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Standing Committee on Procedure and House Affairs

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Tuesday, November 1, 2005

—
Chair

The Honourable Don Boudria

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•(1110)

[English]

The Chair (Hon. Don Boudria (Glengarry—Prescott—Russell, Lib.)): Order, please. I see a quorum.

Honourable colleagues, as you will know, we are discussing this morning the order of reference of the House of Commons of Thursday, October 6, 2005. It is the matter—and I read it into the record—of the question of privilege raised by Mr. Obhrai of Calgary—East.

At that point, the Speaker ruled that there was a prima facie case of privilege. I'll read again the motion just so that.... Every now and then there are members who attend for the first time, so I want to ensure that we fully understand what we're doing.

[Translation]

Mr. Obhrai, the Member for Calgary East, seconded by Mr. Nicholson, the Member for Niagara Falls, moves the following:

That the process by which the Ethics Commissioner is conducting inquiries in relation to the Conflict of Interest Code for Members of the House of Commons, in particular the issues raised in the House by the Hon. Member from Calgary East on Monday, September 26, 2005, be referred to the Standing Committee on Procedure and House Affairs.

The question was put on the motion and it was agreed to. The motion is now before our committee. MP Deepak Obhrai has already appeared as a witness. We have also held a meeting with our law clerk and parliamentary counsel. Finally, our Ethics Commissioner, Mr. Bernard Shapiro, has agreed to testify once more. He is here with Deputy Commissioner Benson to continue the discussion that we started the other day.

No doubt you will recall that last week, a brief portion of the meeting was held in camera. I just wanted to mention that so that all Members are aware of what the committee has already done.

[English]

That being said, colleagues, we agreed last time that there were perhaps other questions to be raised, and we agreed to raise them.

Dr. Shapiro, as well there were things you wanted to add. I understand you have an opening statement this morning that may assist members in their questioning.

Mr. Bernard Shapiro (Ethics Commissioner, Office of the Ethics Commissioner): I hope so.

The Chair: May I ask you, then, to deliver it now?

Mr. Bernard Shapiro: Thank you, Mr. Chairman and members of the committee.

In fact, this is the third appearance relative to the October 6 motion of privilege.

I want to address four different issues. I will do them one at a time, so you can think about them more clearly. The first, which is perhaps the most difficult, but nevertheless certainly the most complex from my point of view, is the question of maintaining confidentiality. It relates to the constraints that I as Ethics Commissioner face in discussing information that has been obtained during the course of an inquiry. This specifically relates to the obligation placed on me pursuant to subsection 27(7) of the code, which requires that I conduct an inquiry in private. *À huis clos* turned out to be the French version of that.

In general, I accept the opinion provided by the law clerk to this committee last week that witnesses appearing before a parliamentary committee must provide answers to questions posed by members of Parliament. However, as a matter of parliamentary procedure and as an officer of Parliament, the Standing Orders provide that I must maintain the privacy of the information obtained during the conduct of my inquiries.

I must make it clear here I'm not refusing in principle to respond to questions by the members of the committee. That would be inappropriate and disrespectful. However, as an officer of Parliament, I must obey the Standing Orders of the House. If the House were to consider this matter and suspend the application of the obligation placed on me to maintain the privacy of the inquiry, I would then be in a position to discuss the facts of the case. However, until such direction is obtained from the House, I must continue to respect the Standing Orders.

Upon reflection—and I have thought about this as deeply as I can over the past few days—I believe whether in camera or otherwise, I would not have anything else to contribute to the discussion on this question of privilege without going into further details of the inquiry itself, which I do not believe I am at liberty to do. That's one issue: the question of confidentiality.

The second issue is one of reasonable notice, which is an issue that came up in the motion itself. On the question of reasonable notice, last week the law clerk identified that the obligation to provide notice only arises when an inquiry is self-initiated by the Ethics Commissioner, pursuant to section 27(4) of the code. The initiation of an inquiry as a consequence of a request by a member or by resolution of the House does not, from his point of view, require notice be provided to the member in question.

With respect, I do not actually agree with the law clerk on this point. I believe the rules of natural justice and procedural fairness require that the member in question be provided with sufficient notice, so that he or she is aware of the allegations being made against him or her.

With respect to the inquiry in relation to the member for Calgary East, I received a letter from the honourable member on July 26 asserting that Minister Volpe's initial letter of May 9 did not specifically request that I conduct an inquiry. I did review what turns out to be the somewhat ambiguous wording of the letter by Mr. Volpe. In response, and on the basis of the information available to me at that time, I decided to proceed with the inquiry as a self-initiated approach. Accordingly, a few days later on August 4, I informed the member from Calgary East I had self-initiated an inquiry as per the process outlined in the chart provided to you on October 20.

Before closing on this issue, I note the law clerk indicated that, in his view, the inquiry had commenced on May 9, 2005, the date Mr. Volpe sent me the two affidavits. Even if one agrees with the law clerk's conclusion that the inquiry commenced on that early date—and I do not, but nevertheless even if one did—it was clearly not by means of being self-initiated by the Ethics Commissioner. Therefore, according to the law clerk's own interpretation of the provision of the code, no notice was required to be given to the member in May. On the basis of the process outlined in the chart provided to you, my office followed exactly the appropriate process in this case.

The focus then must be on the fact I self-initiated the inquiry in late July, and prior to this date, preliminary fact finding was occurring. Again last week, the law clerk indicated that while it was his view there was no specific provision in the code to conduct preliminary inquiries, there is certainly no prohibition either. Again, this particular issue is another one of the ambiguities we discussed last week.

I certainly concur there is some ambiguity in relation to the interpretation of the code, as I've indicated previously. I believe once an inquiry commences, as a matter of procedural fairness, the member against whom the allegations are made should be provided with notice an inquiry has commenced. However, as we can see from the law clerk's comments, this is not a universal view.

•(1115)

In any case, the reasonableness of the notice does not in itself mean the member must receive a written notice. Reasonable notice can also be implied when an individual is aware from the outset of the nature and substance of the matters under investigation.

Indeed, the information provided by the honourable member for Calgary East supports the proposition that he was well aware of the nature and the substance of the allegations against him. This, I would submit, precludes him from being able to argue subsequently that he was not provided with reasonable notice, which I believe he was.

The third issue has to do with leaked information. One of the specific matters referred to this committee on the question of privilege relates to the quote attributed to me in the September 15, 2005, *Ottawa Citizen* article. The issue was whether this comment has breached the obligation placed on the Ethics Commissioner to

maintain the information gathered in the inquiry in private, thereby prejudicing the member.

As I have said previously, my comments merely confirmed the existence of an inquiry and did not relate to the contents of the inquiry itself. Again, I would refer the members to the law clerk's testimony on this issue last week, in which he said:

This supports the argument that what's private is the sittings, the meetings, the interviews, the in camera. ...as opposed to the fact of the investigation itself. That itself may not be what's in private.

