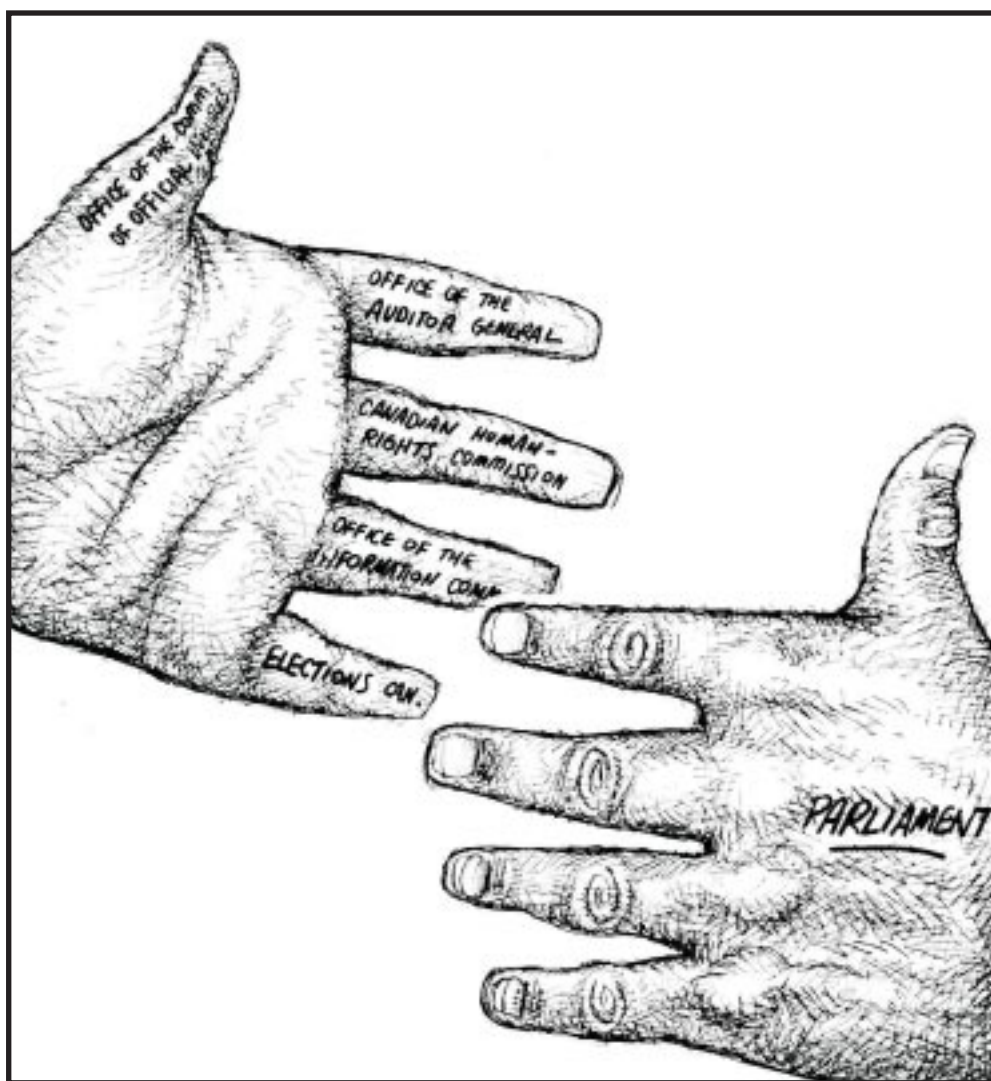


AGENCIES  
THAT REPORT  
TO PARLIAMENT

OCCASIONAL PAPERS ON

# PARLIAMENTARY GOVERNMENT

NUMBER 14/15: SEPTEMBER 2002



# OCCASIONAL PAPERS ON PARLIAMENTARY GOVERNMENT

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## In This Issue...

MPs and Senators benefit greatly from the work of a half dozen agencies that report directly to Parliament rather than, as government departments do, through a minister. Paradoxically, while their work enhances parliamentary oversight by monitoring and reporting on the effectiveness of government programs, by ensuring the equity of elections and by promoting transparency of government, their heads have been appointed by government, which also determines their budgets.

Impressed by the contribution of these agencies to the efficacy of the legislature, the Parliamentary Centre decided to organize a panel discussion, amplified by interviews, with the heads of these agencies. We wanted to know how these officers of Parliament, as they are known, actually relate to Parliament and what changes in these relationships and those with government could improve their effectiveness.

This report is particularly timely, since the Modernization Committee in 2001 recommended that the Heads of Agencies reporting to Parliament should be appointed by the legislature. In addition the newly established Committee on Government Operations and Estimates was given some responsibility for monitoring the work of a number of these agencies.

## TABLE OF CONTENTS

Introduction .....	3
Chapter 1: Your Interaction with Parliament .....	7
Chapter 2: How you Advance the Impact .....	13
of your Findings and Recommendations	
Chapter 3: The Approval Process for your Budget .....	19
Chapter 4: Your Independence from Government .....	23
Chapter 5: Method of your Appointment .....	27

**Cartoon by Anthony Jenkins**



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## THE RELATIONSHIP WITH PARLIAMENT OF AGENCIES THAT REPORT TO PARLIAMENT

### A PANEL DISCUSSION

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#### INTRODUCTION

Members of Parliament and the interested public benefit greatly from the work of a half dozen agencies that formally report to the federal legislature. These comprise Elections Canada, the Office of the Auditor General, the Office of the Commissioner of Official Languages, The Canadian Human Rights Commission, the Office of the Information Commissioner and the Office of the Privacy Commissioner. Although the heads of these agencies hold a number of distinct titles, all are generally known as officers of Parliament, which is entirely appropriate since their work enhances, directly and indirectly, the capability of MPs and Senators in many different ways. Even though they are funded from federal revenues, they are clearly distinct in their reporting relations from government departments and agencies.

We at the Parliamentary Centre thought that it would be interesting and useful to invite the heads of these six agencies to meet together for a discussion of their relationships with Parliament, with the government

and with each other. We thought that Members of Parliament and the interested public would find it helpful to learn what the heads of each of these agencies feel about these relationships, the problems they face in carrying out their mandates and the changes they would like to see in the way that they relate to Parliament and the government.

With these objectives in mind, we invited the heads of the agencies to participate in a panel discussion. Although all but one of the agency heads accepted our invitation, unanticipated last minute requests by parliamentary committees made it impossible for two agency heads to do so. However, they asked if a way could be found for them to participate at a later date. We agreed, gave them the transcript and recorded their responses on other occasions. The result is a consolidation of all the comments under the same set of headings. The one exception was the Privacy Commissioner, who did not wish to be included.

All of the agencies were established by Acts of Parliament. Some of them, specifically Elections

Canada and the Office of the Auditor General, have been in existence since the early days of the federation, contributing greatly to public confidence in the electoral process and in the expenditure of public funds. The others were set up a little over a generation ago in response to changes in the political environment and in public expectations. The first of the new ones, the Office of the Commissioner on Official Languages, was formed expressly to monitor and report on the application of the Official Languages Act that was adopted in July 1969. The Human Rights Act, which provided for the formation of the Human Rights Commission, was proclaimed on March 1, 1978, less than two years after Canada ratified a number of UN Covenants on civil, political, social and economic rights. It was at this stage that a lengthy campaign for the appointment of a parliamentary officer to promote access to information and to protect privacy that had been led for years by Jed Baldwin, a Conservative Member of Parliament, first bore fruit. Under Part IV of the Human Rights Act, Inger Hansen, who had only months before been appointed one of five Human Rights Commissioners, was in 1978 designated at the same time Privacy Commissioner and Information Commissioner. Five years later on July 1, 1983 the Privacy Act and the Access to Information Act were proclaimed. While a separate Commissioner was appointed to head each agency, since both were small in numbers, their offices were initially co-located and shared a common management staff.

