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Thursday, June 10, 2010

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Chair

Mr. Paul Szabo

Standing Committee on Access to Information, Privacy and Ethics

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• (1110)

[English]

The Chair (Mr. Paul Szabo (Mississauga South, Lib.)): Order.

This is meeting number 20 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 a study on allegations of interference in access to information requests.

Our witness today, from the Office of the Prime Minister—according to our agenda, circulated and on the web—is Mr. Dimitri Soudas, director of communications.

Colleagues, I have received this morning the latest report from the bailiff, Mr. Fox, who is with Kilrea Bailiff & Process Servers, who acted on behalf of the House of Commons in this regard. Mr. Fox states, as of today's date:

On June 9th and 10th I attempted to contact Mr. Dimitri Soudas to make arrangements to serve the Summons from the Standing Committee on Access to Information, Privacy and Ethics. I telephoned, spoke to reception, identified myself and informed her that I had a Summons to serve on Mr. Soudas on both occasions. I was placed on hold both times for a short period and when the receptionist returned I was informed he was unavailable.

I have yet to receive a return call from Dimitri Soudas, or from his office and am unable to effect service at this time.

So we do not have a witness today. As we discussed, we had a motion by Mr. Siksay, which was tabled, and also a motion from Madam Freeman with regard to civil implications, and also a new timeline, as it were, in terms of making one final request for the two witnesses, Madam Andrews and Mr. Soudas, to appear on or before June 16.

We do not have a meeting on June 16. Our last meeting would be June 15 vis-à-vis that motion. As a consequence, we are not going to be reporting to the House until the committee addresses this next Tuesday.

However, I have circulated to all the committee members an updated synopsis. It's really in the form of a report, if the committee wishes. This was prepared by the clerk's directorate. The format is basically to simply provide the facts related to the non-appearance, as would have been reported to us by the bailiff as well as our own personal attempts.

Really, the last two paragraphs are the operative ones. They simply indicate that, "In light of this matter", the non-appearance of witnesses:

...the Committee has reason to believe that a potential breach of privilege has occurred.

Your Committee feels it is their duty to place these matters before the House at this time since a question of privilege may be involved and to give the House an opportunity to reflect on these matters.

Colleagues, the facts related to Mr. Togneri, Ms. Andrews, and Mr. Soudas have been laid out here in this one-page document, this one-page report, as prepared by the clerk's office, with the last two lines being standard language that has been used from other committees in similar circumstances. So we have a template that the committee can use should it wish to make the same or a similar report on the matter before us now.

On the agenda, you will note that we referred to this as the discussion of a draft report on the non-appearance of Sébastien Togneri, Jillian Andrews, and Dimitri Soudas. I am tabling or providing this to the members for purposes of that discussion and to determine whether or not this template and these details satisfactorily reflect the views and the opinions of the committee members, with a view to making all final changes and having it ready for the committee in final form for next Tuesday, for final consideration should the witnesses not appear.

So that is where we are right now. We're still on the first item.

I would like to welcome the Honourable John Baird, who has been signed in as a member of the committee.

On this matter, as we indicated, and on the discussion of the draft report or the template or reform of a draft report, I would like to have the members' opinions and instructions with regard to where we're going from here.

I have a list.

Madam Freeman, would you like to defer until you look at that sheet?

[Translation]

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): Yes.

[English]

The Chair: Mr. Siksay, go ahead then.

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

I think it would be helpful if you made a clear declaration for the record that Mr. Soudas hasn't appeared this morning, as he was summoned to. I'm not sure I heard you say that, so I hope you will do that, so we're clear on the record that he isn't here this morning, unfortunately.

The Chair: Mr. Soudas isn't here this morning.

Mr. Bill Siksay: Thank you.

[Translation]

The Chair: What a surprise!

[English]

Mr. Bill Siksay: Chair, this is a very helpful draft, and it looks good to me. There is one tiny point, a minutia. At the end of the paragraph dealing with Mr. Togneri, it says “even if he was not duly discharged”. I'm wondering if “if” is the right word; maybe “even though he was not duly discharged”. Maybe that's an editorial change that could be made.

Chair, I think it's a very serious issue that the committee has been thwarted in its attempts to have the people appear who have the information that we believe will be helpful to our study on political interference in the Access to Information Act.

I think it's extremely troubling that Mr. Soudas isn't here. I think it's unfortunate that he's been told not to appear by his boss and by the government. I think we have to pursue this, and I believe the template you've provided will be very helpful to us when we decide on this matter on Tuesday.

Thank you, Chair.

• (1115)

The Chair: Thank you.

Madame Freeman, s'il vous plaît.

[Translation]

Mrs. Carole Freeman: Mr. Chair, we see that Mr. Soudas is indeed absent this morning. We have the document you handed out. I want to point out that it is extremely embarrassing for Parliament when a witness who has been duly summoned.... We voted on a motion on this matter on June 8, on Tuesday. And this witness did not appear. He is turning his nose up at all the laws that govern the country. Before preparing this motion, I worked with the House of Commons' law clerks to get a clear understanding of all the various legal avenues available in this situation, which I would describe as quite unique. I also worked with the committee clerk.

Mr. Chair, I would like to move that we hear from Robert Walsh next Tuesday; he is a law clerk who would be able to explain to the committee the exact legal implications when a witness fails to appear before the committee. In fact, he could speak to all the legal aspects involved in such a situation.

I find this situation very peculiar. Mr. Soudas is a member of the Prime Minister's staff. Mr. Harper sent us a letter saying that his employee would not be appearing before the committee. I have the chronology of events here. On May 25, Jay Hill made his statement before the House. On May 31, Christian Paradis, the minister, sent us a letter to say that Mr. Togneri and Ms. Andrews would not be appearing. On June 1, Prime Minister Harper sent us a letter saying that Mr. Soudas would not be appearing. On June 8, I prepared a motion to compel Mr. Soudas to appear given that he had already received a summons to appear. Once again, he did not appear.

As parliamentarians, we are in a very peculiar position here. A prime minister, knowing that a member of his staff has been summoned by law to appear before the committee, is not doing

anything. How is it that the Prime Minister, whose government wraps itself in the cloak of law and order, is not encouraging his employee, either directly or indirectly, to comply with the orders of this House of Commons' committee?

That kind of attitude is an obstruction of justice and is subject to sanctions under the Criminal Code. Section 139(2) of the Criminal Code says, and I quote:

(2) Every one who wilfully attempts in any manner other than a manner described in subsection (1) to obstruct, pervert or defeat the course of justice is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years.

Therefore Dimitri Soudas and the three witnesses could be found to be in contempt of Parliament. What is more, Mr. Harper, himself, is contravening the law, pursuant to section 139 of the Criminal Code. Given this situation, I think that Robert Walsh, the senior law clerk of the House of Commons, should appear next Tuesday to explain to our colleagues the implications of the wrongdoing committed by Mr. Soudas, Mr. Togneri and Ms. Andrews, as well as their respective employers. Given that these employees received a summons to appear before the committee, encouraging them not to appear constitutes an obstruction of justice under the Criminal Code. I am referring to section 139 of the Criminal Code, which states that this offence is liable to 10 years of imprisonment.

Thank you, Mr. Chair.

[English]

The Chair: Okay. The motion certainly is in order.

Madame, I want to be sure. You said to report on the effect of the non-appearance and consequences.... I'm not sure Mr. Walsh would be in a position, nor would it be advisable for him, to speculate on what might happen should the House deal with this. In fact, as we discussed at the last meeting—as I indicated to you—this committee will not be making any determinations as to what these circumstances.... It is up to the House to make that.... We have no authority to sanction or to censure any person, any member or witness, and that's why we have to report to the House.

One option I would suggest, Madame Freeman, is that if you wish, we certainly could have Mr. Walsh provide us with a summary of the possible impacts. I'm not sure it's going to help the committee with its report.

