



House of Commons  
CANADA

# **Standing Committee on Access to Information, Privacy and Ethics**

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ETHI • NUMBER 019 • 3rd SESSION • 40th PARLIAMENT

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**EVIDENCE**

**Tuesday, June 8, 2010**

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**Chair**

**Mr. Paul Szabo**



## Standing Committee on Access to Information, Privacy and Ethics

Tuesday, June 8, 2010

•(1110)

[English]

**The Chair (Mr. Paul Szabo (Mississauga South, Lib.)):** This is meeting number 19 of the Standing Committee on Access to Information, Privacy, and Ethics. Our order of the day, pursuant to Standing Order 108(3)(h)(vi), is our study on allegations of interference in access to information requests.

This morning's scheduled witness, as an individual, is Ms. Jillian Andrews, former policy advisor, Department of Public Works and Government Services Canada.

This morning I received an updated report from the bailiff, which I'd like to advise the committee about. It's quite short. It is dated June 8—today—and is from Kilrea Bailiff and Process Servers. The agent is Mr. Jay Fox. He reports:

On June 3rd, 2010 I attempted to contact Jillian Andrews to make arrangements to serve the Summons from the Standing Committee on Access to Information, Privacy and Ethics. I called Ms. Andrews on three occasions between June 3rd, 2010 and June 7th, 2010. I left three voice mails outlining that I had a summons from the House of Commons to serve on Ms. Andrews. On June 7th the receptionist confirmed that Ms. Andrews was in the office however she was unavailable.

I have yet to receive a return call from Jillian Andrews and am unable to effect service at this time.

Colleagues, as you know, we also received a letter from the Minister of Natural Resources advising the committee that he was to appear or would be appearing here, not only for Mr. Togneri at the last meeting, but also for Ms. Andrews at this meeting. The committee has taken a position on the representation of a witness by another person, and I'm in the committee's hands.

In the absence of any matter, I would suggest that the non-appearance of Ms. Andrews, along with the details of the clerk's initiatives and the report from the bailiff, be added to the draft, facsimile, or suggested possible motion we had circulated for Mr. Togneri. I think you all have a copy of that one. It is the report and motion that was prepared by the standing committees clerks' directorate for us.

We will move on to the second item on our agenda.

Madam Freeman, before we move on to the second item, you indicated that you wanted to say something on this matter—and Mr. Easter.

•(1115)

[Translation]

**Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ):** Yes Mr. Chairman. I wanted to speak before we move on to another topic.

As you just mentioned, the bailiffs attempted several times to reach Mr. Dimitri Soudas or Ms. Jillian Andrews. These individuals are fully aware that the bailiffs have attempted to hand them a summons to appear. I am a lawyer and I am a member of the Barreau du Québec. Therefore I am not very familiar with civilian procedures in Ontario. I spoke to the House of Commons law clerks to find out how one proceeds in Ontario.

In fact, there are procedures that are compatible with both Ontario legislation and House of Commons procedures. Given the several unsuccessful attempts to serve a summons to appear to Dimitri Soudas and to Jillian Andrews, and given the public nature of these summons, I would like to table a motion before the committee to the effect that these summons are deemed to have been served and that Dimitri Soudas and Jillian Andrews be required to appear before the committee at the latest on Wednesday June 16, 2010.

[English]

**The Chair:** Okay. Now you've indicated that you'd like to give a notice of that motion?

[Translation]

**Mrs. Carole Freeman:** I am tabling this motion this morning.

[English]

**The Chair:** Just a minute. I need some clarification.

The chair has to know whether you are moving this motion this morning or you want to give notice and just have it tabled for consideration at a subsequent meeting.

I understood that you wanted to give notice; that was your first notice, so that the committee is aware of the research you did—

[Translation]

**Mrs. Carole Freeman:** We will therefore give you a notice of motion.

[English]

**The Chair:** Okay. All right. No, I understand that.

[Translation]

**Mrs. Carole Freeman:** What is your question? You would like to know whether I want to give you a 48 hours' notice?

[English]

**The Chair:** No, no. The question is whether or not you want to move the motion today or just—

[Translation]

**Mrs. Carole Freeman:** I would like to table the motion today.

[English]

**The Chair:** You would like to move it. It's not to table it but to move it. Okay.

[Translation]

**Mrs. Carole Freeman:** Yes, it is about the purpose of our meeting.

Ms. Andrews is not here this morning. We have been trying to serve her a summons to appear for a while now. You just said so. Therefore, I would like to table this motion so that we can deem that summons to have been served, pursuant to the laws of Ontario and to the standing orders of the House of Commons.

[English]

**The Chair:** Okay.

Madame, the motion is in order. It's relevant to the current order of business for the committee, so the—

**Mr. Randy Hoback (Prince Albert, CPC):** Does it not need unanimous consent to be heard today, sir?

**The Chair:** No. When a motion is made at a committee on the subject matter that the committee has on its order of business for the day, no notice is required, and members can make motions on any relevant matter related to that. So it does not require unanimous consent.

Madame Freeman, the motion is in order. I'm not sure whether or not the members understood all of the reasons why. But you have an opportunity, having moved that motion, to actually speak to the motion to provide an explanation to the committee as to the rationale of the motion.

Would you like to speak to the motion, or is it self-evident?

• (1120)

[Translation]

**Mrs. Carole Freeman:** You have just described the situation to us, Mr. Chairman.

I consulted the bailiff's report yesterday. I asked the clerk for the bailiff's report so that I would be aware of all the steps that have been taken by the bailiff. I also asked when the bailiff's report was produced.

It is obvious that the two individuals we want to hear are aware that we are attempting to reach them, because this has become a public matter. By law we can assume that they have received the summons to appear. That is why I am tabling this motion today, under paragraph 16.(1) of Ontario's Rules of Procedure and under Parliament's Standing Orders.

[English]

**The Chair:** Okay, thank you.

[Translation]

**Mrs. Carole Freeman:** Obviously, I have to point out that I have consulted the law clerks of the House of Commons and I am complying with all the House of Commons procedures.

[English]

**The Chair:** Okay.

Madame, thank you. I do appreciate the fact that you have done the appropriate consultations with the law clerk to get the facts straight, in terms of the civil legislation related to the service of summons and that there are criteria under which a summons would be deemed to have been served, which is part of the law, and that there may be some penalties associated with failure to accept. I think that's the thrust of your motion.

I have four people on the list.

Mr. Minister, I just want to deal with something very quickly so that we understand how the rules of the committee work when there are other members who are not permanent members of the committee or signed in as one of, say, in this case, the five members. They have rights. They're entitled to speak, provided there is no other permanent member of the committee who wishes to speak or unless the committee itself gives its consent for you to speak.

I have you on the list, but you will not be speaking in that order as long as there are other permanent members to speak. Okay?

I have to go to Mr. Poilievre first, on a point of order.

**Mr. Pierre Poilievre (Nepean—Carleton, CPC):** Can you please point to the standing order that says that an associate member cannot speak unless no one else in the room wishes to speak?

**The Chair:** No, it is a....

**Mr. Pierre Poilievre:** Is that written anywhere?

**The Chair:** Parliamentary precedent and practice is established not only by the written word, but also by the established practice of the committee.

**Mr. Pierre Poilievre:** Can you give a single ruling?

**The Chair:** Sure. I will get you the practices.

If you had a situation where a large number of members who were not members of the committee came into the room and decided they wanted to get on the list and talk out something, you could understand how that might frustrate the business of the committee. As a consequence, the practice has been established that a member who is not a permanent member and not signed in may speak, but only if there is no other permanent member who doesn't want to speak. This doesn't relate to, for instance, questioning of a witness. A member who is signed in could give up their slot, their speaking slot, to a member who is not a permanent member. But when it's just general debate, where a person can put their name on as many times as they want, there has to be a limit.

Mr. Poilievre, I understand your point and I will provide you with the practice and the precedent of other committees in which this has happened. I think one was on the same-sex marriage debate that happened in this room. Pat O'Brien was sitting as an independent; he wasn't on any party's list, and the committee had to vote to allow him to speak.

Thank you for raising the point.

Mr. Easter.

• (1125)

**Hon. Wayne Easter (Malpeque, Lib.):** Ms. Freeman's motion is not on the table today. We're not debating the motion right now?

**The Chair:** She's moved it.

**Hon. Wayne Easter:** But is it for debate today?

**The Chair:** Of course, it is. It's right now. We are in debate.

**Hon. Wayne Easter:** That's fine. I'm supportive of the motion.

**The Chair:** Mr. Hoback.

**Mr. Randy Hoback:** Mr. Chair, you say we're debating a motion that I have not seen. I would like a copy of the motion in English, please.

**The Chair:** Mr. Hoback, the practice is that if an oral motion is given at committee, it is in order. But I understand your concern.

