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Chair

Mr. David Chatters

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Tuesday, June 21, 2005

• (0905)

[English]

The Acting Chair (Mr. David Tilson (Dufferin—Caledon, CPC)): Good morning, ladies and gentlemen. We'll call the meeting to order.

This is the Standing Committee on Access to Information, Privacy and Ethics. The order of the day, pursuant to Standing Order 32(5), is the report of the Information Commissioner for the fiscal year ended March 31, 2005, referred to the committee on Monday, June 6, 2005.

We have before us the Information Commissioner of Canada, John M. Reid.

Good morning, Commissioner. You have three people with you this morning. Perhaps you could introduce them. I understand you have a brief statement before members of the committee enter into dialogue with you.

Hon. John Reid (Information Commissioner, Office of the Information Commissioner of Canada): That's correct. With me today are Dan Dupuis, director general, operations; Alan Leadbeater, deputy commissioner; and Daniel Brunet, general counsel.

Mr. Chairman, you have before you my annual report. I wish to add a bit of commentary to it. I have divided it into good news and bad news. The good news is that the decision of Madam Justice Dawson in the Prime Minister's agendas and the M5 cases reaffirmed the commissioner's investigatory powers. These had been challenged by the Attorney General of Canada on behalf of the former Prime Minister, Mr. Chrétien. This did not expand any of the powers of the Information Commissioner; it merely confirmed what we had always understood the powers to be.

Also in the good-news category are the establishment of this committee on access to information, privacy and ethics, and its work on the new funding mechanisms for officers of Parliament; access to information reform; and the work on the extension of the term of the Information Commissioner. Similarly, we're pleased with the announced expansion of the Access to Information Act to include crown corporations and officers of Parliament, even though the new entities have not yet been added. We are also gratified by the current momentum for reform of the act, which has been under way in this committee, and the debate that has taken place with the Minister of Justice, with me, and with others.

Within the departments, we find there is much more respect for the 30-day response time limit. We find that much good work is being done to improve records management, including a new policy at

Treasury Board called the management of government information, which requires the creation of records.

We also commend the appearance of the University of Alberta IAPP certificate program. These are courses offered online to anybody who wishes to take them. Increasingly, people in the ATIP offices within departments are signing up to take these courses. For the year and a half they have been offered, they have been over-subscribed. This year the University of Alberta is offering the courses in French, so it is now a truly national program. People from Canada, the United States, and other countries are taking the program. We were an early sponsor, so we're delighted to see that it's working.

Now for the bad news. We still are a long way from reform legislation on the Access to the Information Act. There still has been no implementation of the good administrative reforms proposed by the task force of 2002. The additional institutions, like the foundations, are still not under the Access to Information Act.

The Access to Information Act has had things taken out of it by recent legislation: the material in the Anti-Terrorism Act; and Bill C-11, the whistleblowing legislation. Due to chronic underfunding, we still have slow service and increasing backlogs in the Office of the Information Commissioner. This is not something in which I take pride. During my time as commissioner, because of the underfunding, the performance of the office has deteriorated in its ability to satisfy Canadians with complaints. Moreover, we still have the persistent culture of secrecy within the federal government. This culture is characterized by an oral culture, a failure to keep records. The ATIP units are still not in every place fully resourced. In many cases, delays are caused by complex approval processes, and there is the usual caution in applying exemptions.

In my office, the time it takes to complete an investigation has gone from 5.7 months to 7.45 months. Again, I take no pride in this. The backlog has moved from 1,019 last year to 1,389 this year, even though we closed 1,140 cases this year, which is 170 more than we closed the previous year. So our productivity is up, but we are being swamped by numbers. So far we have 1,506 complaints this year, compared with 1,331 last year. We simply can't do it with the staff we have.

What I am proud about is that we resolve the complaints, and we are probably the leading practitioner of alternative dispute resolution in the Government of Canada. Ninety-nine percent of all complaints were resolved without the need to go to court, and in this regard it should be known that 101 of 104 unresolved cases concerned the denial of access to the 1911 census returns, which have been treated as one file for litigation purposes. It's a class action, in effect.

The fact of our success on this has reduced the burden on the federal courts, has reduced the burden of the cost to government and to users of the legislation. And on this point, Mr. Chairman, we're very proud of our success.

Thank you.

• (0910)

The Acting Chair (Mr. David Tilson): Thank you very much, Mr. Commissioner.

We do have some questions.

Mr. Lukiwski.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): Thank you very much.

Commissioner, welcome, and thank you for being here.

Before I get to any questions on your annual report and some questions stemming from your opening comments, I'd like to ask you a question about your immediate future.

As you know, there was a concurrence motion brought forward in the House just a few days ago to extend your appointment for another year. That was overwhelmingly approved by a vote, I believe, of 272 to 2, which was a bit of a surprise—a very pleasant surprise to me, I must add, because when we discussed it in committee, the opposition had been very enthusiastic about extending your term, while the government members opposed it, I believe. And the debate on the concurrence motion took the same tone. The opposition members were very enthusiastic about expanding or extending your term, and the government members apparently seemed to oppose it in debate. However, as I say, when crunch time came, the vote was 272 to 2.

My question to you, then, sir, is this. I understand your term is expiring at the end of this month. Have you been approached by anyone in the government about the extension of your term?

Hon. John Reid: Mr. Chairman, I understand that the motion is in the Senate. This is not unusual, because the appointment of the Information Commissioner is a joint project of the House of Commons and the Senate. I'm not aware of what stage it's at in the Senate, but I would anticipate that until the question is resolved there, there would be no approaches to me from the government.

I have, however, as you know, let the committee know and let officials in the government know that my desire is to stay around for the completion of two projects that this committee has undertaken. One is the proper financing of officers of Parliament, and the other is to see through a reform bill on access to information.

Mr. Tom Lukiwski: Your second project is one I want to explore a little bit more. May I ask, to your knowledge—because quite frankly, I am ignorant of this timeline—how long do you think it

might take before the Senate resolves the issue of your extension? And secondly, if they have not dealt with that before the end of your term at the end of this month, what happens to your office? Are you basically out of a job until the Senate comes back, or how does that work?

Hon. John Reid: It's more complicated than that. If no action is taken by the end of the month, then my term lapses. At that point, the government has two choices. If it does not reappoint the Information Commissioner before June 30, then the office falls vacant. The government then has the option to appoint somebody for six months. They can appoint a person for six months only and one time. The other alternative is to come back and move the nomination of whomever you wish through the committee in the fall. In the meantime, I'm advised that the Senate approval is not required for an extension, nor is the House of Commons approval required for extension. That can be done by the government under its own powers.

