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Thursday, December 2, 2010

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Chair

The Honourable Shawn Murphy

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• (1530)

[English]

The Chair (Hon. Shawn Murphy (Charlottetown, Lib.)): We'll now call the meeting to order.

[Translation]

Welcome everyone.

[English]

In this meeting, again called pursuant to the Standing Orders, we have three possible items on the agenda, colleagues.

The first item, which we're going to go to immediately, is to hold a hearing on the certificate of nomination of Madam Jennifer Stoddart to the position of Privacy Commissioner. Her mandate has been renewed for an additional three-year period. As is the custom, she has come before the committee on the government nomination for this position for the additional three-year period.

The committee is very pleased to have with us the Privacy Commissioner. She did come here on very short notice and we thank her for that. We're going to ask her now for her opening comments, and then we will go to questions from members of the committee.

Depending on our time, we will then go into the Google study. Then, at 4:30, we're going to have Mr. Serge Ménard with us, the member of Parliament for Marc-Aurèle-Fortin.

Having said that, I now invite you, Madam Stoddart, to give your opening comments.

Ms. Jennifer Stoddart (Privacy Commissioner, Office of the Privacy Commissioner of Canada): Thank you very much, Mr. Chairman.

[Translation]

Ladies and gentlemen members of the committee,

[English]

good afternoon. It's an honour to be here once again with you, but this time to answer questions about my nomination for reappointment as Privacy Commissioner of Canada.

I would deeply appreciate Parliament's confidence in me to continue on in this role and to have the opportunity to build on what my office has already accomplished. It has been a great privilege to serve Canadians and Parliament for the last seven years.

As you know, I've had the pleasure of appearing before this committee many times over the course of my mandate, and I'm very happy to see so many familiar faces today.

It has been quite a journey over the last seven years. Back in 2003, I took over an office that was only beginning to recover from an extremely difficult period. Our administrative powers had been seriously curtailed. Part of our budget was about to lapse. We were being investigated by the RCMP, the Auditor General, and others.

I must say that it took a lot of hard work, but we got our house back in order and returned our focus to where it should be—protecting the privacy rights of Canadians.

To be frank, this has also been a tremendous challenge in the face of a dramatic reshaping of the privacy landscape in recent years. Technological advances in human creativity have combined to bring us a multitude of new online services and electronic devices with important implications for our privacy: social networking sites, YouTube, foursquare, and smartphones, to name but a few.

At the same time, our personal data has become a hot commodity in both the private and the public sectors. Businesses use increasingly detailed profiles to better target us with advertising, while governments around the world see personal data as the key to combatting terrorism and other crimes.

We live in a world where the flow of data is global, instantaneous, and constant. I am extremely proud of our achievements in the face of this rapid change. However, the ongoing threats to privacy remain enormous, and there is still so much to do.

If reappointed, then, I would focus on a few areas: leadership on priority privacy issues—we have four, and I can talk more about them later; supporting Canadians, organizations, and institutions to make informed privacy decisions; and of course and always, service delivery to Canadians and, by extension, to Parliament as well.

[Translation]

I'd like to move on now to leadership on priority issues.

As Canadians live out more and more of their daily lives in this digital environment, it is clear that is where we need to be focusing much of our attention.

As you know, we have had ongoing discussions with on-line giants such as Facebook and Google. At the moment, we are investigating further complaints about Facebook, as well as—

[*English*]

The Chair: I apologize.

Is there a problem with the translation, Mr. Albrecht?

Can we have a test on the translation?

[*Translation*]

All right; it's working.

[*English*]

Ms. Jennifer Stoddart: Perhaps I could begin that part again.

The Chair: No, no. We have a written copy of your remarks. Please go ahead.

Ms. Jennifer Stoddart: I was just talking about Canadians being online more and more, so that's where we have to spend our time.

• (1535)

[*Translation*]

At the moment, we are investigating further complaints about Facebook, as well as a site targeting children, and an on-line dating site. These are critically important issues when you consider the role the Internet plays in daily life.

[*English*]

The Chair: Sorry, but I'm not getting any English either. We have no option but to suspend if we don't have translation.

Ms. Jennifer Stoddart: Mr. Chairman, if it would help, I could continue the rest of my presentation in French, and then go back and do the missing part completely in English.

The Chair: But if you speak French, I don't think we get the English.

Ms. Jennifer Stoddart: The honourable members also have copies in their respective languages in front of them.

An hon. member: It is the translation that is the problem.

The Chair: If we don't have translation I have no option but to suspend, so I'm going to suspend for five minutes and ask the technicians to have a look at this and see if we can get recourse.

The meeting is suspended.

• (1535)

(Pause)

• (1545)

The Chair: I'll now call the meeting back to order. I understand that our technology is still working. Am I coming to you in French okay?

Oui? Okay. We're going to go back to Madam Stoddart, who will complete her opening remarks.

Ms. Jennifer Stoddart: I'll continue, honourable members, where I left off.

[*Translation*]

These are critically important issues when you consider the role the Internet plays in daily life, as I was saying. I recently read that one in four American couples who met since 2007 first met on-line.

Earlier this year, we held public consultations on on-line consumer tracking and cloud computing, in order to learn more about certain industry practices, explore their privacy implications, and find out what privacy protections Canadians expect with respect to these practices.

Looking ahead, we need to continue to develop a deeper understanding of privacy issues in a digital world. We should also continue to build on our expertise by hiring more IT specialists and creating links with outside experts. Continued cooperation with our provincial, as well as our international, colleagues will also be critical to our future success.

I'd like to move now to public safety. Another ongoing strategic priority relates to the potentially grave privacy implications of national security and law enforcement measures.

Privacy is not an absolute right. Indeed, there may be cases when privacy protections must give way to protecting a greater good. However, Canadians should only be asked to make this sacrifice when it is clear that the promised outcome—be it safer air travel or catching money launderers—will actually be achieved and that there is no less privacy-invasive option that would allow us to reach this goal.

We have worked with numerous government departments and agencies to introduce stronger privacy protections into initiatives such as Passenger Protect program—our no-fly program—airport scanners, and the RCMP's exempt databanks. We should continue to be vigilant in this area.

[*English*]

Another piece of the privacy protection challenge is making sure that Canadians develop strong digital literacy skills.

We're using online tools to help Canadians better understand their privacy rights and make well-informed choices in a rapidly changing privacy landscape. We have a blog and a website targeted at youth. We tweet, and we post videos about privacy on YouTube. Much of our public awareness work is being conducted in collaboration with a wide variety of others, such as teachers, consumer and business groups, and government organizations as well.

Perhaps partly because I'm a former provincial commissioner myself, I've always seen the need to build stronger ties with provincial colleagues and other stakeholders across the country. I want to ensure that the Privacy Commissioner's office is not perceived as either too Ottawa-centric or unaware of issues outside the national capital region.

We recently opened an office in Toronto, where many of the organizations we receive complaints about are headquartered. It will also be critical to maintain regional outreach to all parts of the country and to continue to maintain cultural and linguistic diversity in the office to be truly responsive to the Canadians we serve.

At the end of the day, what is most important to me is that our work meets the needs and the expectations of Canadians. As I mentioned at the outset, this requires that we also remain responsive to the needs of businesses, government, and Parliament.

I enjoy a very privileged position as an officer of Parliament and, from my point of view, I have had in these last seven years a very positive and a very constructive relationship with Parliament. As you know, I am accountable to Parliament. For example, I come to Parliament whenever I am invited to comment on legislation being studied at committee.

Once a year, we set out for Parliament's consideration—that's usually this committee's consideration—our plans and priorities. If there is a priority that Parliament would like me to follow, it has an opportunity at that time to bring it forward during this process. I also have tabled annual reports on our work to Parliament and with this committee over the years.

I would certainly welcome further opportunities to speak with members of this committee and Parliament more broadly about what my office does and to discuss any matter that raises privacy concerns.

In closing, I would like to say that I would welcome the opportunity to continue to leverage what has already been accomplished over the past few years, and I thank you very much for listening to this presentation. I'd be pleased to answer any questions that you might have.

● (1550)

The Chair: We'll do our customary rounds of seven minutes.

Mr. Easter, you're first.

Hon. Wayne Easter (Malpeque, Lib.): I won't be taking the whole seven minutes, I don't think, Mr. Chair. We are supportive of the reappointment.

I think you outlined in your submission and your remarks the areas you are moving in, which I think is a fairly positive step forward.

I have a couple of questions on the whole online world. I believe I mentioned this here when the Google mapping issue was before us.

One of the things that I'm greatly concerned about is that I think many Canadian users of the Internet do not realize how unsecured the Internet can be. To a certain extent, it's an invasion of privacy by default. If you take a portable computer and make a stop somewhere, you'll find several unsecured lines that you can be on. If you know technology, there's no doubt that there are ways you could tap into those sites.

How do you see yourself dealing with that issue? I know it's not your direct responsibility, but it is a way that people's privacy can be invaded, to a great extent because of their own fault, but I think it's because they just don't know.

Ms. Jennifer Stoddart: Some of them don't know and some of them choose to ignore it. I'll talk about two recent things my office has done to illustrate how I want to continue dealing with this.

