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**Official Report
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Monday 3 May 2004

Lundi 3 mai 2004

Speaker
Honourable Alvin Curling

Président
L'honorable Alvin Curling

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LEGISLATIVE ASSEMBLY
OF ONTARIO

Monday 3 May 2004

ASSEMBLÉE LÉGISLATIVE
DE L'ONTARIO

Lundi 3 mai 2004

The House met at 1845.

ORDERS OF THE DAY

APPOINTMENT OF INFORMATION AND
PRIVACY COMMISSIONER

Ms Caroline Di Cocco (Sarnia-Lambton): I move that an humble address be presented to the Lieutenant Governor in Council as follows:

To the Lieutenant Governor in Council:

We, Her Majesty's most dutiful and loyal subjects, the Legislative Assembly of the province of Ontario, now assembled, request the reappointment of Ann Cavoukian as the Information and Privacy Commissioner for a term of five years, commencing on July 1, 2004, as provided in section 4 of the Freedom of Information and Protection of Privacy Act, 1990.

The Acting Speaker (Mr Joseph N. Tascona): The member for Sarnia-Lambton may proceed.

Ms Di Cocco: It's a pleasure to stand today and to speak on this motion for the reappointment of our Information and Privacy Commissioner, Ann Cavoukian. I say that from not only her qualifications and her international stature, but the incredible work that she has done for us since her appointment in 1997.

When Ann Cavoukian was appointed in 1997, she was selected by a committee that consisted of all three parties: Marion Boyd of the NDP, David Ramsay of the Liberals, and David Tilson, a Conservative. Each party had one vote. She was selected in a truly non-partisan process. Her term in office has been exceptional and this assembly believes that her reappointment would be of benefit to the people of Ontario and is in the public interest.

Improving government transparency and accountability is what freedom of information and privacy is all about. It's an established underpinning, designed to protect both individual privacy and the public's right to know. It requires a strong and talented individual to move forward in her capacity to ensure that both the public's right to know as well as privacy are protected.

Dr Cavoukian's accomplishments speak for themselves. She has been a tireless advocate for freedom of information and, at the same time, a strong supporter and protector of privacy on behalf of Ontarians. Ann Cavoukian was also selected by the Privacy Manager as the privacy manager of the year in 2003. Ms Cavoukian

is also frequently called upon to speak in leading forums around the world.

1850

Dr Cavoukian has certainly criticized practices that she deemed objectionable at the provincial and federal levels. She has been vocal about OHIP billings, removing fraudulent entries from patients' records and protection of patients' privacy. I cannot say enough about Dr Cavoukian. This assembly is very lucky to have someone of her stature and ability to do what is fundamental in protecting the right of the public to know and also our privacy.

There are a lot of challenges in this new age of information. As we move forward with how government does business and with a well-educated and more informed population, the balance of both the right of the public to know, which is more and more to increase the transparency in how the government does its business, as well as all the information that is provided about individuals because of our technology and how greatly that has to be protected, is important. I believe that Dr Cavoukian is one of the best people in this country, and is a leader in our international jurisdictions, in her capacity to both protect privacy and talk about new ways of enhancing transparency.

I will be saying that the government and this assembly supports Ann Cavoukian's reappointment for the next five years. We look forward to working with her in the near future.

The Acting Speaker: Questions and comments?

Mr Garfield Dunlop (Simcoe North): I will be speaking to this issue in a couple of minutes, and we will be supporting the reappointment of Dr Cavoukian to this position. I look forward to hearing the debate from other members of this House.

Mr Peter Kormos (Niagara Centre): I appreciate and look forward to the opportunity to speak to the motion at length as the evening progresses. I see the clock has been rolled back about two minutes now. I got blessed with a couple of extra seconds I wouldn't have had otherwise, and I appreciate the brief comments from the first government speaker.

I'm very eager to see how many government members participate in the debate after all the caterwauling earlier today about sitting till midnight. Do you remember that, Mr Prue?

Mr Michael Prue (Beaches-East York): I remember it.

Mr Kormos: What's the matter? You don't want to work? That was the whining, that was the whinging that was taking place. Well, I want to see the government members work. I want to see them take to their feet, tell their constituents—

Mr Khalil Ramal (London-Fanshawe): We're here. We're listening to you.

Mr Kormos: Yes, you're here in body, but please engage, address the issues of the day, speak to the motion that's been put by your own colleague, the parliamentary assistant. Speak up, speak out, be put on the record. Stand up for what you believe in. Tell people what you do believe in. I appreciate that putting it on the record is not always easy for a Liberal, but I'm sure you can rise to the occasion this evening. By God, folks, we've got five more hours, and we've got a chance to hear from numerous government backbenchers. It's your chance to get floor time here in the Legislature. You want to participate in debate? Well, let's hear you participate in a debate. Let's hear you speak to your constituents back home. Let's hear you speak to the people who sent you here to Queen's Park. Let's hear you address the issues. Let's hear you use the time available to you. It's your opportunity. Seize it.

Mr Lorenzo Berardinetti (Scarborough Southwest): I am very pleased to use the two minutes that are available to me at this time. I just want to relate a story to my colleagues here in the Legislature and to others who may be watching. When I was on the city of Toronto council, I chaired the administration committee, and one of the individuals or departments that reported to the administration committee had to do with privacy and privacy information. This job was perhaps the most difficult job in the entire city of Toronto, because this individual had to produce documents and information that oftentimes bureaucrats did not want to produce.

The most important thing I learned in my time as chair of the administration committee for the city of Toronto was to have 100% confidence behind that individual. In this situation today, I think that if we do not put 100% of our confidence behind this individual, it begins to erode and we end up on a slippery slope, and eventually people will begin to attack the Privacy Commissioner.

From what I understand and from what I was able to find out, this individual has done the job well for a number of years. The question before us today is whether or not to reappoint her. Not appointing her at this time or trying to somehow delay it or deal with it in some other way jeopardizes the entire office of the Privacy Commissioner. I saw it happen at the city of Toronto. I don't have any experience here, except for six months, but I saw it happen at the city of Toronto. She eventually left because of the erosion of her powers due to lack of confidence. We've got to show our confidence here today.

The Acting Speaker: The Chair recognizes the member from Timmins-James Bay.

Mr Gilles Bisson (Timmins-James Bay): It's quite a—

Interjection.

Mr Bisson: No, it's two minutes. I'm on top of it.

I just want to say that I don't agree with that argument for two seconds. I think it's a pretty weak argument. At the end of the day, we need to understand what these appointments are all about. They're there to serve this assembly. They're there, as officers of this House, to serve this assembly and all members of the assembly.

At the end of the day, an appointment process where people have to be interviewed is not a bad one. If people think they can get an automatic appointment, I think how they serve is approached a bit differently, and can be. That's why we, as New Democrats, strongly believe that at the end of the day, we have to have a very clean and fair process that basically says that when a person has done their first appointment—they've been interviewed in the process we've had with all three parties—and that person has served their term—we're not saying they shouldn't be included to serve a second term, but we're saying they should have to go through the process again, and for a couple of reasons.

I know that my good friend Mr Kormos is going to speak to this in some detail, and I might as well. I think we need to put a couple of reasons on the record. One is that if I'm an appointee and I know that the government is favourable to my reappointment, am I serving the assembly, or am I serving the government? That doubt is always out there. So one of the reasons I feel strongly that we have to have this process is that it's clear that the person who is basically reapplying for reappointment has to go through the interview process. So that's clean.

The second thing is that I don't accept the argument that a person says, "Listen, I'm going to leave; therefore, reappoint me," as a basis to reappoint somebody. I have great respect for the Privacy Commissioner. But if that's what her reason is, I have great difficulty, and maybe we should have an interview and appoint somebody new. No disrespect to her, but we, as members, should not be threatened—

The Acting Speaker: The Chair recognizes the member from Sarnia-Lambton in response.

