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Thursday, November 26, 2009

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Chair

Mr. Paul Szabo

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• (0905)

[English]

The Chair (Mr. Paul Szabo (Mississauga South, Lib.)): Order. This is meeting number 40 of the Standing Committee on Access to Information, Privacy and Ethics.

Our order of the day is pursuant to Standing Order 108(2), a study on Privacy Act reform, and specifically the government response, the response of the Minister of Justice, to our 10th report on the so-called quick fixes recommendations, and, pursuant to that, the motion of Mrs. Simson in regard to a response. We were debating that motion. I believe the motion was circulated to your places, just to remind everybody of the wording.

We have a couple of people on the speakers' list.

Mr. Dechert, you're up.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you, Mr. Chair.

When we left off the other day, we were discussing the minister's response, and there were a couple of comments alleging that the minister's response was somehow insubstantial. Mr. Chair, I have to say that, from my reading of the letter, that's just not factually correct. This is an extremely substantive response. I can point out a number of things, but in particular I'd like to point out that at the bottom of page 2, in the last two full paragraphs there and continuing on to the top of page 3, the minister goes into some detail about the need for law enforcement and other security agencies to share information with our foreign partners. He points out that:

...there are other important government activities which require government institutions and agencies to share personal information, both inside and outside Canada. Such activities include ongoing or proposed government programs relating to establishing, modifying or enforcing family obligations, addressing cases of international parental child abduction and suspected forced marriage, and responding to sudden worldwide health threats.

Now, these are pretty substantial comments, where the minister is saying more work needs to be done on these areas of the suggestions that were made by the committee. He goes on to say:

Without efficient means of sharing personal information globally and domestically, these entities would be seriously hampered in their efforts to assist and protect Canada and its residents. Furthermore, efforts to provide greater domestic legislative support to our treaty obligations under international conventions could be seriously hampered.

For all these reasons, any change to the way in which Canada shares sensitive and important personal information must be carefully considered before any decision is made on possible amendments. Further consultation with government institutions and agencies that are responsible for the security as well as the health and welfare of Canadians would be required to ensure that the Privacy Act does not restrict the flexibility or pose additional barriers to information sharing.

That's extremely substantial. He's talking about protection of Canadian families, protection of children. For anyone to allege this response is dismissive or insubstantial is, frankly, ludicrous.

So there's no way, in my view, that this committee could in any good conscience make a motion worded that the committee is somehow profoundly disappointed with the response of this minister. This minister is taking his responsibilities for the protection of Canadians and children very seriously. For this committee to ignore these substantive comments that the minister has made in his letter, asking us to do further work to ensure that the Privacy Act allows appropriate government agencies to share the kind of information they need to share to protect children and protect the health and welfare of Canadians, that would be an egregious breach of this committee's public duty, in my opinion, Mr. Chair. For these reasons, I could not for a moment even contemplate supporting such a motion as this.

I think the minister has made some very clear statements about what further work needs to be done. I think that's the obligation of this committee, and we should all put our noses to the grindstone and do what our voters elected us and sent us here to do, and that is to review the Privacy Act in detail and come up with some very comprehensive, substantive changes—not just quick fixes, where we'll have the government running around making small changes to every piece of legislation in the combined Statutes of Canada on a yearly basis, but a thorough and proper job. We need to hear from witnesses on these issues that the minister has raised in his letter.

I'm actually quite pleased with this response. I think the minister has taken time to read through our committee report, examined our recommendations, and asked us, with respect, to do some further work to guide him and the government on real substantive changes to the Privacy Act that will take into account these very important obligations of the government to protect the health and welfare of the people of Canada and to protect children from things like parental child abduction and forced marriages. These are things I think we need to spend some considerable time examining.

• (0910)

I for one would like to see this committee bring back some further witnesses on some of these issues.

Thank you, Mr. Chair.

The Chair: Thank you.

Mr. Del Mastro, welcome back to the committee. You have the floor.

Mr. Dean Del Mastro (Peterborough, CPC): Thank you, Mr. Chairman.

First of all, I would begin by indicating that I would endorse Mr. Dechert's comments. I do believe this is a significant response from the minister, a minister for whom I have a great deal of respect, who's working hard to bring laws that will make our communities safer and stronger and that will protect Canadians. We've heard just this week about a number of strong bills brought by this minister, who is working hard within his duties as the justice minister.

I think we should review a couple of the things that are clearly indicated in the letter.

To begin with, the Government of Canada is committed to protecting Canadians' personal information, and it appreciates the significant work undertaken by the committee in the report. He didn't throw away any of the work or disregard any of the work that has been done in the committee. He's merely reminding us in this letter that the recommendations made by this committee are substantial and that they will require not just an amount of work, but they will significantly change not only the way government does its business, but also what is required of government.

The Privacy Act is part of a strong legislative, administrative, and constitutional framework that protects the privacy rights of Canadians. Privacy is important. We all, I think inherently, believe that governments should be open, that there needs to be accountability. That's why we brought in and passed the Federal Accountability Act. We all know that it brings an awful lot of responsibility on governments to Canadians. That was something that was necessary, because we know when we assumed government that Canadians had lost trust in government. We're working to build that back.

At the same time, it is important that we balance off the need for openness in government with an individual's personal right to privacy, frankly, when no lens into that privacy is required. The government has concluded that legislative changes recommended in the committee's report are very complex. They could have a serious impact on government operations and national and international information-sharing agreements. So it could seriously impact us on international agreements.

We have to keep these things in mind. We're all elected to represent our constituents, but we assume a responsibility of leadership. In assuming a role of leadership, you have to look at issues and say, wait a minute, international agreements are pretty important to Canada. We're a trading nation. We're a member of the G-8. We're a member of APEC. We're a member of the G-20. We work hard in Foreign Affairs. We're working hard to re-establish connections with foreign governments, whether that be on trade or multilateral or otherwise. We know we're involved in a multinational approach in Afghanistan right now, for example, where Canadians are performing admirably in the Canadian military. These agreements are important. The changes this committee is recommending could impact on those important international agreements.

What the minister is saying is, for this reason, extensive study and stakeholder consultation is required before significant changes are made to the Privacy Act. You don't ham-handedly start whacking away at a substantial piece of legislation without considering the effects of that. That's what this committee would do. That's irresponsible.

As we've indicated—

● (0915)

The Chair: Order. I apologize. We're having a little interference in the translation booth. I'm told it's BlackBerrys near an open mike. It's getting some reverberation.

So if anybody is close to the mike, please don't....

Sorry to interrupt you. Carry on, please.

Mr. Dean Del Mastro: Thank you.

As I was saying, extensive study and stakeholder consultation is required before we move forward with any recommended changes to the Privacy Act. We simply haven't done that. In my review of the work that's been done, and as the folks in this room will know, I was here for some of the witness testimony, not all.... But I think it's critically important that we are not derelict in our duties when we're talking about a substantive piece of legislation like the Privacy Act.

We've indicated that the government is going to continue to work with the Privacy Commissioner to ensure that the privacy of Canadians continues to be protected. That's important. It's a fundamental right in Canada. I think we believe in rights in Parliament. When you start looking at these things, it's important that we address them in such a fashion that we're acting responsibly. I guess that's what I would direct the committee....

I'm frankly encouraged by the response from the minister. I think the minister has pointed out a number of reasons why the committee should move forward with caution and with respect to the legislative framework that we have, and understand that the changes they're recommending could have significant unintended consequences. When you're in a position as we are, a responsible position of leadership in the nation, you always try to take into account potential unintended consequences and avert them.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Del Mastro.

Madam Block, please.

Mrs. Kelly Block (Saskatoon—Rosetown—Biggar, CPC): Thank you very much, Mr. Chair.

I agree absolutely with everything my colleagues have said here this morning. What I would like to do is just remind us of the comments made by my colleague at the last meeting when this motion was first introduced. Those would have been made by Mr. Poilievre with regard to respecting a contrary point of view or opinion on the recommendations that we submitted to the minister in our report.