I said in my presentation that investing in experts in information technology and knowledge of information technology is hugely important. Both of our laws are technology neutral, but as time goes on, we have to adapt to the mediums on which personal information is carried.

In terms of people who aren't aware of the implications of using some of the new technology, we've recently done a couple of interesting blogs, one of which talks about a new software kit—I happened to read them myself—that allows you to hack into other people's doings online, basically, and also the general danger of using unencrypted wireless networks that may be emanating from cafés and so on. This makes their information very vulnerable, so we hope a lot of Canadians will read that.

We also did an audit that we reported on in our last privacy act report, and that was on the use of unencrypted Wi-Fi messages by the government. We found that quite a few departments and agencies, a majority in our sample, had people who were functioning on wireless networks outside of the firewalls of the Canadian government, in spite of the clear directions of CSIS. That's the second group that I would say should know; they have been given instructions on what not to do and they do it anyway.

● (1555)

Hon. Wayne Easter: Certainly the second group should know, and that comes to your remarks on public safety. I know this is an area that you've reviewed. One of the concerns I have is the infringement on our own privacy rights, identification and so on, from decisions made by our neighbour to the south. You get on a flight and the information is given to the United States. I have no idea what they do with that. From your perspective, how do we protect ourselves further from what is happening there?

Ms. Jennifer Stoddart: We recently examined this legislation, which is currently before Parliament. We understand that the Government of Canada has made strenuous representations to the Government of the United States, though to no avail. This rule—they call it a rule—will come into force on January 1.

What we suggested was that the government nonetheless continue to make representations to the United States on the impact of this; secondly, that it make use of its regulatory power under the transport act to limit the amount of personal information that can be given to Homeland Security in the context of this new program; and thirdly, that it undertake an information awareness campaign so Canadians become aware of this program and the consequences that they may unexpectedly find themselves not able to board a plane.

Hon. Wayne Easter: And that could be, based on your experience, just because your name happens to be the same...?

Ms. Jennifer Stoddart: Well, unfortunately, one of the things that makes us fear the consequences of this program is that there's ample historical evidence of a lot of slip-ups—people who have the same names, even if they're spelled differently. We can think of names in all cultural traditions that can be spelled different ways, and you can find yourself in a very difficult process to prove to the authority—it could be Homeland Security, it could be here in Canada, too—that you are not the person whose name is spelled a bit differently.

Hon. Wayne Easter: Yes. I've just had an experience with that and the person actually had to get fingerprinted to get it solved.

I have no further questions, Mr. Chair.

The Chair: Thank you very much, Mr. Easter.

[*Translation*]

Ms. Freeman, you have seven minutes.

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

Good afternoon, Ms. Stoddart. Thank you for accepting our invitation.

To begin with, I would like to congratulate you on the three-year extension of your mandate, and reiterate this committee's admiration for the outstanding work you have done in recent years and your success in meeting many challenges. Furthermore, you have been a key figure, and not only here. I know that you held the position of commissioner in Quebec—

Ms. Jennifer Stoddart: It's a nice promotion.

Mrs. Carole Freeman: The fact is, you are a key figure around the world. With respect to Facebook, you took a considerable number of initiatives that advanced privacy rights.

I would like to move on now to Bill C-42. You appeared before the Standing Committee on Transport, Infrastructure and Communities on November 18. On November 16, Mr. Vic Toews, Minister of Public Safety, also testified before the committee. Talking about this bill and the Secure Flight Program, he stated that he had no objection to providing information about passengers who are only flying over a country. However, when we're talking about international territory, we know that the airspace belongs to the country where one happens to be. So, on November 18, you expressed certain reservations in that regard.

I believe you proposed restrictions, saying that there should perhaps be some control over the information that is passed on. The information is passed on to air transportation authorities, but there is no guarantee that it will stay there. I think you mentioned that to the committee. We don't know whether it might be given to the police or other agencies. Once the information has been provided, we have no assurance that it will not be disclosed to all kinds of different parties or used in all kinds of ways. That seemed to be a concern for you at the time.

So, you made recommendations, and I am just wondering if they are being acted on.

•(1600)

Ms. Jennifer Stoddart: Those are very recent recommendations. I don't know whether the Minister of Transport, Infrastructure and Communities is considering changing regulations under the Canada Transportation Act. I believe the bill you referred to is still being reviewed by Parliament, but I am not certain of that.

Mrs. Carole Freeman: I don't think so. That is what we are trying to find out, because it must be referred to a committee for consideration.

Coming back to your specific concerns, your fear was that too much information would be passed on.

I understand that the United States needs to protect its air space. That's why they have an anti-terrorist law. That's very important, but Canada must also have an obligation to protect individual privacy. Given the concern about too much information being passed on and a lack of control over how that information will be used, what potential solutions could be suggested to ensure there is better control?

Ms. Jennifer Stoddart: We proposed that Canada continue to talk to U.S. authorities and that it maintain a diplomatic position. This deeply concerns Canadians.

But I would just like to come back to the regulatory power that already exists. For the Canadian government, the U.S. rule represents a demand for a great deal of information, if it is available. We think the Canadian government, acting under the Canada Transportation Act and Regulations, could limit the information that would be made available. Possibly half of the available information could be provided.

Also, Canadians should be told that this program is in place and that there is a possibility they will be caught up in it. One idea might be a telephone service that you could reach from the airport. I don't know, since I'm no expert in that area, but the fact is that Canadians somewhere in Canada may suddenly not be allowed to get on an airplane destined for Mexico, even though that plane is only flying over the United States without stopping.

Mrs. Carole Freeman: I am also deeply concerned about this. It seems to me that since 9/11, increasingly restrictive security measures have been put in place and, year after year, we're still trying to watch the same film that has been playing for the last ten years. They seem to be trying to con us into believing that all of this is normal.

In fact, when you appeared the last time, I raised the problem of airport scanners with you. I said that this was an invasive, intrusive and abusive procedure. There was talk of iris and fingerprint scanners. In the United States, they are already starting to take fingerprints. This is getting out of hand. It's gone too far.

People are starting to find it normal for us to do everything they do in the United States. What do you think? Personally, I'm concerned about this. I'm sure you remember that I raised this.

Ms. Jennifer Stoddart: Yes. Furthermore, I also said at the time that no evidence has been offered to us, from any of the countries that use lists of suspects, to prove that passing on this information had enabled authorities to make arrests or that it had had any impact whatsoever. No security service has ever praised this procedure as being a useful one. So, there is a big question mark in that regard.

In my opinion, if Canadians are following the U.S. example, it is because of their geographic position, and not because of their values. When they get on an airplane, they very often have to fly over the United States. The only good news in all of this is that the United States will not be requesting this information for flights between Montreal and Toronto, even if there is a chance the plane may fly over Lake Ontario on the U.S. side of the border.

• (1605)

Mrs. Carole Freeman: Is that the only good news?

Ms. Jennifer Stoddart: Yes, that's the good news. I know that the government spent a long time protesting and that it is introducing this bill reluctantly. But it's also because of our economic, strategic and other ties with the United States.

I have followed the issue, and I believe that people in the United States, who are subject to other types of scanners than those used in Canada, are also rebelling against these intrusions. I see that democratic reaction as a very good sign.

Mrs. Carole Freeman: I have a lot of other questions, but my time is up now.

Thank you.

The Chair: Thank you, Ms. Freeman.

[English]

Just before we go to Mr. Siksay, I want to remind members that the purpose of the meeting is to inquire about the certificate referred to us by the government and to inquire as to the qualifications, the suitability, and the capacity of Ms. Stoddart.

The chair will be entertaining the motion of support shortly. That is really the purpose of the meeting. I did allow quite a bit of leeway in the last question.

Mr. Siksay.

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

I did plan some questions related to that, but I hope you'll allow me the same leeway later in my time.

Madam Stoddart, thank you for being here yet again, and thank you for agreeing to remain in the position or seek reappointment. I certainly appreciate the work that you and your staff have done and the help that you've given the committee, Parliament, and Canadians.

I know that the reappointment projected is for three years, not seven years. Can you just say something about why we have that change and that difference? I tried to convince you that an extra four years wouldn't be bad when you're having fun, but anyway, you decided on three years or made that part of the requirement for your reappointment.

Ms. Jennifer Stoddart: Yes. Thank you for the question.

First of all, I believe that I have a lot of things to do, in spite of the very kind words of the honourable member, Madame Freeman, and a certain media profile that came to the office without our really trying to obtain it. There are a lot of very practical things to do, particularly in improving our service delivery to Canadians, in keeping up on trends, and in trying to be strategic about our interventions. There were these two I think very, very big cases that involved a lot of people and so on, but we have a lot of homework to do still.

The three years come from the fact that I thought it was about three years between the time I was appointed in late 2003, to 2006, when we finally got back something called our "staffing delegation". Without that delegation, we couldn't hire our own employees without public service approval. If you're under that kind of cloud for two and a half years, you can't do very much. You're basically under a cloud of suspicion and, as a result, a lot of people perhaps don't come to work for you.

