



Standing Committee on Estimates

Hansard Verbatim Report

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Legislative Assembly of Saskatchewan

Twenty-fourth Legislature

**STANDING COMMITTEE ON ESTIMATES
2001**

Graham Addley, Chair
Saskatoon Sutherland

Donna Harpauer, Vice-Chair
Watrous

Ron Harper
Regina Northeast

Carolyn Jones
Saskatoon Meewasin

Ken Krawetz
Canora-Pelly

Peter Prebble
Saskatoon Greystone

Milton Wakefield
Lloydminster

Daryl Wiberg
Saskatchewan Rivers

Kevin Yates
Regina Dewdney

The committee met at 11:39

The Vice-Chair: — I'll call the meeting to order, the Standing Committee on Estimates. It was agreed to by the Legislative Assembly on May 11, 2000 as follows:

That the estimates for the Legislative Assembly, vote 21; the Provincial Auditor, vote 28; the Chief Electoral Officer, vote 34; the Information and Privacy Commissioner, vote 55; the Ombudsman and Children's Advocate, vote 56; the Conflict of Interest Commissioner, vote 57; as well as the supplementary estimates for the Legislative Assembly, vote 21, be withdrawn from the committee.

**General Revenue Fund
Chief Electoral Officer
Vote 34**

The Vice-Chair: — At this point I'd like to welcome Mr. Speaker, Myron Kowalsky, to the committee, and the first item of business, the Chief Electoral Officer, that being vote 34 on page 123 of the main Estimates book.

So I'll ask the Speaker to introduce his officials at this point.

The Speaker: — Well thank you very much, Madam Chair, members of the committee. I know that our time is short so I will try to be very brief. We have with us the Chief Electoral Officer, Jan Baker, and she will be making a brief presentation, I believe, to the committee, which will then allow for some time for question and answer.

So I'll just turn it over to Ms. Baker.

Ms. Baker: — Thank you, and good morning. As the office's budget submission was previously circulated, I will take this opportunity to provide you a brief overview of Elections Saskatchewan.

As you are all familiar, the office is responsible for the administration of provincial elections, by-elections, enumeration other than during an election, and provincial election finances under The Election Act.

The office also periodically conducts referenda and plebiscite under The Referendum and Plebiscite Act, and time votes under The Time Act.

Effective January 1, 2001, pursuant to the political contributions tax credit Act, 2001 the office will assume responsibility for administration and maintenance of the province's political contributions tax credit regime.

The principle mandate of the office is to inform and enable qualified electors and candidates to exercise their democratic right and ensure their constitutional entitlement as entrenched in the Charter of Rights and Freedoms.

The office enables eligible voters to vote by ensuring fairness, impartiality, and compliance with the Act, and by ensuring that the voting process is familiar to all voters. Assistance is given to political parties, candidates, chief official agents, and

business managers to aid in complying with both the Act, both in relation to electoral conduct as well as the annual financial reporting.

The environment within which the Chief Electoral Officer is accountable is complex and unique due to the uncertainty as to election timing, decentralized election administration, and the interaction between political parties, candidates, and members of the provincial electorate. The integration of this decentralized function rests with the office's centralized managerial direction, and fair and impartial application of the province's electoral legislation.

As you are aware, the office is responsible for maintaining a state-of-election readiness at all times. In this regard, the office appoints provincial constituency returning officers and other election clerks necessary to ensure readiness throughout the government of the day's mandate.

The office prepares electoral guides and conducts workshops throughout the province with both registered political parties and candidates and election officials to ensure effective execution of electoral events and compliance under the Act.

As part of its election-preparedness activities, the office is reviewing electoral processes and procedures incorporated in the Act to eliminate ambiguities for possible legislative amendment.

The office is responsible for assessment and, where applicable, reimbursement of all election expenses paid from the province's General Revenue Fund. To promote transparency, reports are published to ensure accountabilities through accurate and thorough reporting, ensuring compliance with the Act's heightened financial disclosure requirements.

