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Chair

Mr. Tom Wappel

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• (0930)

[English]

The Chair (Mr. Tom Wappel (Scarborough Southwest, Lib.)): I call the meeting to order.

Today we are considering, pursuant to Standing Orders 110 and 111, the certificate of nomination of Robert Marleau to the position of Information Commissioner, which was referred to our committee on December 5, 2006.

I want to remind committee members that there is an elaborate procedure set out in the rules for us to examine nominees for officers of Parliament, and that's why Mr. Marleau is before us.

I want to welcome Mr. Marleau, who was the Clerk of the House of Commons when I was first elected back in November of 1988, and he's the gentleman who swore me in as a member of Parliament.

Mr. Mike Wallace (Burlington, CPC): So you owe him.

The Chair: I owe him.

Some hon. members: Oh, oh!

The Chair: So what goes around, comes around.

We're very pleased to see you here, Mr. Marleau.

I understand you have a brief opening statement. Please go ahead.

Mr. Robert Marleau (Nominee for the position of Information Commissioner, As an Individual): Thank you, Mr. Chairman.

[Translation]

Thank you, Mr. Chairman. It is a rare privilege and an honour for me to be here this morning. I have a brief opening statement. I will spare you my biography and my career path, as I understand that the members have been provided copies of my curriculum vitae in both official languages.

Let me begin by addressing the reasons why I have agreed to stand as a candidate for the post of Information Commissioner of Canada.

I won't pretend for a minute to be an expert in matters of access to information. This post is an important component of the Canadian modern governance model and it goes to the very essence of our form of democracy. The Information Commissioner is first and foremost an agent of Parliament and there lies my interest in the position.

[English]

Agents of Parliament are an extension of Parliament itself. They're given a special trust to oversee government and report back to Parliament with findings and recommendations.

As a former officer of Parliament, I was frequently in contact and interacted with many agents of Parliament. As a young committee clerk, I watched the former Commissioner of Official Languages, Keith Spicer, defend his estimates before my committee in this very room.

Keith Spicer set the bar so high on the quality of reports to Parliament that I don't believe it's been reached again by any agents of Parliament since his tenure.

In the 1973 minority Parliament, as clerk of the special committee on electoral expenses, I worked by the side of the former Chief Electoral Officer, Jean-Marc Hamel. In my view, Monsieur Hamel set the standard of ethical conduct for parliamentary agents and had a profound influence on my own comportment and career.

Later, as Clerk of the House, I served on the executive of the Association of Heads of Small Agencies with John Grace, a former Information Commissioner. I worked to advance the understanding of the principles of independence and the autonomy of agents of Parliament, in particular with the central agencies.

[Translation]

In 2003, I briefly interrupted my retirement when I accepted to serve as Interim Privacy Commissioner, after the resignation of George Radwanski. I worked diligently with the Auditor General, the Public Service Commission and the Standing Committee on Government Operations to restore the trust of Canadians and the trust of the Canadian Parliament in that office.

I believe that in my short stay there, I accomplished what I set out to do in terms of the renewal of that office. I also dealt with some major privacy issues such as the National ID card proposal and the problem of surveillance cameras in public places.

● (0935)

[English]

More recently, on behalf of the Treasury Board—and I know your committee knows something about this—I was the architect of a pilot project for an alternative process for financing the big five agents of Parliament. I negotiated a framework agreement between the Treasury Board Secretariat, the Chief Electoral Officer, the Auditor General, the Information Commissioner, the Official Languages Commissioner, and the Privacy Commissioner. That pilot project is now in its second-year cycle, and hopefully it will lead to a more permanent process that will have parliamentarians continue to play an active role in the analysis of the financing of these agents of Parliament.

In retirement, I have served on the panel of external advisers to the Auditor General and on the external audit committee of the President of the Public Service Commission.

On the international side, I'm the volunteer chair of the board of directors of the Parliamentary Centre, an NGO that fosters democratic and parliamentary development in failed states and developing countries.

