



STANDING COMMITTEE ON HOUSE SERVICES

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STANDING COMMITTEE ON HOUSE SERVICES

Hon. Don Toth, Chair
Moosomin

Mr. Kevin Yates, Deputy Chair
Regina Dewdney

Mr. Denis Allchurch
Rosthern-Shellbrook

Mr. Dan D'Autremont
Cannington

Mr. Darcy Furber
Prince Albert Northcote

Hon. Jeremy Harrison
Meadow Lake

Mr. Len Taylor
The Battlefords

Mr. Randy Weekes
Biggar

[The committee met at 20:11.]

[20:15]

The Acting Chair (Mr. D'Autremont): — Ladies and gentlemen, welcome to tonight's Standing Committee on House Services. We have with us tonight Speaker Don Toth, who is a member of the committee but is here to present the estimates for the Legislative Assembly and for the independent officers. We also have committee members Mr. Weekes and Mr. Allchurch, Mr. Yates and Mr. Furber. And I'm Dan D'Autremont, standing in for the Chairs tonight.

The statutory mandate of our office I expect is well known to all members, but I'll just remind you briefly. We oversee about 3,000 organizations in Saskatchewan with respect to their compliance with three different laws. The one is *The Freedom of Information and Protection of Privacy Act* or FOIP for short. The second is *The Local Authority Freedom of Information and Protection of Privacy Act* or LAFOIP for short, and the third one is *The Health Information Protection Act*.

What we have is pursuant to rule 138(5), the following estimates for the legislative branch of government were deemed referred to the committee on March 31st, 2011: vote 34, Chief Electoral Officer; vote 76, Children's Advocate; vote 57, Conflict of Interest Commissioner; vote 55, Information and Privacy Commissioner; vote 21, Legislative Assembly; vote 56, Ombudsman; vote 28, Provincial Auditor; and supplementary estimates, vote 57, Conflict of Interest Commissioner.

As I'd indicated to the Board of Internal Economy, over the last seven years our office has been very busy. We have one of the smallest offices of its kind in Canada with actually one of the larger workloads. We've opened 1,123 investigations and formal reviews under one or more of these three statutes I identified a moment ago. We've been successful in closing 874 of those case files, and our percentage is usually in the order of over 90 per cent of those files closed on the basis of informal resolution. And then for the balance, we issue formal reports that identify the public body or the health trustee in interests of accountability, but always with a view to protecting the privacy of the individual. We don't identify them in our reports.

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

Subvote (IP01)

I just remind members that we still have a very significant backlog problem. That's the reason explicitly that the board authorized the additional \$73,000 for the current fiscal year. Even after a number of innovations, reorganizations, changes we've made in the office to try and optimize our efficiency, we still have a serious backlog issue. Before the board, we had sought permission — the Board of Internal Economy — we'd sought permission to hire a fourth portfolio officer. This was denied in the wisdom of the board, and that makes four consecutive years that a request for one additional portfolio officer on a full-time basis has been denied.

The Acting Chair (Mr. D'Autremont): — Present with us immediately is the Information and Privacy Commissioner, as well as Speaker Toth. Speaker Toth, if you have an opening statement or if Mr. Dickson has an opening statement. And this will be found on page no. 149.

So I'm here I think essentially to answer questions of the members, Mr. Chairman. So those are the comments I wanted to make by way of introduction. Thank you.

The Speaker: — Thank you, Mr. Chairman. As you've already indicated with us tonight, is Mr. Gary Dickson, Privacy Commissioner. And at this time I will just turn the floor over to Mr. Dickson, and he can introduce his staff and any opening comments he would like to make.

The Acting Chair (Mr. D'Autremont): — Thank you Mr. Dickson. We will now move with the Information and Privacy Commissioner (IP01). Questioners? Mr. Yates.

Mr. Dickson: — Thanks very much, Mr. Speaker. So good evening, Mr. Chairman, members of the House Services committee. On my right is Diane Aldridge who is our director of compliance; on my left is Pamela Scott who is our director of operations at the Office of the Information and Privacy Commissioner. We sometimes refer to it as OIPC for short. Immediately behind me is Kara Philip who is our intake officer and database manager; and then to her left is Alyx Larocque who is a portfolio officer in a term position; and then to her left is Kevin Kane who is also a portfolio officer in our office in a term position.

Mr. Yates: — Thank you very much, Mr. Chair. Mr. Dickson, I have a number of questions. I want to start by stating for the record that since the approval of the budget, there has been to my knowledge some significant new workload that's been having to be undertaken by the Information and Privacy Commissioner. I know first-hand of one occasion where boxes and boxes of files in fact were found. Could you, for the committee, explain to us what work you have to undertake when you have, when you find a large number of records like that and the amount of time demanded is upon your office?

Members may be aware that I'd had the opportunity to appear in front of the Board of Internal Economy on February 22nd, 2011. Estimates were approved at that time in the sum of \$1.041 million. On March 8th, there was then approved an additional \$73,000. And members may or may not be aware that this was to enable our office to retain some . . . at least to ensure we would have an additional portfolio officer to allow us to work on the backlog for this current fiscal year of 2011-2012 with no commitment beyond that and on the explicit understanding this wouldn't increase the base in terms of funding for our office. So the total amended estimates for our office was \$1.114 million.

Mr. Dickson: — Sure. Thanks for the question, Mr. Yates. The major incident happened on, I guess at the tail end of last fiscal year. It was on March 23rd that we had been alerted there was a quantity of what appeared to be patient files in a large recycling bin, and that would be on the corner of Parliament and Albert South in Regina. So we in fact had received a call, Mr. Yates, from your office.

So I attended at the scene with two of my portfolio officers, and we spent from about 5 p.m. until approximately 7:30 going into the large blue recycling bin. And what we found there was a very large quantity of personal health information. And it took different forms. There were full patient files, obviously from a medical clinic. And then in addition were a large quantity of other material listing patient names, health services numbers, addresses, and in many cases a code which would identify the type of disease or disability or illness they had. And so that information was available in a very large quantity.

So what we had to do was ensure that all of that material was gathered from the recycling bin, transported back. It took three of our cars to transport that material back to our office.

What happened from that point was a number of things. First, determining who was the responsible trustee or trustees. So when we were on the scene that evening, on March 23rd, portfolio officer Alyx Larocque we actually sent into the two buildings in that block. To my surprise, there were about 12 different health trustees that all have offices in either the golden square or the Golden Mile mall. And so a number of those people in fact still had offices open that evening, so it was a question of going door to door to canvass and see if we could determine where the records had come from.

And so we've been busy in the two weeks that's followed. And so what we've done is, we have gone through all of the material, and we've been able to catalogue all of the materials we've got. I can tell you that we're now getting to the tail end of our investigation. We have some interviews to conclude it, and I anticipate we'll be issuing a report within a matter of weeks which will detail everything we found.

You may be interested to know that, in terms of the records we've looked at, it's a very large number. We're over 100,000 pieces of personal health information. The final count will appear in the report.

So what happened then is, we need to find out who was the last trustee that had custody of the records because it's not uncommon, you have health records that will be in the custody of physician A, who then retires, leaves the province, and transfers the records under section 22 of HIPA [*The Health Information Protection Act*] to another physician. And so the difficulty when you see a large number of health records is sort of determining who was the last responsible trustee for those records.

And so we've interviewed, my staff, it would be well over two dozen people involved in different trustee organizations to determine whose records they were. We've been able to determine that. We then had to find out how they came to be where they were. And that of course will be disclosed in some detail in the report we issue.

But lots of challenges. For example, we found that some of the trustees we were particularly interested in had off-site storage in three or four other places, and so we actually had to go get access to those places. We had to review the way they were storing records. We had to interview people who had responsibility for records. We had discussions with landlords. We had discussions with associated businesses. We have had to

investigate, I think in the one case, we've probably done eight or nine corporate searches. There've been a number of different companies involved.