The Chief Electoral Officer is also responsible for determining what constitutes an offence under the Act. While the Act is regulatory rather than criminal, the role of the office is to inspect, investigate, and inquire as deemed necessary where potential contravention of the Act is suspected.

In addition the office maintains a public relations program to ensure political parties and the public are aware of important aspects of the Act by producing and distributing information materials, answering public inquiries, and liaising with the political parties, candidates, and their official agents.

Last, the office is responsible for the reporting of all election activities. Election results are published in the report of the Chief Electoral Officer respecting campaign contributions and expenditures and, in its complimentary volume, the statement of votes. Similar reports are also produced following each constituency by-election.

The statutory reports outline the conduct of each electoral event and provide a reporting of election-related expenditures of Elections Saskatchewan for consideration by the Legislative Assembly.

As with previous budget submissions, the expenditure estimates are presented in accordance with the office's function in base

year and non-base year format. Specifically, the base year estimates comprise expenditure forecasts associated with the office's annual operations, including proposed new initiatives and implementation and maintenance of the political tax credit system.

The non-base year estimates include potential annual electoral activities specific to a general election, constituency by-election, non-period enumeration, referendum or plebiscite or time vote.

If, in fact, the province were to experience one or more of the non-base year electoral activities, their associated expenditures would have to be included with the office's base year estimates.

As you are all familiar, funding for the office of the Chief Electoral Officer is based on statutory provision. The Board of Internal Economy recommended, for expenditures associated with the office's base year functions, an allocation of 709,729 for fiscal year 2002-2003.

That said, I'd be pleased to answer any specific questions you may have at this time.

Mr. Wakefield: — Thank you, Madam Chair. Good morning.

Ms. Baker: — Good morning.

Mr. Wakefield: — Your last comment was seven hundred and nine thousand and something for 2002-2003. You didn't mean that. You meant 2001-2002?

Ms. Baker: — Yes, I'm sorry.

Mr. Wakefield: — Yes. I thought probably. If I could, just a couple of questions about that.

Under the expenditure by type information that we have, there's an increase in salary proportion of 11 or 12 per cent, while the suppliers and other payments are down considerably. Can you give me an idea of why that would be?

Ms. Baker: — Yes. As part of the restructuring of the electoral office, the office prepared job descriptions for a staff complement of five. Initially, at the time that the job descriptions were prepared, the office worked with Public Service Commission to identify salary range. As the office was in a very volatile environment for a number of months, the office wasn't able to completely staff the office on a permanent basis. We ran with provisional staff. At such time as the office was able to undertake the exercise, the office went back to Public Service Commission, the job descriptions were reviewed, and the salary levels were enhanced.

As for the remainder of the budget, last year's budget, as the office is required to maintain a state of election readiness, and as you are well aware, we have a coalition government — the first since 1929 — the result of that is it was necessary for the office to immediately start a production preparation and packaging of materials for a forthcoming election. That done, we now have a decrease in the remainder of the budget.

Mr. Wakefield: — If I could continue, I know that with the

new Act of 1999, new office, several by-elections, an election, and in personal conversation, there was a lot of activity happening in your office. Is that pretty much sorted itself out now so you'll be able to focus on what we need to do in the future?

Ms. Baker: — I'd certainly like to think so, however the office this past year experienced three additional by-elections. So in total, in the last 24 months, it's been eight by-elections and a provincial general election.

We are anticipating in the second year of an election cycle that we will have opportunity for, at the very minimum, one fiscal year to take on and start looking at our new initiatives and focusing on objectives of the office on a going-forward basis. Those opportunities haven't be available to us to date.

Mr. Harper: — Thank you and good morning. When the returning officer is appointed to the constituency, does that returning officer continue to act in that capacity in between elections?

