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of Ontario**

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**Official Report  
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(Hansard)**

**Monday 29 May 2000**

**Journal  
des débats  
(Hansard)**

**Lundi 29 mai 2000**

Speaker  
Honourable Gary Carr

Clerk  
Claude L. DesRosiers

Président  
L'honorable Gary Carr

Greffier  
Claude L. DesRosiers

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LEGISLATIVE ASSEMBLY  
OF ONTARIO

Monday 29 May 2000

ASSEMBLÉE LÉGISLATIVE  
DE L'ONTARIO

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*The House met at 1845.*

ORDERS OF THE DAY

SPECIAL REPORT,  
INFORMATION AND PRIVACY  
COMMISSIONER

Resuming the debate adjourned on May 18, 2000, on the motion by Mr Conway arising from the Speaker's ruling of May 18, 2000.

**The Speaker (Hon Gary Carr):** Further debate.

**Mr Dwight Duncan (Windsor-St Clair):** Thank you, Mr Speaker. I am pleased to join the debate this evening on your ruling, sir. Prior to the House adjourning for constituency week, you ruled that there was a prima facie case of contempt of the Legislature with regard to the Ministry of Finance's release of individuals' private banking information to a polling company and to a bank. Essentially, what that means is that the Speaker found that there is enough evidence to warrant further investigation.

My colleague the member from Renfrew, Mr Conway, responded to your ruling by putting a motion before the House that we refer this specific matter of the Province of Ontario Savings Office to a committee of the Legislature for further investigation. My colleague Mr Conway argued that the government obstructed the privacy commissioner's investigation of the POSO situation.

Indeed, I had an opportunity to read the commissioner's report. When you read this document and you see what she says about very senior officials in the Ministry of Finance, it becomes very clear that, in her view, her investigation was obstructed and that indeed the Speaker was correct to find a prima facie case and that, in my view and I know in the view of many of my constituents, the matter warrants further discussion.

I'd like to take a few moments to review what led to my colleague Mr Conway's point of privilege and ultimately to the Speaker's ruling that found that in fact there was a prima facie case. In January 2000, the *Globe and Mail* reported that, "The Ontario government committed a major breach of the privacy rights of ... thousands of Ontario bank depositors two years ago by handing over to a pollster"—and a bank—"the names, addresses, phone numbers and account balances of depositors of the Province of Ontario Savings Office."

Think about that for a moment. Some of the most private information individuals could have, and it wasn't one or two, but 50,000 citizens of this province. In April of this year, Privacy Commissioner Ann Cavoukian reported the government had indeed violated the Freedom of Information and Protection of Privacy Act and, in her view, had obstructed her attempts to investigate the violation.

Think about that for a moment. The Speaker, very clearly in his ruling, thought a lot about it. An officer of the Legislature, an officer who reports to this House, to all the members of this House—government, opposition and third party—told us in unequivocal terms that her investigation had been obstructed, that a stone wall had been put up in front of her to try to prevent her from conducting her investigation.

That's very significant, and taken in the context of today's debate about the terrible tragedy at Walkerton, and taken in the context as well of the government's desire to effectively shut down any kind of public inquiry, we're beginning, I would argue, to see a pattern. Frankly, it was a pattern that started in the very earliest days of this government's tenure in office.

Let me tell you what I mean. First, we remember the debates around the omnibus bill, Bill 26, a massive piece of legislation that amended not only our entire health care system but the way we govern ourselves at the municipal level, and a whole variety of other changes. The government initially tried to force that through without any committee hearings. Indeed, it was only because of the tactics of my colleague Alvin Curling that we were able to force committee hearings on that particular piece of legislation. That's where it began.

Since then we've seen a raft of things, up to and including changes to the rules of this Legislature that effectively make it more difficult to debate the issues of the day, that take away the opposition's ability to influence the proceedings that go on here. Indeed, I have listened to some of my more experienced colleagues who have sat in this chamber far longer than I. I have heard them lament the change in this place in the last number of years, due first to the NDP government's changes to the standing orders and then to this government's changes to the standing orders, changes which effectively curtail an opposition's ability to question the government and to hold the government accountable.

We've seen clauses in bills that give the government the right to amend legislation by regulation. We saw it

most recently in municipal legislation last fall, and we've seen it in many other instances.

The bottom line, from our position, Mr Speaker, is that this matter, the matter of the obstruction by senior government officials, officials who I believe were acting on advice from their political masters, is a serious matter indeed, and your ruling at the time was quite appropriate. The government will likely defeat our motion to send this particular matter to committee for further investigation. They will again use their majority—ruthlessly, I would add—to shut down the effective process, just as today they effectively eliminated the possibility of a full public inquiry into the tragic deaths and illnesses in Walkerton, Ontario.

I remind the members opposite and my colleagues on this side that, first and foremost, the government broke the law. It broke the law when it gave those 50,000 names to a bank and to the polling company. Then, using obstruction tactics—and “obstruction” is the word chosen by the privacy commissioner, Ms Cavoukian. That's not the opposition, that's not the third party, that's not a columnist for the *Globe and Mail*; that's the privacy commissioner, an officer of this House. It was her word, that they obstructed, they covered up. I urge the government members—I know there will probably be a full whip on and they won't vote for our motion, just like they voted against a public inquiry over Walkerton. I urge the government not to vote to cover up the cover-up. Vote for Mr Conway's resolution.

They broke the law by releasing private personal information to outside firms. The *Globe* called the breach “disastrous” and said the government's secret would have stayed secret had it not been leaked.

The government covered up by blocking the privacy commissioner's attempts to get at the truth. What does this mean? Key officials, senior ministry officials, refused to be interviewed. They blacked out portions of key documents. They dragged their heels, according to Ms Cavoukian, at every step.

Ironically, this ruling came about, in any event, at the same time the government was talking about codes of conduct in schools. So much for responsibility and accountability; so much for respecting the law. A government that sets itself on its high horse and criticizes our students and our teachers and our criminal justice system for lack of accountability and lack of respect of the law, very clearly, in the words of an officer of this Legislature, broke the laws and in fact obstructed an investigation of a very senior official of this Legislature. The government talks the talk about being tough on those who break the law, and I would suggest to you that if they were really serious, they would vote in favour of Mr Conway's motion that is currently before the House.

The government says—and again it's a pattern that is starting to emerge—they're going to send the information and privacy act to a committee for further study this summer. Let me say to the government members that we will be putting our own amendments long before that committee starts to sit, and we're going to deal with

freedom-of-information and privacy considerations separately. We will not allow you to further restrict public access to government information under the guise of protecting the privacy of individuals.

It's interesting: We've surveyed the legislation from a number of jurisdictions here in Canada, and indeed elsewhere, and our legislation is too restrictive when it comes to the question of government information, of freedom of information, so that citizens can know what information government has about them, what information is pertinent to public debates on issues, what information is pertinent to other important debates. We intend to bring amendments to the act that will allow greater freedom of information while not restricting the individual rights to privacy that are enjoyed by Ontarians.

