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

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**EVIDENCE**

**Tuesday, June 15, 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 the 21st meeting of the Standing Committee on Access to Information, Privacy and Ethics. Orders of the day, pursuant to Standing Order 108(3)(h)(vi), are a study on allegations of political interference into access to information requests.

Our witnesses today are witnesses from the House of Commons. Mr. Rob Walsh is the law clerk and parliamentary counsel. Colleagues, he's asked, and I've agreed, to allow Mr. Greg Tardi, parliamentary counsel, to also be at the table to assist in the provision of information to the committee members.

I would indicate to the committee that there is a matter going on in the House that may trigger a half-hour bell and a vote. I thought it would happen earlier, but it didn't, so we're going to carry on as long as we can, and maybe we'll get through this. It has to do with the Afghan detainee documents, and there's extensive debate going on at this time.

Welcome, gentlemen, to the committee. As you know, the committee has been conducting a study. As a consequence of some of the matters that have transpired during the study, the committee requested that you appear to provide us with information to guide the committee or to answer questions with regard to parliamentary or in fact legal ramifications of failure to appear before a committee, whether it be on invitation or even by summons.

Having said that, Mr. Walsh and Mr. Tardi, I would entertain any brief opening remarks you care to make to put some context to your role or to provide information to the committee.

Please proceed.

**Mr. Rob Walsh (Law Clerk and Parliamentary Counsel, House of Commons):** Thank you, Mr. Chairman.

By way of explanation, I would add that I asked Greg Tardi to join me as he monitors these kinds of things in the office on a daily basis, and I thought he might be able to fill in some of the gaps I may inadvertently leave.

Speaking generally, I do not have a prepared statement of a kind that might be distributed, given that it was only the end of the day on Thursday that I got notice to be here. I can speak generally, Mr. Chairman, to the following effect with regard to the consequences that might flow from a potential witness failing to attend when invited in one instance and summoned in the other.

The answer in the first instance is very short. Where they're simply invited and they don't show up, you might say that's not very nice, and then you have to go to the next step. It could be an accident or an inconvenience or whatever that caused the person not to show, but it's not necessarily something to be taken seriously as a matter of procedure. However, when the person is summoned by the committee, then push is coming to shove. If the witness does not attend, there are steps a committee could take for the failure of the person to attend, pursuant to the summons. Those steps essentially are ones of reporting to the House. The report should set out in some detail the events as they transpired, and once that report is in the House, then it's available to the chair on behalf of the committee, any member of the committee, or any member of the House, arguably, to rise and raise a point of order or a point of privilege, as the case may be, based on that report. In the absence of that report, with such a point of order or a point of privilege the Speaker has nothing to which he can refer or take into account. So it is essential that there be a report of the committee to the House as a first step.

I suppose of interest to committee members is, then what? Then you get into uncharted territory, to some degree. If a point of privilege is raised in the House based on the report of the committee, the privilege point presumably would be that the failure of the person in question to show up, pursuant to a summons, was a contempt of the House and its committee. That point would be argued. If the Speaker were to rule that prima facie it is, a motion could be made. What's in that motion?

A motion could be that the person be directed to appear at the bar of the House and explain why he or she did not attend, pursuant to the summons. On the other hand, first of all, the motion could be that the person be not found in contempt but be called to appear before the bar to explain why he or she did not attend. There could then be a motion of contempt following that, depending on whether the House was or was not satisfied with the explanation provided by the individual.

On the other hand, the motion could be one of going directly to contempt without calling on the person to appear before the bar. Then there are what you might call extraparliamentary avenues, which I mention because I must as a legal adviser. They are fraught with complications and improbabilities, such that I wouldn't put much faith in ever going that route. Particularly, I'm talking about section 139 of the Criminal Code, which applies to proceedings of the House and the Senate and where a person interferes in some manner with the proceedings so as to obstruct justice, interfere with a witness, whatever. There could well be proceedings brought against that person. It may not be the person who didn't show up pursuant to summons. It may be some other third party who was instrumental in causing that person to not show up.

You must remember with a criminal charge that you are faced with some very strict evidentiary burdens, one of which is that the person had the intent to interfere or obstruct the proceedings of the House in undertaking the actions that he or she did. Of course, he would have to prove such actions were undertaken with that intent in mind.

I don't want to raise unnecessary red flags here, but there is also a legal argument in such a prosecution where the person...let's suppose for a moment it's a member of Parliament, a minister of the crown, or a third party, who is charged with this obstruction of justice. It could be argued that the actions that individual did were with lawful excuse as a defence. I'm not unaware of the fact that this issue has been discussed in the context of the position taken by the government that political aides to a minister can be withheld from a committee as witnesses by the minister insofar as the minister is responsible to account to Parliament, not the political aide. That rationale could be used or argued as a lawful excuse for why it is that the minister, if that were the case, gave directions to the witness to not show up. Would it survive the test in court? I would argue that the issue would need to be dealt with by the House before the matter went to court and the House would have to decide whether it is or is not a lawful excuse.

● (1115)

The package that would go to the Attorney General of Ontario, the crown counsel office, would include the record showing that the House had made that determination. If the House said it was a lawful excuse, then presumably there would be no reference for purposes of prosecution under section 139. If the House said it was not a lawful excuse and was of the view there was interference, the kind to which section 139 applied, then directions would go to the crown counsel office where there is a discretion. That office may feel, on the information it has, that there isn't enough evidence to probably obtain a conviction and it may choose not to prosecute.

So it's not a matter entirely in the hands of the House as to whether there is or is not any extraparliamentary legal remedy available to deal with the situation of a witness not showing up. Primarily it's a matter for the House to deal with as it relates to its own proceedings. As I said, once the procedure goes forward in the House, it's a matter of debate and a matter of a vote at the end of the day—well, first of all, a ruling by the Speaker *prima facie*, and if there is such a ruling, then it's a matter of debate and a matter of a vote in the House as to what the outcome will be.

That's the extent of my opening statement—generally, what are the consequences of a person not attending as a witness when summoned. There are no significant consequences to talk about when they don't show up when they're only invited, as I said, but certainly when they're summoned, there can be consequences, largely of a parliamentary nature as opposed to an extraparliamentary legal nature.

**The Chair:** Thank you, Mr. Walsh.

It might be helpful to the committee if you could amplify just a little bit. As you know, committees are fact-finders, and this relates to the evidence.

You referred to “evidentiary burden”. Could you give us an idea of the scope of things that would constitute evidence for that purpose?