Ms. Baker: — Yes. Returning officers are paid an annual stipend of 660 to be available at such time as we have an electoral event. And that would be a general election or a constituency by-election. It's absolutely imperative, given the timing and the length of an electoral event, that we have trained people in place.

Mr. Harper: — And what in the event that a appointed returning officer decides to resign or move away or say passes on, what would be the process then involved to identifying and establishing his or her replacement?

Ms. Baker: — The normal process is to contact active constituency associations requesting names of nominees for potential appointment. Naturally the final decision is that of the Chief Electoral Officer, for going forward to cabinet for approval. It's undertaken immediately on resignation of returning officers and every effort is made to train those new individuals in preparation of an electoral . . .

Mr. Harper: — And what type of training would be involved? And how soon after their appointment would that training take place?

Ms. Baker: — What is provided initially is a general overview of the responsibilities, their role, and responsibilities. In-depth training specific to the procedures and processes of the electoral process isn't undertaken until such time as we have . . . we feel comfortable with the shortest period available to us prior to an election.

As you know it's difficult to retain information, given the number of new electoral processes and procedures that we've made available to the electorate, and certainly heightened financial disclosure requirements of the political parties and candidates.

Mr. Harper: — And my last question is: how many dollars in your budget would be budgeted for the possibility of having to provide training to new people in order to have them in place?

Ms. Baker: — I believe I've identified the 660 is the annual retainer so all costs associated with training of the returning officers — and should they request, their assistants which would be an election official — would be costs of travel, accommodation, and sustenance.

Mr. Harper: — Thank you.

Mr. Wakefield: — I have another question if no one else . . . Okay, thank you. With the census just being completed very recently, at least the timing of it was completed, there is a boundary, new Constituency Boundary Commission. Is that put in place automatically or do we go in that direction after a census is taken? Or is that in your area at all?

Ms. Baker: — It's not within my ambit, however I do have basic information particular to the constituency boundaries legislation. I believe that prescribed in the legislation, that establishment of a commission would be undertaken when the census information is made available and the Clerk of the Executive Council would be notified.

I believe the current legislation dictates a six-month commission. And currently, as you're well aware, in '93 it dictated 58 constituencies — 2 northern, 56 southern.

Other than that, I don't have anything other available to me. I do know that I was the acting secretary and the technical adviser to the 1993 Constituency Boundaries Commission. That information was not available for a full year. The commission undertook the exercise in six months and presented their final report to the legislature.

Mr. Wakefield: — So none of that is in your budget for this coming year?

Ms. Baker: — No.

Mr. Wakefield: — It's a different budget?

Ms. Baker: — The boundaries commission legislation is not within my ambit.

Mr. Wakefield: — Okay. I think that's all my questions, Madam Chair.

The Vice-Chair: — Okay. Seeing no more questions, I want to thank Ms. Baker for being here this morning.

Ms. Baker: — Thank you.

The Vice-Chair: — Vote 34 is statutory. So we'll move on to our second item of business, which is Information and Privacy Commissioner — vote 55, page 127 of the main Estimates book.

**General Revenue Fund
Information and Privacy Commissioner
Vote 55**

Subvote (IP01)

The Vice-Chair: — Mr. Speaker, I'll get you to introduce your

official.

The Speaker: — Good morning. Again with us is Gerald Gerrand, who is the Conflict of Interest Commissioner. And members of the committee . . . I'm not sure, you may have a couple of things that you might want to say, Mr. Gerrand.

Mr. Gerrand: — Yes. I think, Madam Chairlady, you want me to address the question of freedom of information firstly. Did I get that correct?

The Vice-Chair: — Yes.

Mr. Gerrand: — I have no prepared remarks to make to you, Madam Chairlady, and members of the committee. I will make a few observations and then invite any questions you may have regarding the proposed budget for the ensuing year.

I have performed the role of Freedom of Information and Privacy Commissioner now for about 16 months, having succeeded Mr. Derril McLeod, Q.C. (Queen's Counsel) in that position.