Ms Di Cocco: I certainly heard the member from Niagara Centre speak to the members saying we should all be speaking on behalf of our constituents. We are, and we are here to reappoint Ann Cavoukian. Ann Cavoukian has shown by her work that she is not only capable but a leader in her capacity as Privacy Commissioner. When we talk about this place, and you want to raise the quality of the debate, I'm hoping that the debate is about reappointing Ann Cavoukian. Certainly this Legislature has great confidence in Dr Cavoukian, and has had great confidence. This is one of the occasions when I believe the third party, the seven members over there, again are playing games with this Legislature instead of trying to raise the standard with which the public expects our Legislative Assembly to behave, to be part and parcel of a democratic process and to speak to the issue. I don't really understand why the NDP feels that Ann Cavoukian should not be reappointed as the Information and Privacy Commissioner, when she was appointed in 1997 by a

very fair process of all three parties, has the background and has all of the qualifications—exemplary qualifications—and is seen as a world leader in this capacity. Now we have the third party playing games because they want to hear themselves talk in this Legislature and want us to stay here until midnight.

1900

The Acting Speaker: Just to give notice to the members, on a substantive government motion there are no questions and comments, so that will not be happening again, on your notice. The Chair recognizes the member for Simcoe North. But it was enjoyable.

Mr Dunlop: I'll be very brief on this government motion 55. Our caucus will be supporting the re-appointment of Dr Cavoukian as the Information and Privacy Commissioner. We believe she has been an outstanding employee of the citizens of the province of Ontario. We feel that she has fulfilled her commitment in the last five years, and I look forward to seeing Dr Cavoukian continue in this position for the next five years. I can tell you that I've watched her very closely with pieces of legislation. She always has been very, very non-partisan. She's been able to give an opinion on almost any piece of legislation that was put in her direction, and she's done it with the utmost respect for the citizens of the province.

I know on a personal note, I had an opportunity to deal with Dr Cavoukian on Bill 105, which was the blood sampling act that this House passed in 2001. I had an opportunity to meet with her a couple of times during that time frame and she pointed out all the issues with the bill, how to resolve them, etc, and how to work with all the different ministries to make sure the piece of legislation was passed.

Again, as far as I'm concerned, our caucus is fully supportive of the reappointment. We think she's done a fine job, and we look forward to working with her in the future.

I look forward to the other debate tonight. I wish we could spend more time on government bills such as the budget bill. I hope we have a lot of opportunity to talk to that. I know the hydro bill is going to be an issue for the government. We look forward to a lot of debate on that. But this one, I think, is kind of a no-brainer. We expect it to be passed quickly, and I look forward to the third party debating it quickly and passing it so we can get this very valuable employee reappointed for the next five years.

The Acting Speaker: The Chair recognizes, for opening, the member for Niagara Centre.

Mr Kormos: Thank you kindly.

Oh, we've seen the thorough participation in the debate by the official opposition as well. I'm sure folks out there are impressed with the depth of the analysis, with the thoroughness of the consideration of the motion before us, with the clear understanding of the history of these appointments and the sage comprehension of what it means to be a servant and officer of the assembly rather than a servant of the government. You know, Howard Hampton, just a few minutes ago, a modest interjection

during comments by another member, spoke the name Radwanski. "Radwanski. George Radwanski." He reminded me—I had forgotten about Mr Radwanski. Mr Radwanski was considered the most impeccable and outstanding servant of the Liberal government in Ottawa.

You see, the fundamental problem here is that folks don't appear to understand that an appointment of this capacity has to have the full support of all of the House, that this has historically been done by virtue of consensus and agreement. Indeed, New Democrats raised this matter first, and most recently, on the occasion of the appointment of the Integrity Commissioner. I took a look at Hansard surrounding that motion, and you'll recall it—maybe you won't. A little bit of prompting may well permit you to understand that back in June 2001, New Democrats were very clear that they believe an officer of the assembly should be decided upon, should be chosen, should be hired, if you will, with the support of all of the House. Furthermore, there should be a process that the opportunity to apply for the job should be made available to all interested parties.

Again, we were very clear. I not only recall very clearly speaking to the matter but I checked Hansard. We were very clear that we weren't in any way being critical of Judge Osborne. Indeed, I knew Judge Osborne before that in a modest way and have gotten to know him better, like everybody else here, since his appointment and our attendances with him. I suppose it depends upon whether you were the subject matter of a complaint to the Integrity Commissioner. I must say Chris Stockwell knows Mr Justice Osborne in a far different way than I do, for instance, and he still hasn't paid that \$8,000 back; that is, Stockwell, not Justice Osborne.

I've come to know Judge Osborne, but it doesn't change the fundamental problem that the government of the day, and it was Conservatives, created in saying that this was effectively going to be a government appointment. What the government is doing today with this motion is saying, "This is going to be a government appointment." They've got a majority. Do you understand, folks? They've got a majority, and the government is not, to the discredit, quite frankly, of that office, ensuring that there is unanimity around the selection of the Information and Privacy Commissioner for the five-year term that will commence shortly.

Let's understand as well that these are five-year terms. Look at the legislation. Section 4 of the act says "five-year terms," and there is the prospect that there may be a reappointment. In other words, the act does not preclude a person from serving for subsequent terms. That's all that means: There may be reappointment. The act does not preclude that person serving more than one term.

Is there an inherent danger in people automatically serving subsequent terms? I say yes. I say that if we are to protect the offices these people are called upon to serve, and if we expect them to serve those offices and fulfill and discharge their responsibilities with courage and without fear of repercussion, we are better served by a one-term limit. There's no fear then on the part of the

person playing that role. There's no concern that he or she will not be reappointed because he or she conducts themselves or makes decisions in a particular way or draws conclusions that, for instance, may be adverse to the government of the day. There is an inherent danger in assuming that the serving and completing of subsequent terms is automatic rather than the exception.

New Democrats were very clear that New Democrats had nothing ill to say about Ms Cavoukian, but New Democrats had been adamant—we were in 2001 around the appointment of a replacement for the retiring Integrity Commissioner, we were around the matter of a successor to the Provincial Auditor and we are around the matter of the next term of office for an Information and Privacy Commissioner—that there has to be an opportunity for other parties to offer up their name. It could well be that Ms Cavoukian, because she's not precluded from seeking a second term, demonstrates herself to be the best possible candidate. I understand the disinclination that people might have of wanting to compete for a position that they've filled for five years. I understand that disinclination, and I say, quite frankly, too bad, so sad. If you're disinclined to do it, well, then, don't do it.

1910

There is something incredibly effective about expressing that the term is clearly one of five years that protects the party from even the slightest hint of undue pressure being put on him or her to make a decision that's favourable to the government or unfavourable to somebody else.

You see, the problem is that not only did I review my comments from the debate in 2001, but I reviewed the comments of the now government House leader, and took a look at what Mr Duncan from down Windsor-St Clair way had to say. Fascinating, because the member for Windsor-St Clair, speaking on behalf of his caucus—once again, in that instance, members were so brave.

There was one leadoff speech by Mr Duncan from Windsor-St Clair and then deafening silence, by and large. The member for Windsor-St Clair said this on June 25, 2001, and this is the debate around the appointment of Mr Justice Osborne to the position of Integrity Commissioner. Understand what the background there was. The government wanted Mr Justice Osborne, the Liberals wanted Mr Justice Osborne, without there having been a posting of the job—not a posting but an advertisement—indicating that the job was open because of the retirement of Mr Justice Rutherford. You remember him? A delightful man.