Each of these agencies is distinct, having different responsibilities, facing different challenges and reporting to Parliament in different ways. All continue to evolve as they seek to develop practices to improve their effectiveness. In response to their different situations, each of them has met their challenges differently. Yet, since they all report directly to Parliament, they share certain concerns.

The agency heads (Denis Desautels, the former Auditor General, who participated in the panel two days before his retirement, Jean-Pierre Kingsley, the Chief Electoral Officer, Michelle Falardeau-Ramsay, the Chief Human Rights Commissioner, Dyane Adam, the Commissioner of Official Languages and John Reid, the Information Commissioner) were invited to comment under five separate themes. Their views are presented as expressed. No attempt has been made by

the editor to modify or contest the views expressed. As a result this paper makes no attempt to consider how effectively these agencies perform, or how they are regarded by Member of Parliament, government or the public. It concentrates on their perceptions of their relations with Parliament and government.

Five questions were identified in preliminary consultation as being areas of importance and sensitivity. These were: 1) your interaction with Parliament; 2) how you advance the impact of your findings and recommendations; 3) the approval process of your budget; 4) your independence from government; and 5) the method of your appointment. Note that the questions are deliberately put in the second person so as to elicit the opinions of the officers of Parliament about the situations of their agencies.

Our objective in publishing the candid observations of the heads of these agencies regarding their achievements, their quandaries and their aspirations under common headings is to make it easier for Members of Parliament to make comparisons. The utility of this approach has already been demonstrated by the recent decision of the House of Commons to strengthen the standing of the heads of these agencies by approving a recommendation of its Modernization Committee that they should in future all be appointed by a vote of the House. This decision by Parliament is commendable since, as Chapter 5—*Method of Appointment*—shows, there has to date been no uniform procedure for making appointments and Parliament's role has varied greatly. The office terms also vary substantially. Likewise the compensation arrangements differ widely; some receive salaries equivalent to judges, while the compensation of others is set by Treasury Board and may be modified by governmental decision, a situation that could constrain their independence.

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**Our objective in publishing the candid observations of the heads of these agencies...is to make it easier for Members of Parliament to make comparisons.**

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When consideration is being given to how the decision that Parliament approve the appointment of agency heads who report to it might be implemented, it is

worth examining the practices of some provincial legislative assemblies. For example, several provinces including Ontario, Alberta and British Columbia, assign to all-party committees responsibility for interviewing candidates and ultimately for recommending appointments of all agency heads such as the Auditor General, the Chief Electoral Officer, the Information and Privacy Commissioner and the Ombudsman. The names of the offices vary: B.C. uses 'statutory officers', Alberta refers to them as 'legislative officers' and Ontario refers to them as Officers of the Assembly. Advertisements are placed in national and provincial newspapers inviting applications. British Columbia sets the bar at a particularly high level by requiring that the committee's recommendation to the Legislative Assembly should be unanimous.

While their views differ in some particulars, all the officers of Parliament whom we interviewed with the exception of the Chief Electoral Officer (whose financial situation is unique) recognized that the fact that the government through the Treasury Board is responsible for approving their budget requests subtly limits their independence. They see this practice as a discreet form of control. For this reason they spoke with favour of the practice of the British House of Commons, where a committee of MPs of all parties is responsible for evaluating the work of agencies reporting to Parliament and for approving their budget requests. Since the services of these agencies are intended to strengthen the oversight role of parliament, most of them thought that Parliament should determine their budgets.

Again provincial practice is worthy of examination. The Legislative Assembly of British Columbia has recently

removed from Treasury Board responsibility for setting budgets for the offices of statutory officers. In its place the Select Standing Committee on Finance and Government Services has been assigned responsibility to review the terms of office and budgets of all statutory officers with power to recommend changes in legislation and to modify budgets.

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**Since the services of these agencies are intended to strengthen the oversight role of parliament, most of them thought that Parliament should determine their budgets.**

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In this field Alberta goes further. The select special committee formed to examine candidates for each office determines the salary, either by specifying the figure in the advertisements or, if a range is reported, by negotiating the actual figure. As for the budgets of these offices, they are all reviewed and determined each year by the Special Standing Committee on Legislative Affairs.

Finally all three legislative assemblies include the budgets of each of these agencies as part of the budget of the legislature, thereby demonstrating their relationships to the assembly.

We hope that this panel discussion will encourage MPs to consider whether, in addition to developing a democratic procedure for confirmation by vote of both Houses of appointments of officers of Parliament, there are other changes affecting some or all of these agencies that might make their work more useful to Members of Parliament and the Canadian public.

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## CHAPTER 1: YOUR INTERACTION WITH PARLIAMENT

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### Peter Dobell (PCD)

I suggest we begin with a question: how much contact does each of you have, formally or informally, with Parliament? Let's begin with Denis. In your case, I know it's huge, but perhaps you could briefly outline it.

### Denis Desautels

Well, you're right, we have a lot of contact with Parliament and in that sense we're quite privileged. The Auditor General's report, through a rule of the House, gets automatically referred to the Standing Committee on Public Accounts, whose task it is to review our report and hold hearings and hear witnesses. And similarly the report of the Commissioner on the Environment, who is part of this office, is also referred to the Standing Committee on the Environment. So through both of these channels we have automatic access to a standing committee. The Standing Committee on the Public Accounts meets year-in, year-out on our reports, so in a good year they can have in excess of 30 hearings on them. They tend to meet once a week, but sometimes more frequently. In addition, in the last few years we have been called by as many as 12 to 18 other standing committees.

### PCD

Do you report to any specific committee of the Senate or is it just when you are called?

### Denis Desautels

Only when called by a committee of the Senate. Tomorrow night, for example, I'm going in front of the Senate National Finance Committee to review a whole range of subjects. But in fact, ninety-five percent of our contact with Parliament is through committees of the House of Commons. On top of

that we do take other initiatives to augment contacts with Parliament. We offer to meet with the different party caucuses, particularly after an election.

### PCD

At their request or on your proposal?

### Denis Desautels

We take the initiative. We offer to meet with them after an election to brief each caucus on what we do, what we can do for them, so as to establish an easy, open relationship from the very beginning. On top of that we've been holding meetings with small groups of MPs from different parties, one party at a time.

### PCD

When you say groups of MPs, what brings them together?

### Denis Desautels

We would call each of the parties and ask if they would be interested in meeting with the Auditor General to discuss his agenda and their concerns.

### PCD

Do you suggest a specific subject?

### Denis Desautels

No. We tell them we want to meet to share our plans and to hear from them as to what's on their mind and what concerns them. I think the last one was with PC members, six or seven of them. Another was with the NDP. We had a little more difficulty doing that with the Liberals, but we've had some contact. These contacts have worked out quite well. I might also add that we do get a certain amount of correspondence from parliamentarians.

## Michelle Falardeau-Ramsay

I do something similar. I offer to MPs from all parties briefings on subjects that interest them. If somebody asks me for a briefing, let's say on aboriginal issues, then I will let the critics of the other parties know that I am going to give that briefing and, if they wish, I can do the same for them. I also receive requests for my agenda and for briefing books that have been prepared for meetings with Ministers and MPs and I always make them available.