There is an interesting feature of *The Health Information Protection Act*. We have to identify a specific trustee who had custody or control of the records. And one of the challenges is, if you have a bit of a web of corporations, professional corporations, we have to determine what was the entity, who was the trustee, who was that organization. Any event, this has meant plenty of interviews. We have . . . What other kinds of things have we been doing? I mean, the corporate searches, reviewing the records, doing the interviewing . . .

Ms. Aldridge: — Working out the timeline, chronology, looking at the history in terms of changing over hands from one trustee to another, the other challenge too when spending time going through the dozens and dozens of boxes of patient files is of course the contributors. You know it would be, I think, ideal if we only saw one health care practitioner in our lifetime, but there's always a number of specialists, doctors from different clinics, doctors from different communities. And so if you open up one patient file, there could in fact be a dozen or more health care practitioners that have contributed to that report. So it's very time-intensive, labour-intensive work.

Mr. Yates: — Thank you very much. Mr. Dickson, my next question goes to the literally 100,000 pieces of health information that you have. Is it incumbent upon your office to notify those people that their health information has been handled in that manner? And what does that entail?

Mr. Dickson: — Well first thing is we go back to the statute which we derive our mandate and our authority from. We do not have a provision like a number of more modern privacy laws which imposes a duty to notify. We actually don't have that kind of a requirement in our HIPA legislation. Notwithstanding that, our office has always said we think it's a best practice when it's information that's close to the biographical core of the individual, and it certainly would be health information, that normally there should be notification of the individual.

But what we've done . . . We've been at this now for almost eight years, and the approach we take is, once we identify who's a responsible trustee — in other words, the physician or the clinic that last had custody and control of the records — we say it's your responsibility. This is our expectation that you will arrange for notification of those people that their records have been not properly secured, that the requirements of section 16 and section 22, section 17 and 18 of HIPA have not been met.

And in the case we've . . . to be honest, we've never dealt with a case where we've had well over 100,000 individuals. I mean we could shut our little office down and do nothing but notification. We don't simply have the capacity to do that. I expect that at the end of the day, whatever other recommendations we make, we would have an expectation that the trustee who's ultimately responsible will perhaps take a by-newspaper notification or something of that order. That may be the most efficient way to provide notice to a large number of people who were patients in a particular health trustee organization, giving them some information, giving them a

contact number to be able to phone to get more information.

So this is kind of a long-winded response to a simple question. There's no statutory requirement for notification. We think notification should happen as a best practice, but we would look to ensure that responsible trustee provides that notification in whatever measure is sort of practical and makes sense at that point. But that wouldn't be exhaustive of what we would expect from that trustee, but that would be one of the things that we would look to, to be able to conclude the investigation and close the file. Am I being responsive?

Mr. Yates: — Yes, you are. It does lead me to another couple of questions, though. First off, what level of follow-up does the office undertake to ensure that in fact notification has occurred?

And secondly, I guess I personally have some difficulty with sensitive health information that was exposed to the public, if it's only notified through a newspaper because there are those who do not read. There are those who don't purchase the newspaper. There are, you know, for various reasons . . . Many, many people may never know, using that methodology, that their health information was in fact not protected. And individuals may have serious concerns that they would like expressed, and they never get an opportunity to because they're never aware of the significance of the issue.

[20:30]

Mr. Dickson: — I take the point. I shouldn't have led you to believe that perhaps newspaper notification would be the extent of it, would be exhaustive. I mean there may be a number of other things.

What we do is we look at a number of considerations. A number of the files are much older and in fact we find often should have been destroyed. If a trustee organization had a proper record retention and disposition schedule, some of those old files should have been destroyed long ago. And so we probably would take a different view of that than we would with files that were closer to being active treatment files and were only a matter of years old.

Some of the difficulties with really old files, people have died, have moved, have left the province. It may take an inordinate amount of effort and resources to try and find current addresses. There may be other ways of doing it. I'm trying to sort of illustrate some of the ways we've approached it.

We've probably had perhaps as many as 10 cases over the last eight years. We've had a spate of abandoned records, you may recall, a couple of years ago that probably would have come to the attention of the Assembly. And when we found the physicians that were responsible — in a number of cases, it was smaller communities — before we would return the records to them, because they'd hand in them before, we had them sign a formal undertaking. They had to run an ad in their local newspaper that we approved of that provided additional contact information. And sometimes they had to do other things as well to try and get the message out to people who would be affected.

So we had some experience, and that seems to have worked reasonably well in some of the smaller communities. What's

different here is just sort of the volume of, the volume of records. We've never dealt with anything of this magnitude.

Mr. Yates: — Thank you very much. In the past, have there been any prosecutions of individuals for their handling of health privacy or other . . .

Mr. Dickson: — In our province, to prosecute under section 62 of HIPA, there is an offence provision with very substantial financial penalties. But interestingly, it requires the consent of the Minister of Justice for a prosecution to proceed. So there have certainly been plenty of breaches, I can assure you, over the last seven and a half years under *The Health Information Protection Act*, and we're advised . . . Certainly a number of regional health authorities where they found staff who have breached HIPA, they have gone to the Crown seeking permission and believing that it was a sufficiently egregious case that it would warrant prosecution. And in each case that we've heard of, Justice has declined to prosecute.

This has been a concern of mine and my office for some time. We more recently have had some further discussions with Justice. We think it's so important as we move to an electronic health record where potentially 10,000 approved users in this province all over Saskatchewan have the keys to the system and the ability, if they choose to ignore their training and so on, to be able to go and peek at somebody else's personal health information in the other end of the province. That risk is sufficiently great. We think it's just so important there be very serious consequences for people who have had the training, who know better, and ignore the soft barriers, if you will, and then proceed to snoop in somebody's personal health information. We think there have to be serious consequences, and we think prosecution and the offence provision is an important part of that.

And to be honest, what we hear from larger trustee organizations is they actually feel quite frustrated that there's a sense that the tools that have been created by HIPA to promote strong compliance are not being utilized. And so that in effect creates a bit of a disincentive when we're trying to get very strong compliance with the requirements.

Mr. Yates: — Thank you very much. In light of what we know today — and I think it would be fair to say that a lot of people were shocked at the volume or the magnitude of the breach on March the 23rd — are you going to make a series of recommendations to the government that you want to see implemented in the near future? And among those, would there be a shift in the decision to prosecute from the Minister of Justice to your own office?

Mr. Dickson: — Well because we haven't completed our investigation, I don't think it would be prudent for me to speculate on exactly what my recommendations will be. I can assure you that there will be a number of recommendations coming out of the breach from March 23rd.

And there may well be . . . What we've often done is we've had recommendations for the specific trustee or trustees involved. We've often had recommendations for the colleges, the regulatory colleges which actually have the potential to play a very significant role in promoting compliance with HIPA. And

on occasion, we've had recommendations for ministries as well.

I can tell you that, I think certainly in my last annual report and in a number of publications my office in past years, we've talked about this concern that there have been no prosecutions in Saskatchewan and that even cases that appear on their face to warrant that kind of a sanction, that kind of an approach, have not resulted in it. So that's been a concern. In my last annual report, I think in particular, we talked about an absence of strong responses or measures.

But I'd say this. Our experience is it's not really, I think, that there are glaring inadequacies in our health information protection Act. There are always things that could be improved. We know from our seven and a half years experience. But I think, with respect, I don't think the fault lies with the construction of the statute or the provisions of the statute.

I think it really has to do with attitude, and it has to do with the need for a broader recognition. That is, we move to an electronic health record. The risk is of people who have no business looking at your or my personal health information increases dramatically. And that redefines in some respects the challenge for all of us, for legislators, for an oversight office and for trustees.