Finally, I want to address, briefly I hope, process. With respect to process in his testimony last week, the law clerk identified several areas of the members' code where different interpretations can be made. Indeed, there are problematic areas and ambiguities within this section of the code and perhaps others. If you refer back to the Speaker's ruling on the question of privilege, the ambiguities that the law clerk has identified underscore the point that was made by the Speaker and myself that in relation to the process clarification is indeed needed. The law clerk had indicated their offices are working jointly on a project for the benefit of the Standing Committee on Access to Information, Privacy and Ethics regarding clarifications to the Parliament of Canada Act and the Conflict of Interest and Post-Employment Code for Public Office Holders.

If it is the wish of this committee to undertake a similar joint project in relationship to the Conflict of Interest Code for Members of the House of Commons, I'm of course quite prepared to work with the law clerk's office in developing such a project for you.

I'm now ready to answer the questions you have on the general process in support of inquiries. However, I would like to remind members again of the confidentiality requirement placed on me by the Standing Orders of the House with respect to any discussion of facts in relation to the now suspended inquiry of the honourable member for Calgary East.

Thank you.

The Chair: Thank you very much for this additional information, Dr. Shapiro.

I know that some colleagues have questions. I have one too. Maybe I'll let the full round proceed and then I'll ask the one that I had. Who wants to go first? Is it yourself, Mr. Reid?

Mr. Reid.

Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC): I'm not quite sure what to say at this point, Dr. Shapiro. I think I have never seen such an astonishing performance from a witness before a parliamentary committee in my entire life with the things you say here, your bizarre interpretations of the code, which could not conceivably be supported by anybody else, and, in some cases, your violations of your own rules.

Let me just go through some of the things you say that are wrong. I'm so angry at you for what you just submitted I cannot put this into a terribly coherent form, but here goes.

With regard to one of the things you say, and I'm quoting your text here, on the reasonableness of notice—we're debating whether or not it's reasonable to notify in the time you did—you say that the reasonableness of notice

...does not in itself mean the member must receive a written notice. Reasonable notice can also be implied when an individual is aware from the outset of the nature and substance of the matters under investigation.

No, that's not what it says. The conflict of interest code says, and I quote:

The Ethics Commissioner may, on his or her own initiative, and on giving the Member concerned reasonable written notice

Reasonable written notice, it's right there. Now, if you're saying that subsection 27(1) inquiry doesn't.... You've gone through your explanation there. But since you brought up the subject of it being reasonable notice, it says reasonable written notice. You're just wrong.

As for the pre-investigation versus a real investigation, we can all dispute whether or not it's a real investigation or a pre-investigation. Prior to the date on which you served written notice, you were—or rather Eppo Maertens, from your office, was—contacting people in India. I have a copy of an e-mail from July 7. This is no pre-investigation. If this is a pre-investigation, then an entire investigation can be a pre-investigation. This is just nonsense.

You say you believe that the rules of natural justice require you to inform the person under investigation. Then you say you didn't contact Mr. Obhrai. So you're not violating the rules, you're just violating your own internal rules. Where's the consistency here? You just admitted, you just said you violated the rules of natural justice, which you feel should apply. Here you are defending your actions.

What else is there in here? There's so much that I'm at a loss. Why don't you try answering some of that? I'd be interested in hearing what you have to say to justify yourself. How about explaining the one regarding the written notice, because that one really mystifies me there. Is subsection 27(4) only applicable when...? Just answer it. I'm upset.

• (1120)

The Chair: Okay, colleagues, please let us be maybe somewhat less personal.

Dr. Shapiro, please answer the question.

Mr. Bernard Shapiro: Yes, I think I was making the point about reasonable notice, not relative to this particular case, but in general, as one way of trying to figure out how it is that you proceed in a case when reasonable written notice is not required. It is clear, in this particular case, that written notice was required, and was in fact given as soon as a decision to do the investigation took place.

So I quite agree with you that in the case of the member for Calgary East, it is clear that written notice would absolutely be required once I made the decision in late July to proceed.

Mr. Scott Reid: Sorry, are you saying that when you proceeded in early July and your office was contacting India, that wasn't part of the investigation, but part of a pre-investigation? Is that your assertion?

Mr. Bernard Shapiro: Well, remember there are two phases to this. There was the phase up until the end of July or last week of July—I can't remember the exact date—in which I was conducting the investigation on the assumption that Mr. Volpe's letter had asked for it. It was not considered to be a self-initiated investigation by me at that time. It was when I heard from Mr. Obhrai on July 26 that I tried

to rethink that whole business, and then decided to proceed along a different way.

So that's how it happened in that particular case. I did in fact actually contact Mr. Obhrai. He contacted me at the very beginning and I contacted him after that; I did not ignore him.

The Chair: Mr. Reid?

Mr. Scott Reid: No, it's okay.

[*Translation*]

The Chair: Would one member of the Bloc Québécois care to ask a question?

Ms. Picard.

Ms. Pauline Picard (Drummond, BQ): One thing has troubled me from the outset, Mr. Shapiro. We talk a great deal about confidentiality and about holding in camera meetings. As you go about your inquiries, you and your staff must respect confidentiality provisions, in accordance with the code of conduct. Perhaps the code is not specific enough.

From the outset, I've been wondering about something, and I think this issue is critical. How can you agree to be interviewed by reporters while an in camera inquiry is ongoing? You maintain before our committee that you cannot answer questions because under the code, your answers must remain confidential. Yet, you agreed to an interview with a reporter.

In my opinion, judges should not speak to the media, since these inquiries are confidential. Such behaviour would be totally unacceptable. Yet, you've granted an interview. You say that you cannot disclose certain facts, and yet, as we can see from the article that was published, your comments raised doubts in the public's mind about a Member. The Member in question feels that his reputation has been tarnished.

I don't understand your speaking to the media. What you did was in fact very dangerous. You granted an interview to a reporter while the inquiry was still ongoing. The same fate could await any Member should you be assigned responsibility for conducting another inquiry. How can we repair the damage caused by the article about the Conservative Party Member?

Like judges who conduct inquiries, are you held to a particular code of ethics? This question troubles me and I don't know if you can answer it.

• (1125)

The Chair: Mr. Shapiro.

[*English*]

Mr. Bernard Shapiro: Just to give you the history of that particular interview, I did not agree to do an interview about this case; I agreed to do an interview to review the first year of the operations of the office. I haven't got the tape of the interview. I've asked for it, but they are not willing to produce it. It was in the middle of that interview that I was asked if there had been any self-initiated inquiries, and if so, how many—or something of that sort. I responded.

I do have a code, to answer your question, and it is that I do not deny the existence of an inquiry. If I'm asked and there is one, I say yes, there is one, just as there is another inquiry going on for some other reason. But I do not comment on the inquiry itself; I cannot. And I didn't comment on the inquiry itself.

What I can't avoid in this context—unless I conduct inquiries whose existence is secret—is the damage that may be done when someone is accused of something of which they may be quite innocent. That is the same in any kind of inquiry.