## PCD

Dyane. What is your experience?

## Dyane Adam

I do not have as long experience as Denis as an agent of Parliament. I've only held the office for two years and this year was quite special because Parliament did not sit before February. So my experience is really only based on last year.

I'd like to comment on how the office of the Commissioner has worked with Parliament in the past. I have heard that, depending on the personality and working practice of the Commissioner, our office has either been at arms length of Parliament or very close to it. I am personally interested in establishing closer contact with Members of Parliament, by contrast with my immediate predecessor who preferred an arms length relationship. As a result our staff is not as close as I think they should be to the relevant staff of Parliament. To build that relationship, we are now attending all the meetings of the Joint Committee on Official Languages. I am prepared to go there whenever requested, either to speak about our annual report or on any other subject of interest to the members of the committee<sup>1</sup>. In addition we initiate meetings at times to indicate my interest in sharing our concerns with them or to report to them on matters on which I think they need to be informed.

We are at an advantage compared to some other parliamentary officers in that, like the Office of the Auditor General, we report to a committee specially concerned with our affairs—the

Standing Joint Committee on Official Languages. That this committee has representation from the two Houses presents some challenges, but it can also be a plus.

The Joint Committee has more or less decided that they want my office to be present at all their meetings, to help them to plan their agenda based on our annual report and the key issues that I, as Commissioner, feel that the Committee needs to consider.

It is possible that the Senate may decide to establish a purely Senate committee on official languages. If this happens, we shall work with them. However, the Joint Committee would remain the principal point of contact. No matter what happens, we are ready and anxious to cooperate with Members of Parliament from both Houses.

## PCD

Michelle, unlike Denis and Dyane, there is not a committee whose main responsibility coincides with that of your Commission. What is your principal point of contact in the House of Commons?

## Michelle Falardeau-Ramsay

We have a good relationship with the Justice and Human Rights Committee of the House. We are called regularly to be questioned on our annual report. However, I should mention that during the 15 years I have been with the Commission, the interest shown by that committee has fluctuated. There was a period when MPs showed little interest. Then the membership of the committee changed and several Members who were interested in our work joined the Committee. We are also called by other House committees, depending on the type of legislation that they are studying. Sometimes they ask us to appear as a witness and at other times to present our comments in writing on some amendments.

We are also asked to appear before Senate committees. Just this past year I was asked to appear before the Senate in Committee of the Whole. That session lasted over 3 hours.

## PCD

What subjects did they raise?

<sup>1</sup> This was also the practice when Max Yalden was commissioner.

### **Michelle Falardeau-Ramsay**

Quite general ones. What was the Commission doing? Did we have enough resources to do our job? I told them that we lacked sufficient resources to do policy research on human rights issues that will become important in fields such as genetics, demographics, and euthanasia. We have no resources to do things like that. I was also asked about international instruments and how they can be incorporated in our domestic legislation. Following this meeting the Senate decided to establish a permanent Human Rights Committee. I might add that I find the level of discussion in Senate committees is generally much higher than in House committees.

#### **PCD**

Do you also have informal contact with Members of Parliament?

### **Michelle Falardeau-Ramsay**

Yes, frequently. I think Members like it that way. It is easy because I have known many of them from long before they were MPs. Sometimes I receive phone calls asking my opinion. I will tell them what I think and leave it at that.

#### **PCD**

Michelle, you clearly don't lack for contact with Parliament. Jean-Pierre, you must also have substantial contact with Parliament. What are the principal stimuli?

### **Jean Pierre Kingsley**

The Chief Electoral Officer by law is required to provide a written report within 90 days of an election. At that stage he is called before the Procedure and House Affairs Committee of the House of Commons. But the practice has developed that the Chief Electoral Officer also appears before the Procedure and House Affairs Committee each year to explain his budget, that is the numbers that have been proposed for expenditures. Bear in mind that the Chief Electoral Officer has the statutory authority to spend money when it is related to electoral or referendum purposes. Since most of the budget is related to those purposes the committee, in effect, wants to know what the intentions of the Chief Electoral Officer are. I appear and I explain all this to them. I also explain how the monies were spent the previous year as opposed to how they were originally budgeted and I do this on a cyclical basis.

This results in a minimum of three appearances each year.

But, over and above that, there are also requirements to appear before the Committee whenever changes to the Canada Elections Act are contemplated. When a bill is tabled by a government, the Chief Electoral Officer is called upon to give his point of view. So there is a lot of contact with the Procedure and House Affairs Committee.

#### **PCD**

Is it primarily, or even exclusively with the Procedure and House Affairs Committee?

### **Jean Pierre Kingsley**

It is primarily with them, but not exclusively. I appeared before the committee dealing with human rights to discuss a bill concerned with the rights of people with disabilities. I explained to them the things we do to reach out and to accommodate people with disabilities and accessibility to polls. So it is not exclusive. I also appear before the Senate Committee on Legal and Constitutional Affairs. The focus is similar, except that they are less concerned with the budgetary aspects.

#### **PCD**

Is your situation unique in that you become an instrument for proposing changes in legislation, whereas normally it is a government department or a private member's bill that initiates legislation?

### **Jean Pierre Kingsley**

Well, there are always a huge number of private members bills on election law. Very rarely do they pass, but there has been one during my tenure. But, there is no doubt that there is uniqueness in the relationship. Part of that uniqueness is due to the fact that people in the House of Commons get elected by a process that is governed by the Canada Elections Act. Therefore the person who runs elections is of keen interest to them and they have things that they wish to say to that person and they wish to know what is going on. While some legislative change has occurred by happenstance, it may also result from an initiative on my part. That the Office has taken on a leading role in this respect to some degree emanates from the work of the Royal Commission on Electoral Reform. Obviously a Royal Commission disbands after it has done its work. In

1996 I decided that not all the desirable changes recommended in that report had been enacted. I judged there were others that were required because election law should evolve. It needs to be in tune with reality, it needs to take advantage of technology and it needs to stay in harmony with ethical evolution. I saw an opportunity and I think it represented a precedent, because even though Chief Electoral Officers in the past had quite diligently said, “this problem must be solved”, I don’t think that they had gone so far as to say that it should be solved “this way”. Admittedly doing this leaves one open to attack, but I decided that that was a risk worth taking.

### PCD

In a sense, that means the initiative, to some degree, rests with you.

### Jean Pierre Kingsley

There is no doubt about it, the initiative rests with the office. I sense that it has become a duty of the office and I think that it fits with the role. I don’t think that we need everything in the law written down as such, but I will say that the Committee has told me to feel free to come forward with recommendations or with any issue. They have made it quite clear that the door is wide open.

### Michelle Falardeau-Ramsay

Our practice has similarities as well as differences. We occasionally propose amendments to our own legislation, but we have never, as far as I can remember, proposed amendments on any other legislation except those based on formal commission decisions. However, we do comment on amendments that are presented from other sources. We do that every year through our annual report. Normally the government waits to act until there is a decision at the Supreme Court. The amendments we propose, being in the field that we are, are usually not very popular. For example, amendments on sexual orientation can be very sensitive. The government much prefers to have the court decide and then they will act. So that’s the way it works.

### PCD

Jean-Pierre. Can I ask you about your involvement in the periodic re-drawing of constituency boundaries?

### Jean Pierre Kingsley

It’s a major activity of the office but it’s one in which the role is played less visibly than during an election.