I want to go back to you so that you can respond. I see that you would like to—

• (1120)

[Translation]

Mrs. Carole Freeman: With all due respect, Mr. Chair, I have to say that on Monday evening I had the chance to speak with the law clerks long enough to prepare my motion. I spoke with them Tuesday, and I have just spoken with them again. I have to tell you that what they told me was very enlightening indeed.

There are a number of options. I will not get into them all. That is why I think it is crucial that Mr. Walsh appear before the committee to explain all of them, rather than simply sending us a report. Today, we could ask the Sergeant-at-Arms to carry out the order of finding Mr. Soudas and arresting him. So there are a number of avenues we could explore. That is why I think we should hear from this expert, Mr. Walsh, so he can explain them to us. It is not speculation, in fact quite the opposite; it is the law. I do not think the committee can afford not to hear his testimony. It is absolutely imperative that Mr. Walsh explain those options to us.

After reviewing them for so long, I am familiar with all the procedures and all the various options available to us to carry out our.... There are two sides to this. There is the parliamentary side, and right now, there is more than just that aspect: they are defying the law. So there is the criminal side. We have these two sides, and they are interrelated.

I put forward my motion after meeting with the law clerks and working with the committee clerk, to ensure that both sides—legal and parliamentary—are perfectly compatible, as well as fair and accurate. I know exactly the kind of motion I moved, and I know exactly the consequences of failing to comply with that motion and the summons to appear received by Mr. Soudas.

That is why I am asking the committee to hear from Mr. Walsh: so he can explain the exact legal implications of this situation and obviously the parliamentary ones.

[English]

The Chair: Okay. So the members understand, the member wants Mr. Walsh to explain not what we can do but what the House can do.

[Translation]

Mrs. Carole Freeman: Sorry, I did not understand.

[English]

The Chair: As I indicated, we don't have any authority to sanction or to recommend that someone be put in jail or whatever. We refer it to the House.

Mr. Walsh will—I understand you clearly—

[Translation]

Mrs. Carole Freeman: No, I will speak slower.

[English]

The Chair: Mr. Walsh would be able to tell you that, for instance, you could send the Sergeant-at-Arms to go and get him and bring him to the bar, and he would have to answer questions in the House, and all these things. Is that what you want—

[Translation]

Mrs. Carole Freeman: Listen carefully, sir, with all due respect. I will speak slower, as my colleague tells me the interpreters are having trouble following me. So I will speak slower to make sure everyone understands.

I just said that when I prepared my motion, I asked the law clerks to explain to me the potential consequences for witnesses who are compelled to appear before the committee by subpoena. I prepared my motion in collaboration with the law clerks and the committee clerk. Okay.

That said, like Mr. Walsh, we know full well that there are many legal implications. There is the parliamentary aspect, but there is also another. We cannot separate the two. There is Parliament, yes, but given that a subpoena was issued, there are also legal implications, and the Criminal Code is being violated, as we speak.

So I think it is absolutely critical that we meet with Mr. Walsh. Let him come here and explain the situation to us. We cannot speculate if we have not heard from the witness.

• (1125)

[English]

The Chair: I think all the members understand now, Madam Speaker—I mean, Madame Freeman. Thank you.

[Translation]

Mrs. Carole Freeman: Thank you.

Madam Speaker? Thank you!

[English]

The Chair: You could be Speaker one day. Why not?

Hon. John Baird (Ottawa West—Nepean, CPC): I would vote for her.

Mrs. Carole Freeman: Thank you, Mr. Baird.

The Chair: All right. Madame Davidson, please go ahead.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Thank you, Mr. Chair.

The Chair: We are on the motion, but it is related to the subject matter.

Mrs. Patricia Davidson: We are on what motion?

The Chair: The motion just made by Madame Freeman, which we've been discussing for a little while here.

Mrs. Patricia Davidson: I'm sorry, but I don't know what that motion is. I thought we were discussing this.

The Chair: Yes, we are, but during her intervention she made a motion that we hear another witness, Mr. Walsh, with regard to the implications. She feels we need to know a little bit more about the consequences of failure to appear, which may affect our report.

Mrs. Patricia Davidson: Then, Mr. Chair, if we are debating a motion, I need to see that motion, or at least to hear it clearly.

The Chair: Okay, order.

[Translation]

Mrs. Carole Freeman: I just said it. We do not need to....

[English]

The Chair: Madame, it's okay. We've already been through the thing about oral motions.

Mrs. Patricia Davidson: That's why I said "or hear it clearly" from the mover, please.

The Chair: No, no, I will tell you what it is.

Mrs. Patricia Davidson: Are those your words or her words, Mr. Chair?

The Chair: I'll tell you the motion that the clerk wrote down here.

Mrs. Patricia Davidson: That would be wonderful, thank you.

The Chair: The motion is that the committee call Mr. Walsh, the law clerk, to explain to the committee the consequences of failure to appear or honour a summons.

Mrs. Patricia Davidson: The consequences of what?

The Chair: Failure to appear before a committee or—

Mrs. Patricia Davidson: Gee whiz, maybe the clerk hasn't got it written down.

The Chair: Well—

Mrs. Patricia Davidson: Amazing. Could you please read your motion to me, Ms. Freeman?

[*Translation*]

Mrs. Carole Freeman: The motion is exactly what the chair just said.

Some hon. members: Oh, oh!

[*English*]

The Chair: All right. I think she wants to hear Mr. Walsh as another witness next Tuesday.

[*Translation*]

Mrs. Carole Freeman: We want Mr. Walsh to appear before the committee to explain the consequences of witnesses failing to appear when they have been duly summoned by the committee. So we want the expert law clerk to come and explain all the consequences to us and enlighten the committee.

An. hon. member: Sure, we do.

[*English*]

The Chair: Thank you.

I think Madam Davidson understands.

Mrs. Patricia Davidson: I had my name on the speakers' list, not to speak to a motion, which I did not even hear being made. I had it on to speak to this, so I will pass until we come back after the motion.

The Chair: Okay, sure.

Mr. Poilievre, please.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): I'm going to be proposing an amendment to the report that you have tabled before the committee. It would apply to—

The Chair: We're on a motion that Mr. Walsh appear.

Could we have all the speakers on that motion? It's pretty straightforward. She wants to call another witness—Mr. Walsh.

Is there anybody else who wants to speak on Mr. Walsh?

Mr. Pierre Poilievre: I understand that witness lists are generally done at the subcommittee, Chair.

The Chair: No, witnesses can be proposed by committee members at any point, but obviously subject to the approval of the

committee. Madam Freeman believes this may affect her suggestions as to what this report may include.

Mr. Pierre Poilievre: Perhaps we could just have the subcommittee deal with that motion, given that—

The Chair: Well, perhaps we could just deal with the motion if I put the question.

Mr. Pierre Poilievre: I don't think it's appropriate to change the rules at this stage.

The Chair: Well, no; if there's no one else who wishes to speak to that motion....

Who wants to speak to the motion?

Mr. Siksay; I had Mr. Baird; then I had Madam Foote.

• (1130)

Mr. Bill Siksay: Thank you, Chair.

I'm not sure I can support this motion. I don't believe we need further advice from the law clerk on the consequences of this. I think our job is to report what's happened. And what's happened is this: these witnesses have failed to appear, have refused to appear, have been instructed not to appear. I think that's all we need to know, frankly, for this next step.

The chair, I believe, has had conversations with Mr. Walsh over the course of this problem. I don't believe having a meeting where he comes to tell us consequences is particularly helpful at this time.

The Chair: Okay.

Mr. Baird, please.

Hon. John Baird: Thank you very much, Mr. Chair.

Thank you for the warm welcome here, and your professionalism; I appreciate it. I mean that very sincerely.

I want to speak to the motion of my esteemed colleague, Madame Freeman, by saying that rather than have the law clerk of Parliament come before the committee, rather than that, what should happen is that the committee could actually accomplish the goals it set out. It wants to hear from the Prime Minister's Office with respect to practices and procedures, with respect to access to information.