In a recent speech I gave to the Public Service Commission annual employee forum, I addressed the role of parliamentary agents in the accountability loop of our style of parliamentary government. I reminded them that in order to preserve and maintain their statutory independence, their first allegiance must be to Parliament, their second allegiance must be to Parliament, and their third allegiance must be to Parliament. I also underlined that while the Canadian Parliament has indeed recently reaffirmed the Public Service Commission's mandate to guarantee a non-partisan, competent public service recruited on the basis of merit, they should not forget that they are themselves accountable to Parliament, not only for the outcomes of their work but also for their ethical conduct and the stewardship of moneys voted to them. When Parliament grants an agent of Parliament a trust on behalf of all Canadians, the very least Parliament deserves to receive in return is leadership that it can trust.

[Translation]

When I left the public service after some 32 years, I sincerely thought it was for good. When I was invited to consider this position, I was asked to not say no at the outset, but to give it serious consideration. Why would I leave the calm comfort of an active retirement life with my spouse and family, you may ask? That is the question I had to ask of myself.

Simply put, after discussion with my wife, we decided it was basically the right thing to do. What I have to offer is parliamentary experience, process and procedure expertise and sound management leadership abilities. I confess that I have a bias against the status quo when it comes to management. If confirmed, one of my priorities will be to assess the management structure and practices of the Commission, to satisfy myself that Canadians and Parliament are getting good value.

[English]

As an ombudsman and mediator, I'm primarily an optimist. I usually see the glass as half full rather than half empty. My style is to find common ground and work on agreement from there. I can tell

you that I have and will have a bias against going to court. It usually costs the taxpayer a lot of money and the outcomes are typically unpredictable. The former commissioner stated before this committee last fall that the Information Commission barely sees 10% of access requests through the complaints process. That leads me to think that the system is not that badly broken if somehow 90% of requests are not subject to complaints. That doesn't mean there isn't room for improvement.

The Information Commissioner must fiercely protect his independence from government, but at the same time, he can only be effective in that role if a civil and substantive dialogue is sustained with the agencies and departments he oversees. Nevertheless, Canadians have rights under the ATIA and they deserve the best service the commission can deliver with the resources granted by Parliament. Despite my reluctance to go to court, when citizens' fundamental rights are at risk and mediation has failed, then the commissioner has no choice but to aggressively pursue the matter before the appropriate tribunal, including the Supreme Court of Canada.

● (0940)

[Translation]

On the advocacy side, I want to state for the record that to push for more comprehensive access to information in order to increase government transparency and accountability is an inherent part of the Commissioner's role. This was unanimously acknowledged during debate on second reading of the original bill introduced in 1981. Unfortunately, all of the former information commissioners have expressed frustration over the fact that successive past governments have only committed to more study and more consultation, rather than to meaningful reform of the 1983 legislation.

I may be overly optimistic in expecting that under my watch, the Act will be significantly amended to strengthen its provisions and enhance its impact. If confirmed in the post, I will devote most of my efforts to that goal.

[English]

However, the commissioner is not the legislator, and at the end of the day, despite the commissioner's best advice, it is Parliament, in its wisdom, that will determine what kind of access to information regime Canadians enjoy. The Information Commissioner remains a servant of Parliament, and through the legislation he is an extension of Parliament's authority. I believe that Parliament has to be seen to be the first champion of access to information.

Honourable members, may I suggest that you simply cannot delegate that responsibility to one individual and expect that the government of the day will straight away lose its innate reflex to avoid transparency. You must stay ever attentive, react to the commissioner's recommendation, and keep the pressure on the governments to be even more transparent.

With your support, I believe I can advance the cause of open government by tenacious, focused, and timely interventions. Those who doubt my resolve need only revisit my short tenure as Privacy Commissioner. Those who seek proof of my independence of government perhaps need only review my career as Clerk of the House of Commons.

[*Translation*]

Thank you, Mr. Chairman.

I am in your hands.

[*English*]

The Chair: Thank you very much, Mr. Marleau. For a person who was in retirement, it's amazing how active your retirement life was.

We do have questions, so we'll start with Mr. Peterson. This is a seven-minute round that doesn't have to take seven minutes.

Hon. Jim Peterson (Willowdale, Lib.): Thank you.