New Democrats said no. Notwithstanding the clear qualifications of Mr Justice Osborne, of Judge Osborne, you can't just circumvent any advertising process. You can't just exclude the opportunity for any other people to apply for this position. There may well be other good people. There may be better people, I don't know. But what could be fairer to everybody involved than to say, "Well, we'll put an ad, and do what you have to do to solicit resumés and applications"? Then you go through it.

Look, I was peripherally involved. I wasn't on the committee. Mr Marchese was on the committee that selected Judge Clare Lewis as Ombudsman. I had a very strong interest in that process and spent a fair amount of time in that committee. I, quite frankly, couldn't be more pleased about the selection that was made, but there were applications by a number of very competent, qualified people. There was a clear, objective process—as objective as one could be—in creating a short list and in reviewing these good applicants. The committee did a tremendous amount of hard work. At the end of the day, Judge Lewis became our Ombudsman, knowing full well that it was for a fixed term of office.

I say that just as with an Ombudsman, just as with an Integrity Commissioner, as with the privacy commissioner, where there has to be not even the slightest hint of beholden on the part of the person selected, we have to have confidence and the public has to have confidence. We also have to address the issue of there being and there needing to be some consistency in how we go about these things.

So what did the member for Windsor-St Clair have to say back on June 25, 2001? The member from Windsor-St Clair said, "I think it's a valid point," and that is the need for a consistent process around hiring these people. "I think it's a valid point and I think it's something this House should look at, and all members should be concerned about, because the officers of the Legislative Assembly must not only be totally non-partisan, they must be seen to be non-partisan and they must enjoy the confidence of all members of the House in order to fulfill their obligations." That was 2001, almost three years ago.

He goes on to say, "It is my hope that before the next time we have to appoint an officer of the Legislative Assembly, in fact this kind of debate will happen"—that is to say, a debate around a process that's consistent from one officer to another. "I would like to see a process that's more clearly defined." He said that while he was a member of the opposition.

Now he's a member of government. He's the BMOC, as they say, big man on campus over there with the Liberals. He's their energy minister. He sits at the left hand, right hand or the feet of the Premier, whatever, and is the House leader as well.

Back in 2001, the government House leader thought that, yes, before we undertake yet another appointment, "Before that happens again"—that's what he said on June 25, 2001—"there should be a debate around the process." Well, where's the debate? No, government doesn't do that. Was it capable of doing it within the time frames? Of course it was. It was capable, as you all know, of extending Ms Cavoukian for whatever period of time necessary, for six months, for nine months, for 10 months, to accommodate the office of the commissioner while a procedure was being determined. It was capable of developing some agreement.

But, no, the government stormed its way out of any prospect of negotiating a resolution and, rather, is trying to force its will, and will force its will—

Mr Rosario Marchese (Trinity-Spadina): Why would they do that?

Mr Kormos: Because they have a majority. Why do they force their will? Because they can. All this talk, all this jabber, all this yak, yak, yak about democratic reform, and what do we get? We get some of the most pathetic disdain for democratic process that could ever be demonstrated and displayed.

Yak, yak, yak about democratic reform. Well, that was during the election, and of course—

Interruption.

Mr Kormos: Somebody turn that damn computer off here in the House. Please seize the computer, and perhaps haul the member out in leg irons. Some people have no regard for the rules around here. It just rots my socks to see people just thumbing—they're scofflaws, thumbing their nose at the rules.

Here I am making a speech, restricted by the standing orders and by precedence, and a scofflaw interrupts it with the music from some soundtrack on his iPod or whatever the heck it was. I've got to call upon the acting Sergeant-at-Arms to seize the computer. I hope that member's House leader, Mr Duncan from Windsor-St Clair, takes appropriate action.

Look, this isn't difficult. The government can exercise and abuse its majority to appoint whomever it wants. In doing so, it contradicts what has been a number of years, indeed decades, of some incredibly hard work by all three parties in this chamber to ensure that officers of the assembly have the support, the endorsement, the confidence and the trust of all members of the assembly and, furthermore, that the manner in which we choose people to fill, in this instance, a five-year term, and it's not an uncommon term for similar roles, is consistent from one time frame to the next, is fair, recognizes that there's a reason for making these—look, if the government wants to make 10-year appointments, then move an amendment to the legislation. Move an amendment to section 4. Make 10-year appointments; we'll debate that. And I suppose if the government really wants 10-year appointments, it can get them, because they have a majority over there.

We haven't seen the dissent from its backbenchers yet. It will come. There will be dissent. There will be revolt. There will be rebellion. It will be like Spartacus and the slaves when these backbenchers resist and fight back. I say to these backbenchers who find themselves whipped into voting in ways that their conscience tells them is inappropriate, wrong, indeed even immoral, that they have a lot more to be gained by standing up and speaking out against your whip and your House leader and, oh, their dispensing of little perks and the occasional junket to keep you in shape. Good grief.

1920

Mrs Liz Sandals (Guelph-Wellington): I've never been on a junket.

Mr Kormos: You've never been sent on the junket? OK. We know who's been denied the junkets. The member for Guelph-Wellington hasn't been on her junket yet.

You should ask your colleagues what junkets they've been on and what you've been denied. But that's the whole story around the junketing and, quite frankly, junket junkies, because what you have is a tendency for more and more people to monopolize those junkets.

Look, New Democrats were prepared to work together in House leaders' meetings to develop a process that was fair. New Democrats relied upon what the government House leader said back in 2001, when he said there should be a debate around the process. New Democrats aren't opposing this motion because we have anything ill to say about the current privacy commissioner, Ms Cavoukian. But I want to talk about George Radwanski for a few more minutes because, you see, when George Radwanski—and please don't get me wrong, I draw no comparisons between George Radwanski and Ms Cavoukian. As far as I know, Ms Cavoukian has earned every penny she has made, rather than stealing it like Mr Radwanski has. In my understanding, Ms Cavoukian has worked hard throughout her career, rather than relying upon political connections to have—what was it?—half a million dollars in income tax written off.

Mr Marchese: He's paying it back.

Mr Kormos: He's paying it back? Give me a break. Oh, yeah. They aren't giving him his \$80,000 severance package. The guy gets \$500,000 written off in income taxes by his buddy Chrétien. What a sweetheart deal that was. Lord. I've got—you do too—small business people who have gone through some pretty hard times who would love to see \$3,000 or \$4,000 worth of income taxes written off. You know them, Speaker; I know you do. They can grovel, they can beg, they can plead: No way. There's not a snowball's chance in Hades of any of them seeing that kind of largesse. But if you're a Liberal—George Radwanski has been on the Liberal payroll like Romulus and Remus, suckling, as Mr Marchese has been wont—because it's an ethnic understanding of the origins of Rome, part of the history of that great people. There's Radwanski, like Romulus or Remus, if you will, but it's not the she-wolf, it's the taxpayer of Ontario. Who's the facilitator but Jean Chrétien and the Liberals. The fascinating thing about Liberals is that when you kiss off your corrupt friends, you guys are the go-big-or-go-home kind of people, right? It's no little penny-ante stuff; it's big time, like Mr Guité.

I was listening to Mr Guité on the television up in Ottawa talking about how Paul Martin, since he has an executive assistant, has his EA do the criminal stuff, but you're still an accomplice, right? It's called a conspiracy. You get your EA to call up Guité and those people and say, "Mr Martin would rather you sent the money this way than that. Mr Martin would be so pleased."

That's what Tony Soprano says to one of his underlings when he wants somebody bumped off. He doesn't say, "I want you to shoot somebody." He says, "I'd be so pleased if you took care of my little problem over there." Then, before you know it, another character on the Sopranos is dead and written off the cast—that person's TV career is over.

Paul Martin doesn't call up and say, "I want my Liberal friend to get \$1 million or \$2 million for doing nothing." He sends his EA to say, "Mr Martin would be so pleased if you, ahem, took care of this."