● (1120)

**Mr. Rob Walsh:** The best answer there is to actually look at section 139, where it sets out what's required in terms of the “evidentiary burden”, as you call it. In any criminal offence, of course, you have to prove the person did the deed that is prohibited by the Criminal Code provision.

This provision, in section 139, provides that

Every one who wilfully

—I'll come back to that in a minute—

attempts in any manner to obstruct, pervert or defeat the course of justice in a judicial proceeding,

—and it sets out two possibilities—

by indemnifying or agreeing to indemnify a surety, in any way and either in whole or in part, or

That's subsection 139(1), which really doesn't apply to the situation we're dealing with.

I should read subsection 139(2):

Every one who wilfully attempts in any manner other than a manner described in subsection (1)

—because that deals with sureties—

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.

And then subsection 139(3) goes on to offer some illustrations of what that means. It says:

every one shall be deemed wilfully to attempt to obstruct, pervert or defeat the course of justice who in a judicial proceeding,

—which, by the way, is defined in the Criminal Code as including a committee proceeding—

existing or proposed,

(a) dissuades or attempts to dissuade a person by threats, bribes or other corrupt means from giving evidence;

(b) influences or attempts to influence by threats, bribes or other corrupt means a person in his conduct as a juror; or

—that doesn't apply here—

(c) accepts or obtains, agrees to accept or attempts to obtain a bribe or other corrupt consideration to abstain from giving evidence, or to do or to refrain from doing anything as a juror.

As a matter of interpretation, one of the problems the language suggests to you is that when it says “threats, bribes or other corrupt means”, you have to be thinking in terms of corrupt threats, corrupt bribes—bribes by definition are corrupt, I suppose—or other corrupt means, as opposed to a conversation that might take place where remarks are made to the witness about whether he or she should think twice about attending. These kinds of remarks may be characterized—“may”, I’m saying—as not being corrupt.

But the further evidentiary problem goes back to the use of the word “wilfully”. Were those remarks made with the intention of trying to prevent the person from appearing in front of the committee? Those are the evidentiary burdens. You have to prove them. You have to prove, in my view, the corrupt nature of the interference and that it was wilfully intended to interfere, as opposed to some remark made in passing that, taken out of context, would not support that kind of charge.

**The Chair:** I think that’s helpful to the committee.

We’ll go to questioning. I have Mr. Easter, Madam Freeman, and Mr. Siksay.

Mr. Easter, you have seven minutes.

**Hon. Wayne Easter (Malpeque, Lib.):** Thank you, Mr. Chair, and welcome, folks.

As you know, Mr. Walsh, we are having considerable difficulty as parliamentarians getting at least three witnesses before this committee. We believe it’s very serious. In order to do our duty to Canadians and gather information on the actions of certain people within the government—who do indeed work for ministers, and in one case the Prime Minister—we need to hear from those witnesses to do a proper inquiry and make some decisions.

As you’re also aware, I believe the ministers in the government are using the excuse of ministerial responsibility to prevent the witnesses from getting here. These individuals now seem to be in a Conservative witness protection program to prevent us from getting access to them.

In any event, I have a couple of questions. You touched on this in your remarks, but what are the penalties for failing to appear before a House of Commons committee when issued a summons? I guess the irony here is that we haven’t been able to serve a summons to one of the people, even though he shows up most nights in the media as the key spokesman for the government. That is Mr. Dmitri Soudas. He’s out there in the media, but we can’t access him to serve the summons. So that’s a very difficult situation.

What are the penalties for not appearing when we issue a summons?

• (1125)

**Mr. Rob Walsh:** I would first choose to not use the word “penalty” in this context. A penalty is more like a sentence a court might hand out on conviction for a fixed term in prison.

Rather, the powers of the House are ones it might exercise to try to induce compliance with the order of the House. Assuming for a moment that the matter advanced to where the House made an order that the person show up and testify before the committee and the person didn’t, I think the House might send for the person to be

apprehended and brought before the committee to testify. If the person did not testify on that occasion, the same order would say, “to be held in custody until such time as he or she does testify”.

That has been done in the past. They’re held in custody but released at the end of the session. The point is that the reason for the imprisonment is to induce compliance, not penalize them by sentencing them to a period of months or years. Once they comply and are ready to testify to the satisfaction of the committee and the House, that’s the end of the incarceration and the person goes home.

So as far as trying to enforce its proceedings or defend its proceedings against improper or contemptuous conduct, the extreme end is to have the person, by order of the House—directed to the Sergeant-at-Arms—incarcerated until such time as they comply. Upon compliance, presumably they would be released because there was no further need for imprisonment.

**The Chair:** Is that by a Speaker’s warrant?

**Mr. Rob Walsh:** It would be indeed—by direction of the House.

**Hon. Wayne Easter:** It has to be a direction of the House. That would be interesting if we put leg irons on the Prime Minister’s key spokesman, wouldn’t it?

The other difficulty here, though, is in terms of the individuals who this committee wants to meet with. We really don’t know whether they willingly want to come or don’t want to come because they’ve been ordered. The Prime Minister’s letter to the clerk of the committee, in this case, said, “The purpose of this letter is to inform the Committee of my instruction to Mr. Soudas that he will not appear before the Committee.”

We have this strange situation here of the committee asking for certain witnesses, and we’ve added one to our original witness list because of what Mr. Togneri said before this committee. When that happened, there seemed to be a move to prevent these staffers from coming before committee. So we really don’t know whether they willingly want to come. They’re probably aware of the severe penalties for not coming under summons, but they’re being ordered by their masters.

So where does that leave us, if you have a situation where the witnesses may want to come but are ordered not to come by their superiors? This is unique when it is the Prime Minister who is exercising the cover-up. It’s a unique situation.

**Mr. Rob Walsh:** Mr. Chairman, I haven't seen that letter to which the member is referring, but I can understand what it says from what he's read. It is my view—and this is supported by the Speaker's decision on April 27 on the Afghan detainee matter—that the same rule applies with regard to a committee's entitlement to get documents as applies to the committee's entitlement to have persons appear before it. It is not the case that anyone, with three possible exceptions, has a right to not attend when summoned by a committee. Those three exceptions, as you may know, are members of Parliament, senators, and perhaps the Governor General herself. Apart from that, anyone summoned to appear in front of a committee has the obligation to attend.