I think you're well aware, Mr. Chair, that the government House leader made a statement in the House acknowledging that our government fully recognizes the authority of parliamentary committees to call for persons or papers as they carry out their work. However, ministers are accountable and answerable to Parliament for government policies, decisions, and operations, and ministerial staff are accountable to their ministers. If anything, there is an attempt, I think, to strengthen accountability by having ministers take full responsibility for the actions of the members of their political staff in their office.

As you're well aware, and as you've mentioned, Mr. Chair, the Prime Minister sent a letter to the clerk of the committee on June 1, saying that he's pleased to assist the committee in its work. As you know, prime ministers don't normally appear before parliamentary committees. The Prime Minister has asked me to appear before this committee and to answer any and all questions that members may have with respect to the study they are undertaking.

I am keen and enthusiastic to answer all questions that any member of the committee would have—

Mrs. Carole Freeman: A point of order.

Hon. John Baird:—with respect to the access to information and the important priorities that we put. There is a policy and an expectation from the Prime Minister, very directly, to all of his ministers, that we fully and completely follow the Access to Information Act. In fact, that was one of the first instructions he gave, orally and in writing.

Hon. Wayne Easter (Malpeque, Lib.): A point of order.

I understand that you—

The Chair: No, sorry, Mr. Easter; Madame Freeman had indicated that she had a point of order, and I'd wanted to hear a little bit more.

Excuse me, Minister, but I'm going to have to take the point of order.

Hon. John Baird: No problem at all, Mr. Chair.

The Chair: Madame Freeman, on a point of order.

[*Translation*]

Mrs. Carole Freeman: Mr. Chair, you know that I am always delighted to have Mr. Baird testify before the committee. But we have already gone over all of this many times. It is out of order. Mr. Baird has appeared before us. We have told him that his presence was greatly appreciated but that he could not discuss what went on in the Prime Minister's Office when he did not work there. We are back at square one. This discussion is unnecessary. He has given us his arguments, and we have refuted them.

So there you go, Mr. Baird.

[*English*]

The Chair: Madame, maybe there are others who don't quite understand what's happened here.

The minister and I had a very good conversation yesterday, and he indicated that he certainly wanted to have, one way or another, an opportunity to discharge his responsibilities, to do his job, and to have an opportunity to address the committee.

The committee has already.... As you well laid out, Madame Freeman, we are following the rules of the House as we understand them, as they have been unchanged by the ministerial statement. I also have the understanding that it is going to be up to the House to make a resolution of this. It's not for us to decide.

The minister is here today; he has not insisted that he sit there as a witness. He in fact has been replacing another permanent member on the committee. He actually has signed in as a participating member of the committee now. He is not visiting, like when Minister Paradis came as another person, in addition to all the permanent members, and then when all of those members didn't speak—when no other permanent member spoke—your visitor could have had an opportunity. In this case, rather than having to wait for the full two-hour meeting to be over before he had a chance to speak, the minister thought it would be more efficient for his time to have one

of his colleagues allow him to be signed in. He has put his name duly on the list, and it is his time to speak.

An hon. member: [*Inaudible—Editor*]

The Chair: Just a moment.

He is speaking to the motion, the motion which is related to our study, and it's relevant for him to raise his points of view with regard to that. He is not going to be asked questions. He is like yourself, Madame Freeman, a member at the table participating in debate on a motion. So don't worry about him asking questions.

I've dealt with it; it was not a point of order. You were concerned about him getting asked questions.

I'm going to Mr. Easter, please, on a point of order.

• (1135)

Hon. Wayne Easter: No, I'm not concerned, and we're not going to ask him questions because he's not here representing Mr. Soudas. As I understand it, Mr. Soudas.... We'll deal with that in a motion or in the report.

My point of order was to relevance, related to Madame Freeman's motion. What the Minister of Transport seems to be doing is taking his opportunity to speak to push the propaganda, the Prime Minister's spin machine, and this is not the place for that. If he wants to talk relevance on the motion, that's fine, but I don't think his discussion was relevant to the motion on Mr. Walsh.

The Chair: Thank you.

The point of order was on relevance, and colleagues, I have to be consistent. I have to be fair.

At our last meeting, Minister Paradis was here, and he also spoke to a motion that we were dealing with, and he spoke about political staff appearing, and he moved onto the policy statement the government House leader had presented to the House a couple of Tuesdays ago. It is very difficult to separate the policy statement of the government from what we're doing now. They're inextricably linked; it's clear. I don't think the ministerial statement is unknown to anybody, but it is relevant, and I'm going to rule that the point of order is in fact not correct.

Did you have a point of order, or would you like the minister to finish his intervention here?

Mr. Pierre Poilievre: I think we'd all like to hear from the minister.

The Chair: Minister, please.

Hon. John Baird: Thank you very much, Mr. Chair.

As I was saying, rather than support Madame Freeman's motion, I think it would be better to focus on the specific task before the committee, which is concern with respect to access to information. The Prime Minister invites accountability; we welcome accountability. He has asked me to represent him at this meeting, and I'm prepared—

Ms. Judy Foote (Random—Burin—St. George's, Lib.): I have a point of order, Mr. Chair.

Hon. John Baird: —to fully respond to any questions that people have on the task before the committee, rather than—

Ms. Judy Foote: I have a point of order—

Hon. John Baird: —simply delay it and—

The Chair: Minister, I apologize. I'm going to have to take a point of order from Madam Foote, please.

Ms. Judy Foote: Mr. Chair, this really is an abuse of the committee, I have to say. We have a motion on the floor dealing with whether or not Mr. Walsh is going to appear before this committee. That is the substance of the motion. It is not what happened in the House. It is not what the government has done. It is not the fact that they're refusing to allow people to appear before this committee as witnesses, people we have every right to talk to and to ask what happened in terms of whether they in fact broke the law, as we know Mr. Togneri did—

The Chair: Order, please. Order, please.

Ms. Judy Foote: The point here for us is to speak—

The Chair: Order. Order, please.

Ms. Judy Foote: —to the substance of the motion.

The Chair: Turn the mike off.

Madam Foote, that's debate; it's not a point of order. I would indicate that the minister isn't making an argument. His last statement was that rather than doing this, we should be doing something that he feels is more.... That's relevant to why he's not going to support the motion. That's his argument. That's why we're in debate.

If I don't rule that way, then all of a sudden our practices and traditions are going to be undermined. Members have a lot of latitude on what they say in using their time to make arguments for or against. I don't judge members on the quality of their arguments, but I do encourage all members to work as hard as they can to be relevant to the matters before this committee right now.

Minister, you have the floor again.

• (1140)

Hon. John Baird: Thank you.

I'll just confirm, Mr. Chair, that I'll speak for another two minutes and then I'll yield the floor.

Rather than engage in a long discussion with respect to calling additional witnesses, I think the committee's focus is on ensuring the integrity of the access to information process and the government's compliance with it. The Prime Minister has asked me to come. I'm prepared to speak at great length, rather than hear Mr. Walsh, on the practices, policies and procedures, and specific circumstances in the Prime Minister's Office or the Privy Council Office.

There's a clear precedent of ministerial accountability. We welcome that. We don't shirk from it. We're prepared to respond to any and all questions in this regard. I think one of the cornerstones of our parliamentary democracy is ministerial accountability. One of the other cornerstones, Mr. Chair, of our system of parliamentary democracy is that the House of Commons must place its confidence in the government each and every day. On Tuesday, the House of

Commons voted confidence in the government after Mr. Hill made his statement.

I'm here to answer any and all questions and to be fully accountable. I look forward to them, Mr. Chair, and I'm always available to work constructively and cooperatively with you.

The Chair: Thank you, Minister.

The member is finished.

Go ahead, Madam Freeman, on a point of order.