Jeez, friends in high places? Friends at the depths of Liberal corruption. It's unbelievable. There's Radwanski, who not only gets a sweetheart-deal job—you see, this is the problem. He gets half a million dollars. Do you realize how you get \$500,000 in arrears of income tax? Do you know how much money you've got to make? You've got to make a whole lot of cheese, a whole lot of fromage to accumulate \$500,000 in income tax, especially when you're a wink-wink, nudge-nudge consultant for the Liberals, like Mr Radwanski was.

Do you realize that to have \$500,000 owing, he was milking around \$2 million out of the Liberals in Ottawa? Do you understand what I'm saying, folks? And he was pocketing all of it. He was doing fine. Those pockets were bulging. No wonder the Canadian mint had to stop making thousand-dollar bills. Radwanski had all of them. None of them are in circulation. It had nothing to do with drug dealers; it was Radwanski. He was getting paid off in thousand-dollar bills. They might as well delist them, stop making them, because Radwanski had them all. Why? Because he was talented? No. Because he was a Liberal.

Interjection: What about Tom Jakobek?

Mr Kormos: Tom Jakobek is a piker. Jakobek is a mini-thief. Jakobek is just a teeny criminal. Radwanski is the big one. Radwanski is a mega-thief. In the old days you used to have to rob a bank. Now you just have to know Jean Chrétien and be tight with the Liberals in Ottawa. Who knows how far that extends? Jakobek is nothing. So he pockets 25 Gs. Compared to Radwanski, that's chump change. Jakobek, with his rich father-in-law and rich spouse—you'll notice how politically correct I am—25 grand is nothing: "Why did you withdraw \$25,000 from your bank account?" "To take the kids to Disneyland." How were they getting there? Were they each buying a Rolls-Royce? Were they all going to drive down in an entourage? I've never seen \$25,000 spent on a family vacation in my life.

1930

Ms Shelley Martel (Nickel Belt): What about Stockwell?

Mr Kormos: Jakobek's buddy Chris Stockwell dropped a huge chunk of change on the Paris junket. He was visiting the capitals of Europe—Paris, London, Barcelona, Bucharest—I don't know—Marrakesh. Again, if there were any thousand-dollar bills left over after Radwanski stole them from the taxpayers of Canada, they were Stockwell's for the roll he peeled the cheese off to pay for him and his entourage, and he still hasn't paid back the 8,000 bucks after he got an \$85,000 severance package. You talk about Radwanski losing his \$80,000 severance package, which isn't bad; he pays 80 grand and ends up with millions. Couldn't the paymaster have withdrawn the eight grand from Stockwell's severance pay of \$85,000? It's a shame. That guy rips off the tax-

payers like that and still gets an \$85,000 severance package. It blows my mind.

The problem with Radwanski, besides him being corrupt and the Liberals being corrupt and their being thick as thieves in ripping off taxpayers and making rich people out of Radwanski and their ilk, along with the \$100 million Mr Guité tells us—I guess that's what you'd call the trickle-down theory. That's the trickle-down theory, all right. If you're a Liberal and you're corrupt, and the two are synonymous—

Hon Steve Peters (Minister of Agriculture and Food): On a point of order, Mr Speaker: The member has made two references to the Liberal Party being corrupt, and that implies that the government members are corrupt. I take serious offence at that.

The Acting Speaker: The point of order is that you want him to deal with the motion. That's the point of order.

Mr Kormos: Thank you for your direction. I apologize if I offended anybody by identifying Ottawa Liberals as corrupt as a result of them spending over \$100 million of taxpayers' money on Liberal buddies in Quebec, among other places, and as a result of them taking care of their Liberal buddy Radwanski, who is a thief, who is a criminal, who should be doing hard time instead of living the life of leisure. Let's put it this way: Radwanski, Jakobek and Stockwell as cellmates; they could order pizza. Put them in a cell together and I'll buy the pizza. I'll buy a pizza a month for the next 15 years that they should be doing time.

Peters, stand up on a point of order and defend Stockwell's integrity. Go on, I dare you, please. Stand up on a point of order and defend Radwanski's integrity. Not in a New York minute. Not for a million bucks, which is half as much of what Radwanski stole from the taxpayers with the direct assistance of Jean Chrétien.

The problem is, Radwanski was hired by the government. There wasn't an impression or an appearance of impartiality or aloofness or independence from the get-go. I believe it is tragic that we are not seizing the opportunity of the completion of Ms Cavoukian's five-year term to address the whole matter of how we deal with an officer of the assembly upon the expiration of their term.

New Democrats believe that a five-year term means a five-year team and that it should only be in the rarest of circumstances that there is a repeat of it. If there is a repeat of it, it should come as a result of that person competing once again in the process. We believe there are legitimate, strong, effective and healthy arguments to be made for fixed term limits on those positions and that people should understand they're fixed terms, that the five years doesn't mean 15, it doesn't mean 10, it means 5.

New Democrats will not be supporting this motion. We fundamentally dispute and disagree with the lack of process, the lack of fairness and the lack of openness. No more backroom deals.

Ms Martel: I'm not sure I'm going to use all of the 20 minutes at my disposal, but there are a few things I want to get on the record. I'd like to say that I'm going to be as entertaining as my colleague Mr Kormos, but no one can possibly be as entertaining as my colleague Mr Kormos. Mr Marchese comes close, but I'm not sure if he's speaking tonight.

Let me just make some of these remarks. Let me reread the motion that's been put. It says the following:

"To the Lieutenant Governor in Council:

"We, Her Majesty's most dutiful and loyal subjects, the Legislative Assembly of the province of Ontario, now assembled, request the reappointment of Ann Cavoukian as the Information and Privacy Commissioner for a term of five years, commencing on July 1, 2004, as provided in section 4 of the Freedom of Information and Protection of Privacy Act, 1990."

My colleague Mr Kormos made it clear that we do not support the government notice of motion that has been put forward. We do not. He may have said this, and in case he hasn't, I will repeat: That is not a new position. Perhaps some of the Liberals who are here tonight are surprised we are taking this position. I heard some Liberals get, frankly, a little bit outraged that we're taking this position.

The fact of the matter is, the former government, the Conservative government, before the last election, came to our House leader, Mr Kormos, and the former government wanted us to unanimously agree or to automatically agree that the appointment of Miss Cavoukian as Information and Privacy Commissioner should be extended for another five years. They did that too.

For the record, we told the former government that no, we would not agree to an automatic reappointment. We would not give unanimous consent for an automatic additional five-year term to Miss Cavoukian. The reason we would not is because our position is, and we are articulating it here tonight, that we believe that for the position of an officer of the assembly there should be an open, transparent process to appoint that person. That was our position under the previous government; that is the position we have, on numerous occasions since then, articulated to the government. I have articulated the same to the Chair of Management Board, who talked to me probably last November about this process and wanted to know what our position was. I told him then, as my colleague Mr Kormos has told the House leader since then and as we are saying here tonight: No, that's not a process we're going to participate in. It is our clear belief that a position that is this important should have an open and transparent competition process to appoint someone who is going to serve all of us as an officer of the assembly.

By way of history as well, that was also the position we took when Judge Osborne was appointed. That was the same position we took there. I have no doubt about Judge Osborne's credentials. I'm not questioning them in the least. At the time when I spoke on that motion, as I'm speaking here tonight, I didn't focus on his credentials—

whether or not I thought he was qualified. I'm sure he was, and he has proven to be eminently qualified for that position. When I go for my annual visit once a year to disclose what little I have to disclose, it's quite a pleasure to meet and chat with him and discuss political affairs.