This report, coming when it did, and then Mr Conway's resolution coming when it did, roughly a week before the tragedy became known in Walkerton, is yet another example of how this government is prepared to try to message its way out of very serious issues. It is not enough to refer the Walkerton tragedy to a legislative committee that, by the government's own resolution, won't be able to sit for God knows how long. That's a stonewall, that's a cover-up. We have an officer of this House who says to us clearly, unequivocally and without reservation that the government's senior officials in the Ministry of Finance obstructed her investigation, and she has concluded that the office of privatization in fact broke the law some two and a half years ago when they released this information.

Sadder still in this whole debacle is the fact that the privacy commissioner indicated in her report that she met with co-operation and assistance from the private sector firms that were involved in this violation of the law. They co-operated with her, they responded to her, they assisted her in her investigation and generally helped to get the issue resolved. Sadly the government, the people charged with enforcing our laws and ensuring fair play, if you will, didn't co-operate to the same extent.

#### 1900

I would suggest to the government, as we debate this motion to further investigate the situation and refer it to a committee, that they not try to do to Ms Cavoukian what they've done to others who criticize them. Eva Ligeti, the former Environmental Commissioner, one of the first people, by the way, to alert this government some four years ago to the potential problems with our drinking water, was fired by the government, and whom did they put in her place? It turns out to be a good friend of the Premier's, a former Conservative riding president in the Nipissing area. So if you criticize the government, the government replaces you.

We in this House, I would submit to my colleagues opposite, have an obligation to ensure that our democracy functions well, and sometimes we have to make choices in that regard. Let's talk about the choices this government has made. We talked first of all about the substantive legislative choices. Perhaps the greatest example was the bully bill. What about campaign finance

reform? Government members will remember that. The government effectively raised the amounts that corporations could give and raised the amounts that parties could spend, further tipping the scales away from equal elections where everyone has the same opportunity.

Our Freedom of Information and Protection of Privacy Act quite properly ought to be reviewed, and again I stress to the government that it ought to be reviewed in the context of making greater amounts of government information available and free in a more timely fashion.

I read an interesting paper by a professor at Queen's University who studied the impact of fee increases. This government, the Harris Tories, charges more now to get information from the government than used to be the case. This professor at Queen's University, having studied the impact of that, has found the amount of information available and it has been, in short, detrimental to the efforts not only of the opposition but of the media and of the general public to getting access to information.

Legislation, regulation, fees, rule changes taken together, I would submit, this Legislature, this Parliament, does not function as freely as it used to. I applaud my colleague from Renfrew who, when no one else had done this, read the report carefully, stood up and, citing his privileges as a member, suggested quite passionately and intelligently that this was a serious matter. There was a crime. There was an investigation, and the investigator, who is an officer of this House, concluded that her efforts had been obstructed; and I applaud you, Mr Speaker, for your ruling that indeed a prima facie case was present and that it merited further investigation.

The motion put by my colleague from Renfrew is simple: "Let's refer this to a committee for further debate and further investigation." I will suggest that if the government fails to vote for this, it will be the second example today of what I would call blind stonewalling, an indifference to wanting to get at the truth, an indifference to wanting to have a full airing of a significant matter. Make not mistake: This is a significant matter. I put the government on notice that the official opposition, for its part, will not play along with any attempt to make freedom of government information more difficult in the name of privacy. We want to look at both those issues. We will be making very substantive proposals in both cases, and I submit that all of us will be better off if we vote in favour of Mr Conway's resolution to further investigate these very substantial charges, if all of us as elected members of the Legislature, whether Liberal or Conservative or New Democrat, see our responsibilities as protecting the free functioning of this Legislature and of our province. If the government votes this down tonight or tomorrow, it will be the second time in a very short period of time that they've voted to stonewall a full and free investigation of a very serious matter.

**Mr David Tilson (Dufferin-Peel-Wellington-Grey):** I'd like to participate as one of the government members on this resolution that is before the House which has been introduced by the member for Renfrew-Nipissing-Pembroke.

There appear to be three issues involved in this debate: One, has there been contempt of this Assembly? Two, if there has, should it go to the committee on the Legislative Assembly? I believe that is Mr Conway's suggestion for further discussion. Finally, an issue that was raised by the government House leader was that Dr Cavoukian as the privacy commissioner is inhibited by a number of very complicated legal issues that preclude people from coming forward and giving testimony, for example.

You referred to that in your ruling made on May 18, Mr Speaker, and I'd like to refer to that, in which you did indeed rule that there is a prima facie case of contempt of Parliament that has been made out. Of course, as we all know, you're not ruling that there has been contempt, but there has been a prima facie case of contempt which has to be dealt with by this House, which is what we're doing now and which we did several weeks ago. You made your finding of a prima facie case of contempt. You went on, however, in your ruling to say—and I'm quoting from Hansard, page 3153—"At the end of the day, it may very well be that in this instance, the commissioner's inability to 'conduct a full and complete investigation' emanates, as is argued by the government House leader, from a lack of statutory power." Then you said, and I think this is the most crucial part of your ruling, with respect, "That may very well be the crux of the question as to whether or not a contempt occurred." Then you continued, "But again, I am only charged with determining whether a prima facie case has been made out."

The question is, what caused all this? What was Dr Cavoukian precluded from doing? She spent some time about that. There are a couple of legal opinions. I don't know whether they're filed at the table but everyone has a copy. The media has them; they're available. I'm going to refer to that because both the reports—I think there are two of them—deal with this issue as to the restrictions that she had legally in dealing with this issue. I quite concur with you that "the crux of the question as to whether or not a contempt occurred" was indeed, I would submit, "the commissioner's inability 'to conduct a full and complete investigation.'"

That's not part of Mr Conway's resolution. He's saying we should go to a committee for further investigation, and I understand that. However, there have been a lot of submissions, a lot of facts presented to this House that were made the last time it was brought forward by government members confirming the co-operation that was given by members of the government and others, civil servants and others who participated. However, it doesn't remove from the fact that the commissioner did have problems.

**1910**

I'm going to read a little bit that was stated. It's a legal opinion, which all of the members have, I assume, of Robert W. Cosman of Fasken Martineau. On page 7 it talks about the obligation to co-operate with the commissioner:

“At common law no person was required to answer questions that would tend to incriminate him or her. While this common law right has been abolished in respect of witnesses testifying in certain proceedings under both federal and provincial evidence legislation, this has been done with a corresponding protection against the subsequent use of such testimony. While these statutes require the witness to answer any question posed, he or she may object to doing so in which case the answer is not admissible in proceedings against that individual. This protection has been incorporated in subs. 52(11) of the FIPPA. Where the commissioner is conducting an inquiry under s. 52 and a witness is required to give a statement, the witness is entitled to invoke the protections of s. 5 of the Canada Evidence Act, and thereby prevent the statement from being used against the witness in subsequent proceedings.

“There is no such protection available in respect of statements made or answers given to the commissioner in the course of any investigation or research undertaken to gather information for the commissioner’s report under s. 58.” Then he quotes the commissioner herself in the addendum to the report:

“Such protections [from the use of statements given in an investigation to establish liability in a civil proceeding] are presently afforded to individuals who make statements to the commissioner in the course of her inquiries into access appeals under section 52 of the act; however, they are not currently afforded to individuals who make statements in the course of the commissioner’s privacy investigations. The reluctance of many individuals to speak with us in this investigation is directly attributable to the lack of witness statement protections which would be available under an investigative regime with formal process.”