I've known Mr. Marleau for more than 26 years, and I think this is the best thing—some more partisan than I would say the only good thing—this government has done in its 10 months in office.

So congratulations.

I will turn the rest of my time over to my colleague, Mr. Zed.

Mr. Paul Zed (Saint John, Lib.): I have not known Mr. Marleau quite as long as Mr. Peterson, but since 1993. I have to say that he really is a Canadian leader. He's an outstanding historian, a civil servant, a public servant in every sense of the word, a servant of the people. He's a consensus builder. I too would pass on my congratulations to the government on an outstanding appointment, should it be confirmed by this committee. I don't have any further questions.

Thank you.

The Chair: I want the committee to know that we've had two Liberal questioners in under a minute.

Mr. Dhaliwal.

Mr. Sukh Dhaliwal (Newton—North Delta, Lib.): Thank you, Mr. Chair.

Thank you, Mr. Marleau, for coming here. I haven't known you that long either, but I can certainly tell you that after my university education, if I have seriously and sincerely read something, it is the book by you.

I would like to echo the comments made by my colleagues that this is one of the best steps this government has taken, to appoint such an intelligent and ingenious fellow with your capabilities who has had outstanding service to the House here as well.

Congratulations, and welcome.

The Chair: Thank you, Mr. Dhaliwal.

Madame Lavallée.

[*Translation*]

Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ): Good day, sir.

I'd like to add my voice to those who are singing your praises. Circumstances are such that I have not known you as long as Mr. Peterson, but your reputation precedes you everywhere, including here in this committee.

When the members of the Bloc Québécois learned that the Conservative government has selected you as a nominee for this post, there were no concerns or doubts on their part. We feel that a great Clerk of Parliament such as yourself would make a very fine information commissioner.

Thank you.

● (0945)

[*English*]

The Chair: Merci, Madame.

Mr. Martin.

Mr. Pat Martin (Winnipeg Centre, NDP): Thank you, Mr. Chair.

Mr. Marleau, I'm pleased to see the tone of your comments today. You used the word “champion”, and I firmly believe the Information Commissioner has to be more than an administrator. He or she has to be a proactive advocate. You found, I suppose, in the original debate around the original bill that the notion of being an advocate isn't in any way contradictory to your appointment, but that's what we've been lacking.

A lot of us who have been at this for a while have been so frustrated and let down time and time again by successive governments: first the Liberals, now the Conservatives. The NDP has never let them down on access to information. We're consistent.

But this act needs opening up. I'm fond of using the term that freedom of information is the oxygen democracy breathes, and you can't overstate how critical it is.

So I appreciate the tone of your introductory remarks.

But having said that, I want to talk to you about the process. We've just passed Bill C-2, and we're about to give it royal assent today, I believe. When the government introduced Bill C-2 they said they would act as if the terms and conditions of Bill C-2 were already in effect, that they would stipulate themselves to this higher standard of accountability even though the bill hadn't passed yet. It was back in April, and it has a whole section on the public appointments process—in other words, getting patronage out of politics, etc.

I am by no means trying to infer that your appointment has anything to do with patronage, but if we're going to stipulate ourselves to a higher standard of process, why did it not apply to your arriving here today? What do you think of the process that nominated you? Is it in compliance with the spirit of this new process we're about to ratify today? What would you recommend as an improvement to that nomination process to make it more open and transparent in the spirit of this bill that we've all worked on?

The Chair: Mr. Marleau, before you answer, I have a question.

Mr. Martin, you were actively involved in Bill C-2, far more than I. Could you just refresh us as to what part of Bill C-2 dealt with the appointment of officers of Parliament and how the process is going to be different than it has been, or can you remember?

Mr. Pat Martin: The public appointments process strikes a whole new public appointments commission that would deal with all GIC appointments to make sure they're merit-based. It would have a posting process to be able to canvass the community to make sure people applied or were notified that this opening was available. It's geared toward eliminating patronage and it's geared to the highest standard.

The Chair: Okay, thank you.

Mr. Marleau.

Mr. Robert Marleau: Thank you, Mr. Martin, for your question.