Madame Freeman, could I ask you, for the information of the committee and for anybody who's interested, to read your motion again slowly?

[*Translation*]

**Mrs. Carole Freeman:** I can provide a copy to translation services who may be more comfortable... I will read it in French but...

[*English*]

**The Chair:** I understand, but read it in French. It will be translated. They will hear.

**Mrs. Carole Freeman:** Yes, I know, but—

**Mr. Randy Hoback:** I would like to see it in writing.

**The Chair:** Well, okay.

Please read your motion.

[*Translation*]

**Mrs. Carole Freeman:** I will read it without providing it to the translators. My motion reads as follows:

That, given the several unsuccessful attempts to serve a summons to appear to Dimitri Soudas and to Jillian Andrews, and given the public nature of these summons, the committee deems these summons to have been duly served and requires that Dimitri Soudas and Jillian Andrews appear before the committee no later than Wednesday June 16, 2010.

There.

[*English*]

**The Chair:** *Merci.*

Mr. Rickford has a point of order.

**Mr. Greg Rickford (Kenora, CPC):** Thank you, Mr. Chair.

I would like some clarification. I'd just love to ask the members this was translated for how many times the words "and" or "the" appeared in what she just read. I've been at this committee and several others where a motion like that has been tabled in English and members of Parliament whose first language is French have asked for a copy in English. There are often words or phrases in a motion that may require further questions for purposes of debate. So

if that's what's on the table, then get that copy to me and to my colleagues in English, please.

I appreciate the fact that Madame Freeman has gone to the work of putting it down on a piece of paper in French.

Thank you.

**The Chair:** Thank you. I do understand, but I can tell the committee that an oral motion can be made by any member at any time on the subject matter before the committee. It could be simple or it could be complex, but it is in order. Of course, we will have the transcripts from the proceedings, but I've just seen this for the first time now.

We will have it translated. I think we could get it translated fairly quickly, but the thrust of it is that, basically, since people have not appeared, she is requesting that the two people in question, Mr. Soudas and Madam Andrews, be required to appear no later than Wednesday, June 16, 2010.

**Mr. Greg Rickford:** Respectfully, Mr. Chair, it would be a dangerous precedent by the committee to start trampling or trespassing on my rights with respect to language, for sure.

**The Chair:** I understand.

**Mr. Greg Rickford:** I think they actually know a thing or two about that.

**The Chair:** I have made a ruling. This is the long-standing practice of the committee and we are going to proceed with the debate. Okay?

• (1130)

[*Translation*]

**Hon. Christian Paradis (Minister of Natural Resources):** Point of order, Mr. Chairman, please.

[*English*]

**The Chair:** Mr. Minister, as I had indicated earlier, the practice with regard to having someone who is not a permanent member of the committee speak is conditional on a couple of things: either it has the approval of the committee or no other permanent member wishes to speak. That is with regard to getting on the list to debate a motion. My hesitation, sir, was with regard to the fact that you are not asking to debate but you are raising a point of order.

Respectfully, I can't cite a precedent or a rule with regard to points of order, so it calls for the chair to make a decision. My view is that, for the reason I gave earlier, if you had a large number of people come into the room who wanted to make points of order ad nauseam, the committee could in fact be frustrated in doing its work—it's not you, sir, and it's not the fact that you want to make a point of order, but it's the practice and it would be inconsistent to allow you to do a point of order.

I'm going to rule.

**Mr. Randy Hoback:** Mr. Chair, on a point of order—

**The Chair:** Mr. Hoback, we are on a point of order, so I can't entertain a second point of order on top of it. Just a moment.

Minister, whether you are heard at this meeting really is ultimately going to be up to the committee, as you know. We've been through this at the last meeting. The committee has to make a decision, and I would think it would be contradictory to my ruling on speaking in debate to allow you to do a point of order for the same reason. I'm going to rule your request for a point of order to be out of order.

Madame Freeman, we're going back to debate on the motion.  
[*Translation*]

**Mrs. Carole Freeman:** Can we vote on the motion?  
[*English*]

**The Chair:** Just a moment.

I'd like to ask members to please catch the eye of the clerk if they wish to speak and be on the list. If there is a matter for a point of order, it doesn't show up on the list for me here, so you would actually have to call for a point of order, as Mr. Hoback has just done.

Go ahead, Mr. Hoback, please.

**Mr. Randy Hoback:** First of all, Mr. Chair, you have to respect the right of parliamentarians to talk at committee. I'll tell you what I'll do: I will cede my point of order to the minister, so that the minister can actually be heard.

Is this based on committee rules or the chairman's rules?

**The Chair:** The chairman ultimately has to make a decision.

**Mr. Randy Hoback:** Based on whose rules?

**The Chair:** Based on my best knowledge.

**Mr. Randy Hoback:** Your rules or committee rules?

• (1135)

**The Chair:** My best knowledge of the rules of Parliament. I am—

**Mr. Randy Hoback:** Mr. Poilievre asked you to prove precedence—

**The Chair:** Thank you, sir.

**Mr. Randy Hoback:** —and you have not done that yet, even on hearing this.

**The Chair:** Sir, excuse me. The chair has taken a decision—

**Mr. Randy Hoback:** So does the chair have the—

**The Chair:** Just a moment.

**Mr. Randy Hoback:** Does the chair have liberty to—

**The Chair:** Just a moment. Would you turn his mike off, please?

**Mr. Randy Hoback:** [*Inaudible—Editor*]

**The Chair:** Mr. Hoback, please. When the chair has the floor—hear me out, sir.

**Mr. Randy Hoback:** [*Inaudible—Editor*]

**The Chair:** I have made a decision on this—Mr. Hoback, please.

I gave my justification to the best of my ability, and if the member feels that my decision is incorrect, there is one approach that the member can use, and that would be to challenge the decision of the

chair. That's it. It's not debatable, sir. It's not a point of order. You're debating and you're questioning my decision; you can't ask questions of the chair. You can't start asking questions of the chair. The chair is here to try to keep order, so I'm going to move on.

Mr. Easter was still in debate on the Freeman motion.

**Hon. Wayne Easter:** I want to get to the motion, Mr. Chair, but as just a friendly suggestion, maybe Mr. Hoback could step back and—

**The Chair:** Mr. Easter, I'm going to ask all honourable members to please remember that we have some important business to move on to. I'd rather not get into opining on anyone's words or actions in this committee.

**Hon. Wayne Easter:** I'm not, Mr. Chair.

**The Chair:** Okay. Let's please just stick to business.

**Hon. Wayne Easter:** Yes, but if I could say, Mr. Chair, my suggestion was that maybe if Mr. Hoback wanted to sign out and the minister sign in, he could ask his questions that way. I've seen that done at other committees before, rather than a minister trying to come in and make a ministerial statement as a member sitting on the side.

In any event, Mr. Chair, on the motion, I think it goes in part to Mr. Rickford's outburst a moment ago, when he tried to interject about the motion not being translated and therefore it trampling on the rights of the committee. We do have bilingual interpretation and you could therefore hear it. I heard it in English over the translation system. If he really wants to get to the trampling of the rights of the committee, then he would certainly be arguing that when we as a committee decide on witnesses to come before this committee, we expect them to be here.

This brings me to the motion itself, which basically is outlining very clearly, as you've reported from the bailiff, the following. I believe it was today that you said that from the time of June 3, the bailiff tried to serve Jillian Andrews on three occasions via three calls between June 3 and June 7, and he spoke to the receptionist, who confirmed that Jillian Andrews was in fact in the office.

I just find it hard to believe that a government that spouts law and order would so challenge the legal system by denying a bailiff's ability to serve papers on an individual who has been directed to appear before a parliamentary committee of this country. What an affront to justice by a government that claims to promote justice. It's unbelievable. What would we do if any ordinary citizen acted so as not to be found when they knew a bailiff was attempting to serve them with papers?

I am certainly most supportive of the motion. I think it puts a little more pressure on the individuals who seem to be avoiding an appearance before a parliamentary committee. They are the folks with the knowledge on the issues and are really the only ones we can question as to their activities surrounding the matter of access to information. They are the individuals who were involved. So I certainly welcome this motion and am fully supportive of it.

• (1140)

**The Chair:** Thank you.

I have Madam Davidson, Mr. Hoback, Madame Freeman, and then Mr. Siksay.

Madam Davidson.

**Mrs. Patricia Davidson (Sarnia—Lambton, CPC):** Thanks very much, Mr. Chair. In light of your ruling earlier in this meeting, I would like to relinquish my time to the member of Parliament for Mégantic—L'Érable, please. He will take my spot.

**The Chair:** That can only happen during questioning of witnesses. We have a general list. This is on debatable motions, so that can't happen.

**Mrs. Patricia Davidson:** I'm sorry, Mr. Chair, but that definitely was not your ruling at the beginning of this meeting. I think you need to go back and check what you said.