[*Translation*]

The Chair: Do you have a brief question, Ms. Picard?

Ms. Pauline Picard: You said you agreed to be interviewed because you were supposed to discuss another matter entirely. You were asked if you were conducting an inquiry and you answered in the affirmative, which I can understand. However, why did you mention the Member's name? As someone elected to represent my constituents, I have to believe that your job is to protect me.

At present, you are relying on all of your abilities and knowledge as a bureaucrat to inquire into whether the facts are true, whether the Member made a mistake and whether that person is at fault, or not. I now know that you agreed to be interviewed because you thought you'd be discussing a different matter. However, by admitting that you were conducting an inquiry and by disclosing the Member's name, you failed to protect this individual. We're no longer talking about in camera meetings and confidentiality. You sowed the seeds of doubt in people's minds, when in fact the details of the inquiry were not known to the public. Therein lies the problem.

As an elected official, I must be able to count on your protection. As long as I haven't been proven guilty...

• (1130)

The Chair: Thank you, Ms. Picard. I'm sorry, but your time is already up.

[*English*]

Mr. Bernard Shapiro: I think you outline a real problem. I try not to make a comment about the existence of an inquiry, unless to confirm that it actually exists. There have been three or four inquiries. They've all been in the public domain—not anything about them, but the fact that they exist. So when the Sgro inquiry was done, when the Grewal inquiry was done,

[*Translation*]

names were mentioned and this information entered into the public domain.

The fact that an inquiry is being conducted is not confidential. What is confidential is the details of the inquiry.

The Chair: Well, that remains a matter for debate. Clearly, committee members hold different opinions.

Let's go to our next speaker.

Mr. Godin.

Mr. Yvon Godin (Acadie—Bathurst, NDP): Thank you, Mr. Chairman. I'd like to pursue Ms. Picard's train of thought.

Unless I've misunderstood your comments, I'd say that there is a gap of sorts between what you told the reporter and the fact that an inquiry is being conducted, although the details of that inquiry cannot be disclosed.

[*English*]

Mr. Shapiro said he initiated the probe after determining documents sent to him in the spring were worth future examination—now you're getting into it—and said, “I have some material that suggests something inappropriate was happening. ...if true, it seemed worth looking into. If untrue, it will turn out not to be”.

Now you're making a straight statement to the media that you have documents that don't look too good. That's what I'm talking about. There's a difference between simply saying, “I have an investigation going on”, and, “I have material that could suggest that he's wrong”. You're getting into the part that is not acceptable to me.

Mr. Bernard Shapiro: I understand, and it may not be acceptable in general—

Mr. Yvon Godin: No, I'm not talking about in general. I'm talking about whether it's true that you said that to the media.

Mr. Bernard Shapiro: Well, I can't be positive, but it sounds right. I'm trying to remember. I asked for the tape and couldn't get it.

The Chair: Order. The problem is that when two people speak at once, the interpreters and others cannot properly record what is being said for Hansard. So please, let's have one person at a time.

Dr. Shapiro.

Mr. Bernard Shapiro: I can't recall exactly, but to me it sounds right, that it is what I said. I just haven't been able to re-examine the tape.

Mr. Yvon Godin: Okay. On that, Mr. Chair, do you think today, looking at it, that it's wrong to go that far?

Your statement is that you could say that there is an investigation, but that's it. You would not go further. If it sounds right that this is what you said, would you say that it's wrong?

Mr. Bernard Shapiro: I'm not sure. I'll try to be honest and try to respond. I heard the question.

It seems to me that you can't possibly be undertaking an investigation if there isn't something that looks worth investigating. So to announce that you're undertaking an investigation is the same as announcing that there's something worth looking at, or you wouldn't be undertaking it.

Mr. Yvon Godin: I'm sorry, but you're talking about a specific piece of a document. You're getting into it. It has it there in the contract. That's the problem.

Mr. Bernard Shapiro: I understand.

Mr. Yvon Godin: Well, if you understand, do you agree that it's wrong? Is there another way to do it?

The Chair: Again, one at a time, please.

Mr. Yvon Godin: Well, I'm the only one speaking right now, Mr. Chair.

The Chair: Yes, but if you have completed, maybe Dr. Shapiro can answer.

Mr. Yvon Godin: Yes, I will give him time to answer.

Mr. Bernard Shapiro: I think if I were doing it again, in the light of experience, I would certainly do it differently.

Mr. Yvon Godin: Thank you.

[*Translation*]

The Chair: Thank you, Mr. Godin.

Mr. Simard.

[*English*]

Hon. Raymond Simard (Saint Boniface, Lib.): Thank you very much, Mr. Chair.

I'd like to maybe refer back to Mr. Reid's comments about when you modify a pre-investigation to an investigation, because I think it's very important in terms of providing adequate notice to the member in question.

I know the law clerk indicated, if I'm not mistaken, that once the investigation leaves his office, at that point he feels it's no longer a pre-investigation; it's an investigation. But he did say that was a judgment call. I remember that very.... In my opinion, if you're speaking to someone in India, it's probably at the investigation stage. That would be my analysis.

So I wonder if you could just comment on that, please, and whether this committee at one point should maybe determine at what point a pre-investigation becomes an investigation. Maybe the rules on that have to be clarified.

• (1135)

Mr. Bernard Shapiro: The committee might well want to do that, and that's up to the committee to decide. I think, for me, the question of when a preliminary investigation becomes an investigation is when you satisfy yourself that you've gone from a suspicion of something to a reasonable apprehension that there's an issue at hand. That's the only criterion I can use, and when that is and how you get there is—

The Chair: Point of order, Mr. Reid.

Mr. Scott Reid: Mr. Chair, Dr. Shapiro was extremely worried last week that items being discussed in open discussion in this committee might prejudice the RCMP investigation into Mr. Obhrai. In particular, he was concerned about two items, and both of them know what those were.

Now this week, he actually gave the answer to an item—whether or not he'd thought it was a section 27(1) investigation when he started it—that last week he had demanded we go in camera about. Something that had to go in camera last time, he just answered without even being asked this time. Now he's talking about something that would prejudice the investigation—whether he's gone from having a vague apprehension to having a reasonable belief—when there is in fact an investigation under way. So I suggest that he cannot answer this question publicly without prejudicing that investigation.

I suggest that if he wants to continue answering this, we either go in camera, or better yet, he should just drop this particular response. I'm just astonished that this is coming out right now.

The Chair: All right.

Well, of course I have no idea at what point content may or may not be the subject of what is before other authorities. Your point, though, Mr. Reid, is noted, and of course our witnesses have heard it as well, and they can bear that in mind when they reply.

Dr. Shapiro.

Mr. Bernard Shapiro: I won't say anything further.

The Chair: Okay.

One more question. Yes, Monsieur Simard.