Rather than reacting to his suggestions, I believe what we need to do is take an honest, critical look at them and consider what the actions are that we need to take coming out of his suggestions. I think it would appear foolish on this committee's part to not take the suggestions seriously that we've heard from the minister and then come right back with a motion to introduce a whole new piece of legislation by March 2010.

As was indicated by my colleagues, there's work to be done. There's a review that we could do on the Privacy Act. Take a look at the suggestions, do the work that needs to be done, and, I guess in good faith, continue to work with the government. As it was pointed out, the Government of Canada is committed to protecting Canadians' personal information, and it appreciates the work, the significant work, that was undertaken by this committee in our report. I think we need to seriously look at the suggestions that were made by the minister.

Thank you.

● (0920)

The Chair: Thank you.

Mrs. Davidson, please.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Thank you very much, Mr. Chair.

I also want to add my comments to those of my colleagues. I certainly think the way this motion reads in regard to expressing “profound disappointment” is totally out of line.

I really don't think that anybody could be expressing profound disappointment with the in-depth letter we received from the minister. I think the minister has given it a great deal of thought. I think he has put a great deal of information in this letter.

We know that the government is committed to protecting Canadians' personal information. We also know that the minister has stated that he appreciates all the work this committee has done in preparing its report.

He also goes on to say that there are a lot of other things that could be unintended consequences if in fact we follow through with what this motion is requiring. I don't think it behooves us as a committee to do that. I think our job here is to do the best job we can. By supporting this motion, I don't think we are doing that.

There are a great many things that are pointed out in the minister's letter, such as the fact that legislative changes recommended in the committee report could have serious impacts on other government operations, and not only on national information sharing, but on international information sharing.

These are extremely important issues. I think there are a lot of things that need to be looked at and studied before we start supporting a motion such as this.

The very fact that a lot of these things are called quick fixes certainly raises attention, in my mind. I think we've all been involved in different issues where we have seen that quick fixes, rather than in-depth consideration, have had negative unintended results. I don't think we want to do that with something as vitally important as this act. I think this act is at the very basis of Canadians' rights, and I think it deserves every bit of time we can spend on it. To support this motion is something I just cannot do.

The Chair: Mr. Rickford, please.

Mr. Greg Rickford (Kenora, CPC): Thank you, Mr. Chair. I'm just going to add a few comments. I've been out on committee travel for a couple of weeks.

The Chair: Welcome back from the north. I know you've been doing good work for another committee.

Mr. Greg Rickford: It's kind of nice to be back here in southern Canada, but of course I love the north.

I just want to add a few more comments that may not have been raised to this point or emphasized to the extent that I'd like to see them emphasized.

It's my view that the Privacy Act is a strong piece of legislation. By his letter, I think the minister feels the same way. I'm concerned that we haven't spent enough time giving consideration for context here, that is, the impact the changes to this legislation would have on specific kinds of government operations that we should be concerned or preoccupied with, to the extent that the proposed amendments, as my colleague said, could have a serious impact on government operations subject to the act.

“Legislative amendments must be examined in the context of administrative alternatives,” the minister says in his letter, “such as enhanced guidance and training that can be equally effective to realizing continued improvements.”

Our work is incomplete here to that extent. I offer that up for the committee's consideration. I think it's worth pointing out that the report states that the committee supports only five of the Privacy Commissioner's twelve recommendations. It appears as though a more in-depth analysis and discussion at this more than capable committee is required, a broader study, if you will, of the Privacy Act, and any reform as needed. I think that's a fairly meritorious basis on which to consider a lengthier discussion on this. That's all I want to add for now.

● (0925)

The Chair: I have no one else on the list, but I'd like to....

Madam Davidson, did you want a further intervention?

Mrs. Patricia Davidson: Yes, thank you, Mr. Chair.

I've been asked by a member opposite, regarding one of the statements I made that the minister appreciates the work of this committee, where I got that information, and if in fact it was in the written letter that we received back. I don't believe those exact words are in this letter, but certainly the whole tone of the letter relates to that. He certainly recognizes the in-depth work that has been done, and he makes comment on this and makes suggestions whereby this committee, through the good work it has been doing, can move forward and continue to do good work.

I hope that clarifies my remarks.

The Chair: Thank you. That's helpful.

The role of the chair sometimes is to see if we can find some consensus among the committee. You know that the last time I actually left the chair and spoke I expressed some concern about the relationship this committee has with the ministers who come before us. That's extremely important, because if you're going to be in an adversarial relationship, the prospect of getting any collaboration on legislative amendments is diminished. That's a problem. I know every now and then we like to exercise our muscles and maybe fire off a missile or two.

But there are two points, and I want to see whether the members want to comment on them.

First of all, this committee does not have the timeframe in terms of its workload—we get two meetings per week, with all the breaks, etc.—to do a look-see at either access or privacy, in its totality, with all the stakeholders. It would take some time, a very long time. The committee took a decision a long time ago that it wasn't practical for us to try to do the entire act, and the Privacy Commissioner had agreed and had come back to us saying that there were some things that might help the act to work a little bit better. There were some administrative-related issues, how you could streamline or make sure the administrative side was working reasonably well, and a couple of legislative things, which were consequential to some substantial amendments that were made to the PIPEDA act. There's no question that some of those were in an attempt to conform the principles under the PIPEDA with the Privacy Act itself. I don't know whether or not the committee is still of the view that we can or cannot do a full review, but one thing I do know is that we don't have the authorization or the mandate to develop a piece of legislation. We need direction from the minister to propose a piece of legislation to the House. That has to be kept in mind.

With that as background about how we got to where we are right now, I don't see in the minister's response to us a response to each and every recommendation that was made, and we only supported five of the ten. It would have been nice to have his response on the specific recommendations, on whether they had merit, because that moves the yardsticks forward. We've done some work at least on some five micro things. I would have liked to have seen, and I hope the members would have liked to have seen, at least his response as to whether we're going in the right direction on this or whether there are substantive reasons for or against, etc. That's helpful. If I were in a position to make a decision, I probably would like to see us go back to the minister with a letter and ask for a response to the report, not to the whole act; we didn't do the whole act. But I'd like the courtesy of a response to the specific recommendations that we

supported and any comments he might have that amplify on the other ones that we included in the report—the Privacy Commissioner's recommendations, etc.

Maybe I've spurred a little interest in further discussion. I have four people on the list. We'll hear from them and then see where we are.

Mr. Dechert.

• (0930)

Mr. Bob Dechert: I hear your comments, and I think there's some validity in those comments. I think the minister has given us a direction and permission—I mean request, I don't think we need permission—to do some further study. I think we can look at that, and I think we should have a discussion about how we can fulfill that request.

I think it is reasonable to ask the minister for a further response. I'd be happy to support that. I'm sure he has substantive things to say about each of the recommendations, and that could help us in our further work if we choose to do some further study on these important issues. I concur with your thought.

The Chair: We'll have Mr. Del Mastro.

Mr. Dean Del Mastro: Thank you, Mr. Chair.

Just further to your comments, followed up by Mr. Dechert's, I think what you're proposing is much more reasonable than the motion before the committee. I'd remind members that the motion indicates that we report to the House profound disappointment with the response of the minister. That's pretty strong.

If we want to work with the minister, why not request of the minister that he give a more comprehensive response, a detailed response, indicating why the recommendations made by the committee may require more caution, more work, and more testimony. What are the concerns related to those recommendations? I think it's entirely reasonable for the committee to go back and say that we need more information, because we're not sure how to proceed, and that we don't understand why these five recommendations are being dismissed and why he thinks we should do more work before he stands by them, frankly. I think that's entirely reasonable.

Second, perhaps by doing more work, we'll determine that we don't need a new Privacy Act. Maybe there are amendments to the Act the committee wants to recommend. I think requesting a more comprehensive letter from the minister would be a reasonable and rational approach, including citing why members of the committee—not me, but some members of the committee—feel that the response of the minister left them looking for more.