So there are three options: the position lapses; the government can appoint someone for six months, one time only; or if they were to reappoint the Information Commissioner who is already in place—me—for six months, then to extend his time for six months means he would have to go through the normal process of the House of Commons and the Senate.

Mr. Tom Lukiwski: Just so I'm clear on this, are you stating then, sir, that regardless of the process through the Senate, if the government had the will, they could reappoint you for another six months without it going through the Senate or the House?

• (0915)

Hon. John Reid: That's correct. There's no requirement in the act for a motion in the House or the Senate or a joint motion for the reappointment of the Information Commissioner. In the case of my predecessor, John Grace, he was appointed twice for six-month terms by order in council when his term expired, so there's no requirement and precedent for a motion through the House and the Senate.

Mr. Tom Lukiwski: But to date—and it's, what, June 21, and your term expires in nine days—there has been no indication from the government? There's been no approach to you, no discussions have taken place as to whether they will reappoint you for another six months if the Senate hasn't passed it through their chamber by the end of this month?

Hon. John Reid: That's correct.

Mr. Tom Lukiwski: I know—well, I shouldn't say I know—we're going to be rising at the end of this week. We may not be now.

I would be very interested, sir, to get a regular update on that, whether or not the government is planning to reappoint you in light of the fact that the Senate may not have passed this through their chamber by the end of the month.

Hon. John Reid: As I advised you, according to the act, there's no requirement for a motion in the House and/or the Senate.

Mr. Tom Lukiwski: It could just be done.

Hon. John Reid: It can be done by order in council. That being said, it's very nice to have it approved by the House and the Senate.

Mr. Tom Lukiwski: Mr. Chair, how much time do I have?

The Acting Chair (Mr. David Tilson): You have a minute and a half.

Mr. Tom Lukiwski: Within a minute and a half if it's possible, I wonder if you could just give me a brief update on the revision of the Access to Information Act itself. We've gone through a bunch of circles on that as to revisions, but you had mentioned you were prepared to bring a draft back to this committee. Could you give us just a status update on that?

Hon. John Reid: Yes. We are preparing the way for it, and we have had some discussions with parliamentary counsel. We would anticipate having a piece of legislation for you about the middle of September.

Mr. Tom Lukiwski: In the untimely eventuality that you are not around at the end of this month, what would that do to the project?

Hon. John Reid: I have given the commitment on behalf of the Office of the Information Commissioner. Should I not be there, the office would still be bound by the commitment to provide you with a piece of reform legislation based on my report of 2002, plus a number of other items that have been raised in this committee and a number of administrative items we would like to see cleaned up as well. So the office has the commitment to provide you with this kind of material.

Mr. Tom Lukiwski: Thank you, Commissioner.

[Translation]

The Acting Chair (Mr. David Tilson): Mr. Laframboise, you have the floor.

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Thank you very much, Mr. Chairman.

Thank you, Mr. Commissioner.

I support my colleague's statements. And this is one of the reasons why we support you, Mr. Commissioner. We see that currently, requests are on the increase. Last year, there were 1,331 requests. This year, you received 1,506, which is a 13% increase. Unfortunately, your budget was not increased by the same amount. You say that as a result, 1,385 requests were not dealt with. You dealt with about 1,140 of them last year. Thus, you are a little more than one year behind.

In your report, you had some hard things to say about your budget. It says, and I quote:

Again, this year, the Commissioner put forward a request for seven additional investigators for three years to clear the backlog, and eight additional investigators for the long term to ensure that the backlog did not re-develop. Treasury Board ministers agreed to give the Commissioner five additional investigators for 15 months and none for the long term. Resources for such a short term would, for all practical purposes, be wasted.

This is what you wrote. I would like you to explain it to me, because you do have seven years of experience. You maintain that if you are only allowed to hire investigators for very short-term contracts, it creates more problems than anything else. Is this accurate?

[English]

Hon. John Reid: I'm going to ask Dan Dupuis to respond to that because that's what he's in charge of.

[Translation]

Mr. Mario Laframboise: Exactly.

Mr. J. Dupuis (Director General, Investigations and Reviews, Office of the Information Commissioner of Canada): Mr. Laframboise, here is why we said that. A short-term investment does not allow an investigator to be sufficiently trained to reach the needed level of skill. If an investigator is hired for one year, he will probably leave a six-month backlog behind him when he leaves, and no one will be there to get that work done.

On the average, an investigation takes six or seven months. This is why we say that it is wasteful. It is better to have fewer investigators, but on a long-term basis. This is a better approach than hiring five or six persons for the short term.

● (0920)

Mr. Mario Laframboise: Treasury Board does not seem to have understood this. You have said this before, but they have not increased your budget. The only budget that you have is for 18 months, and it will probably expire in mid-year.

Mr. J. Dupuis: It is encouraging to hear them say that they will be ready to review this when the 18 months are up.

Mr. Mario Laframboise: Nonetheless, when you hire an investigator, you cannot guarantee that he will be there for...

Mr. J. Dupuis: The most difficult thing is to hire people on a temporary basis while there are many permanent positions in this field in the departments, in other sectors of the government, etc. It is very difficult for our office to keep people on a long-term basis.

Mr. Mario Laframboise: Requests have gone up 13%. The year has begun. Do you think that the number will go down?

Mr. J. Dupuis: It has already increased by 5% to 7% more than we expected.

Mr. Mario Laframboise: It has increased as compared to last year. The sponsorship scandal and the fact that citizens want to know certain things surely has something to do with it.

Mr. J. Dupuis: In the report, the commissioner noted that there was an increase in delays in the departments. Our subsequent reports on the departments showed that the problem was worse than we thought. Several departments have time lags that will require our intervention. For instance, we discovered that Treasury Board had a backlog of more than 100 requests. That case alone amounts to 120 requests.

Mr. Mario Laframboise: Are you aware of the investigation carried out by the Canadian Association of Journalists? They carried out a quick audit—although it did take some time—on some very simple questions, such as: how many employees are there in your department? It seems that six departments out of eight refused to answer, and suggested that they use the Access to Information Act to get this information. Moreover, a sizeable part of the government machinery does not want to cooperate with citizens. Did you get the opportunity to read this report?

Mr. J. Dupuis: I found out about it in the newspapers. Last Friday, all the commissioners and ourselves heard a presentation by the Canadian Association of Journalists.

Mr. Mario Laframboise: Do you agree with their conclusions?

Mr. J. Dupuis: I think that their report has some value.

Mr. Mario Laframboise: Mr. Commissioner, will you consequently issue guidelines to the government or make recommendations to this committee? I am sure that something in this machinery is out of order.