You indicated very clearly to the minister that one way he would be able to speak was to have a member cede their time, and I have done that.

**The Chair:** No, no, it was to cede their slot. It was the slot. Check the records.

**Mr. Pierre Poilievre:** Okay, she will cede her slot then.

**Mrs. Patricia Davidson:** Okay, it's my slot, then. It's my slot in time.

**The Chair:** No, no, it was the prescribed.... When we deal with witnesses—

**Mrs. Patricia Davidson:** Mr. Chair, you are getting ridiculous. Now let's make this serious. This is my slot of time and I am ceding it to the member of Parliament, who has every right to speak at this table.

**The Chair:** All right. Madam Davidson, let me repeat, because it's something on which I had discussions with House officers, even as early as this morning, to be absolutely sure. There was an incident in another committee where there was some variable activity going on.

In any event, and I think if you look at the transcripts—I stand to be corrected—there were two different lists that would be kept in terms of slots. One list is with respect to witnesses. As you know, we have approved, by the routine motions adopted by the committee, which party speaks, in which order, and how many minutes it gets. In that case, should we be questioning a witness, a member can relinquish their slot for another person who is not a permanent member, so that the equity we have established in the routine motions.... That was the motion adopted by the committee when we were formed in the first instance.

The second item I mentioned was with regard to the debate of motions, as we are doing right now. There is nothing to prescribe which party and for how long; people can speak as many times as they want and for as long as they want, provided there's not repetition and provided they remain relevant.

In that case, Madam Davidson, a member of Parliament who comes, who is not a permanent member, can have their name on the list. They can only speak if no other permanent member wishes to speak or if the committee allows the member to speak and to override that. Those are the two cases.

I'm sorry there's some confusion, but I'm absolutely sure that is the practice and precedent of committees for the last 17 years that I've been here.

You still have the floor, though, Madam Davidson.

**Mrs. Patricia Davidson:** I disagree with you, Mr. Chair.

I think we all know that for some reason this committee is determined not to have a minister present here. The motion that's before us is in direct support of what I have just said. We have had people being asked to come. It's been made very clear that there's ministerial responsibility with this government. We have had a minister appear of their own volition. They have come to report to this committee to explain the issues, to answer the questions. Every time they have appeared here they have been refused to be heard.

I think that's totally wrong. I don't know what the opposition is afraid of with ministerial responsibility. I just cannot understand it. What they are afraid they're going to hear is beyond me. The ultimate responsibility lies with the minister of that department. We're showing credibility and accountability by having the minister sit at this table. I just do not understand the opposition's position, and I certainly am against this motion.

We have the people sitting at this table who are responsible and the people here who are willing to answer the questions, and the opposition continues to refuse to hear them. So I will be voting against the motion.

• (1145)

**The Chair:** All right.

I still have four people: Mr. Hoback, Ms. Freeman, Mr. Siksay, Mr. Rickford, and then Minister Paradis.

Mr. Hoback, please.

**Mr. Randy Hoback:** I just want to confirm, Chair, that you will listen to Mr. Paradis after all the other people have spoken.

**The Chair:** If there are no other permanent members who wish to speak, yes.

**Mr. Randy Hoback:** Okay, so he will get an opportunity to speak then.

**The Chair:** I will follow the rules.

**Mr. Randy Hoback:** Okay, because this is so bizarre. It's a classic scenario where you have a bully picking on a kid in the playground. When the kid brings his big brother, the bully doesn't want to play anymore. That's exactly what's going on here. The opposition member wants to pick on the staff. All of a sudden the minister shows up and all of a sudden they don't want to play.

It's just hilarious. It's so hypocritical it's unreal. Even Mr. Easter in the agriculture committee always complains about how he never sees the minister, how the minister is never there to present.

We have a minister here willing to present, and talk, and participate, and help get to the bottom of your accusations—because they are accusations. They're not proven anywhere. They've not been proven by the Ethics Commissioner or anybody else of any validity. So when is this witch hunt going to end? That's my question. We're wasting taxpayers' time and money on this witch hunt. When is it going to end?

You can come forward with your motion. I have questions on whether that motion has validity in the House. I don't know if Ontario law takes precedence in the House of Commons or if the Speaker takes precedence in the House of Commons. I'd like to see that understood before we make a ruling on this motion.

I have not seen the motion in English, so I can't even give it proper analysis. I always show that respect to Mr. Bellavance in the agriculture committee. When he asks to see something in French, we make sure it's presented in French, or we table the motion till the next meeting and then he gets a chance to see it in both English and French, or we ask for his unanimous consent before it's tabled. That's never happened here. You've never asked for unanimous consent on the part of the committee to see whether or not we would allow her to table this motion or not. You've just gone on and ruled, and ruled, and ruled, based on Paul Szabo's laws.

Is this a point of order?

**The Chair:** Mr. Hoback, this is the chair.

I want to caution you that when you question the decision of a chair, your venue is to challenge the decision of the chair—

**Mr. Randy Hoback:** Does the chair want to leave the chair?

**The Chair:** Just a moment. But to reflect on it and to debate it is improper.

**Mr. Randy Hoback:** I guess, Chair, I'm—

**The Chair:** Just a moment. I'm not finished.

It is not proper in a committee to continue to debate a chair's decision. The chair only has one opportunity to consider all the facts and to take a decision. The committee has a way to deal with it if they disagree.

Please be cautioned not to be questioning and challenging the chair without actually issuing a challenge, okay?

**Mr. Randy Hoback:** It's hilarious, because there have been so many improper activities in this committee. Where do you start and where do you finish? This is a joke. It is an absolute witch hunt and a joke. There are so many other things we could be using our time in a constructive manner... We've just come through a recession. There are other things we could be talking about that would be constructive and productive for the Canadian population. But no. What does the opposition have us doing? They're on a witch hunt. An absolute witch hunt. They want to take staffers, beat up on them, and intimidate them. And when the staffer brings the minister, what do they do? They hide. The minister is right here. Do I need to say that twice. He's right here. He's three people down from me. He's willing to speak. What's the problem? I'm just amazed at the hypocrisy of the opposition here. Absolutely amazed. They should be ashamed of themselves. They really should.

[*Translation*]

**The Chair:** Mrs. Freeman, you have the floor.

**Mrs. Carole Freeman:** First, given that I tabled my motion in French, I'd like to remind Mr. Hoback, in case he is unaware, that it is normal and customary to be able to present a motion orally and with simultaneous interpretation when the motion relates to the committee's business. This is normal, and it is consistent with the

committee's standing orders. If he is not aware of this that is too bad for him.

Furthermore, Mr. Hoback has accused us of filibustering. I'm very surprised because my colleague, Mr. Easter, tabled a motion requesting that an investigation be undertaken and that we consider the issue of political interference on the part of the government in matters of access to information. The motion also requested that several witnesses appear, including Mr. Soudas. The purpose of the committee's business is to consider the issue of political interference. It is the job of parliamentary committees to consider matters and to work on them.

I think there is political interference and filibustering. I'm referring to measures taken by the Government House Leader on May 25 last when he asked that his political staff no longer appear before committees. This is interference, obstruction, and a disregard for parliamentary standing orders. No one is above the law and a leader, as I have already stated in committee, cannot just change rules, committees' standing orders, and current legislation. No one is above the law, and refusing to receive a summons to appear is disregarding the law.

By sending a letter to the effect that his employee, Dimitri Soudas, will not appear, Mr. Harper is sending a signal. Everyone is fully aware—it has been in the newspapers—that we are attempting to reach Mr. Soudas. Not only is this an affront to democracy, but it is an attempt to be above the law. It is absolutely despicable and incomprehensible. We're seeing this more and more on the part of the current Conservative government. When it's not convenient, they shut Parliament down and try to change the rules.

We are beginning the committee's work to consider political interference and access to information and Mr. Soudas must appear. We have to hear Mr. Soudas and other witnesses, and not the ministers who want to appear instead of the witnesses who have been summoned.

I think that my motion has to be presented. Mr. Dimitri Soudas refuses to receive his summons to appear but by law we can rule on this. As stated in my motion, he is deemed to have been summoned because this has been made public.

That's all, Mr. Chairman.

• (1150)

[*English*]

**The Chair:** Thank you.

Mr. Siksay, please, and then Mr. Rickford and Madam Foote.

**Mr. Bill Siksay (Burnaby—Douglas, NDP):** Thank you, Chair.

I just want to be on the record to say that I support the motion that Madam Freeman has put forward.

I think it's very serious that Ms. Andrews has decided not to appear this morning. It's very serious because this isn't a frivolous issue. The study the committee is undertaking is not a frivolous study. It's an important study into the possibility of political interference into access to information requests, but it has taken on another dimension. It's about the committee's ability to hear from the witnesses it believes it needs to hear to do its work. That's particularly important to this committee as one of the accountability committees of the House of Commons—so, Ms. Andrews, the fact that chair is empty this morning is a very, very serious issue.

