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Thursday, April 29, 2010

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Chair

The Honourable Shawn Murphy

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•(1015)

[English]

The Chair (Hon. Shawn Murphy (Charlottetown, Lib.)): I call the meeting back to order.

You have before you the minutes of the steering committee that took place yesterday. I'll just go over them and highlight the paragraphs.

Please hold on for just a minute. I'm going to ask the clerk to circulate the draft schedule, which really should also be in front of you.

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Mr. Chairman, on a point of order.

While we're circulating these documents, I just want to indicate on the record that I am submitting a notice of motion to the clerk: that the committee re-adopt the 22nd report of this committee, presented to the House in the last session, so that the report might be re-adopted and presented to the House in this session.

I just want to record that, and I will pass this to the clerk.

The Chair: That's just for notice. That's not for debate.

Mr. Derek Lee: That's right.

The Chair: If Mr. Lee wants to move that motion after the 48 hours, he's entitled to do so.

Okay. Let's go back to the report of the steering committee. You have in front of you the draft agenda. Item one in the steering committee report, if you want to thumb over to June 8... Now, it's not necessarily going to happen on June 8, depending on the availability of witnesses, but what the steering committee is recommending is that we deal with the report by the Auditor General that was tabled last week, entitled *Electronic Health Records in Canada—An Overview of Federal and Provincial Audit Reports*, at the same time we deal with chapter 4, "Electronic Health Records", of the report tabled by the Auditor General in the fall of 2009, which the committee did not have a hearing on. We would just have both of them before us at the same time and undertake them concurrently with our study that was just released last week.

The second item—and this has been before the steering committee for the last three or four months—is that the chair be instructed to write to all accounting officers, meaning all deputy ministers and all chief executive officers of all crown corporations. There are approximately 88 accounting officers in Ottawa. The letter would point out the contents of our report dealing with the production of

documents and records. A copy of that draft letter, as approved by the steering committee, is circulated with the minutes.

On the third item, I want to point out that this is why we could not have a meeting on Tuesday. There's been a little bit of shift in the schedule. A week from Monday, on May 10, the Auditor General is going to table a special report in Parliament. It's a brief report, but I have absolutely no idea what it's about. The only thing she said was that she would rather table the report prior to coming before this committee and dealing with her departmental performance reports and estimates, and we acceded to her request. She is going to table that report in Parliament on Monday, May 10, and then we're going to devote a half an hour to that at our meeting on May 11. That's the date we're going to deal with the Auditor General's estimates and the departmental reports on plans and priorities. We'll devote an hour and a half to those, and a half an hour for a briefing on this special report, which she would have tabled in Parliament the previous day. The steering committee points out in paragraph 3, the final paragraph, that we might want to invite her to appear before the committee at a later date, if necessary, depending on what's in the report.

The last item is that the Office of the Auditor General is entertaining about six or seven members of Parliament from Mali. They're involved with two committees there that deal with similar issues as the public accounts committee, and we are attempting to have a lunch with those individuals on Wednesday, June 2. Of course, everyone here will be invited.

Is there any discussion?

Mr. Saxton.

•(1020)

Mr. Andrew Saxton (North Vancouver, CPC): I just have a suggestion.

We come to these meetings and are presented with the minutes of the steering committee and basically have about five minutes to read them. I think it would be appreciated by all members if we could perhaps have a copy the day before, so we could know what's in the report before it's put on top of our desk at this meeting.

The Chair: I agree with you, Mr. Saxton. It's a good point, but the problem is that the day before is the meeting of the steering committee. It did work a little better when the steering committee meetings were held on Mondays. The steering committee this year meets on Wednesdays at noon, and that's the problem now. The clerk sometimes gets them out on Thursday afternoon.

I'll let her speak to it.

The Clerk of the Committee (Ms. Joann Garbig): When the steering committee adjourns, I return to my office and I begin to draft the steering committee report, and I seek an approval from the chair. Once all the necessary approvals, translations, and whatnot are in, I can finalize the report. So far this session, I have not managed to beat the clock, but I will try to do better.