I think that's entirely reasonable. I think, and I agree with the chair, that using the words “profound disappointment” and bringing that to the House wouldn't necessarily foster good relationships between an individual and the Minister of Justice, whom I have a great deal of respect for, and this committee. I think we should be mindful of that. I would agree with the chair.

Frankly, if the minister comes back with a response that is more comprehensive, I hope the committee would take that into account. If you still have concerns about the response of the minister, then perhaps you would move forward with a motion. I would never support a motion that reads like Mrs. Simson's. But perhaps at that point, after receiving a letter that would indicate why the Minister of Justice is concerned about the recommendations made by the committee, you could consider your options.

Thank you.

● (0935)

The Chair: We'll go to Mrs. Simson, please.

Mrs. Michelle Simson (Scarborough Southwest, Lib.): Thank you, Chair. I really appreciated your intervention with respect to the suggestion that perhaps we'd get a more fulsome response to each and every point that was brought up.

My concern with this particular letter is that nowhere has the minister said he'd like the committee to do any more work. His last line is "We assure you that we will continue to work"—"we" meaning his ministry—"closely with the Office of the Privacy Commissioner to ensure that the privacy of Canadians continues to be protected."

The way I read this letter is that he was putting forth his viewpoint. There's no question that there are some points that are well taken, but at no time in this letter are we being encouraged, unlike in the letter we got on the access to information. The access to information letter encouraged the committee to do more work. When I read this, I understood that he was trying to tell me, as a member of the committee, how he viewed this. That's fair enough. We're entitled to know.

My concern is that it will take a long time to enact new legislation, as the chair pointed out. For instance, the Access to Information Act has been under study and remains substantially unchanged for 20 years. There has been study after study undertaken, and nothing has changed. I think Canadians deserve better than that. I think they deserve legislation that protects their rights.

We've seen a lot of legislation go through in the past few days and weeks—crime bills—and that's all well and good. But I'd like to see some attention paid to rights, to statutes that really protect Canadians' rights, gives them access to information, protects their privacy.

I think the commissioner, when she put forward the 12 quick fixes...I mean, if there was an issue about calling it quick fixes, it's not unlike triage, where you have to maybe do a little bit of work before you can get down to the operation. If you don't stop the bleeding, the patient dies.

In any event, based on what the chair has mentioned, and having given it some thought... By the way, "profound disappointment" mirrors exactly what this committee said about the last response on access to information. I read it the same way as the access to information letter, because essentially we got whole paragraphs that were taken from one letter and put in the other. When that happens, I figure it's almost like a form letter.

In any event, I would be prepared to table my motion for the time being and perhaps pursue a letter to the minister requesting a more detailed response to each and every issue. I'd like to hear from him what he thinks would be the quickest way to get both pieces of legislation—both are over a quarter of a century old—updated to protect Canadians.

Thank you.

● (0940)

The Chair: Thank you.

I have Mr. Wrzesnewskij, Mr. Rickford, Mr. Dechert, and Madam Freeman.

Mr. Borys Wrzesnewskij (Etobicoke Centre, Lib.): Thank you, Chair.

I'd like to thank you for your suggestion, because I believe it's a constructive way of going forward, and I hope it will provide us with an opportunity to see what the minister's thinking is on these very important recommendations.

I applaud Mr. Del Mastro saying this would be a constructive way for the minister to approach this very serious work we've done in our committee. In fact, I'd like to remind the committee of points the minister made in his appearance before us. It appears he made those very same points to the committee over and over, so I'd just like to make sure we remind ourselves of this.

In his opening statement—and these will all be quotes—one of the things the minister said was: "As the Minister of Justice, I have confidence that the government would benefit from the committee's views on access reform. It is your work as parliamentarians that will be important in shaping this reform."

He hasn't qualified that only in this particular area...he seems to indicate goodwill for the work we will provide him with in terms of our report and recommendations. Then further on he listed some of Mr. Marleau's proposals. Mr. Marleau's fourth proposal...he went through the list, and those items are cabinet confidences, universal access, etc. He addressed a number of the individual reforms in his opening statement.

So obviously he is familiar with what some of those recommendations were. He was willing to address them in his opening statement back in May, so let's provide an opportunity, once we've done our work providing the exact wording of our recommendations, for him to be more fulsome than he was back in May, because now he knows exactly what we're thinking and he has asked us to provide this to him.

In response to questions that I put to him, he said, "Again, Mr. Chair, I'm pleased to hear any recommendations or any analysis that is made."

On cabinet confidences, "I would be pleased to have a look at this issue."

"I'm here to tell you that if you would again take up the challenge"—he's telling us to take up the challenge of these particular issues—"I would be pleased to see whatever you have to say."

Further on, when I questioned him, he said, “The committee can pursue anything it wants.” He hasn’t limited us to just one particular area. “We want your input on these things.” Once again, he wants our input.

Responding to Mr. Nadeau he said, “That being said, you have the recommendations of Mr. Marleau”—he references Mr. Marleau’s recommendations—“the present commissioner. I would be very pleased to hear your comments and those of your fellow committee members.” That’s exactly what we’ve done.

“Again, any time you’re prepared to come forward with a report addressing the different recommendations he has made”—“he” being Mr. Marleau—“I would certainly be pleased to hear from you.”

It’s all there. Then further on he says to Mr. Nadeau, “Again, I would like to have your comments on the recommendations of Monsieur Marleau. You have them before you, and I’d be very pleased to have this committee”—and then I guess he got cut off. “Again, I welcome your input.” It goes on and on.

Mr. Siksay asked him a few questions, and once again he stated, “Again, I always look for input. As I was saying to Monsieur Nadeau and others, any input you want to give will certainly be welcomed by me.”

“I try to be very careful, as you know, on these things, I really do. I welcome any information, any study you can provide on this. Again, I am very open to.... Every bit of discussion that you can have will take place, and I would like to have your recommendations.”

Responding to Ms. Block he said, “This is why I was saying to a couple of your colleagues across the table”—meaning on this side—“that I’d be very pleased and I think it would be appropriate—and I think it’s the right thing to do—to get your input on these”, meaning those recommendations by Mr. Marleau.

Ms. Block went on to ask the minister, “In his special report, the Information Commissioner states that ‘there has been full opportunity for debate, critique and persuasion’ and that there are no knowledge gaps. But you are suggesting to us today to undertake more consultation. Could you please explain to us why you believe that more work needs to be done?” The minister responded: “I think some of the recommendations would have some very profound effects on the way business is done in this country, and it’s not just with respect to cabinet ministers.... The proposals that you have seen...are very wide-ranging. This is why I would ask that you have some input on this.”

• (0945)

Then I guess finishing off, the minister, in his last set of questions and answers stated, “I think it’s only fair and only reasonable to take into consideration the recommendations of the present commissioner.”

We’ve done it. We spent a great deal of time working on this. We’ve provided the report.

The minister has said that it’s only fair, it’s only reasonable. Over and over again he said he’s looking forward to hearing our recommendations. Well, let’s stress to the minister that we’re now

looking forward to his response. We’re showing the same goodwill toward his response to all of those recommendations that we’ve worked so hard on.

Thank you.

The Chair: Mr. Rickford.

Mr. Greg Rickford: Thank you, Mr. Chair.

Perhaps building on the work that my colleague has done in reviewing the transcript, I say to Mrs. Simson, through you, that one of the concerns I have—and this is a little bit by way of review—is that “profound disappointment” brings finality to this. I’m just not sure we’re there. I think not only is it premature, but we have an opportunity, if not an invitation, to develop more fully some of the things that I think this committee has been asked to discuss.