I think Ms. Freeman's motion is very helpful to clarify our understanding of what it means to successfully serve a summons in Ontario. I think that's a very helpful thing to do. I think it's a prudent motion. I also think it's a very generous motion, and I hope people appreciate the generosity that's indicated in that motion as well.

Thank you, Chair.

**The Chair:** Mr. Rickford, please.

**Mr. Greg Rickford:** Thank you, Mr. Chair.

It seems that we have two institutions here that serve as a particularly good example for some of the problems we might have on this side. We have the House of Commons, by way of example, and we have the House of Lancaster.

In the House of Commons, we have our processes and procedures and things that we follow and respect, and we use things that go on in the House of Commons or inquiries that flow from the activities of the House of Commons that guide us in our deliberations and our discussions and work at committee.

I'm going to elaborate more on the House of Commons process, but I'll start out with this other English tradition we have, or place, called the House of Lancaster, where apparently under a Liberal government and a Liberal minister it was acceptable to negotiate visa applications in a strip joint. In defence of this action, the minister was compelled to come to the committee and testify. We've seen other confusing examples in the previous government where the ministers declined to come, and it gets pretty confusing from there.

Unfortunately, an event arose in the processes of the House of the Commons that should have served as a useful guide for all of us in these matters, and that was with respect to the Gomery report. In that report, Justice Gomery, as he was then, was dealing with very serious matters. The Liberal Party of Canada had reached into the taxpayers' pocket and stole hundreds of millions of dollars, and there's still \$40 million unaccounted for. They're still looking for that. The problem is, as Justice Gomery said in his report, and I want to state it clearly here because I think it is important that everyone is reminded of what is stated in the accountable government report:

Ministers need to understand clearly that they are accountable, responsible and answerable for all the actions of their exempt staff.

And I emphasize “exempt” here.

We have another document here, *Accountable Government: A Guide for Ministers and Ministers of State*, which states at page 37:

Ministers and Ministers of State are personally responsible for the conduct and operation of their offices.

I think those two statements are pretty clear—one in the form of policy, and one in the form of an official report that was requested by the House of Commons, as opposed to any other sort of House we've had to deal with in terms of issues at this or other committees like it. So for those reasons—and there are others, but principally those two reasons—I don't support this motion at all.

Thank you.

• (1155)

**The Chair:** Mrs. Foote, please, and then Minister Paradis.

**Ms. Judy Foote (Random—Burin—St. George's, Lib.):** Thank you, Mr. Chair.

Let me start out by saying I certainly support Ms. Freeman's motion. I think it's a responsible motion, and I think it will enable us as a committee to do the work we've been tasked with doing.

I fail to understand why our colleagues across the way cannot grasp the idea or implication of not allowing—or the Prime Minister and the cabinet not allowing—exempt staff from appearing before this committee. This is a parliamentary committee, with the rights and privileges of calling witnesses and expecting those witnesses to appear. The fact that the minister is here in place of a witness is cause for concern, in that it would lead one to believe that the minister knows exactly what in this case Ms. Andrews in fact did, in the idea of allegations of systematic political interference, which is of course what this committee is looking at.

My experience has been that when someone takes a particular action, they speak for their own actions. Otherwise, it would lead one to believe that something is being hidden here. That's my question about all of this. We're here as members of a committee today looking to find answers. The individual from whom we're looking to get those answers has not appeared before our committee. That is cause for concern, I would think, for any committee member, any parliamentarian, who sees his or her right to question a witness being questioned.

I have a great deal of difficulty with that. I think it's not right. Obviously what the Prime Minister has done here, what cabinet has done here, what this government has done here, is to really interfere in a process, a process that we have every right to carry out.

Today, we don't know where Ms. Andrews is. We don't know why she isn't here, other than that a directive has been given that the minister will speak in her place. With all due respect to the minister, maybe he does know exactly what went down. Maybe he did instruct her to take some action, but we don't know that. The minister is here, but the minister wasn't asked to appear here as a witness. The minister may appear at some other time, but we have a responsibility as a committee to call whatever witnesses we deem appropriate to get to the bottom of this so-called systematic political interference. Ms. Andrews is the witness we wanted here today. She isn't here. We don't know why, other than an instruction has been given for her not to be here.

When Mr. Togneri was here, he made it very clear that Ms. Andrews was involved with respect to the 139-page document that had been deemed appropriate to be released to the media at the media's request. When Mr. Togneri un-released that document, and subsequently what was released to the media was a 30-page document, who made that call? Was it Ms. Andrews? We need Ms. Andrews here. We don't need the minister here to speak for Ms. Andrews. We need Ms. Andrews here to answer to her own actions, which is exactly why this committee is calling witnesses.

I think for Ms. Andrews not to show probably speaks more to the fact that the Prime Minister clearly has indicated that for some reason he doesn't want her to appear any more than he wants, or the cabinet wants, other exempt staff to appear before this committee. But we have every right to question exempt staff. The fact is, it is foolhardy to accept any argument that a minister can speak for his or her staff. It would lead one to believe, and we may have no choice but to believe, that in fact it was a directive of the minister, which is great cause for concern. It is political interference any way you look at it.

We're here today waiting to hear from Ms. Andrews. She is not here. We want to hear from Ms. Andrews. We want to hear from Mr. Soudas. We need and we have a right as a parliamentary committee to hear from those individuals.

• (1200)

It's not about beating up on anyone. It's about asking appropriate questions to get the answers to which we're entitled as parliamentarians when we're doing our job as a parliamentary committee.

I support this motion 100%. I think it will help us do our work, and I would like to think that all committee members would see it in that light.

**The Chair:** Thank you.

I'm now going to move to the minister, but before I do, I neglected to advise the committee of something that happens to be relevant to the motion we're dealing with. I won't read it all until Thursday, but it just confirms that the bailiff has not been able to serve Mr. Soudas as of this morning. So that's still ongoing.

Mr. Minister, you have the floor on Madam Freeman's motion that Mr. Soudas and Madam Andrews appear before our committee no later than Wednesday, June 16, for the reason that they did not appear before the committee. That's the matter before us. I just wanted to remind you so that we don't drift off too far from the subject matter being debated.

Mr. Minister, go ahead, please.

[*Translation*]

**Hon. Christian Paradis:** Thank you Mr. Chairman, I appreciate your comments.

I listened to Ms. Foote's statements, which were rather sweeping.

I would like to explain why I oppose this motion. I repeat that I am here today...

Mr. Chairman I have only just started. All I said was that I am opposed to the motion and already there is a point of order. That's promising.

**The Chair:** Excuse me, Minister.

[*English*]

Madame Freeman, on a point of order.

[*Translation*]

**Mrs. Carole Freeman:** I believe that the individual speaking to the committee does not have the right to speak. In order to have the right to speak, an individual must have the authorization of the whole committee, which he does not have. I do not think he can speak because he has not been given the right to speak.

Furthermore, we are still discussing the motion.

[*English*]

**The Chair:** Okay. Madam, as I've explained to the committee twice now, when you are in debate on a motion and there aren't scheduled party slots and so on, a member who is not a permanent member may speak provided there is no other permanent member who wishes to speak on the matter before us, or the committee votes to allow that other non-member to speak. In the case here, Madam, after Madam Foote, there were no other permanent members of the committee who had indicated to the clerk or to me that they wanted to speak. As a consequence, and as I explained to Mr. Hoback, that's one of the criteria under which a non-member is permitted to speak.

I thank you for raising it and allowing me to explain again, but the minister has the floor.

• (1205)

[*Translation*]

**Hon. Christian Paradis:** Thank you very much Mr. Chairman.

As I was saying I am willing to answer for the actions of my policy advisor, Ms. Jillian Andrews. As you are aware, Mr. Chairman, our government took a decision on the matter of political staff appearing before parliamentary committees. That decision therefore applies equally to Mr. Soudas and to Ms. Andrews. Our decision was conveyed to the Speaker of the House of Commons on the 25<sup>th</sup> of May last by the Government Leader in the House of Commons.

To summarize: given that parliamentary committees have not respected procedure, the ministers will here on in advise members of their staff to refrain from appearing before the committees; ministers will appear in their stead to answer for their actions.

I therefore ordered Ms. Andrews to not appear before the committee. I myself, as the minister responsible and according to the principle of ministerial accountability, I am here to appear in her place. This is a model that dates back to the Westminster model. It's nothing new.

I think it's sad that Mr. Togneri appeared before this committee for three hours and was subjected to intimidation and humiliation. One can only wonder why political staff would be motivated to appear before a committee in the future.

Mr. Chairman, I am here and willing to answer questions.