[*Translation*]

Mrs. Carole Freeman: Mr. Chair, right now Mr. Baird, who is here as a member, as we all are, is using his role today to speak to us as the minister. That is not his role. He is trying to use his role as a member to act as a witness. He is usurping a right and doing indirectly what he cannot do directly. We do not want to hear from him as a witness, but we are because he is using his role as a member. He cannot serve as a witness and make statements before the committee. He is doing indirectly what he cannot do directly. I object to this.

[*English*]

The Chair: Thank you, Madam Freeman.

Members of Parliament have rights at committees. The minister has appeared, and he's used his time creatively to at least get his message out, but he is not here as a witness. He made a statement. He reflected his views on this motion and his non-support for it; he argues that there are other aspects of what we're doing that would be more useful. That's his opinion.

I am not going to judge the quality or the propriety of making those conclusions. The member has signed in, and members can use their time in any fashion they wish. At this point I'm not prepared to say that it's not relevant. As a matter of fact, Madam, I actually ruled that the point of order on relevance was not accepted and that I believed there was sufficient relevance.

Let us move on. I have four more speakers on Madam Freeman's motion with regard to calling Mr. Walsh as a witness for next Tuesday. They are Madam Foote, Mr. Hoback, Monsieur Plamondon, and Mr. Easter.

Madam Foote, go ahead, please.

Ms. Judy Foote: Thank you, Mr. Chair—

Mr. Pierre Poilievre: Chair, I have a point of order. I had placed myself on the list long ago.

The Chair: I think when I asked you—

• (1145)

Mr. Pierre Poilievre: No. It was immediately at that time.

The Chair: I can duck and say I don't keep the list, the clerk does, and I can blame him, but I won't. What I want to do is make sure that all members who want to be heard will be heard. We must have misunderstood your positioning of which motion. Your name is first on the list back on the discussion of the draft report.

Mr. Pierre Poilievre: No. I actually put my name forward for this particular subject, so it would have to be moved over from first on that to first on this.

The Chair: Could you please put Mr. Poilievre here?

Would you like to remain on the other list for the main list?

Mr. Pierre Poilievre: Yes, but when I put my name on the list, it was the first on this list, not the first on that one.

The Chair: Understood.

Okay, Madam Foote, excuse me. I'm going to correct my error.

Mr. Poilievre, then Madam Foote, and then Mr. Hoback, Mr. Plamondon, and Mr. Easter on the motion of Madam Freeman.

Please.

Mr. Pierre Poilievre: I'll begin with an amendment to Madam Freeman's motion. There seems to be an amendment that you might be interested in hearing about. Madam Freeman has proposed that the committee call Mr. Rob Walsh, and my amendment changes the name "Rob Walsh" and replaces it with "Minister John Baird".

I'm going to begin by speaking to my amendment, Mr. Chair. I'm going to read from chapter 1, "Parliamentary Institutions". This is in the *House of Commons Procedure and Practice*, second edition, 2009.

The Chair: Excuse me, Mr. Poilievre. I apologize, but another member called a point of order. As you know, I have to deal with that.

Madam Freeman.

[*Translation*]

Mrs. Carole Freeman: Point of order. Mr. Chair, Mr. Poilievre is trying to put forward an amendment that has nothing to do with the current motion. It is totally separate, something different. It has no bearing on the main motion—none whatsoever.

[*English*]

The Chair: All right. We have spent—

[*Translation*]

Mr. Louis Plamondon (Bas-Richelieu—Nicolet—Bécancour, BQ): The name of the witness cannot be changed...

Mrs. Carole Freeman: The name of the witness cannot be changed.

[*English*]

The Chair: Excuse me.

Mr. Pierre Poilievre: May I proceed?

The Chair: No. Just a moment.

In my experience, we're just entering into a period of time that ultimately does not get the committee any productivity. It's probably not helpful to have multiple points of order or amendments all over the place on various things. I think everybody around this table knows exactly where this is going, and I think we should step back a second here and try to figure out what the deliverable is from our committee.

I want, by the end of this committee meeting, to have some sort of a consensus on a template or a draft report for the committee so that when we have finished with all witnesses and the 15th has come and gone, and we know with certainty what the facts are, we will be in a position to have a vote on a final report and an instruction to the chair to table it in the House.

Madame Freeman, you made a motion to call Mr. Walsh and you made your argument on why it's important for him to be here, and I suspect that every member around this table could come up with another name that would be just as interesting or relevant to the committee with regard to this study. They can either make their own motion or hear yours out and have a vote on it, and then somebody else will make a motion that they want to hear from the minister and have a debate on that. Once all of that happens, it will be one o'clock and we will have accomplished nothing.

I'd like to hear from the committee. If we're going to filibuster and play games and not get any work done, I think the members ought to just save everybody the time now and let's just adjourn the meeting. Okay?

But if members want to get on to the substantive work we have to do, if it's so serious, if everybody's saying it's so serious, then we'd better treat it seriously with regard to points of order, with regard to more witnesses, with regard to amendments, with regard to all these very valid ways in which you can disrupt a meeting.

We only have two meetings left, this one and one more. That's it.

If we get this draft motion concurred in, in terms of the substantive content of it and the direction of the committee, we will wait until Tuesday, we will know what happens, whether or not anyone agrees to appear—of the witnesses that Madam Freeman made in her prior motion—and then we will entertain a motion as to whether or not the

Mrs. Patricia Davidson: A point of order.

The Chair: Just a moment. I will get to you just after I'm finished.

Mrs. Patricia Davidson: A point of order. There is a motion on the floor.

The Chair: No. Madam, I understand that. Just a moment. I have a responsibility to try to maintain order and decorum and to keep the committee moving in the right direction. Let me finish.

We have two meetings to go. These are the consequences. We passed Madam Freeman's motion at the last meeting, that the witnesses be asked to appear no later than June 16, next Wednesday. We don't meet on Wednesday; we meet on Tuesday. So presumably, once we have our meeting next Tuesday, if there are no further witnesses who had been summoned who appear, then the report we have before us—should it be agreed upon—would be in a position where we could deal with it at the meeting on Tuesday and we could authorize the chair to table the report in the House, which could happen on the Wednesday or Thursday.

•(1150)

If we call a bunch of witnesses—and we have Mr. Walsh proposed for next Tuesday and there are more witnesses—we will never get around to talking about a report to the House. All of the work we will have done will not be able to be reported to the House by next Thursday. I understand it's possible the House may rise on Thursday, which means this whole matter and all the work that has been done by this committee will not be finalized until we return in the fall. If that's the will of the committee, we're on the right track to make that happen.

Madam Davidson, and to other members, all I'm saying is I've seen this before. I know the route we're on right now, and the intent of anyone who continues down that route is that they don't want to have this reported to the House. That would be a valid interpretation by any observer.

Mr. Poilievre has the floor and he has proposed an amendment to Madam Freeman's motion that we call Mr. Walsh. He has proposed to say that rather than calling Mr. Walsh, he would be more interested in calling the Minister of Transport to appear. That's where we are.

Now I am going to stop and we're going to see how many points of order and other things we're going to have.

So where are we, Mr. Clerk?

Madam Davidson was first. She called a point of order.

Mrs. Patricia Davidson: I did, Mr. Chair. I called a point of order. It was on the fact that I was not allowed to speak on this document that was circulated to us and you were. That was my point of order, why you could speak on the issue that was not before us, which happens to be the motion.

You've explained your point. Carry on.

•(1155)

The Chair: Thank you.

Mr. Easter, on a point of order, sir.

Hon. Wayne Easter: Really, Mr. Chair, it's a point of clarification on your remarks.

The Chair: I don't think there is such a thing.

Hon. Wayne Easter: There is a motion on the floor that I think we're giving Ms. Andrews and Mr. Soudas until next Wednesday—

The Chair: No, that's not on the floor.

Hon. Wayne Easter: It's not on the floor; that's the motion we've already passed.

The Chair: Yes, we've passed it.

Hon. Wayne Easter: You said in your remarks that we would deal with that next Tuesday, which is really a day ahead of the motion. Are we not meeting next Thursday? I think rather than get into the business of having a motion on the floor which says the 16th, in fairness we have to do that on the 17th, not the 15th.