There is certainly much less responsibility on the part of the Chief Electoral Officer. However, if redistribution is to occur, there has to be organizational support. This is what our office does. We handle all of the management issues relating to opening of offices, rental of space, provision of supplies, so that things get done in time. Otherwise each commission would become bogged down. We also go further—this isn’t traditional—and provide staff who are knowledgeable about demographics and who are knowledgeable about geography, the electoral geography of Canada that is, because it is a separate geography. We make such experts available to each of the commissions. We also provide an orientation session for the chairs and the members of these commissions so they get an appreciation of what the Statute talks about and how to do their work. We will provide them with the tools, technical tools and professional tools, to enable them to carry forward, but the decisions will then be in their hands.

### PCD

And you have maintained that respect for their independence.

### Jean Pierre Kingsley

There is no choice. They are completely independent. The chair is a judge of a province and these are people who are very used to independence. The members are generally appointed for their independent minds by the Speaker of the House of Commons.

I’d like to mention that I also have informal contacts with Members of Parliament. They write to me and some of them wish to meet with me. I always comply with this because I am there to serve Parliament, the MPs and Senators.

### John Reid

How different my situation is from that of my colleagues. I have less contact with Parliament than

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**I have less contact with Parliament than I anticipated would be the case.**

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I anticipated would be the case. I thought that with Senators and MPs using the Act there would be a lively interest in the activities of the office. What I

found was that there was almost no interest. And indeed I have to be somewhat obnoxious before I can get the Justice Committee, which is responsible for the Office of the Information Commissioner, actually to hear me. My predecessor, John Grace, was never called on to discuss his annual report, but with only one exception, he was called on his estimates. He tells me that on those occasions the main focus of questions was on the work of the commission.

### **Jean Pierre Kingsley**

May I report on a couple of other forms of contact that we have with Members of Parliament. When I propose modifications to the statutes, I offer to appear before the party caucuses and this has been welcomed in most cases. I do this in order to explain to members how the proposed changes would have an impact on them as candidates and as Members of Parliament. This is an option that I seek and it has occurred two or three times so far. And I would say that it has been 90 percent effective.

There is also an Advisory Committee of Political Parties that I set up and chair. Although it offers advice that I am not bound to accept, I am certainly most appreciative of the advice I get. Whenever we are thinking of amending any of our systems or whenever I am thinking of making proposals to modify the Statute or whenever they wish to talk to me the opportunity is there. The idea arose from a suggestion of the Procedure and House Affairs Committee. I decided not to maintain a committee that had been established previous to my coming because the Royal Commission has criticized its workings. So I made sure that the committee that was established was purely advisory and that I retain complete decision-making authority. But I must that say that that committee is, in my view, a godsend. There is an atmosphere that has established itself there where all the parties can hear what the other parties think of different measures and they express themselves freely.

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## CHAPTER 2: HOW YOU ADVANCE THE IMPACT OF YOUR FINDINGS AND RECOMMENDATIONS

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### PCD

I'd like now to ask each of you whether you consider that the submission of your reports to Parliament represents sufficient accountability?

#### Jean Pierre Kingsley

In terms of my relationship with Parliament, there is nothing I would ask to see improved, changed or modified.

#### John Reid

My situation is quite different. In my judgement, an annual report by itself is not sufficient accountability. Because our funding comes from Treasury Board, which gives the government a measure of control, I consider it important for maintaining our autonomy that Parliament knows and approves of what we are doing. To achieve accountability Members of Parliament should question the commissioner using the annual report, any other publications that he has issued and their knowledge of what he has done. I think it is absolutely vital to the functioning of this office that there be good, hard, solid questioning. Often that's not what we see when we go before parliamentary committees.

### PCD

You're saying that the capability of your office is enhanced if the responsible parliamentary committee pays serious attention to your report.

#### John Reid

Yes, I'm saying we must undergo this kind of examination to achieve sufficient accountability.

#### Denis Desautels

That raises a question that I am sometimes asked: who audits the Auditor General? We are subject to the

rigour of the estimates process, including performance reports, and we are regularly questioned by the Public Accounts Committee on these reports. So in our case I feel these processes work, not perfectly, but on the whole much better than most organizations reporting to Parliament. So when I put all of these and other mechanisms together I conclude that we are subject to very strong accountability mechanisms. Nevertheless, it would be appropriate for an organization like ours to be subject to some form of periodic peer review.

In fact, we have undertaken one such experiment. We hired for that purpose one of the large accounting firms, who are in the business of auditing. They checked our quality control system

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...it would be appropriate for an organization like ours to be subject to some form of periodic peer review...inviting legislative auditors from other jurisdictions to come in... They do that in Australia.

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and then issued an opinion on their findings. That's one form. But there could be even stronger forms, such as inviting legislative auditors from other jurisdictions to come in and do that. They do that in Australia. So there are different formulas that could be explored. My successor will have to make some decision on that as well. We are trying to proceed on a voluntary basis instead of waiting for Parliament to impose that on us.

### PCD

I'd now like to ask the rest of you what success you have in advancing your recommendations.

## John Reid

As I see it, the Auditor General has a certain amount of power to ensure that his recommendations are followed, but the Information Commissioner doesn't. So we need to find a way to ensure that the issues we raise are dealt with in a substantive way. Parliament has not been aggressive in its examination of the Information Commission's report in the past. I'm hoping to persuade them to be more aggressive in the future.

## PCD

Denis. What is the secret to your success?

## Denis Desautels

First, let me say that we advance our recommendations with a great deal of care. We try to build a case so that our conclusions and recommendations are convincing in their own right. The more powerful the message, the less need there is for promotion.

## PCD

Dyane, in your opinion how important is publicity for your organization?

## Dyane Adam

Not of primary importance. Our aim is to educate, inform, sensitize and in a way promote. The people to whom our recommendations are directed — the people responsible for implementation — have to understand fully what is involved. At the same time people have to be aware of the difficulties, where they exist.

Our office also tries to inform the responsible ministers. Equally we try to inform the Committee on Official Languages of the issue and to follow up with them.

## PCD

What you are suggesting is that the follow-up to the research is, in your judgement, more important or just as important as the initial research. I also sense that you have learned, or discovered, that an informal, casual, continuous approach, is in some ways more persuasive, more effective, than trying to gain increased media attention. Is that something that you have brought to the office?

## Dyane Adam

Yes, while media attention is part of the process, its use is to generate some pressure. But at the end of the day, you are talking about people who want to do a good job, but who may have concerns, whether it's time or money or something else. Together we have to find a solution. I try to remain focussed on results.

## PCD

I find this very interesting. What it tells me, I think, is that, although the formal instrument that you relate to is the Joint Committee, in fact you go far beyond that, but that the committee helps get things moving.

## Dyane Adam

Definitely.

## PCD

Denis, in terms of the people to whom your reports are addressed, I suppose in general terms, it is Parliament, but there are really two separate components: there is Parliament being the Public Accounts Committee and other committees, and then there are the ministers who are in Parliament, but also in the executive.

## Denis Desautels

Yes. When we issue a report, I always offer to meet with the responsible minister a few days before it is tabled. But that is always after the report has been printed so there is no suggestion that the minister might have had influence over what we wrote.

## PCD

Now I'd like to ask to what extent does the media aid in the process? When it comes to the Auditor General, one has to recognize that the media is a powerful element in focusing the attention of Parliament on some of the things in their reports.

## Denis Desautels

Yes. We keep the media relatively well informed on what we are doing, when we are going to be tabling a report and what the subject matter is going to be. But we have to be careful not to tell the media ahead of time what's in the report. That would

represent a breach of trust to Parliament. But we do tell them ahead of time what the subject matter will be. Then the day the report is tabled, we have a press release for each of the chapters in our report. It is a one-pager that basically gives the thrust of the message in that chapter and quotable statements from me.