**The Chair:** Excuse me, Minister.

[English]

I want to be fair, but we have to be careful not to interrupt other members who have the floor and are giving their speech, unless it's relevant or related to what they've said.

In any event, Madame Freeman, you called again on a point of order. I hope it's not the same one.

[Translation]

**Mrs. Carole Freeman:** We're debating the motion and Mr. Paradis is making statements. I believe that does not comply with the committee's standing orders.

[English]

**The Chair:** In what way? What Standing Order?

[Translation]

**Mrs. Carole Freeman:** We are currently debating the motion are we not? We are at the debate stage. That is the point we are at. We are not debating another subject, we are dealing with a motion.

[English]

**The Chair:** Your point of order is relevance?

[Translation]

**Mrs. Carole Freeman:** Mr. Paradis is making a statement that is not connected to the motion that we are discussing.

[English]

**The Chair:** All right. Order, please.

I understand. For future reference, your point of order is in order to the extent that you are challenging the relevance of what the minister is saying to the motion now before us. That's all you have to say. This is where the House usually gives fairly broad latitude to the discussion. I spend a lot of time in the House, watching the Speaker and how he deals with these things. Certainly, the minister has a political staffer who has been called before this committee and is the subject of this motion. I think he's making an argument that I believe will ultimately be debated in the House of Commons when the Speaker is charged with dealing with the ministerial statement. This will be triggered by a report from a committee.

In this committee there's no question that Ms. Andrews is the subject of this motion. The reason is that something happened in the House—the government House leader announced a policy that henceforth ministers will appear on behalf of political staff for various reasons and for purposes of accountability. We are not going to resolve this here. These are the same arguments that went on when Mr. Lee brought his motion before the House with regard to access to the Afghan detainee documents—the rights and privileges of parliamentarians to call for persons, papers, or records.

This is the challenge yet again. It is much the same as we've already been through, but we cannot decide this as a committee. It is going to be up to the House to determine whether or not the rights and privileges of committees, which are delegated from the House, are in conflict with the government's policy statement of a couple of weeks ago. That is for the House to resolve.

I have to rule that Mr. Paradis' reference to that is relevant, and I'm going to decline your point of order.

Carry on, Minister.

• (1210)

[Translation]

**Hon. Christian Paradis:** Thank you Mr. Chairman.

I actually wanted to raise that point. The reasons underlying the motion put forth by my colleague are based on that exactly. People are trying to put further constraints on these political staff members when the point is, Mr. Chairman, that I am here today.

These individuals should be freed of their summons to appear given that I am here, as a minister, to answer in their place. I take note of your comments. As I stated, and I'll repeat it, I am here and willing to answer your questions.

There is a rule of natural justice. It states *audi alteram partem*. I am able to enlighten the committee and provide them with important facts that I can explain. Now it is up to the good will of the committee. I am here today, Mr. Chairman.

[English]

**The Chair:** Thank you, Minister.

I think we're getting pretty close to exhausting our arguments, so I'm going to start paying attention to repetition.

Mr. Easter.

**Hon. Wayne Easter:** If you want to pay attention to repetition, then what the minister said is repetitive. I don't know what the government has to hide and what it has to cover up.

I want to go to what the leader of the government in the House of Commons said when he tabled the government's position on attempting to deny committees their right to hear witnesses from staff in ministers' offices.

**The Chair:** Mr. Easter, excuse me, please.

Madam Davidson, on a point of order.

**Mrs. Patricia Davidson:** Yes, it's for relevance. I'm not quite sure what the statement in the House has to do with the motion we're supposed to be debating.

**The Chair:** The House leader's statement is what you're referring to?

**Mrs. Patricia Davidson:** Yes. I think that's what Mr. Easter is referring to.

**The Chair:** The one the minister just spent all that time talking about? Okay.

Mr. Easter, carry on.

**Hon. Wayne Easter:** I'll just read you the first paragraph of what Mr. Hill had to say, the leader of the government in the House of Commons:

Mr. Speaker, I rise on behalf of the government to address the issue of ministers' staff members being called before committees to testify.

The key point is the next statement:

We recognize that committees do have the authority to call for persons and papers; however, just because they can does not mean that they ought to in every case.

I think, Mr. Chair, that really what the leader of the government in the House of Commons is saying there is that he knows full well that committees have the right and the authority to call for persons and papers. That's what we've done here. We've called for persons—persons who are knowledgeable in the issue.

The minister, in his remarks, went to on to say that pressure is being put on staffers. And I've heard some of the discussions, through the media, from government members trying to cover what I would call their irresponsible position here, that they're young, they're inexperienced. Some of them are indeed young, and some of them are indeed inexperienced. Many of them are paid—and I could go through the list—in the over-\$100,000 range. People who are in that bracket of income and in a senior position in a minister's office developing policy obviously shouldn't be there just as a patronage plum. They should be there to do their job for the citizens of Canada, not just for the patronage desires of the minister of the crown.

There's only one way of getting at these individuals to see what they're really doing. This was a government that came in here talking about accountability and responsibility, and we have never—we have never—in our lifetime seen a government that's so secretive, so hidden, so managing the messaging as this one is.

So my point, Mr. Chair, is that I believe that the leader of the government in the House of Commons, in his own remarks, knows full well that committees have the right and the authority to call persons—

• (1215)

**The Chair:** Excuse me, Mr. Easter. I'm sorry, sir—

**Hon. Wayne Easter:** —and we have on this motion—

**The Chair:** Mr. Easter, I'm sorry, sir.

Mr. Rickford, on a point of order.

**Mr. Greg Rickford:** I might try relevancy at this point here.

**The Chair:** Okay. Thank you.

You probably ducked over the line a couple of times there, Mr. Easter, and I really think we should wind it up.

I'd like to remind all of us that we have the acting Information Commissioner, who is a nominee of the government to be our full-time Information Commissioner, and I can tell the committee I dearly want to address that matter at this meeting and report it to the House as soon as possible, please.

Mr. Easter, please, you still have the floor.

**Hon. Wayne Easter:** Yes.

Just to conclude, then, Mr. Chair, the only way the committee is going to get at this issue and get the full knowledge of the facts from the people who know is to exercise what this committee has asked to be done: for the bailiff to be able to serve the papers. In the absence of that, the motion that's on the floor goes to the issue, that it is deemed to have been being issued. Maybe then we will hear from Madam Andrews and Mr. Soudas.

And it's the only way we're going to get to the issue of how deep the Prime Minister's Office and the issues management committee are really involved in this cover-up.

Thank you very much.

**The Chair:** Mr. Hoback, please.

**Mr. Randy Hoback:** Thank you, Chair.

Chair, you made some comments earlier, when Mr. Paradis was speaking, about how this was brought up in the House, how Mr. Hill made a statement in the House, and how the Speaker is going to rule on that statement.

I understand that if that's the case, then this committee is getting out ahead of itself, in front of the Speaker. I think we need to wait till the Speaker actually rules on whether staff are required to testify or not.

Since he has not ruled on this, why are we dealing with this at this point in time? I would suggest that this all be tabled until we have that ruling.

**The Chair:** You're asking a question of the chair?

**Mr. Randy Hoback:** Yes—if you can clarify it.

**The Chair:** All right.

I will assume that you've made a point of order with the question of whether or not we're following the proper procedure given what's happened in the House.

I thought of the same thing. I took the opportunity to have what was, I would suggest, an informal consultation with the law clerk and with the Speaker, and I asked the question. There was a ministerial statement in the House by the government House leader. There were responses from the other House leaders of the other three parties. There was nothing else.

Ministerial statements do not request the Speaker to make a ruling. They are simply there as information about, in this case, what is taken as the policy of the government in that it hasn't been voted on in the House.

In fact, there is no motion or no obligation that we could find that actually would trigger a decision in the House. I was advised that the only thing they could see that would trigger something in the House would be an incident in a committee where a political staffer was called, a minister appeared in their stead, and the committee reported back to the House. Then the House would be seized with the question that you ask.

So in fact the House won't do anything until there is a committee report from some committee.

Okay?

Now—

**Mr. Randy Hoback:** I just want to ask a question.

**The Chair:** Sure.

●(1220)

**Mr. Randy Hoback:** If that is the case—they've made the argument here that the staffers are not appearing—I question the relevance of going the subpoena route. Why wouldn't we have gone back to the Speaker, saying that these witnesses are not going to appear? The Speaker is in charge of this realm. Why would we not go back to the Speaker, saying that these people will not appear? Is it not his responsibility, then, to rule on that?

**The Chair:** No, simply because, as I think I explained in earlier meetings, Mr. Hoback, to the clerk's requests—formal requests, written and oral—to appear, not only did they refuse to appear, they wouldn't even respond to the requests. No answer: zero.