I assume from that she’s referring to the investigation similar to a coroner’s investigation. The coroner has all kinds of formal procedures.

Then they went on further and talked about other sections, and members can read that. The solicitor concludes:

“The actions of persons in the Ministry of Finance can only constitute contempt of the Legislature if those actions obstructed or impeded an officer of the Legislature in discharge of his or her duty. While s. 58 of the FIPPA prescribes a duty to report, this does not expressly or by necessary inference prescribe a duty to investigate and a power to compel co-operation on the part of witnesses. Consequently, witnesses are not under any corresponding obligation to co-operate and disclose potentially confidential and self-incriminating information. It is our opinion that a failure to co-operate cannot constitute an ‘obstruction’ or ‘impediment’ to the discharge of the commissioner’s duty that does not amount to contempt of the Legislature.”

I haven’t seen any other legal opinions challenging this statement, because everyone has one, and it is sound argument.

The commissioner herself has communicated with the finance minister, who introduced a resolution, filed on May 16, “That the standing committee on the Legislative Assembly undertake to review the Freedom of Information and Protection of Privacy Act and report its recommendations back to the House.” In other words, the minister is saying, “Yes, we need to review this legislation.” I trust it would also involve the municipal privacy legislation. I don’t think that’s referred to here, but it probably should be. I would submit that both those pieces of legislation need to be looked at. Mr Eves, the Minister of Finance, as I understand it, has indicated that that debate would come forward sometime before the summer.

Mr Speaker, I agreed with you when you made your ruling. I would agree with you that the crux of the issue is exactly the commissioner’s ability to conduct a full and complete investigation.

I would like also to refer to a couple of other events. This privacy legislation was passed when Mr Conway was in government. It was passed by the Liberals in 1988. At that time, for whatever reason, the privacy commissioner was not given the powers that have been called for in this particular situation before us. The NDP had an opportunity—in fact, I remember being in a committee that discussed this very subject. The NDP as well, when they were in office, ignored the whole issue. In 1991 there was a committee I sat on, as a matter of fact, that called for an expansion of the commissioner’s authority. A further review occurred in 1994, and there were no steps by the NDP government to expand the commissioner’s authority.

I believe that when you look at the capabilities of what the commissioner can do—she was precluded, she was frustrated—she couldn’t get the information she needed. Based on that, I would submit, along with the facts that have been presented to this House, that there was no contempt.

**Mr Sean G. Conway (Renfrew-Nipissing-Pembroke):** What about the lawbreakers?

**Mr Tilson:** Mr Speaker, I’m going to run down with that. That’s an argument as to whether or not there was contempt. Mr Conway has said, “About the lawbreakers.”

*Interjection.*

**Mr Tilson:** We’re getting into the crux as to whether or not there was a contempt. Obviously they haven’t listened. I’d recommend that you read that legal opinion. Maybe you’re not impressed by it. Maybe you have a legal opinion that you can bring back to us that contradicts that. I think that is a proper respect as to why this situation occurred.

**Mr Conway:** The umpire—

**Mr Tilson:** Mr Speaker, I’m going to deal with you. Mr Conway can carry on. That’s his job, I suppose.

As far as the allegations that government officials wouldn’t co-operate, wouldn’t provide information, if you look at appendix B of the report, the commissioner did an interview with a whole slew of people. It talks

about whom she interviewed. She interviewed someone from the Ontario Financing Authority and someone from the Province of Ontario Savings Office, but the very people who are being accused of not co-operating, she didn't interview them. She didn't even ask to interview them. I'm looking through my notes here, but I know the finance minister was one; Mr Sampson, who was responsible for privatization at that time; David Lindsay; Rita Burak—none of those people were interviewed. None of those people were asked their opinions as to what happened and why that happened.

Quite frankly, I find that a shame because that's what this is all about. That's what Mr Conway is saying: "Those are the lawbreakers." You didn't even interview those people. You didn't even ask to interview those people.

**Mr Conway:** Not true. I thought I had Perry Mason, but I've just got Hamilton Burger on a bad night.

**Mr Tilson:** The fact is, the facts have been presented, uncontradicted at this stage, that these people were not even contacted by the privacy commissioner. I don't mean to be personally critical of this commissioner. I was on the committee I think with Ms Boyd and Mr Ramsay and we unanimously approved this person, a wonderful person. She stood far above anyone else. So if my comments are made out to be critical of her, they're not. I had the greatest deal of respect. I think she's stuck in a system that needs repair. Those were her comments. That's what Mr Eves has said he's prepared to do, and that's what we should do. That's not contempt.

**1920**

The privacy commissioner has suggested that some individuals would not speak to her about the matters in the issue. This doesn't really cause concern for the Ministry of Finance, who says we are interested in a full and complete disclosure, and we are. It's not within our power to compel individuals to contact her office. The government doesn't have that capability. She's the commissioner, and again I'm not being critical of her. I'm critical of the system that was set up by the Liberals.

*Interjections.*

**Mr George Smitherman (Toronto Centre-Rosedale):** Why didn't you change it the way you did with the water?

**Mr Tilson:** They say, why won't we change it? That's exactly what we want to do. If you listened to what Mr Eves said in his resolution that was put forward to this House last May 16, I think the date was, that's exactly what he wants to do. The commissioner has written him and said: "Congratulations. Let's do it." I hope they are going to agree. It's something they could have done. It's something the NDP could have done and for some unearthly reason they didn't do it. How do I know that? Because I was on the committee and listened to the recommendations being made that they change it, and for some reason they sat on their hands and did nothing.

I'm going to vote against the resolution, because I don't think the facts that have been put forward in this matter before the House warrant a resolution of

contempt. Nor do I believe that it should go to the committee. This matter has been fully debated in this House. By the time tonight is over, this resolution will have been debated—I'm being distracted by the minister with some picture. By the time this is all over, we will have debated this subject perhaps six hours.

I don't intend to repeat—Mr Young, I believe, spent some time the last day this matter was debated and went through all the reasons as to why there was no contempt. You have two legal opinions before this House. There are no contrary opinions the other way that say why there should be contempt. So, overwhelmingly the government has met the requirements put on it by the Speaker of this House, by you, Mr Speaker, that there has been no contempt. I hope that all members of the House would agree with that decision that there has been no contempt.

There is a fault in the system. There is a fault, and it's not just the provincial legislation; it's the municipal legislation as well. Both pieces of legislation will have to be looked at.

There was another solicitor, Hicks Morley, and I'd recommend that members read that, if you haven't already, that reiterates many—

**Mr Conway:** Another raving bunch of Liberals.

**Mr Tilson:** I would recommend that. I assume most members who are participating in this debate have read this. He concludes—it's not quite as lengthy an opinion as the other solicitor's, but Mr Scott Williams said the same thing. Based on the analysis that he made, "Our opinion is the Ministry of Finance did not breach the provisions of the act while participating in the inquiry leading to the ... report," and went into some detail as to why that didn't take place. For example, he says: "In the absence of any express power of inquiry under the act, the Ministry of Finance is not expressly obligated to provide information to the commissioner. We note that the commissioner herself appears to have come to a similar conclusion on pages iv through vi of the addendum to her report where she sets out her request for amendments to the act." So he too is saying that the legislation cries out for change.