I'd like to thank the previous members for their kind comments, although I'm afraid I can't join them in some of the congratulations for the other side.

To speak to your question, Mr. Martin, the process under the statute is that the government, the GIC, nominates a person under the existing statute, and both the House and the Senate have to ratify that appointment. I understand that is the process that was followed.

In terms of Bill C-2, I remember reading last spring, when I appeared before Mr. Tilson's committee on parliamentary matters, that there was an attempt to appoint a head commissioner and it failed or was postponed. My selection was not part of a similar process. I was simply telephoned and asked to seriously consider this position, which I did and agreed that my name go forward.

• (0950)

Mr. Pat Martin: Where did that phone call come from?

Mr. Robert Marleau: It came from the Privy Council Office, from the associate secretary of the cabinet on behalf of the Prime Minister.

Mr. Pat Martin: Just like the old days.

Hon. Jim Peterson: Boy, it really works well, I have to admit.

Mr. Pat Martin: Yes, single-desk service there, a Rolodex and a telephone call from the PCO.

The Chair: Mr. Martin, just for your information, Kristen says it's her understanding that there was a brief advertisement posted, prior to the call being made. I presume prior to the call being made—

Ms. Kristen Douglas (Committee Researcher): It was some time ago.

The Chair: —or it would have been a waste of money to make the advertisement in that case.

Mr. Pat Martin: Well, under Bill C-2 it also said that prior to making a recommendation to the Governor in Council that a person be appointed, the Prime Minister

shall consult with the leader of every recognized party in the House of Commons. An announcement of an appointment shall be transmitted to the Speaker of the House of Commons for tabling in that House.

That's another step that, to my knowledge, wasn't done. If the government is saying they will comply with the terms of Bill C-2 even before it's implemented or ratified, just to be living by that higher standard, in Mr. Marleau's case that process wasn't followed. The leader of my party wasn't consulted that Mr. Marleau would be the nominee here.

This is what I'm getting at, with no disrespect to Mr. Marleau. He swore me in, in 1997, too. I think he has a fabulous résumé and is probably the right person for the job, but I also point out that others were interested. There were seven people we had on a short list. Two were currently information commissioners in provinces within Canada and were probably pretty darned qualified too, and a commission, a public appointments commission, made up of an independent panel may have wanted to analyze this and those other worthy candidates further. That's all I'm trying to raise here.

The Chair: Mr. Martin, have you consulted with your leader and confirmed that he was not consulted about this?

Mr. Pat Martin: No, I can only assume, because I think my party would have consulted—

The Chair: To say something like that...that's why I'm asking you specifically if you know that as a fact or if that's your conjecture, to be fair.

Mr. Pat Martin: Well, that's my conjecture, to be fair, but I can say that it would be—

Mr. Mike Wallace: On a point of order, all leaders were consulted —

The Chair: Mr. Wallace, do you have a point of order?

Mr. Pat Martin: Do you have a point of order, Mr. Wallace?

Mr. Mike Wallace: No, I'm just mad.

The Chair: Okay. In any event, it's Mr. Martin's conjecture and that's all it is at this point.

All right. Are we through, sir?

Mr. Pat Martin: Is my time finished?

The Chair: No, you can still go.

Mr. Pat Martin: I would just like to say that I think the leader's office of my party would have consulted my party's only representative on this committee if that had transpired, so it's reasonable to assume. I will check that out.

The Chair: Okay.

Mr. Pat Martin: But my question is to Mr. Marleau, I suppose, if he's to be an officer of Parliament soon.

Would you see the merit in the new process, or would you find any fault with the status quo that has served Parliament up to this time, to the implementation of the public appointments commission?

Mr. Robert Marleau: As a Canadian citizen, I more than welcome the process that's included in Bill C-2. As a potentially future information commissioner, I like the transparency. It will likely be subject to access to information, and therefore there would be more shared by the government in terms of the process itself.

So I have to say that I have no difficulty with what is proposed in Bill C-2 and I see it as an enhancement of the process.

The Chair: Thank you, sir.

Mr. Tilson.

Mr. David Tilson (Dufferin—Caledon, CPC): Thank you, Mr. Chairman.