Hon. Raymond Simard: Well, just on that point, I think my position on this was very clear at the last meeting. I feel that one of the reasons we're here today is to protect people's confidentiality. I recommended that we go in camera for that precise reason. I'm actually surprised that we are discussing this openly today.

Mr. Jay Hill (Prince George—Peace River, CPC): He already said he wasn't going to answer.

Hon. Raymond Simard: I would prefer that we go in camera to protect not Dr. Shapiro necessarily, but the people he questioned. I know it poses a difficulty for us in doing our job, but in fact that is the dilemma we have right now. He's questioned people, I believe, under a certain code of ethics that would protect their privacy, and now we are asking him questions to reveal that information. I find that a little bit disturbing.

That was my position last meeting and it is my position again today. So I don't know if we want to discuss the whole in camera situation, but....

The Chair: All right, maybe we could continue with whatever we can do in public now, and at the end, if we decide to get together to prepare our report.... I don't know if we need to ask our witness more questions in camera, but there probably is a need for us to discuss the content of our report among ourselves in camera. I don't think there's a need for both, but of course I'm guided by the committee.

Anything else? Okay.

I have a question before the second round. Perhaps you can enlighten me, Dr. Shapiro, about how the process should work, and if it's not clear that it does, you can tell me. Ideally, I see it this way. Someone, call the person Mr. Johnson, lays a complaint against a member of Parliament who did something he believes is wrong. Say it's me, Don Boudria. Whether it's right or wrong, at that point, wouldn't I receive a notification saying "Another honourable member has complained that you, Don Boudria, have done something wrong. We want you to know about it. I've told the Speaker. I'm looking into it."

Wouldn't that technically be...? I don't want to refer to the case of the honourable member who is the subject of this; I want to pretend it's me for the purpose of how it works.

If that only holds true with one category of investigation or inquiry, as opposed to another one, then maybe there's something wrong with our rules. Shouldn't that be a universal truth? Somebody complains, whether it's the public, which causes a self-initiated kind, or it's another member, which causes another kind, or any other way of getting there. As soon as there's a complaint against a member, shouldn't a member be told, "Watch out, there is this complaint. We're doing some work. Stand by, and we'll get back to you when we have further news."

I'm just trying to see how this should ideally work.

•(1140)

Mr. Bernard Shapiro: That is how it should work, irrespective of the category of the inquiry.

The Chair: That the first person should know right away that there's been a complaint against him or her?

Mr. Bernard Shapiro: The actual process that I generally use—without commenting on this case—is to first call the person who made the complaint so I can clarify what it is that person has in mind and make sure that we understand each other. The next person I generally contact is the person against whom the complaint was made.

The Chair: Thank you.

I don't know if this assists other members in their questioning.

Mr. Johnston, it's your turn.

Mr. Dale Johnston (Wetaskiwin, CPC): Thank you, Mr. Chairman, and thank you, Dr. Shapiro, for appearing here again today.

I just have a few comments, and perhaps you can comment on my comments. They are not so much questions, just some observations.

I think every member on this committee and in the House should be concerned about the way the code of conduct has been administered. The way it is now, any member or even any private citizen can lay a complaint against us, and we can have these allegations plastered in the media. As you know, any elected person is not only judged by the Board of Internal Economy when they've done something wrong, they're not only judged by the criminal courts as to whether they've done something wrong; they're also judged by the court of public opinion.

The way this case was handled, in my estimation, is very much along the lines of someone standing up in a public meeting and asking you as the person presenting when you stopped kicking puppies or beating your wife or whatever. The allegation that wrongdoing has taken place is immediately in the public realm. I don't have to explain all the things that are wrong with that, but the very first thing is that the person who has been charged has never had an opportunity to explain the situation. Whether the specifics of the act say this is exactly how it should be administered, I would think that natural justice and fairness should prevail.

If a private citizen wants to say, for instance, that a member has been using his constituency office for something other than constituency business—let's say he's been holding fundraisers in his constituency office—the first thing he does is to notify the Speaker or the whip of the party, or both, and the Speaker then takes

some disciplinary action. But the first thing the Speaker does is to notify the member that a complaint has been raised against him.

Those are my comments.

The Chair: Do you have a reaction, Dr. Shapiro?

Mr. Bernard Shapiro: I agree with a lot of what you just said. In a sense, it somehow seems inappropriate to launch a grenade at people out of the clear blue, irrespective of which side of the political aisle they're on, so to speak. As you say, some damage is already done, irrespective of what happened. I think that's true.

That's why, on our website and through stuff like that, we're trying to encourage members of the public who have complaints to go through their MPs rather than through me. I think that I'm an inappropriate filter for this kind of thing. They need to go to an MP who has a right to launch a complaint. The general public doesn't have a right to launch a complaint out of the clear blue sky. I think that might help a little.

When an MP launches a complaint, I have no choice. When a member of the public comes to me, I can say do this, do that, do the next thing, or do whatever you want. But when an MP launches a complaint, I must conduct an inquiry. Unless I believe that it's absolutely frivolous, I must go forward. I don't have any way to protect the people who might be involved.

I accept the point; I think it's actually a very good point. I raised this issue with the ethics committee several months ago, when I was doing the first inquiry. I guess they've taken it under advisement. I'm not sure what they've done, but it's an issue that has to be dealt with in the near future.

•(1145)

The Chair: Mr. Johnston.

Mr. Dale Johnston: Thank you, Mr. Chairman.

Dr. Shapiro, every member of this House of Commons has entrusted you with a lot of sensitive information, not only about themselves but about their spouses, debts, assets, liabilities, the kinds of stocks they buy, and all of the rest of that stuff. If we can't be assured that you would undertake an investigation with better taste, for lack of a better terminology, than what you have done, how can we be assured the other information that we have handed over to you is going to be handled with better judgment?

Mr. Bernard Shapiro: That's something for other people to judge. The matter of taste is the matter of taste. I think I have done things honourably with respect to all of the people involved in the various aspects of my work. Other people might make a different judgment.

The Chair: Monsieur Gagnon.

Mr. Dale Johnston: Very briefly, I think it has certainly cast a shadow over the office. I'm sure that every person is uneasy about the information he or she has relinquished.

The Chair: Monsieur Gagnon.

[Translation]

Mr. Marcel Gagnon (Saint-Maurice—Champlain, BQ): Thank you, Mr. Chairman.

Like my colleague, the Member for Drummond, I too am a little shocked. To my mind, the Ethics Commissioner has a duty to protect Members. He has a responsibility to see to it that no one makes baseless accusations against me. If I become the target of an inquiry and if that inquiry is scheduled to take place behind closed doors, then I expect that to be the case. In my view, it's important for the person's name to remain confidential. If the person's name is disclosed, so too then should be your findings. You're experienced in political matters and you know as well as I do that we are public figures. As politicians, we are very often the target of accusations. We need only look at the polls to see the value the public places on politicians and to understand just how difficult a position we find ourselves in.