The idea is two-fold: we find that it is useful in terms of attracting media attention to our report and it facilitates their understanding and writing. But secondly, and this is why we started this, it cuts down, we hope, on the number of misinterpretations or distortions of our reports. I felt very early on that there was some distortion of what we said. Our media release is designed to cut down on the number of gross misinterpretations

#### PCD

Jean-Pierre, I get the feeling that your connections with Members of Parliament are so close and so constant that you don't look to the media as an instrument for promoting your views.

#### Jean Pierre Kingsley

With the Committee on Procedure this is true. But it must be remembered that there are still 285 other Members that I must somehow reach. It is not automatic that I am reaching them just because I am in regular contact with the Procedure Committee. It is helpful to have the media, especially the national media, focus on the issues that I raise. I have had no trouble in getting them to do that. Frankly, there have been very interesting debates precipitated by editorials based on some comment I may have made. I find it always useful to get the message across. The media are absolutely essential in transmitting the thoughts and views of the office to the Canadian public as well.

#### PCD

Are you satisfied that in most instances the views are accurately passed on?

#### Jean Pierre Kingsley

I am satisfied with the way the media do their jobs in respect of Elections Canada. I mean that not only in terms of how the messages are conveyed, but also in the sense of criticism that they address to the office. I am satisfied that in the overall cases were fairly

treated; they raised the issues fairly and gave me an opportunity to respond. So I am quite happy with the relationship with the media and with the way the media do their jobs with respect to our office.

#### John Reid

Again, our situation is somewhat different. Our dilemma with the media is that it tends to be highly selective. It often focuses on the surface and it doesn't really go into the points that are being made. Their emphasis is on the headline. But our reports are all very substantive documents, dealing in depth with issues that are in front of the commissioner. While the media certainly can attract attention to a report, somebody has to read it and decide what to do about those recommendations.

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**Our dilemma with the media is that it tends to be highly selective.**

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I must acknowledge that I get a fair amount of support from the media. Press attention often can lead the opposition, however, to seize on some of our reports as manna from heaven, giving them an easy weapon with which to hammer the government, without even having to go into what is in the report. This can lead to distortions.

#### Michelle Falardeau-Ramsay

Well, our relations with the media have evolved. Sometimes we go out to the media and sometimes they come to us. However, I have seen a big shift in the last ten years in the way human rights are treated by the media. We used to be a favourite of the media. Now they try to find and report on some little thing that is not working. Even when they report on a decision— for example, on the pay equity decision— I was accused of doing some social engineering. When I look at the way the media deals with decisions that have been issued, they at times report it out of context.

#### PCD

To what extent do you see the courts as an important element in securing the desired attention to your reports?

#### John Reid

They have no affect at all. As an independent reviewer of information decisions taken by the government, I have no power to release any

document. In point of fact, I could be fired for releasing documents. Everything that comes into my office is sacred — it's a black hole — because these documents are in dispute. I only go to court when I feel that there's a legal point at issue or there's been a blatant avoidance of releasing the document. There have been only three out of some 1,550 cases last year where we went to court. We work very hard at mediation and negotiation, playing the role of ombudsman. But in terms of the actual report itself, the courts have no role to play.

### Jean Pierre Kingsley

In my case, I occasionally turn to the courts if matters affecting Elections Canada have been raised by third parties. For example, I had made a recommendation in my report of 1997 proposing a particular scheme whereby third parties would be legally subject to expenditure limits and public disclosure. This has become the law and they have to report to me. However, in the process they contested the legislation. I decided to appear before the Alberta Court as a friend of the court. I sought intervener status. There was nothing to prosecute in this particular instance and my only role was to appear as a friend of the court. My objective was very simple. I wanted the court to understand my reasons for the recommendations I had made. So the avenue of the courts is open to me. It's a status that I do not seek too often. But I did it in this particular case and I am pleased that I did.

### PCD

Michelle. I have the impression that these days the Commission turns to the courts quite frequently.

### Michelle Falardeau-Ramsay

You have to understand that our involvement starts with a complaint, which the Commission will

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...we're often fighting the government...

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review and investigate. If the complaint is not settled, it goes to tribunal. Our lawyers will fight it, if necessary, up to the Supreme Court. Inevitably, we're often fighting the government as well as the federally regulated industries—the banks, airlines, Bell Canada.

Most of our case loads are settled. But most of the time there is a confidentiality clause which means that nobody knows about it, which is too bad because we get really good settlements. Relatively few of the cases go to tribunal. However, the number has increased in recent years. There were some years in the past where we sent few cases to tribunal. In 2000 we sent 128 and in 2001 around 100. We do this either because there is a question of credibility that can only be settled in front of a court or an important policy issue like pay equity is involved, where the framework of the legislation is so vague that a decision of a court is needed to establish some principles.

We would seek a judicial review if there is an important principle of law that is at stake that can be precedent setting. We would also do so if we believed that the tribunal had completely overlooked some important piece of evidence.

### PCD

Denis. Do you ever turn to the courts?

### Denis Desautels

That can happen and did happen with Ken Dye on the Petrofina issue. Ken wanted to have access to Cabinet documents relating to the purchase of Petrofina by PetroCanada. That went all the way to the Supreme Court.

### PCD

And how did the Supreme Court rule?

### Denis Desautels

Well, in a way that was not to his satisfaction, in that the Court said that the only judge in situations like that should be Parliament itself.

### PCD

I get the impression, and correct me if I am wrong, that the OAG is now sufficiently well established that you don't often run into the problem of being denied documentation.

### Denis Desautels

I would not be that categorical. We have to go through a protocol to get access to Cabinet documents and it is working generally quite satisfactorily. However, it is basically *une entente cordiale* between the Office and government through the Privy Council Office. But you know, under different circumstances—a different

government—we might face difficulties. There is another problem. We are not always sure that government officials in departments are giving us everything that exists. So we are dependent on their

honesty. We have recently reported that we were not sure that we had all of the information that was available regarding the Food Inspection Agency. We kept finding things that they had somehow forgotten to tell us about.

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## CHAPTER 3: THE APPROVAL PROCESS FOR YOUR BUDGET

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### PCD

How are your budgets approved and could the system be improved?

#### Denis Desautels

We begin by preparing an estimate of the sums that we will require for the payment of salaries, allowances and expenses of our office during the next fiscal year. Following a formal review by the Treasury Board our budget is then approved. If an Auditor-General considers that the amounts provided in the estimates submitted to Parliament are inadequate to enable him to fulfill the responsibilities of his office, the Act under which the office was established allows him to make a special report to the House of Commons.

### PCD

Do you consider this power provides you with sufficient independence?

#### Denis Desautels

No. As stated in my final report released last month, I think the independence of the Office of the Auditor General needs stronger protection. The fact that the Office's budget is negotiated with officials from the Treasury Board constitutes an uncomfortable arrangement. Although this situation has not yet done any harm, a threat of withholding necessary funds could lead to unwarranted pressure on the Office.

The United Kingdom has adopted a system of funding that better assures the independence of the Auditor General. The Audit Office's budget is set by recommendation to the government of an all-party committee of Members of Parliament. This system puts the budgetary decision where it rightly belongs, with Members of Parliament to

whom the Auditor General is responsible, rather than with public servants.

In my view this is a model that would be suitable and feasible for the Auditor General's Office and appropriate for a number of other officers of Parliament as well.

### PCD

Are you satisfied with your situation John?