I notice in a letter dated October 9 from the minister that he does in fact recognize the importance of the committee and its relationship with respect to the 10 recommendations that were put forward by the Privacy Commissioner. And I just want to address an issue here. There was a quote from that letter by Mrs. Simson. It says, “We assure you that we will continue to work closely with the office of the Privy Commissioner.” My sense was that it was brought up in the context that there was going to be no deference to the work that we’ve done or the work that we do.

Importantly, the small paragraph before it I think brings context to that. It says “Finally, your committee recommended that we work more closely with the Privacy Commissioner.” So in following, that sentence is really attached to that. Whether it should have been read in one paragraph...it’s not for me to comment, certainly, on how people put letters together, but that’s what it means.

I just want to encourage us to take the opportunity to understand that in no way do I take from this letter that the minister hasn’t given serious consideration to the work the committee has done in terms of the recommendations. Nor does he dismiss in any way the important work that we could continue to do in this regard. This letter, in finishing, acknowledges the important work that we’ve done and the direction we’ve given the minister. That is, “your committee recommended that we work more closely with the Privacy Commissioner”. That came from our committee.

That’s in an effort to understand, he says here, the intent of a number of her recommendations that we did endorse. So we’ve been doing a lot of activities here, and I just want to make sure that before we get to this kind of language that brings finality, and to a certain extent politicizes perhaps too prematurely what we’ve been asked to do here historically and what we may be asked to do as a committee moving forward.... I think my colleague who spoke before me, by going through the transcript in such an intrepid way, sort of speaks to the importance of the work the committee’s doing in this regard, and we ought to just continue to do that.

Thank you.

The Chair: Mr. Dechert, please.

Mr. Bob Dechert: Thank you, Mr. Chair.

First, I'd like to say that I appreciate Ms. Simson's suggestion that she would entertain a tabling of her motion to allow the committee to request a further response from the minister. I think that's constructive.

The other thing I want to point out is that I agree with the comments Mr. Wrzesnewskyj has made in his review of the transcripts, which clearly indicate that the minister is open, is interested in what we do here, and welcomes any suggestions that arise out of our deliberations. It's because of that background, as Mr. Wrzesnewskyj pointed out, that when I read the letter, I read it a little differently, obviously, from the way some of my colleagues across the way read it.

Ms. Simson suggested that she didn't see any request from the minister to do further work. In fact, I just want to point out the second paragraph of page 3 of the letter, where he says quite clearly:

Further consultation with government institutions and agencies that are responsible for the security as well as the health and welfare of Canadians would be required to ensure that the Privacy Act does not restrict the flexibility or pose additional barriers to information sharing.

Further on, in the next paragraph, he says:

It is crucial that careful consideration be given to the impact changes to the legislation may have on the operations of government institutions which are subject to the Act.

Given those statements, and against the background of the things the minister himself said in person at this committee and in the other letter regarding the Privacy Act and the Access to Information Act suggestions, he's making it very clear to me that he appreciates the work we've done thus far and has read them carefully, and that what he'd like us to do is more spadework in the areas in which he sees some concerns. He's asking us to meet with other government officials to hear some more testimony on what impact those quick fixes might have in those areas.

I think this is a very clear invitation to us to do further work. I think it would be helpful to the government, and it's what we're elected to do, so I'd be very pleased to support your suggestion, Mr. Chair, that we ask for a further response and that we decide to do some further work on this very important issue.

Thanks very much.

● (0950)

[*Translation*]

The Chair: Ms. Freeman.

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): Thank you, Mr. Chair.

Earlier, you suggested that we write to the minister asking for a report in which he responds to each of our recommendations. I know that maintaining a dialogue with the minister is very important, as you mentioned earlier, as is our continued work to move issues forward. I am mindful of the fact that our work is very serious, that we represent many fellow citizens in our two nations. I think it is important to ask the minister for a response, as you suggested, to each of the committee's recommendations.

It was my understanding that Ms. Simson wanted to postpone moving her motion and suggested that we write to the minister. So I

move that we vote on sending the minister a letter and postponing Ms. Simson's motion. Could we vote on that?

[*English*]

The Chair: I'm sure we can; whether we may is something else. Let's hear from the other members, and we'll consider how we bring this to a conclusion.

I have Mr. Siksay, Mr. Del Mastro, and Mr. Wrzesnewskyj left on the list so far.

Mr. Siksay.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Thank you, Chair.

I want to thank you for a very helpful suggestion. I believe it is important to do all we can to maintain a positive relationship with the minister on this issue, even though I am disappointed in his response.

I think Ms. Simson has made a good point, that he doesn't suggest further work in his response on the Privacy Act. Unfortunately, he didn't express appreciation for our work either in that response. I think he could probably be a little more encouraging in his responses to the committee and a little more positive as well.

You've made a very helpful suggestion about writing to him to get specific responses on the recommendations the committee made. I think it might be important to ask him as well to respond to the quick-fix recommendations that the Privacy Commissioner made, which we didn't support or had further questions about, because I think it's important to know what he thinks of her very serious suggestions too. I would like to suggest that this also be part of your letter to the minister.

I have to say, Chair, that in the back of my mind I fear we're being stonewalled on this issue; that there isn't a determination to move forward on it. But you've made a very helpful suggestion and a conciliatory one, and while I want to make sure that Ms. Simson's motion remains in the back of our mind for future consideration, I strongly support your suggestion to write to the minister.

Thank you.

● (0955)

The Chair: Mr. Del Mastro.

Mr. Dean Del Mastro: Thank you very much, Mr. Chair. I'd like to move an amendment to the motion that I think embodies what the discussion has been here in the last number of minutes. Perhaps members would just give me a moment to do so.

I'd amend the motion as follows:

That the Committee write to the Minister of Justice to express its desire for a more comprehensive response of its 10th report, entitled "The Privacy Act: First steps towards renewal". Specifically, the Committee requests that the Minister address—

The Chair: All right, I'm going to stop it there.

[*Translation*]

Mrs. Carole Freeman: Point of order, Mr. Chair. Ms. Simson said that she did not want to move her motion. We cannot amend a motion that has not been moved.

[English]

The Chair: Just so people understand, Ms. Simson indicated that she would be prepared to do that. She has not made a motion that her motion be stood until we do our other work. So it is still on the table and it really is amendable.

But, Mr. Del Mastro, an amendment to a motion can't be a whole new motion. The way you're reading it, on its own it would exist. If you're going to propose an amendment to Ms. Simson's motion, you're certainly entitled to do so. I'm not sure whether it is necessary right now, but you have rights. But it should be something that you can actually write down. It should go something like, after this word, let's strike these words, or add whatever.

I think you understand what I'm saying. You're into prose rather than a motion, so I would be a little bit careful about this. But if you have it in writing, we'd certainly want to entertain it.

Mr. Dean Del Mastro: Thank you, Mr. Chair.

I assure you that I have amended the motion that was before me. It may reflect substantive changes to the motion, but an amendment can reflect substantive changes.

I'm operating with goodwill, and I think if the committee hears the motion out it will be satisfied with it.

The Chair: Well, let's hear it. Would you start again?

Mr. Dean Del Mastro: I'll start again from the top:

That the Committee write to the Minister of Justice to express its desire for a more comprehensive response of its 10th report, entitled "The Privacy Act: First steps towards renewal". Specifically, the Committee requests that the Minister address each recommendation made individually and provide background for his caution and concerns. The Committee further requests the Minister does so expeditiously so that work in this area can continue to be undertaken without delay.

We can discuss the amendment. It's not a new motion.

The Chair: Just a moment.

I am ruling the amendment out of order because it is substantively a new motion pursuant to a discussion or a suggestion that was put on it. It should be a new motion, because there are elements there that I'm sure the members would like to speak to.

Mr. Wrzesnewskyj.

Mr. Borys Wrzesnewskyj: I request that we stand Ms. Simson's motion at this time.

The Chair: Do you so move that the Simson motion be stood?

•(1000)

Mr. Borys Wrzesnewskyj: Exactly.

The Chair: All right. That's a valid motion.

Is there any discussion?