It's terrible to allow any doubts to persist. Back in 1983 when I was a member of the Quebec National Assembly, I lost some property because of flooding. I subsequently had to file a claim. During an election campaign, someone commented that perhaps I should be asked what I had done with the government's money, to test my honesty. Yet, I had only filed a claim to recover the losses on my properties. Nevertheless, my name was mentioned in the press and I lost the election. It is rather distressing to hear about similar things happening. I believe the role of the Ethics Commissioner is to protect us. I'm not saying that he should protect us if our actions are reprehensible. If an inquiry is supposed to be conducted behind closed doors, then that should be the case. Until such time as the nature of the inquiry can be disclosed, we must, for heaven's sake, keep quiet about the names of the parties involved.

I'd like to ask the Ethics Commissioner if this disclosure was merely inadvertent? If it wasn't, then in my view, this action is blameworthy and beyond explanation.

The Chair: Thank you, Mr. Gagnon.

Mr. Shapiro.

[*English*]

Mr. Bernard Shapiro: I would say that at the beginning of each of these events you do try to decide that it's not for nothing, that it's not vexatious, not trivial, and if it is you just refuse to proceed. You do try to make that judgment in each case.

Secondly, I think people do need to be protected. Of course, the House itself needs to be protected and the public needs to be protected as well. I think people deserve some sort of protection.

What I've been at a loss to figure out, and perhaps the committee could help me at some future time—I'm not asking for an answer now—is that there is an alternative; that is, assuming that everybody is disciplined. Remember, the leaks that generally occur in this are not from my office; they're often from the people who are launching the inquiry, who often give press releases and do all kinds of things. I can't control that.

I could imagine two things. You could imagine this whole thing going on in secret, including the fact that there is an inquiry. It's hard to imagine, but you could imagine it. It's the opposite of transparency, but it would have the advantage of protecting the person more fully. I do accept the fact, as I mentioned to Monsieur Godin, that if I were to make another comment it would be a different kind of comment. You do learn from these kinds of

experiences, and I accept that point. But it would not, in most cases, keep the fact of the inquiry from becoming public. I usually don't make that public; it's usually the people who are involved themselves.

• (1150)

[*Translation*]

The Chair: Thank you.

Mr. Godin.

Mr. Yvon Godin: I'd like to come back to a comment you made earlier, Mr. Shapiro. You stated that a citizen could not file a complaint, that he needed to go through a Member. In this particular instance, the complaint was lodged by a minister. That was in May.

If a complaint is lodged against a Member, it is normal for you to advise that Member of the situation. It's not a question of informing the Member that you're planning to follow up on the complaint, or not, but simply of advising him that a complaint has in fact been filed. When a minister files a complaint against a Member, it's a serious matter! It's normal for the Member to be informed. However, the Member shouldn't have to verify this fact by phone three months later after learning that a complaint has been filed against him.

[*English*]

Mr. Bernard Shapiro: I'm finding it difficult to respond without responding on the actual details of the case. All I can really say is that in this case, it was very much earlier than August 4 that the honourable member for Calgary East knew—very much earlier, I would say.

Mr. Yvon Godin: Knew from whom? From you?

Mr. Bernard Shapiro: I don't know if I can say this. I guess I can't, because I'm just going to be saying things I shouldn't say, which will make it even more difficult for the member for Calgary East.

I just can't respond. I'm sorry.

Mr. Yvon Godin: The whole question of what we're doing here, I think, is to have a process if a complainant comes to the commissioner about another MP. And for sure, we don't want to cover MPs if they're doing something wrong. You're not there to protect us if we do something wrong. We didn't put a commissioner there to protect us if we do something wrong. I think that's clear, and everybody knows it.

It kind of sounds like we're defending ourselves, but that would be wrong to do that. At the same time, you're not there to destroy an MP if he's not guilty, and I think you're getting the message on that.

For the future—and I'm not saying if it's you or somebody else—if you get a complaint from an MP, I think that's pretty serious, and the other MP, against whom the complaint is going, should know about it.

Mr. Bernard Shapiro: I agree.

The Chair: Madam Longfield.

Hon. Judi Longfield (Whitby—Oshawa, Lib.): Thank you.

Much of what I wanted to cover has been covered, but I agree totally with what I've heard from Monsieur Godin.

And while I'm not prepared to talk about the details of the investigation or the scope of the investigation, because I think it would be very dangerous for this committee to determine what the scope of the investigation should be, I think it's absolutely imperative that this committee has an obligation to ensure that there are procedures that have to be followed, which includes the notification, whether it's self-initiated, whether it's MP-initiated, or whatever; that we have procedures that are clear, that are fair, that leave no room for you to make a determination that "Well, it's only a preliminary one, so I really don't have to notify". I think the second there's any hint that there's going to be any kind of an investigation, we should have some pretty detailed procedure that indicates it should be written out.

I agree that the act is fuzzy, and that if it's one kind, it says this, and if it's another kind, it says that. But I think we found out that this is not good enough.

You have said—and I think we should take you up on your offer—that we need to sit down and make certain that this code is clarified, that the procedures are set out in stone so that on a go-forward basis we're not in this grey zone. So I think that's one of the recommendations this committee needs to take up. I know there is going to be a lot of to and fro about when and how in terms of the notification, and we're going to have to clarify that. But on this one thing, I think we all agree: you went too far in your comments to the reporter.

You're suggesting that everybody knew there was an investigation and everybody knew that there was some documentation out there as a result of the minister's letter and Mr. Obhrai's comments back and forth. I agree with the committee members opposite, that by saying that you had material—and I'm not going to go into the quote—that it appeared on the surface that you did prejudice the case.

I wish you were more contrite about it. I would be happier if you had said, "In hindsight, I went too far. I should have said 'No comment', or 'There's an investigation', and left it at that." By wanting to say, "I have information that, on the face of it, if it is proved to be, raises some doubts", I think did—and I think the member has every right to feel that there was some violation of his privacy.

I'm saying that in the future I think you should live by "There's no comment". Judges speak through their decisions, and you fill that role as a judge or as an investigator. I just think it's inappropriate in any way to comment on it.

Those are my views. I guess if you want to rebut or if you have a different perspective, then in fairness, you should have that opportunity.

• (1155)

Mr. Bernard Shapiro: I don't disagree with you, and I don't want to enter into a rebuttal. It was my sense at the time that I gave the interview that I had made a non-controversial statement and a non-prejudicial statement. It certainly didn't say anything about the substance of the case.

I do understand, however, what you've said, and I think that "no comment" is better than what I actually did say.

Hon. Judi Longfield: Thank you.

The Chair: Thank you very much, Madam Longfield.

Mr. Hill.

Mr. Jay Hill: Thank you, Mr. Chair.

I think what you're sensing here is a lot of frustration from the committee members, Dr. Shapiro, with the defence of your actions.

I just want to pick up where Madam Longfield left off there, because she said she didn't want to reread the quote, but I will. And your reply to her was that you felt that your statement was non-prejudicial and didn't imply anything.