Now the next stage, however, is where the rubber hits the road. What questions are you entitled to ask that person who does appear in front of you? It is the case, as you well know, that a public servant appearing before committee—and they do this quite frequently—is not to be asked questions relating to ministerial policy or government policy, nor expected to defend ministerial policy and government policy. They are there to respond to the administrative matters of interest to the committee.

In a similar fashion, while I would be of the view that the political staff of a member of Parliament is obliged to attend when summoned and is not necessarily excused from attending by virtue of a direction from his or her minister or the Prime Minister, nonetheless there may be limits to what questions you can put to a political aide. I would say that, analogous to the situation of public servants and so also with political staff, you might use what the lawyers call the best evidence rule, and that is, if what your question is looking for is a matter that the minister can answer best, that is the person to whom the question should be put. On the other hand, if your question is something the aide can answer best, like a matter of fact—were you on this day at this meeting and did you engage in that conversation with so-and-so, which are matters of fact—no one knows those better, arguably, than the aide himself or herself.

• (1130)

**The Chair:** Thank you.

Madame Freeman, please.

[*Translation*]

**Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ):** Mr. Walsh, thank you for being here this morning to provide us with clarifications on the various aspects of the witnesses' failure to appear. The notice you shared with us last September 24 about Public Works and Government Services Canada states that one of the committee's main duties is to force the government, the executive authority that is, to be accountable.

We currently agree that the government has to answer for its deeds and actions. Accountability is one of its duties. We find that we have a hard time getting any information from this government. Could you tell me which authority takes precedence in the committee: the executive or the legislative?

**Mr. Rob Walsh:** Mr. Chair, there is one answer in theory and another in practice.

In principle, following the ruling of the Speaker on April 27, the House of Commons and its committees have the right to obtain

whatever the House asks from the government. This is a fundamental right in the relationship between the government and the House of Commons. The government is responsible and must answer before the House of Commons. It must provide everything required to help the committees or the House of Commons, and it must be accountable.

But in practice, it is a matter of trust between the government and the House of Commons. At the end of the day, it becomes a political matter. If the government refuses, it is up to the House of Commons to decide whether it will accept the refusal or it will submit a motion of contempt to Parliament or something like that.

In my opinion, we could talk about parliamentary principles and legal principles, but at the end of the day, it is always a political issue. It is about the relationship between the House of Commons and the government.

**Mrs. Carole Freeman:** If I understand this correctly, even if last April, Mr. Milliken stated, in his ruling on the documents on Afghanistan, that the power of the Speaker is unabridged, unconditional, unqualified and absolute, and is limited only by the discretion of the House itself, the executive can, in fact, ignore it.

**Mr. Rob Walsh:** Yes, but the Speaker is right, in principle. If the government decides to say no, for political reasons or for its own reasons, it is up to the House of Commons to make a decision. The House can decide not to accept that answer and introduce a motion of contempt or non-confidence in the government.

It is not a matter for a court to decide on. It is a parliamentary matter.

• (1135)

**Mrs. Carole Freeman:** All right.

In that case, I would like to ask you another question.

Can a minister or prime minister pressure a member from his political staff to ignore a notice or subpoena to appear before a committee?

**Mr. Rob Walsh:** In my opinion, in theory, the answer is no.

**Mrs. Carole Freeman:** On page 1070 of O'Brien and Bosc, it says that the parliamentary privilege cannot in fact be invoked in that context.

**Mr. Rob Walsh:** Parliamentary privileges are not constrained by a government decision to not send a document to a committee or to ask a witness not to appear before a committee. For the constitutional functioning of the House of Commons and its committees, it is necessary to obtain everything that is required, such as documents and testimonies that could help the House or the committee to fulfill their mandate.

**Mrs. Carole Freeman:** You are telling me that a minister or prime minister cannot induce a member from his political staff not to appear. What are the remedies against a minister or prime minister who induces a member of his political staff not to appear?

**Mr. Rob Walsh:** In my opinion, the committee first presents a report to the House about the case. If the committee's report proves the facts, a motion can be introduced in the House indicating that the minister, or prime minister, is found to be in contempt of Parliament and the House no longer has confidence in the government. It would be a motion like that. If the House of Commons supports that, it is a matter of confidence in the government.

Aside from that, I think it is difficult to find other legal or punitive means to make the government comply with the order of the committee.

**Mrs. Carole Freeman:** Okay, thank you, Mr. Walsh.

[English]

**The Chair:** Okay.

Mr. Siksay, please.

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

Thank you for being here today, Mr. Walsh, and for bringing Mr. Tardi with you.

As you know, I was of the opinion at the last meeting that this was probably an unnecessary visit. It strikes me that the facts of the situation are absolutely clear, and nothing you've said this morning has dissuaded me from that opinion.

This committee invited, and then summoned, three people related to a study that we are undertaking. They have refused to appear, and I think that's a very serious issue. It goes to the ability of this committee to do the work it has decided is important. We know those folks were advised or ordered not to attend by a cabinet minister and by the Prime Minister. This I think also goes to our ability as a committee to undertake the work that we believe is required.

You've made it very clear that our next step is to report that to the House of Commons, and then it's the House that takes the issue from there and makes decisions about what has happened here in the committee. I believe we should get on with that. I think we've been very generous in the committee. In fact, we've extended the possibility for these folks to appear until tomorrow, in an act of extreme generosity that I don't believe was necessary, but the committee in its wisdom decided to do that. In fact, we've given these people extensions to find the time or the ability to get here to be questioned by the committee. We need to get on with this work.

I don't have too many questions for you. I'm finding the conversation very interesting this morning. The what-ifs are very interesting, but I think we need to get on with the work that we've undertaken, that we believe is required, and we need to get on with reporting to the House the failure of these people to show and to let the House deal with that issue.

I do think an important issue wasn't covered in the draft motion, if I can just speak to that briefly, because it has come up as well this morning.

I think the letters from Minister Paradis and the Prime Minister to the committee also need to be part of what we report to the House. I think those are significant interventions in this issue. The Prime Minister reporting that he had told Mr. Soudas not to appear is a crucial piece of what's happened here, and it could be important for

the House to have that information, as well as Mr. Paradis' advice to the folks who work for him. I believe that should be part of our report and we should append those letters in our report to the House.

Just to let members of the committee know, that's something I'll be pursuing when we get to the discussion of our report to the House.

Thank you, Chair.

• (1140)

**The Chair:** Okay.

I might want to just point out that we're still talking about the template that was suggested by the clerk's directorate. Considering what's been happening in the last couple of meetings, it's basically to help the committee determine what a report might look like. I think Mr. Walsh has raised some interesting questions that the committee might want to consider.