The object of The Freedom of Information and Protection of Privacy Act is essentially twofold. One, to provide citizens of Saskatchewan with a mechanism whereby they can acquire information and copies of documents from government institutions and indeed from local authorities as prescribed under that Act, and to ensure an openness on the part of government as required by statute, subject to many exceptions as set out in the Act so as to permit that government institutions can operate in a businesslike way.

In the event citizens are dissatisfied with the response they receive from government institutions in their formal application for information, they have the right to apply to me to conduct a review of that response. And I am empowered to conduct a review if I feel it is appropriate and not frivolous and that I have jurisdiction.

And in the conducting of the review, I interview the individuals concerned, I inspect the documents that are subject to the request for production — and in many cases those documents can run into the hundreds and hundred of pages — and I prepare a report which I file with the . . . send to the applicant and the respondent and, if there is a third party, to the third party. And in that report I make recommendations as to the disposition of the request for a review.

I have no power to make an order. I simply have power to recommend. More often than not, my recommendation's, in my experience, been followed.

The second thrust of the Act is to provide a statutory mechanism whereby citizens can have their private information that is in the hands of government protected. Government institutions are entitled to acquire personal information of the citizens for the purposes of carrying out the functions of government, and the Act sets out the manner in which that information can be gathered, stored, and disseminated.

And if citizens are dissatisfied with the manner in which private information — as it reflects on them — has been stored,

gathered, or disseminated, they can apply to me and under section 33 of the Act, I have certain powers to make inquiries and make recommendations. My powers are quite limited. I, again, only make recommendations.

The budget for the office last year, as you will see, was a total of \$105,000, of which \$85,391 was actually spent. The budget request for this year is identical to the detail that appeared last year, as I understand it.

I should point out to you that the role I play is that of a part-time individual. I say that because of the amount of the salary that's paid to me for the role, and because you've also appointed me to another role and I can't be in two places at the same time. So I view it as a part-time responsibility.

I think that the members of the committee and members of the legislature at large should be aware of the fact that it is likely going to come to pass that there's going to be a request for an altered role and set-up of office. And the carrying out of the function that I presently carry out, the province of Alberta has a budget of several millions of dollars to do the things that I do.

The province of Manitoba, which perhaps is more comparable because of population size and activity has — I've obtained from it a organizational chart — and in Manitoba the function of freedom of information and privacy commissioner is carried out by the Office of the Ombudsman. But the access and privacy division of that office has a total of nine individuals employed; the carrying out of the function that is carried out by half an individual in this province.

And I think that that can't continue. I'm very busy. There's going to be an increase in that activity when the Saskatchewan health information Act is given Royal Assent, because responsibilities of the commissioner fall under that Act. And there's certain functions the commission will have to carry out.

And I've conveyed my views to individuals in administration; my concern that this is going to have to be altered at some time in the future.

So with those few remarks, I invite any questions you may have.

Mr. Wakefield: — Madam Chair, if I could. Good morning, sir, because you deal with our conflict of interest files.

Mr. Gerrand: — That's very kind.

Mr. Wakefield: — Maybe some of the questions that I have will spill over into your other jurisdiction as well, but you outlined the change . . . some concerns you have in terms of anticipated need for expanded resources and assistance, anticipating some of the legislation that's coming forward will require that.

Are there other areas where you feel you've been restricted so far? Have you been able to do your job to the best of your ability, in your assessment, under the present system?

Mr. Gerrand: — I have, I have. And I've wondered how I've been able to do it because the level of activity in this province

in the area of freedom of information is fractional compared to our neighbouring provinces. And I've talked to my fellow commissioners in those provinces as to why that should be.

And there's a lot of speculation on that. The view is that the members of the press are much more active in neighbouring provinces — in seeking information and creating issues and writing editorials and making applications.