And I will continue to make recommendations I think are appropriate to ensure that those people that have responsibility, whether it's colleges, whether it's the Health ministry, whether it's individual trustees . . . We'll continue to identify in a public way the kinds of changes that we think need to be made.

Mr. Yates: — Thank you very much. Mr. Dickson, I think it's fair to say, after the 23rd of March, thousands of more, tens of thousand more Saskatchewan people see this as an issue than they did before and not because of . . . It's a very public understanding of the issue and people's concerns. We've had many phone calls, many citizens who didn't pay any attention to the issue of privacy legislation or protection of their privacy, people who are concerned because awareness has been raised. There was a great deal of media coverage.

Since then we've had four additional in just a month become aware to yourself. And I think that's partly because of the profile that came out of the March 23rd situation and the sheer volume of files and the magnitude of it, which will likely result in greater public reports to your office on various issues because, with anything, as awareness increases, so does volume of work.

What impact do you anticipate on your office and on the work demand as a result of that greater awareness?

Mr. Dickson: — Well I certainly agree with the point that there's heightened awareness. There was a lot of media coverage with respect to the March 23rd incident. But interestingly, it certainly raised public awareness, but what's been interesting is we've now had calls from citizens. We've now identified four other cases. All that happened subsequent to March 23rd, and that fairly extensive, the notoriety that attached to that, four other cases where we found — I should say alleged because we haven't finished our investigation — cases where it appears that trustees have taken personal health information and

chucked it in the dumpster or disposed of it in an unsafe way instead of appropriately cross-shredding it.

On the positive, and I'm an optimistic guy, it's excellent that citizens are finding these things when they go to throw their newspapers out or they find it blowing around the parking lot behind the Kentucky Fried Chicken outlet. It's excellent that they know to phone us and we can go out and seize the records. But the thing that's actually very surprising is the fact that we have trustees that haven't got the message.

And you may not have seen, but it was just yesterday we issued — actually we issued the advisory the week before — we issued a news release yesterday and made it a little more public. But we've issued an advisory listing . . . We've sent it to all of the 24-odd health colleges and regulatory bodies in our province, pointing out the importance of ensuring that every single member of their particular college understands what HIPA requires and follows it. We've identified eight specific things that we want every trustee in Saskatchewan to know they need to do. So we're apparently getting good co-operation from the colleges. They're assuring me they're sending this out. And I understand the Ministry of Health has sent a letter from the minister to every physician in the province. So I mean those kinds of things certainly are helping.

But it's tough from a resourcing standpoint. We've had two investigators and most of my time. This is what we've worked on for the last two and a half weeks. And that means . . . I think I've told you and the board before that a typical caseload for one of our investigators is, it's about three or four times larger than any other investigator in an equivalent office in another jurisdiction. So if somebody takes two weeks, and maybe another two weeks, working on one particular file, that means that their access, reviews of access denial and other kinds of breaches, we don't get to. I mean that's just the way it works.

We've always talked about it at the board. We just have more cases coming in than we have the ability to keep up with. So, you know, we will presumably get all this done. It just . . . We're not able to do it in a way that I think is in any sense appropriate or timely. And we've had those discussions before at the board, I think. Have I answered your question, Mr. Yates?

Mr. Yates: — You have. I'm going to allow my colleague to ask a couple of questions before we come back and I have a few more questions I'd like to ask.

The Acting Chair (Mr. D'Autremont): — Ms. Atkinson.

Ms. Atkinson: — If a citizen or an MLA [Member of the Legislative Assembly] is alerted that there are medical records in one of these recycling bins — and I think it was one of those bins that you walked into, if I recall — and you phone the police and they aren't prepared to deal with it, what are you supposed to do?

[20:45]

Mr. Dickson: — You know, it's a great question because I don't think when I took on this most interesting job, you know, in the tail end of 2003, I don't think it ever occurred to me that part of the job would be when somebody finds records blowing

around in the street, you go down and pick them up wherever they are. But I think the way I view my job is, I think an important part of what I do is trying to ensure that patients in Saskatchewan have a sense of confidence that their privacy is important, that there is an office that does what it can to protect their privacy, and there's actually . . . I can't think of anybody else who would go and pick these records up. So it's kind of, if we don't do it, who would?

We've had cases before where the police have been notified and have gone and seized records that were blowing around in a lot, but the difficulty is once it's determined very quickly there's no Criminal Code matter that would be relevant, then it took us almost three weeks to negotiate with the city police to have them turn the records over to us so we can do the investigation that we need to do and we're specifically set up and trained to do.

Ms. Atkinson: — So I guess what I'm getting at is, someone phones and says there's a bunch of records that have been put into a recycling container. You phone the police. The police — it's not a criminal code violation — they say, it's not up to us. So then the citizen goes to protect the records. Is that illegal?

Mr. Dickson: — Well no. I mean in fact what we find is that we rely to a very large extent on citizens who see evidence of documents blowing around or things unattended. And it's through them notifying us that we often learn of the existence of these things, and then we can take steps to seize the records.

Ms. Atkinson: — Okay. So when, you know, someone phoned my colleague to say there was . . . I mean, you say it's the largest, 100,000 records . . .

Mr. Dickson: — Well over.

Ms. Atkinson: — Well over 100,000 records in a recycling container. My colleague goes to that container. He hasn't done anything that's illegal, has he?

Mr. Dickson: — No. In fact it was that notice that alerted us. We would not have known about this very large volume of personal health information that was in the recycling bin had it not been for the phone call.

I think the concern is, I mean, people find things, and this is not an uncommon . . . I mean the only thing that makes this uncommon is the volume of records. But in the almost eight years I've been doing this work, it's typically phone calls from somebody who finds records in a parking lot or finds records in some other place where they're not supposed to be. That's the only way we would know about that.

And then the important thing is then once we know, and in a case like this when we went to the scene, then our job is to make sure that we take custody of the records and make sure that, you know, nobody else other than our own staff are looking at the records, looking at the files, and that sort of thing.

And that's of course exactly what we did here when we attended the scene. We had a discussion with your colleague and point out the important thing was that we going to box the records and it would just be myself and one of my staff who

were in the dumpster and taking the loose records, putting them in boxes. And then the boxes being, lids put on and then being stacked outside and then transported into three cars. So what was important at that stage was that clearly we needed to take charge, if you will, of the records and ensure they were transported. And that's exactly what happened. Have I answered your question?

Ms. Atkinson: — Yes. Yes, you have. I mean there's been some guffawing about my colleague having been in a dumpster with literally over 100,000 medical records and it's a bit of a joke, apparently. But as someone who has had, on the public record, concerns about HIPA, medical records, the snoops as you referred to earlier, and now this, it seems to me that this is something that we need to take, as legislators, very seriously — a person's health record. And so when you're notified of literally over 100,000 health records sitting someplace and it seriously violates a person's right to privacy, it seems to me that this is something we all need to take very seriously.

So I want to commend my colleague actually, for taking this seriously. I understand that the police were called and that yourself was called and now we have a massive investigation into what happened here. And my assumption is that there will be some consequences for this because I think the intent of the legislation was to protect people from this kind of event.

The Acting Chair (Mr. D'Autremont): — I recognize Mr. Yates.

Mr. Yates: — Thank you very much, Mr. Chair. Mr. Dickson, one of the things I was trying to get from my questions this evening was the fact that, you know, as awareness goes up, so is the workload going to go up. Having seen the amount of work that had to be done on that particular day and the fact that now it's about three weeks later actually, and it's undertaken your entire time, I would like to review just briefly with you the staffing levels you feel you need in the office. And if you could give us an update on what those roles would be and how we compare to some of the other jurisdictions in Canada.

Mr. Dickson: — A couple of ways of coming at it. I guess I would say this: that we, if we look at other jurisdictions across Canada, there's little sense comparing . . . Ontario has 97 people in their office, so that's not a very helpful thing. The Quebec office has something in excess of 60. So we look to offices more our size.