The committee had authorized the chair to issue a summons if necessary. That Monday—I guess it was a week ago Monday—I took the decision, since the clerk was unable to get any response whatsoever from either Ms. Andrews or Mr. Soudas, to sign the summons at one o'clock that Monday. I received an e-mail from the clerk at 2:15 p.m. saying that the summons would be served “this afternoon”, being that Monday. So it was snap, snap.

That's how it happened, sir.

**Mr. Randy Hoback:** The Speaker has not been notified, then, of the problem.

**The Chair:** The Speaker can't be notified unless there is a report from the committee. I can assure you, though, that the Speaker is monitoring the proceedings in our two committees, the government operations committee and this committee, very closely.

So the Speaker is not seized with it simply because there is no report from a committee. He may have something to say about how we did what we've done, because they are carefully looking at the transcripts and rulings, etc. That's why, I can tell you, I've spent a lot of time making sure I'm in the ballpark.

Are you done, sir?

**Mr. Randy Hoback:** Yes.

**The Chair:** Thank you.

There being no further speakers, I want the question to be called now.

(Motion agreed to: yeas 6; nays 5)

**The Chair:** The next item of business, number two, pursuant to Standing Order 110 and Standing Order 111, is the certificate of nomination of Suzanne Legault to the position of Information Commissioner, referred to the committee on Thursday, June 3, 2010.

Our witness today is the nominee, the acting Information Commissioner from the Office of the Information Commissioner of Canada, Suzanne Legault.

Madame Legault, please.

[*Translation*]

**Ms. Suzanne Legault (Interim Information Commissioner, Office of the Information Commissioner of Canada):** Good afternoon Mr. Chairman.

●(1225)

**The Chair:** One moment please.

[*English*]

If I may, for the benefit of members, we have two items here with the Information Commissioner, and we want to deal with the nomination first. In normal circumstances, that might take a fair bit of time, especially if we're not familiar with the person, but we've been blessed to be able to have the Acting Information Commissioner before us on a number of occasions and she's well known to the committee. So I think there is an understanding and agreement that the discussion on the nomination will be concise, if I may say.

We would also like to have a second item on the responsibilities of the current acting commissioner with regard to the annual report, which was just tabled. Since we have had the estimates review in a session with the minister, as well as the report cards in another session, as well as another session on proactive disclosure, we have probably covered a fair bit of what's in the annual report. We believe we should also be able to address new items or new areas for consideration with regard to the annual report, all before one o'clock.

So, with that, Madame Legault, do you have an opening statement for this committee?

**Ms. Suzanne Legault:** Yes, I do, a very brief one, Mr. Chairman, if you would allow me.

I'm delighted to be here today, Mr. Chairman, to answer your questions on my nomination as Information Commissioner and to discuss the annual report on my office's activities for this past fiscal year. I'm really honoured to be conferred this tremendous privilege of being nominated for the position of Access to Information Commissioner of Canada. I'm really excited about the great responsibilities and the challenges that come with the position of agents of Parliament in serving both Parliament and Canadians.

Almost a year ago, when I accepted this job on an interim basis, I made a commitment to maximize the effectiveness and the timeliness of our investigative function to fully meet the current needs and expectations of Canadians.

[*Translation*]

Over the last year, through sustained and ongoing efforts, we've made great strides towards the achievement of this goal. As you will see from the annual report, this year has been in many respects an unprecedented one. I will be happy to discuss these achievements in more detail.

But before, if I may Mr. Chair, I would like to briefly talk about my career path leading up to this nomination. I believe members of the committee have been provided with my curriculum vitae. I won't go into any great detail, but I would like to say this.

[English]

I am a lawyer by training, and I have spent the last 20 years working in a variety of environments, including the private sector, the public service, and academia. Through my diverse work experiences, I have honed my skills in mediation, negotiation, and litigation. My experience as a public servant has taught me much about policy development on complex matters and the privileged relationship we hold with Parliament and its committees.

This experience also made me a steward of sound management practices. Over the last three years the office has fundamentally changed, and I can honestly say today that it has come a very long way. It is stronger, more accountable, and more effective. I was directly involved in establishing and improving the organization's capacity in areas such as corporate services, information management, and parliamentary affairs. My office's efforts at improving our financial management practices and governance were recognized last year by the Auditor General of Canada. I've also reinforced our internal audit functions to ensure we gain maximum efficiencies and make adjustments to our operations in a timely fashion.

Above all of these work experiences, Mr. Chairman, however, I believe that the greatest strength I can bring to the position of Information Commissioner is my ability to deal with highly complex matters and to find creative solutions.

[Translation]

I would also like to add that since joining the Office of the Information Commissioner in 2007, I have gained an in-depth knowledge of the Access to Information Act as well as the institution. Since starting my interim term as Information Commissioner, I have been directly involved in our investigations. I have made full use of the powers at my disposal and the tools I have to maximize compliance with legislative requirements. My office has collaborated with all stakeholders during investigations in order to find the best resolution to complaints.

However, over the past year, I took a firm hand when required. I have also adopted a more proactive and integrated approach to assess compliance with our act, as articulated in the three-year plan, of which you have a copy.

• (1230)

[English]

As a result, Mr. Chairman, this past year we have closed more complaints than we have in the past two decades and we have made the largest dent in our existing caseload. We have also reduced by nearly one-third the average time it is taking us to conclude investigations in our more recent complaints.

If my nomination is confirmed, my leadership and my vision will be governed by excellence—that is, excellence in service to Canadians, excellence in service to Parliament, excellence in the stewardship of the OIC, and excellence as an employer.

In practical terms, this means that first and foremost my focus will remain on investigations for the time being. We have made great strides this year in reducing our inventory of cases. However, we continue to deal with an important caseload, and until such time as we reach a manageable caseload, dealing with investigations will be

my number one priority. I will systematically work toward improving the access to information as a whole at all levels, in terms of requests, in terms of dealing with systemic problems, and in terms of strengthening our legal standards.

[Translation]

I do not think it is helpful to say that everything related to the federal access to information regime is broken. As my experience has taught me, it is much more productive to address specific issues with the right people, based on strong evidence. I am optimistic that, with this approach, the access to information regime will become stronger and more effective.

As an ombudsperson, I see my role as a catalyst between the various stakeholders in order to bring about advancement in the access to information regime in Canada. I have said in the past that the Access to Information Act is lagging behind most Canadian and foreign jurisdictions. My goal is to bring about greater convergence between legal standards in Canada and those in more progressive laws internationally.

As information is now flowing across levels of government and across national and international boundaries, Canadians should not have to face varying standards and receive different responses depending on where the request is made.

[English]

Mr. Chair, on December 12, 2006, when former Commissioner Marleau appeared before this committee to discuss his own nomination, he said the following, which I was reading when I was preparing for this appearance. He said:

When Parliament grants an agent of Parliament a trust on behalf of all Canadians, the very least that Parliament deserves to receive in return is leadership that it can trust.

Mr. Chair, I am most honoured by this nomination, and I think it is timely that my first annual report was just tabled last week. This committee is then, in my view, in a very good position to assess whether I have demonstrated to its satisfaction that I can lead the OIC through its complex mandate in a trustworthy manner.

With this, Mr. Chairman, I would be pleased to answer your questions.

**The Chair:** We have four people on the list: Mr. Easter, Madam Freeman, Mr. Siksay, and Madam Davidson.

Please, Mr. Easter.

**Hon. Wayne Easter:** Thank you, Mr. Chair, and welcome, Commissioner.

Basically, I'd just like to congratulate you on your nomination. I do think it's a very good one. I think it's somewhat unique that you have been interim commissioner, and that a number of us have met with you and you've been before this committee and that we do have your report here. I think, as you state in your remarks, you have tried to do the best job you can in that capacity and to represent all Canadians in making access to information work.

I guess as you can see from the previous rather raucous discussion here, there are lots of areas surrounding access to information that you perhaps don't have control over.

I don't have any questions. I've looked at the report, and we can see that some departments are improving and some are falling back a little. But with respect to your work, I think you've been doing an excellent job. So I congratulate you on that.

Mr. Chair, at the appropriate time, I'd certainly be willing to move a motion so that you can report to the House this committee's support for this appointment.

• (1235)

**The Chair:** Madam Freeman, please.

[*Translation*]

**Mrs. Carole Freeman:** I would like to congratulate you, Ms. Legault. As I have already said previously, I admire you for the remarkable work you are doing. You have proven to be audacious, and your determination should inspire many of us. I am therefore pleased to welcome your appointment. I think that we should present a motion to the House stating that we support your appointment. I and the other members of the Bloc Québécois support your appointment.

Can we ask questions on the annual report?

**The Chair:** That will come later.

**Mrs. Carole Freeman:** Later?

What matters now is that you be confirmed—

**The Chair:** This is only the nomination.

**Mrs. Carole Freeman:** Okay, very well.

[*English*]

**The Chair:** Mr. Siksay, please.

**Mr. Bill Siksay:** Thank you, Chair.

I'm glad we have finally reached this point, Commissioner. It's taken a while, but I think all of us are relieved that we've reached this point with your nomination going forward. I want to thank you for your work, and I look forward to continuing to work with you.