Mr. Martin, my understanding is that all leaders were consulted.

Mr. Marleau, we read your book in the House almost every day, so I welcome you to the committee, and—

Hon. Jim Peterson: And in spite of that, we're still supporting you.

Mr. David Tilson: I have a couple of brief questions, Mr. Chairman.

Mr. Marleau, in your opening statement, which is excellent, you state:

I confess that I have a bias against the status quo when it comes to management. If confirmed, one of my priorities will be to assess the management structure and practices of the Commission, to satisfy myself that Canadians and Parliament are getting good value.

Everyone here has referred to Bill C-2, and I expect it's going to get royal assent today, or if not today, tomorrow.

Assuming that's going to take place, and here you are appearing before the committee, you may not be there yet, but I'm wondering whether you've had any preliminary thoughts about how you would restructure the Office of the Information Commissioner to deal with the new entities that will now be covered by this legislation.

• (0955)

Mr. Robert Marleau: I thank you for the question, Mr. Tilson.

Through you, Mr. Chair, the statement I will make is that I will assess.... I have no predetermined plan for the commission. I don't assume that it absolutely requires one. In my experience in the privacy commission, and I don't mean to imply any kinds of difficulties I faced there, some of the smaller agencies have done things the same way for a long time. That's why I say I have a bias against the status quo. I want to look at how things are done, why they are done that way, and see if there are not efficiencies that we could extract, particularly on the issue of delays. This is the recurring theme in every Information Commissioner's report...and see how we could maybe accelerate some of the return, by changing the way investigations are done....

I don't have a structured plan. I've barely had time to evaluate the impact of Bill C-2 since it received agreement in the House just last Friday, after an exchange of messages with the Senate, but as I said, it will be my first priority.

Mr. David Tilson: Mr. Chairman, Mr. Martin and I had the honour of sitting on the Bill C-2 committee, and we appreciated the comments you made at that time for that committee.

I have a belief—and this is not the belief of the government; it's my personal belief. Because of the accountability legislation, I believe the government, or someone, should have briefings from time to time, telling political staff, or telling civil servants, or telling incumbent MPs, or telling newly elected members of Parliament what their obligations are under this legislation. It's a very comprehensive legislation. I don't know whether we will or not. I hope we do, because I think the government should take some leadership on that.

Again, I appreciate that you may not have put your thoughts to how the Information Commissioner should educate the newly expanded access to information community.

Mr. Robert Marleau: That's a big challenge. I believe the commissioner, as part of his advocacy role, should do a complete assessment of Bill C-2 and publish, on his website, the perspective of the impact from the commissioner's point of view. I think it has to be done in concert with the executive in terms of what their perspective is as well. You just can't have two conflicting or two parallel tracks out there, so that's why I talk about this sustained dialogue. Without giving up independence, I think you can have that dialogue and come to some kind of common agreement as to where Bill C-2 will take us.

The impact of Bill C-2, of course, touches on the ATI, and it's an improvement. It's not the improvement that I understand the previous Information Commissioner wanted. The biggest improvement I think in recent times is not so much Bill C-2 as it is the creation of this committee. I believe there have been more appearances of the Information Commissioner since the creation of this committee, before parliamentarians, than there were in the previous 15 years. Now that there is a focused group of parliamentarians on the issues, that's a key way I think for the commissioner to get the message out, as you say, to brief MPs on a regular basis about the needs and the growing impact of the act on government, and maybe through this committee.... I know, for instance, that this committee has filed a report with the House requesting that the government bring in a comprehensive review of the act. That is to me proof that the dynamic is well on its way.

Sorry, Mr. Chair, if I'm going on at length, but as far as briefing new MPs is concerned, that's a big challenge. As Clerk of the House, we used to put on orientation sessions for MPs. I was approached by the Auditor General and by the language commissioner to see if they could find a module in there to at least explain their role and their relationship to Parliament. And we did from time to time have them in, but the demands on the new MPs' time in those critical weeks when the House is just back is tremendous. It's very hard and it's information overload.