Mr. Poilievre, please, you have seven minutes.

**Mr. Pierre Poilievre (Nepean—Carleton, CPC):** Thank you.

O'Brien and Bosc states on pages 32 to 33:

Responsible government has long been considered an essential element of government based on the Westminster model. Despite its wide acceptance as being a cornerstone of the Canadian system of government, there are many different meanings attached to the term "responsible government". In a general sense, responsible government means that a government must be responsive to its citizens, that it must operate responsibly...and that its Ministers must be accountable or responsible to Parliament....

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

This principle is further upheld on page 139 of the second Gomery report, which was entitled *Restoring Accountability – Recommendations*, wherein Judge Gomery states and I quote, "...Ministers need to understand clearly that they are accountable, responsible and answerable for all the actions of their exempt staff".

It's interesting that Judge Gomery did not simply refer to ministerial accountability there in reference to the actions of exempt staff. He took pains to list the three forms of ministerial responsibility—accountability, responsibility, and answerability—the last one being the most important.

Opposition members have argued that you could have a political staff member, who is ultimately responsible to a minister, come here to this committee to be answerable to Parliament. In fact, Judge Gomery clearly indicates that is not a proper definition of the powers of a committee, when he says ministers are answerable for the actions of their exempt staff.

These principles are longstanding in our system. In fact you are a scholar of parliamentary tradition. When did the concept of ministerial responsibility develop?

**Mr. Rob Walsh:** Mr. Chair, I think O'Brien and Bosc—you obviously have read the text, Mr. Poilievre—discusses that.

I'd like to first point out, though, that my notes indicate that Justice Gomery took the term "ministerial responsibility" and said it has to do with the relationship between a minister and public servants working in the department of which the minister has charge. I'd like to address that, Mr. Chair.

Before I get to that, while much that I have heard said about ministerial accountability is true insofar as the responsibility of ministers, where I differ, you might say, is in the use of that principle so as to enable the prevention of certain individuals to be available to a committee.

I don't, for a moment, question the responsibility of ministers to account both for their department and the actions of their exempt staff. I guess I disagree that it's an exclusive responsibility. It seems to me, as I said earlier, exempt staff of a minister could well be called as witnesses before a committee because they have knowledge of a particular situation of interest to the committee. While they should not be asked to answer questions pertaining to the minister's personal actions or policies or that sort of thing, they can be expected to answer questions pertaining to their own conduct and their own involvement. I don't think it's correct to take the principle of ministerial responsibility or ministerial accountability and apply it so as to prevent others from attending before a committee.

Let me go one step further, Mr. Chair, because I think there's an important consideration here with regard to this principle. It is a *pierre angulaire* of our system of government, a cornerstone...but in my view if you read Mr. Gomery's fact-finding report and include the document issued by the Privy Council Office as a guide to ministers, and other texts—Erskine May—the principle of ministerial accountability rests on the principle of governmental accountability: the government is accountable to the House, the House holds the government to account. That's the whole confidence basis of the relationship.

Ministers individually are accountable on behalf of the government, but ministerial accountability is tied to a minister's duties with respect to his department. You must understand that ministers are vested by statute with various powers and authority of a legal nature; that's when they act as government. For the people of Canada, it's important in our system of government that the House of Commons is there to question the government on its governmental actions—exercising public authority, public powers, and so on—where these might be exercised in poor judgment or improperly or whatever.

When you go to ministers' offices and political staff, they are treated separately. Even in the Privy Council Office's guide to ministers, that's a separate consideration. Towards the end of the document it states that ministers are individually and personally responsible for their staff. There's no question, just as members of Parliament are individually and personally responsible for their staff. They're the employers.

I don't believe it falls within the ambit of the principle of ministerial accountability, as we know it as a constitutional term, to talk about ministers being accountable in that context for political staff. Political staff are not in a position to direct the public service to do anything; they don't exercise any authority on behalf of the minister. It's the public servants who exercise the minister's authority on behalf of the minister. In that sense they come to committee and

they answer matters they're undertaking in the department on behalf of the minister. Even there the minister can still be called to explain his department's actions, as the minister can be called with respect to his political staff.

The minister is fully responsible for answering for all these matters, but I don't know that I can agree that this principle has the effect of making the minister exclusively responsible to answer for the business of his office and to answer for his political aides.

● (1145)

**Mr. Pierre Poilievre:** I do think we've strayed—

**The Chair:** That's seven minutes, Mr. Poilievre.

I'll have to go to Madam Foote, please, for five minutes.

**Ms. Judy Foote (Random—Burin—St. George's, Lib.):** Thank you, Mr. Walsh, for being here, and to Mr. Tardi for accompanying you this morning.

I certainly found the exchange to be of interest. I know you indicated you had not seen the letter written by the Prime Minister, signed by the Prime Minister in fact, instructing the committee...his instructions were that Mr. Soudas would not appear before the committee. I can provide you with a copy of the letter if you'd like.

Having seen that and having listened to you, is it right to say then that the action the Prime Minister has taken here is contrary to your understanding of his authority, in terms of preventing a witness from appearing before a committee at the call of the committee?

**Mr. Rob Walsh:** Contrary to his authority for preventing... I guess my view is that the Prime Minister, and any minister, has no authority to prevent someone from appearing in front of a committee.

Their ministerial function may present a limitation on what you can ask that political aide when they're in front of you, but everyone has a duty, apart from members of Parliament, senators, and the Governor General, to show up when summoned before a committee. What questions they can be asked is another matter.

**Ms. Judy Foote:** Absolutely. Clearly what the Prime Minister has done here is not within his authority.

**Mr. Rob Walsh:** I don't believe so. I haven't read the letter, but the way it was read to me, it reads as if he's purporting to have the authority to direct a person to not be available to the committee as a witness. I don't believe anyone has that authority.



**Ms. Judy Foote:** I was interested in your response to Mr. Poilievre in terms of the definition of being answerable versus an individual actually answering to his or her actions. Going back to your comment about best evidence and looking at the matter of fact, where the committee wanted to go with these witnesses in fact was to have them speak to their actions, speak to information that we have knowledge of in terms of steps they had taken. Let me give you an example in the case of Mr. Togneri, who had in fact ordered the un-release of a report that departmental officials had already released. From our perspective, the committee's perspective, it was important for us to have the witness here to answer to his or her particular actions.

My question is—just to go back to your point on this—am I correct that for a minister to appear before the committee and expect the committee to accept his or her answers in terms of being answerable for his or her exempt staff is not proper, and it is not something that they have the authority to do either?