I will ask you a question, though, just for fun. I wonder if you could say something about how you understand the change from being acting commissioner to commissioner, and will this change the way you do your job? What does this change mean for you in that position?

**Ms. Suzanne Legault:** Well, as I have said from the beginning, I have conducted myself as if I were permanently holding the position. So in terms of all of the investigative work we've done, that's definitely how I've conducted myself.

The difference between an interim position and a long-term position is that the latter provides tremendous stability for the office and my employees, and I think that's going to make a huge difference for the atmosphere in our office, which I think is nothing but positive.

We started a strategic planning exercise last month, and I did it for myself or the next commissioner, because I wanted to have the pulse

of the organization, which has grown and basically doubled in size. I plan to engage in and continue this strategic planning exercise with various stakeholders, because now that I have a seven-year mandate, there is an incredible realm of possibilities, which is different from fixing short-term problems. That is the main difference for me.

I will start engaging with stakeholders in the next few months to plan the vision for the organization, and to get buy-in for that vision as well.

**Mr. Bill Siksay:** You've mentioned a lot of practical things. What's the most creative thing on your agenda?

**Ms. Suzanne Legault:** The most creative thing on my agenda, seriously, really does remain the investigative function at this point. We still have 2,000 files that we now have to tackle. We've tackled very well the short-term, more administrative matters. We're working on those, but the area that we really have to tackle now is the complex cases and how quickly we can get those through. Really, that goes to the core of delays in access to information. So that's why I say it remains my first and foremost priority.

On the broader issues of access to information, I think the main difference I bring to the table, and where, I guess, my impatience lies and has lain in the last few years, is that we've heard of the same problems for 27 years now in access to information. I want to start fixing those problems, and I am known as a fixer in my career. I've usually had the files that nobody could resolve.

So my plan is to tackle each single issue, both administratively and hopefully in the longer term legislatively, and to work with all of the partners to find those solutions. I'm quite hopeful, actually.

• (1240)

**Mr. Bill Siksay:** Thank you.

Thank you, Chair.

**The Chair:** Ms. Davidson, please.

**Mrs. Patricia Davidson:** Thanks very much, Mr. Chair.

My congratulations on the nomination as well, Madame Legault. Certainly there's great pleasure in hearing that from this side of the table as well. I think we around the table are unanimous in that.

I was going to ask you if there was anything further in your qualifications that you knew about but maybe we didn't know about through the formal process. I think you've just answered that. You're known as the fixer. I think that's great. That's a good qualification.

I was pleased when in your opening remarks you talked about collaboration, about how you were able to take a firm hand when required, and about your proactive and integrated approach. I know that you've articulated your three-year plan and that you've worked very hard at getting the numbers resolved as far as the backlog goes. So I commend you on what you've done, and I certainly look forward to working with you in the future. Again, congratulations on the nomination.

**Ms. Suzanne Legault:** Thank you very much.

**The Chair:** We've had an informal agreement that we would have representation from each of the parties, but the chair will use the chair's discretion to say this. Madame Legault, I have been very impressed by how you stepped into a difficult situation and helped us carve a path in the right direction. When you started you said, "I will do this job as if it were my full-time job." You had me right then.

Thank you.

I think Mr. Easter has something to say.

**Hon. Wayne Easter:** Well, this is just to move the motion that the committee has considered the proposed appointment of Suzanne Legault as Information Commissioner of Canada and it supports her appointment.

**The Chair:** Members are familiar with the question. Shall I put the question? All those in favour?

**Some hon. members:** Agreed.

**The Chair:** Wow. Sounds like it's unanimous to me.

Shall the chair report our support to the House?

**Some hon. members:** Agreed.

[Applause]

**The Chair:** We have about 15 minutes left in our time slot for this meeting.

Would you like to have any of your other colleagues join you at the table, in case there are any further questions regarding the next item on our agenda, which is finalizing our consideration of your annual report? It's up to you.

**Ms. Suzanne Legault:** I think I'm okay.

**The Chair:** You're okay. All right.

Madam Foote has asked to speak.

**Ms. Judy Foote:** Thank you.

I know we've moved on past the nomination, but I do want to take the liberty of saying how pleased I am—from day one—with your understanding and appreciation of the importance of the federal access to information...as well as the very frank way in which you've dealt with issues, and have made it very public in terms of how you dealt with issues, but it's your determination as well to find solutions.

So congratulations. I'm delighted with your nomination.

I do want to ask you a question, though. When you were here previously, we talked about access to information and how important it was to make sure there's a system in place to respond in a timely fashion. In talking about auditing and adjusting our processes, you say, "We improved our intake processes." Can you just elaborate on that for me?

**Ms. Suzanne Legault:** It's just the time it takes us to actually receive the complaints, to make sure they're within our jurisdiction, and then to triage them according to whether they're simple administrative matters or whether they're complex matters. When I became interim commissioner in July, we had just had an internal audit that assessed the time it was taking us to do that aspect of our work. It was in excess of 90 days just to do that intake function, and

that is a very long period of time when we're dealing with administrative matters. So we basically took a series of measures right away in September to actually reduce that amount of time. We still have some work to do there, but our goal is to be much more effective in that portion of time.

• (1245)

**Ms. Judy Foote:** Have you reduced it from the 90? Do you have a number on the length of time it's now taking?

**Ms. Suzanne Legault:** Well, basically what we're trying to do is to complete all of these administrative matters. Our goal is to complete the administrative matters 85% within 90 days. This is what we have in our report, and in our plans and priorities. At this point, we complete about 20-some percent within that period of time. So our goal for this year is to really improve that much for those administrative matters.

If you will recall, the reason why we really want to gain efficiencies there is because about half of our complaints deal with administrative matters. The rest of the complaints deal with more substantive issues related to exemptions and exclusion. Ultimately this is where I want to spend the bulk of my time, because that deals with actual release of the information to Canadians.

**The Chair:** Because of the time, we have about four-minute slots for Madam Freeman, Mr. Siksay, and then Mr. Rickford.

[Translation]

**Mrs. Carole Freeman:** Your two predecessors had proposed amendments to the Access to Information Act. The committee dealt with that issue last spring and drew up recommendations. Minister Nicholson responded in a terse and quite brief manner—I would even say rather curtly—that we should perhaps study the proposals tabled in Parliament by Vic Toews, his predecessor, in April 2006.

Can you tell me if you read that document and what you think of it?

**Ms. Suzanne Legault:** With regard to the legislative reform, I support the recommendations that had been made last year under the leadership of Mr. Marleau. If I recall correctly, there were 12 recommendations on amending the act with regard to urgent matters. I support them because I was a member of that team.

Mr. Reid's bill had also been tabled, and I also support it for the most part. However, I believe that bill should be updated. It was crafted prior to the Federal Accountability Act, which has led to a number of changes.

Furthermore, with regard to the major issues, I would say that access to information and related reforms have been studied in detail on numerous occasions. I think that the question now is for the government to make political decisions. A number of decisions have to be made. Do we want a public interest test? Do we want to have powers to issue orders? Do we want timeframes in the act for certain activities? I believe that quite detailed studies have been made. It is now up to the government to decide whether it wants to support the reforms or not.

I will always remain available to the committee in order to provide it with more specific input on amendments that might be proposed.

**Mrs. Carole Freeman:** I hear you and I understand you. You may want to propose improvements to what has already been presented, whether through our recommendations or past bills.

Would you go so far as to propose the creation of a new bill?

**Ms. Suzanne Legault:** Obviously, it is up to the government to decide whether it wants to propose a bill or not. I will always make myself available to the committee.

**Mrs. Carole Freeman:** Would you see a need for that?

**Ms. Suzanne Legault:** I think so: the act has to be amended. As I said in my presentation, I believe that the Access to Information Act has to be modified in order to comply with or, at the very least, show a greater convergence with the more progressive laws in Canada and internationally. A number of pieces of legislation have been tabled in Canada and internationally since the year 2000. I think there are innovations we should be looking at.

**Mrs. Carole Freeman:** With regard to the work you have been doing for some time, there is a study that deals specifically with potential cases of political interference within three ministers' offices.

Could you give me an approximate idea of when you will be completing your investigation; is it a matter of weeks, months? Could you inform us about that?

•(1250)

**Ms. Suzanne Legault:** In fact, there are two major areas of activity. There are investigations on three specific complaints that we received. Those are distinct, specific investigations that are underway.

The priority investigation is on the activities of Mr. Togneri at the Department of Public Works and Government Services. That is already in the public domain.