Manitoba has I think in the order of 17 people in the Ombudsman's office available to do access and privacy investigations. An interesting comparison is with the province of Newfoundland and Labrador. Now Newfoundland would have about half the population and they have, they just have a health information law. So they're not yet fully functioning under as broad a mandate as we have. Newfoundland, with their 500,000 people, they have 13 people in their Information and Privacy Commissioner office.

The British Columbia office has 44. The Alberta office has 58 people working in their office. Our total complement — these aren't just investigators; I'm talking about the total complement — but in our office it's eight, including me as commissioner.

So what we need . . . Well if we were simply looking at the caseload we have now, we have three investigators on a full-time basis, portfolio officers. I would say we would need three more investigators to be able to provide the kind of service that I've always said since I started here in late 2003 . . . And really you work back from what you think is reasonable for citizens, how long they should have to wait to have a privacy complaint investigated or a review of a decision to deny them access.

And I've said I've been at this for over 20 years and I've worked in four Canadian provinces and I've done work for the federal government in this area. And my opinion would be five months would be a realistic time for a citizen to wait from the time that they raised the concern until it's resolved in say, you know, 85, 90 per cent of all cases. There would be some exceptional ones that would simply take longer. And so if you're prepared to live with a lot longer, then that requires less staff. But five months would be what I'd recommend.

To be able to achieve that kind of standard in Saskatchewan, which I think is not, is not sort of the ultimate . . . It's not even perfect, but it would be a reasonable compromise. And I think of myself as a pragmatic person. That would take three more portfolio officers, so we'd have six permanent portfolio officers. With that, I'm confident we'd be able to meet, achieve that kind of a matter. There would not be the kind of backlog we typically have of 180, 190 files. We would be able to manage what comes in the door and turn them around within that — the vast majority of files — within that five month period.

You might notice I've never asked for three more portfolio officers since I've been here. I told you I try and be practical. And as Mr. D'Autremont has reminded me, I think in each of the last seven appearances in front of the board, much of the time I've been here has been a period of restraint. And so I've tried to make it clear to the Board of Internal Economy that I report to, that I hear those messages. And although three would be what I think is necessary to do the job, I've asked for, in most of these cases, one more portfolio officer which would at least reduce some of the stress on the people we've got.

Our current backlog is 277 formal investigations and reviews. And it's hard to see . . . I mean even with the additional fourth position we have for this year only, we're certainly not going to, we're certainly not going to eliminate that backlog. So citizens continue to have to wait longer than they would in most other Canadian jurisdictions.

So I've sort of meandered a little bit, but the short answer would be, what I think would be realistic would be three more portfolio officers. And I've explained we'd asked for one again this year because that was an attempt on my part to be mindful of sort of restraint and constraint that executive government is operating under.

Mr. Yates: — Thank you very much, Mr. Dickson. Could you give us an approximate amount what that would cost in regard to new budgetary dollars?

Mr. Dickson: — Well if we had three additional portfolio officers, we'd be looking at probably about \$250,000, and that

would be for direct costs for those three individuals. And then we would, in terms of having space for them, we would have to make a number of renovations in our existing office or find other space. And we just wouldn't have sufficient room for three people immediately. So my director of operations tells me that that may be a one-time cost in the order of \$100,000 to be able to accommodate that.

Mr. Yates: — Thank you very much, Mr. Dickson. I'm going to go on the record now and say that the official opposition's in support of those additional dollars, and we will be undertaking to ask for a special meeting of the Board of Internal Economy to ask for these dollars at the earliest opportunity. And that concludes our questions.

The Acting Chair (Mr. D'Autremont): — Mr. Allchurch.

Mr. Allchurch: — Thank you, Mr. Chair. I have just a couple of questions. Over the last seven and a half years, could you break down the number of incidences regarding medical files and in what years these incidences took place?

[21:00]

Mr. Dickson: — We've certainly had a number. And I remember it was in 2008 we had five cases of abandoned health records that came to our attention. I think virtually all of those involved physician offices, and that involved physicians in Yorkton, Melville, Moose Jaw, Uranium City.

What I recall was, I think it was in 2007 or 2008, we had found a large quantity of records that had been abandoned in Yorkton. And I was concerned about that, and so I thought, perhaps naively, this is a good chance for my office to remind all health trustees to pay attention to records when they're finished with them. And I think we'd issued a news release and a bit of an advisory to health trustees. Well I wondered about my judgment in doing that because then we started getting phone calls from citizens again, landlords, people all over the province who identified records that had not been properly stored.

Now some of these records weren't health records, but it was just interesting again. It was what I was saying earlier, in response I think to one of the questions from Mr. Yates, it involved lots of records. In fact we had for a time, as a result of those five cases I've told you about, we ended up with seizing about 73 bankers boxes, 73 full of patient files that had been abandoned by different medical practices in different parts of the province. And in fact we were paying rent on an office in Moose Jaw where we were storing all of these records for about a year and a half I think. So that was a big chunk.

And we've had some cases we have been able to . . . Like we try and work with the colleges because my office is a bit of a toothless tiger; I have no order-making power. At the end of the day, I have broad powers to investigate, and then all I can do is make a recommendation or recommendations. The colleges have the power of licensure so they have an ability to be able to deal with those matters also. So we've been also trying to encourage the regulatory colleges to take a more active interest in this whole business of abandoned records with, I guess I'd have to say, mixed results.

Mr. Allchurch: — So to your knowledge then, the first incident that you're aware was in 2007-2008?

Mr. Dickson: — Yes, I think to the best of my recollection, that's accurate. I should make it clear, I mean, this is simply one way HIPA is breached. We have a much larger volume . . . I mean abandoned records are serious because it's very sensitive information. In one case in Yorkton I remember we found a box, and on top of the box in an unlocked room was a completed rape kit for a young woman in the province. And I remember, I've never forgotten that because I just thought, I mean, if you're talking about high-prejudiced information, how could a gynecologist leave town without taking appropriate measures to destroy that record? How could that happen?

But my point I think was going to be simply that we have lots of cases where people are denied access to their health record, you know, from their primary provider. We have other kinds of cases where there's snooping, where somebody who doesn't have a legitimate need to know for a therapeutic reason gets access. We've had a number of major investigations involving the PIP program, the pharmaceutical information program, where people have gone in and used their user privileges to be able to access information for people who weren't even patients or customers of their pharmacy. So I mean lots of those kinds of issues. So the numbers I gave you, specifically those cases of pure abandoned records, but that represents . . . I don't want to lead you to believe that's the biggest issue under HIPA. It's actually one of the smaller ones.

Mr. Allchurch: — No, the reason I asked for the year 2007-2008 because I think it was said earlier that over the last seven and a half years, you've had cases of abandoned files. So if it just started in 2007, that's only — what? — five years ago or four years ago. So I just wondered if there was any more files that were found in the last seven and a half years rather than the four years, to your knowledge.

Mr. Dickson: — Not to make this any more confusing, what we find is, what I think is important to say, a number of the records we found had been abandoned years before we found them, right? So I think it would be important to say we've gone into places where a landlord has said, well nobody's been in this basement area for three years. I mean there's records have been there for a long time, and they told us that we were investigating in 2007. So if your question was simply those things, when we had notice of them, then it would be a narrower time frame. If you asked me what notice we have of abandoned health records, then I'd say it would cover most of the time that we've been here.

Mr. Allchurch: — Okay. And in the incidents from say 2007 and on, is it a normal practice for people that find these to report it to the city police and then to your office as the Privacy Commissioner, or is it a practice to phone an MLA and then the Privacy Commissioner?