As I said during our last meeting, and I'll repeat it here, I'm not a lawyer. It would seem to me that when you've said "I have some material that suggests something inappropriate was happening"... As I said in the last meeting, when you say that in your capacity as the Ethics Commissioner—and I'm not a lawyer—I would think that the legal opinion.... And we can call a number of lawyers before this committee and ask them what their legal opinion is. I would think that a direct quote like that, which you have not disavowed, implies something unethical was happening. Therefore, as my colleague Mr. Johnston said earlier, in the court of public opinion, it damages that individual. Do you dispute that?

Mr. Bernard Shapiro: I don't want to dispute it because I'm not quite sure how I would—

Mr. Jay Hill: Did you ask for a legal opinion in hindsight when you make the statement that you don't think that implied any guilt? Did you ask a lawyer, or are you a lawyer?

Mr. Bernard Shapiro: No, I didn't.

Mr. Jay Hill: You didn't even ask for a legal opinion, yet you sit before us and say you don't think that statement implied any guilt.

Mr. Bernard Shapiro: That's correct.

Mr. Jay Hill: You haven't asked a lawyer.

Mr. Bernard Shapiro: That's correct. I think that the—

Mr. Jay Hill: Do you believe that you were wrong in that statement? I'm trying to figure out here, in the interests of the other 306 MPs, 307 if I include myself, whether next week or next month, if you were asked a similar question by another reporter about a case, you would reply similarly.

Mr. Bernard Shapiro: No, I would not.

Mr. Jay Hill: Then you believe that you did something wrong.

• (1200)

Mr. Bernard Shapiro: I believe that, but I don't believe that I did something prejudicial to the person.

Mr. Jay Hill: How much time have I left?

The Chair: You have lots.

Mr. Jay Hill: The other issue that you raised, in reply to an earlier question from Mr. Godin, was that the member in this case knew very much earlier than August. He knew, so obviously he had some understanding, but the problem there, Dr. Shapiro—and this is what I tried to get at as well during the last meeting—is when, in your opinion, a pre-investigation becomes an investigation.

Let's, just for argument's sake, say that a member, whether it was Mr. Obhrai or some other member, is aware of and discusses with you, tries to convince you that this is frivolous—how is it in the Standing Orders?—frivolous or vexatious or the allegation was not made in good faith. The member is trying to convince you of that, and yet to his or her knowledge, there actually is no investigation launched because in your mind it's still a pre-investigation, whatever the heck that is. I tried to ask you in the last meeting when a pre-investigation becomes an investigation, which, under the Standing Orders, requires written notice—not that the member attends your office or talks to you over the telephone or makes other information available to you to determine whether there even should be an investigation. When does a pre-investigation, in your mind, become an investigation and then require written notice?

Mr. Bernard Shapiro: I would say that would simply vary depending on the material you have at hand as to the extent to which it's clear or not clear or needs supplementary consideration. There is no way of knowing in advance when that's going to be.

Mr. Jay Hill: Then in every individual case you're saying that it's going to be up to you to determine whether it's actually a pre-investigation or actually an investigation.

We heard the legal opinion of the law clerk, which you dispute today, that an investigation would become an “investigation” once activity takes place outside your office. You dispute that, but you offer us the alternative that it becomes an investigation only when you determine that it is such. Anything prior to that you could say is a pre-investigation and therefore no written notice is required. Whether you're phoning and employing people in India or calling family members, putting stress on family, in your mind, that's just a pre-investigation.

Mr. Bernard Shapiro: It might be. It's “no comment” on this particular case.

Mr. Jay Hill: This is why we are so frustrated.

Mr. Bernard Shapiro: Yes, well, it's not only you who are frustrated.

The Chair: Thank you very much, Mr. Hill.

I have Mr. Reid, who has indicated, and no one from the other side.

Mr. Reid.

Mr. Scott Reid: Thank you, Mr. Chair.

I'm going to take a somewhat different item to ask you about.

At the last meeting I drew to your attention the fact that you were in violation of subsection 30(1) of the code, which says:

30.(1) The Ethics Commissioner shall submit any proposed rules for the administration of this Code to the Standing Committee on Procedure and House Affairs.

You pointed out that you were very busy and had been distracted, and I, at that point, said, “Look, I'm not trying to criticize this. I'm drawing it to your attention and asking you to have copies of all your procedures and rules for the administration of this code to us at this meeting?”. The clerk tells me he hasn't received them from you. Do you have them here?

Mr. Bernard Shapiro: We have the procedures. I think we distributed them on October 20. I think that was the day we distributed the charts to which you referred last time.

Mr. Scott Reid: Do you have any other procedures that are in use in your office?

Mr. Bernard Shapiro: No, those are the ones we're using.

Mr. Scott Reid: You have nothing for any other aspect of the ethics code whatsoever?

Mr. Bernard Shapiro: Well, there are all kinds of procedures that we have for assessing whether people are in compliance with the code, for example, and things of that kind. But that doesn't relate to this particular questioning and these inquiries.

Mr. Scott Reid: No, it relates to subsection 30(1) of the code, which says:

The Ethics Commissioner shall submit any proposed rules for the administration of this Code to the Standing Committee on Procedure and House Affairs.

My question is this. Do you have any rules in operation within your office for the administration of this code? If you have any whatsoever and you haven't submitted them to this committee, you are then in violation of this code. Not only that, by not having brought them here after you were asked the last time, you were in wilful violation of the code.

I again ask you this question. Do you have any other procedures whatsoever for the administration of the ethics code, all 32 sections of it, and not only the stuff that relates to Mr. Obhrai? A yes or a no would be nice somewhere in your response.

• (1205)

The Chair: Mr. Shapiro.

Mr. Bernard Shapiro: If you're asking whether we have protocol written out, as we have for the procedures that are ultimately required, the answer is no. We have a whole set of procedures that are used in the office to bring people into compliance, and that's only part of the ongoing operations of the office.

Mr. Scott Reid: You're saying that you have rules that are not written down but are essentially verbal. How do you ensure that they aren't subject to change from one case to the next, which would presumably infringe upon the natural justice that you cite as being so important in your presentation today?

Mr. Bernard Shapiro: First of all, you should know that I didn't design the code. But in the way it has been designed, it's based on a set of principles out of which you try to enunciate the process through a kind of common-law approach to the area.

We have a policy book wherein revision is now ongoing, so that we can avoid the problem you have raised.

Mr. Scott Reid: Have you used any parts of the policy book at any point in the past, or is it all only proposed and not yet put in place?

Mr. Bernard Shapiro: No, it has been used for about 15 years.

Mr. Scott Reid: I want to read to you subsections 30(1) and 30(2) to make it clear how you are violating the rules here.

I've already read subsection 30(1):

The Ethics Commissioner shall submit any proposed rules for the administration of this Code to the Standing Committee on Procedure and House Affairs.