But the point then, and the point that we're trying to make tonight, is that we don't want to be party to a process where the government, essentially by fiat, using its majority, decides who is going to be an officer of the assembly. That's not a process I want to be part of; it's not a process I'm going to consent to; it's not a process I'm going to provide unanimous consent to—not then, three years ago when we were dealing with exactly a similar matter with respect to Judge Osborne; not under the Conservatives when they came many months ago and asked us to reappoint Ann Cavoukian; and not now, when we have the government motion before us.

Some of the members who have spoken before talked about Miss Cavoukian's credentials and what a good job she has done in her position. I don't doubt that for a moment. You know what? She came before the Bill 8 committee, which I've been serving on because I am the NDP health critic. She came with some of her officials and made very important statements about the bill and offered a number of recommendations for change. In fact, during the clause-by-clause process I took some of the suggestions that had been made by Miss Cavoukian and submitted them as amendments for Bill 8 because I thought they were reasonable, they made sense, they would deal with some of the more obnoxious portions of the bill—although we continue to oppose the bill because it remains obnoxious, but they dealt with some of the more obnoxious sections of it. I put forward the recommendations that she had made to the committee in the form of NDP amendments. Now, I wouldn't have done that if I didn't have some respect for her judgment, some understanding of the work she has done, some respect for the changes she thought she could make and why I thought the government should listen to that. I wouldn't have done that if I didn't think she had something worthwhile to offer.

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But I say to all members of the assembly, this debate tonight is not about Ann Cavoukian, individual. It's not even about her in her current capacity as the Information and Privacy Commissioner. It's about what kind of process we are going to have in this place to put in place officers of the assembly, like the Information and Privacy Commissioner, the Ombudsman, the Environmental Commissioner and the Provincial Auditor, because all of those are in the same category as officers of the assembly. All of those appointments should follow a similar process that we agree to in this assembly, a process—

Mr Kormos: On a point of order, Mr Speaker—my apologies to Ms Martel: To give the Conservative members a chance to come back—perhaps they're having a problem, because there are no—I'm just worried—

The Acting Speaker: That's not a point of order. You are not recognized, member. Could you just take your seat. The member from Nickel Belt.

Mr Kormos: The Speaker is here.

Ms Martel: The Speaker is here, but not in his capacity as a political representative. All right. Thank you for that intervention, Mr Kormos. Where was I?

Mr Kormos: My apologies, Ms Martel, but the Tories disappear. It's like the Bermuda Triangle.

Mr Bisson: Do you want to take her time?

Ms Martel: Let me back up, Speaker. Let me say this again. Despite some of the animosity—"animosity" is probably too strong a word. Despite some of what I heard earlier by some of the Liberal members, critical that we would dare, as a third party, to actually oppose this motion, because of course Ms Cavoukian is so talented and so respected, I make the point again and I want to reinforce it: It's not about her as an individual. It's not about her and the job she has done in her capacity as Information and Privacy Commissioner. It's not about her and the work she tried to do, for example, to expose the former government when the former government wouldn't provide information about disclosure of names and addresses of POSO recipients.

Remember that? You know, the former government? I believe Mr Eves was the Minister of Finance at the time. He was in charge at the time, and there was quite a substantial disclosure of names, addresses, account information and banking information of many individuals who used POSO, the Province of Ontario Savings Office. That has been sold. That was done under the former government. We opposed that. But in any event, before it was sold off by the former government there certainly was quite a scandal about the inappropriate disclosure of that information. I believe—somebody will correct me here—it was disclosed because some consulting firm for the government wanted to do some kind of letter campaign to get the views of all those POSO recipients about what the future of POSO should be, and what more the government could do, la, la, la.

I don't know if that was a tendered contract or an untendered contract. We should probably check more into that. But the fact of the matter is, all of these names, numbers, financial information, account information were disclosed; thousands of people involved. Not just a few, not a handful, but thousands of people had their personal information disclosed, and to her credit, Ms Cavoukian, in her capacity as Information and Privacy Commissioner, tried desperately to get to the bottom of that.

She never did get to the bottom of that, not through a lack of trying and not because of a lack of commitment of herself and her staff. No, they didn't get all the information because they continued to be blocked by officials at the Ministry of Finance with respect to how that information got released and who authorized the release of the information and how it got into the hands of the consultant who was doing the said mailing, etc.

I remember at the press conference that was held when she released information about that particular contract how frustrated she was that her office, despite having a number of tools at its disposal, despite being in the position to try and get to the bottom of this, couldn't. So that is one very clear recollection that I have of Ms Cavoukian doing the job that she was assigned to do on behalf of all members of this assembly, as an officer of the assembly, and doing it very well. As I said earlier, I used a number of the recommendations she made when she came before the Bill 8 committee as amendments to the clause-by-clause process. I should say that only one of my amendments was ever accepted by the committee—more fluke than anything else—but I think it's fair to say that the government, to its credit, actually brought forward government amendments that incorporated some of the changes she had pointed out.

I say this again: It's not about her. It's not about the force of her personality. It's not about her commitment to public service or the many years she has spent in the public service. It's not about her ability to take on the government of the day, as she tried to do with POSO, and expose when something is wrong—in this case, the release of private information. It has nothing to do with her. I appreciate that some of the Liberals want to make this about her as an individual in order to be critical of us, but at the end of the day the issue here is, what kind of a process are we going to have? What kind of transparent, open, competitive process are we going to have for what are very important positions, not just for us as members of the assembly but, frankly, for the public as well?

Having now sat as a member of the public accounts committee for many years, more than I care to remember, I can tell you that the public and the media had enormous respect, for example, for Erik Peters, his professionalism and the reports that he put out. They had that because of the force of his personality, because of his integrity, because of his professionalism. As a consequence, he had the respect not just of all of us, even though when we were in government I disagreed with some of his recommendations from time to time. The fact of the matter is, we had respect for Erik Peters when he was here, and so did the media.

I think the same can be said for the work that Clare Lewis has done. I have attended probably the last three of the annual report releases that Clare Lewis has undertaken in June of every year, because that's when he normally releases his public review of a number of issues that people have come to him with. Again, I watch him as he deals with the media. I have watched him as he dealt with his staff. He is most professional; there is no question about that. He has the respect of all members, and he has the respect of the media and the civil service who work with him as well.

With respect to his position, as Mr Marchese can tell you, there was an open, transparent process. Due process was given. Many people came forward at the time that Clare Lewis was appointed to his position. Many qualified, good, well-meaning, articulate people came forward

and put their names in because they wanted to do this job and they thought they had something to offer. At the end of the day, after reviewing all those resumé and going through the interviews, the committee that was established to deal with that appointment unanimously agreed to the appointment, and then so did the House.

That's the kind of process we should be emulating. That's the kind of process we should be putting in place now as we look at the appointment of the Information and Privacy Commissioner. I say to the government, have the process, because you're the government that talks about transparency and democratic renewal and open processes—

Mr Marchese: Blah, blah, blah.

Ms Martel: —and blah, blah, blah, as my colleague says. You're the government that even had a portion of your election platform targeted to democratic renewal.

Well, here's where the rubber hits the road, folks. How serious are you about democratic renewal? Miss Cavoukian should come forward and apply; no one is saying she shouldn't. The government should have a process. She should put her name forward and the tripartite committee that is set up can look at her resumé and the resumé of others, and they can interview her and other people. If she's the best candidate at the end of the day, then she will get another five years. That's what we should be doing.

When she was appointed, she was not given a commitment that she would have another five-year term. If someone in government did make that commitment to her, they were wrong to do that, because this is not an automatic extension to take you to a 10-year term.

Candidates, when they come forward, and I'm sure this was made clear by those who interviewed Clare Lewis and others—it should be made clear to them at the time when they come to the interview that there's nothing automatic.

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Mr Marchese: But they know that.