"In arriving at our opinion we are mindful of the fact that section 58 of the act obliges the commissioner to produce an annual report assessing, in part, the extent to which institutions have complied with the provisions of the act and that section 61 of the act makes it an offence for any person to wilfully obstruct the commissioner in the performance of her functions under the act. However, as we have previously noted there appears to be no indication that the ministry denied the commissioners access to documents specifically requested nor that it prohibited staff or former staff from providing information to the commissioner based on the information you have supplied. In short, there is no evidence of obstruction. Our opinion is that the obligation to avoid obstructing the commissioner in the course of her functions under section 58 ... does not extend to impose a positive obligation."

Overwhelmingly, there is no contempt on this side.

**Ms Caroline Di Cocco (Sarnia-Lambton):** I am pleased to take part in this debate, and although I have to say I don't have quite the experience nor the oratory excellence that the member from Renfrew-Nipissing-Pembroke is endowed with, I do feel passionate about protecting the integrity of the role of an officer of this House in carrying out his or her duties. In this case, the officer is the privacy commissioner.

This is about the role that government has under the Freedom of Information and Protection of Privacy Act, which says the act requires that the government protect the privacy of an individual's personal information that exists in government records. That's what the government did not do in 1997. It literally dumped and threw over 50,000 people's personal information to private companies.

I believe that the rules that govern this Legislative Assembly are in place as checks and balances so that no one is above the law, nor can power be used to interfere with investigations that are conducted to find out why and who is responsible for a breach of the law.

In this case, not only did the Ministry of Finance not report the infraction in 1997, but from the privacy commissioner's own report, various officials inside the Ministry of Finance and elsewhere showed contempt for this Legislature by impeding and obstructing the officer of this House in conducting her investigation. Because of this track record, as stated in this report, I question the resolve of this government to get to the bottom of the water situation in this province, because it is basically only going to investigate itself. This government is not accountable to the people of Ontario. All it knows how to do is to use this place and use its power to make sure that they can very systematically cover up why and who is responsible.

The privacy commissioner, who is an officer of this Legislature, was so frustrated by this obstruction, that she outlines in her report that she was unable to properly conduct her investigation. She was not able to properly assess why and who breached the privacy act in the dumping of all the information, including account balances and over 50,000 account holders of the savings office, and put this in the hands of private firms.

In case the members of the government don't know what section 1(b) of this act states, it includes the protection of privacy, and it says that the purpose of this act is "to protect the privacy of individuals with respect to personal information about themselves held by institutions."

The word "institution" is also defined in the act as a ministry of the government of Ontario. The Province of Ontario Savings Office, under the Ministry of Finance, is a government ministry, and under this law it must protect the privacy of individuals with respect to their personal information. It's that simple. Again, this personal information was not protected, and the investigation into why and who was responsible that all this personal information was dumped into the hands of two private firms was, according to the report, obstructed.

## 1930

Let me provide some history on this matter. The Province of Ontario Savings Office is a deposit-taking financial institution. It provides banking services to the public through 23 branches and five agencies, and some of these branches are in Hamilton, in Toronto, in Guelph, in London, in Ottawa, in Owen Sound. These offices were created in 1921 and they offer savings and chequing accounts, short-term deposits, GICs and Ontario and Canada savings bonds, and the province of Ontario guarantees these deposits. Today it has approximately \$2.1 billion on deposit. There are about 90,000 chequing and savings accounts and 55,000 short-term notes outstanding. That's the business it does.

The Ministry of Finance controls the Province of Ontario Savings Office, and under the privatization zeal of this government the savings office was identified as a potential privatization candidate, and therefore there was a review. To assist the review, CIBC Wood Gundy was retained to provide financial analyses and advice and the Angus Reid Group was contracted to survey the account holders and to evaluate their reaction to privatization. That's where the problem began, because in this assessment the information provided to the Privatization Secretariat and the two firms included sensitive personal information such as account numbers and account balances, social insurance numbers, names, addresses and phone numbers, and the information disclosed was far more detailed than was necessary. The privacy commissioner's specific conclusions related to this incident were that the account holder information provided to Wood Gundy and Angus Reid was "personal information" as defined by the act.

The three disclosures—from the savings office to privatization, then you have privatization to Angus Reid, and then from the savings office to Wood Gundy—were not in compliance with the act. That's what she said: Reasonable measures were not taken with respect to the security of the information and its recovery from privatization and Angus Reid and Wood Gundy, in accordance with the requirements of section 4 of regulation 460 of the act. The point is that in this same report on page 2, it states that had the ministry notified the privacy commissioner of the possible breach of the act in 1997, that would have been the ethical thing to do. In other words, if we made a mistake, let's contact the person in charge and say, "Look, we've got a problem here"; it would have been dealt with quickly. But she stated that not only did the ministry not notify of that, but they tried to restrict the scope of the investigation and investigative tools that were available to the privacy commissioner.

First they acted inappropriately, unethically, and against the privacy laws of this province, and then they obstructed the person, who is an officer of this Legislature, in her attempt to find out why it happened and who is responsible. This breach of the privacy act requires a legislative inquiry into why the finance ministry officials blocked Cavoukian's request. If there is



any hope of maintaining a semblance of integrity of the rights of this House, then an inquiry is the only moral and ethical way to find out the truth in this matter. Again, somebody broke the law here, and it's only right that we find out why and who is responsible. That is exactly why we need an independent commission of inquiry when it comes to finding out what has happened in this province about our water issue, which is unprecedented and never should have happened in the first place—not in Canada, not in Ontario.

I believe that in the ruling by Speaker Gary Carr, the most poignant sentence was this: "In considering the question, I find the very fact that an officer of this House, a person selected by this Parliament and sworn to faithfully discharge her duties to this House, has taken the extraordinary step of advising us that the authority of her office was disregarded and discounted to the extent that she was"—and he quoted from her report—"unable to conduct a full and complete investigation," is in and of itself a challenge to the supremacy of this House, from which she draws that authority." I say that this House is not something that you pay lip service to when it's selectively convenient. How can government members justify this type of action towards an officer of this Legislature? Is the contempt for the rules of this Legislature so great that the members of this House believe they can be above the law?

In closing, I want to say that we need a full and detailed investigation into this matter if this House is to have any degree of relevance in conducting the affairs of this province.

**The Speaker:** Further debate? Member for Trinity-Spadina.

**Mr Rosario Marchese (Trinity-Spadina):** Goodness, I thought I had eight more minutes—sorry. Speaker, do you want to correct some problem here?

**The Speaker:** I'm not sure whether the member indicated she was going to share the time.

*Interjection.*

**The Speaker:** OK. With unanimous consent? Agreed.

**Mr Steve Peters (Elgin-Middlesex-London):** I want to commend my colleague from Renfrew-Nipissing-Pembroke for his efforts in ensuring that this issue is debated here in the Legislature. Quite frankly, if the government had its way, this report would just have been tabled and swept under the carpet, because that's the track record of this government. That's the way they deal with any type of issue. If in some way there has been wrongdoing by the government, they just try and sweep it under the carpet.