You have also been given the three-year plan, which presents the institutions where we have begun a systemic investigation on matters of political interference. You have the list of departments in your documents. A systemic investigation, as I have already indicated in a previous appearance, usually takes three years. In the past, the effectiveness of the office of the commissioner—

**Mrs. Carole Freeman:** You are not answering my question—

**Ms. Suzanne Legault:** I am getting to the gist of the matter, Mr. Chair.

**Ms. Carole Freeman:**—and my time has run out. I would like to know when you will be completing your investigation concerning the complaints that were filed regarding the three ministers' offices.

**Ms. Suzanne Legault:** For one of the investigations, I expect we will have findings by the fall.

[*English*]

**The Chair:** Thank you.

Mr. Siksay is next, please, and then finally we'll have Mr. Rickford.

**Mr. Bill Siksay:** Thank you, Chair.

Ms. Legault, I have a specific set of questions.

In a situation in which a request has been made and hasn't been complied with at the first deadline, and extensions have been granted and extension deadlines have been missed, what are your options at that moment? Are you able to go to Federal Court to request that documentation be released at that point?

**Ms. Suzanne Legault:** No, I can't on extension matters.

**Mr. Bill Siksay:** I don't mean specifically with regard to the extension but with regard to the ultimate release of the information. Could you go to Federal Court to request the release of the information?

**Ms. Suzanne Legault:** If it is considered to be a deemed refusal under the legislation, yes, you can go to court. Usually what happens is that by the time you have a court hearing, the institution will release the information. So what we do now is try to obtain from the institution commitment dates, at which time they will release the information.

There is a case now before the Federal Court on this issue of commitment dates in relation to CBC. This is before the Federal Court of Appeal, and we will get guidance on this matter from the Federal Court of Appeal.

**Mr. Bill Siksay:** In the situation in which you don't have a commitment date, are you able to take an action before the Federal Court for the release of the information?

**Ms. Suzanne Legault:** Technically speaking, we could.

**Mr. Bill Siksay:** Do you go down that road very often?

**Ms. Suzanne Legault:** We have not, to my knowledge, so far. We really try to work hard to negotiate the release of the information, because at the end of the day that only deals with the release of the information at a certain time. It really doesn't deal with the actual package that is released, any exceptions or exclusions that are applied, so in terms of the release of the information to the requester, we are not gaining much time by going to court. That being said, it is open to me to do that.

We are going to get guidance from this Federal Court of Appeal decision.

**Mr. Bill Siksay:** If you were to go down that road more often, do you have the funding you need to take that kind of court action?

**Ms. Suzanne Legault:** We couldn't do it on a routine basis, definitely not. The budget freeze is having a major impact on our operations right now. I'm appearing before the government operations committee next week. We are completing our analysis of that.

Our budget situation is very tight at this point.

**Mr. Bill Siksay:** In those kinds of situations, are there other possibilities? Has it ever been considered that you might report those specific incidents to Parliament, for instance, giving the details of the specific case: the name of the department, the précis of the request, and a summary of what happened on it—making a specific report on those particular incidents?

Would that be a helpful course, given the problems you've talked about in taking the court action step?

**Ms. Suzanne Legault:** The special report that we tabled recently tackled that specific aspect of time delays, both deemed refusal and extension notices, so we have done that.

The point of the report cards this year is that we are going to work very closely with those 13 institutions, and it is a possibility, obviously.

• (1255)

**The Chair:** Thank you.

Mr. Rickford, please.

**Mr. Greg Rickford:** Thank you, Mr. Chair.

Thank you, Commissioner.

You seem to have a fuller and more enduring sense about it. I want to appreciate as well the members of the opposition for their praise of our Prime Minister's excellent choice for refilling this position on a more permanent basis.

[Translation]

I will turn to the annual report that we are quite pleased to have received from your office. In general, we are pleased to learn that the number of complaints has noticeably decreased for the second consecutive year. Is that correct?

**Ms. Suzanne Legault:** Yes, that is true, Mr. Chair. Three years ago, there were approximately 2,300 complaints. Last year, we received about 2,000. This year, we are dealing with approximately 1,600.

[English]

**Mr. Greg Rickford:** I'm reading from pages 11 through 16, but your office closed 2,125 complaints in 2009-10, which represents a 20% increase from last year. I believe that is more than the office has probably closed in more than 25 years total.

**Ms. Suzanne Legault:** That's correct.

**Mr. Greg Rickford:** You have listed the keys to your department's success on pages 13 through 16. Well done—it's a great read. I'm going to give you the opportunity to comment on certain aspects of your approach to leadership that have contributed to these results. Gloat for a moment, if you like.

**Ms. Suzanne Legault:** The bottom line is that my team and I work very hard. At the end of the day, that's essentially what it is.

As to the investigations, two things relevant to my leadership made a big difference last summer. Assistant Commissioner Neill was tasked with understanding what she had in inventory, which was not an easy job. She handles 3,500 to 4,000 cases at a time. But there was no real knowledge of the cases. That's what we did. It allowed us to develop various efficiency approaches not only within our own office but also with institutions. Leadership is also a matter of dealing with institutions and trying to work with them to find solutions and adopt portfolio approaches. Each department is different; each has its own reality.

The second aspect was to staff the office, which was not staffed.

**Mr. Greg Rickford:** That's an important point.

You noted there has been considerable improvement in the turnaround from institutions. I think we all view that as great news.

More specifically, I noticed in your report that the Treasury Board Secretariat has already taken significant steps in response to your recommendations. I interpret this to mean that our departments are listening and that they want to continue to improve and become more transparent. This would be consistent with the position this government has maintained over the past four years. Can you elaborate a bit more on this?

**Ms. Suzanne Legault:** I have spoken with Minister Day and I have been engaged in ongoing discussions with the Secretary of the Treasury Board. I am happy to report that there is a commitment to improving the system. Meeting with ministers, deputies, or heads of agencies always makes me optimistic about improving performance and access to information. This year we are going to focus on the 13 that were identified in the special report, along with the recommendations, to see what ground we can gain in improving the system.

**The Chair:** We don't actually do a report on the annual report to the House. It is something that we will be talking about until the next one. Madam Acting Commissioner, until something happens, congratulations on your nomination. I will try to report tomorrow, and this committee will take the opportunity to look at the study a little more. The report has just recently been tabled, and in fairness I think we need to digest it a bit more. I'm sure we will have some more discussions with you, but possibly not until after the summer break.

Thank you kindly for all your support of this committee. You're excused.

We have one last item to deal with. Madam Davidson, I circulated a letter from Minister Nicholson about his appearance on the 17th. Do you have a point?

• (1300)

**Mrs. Patricia Davidson:** I wanted to point out that when this was brought up at the last meeting, or the second last, we hadn't yet seen the June 2 letter. You had it but it hadn't been circulated, I don't think. In that letter the minister agreed to appear for an hour. The second letter is just clarifying that, isn't it?

**The Chair:** No. We requested that he appear on one of three dates, and he picked the 17th. The request for him to appear suggested one hour on privacy, one hour on access. Just yesterday he said he would come for only an hour because he had some scheduling difficulties.

**Mrs. Patricia Davidson:** All I'm saying is that his first letter of June 2, which we had not seen at the last meeting, said he would be pleased to accept our invitation to appear for an hour.

**The Chair:** No, no, it was—

**Mrs. Patricia Davidson:** I'm reading it, and that's exactly what it says.

**The Chair:** No, no. That's what he says it says.

**Mrs. Patricia Davidson:** I'm reading his letter from June 2.

**The Chair:** The invitation of the committee that instructed me was to bring him for one hour for each report. He agreed.

There were two letters: one for access and one for.... That's why.

Notwithstanding, the issue is that the minister has indicated that he's going to be available on June 17, but now instead of its being for two hours, it's one hour. The committee had asked for one hour for each of the reports, but the minister is now available for only one hour for both reports.

The only way I could think of changing that would be maybe to call Mr. Darren Eke, director of issues management and legislative advisor to the minister, to appear for the second hour. He's a political staffer, which means that the minister will appear.

No, I'm being facetious.

Under the circumstances, colleagues, I think we've made best efforts. The minister is still going to appear, and we'll have to make the best of the time available. I'm sure we have other work to do to fill out the rest of that meeting.

Mr. Easter, please.

**Hon. Wayne Easter:** But that was our understanding.

We had Minister Paradis here for the last meeting and this meeting, not invited. We had three or four ministers before the operations committee the other day, not invited. As Randy mentioned earlier in this meeting, I complain substantially in the agriculture committee when the minister only comes for an hour. When committees invite ministers, they cut their time back to an hour. It's abuse to committees more and more.

**The Chair:** Mr. Easter, I hear you. We will have a chance to discuss this, but there is another standing committee that has this room from one o'clock on. We're actually encroaching on their time.

Having said that, we will carry this on at the next meeting, at the appropriate time under committee business.

We're adjourned.

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