#### John Reid

Not completely. Right now our budget is handled like everybody else's through Treasury Board. It's Treasury Board that makes the final determination. However, we have to go through the Minister of Justice to get to Treasury Board. I'm uncomfortable about that because the Minister of Justice is my honourable opponent in court cases. Generally speaking, we haven't had any problems with the

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**The best way would be to have one committee that would deal with the budgets of all of the parliamentary officers. ...they would then be included in the parliamentary budget**

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Minister of Justice, but you never know what may come along in the future. So I would like as a minimum to be able to go directly to Treasury Board, without going through a minister.

On reflection, I too have come to the conclusion that it would be much better for the independent agencies if we could go to a parliamentary committee. The best way would be to have one committee that would deal with the budgets of all of the parliamentary officers. Over time they would begin to develop some expertise. Of course, they

could call on Treasury Board for technical information, but a parliamentary committee should make the decisions. The budgets of the parliamentary officers would then be included in the parliamentary budget, but they would have to be handled in such a way that they were protected, so that they could not become part of the discretionary spending of Parliament.

### PCD

Would you consider that the Board of Internal Economy, which has representation from all parties, would be an appropriate body to approve the budget of parliamentary officers?

### John Reid

No. I'd be uncomfortable because it meets in private. The attraction of the parliamentary committee route is that it's open. However, since the committee might lack expertise, I think it would be preferable to have a joint committee, because there would be continuity on the Senate side.

I agree such a committee should also receive the reports of all of the agencies reporting to Parliament and be responsible for ensuring that accountability is appropriate. I think that we have to look at changing the way in which parliamentary offices are funded and controlled. I would like to see an open process in the House of Commons. The committee that I spoke of before could be responsible for monitoring and guiding those offices. Right now the decision is taken on the basis of what Treasury Board concludes is appropriate. And that may not be what a parliamentary office should be about.

The committee might also, from time to time, hire an accounting firm to look at what we are doing. When we went to TB the last time for additional resources, an outside accounting firm was brought in to look at our activities. We made changes as a result of that and it strengthened our operations organization. Although it is a painful process, there is no question, it does have its benefits. A parliamentary committee could retain that kind of expertise, within the government or outside, to provide Members with the databases that they require to make intelligent decisions.

### Michelle Falardeau-Ramsay

Our situation is almost identical to that of John's. Like his commission, we too have to go through the Minister of Justice. Like his commission, we are often engaged in legal battles with the Department of Justice, since all departments are represented by lawyers from that department. And finally, like his commission, we make our actual submission to Treasury Board and negotiate with them.

To be honest, in all the years that I have been here, I have never seen any interference. But our situation makes me uneasy because we are always fighting officials of the department that signs our submission. For these reasons I very much like the recommendation of Denis that there should be a parliamentary committee that would deal directly with the agents of Parliament. This would be a great idea, because it would ensure that there is also direct input

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...there should be a parliamentary committee that would deal directly with the agents of Parliament. ...because it would ensure that there is also direct input from MPs and Senators on the level of resources and the type of work we should do.

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from MPs and Senators on the level of resources and the type of work we should do. It would be more transparent and it would be much better for accountability purposes.

This having been said, I must report that we have recently been informed that we shall receive a substantial budget increase for the years 2002-3. This is critical because several years ago we were gutted by cuts at the very time we were assigned new responsibilities regarding the Employment Equity Act. We had reached the point where we wouldn't have been able to fulfill our mandate and we might well have found it necessary to refrain from going to tribunal because we had no resources. We were in a bind. The budget increase has come just in time.

### PCD

Dyane, what is your situation?

## Dyane Adam

With respect to the financial accountability I too have to make the case for an increase with the Treasury Board. Like my colleagues, I feel that we should go through Parliament. We face a special problem, in that Treasury Board also has responsibilities for official language policy. But the Commissioner's office approach is very different from that taken by Treasury Board.

## PCD

Do you also go through a minister? I am thinking of John Reid, where his request is passed through the Department of Justice to Treasury Board. Or do you go directly to Treasury Board?

## Dyane Adam

It is hard to answer that question. The Prime Minister has to sign off on my request. But do I need to go through that office? I can and do go directly to Treasury Board. However, it is an ambiguous process and it certainly could be more transparent, which it would be if it went through a committee.

## PCD

Jean-Pierre you noted earlier in this discussion that you report to the Procedure Committee on your expenditures. Do you also have to go to Treasury Board to justify your expenditures?

## Jean Pierre Kingsley

Only the part that relates to the salaries of the person years that are allocated to the office under the estimates process of the government. For additional person years, for extra staff, for contract people, for all of the expenditures related to rent, everything else that falls under the statutory authority, I submit nothing to Treasury Board Secretariat for their approval. All I do is inform Treasury Board of my estimates. I have authority to spend the monies that are required to run the office. I provide no details to Treasury Board Secretariat about those expenses. That applies especially during an election year. I just spend. However I do have to answer to the committee, explaining how the expenditures are made.

## PCD

As you will have noted from comments by some of your colleagues, there is strong desire to see a

parliamentary committee that would be responsible for their budgets. You are in some degree already in a relationship with a parliamentary committee on your budget, although, as you point out, most of it is money that you decide to spend to do the job you are hired to do.

## Jean Pierre Kingsley

My relationship with the Committee goes into all the details of the expenditures once they are made. They have an opportunity to review and ask me questions about all the expenditures that I have made. It is after the fact, I admit that, but the purpose is to satisfy the public's right to know where the money was spent. They raise questions about why I spent so much money on publicity, how much did I spend here. I explain all that to them, so therefore I feel that the public accountability need is fully met through that Committee structure. I do not need another committee to do that.

## PCD

I understand that Elections Canada is subject to audit by the Auditor General.

## Jean Pierre Kingsley

Yes we are. The Auditor General comes in here with his people to do their job, and they report to Parliament. I have to answer all the questions that are raised as a result of that audit.

## PCD

I sense that for you, therefore, Treasury Board approval of a small part of your budget does not raise a major concern about independence as it does for your colleagues. They feel that Treasury Board is, to some degree, a constraint on their independence.

## Jean Pierre Kingsley

There is no feeling like that at all on my part. None whatsoever.

## PCD

Because your situation is different?

## Jean Pierre Kingsley

Well yes. And it is because the situation is different that I do not feel a need to raise the issue. I understand