Mr. Dickson: — I'd have to say there's no one route. We had one case about a year ago where three health regions had sent their records to Crown shredding to be shredded. And there was a bit of a mix-up at Crown shredding, and a number of health records ended up in a kind of unprotected way, ended up blowing all over the Crown shredding lot in Regina and out on

the street and so on. Somebody found them, and they phoned the Regina city police. And the city police came and got them but quickly realized what were they going to do with them? They don't really work with HIPA. They quickly discovered there wasn't a Criminal Code infraction involved. And so it was actually then it was the solicitor for the Regina Police Service who realized our office existed and had a mandate to deal with those. That's how they came to us.

But it's most common it'll be a citizen, somebody whose snow blower jams with paper in front of their house, and it turns out the doctor next door didn't get all his records safely stored. So I'd say mainly it's citizens bringing it to our attention. And I guess I'd say we don't really . . . It doesn't matter very much to us who calls. If there are records which are not protected, if there's health records that are left in a place where anybody can look at them, that's a problem. And so we're grateful whenever a citizen brings that to our attention.

I can remember a case before where it's been an MLA office that contacted us to alert us to the records, but at the end of the day, from our perspective it doesn't matter because we have a job to do. They're health records; they're not properly protected. So our job is to seize them, get them off the street, start our investigation. And so, you know, from our perspective it's pretty simple. And whether that person . . . Sometimes it's another physician. Sometimes it's another trustee that recognizes that one of their colleagues is not following the HIPA rules, and they will phone us. And so, you know, we hear from a very diverse group of tipsters, if you will.

Mr. Allchurch: — I think it's fair to say, Mr. Dickson, that the norm in any city or any incident regarding this, that if somebody was to find personal files of that nature, they would phone the police. They may, if they know about the files, they would phone the Privacy Commissioner, which would be you. But isn't it rare to phone an MLA?

Mr. Dickson: — I can't . . . I mean what I think you're asking me is to get a little bit inside the head of somebody who's the tipster, who makes that call. I mean because, I know of the role of an office like this, and I'd expect people would call the Privacy Commission.

I mean, the police really don't have much of a role, to be honest, in terms of HIPA. So if they were to call the police, that wouldn't be what I'd recommend. And in fact my recollection is the Minister of Health, when there had been that breach on the Crown Shredding parking lot, I think he'd said in the House in question period, if anybody sees records blowing around, phone the police. And I think I sent him a note saying, thanks for encouraging citizens to be active and volunteering tips.

But frankly it'd be better if they called our office than called the police because the police really aren't very interested and aren't focused and mandated, frankly, to be doing HIPA breach investigations.

Mr. Allchurch: — Would it be out of the norm if somebody did phone the police? The police would then automatically contact you because they know that they, with the Criminal Code, they have nothing to charge the person?

Mr. Dickson: — This is one of the things that more recently we've starting discussing with the Ministry of Justice. Sadly, I can tell you many of the police services . . . because we have an anomalous situation in Saskatchewan, we're the only province I know of outside of PEI [Prince Edward Island] where police services aren't covered by any access in privacy law. And so actually my experience has been that any of the municipal police services in Saskatchewan have very, very little familiarity with FOIP, LAFOIP, or HIPA. So frankly the only reason I think Regina city police contacted us is because the city solicitor was sharp and had familiarity from his past experience at the city of Regina with our office. And so he immediately knew we were there and mandated to do that kind of thing. But I wouldn't expect that'd happen most other cases.

Mr. Allchurch: — All right. Thank you, Mr. Chair. That's all the questions. Thank you to Mr. Dickson and his officials.

Mr. Dickson: — Thanks for the questions.

The Acting Chair (Mr. D'Autremont): — Are there any other questions? Thank you. If not, we will vote these at the end of the evening. So thank you, Mr. Dickson, and for your officials. And we will take a very short recess for the next independent officer to arrive. Thank you.

Mr. Dickson: — Thanks, Mr. Chair.

The Acting Chair (Mr. D'Autremont): — Mr. Yates.

Mr. Yates: — Thank you very much, Mr. Chair. I'd just like to join with you in thanking the officials for coming this evening. I'm sure you have more important things to be doing on an evening than spending, answering our questions, but we do appreciate your effort.

Mr. Dickson: — Thanks very much.

[The committee recessed for a period of time.]

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

Subvote (CE01)

The Acting Chair (Mr. D'Autremont): — Okay, thank you. I'd like to welcome Mr. Wilkie and his officials here today. Mr. Wilkie is the Acting Chief Electoral Officer. Tonight we are looking at the appropriations, vote no. 34 on page 143 and 144, Chief Electoral Officer (CE01). Mr. Speaker Toth or Mr. Wilkie, if you would like to proceed you may.

The Speaker: — Thank you, Mr. Chair. As you've already acknowledged, we have Mr. Wilkie with us and a couple of staff. We'll have to introduce them in a minute, but we want to welcome our Acting Chief Electoral Officer to join with us this evening to answer any questions the committee may have regarding the office and the work of the Chief Electoral Officer. And a number of members will also know we had a meeting about a month ago with the Board of Internal Economy. Any further questions, members will have the opportunity to direct towards our Chief Electoral Officer. So at this time I'll turn it

over to Mr. Wilkie.

Mr. Wilkie: — Thank you. Thank you very much. Good to be here this evening. And tonight joining us are Sandra Arberry who has just joined the office on April 11th. And she is the chief operating officer in the absence of a deputy chief or assistant chief. She has taken this role on a two-year term. And we also have Brent Nadon who you may recognize who's the manager of election finances.

The Acting Chair (Mr. D'Autremont): — Thank you, Mr. Wilkie. Questions? Mr. Yates.

Mr. Yates: — Thank you very much, Mr. Chair. Good evening, Mr. Wilkie and your officials. It's great to have the opportunity once again to discuss the important role that your office undertakes on behalf of the people of Saskatchewan. Mr. Wilkie, I want to start with a few questions about election preparation. We're drawing ever closer to that inevitable date of November the 7th, and if you could give us an update where we are in regards to preparations for the election.

Mr. Wilkie: — On the matter of returning officers, we almost had 57 for a while, or 58 I should say. A couple have dropped off. We've about two or three that are pending appointments at the moment. Then we'll be back up to the 58 number.

All of the returning officers have been trained for the mapping process, and the first 12 completed maps have been delivered to the two parties in the House, to their executive offices. And the next shipment of 10 is coming out in a week or two, and that that will continue, probably two more shipments to have them done about the first week or middle of June. And that's the new maps that are now very detailed with the actual addresses of each house on them and in colour, and you can actually read the roads and so on. And on the rural side, they have the section numbers actually on the map. So it's very, going to be very easy to identify where people actually live on the map.

And the returning officer pre-writ training is being held. As always, we hold sessions in Saskatoon and Regina. And the two sessions in Regina are coming up on May 6th and May 19th, and the sessions in Saskatoon, May 11th and 12th. So that will be training all of the returning officers and their election clerks on what preparations they need to make between now and the middle of June in order to find their office space, get the rest of their staff and enumerators identified, get their data entry operators identified — all those kind of things — to determine their polling places. Most of them have been tentatively identified, but those will be finalized as well as the advanced polling places.

And the training for enumeration is planned for the middle of June; again, two sessions for two days in Regina, two sessions of two days in Saskatoon. And the pre-writ preparations are all supposed to be done from the time they get their training in May until the middle of June when they get their June enumeration training. And then the third and fourth week of August is when they'll be trained for the rest of the matters with regards to nomination and absentee voting and polling day and all those additional things later on in the electoral calendar.

So that is proceeding well. We are at the complement of staff

that the Hamilton report suggested. So now with Sandra having joined us, we have another senior person on staff to do some of the things that need to be done. We are presently about to have more liaison with the disability groups, which we promised them in 2008, in order to make sure that any voters with disabilities know what options are available to them. As well, Sandra is going to be starting momentarily on, if she hasn't started, on the evaluation of returning officers so that we have an objective way to evaluate them.