Once we got out of that cloud of suspicion, then we could tackle the second thing, which was getting a budget that was appropriate. Our budget had been frozen at its 2000 level, and then, because of all the things that had happened, Treasury Board just said to get our house in order and they would look at our budget, which made sense again. I'll pass on the other inquiries we were subject to and so on.

So basically in that time.... As you know, it is very unusual in the public sector to have an agency that is in such a state. So because of the time I spent personally on all of those issues, which are not really part of an ongoing privacy commissioner's mandate, I didn't get around to some other substantive issues. I'd like to do that. I'd like to take back the equivalent of the time I spent on housekeeping and benefit from some of the wonderful people we now have, given that we're in better shape.

We're now able to attract a whole group of extraordinary and mostly younger employees who are increasingly doing an amazing job. I'd like to be able to leverage their talents in many areas, particularly in what's happening on the Internet and the interface between the Internet and society and information technologies of all kinds and to help Canadians with those problems.

• (1610)

Mr. Bill Siksay: I think one of the places where we've appreciated your leadership is in the work that you've done internationally with colleagues in other countries. I'm just wondering if you can give us some sense of how you see that progressing in the next period of your appointment.

Ms. Jennifer Stoddart: I think that work has to continue to progress. It may look like we spent a lot of time on international issues, which may perhaps seem glamorous and so on, but it wasn't that kind of choice. Because of the way the Internet functions, because of Canada's economic position, with so much on the Internet.... First of all, we're big users of the Internet and we're big users of the social network. A lot of our content comes from the United States or from France—even the United States for French-speaking Canadians. We have no choice but to engage internationally.

If you want to enforce our law against somebody who's sitting on the other side of the world, you need to have the ties with the enforcement agency on the other side, and you must have the credibility and have built up a relationship ahead of time. That's why another bill that is currently before the House of Commons.... Well, actually it is in Bill C-29, which went to the Senate, that I have extended power to share information and to enter into working relationships with other agencies and other organizations that do similar work in order to further Canadian law.

That's basically what we're trying to do, ideally: to better global protection for Canadians as their personal information circles around the globe.

Mr. Bill Siksay: I'd like to come back to one specific example of that, which is the download of payload data by Google, which they say was done unknowingly. We know the data were collected, but it wasn't part of the plan, and we know the data were sent outside of Canada and stored outside Canada.

You recommended that it be deleted “immediately”, I think the word was, but you also put a caveat on that about it being done as soon as possible under U.S. and Canadian law. I don't think it has been deleted yet—unless you've heard that. The other day, Google didn't seem to indicate that it had.

But is that one of those situations where Canadians' personal information is now subject to U.S. law and where something that was collected improperly or wrongly can't be deleted because we now have to figure out American law? How do you approach that situation?

Ms. Jennifer Stoddart: Well, it's like everywhere else, as you do depend on cooperation. In the specific case of American law, because we are so attached and affected by American law, I have, for example, sent one of our lawyers to the Federal Trade Commission for a summer to learn about their trade commission, which is kind of like my vis-à-vis in the United States. We have some American lawyers on retainer. I don't think we give them a lot of business, but they're there and work for us when we need them.

The American law in the Google Wi-Fi conclusion doesn't relate to a contradiction in American law with ours on that point, but to the fact there are pending lawsuits in the United States against Google Wi-Fi. Some of that information, which is also taken from American citizens and consumers, may have to be frozen for the court procedures.

Mr. Bill Siksay: Thank you.

The Chair: Thank you very much, Mr. Siksay.

Ms. Davidson, for seven minutes.

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

Commissioner, thank you once again for being here with us. From the questions you're getting around the table, I think you can hear how much interest there is in your office. I think that has been brought forth every time you've been here. I, too, want to commend you for the job you've done and thank you very much for coming, particularly when we ask you on such short notice.

I was pleased to see that you're being recommended for reappointment for the three years. When you were here before, I know that we discussed briefly why it would be for three years. You've elaborated on that today and I'm glad it's something that was agreed to by both sides.

I did want to ask you a couple of things on your opening remarks to us. You talked about some of the areas that you could focus on if you were reappointed and certainly the online world being one of them. One of the things was: “Looking ahead, we need to continue to develop a deeper understanding of privacy issues in a digital world”. How do you plan to do that?

• (1615)

Ms. Jennifer Stoddart: We do it in many ways. Perhaps I could talk about our four priority privacy issues, all of which now touch the online world. They're in no particular order.

The first one is genetic information. With the proliferation of genetic websites, genetic testing, and medical advances related to our genetic composition, and the ethical issues around them, our genetic information is of course the ultimate personal information. This is clearly a huge issue that is coming up for society. We see it being commercialized already. It comes under both of our acts. We're continuing to follow those issues. We would like to investigate a genetic website. We haven't received a complaint yet, and there are many challenges in doing this. That is one issue.

A second one, of course, is national security. However serious personal information issues have become since 9/11, it's not clear at this point that they're going to radically improve in the near future. In fact, they may get significantly worse, as we talk about drones surveilling borders and increasing database exchange and so on. Continuing to look at national security issues is very important for my office. Increasingly, this involves online transfers. I think that's your particular issue.

Questions of identity integrity are another priority. This involves the consequences of having multiple online identities and the extent to which you have to share your information online as you browse from site to site, and also the extent to which advertisers or website hosts can scrape your personal information as you pass by and then perhaps sell it and so on. This was the subject of our ongoing consultation on behavioural advertising this year.

Finally, information technology is a general priority, an attempt to follow all technological developments in their implication on personal information privacy. Perhaps the most obvious these days is facial recognition technology, which again is based on transmission over the Internet. There's the smart grid, on which the Supreme Court brought out a decision just a few days ago. It was a very divided decision, but finally the majority said it was all right for the I think Alberta police to use information from the Alberta hydro-electric system about the consumption of electricity in the house of someone who was using electricity to grow marijuana.

Those are some of the ways that we are looking into Internet applications.

Mrs. Patricia Davidson: One of the things that you had said in your opening remarks is something that I find an extremely simple statement but one that would be mind-boggling, I think, to many Canadians. You said, "Privacy is not an absolute right".

I think that's something Canadians don't think about and I think it's something they should think about. If there's a way in which we can get that message out to people, I think it would help. They need to think about that. I think Canadians take for granted that our privacy is an absolute right. I just point that out as a comment. When you read that out, that was the first thing I thought of: most Canadians would not think of that.

Ms. Jennifer Stoddart: It has certainly been a long-standing legal tradition that our privacy is a constitutional right, but it does have limits. For example, if you have reasonable cause to persuade a judge that the forces of security should go into your home, well, your home is private except for that.

• (1620)

Mrs. Patricia Davidson: Yes.

You said you recently opened an office in Toronto. Do you plan to open other offices? Is a physical presence a necessity in today's electronic world?

Ms. Jennifer Stoddart: That's a very good question, and one with which I have grappled for years, obviously, because it has just opened now. A physical presence is clearly less and less important, but it still is important.

Ideally, if we had the resources, we would be present I would say in every province, because human interaction still counts for a lot. Human presence counts for a lot. Just being able to be where other people are in a more spontaneous and informal situation, rather than setting up video conferencing or trading e-mails and so on, I think is still preferable.

Why did we choose Toronto? It was because three-quarters of the respondent organizations under our private sector law, PIPEDA, are in Toronto. There are no plans to have a brick-and-mortar

establishment elsewhere in Canada, but who knows? I'll see what this brings for the moment.

We have had regional presences. We hired a person full-time for two years in the Maritimes. He worked out of his home and went around the Maritimes making links, representing us, talking to high schools, and so on. We have an ongoing relationship with the Alberta Information and Privacy Commissioner and used his office at some point. They're informal links, depending on the region, what resources we can have, and how we can stay within our budget and so on. It's a creative kind of thing.

The Chair: Thank you very much, Ms. Davidson.

We'll go to Mr. Albrecht for four minutes and that will be it.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Thank you.

Madam Stoddart, thank you for being here.

On page 2 of your report, there are three bullet points. You indicated in your comments that you'd be glad to expand on them. I think you said you had four sub-points under leadership on priority privacy issues. Maybe you highlighted them already, but could you just highlight them for me?

Ms. Jennifer Stoddart: Yes. The four priority privacy issues are information technology, national security, identity integrity and protection in the online world, and genetic information.

It's a priority for us to try to understand all those areas, which is fairly challenging. They're all highly specialized and highly technical areas. Because they change so much, we have to become conversant with them on an ongoing basis through staffers who are very knowledgeable, but also through experts in knowledge networks across Canada.

In the next three years, we will try to drive relevant outcomes for Canadians from what we know in these four areas. This is still a bit general and we want to flesh it out.

That means we have to ask, in genetic information, what should Canadians know about their privacy rights in relation to genetic technology, genetic techniques, and ongoing genetic ethical debates? Where can they turn to for information? What is the state of our knowledge about privacy in relation to your or your family's genetic makeup?

I think that would be a relevant and useful service to give Canadians. We're not there yet, but we hope to be in the coming months.

Mr. Harold Albrecht: It seems to me that of the four you've listed—as I look at them as a layperson—national security would probably be first on the list. Have you prioritized within that list which one of those four would receive the bulk of your attention or that of your staff as you move forward?