[English]

Hon. John Reid: We're not able to issue directions to the government; that's not our power. But we have examined them very carefully, and we are going to look at the recommendations quite seriously and go around to those departments and look at their activities to see what the reason is for their inability to provide quick answers to citizens.

One of the problems I've noticed with many departments is that they prefer to run an expensive system. Instead of answering the questions as they come in, they prefer to have people move over to the Access to Information Act. That means that it becomes more expensive to get the information out; it takes longer to get the information out.

One of the themes I have had is for departments to answer questions directly when they get an access request, to call the person who has made the request and find out if the department can answer it orally or by a letter instead of going through the access process. If they were to do that, they would accomplish two things: they would reduce the costs to themselves significantly and they would provide much better service to Canadian citizens.

[Translation]

Mr. Mario Laframboise: In its conclusion, the Canadian Association of Journalists said that the government has understood that people are discouraged by this. Not everyone will file a complaint under the Access to Information Act when they do not receive an answer. Have you noticed the same thing?

[English]

Hon. John Reid: It discourages them but it also increases their distrust of government, and I think that's very serious. Citizens have the idea—the correct idea—that the government is supposed to work for them and provide them with the information they require. I feel that when governments don't provide that information, they are in effect in violation of the Access to Information Act, because the first principle of the Access to Information Act says all information in government belongs to citizens, with the exception of the 13 exceptions and the exclusions.

• (0925)

The Acting Chair (Mr. David Tilson): Thank you.

Mr. Bains.

Mr. Navdeep Bains (Mississauga—Brampton South, Lib.): Thank you very much.

I have a couple of questions. First of all, I apologize for missing the opening remarks.

One area we've discussed extensively throughout the committee over the past few months is funding, and we've looked at various models for funding. I know we've had this discussion with you, and you've provided some very useful input into that. But we have now made a recommendation. We have put together a report on the various types of funding we're recommending, because a concern

you've expressed on many occasions is that you don't have enough resources. Could you comment on the report, and specifically on the recommendations we made with respect to the input you provided? Have you had an opportunity to speak to the Treasury Board and follow up or have any dialogue on those funding mechanisms?

Hon. John Reid: I'm going to ask Alan Leadbeater to answer that, because he's been conducting those discussions.

Mr. J. Alan Leadbeater (Deputy Information Commissioner, Office of the Information Commissioner of Canada): We are very supportive of the report of this committee—I believe it was the fourth report—on the new funding mechanisms. I think it give officers of Parliament an opportunity to have a review of their budget that is rigorous and yet not dominated by the government of the day.

We have had discussions with other officers of Parliament and the Treasury Board, and at this point the Treasury Board is formulating its own view. Treasury Board will have to speak for itself, but I don't see a lot of daylight between all parties and your report. There may be some minor details, but while this committee recommended a pilot project for the three officers of Parliament who report to this committee, I believe the Treasury Board's hoping the pilot project will include all officers of Parliament. I don't think that really goes against your recommendation either. I read between the lines that was really what this committee also wanted, but because only three officers of Parliament report to this committee, the recommendation was limited.

Mr. Navdeep Bains: Okay. I just wanted confirmation of that, so that has kind of satisfied me. At least you're looking into it and there's been some dialogue.

The second issue that was raised on page 18 of your report was departmental delays. On page 18 you show five major areas that cause departmental delays. Has there been any action to improve those obstacles, or any follow-up on concerns about departmental delays?

They're kind of consistent. I believe they were mentioned last year in the report as well, but there seems to be a recurring theme. My concern is, how do we prevent this from being part of next year's annual report, and so forth? I would just like some feedback on that.

Hon. John Reid: I think the question of resources is one the committee might want to call Treasury Board to answer to, because Treasury Board has the responsibility for making sure these programs are properly funded. If we take a look at chronic tardiness and the retrieval of records due to poor records management, I think there's improvement taking place there because of the impact of the Treasury Board document called "The Management of Government Information". It also is having another effect in the sense that we think we see more documents being developed, where before there were gaps in the written record.

The difficulties encountered during the consultation process with third parties and other government institutions is a question of other government institutions not being able to return their opinions on whether the documents can be severed or not severed as quickly as the act requires, so there are delays there. Often we have trouble locating third parties—they may have moved, the people who were involved in that information may no longer be there—so there are delays that creep in there. That's a third-party, private sector kind of problem that we have to deal with.

The other problem we run into often is the top-heavy approval process. This is where you'll have four or five senior executives who have to approve information going out. Normally what happens is you get four or five boxes, which would be the exception, and they come into your office. You're not going to read them immediately; you'll want to put them away so you can read them when you have time. Well, that time never comes, so the boxes stay. Then maybe after a week you move it off, and it happens the next time. What we want to see is a streamlining so that when the approval process takes place, the person in charge makes that decision and the information goes out.

I mentioned before, in answer to a question from Mr. Laframboise, that one of the most important things that ATIP offices can do is to check with the people who have made requests to find out just exactly what it is they're looking for, because very often they know what they're looking for, but they don't know how to find it in the records of the Government of Canada. If you talk to them, very often you can find out what it is they want, and you can narrow the search and save a lot of time and energy and money.

The other thing you might want to look at is that we have been trying to convince Treasury Board that there is a broader base of statistics that should be acquired so that we have a better idea of what's really going on. Treasury Board has never, basically, been interested in doing this. Originally, when I came in, there was a reason for that. It was because it was all done by hand and it was expensive. But over the last five or six years the process has been automated. Almost every department of size has a very good computer processing system that keeps track of all of these records and requests, and it is so much easier now to get the statistical information we require.

So we will keep going after them to get that information, because if we can do that we can have an early warning system that picks up where the problems really are, and we can get to move in on them before they become major problems. We get them as an irritant, and we stop them before.

● (0930)

Mr. Navdeep Bains: How much time do I have?

The Acting Chair (Mr. David Tilson): You have 30 seconds.

Mr. Navdeep Bains: I'll be very quick.

One question that caught my attention as well was on page 9. You mentioned the annual report, that you have some concerns about the provisions with respect to the Anti-terrorism Act that allow the Attorney General of Canada to issue a certificate to halt the investigations and other proceedings under the Access to Information Act. This is done for national security and so forth.

To your knowledge, have any ministerial certificates been issued since 2001? What concerns came to your mind when you mentioned this in your report?

Hon. John Reid: I made a presentation before the special Senate committee that's investigating this about three weeks ago. My concern is that the certificates are an interference in the act, because the sections dealing with security are extremely well constructed and this was an overlay on top of them. It basically adds no useful element of security to government information that may be coming to security forces from other countries or generated by our own people.