Ms Martel: I think they know that when they do. The government should have a process. She can come forward, other people who are interested can come forward, other people who think they have a contribution to make can come forward, other people with good qualifications should come forward, and the process will unfold as it should. If she is the best candidate, then she'll get the job for another five years. Frankly, it's as simple as that.

So I say to the government, look, you had so much to say before and during the election about democratic renewal, and now you want to bring forward a process where, I gather, we are going to have an open and transparent process with respect to the appointment of the Provincial Auditor.

Interjection.

Ms Martel: Now, maybe that's changed. The last thing we heard from the government House leader was that there was going to be an open competition, an open process to replace Erik Peters.

We have a position, another position, another officer of the assembly, and the government wants to do something different with that. Why is that? We should be using the same process for everybody. What's so different about this position that we're going to have one process for Ms Cavoukian and we're going to have an entirely different, open, transparent process—assuming that it's going to involve all the three parties in the same way that we appointed Clare Lewis—to appoint a replacement for Erik Peters. Why the discrepancy? I haven't heard the Liberals talk about that discrepancy and why we're going to have two different processes for a position, an officer of the assembly, that is essentially the same: beholden to all of us, hopefully appointed and agreed to unanimously by all of us.

Let me wrap up and say the following: This is not new in terms of our position with respect to this position. We told the former government that we were not going to agree to automatically reappoint Ms Cavoukian. We told the former government that we wanted an open process to appoint a new privacy commissioner in same way that we had appointed Clare Lewis. We did that months ago—before the last election, in fact. Our position since then, when we have been lobbied by various Liberal cabinet ministers, has been the same: an open process. That's what we should be doing. The government should have a representative, one from each of the parties. That group should come together; they should invite applications; they should review those applications. They should then sit and have people come to be interviewed, and they should make their decision at the end of the day as to who is in the best position to represent all of us. That's what I think we're going to do with another position that is open in this assembly, and I don't understand why the government doesn't want to use that same process for this particular position of Information and Privacy Commissioner.

I say to the government, if you mean what you say about democratic renewal, do not go down the road that you want to go down tonight. Do not essentially appoint someone by the government when that person should be appointed by all members of the assembly.

Mr Howard Hampton (Kenora-Rainy River): I'm pleased to be able to take part in this debate because I think this is one of the most important decisions the members of this Legislature will make.

I just want to review the history a bit. It wasn't that long ago when positions such as the Ombudsman position, the Provincial Auditor, the Integrity Commissioner, the privacy commissioner—those positions did not exist. There was what you might call a form of democracy where everything rested on what happened in this Legislature, that there were limited checks and balances outside this Legislature. There were limited checks and balances on the authority, the power, of a large majority government.

But over the years, largely as a result of requests by the citizens, the residents, the people of the province, not just here but elsewhere, a number of these parliamentary

or legislative offices have been created. I think anyone who reflects upon, for example, the wonderful work of Auditor General Sheila Fraser would certainly admit that the position of Auditor General or Provincial Auditor as an officer of the House of Commons or an officer of the Legislature here is absolutely indispensable now. It's one of the most important positions.

Similarly, if you examine some of the decisions of privacy commissioners, not only here but elsewhere, there is a recognition that the privacy commissioner is a very important position, and the freedom of information commissioner—because in some jurisdictions they are not one and the same, they are different positions.

But if you look at some of the decisions that have been made, some of those have been appealed to courts and have been the subject of decisions by higher courts and the Supreme Court of Canada. I think there would be almost unanimous recognition that these are very, very important positions. They're very important for democracy. They're very important in terms of being checks and balances against large majority governments. They are important for protecting the financial integrity of government. They're important for protecting the privacy of citizens. They're important for ensuring that citizens get access to have freedom of information or access to information that ought to be in the public realm.

No one, I think, could deny the importance of the Environment Commissioner. No one, I believe, could ignore the importance of the Ombudsman now in Ontario. So I would think there would be universal recognition in this Legislature that in terms of the broader democracy these are very important positions indeed. But I think there would also be a recognition that since these positions are ones where someone is appointed for five years and they go on about their business for five years, and it is very difficult to remove someone who has been appointed, that there needs to be some checks and balances on these positions as well. They should not become lifetime appointments or extended appointments, because once again, the issue is we're trying to create a better democracy here.

I just want to refer back to the comments of my colleague the member for Nickel Belt, who pointed out that you actually campaigned on this. The Liberals went across the province saying that you wanted to broaden and deepen democracy, that you wanted to ensure that democracy was enhanced. But it seems to me that if you're true to your word—and there's some debate about that around here these days. But if you really meant what you were saying, this would be a pretty fundamental debate for Liberals. You wouldn't be sitting on your hands and pretending that it's not an important issue. So there's a bit of a contradiction happening here tonight.

From my perspective, these positions are so important that not only should there be debate in this place, but whenever someone is appointed or reappointed, the process of appointment and reappointment must be democratic, open and transparent from beginning to end. And it is your unwillingness to consider that openness,

that transparency, that leads me to question where this is going.

I want to, just for a minute, refer to some recent Canadian history which illustrates, I think, quite profoundly, why someone should not just be rubber-stamped into the position or extended by rubber stamp. I want to bring up the name of George Radwanski who was, until not too long ago, the federal privacy commissioner.

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I don't want to embarrass Liberals here, but all Liberals will know that Mr Radwanski had long, long Liberal credentials, that Mr Radwanski moved among the highest Liberal circles in the province and in the land. Whenever Liberal governments wanted a report written, and they wanted to be sure that it was going to be written in a certain way, Mr Radwanski would often be called upon to write the report. Lo and behold, when the federal Liberals, more than a few years ago, suggested that Mr Radwanski would make an excellent privacy commissioner at the federal level, there was almost unanimous agreement among Liberals that he would be excellent for the position, that he would be outstanding for the position, that there could be none better for the position.

So that campaign was even carried into the press, into the media: How could anyone question, how could anyone insist, that this particular person, Mr Radwanski, should be subjected to any sort of process, any sort of examination, cross-examination? That was the position of the Liberal Party. That was the position of the Liberal establishment.

So Mr Radwanski was appointed and he proceeded into a position where he literally became an authority unto himself. What is the history of what happened there? The history of what happened is, we now learn after the fact, that Mr Radwanski misappropriated public funds, that he forged expense accounts and documents, that he literally threatened and intimidated staff who worked under him and told them that if they disclosed any of this, if they made any of this information available, he would ensure that they were severely punished.

I think anyone looking at that scenario would say, "My God, what a travesty of justice. What an offence against democracy. What an offence against the average person's sense of decency, sense of fair play and sense of how things ought to go." That's what happens when you simply close ranks behind someone and say, "Oh, this is the anointed one. This is the one who should not be subjected to an open, transparent process." That is clearly what happens.

I can tell you, I don't want to see that happen here. I don't want to be in any way associated with something which could turn out that way in this Legislature. As New Democrats have said over and over again, "I don't even know Ann Cavoukian. I don't think I've even ever been introduced to Ann Cavoukian." That's not the issue. The issue is that this is an incredibly important position, an incredibly important job for democracy. You said you believed in a broader, more full, more open, deeper democracy. Yet, by putting forward what is essentially a

closed process, I think you're engaging in a complete contradiction here—a complete contradiction—and you leave yourself open to the very things which transpired with the federal privacy commissioner, or the former federal privacy commissioner, one George Radwanski.

I just want to make some comments on what I'm being told by some of the Liberals. Some of the Liberals have stood here today and have said that if the reappointment of Ms Cavoukian is not automatic, she'll leave; she'll quit. I'm saying to myself—

Mr Mike Colle (Eglinton-Lawrence): Name names.

Mr Hampton: They just said it. Go read it in Hansard.

Mr Colle: Name names.