I'll put the question.

Mr. Dean Del Mastro: Just for clarification so I can understand what we're being asked to do, are we pulling it back?

The Chair: We are not going to further consider it at this time, but it's still alive. It's still there.

(Motion agreed to)

The Chair: That's unanimous. Now we have a clean slate and we have had a discussion about the possibilities.

If I may say so, the Simson motion came out virtually parallel to the motion that we passed and reported to the House on the access report, the 11th report. We have similar problems there. In my own view, the frustration of the committee has been that we didn't get a specific response to specific recommendations.

It's the same minister; there has been the suggestion that these letters look very similar in terms of their parallelism. I'm wondering whether we want to carry it a little bit further. This is just for consideration: that we might be able to address both.

What I'd like to suggest is that our work on access as well as on privacy may be in the same quagmire right now. Maybe we should ask for specific responses to the recommendations. We don't need a big book, but we could ask to be given an idea whether we are on the right track. We need to have some commentary on each of these, and what we'd like to do is then have a meeting with the minister. Let's have a conversation.

We could do it in camera. It's going to be extremely difficult and might take a long time for him to respond in writing, if we ask where we fit into this, where our role really is; if we say that we don't think he's waiting for us to come up with a whole new piece of legislation, but that we do have a role to play, and so do the commissioners and their people and the minister's officials, etc. There's a lot here.

I'm broadening it a little. If we're going to do this, we may actually help ourselves. Quite frankly, I would be happy to get a response from the minister in time for our return after the Christmas break, because I would like him to have the chance to consider where we've been on both of the two reports.

Did members get a copy of the November 25 letter?

I want to give you a basis as to why I'm suggesting this. I know we're shifting over now to access to information. As you know, we passed a motion to express our disappointment and to ask the minister to table a new Access Act by next March 31 and appear before this committee by this November 30. This is the last meeting.

Yesterday I received this letter. It came to me personally without a carbon copy. We have it here; it has been translated. I think the last sentence really is the key. It says: "Once you have undertaken and completed a full, in-depth study of access reform and consulted all stakeholders, I will be happy to appear before you to discuss your findings."

It gives me pause, because this is a question on which I'm not sure we have a consensus as to whether we can do that. It's almost suggesting that it's up to us to do a draft act. If he wants us to do his job or the commission's job or whatever, that's interesting. But I think I really want to know what he's asking us for, and this is not specific enough for me. That's why I'm suggesting that we really have to meet with him.

•(1005)

So I'm asking the committee whether or not they would find it appropriate that in my letter to the minister we embrace both reports and both studies, because they have the same questions, or we could do separate ones on each, but that we say that we do want to have a meeting with him to discuss our role before we embark on any new projects related to either of those acts.

Mr. Del Mastro, Mr. Wrzesnewskyj, and Mr. Dechert.

I'm in the hands of the committee. I think this is the last round. Let's see where we are.

Mr. Dean Del Mastro: Thanks, Mr. Chair.

When I tabled my amendment, it was ruled out of order, but I believe I could reintroduce it as a new motion, provided the committee accepts. I would openly admit that the motion I am tabling does not have notice, but it can be considered by unanimous consent. I'd ask the committee to provide unanimous consent. I think the motion that I brought forward reflects the goodwill.

The Chair: That's not necessary. The matter is on the agenda of this committee. It's before us right now. Members at the table can make motions.

Mr. Dean Del Mastro: Okay, wonderful. I'd like to introduce the motion that I discussed earlier. I can restate it for the benefit of the members, if you like.

That the Committee write to the Minister of Justice to express its desire for a more comprehensive response of its tenth report, entitled "The Privacy Act: First Steps Towards A Renewal". Specifically, the Committee requests that the Minister address each recommendation made individually, and provide the background for his caution and concerns. The Committee further requests the Minister does so expeditiously so that the work in this area can continue to be undertaken without delay.

That's the end of the motion.

In your letter to the minister, Mr. Chair, I would suggest it's entirely reasonable for the chair to add an interpretation of what you consider is meant by "expeditiously", and what delay could be caused. I think if you were to suggest that you think it's reasonable that you'd receive a response after the Christmas break, you could reasonably conclude that it was an expedient response.

I think this response would form the basis for further review by the committee, and potentially an appearance by the minister. But I do think understanding, first of all, what are the specific concerns on each recommendation is entirely reasonable for the committee members to want to know, and I think once you receive that, you can then determine, ultimately, what the next steps are for the committee. But I think the response will hopefully provide the background for you to understand what the next steps would be.

That's the motion I put before the committee. I think it reflects goodwill.

The Chair: I'd like to get a copy of it, because it has to go on the record.

Mr. Wrzesnewskyj.

Mr. Borys Wrzesnewskyj: Thank you, Chair.

I think the responsible way to proceed on this is what we've done. We're showing goodwill. This was a very helpful suggestion. I obviously want to take a closer look at the wording.

I think it would be a little more responsible if we put exact timing on the response. It would be helpful. Just as Mr. Siksay had noted, we want to show goodwill, we want to work with the minister, but we haven't been encouraged by the responses that we've received to date. I think we need to provide timing, perhaps. The report was tabled in the second week of June, so we're getting close to a half a year wherein the minister has had an opportunity to go through all those points. Your suggestion was that we have it before us when we come back after the Christmas break. I would suggest that we do a friendly amendment to Mr. Del Mastro's motion, removing the wording "without delay" and inserting instead specifically that we would request this be no later than whatever the Friday is of the second week of January.

•(1010)

The Chair: Okay.

Mr. Borys Wrzesnewskyj: Consider that a friendly amendment.

The Chair: Mr. Dechert.

Mr. Bob Dechert: Thanks, Mr. Chair.

Obviously, I support Mr. Del Mastro's motion. I think it's getting at the crux of the issue we've all been discussing for the last few minutes.

I did want to respond to a comment you made earlier, though, that you thought the minister seemed to be asking us to write the new act for him, in both the Privacy Act situation and the Access to Information Act review. I don't see it that way at all. I think he seemed very clear, in both letters, that what he would like us to do is more public consultation, and that's the role of this committee, as I see it. He's not asking us to suggest the wording. He's saying, in the letter of November 25, with regard to the access to information review:

I wish to stress that the most productive and effective activity that your Committee could undertake would be to conduct a full study of access reform, with a particular focus on the Discussion Paper.

It goes on to say, "Once you have undertaken and completed a full, in-depth study of access reform and consulted all stakeholders"—which is what the committee normally does—"I'd be happy to appear before you to discuss your further findings."

In the letter responding to our report on the Privacy Act, he sets out several areas of clear guidance about where he would like us to do some further work, and specifically says, "Further consultation with government institutions and agencies...responsible for the security as well as the health and welfare of Canadians would be required...."

That's what he's asking us to do, not to write the wording of the legislation, and I think those are reasonable requests.

I think these are pretty reasonable responses from the minister, and I think he has given us a clear indication of what he would like us to do. I think these are things that would be in the public interest, so I would recommend that we undertake those further consultations so that we can say with certainty to the people we represent—

Mr. Dean Del Mastro: A point of order, Mr. Chairman.

The Chair: Are you absolutely sure it's a point of order and that I won't have to say it's not a point of order?

Mr. Dean Del Mastro: My point of order is that the comments of Mr. Dechert, while they may be constructive, aren't germane to the amendment put forward by Mr. Wrzesnewskyj. I assume the motion you put on the floor was an amendment to the motion. I would suggest that maybe we could stick to the amendment.

Mr. Bob Dechert: Mr. Chair, my name was on the list before he made it, but I'm happy to step aside. We can deal with that amendment and then we can move on.

The Chair: First of all, there was no motion to amend.

A voice: [*Inaudible—Editor*]

The Chair: No, no, there was no motion to amend. It was a suggestion, part of his commentary. He didn't say, "I move an amendment", etc. This is how we do that. So your point of order is not a point of order. However—

Mr. Bob Dechert: Thank you, Mr. Chair. Hopefully, I won't be so rudely interrupted by my colleague again.