But at the Liberal Party, we're committed that the public has a right to know. The public has a right to know what this government has done with their records when it comes to the Province of Ontario Savings Office. The Information and Privacy Commissioner clearly pointed out that the public needs to be made aware that the government has been caught red-handed giving out private, personal information about clients of POSO to private companies.

What is most distressing about this issue is the fact that this commissioner is an employee of ours, of all 103 of us, and the members on the government side should be concerned and should take heed. Let's use what she has said to make sure the wrongs that have been committed don't happen again. This is a very serious breach of the public trust, and I can't believe that the government wants to sweep a breach of the public trust under the carpet.

**1940**

You know, 50,000 citizens in this province had their SIN numbers, phone numbers, bank balances turned over to two private companies. I'm speaking tonight because some of my constituents are part of those 50,000 individuals. There is a POSO office in the town of Aylmer in the county of Elgin, and I talked to people in Aylmer and the vicinity who are most seriously concerned that their private information that they entrusted to the government was turned over to a public body. That's who I am speaking for today. I'm speaking on behalf of those depositors in Aylmer who are extremely concerned, and I too am extremely concerned that sensitive and confidential information was released by this government.

My colleague has the right idea: We need an inquiry to ensure that there is integrity and independence that still exist in this province. If we continue on the way this government wants to go, that's not going to happen, Speaker. It's quite obvious from your ruling of April 26 that the Information and Privacy Commissioner, concerning disclosures of personal information—that in the course of the investigation and my colleague's resolution it be referred to the standing committee of the Legislative Assembly for immediate consideration, because that's where it needs to go. We need to have all members of this Legislature having say and input into what the privacy commissioner put forth.

As my colleague pointed out, the motion he put forward is to finish the job that Dr Cavoukian started but was prevented from completing because of the obstruction she encountered. The motion refers to the entire 1997 disclosure incident, as well as the stonewalling by government officials to the standing committee of the Legislative Assembly of Ontario. Unfortunately, stonewalling is becoming very much the practice of this government. Again, it's something we need to be concerned about.

We're seeing it right now in the stonewalling of this issue and not allowing full and open public debate and having it referred to a committee. We've seen it happen with the Ipperwash incident, a most tragic, dreadful thing, one of the most serious things that has happened in this province. We've constantly had calls for a public inquiry into Ipperwash. No, the government hides behind a veil of "before the courts."

As of today and on behalf of the constituents of Elgin-Middlesex-London, I too want to extend my condolences to the families in Walkerton and the Walkerton area who have been faced with this most serious tragedy. The

government demonstrated again today trying to sweep something under the carpet, stonewalling the public and resolutions put forth for public inquiry so the public can find out exactly what went on. But no, the government knows that they've done wrong, and what do they do? They defeat the resolutions; they stonewall.

Their track record of stonewalling—I've been just so amazed, as we come up on our first anniversary here in this Legislature, how many times I've had to resort to going to the freedom of information commission to get information that I should be entitled to and that my constituents should be entitled to. But no, ministry after ministry stonewalls and puts up: "We can't release that information. It's an FOI request."

I can't tell you the countless times I've reached into my pocket and pulled out that \$5 bill and sent it to the various government ministries to try to get information—information from the Ministry of Health, and then you get back blank page after blank page. Agriculture: I've been stonewalled trying to get information from the Ministry of Agriculture, when their staff admit documents exist—trying to get that information from the ministry. Citizenship, culture and recreation: Just very recently, a week and a half ago, I had to send a cheque for over \$400 to the Premier to get information I should have had a right to. There are some really serious problems in the way this government is handling the release of public information and making that information available to the public. I think it's wrong that we have to resort to that.

The public needs to really—I would urge you to go to the government Web site or contact the Ministry of Finance office to request a copy of this special report to us, the Legislative Assembly of Ontario, because this report is most revealing. It goes on that the privacy commissioner's investigation revealed that the information provided to the two firms included sensitive personal information. You wonder what the government in their privatization mentality was thinking when the information they disclosed was far more detailed than was necessary or required. The privacy commissioner concluded that the disclosures of the account information were not in compliance with the Freedom of Information and Protection of Privacy Act. In other words, the government broke the law.

It was very interesting how quickly this project came to an end as soon as the complaints started to roll in to the ministry from holders across the province. The complaints that were lodged quickly stopped this whole silly process. The privacy commissioner even said that had the minister notified her, it could have been dealt with quickly. But upon learning of a possible non-compliance under the information act, the government organization should notify the commissioner as quickly as possible. But you know what? The government didn't do that. It took the news media conducting research on a story to get the government to act on this. That is a really serious situation.

I urge all members—and especially the members of the government should be supporting this resolution. You owe it to your constituents, because you have POSO offices in your ridings, to get all the information.

**Mr Marchese:** I'm happy to have this opportunity to speak to the motion presented by the member from Renfrew-Nipissing-Pembroke. It must be a big riding. Just the title, Renfrew-Nipissing-Pembroke—it never ends. It must be as big as France, possibly. No, it wouldn't be as big as France, but it's a big area to cover. I wouldn't want to be that member. It's nice to be in downtown Toronto where everything is concentrated.

**Mr Conway:** A pocket borough.

**Mr Marchese:** "Pocket borough"—it's bigger than that, but it's beautiful. You canvass the streets, Shaw Street or Crawford or Montrose, and everybody is there. If you go to Renfrew-Nipissing-Pembroke, my God, it probably never ends: one house over here, 10 miles and another house over there, maybe another farm a couple of miles.

Anyway, to his motion: When I think of the issues we're dealing with, immediately the image that comes to mind is a septic tank. It does. I think of a leaky septic tank and if you happen to be close to it, how it would reek, and how you as a human being would find the smell intolerable, I'm sure, unless you repair it. So when I'm dealing with these issues I think immediately of a leaking septic tank, and you know they haven't repaired it. But I've got to tell you they are good; they are very, very good. I want to give a few example of how good they are.

First of all, Premier Mike Harris was very enthusiastic and with great alacrity responded to denounce the Canadian government, the Ottawa government, the Liberals, for keeping millions of files on Canadians. He said, "This is the kind of thing that concerns all of us as citizens." We agree, I agree, yet we have a situation where M. Harris is doing something with 50,000 files regarding the Province of Ontario Savings Office depositors where they had given out information to two companies, Angus Reid and Wood Gundy, information that in my view is breathtaking because it reveals social insurance numbers, addresses, phone numbers and bank balances. I would find that equally uncomfortable or discomfoting, to say the least, in terms of M. Harris and gang disclosing that information, as uncomfortable, if not as bad or worse, as what the federal government is doing in terms of keeping information about each and every one of us. Wouldn't you like to have a sense of what they keep on us in those files? What the feds are doing is bad, but what the provincial government is doing is worse. But it's all right for M. Harris and company to say it's bad to keep information or files on each and every one of us, but it's not bad to in fact release information about each and every one of us to two companies, Angus Reid and Wood Gundy, information which would be used to test out their feelings with respect to the privatization of the Ontario savings office.

