



House of Commons
CANADA

Standing Committee on Access to Information, Privacy and Ethics

ETHI • NUMBER 023 • 3rd SESSION • 40th PARLIAMENT

EVIDENCE

Tuesday, October 5, 2010

—
Chair

The Honourable Shawn Murphy

Standing Committee on Access to Information, Privacy and Ethics

Tuesday, October 5, 2010

• (1535)

[English]

The Clerk of the Committee (Mr. Jacques Maziade): Honourable members of the committee, I see a quorum.

We can now proceed to the election of the chair.

I'm ready to receive motions to that effect.

Hon. Wayne Easter (Malpeque, Lib.): I would move Shawn Murphy.

The Clerk: It has been moved by Mr. Easter that Shawn Murphy be elected as chair of the committee.

Are there any further motions?

Is it the pleasure of the committee to adopt the motion?

Some hon. members: Agreed.

(Motion agreed to)

The Clerk: I declare the motion carried and Mr. Murphy duly elected chair of the committee.

Before inviting Mr. Murphy to take the chair, if the committee wishes we will now proceed to the election of vice-chair. I'm now prepared to receive a motion for the first vice-chair. The first vice-chair should come from the government party.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): I move Ms. Davidson.

The Clerk: Mr. Albrecht moves that Madam Davidson be elected first vice-chair of the committee.

Are there any other motions? No?

Is it the pleasure of the committee to adopt the motion?

Some hon. members: Agreed.

(Motion agreed to)

The Clerk: I declare the motion carried and Madame Davidson duly elected first-vice chair of the committee.

[Translation]

I am now ready to receive motions for the election of the second vice-chair.

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): I am more than happy to nominate my colleague Mr. Siksay.

The Clerk: Mrs. Freeman has moved that Mr. Siksay be elected second vice-chair.

Are there any further motions?

Is it the pleasure of the committee to adopt the motion?

Some Hon. Members: Agreed.

(Motion agreed to)

The Clerk: I declare the motion carried and Mr. Siksay duly elected second vice-chair of the committee.

[English]

I now invite Mr. Murphy to take the chair.

The Chair (Hon. Shawn Murphy (Charlottetown, Lib.)): Thank you.

I want to welcome everyone to this committee. It's a very interesting committee. It's a very important committee. A lot of you may be aware that for the last five years I've had the pleasure and privilege of chairing the public accounts committee. Although I guess by now I have an understanding of the public accounts, I don't know that much, nor do I pretend to know that much, about access to information or ethics or protection of privacy. So I'll certainly need your help and guidance as we move along here.

What I'd like to do after this meeting is to have a meeting of the steering committee, just to start talking about the future business of the committee. I'd like all members of the steering committee to remain after that.

Also, I should point out that the way I'd like to conduct it—and this is similar to the way we did it in public accounts, and I found it worked very well—is that the steering committee would meet weekly, preferably on the Monday or Tuesday of each week, with the meetings lasting no longer than one hour, in camera, of course, so that we can sort out if there are any differences of opinions or views. Hopefully we can sort those out at the steering committee. That's everything I have to say. I do hope everything works well with the committee, and I believe it will.

Before we adjourn, Mr. Siksay, you have a motion you want to present on notice, which is fine. I'll give you the floor to do that and then we'll adjourn.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Thank you, Mr. Chair. I'd like to read it. It's a bit lengthy, but it pertains to the work that the committee was doing before we rose for the summer.

I'd like to give notice of the following motion:

That the Committee report the following to the House:

On Thursday, April 1, 2010, the Committee agreed, pursuant to Standing Order 108(3)(h)(vi) and the motion adopted by the Committee on the same day, to undertake a study on allegations of interference in access to information requests. A copy of the motion adopted by the Committee is appended to this report.

1) In the course of this study, the Committee chose to invite Sébastien Togneri to appear before it. Here are the facts:

On April 12, 2010, the Committee sent Sébastien Togneri an invitation to appear before it on May 6, 2010. On April 28, 2010, Mr. Togneri's lawyer sent a letter to the Committee saying that Mr. Togneri would not appear before the Committee. On May 4, 2010 the Committee adopted a motion (appended) to summon Sébastien Togneri to appear before it. Sébastien Togneri appeared before the Committee on May 6 and 11, 2010, and was informed at both meetings that his summons to appear remained in effect.

On May 25, 2010, the Leader of the Government in the House of Commons made a statement regarding the attendance of ministers' employees before parliamentary committees. A copy of that statement is appended to the report.

The Committee received a letter dated May 31, 2010 from the Minister of Natural Resources, noting that he had "instructed Sébastien Togneri and Jillian Andrews that I will appear before the Committee in their place". A copy of this letter is appended to the report.