Ms. Jennifer Stoddart: No, we haven't, but I think national security has itself, if only because of the parliamentary agenda in relationship to the national security challenges of both public safety and law enforcement. These have been very much before Parliament in the last few years.

So in developing our positions on a lot of the legislation put forward, as well as on new techniques or administrative initiatives like the passenger protect program—that's the no-fly list and so on—and facial recognition technology in airports, which I believe is coming soon, I think events of their own have forced us to make that a priority.

• (1625)

Mr. Harold Albrecht: I have just one last comment. On page 4 of your report, you talk about your desire not to become Ottawa-centric. I think that's a challenge for all of us as members of Parliament as well. We certainly need to know what's going on here, but we want to stay rooted and grounded in our areas.

Following up on Ms. Davidson's question, I'm certainly not interested in creating an empire of bricks and mortar across Canada, and neither do I want to see an additional large group of staff hired, but I'm wondering in terms of decentralization and presence in various larger cities at least, if there wouldn't be some value in possibly thinking about redeploying staff from the Ottawa office to outlying areas.

Ms. Jennifer Stoddart: In fact, we have started to do that. Some have been redeployed in Toronto, and there are positions opening in Toronto. We've had exchanges with provincial commissions, where people go to other commissions and stay there for awhile. We consult regularly with provincial commissions to make sure that the way we interpret things here in Ottawa for some provinces is the same as they do it in B.C., let's say.

We have weekly meetings with the three provinces that have equivalent powers. These are telephone meetings. Whenever one of the provincial commissioners is in Ottawa, we try to encourage him or her to come in. For example, Commissioner Frank Work of British Columbia came in and made an informal presentation to our office at noon hour about his challenges in running his office. We do try to cultivate those kinds of links.

Mr. Harold Albrecht: Just the point that you're meeting weekly is something that probably most Canadians wouldn't be aware of. That's great. That's great to hear.

Ms. Jennifer Stoddart: Well, it's essential, because if we come out with different positions on the same thing and we have laws that are equivalent.... I think we have to do this.

Mr. Harold Albrecht: Do you want a motion, Mr. Chair?

The Chair: No. Well, you can move it, but I'll...

Thank you very much, Mr. Albrecht.

On behalf of all members of the committee, I want to thank you, Madam Stoddart, for your appearance today. This concludes the questions. Do you have any concluding remarks or comments you want to make?

Ms. Jennifer Stoddart: I would just like to ask the committee this. The first committee in its previous form—and probably all the members have changed, except for the Honourable Mr. Coderre, as I remember—that I appeared before—

The Chair: He has changed too.

Some hon. members: Oh, oh!

Ms. Jennifer Stoddart: I appeared before this committee seven years ago. The committee has always been very supportive of our work through the years, first in rebuilding the office and then in listening to us and giving us suggestions and so on. As an agent of Parliament, I thank you very much for this positive relationship, and I want to stress that I report to you, so do not hesitate to give me instructions if you feel that would improve my work.

The Chair: Thank you very much.

At this point in time, the chair would entertain the following motion. It reads: "That the Committee has considered the proposed appointment of Jennifer Stoddart as Privacy Commissioner of Canada and reports its support for her appointment".

So moved by Mr. Albrecht. Shall I report this motion to the House?

(Motion agreed to)

The Chair: Ms. Stoddart, again, on behalf of everyone, I want to thank you very much. We, like you, look forward to our continued relationship and wish you and your staff all the best as you continue your duties. Thank you very much.

[Applause]

Ms. Jennifer Stoddart: Thank you.

The Chair: There have to be some technical adjustments. At this point in time, I'll suspend for two minutes.

• (1625)

_____ (Pause) _____

• (1630)

The Chair: I'm going to call the meeting back to order.

This is the second item we have on the agenda.

First of all, I should inform the members of the committee that we intended, of course, if it was possible, to deal with the Google report this afternoon. However, because of some technical issues, we are not able to do that this afternoon. That will be put back on the agenda, perhaps for half an hour at one of the meetings we have scheduled for next week.

Before I say another word, I'm going to ask all cameras to leave the room, please, at this point in time. Thank you very much.

The next item we have on the committee's agenda is the appearance before the committee of Monsieur Serge Ménard, member of Parliament for Marc-Aurèle-Fortin. Monsieur Ménard has responded to a written request issued by this committee.

I should point out that as a member of Parliament, he is not a compellable witness. There is a very select group of individuals who are not compellable: members of other legislative assemblies, members of Parliament, members of the Senate, judges, and the Governor General.

But he has, of his own volition, accepted our invitation and he's here of his own volition.

We welcome you, Monsieur Ménard. As is the practice of this committee, we'll allow you up to 10 minutes for any opening remarks you may want to make.

The floor is yours.

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): Thank you, Mr. Chairman.

When the affair regarding which you have asked me to appear first came to light, I decided, for reasons that I will explain at the end, that I would give only one interview—to Christian Latreille with Radio-Canada. However, I also made it known that I was prepared to cooperate with all the competent authorities who might wish to investigate the facts, and that is why I am here today.

You called me to appear today to discuss this, and I understand, from the remarks made in the Chamber, that you would like me to explain why I took so long to discuss this publicly. From the minute I was caught up in these events, I understood that, if I talked about it, there would be a media storm such as the one that ultimately resulted, but also that it would be my word against someone else's. The fact is that I had no independent proof that would have made it possible to determine which version was true.

It is also important for you to realize that there was no attempted bribery. First of all, I had not yet been elected, so I was not included under the definition of "public official", which is broad enough to cover members of Parliament and members of legislative assemblies, but not people running for such a position. Furthermore, I was asked for absolutely nothing in exchange for the money that was offered. At worst, it was an attempt to violate the Election Act. However, as we recently found out, even that attempt does not constitute an offence.

In any case, I had no independent evidence, and that is certainly what commanded my silence. I have seen a few prosecutions for bribery offences in my legal career, but never have I seen any action taken without there being independent evidence to justify the claims of the whistleblower.

Now, these are the circumstances in which this occurred. This happened before I was first elected in December of 1993. I had been the chosen candidate for some time, and I wanted to meet with a lot of important players in Laval, including the mayor of Laval. It seems he was also interested in meeting me. So he asked if we could make an appointment. As a result, I went to see him in his office one evening, I believe.

He was sitting at his desk. I sat down in front of him. We talked about Laval, about a lot of things—about politics, obviously. We talked about his city council, on which there were both sovereignists and federalists, and we mainly talked about issues in Laval. After some time, he asked me to come over to a small table at the side of his desk. He alluded to election campaign expenses. Then he took out an envelope which was sort of half-open and contained a wad of bills. He told me there was \$10,000 in the envelope and that he was offering me the money to help me finance my election campaign.

I immediately pushed the envelope away, saying that he must know the law and that this was not an appropriate way to contribute to someone's election campaign. Donations have to be made by cheque, they cannot exceed \$3,000, and they must be from voters whose names will then be published. He replied that a petty cash fund during an election campaign could be very useful. I told him that if I needed a small election fund, everything would be accounted for and declared. I added that I didn't want his money. I believe we—

I then saw him turn bright red, beads of sweat form on his forehead, and his hand start to tremble. He picked up his money and I exited immediately or a few moments later.

•(1635)

I asked myself... Basically, I left with the evidence. I knew how this would play out in public, if I were to say anything to anyone. I was absolutely convinced that he would vehemently deny everything, and that he would probably do everything he could to discredit me. I was convinced that this kind of denunciation would lead nowhere. I felt he would probably be acquitted if ever he were charged and that he very likely would never be charged on the basis of such weak evidence. So, I decided not to talk about it.

Coming to the present, 17 years later, Mr. Christian Latreille from Radio-Canada was looking to meet with me. We had a few phone conversations. He wanted to talk about Laval in general, because I had been an elected official for Laval for so many years. I decided to ask him to come and meet with me during the break week. So, he came on a Monday. He started by discussing general matters involving Laval. Then suddenly, he stopped, looked me straight in the eyes, and asked me whether it was true that I had refused to take \$15,000 in cash from Mayor Gilles Vaillancourt.

It's true that there was a long silence at that point. And the longer I remained silent, the more I realized that I had already given him an answer because, had my answer been no, I would simply have said no, that's not true. However, I could see that he was well informed, even though the amount mentioned was incorrect. And, seeing that he was well informed, I finally turned to him and asked him how he had found out about this. I had never spoken of it. He told me he had received confidential information from a source he had promised to protect.

I could see that he was very professional, as an investigative journalist, and having secured information from a confidential source, he had to ensure it was true before making that information public. I knew that I had basically just proven to him that what his informers had told him was true. I began by correcting him with respect to the amount: it wasn't \$15,000, it was \$10,000.

Then I told him exactly what I have just told you. I explained why I had never discussed it, primarily because of a lack of evidence, but also because I knew that the mayor of Laval had committed no crime. Even the offence set out in the Election Act had not been committed, since I had refused the money.