Mr Hampton: Go read the Hansard, you know so much. I say that if that is the attitude, if that is the innuendo that is being put out by Liberal members, that in itself should set off warning bells for everyone in this Legislature, because what it suggests to me, if it's true—and I have no way of knowing if it's true or not, but I've heard some members allege that that is the situation here tonight. If that is the case, it suggests to me a very serious problem. It suggests to me, if someone has that attitude, that it shows not only disrespect for the position, but it shows disrespect for this Legislature and it shows disrespect for the democratic process that we should all be involved in here. If anything, if there's even an ounce of truth to that allegation or that nuance which I've heard expressed here tonight, then that would, for me, absolutely confirm the need for a completely open and transparent process. I say to Liberal members that I heard the nuances earlier here this evening, and that should be setting off warning bells for all of you. That should be setting off warning bells for each and every one of you.

The final point I want to make is that we've got another problem in that the Liberals seem to want to use one kind of process for the appointment of this officer of the Legislative Assembly but another kind of process for the appointment of another officer of the Legislative Assembly. I'm trying to find out what the principle is upon which the government would make a distinction. What is the argument in reason upon which the government would make a distinction? I haven't heard one tonight and I haven't heard one in the discussions that happen in the hallway leading up to tonight.

It seems to me—once again, these are very important positions—that one of the things we would all want to ensure happens is that there is consistency with all of the appointments, that if we insist on an open and transparent process for the appointment of one officer of the Legislature, then we insist upon an open and transparent process for all officers of the Legislature.

There's another point that bothers me here. I guess it's because I've been around this building now for going on 17 years.

Mr Tony Ruprecht (Davenport): Wow.

Mr Hampton: Mr Ruprecht will recognize this too. I have seen in the past situations where at 9 o'clock at night the government House leader comes over and says,

“You know what? If you'll just agree to this process, we'll do it this way and we can all go home.” People are tired and people want to be reasonable, so they say, “OK, we'll give in.” Then four months later the government House Leader says, “Well, you created a precedent three months ago, so now that's how we're going to make all of these decisions; that's how we're going to do these kinds of things in the future.”

I don't want to create any precedents which are not transparent, which are not open and which are not democratic. I don't want someone to come around six months from now and say, “This is what you did in the case of the privacy commissioner, so I guess it's OK in terms of a new Environmental Commissioner” or “I guess it's OK in terms of the appointment of a new Ombudsman” or “I guess it's OK” in terms of the appointment of this official or that official. I don't want to be part of something which creates a precedent that I frankly think is anti-democratic.

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I just want to say something to Liberal members. I remember saying this to Conservative members a few years ago. I remember when the Conservatives arrived here and they thought they had all the answers. Boy, they thought they were God's gift to the Ontario Legislature. They had all the answers; they knew everything. I can remember when they brought forward certain processes, saying, “You know what? If you were in opposition, you wouldn't favour this process. If you were in opposition, you wouldn't like it.” Then I would say to them, “You know what? One day you'll be in opposition again.” Remember those speeches, Speaker? I remember them. Sure enough, now the Conservatives are in opposition, and I heard some of the Conservative members today standing up and saying they don't like the fact that you're now using some of the processes that they put in place.

I say this to the Liberals: You will be in opposition again. You will be. As certain as we have democracy in this province, you will be in opposition again, and it might not be that long. If the economy does a couple more dips and dives, you very quickly could be in opposition again. Don't create precedents where you will, three, four years from now, four and a half years from now, say, “That wasn't a very good idea; that wasn't a very good precedent; that was really not a very smart thing to do.”

This, to say it again, is one of the most important tasks that we will put ourselves to in this Legislature. When we appoint someone in these positions we give them a great deal of power, we give them a great deal of authority, and for all intents and purposes that authority is unchecked for virtually five years. So when we do that, in my humble opinion, we ought to do it with great care and we ought to do it taking great care with the essentials of democracy.

I would think that anyone who wants to apply for this position would want to ensure that it was a completely open and transparent exercise. They would want to know that we've gone through the checks, the balances, the

examinations, the cross-examinations. I would think that all of us who are concerned about the integrity of democracy, who are concerned with the erosion of democracy that we've seen happen or are concerned with some of the cynicism of democracy that is unfortunately too widespread now would want to see that kind of full, transparent, open, independent process because it is so essential to democracy.

So I say to the Liberal members, you were the ones who went across the province and sounded the trumpet over and over again that you were going to usher into Ontario a reawakening of democracy, a broader, deeper, more fulsome democracy for Ontario. Well, folks, this is where the rubber meets the road. If this simply becomes an appointment by way of government majority, then democracy is denied. It must be an open, broad, full, transparent exercise in democracy.

The Acting Speaker: Further debate?

Mr Marchese: I have just a couple of things because it's really so important to get on the record, and how often do we get these opportunities to speak anyway?

Mr Kormos: Where are the Liberals? They said they were going to debate this.

Mr Marchese: The Liberals love to debate when it's on their terms. The Liberals love to have a discussion out there and consult with the public when they say or believe or think it's on their terms. They criticize and castigate the opposition New Democrats on a regular basis and say, "I guess they are against consultation." Yet today they don't want to have that consultation. They don't want to have the debate. They don't want to have an open process of reappointment where three political parties get together and decide who it is that should be there in that position. Today they don't like it.

So when Liberals want to defend an open, consultative process, they say, "We like it. Why do you disagree?" When they don't like it they say, "That's the way it is. Why is it New Democrats are fighting it?" It's just the typical Liberal position to take. When it suits them, they say, "Yeah, we think it's good," when it doesn't, they say, "No, we think it's bad." That's the way Liberal politics, philosophy and opportunism play out each and every day in this House and at the federal level. Wherever you have Liberals, that's just the way it goes.

I've been trying to understand what are the politics behind the Liberals wanting to reappoint and not taking this reappointment through a process where all three political parties get together to decide the reappointment. I've been trying to understand the problemo, and I just can't figure it out. I wonder, is it political in nature? Would this candidate be a Liberal reappointment and that's why Liberals feel so strongly about why they need to reappoint her? I don't think it has anything to do with politics. I actually don't. I wonder, is it psychological? Some members have raised the issue that Miss Cavoukian is so good, but she says—perhaps as hearsay—that if she has to run for this position again, she simply may not put forth her reappointment because she just doesn't like it or, my goodness, having to go through

a re-interview process, "I don't think that's nice." Is it psychological? I don't know. I don't think so. Is it perhaps metaphysical, ie, is it a divine right of the Liberal government or Miss Cavoukian to be reappointed, because it simply is that way? I don't think so.

You take away all the possible explanations of why it might be this reason political, this other reason psychological, this other reason perhaps metaphysical, and you say, "No, it's none of those." If you can't attach any explanation to it, you say, "What's the issue? What's the problemo here?" I say, "I don't understand it. And if I don't understand it," I say to myself, "the Liberals are completely confounded, discombobulated, by this whole thing." They don't know quite what to do except to reappoint her. I don't know, but it's dumb politics. It is utterly dumb for the government to simply say, "We will reappoint her," *ex cathedra*, as lawyers might say when they make their case.

Interjection.

Mr Marchese: Lawyers don't use that term "*ex cathedra*?" Really? What term would they use?

Mr Kormos: Ah, let's flip a coin.

Mr Marchese: Peter Kormos says, "Let's flip a coin." That's what lawyers would say. I don't know, but those who are into Latin might say "*ex cathedra*." Others would say "by fiat" because—why?—"We have a majority," and because, as Peter Kormos would say, because they can—because you Liberals have the numbers. I don't know. I'm trying to advise you, Liberals, that you're making a serious mistake.