This is probably to the government's advantage, but I think that's fair to the witnesses and the motion we have already passed. I can't see finalizing this report—and I want to talk on that later—a day

before they're supposed to appear. I think we ought to do it on the 17th.

An hon. member: I don't see that as a point of order.

The Chair: It's a point of clarification.

Okay. It was discussed at the last meeting, and because the committee does not... We do meet on the 17th. We have Mr. Nicholson, the justice minister, appearing before us.

The motion passed. Madam Freeman's motion was that those people appear before the committee on or before the 16th—next Wednesday. Since the committee doesn't meet Wednesday, the immediately preceding meeting of the committee would be on the Tuesday.

If they don't appear on Tuesday, then they will not have appeared before the committee, even if they wanted to, because we don't meet on the Wednesday. I don't know why it's the 16th, but if they don't appear on Tuesday, there's no way they could satisfy the motion and we could finalize the motion on the Tuesday. Nothing will change on Wednesday because we don't meet, unless the committee would like to arrange a meeting on the Wednesday and see if they would come.

That's just an explanation. We talked about this at the last meeting, that we will not be able to finalize our report until Tuesday to see whether or not either of the two witnesses appear.

Mr. Poilievre has the floor. He has proposed an amendment that Mr. Walsh be replaced by Mr. Baird.

Mr. Louis Plamondon: A point of order.

[*Translation*]

Mrs. Carole Freeman: That is not an amendment.

[*English*]

The Chair: A point of order from Mr. Plamondon.

[*Translation*]

Mr. Louis Plamondon: Mr. Chair, you did not rule on whether Mr. Poilievre's amendment was in order. You did not say whether it was in order or not. To my mind, it is entirely out of order because it completely eliminates the witness we want to hear from.

I think Mr. Poilievre should move a new motion to have the minister appear. But his motion should be ruled out of order because it completely eliminates the other motion; it does not amend it.

[*English*]

The Chair: Well, I think I addressed that in my comments, in saying that he could make another motion, or his amendment could be after Mr. Walsh and Mr. Baird. So that would be an amendment.

It's moot. By virtue of that, I called for debate. I believe, sir, that his motion is in order, but it's only because he would have to make an argument that the substitute would be able to satisfy or advise the committee with regard to some of the consequences—and probably in the context of a government policy statement.

Mr. Poilievre.

Mr. Pierre Poilievre: Thank you very much, Mr. Chair.

The Chair: Is it for another point of order?

Mr. Pierre Poilievre: I believe you ruled on his point of order.

The Chair: No, I accepted debate on the amendment.

• (1200)

Mr. Pierre Poilievre: Yes, thank you very much, Mr. Chair.

The amendment is based on hundreds of years of parliamentary tradition, and I cite as my source for the argument the *House of Commons Procedure and Practice*, the second edition, 2009, edited by Audrey O'Brien and Marc Bosc. The name Audrey O'Brien is very well-known and held in extremely high regard around the parliamentary precinct. She continues to be a servant of Parliament to this day, and, I might add, with the unanimous confidence of parliamentarians.

From page 32, chapter 1, entitled “Parliamentary Institutions”, and subtitled “Responsible Government and Ministerial Responsibility”, I quote:

In a general sense, responsible government means that a government must be responsive to its citizens, that it must operate responsibly (that is, be well organized in developing and implementing policy) and that its Ministers must be accountable or responsible to Parliament.

And it goes on:

In terms of ministerial responsibility, Ministers have both individual and collective responsibilities to Parliament.

The Chair: Mr. Poilievre—

Mr. Pierre Poilievre: No, this is entirely pertinent to the witness I wish to call.

The Chair: No, I understand.

I want you to understand that although your amendment changed the name, the end of the motion still reads, “to explain the consequences of the witnesses' failure to appear before the Committee”. The argument should not be anything to do with policy of the government, etc., but should be with regard to why your proposed witness would be able to do what has been asked for by the motion.

I suggest to you, sir, that to go outside of the expertise to explain to this committee the legal ramifications would not be in order. It would not be relevant to the debate on the amendment to the motion as presented. Okay?

It's just to caution you that you're straying beyond the scope of the motion.

Mr. Pierre Poilievre: Thank you, Mr. Chair.

My comments will continue to focus on the conduct of political staff members and the importance of ministerial responsibility for that conduct. That is entirely pertinent to this motion, and if committee members disagree, they will discard my arguments.

I'm going to quote continually the rules as they are written:

The individual or personal responsibility of the Minister derives from a time when in practice and not just in theory the Crown governed; Ministers merely advised the Sovereign and were responsible to the Sovereign for their advice. The principle of individual ministerial responsibility holds that Ministers are accountable not only for their own actions as department heads, but also for the actions of their subordinates;

It's worth reading that again:

The principle of individual ministerial responsibility holds that Ministers are accountable not only for their own actions as department heads, but also for the actions of their subordinates; individual ministerial responsibility provides the basis for accountability throughout the system. Virtually all departmental activity is carried out in the name of a Minister who, in turn, is responsible to Parliament for those acts.

Again:

Virtually all departmental activity is carried out in the name of the Minister who, in turn, is responsible to Parliament for those acts.

We are Parliament in this committee, and it is ministers who are accountable to Parliament, according to the rules.

Ministers exercise power and are constitutionally responsible for the provision and conduct of government; Parliament holds them personally responsible for it.

The principle of collective ministerial responsibility, which is of a much more recent vintage, evolved when Ministers replaced the Sovereign as the decision-makers of government. Ministers are expected to take responsibility for, and defend, all Cabinet decisions. The principle provides stability within the framework of ministerial government by uniting the responsibilities of the individual Ministers under the collective responsibility of the Crown.

That latter point explains why Minister Baird is here to explain the conduct of a member of the Prime Minister's Office. Under the principle of collective responsibility, he, as a minister, a servant, is responsible in our system for defending the conduct of subordinates in this government. He has been so designated by the Prime Minister, who makes those designations by historic convention.

This is the foundation of our democratic system of government, Mr. Chair. It is not something that can be thrown away at a whim or dispensed with when a coalition of parties, through their numbers, seeks to undermine it in order to score a few short-term and myopic political points.

In the aftermath of the 2008 election, the coalition parties attempted to reverse the results of that vote. Now we are seeing them attempt to reverse the results of roughly 300 years of parliamentary tradition and replace it with a kangaroo court that would intimidate political staff members, whose responsibilities to this House flow through the ministers—

• (1205)

The Chair: Order.

Mr. Pierre Poilievre: Fair enough, Mr. Chair—

The Chair: Madam Freeman, would you come to your seat, please?

Mr. Pierre Poilievre: If I could just make a correction—

The Chair: Order please.

Mr. Pierre Poilievre: Mr. Chair—

The Chair: Turn the mike off.

Mr. Poilievre, I've been really patient. But when someone starts to reflect and judge us as a group, time and time again, as a kangaroo court, it's unacceptable and unparliamentary. I've heard enough from you, sir. I've heard enough of your argument, and we need to move on. It's my decision that we are moving on to the next person.

Mr. Pierre Poilievre: A point of order.

The Chair: No.

Mr. Pierre Poilievre: A point of order, Mr. Chair.

The Chair: No. We're moving on to the next person.

Mr. Pierre Poilievre: Mr. Chair, I do have a point of order that does interrupt the proceedings, and I think you'll find that my remarks will soothe the discussion. I promise to keep them very short.

The Chair: Mr. Poilievre has rights.

Your point of order, sir.

Mr. Pierre Poilievre: Mr. Chair, things get heated around here. A moment ago I referred to this committee as a kangaroo court. I'd like to take this opportunity to apologize to kangaroos everywhere for that terrible insult.

The Chair: Thank you.

Mr. Baird, you have the floor.

Hon. John Baird: Thank you very much, Mr. Chair. I appreciate your wise helmsmanship of the committee.