• (1150)

**Mr. Rob Walsh:** What I said earlier is I don't believe they have the authority to cause that to happen, but it may be proper in the minds of the committee. The committee could well be satisfied with what the minister told them. It's up to the committee to decide who they need to talk to.

**Ms. Judy Foote:** When you talk about someone not appearing—I just want to go back to a reference you made—that they may be able to with lawful excuse, can you elaborate on that for me?

**Mr. Rob Walsh:** It's a legal argument. It could be used by someone...let's stay with the hypothetical we're talking about now. I emphasize that I'm addressing it as a hypothetical situation, where a minister is charged with interfering with a witness, of preventing a witness from attending before the committee. The minister's response and defence would be, "I did that with lawful excuse. My lawful excuse was the principle of parliamentary ministerial accountability, which enables me to direct that certain persons will not be available to the committee, and that I will be the one who is available."

Would that be a legal argument that would prevail in court? My own thought is that it is an argument that should be made in the House, and the House should decide whether that's sufficient. If the House were to decide that it is not sufficient and the matter went to court, I think the court would be obliged to accept the House's determination. If in fact the House did not determine that question and it went to court, the court might say, "Sorry, we can't consider this matter; that's a matter of internal House proceedings and courts can't go there." You have to think about those kinds of issues if you're looking at some extraparliamentary legal approach.

Generally speaking, with criminal offences, a person may have defences that we generically describe as lawful excuses. The emphasis is not on "excuse" but on "lawful"—exonerating circumstances that are recognized by law to have the effect of providing a defence.

**Ms. Judy Foote:** I'd like to ask you as well—

**The Chair:** We're at five minutes now—it's just over five minutes now.

I'm going to Mr. Poilievre, then Madam Freeman, then Ms. Davidson.

**Mr. Pierre Poilievre:** One lawful excuse, of course, would be that you're upholding centuries-old traditions by not attending and supplanting ministerial responsibility. That, of course, would be the lawful reason for the non-attendance of the witnesses in question.

While I was disappointed that you didn't elaborate on the longevity of the principle of ministerial accountability, I will bring us to modern day and clarify the words of Judge Gomery on page 139. He didn't refer to ministerial responsibility in a vague sense that could be widely interpreted however one chose. He was very specific. In fact, his words on that page are incredibly apropos.

First of all, he doesn't just use the term "accountable" and he doesn't just use the term "responsible"—terms that could be widely interpreted by fair-minded people. He also uses the term "answerable". And the attendance of a potential witness before committee falls under the rubric of answerability.

He then also uses the term "exempt staff". He was not speaking in a vague sense requiring broad interpretation by the government. His words are very explicit—highly applicable to this situation.

Then he uses the term "all", as in ministers need to understand that they are clearly answerable for "all the actions" of their exempt staff.

That would seem to run at cross-currents with your interpretation that ministers are only responsible for some of the actions of the exempt staff and that the exempt staff, by consequence, are responsible for others.

The term "all", the term "exempt staff", and the term "answerable" make this sentence tailor-made for the circumstances with which our committee is now presented.

That is the basis on which the government has made the decision to instruct ministers to attend in the place of staff members who've been wrongly called. It now falls to the committee to accept that ancient tradition of ministerial accountability and proceed with questioning of the ministers in question.

That decision has now been made. I think it would be in the interest of the taxpayer that we move from this procedural debate, which is resolved, to a practical study of the matter of access to information and the way in which it is applied so that on the government side we can explain the actions that we've taken, and on the opposition side the members can carry out their legitimate function of critiquing our approach.

So that is the decision the government has made, and those are the principles upon which that decision rests. We feel very confident that the hundreds of years of traditions behind it support the decision and our actions.

Thank you, Mr. Chair.

• (1155)

**The Chair:** Did you want to make some comment, Mr. Walsh?

**Mr. Rob Walsh:** I'll make a brief response, only to say that I don't disagree with what the member has quoted. I could perhaps throw other quotes out as well, but I think there's a misunderstanding about what I said.

I agree that the ministers are responsible for “all”; the member put emphasis on that word. All I'm saying is that they're not the only ones who could be held responsible in front of the committee. Their staff could well be called as well.

So to say that they're responsible for all is not to say that they are the only ones responsible in the sense of being subject to being called in front of a committee. All I'm saying is that staff could be called in front of a committee, but there would be limitations on the questions that could be asked. There would be some questions that should properly be directed to the minister and not to the political staff person.

**The Chair:** Thank you.

[Translation]

Mrs. Thi Lac, you have the floor.

**Mrs. Ève-Mary Thāi Thi Lac (Saint-Hyacinthe—Bagot, BQ):** Thank you for being with us this morning, Mr. Walsh and Mr. Tardi.

I have a question about the statements by Mr. Paradis, former Minister of Public Works and Government Services Canada. When the media talked to him about a document that was recalled by an employee, he pointed out that the decision was made by one of his employees and not by him. Even though he was minister, he said it was Mr. Togneri's responsibility.

Mr. Togneri was called as a witness. He started his testimony, but he was never dismissed by the chair. I would like to know one thing. Is the rule different for Mr. Togneri, since he started to testify before the committee and was not dismissed? Is the rule different for someone who does not respond to an invitation or summons?

**Mr. Rob Walsh:** Was Mr. Togneri subpoenaed to appear before the committee? Was it not an invitation?

• (1200)

**Mrs. Carole Freeman:** He was subpoenaed to appear.

**Mr. Rob Walsh:** So he is still under the authority of the committee for the testimony. After a meeting, he is required to come back the next time to continue his testimony, unless the committee decides to excuse him.

**Mrs. Ève-Mary Thāi Thi Lac:** So, given that Mr. Togneri had already started his testimony and he had not been dismissed yet, he had to appear at the next meeting. Since he did not do so, what penalties could the committee impose? What procedures can it follow? You are saying that the penalties are not the same if a person decides not to appear after a summons or if the testimony before the committee has not started.

We had already heard Mr. Togneri, but he did not appear again, after the notice from the committee to appear on a set date. What measures should the committee take in this specific instance?

**Mr. Rob Walsh:** In theory, there is no difference. The same principles apply in his case and in the case of someone who has not yet participated in a meeting. It is the same situation. There is no difference, unless there was, for example, some sort of confusion. Mr. Togneri maybe misunderstood the situation and perhaps showed up on another day than the one when he was supposed to appear on. We can obviously make mistakes from time to time. But, in

principle, he would suffer the same consequences as any other witness.