To conclude—

The Chair: Let's hear it, Mr. Dechert.

Mr. Bob Dechert: To your point, I want to simply clarify the point you made earlier. I think the minister is not saying to go away and write the legislation for the government; he's saying please do some more public consultation on these very important areas. They deserve further study, and I'd be very much appreciative if you did that. I'd like to hear those views. Once you've done that, I'd be happy to come back, appear before the committee and discuss them with the committee. That seems to me a very reasonable way to proceed.

Thanks.

The Chair: Thank you.

I think we have to finish it off here. We have Mr. Siksay, Madam Simson, and Mr. Wrzesnewskyj, and then we'll see if we can move on to dispose of this area.

•(1015)

Mr. Bill Siksay: Thank you, Chair.

I want to propose an amendment, and not having the exact wording in front of me, it's a little difficult for me to do this as accurately as I would like, so I'll need some help.

The Chair: Yes, all right.

Mr. Bill Siksay: I'd like to amend the motion to request a response by January 25, 2010, which is when Parliament resumes for the spring session. I would also like to add a request that the minister respond to all of the quick-fix recommendations made by the Privacy Commissioner as well.

The Chair: Mr. Siksay, the motion does state specifically, the committee requests that the minister address "each recommendation made individually". So that's all of them, not just the ones we supported.

Mr. Bill Siksay: Then, Chair, I'd like to say, "made individually by the Committee and the Privacy Commissioner".

The Chair: For greater certainty?

Mr. Bill Siksay: Yes. I think it could easily be interpreted that it was just the five recommendations that the committee supported. We need to hear the minister's take on the Privacy Commissioner's recommendations, to honour her work.

The Chair: All right. That's in order.

We'll have to tidy up the wording, but I think the intent is clear. The members are aware that we're setting a specific date, and for greater certainty, we want a response to all of the recommendations, including the recommendations made by the Privacy Commissioner.

Madam Simson.

Mrs. Michelle Simson: Thank you, Chair.

Thank you so much for your suggestion. That is the course that I would like to see us follow. I think it's important that we have dialogue. Letter writing and e-mails aren't always the most effective way. You play a little bit of ping-pong and you still don't have a sense of why someone feels the way they do.

I really think it is important to encourage the minister to appear in camera before the committee so that we can get some answers to not only this latest letter, but also with respect to the access to information.

Specifically, I'd like to be able to ask him—and I don't know how you do this in a letter—why he continued to recommend that we do an in-depth study of strengthening the Access to Information Act, for instance, when the Information Commissioner said that what this proposes, if accepted, will reduce the amount of information available to the public, weaken the oversight role of the Information Commissioner, and increase government's ability to cover up wrongdoing, shield itself from embarrassment, and control the flow of information to Canadians.

I don't know if you've all read this, but in my view, the Information Commissioner wasn't wrong. So I wonder why the minister would want to direct us to study ad nauseam something that has already been dismissed as not being in the public interest by not only the commissioner but several members of the committee.

So I really do see the importance. I would like to see the minister so we can ask questions and so we're not playing ping-pong.

Thank you.

The Chair: Mr. Wrzesnewskyj.

Mr. Borys Wrzesnewskij: I'd like to move a subamendment that the date be changed. If we receive the response the day before we arrive back after the break, it wouldn't give us enough time to substantively go through this. I'd like to suggest Friday, January 15, the week prior to us coming back on January 25. There were a number of recommendations that were pretty substantive, so it gives us an opportunity to go through those.

• (1020)

The Chair: I think we've had an interesting conversation. Incidentally, one of the—

Mr. Borys Wrzesnewskij: So I'd move the subamendment.

The Chair: We were going to grant that one.

During the Mulroney-Schreiber hearings, one of the words I used, for which I probably got 100 e-mails from people across the country, was the word “fulsome”. You may be interested to know, if you look in the dictionary, that it is like a weasel answer. It actually is the reverse of what you think it is. So “fulsome” is not really everything; it's not fulsome.

Anyway, I just thought I'd raise it, because I've heard that several times around the table. We'd better be careful, because if you ask the minister for a fulsome answer, you just might get one.

Are we ready to do these things? We have a subamendment, an amendment, and a motion.

You want one last comment.

Mr. Dean Del Mastro: Just in response to Mrs. Simson's comment, perhaps we could move the suggestion she made for an in camera discussion with the minister as a separate motion.

The Chair: We're ahead of ourselves, but I think it's on the record. I will look closely at the transcript. I think we have a lot of good ideas on the table, but I think we'd better deal with these one at a time.

There is a subamendment by Mr. Wrzesnewskij that the date be amended to January 15. All those in favour?

(Amendment agreed to)

The Chair: We have the amendment now by Mr. Siksay, which amends the main motion to include.... Okay. Mr. Del Mastro's motion says we request “that the minister address each recommendation made individually”, and the amendment would read “by the committee and the Privacy Commissioner” for greater certainty that it's.... We want all of them, even the ones we didn't support. And it adds that the response be by January 15.

Does everybody understand what we are doing here? It says basically all the 12 included in the 10th report, and the January 15 date. That is the amendment as amended.

All those in favour?

(Amendment agreed to)

The Chair: Now we have the motion as amended:

That the Committee write to the Minister of Justice to express its desire for a more comprehensive response of its 10th report entitled “The Privacy Act: First Step Towards Renewal”. Specifically, the committee requests that the Minister address each recommendation made individually by the Committee and the Privacy

Commissioner and provide background for his caution and concerns. The committee further requests that the minister respond by January 15, 2010.

I think that's exactly what Mr. Del Mastro would have written had he written the whole thing himself.

The Chair: I think that's clear. It encapsulates the wishes of the committee.

(Motion as amended agreed to)

The Chair: We'll do this, and if it is solely with regard to this report, the privacy.... We have completed that item with Madam Simson's motion, which has been stood and may be considered at any time, should the committee so wish. She can bring it back on the floor if necessary—and I hope that never happens.

Our second order of the day is with regard to access to information. The letter of response from the minister has been circulated to you. I think you know what it says. There are three items here. Two documents were circulated by our researchers, which I think are extremely important. A lot of work went into them, and they basically tried to pull together everything that has happened on access to information into two documents.

The first one is...kind of all of it, except the second document, which has recommendations that came out of the Right to Know Week that was run by the Information Commission during a break week. I asked them to prepare this for our information, because it puts us where we have been and may help us with further work.

I've also asked them to give us a brief run-through of what's here. I want it on the record as to the extent of the work that has been done and the resources available, so we don't get into this problem we've had in the past, where things like a discussion paper that nobody seemed to have doesn't lose the attention of the committee. I don't know how that happened. It was tabled in the House, but it was never dated. It never got referred to this committee, for some odd reason. That was back in early 2007. Don't ask me how it happened. It shouldn't have. I think we'll forget about who's at fault here. We do have a document.

Élise, Alysia, and Dara, I don't know how you'd like to do this, but could you help the committee appreciate the excellent work you have all done?

• (1025)

Ms. Élise Hurtubise-Loranger (Committee Researcher): The first document we have is entitled “The Access To Information Act and Recent Proposals For Reform”. It's the bigger document of the two—the longest. This was a library publication we had, and it was updated until 2006. So in the last couple of weeks we have updated it to 2009. It will again become a publication once we've gone through editing and everything. It will be available to the public as well as to the committee.

The first page is the contents page. I will quickly go through what each of these documents is.

[Translation]

The first document in the list is entitled *Open and Shut*, a report produced by the justice committee in 1987. It was the first study done on reforming the Access to Information Act. The committee conducted an exhaustive review of the legislation, both the Access to Information Act and the Privacy Act, and tabled a unanimous report to Parliament with more than 100 recommendations for amending both acts. The government responded to the report and generally supported the administrative changes proposed, but not the legislative ones.