To answer your second question, no certificates have been issued at present, for which we're truly grateful.

The Acting Chair (Mr. David Tilson): Mr. Broadbent.

Hon. Ed Broadbent (Ottawa Centre, NDP): Thank you, Mr. Chair.

I welcome Mr. Reid once again before this committee. I do so in expressing the judgment that I think he has been one of the truly outstanding public servants in the history of Canada—and I don't say that lightly—in carrying out a mandate that's so important to Canadian democracy. Whether it's dealing directly with the people in terms of your mandate or making proposals, imaginative and liberating proposals, for access to information legislation or indeed getting a better and more independent source of funding, I think your work—and I must add immediately, of course, that of your staff—is truly outstanding.

I am concerned about the failure of the government to respond to what I regard as an outstanding public servant, by not reappointing you. I may have missed some of the information that had come out during question period, and indeed some today. I'd like to ask questions that zero in on this. From your point of view, there may be certain things you may not want to respond to, and I will understand that.

Having been in the position, somewhat, that you're in now, a senior government appointment, I know it's traditional for people in these positions to know some time before the end of their appointment what's going to happen. Have you had direct discussions with the people who would be responsible for reappointing you? Have you indicated clearly to them, one to one, that you would like a reappointment, and have they given you a clear answer?

● (0935)

Hon. John Reid: I have spoken to two officials in the Prime Minister's Office, starting about six months ago, and I have spoken to three or four ministers who have some responsibility for what I do, to indicate that I would be interested in staying around for the conclusion of the work on the Access to Information Act, with the changes, and for the financing of the parliamentary officers.

After I had spoken to the government officials, I then spoke to individuals in the opposition parties. Then, in answer to a question before this committee, I said the same thing.

Hon. Ed Broadbent: Since then, has the government indicated very clearly, one way or the other, what they would like to do?

Hon. John Reid: On March 17 I received a letter from the Minister of Justice saying that the government had determined that I would not be reappointed.

Hon. Ed Broadbent: And you've heard nothing since then?

Hon. John Reid: I have heard nothing since then.

Hon. Ed Broadbent: Do you know if there's any precedent for the government in such appointments to have changed its mind?

Hon. John Reid: I know in the case of Bruce Phillips, who was Privacy Commissioner, when they were doing the computer legislation he asked to and was able to stay on for the conclusion of that legislative package.

In the case of my immediate predecessor, John Grace, the government asked him to stay on for six months and then renewed the six months a second time.

Hon. Ed Broadbent: In your March 17 letter, did the government give any indication why they were not renewing your appointment for the limited time that you requested, to do the limited amount of useful public work that you thought should be done?

Hon. John Reid: No.

Hon. Ed Broadbent: They simply said there would be no reappointment.

Hon. John Reid: Correct.

Hon. Ed Broadbent: You have nine days, is it?

Hon. John Reid: Yes.

Hon. Ed Broadbent: So as far as you know, at the end of the nine days you pack your bags and move out of town, or stay put in town, as the case may be, and go looking for a new job if you wish.

Hon. John Reid: That's correct.

Hon. Ed Broadbent: All right.

I don't know if members of this committee have indicated very strong support for you. This may well be your last appearance before this committee, so at this point I'll close with what I began on.

I think you've done an outstanding job for the people of Canada. I think the government is—to put it euphemistically—unwise in not reappointing someone who has the imagination, determination, and integrity to do the kind of work that you've done.

I express my deep disappointment in the government, and after you leave the public service and this domain at the end of this month, I wish you well, and your hard-working staff also.

That's all I have to say.

Hon. John Reid: Thank you very much.

The Acting Chair (Mr. David Tilson): Thank you, Mr. Broadbent.

That concludes the seven-minute round. We'll proceed with the second round, with three minutes each.

Mr. Zed.

Mr. Paul Zed (Saint John, Lib.): Thank you, Mr. Reid.

Could you tell me how many employees you have in Atlantic Canada?

Hon. John Reid: We have no employees anywhere outside Ottawa.

Mr. Paul Zed: Would you say this is an Ottawa-centred business?

Hon. John Reid: Yes. The head offices are here and that's where the documents are.

Mr. Paul Zed: I see. It's the documents for the Government of Canada.

Hon. John Reid: It's the documents for the Government of Canada and the documents that people want.

Mr. Paul Zed: Is the increase that you want for Ottawa?

Hon. John Reid: That's correct.

Mr. Paul Zed: Again, how many employees do you have? Could you remind the committee?

Hon. John Reid: We have 55 in total.

Mr. Paul Zed: Is it fair to say, as Mr. Laframboise said, that there was an increase in scrutiny of the government? I think that Mr. Laframboise mentioned an enhanced interest in the public on what was going on.

I wasn't quite sure of your answer. I think that you talked about the Gomery inquiry and the fact that there were more requests for information because of that. Has that been the case?

Hon. John Reid: We get spikes all the time. Whenever there is something of interest that grabs the public, we get all kinds of spikes. There would be a spike in terms of people who are interested in sponsorships. There has been a real spike for those people who are interested in the O'Connor commission on Maher Arar. Almost anything that becomes a political question causes a spike in various departments.

Mr. Paul Zed: Do you do a breakdown on where your requests for information come from?

● (0940)

Hon. John Reid: Yes, we do. These are complaints. There's a table in the annual report that indicates those and it indicates which departments.

Mr. Paul Zed: I meant by region. Would you know where the complaint would originate from?

Hon. John Reid: Yes. If you look on page 33, you will see where the complaints come from for each province.

Mr. Paul Zed: You mentioned that you received a letter from the government on March 17. You also mentioned that you spoke to a few cabinet ministers and a few members of the opposition. Was that after March 17?

Hon. John Reid: No. I had started with the Prime Minister's Office in early January, and I had spoken to ministers as I was able to get in to see them.

Mr. Paul Zed: The question I had for you, sir, was this. After you received the letter of March 17, did you make contact with any ministers or any members of the opposition?

Hon. John Reid: I think I spoke to two ministers after that and to another individual in the Prime Minister's Office. It was only afterwards that I spoke to members of the opposition.

At the time when the letter came, I believe we had a discussion on my future. I had indicated on or about that date that I was interested in staying on for those two projects.

Mr. Paul Zed: How long have you had this job, sir?

Hon. John Reid: I was appointed on July 1, 1998, for a seven-year term.

Mr. Paul Zed: Would you acknowledge that it is the government's prerogative to make a decision on whether or not your position should be replaced?

Hon. John Reid: That's a very interesting question. Yes, the government has the right to extend the position by an order in council, with or without the support of the House or the Senate.