At that point, he told me he had enough information to make what I had just told him public, that I was going to have to respond to that revelation, that I would be questioned in Parliament, by my own party at my office, at a public event, and that I ran the risk of seeing my side of the story come out in bits and pieces, something that he felt was not ideal in terms of presenting my point of view. He said he would offer to interview me, if I liked, and he guaranteed that the entire interview would be broadcast, so that my side of the story would not be truncated and would be made fully available to the public.

I thought about it. I am not the one who asked for time to think about it; he made that offer. So, I thought about it and consulted certain people. I have to say that opinion was divided. Some told me to let the journalist put the information out there and respond afterwards.

Finally, after consulting my last chief of staff in whom I have complete trust, it was decided that the best option would be to do what was suggested—in other words, to tell my side of the story in its entirety to a journalist who would report it correctly, and then not talk about it anymore. That's why I have been refusing interviews with reporters ever since.

Obviously, the notice to appear sent by the committee is different, especially because of doubts raised in the House on this matter.

• (1640)

I said nothing about Mr. Vaillancourt because I was convinced it would go nowhere. On the other hand, my reputation would have been very much in doubt, because he would not have been charged and a lot of people would have interpreted that as my having lied.

The Chair: Thank you, Mr. Ménard.

[English]

We're now going to go to the first round of seven minutes.

[Translation]

Mr. Coderre, you have seven minutes.

Hon. Denis Coderre (Bourassa, Lib.): Thank you, Mr. Chairman.

I must admit I'm a little uncomfortable today. In fact, I told Mr. Ménard that myself. With no evidence to the contrary, I have absolutely no reason to question his integrity or credibility. In my mind, there was a problem because of the fact that he had been running at the provincial level and was doing something at the federal level 17 years later. However, you, Mr. Ménard, decided to face the storm. So, we are going to play the game and ask questions in order to shed light on all of this, since that is what you want.

First of all, you said you refused the \$10,000. Was the money in denominations of \$1,000? What exactly did you see?

• (1645)

Mr. Serge Ménard: I saw different coloured bills. However, the wad wasn't thick enough to contain only \$100 bills, nor was it thin enough to contain just ten \$1,000 bills. I think I saw brown and pink coloured bills.

Hon. Denis Coderre: If there were pink ones, then they were \$1,000 bills.

Mr. Serge Ménard: Yes.

Hon. Denis Coderre: One thing bothers me, but it's not the fact that you refused. In 2006, another candidate who was supposed to become a minister, Richard Le Hir, said on Radio-Canada that he had been offered \$13,000 and had accepted the money. There was also an article in *La Presse* on this. He had used it to buy the chicken. He said he had consulted the Parti Québécois and that it was acceptable. He even said that five or six candidates were going to become ministers. Did you hear about that?

Mr. Serge Ménard: I have no recollection whatsoever of that.

Hon. Denis Coderre: Did Richard Le Hir talk to you about that?

Mr. Serge Ménard: Never.

Hon. Denis Coderre: Did you consult the Parti Québécois when this happened, when you refused that money?

Mr. Serge Ménard: No, because I felt that the fewer people who knew about this, the less likely it was that the information would come out, and the less likely it was that I would have to prove my credibility in relation to that of the mayor of Laval.

Hon. Denis Coderre: So, you never heard about other people accepting money, that basically that was the culture and that it was normal for that sort of thing to happen? You never heard anything like that?

Mr. Serge Ménard: Never. I was very surprised to see that this was happening. Obviously, I saw the line that was being drawn—it was presented as a contribution to my election fund. Had I accepted, I would have been an accessory to a minor offence which is not a crime, but I would have put the message out that I was open to that sort of thing.

I had been thinking about going into politics for a long time, like you perhaps. I had wanted to be in politics since the 1950s.

Hon. Denis Coderre: You were around at the time of Duplessis.

Mr. Serge Ménard: At the time, corruption was rampant, and not just in Quebec. It was everywhere: in Canada, the United States and around the world. I always thought to myself that if I ever went into politics, I would refuse to get involved in that kind of thing. You have to refuse the first time it happens. And that's why my immediate reaction was to refuse when he took out the money. I obviously wanted to adhere to the Election Act, and my response was immediate. I asked him what he was doing.

Hon. Denis Coderre: Of course, there are several ridings in the Laval region. You were a star candidate, and you became a minister. Did any other candidates come to see you saying that they had been offered money? Did you hear anything like that?

Mr. Serge Ménard: Never, and I was very surprised by this. Absolutely no one had said anything like that. Laval had a certain reputation, but not in that regard. It was more with respect to the way bids were handled and contracts were awarded and there had been all kinds of allegations in the newspapers, but nothing had ever been proven.

Hon. Denis Coderre: Subsequently, when you were either a candidate or MNA, were you offered money?

Mr. Serge Ménard: No, sometimes people would offer us cash, but we refused. We would tell them they had to make the cheque out to the association, not to the candidate, and that their names would be made public.

Hon. Denis Coderre: Was that for your funding campaign?

Mr. Serge Ménard: People always—

Hon. Denis Coderre: When they offered you money, it was for your funding campaign—not to have your ear, correct?

Mr. Serge Ménard: Correct.

Hon. Denis Coderre: Do you think that the people who offered you money and to whom you explained that they had to write a cheque rather than giving you cash were doing that honestly, just to help you with your funding campaign?

Mr. Serge Ménard: Yes, I took pride in thinking that it was possibly because they felt I was a good candidate.

Hon. Denis Coderre: That may have been the case at the provincial level; we'll see about that at the federal level.

Mr. Ménard, how do you react when someone like Richard Le Hir states quite candidly that he accepted \$13,000, that the money was used to buy the chicken, that the Parti Québécois was aware of this and that they were five or six other candidates who were going to become ministers and had received the same offer?

• (1650)

Mr. Serge Ménard: I've never heard about any of that. Had I heard about that, I would certainly have spoken out against it.

In my opinion, the two most important pieces of legislation that we owe to Mr. René Lévesque—for whom I have tremendous admiration—are the bill on the French language, which became Bill 101, and the Election Act. I felt that the legislation was well drafted. It was Mr. Burns who drafted it. And that was because Mr. Lévesque had understood that election funds were a source of undue influence over elected representatives. That is why the amounts were reduced and a process was put in place.

It was because of those two cases that I was prompted to react the way I did. First of all, I had already told myself that I would refuse the first time that this happened and that was the first time. I believe it was the last as well.

Second, I respected the law and wanted to abide by it.

Hon. Denis Coderre: You contributed to Project Carcajou because you were minister at the time. You are a criminal lawyer.

Mr. Serge Ménard: I didn't only contribute to it.

Hon. Denis Coderre: No, I mean that you launched it. Your response was to combat organized crime. At one point when you were minister, were you not tempted to go even further and

investigate things in Laval, since you had been offered money? You said earlier that you had heard about certain goings-on in Laval. Weren't you tempted to do that?

Mr. Serge Ménard: There are two points to be made there. With respect to the offence itself, there was no other evidence. I knew something about evidence. I'm a lawyer and I have spent my career adducing evidence, as well as challenging it and assessing it. I even taught courses at university on evidence under the criminal law. I clearly understood that it would be impossible to secure anything more.

I forgot your other question.

Hon. Denis Coderre: You said earlier that there were allegations that certain things were going on in Laval. Were you not tempted to go in and clean things up?

Mr. Serge Ménard: Yes, certainly, right in my first year. We obviously talked about that. I did not discuss my particular case because I felt there was no evidence. In any case, we had to investigate a lot more than what was going on in Laval. As ministers, we discussed this and decided as a group—and I agree with that decision—that this issue fell more within the purview of the Minister of Municipal Affairs than the Minister of Public Safety. Mr. Chevrette therefore assigned one person to carry out an investigation. This was someone he had complete confidence in and who had the ability to analyze the numbers and records to see whether the public tendering process was appropriate.

That inquiry was launched in 1995. When Mr. Martin's report was tabled, I was no longer Minister of Public Safety.

The Chair: Thank you, Mr. Coderre.

Ms. Freeman, you have seven minutes.

Mrs. Carole Freeman: Good afternoon, Mr. Ménard. Thank you for accepting our invitation to appear before the committee to shed light on this whole episode.

To begin with, Mr. Ménard, in your opening comments, you stated that you had refused the money and that, as far as you were concerned, that was the end of it because there had been no violation of the law.

I believe you were a law professor at one point, and you were also a criminal lawyer. Perhaps you could explain why there was no violation, neither under the criminal law or under the Election Act.

Mr. Serge Ménard: It's important to make a distinction between a crime, which falls within federal jurisdiction, and the offence in question, which falls within provincial jurisdiction. As you know, the provinces do not have the power to legislate with respect to crime. The crime we are talking about here would have been attempted bribery of a public official. As a candidate, I did not meet the very broad definition of public official in the Criminal Code.

Furthermore, it was obvious that he was not doing this while carrying out his normal duties. He was doing it as a voter who wished to contribute to an election fund. The offer he made was not the offer of a mayor. That's why I was absolutely convinced of that.

I also noted a third point. As I already said, he was not asking for anything in exchange for the money offered to me. At that point, it was clear to me that no offence had been committed or anything of the kind.

However, there had obviously been an attempt to violate the Election Act, but that in itself is not an offence.