Speaking directly to the amendment presented by the member for Nepean—Carleton, if it were to pass, what we could discuss at the next meeting is this: John Baird could discuss access to information procedures and practices in the Prime Minister's Office. He has been asked by the Prime Minister to come forward to speak to these issues.

If Mr. Poilievre's amendment were to pass, Mr. Baird could talk about the first book we were all handed, *Accountable Government*. Right after we were sworn in, within three hours, the Prime Minister presented each of us with one of these books. It specifically deals with access to information and our responsibilities and roles. It's very clear, on page 40, on access to information. If this motion were to pass, Mr. Baird could speak to this. It also talks about public access to information and privacy, and it speaks about the act and about the responsibilities that ministers have.

In the case of the witness in question—Mr. Soudas—the Prime Minister has asked me to attend, as prime ministers do not normally attend parliamentary committees. If that amendment were to pass, we could talk specifically about the clear direction the Prime Minister has given that the Access to Information Act must be not just followed; it must be followed judiciously. That's the direction he has given, not just to his ministers but indeed to all of his staff, as has been reported in previous committees.

The Prime Minister—the government—welcomes accountability. We welcome transparency. We're here to offer up to members of the committee that we'll answer any and all questions about policies and about specific practices on a specific occasion.

That's why I support Mr. Poilievre's amendment.

• (1210)

Hon. Wayne Easter: Mr. Chair, call the question.

The Chair: I still have two members who want to speak—Mr. Siksay and you, Mr. Easter.

I think I'd like to hear from Mr. Siksay.

Mr. Bill Siksay: Thank you, Chair.

I want to speak against the amendment.

I'm speaking against the amendment of Mr. Poilievre that Mr. Baird's name be substituted for Mr. Walsh's name. In doing so, I want to quote from the Prime Minister's letter to the committee, dated June 1, where the Prime Minister notes:

As is stated in *Accountable Government: A Guide for Ministers and Ministers of State*, at page 37, "Ministers and Ministers of State are personally responsible for the conduct and operation of their offices."

Given that Mr. Baird isn't Stephen Harper, Mr. Baird can't be responsible for what has gone on in the Prime Minister's Office or the actions of Mr. Soudas. Therefore, I am not prepared to hear from Mr. Baird on this issue.

Thank you, Chair.

The Chair: Thank you for your conciseness.

And finally, Mr. Easter.

Hon. Wayne Easter: Mr. Chair, I have just a couple of quick points.

What we're seeing here through this motion is, clearly, really a filibustering of the committee.

I do want to come back to the same point that Bill made with regard to the Prime Minister's letter, which quotes the following:

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

We've had Mr. Togneri before this committee, and he clearly admitted that he pulled back access to information. I wonder why his minister...

You know, this government has a habit of blaming staff. Now they've moved to a different strategy. I wonder why Mr. Togneri is still there or why his minister is still there if they're clearly accountable.

Mr. Chair, to try to move on to what the motion really was before we got diverted here, I would call the question.

The Chair: I have no further members on the amendment, so I'll put the question on the amendment by Mr. Poilievre to substitute the name of Mr. John Baird for Mr. Walsh.

(Amendment negated [See *Minutes of Proceedings*])

The Chair: We are now back to Madam Freeman's motion that we call Mr. Walsh to explain to the committee consequences of failure to appear in all their glorious detail.

Colleagues, we've had, in my view, already a lot of debate. I've taken note of the points already made, and I will encourage members not to be repetitive of debate or points already made so that we can move quickly to a vote on the motion of Madam Freeman.

Madam Foote, do you have anything further to add to the debate?

Ms. Judy Foote: Mr. Chair, this committee has been frustrated every which way by the government. The fact that we cannot have in front of us the witnesses we called on, because the government has refused to allow them to be here.... I think it's important that we have every opportunity we can to make sure we do our work and do it properly. I support Ms. Freeman's motion. I think we should have Mr. Walsh here, because when you have a witness, the point is you get to ask questions of that witness. I think we can all benefit from his expertise.

The Chair: Mr. Hoback.

Mr. Randy Hoback (Prince Albert, CPC): Thank you, Chair. I don't envy you today. What an interesting meeting, I must say.

The Chair: I get to see all of these beautiful people today.

Mr. Randy Hoback: You know, Mr. Chair, in the spirit of compromise, I think maybe there's a way we could move forward with this motion. I, too, think it's important.

In the *Guide for Ministers*, on page 37, it states:

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

I think it would be important for Mr. Walsh to confirm this, that it is in fact the truth. I definitely would like to hear that.

But could I propose a friendly amendment, which would be a bridging of the two, that we have both Mr. Walsh and Mr. Baird appear at the same time?

The Chair: At the same time?

• (1215)

Mr. Randy Hoback: Yes. I think in the spirit of compromise, that would....

Hon. Wayne Easter: We're looking for experts on parliamentary procedure.

Mr. Randy Hoback: I would think in this situation you would have an expert with Mr. Walsh and you'd also have an expert with Mr. Baird.

Hon. Wayne Easter: We get propaganda from the minister. We want experts who know Parliament.

Hon. John Baird: I'm a former government House leader.

A voice: And we want Mr. Walsh here.

The Chair: Order.

The motion before us, proposed by Madam Freeman, was that the committee invite the law clerk—and this is the important part—“to explain the consequences of the witnesses' failure to appear before the Committee”. We want that from the law clerk, and it deals with what really happens, how serious the criminal issues are. There is civil law involved here; there are parliamentary rules, practices, and procedures.

Mr. Poilievre made an amendment that Mr. Baird appear in lieu of Mr. Walsh, as a substitute. We had some debate. The members voted and it was defeated, such that the committee made a decision that it did not want to hear from Mr. Baird to explain the consequences of a witness's failure to appear before the committee. They made that decision.

Accordingly, an amendment to Madam Freeman's motion, which would indicate that we would have Mr. Walsh and Mr. Baird, is actually contradictory to the decision already made by the committee and therefore the amendment is out of order.

Thank you.

Mr. Randy Hoback: I was under the impression they did not want to give up Mr. Walsh. They did not want to lose the opportunity to have Mr. Walsh come forward, and that is why they voted against having Mr. Baird come individually. In this case it would solve that. It would allow Mr. Baird to come forward, plus it would allow Mr. Baird to come forward.

The Chair: Thank you for the clarification.

Mr. Plamondon, go ahead, please.

[*Translation*]

Mr. Louis Plamondon: Thank you, Mr. Chair. I will keep it fairly brief.

I want to say something about the request to have the committee hear from Mr. Walsh. He is not just anyone, he is the senior law clerk. He would appear to enlighten the committee and the House. There are really two points of view being heard here. Mr. Walsh would be of great help in terms of the committee's democratic life. It could influence all the House committees. We are at a turning point.

Furthermore, it seems to me that a committee's role is to try to find the best experts. I have been in this Parliament for 25 years. Whenever I have been on a committee, it has always sought enlightenment from the best experts available. And, as it turns out, the best expert to enlighten us on the consequences of a witness failing to appear is Mr. Walsh.

Not wanting to hear from him is tantamount to not wanting to know the truth or the consequences of a particular action, namely that of Mr. Soudas. How can we make an informed decision if we refuse to hear from the witness who would be the most helpful?

Thank you, Mr. Chair.

[*English*]

The Chair: Thank you.

Mr. Easter.

Hon. Wayne Easter: I agree with what Mr. Plamondon said.

The Chair: Okay.

Madam Block.

Mrs. Kelly Block (Saskatoon—Rosetown—Biggar, CPC): Thank you very much, Mr. Chair.

In the past 20 months that I have been on this committee, I have come to appreciate the work we could do as a committee when we look at access to information, privacy, and ethics. Most recently, we had the interim Information Commissioner come to talk to us about proactive disclosure and possibly open government.

Unfortunately, in the last few weeks I've had to call others to fill in for me on this committee, only to come back to find that this committee has been frustrated in doing that very important work by several motions made by members of the opposition that we begin to look into allegations of blocked access to information.