If it's any help to the committee, it could—worst case—perhaps be sent at eight in the morning in advance of a nine o'clock meeting. I don't know if members would find that helpful, but I will try to improve the process as much as it is within my control to do so.

Mr. Andrew Saxton: I appreciate it. It's an extra burden. I think even getting it at eight o'clock is a benefit to the current situation.

Thank you very much.

The Chair: Mr. Kramp.

Mr. Daryl Kramp (Prince Edward—Hastings, CPC): Chair, I'll make the same objection now that I made at the steering committee to the draft report you want to send out. I have no difficulty with the report itself, as issued, but I would make the same argument I made at the steering committee. You are stating in here "The position was reaffirmed by Speaker Milliken...", etc. That's fine, but there have been different interpretations of that, potentially, and the Speaker himself has suggested that he wanted to wait two weeks for Parliament to come to whatever particular sense of direction was going to come out of that before he would then submit his final ruling on the case.

I certainly would not support this going out before that, although I'm quite comfortable with the content of that. As written yesterday, as a matter of fact, and the day before, in an article by Ned Franks—we've had Ned Franks before this committee a number of times. I can recall the first time. As a matter of fact, the three sitting members were at the committee. He's obviously an esteemed and respected historian as well as a parliamentary expert. As he suggested even yesterday in a publication, there are obviously a couple of different positions on this. Ned Franks suggested that there's one particular side that believes it is their 100% right and due, and there's another position in statutory law, etc. He said he believed this would work itself out within a very short period of time.

I wouldn't want to jump ahead of that, although obviously I'm quite comfortable with the purpose and the intent of recognizing the primacy of Parliament. There's no difficulty with that. I think we all recognize that. But it's a question of under what terms, under what conditions, and under what rules and regulations and special priorities. If we go ahead and move with this now and set the precedent, prior to whatever precedent will be established at the resolution or non-resolution of this case, then so be it.

That's just my personal thought on that. It's not a question of delay. If the Speaker had made his ruling and it was in and done and over with and Parliament was faced with whatever action Parliament would take...but the Speaker left room for "movement", whatever movement that would be. My interpretation of that was, fine, let's just see what happens on that.

We've had many people from all sides of the coin now who have actually made comment on the Speaker's ruling. I certainly don't take issue with the Speaker's ruling on this. But what I am suggesting is,

if we jump that two weeks ahead of his final consideration, or the final deliberation or direction, and send this out to the departments, it could be exactly in tune, but there also might be a modification, a change. I don't know. I can't predict, and I have no ability to be able to do so. Personally, I guess we're closer to 10 days premature now, or whatever the timeline would be.

• (1025)

The Chair: Thank you, Mr. Kramp.

Mr. Saxton.

Mr. Andrew Saxton: I'd just like to follow up on what Mr. Kramp said.

You know, we've waited quite a long time already, so I think an extra two weeks would not be out of line. I agree that we don't know what's going to happen in the next two weeks. Perhaps if we wait, maybe the letter will go with the same wording it has now, but maybe not. My recommendation is, since we've waited this long already, an extra two weeks should not be too onerous for us to wait to find out what happens after the Speaker rules in two weeks.

The Chair: Mr. Young is on the list right now. I don't have you on the list.

Mr. David Christopherson (Hamilton Centre, NDP): I've been on the list for some time.

The Chair: Not on our list. My apologies.

Mr. Young, then Mr. Christopherson, and then Mr. Lee.

Mr. Terence Young (Oakville, CPC): Could you clarify for me, Mr. Chair, if we are in camera now?

The Chair: No, we're not.

Mr. Terence Young: I'm really concerned about sending this letter. I think it's premature, to say the least. The position of the Speaker was to direct Parliament to come to an agreement on this. That's the position; it's an unresolved situation.

Mr. David Christopherson: You're wrong, Terence.

The Chair: Order, please.

Mr. Young has the floor.

Mr. Young, you have the floor, and we will have one speaker at a time.