Subsection 30(2) is:

Any rules approved by the Committee shall be reported to the House and shall come into effect when the report is concurred in by the House.

Until that time, it is a violation of this code to use those rules.

You're now telling me that a series of rules that have been around for 15 years, which cannot have applied to this code because this code wasn't in effect 15 years ago, are being used by you and have not been submitted to this committee. You were asked to submit such rules to this committee the last time, not to sit around and work on them further. While using them prior to implementing them, you are in violation of the code.

Can I take it that you will submit these to us post-haste, within 24 hours? Would that be reasonable?

Mr. Bernard Shapiro: No, it would not. It wouldn't. I couldn't do it.

The Chair: Okay.

Mr. Scott Reid: I'm sorry, Mr. Chair.

I have one more question, Mr. Chair, if you don't mind.

The Chair: Sure.

Mr. Scott Reid: What is your reason for not having followed through on our request from last time? It was a specific request made to you. Why did you not comply with it? Why did you not give any explanation as to why you weren't complying with our request, until I raised the question right now?

Mr. Bernard Shapiro: I understood the request last week to relate to the procedures relative to inquiries, and those you have.

Mr. Scott Reid: You just said that these relate to inquiries. You just said that you make decisions as to whether it's worth pursuing an inquiry or not. You have rules that are not written down, but they've been in effect for 15 years.

Unless I'm completely misunderstanding your testimony—I'm going to have to review the blues afterwards—you either have written rules and they've been in effect for a long time, in which case you could easily submit them, or they're not written down, in which case they are arbitrary and therefore dangerous, because one rule could apply to me and one to the next MP.

I must say that I find your response incomprehensible. You have rules that are written down, they've been there for 15 years, and you could have submitted those. That's a starting point.

You could have sat down, which I suggest you do, and said here are the verbal rules, because we haven't written them down yet, and we'd like to submit these to give you an idea of what's going on. You could say that some of this stuff hasn't been firmed up yet. There are a whole bunch of things you could do that would not cause you to violate this part of the code.

I want to be clear on this. You are violating the code, and by having not responded from last time, you are wilfully violating it. I guess I want to go on the record and say how disappointed I am by that.

The Chair: Thank you, Mr. Reid. Let us give an opportunity for Dr. Shapiro to answer.

Mr. Bernard Shapiro: I have no comment.

The Chair: Okay. That may lead to other questions, but I'd like to ask one. Then I'll get back to you, Monsieur Godin. Maybe it relates a little to what was asked.

Could the committee receive information from you pursuant to section 30, and if so, when? Recognizing that you say not all of it can be done within a certain timeframe, what could we expect to receive pursuant to the section 30 requirements, which, of course, have been dictated to us by the House?

Mr. Bernard Shapiro: I don't know the response, because I'm not sure just how much would be involved. But I'd certainly be willing to have a response by next week that would at least fill you in on the issue.

• (1210)

The Chair: Thank you. So next week we'll get a letter that will outline "we could submit the following" on such a date, and so on. Is that what I'm hearing?

Thank you. That's helpful.

Monsieur Godin.

[*Translation*]

Mr. Yvon Godin: Mr. Chairman, that's precisely what our colleague inquired about last week. I want some assurances that the committee will receive these documents.

The Chair: Indeed.

[*English*]

Are there any other questions?

Madam Longfield.

Hon. Judi Longfield: On October 20 you gave us several pages on a self-initiated process in support of an inquiry request and a process in support of a House request for an inquiry. Is it your view that these in some way form part of the section 30 requirements?

Mr. Bernard Shapiro: Yes.

The Chair: Thank you very much, Dr. Shapiro, for being with us.

Colleagues, is it your wish that we do anything else at this point, having terminated this part? Do you wish to have a few minutes to discuss among ourselves? What is the pleasure of the committee?

Mr. Johnston.

Mr. Dale Johnston: Mr. Chairman, I think it would be probably appropriate if we were to excuse the witnesses and then go on to talk about what is going to be entailed in—

The Chair: In other words, to move in camera? Is that what you're moving?

Thank you.

The staff will take the necessary measures to move us in camera.

Thank you, Dr. Shapiro. Thank you, Mr. Benson, for being with us this morning.

To all those people who, shall we say, are not supposed to be here, you know what you're supposed to do.

The staff of individual members, as they know, can be here, as well as our own research staff. That's understood, and all of you know that procedure already.

By the way, Mr. Johnston has moved that we be in camera, but I did not ask for a vote. Is it agreed?

(Motion agreed to)

The Chair: Let us vacate the premises so that we can then have a discussion among ourselves. I thank everyone for their understanding. If there is not a sign outside saying "in camera", I'm sure someone will arrange it.

[*Proceedings continue in camera*]

• (1212) _____ (Pause) _____

• (1245)

[*Public proceedings resume*]

The Chair: We're back in business.

That being said, would you like to share the content of what you have, recognizing, members, that this is not something we can suspend the issue of privilege on? But we'll receive it, and then of course members can do whatever we want to do.

Madame Redman.

Hon. Karen Redman (Kitchener Centre, Lib.): Thank you, Mr. Chair.

My understanding is that not meeting on Thursday was to allow for that other issue to carry on. So I would respectfully submit that we could deal with this on Thursday, because it's not on that same topic.

My understanding is that everybody has received this electronically. You are now receiving the hard copy. It's a motion that says.... I guess if everybody has it before them, I don't have to read it. But basically, it's dealing with the issue of ten-percenters. As we all know, householders are not sent to anybody's riding except the actual member's, which is why I chose to zero in on the ten-percenters, which currently can be sent by individual members of Parliament to other ridings. And regroupings can be sent sort of centrally on behalf of any party. Over time, I have received, as whip, many objections from individual members.

I want to point out that I think the elasticity of the existing rules has been tested, and generally speaking, I would imagine that we can all come up with examples on every side, from every party, that we wish hadn't been sent. So I don't mean by bringing this forward to in any way presume that there perhaps haven't been Liberals out there testing the elasticity of the parameters of ten-percenter rules, as well.

I think, Mr. Chair, that I would like to have a healthy public debate about this. I think we would have to ask specific staff and bureaucrats, perhaps, to come forward to give us some of the information we may need for this conversation. As we all know, there are no limits on ten-percenters, so I think it's an issue, from where I sit. And certainly when I talk anecdotally to colleagues, it

has really grown exponentially. So I think if we could call House staff forward—I would think perhaps people from printing—we could get a handle on exactly what this looks like and maybe have a healthy debate.

I bring this forward because I personally feel that maybe we're using these ten-percenters in a way that wasn't originally meant. I would have to underscore that I absolutely believe that each one of us has the right and the obligation to converse with our constituents. As whip, I have had many examples brought to my attention. I think this is something we need to act on. That's why it states that the Standing Committee on Procedure and House Affairs would request that the House direct the Board of Internal Economy to restrict the use of ten-percenters.

The Chair: Thank you very much.