So my tack on it would take the longer-term view, through this committee and other opportunities to interact with members, or one on one, even, with the office, to help them along in understanding what they can do and where they want to go and how we can help.

• (1000)

The Chair: Thank you, Mr. Tilson.

Mr. Stanton.

Mr. Bruce Stanton (Simcoe North, CPC): Thank you, Mr. Chair.

And thank you to you, sir. Certainly your reputation precedes you in a very favourable way—not but that these glowing remarks from the other side might have on other occasions made this side somewhat nervous when we heard them. I would dispel any notions of the sort.

I have just a brief question, Mr. Marleau, continuing on the theme of access to information reform in particular. I wonder whether you've given some thought to and maybe could tell us what you think the role of the Information Commissioner should be in the process of looking at access to information reform, which this committee has in front of us at some point in time.

Mr. Robert Marleau: I think I telegraphed a little bit in my opening statement that I would like to begin discussions with the government as quickly as possible to see what common ground we could establish, and to deal with those issues where there is common ground from the commission's point of view, and then maybe focus on where there isn't common ground and how that situation could be improved.

I have read very quickly—actually I speed-read this morning—Mr. Toews' evidence before this committee last spring on the government's response to reform to access. There are issues there that need further discussion amongst yourselves. The solicitor-client privilege issue is one, and there's national security. But I think by entering early on into a dialogue about those issues, which are all on the table now—most of the issues are known—and maybe at least reporting back to this committee where there is common ground, once we've established that, we can work on the hard nuts to crack.

Mr. Bruce Stanton: Thank you.

That's all I have, Mr. Chair.

The Chair: Madame Lavallée.

[*Translation*]

Mrs. Carole Lavallée: First of all, I have to tell you that some groups objected to the way in which the Conservative government announced your nomination for this post. I'm not sure exactly when that was, and that might be worth finding out. The fact remains that the position was posted for seven days on a website in July, raising the hopes of some persons who more than likely had no idea that at the same time, the government, more specifically, the Prime Minister's Office had offered the job to someone. As far as transparency goes, this process doesn't seem to fit this government's new ideology, and that's very unfortunate indeed.

Moreover, Mr. Marleau, a majority of committee members passed a motion—if you've read any minutes of our meetings, you will certainly have seen it—calling on the Minister of Justice to table new access to information legislation before Friday, December 15. Mr. Vic Toews told us—I have his testimony here and you can review it in its entirety if you wish, or I can show you where he said this specifically—that drafting access to information legislation is a fairly straightforward process that would take only a few days. We suggested that by all means he should draft this legislation because as you know—Mr. Martin could say more about this than me—the government has been thinking about reviewing this legislation for a decade now. Many suggestions have been made, many studies and reports done, and much thought given to this issue. Now, we're at the stage where the Minister of Justice must get off the pot—if you'll pardon the expression—and table a bill. It may not be the perfect bill, and we may need to twig it somewhat, but it's time for a concrete legislative measure that will be examined in the usual manner.

How would you feel about the minister introducing a bill by Friday?

• (1005)

Mr. Robert Marleau: Thank you, Madam.

I'll start by answering the first part of your question concerning the nomination process. In early September, when I wasn't interested in applying for the position, I saw a newspaper article containing a list of hypothetical candidates. Soon after, I left on a four-week trip to Europe. When I returned, there were no reports in the press. I received a telephone call on November 17 informing me that the position had yet to be filled. I was expected to turn down the offer, as I had done in the case of other offers. I was asked to give the matter some serious thought. Given that the Prime Minister was asking, I felt that it was the least I could do. Ultimately, I was flattered and honoured to accept the offer. It wasn't an easy decision for my spouse and I to make, but I accepted for no specific reason other than the one I gave you, namely that it seemed like the right thing to do.

Mrs. Carole Lavallée: You understand, though, that this criticism was not being levelled at you.

Mr. Robert Marleau: Yes, I understand that, but you wanted to hear my comments on this matter. I received the call on November 17.

As for the second part of your question, I realize full well that in its report, the committee requested a response from the government before Friday, December 15.