Mr. Terence Young: The matter is not closed. The Prime Minister said he will not direct civil servants to break the law and that he will not release information that would put Canadian troops in the field at risk.

It's unresolved, so it's inappropriate to send this letter right now until the matter is resolved.

The Chair: I have Mr. Christopherson and then Mr. Lee on the list.

Before I turn it over to Mr. Christopherson, I do want to caution members not to draw too close a connection between this case and the case that was before the ruling of the Speaker—although we did mention it in the letter. We can take it out, by the way. I would be quite comfortable with taking that out.

The issue before the House involved the supremacy of Parliament to send for persons, papers, or records. Of course, there is the responsibility and expectation of Parliament that it will protect national security interests and negotiations between countries—there's a whole host of such issues—but the fundamental principle set out in our legal counsel's letter was that we had the right. Now, in the case before us, it had absolutely nothing to do with national security. It involved tapes that were actually of a public meeting. It is not a national security issue. So I caution members not to draw too close a connection between that case and the case that's before us, which is extremely simple and basically goes to the heart of whether or not Parliament has these powers.

Having said that, Mr. Christopherson, you have the floor.

•(1030)

Mr. David Christopherson: Thanks, Mr. Chair.

I so fundamentally disagree with my Conservative colleagues. The fact is that the ruling was very clear on the principle of whether or not Parliament is paramount in being able to demand papers, documents, and persons. He was very clear.

We already held off waiting for that. The suggestion that we need to wait to see if this changes—it's not going to change. He affirmed the fundamental principle. The reason there are two weeks is that we have an issue with the Prime Minister, who is not necessarily of the same mind at this point. The two weeks are to try to avoid a constitutional crisis on the instant case, but on the issue, if you were in the House or if you read the ruling, it's very clear. The fundamental, paramount right of the House of Commons and its committees to demand those papers and persons is affirmed, period, full stop.

The situation where we have a lawyer coming in from one of our departments and telling us we can't have a document because our rights are superseded by the privacy laws is not accurate. This letter is to tell those lawyers not to dare to come in here again and try to give us any reason why they're not tabling documents that we've ordered to be produced. If there are national security items, privacy concerns, in the instant case, we make accommodations, as we did. We met in camera and reviewed some of this. At no time did we suspend our right to have that document provided in its fullest form just because we decided to take a look at it and make a determination on what we wanted to allow to be made public, having concern for others' rights or whatever, in the instant case, in front of us in the House. It's national security.

All that is secondary to the issue. I don't need to wait. I'm concerned that if this committee votes to wait, then the majority of this committee didn't get what the Speaker said. The Speaker said clearly that Parliament's powers and rights are paramount. All this does is to let the departments and the deputies and the accounting officers know that if you roll in here with some lawyer, trying to tell us there's any reason why we can't have documents, there's going to be hell to pay.

I forgot we're in public. I apologize for the language.

If you remember when we had Mr. Walsh at the end of the table—my description is probably a little over the top—I thought he was going to come over the table at that lawyer. He was so upset that she

would dare to say there was any legislation or any statute, anything, that was of a higher priority than Parliament's rights.

This letter, in my opinion, is dead accurate, and it goes now.

Waiting two weeks...you might as well wait two months. There's no more relevance to that two weeks than there is to two months. The fundamental principle was reaffirmed.

Mr. Chair, please don't take out the referral to April 27. That's a red letter day in the life of Parliament, and I'd like to see it pushed forward.

Anyway, there we go.

The Chair: It's the committee's decision, Mr. Christopherson.

Mr. Lee.

Mr. Derek Lee: Going back to the root of this instance that gave rise to this letter, the ignorance of the Department of Justice lawyer who initially said we had to apply for this information under the Access to Information Act betrayed an ignorance of parliamentary law. That was palpable and just way beyond the pale.

Those same lawyers are apparently still giving advice to those who wish to drink the Kool-Aid.

The Speaker's decision, which we waited for, was unequivocal. The parliamentary privilege, the power to send for persons' papers and records, is absolute. The only reason he didn't turn to a member for a motion was that Parliament itself was, in this particular instance, dealing with matters of national security underbuilt in its capacity to protect sensitive documents.