**Mrs. Ève-Mary Thāi Thi Lac:** Thank you very much.

[English]

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

**Mrs. Patricia Davidson (Sarnia—Lambton, CPC):** Thanks very much, Mr. Chair. Thanks very much, Mr. Walsh, for being here this morning.

I just want to go back to one thing. We're talking about ministerial responsibility and the government's belief that there certainly needs to be ministerial responsibility. In *Accountable Government: A Guide for Ministers and Ministers of State*, on page 37 it states that “Ministers and Ministers of State are personally responsible for the conduct and operation of their offices.”

To my mind, at least, that certainly says there is ministerial responsibility. I feel that ministers are responsible for their departments, and they are responsible to Parliament. I feel it should be the ministers who are here speaking for their departments.

Could you comment on that, please?

**Mr. Rob Walsh:** I would agree with you in the sense that the minister is the primary person responsible for what goes on in his or her office. I have no quarrel with that whatsoever, but that doesn't mean the committee isn't justified in seeking to hear from other persons in the office on particular matters of which they may have direct knowledge. I don't mean to suggest this is the case here, but you might appreciate that if the government of the day can pick and choose what documents it will provide, or can pick and choose what public servants or what political staff show up here before committees, that has the potential to undermine the ability of a committee or the House to hold the government to account.

So it is that as in a court proceeding, so also here: the person of whom a demand is made to produce a person or a paper does not have the choice of selecting which it shall produce. I fully agree with you that ultimately, and maybe not so much ultimately but at first instance, the primary person responsible for the conduct of the ministerial office is the minister himself or herself.

**Mrs. Patricia Davidson:** Can you help me with the summons issue? It's my understanding that the way this proceeded from the committee was that Mr. Togneri was summoned first and did appear twice. And as you have just talked about, he wasn't released or excused, I believe. So that summons carries on until such time as the chair—or who releases or excuses the person?

**Mr. Rob Walsh:** In my view, as a practical matter, if a person testifies under a summons and the meeting ends and the person gets up and leaves without being told they're not excused, they're entitled to assume they are excused. Committees don't customarily get into that formality. The onus is on the committee, I think, to make it clear to the witness that they're not finished with them yet, they will want them back at another time. And I think the onus is on the committee to specify when they want them back. There doesn't have to be another summons, but there's an onus to now indicate they're expected back for this next meeting, and then the onus is on the witness to attend the second time. But if a witness were to get up and leave a meeting and no one says he's not excused, I think he's entitled to assume he is excused.

• (1205)

**Mrs. Patricia Davidson:** So in the instance of a couple of the other staff members who are involved with this, a summons has been issued, but it's my understanding that they've never been delivered. What is the legal status of that? Have they been summoned? Are they deemed to have been summoned, or have they not been summoned?

**Mr. Rob Walsh:** This phenomenon, of course, is not unknown in the courts, as you may well appreciate. The recourse to take is to go to the court for an order—it used to be, anyway; I've not been in the courts for a while and maybe there's a simpler process now. We used to have to go back in front of a judge and get an order for what was called substituted service. Then you get an order saying “post a notice in the local newspaper for this many days over this many weeks” or “leave it at this certain address and that address”. And if you do those things, then the courts will deem the person to have been served.

Now we don't have that kind of process here, but it could well be the case that if the committee were to report to the House that these steps were taken to try to effect service, the House, in its judgment, could simply deem the person to have been served, and in my view, that would be sufficient for purposes of the House proceedings.

**Mrs. Patricia Davidson:** It would have to be the House that would have to do that; the committee couldn't do it? The committee would have to report the sequence of events to the House and they would have to deem?

**Mr. Rob Walsh:** The committee could do that, but it would do it at its peril if the House later were to decide that it had acted without properly satisfying itself that the person had been served. So yes, the committee could do it as a practical matter, but I'd be concerned that later the committee may be contradicted by the House and the House might decide no, that's not good enough. As an abundance of caution, if time permits, I would recommend the committee go to the House and get the House to deem the person to have been served for purposes of the committee proceedings, and then the committee returns to its business with that order made.

**Mrs. Patricia Davidson:** Thank you very much.

**The Chair:** Thank you.

Mr. Easter, and then Madam Block.

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

Thank you for the great information in your capacity as law clerk and parliamentary counsel, Mr. Walsh.

I'd read earlier the letter from the Prime Minister on Mr. Soudas, but we're dealing with three individuals here, and I'll read you the pertinent quotes out of both letters.

My question to you is, in your long experience here, have you ever seen this ever happen before, of this magnitude?

The letter from the Prime Minister to the clerk of the committee referring to Mr. Soudas said,

I am aware that the Standing Committee on Access to Information, Privacy and Ethics is requesting the attendance of Mr. Dimitris Soudas on June 10. The purpose of this letter is to inform the Committee of my instruction to Mr. Soudas that he will not appear before the Committee.

The letter is signed by the Prime Minister.

The second letter refers to the other two witnesses, and it's from the Honourable Christian Paradis, the Minister of Natural Resources. In his letter to the clerk, he states this:

Pursuant to the statement made by the Leader of the Government in the House of Commons on May 25, and the motions passed by the Standing Committee on Access to Information, Privacy and Ethics on April 1st and May 25 requesting the appearance of Mr. Sebastien Togneri and Ms. Jillian Andrews, this letter is to inform the committee that I have instructed Mr. Sebastien Togneri and Ms. Jillian Andrews that I will appear before the committee in their place.

It's a little bit different from the Prime Minister's letter, but it certainly has the same impact of really disallowing their attendance at committee, where we really believe we need them to gather information.

You've answered about the impact and the parliamentary procedure previously, but have you ever, in your experience, seen anything like this before?

**Mr. Rob Walsh:** Mr. Chairman, it's a lot of years since I've seen something that I've seen before in this place. It seems to me everything comes along for the first time. I've likely lost my virginity a hundred times since I came here.

**Voices:** Oh, oh!

**Mr. Rob Walsh:** Be that as it may, it's irrelevant whether I've seen it before, because the issue is here now.

I would say, about the second letter from Minister Paradis, that the better practice for the committee would be to hear from Mr. Paradis first, since he's volunteering himself to speak to the matter. That doesn't mean, having heard the minister's testimony, that the committee is precluded from then asking for certain staff to appear before it. I think the better practice is to hear from the minister first, if the minister is available and is willing to attend.