I think the reason we find ourselves here today is that there has been an unwillingness by a number of members from the opposition to hear from our ministers. We talk about—

• (1220)

The Chair: Madam Block, I have to ask you to please get to the motion before us, which is to call the law clerk to advise the committee on consequences. I appreciate your views, and you've expressed them several times before the committee. But now we need to do our work so we can get to where you want to go.

So if you have any comments, any new information for the committee's consideration with regard to the Freeman motion, please continue.

Mrs. Kelly Block: It's simply that we had encouraged the committee to consider all options when calling forward witnesses. It's apparent today that there has been an unwillingness to allow other witnesses who we would like to hear from to come forward, so I will not be supporting Madam Freeman's motion.

The Chair: Thank you.

Madam Davidson, please.

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

I appreciate having the opportunity to speak to Madame Freeman's motion. I appreciate all the extra work that Madame Freeman has gone to. I know she has researched this. I know she has spoken many times with the law clerk and she is anxious to have us hear personally from him the things she has learned from him.

I know also that you have spoken with him, Mr. Chair, and you have a very good grasp of the issue and what legalities could be involved.

I think having the law clerk, Mr. Walsh, come before this committee is something that isn't necessary. We have the information that has been relayed to us by Madame Freeman and by you, Mr. Chair. We have also gone through a process that has been less than congenial around this table. We firmly believe in the ministerial responsibilities, and we know there have been many issues in the past where, in past governments, there have been activities regarding ministerial staff. Those issues have been talked about around this table before, during these hearings.

I think the time has come to move on. To have the law clerk here is not necessary. We've had the offer of the people here who can tell the story, can make the difference, and they are the ministers, who are totally responsible. The ministerial responsibility is to Parliament.

So I will not be supporting the motion from Madame Freeman, although I definitely do appreciate and congratulate her for all the hard work she has done on this.

The Chair: Thank you.

Mr. Poilievre, please.

Mr. Pierre Poilievre: I'm a great admirer of Mr. Walsh—most of us are.

In order to present my arguments on specifics of this motion, I'd kindly ask the chair to reread it. We were not provided with paper copies.

If you would just reread the motion, I will highlight the key words that give problems to this committee.

The Chair: Mrs. Freeman moved:

That the Committee invite the Law Clerk...to explain the consequences of the witnesses' failure to appear before the Committee.

Mr. Pierre Poilievre: Thank you, Mr. Chair.

The Chair: You have already spoken on this before, so—

Mr. Pierre Poilievre: No, I'm sorry, I had spoken on my amendment.

The Chair: No, that's on the motion.

Mr. Pierre Poilievre: The problem with the motion is that it presupposes a decision by Parliament. Any decision to impose consequences would be made by the House of Commons in its totality, not by this committee alone. There has been no determination by that chamber to sanction in any way, shape, or form any staff member of this government. Therefore, it would be improper to call a witness before the committee to explain the consequences of a decision that we have not decided, as Parliament, to render.

• (1225)

The Chair: Just a moment. If I may just interrupt, I would note that the motion does not mention any persons' names. It says "to explain the consequences of witnesses' failure to appear before the Committee"—any witness, any study, in any committee. It's the whole thing.

Mr. Pierre Poilievre: Mr. Chair—

The Chair: This does not refer to any specific witnesses, and therefore it cannot be read as—

Mr. Pierre Poilievre: Can I just clarify? It's not linked necessarily, then, to the subject of the supposed non-appearance of these three people.

The Chair: It is linked only from the standpoint that it's information that the member suggests the committee should hear so that committee members can consider whether there is—

Mr. Pierre Poilievre: Okay, so it is linked, then.

The Chair: It is linked only from the standpoint that they can understand the import of the draft motion that was put and about the wording and why the wording is here. In any event, it does not presume any—

Mr. Pierre Poilievre: Who does it refer to?

The Chair: Just to correct, it does not presume a decision or speculate on a decision of the House. This is simply information about what happens and what is the range of possibilities if a witness does not appear before a committee when called.

Mr. Pierre Poilievre: Clearly the motion is making reference to these three potential witnesses.

The Chair: No.

Mr. Pierre Poilievre: Then you've just ruled that motion out of order.

The Chair: No.

Mr. Pierre Poilievre: For a motion to be in order—

The Chair: No, no—

Mr. Pierre Poilievre: It's now my speaking time and I'm going to use it in the following way—

The Chair: Excuse me, sir. Mr. Poilievre, that's not the impact. You made a decision—

Mr. Pierre Poilievre: Whose speaking time are you now taking, Chair?

The Chair: There is no speaking time. It's unlimited, as you know. Members can speak as long as they want as long as they maintain relevance.

Mr. Pierre Poilievre: As I am.

The Chair: This is information that the member suggests we need to understand how serious the issue is.

Mr. Pierre Poilievre: All right.

The Chair: It helps them to appreciate why we would have to report this. It is not to prejudge this, because we have no power to do that. We're certainly not going to speculate on what the House might do.

So don't suggest that the Freeman motion is out of order because it doesn't name these three people. It is information for the committee. That's what the motion does. I ruled it in order and we've been debating it for an hour. Okay?

Mr. Pierre Poilievre: I'm on my speaking time now. Thank you.

The Chair: I will give you the floor, but the chair will make decisions on whether or not it's in order, and it is in order. Okay?

Mr. Pierre Poilievre: I think you've made two decisions. At the outset, you decided that it was linked to the subject at hand, and then you intervened spontaneously in the middle of my remarks to say that it was not a link to these three individuals—

The Chair: Thank you, Mr. Poilievre.

I'm going to move on now to Mr. Siksay.

You will not debate the chair.

Mr. Pierre Poilievre: A point of order, Mr. Chair.

The Chair: You will not debate the chair.

Mr. Pierre Poilievre: A point of order, Mr. Chair.

The Chair: You will not question the decision of a chair, Mr. Poilievre.

Mr. Pierre Poilievre: A point of order, Mr. Chair.

The Chair: I'm sorry, I'm going to Mr. Siksay. That's my decision.

Mr. Pierre Poilievre: A point of order, Mr. Chair.

Mr. Bill Siksay: Thank you, Chair.

I just want to say that I'm absolutely confident—

Mr. Pierre Poilievre: Mr. Chair, I have a point of order—

Mr. Bill Siksay: —about the position of this committee. I, for one, have no doubt about what we're proposing to do. Given the fact

that three witnesses have refused our invitations and have refused to honour summonses to appear here, it's perfectly appropriate for us to report that to the House of Commons. I have no need for further legal advice on that because I don't believe there is any question of law that I need to have further information on.

Now, it may well be that the government needs legal advice on the consequences of our action, or that the three individuals—Mr. Togneri, Ms. Andrews, and Mr. Soudas—may need independent legal advice on the consequences of their action, but I don't need any further advice, given what we're going to do, which is simply, and it's as plain as the nose on our face, to report that these three individuals refused our invitation, refused to appear, and even when they were summoned they refused to appear.

Chair, I hope there will be consequences, but it's not my job to determine that. The House will determine that after we report what actually took place, the facts of the situation. That's the House's job, not mine. I don't need to be advised on those consequences in this context.

Thank you, Chair.

● (1230)

The Chair: Thank you.

We've now heard from every member around the table, so I'm going to put the question now on the Freeman motion.

An hon. member: No.

The Chair: We're getting repetition here. The chair has heard all of the arguments—

Mr. Randy Hoback: Please call the question.

The Chair: No, the chair is calling the question. I have decided that we've heard enough and we've had enough debate, and I want the question put now.

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: The chair will attempt to have Mr. Walsh appear next Tuesday. We are now back on our agenda.

We have had a bit of a discussion on this template. Mr. Siksay had an editorial change.

As we understand, because of the other Freeman motion that was passed, we could continue to consider the content of this. Should Mr. Soudas or Madam Andrews appear on Tuesday, this report would have to be updated to reflect that. Should either not appear on Tuesday, then the motion of Madam Freeman is moot in that they did not appear and we would go forward with this, so nothing would change.