The second document, *A Call for Openness*, was published in 2001 further to the work of an ad hoc committee of MPs chaired by Liberal MP John Bryden. The report contained 11 recommendations for improving the provisions of the act. It was tabled in 2001.

The next document is entitled *Access to Information: Making It Work for Canadians*. It was published in 2002. The report was produced by an access to information review task force consisting of government officials and chaired by Treasury Board and the Minister of Justice. It was a joint effort by both departments. In June 2002, the task force put out a report containing 139 recommendations for changing the Access to Information Act.

The next document is the response to the report of the Access to Information Review Task Force. It is the information commissioner's response to the last document mentioned, which was produced by a group of government officials. This document was published in 2002 by the information commissioner. He was critical of both the process and the results of the task force's review. The commissioner felt that some of the recommendations would weaken the access to information regime.

What followed the task force's report and the commissioner's response were two private members' bills. The first was Bill C-462, which was introduced by John Bryden. Then came Bill C-201, which was introduced by MP Pat Martin in 2004. Both bills died on the order paper.

The next document is the Justice Minister's *Comprehensive Framework for Access to Information Reform*, which was published in 2005 by then justice minister, Mr. Cotler. It was basically a discussion paper in which he asked this committee for input on a range of policy questions, before the introduction of legislation. The document addressed a variety of aspects of the Access to Information Act. It sought the committee's input.

Rather than embarking on a comprehensive study of the document, the committee asked Information Commissioner John Reid to develop a bill that would amend the Access to Information Act. And he did so, with the help of the Law Clerk of the House of Commons. He presented a draft bill to the committee entitled the Open Government Act. Commissioner Reid's bill was endorsed by Judge Gomery in the second phase of his report.

After the introduction of Commissioner Reid's bill, MP Pat Martin introduced a bill, as did Ms. Lavallée of the Bloc Québécois. They were both very similar to Mr. Reid's bill, and both died on the order

paper. Mr. Martin introduced his bill on February 25, 2009, thus in this session of Parliament. So the bill is still active.

The next document is the motion in the House of Commons and the seventh report of the committee. A motion was passed by the House in November 2005, and you have its content in the document.

• (1030)

Immediately afterwards, the committee reported to the House of Commons, recommending Mr. Reid's bill.

The next step was the Federal Accountability Act, which was introduced by the government in April 2006. It amended the Access to Information Act in three areas, essentially. First, it expanded coverage of the act to a greater number of federal institutions. In doing so, the legislation added new exclusions and exemptions for some of the new organizations that were not previously subject to the act. The Federal Accountability Act also created a duty to assist. That briefly summarizes what happened between 2006.

At the same time that Bill C-2, the Federal Accountability Act, was introduced, the Minister of Justice at the time tabled a document, which we did not find. It was a discussion paper entitled "Strengthening the Access to Information Act — A discussion of Ideas Intrinsic to the Reform of the Access to Information Act". In the discussion paper, the minister examines some of the proposals made by Commissioner Reid in 2005. The government noted in the paper that further consultation, analysis and development were required before additional reforms to what was already set out in the Federal Accountability Act could be proposed. The paper also suggested engaging in consultations with stakeholders representing all aspects of the system. That briefly summarizes the contents of that paper.

The last document in the list, which you may be more familiar with, is the report produced by our committee in June 2009, "Access to Information Act: First Steps Towards Renewal". It was the committee's response to the 12 brief recommendations of Information Commissioner Marleau. That completes the first document.

The second document,

• (1035)

[English]

It's a summary of what happened on the legal panel at the Right to Know Week that was held recently at the end of September, beginning of October. There was a panel of 12 people. It was quite a substantial panel. The Information Commissioner's office has gone through the transcripts and has given us a list of the suggested reform proposals that came out of that panel. So that's in the second document.

The Chair: On the right to now, are those panels still available for on-demand viewing, on podcast?

Ms. Élise Hurtubise-Loranger: Yes, and the transcripts will eventually be available. That is what I was told.

The Chair: So on this second document, the “Right to Know”, some exceptional people participated, and their presentations were very informative. I think it's a good resource for the committee. If you see anything here that touches on a point of interest, behind that is a presentation by someone who has the experience or expertise.

Collectively these documents are a treasure trove of arguments, suggestions, dispositions, and how things have changed. I hope members will be able to make use of this as we move forward and see how we go, at least on the access side. We'll look for something similar to maybe document the privacy saga since the act came in over 25 years ago.

The final matter for us is the letter that was received yesterday from the Minister of Justice on our access report. As you know, we asked the minister to appear by November 30. It was reported to the House. I think all members have the letter and have had an opportunity to review it.

I am open to comments, suggestions, or questions from the members in light of what we did on the privacy side.

Mr. Dechert, do you want to start us off?

Mr. Bob Dechert: Yes, please. Thank you, Mr. Chair.

It's very clear what the minister would like us to do here. I'm getting the view, from his response to both of our reports on access to information and privacy, that he thinks more work needs to be done. His preference is not to do piecemeal changes to legislation, but to do comprehensive reviews. He has provided us with this very informative discussion paper that was prepared by former Commissioner Reid.

He's asking us very clearly to do a full study on access reform and meet with all the relevant stakeholders. That makes perfect sense. It's something this committee could very usefully do to discharge its duty to the public on these very important issues.

I didn't have a chance to review that paper. I understand it was done prior to my joining this committee. There was some discussion earlier about it, but I wasn't part of that.

It seems to me that's a very reasonable way to approach legislation. There are lots of interested stakeholders out there who would like to make their views known on these important issues. I'd like to see our committee undertake that kind of study.

• (1040)

The Chair: Next are Madam Freeman, Mr. Siksay, Mr. Del Mastro, Madam Simson, and Madam Davidson.

[Translation]

Mrs. Carole Freeman: Thank you, Mr. Chair.

I had a good look at the letter that was sent to you yesterday. In the letter, which is fairly brief, the minister asks us to carry out a comprehensive study on access to information reform, giving careful consideration to the discussion papers. I think that Ms. Hurtubise-Loranger's presentation shows that this act has been the subject of many studies for some years. It starts in 1987. In 2001, Mr. Bryden had a go. There was a task force in 2002. And responses in 2002. There were also successive private members' bills from John Bryden and Pat Martin in 2003 and 2004. Minister Irwin Cotler produced the

Comprehensive Framework for Access to Information Reform. We heard about the committee asking John Reid for a new bill, about a motion in the House and the seventh report of the standing committee. There was the Federal Accountability Act, which—yes—did introduce certain things. And there was also the work we did here on the “Access to Information Act: First Steps Towards Renewal” report.

Indeed, a huge amount of work has been done, if we also consider that this week, 12 panel members worked very hard on making proposals and suggestions.

As for what is being asked of us in that letter, I wonder what more we can do as a committee, what other work we can do, since we have, throughout all these steps, examined and re-examined the issue, and started the work over again. We have brought in panellists, those who are the most qualified to give us insight, and the work was taken very seriously. All these years, the work was always taken very seriously.

I think the time has come, the bell tolls. I want to tell the members of this committee that the work was carried out very seriously and with the utmost professionalism. We examined the issue inside and out. Now, I think it is up to the minister to show some political will and leadership, a very specific will by this government to introduce a bill to amend the existing act. We have finished our work; we cannot go any further. It is now up to Minister Nicholson and the Conservative government to move the issue forward and to serve Canadians by giving them access to information, and to revive this outdated act. That is what I think, Mr. Chair.

As far as we are concerned, we have done our job. We cannot go any further. We do not have the mandate to create a new bill. It is up to the government to do it. It now has all the tools it needs, all the information necessary. Our work is done.

Thank you, Mr. Chair.

[English]

The Chair: Thank you.

Mr. Siksay.

Mr. Bill Siksay: Thank you, Chair.

I want to add a very brief comment on this.