What New Democrats want—each and every one of us—is to have a due process of reappointment that goes through a committee kind of hearing, where we hear not only that person wanting to be reappointed but any other individual thinking and/or wishing to be in that position. That's what New Democrats want: a process whereby we all have a say in the appointment of that individual. That contract was for five years—no more; not a day more, not a day less. There was no divine contract that said, "You will be reappointed." There was no understanding, implicit or explicit, that the person would be reappointed. That was not the case.

So it's clear to me and obvious to me that if Miss Cavoukian believes that she is fit, able, competent and the only person who could do the job, she would be willingly there in that process saying, "I'm in. Count me in," and anybody else who's interested can.

2020

I have to tell you this: I was the member who sat in to hire the Ombudsman, and I want to say that the Tories had someone in mind, the Liberals had someone in mind and, I have to admit, there was somebody who, when I heard that individual speak and answer the questions as ably as he did, I said, "I have someone in mind as well." But the Conservatives had the fix in for their candidate, and so strongly did the Liberals and New Democrats and the Speaker of the then Legislative Assembly feel that if the Tories were to appoint their person on the basis of political affiliation, the Speaker was going to raise hell

and New Democrats were going to raise hell, and, oh boy, yes, even the Liberals were going to do the same.

So in the end, in terms of due process, we all agreed, all three political parties agreed, that Clare Lewis was the best man for the job. We all agreed, and when the three political parties agree on the appointment of the individual, you don't have a problem any more. You have no confusion. You have no accusation of political partisanship. You have no accusation of "the fix is in." You have no one out there, inside or out, saying, "We knew all along who the Tories were going to appoint," because all three political parties were in agreement with Clare Lewis. In the end, we all felt good, all felt happy, not only with the process but with the result of the person we appointed. Don't you Liberals want that process? Don't you Liberals want that now?

Why would you leave yourselves open to attacks from not just New Democrats but others that what you are doing is politically not smart—I wouldn't say "politically stupid," but it leaves you vulnerable, open to accusations of many different kinds. So many of the previous speakers have told you that when you campaign on a promise of openness and transparency, as you have—and yes, you're going to be more democratic than who knows what came before you. It looks awfully silly on your part to simply now say, "We're just going to reappoint this person because—why? We just don't know." Gilles, we just don't know. Because, I guess, they want to. Is that it?

Mr Bisson: That's just because they want to.

Mr Marchese: That's just not right. To be accused, New Democrats—to simply say, "They must have something against this individual. Why else would they be fighting it?"—if such an accusation has been levied against us, I would say that that's not only unfair, but you're really digging at the bottom of some ugly, smelly barrel to get to an accusation that simply doesn't make any sense. We have nothing against anyone in any position except that we want due process. If that individual feels strongly about wanting to be reappointed, I think she's able and qualified and would want to say, "Count me in, in this open, democratic process, because I don't want anyone accusing me of getting this position for"—what? Political reasons?

Mr Dave Levac (Brant): She's good.

Mr Marchese: "Because I'm good and it should simply be understood"?

Hon Marie Bountrogianni (Minister of Children and Youth Services, Minister of Citizenship and Immigration): Polkaroo.

Mr Marchese: Now don't be playing with Polkaroo, Minister of Citizenship, because the Minister of Training already did that today.

Mr Colle: Get back on topic, will you?

Mr Marchese: I hear little echoes of "Polkaroo." Speaker, did you hear that? You heard it, didn't you? They don't like it. You know why they don't like it, right? Because I simply said today, on the issue of McGuinty in 1999—

Mr Colle: On a point of order, Mr Speaker—

Mr Marchese: Hold on, Mike. They've been whispering—hold on, Mike.

The Acting Speaker: The Chair recognizes the member from Eglinton-Lawrence.

Mr Marchese: Hold on, Mike. They've been whispering—hold on, Mike.

Mr Colle: On a point of order, Mr Speaker: My colleague from Trinity-Spadina was doing so well, speaking to the bill, and he's now completely off topic, talking about Polkaroo. Let's get back to talking about the privacy commissioner.

Mr Marchese: Speaker, you understand, unless provoked, that I wouldn't be saying anything to do with Polkaroo. You know that. They provoke me. The Minister of Citizenship and Immigration was whispering, "Polkaroo, Polkaroo." I said to the Minister of Training today, "Now don't you be playing peekaboo with Polkaroo." I told you that today.

In 1999 the Premier said, "Look, the debate around TVO is over." I thought it was over in 1999. Minister Bountrogianni, you were there, for God's sake. Couldn't you have told the Premier that the debate was over?

Hon Mrs Bountrogianni: Polkaroo.

Mr Marchese: You see how Mrs Bountrogianni is so playful? I like that; don't get me wrong. I love that kind of engagement. Don't you stop her, Speaker. Don't you stop.

Mr Levac: It's late.

Mr Marchese: It's never late for a good debate, never late. I want to welcome the citizens of Ontario to this live program. It's 8:25. Do we have more time, Gilles? Gilles thinks we're running out of time.

All I want to say is this, and remind the citizens watching this program: New Democrats—

Hon Mrs Bountrogianni: Yeah, all three of them.

Mr Marchese: Minister Bountrogianni, come on, there are a lot of people watching this program. Don't you go knocking on those folks. A lot of people come from Hamilton and a lot of them watch this program. I met a couple of them just canvassing the other day. They're watching you, and they're watching all of you very closely, as they're watching the federal Liberals with their scandals there. Don't you be knocking on them. They're watching. She thinks it's only a couple of Pookaroo types. No, they're more than that, I'm telling you, Minister.

Ms Kathleen O. Wynne (Don Valley West): It's Polkaroo, not Pookaroo.

Mr Marchese: Oh, somebody else is listening here. Somebody from Don Valley West is here paying close attention. She says it's "Polkaroo," not "Pookaroo." I agree with her too.

I'll bet if she'd been here when Dalton McGuinty was here, when he said the debate was over on TVO, she would have been on her feet saying, "But, Premier, you promised. You said the debate was over." If she'd been there then, like Minister Bountrogianni, she would be saying that, wouldn't she?

Mr Bisson: She would.

Mr Prue: She would.

Mr Marchese: But I don't hear Minister Bountrogianni saying that. Oh, no, she's her playful self, saying, "No, Dalton probably didn't say that. I may or may not have been here, but I don't think he said that." Playful she is, and I like that. I do.

On that note, New Democrats say we want an open, democratic process. If Madame Cavoukian wants to reapply, she should. She's able, she's competent, and I think she's fully qualified to reapply for that job. But bring it to that process; don't you by fiat say, "We're going to reappoint her. It doesn't matter what New Democrats say, because we have a majority." Don't you go saying that. Leave yourself honourable, Mike Colle. I'm telling you, you're hurting yourself.

Mr Colle: Appoint her as the head of TVO.

Mr Marchese: I think we made it clear tonight where New Democrats stand. We don't know where the Tories stand and we heard from one or two Liberals tonight. Not many spoke. I wish they had so I could hear more clearly and openly their views. But I think people know where we stand.

The Acting Speaker: Further debate? Seeing none; Ms Di Cocco has moved government notice of motion 55. Is it the pleasure of the House that the motion carry? I heard some noes.

All those in favour, say "aye."

All those opposed, say "nay."

In my opinion, the ayes have it.

Call in the members. This will be a 30-minute bell.

Interjection.

The Acting Speaker: I have received a request from the chief government whip that the vote on this motion be deferred until tomorrow. The vote is accordingly deferred.

The Chair recognizes the minister.

Hon Mr Peters: Speaker, I move adjournment of the House.

The Acting Speaker: Is it the pleasure of the House that the motion carry? Carried.

This House stands adjourned until 1:30 pm tomorrow.

The House adjourned at 2030.

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Une liste alphabétique des noms des députés, comprenant toutes les responsabilités de chaque député, figure dans les premier et dernier numéros de chaque session et le premier lundi de chaque mois.

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