And my fellow commissioners have expressed the view to me that all of a sudden there's going to be a great inundation in this province by members of the public and the press that will swamp me. But it has not yet happened.

I feel that with the facilities and the finances that have been provided to me, I've been able to handle what should be done.

Now, you'll recall perhaps — those of you that were members of this committee last year — that there was a budget item added to the budget for me, specifically. And that was an item of \$25,000 to retain the services from time to time of a lawyer to assist me. And in the course of the year I have utilized that to the extent, I see, of \$8,133. Now that's not a lot of money, really, in comparison. But I have access to that assistance when I need it. And you'll see the extent which I feel I've needed it.

Mr. Harper: — Thank you, and good morning. A comment and a question.

The comment is perhaps the reason that the workload level for you here in this province is considerably lighter than it is in other provinces may reflect the open government that this province does enjoy.

But the question is: when the members of the Legislative Assembly file their statements, has it been your experience that they do so in a very timely fashion . . . (inaudible interjection) . . . Wrong one?

Mr. Gerrand: — I was going to come to that area of my responsibilities next. I'm happy to answer it now or would you like to wait until I've come to that?

Mr. Harper: — Whatever is convenient.

Mr. Gerrand: — I think it might be best if we wait until I come to that topic.

Mr. Harper: — Thank you.

Mr. Wiberg: — Thank you, Madam Chair. Good morning, Mr. Gerrand, sir.

In your preamble, you had talked about your responsibilities in working with the different government departments and agencies, and when individuals of the province request from you the opportunity for information that any department, government department or agency might have on them. You have mentioned also that for the most part, you're successful in your dealings, in being able to acquire the information that is required.

I'm wondering under what circumstances could or would a

government department or agency refuse to release a freedom of information request by an individual on themselves.

Mr. Gerrand: — Let me just clarify one aspect of your question. My role is not to obtain information. My role is to recommend whether or not the government institution has correctly, under the Act, declined to provide the information.

Now under the Act, I am entitled, I am empowered to physically look at the documents for the purpose of making that decision. But I am sworn to secrecy unless I make a recommendation that the document be released and that recommendation is accepted by the government institution.

So with that little distinction in what my role is, let me say that government institutions have many provisions in the legislation we're discussing which may afford it a basis . . . the institution a basis for declining to provide the information.

Documents that are prepared for consideration by Executive Council, by statute, are exempted from production. Documents that may reveal vital financial information to the detriment of the government institution are exempted. Documents that would reflect personal information on individuals cannot be produced, except under certain circumstances. So there are many, many exemptions for the production of documents.

And my role really is to assess the facts, look at the documents, and make a recommendation as to whether or not the provisions of the Act have been correctly relied upon by the government institution, the department, the Crown corporation, or the local authority.

Mr. Wiberg: — I have another question, sir and then I have a follow-up.

I guess under the protection of privacy Act, again you're allowed the opportunity to review records of any government institution and make a recommendation on whether that institution should keep those type of records in a protected status, so to speak. But I guess I have some concern that you're only allowed to make a recommendation.

So I wonder if you could explain to me under what conditions a government department, agency, institution would feel as though they have a necessity to release private information on an individual, should it be in opposition to a recommendation from yourself?

Mr. Gerrand: — Let me tell you that the Act provides for this. When I make my recommendation to a citizen — let's say the recommendation is that Crown corporation X produce to it certain documents — one of two things happen. The Crown corporation follows my recommendation and produces the document or the Crown corporation does not.

Under the Act the citizen has the right — if the Crown corporation declines to produce the document — to make an application to a judge of the Court of Queen's Bench to have my order, in effect, translated into an order of the court. Or if the Crown corporation feels that it does not wish to follow my recommendation, it has the right to apply to the court for review of my recommendation so that there is a means under the Act

for my recommendation to acquire the force of an order of the court. That is the effect of our particular legislation.