Mr. Paul Zed: Thank you.

Those are all my questions.

The Acting Chair (Mr. David Tilson): Mr. Hiebert.

Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC): Thank you, Mr. Chair.

It's good to see you again, Mr. Reid.

I'd like to start my questioning on comments you've made in your report and questions that have surfaced in the House of Commons.

You stated that your office has been more viciously attacked than any other administration. Could you give us some specific examples of what you mean by that?

Hon. John Reid: I think the attack has been threefold. It has been on the legal challenges to the powers of the Information Commissioner, the legal challenges to his powers for investigations. Those have basically been resolved by Madam Justice Dawson and by a decision in the Federal Court of Appeal.

Secondly, there has been an attack on resources. The first thing that happened to me when I became commissioner was that we had an A-base review by Treasury Board. They agreed that we needed a certain sum of money and a certain establishment. I think we were given about 45% of that. They did another A-base review two or three years ago, with the same results.

Had they given us what they and we agreed we should have, we would not have the problem we have today. It was a deliberate—

Mr. Russ Hiebert: Underfunding?

Hon. John Reid: It was a deliberate underfunding of the office, because the officials in Treasury Board and our officials agreed on the package that was required to keep the office going and to maintain a four-month turnaround for investigations.

Mr. Russ Hiebert: So why do you think things have changed?

Hon. John Reid: They have not changed; they have just become worse.

Mr. Russ Hiebert: But you said you came to some agreement on funding for the office.

Hon. John Reid: That was between officials. When it moved up the chain of command and the decision came out of Treasury Board, there were changes at that point. I have no knowledge of how those came about.

Mr. Russ Hiebert: I see. So basically you've stated there was a legal challenge, there was an attack on your resources, and that would partially explain the backlog.

Hon. John Reid: The third has been the attack on the act itself, because when the act was started there was section 24, which allowed the government to put, by order in council, items that go out of the act. When the act began, there were some 20 items. There are now 50, so there has been an increase there.

There has been the development of foundations and other governmental creations that are outside the act. There have been attempts by government to pass legislation—successfully, I might add—that has put new institutions outside the act—the most prominent being FINTRAC, the money-laundering organization. There has also been what was raised by Mr. Bains on security, where the certificate has operated against the act. Lately there's been the question of taking all of the material referenced by whistle-blower out of the Access to Information Act for 20 years.

● (0945)

Mr. Russ Hiebert: Would a related attempt along those lines be what the Minister of Justice proposed a few months ago? You stated in response to that proposition that had those changes been in place a few years ago, the sponsorship scandal would never have come to light. Is that one of the examples?

Hon. John Reid: That was the example I used before the parliamentary committee studying the whistle-blower legislation. Later on, the committee heard from whistle-blowers, and the whistle-blowers agreed with that statement.

The Acting Chair (Mr. David Tilson): Thank you.

Monsieur Laframboise.

[Translation]

Mr. Mario Laframboise: Your report deals with the past seven years. On page three of your report, Mr. Commissioner, you begin with a background description that includes your comments made in 1998. Here is what you said:

It is something of a conflict of interest to have (as we do) the Minister of Justice responsible in Cabinet, and in Parliament, for the Access to Information Act. After all, the Minister of Justice is the commissioner's adversary in all litigation initiated by the commissioner, and it is the minister's role to advocate on behalf of secrecy;

On page five, you add:

The government of Paul Martin continues the legal challenge [...] of the Information Commissioner's right to see records which the government claims to be subject to solicitor/client privilege [...]

Seven years later, you still maintain that there is a conflict of interest due to the fact that you are accountable to the Department of Justice. Do you still maintain that?

[English]

Hon. John Reid: I believe there is a conflict of interest. My relationship with the Department of Justice has been adversarial. At one time I thought it was the role of the Department of Justice to defend government legislation, but the Department of Justice has spent an enormous amount of time trying to cut down the Access to Information Act. So I believe there is a conflict of interest.

It means there's nobody to sit at the Treasury Board table to advocate on behalf of the Information Commissioner and his office, and indeed the ATIP system. Lastly, there's a problem with the Treasury Board, because it is responsible for the administration of the act, so the jurisdiction of who looks after what is split.

It seems to me a question the committee might want to take up is who should be the minister in charge of the ATIP system, and who should be the minister who advocates on behalf of the Access to Information Act, both in Treasury Board—unless we get out of Treasury Board—and elsewhere? Clearly it cannot be the Minister of Justice, whose role is to advocate on behalf of the government departments that want to have more secrecy and less openness.

[Translation]

Mr. Mario Laframboise: Basically, you're maintaining the position that you held in 1998, as far as I can see. I have also experienced this, because you wanted to have a new Access to Information Act, whereas the minister only tabled a frame of reference. Now, I can see this conflict of interests more clearly.

Is this more or less what it is about?

[English]

Hon. John Reid: The minister has announced that he too will be bringing down some revisions to the Access to Information Act, and I think this is a very good thing. It means that with the revisions the Office of the Information Commissioner will bring down and the revisions brought down by the Minister of Justice, the committee will be able to pick and choose what it would like to see in a piece of legislation. I am very happy that the Minister of Justice has decided to do that.

The Acting Chair (Mr. David Tilson): Mr. Powers.

Mr. Russ Powers (Ancaster—Dundas—Flamborough—Westdale, Lib.): Thank you, Mr. Chair.

I think most of the pointed questions have been raised by my colleagues. I just need some help with some logistical information. We're going to talk about the backlog now. You've indicated the backlog has increased from what number to what number?

Hon. John Reid: The figures I gave were that the backlog last year was 1,019 and that it has moved up to 1,389 this year.

Mr. Russ Powers: That's about a 30% increase.

Hon. John Reid: That's right, and last year we closed 1,140 cases. That was 170 more than we closed the year before with basically the same staff.

Mr. Russ Powers: Are you saying something in the neighbourhood of, what, 2,500 or 2,600 potential cases are coming into the office in a year? How many are entering the system on an annual basis?

● (0950)

Hon. John Reid: We have about 2,500 cases.

Mr. Russ Powers: Let's just go back to the backlog now. What's the oldest case that's outstanding and what's the newest, one that probably appeared yesterday?

Mr. J. Alan Leadbeater: In the annual report you'll see under "Case Summaries" our four oldest, which were the Prime Minister's agendas cases and related ministerial records cases. They took us somewhat over four years because there were all the intervening court challenges. Of course, every day we have new ones coming in the door; they're the most recent.