On the commenting on the template that has been proposed, which is the factual summary of what has transpired to date, I had on the list to speak to this: Mr. Poilievre, Mr. Easter, Mr. Baird, Madam Davidson, Mr. Siksay, and Madam Freeman. That's the list when we left this to go to those other motions.

Mr. Hoback, you had a point of order.

Mr. Randy Hoback: Yes, please, Mr. Chair.

I was listening to you about next Tuesday. How much time is going to be allocated to Mr. Walsh? The whole meeting?

The Chair: That is up to the committee. I will invite him to be our first order of business so that the committee will have the benefit of what he tells us, and then we can consider this report or any other report to the House and instruct the chair whether or not the committee authorizes the chair to table it in the House, either on Wednesday or Thursday.

Mr. Randy Hoback: So I'll confirm that he'll be the priority for the committee on Tuesday?

The Chair: We have to start with...because the member wanted to hear so that she could make a good decision with regard to the main motion.

Mr. Randy Hoback: Thank you, Chair.

The Chair: Mr. Poilievre, did you want to speak on this document?

Mr. Pierre Poilievre: Yes.

I'd like to begin by making an amendment.

The Chair: Mr. Poilievre, help me out here.

Mr. Pierre Poilievre: Yes, I will. The amendment is in order.

The Chair: This isn't a motion.

Mr. Pierre Poilievre: It's a report.

The Chair: No. It is a document that was drafted by the clerk to give us an idea of a template. This hasn't been moved by anybody, and since we don't have a motion to adopt this—

Mr. Pierre Poilievre: So what are we doing with it?

The Chair: I had asked for the input of the committee as to whether or not this template, this approach, and this language, specifically the last two sentences, would be...whether the committee has consensus, or whatever.

• (1235)

Mr. Pierre Poilievre: Sure, with some small changes. If you give me a chance—

The Chair: Mr. Siksay, in his input to the last sentence about Mr. Togneri, said he'd like to change the word "if" to "though", and it was accepted.

Mr. Pierre Poilievre: Sure. I have something similar.

The Chair: We would entertain it, but I don't want motions to be debated.

Mr. Pierre Poilievre: No.

The Chair: We're just having some input on whether or not we're going in the right direction, and if the members don't like this approach and would like something else, then I would expect they would come forward with a recommendation.

Mr. Pierre Poilievre: Sure. That's what I'm about to do.

The Chair: Carry on.

Mr. Pierre Poilievre: I'll do exactly what you've just asked, come forward with a recommended change. I would also indicate that you might like it or you might not like it, but the committee is the master of its own domain, of course.

The changes I recommend are the following.

In the second-last sentence, delete the words "of privilege has occurred" and replace them with "of parliamentary tradition". Then after the word "Committee", delete the words "has reason to believe that a potential" and replace them with "finds itself in".

I'll repeat that.

The second-last sentence currently reads:

In light of this matter, the Committee has reason to believe that a potential breach of privilege has occurred.

My proposed amendment is to delete the words "has reason to believe that a potential"; take that out and replace it with "finds itself in". After the word "of", delete the words "privilege has occurred" and replace them with "parliamentary tradition".

So the sentence would now read—

The Chair: Mr. Poilievre, just read the sentence that you want to replace this sentence with. That would be very helpful. Please.

Mr. Pierre Poilievre: Sorry. There is no reason to be impatient, Mr. Chair.

In light of this matter—

The Chair: There is actually, but carry on.

Mr. Pierre Poilievre: Okay.

In light of this matter, the Committee finds itself in breach of parliamentary tradition.

The rationale behind this amendment, Mr. Chair—

The Chair: No, it's not an amendment; it's a suggestion.

Mr. Pierre Poilievre: This suggestion, this suggested amendment, is found on page 32, chapter 1, entitled "Parliamentary Institutions", which reads:

In terms of ministerial responsibility, Ministers have both individual and collective responsibilities to Parliament. The individual or personal responsibility of the Minister derives from a time when in practice and not just in theory the Crown governed; Ministers merely advised the Sovereign and were responsible to the Sovereign for their advice. The principle of individual ministerial responsibility holds that Ministers are accountable not only for their own actions as department heads, but also for the actions of their subordinates; individual ministerial responsibility provides the basis for accountability throughout the system. Virtually all departmental activity is carried out in the name of a Minister who, in turn, is responsible to Parliament for those acts. Ministers exercise power and are constitutionally responsible for the provision and conduct of government; Parliament holds them personally responsible for it.

The Chair: Order, Mr. Poilievre.

Mr. Pierre Poilievre: I'll just conclude by saying—

The Chair: Mr. Poilievre—

Mr. Pierre Poilievre: —that by targeting these staff members, the committee is itself in violation and breach of parliamentary tradition.

The Chair: That's good. Thank you, Mr. Poilievre.

Mr. Pierre Poilievre: I think it is now appropriate that the committee find so much and report it to the House of Commons.

The Chair: All right. You've had your say.

Mr. Pierre Poilievre: I gather that you don't like the arguments I'm making, Mr. Chair, and that is unfortunate. I will continue to work to convince you.

The Chair: I want to move on now to Mr. Easter.

You've had your say, sir.

Mr. Easter, and then Mr. Baird.

Hon. Wayne Easter: Thank you, Mr. Chair.

I do think the template will be helpful if we have to make the decision in terms of the summonses that are out on two individuals, if they do not show by Wednesday.

On a couple of points by Mr. Poilievre, where they talk about ministerial responsibility, yes, ministerial responsibility is very key to Parliament. But we understand that our job at committee to establish some facts in terms of this particular issue, and if we're going to establish some facts, then we need to talk to the people who are actually involved in the process.

We saw how important that was when we had Mr. Togneri here. I don't have the minutes in front of me, but if you recall, he went back and said he had made a stupid mistake. He admitted that he had made a stupid mistake, and he also named Jillian Andrews as one of the people to whom he had turned over the information.

That is getting at the individuals involved who have the information. That's what's important. That's what our committee is all about.

In terms of.... I'm on that, Mr. Chair.

• (1240)

The Chair: I'm hearing the word "relevance" over here, Mr. Easter. A review of testimony is one thing, but in regard to this document, we're trying to find out whether we're going forward with this. We need some input from the members, and I hope you will get there.

Hon. Wayne Easter: Yes, Mr. Chair.

What I'm getting to is what I believe our authority as a committee is, in terms of our right to deal with this issue. That's the whole argument coming forward from Minister Baird and Parliamentary Secretary Mr. Poilievre.

I question sometimes why we would have the Minister of Transport trying to come before a committee to represent Mr. Soudas, who works for the Prime Minister's Office, when Mr. Poilievre is the parliamentary secretary and would I think be in a better position to know what Mr. Soudas does than the Minister of Transport.

In any event, as I said at an earlier meeting, Mr. Chair, Mr. Hill, the leader of the government in the House of Commons, said "We recognize that committees do have the authority to call for persons and papers". We do have that authority, and that's what this hearing is all about.

Mr. Baird tried to come here to spin the government line. I'm saying here what our rights really are as a committee.

The last point I want to make is that the individual who is supposed to be here today.... There is much made of ministerial staff who are young and inexperienced. Mr. Soudas, who has been, as you mentioned at the beginning of the meeting...he can't be found. He's in hiding somewhere in Langevin Block.

I think the minister makes the point—

The Chair: Thank you, Mr. Easter.

Hon. Wayne Easter: —that while he can't be served with the summons and can't be found for that, he still is on CBC and on *Power Play* and some of the other programs. He speaks far more than any of the cabinet ministers do, yet he's in hiding.

Minister Baird speaks a lot, but sometimes he doesn't make much sense.

In any event, Mr. Chair, with that little overview that I think the template is important, I would move that we adjourn.

The Chair: It's not debatable.

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: We are adjourned.

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