•(1655)

Mrs. Carole Freeman: According to you, then, no offence was committed when this incident occurred.

Mr. Serge Ménard: That's correct, and had I gone to the police, I'm certain I would have been told to go and see the Office of the Chief Electoral Officer. The job of police is to investigate crimes, not give out certificates of good conduct. The Chief Electoral Officer would have told me what he recently repeated, which is that I had committed no offence because I refused the money. I hope he would have congratulated me.

Furthermore, had there been one, and the legislation had been different, the fact remains that it would have been my word against his, and I am certain that no Crown prosecutor would have wanted to take that case. It would have been just as big a media sensation as it is now, except that no charges would have been laid against him. And if he had been charged, he would have been acquitted. So there was absolutely no point.

Mrs. Carole Freeman: If I'm not mistaken, neither bribery nor a violation of the Election Act was involved.

Mr. Serge Ménard: That is my belief.

Mrs. Carole Freeman: That is what is being alleged today.

Mr. Ménard, you gave a brief explanation of your reasons for not saying anything. I'd like you to tell us what would have happened had you spoken out back then?

Mr. Serge Ménard: First of all, I am sure he would have denied everything. Furthermore, if people were expecting to see the results of the \$10,000 he offered, they, too, would surely have denied everything. As I say, it would have been my word against his.

Also, I don't think the police would have decided to investigate. It would have looked at the same Criminal Code that I'm familiar with, to arrive at the conclusion that there was no attempt to bribe an official. As a result, they would have told me to go and see the Chief Electoral Officer, and he would have arrived at the same conclusions then as he has now.

Mrs. Carole Freeman: As I understand it, disclosing information would have served no purpose.

Mr. Serge Ménard: No, and I admit that this would have done me tremendous harm; I'm certain of that. It would have meant open warfare. He would have done everything in his power to discredit me, at a time when I didn't have my record as Minister of Public Safety to hold up as I do now.

I was a criminal lawyer prior to that, but I had an excellent reputation. That's why I was the first criminal lawyer to be elected "bâtonnier" or president of the Quebec Bar. I had a good reputation with the judges, police officers, colleagues and a lot of journalists.

But for the public at large, criminal lawyers are people who associate with gangsters. That's why it would have been my word against his. I never associated with gangsters, but it's quite true that I did not only defend honest people, even though I also defended innocent people who were in great need of my assistance.

Mrs. Carole Freeman: So, disclosing this episode would have served no purpose, and no charges would have been laid.

Mr. Serge Ménard: That's correct.

Mrs. Carole Freeman: What I take from your testimony is that, in light of the facts that have been presented, there was neither bribery nor any violation of any law whatsoever when this incident occurred.

Mr. Serge Ménard: Yes. It's sad to say, but just because nothing illegal was done doesn't mean that it isn't serious. I considered it to be very serious. Later, I felt it was a way to bring me in. However, at the time, I reacted instinctively.

Mrs. Carole Freeman: You spontaneously refused.

Mr. Serge Ménard: Yes.

Mrs. Carole Freeman: It was clear; you immediately refused. In fact, he asked for nothing in exchange either.

•(1700)

Mr. Serge Ménard: No, he offered me \$10,000 for my election fund.

Mrs. Carole Freeman: Thank you, Mr. Ménard. There was no bribery, and there was no violation of the Act. That is what I take from your testimony. Thank you.

The Chair: Thank you, Ms. Freeman.

[*English*]

Mr. Siksay, you have seven minutes.

Mr. Bill Siksay: Thank you, Chair.

It's good to see you this afternoon, Monsieur Ménard. I'm not used to you being at that end of the table, but it's good to see you.

Mr. Serge Ménard: [*Inaudible—Editor*]...to answer questions; I'm more used to asking questions.

Mr. Bill Siksay: Yes.

Monsieur Ménard, I just want to say very simply that I have great respect for you and your work in this place. We were elected to the chamber, the House of Commons, at the same time. Nothing I've heard on this matter to this point shakes my respect for you or for your work. That's all I want to say.

Thank you.

[*Translation*]

Mr. Serge Ménard: Thank you very much.

[*English*]

The Chair: That's very brief.

Monsieur Petit.

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Thank you very much, Mr. Chairman.

Good afternoon, Mr. Ménard

I would like to say straight out exactly what Mr. Coderre said. I am a little concerned and a little troubled by what has been happening for some time, particularly the statement you made to the journalist, Mr. Latreille.

I would like to begin with this. You have been a lawyer since 1968, and you took an oath. Subsequently, you were president of the Quebec Bar. You were also an MNA. In that capacity, you took an oath to represent the people of Quebec. And, to be fair, you were also Minister of Public Safety and Minister of Justice.

I would like to come back to one of the first things that you mentioned. From what we can tell, Mayor Vaillancourt tried to bribe or corrupt you. You say that you're not sure. That was in 1993, and he had just been elected in 1990.

Knowing that he had done this, why was your immediate reaction not to go to the police? You know that the police would have taken your complaint and written up a report stating that you came to see them. That does not mean there would have been a conviction, or that you would have won your case, or anything else. Did you take that very simple step of going to police and telling them that this incident had just occurred and asking for a police report? Did you do that?

Mr. Serge Ménard: No, because I was convinced that the less I said about it the greater the likelihood that I would not publicly be forced to pit my credibility as a criminal lawyer against that of the then mayor.

Mr. Daniel Petit: Mr. Ménard, I'm sure you are familiar with the expression "when the occasion presents itself". The fact is that you had several occasions, in that very short period of time, to discuss this with your colleague. Let me give you an example. On about the 6th or 7th of April, 1995, the person in charge of your section, Mr. David Cliche, prepared a letter which you signed. That letter stated that something was not working the way it should in Laval.

Did you tell Mr. Cliche and your colleagues that he had tried to bribe you or give you money? Did you take that opportunity?

Mr. Serge Ménard: No, Mr. Petit.

Mr. Daniel Petit: After that, Mr. Ménard, you received a petition signed by 500 people in your region. That petition demanded that there be an investigation into municipal administration, because the way things worked there was a little odd. Did you follow up on this or did you try at the time—this was during the same period—to go to police and tell them that you had received a 500-name petition, that something smelled rotten, that something didn't seem to be right? Did you at least go to the police to tell them that a month or two, or a year earlier, you had received something? Did you take any action?

Mr. Serge Ménard: I did not take that particular step, but I did something else. We discussed—certainly among ministers—all the allegations regarding the situation in Laval. As I said earlier, after giving this some thought, we all arrived at the conclusion that this was a matter the Minister of Municipal Affairs should deal with, rather than the Minister of Public Safety.

Mr. Daniel Petit: Subsequently, Mr. Ménard, you sent a number of letters to Mr. Vaillancourt. You sent letters in 1995, in 1996, in 2002 and even when you were Minister of Public Safety in Quebec

in 2005, and one last time in 2009. In every one of those letters, you are practically telling Mr. Vaillancourt that he's a great friend and that everything is fine.

Did you at any point think that you should stop sending him these nice letters because he was an alleged criminal? Why did you send those letters to Mr. Vaillancourt telling him that he was an absolutely great guy? That is what you did for almost 10 years.

● (1705)

Mr. Serge Ménard: I don't think you will find any such terms used in the letters that I sent. It is true that I sent a lot of letters. I learned something very early in politics, Mr. Petit, which is that you have to know how to work with people, whatever your opinion of them. Just because we may have a certain opinion of each other doesn't mean we would not agree to cooperate. So, yes, I decided I would cooperate with Mayor Vaillancourt as long as he held that position and as long as the many allegations against him had not been proven. Mr. Vaillancourt had a great many qualities. He was the person most familiar with the issues in Laval. He had exceptional political experience and we talked about these things.

At the end of each session, I would spend several hours, several days in a row, writing to all my senior officials, colleagues, Laval City counsellors and the mayor as well. What I said in those letters—which were personal letters that were very much appreciated and won me outstanding cooperation, not only from elected officials in Laval, but in my department as well—was what I thought.

In a way, I didn't say everything I was thinking, but what we had accomplished together and the expertise he had shown in dealing with the issues and things like that, were probably things that I highlighted. It was in that context that those letters were sent.

Mr. Daniel Petit: Mr. Chairman, I may have mentioned this, but I will be sharing my speaking time with my colleague, Mr. Blaney. How much time is remaining?

[English]

The Chair: Well, we can come back to Mr. Blaney. You're almost through. You have about 40 seconds. We'll come back to Mr. Blaney for another five minutes.

[Translation]

Mr. Daniel Petit: I have five minutes left.

Mr. Ménard, Mr. Vaillancourt sent you a demand letter recently, stating that what you have said is not true. Did he send you a civil demand letter?

Mr. Serge Ménard: He sent me a demand letter asking me to issue a retraction.

Mr. Daniel Petit: Do you intend to issue a retraction or is what you have told us today the truth?

Mr. Serge Ménard: When you're a good lawyer you ask questions that you know the answer to. The answer is no.

Mr. Daniel Petit: You will not issue a retraction. You say that Mr. Vaillancourt tried to corrupt you.