Hon. John Reid: I think one of the essential problems is that while there is no advertising program to tell Canadians this program exists, it's getting out there by word of mouth, so there's about a 2% to 3% increase each year in people using the ATIP system. Of those, we get about 10%, so it means that within the departments the burden is growing, and in our office, because we get the requests for review, our burden is growing. The real problem, in a sense, for the government is to find a way of resolving the dilemmas that are happening as people begin to use the act more and more.

Mr. Russ Powers: I would assume the assumption is that basically access to information is being provided the public from all kinds.... I know, coming from the municipal setting, that it was just the norm, the FOIs and up. I said that's expected in a municipal setting, and it's the same thing provincially or territorially. It's becoming increasingly so within the business environment. I think that the asks are just a given and that it should be available; I'm not surprised by the demands.

Are you in a position to perhaps give me the range of requests, and are they perhaps more specific? I think you emphasized that when something newsworthy happens, then you'll get a kind of clump of requests there. What are the ranges?

Hon. John Reid: Let me give you a few ranges.

The average request is about eighty pages.

Are we big users of the act? Compared to the United States, no, we're not. When the act was brought into play, it was estimated that we would have 50,000 requests the first year. It took ten years to get the 50,000. We are not big users of the act compared to the United States and compared to other jurisdictions.

What people want it? The range of utilization is about 40% by the business community, members of Parliament about 5%, journalists about 5%, miscellaneous about 2% or 3%, and the rest ordinary citizens trying to find information. Those are the categories that have been developed over time.

The Acting Chair (Mr. David Tilson): Thank you.

Mr. Broadbent.

Hon. Ed Broadbent: Just on the use of the act, personally, I'm not too surprised. I think it's part of our top-down, Britannic model of government. With public servants, as I've always seen, there's a prime responsibility to please their minister and everyone above them. In my early years, as an ordinary member of Parliament, I could go down to Washington, spend two days, and get more information there on Canada-U.S. automotive trade than I could get out of our department and industry in twelve months. And that had to be done surreptitiously. One of the great things about American democracy is that from the point of view of access to information and freedom of expression, it is a much more open society than ours.

This gets back to your mandate. The Minister of Justice is bringing in a new bill on access to information. You were in front of the committee before, and we saw that the Minister of Justice, notwithstanding a commitment he made to my colleague, the member for Winnipeg, to bring in the old Bryden bill, had the nerve to...and not only did he break that commitment, he also brought before this committee a new model of options that in fact made the act much more restrictive than the Bryden bill, or the existing reality.

So I was a little surprised to hear you say—though I suspect I know what lies behind it, the cherry-picking option—that you're pleased he's bringing in a new bill. Here's a minister who wanted to take us back 10 or 15 years, and with all the restrictions....

I'd like you to list some of those restrictions for us, if you would, off the top of your head. This is a government that said they wanted more democracy, wanted to deal with the democratic deficit. I give them credit in some areas, but on the secrecy thing, zero marks.

Perhaps you would elaborate on some of the points that give you concern about Mr. Cotler's new approach.

• (0955)

Hon. John Reid: I think there are two things that concern me. One is that there is an attack on the powers of the Information Commissioner, notably the removal from the Information Commissioner only, not of any other parliamentary officers who have this power, of the ability to cite for contempt. That's a reduction in authority and powers.

There were 13 provisions, other than that, raised by him. They had to do with limiting or narrowing the scope of information that comes out. It was my view, as I came before the committee, that there were 13 proposals that would increase the amount of secrecy in the system.

Hon. Ed Broadbent: Yes, 13 that would increase the amount of secrecy.

Hon. John Reid: That's correct.

So I feel that when you come to.... The Minister of Justice presented it as a discussion paper. One can argue that he was being provocative. I think that when you come to write legislation, you have to be more precise, you have to be exact, and you no longer can put things out there for discussion. It means you have to come to a conclusion.

The other thing is that the minister also talked about the fact that he was interested in looking at what the exemptions really were.

Now, I've told you that I can't do that, and my suggestions will not have that.

So it's very good to look at the actual impact of the exemptions, and I think that's a good step forward, because that will spark debate and good discussion, which I think is an important factor. I hope that's what he brings down.

The Acting Chair (Mr. David Tilson): Mr. Lukiwski:

Mr. Tom Lukiwski: Thank you, Mr. Chair.

Mr. Reid, I just want to go back to my earlier line of questioning on your reappointment for another year, hopefully. In response to Mr. Zed's comments, where he said, and you concurred, that it is the prerogative of the government to offer you an extension if they wish, I go back to my opening comments, when I mentioned that, as I'm sure you're aware, the vote on the concurrence motion, which was held about a week ago, was 272 to 2 in favour of reappointing you for an additional year.

I find it surprising that since that time, no one from the government has taken the time to give you a call, to notify your office in any fashion, about the possibility of extending your appointment for another year, regardless of the time it takes to get through the Senate. As you mentioned, this can be an order in council. If the will is there, it can be done today.

To your knowledge, sir, has there been any indication, even the slightest indication, from the Prime Minister's Office about reappointing you for another year?

Hon. John Reid: No. The exchange that took place yesterday between our chairman and the President of the Treasury Board is the only thing we've seen. That is the full amount of my knowledge.

Mr. Tom Lukiwski: Have you considered, sir, making any contact yourself with the Prime Minister's Office on this issue?

Hon. John Reid: I wrote to the Prime Minister yesterday. I indicated to him that there had been some confusion in the debate as to what I had requested, and I said that what I was interested in was staying around to complete the reform of the act and the financing proposition. I did not say that this was going to be six months, a year, or two years; I simply said I wanted to stay around to the proper conclusion of those projects.

Mr. Tom Lukiwski: So there can be no question, the Prime Minister's Office, then, will be aware, upon receipt of this letter, that you have agreed, and it is your desire, in fact, to stay for at least one more year to see through these two projects, which you have mentioned before this committee. I mention that because in the debate one of the members of the government side had indicated that you had no desire to stay on for another year.

Hon. John Reid: I think I was clear to the people in the Prime Minister's Office to whom I spoke, to the ministers to whom I spoke, to members of the opposition to whom I spoke, and to the members of this committee that I had a very strong desire to stay around to complete these two projects.

Mr. Tom Lukiwski: I would like some clarification, sir. Who signs orders in council?

Hon. John Reid: It's by a committee of cabinet, but it's the Governor General's end of it.

• (1000)

Mr. Tom Lukiwski: Upon direction, basically, from cabinet then...?

Hon. John Reid: That's correct.

Mr. Tom Lukiwski: So it would be safe to assume that if you do not get an extension, then cabinet and the Prime Minister were the ones who determined, against the will of parliamentarians, that they did not want to extend your appointment?

Hon. John Reid: That would be correct.