I do not have order-making authority. Other jurisdictions such as the province of British Columbia has order-making authority. Their commissioner does. Other jurisdictions have provision in their Act whereby I can finance a citizen in making an application to require a government institution to follow my recommendations. There is no such provision in our legislation. Each Act is distinct and different.

So that's the extent of my authority and that's how this gets resolved if it is going to be resolved, in court. So far, in my 14 or 15 months, my recommendations have either been followed — in about 90 per cent of the cases — or in the cases they have not been followed, no one has made an application to the court requiring them to be followed or otherwise.

So that's the scheme.

Mr. Wiberg: — Thank you, Mr. Commissioner. Actually in your follow-up to my question you actually answered my third question, so thank you very much. That's all I have.

The Vice-Chair: — Okay, seeing no more questions, vote 55, subvote (IP01) for the amount of \$105,000 . . .

Subvote (IP01) agreed to.

The Vice-Chair: — Okay this committee to adopt the following resolution:

That there be granted to Her Majesty for the 12 months ending March 31, 2002, the following sum:

For the Information and Privacy Commissioner - \$105,000

Mr. Yates: — I so move.

The Vice-Chair: — Mr. Yates. Is everyone agreed?

Members: — Agreed.

General Revenue Fund Conflict of Interest Commissioner Vote 57

(Subvote CC01)

Mr. Yates: — Madam Chair, Mr. Harper and myself have another meeting that we are now going to be late for, so if the next item is going to take a substantial period of time, I would think we would have to arrange another meeting time. Unless we can move through this very, very quickly.

Mr. Gerrand: — I have nothing to say regarding Conflict of Interest Commissioner. I've met with each of you and spoken with each of you and anything I might say would be redundant.

Mr. Wakefield: — Madam Chair, I would move that we look at both 57 and . . . at the same time.

The Vice-Chair: — Mr. Harper, you had a question earlier. Do

you want to pursue that question?

Mr. Harper: — No . . . (inaudible) . . . thank you.

The Vice-Chair: — Okay, then we'll move on to vote 57, Conflict of Interest Commissioner. So is everyone ready for the resolution on vote 57? Agreed?

Subvote (CC01) agreed to.

The Vice-Chair: — Okay.

Be it resolved that there be granted to Her Majesty for the 12 months ending March 31, 2002 the following sum:

For the Conflict of Interest Commissioner - \$122,000.

Mr. Harper: — I so move.

The Vice-Chair: —Mr. Harper. Everyone agreed?

Members: — Agreed.

**Supplementary Estimates 2000-2001
General Revenue Fund
Legislative Assembly
Vote 21**

Subvote (LG01) and (LG03)

The Vice-Chair: —

Be it resolved that towards making good the supply granted to Her Majesty on account of certain charges and expenses of the public service for the fiscal year ending March 31, 2001, the sum of \$71,000 be granted out of the General Revenue Fund.

Mr. Yates: — I so move.

The Vice-Chair: —Mr. Yates. And everyone's agreed?

Members: — Agreed.

The Vice-Chair: —

Be it resolved that towards making good the supply granted to Her Majesty on account of certain charges and expenses of the public service for the fiscal year ending March 31, 2002, the sum of \$11,658,000 be granted out of the General Revenue Fund.

Mr. Harper. And everyone agreed?

Members: — Agreed.

The Vice-Chair: — We have a motion:

That this committee recommend that upon concurrence in the committee's report the sums as reported and approved shall be included in the appropriation Bill for consideration by the Legislative Assembly.

Do we have a mover for that? Mr. Yates. Everyone agreed? Agreed.

Moved:

That the draft report of the Standing Committee on Estimates be adopted and presented to the Assembly.

Mr. Yates. Is everyone agreed? Agreed.

Okay, can I have a motion of adjournment?

Mr. Harper: — I'll make that motion.

The Vice-Chair: — Everyone's agreed. Thank you for coming, Mr. Gerrand.

The committee adjourned at 12:19.