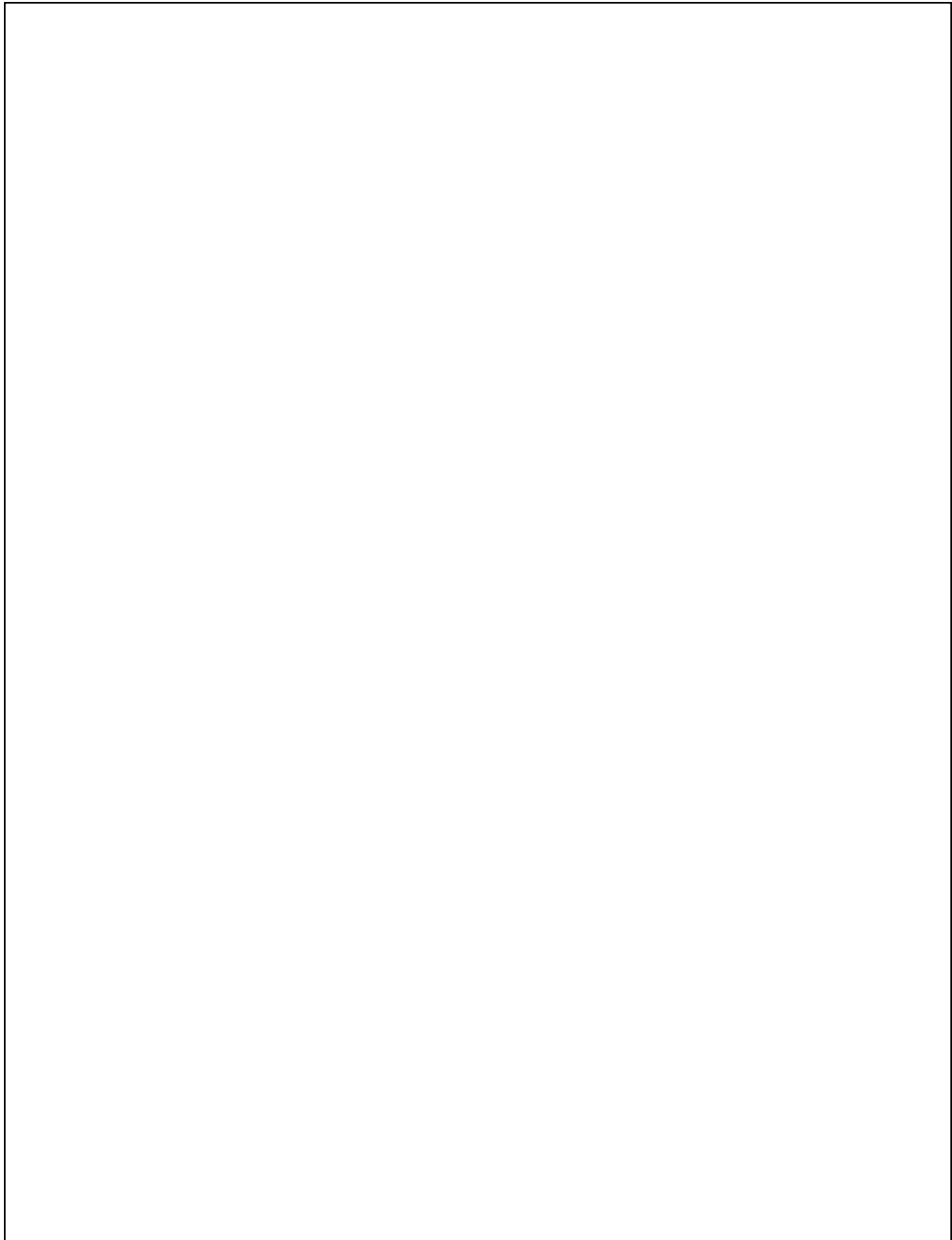
their problems. I don't have those problems. It's not that I face the same situation and that I don't agree with them. I agree with respect to them, but my situation does not require any improvement.

**PCD**

You did say that for some staff you have to go to Treasury Board. Do you do that through a Minister?

**Jean Pierre Kingsley**

Yes. The Minister assigned for Electoral Affairs is almost invariably the House Leader. My request always requires the signature of a Minister. I have dealt with several Ministers since I have been in office and there has not been one time that anyone altered my numbers.



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## CHAPTER 4: YOUR INDEPENDENCE FROM GOVERNMENT

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### PCD

Are there factors that you consider might compromise the independence of your offices?

#### John Reid

For myself, I am not concerned. I have a fixed term and my salary is linked to other public offices. But I am concerned that our staff are part of the federal public service. We are a small office—about 42 persons only—so there is almost no prospect for promotion within the office. This means that the principal avenue for promotion is through competing for a position in the public service.

My investigators can find themselves in challenging situations when they are inquiring into the validity of a department's case for refusing to release a document. Some of them have told me that they have been faced with threats to back off lest they find their prospects for advancement in the public service blocked. You'll appreciate that this situation can be stressful for investigators and can also compromise the effectiveness of an inquiry. I'd be more comfortable if there were some kind of status for our staff that would provide some protection.

### PCD

Michelle, Dyane and Denis, what is the situation in your offices?

#### Michelle Falardeau-Ramsay

I found John's experience interesting because, to my knowledge, we have never had that problem and nobody has ever complained of being pressured in one way or another. Our staff is part of the public service. For a small organization like ours, with 200 employees and six small regional offices, if you want to have able employees they must have opportunities to work outside of the organization. There are just not enough steps in our ladder. It is

important that staff can move back and forth between the public service and the Commission. We also benefit from the knowledge and experience that we receive from employees, for example, that come from Indian and Northern Affairs, Health Canada, the Treasury Board or the Privy Council.

The fact we are not a separate employer obviously adds to the bureaucratic burden because it means that, when filling a vacancy, sometimes it can take up to 6 months. So it is cumbersome. But for a small organization there are also advantages. Besides there is often a way around. For example, two years ago we made an exchange outside of the rules of the public service with the equivalent agency to ourselves in Australia. We just exchanged job for job, house for house, car for car—the whole bit without involving the Public Service Commission. It worked beautifully. We benefited from it—you have no idea—and our Australian counterpart was also very satisfied. So you have to be creative in finding solutions in different situations.

#### Dyane Adam

Our staff is relatively small. Our employees feel that they are part of the public service and appreciate the freedom to move within the public service. What I think would be needed, however, is a lot more discretion in the way we implement the policies and the regulations. I find the process extremely complex and time consuming.

We face one unusual problem. In the public mind there is some confusion as to whether we are really an agent of Parliament. Because Mr. Dion is the minister responsible for official languages, some people think I report to him. This is unfortunate.

#### Denis Desautels

Our situation differs in a major way from John's and Dyane's. We have a large staff—over 500

employees—which means that there is room for advancement within our office. Nevertheless, there is surprising mobility and many of our staff take up public service positions.

I have another concern. Under the current structure all collective bargaining agreements entered into by the Office must be approved by the Governor in Council. To assure full independence of the Office, I think we need greater administrative authority in the areas of staff remuneration and collective agreements. In particular, it is my belief that organizations like ours should be fully treated as a separate employer. That status can be eroded by Orders-in-Council or regulations. For example, the requirement that we obtain from Treasury Board a mandate to negotiate is, in my view, chipping away at our status as a separate employer. In my opinion we should be able to operate within our own budget and be able to negotiate and sign collective agreements on our own.

**PCD**

Denis, what is the status of your staff? If someone chooses to move to a government department, is there a relative comparability?

**Denis Desautels**

Yes. We are conscious of that. We relate our classifications to that of the rest of the Public Service. Even though we do not have the same classifications, we have points of comparison, which are quite valid. So we can judge whether or not we are paying too much or not enough for similar work and it also makes it relatively easy so far for our people to move out of our office and into government.

**PCD**

And vice versa?

**Denis Desautels**

Yes. There are actually less problems that way because we have simpler staffing rules.

**PCD**

Have you worked things out with the Public Service Commission?

**Denis Desautels**

Well, without going into too much detail, the Public Service Commission has a right to audit some of our staffing activity. At times the Public Service

Commission forgets that we should be treated differently from government departments. They make rules for all of government and they sometimes tend to sweep us into that. And we have to remind them that we are a separate employer.

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**To assure full independence of the Office, I think we need greater administrative authority in the areas of staff remuneration and collective agreements.**

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**PCD**

That is interesting. The staff of Parliament are entirely independent, as I understand it, of the Public Service Commission. So what you are looking for is a status comparable to that of the staff of Parliament.

**Denis Desautels**

I think that is a great analogy.