Mr. Tom Lukiwski: Thank you.

The Acting Chair (Mr. David Tilson): Mr. Epp.

Mr. Ken Epp (Edmonton—Sherwood Park, CPC): Thank you, Mr. Chairman.

I would like to say, in the event that this is your last visit to our committee, that I commend you for a job well done. I really wish you were staying, and I hope we can still arrange that.

I have a philosophical question for you. This is much more general than just talking about your report, and it has to do with your position. The fact of the matter is that you are an officer of Parliament. You're appointed by Parliament, and yet it requires the motion and decision by the cabinet—the order in council—for your appointment. Is there not, herein, a dilemma? The government of the day has shown, over the last year particularly, that they're quite willing to go contrary to votes in the House of Commons. They've demonstrated that on a number of occasions. If you do your job really well, then you are less likely to be appointed. If you do your job in a shoddy fashion, there's an inverse correlation there.

What would be your solution to that dilemma?

Hon. John Reid: The current law provides that for the appointment of a commissioner, it's a joint project of the government and the Parliament. In other words, the government has the right to nominate a candidate, and Parliament, through its process, has the ability to veto that candidate. There have been some examples where occasionally that has happened.

In terms of reappointment, that is a decision that rests with the government itself. The idea of a seven-year appointment was to say that somebody should be in there long enough to be able to do a job—probably somebody old enough so that they would like to retire after it, but old enough so that they're not seeking further development in their career. In other words, you're not on a career path when you take one of these jobs; you should be looking at this as your last occupation.

I do look upon that as my last occupation in the government.

Hon. Ed Broadbent: You're a young man.

Hon. John Reid: Now, some suggestions. The process in the province of Alberta and the province of British Columbia is that the parliamentary committee will actually seek out and then look after the financing of the office of the information and privacy commissioner. So there are other options you could explore when you come to look at the legislation. If you're looking at officers of Parliament, then perhaps it should be the parliamentary committee that winnows through the applications, does the advertising for the applications, and then puts forward a name to the House and to the

Senate, or perhaps to a joint committee specially constructed for that purpose. There is no question that we have experiments in other provinces that allow a greater flexibility on behalf of members of Parliament, and that's something you should explore.

Mr. Ken Epp: Would you feel more comfortable being totally answerable to Parliament, as opposed to being answerable to the government of the day? I mean by this that Parliament can become rather partisan too.

Hon. John Reid: I have always been answerable to Parliament. I agree that Parliament is a partisan body, but it's my experience that one should be answerable to those people who appoint you, so I have always been answerable to Parliament, not to the government.

Now, I will say that for about four years I had nobody who was interested in what I was doing, and this was also the complaint of other parliamentary officers. It was only with the creation of the committee on government operations and privacy and information that I first had the pleasure of going before a committee that was actually interested in what I was doing. And of course, as I said, the good news for the Office of the Information Commissioner has been the creation of this committee. That means that I am now fully accountable in a way in which I feel very comfortable.

Mr. Ken Epp: Good. Thank you.

The Acting Chair (Mr. David Tilson): Thank you.

Mr. Hiebert.

Mr. Russ Hiebert: Thank you, Mr. Chair.

Mr. Reid, in my earlier questioning I was asking you about some specific examples of where the government has, as you said, viciously attacked your administration. And I was noting in your report a change in the year-to-year report cards by department. Generally speaking, many departments haven't changed a whole lot. But one that struck me, or one that's gone way up in terms of the percentage of refusals to answer your requests, is the Privy Council Office, or the Prime Minister's department, so to speak.

Under Mr. Chrétien, the office had a seemingly responsible refusal rate of about 3.4%, meaning that they would answer most of your questions. In one year, under the current Prime Minister, that rate has leapt to an appalling 26.4%. Is that not correct?

• (1005)

Hon. John Reid: Yes.

Mr. Russ Hiebert: And basically, based on your categories, it has gone from an A grade to an F grade in just one year. I was wondering if you could give us a better sense of what has been going on in the Privy Council Office.

Hon. John Reid: Perhaps I'd ask Alan Leadbeater to deal with that, since he's been conducting those discussions.

Mr. J. Alan Leadbeater: You're right. The Privy Council Office has been bouncing up and down a bit in its ability to comply with mandatory response-time requirements. Our view is that they do not have a streamlined enough approval process. The Privy Council Office is perhaps the only department in government that does not delegate their access coordinator to answer access requests. Rather, it is assistant secretaries to cabinet and the Deputy Clerk of the Privy Council who have delegated authority to answer access requests. When you have such senior people spending time reviewing access requests, they're bound to be late because they have other work to do.

Mr. Russ Hiebert: Was this a change that occurred between administrations? Because again, under Mr. Chrétien, there was a fairly responsible rate and now there is this huge jump.

Mr. J. Alan Leadbeater: It was the same process, but the reason it jumps is that we come in the door every once in a while and then they get the whip out and whip all the senior people to get to their access requests, and then their grade improves. Then as soon as we leave, they go back to business as usual and the grade goes down again. So it's not something unique to the Martin government.

Mr. Russ Hiebert: Okay, so this is something that's more consistent with the current administration.

I notice also that a disproportionate number of complaints were coming from British Columbia. I was wondering if there was any explanation or if you have any sense of why that would be the case?

Mr. J. Alan Leadbeater: We have really not done a content analysis of the complaints, but probably, if you look at the chart of which departments are receiving complaints, there are some departments, like Fisheries and Oceans, that may have an issue related to B.C. fisheries that would engender a lot of requests, and if they do, there could be delays associated with that. I suspect that if we were to go back and look, that would be the reason. And I'm not sure if that is just for this year or if it's true for past years.

Mr. Russ Hiebert: Mr. Chairman, how much time?

The Acting Chair (Mr. David Tilson): You have no time.

Ladies and gentlemen, the committee has a lot of business to conduct. The session with Mr. Reid will conclude at 10:20. We have three more speakers—Jennings, Broadbent, and Hiebert—and after that we will recess for a few moments to allow us to proceed with the committee's business.

Ms. Jennings.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): Thank you, Chair.

Mr. Reid, I would like to put on record that I deeply regret that a man of your calibre, of your professional experience, has been put by this government into the unseemly position of having to come and beg to be renewed in your position.

Even before I came into politics, I believed that when governments set up agencies, commissions, boards, or tribunals that exercise quasi-judicial functions and powers, they have a responsibility to put into place an open, transparent, independent process of application and selection, with a view to building a cadre of qualified people who can be appointed to any one of these bodies.