Mr. Serge Ménard: No, I didn't say that. I did not use the term "bribe", nor did I use the term "corrupt". I am perfectly aware that this was not a criminal offence involving an attempt to corrupt a public official. It was very clever, but it wasn't illegal. What was illegal, for myself and for him, was my accepting it.

Mr. Daniel Petit: I have one final question, Mr. Ménard. No? All right.

[English]

The Chair: *Merci.*

I just have one question I'd like to put to you, Monsieur Ménard. With the hindsight of the years.... And I agree with Mr. Siksay entirely that you've come here with extremely, extremely high credibility and an excellent reputation and certainly you're considered around this building as one of the brighter minds in Parliament. But with the hindsight of time, do you not feel that you may have prejudged the statement the mayor of Laval might have made or the evidence that the authorities, whether that is the Quebec police or the Quebec election authorities, might have been able to garner?

It could have been that, when confronted, the mayor of Laval may have admitted to trying to make the payment. It could have been that the authorities may have had other corroborating evidence that would support your story. I agree with you 100% that if the evidence was "you said he did this and he said he didn't do it", then the investigation was going to go absolutely nowhere. It would be dropped immediately. But in hindsight, do you not think you may have prejudged both the evidence that would have come from the mayor or the ability of whatever authorities were appropriate in the circumstances to corroborate your evidence, and the matter would have been taken to another level?

[Translation]

Mr. Serge Ménard: There is no doubt that was how I saw it—that there would not be... I was sure of that... You don't know the Mayor of Laval.

Voices: Ah, ah!

Mr. Serge Ménard: You can be sure that he would never have admitted it. His current attitude doesn't surprise me in the least. Had the police contacted him, he would have sued me for damages in any case, and I would certainly have been forced to explain things in public. It would have been the same situation: my word against his.

So, my assessment—I prejudged, as you say—was that there would be no charges laid against him in all likelihood, and that he would come out of this looking far more credible than I would have.

● (1710)

The Chair: Thank you.

[English]

We have time for three more. We'll hear from Monsieur Coderre for five minutes, and Monsieur Blaney, and then Madame Freeman.

Monsieur Coderre, I'm going to restrict it totally to five minutes.

Hon. Denis Coderre: Of course.

[Translation]

Let's stay with the question of the legality and legitimacy of this.

You interpreted this based on the letter of the law, saying that it wasn't corruption since, in your opinion, he had not bribed you and you had refused.

Were you afraid of Mr. Vaillancourt?

Mr. Serge Ménard: There is no doubt that had there been a public confrontation, I would have been afraid of him, in a way. I would not have been afraid that he would have me killed or that something would happen involving organized crime. When it comes to organized crime, I was very well protected.

Hon. Denis Coderre: What do you mean by that?

Mr. Serge Ménard: At one point, I had five bodyguards; I had them in front of my house and in front of my cottage.

In any case, I was certain he would do everything in his power to publicly discredit me, that not only would he deny it, but he would try to destroy my credibility, make trouble for me, question my former clients, and draw attention to the fact that I defended criminals. Mind you, I also defended police officers.

Hon. Denis Coderre: There is one part of your argument that I find weak, if you'll allow me the term. You refused money; that's great. But you are from a community where you know all about how low some people can stoop, and yet you said nothing to people in your entourage.

Were you also the regional minister at the time?

Mr. Serge Ménard: I was later, when—

Hon. Denis Coderre: You'll see what I'm driving at. You talked to several of your colleagues. At one point, did you tell them to be careful and not get involved in this?

There is only one weak link in this whole affair. You did what you had to do. Indeed, as I said right at the beginning, there is no evidence that would prompt me to doubt your word. However, you sent him letters of thanks and congratulations, because you nevertheless wanted to work with Mr. Vaillancourt, since you were both elected representatives.

But at some point, did you not feel a certain discomfort? Mr. Chevette was the Minister of Municipal Affairs, with all that entails. I know him, I know his temperament, because he is my cousin. Did you talk to one another?

By the way, I would just like to state for the media that he is a distant cousin.

A voice: He didn't turn out so well, if you ask me.

Hon. Denis Coderre: Well, I turned out well. Some people have other flaws, but that's their problem.

But let's come back to serious matters. Because this is in fact a serious matter: we're talking about two reputations being pitted one against the other, of a situation where it looks as though everyone is being put in the same basket.

With your fellow ministers, did you not discuss the possibility that if one of you could not handle it, this could be referred to the municipal level? Did you not confide in anyone at the ministerial level or among your colleagues?

Mr. Serge Ménard: No. I did not even talk to my wife about it. At least, that's what I thought. However, once this information became public, my wife told me that I had talked about it one evening when her sister Ginette and her husband were there, along with my daughter. It was a family meal washed down with plenty of wine. I didn't drive, but I did mention that.

Hon. Denis Coderre: At least it was red wine.

A voice: Ah, ah!

Mr. Serge Ménard: It's true that I never talked about it. Maybe I applied the principles I had learned in the navy, where you only revealed confidential information

[*English*]

to “only those who need to know”.

[*Translation*]

In my case, I knew that if I didn't want this to come back and bite me or have a public confrontation with Mayor Vaillancourt, I had to remain silent. The less I talked about it, the less chance there was of that happening.

Hon. Denis Coderre: As you know, there are two techniques: the one used in judo and the one used in karate. In karate, you go after each other at the risk of taking one on the chin. In judo, you use the other guy's strength and do things in a more roundabout way.

• (1715)

Mr. Serge Ménard: I preferred to stay out of the ring.

Hon. Denis Coderre: At that point, would it not have been possible to put Guy Chevette in the ring, he being a fighter? Couldn't something have been done along those lines through the Ministry of Municipal Affairs?

Mr. Serge Ménard: But what? We did the investigation. And I know what is deemed to be evidence. I already knew enough about police work to know that there wouldn't be any more.

I may have made a mistake, but that is something we will never know.

Hon. Denis Coderre: No, you've been clear. But since we have you here, we may as well ask you all these questions.

Seventeen years later—I still can't get over the fact that we're here—do you have any regrets? If you had known, would you have done things differently?

Mr. Serge Ménard: No.

Hon. Denis Coderre: Fine; thank you.

The Chair: Thank you, Mr. Coderre.

Mr. Blaney, for five minutes.

Mr. Steven Blaney (Lévis—Bellechasse, CPC): Thank you very much, Mr. Chairman.

Mr. Ménard, in your letter dated January 9, 2002, you say the following: “One thing is certain, the image that will always remain with me is of an extremely capable man. Congratulations to you, Mayor of Laval, hoping that you consider me a close friend.”

Would an extremely capable man be offering brown envelopes to candidates, Mr. Ménard?

Mr. Serge Ménard: Mr. Vaillancourt was a very capable mayor. A brown envelope has nothing to do with his skills as a mayor. We did a lot of things together in Laval.

Mr. Steven Blaney: Do you consider honesty to be an important value for an elected official, Mr. Ménard?

Mr. Serge Ménard: Of course. That's why I always avoided discussing it with him.

Mr. Steven Blaney: What exactly do you mean?

Mr. Serge Ménard: Read all the letters and show me where I talk about honesty.

Mr. Steven Blaney: So you never talked about his honesty.

Mr. Serge Ménard: Of course I never talked about his honesty. I did talk about his competence.

Mr. Steven Blaney: For you, competence and honesty are two separate things. You can be honest and competent, or rather, you can't be honest and incompetent.

Mr. Serge Ménard: I hope that I'm both honest and competent.

Mr. Steven Blaney: Yes, I agree that you have a very good reputation, Mr. Ménard. I want to thank you for accepting the committee's invitation to appear.

You told us this afternoon that you felt it was not a mistake not to have disclosed what you described as an attempt to offer you a bribe. Is that what you are saying?

Mr. Serge Ménard: No. An attempt was made to offer me an election contribution in a manner that is not consistent with the provisions of the act.

Mr. Steven Blaney: Well that is what I would call a bribe.

Did you talk about it?

Mr. Serge Ménard: You are very quick to jump to conclusions. In my profession, I became accustomed to rigour. So, I don't use the term “bribe” when it doesn't apply. In any case, people's interpretation would have been a rigorous one—

Mr. Steven Blaney: You were appointed Minister of Justice; you were a symbol of probity in Quebec. Did you discuss this with the person who appointed you—Jacques Parizeau?

Mr. Serge Ménard: No, except—

Mr. Steven Blaney: Did you discuss it with Lucien Bouchard?

Mr. Serge Ménard: —last Saturday—

Mr. Steven Blaney: Yes, more recently.

Mr. Serge Ménard: —and he said that I had no business informing him at all, and that he trusted me.

Mr. Steven Blaney: Did you discuss it with Lucien Bouchard?

Mr. Serge Ménard: No, because I told you I discussed it with no one. I even thought I had not discussed it with—

[English]

The Chair: Let's finish the answer. Both of you are speaking at once.

Monsieur Ménard, go ahead.

[Translation]

Mr. Steven Blaney: I have a lot of questions, Mr. Chairman.

Mr. Serge Ménard: No, I did not discuss it. As I said, I even thought I hadn't discussed it with my wife.

Mr. Steven Blaney: In 1999, you imposed a whistleblowing policy on police officers in Quebec, whereby officers are required to disclose any misconduct by their peers under the Police Act.