Mr. Togneri refused to appear at the June 3, 2010 meeting even though he was not duly discharged.

2) In the course of this study, the Committee chose to invite Jillian Andrews to appear before it. Here are the facts:

On May 25, 2010, the Leader of the Government in the House of Commons made a statement regarding the attendance of ministers' employees before parliamentary committees. A copy of this statement is appended to the report.

On both May 27 and 28, 2010, the Committee sent Jillian Andrews invitations to appear before it on June 8, 2010. Jillian Andrews never replied to those invitations.

The Committee received a letter dated May 31, 2010 from the Minister of Natural Resources, noting that he had "instructed Sébastien Togneri and Jillian Andrews that I will appear before the Committee in their place". A copy of this letter is appended to the report.

The Committee decided to summon Jillian Andrews to appear before it on June 8, 2010. The bailiff in charge of serving the summons made many attempts to contact Jillian Andrews to make arrangements to serve the summons (see bailiff's reports appended). Although Jillian Andrews was aware of the bailiff's various attempts to contact her, Ms Andrews did not reply to the bailiff. Jillian Andrews did not appear (or show herself) at the meeting of the Committee on June 8, 2010. On June 8, 2010, in light of the many unsuccessful attempts by the bailiff to serve the summons to appear on Jillian Andrews, the Committee adopted a motion (appended) that the summons be considered duly served, given its public nature, and to require Ms. Andrews to appear no later than June 16, 2010.

Ms. Andrews did not attempt to arrange an appearance before the Committee by June 16, 2010.

3) In the course of this study, the Committee chose to invite Dimitri Soudas to appear before it. Here are the facts:

The Committee invited Dimitri Soudas to appear before it as part of its study into allegations of interference in access to information requests. Mr. Soudas was scheduled as a witness at the Committee's May 11th meeting and he was present in the committee room on that date. However a fire alarm interrupted the Committee meeting and the Committee did not hear from Mr. Soudas or question him.

On May 25, 2010, the Leader of the Government in the House of Commons made a statement regarding the attendance of ministers' employees before parliamentary committees. A copy of this statement is appended to the report.

On May 25, 2010 Mr. Soudas was scheduled to appear before the Committee. He telephoned the Clerk of the Committee prior to the meeting to say that he would not attend citing the announcement by the government that political staff would not appear before Committees.

On both May 27 and 28, 2010 the Committee sent Dimitri Soudas invitations to appear before it on June 10, 2010. Dimitri Soudas never replied to those invitations.

The Committee received a letter dated June 1, 2010 from the Prime Minister in which he stated that, "the intent of this letter is to inform the Committee of my instruction to Mr. Soudas that he will not appear before the Committee." A copy of this letter is appended to this report.

The Committee decided to summon Dimitri Soudas to appear before it on June 10, 2010. The bailiff in charge of serving the summons made many attempts to contact Dimitri Soudas to make arrangements to serve the summons (see bailiff's reports appended). Although Dimitri Soudas was aware of the bailiff's various attempts to contact him, Mr. Soudas did not reply to the bailiff. Dimitri Soudas did not appear (or show himself) at the meeting of the Committee of June 10, 2010. On June 8, 2010, in light of the many unsuccessful attempts by the bailiff to serve the summons to appear on Dimitri Soudas, the Committee adopted a motion (appended) that the summons be considered duly served, given its public nature, and to require Mr. Soudas to appear no later than June 16, 2010.

Mr. Soudas did not attempt to arrange an appearance before the Committee by June 16, 2010.

● (1540)

Conclusion

In light of these matters, the Committee has reason to believe that a breach of privilege may have occurred. The Committee feels it is its duty to place these matters before the House at this time so that the House can take such steps as it considers appropriate.

That's the motion, and there is a list of appendices appended to that that have already been mentioned.

Thank you, Chair.

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

Of course, that is just tabling a notice and it's not going to be discussed now.

The only comment I would make, Mr. Siksay, is that it is a lengthy motion and it really ought to have been done in both official languages for tabling in the committee. You did read it, and I assume that's why you read it, but in the future I'd like to see it in both official languages.

Madame Freeman.

● (1545)

[Translation]

Mrs. Carole Freeman: Mr. Chair, the motion Mr. Siksay moved today is very interesting and relevant. All last spring we worked on the Access to Information Act, and we tried to get information from various witnesses who were mentioned in Mr. Siksay's motion. Not only did we have a hard time obtaining evidence, but we were faced with what could be seen as filibustering by some ministers who refused us access to witnesses. I feel that, in the motion that was moved...

[English]

The Chair: I'm going to close this off. We're not debating the motion now. Mr. Siksay only tabled it for the purpose of notice. That was the sole purpose, Ms. Freeman.