**1950**

For those of you who don't know, the Ontario savings office was created in 1921 initially to assist farmers, but it has about 25 branches—it's quite big—and 90,000 chequing and savings accounts with about \$2 billion. With what great interest—and I suspect the Tories salivated at the thought of privatizing, because it's yet something else they can do for their friends. This government loves to get rid of everything that works well for Ontarians. I think this office works very well. People invest, people have money there. In fact, I once said to a former minister in my previous government that we should use that office as a bank and lend money out to small business, who are having a hell of a time finding access to capital from the banks who don't want to give money to small business because they're a risk. They don't mind giving millions and billions of dollars to big corporations, but to small business it's a different story. Why couldn't we use this office to lend money out to the small entrepreneur who has a difficult time finding a few dollars to get himself or herself started? I tell you, it can be a very good place to start allowing people to access money that they desperately need to be able to get their good ideas rolling. And it's a money-making place. Why would this government want to privatize it? That's another question, of course, for another day, another discussion. But these guys in fact gave the information away to two companies so they could get their feelings about privatizing this successful institution that belongs to the Ontario government.

Our commissioner, Ms Cavoukian, indicated—and I'm going to quote her at length—that what this government did two years ago was wrong, against the law, that it broke its own laws, and this government of course is covering it up.

Mr Christopherson, our finance critic, asked a question on April 26 to Mr Eves. I just want to quote M. Eves to show how good these guys are. Mr Christopherson asked a question: "Minister, this is a shocking exposé"—referring to the commissioner's report—"of a government that has broken the law, misused personal information in pursuit of its privatization agenda and is now engaged in a massive cover-up." M. Eves says, "We accept the commissioner's report entirely and we are acting upon her recommendations." It makes it appear like he's doing something. "We have already satisfied or fulfilled four of the seven recommendations, and I can assure the honourable member that the other three will be satisfied by July."

He's saying to the good public, who doesn't have a clue what we're talking about: "Don't you worry your pretty little heads, you Ontarians out there. Me, M. Eves, I'm fixing it. Don't bother looking through Hansard or through the report to find out what we're talking about, because it's so complicated, as complicated as the Latin words 'prima facie' for you to understand. Please disregard it, forget about it. Let me, M. Eves, deal with these problems." He said nothing and he was quiet and very comforting in his answer. He wanted to reassure

Ontarians that he was looking after it. Four recommendations were dealt with; three others to be followed by July. He makes no mention of what those three things are. But he wants to assure my colleague Mr Christopherson that everything's OK.

Mr Christopherson, of course not entirely happy, continues and asks a supplementary and raises other questions. Then the answer from Mr Eves is: "There is no cover-up, number one. Number two, though, I would like to say very directly to the honourable member that this government has no difficulty with referring the entire act to a committee of this Legislature for review." He makes it appear like somebody has been requesting this review. Nobody requested the review of the entire act.

What Ms Cavoukian said was that she wants a speedy resolution of the problem that did not permit her to investigate, as is her obligation, as is her desire to do, and this government put rule books in her way. That's all she said she wants. I'll go through the quote so I won't miss a thing, but you'll get a good picture of the fact that they were covering up. Minister Eves says, "No, we're not." Ms Cavoukian says in her quotations, as you will see, that there is covering up, and we're all reassured that we should go back home because everything is all right.

Here are some of the quotations from Ms Cavoukian: "The ministry submitted that it has been 'frank and open'"—and they say this so nonchalantly and so convincingly that some who don't know might be persuaded by M. Eves, who appears to be a very solid individual, very sincere, and by the way he communicates, so we'll just believe him. But she says, "The ministry submitted that it has been 'frank and open' and has 'made every effort to assist you with your review.'" She says, "We respectfully disagree...."

"The ministry's efforts to limit our investigation and its failure, in our view, to use its best efforts to ensure that its current and former employees co-operated with us has hindered this investigation." Remember the words by the minister: "We were frank and open. There was no cover-up." Let me continue with the quotations: "Co-operation has been difficult to obtain on occasion, but we have never before faced the level of difficulties or the number of obstacles experienced in this investigation." Keep in mind the backdrop: "We are open and frank. No cover-up." You have to keep that in the background.

Further with the quotations: "In our view, the ministry endeavoured to restrict the scope of the investigation and the investigative tools available to the IPC." It continues, "The ministry's response to our investigation stands in stark contrast to the co-operation provided to the government auditor who conducted their review (not privacy audit) of these events in August 1997.... According to the auditor, ministry employees had been clearly instructed to co-operate with him. Our office, however, was told by ministry officials that they were not in a position to instruct their employees to co-operate with us, not even to the point of encouraging them to participate in the interview process."

Speaker, you're going to miss all these other good quotations, but we'll see you next time.

**Mr Peters:** Read it in Hansard tomorrow.

**Mr Marchese:** Yes, read it in Hansard, Speaker, because I'm sure you'll enjoy it. To the now current Speaker, you'll enjoy these too.

"Despite our inquiries, we have been offered no explanation for these dramatically different approaches. As a consequence, we do not feel that the public interest has been adequately served."

Mr Tilson, I'm not sure you're enjoying these quotations, because I heard your speech and I don't know how it squares with your comments.

"All of the questions surrounding the 1997 disclosure of POSO," the office in question, "account holder information have not been answered, nor have all of the relevant facts been determined. This is unacceptable to us. It should be unacceptable to the government."

She says, in her letter sent to Minister Eves: "I believe that enough time has been spent studying this matter. The time for action is now." She wasn't saying to you, Mr Tilson, or to the minister or to M. Harris or any of you, "Let us send the entire act to the committee." She says, "What we need is an immediate response to the problems I have identified so that I can carry on with the investigation that I am obligated to do." So Eves says, in response to the member, M. Christopherson, he's got no problem sending the whole thing to committee. We didn't ask that. Ms Cavoukian didn't ask that.

## 2000

What in God's name could conceivably be the reason why they would want to send the entire act to the committee? Not, I would assume, to help Ms Cavoukian, because if they wanted to help her, they would have answered her request immediately, saying: "We have had enough study. Deal with it now." They want to send this entire bill to committee because the information that people have been getting has been sort of destructive to this government. Think of the number of cases that have been drawn out that have clearly shown that this government is covering up a hell of a lot of things and making it difficult for people to access this information. But because of our ability or the public's ability to get the information, we learned that more than 3,300 incidents of toxic dumping into Ontario waterways had occurred. It was an incredible leap, "under this corporate-fawning government," describes Michele Landsberg, "from previous pollution levels." They doubled or tripled, if I recall the number correctly.

These are the kinds of things we want to be able to get at. This government, I've got to tell you, has made it difficult, first of all, by charging exorbitant fees, making it not impossible but very difficult for people to access that information. Every request you make is costly. The majority of citizens, who don't have the backing of corporate friends, have a hell of a time accessing this kind of information. But because the general public is able to get this information and is able to make the government from time to time look bad—even though

there are times when I think this government has protected itself so well that it seems impervious to attacks; that's why I say they're so good—one wonders whether or not eventually they will crumble. It would be my hope, and in the not-too-distant future.