How do you feel about imposing a rule on police officers that does not seem to apply to politicians?

Mr. Serge Ménard: A police officer who might have found himself in the same circumstances as myself would not have been bound by that provision of the Police Act—specifically, section 260.

It's important to understand that a police officer has more extensive duties than an ordinary citizen. I wanted that provision to be in there as a preventative measure. It was introduced for the benefit of young police officers entering the profession, but also for older ones who are still learning. If they know that the people they work with have an obligation to disclose wrongdoing, they may show some restraint and avoid roughing up prisoners—

Mr. Steven Blaney: That's fine, Mr. Ménard—

Mr. Serge Ménard: —or doing something illegal.

Mr. Steven Blaney: Mr. Ménard—

Mr. Serge Ménard: That's why that section is in there.

Mr. Steven Blaney: Thank you, Mr. Ménard. I apologize for interrupting you, but I only have a few minutes left.

It is clear to me that when you were offered money in that manner—in a brown envelope—17 years ago, you were a victim.

Mr. Serge Ménard: It wasn't brown; it was white.

Mr. Steven Blaney: Fine, it was white. I'd say this is a little like my definition of “bribe”: for me it's a brown envelope because this was money that didn't belong there, that was in the wrong place at the wrong time.

You were a victim. Over the 17 years that followed this episode, you were Minister of Justice and Attorney General. Did you ever, at any time, say that these kinds of incidents should be disclosed? By not doing so, are you not aiding and abetting a cancer that is eating away at Quebec society—namely, corruption?

• (1720)

Mr. Serge Ménard: Perhaps the legislation needs to be changed. Some people have suggested making even an attempt to bribe an official an offence. But even if that had been an offence, it would still have been my word against his.

Good laws are laws that create the conditions which will encourage people to stay honest. The fact remains, however, that the public good depends on people's individual honesty when they

are confronted with this kind of situation. I was confronted with it and I said no.

Mr. Steven Blaney: Talking about individual honesty, Prime Minister Brian Mulroney came here to testify. I'm sure you remember; you were there. He acknowledged that he had shown poor judgment. You said that what intrigued you was that it had taken him so long to realize he had made such an error of judgment.

In what year did you realize that this had been an error of judgment? Are you telling us this afternoon that not disclosing this incident for 17 years was not an error, in your opinion?

Mr. Serge Ménard: I was convinced at the time, and still am, that this was the best course of action for me, and I explained why.

Mr. Steven Blaney: Thank you, Mr. Ménard.

The Chair: Thank you, Mr. Blaney.

Ms. Freeman, please.

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

I must protest. I am extremely disappointed to see our Conservative colleagues trying to get Mr. Ménard to say that he committed a crime or an offence. That is precisely what you are constantly implying by your questions.

Mr. Serge Ménard: You show no rigour, but you want other people to do you that courtesy.

Mrs. Carole Freeman: The fact is, Mr. Ménard, that you clearly indicated no crime or offence had been committed.

Could you tell our Conservative colleagues once again whether, by not disclosing what occurred at the time, you were guilty of a crime or an offence?

Mr. Serge Ménard: I had no obligation to disclose that information.

Mrs. Carole Freeman: Was a crime or an offence committed?

Mr. Serge Ménard: In my opinion, no crime was committed. Journalists are the ones talking about attempted bribery. It's clear to me that they are skipping over a few steps. However, from a legal standpoint, this was not attempted bribery.

I very much had the feeling, both while this was occurring and after the fact, that it was a way of bringing me into a group that I would have been forced to deal with sooner or later. It was essential that I say no immediately. As soon as I said no, there was no longer any question of this being an offence, because the attempt had failed.

Mrs. Carole Freeman: And yet Conservative members are suggesting that you should have disclosed an allegedly illegal action. I'd like you to tell us once again whether or not a crime or offence was committed.

Mr. Serge Ménard: I still believe that no crime was committed. First of all, I was only a candidate; I was not an elected official. Furthermore, he was asking for nothing in return for what was on offer. It was only an attempt to violate the Election Act.

Mrs. Carole Freeman: An attempt, but not actually an unlawful act.

Mr. Serge Ménard: Exactly. It was not.

Mrs. Carole Freeman: So, at the time, neither bribery nor a violation of any act was involved.

Mr. Serge Ménard: It may sound silly, and I understand that people may have trouble with this idea. That does not mean it wasn't serious. When you start testing someone, you begin with something that isn't illegal, hoping that one day you can go even further, to see whether he may be prepared to move on to something else. That was the way I saw it.

Had I accepted, I would have committed an offence.

Mrs. Carole Freeman: If you had accepted the envelope, what would that have meant?

Mr. Serge Ménard: I would have been guilty of an offence under the Election Act.

Mrs. Carole Freeman: And what was the consequence of refusing the envelope?

Mr. Serge Ménard: The consequence is that an attempt had been made, but an attempt is not an offence.

Mrs. Carole Freeman: There was no offence.

Mr. Serge Ménard: An attempt to commit a crime is an offence, whereas an attempt to commit a crime under a provincial statute is not technically an offence. And it is not hard to understand why that is the case. In fact, the criminal provisions of provincial statutes cover all sorts of things. Are you going to punish someone for an attempt at speeding which did not succeed? It covers all kinds of minor things. It also covers more major offences.

However, in this case, lawmakers did not feel it was appropriate to make this a crime, whereas under the Criminal Code, any attempt to commit a crime is a crime.

• (1725)

Mrs. Carole Freeman: In conclusion, then, the events that occurred did not involve either bribery or a violation of any statute.

Mr. Serge Ménard: That's correct.

Mrs. Carole Freeman: That is what we should conclude.

Mr. Serge Ménard: That is how I understand it.

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

The Chair: Ms. Boucher, you have time for one quick question.

Mrs. Sylvie Boucher (Beauport—Limoilou, CPC): I have been listening to you from the beginning, Mr. Ménard. As you know, I also worked in Quebec and I know that you are a leading expert, something that it is important to recognize.

However, there is one thing that bothers me. We often tell women they should break their silence when they are caught up in a vicious cycle. Why did you have such a low opinion of yourself as to let Mr. Vaillancourt have such ascendancy over you? You talked about your integrity and Mr. Vaillancourt's integrity.

[English]

The Chair: Sorry, but there is a point of order.

[Translation]

Mrs. Carole Freeman: I'm sorry, but I have a point of order.

I think Ms. Boucher's allegation that Mr. Ménard had a low opinion of himself is insulting. That is absolutely unacceptable and inappropriate in this context.

Mrs. Sylvie Boucher: Then I'll put my question a different way.

Ms. Carole Freeman: You would do well to rephrase it.

Ms. Sylvie Boucher: Why did Mr. Vaillancourt have such ascendancy over you? You had no less integrity than he did, correct?

Mr. Serge Ménard: That's an excellent question. I'm glad you asked it, because women who are asked to disclose certain things may be asking themselves the same question and may feel that I set a poor example. But I think these women will also understand that it's hard for someone to disclose something when it's his word against the other person's word.

I made an objective judgment, and based on my objective judgment, I was sure about what would happen afterwards. I was sure that Mr. Vaillancourt would vehemently deny everything and make all sorts of moves to try and discredit me. Perhaps I didn't have the courage to face that. As I see it, that would not have been courage, it would have been temerity.

Furthermore, I don't have a low opinion of myself. As I said, I was aware of the fact that I had a good reputation in the legal community and with journalists. However, among average citizens, my profession was not, unfortunately, one that inspired the greatest confidence.

Mrs. Sylvie Boucher: Thank you, Mr. Ménard.

[English]

The Chair: That, colleagues, concludes the rounds of questions. We are getting very close to 5:30.

I am going to ask Monsieur Ménard if he has any closing remarks or comments he wants to make to the committee at this time.

[Translation]

Mr. Serge Ménard: I believe I clearly explained the situation. I see that no one doubts the fact that the events I recounted did in fact occur. I ask that you show some understanding. It is important to realize that, under the circumstances, had I denounced Mr. Vaillancourt, I would have had to take up a battle from which I would not have escaped unscathed. The worst thing is that, since he had not committed any offence and would most likely not have been charged, he probably would ultimately have been seen as being more credible than myself. I therefore felt the best solution was to just move on, wait until there was evidence, and contribute to the government's efforts to investigate the situation in Laval.

However, I would just like to reiterate that this investigation did not allow it to secure evidence to support our suspicions. The fact is that a lot of administrative suggestions were made.

If individuals who disclosed this sort of thing have to face this kind of questioning subsequently, perhaps we should think of a way to encourage them to make such disclosures. A lot of potential whistleblowers might not like to receive the treatment that I have received, and this could dissuade them from making such disclosures.

•(1730)

[*English*]

The Chair: Monsieur Ménard, on behalf of all members of the committee, I want to thank you very much for your appearance here today.

As I pointed out when the meeting started, Monsieur Ménard was not a compellable witness. He could have declined our invitation if he had wanted to. He voluntarily decided to attend.

Again, we want to thank you for your appearance, sir.

Since there is no other business before the committee, I will now adjourn the meeting.

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