I've read the testimony given by the minister and by Commissioner Reid. I understand the government saying that the matter needs to be studied further, that there was no consultation. The former commissioner, for his part, maintains that many consultations have taken place over the past 15 years and that it's clear what needs to be done. On the one hand, the government says that it can't estimate all costs, while on the other hand, people argue that costs are not that high and that a price cannot be put on transparency.

If confirmed, I will tackle this question by first saying that the past must be left behind and that we should forget about who was consulted, and who was not, and try to find some common ground for moving things forward and resolving differences.

I hope the government does bring in draft legislation because that is the very essence of the work that parliamentarians do. Studies are a more difficult task.

Mrs. Carole Lavallée: There have been many studies.

Mr. Robert Marleau: I don't disagree. In 2002, I worked on the Delagrave Commission which also tabled a report to the House. My contribution was quite limited in that it was confined to parliamentary privilege.

Therefore, there has been the work of the Delagrave Commission, various reports by commissioners, the work done recently by Mr. Reid and now, the government's response to the committee's report. I think that everything is on the table. It's a matter of getting things in gear and of agreeing on what can be accomplished.

Mrs. Carole Lavallée: Thank you.

[English]

The Chair: Merci, Madame.

Mr. Martin.

Mr. Pat Martin: Mr. Marleau, as you know, you don't just need the confidence of this committee and both Houses; the Information Commissioner needs the confidence of the information community at large.

At least one well-known advocate, I suppose, is Mr. Darrell Evans. His comments in a Montreal newspaper stated that your bureaucratic background probably means you won't fight for new powers for the commissioner's office. He said that as a lifetime bureaucrat and an inside government guy, he is certain you would have a credibility problem.

These are pretty strong criticisms from a national figure in this information advocacy community. How do you respond to those kinds of questions?

• (1010)

Mr. Robert Marleau: I have no difficulty in responding. I don't know Mr. Evans; I have never met Mr. Evans. I would say that my knowledge of ATI will be on a steep curve in terms of acquisition. But to refer to a former Clerk of the House as a government insider demonstrates that there is some learning curve on the other side as well.

Mr. Pat Martin: I don't disagree.

Mr. Robert Marleau: That being said, the principle is important. Apart from interacting with this committee and the executive, there is a whole community that believes in ATI and transparency. They see the difference it makes in their own constituencies.

I will work very hard with any of the advocates. I think I was very successful with the same advocacy groups on privacy in the very short time I was there. Let's just say that the previous Privacy Commissioner didn't have the best dialogue with his own constituencies in terms of advocacy. I did try to turn some of that around.

I'll apply the same style to these groups that I would apply to this committee or to specific matters of the executive. In terms of how to do that, I think it is by simply reaching out to them right away. No doubt, I'll get several calls for meetings. I'll be as available as I can make myself, and I'll work from there.

Mr. Pat Martin: Having said that, with the former Information Commissioner, John Reid, the more activist he got, the more he fell out of favour with the ruling party, or the government, whichever it was. He produced a bill with his recommendations called the open government act.

It's logical to go to the Information Commissioner if you're looking for information about what needs to be done to improve the access regime. Have you looked at his proposed open government act? Given what you know about the Information Commissioner's office, do you concur that this would be a good starting point, for this committee at least?

Mr. Robert Marleau: I take it as a given, Mr. Martin, that it is the starting point for this committee, since the report that was filed in September with the House requests that it be the starting point. I

assume that the committee has already taken it as the basis of discussion, and so will I. I've read the proposed act off the website of the Information Commissioner. It's difficult for me to say to you that I fully agree. Some of the issues are somewhat complex. I agree with the thrust, but not at any cost. To enhance transparency and open government is a good thing. I'd like to evaluate what some of the issues mean as well as the minister's discussion paper or testimony here. Again, I think there's a lot more common ground than was first acknowledged in moving this file forward.

Mr. Pat Martin: I think the minister underestimates the pushback, though. Minister Toews I think is having the same problem Minister Cotler had. I don't think people realize the entrenched problem of secrecy within the senior bureaucratic level and the reluctance to shine the light of day on the operations of government now.

