

Wednesday, October 4th, 2006



## Years after Doer's promise, Manitoba lacks privacy commissioner

**Wed Oct 4 2006**

### ***On the Cutting Edge***

A general election in the province of Manitoba is around the corner. Access to information and privacy laws are a key issue for citizens and businesses in the province.

So the politicians are asked by the Canadian Taxpayers Federation -- Manitoba, the Provincial Council of Women of Manitoba and the Manitoba Association for Rights and Liberties to complete a written survey entitled Democracy in the New Millennium.

One of the politicians hoping to become premier completes the survey and says that his party would "establish a (Manitoba) Privacy Commissioner as is the case in other jurisdictions."

When asked whether his party would amend the Freedom of Information and Protection of Privacy Act (FIPPA) to grant the Ombudsman the power to order the release of information from a public body, the response is simple -- "yes."

The politician's name is Gary Doer and the year is 1999.

Fast forward to 2006. Two elections later and Manitoba is one of the last provinces in the country not to have a Privacy Commissioner.

And the Ombudsman can still only "recommend" the release of information held by public bodies. Manitoba's access to information and privacy laws have become outdated.

These and other important issues were debated last Thursday evening at an all-party bear-pit session at the Winnipeg Press Club entitled *Government Secrecy vs. The Public's Right to Know: Where do the Political Parties Stand on Access to Information?*

The session was held on Sept. 28, the International Right to Know Day. This annual day celebrates and promotes the right of individuals to access information held by public bodies and the benefits of transparent and accessible government.

The session was attended by Gord Mackintosh of the governing NDP, Hugh McFadyen of the PC Party and Jon Gerrard of the Liberals.

It was a standing-room-only event that highlighted the value that Manitobans place on access to information and privacy laws. To their credit, all of the politicians demonstrated a reasonable understanding of the laws and issues at stake.

Among the partisan jabs between the panelists, a few comments by Gord Mackintosh are particularly noteworthy.

Mackintosh repeated a government pledge from a news release issued earlier that day promising that "(the government) will be introducing changes to the current legislation in the upcoming session to find ways that will improve access and privacy laws."

Some of the changes under consideration are "determining the best way to resolve disputes about access in consultation with the Ombudsman to see if they would be better performed by a separate office or position with enhanced powers."

More than two years after promising to overhaul the province's freedom of information legislation, months after voting against Mavis Taillieu's private member's bill to create a Manitoba-based private sector privacy law and seven years after Gary Doer's 1999 election promises to create a Privacy Commissioner and provide the Ombudsman with order making power, the skepticism of those in attendance was predictable.

The government's commitment to access to information and privacy laws will remain in question until the NDP actually delivers concrete legislative reforms.

Manitobans, regardless of political stripe, have a vested interest in ensuring that our access to information and privacy laws are updated. It's vital that our government remains open and transparent, that the Ombudsman (or Privacy Commissioner if created) has the necessary powers to enforce the legislation and that our privacy laws keep pace with reforms in other provinces.

So let's hope that the government's promises are fulfilled in the fall session of the Manitoba Legislature.

If you share my hope, please contact your MLA to advise that access to information and privacy is important to you.

*Brian Bowman is chairman of the Canadian Bar Association's National Privacy & Access Law Section and a business lawyer with the Information & Ideas Group of Pitblado LLP. He can be reached at 956-3520 or bowman@pitblado.com.*