Mr. Jay Hill: I have a point of order on this.

The Chair: Yes, but I'll recognize you in a second.

I have to make all members aware that in ten minutes we lose this room. There is a meeting of the Liaison Committee in here. So I want to alert all our colleagues to that.

Mr. Hill, you have a point of order.

Mr. Jay Hill: I'm uncertain about the admissibility of this. My understanding is that the ten-percenters, those types of things, fall under the responsibility of the Board of Internal Economy. So I guess I would ask for an opinion by our clerks as to whether this is something that is admissible without it being referred here from the House. Can we all of a sudden undertake, as the honourable whip for the government has suggested, a study and call witnesses on this issue, when my understanding is that it doesn't fall under our purview? So can we initiate this without it being referred here either by the board or by the House of Commons?

The Chair: I've just been informed of some of our rules here. Standing Order 108(3)(a)(i) gives us this kind of authority, and I'll read it:

The mandate of the Standing Committee on Procedure and House Affairs shall include, in addition to the duties set forth in Standing Order 104, and among other matters

—so it's not limiting, but it's a description, and it can go beyond—

(i) the review of and report on, to the Speaker as well as the Board of Internal Economy, the administration of the House and the provision of services and facilities to Members provided that all matters related thereto shall be deemed to have been permanently referred to the Committee upon its membership having been established;

Once the committee is established, that becomes a permanent order, so it is part of what we do.

In any case, what we could have our clerk do is review this and give us a further opinion at our next meeting just to ensure that we have it right. In addition, please remember that this is not limiting because it says "among other matters".

Finally, Standing Order 108(1)(a) gives us a form of blanket authority under “Powers of standing committees” to examine: “Standing committees shall be severally empowered to examine and enquire into all such matters as may be referred to them by the House, to report from time to time....” Then Standing Order 108(2) really gives us effective blanket authority to report on just about everything, though it doesn't mean the House has to listen to us.

In any case, we'll have all that verified and an opinion given to you at the next meeting.

With that being said, we'll have to continue that debate at that time—unless you want to continue now, but they're not going to have any time to set up the room.

What is your intention? Do you want to sit this Thursday? We're not in camera now.

• (1250)

Hon. Karen Redman: Yes, why wouldn't we sit Thursday when we have something before us?

Mr. Yvon Godin: I don't want to sit for this.

Hon. Judi Longfield: Can we decide what...? It's the motion before us.

Mr. Yvon Godin: No. I have the right to have my opinion, and my opinion is I'm not ready to sit for this. It's not to be unfair. There is a motion in front of us; I want to consult with my party and we want to discuss it. The motion is very clear. I'm not ready...if we have the majority say I don't want to talk about it on Thursday.

The Chair: Now, this motion has been shared with us but it hasn't been formally moved yet. Is it your wish to do that now, Madam Redman?

Hon. Karen Redman: Yes.

Hon. Judi Longfield: On a point of order, I think we're creating a very dangerous precedent if a majority of members of a committee can decide they don't want to discuss an issue that's put before them. I can see all kinds of things down the way where—

Mr. Jay Hill: We already discussed that. It's always determined by a vote.

Hon. Judi Longfield: But we're not making a decision on it now. It's whether we're going to hear it.

The Chair: Madam Longfield, yes, but that's part of the debate we're in fact engaging in right now.

But one moment, please, before we get there. The motion has been formally moved and now it's before us. Now, of course our committee has a scheduled time slot for Thursday, and we do have a number of items of business before us. You will know what they are.

The private member's bill, of course, we cannot do this week because the next step for us is to listen to the minister. That's on Tuesday. The question of privilege we can't do this Thursday because of course...no, that's the Tuesday. Then on Tuesday the rest of the time is to look at our report.

We also have referred to us by the House, and that is already before us, Bill C-63, which is to give effect to a provision of the Canada Elections Act that would be suspended if we were not to deal

with it. That's been referred to us and it's already before us. That of course is before the item being referred to us today.

I'm only giving you these items in sequence. If we do sit Thursday, then you'll have to decide which item of business we're going to do Thursday, but I'm outlining to you that we also have other items of business, should that be our intention.

Monsieur Godin.

• (1255)

[*Translation*]

Mr. Yvon Godin: Mr. Chairman, I didn't say that we wouldn't debate the motion. I merely said that in my opinion, there is no reason why we couldn't defer consideration of the motion expected Thursday until later. We're not setting a bad precedent by saying that we're not prepared to debate it at this time. We've seen the motion and it will be debated. We're not trying to prevent that from happening.

Before Ms. Redman tabled her motion, we had already agreed that we would not be sitting on Thursday. That's what we decided. The question is, do we want to have a meeting? All of a sudden, Mr. Chairman, you say there is a list of items that we could attend to. You agreed that we wouldn't sit on Thursday. We all agreed to that. No one raised any objections, until Ms. Redman tabled her motion. I want to review that motion with the members of my party.

The Chair: Fine. We'll examine the motion when we reconvene.

We still have Bill C-63 to consider. In my view, if members wish to sit on Thursday, this bill could be a priority item, given that it was referred to us by the House. It's the next bill on the list.

Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ): There is also Bill C-312.

The Chair: We're scheduled to examine that bill on the Tuesday after we get back.

Mr. Michel Guimond: Yes, but it's a priority item for Thursday...

The Chair: No. The minister is not available. He will be available on the Tuesday after we get back. That's why it's on the agenda. Before you arrived, we put in on the agenda, based on the minister's availability. So then, the minister will appear before the committee on the Tuesday after we come back. Is everyone fine with that? Good.

Earlier, we had agreed not to sit on Thursday. If we do have a meeting, we could examine Bill C-63. There's a problem, however. The same minister is scheduled to speak to Bill C-63. If he can't be here for the other bill, then it won't work out for this one either.

[*English*]

What is your wish? We had decided we were—

Mr. Jay Hill: Mr. Chair, I move that the next meeting of procedure and House affairs be the Tuesday after the break week.

(Motion agreed to)

Mr. Jay Hill: I have a point of order before we adjourn. Where does this leave the motion?

The Chair: The motion is duly moved. It will be there and we'll put it into sequence within our order of business, and each one of us can consult our caucuses meanwhile.

Mr. Jay Hill: But after a motion is duly moved, for it to go beyond into our order of future business, doesn't the motion have to be passed?

The Chair: Well, it's not passed, but we have to adjourn now. It will stay there; it has been duly moved. Consider it a notice of motion, I guess, because we have not finished. We have a number of other items we've started and they're not passed either.

Mr. Jay Hill: So it's considered a notice of motion, then.

Mr. Dale Johnston: It's considered an item on the agenda.

The Chair: It's an item on the agenda; it's moved and we'll leave it there. We can't do it right away because we have two other bills plus one question of privilege.

Can I have a motion to adjourn?

Mr. Scott Reid: I move to adjourn.

(Motion agreed to)

The Chair: We are now adjourned..

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