The Information Commissioner has the unique strength to be able to actually shake loose or shake free some of the senior bureaucrats. What ministers lack I think is the comprehensive background necessary to counter some of these arguments they face. Your role would have to be as champion in that regard, in the service of well-meaning ministers who have been stymied time and time again.

Vic Toews was part of the ad hoc committee that John Bryden put together to try to break this logjam of freedom of information. He himself played an active role in pushing the previous government in this regard. Are you willing to adopt that mantle? In your brief, you said you have to be a champion. Well, that will have to be an aggressive, activist champion, even if it means falling out of favour with the ruling party of the day.

• (1015)

Mr. Robert Marleau: I have some experience in falling out of favour with the ruling party, as Clerk of the House of Commons over the years that I occupied that post. Also, I have fallen out of favour with Her Majesty's loyal opposition from time to time. So I think it's a question of striking a balance. Yes, aggressive advocacy is required by the commissioner, but strategic aggressive advocacy I think is effective. To just go on the "Speakers Corner" and advocate transparency in government is one thing. Advocating it with a strategic intent of achieving something is what I would like to devise as a plan. Of course, this committee has to be part of it. As I said, you can't just delegate this to the commissioner. I wasn't trying to preach or sermonize to the committee with that comment. The power the commissioner has, even in his advocacy role, flows only from Parliament. Sure, the personality can probably add something to it, but it's your authority that the commissioner carries forward.

At the same time, because I've been an officer of Parliament, and still am as an honorary officer of the House, I cannot substitute myself for the legislator. If you decide to do something with the statute, at the end of the day that's a decision of Parliament, and as commissioner I have to live with it. I may not like it. I may even gently criticize it—not to the point of contempt, but certainly in the hope of keeping the file going.

I don't have a problem with taking on an aggressive championship-style role and falling out of favour with ministers or senior bureaucrats. I've been there before.

The Chair: Thank you, Mr. Marleau.

There are just a couple of questions from me.

First of all, the rules require you to give us a copy of your curriculum vitae, and you have done that. I'm just curious, what does DU stand for?

Mr. Robert Marleau: It stands for Doctor Universitatis, which is an *honoris causa* doctorate that I received from Ottawa University after I retired. I don't like to use the PhD designation. It took me 32 years to get a doctorate degree—

Some hon. members: Oh, oh!

Mr. Robert Marleau: —and the university authorizes me to put DU after my name. That's it.

The Chair: Thank you.

I was also impressed by your answer where you recognized the importance of the existence and creation of this committee. I was on the justice committee for years in the old days, and it had a tremendous agenda. The Information Commissioner and all these commissioners came before the justice committee, and their estimates and everything else got very short shrift because we had to plow through them quickly so we could get to the statutes we were considering on a daily basis.

So I think it was an excellent idea to create this committee. I'm glad to see you've reviewed some of the action of this committee, as I did when I first got on it. As I'm sure you can appreciate, there's a great deal of frustration. There was a great deal of frustration when the government was the opposition. Now there's a great deal of frustration when the former government is the opposition, because we're all waiting for a new access to information approach—I won't say an act. There's this “After you, Alphonse” attitude, as to who goes first.

One of the comments was that it was such a complex area that they didn't want to overburden Bill C-2, which was already complex. So now that Bill C-2 is done, hopefully we can concentrate on a new access to information act and bring it up to the 21st century.

I congratulate you on your appointment. I thank you for your frank and honest answers. I'm sure I speak on behalf of the entire committee, if you are confirmed, when I say we look forward to working with you in a way that will benefit the act and transparency for the good of all Canadians.

I understand Mr. Tilson would like the floor.

Mr. David Tilson: I have a motion, Mr. Chair, that the nomination of Robert Marleau as Information Commissioner of Canada be concurred in, and that the chair report such to the House.

● (1020)

The Chair: Is there any comment?

Hon. Jim Peterson: I would like to amend that motion by adding “with extreme enthusiasm”.

The Chair: Is that a serious amendment, Mr. Peterson? You're just teasing, okay. I'll add those words when I report.

(Motion agreed to)

The Chair: Congratulations, Mr. Marleau.

The meeting is adjourned.

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