But people are getting the information in spite of the roadblocks, in spite of the hefty fees that they have charged since getting into government making it difficult for people, in spite of the fact that they took civil servants out of the process of making the decision as to what information gets released and put it in the hands of the deputy minister, making it very political, I would add. The deputy, after all, at the end of the day is there to serve the minister. That's their job. But it does in my view politicize what is seen and what is not, what is given out and what is not given out.

My feeling is that they want to bring it to committee to make it more difficult for citizens to be able to seek out the information they want, making it very difficult to protect the public interest. I think it should be in their interests as well, as it is in my interests and in the interests of every individual wanting to have that kind of democratic access to the information. So they want to send the entire bill for review. The motion that is before us by the member for Renfrew-Nipissing-Pembroke is to refer the report of Ms Cavoukian to the committee, and that is all we should do, because that is all she requested.

Mr Stockwell, the Minister of Labour, says there is no contempt and the government will pretty well block any legislative investigation. He said as much, that there is no contempt, there is no problem—suggesting, of course, they will block any attempt by any one of us, members of the opposition or the general public, to get at solving this matter.

I think we've got a serious problem with this government. I think our democratic institutions are seriously eroded. Witness that every bill of importance to us in opposition and to the public that follows politics gets to have one afternoon of hearings. As an example, the education bill: We were told a couple of weeks ago it was only going to get one afternoon, but I hear that, through the magnanimous generosity they're experiencing these days, they're going to give us two days of hearings.

They might give us two days of hearings on Bill 74, the education bill that severely limits the powers of boards and teachers. In fact, it takes away so many powers of individual teachers and boards and trustees that it deserves an appropriate review and an appropriate response by the teachers, the parents, the general public and the opposition who have an interest in reviewing those bills.

There is a pattern and the pattern, of course, is to block information, to deny information to the public, deny the information to the opposition, assuage the opposition and the public in not digging deeper for information because they've got all the answers. Not to worry, if they don't have the answers, they will find them and they will solve it. They don't need the public in-

volvement whatsoever, because this government is taking care of things.

The revelations made by Miss Cavoukian, in my view, bring a great deal of disrepute to this government which has attempted to cover it up, continues to attempt to cover it up and doesn't want to deal with it. By sending this issue to committee, I think it spells trouble for the office of the commissioner. It spells trouble to anybody opposing this government or exposing the ills of this government. I just want to urge the general public to beware. The septic tank is leaking and it's getting bigger and bigger by the day.

**Mr R. Gary Stewart (Peterborough):** It's a pleasure for me to speak to this resolution. As I look through the information that has been supplied, I think there are a number of key issues involved. Certainly, if you read the Speaker's ruling, it is not finding the government in contempt of this Legislature. To be in contempt you must show complete disregard for the commissioner's office or disregard for this House. I think it is very evident, and I will show as I go through my 20 minutes, that there was good co-operation. There was co-operation given that was not followed up and I believe there was no indication that there were obstacles put in the path of Ms Cavoukian's investigation.

Certainly it has been proven and I will show you that the release of the oath to the people who wanted to or could have spoken freely and frankly to the commissioner was put in place. As I suggested, contempt of the Legislature is blocking the offices involved. Blocking information has been suggested and I don't believe that happened.

Also, there were three legal opinions given and it kind of interests me when I find that three lawyers all agree. That is very unique in our society these days. No disrespect to the lawyers who are present, but it is a bit unique and I've been a bit involved with them over the years. In this particular case, the government had three legal opinions, all of which clearly stated the facts of this matter, that it does not support the opposition's allegation of contempt.

I just want to read a couple of them, if I may. One is suggesting: "Our opinion is that the Ministry of Finance did not breach the provisions of the act by participating in the inquiry leading to the POSO report. There was no indication that the Ministry of Finance denied the commissioner access to witnesses or that it prohibited staff or former staff from speaking with the commissioner."

It also goes on to say: "There is no suggestion that the ministry refused a direct request for particular documents or piece of information. In short, there was no evidence of obstruction."

#### 2010

This is an opinion of lawyers, all agreeing that in their opinion there was not contempt and that the ministry was very open and would allow people to speak very freely.

I have a letter from the Ministry of Finance to Dr Cavoukian, and I apologize to her if I'm not pronouncing her name correctly. I think the member for Renfrew

started out that way about a week ago, so I follow in your path, sir, and I do apologize to Ms Cavoukian. I would like to read a portion of this letter dated April 7:

"I think it is fair to say that we have made every effort to assist you with your review. We responded in detail to every question asked by the commission and provided every document requested. We quickly contacted the many individuals you did choose to interview, including many who are no longer in the Ontario public service, and we wrote to each of them indicating that the ministry was co-operating fully with the commission in its review.

"Current and former staff were offered legal counsel at ministry expense in preparation for their interviews and were released from their oath of secrecy to ensure their freedom to provide you with full and frank information if they chose to be interviewed." I want to just repeat that: They "were released from the oath of secrecy to ensure their freedom to provide you with full and frank information.... Similarly, the key individuals at Angus Reid and CIBC Wood Gundy were released from their contractual constraints to permit them to speak openly and freely with you."

It goes on to say:

"The documents provided to you identify over 40 individuals who were directly associated with the events in 1997. We note that you chose to contact only 13 of those individuals, many of whom you state you were unsuccessful in speaking with. Your suggestion that certain individuals were reluctant or refused to speak with you deeply concerns me. If you feel that anything has been overlooked in your review, perhaps there are others you might still choose to speak with. If there are any specific individuals whom you believe could be helpful to your review, I would certainly make every reasonable effort to facilitate their co-operation."

That is signed by the deputy minister. If that suggests there were roadblocks and a lack of co-operation on behalf of the ministry towards the commission, I suggest to you that something is drastically wrong.

As I've mentioned, that is from the ministry on April 7 direct to the Information and Privacy Commissioner.

I want to read another letter. This was on February 7, 2000, and again was from the Ministry of Finance.

"The Ministry of Finance is co-operating with the information and privacy commission in this investigation. As part of this investigation, the commission has determined that it would like to interview certain staff and former staff who may have some knowledge of this matter. In order to enable you to answer any questions that may be put to you by the commission as part of this investigation, the ministry is releasing you from the oath of secrecy you made under the Public Service Act when you were hired. The oath of secrecy is being waived only to the extent required to facilitate co-operation with this investigation."

I suggest to you that does not indicate or suggest that there was any type of contempt, that there was any disregard towards the commissioner's office, and I sug-

gest that we suggested they could speak freely and openly to the commissioner.

As mentioned to you, I believe there could have been open dialogue. There was one indication in the letter to the Honourable Ernie Eves from the commissioner, and it has been read today:

“My strong preference, however, is that these changes be fast-tracked in the form of a short bill, rather than referring this to a legislative committee.... While your suggestion of referring the entire act to a legislative committee for review shows the importance you are placing on the need to add the powers we require to protect the privacy of Ontarians....”

I believe that act has not been reviewed since 1991 and 1994. I suggest to you it is time that act was reviewed. When I listen to people involved who suggest, “Let us fast-track these things,” I get a little bit concerned. I’m concerned about whether there are things in the act that should be revisited, and in my opinion, of course, I have long been an advocate that sunset clauses are extremely necessary, that we can go back and look at it. I guess the Municipal Act is a perfect example of it.