On the election financing side, we are continuing to work on the candidate electronic return. Is that how we should say it? And the financial compliance analyst, she is working on that right at the moment to get the business rules down for that, taking the paper form that's currently there and being able to adjust it so that it will be assisting the candidates' business managers so that . . . It will automatically add things up so you won't have to worry about the calculations and other things to make it easier for the business managers. And that's some of . . . Is there any specific questions you'd like to know in addition to that sort of . . .

Mr. Yates: — Yes. Thank you very much. Working backwards from election day and the proposed or potential dates in which the election could be called, unfortunately it would appear that we have a statutory holiday in there. And what if any impact would that have upon your ability to prepare for the election and deliver, as an example, the enumeration in a timely manner?

Mr. Wilkie: — Well I believe that I did send a letter to the Speaker and asked that it be shared with the Board of Internal Economy with respect to summarizing, in one page, the preferred option that we have been arguing or putting forth for the last number of years. And that is, with a fixed date election, to have an enumeration outside of the writ so that the best possible enumeration can take place before perhaps the next step of going to the permanent register. Because when you have that set date, there's no use doing it in a 10-day period and that is particularly because of Thanksgiving. Because if the enumeration was inside the writ, then the way the fixed date, the legislation reads is that, yes the election is November the 7th, but the actual day that the writ is issued can range from Tuesday the, the Tuesday before Thanksgiving up until Thanksgiving, so that's sort of a floating writ date.

And so if in the worst-case scenario, if an election, the writ was issued on the Friday before Thanksgiving, that would mean you'd knock out Friday, Saturday, Sunday, Monday. So instead of a 10-day enumeration, you now have a six-day enumeration, which I wouldn't suggest will be a very, very good, because we have noticed quite strongly in the last three by-elections that the number of people that want to enumerate is going down. It's getting harder and harder to find enumerators. So if you have a very tight time period, we know that if a writ was issued on a Friday that some of those people that said they were going to enumerate would in fact quit probably because, you know, they have other plans or whatever. And even if it was called on a Tuesday, it's in the middle of the enumeration period of 10 days, would have the Thanksgiving weekend in the middle. So there's no great scenario with the enumeration inside the writ.

Now the word that I got back was that there was some

discussion at the Board of Internal Economy and that it was going to happen. Now I have nothing in writing, you know. I'm hoping that this in fact is going to happen. The time that . . . In order for it to successfully happen, we need to know at a certain point in time 100 per cent that it's going to happen because when the enumeration occurs in . . . or sorry, the training for enumeration occurs in mid-June, if we don't know yet, then it becomes very difficult because what do we train the people to do? Because if enumeration is outside the writ, then the revision period is different, and so that means that new rules have to be put in place, new forms, etc. Also because, if enumeration is outside the writ, that means that the returning officers' time and the staff is now required for an additional month. So we have to be able to tell the ROs [returning officer] when they are starting, when we're opening the office, etc., which right at the moment we are keeping our fingers crossed and believe that there is movement afoot that it's going to happen, but we don't know that 100 per cent.

[21:30]

Mr. Yates: — Thank you very much. My next question has to do with . . . We have before the House today a piece of legislation that will potentially change the rules around the election. We have an elections Act before the House which will see new provisions including those that say that there's a requirement for photo identification. Could you let us know, from your perspective as the Chief Electoral Officer, what steps need to be taken and how much time is necessary to ensure that Saskatchewan citizens' right to vote is protected as guaranteed in our constitution, and what additional costs and undertakings you'll be taking on behalf of your office if that legislation is put in place.

Mr. Wilkie: — Certainly there will have to be more advertising in order to make sure that all voters are aware of those provisions before they come to the polls. We have looked at an option that other provinces have used with respect to their voter information cards. This is an option if we have enumeration outside the writ because we've had some discussions with them and we don't think that they would be able to meet the demands of enumerations inside the writ. But this particular firm that has done work with a number of other electoral offices, in order to save money on postage the voter information cards for everyone in the household are all put in one envelope.

But the voter information cards are much larger. So because they're much larger, we could put information about the new legislation on the back of the voter information cards which currently isn't . . . I don't think we could get them on the voter information cards that we would be using under what we've used in the past general elections and by-elections.

Also I will be very interested to know something that Elections Canada has started a little bit different for this election, which myself and Sandra will both be going to Ottawa for, the visitors program for the federal election. And they have, in certain cases they are now allowing the voter information card to be used as one of the ID [identification]. So that is something that we want to get more information about from Elections Canada and to find out if they've got any information on how well this worked or didn't work well or whatever. So that's something that when Sandra and I go to Ottawa for May 2nd

that we'll be checking into.

It will as well require more specific training for the polling officials because when it is something new, we have found in the past that some poll officials who have been poll officials for 20, 30 years don't always keep their ears open during training. They've done it for many years; they know how to do it. So we'll have to think of ways to make sure that they are getting the message that the legislation has changed, that this is a new requirement, and that they need to be aware of that. Does that answer your question?

Mr. Yates: — It answers it to some degree. Do you currently keep track of all those who are turned away from voting?

Mr. Wilkie: — We do not. I have indication that Elections Canada has a similar form for that reason. I'm going to try to get a copy of that and look at it more closely, but I believe that they are in fact keeping track of how many are turned away and what type of ID is used. So that would be something that we would look at.

Mr. Yates: — Thank you very much. I think that information becomes very important because if more voters were turned away than the amount that an individual would win by, that could certainly be an issue that could be challenged, in particular, in what individual identification was rejected and so on and so forth in each case.

The current changes before the legislature, the normal process would be that changes would go through the process, as long as I have been elected, would be gone through the Office of the Chief Electoral Officer and the political parties. Does the current change for voter identification, does that go through your office, and was it supported by the political parties in the province of Saskatchewan?

Mr. Wilkie: — An official from the Ministry of Justice did ask what information I had as far as what types of ID were used by Elections Canada, for example, so I did supply that to Mr. McGovern. They asked that we put a link on our website that if people wanted to learn more about this legislation that they could click on this link, and the Ministry of Justice were doing some research. I didn't hear back how that went but that's what Mr. McGovern had told me was going to happen. Other than that, there was really no . . . Oh, I take that back. They did give me a copy of the legislation shortly before it was introduced just to look through if there was anything that I had comment on.

As you may know, that wasn't one of the 120 recommendations that was in my report. But there was a question in regards to one section regarding some mobile polls and I suggested that that section be removed because that in fact was something I had recommended in the 120 recommendations, a change in the wording of the mobile polls, but that would be the extent of the consultation.

Mr. Yates: — Thank you very much. How much advance notice were you given or how much in advance of the introduction of the legislation were you given a copy of the legislation?

Mr. Wilkie: — I was not given a copy before the Speech from

the Throne, I believe. It was news to me because a reporter was phoning me to ask me to comment on it before I knew it was . . . I guess it was in the lock-up.

Mr. Yates: — Okay. Thank you very much. So there were no consultations of the other political parties in Saskatchewan prior to the introduction of these changes to *The Election Act*?

Mr. Wilkie: — Not to my knowledge.

Mr. Yates: — In your years as the, working in the Office of the Chief Electoral Officer in Saskatchewan and in previous years, has this been the practice or the norm that there would be no consultation with the other political parties or yourself prior to changes being made to the Act?

Mr. Wilkie: — Well I've been in the office since the end of June, beginning of July 2003. In the process that occurred in 2003-04, the former chief electoral officer, Jan Baker, with some assistance from an additional person who was a lawyer, did draft some recommendations. And Jan Baker and representatives of the government, the opposition, and the Liberal Party, as well as the Ministry of Justice and the Chief Electoral Officer's office, were invited to attend those meetings. And that process went through, as far as . . . The members of the committee discussed the various recommendations that the Chief Electoral Officer's office had made. Plus my understanding is that both the government and the opposition, the official opposition, and the Liberal party, all put in recommendations as well. And the other smaller parties were invited to put in written comments to the committee.