• (1210)

**Hon. Wayne Easter:** Our concern—and we could be right or we could be wrong, I'm going to admit that. We're worried about the precedent it would set—and Paradis was here—in that they've now set a standard where if we ask someone and the minister so decides, the minister can come in their place. That was our concern on that particular point.

There was one other question I had, Mr. Chair, and you mentioned it earlier. Judy asked a question somewhat along these same lines as well. Are there really any legally justifiable reasons to refuse to appear before a parliamentary committee when a summons is issued?

Mr. Chair, the summons never did get delivered to Mr. Soudas, did it?

**The Chair:** You might want to ask Mr. Walsh.

As you know, it was dated for a specific date, and that date of appearance is now past. The question is whether or not it has any special status, or the summons would have to be reissued.

**Hon. Wayne Easter:** As I said earlier, Mr. Walsh, the strange scenario here is that you have the chief spokesman for the Prime Minister of Canada who ends up on TV most nights, certainly more than most cabinet ministers, yet he couldn't be found by the bailiff to issue him a summons, even though they called the receptionist in the office and so on. That's absolutely an affront.

In any event, are there any legally justifiable reasons to refuse to appear before a parliamentary committee when a summons is issued, assuming they get it?

**Mr. Rob Walsh:** You used the word “legally”, so let's go to the context of a court, where someone didn't show up when subpoenaed at a certain time. There are excuses and there are explanations. An explanation acceptable to the court might be, “I got hit by a car and I was in hospital.” You were caught in traffic? That might not work so well. So there are explanations and there are excuses. It's the court's judgment as to whether the explanation is sufficient. What that suggests is there should be an opportunity provided for the person to explain why they didn't attend. So another day is set, and the first question that might be asked of the individual is, “Why weren't you here the last time we summoned you?” It would give the individual an opportunity to explain, and then the committee could make its own judgment as to whether that's sufficient for its purposes.

**Hon. Wayne Easter:** What happens, as in the case of the Prime Minister's chief spokesman, when a summons has been issued and the bailiff can't track down the individual after numerous attempts to issue it? What is our recourse then?

**Mr. Rob Walsh:** As I said earlier, you could decide on the facts, and you have them, that every reasonable effort has been made to effect service and that no further attempts ought to be made. The person should be deemed to have been served and proceed on the basis that the person has been served.

**The Chair:** Sorry, Mr. Easter, you can get on again, but I have Madam Freeman.

[*Translation*]

**Mrs. Carole Freeman:** Mr. Walsh, so far, you have explained to us very clearly what the principle of accountability entails for the executive in terms of the actions of officials. The ministers are accountable for the officials' actions, but not necessarily for those of their political staff as such. I see that the government's position is to say that they are clearly responsible for the actions of their political staff.

I just wanted to make a comment by saying that there is a double standard, or two completely different interpretations. We remember the case of Minister Lisa Raitt, when her political staffer forgot documents at a television or radio station. It was not the minister's responsibility, but her employee's, and the employee was immediately let go.

In Minister Paradis' case, he did not know what was going on at all, but he changed his story later. We have a hard time following what the government is trying to feed us; they are contradicting themselves.

That was the comment I wanted to make in response to the arguments of my government colleagues.

• (1215)

[*English*]

**The Chair:** I don't have anybody else left on the list, but the chair has a couple of questions.

I think we should take advantage of having Mr. Walsh's and Mr. Tardi's words of wisdom, because these things don't happen very often. The last time we issued a Speaker's warrant was for Karlheinz Schreiber, which was done by this committee, and prior to that it was in 1913. So it doesn't happen very often.

Mr. Walsh, is it possible to name the government as the party who has breached the privileges of the committee?

**Mr. Rob Walsh:** You say “name the government”. There could be a motion of that kind accusing the government of breaching the privileges of the House, but I would assume, depending on the nature of the breach, that the government might well take it as a confidence motion and you're into a confidence issue.

That's where you have to go with the government. If you've got a problem with the government, you're ultimately in a question of confidence.

**The Chair:** Sure.

So if there was a matter that you wanted to report, is it advisable that it be a person? If you had several instances—for instance, there's a letter from Mr. Paradis—it raises the question of whether or not there is a good rationalization for a committee to report not on a group of people, like a government or three witnesses, but rather to report individually with regard to specific incidences.

**Mr. Rob Walsh:** The committee may choose to report with regard to a particular individual minister as opposed to the government as a whole. That's the committee's call. In the House, the House may choose to take that incident as reflecting the whole government and choose to frame the motion in the House in terms of the whole government.

But as a rule, committees should stick to the facts they have before them, and report those facts, and not go beyond those facts and make inferences of a kind that may or may not be supportable later in the House.

**The Chair:** My experience on privilege matters in the House, as early as yesterday, is that there are very many elements, and if you just miss one, you're lost. In that particular case, as you well know, there certainly was a matter where there was a wrong, but one thing wasn't there, and that was that there was no evidence that a member was interfered with in terms of discharging their duties.

**Mr. Rob Walsh:** You may recall the ruling of April 27, where one of the points of the alleged breach of privilege was a letter from an ADM, and the Speaker ruled, “I have to see what use is made of the letter.” It's not enough to write a letter stating an opinion; it's question of taking that letter and using it to interfere with a witness. There was no evidence of that before the House, so the Speaker wasn't able to find a breach of privilege.

**The Chair:** The reason I'm asking is that it would appear to me, and I think your counsel has been, that it is not to rely on a single bullet, as it were, but rather to be very comprehensive in the facts and the support for coming to the House, because it is a very serious issue.

If a political staff member is in breach of subsection 67(1) of the Access to Information Act, which is basically obstructing the release of information—and in fact it goes on to suggest in subsection 67(2) that it can be subject to imprisonment up to 10 years and/or fines of I think...is it \$10,000 or \$2,000? In any event, it's a Criminal Code offence. Is it possible for a minister to assume the responsibility for that and in fact be charged themselves instead of the person who did it?

• (1220)

**Mr. Rob Walsh:** It's hard to address that question without looking specifically at the provision you're talking about, whether in the Access to Information Act or some other provision, but at the risk of oversimplifying matters, let's say two things. One, we're all responsible for acting in accordance with the law, particularly laws of that kind; and secondly, while I made reference to lawful excuse, I did indicate that I think there are limits to how that could be used. It's *lawful* excuse. You can't just say, “The devil made me do it.” You can't just say, “I did it because I was told to do that.” The person who gave the instructions may also be liable to prosecution under the same offence, depending on what the evidence supports. But I don't think anybody can say, “I did it because my boss told me to”, where you're talking about an offence of a kind that's subject to imprisonment as a criminal offence.