You said you felt that the position of Information Commissioner should be filled by someone at the end of their career. This would actually fit if we had in place the kind of system I just described. The United States, at the federal level, has a system of what they call administrative judges. They have actual legislation. They have a legal process by which someone can apply and be evaluated. Once they're considered qualified, and they go into a position, they're there for life unless there's cause to remove them.

Quebec, back in the late 1990s, established a similar position. It's called *Tribunal administratif du Québec, le TAQ*. By legislation, they've created a whole selection process. Once someone has been qualified and appointed, they can be moved from one administrative tribunal to another. They all come under the TAQ. It's something I've urged both the previous and the current administration to consider. We should be looking to put into place that kind of system.

I'd like to hear your thoughts on this. I regret that you've been put in what I deem to be an unseemly position. I don't think you should have to be saying "Please reappoint me; there's work that still needs to be done, and I'm the only one qualified to do it without delaying the reform process."

• (1010)

Hon. John Reid: That's an interesting and somewhat difficult question for me. I'm not familiar with the idea of an administrative tribunal. But I feel that there should be more involvement by members of Parliament in the selection of people as parliamentary officers. Our responsibility is to report to Parliament, not to the government. We are supposed to be outside the normal administrative structure of the Government of Canada. Right now there's sort of a partnership, with the government having more weight.

My judgment is that the seven-year term of office offered to me, by law, at the time of my appointment is more than adequate. The problem was that the other projects I had been pushing were delayed. We all know how difficult it is to push legislative changes through the House of Commons and the Senate. So it's not unexpected that there will be delays from time to time. There is a procedure in place to allow some continuity. That's what I seek—the continuity to complete these projects.

I think you want to give considerable thought to how you want to deal, in law, with this kind of an incident in the future. You'll have that opportunity when the Minister of Justice and my office come down with their proposals. I think this is an important step for Parliament. These offices provide a window on how things are done within the structure of government. Increasingly, we're seeing debate on the adequacy of our old theory of ministerial responsibility, on who should bear the responsibility for administration, and on a whole range of similar questions. These offices give you a window into these matters, and therefore I think you have an obligation to look at how you find the people to do these jobs.

The Acting Chair (Mr. David Tilson): Mr. Broadbent.

Hon. Ed Broadbent: Mr. Chairman, can I move a motion at any time?

The Acting Chair (Mr. David Tilson): I don't see why not. It depends on what the motion is, Mr. Broadbent. If it's a substantive motion, you'll have to give notice.

Hon. Ed Broadbent: I would hope, given the past position everybody on this committee has taken on this issue, we could maybe get unanimous agreement to move it today.

I'm very concerned about this following principle. We know in this Parliament, as has already been said, a number of motions have been adopted by the House of Commons, and the government has a constitutional right, whether it's on foreign policy or a number of other matters, to ignore them. That is the tradition. That is the law.

What concerns me about the position of Mr. Reid is that this is an officer of Parliament. This is not foreign affairs, transportation policy, or health policy, for all of which, the government can plausibly argue, it as a government has real responsibility. In the short run they might argue—I'm not saying I'm agreeing with it—they can ignore the voice of Parliament, the House of Commons.

We recently had a vote of 207 to 2 to extend Mr. Reid's...

Did I make a mistake in the figure?

•(1015)

The Acting Chair (Mr. David Tilson): I thought it was 277.

Hon. Ed Broadbent: Well, it strengthens the argument.

I'm quite serious about this. This is a distinguished public servant of Canada with a remarkable career. The House of Commons votes overwhelmingly to ask for an extension, and it has been ignored.

I move, given the particular nature of this officer's responsibility and accountability to Parliament and given the exceptional work he has done, that we urge the government to reconsider its position and appoint Mr. Reid for another 12 months.

The Acting Chair (Mr. David Tilson): We have a slight problem, Mr. Broadbent. It is a substantive motion, and I believe it would require unanimous consent.

Hon. Ed Broadbent: Yes, I understand.

The Acting Chair (Mr. David Tilson): We also have a substantial number of other motions the committee members have given me notice of they wish to debate today. As usual, I'm in the hands of the committee. If there is unanimous consent, this motion will proceed, and I suppose we would then have a debate on that motion. If the committee does give unanimous consent, I would require that the motion be put in writing.

Does the committee give unanimous consent to this motion?

Hon. Marlene Jennings: No. Ms. Jennings says no, from the riding of NDG—Lachine, including Dorval.

The Acting Chair (Mr. David Tilson): You've run out of time, Mr. Broadbent.

Mr. Hiebert.

I indicated that we would have one more speaker, and that's Mr. Hiebert. You have about two minutes, so I hope it's brief.

Mr. Russ Hiebert: Thank you, Mr. Chair.

Mr. Reid, the access act is the law of the land, as passed by Parliament, and you yourself are an officer of Parliament. Yet the government, according to your report and testimony, is acting in an obstructionist manner, denying the public access to information they are legally entitled to and hindering you in your parliamentary-mandated duties of oversight to the point where you described it as a culture of "secrecy" and "distrust". Is it your view that this administration is acting in such a way as could be described as contempt of Parliament?

Hon. John Reid: I would say it's a continuum. It's a continuum from the previous government and a continuum from the government before that. Governments have had a difficult time in Canada coming to grips with the Access to Information Act, and the culture of secrecy has been around for a long time. It was there before I came in, and it's probably going to be there after I go.

There's no way the Information Commissioner can change the culture of secrecy. We are a very small organization. To change the culture of secrecy, that leadership has to come from the top; it has to come from the politicians, it has to come from this committee, and it has to come from the senior civil servants.

I think that now that this committee is devoted to the questions of access and privacy and ethics, there is a vehicle in place to begin to change that question of secrecy. You have the evidence of the problems in my annual report, and I would like to see you investigate those by calling departments before you to ask them why they are having difficulty in meeting their obligations under the act. I think parliamentary committees have a lot of authority and a lot of power when they want to exercise them, and I would invite you to investigate what you can with the authority and power you have.

•(1020)

The Acting Chair (Mr. David Tilson): Thank you, sir.

I sense there'd be more questions that the committee wishes to ask, but I'm afraid our time has expired. I do thank you and your colleagues for coming and expressing your views on your final report and other related matters. Thank you very much.

Hon. John Reid: Thank you.

The Acting Chair (Mr. David Tilson): Members of the committee, I've counted four motions that have been served on us to be dealt with by the committee. Normally we deal with these in private session, unless the committee wishes to deal with the motions in public session. If there is silence, I presume we will retire to proceed in private session.

Ladies and gentlemen, there's going to be a short recess while we clear the room. Hopefully we will clear the room in a minute, which means you have to run.

[Proceedings continue in camera]

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