And the representative from the Chief Electoral Officer's office was there to answer questions. And when Ms. Baker's term was up, then I became the representative on that committee. And on occasion, they would ask what would happen if this or that or whatever, so the members of the committee would ask questions about the various options that had come forth from the Chief Electoral Officer or from the parties and how they might, as far as if they were to be in fact recommended, how they might be administered.

Mr. Yates: — Thank you very much. One of the key responsibilities and roles of a Chief Electoral Officer is to ensure and maintain public confidence in the electoral system and the electoral process on behalf of the people of Saskatchewan. Is it, in your opinion and from your experience, normal that a single political party would put forward changes to the electoral process in a province without consultation of the other political parties?

Mr. Wilkie: — Well in Saskatchewan, the time period I've just mentioned was the other way of doing things. For other provinces, I think it varies quite a bit. I have heard some chief electoral officers say that they were not consulted at all with a whole list of things, and they found out about it the same time as the public did, other jurisdictions where there was a lot of consultation. So it does vary somewhat amongst the provinces.

Mr. Yates: — Does it, in your opinion, undermine the public confidence of a system if there isn't inclusion in changes to *The Elections Act*?

Mr. Wilkie: — It probably is better to go the other route. Whether it undermines is a bit harder to say. And I know I'm walking a fine line in that I don't want to be getting into more political aspects, but it is a better route, I think, to have consultation with the parties insofar as there are a number of other recommendations that were strongly put forward by the disabled community, for example, that they wanted some changes for this election. And in regards to enumerations outside of the writ, it would have been advantageous to have known that beforehand. But as I say, I think there still is a chance that that might still happen. But it is a better route to go, to have more consultation with parties.

Mr. Yates: — Thank you very much. Could you refresh for my acknowledgement, I guess, and for my knowledge and that of the committee, what rights are guaranteed, if any, under the constitution of the right of a citizen to vote?

Mr. Wilkie: — I think it's section 4. I can't remember exactly which section it is, but it is in the constitution of the right of a citizen to vote and of a citizen to be a candidate.

[21:45]

Mr. Yates: — Thank you very much. If a government puts in place a set of changes to an election Act that denies the citizen a right to vote without consultation of the citizens or representatives of the citizens, in any case, is that in your opinion challengeable under the constitution, if it has the potential to deny the right to vote?

Mr. Wilkie: — I'm not a lawyer. I know that similar legislation is in effect in Canada for current elections — Canada elections, Quebec, Ontario, and BC [British Columbia]. I'm not exactly sure to what extent. I know that there was at least one challenge, and I'm not sure exactly where that is at the moment. But it will be interesting to see what happens to that challenge.

Mr. Yates: — Thank you very much. Are you or do you have any knowledge in the jurisdiction . . . My understanding's it's being challenged in more than one jurisdiction, challenged both nationally and in the province of British Columbia for sure. Do you know? Were prior consultations of the political parties in those . . . other political parties done prior to the implementation of the changes?

Mr. Wilkie: — I'm honestly not sure. That's something that would be interesting to know, but I'm not sure.

Mr. Yates: — Thank you very much. What if any . . . This legislation, if it passes, will take effect likely sometime in the late . . . early summer I guess would be the best categorization of it. Does that create any significant problems for you as far as implementation and being able to ensure that there is fairness in the upcoming provincial election?

Mr. Wilkie: — Well one of the arguments that can be put forward for the reason why an enumeration outside of the writ is particularly a good idea is that that will make the enumeration better. So that that should allow, for example, if people were on the voters list and they get a voter information card, then they at least will have some — if they look on the back of their voter information card — would have some information about the ID.

If the enumeration is 10 days or less within the enumeration period and the enumeration goes down, which I would expect in 10 days — based on the last number of elections, the number of people enumerated had gone down each time — then I would think that there would be difficulties insofar as if there's more voters that don't know about the change in the legislation because they weren't enumerated, and then potentially more confusing at the polls because you've got more people that don't know what's going on. Then I would see that there would be more problems for sure in the next election.

If enumeration is put in outside of the writ, then that will be better for the process. But that does still mean that the Office of the Chief Electoral Officer will have to do more advertising, more training, more information to make sure that the poll officials know what the new rules are and try as much as we can to make sure that the voters know about it as well.

Mr. Yates: — Thank you very much. Mr. Wilkie, are there groups that would be more likely to be disenfranchised as a result of a requirement of photo identification?

Mr. Wilkie: — I know as far as Elections Canada has said — they have done lots of studies; I haven't read them all, haven't had time yet, but I do plan on reading them in the next while — that certain areas of . . . For example, the federal by-election in Churchill-Missinippi, the northern riding federally, that there was a concern there that it would be more difficult for people in that particular federal riding to get, to have the ID that's required.

Mr. Yates: — Thank you very much, Mr. Wilkie. It's been brought to our attention by First Nations leaders and community leaders that many First Nations people's treaty cards are expired, and it takes sometimes years — not days or weeks; sometimes years — to obtain that new card. Would an expired treaty card be an acceptable piece of identification?

Mr. Wilkie: — One thing that you did remind me, something that when I was asked about this I did strongly say — and that is that for Canada, British Columbia, or Ontario — the actual ID that could be used by voters at the polls was in fact put forward by the Chief Electoral Officer in those three jurisdictions. But in this case, the legislation has it in regulation, which takes that role away from the Chief Electoral office. And I strongly suggested that that was not the way to go.

Mr. Yates: — Thank you very much. In other jurisdictions where they have implemented the requirement of voter identification, my understanding is some of them still have the ability to swear an affidavit similar to what exists today in the province of Saskatchewan. Is it your understanding that that will be one of the provisions allowed in the province of Saskatchewan?

Mr. Wilkie: — I don't believe so. Prior to 2007 or '06, when the legislation changed for the 2007 election, people that were not on the list just had to sign a declaration. The legislation did add that people that were not on the list had to show ID. And that came about, I think as well, because of the change of the absentee voting system.

But also in 2006, for the 2007 election, the option of vouching

was added. And in the legislation, in use for the 2007 election, there was no limit on the vouching. But this legislation has put a . . . the vouching is there but it's only for one person.

Mr. Yates: — Would you recommend a process, that allowed a declaration or . . .

Mr. Wilkie: — I mean, when it was changed from simply signing a declaration to having to show ID when you aren't on the list, which was what Manitoba was doing when I was there before, I was in favour of that change, that if you're not on the list that you could show ID with there being flexibility there. But if you're . . . The change here is that it doesn't matter whether you're on the list or not; you would have to show identification under the proposed legislation.

Mr. Yates: — Thank you very much. When the minister introduced this legislation and subsequent questioning, he has said that he's not aware of any instance of electoral fraud, that this was not as a result of any incident. This was about, in his words, adding integrity to the process. Are you, as the province's Chief Electoral Officer, aware of any case of fraud or activity, fraudulent activity, that would make this change necessary?

Mr. Wilkie: — Not since my arrival here in June, July of 2003. Prior to that I couldn't tell you because the records in our office held by previous chief electoral officers are not particularly complete. But certainly since the time I've been there, there's been no allegations of fraud since 2003.

Mr. Yates: — So if these changes result in a citizen being denied the right to vote that would have otherwise have had the right to vote, are these changes in the interest of a fair electoral process and the people of Saskatchewan?

Mr. Wilkie: — I think that's verging on whether I'm crossing that line about . . . I don't want to . . . I think that's perhaps for the people of Saskatchewan to decide.