**PCD**

How does your situation, Jean-Pierre, correspond with that of your colleagues? The Auditor General has a sufficiently large staff that the Office can provide a career path within the organization, whereas smaller agencies can't offer that and they feel pressure from government agencies on their staff. First of all, your staff is presumably large enough for a career path.

**Jean Pierre Kingsley**

Not quite. 225 persons are not sufficient for that.

**PCD**

Is there much movement in and out?

**Jean Pierre Kingsley**

There is. At all of the different levels of the organization. The organization benefits from that. I would not think of requesting formal status as a separate employer.

**PCD**

That was what I was going to ask you next.

**Jean Pierre Kingsley**

No. I am satisfied with the Public Service Employment Act. I am not going to raise all the

the office is governed by merit and because people can move in and out with the rest of the Public Service, I wind up with high quality staff. I am happy with that.

### **PCD**

Do you run competitions and what is your relationship with the Public Service Commission?

### **Jean Pierre Kingsley**

Yes, we do through the PSC when it is required by the PSC or under PSC rules. We follow the Public Service Employment Act and the directions of the Public Service Commission. We classify jobs in accordance with classification schemes established by the Treasury Board. The one issue that we have, and which I will probably raise in my report, is the right to strike. I agree with the fact that people should have, if they wish to be unionized, the right to grieve and all the other rights that come with it. But the right to strike, and I will explain why in my report, could cause a particular

problem in a particular moment in time and I would want to deal with that. But that is the only issue.

### **PCD**

It is interesting that you are obviously comfortable with this method of recruiting in and out and so on. Do you have any sense why, let's say Denis, is unhappy with the extent to which he had to deal with Treasury Board?

### **Jean Pierre Kingsley**

One of the issues the Office of the Auditor General faces is when the time comes to collectively bargain with people—his people—they have to go, in effect, to Treasury Board. Therefore he does not have all the discretion in things like that. I don't have that issue because some of the jobs that I offer have no equivalent in the Public Service. Where there is movement in and out, the pay scales are comparable. The only problems we have had are in respect to certain higher paid categories, like computer workers.

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## CHAPTER 5: METHOD OF YOUR APPOINTMENT

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### PCD

If I could turn now to the last subject, the method of appointment. I understand, Jean-Pierre, that your appointment is made by the House of Commons—not by order-in-council—and is subject to a vote in the House. Can you talk a little bit about the process leading up to the stage where a name is put forward?

### Jean Pierre Kingsley

First of all, I'll explain that the Chief Electoral Officer is unique in that appointment is by the House of Commons. A favourable vote by the House of Commons is the legal instrument for the appointment, a process established by law in 1920 and, in my judgement, a ground breaking law. It is an important requirement because the person appointed is going to be running the system that fills the House. They have to have someone in whom they have confidence to do that job.

### PCD

In this case, uniquely the House, not the Senate.

### Jean Pierre Kingsley

Right. And I think that is also important to remember that removal — one is appointed until the age 65 — can only occur for cause. It takes separate votes in the House and the Senate — both are required. In effect this same rule applies for judges of our higher court system. In terms of the appointment itself, it is important to remember that, in effect, 50 percent plus one will get you the job. When I was approached by the Clerk of the Privy Council and asked if I would allow my name to stand, he mentioned that they were ready to consult the whips of the parties in the House of Commons about my acceptability. I said that I would agree to my name going forward,

but I would only accept if all the parties supported my appointment. In other words there had to be unanimity. This has been the tradition and I attach a lot of importance to it. The results were favourable and two days later, at 12h30, on Friday, February 16<sup>th</sup>, the motion was introduced and passed and that's how I became Chief Electoral Officer. On the Monday I was in the job. I had Friday afternoon to clear my desk from my old job.

### PCD

As you point out, the Clerk of the Privy Council made the initial approach and presumably before that there had been a search, an enquiry.

### Jean Pierre Kingsley

Obviously, there must have been some process that was being followed to establish likely names that would survive some kind of screening. But I was not involved in that process. I do not know if anyone else was being considered.

### PCD

In your situation, unlike the Auditor General where there is a group of professionals in the field who are asked to come up preliminarily with names, yours must have resulted from the usual search by the Prime Minister's Office for a suitable candidate for office.

### Jean Pierre Kingsley

It certainly felt that way. However, I was never made privy to whatever happened.

### Denis Desautels

In my case the President of Treasury Board is mandated to make a recommendation to Cabinet. Like appointments to the Supreme Court, the government consults the profession—accountants in this case.

Once the government decides, the appointment, which is for 10 years, is made by order-in-council. However, a decision to remove an auditor general would require the approval of the Senate and the House of Commons.

### PCD

You mean to say that Parliament was not consulted about your appointment 10 years ago?

### Denis Desautels

I don't know for sure, but I don't think so. Had it happened with my appointment, I would have felt better. This time round, I've suggested to PCO that Parliament should be consulted. They've been careful and said they would talk to the Minister about it. So we'll see.

At the provincial level there is a wide variation of practice. In BC, for example, a committee of the Assembly does all the work. I'm not sure that the BC formula comes up with better candidates or represents a better approach, but I like it because there's room for involving parliamentarians.

### John Reid

Complications arose in my case. A public servant was being put forward by the government for the position. My predecessor thought this was ill-advised and spoke out publicly against the principle. His intervention undermined the case for the proposed candidate. The question of what to do was then referred to the House Leaders. I understand my name was proposed by an opposition party Member and put forward. The government decided to accept the suggestion. I was then called before an all-party committee for an interview. On receipt of a positive report my appointment was approved in a resolution adopted in both Houses.

### Dyane Adam

My experience was also different. I was called by the Prime Minister who explained the process to me. He told me that he would submit my name to each party. Once they had all agreed, I was asked to appear before the Joint Committee on Official Languages. Based on their favourable report, a resolution was

submitted to the two Houses, where both votes were unanimous. Thereupon, I was formally appointed as called for in the Act, by order-in-council. So it was a very open and transparent process and also very rapid.

On a Tuesday morning the Prime Minister asked if I would accept the position. I agreed and that same afternoon my name was referred to each party. They all agreed to it at their Wednesday caucus meetings. The following day I was questioned by the joint committee, which reported immediately to both Houses. Within a week or so, both Houses had voted. The whole process lasted maybe two weeks at the most. I would like to see a similar process adopted for the consideration of all nominations of agents of parliament.

### Michelle Falardeau-Ramsay

My experience is different and also unusual. You see, I had been Deputy Chief Commissioner for some years. When Max Yalden retired, quite unexpectedly, I received a call from a senior official in the Privy Council Office offering me the position of Chief Commissioner. I was offered a five year term, which suited me, since I had already filled order-in-council appointments for over 20 years. The legislation in fact provides for up to 7 years for the Chief Commissioner and the Deputy Chief, when there is one, and up to 3 years for part-time commissioners.

### PCD

Do you feel that the length of the term affects independence in any way?

### Michelle Falardeau-Ramsay

I think that a new Chief Commissioner would need a minimum of 5 years. I also believe that there should

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**Future appointments should not be made as I was. I would definitely like to see the appointment approved by Parliament.**

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be an appointment process comparable to that used for appointing judges. There should be input from civil society, from people who are knowledgeable in the area, and from Members of Parliament, because it is

important that the person appointed has credibility. Like judges, candidates should be expected to meet the basic requirements of the job. A list could be drawn up based on consultation with appropriate NGOs dealing with disability, and women and so on.

Future appointments should not be made as I was. I would definitely like to see the appointment approved by Parliament. That would enhance the Chief Commissioner's credibility because Members of Parliament would feel some responsibility for the appointment.