I’m going to sit down, but I do feel that in no way is there an indication of contempt. I believe the co-operation has been there for the commissioner who wanted it. Unfortunately, the commissioner did not seem to want to talk to administration, did not want to talk to those of higher office. When I see that people like Rita Burak and David Lindsay and the Minister of Finance, the Honourable Ernie Eves, were not contacted, I suggest it makes it very difficult to write a report on this type of situation. I thank you for the opportunity of speaking to this resolution.

**Mr Ernie Parsons (Prince Edward-Hastings):** The facts in the initial part of this case appear to be relatively simple and clean. The Province of Ontario Savings Office made a gross and almost inexcusable error when they released the information to private firms, to Angus Reid and CIBC Wood Gundy. Nobody denies that. The part that amazes me is that given nobody denies it, the proper reaction from a responsible individual, minister or government, would have been to say: “We made a mistake. We very clearly made a mistake when we released what people consider to be highly confidential personal information.” But they didn’t react that way. It wasn’t that simple to them, and so the next part puzzles me, that people who are supposed to be responsible don’t take responsibility for their actions.

When I see that the finance ministry and the Privatization Secretariat chose to simply put obstacles in the way, then there is something fundamentally wrong with an organization that would allow that to happen, when they acknowledge that there is absolutely no question that wrong was done.

We would not be here this evening debating this motion if there had been people mature and responsible enough to say: “We made a mistake. We’ll work with you to make sure it doesn’t happen again.” But even worse, there appears to be no guilt, there appears to be no

shame whatsoever, for releasing information that, were it to apply to them, they would be most distressed that it was given out. But there’s no acknowledgement at all that they are ashamed of their actions; in fact, quite the opposite. The privacy commissioner has made it clear that their attempt was to block the investigation by simply not co-operating. Individuals paid by this province chose not to respond to questions from the privacy commissioner. How dare they? How dare they choose to say, “I will not be accountable or responsible to the citizens of this province”?

We have so many acts coming through here that include the word “accountability.” Everything is supposed to improve accountability, but when we really have the rubber hit the road, this government doesn’t want to be accountable for its actions. So we get straight obstruction taking place.

#### 2020

These civil servants, if we really think about it, don’t report to the government and they don’t report to this Legislature. They report to the citizens of this province. It is absolute, open defiance to say to the taxpayers, the citizens of this province, “We will not explain our actions.” If they don’t have to explain their actions, then there is the risk that those actions can be repeated.

There is a fine line between democracy and dictatorship. The cynic says that we have democracy one day every four years. We’re seeing that in action, and I have a better comprehension than I ever had before: As long as you’ve got more members than the other two parties in the House, you can do anything you want. There’s no limitation on your actions. That’s democracy. It doesn’t have to be in the best interests of the province; you just have to have more members than the other parties together.

For a group that came not to be government but to fix government, they haven’t fixed it very well. In fact, they’re going in the wrong direction. This is probably the best example of that.

I fear for the privacy commissioner from the viewpoint that when the Environmental Commissioner brought in a report that acknowledged what was going on, we got a new Environmental Commissioner. Now we’ve got a privacy commissioner saying that the government has not co-operated. I hope we don’t see history repeated in this case because we have someone who has chosen to do the right thing.

What is the government’s defence to their lack of co-operation? It’s to deny the lack of co-operation. Very clearly, in their minds the Privacy Commissioner must be wrong. They wanted to co-operate. The last time I heard that defence was last fall when we had the auditor bring in his report. The auditor produced numbers that showed, for example, that the privatization of highway maintenance in fact cost more than when the public forces did it. The response is, “He doesn’t know what he’s doing.” That’s an easy, flippant answer that can’t be substantiated with numbers.

**Interjection:** Do you think his job is in jeopardy?

**Mr Parsons:** I would not be shocked to see another auditor appear in this province. We very clearly have a government that says, "If you don't bring the right message, then we will get a new messenger."

Somewhere there's a president of some Conservative riding association making a phone call tonight, saying, "I'd like to be the privacy commissioner," and the name will probably appear at some stage.

They blame the message that was brought without recognizing what the real problem is. The problem is a lack of respect not just for the 50,000 people who had their information given out, but for all the citizens of Ontario.

It begs the question, what else has been given out that they haven't been caught at yet? We know there are wonderful arrangements with the corporation that bought the 407. When you drive through their entry point on to each of the expressway entrances, your licence number is shared with the ministry and they're given the information. That's an even better deal for the 407 company, though, because we're not only the Ontario government; we're also the Ontario collection agency. I have had individuals in my area who have had difficulty in collecting bad debts ask who exactly in the government they contact to collect their bad debts. I reply to them that you have to have a very special arrangement with them, and that was certainly a very special arrangement.

Why are we here? Why are we talking about an item that everybody acknowledges and yet we see a refusal? This could have been over last Thursday. This could have been finished and we could have been on to more meaningful things, but we're not seeing that happen. Instead, we're hearing code words put out there like, "We're going to review the freedom of information." This government speaks in code. In many cases they have mastered the technique of saying the opposite of what they actually mean.

It scares me when I see the lack of access that citizens now have to information. When I see that the privacy commissioner herself cannot get information out of the province, it causes great concern, and it should be of great concern to everyone in this House how average citizens in Picton or Belleville or Frankford or Desoronto will be able to find out what the government is doing

with their lives. The amount of information this government controls is absolutely awesome. We now realize that they are not terribly concerned about protecting that privacy as long as there's money involved. An average citizen wanting information through freedom of information will pay a substantial cost to get copies. Here in this case it's simply handed, *carte blanche*, to two companies that, bless them, were responsible enough and knowledgeable enough to say, "We shouldn't have this." But it's, "No, no, you take it; it's yours"—and now not prepared to face the consequences of an extremely bad decision.

I'm pleased to advise that I will certainly support this motion because I fear that this is the tip of an iceberg and, thank goodness, it has come to the public's attention.

**The Acting Speaker:** Further debate? No.

Mr Conway has moved that in light of the Speaker's ruling that a *prima facie* case of contempt has been made, the special report to this Legislative Assembly made on 26 April 2000 by the Information and Privacy Commissioner, Dr Ann Cavoukian, concerning disclosures of personal information made by the Province of Ontario Savings Office in the Ministry of Finance and the obstruction the commissioner encountered in the course of her investigation, be referred to the standing committee on the Legislative Assembly for its immediate consideration.

Shall the motion carry? All in favour will say "aye."

All opposed will say "nay."

In my opinion, the nays have it.

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

I have a letter pursuant to standing order 28, a request that the vote by the motion of Mr Conway be deferred until Tuesday, May 30. This will happen during the normal period for deferred votes.

Orders of the day.

**Hon Frank Klees (Minister without Portfolio):** Mr Speaker, I move adjournment of the House.

**The Acting Speaker:** Mr Klees has moved adjournment of the House. Shall the motion carry? Carried. This House now stands adjourned until 1:30 the clock tomorrow afternoon.

*The House adjourned at 2028.*

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