[Translation]

Mrs. Carole Freeman: Mr. Chair, Mr. Siksay moved the motion, and I move that we debate it.

[English]

The Chair: We're not going to debate it now; Mr. Siksay knows we're not going to debate it now. It will be done at some future time during the committee's agenda. That's understood by Mr. Siksay, so it's not going to be debated now.

[Translation]

Mrs. Carole Freeman: I want to discuss it, Mr. Chair.

[English]

The Chair: The only way you can do it, Ms. Freeman, is if you have unanimous consent of the committee. The rules are very clear on that point. The motion was tabled for notice only. Mr. Siksay understood that. He tabled it. He read it into the record because he didn't have it in both official languages. That would come up at some future time in the committee's agenda, if and when Mr. Siksay wanted to bring it up, and that's the way the rules are.

[Translation]

Mrs. Carole Freeman: Mr. Chair, Mr. Siksay moved his motion. It hasn't been presented in both official languages, but since he has moved it, it is in order. Therefore, there is nothing stopping us from discussing it.

[English]

The Chair: No, my ruling is clear. It's not going to be discussed until the 48-hour notice has expired, and it started about seven minutes ago.

[Translation]

Mrs. Carole Freeman: Notice has already been given. The motion is now before the committee. We do not need a 48-hour notice. The motion is on the floor.

[English]

The Chair: No. The chair has ruled that you do need 48 hours, and that's according to your own routine motions.

Madame Thi Lac.

[Translation]

Mrs. Ève-Mary Thaï Thi Lac (Saint-Hyacinthe—Bagot, BQ): Mr. Murphy, earlier, you said that committee members' unanimous consent was needed. Now, you are saying that the motion will not be debated because you haven't received advance notice. However, you haven't asked whether there was unanimous consent. We did not vote. You didn't ask us if we agreed. You don't know who opposes it and who does not. You made the decision, even though, a little earlier, you said that you needed unanimous consent to wave the 48-hour notice.

Therefore, before you reject my colleague's request, I would like you to ask the committee members whether there is unanimous consent.

[English]

The Chair: No one has asked that I ask for unanimous consent. It would be unusual, but if you want me to ask the committee if Mr. Siksay has unanimous consent.... Mr. Siksay didn't ask, himself.

Anyway, I will ask if Ms. Freeman has the unanimous consent of the committee to deal with this motion right now.

I see that she does not, and the 48 hours' notice has started. Really, that's the end of the discussion, people.

I would ask that the members of the steering committee remain. We're going to have a meeting in camera, please.

Hon. Wayne Easter: I have a question about the steering committee. Some committees have a representative of all parties, and the chair is more neutral in that case; some committees don't. What is the steering committee make-up at this time in this committee?

The Chair: Well, Mr. Easter, the steering committee is comprised of the members set out in routine motions. You are right that in some committees.... That's something we probably should bring up. It's not something we could do right now. It would require a change in the routine motions.

There are two ways of doing it, just for the benefit of members of the committee. I think your routine motions right now state that the steering committee shall be comprised of the chair, two vice-chairs, and a member of a party that is not represented, which in this case would be the Bloc Québécois. In the committee that I just came from, the public accounts committee, the steering committee consists of the chair and members from all four parties.

My own view, and I don't want to get into a discussion now, is that this requires a change in the routine motions. I don't think now is the time to do it, but you may want to think about it. I don't consider it my job to carry the brief for the Liberal Party at these meetings, so it probably would work better if there were a change in the routine motions such that the steering committee consisted of me as chair and a member of each political party represented in the House of Commons.

But again that's something we can deal with later on.

Mr. Wayne Easter: That's future business.

The Chair: Yes.

Is there anything else?

Well, I'm looking forward to the year.

The meeting is adjourned.

MAIL  POSTE

Canada Post Corporation / Société canadienne des postes

Postage paid

Port payé

Lettermail

Poste-lettre

**1782711
Ottawa**

If undelivered, return COVER ONLY to:
Publishing and Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5

*En cas de non-livraison,
retourner cette COUVERTURE SEULEMENT à :*
Les Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Additional copies may be obtained from: Publishing and
Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5
Telephone: 613-941-5995 or 1-800-635-7943
Fax: 613-954-5779 or 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Also available on the Parliament of Canada Web Site at the
following address: <http://www.parl.gc.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

On peut obtenir des copies supplémentaires en écrivant à : Les
Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5
Téléphone : 613-941-5995 ou 1-800-635-7943
Télécopieur : 613-954-5779 ou 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Aussi disponible sur le site Web du Parlement du Canada à
l'adresse suivante : <http://www.parl.gc.ca>