Mr. Yates: — I don't want to put you in a difficult situation, but the Office of the Chief Electoral Officer is responsible for the integrity of our electoral system and the integrity on behalf of all the people of Saskatchewan. So with that, I don't want to put you in a difficult position. We will — unless my colleagues have any questions — conclude our questioning for this evening.

The Acting Chair (Mr. D'Autremont): — With the permission of the committee, I would like to ask one question, if that's acceptable, from the Chair. Mr. Wilkie, I believe in the general election of 1999, we had one election that was controverted. Are you familiar with the Wood River riding and the controvert that took place there in '99 where I believe that there were people from outside of the constituency that voted?

Mr. Wilkie: — I've heard of it, but I didn't, until you said that, I did not know what the actual reason of the controvert was. I had heard that there was a controvert election in 1999, but I did not know the reasons, and I haven't yet found anything in the office that tells those details.

The Acting Chair (Mr. D'Autremont): — Okay, thank you. If

there are no other questions, we will move on to the actual vote.

Mr. Yates: — Mr. Chair, just prior to that I'd like to thank the Chief Electoral Officer and his staff, Ms. Arberry and Brent, for being here this evening and taking time out of your busy schedules to come and sit here at 10 o'clock at night. I'm sure that, like most of us, you had other family events that were very important. So thank you very much for coming here and answering our questions, and thank you for your answers this evening.

The Acting Chair (Mr. D'Autremont): — Thank you, Mr. Wilkie, and officials. You do not need to stay. The Speaker, however, does.

The Speaker: — Mr. Chair, as well, just to extend the thanks to Mr. Wilkie, the officials, for joining us and answering the questions from the committee members.

The Acting Chair (Mr. D'Autremont): — We'll take a two-minute break while the officials leave.

[The committee recessed for a period of time.]

The Acting Chair (Mr. D'Autremont): — Thank you. We will recommence again with the Standing Committee on House Services. We will move on to the vote. Vote no. 34, Chief Electoral Officer, as found on page 143. Chief Electoral Officer, subvote (CE01) in the amount of \$14,309,000. There is no vote as this is statutory.

[22:00]

General Revenue Fund Children's Advocate Vote 76

The Acting Chair (Mr. D'Autremont): — Vote no. 76, Children's Advocate as found on page 145. Children's Advocate, subvote (CA01) in the amount of \$1,631,000, is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — I will now ask a member to move the following resolution:

Resolved there be granted to Her Majesty for the 12 months ending March 31st, 2012, the following sums for Children's Advocate in the amount of \$1,631,000.

Is that agreed?

Some Hon. Members: — Agreed.

Mr. Furber: — I so move.

The Acting Chair (D'Autremont): — Mr. Furber.

General Revenue Fund Conflict of Interest Commissioner Vote 57

The Acting Chair (Mr. D'Autremont): — Vote no. 57, Conflict of Interest Commissioner on page 147. Conflict of Interest Commissioner, subvote (CC01) in the amount of \$145,000, is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried. I will now ask a member to move the following resolution:

Resolved that there be granted to Her Majesty for the 12 months ending March 31st, 2012, the following sums for Conflict of Interest Commissioner in the amount of 145,000.

Mr. Weekes: — I so move.

The Acting Chair (Mr. D'Autremont): — Mr. Weekes. Is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried.

**General Revenue Fund
Supplementary Estimates — March
Conflict of Interest Commissioner
Vote 57**

The Acting Chair (Mr. D'Autremont): — Supplementary estimates, vote 57, Conflict of Interest Commissioner, page 7. Conflict of Interest Commissioner, subvote (CC01) in the amount of \$50,000, is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried. I would ask a member to move the following resolution:

Resolved there be granted to Her Majesty for the 12 months ending March 31st, 2011, the following sums for the Conflict of Interest Commissioner in the amount of \$50,000.

Mr. Allchurch: — I so move.

The Acting Chair (Mr. D'Autremont): — Mr. Allchurch. Is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried.

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

The Acting Chair (Mr. D'Autremont): — Vote no. 55, Information and Privacy Commissioner, page 146. Information and Privacy Commissioner, subvote (IP01) in the amount of 1,114,000, is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — I will now ask a member to move the following resolution:

Resolved that there be granted to Her Majesty for the 12 months ending March 31st, 2012, the following sums for Information and Privacy Commissioner in the amount of 1,114,000.

Mr. Weekes: — I so move.

The Acting Chair (Mr. D'Autremont): — Mr. Weekes. Is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried.

**General Revenue Fund
Legislative Assembly
Vote 21**

The Acting Chair (Mr. D'Autremont): — Vote 21, Legislative Assembly, central management and services, subvote (LG01) in the amount of 3,030,000, is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried. The Office of the Speaker and Board of Internal Economy, subvote (LG07) in the amount of 352,000, is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried. Legislative Assembly services, subvote (LG03) in the amount of 4,528,000, is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried. Payments and allowances to individual members, subvote (LG05) in the amount of 14,144,000. There is no vote as this is statutory.

Committees of the Legislative Assembly, subvote (LG04) in the amount of 385,000, is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried. Caucus operations, subvote (LG06) in the amount of 1,939,000. There is no vote as this is statutory.

Amortization of capital assets in the amount of 92,000. This is for information purposes only. There is no vote.

Legislative Assembly, vote 21: 8,295,000. I will ask that a member move the following resolution:

Resolved that there be granted to Her Majesty for the 12 months ending March 31, 2012, the following sums for Legislative Assembly in the amount of 8,295,000.

Mr. Yates: — I so move.

The Acting Chair (Mr. D'Autremont): — Mr. Yates. Is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried.

**General Revenue Fund
Ombudsman
Vote 56**

The Acting Chair (Mr. D'Autremont): — Vote 56, Ombudsman, page 156, Ombudsman, subvote (OM01) in the amount of 2,777,000, is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried. Amortization of capital assets in the amount of \$3,000. This is for informational purposes only. There is no vote.

I will now ask a member to move the following resolution:

Resolved that there be granted to Her Majesty for the 12 months ending March 31st, 2012, the following sums for Ombudsman in the amount of 2,777,000.

Mr. Weekes: — I so move.

The Acting Chair (Mr. D'Autremont): — Mr. Weekes. Is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried.

**General Revenue Fund
Provincial Auditor
Vote 28**

The Acting Chair (Mr. D'Autremont): — Vote 28, Provincial Auditor, page 158, Provincial Auditor, subvote (PA01) in the amount 7,418,000, is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried. Unforeseen expenses, subvote (PA02) in the amount of 514,000, is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried. Amortization of capital assets in the amount of zero. This is for information purposes only. There is no vote needed.

Provincial Auditor, vote 28: 7,932,000. I will now ask a member to move the following resolution:

Resolved that there be granted to Her Majesty for the 12 months ending March 31st, 2012, the following sums for Provincial Auditor in the amount of 7,932,000.

Mr. Allchurch: — I so move.

The Acting Chair (Mr. D'Autremont): — Mr. Allchurch. Is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried. A motion to present the report to the Assembly, Standing Committee on House Services, 12th report. Committee members, you have before you a draft of the 12th report of the Standing Committee on House Services. We now require a member to move the motion:

That the 12th report of the Standing Committee on House Services be adopted and presented to the Assembly.

Mr. Allchurch: — Mr. Chair, I move:

That the 12th report of the Standing Committee on House Services be adopted and presented to the Assembly.

The Acting Chair (Mr. D'Autremont): — Is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried. Since we did so much good work this evening, I would now entertain a motion of adjournment.

Mr. Weekes: — I so move.

The Acting Chair (Mr. D'Autremont): — Mr. Weekes. Is that agreed?

Some Hon. Members: — Agreed.

The Acting Chair (Mr. D'Autremont): — Carried. This committee stands adjourned.

[The committee adjourned at 22:12.]