I think the minister is trying to throw the ball back in our court when the ball is actually in his court. I don't see any possibility of understanding the situation differently than that. We've had report after report, study after study. We've had a former Information Commissioner draft legislation. We've had private member legislation. We had a detailed platform commitment from the government on many of these issues in 2006. I don't know what more we can do as a committee.

The government is the place where legislation will be drafted. I'm sure in the department there is a draft bill sitting somewhere. I can't imagine that all of this work would have been done over this long a period of time without that existing within the department. If the government were serious about access to information reform, if they were serious about the commitments they made to Canadians in their own election platforms, I think we would have a bill before us.

Frankly, there's nothing more that this committee can do than it has done. I'm disappointed that some discussion paper was misdirected, or that it didn't get tabled properly or whatever, but that's still no place for the government to hang its hat and say the work hasn't been completed, not when you look at the history of what's been done around access to information reform over the past years, including our most recent work, which I don't want to depreciate for one second. It was dealing with very specific suggestions from the Information Commissioner about the hot button issues that he believed could be fixed most appropriately and easily.

When it comes to other issues on its agenda—when it comes to criminal justice bills, for instance—the government has no problem taking and introducing bill after bill on a whole bunch of different subjects. These could have been combined together. We could have progressed that agenda much more quickly. To say that we can't deal with the quick fixes separate from an overhaul of the Access to Information Act—a complete overhaul—I think is a complete fallacy, especially when you look at their own choices about how they pursued their legislative agenda in this Parliament.

Frankly, I don't think there's an argument that we haven't addressed successfully, or that this committee hasn't addressed in its history of the last few years, and that others haven't addressed.

I think if they were serious, they'd get on with it.

● (1045)

The Chair: Mr. Del Mastro.

Mr. Dean Del Mastro: Thank you, Mr. Chairman.

I have a couple of things here.

I worked on the committee on the Federal Accountability Act. I wasn't a named member, but I was on the Federal Accountability Act committee, served a lot of hours, and received a lot of cooperation, frankly, and support from the NDP at that time.

As you know, there were significant reforms to access to information brought forward by the Federal Accountability Act, including access to 70 new institutions. We know what those are—the Wheat Board, for example, Canada Post, the CBC.

These were significant steps. They were steps that no previous government under any stripe had ever undertaken. They were all about opening up access to information for Canadians.

I think subsequently we've seen a significant increase in the number of access requests, and I think that indicates that Canadians appreciated this being opened up. The result has been a significant increase in the number of access requests, which is what the government was looking to provide: greater access, more open access, and more broad access to information.

Certainly our position is that we're committed to transparency and openness. The record is clear. We brought in the Federal Accountability Act to back that up.

Thank you.

The Chair: Madam Simson.

Mrs. Michelle Simson: Thank you, Chair.

I want to reiterate the position that I put forward with respect to the minister's response on access to information—the original letter, and then this further response. I really am perplexed. I must confess that I share my colleague Mr. Siksay's sentiments that there doesn't appear to be any will or leadership in this area at all. I'm really curious as to why, in two separate letters, the minister is directing us to study a discussion paper that clearly, if enacted and accepted, would reduce the amount of information available to the public, weaken his oversight, and would increase a government's ability to cover up wrongdoing, shield itself from embarrassment, and control the flow of information to Canadians.

We did consult with stakeholders. Not all of them agreed with Mr. Marleau's recommendations. We had a tremendous opportunity to get both sides of the issue, and I think this committee did an outstanding job. This letter gives me the feeling that he's not going to be happy until we spend a lot of time on something that, quite frankly, is a waste of time, and has been declared so by an Information Commissioner who is looking out for Canadians' best interests.

I simply wanted to comment that we're getting pushed in a direction. We're not being asked to do anything but the minister's bidding and go through this discussion paper, which, by the way, I think would be a total waste of this committee's time. That's just my opinion.

Thank you, Chair.

● (1050)

The Chair: Go ahead, Mrs. Davidson.

Mrs. Patricia Davidson: Thank you, Mr. Chair.

There are a few comments I want to make. I know that we promised accountability legislation, and we brought that in. We know, as has been said here, that the Accountability Act enacted some pretty significant reforms to the Access to Information Act. It certainly extended its reach, and it brought in more groups underneath the Access to Information Act. I think those things were well received. I think they were things that were needed to be done and I think they were huge steps for government to take. I think they have proven to be good moves.

My colleague has talked about the increase in the number of requests, and I think that's good. I think any time we can increase transparency and openness, that's what we need to be doing. I think this Federal Accountability Act has helped to do that with the reforms to the Access to Information Act.

The minister talks in this letter about his reasons and about his thinking with regard to what the committee needs to be doing. He says that he explained that the discussion paper outlined the main issues raised by the former Information Commissioner, Mr. John Reid, and that these issues required further consultation and study. He then goes on to say that the most productive and effective activity that this committee could undertake would be to conduct a full study of access reform, with a particular focus on the discussion paper. He's actually given us some information in this letter about what he would like us to do, but he has also focused it to a direct part of the access reform.

I think it behooves this committee to do that. When he talks about further consultation and study, I think that's what this committee is supposed to be doing: consulting and studying. I think the minister has been very clear in this second letter that we've received, and I think we have a clear directive on how we can move forward as a committee.

Thank you.

The Chair: Mrs. Block.

Mrs. Kelly Block: Thank you very much, Mr. Chair. I echo the comments made by my colleague who just spoke before me. As a new member—and I don't know how long I can say “as a new member” because I've now been here a year, but I'm still new—it's been a steep learning curve over this past year as we've looked at the Access to Information Act and the Privacy Act. If there's anything that I have concluded, I think it's that over the past 23 or 25 years, governments have been committed to transparency and openness, and certainly I would state that our government is committed to transparency and openness, and our record is clear.

I've learned much about the Federal Accountability Act, and I know I've probably belaboured the point many times in our questioning of witnesses in terms of the comprehensive and toughest accountability legislation that we brought forward in 2006.

I guess what I would like to recommend to this committee going forward is that whether it be a study on the Privacy Act—and based on the response we get from the minister in January—or the Access to Information Act, I would like us to choose one rather than trying to work on both of these projects at the same time. I think often there has been some confusion. Are we talking about the ten recommendations in Mr. Marleau's report, or are we talking about the ten quick fixes plus the two in the Privacy Commissioner's report?

So those would be my comments. As we move forward, as we begin to look at our agenda into the new year and take quite seriously the charge that we've been given by the minister to do a more comprehensive review and consultation with regard to the discussion paper that's come to light for us...that we make a decision about which act we're going to focus on.

• (1055)

The Chair: I think I'm going to have to cut the list off there because there is another committee that has business at eleven o'clock. We're going to carry on with the list at the next meeting.

Let me leave a little homework, since I have to be working on a letter to the minister and I do want to get the blues before I finish that letter. We are actually working on the same project that Russ Hiebert brought to us when I first became chair. As a consequence, if you look back at the transcripts, the committee said there's no way we're ever going to be able to do a full review and basically rewrite the act. It was just impossible, and as a consequence our saw-off was to consider a parallel type of approach, looking at what things we can do to at least improve the administrative capacity of the bill and maybe deal with any legislative....

So we will finish this up. I would like for those members around the table who believe we should take a more comprehensive approach and consult widely to start working and suggest to the whole committee specifically a game plan, with as much information as possible as to what they are recommending the committee do. To just use the title, “we'll do a more comprehensive review” is one thing. I think the committee should appreciate what is entailed.

So those who feel very strongly about that I think should come back to the committee with a better focus for the committee as to what actually would be asked. Ultimately, the committee is going to have to determine its work plan for the new year, and I don't want to leave that any later than we have to, because work should be done during the Christmas break.

So, please, we're at a crossroads and we need some direction. We need the input of all committee members, and I hope members will take the time to look at some of these documents. There's a lot of good information here, so we can make wise decisions when we come back to our next meeting.

This meeting is adjourned.

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