**The Chair:** In the hypothetical that a political staff member, in the conduct of their duties, actually made some breach or broke the law, is there any instance under which some other person, like their boss, their minister, or whatever, could assume the legal responsibility for their actions, even though that person was unaware and had no control?

**Mr. Rob Walsh:** I don't think anybody can assume responsibility for someone else's criminal conduct.

**The Chair:** Ministerial accountability does not in fact insulate a political staff member from being charged under the Criminal Code.

**Mr. Rob Walsh:** Under the Criminal Code, no.

**The Chair:** Okay.

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

It's clearly the case that this is not a criminal court. For you to imply criminality goes far beyond your powers as the chair of this parliamentary committee. It's probably also a good illustration as to why the government has made the decision not to allow you to intimidate staff members in person the way you have done indirectly—by making indirect allegations like you have just done—without any basis whatsoever.

I think you know very well that were you to step out of this chamber and make and repeat those kinds of suggestions, you would be the one facing consequences.

**The Chair:** Thank you.

First of all, it's not a point of order.

Second, 67(1) in fact is a criminal offence, subject to criminal sanctions. I referenced 67(1) but didn't talk about any particular person. The issue is, if there is a wrongdoing—that's why I used the word “hypothetical”—by a political staff member, is there any circumstance under which another person could take the responsibility for it, if they had no knowledge but simply because they were the person in authority? It's the other part of the accountability.

Mr. Walsh, when you call a witness—and I'm curious about the justification for calling a witness—

**Mr. Randy Hoback (Prince Albert, CPC):** I'm just kind of curious about how many minutes you're going to take for your own round of questioning. Is it seven, five, 20, 30? Could you elaborate?

**The Chair:** Mr. Hoback, it's not a point of order, but there are no members left on the list. Before we release the witness, I want to get some clarification on some matters, which I think are going to be relevant to the committee in its further determinations.

Mr. Walsh, when a witness is asked for—

**Mr. Pierre Poilievre:** Mr. Chair, I have a motion to adjourn.

I didn't raise a point of order.

**An hon. member:** [*Inaudible—Editor*]

**Mr. Pierre Poilievre:** He did recognize me, though.

**The Chair:** I know.

I have a couple more questions, Mr. Poilievre, and I think that—

**Mr. Pierre Poilievre:** I don't think a motion of adjournment—

**The Chair:** I have the floor.

**Mr. Pierre Poilievre:** I don't think a motion of adjournment is actually debatable; it's just votable.

**The Chair:** No, that was an interruption of my questioning.

I want to ask Mr. Walsh about the committee's responsibility to advise a witness why they're being called and the relevance of their testimony to what's happening.

• (1225)

**Mr. Rob Walsh:** That's a good idea. It's not a requisite of a kind that failure to do it exonerates the individual from showing up. But it's a wise thing to do, certainly.

**The Chair:** You had mentioned the relevance or whatever earlier.

I think you said a person could be wrongly called. Could they have that as a reason why they did not appear?

**Mr. Rob Walsh:** Wrongly appeared, maybe; they came on the wrong day. I didn't mean to talk about being wrongly called. If they're called by a committee, they're called by a committee. They might show up on the wrong day and you'd get some confusion there. Perhaps I wasn't clear in what I said.

**The Chair:** Okay.

The last question is this. If the committee had a request that a person appear and the minister appeared in their stead, is there any reason—I think you've already answered this—why a staffer still could not appear if the matter was administrative as opposed to policy?

**Mr. Rob Walsh:** If the matter is something on which the individual has some relevant information and is outside the policies of the government, I would think the individual would be appropriate to call as a witness.

**The Chair:** Civil implications—that was one other point that had come up. Madam Freeman raised it with regard to the service of summonses.

**Mr. Rob Walsh:** There are civil rules in the courts of the various provinces, but this is a parliamentary matter and it will be up to the Parliament of Canada, the House of Commons in particular, to determine what shall apply.

**The Chair:** Okay.

Do you have any final comments, Mr. Walsh or Mr. Tardi?

**Mr. Rob Walsh:** Only that I wish to say that I've enjoyed this very much.

I wish to say to you that the issues before this committee are not ones that are answered in any determinative way by a law clerk. They are matters that are really for the members of the committee, in their political debate, and members of the House, in their political debate, to resolve between them. It's not something that can be resolved by legal answers. But the principles are there to consider.

**The Chair:** Okay.

I want to thank you—

**Mr. Greg Rickford (Kenora, CPC):** Mr. Chair, I'm tired of your staffers over here making comments, and I need you to pay attention to that. You can look their way; it's okay. I'm tired of the smirks, the grins, and the little mouthings of comments and stuff like that.

It's happening over there, Wayne; you don't see it happening over here.

**The Chair:** Okay. Order.

Mr. Walsh and Mr. Tardi, I want to thank you for this.

There is one matter for the committee. It has to do with a request that was made by Mr. Valeriote for documents. The chair is going to need some direction from the committee. We've had a problem. Some of the documents requested were received in one official language, as they are being translated. Other documents have to come either from the minister's office or from the Prime Minister's Office, and despite our attempts we've been told they have no authority to release them. We have written back and asked who has the authority to release the documents the committee requested. No response has been received after about a week.

I raise this with the committee for the next meeting to advise the chair on what action the committee may wish us to take.

Mr. Easter.

**Hon. Wayne Easter:** Could he maybe provide for the committee the letters back and forth on this issue, and we can have a look at them at the next meeting? If we've asked for information, we expect it, but it would be nice for committee members to have the correspondence that the clerk may have that relates to this issue. I think it's easier for us to judge.

**The Chair:** That certainly can be done. They are not in both official languages, but they can be quickly dealt with and circulated to the committee before the next meeting.

Mr. Walsh, Mr. Tardi, thank you kindly for your wise counsel. You are excused.

Colleagues—

• (1230)

**Mr. Pierre Poilievre:** A motion to adjourn.

**The Chair:** Do you want to make a motion?

Okay. I am recognizing Mr. Poilievre.

**Mr. Pierre Poilievre:** A motion to adjourn.

**The Chair:** It's moved that the committee do adjourn. That's not debatable and I have to put the question immediately.

I would ask the clerk to call the roll, please.

(Motion agreed to: yeas 9; nays 1)

**The Chair:** We're adjourned.









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