There are two weeks available to this House—our colleagues, on that particular committee, the special committee—to build the mechanism capable of protecting the sensitive documents. That doesn't mean the power isn't there. Should we get to the end of the two weeks and there isn't a mechanism, the Speaker might be reluctant, but at some point, someone is going to have to say “turn over the documents”. Someone's going to have to go and seize them.

It is a huge constitutional issue if the government continues to suggest that Parliament doesn't have this power. I have to admit that these issues have gone on. The tension between the executive and the King and Parliament has gone on for 700 years, and this is just another instance.

•(1035)

The Chair: I think it's 800 years.

Mr. Derek Lee: Yes, 800 years. Magna Carta, yes.

We're coming up to the anniversary. I hope you'll all be out there celebrating.

It disappoints me to see that members are still following so closely what the Prime Minister is suggesting. In fairness to those members, they're part of a caucus where the Prime Minister is their leader and they wouldn't want to vary too much, get outside the loop too much. That's what we're dealing with here today and I respect that.

Mr. Terence Young: I have a point of order.

Mr. Lee is impugning motive. I ask him to withdraw it, please.

Mr. Derek Lee: I'm not impugning motive. I'm actually telling—

Mr. Terence Young: Yes, you are.

Mr. Derek Lee: In my remarks—

The Chair: I don't think it's a point of order.

Mr. Terence Young: He's saying that we are saying what we have said on record here because we've been told to say it. He's impugning motive. It's unparliamentary. I ask you to withdraw it.

Mr. Derek Lee: Mr. Chair, I'm not going to withdraw the remarks. I'm not saying that members have been told to say something. I'm just saying that they wouldn't want to say something that gets too far outside the bounds of what the Prime Minister has said. In fact, we've had the Prime Minister quoted here this morning.

I will close by just reconfirming what's been said all along, what the law books have said all along, and what the Speaker has said all along, that the power to send for persons, papers, and records is absolute. When this committee orders documents, the departments involved have to respond appropriately. If we have to protect sensitive documents here at this committee, we will. In any event, the power exists and this letter reconfirms it. It's an indication to these departments that we will insist on compliance. I support the letter, and I would be prepared to vote in favour of getting it signed and sent out.

Thank you.

The Chair: Mr. Dion.

Hon. Stéphane Dion (Saint-Laurent—Cartierville, Lib.): I don't have a lot to add to what my last two colleagues said, but I would just reiterate that the decision of the Speaker is very clear. The two weeks are not to mollify the principle. The principle is clear. Parliament has the right to see these documents and the two weeks is to find a process for it. We should not twist the decision of the Speaker.

[*Translation*]

It seems to me, Mr. Chair, that your letter is correct, that it should be sent now, and that the two weeks in question have nothing to do with the process of this committee.

[*English*]

We cannot use the decision of the Speaker in order to try to interpret it in a way that is contrary to what the Speaker has said.

[*Translation*]

The Chair: Thank you, Mr. Dion.

Mrs. Faille.

Ms. Meili Faille (Vaudreuil-Soulanges, BQ): I want to add my voice to that of the members who have spoken before me. The ruling of the Speaker of the House, Mr. Milliken, reaffirms the right of parliamentarians to demand documents and persons as need be to throw light on those documents and to understand programs better.

I also want to underline the fact that here, in this committee, we have never exercised this privilege to the detriment of the public interest. The ruling of the Speaker is on a much broader issue and deals with information relating to national security, information that is much more sensitive, I admit. Several Parliaments have

established methods to resolve this issue in order to be able to look at this type of records and documents. I believe that, over the next two weeks, the parties represented in the House will come to a solution.

That being said, it does not change anything to the fact that we have to let the various departments know that we do not agree with the answer of the Department of Justice which is contrary to the ruling made by the Speaker on April 27, 2010.

I find the third paragraph of the letter as drafted to be appropriate. This letter could have been much stronger, like the previous one. It is strictly factual and simply reiterates the position of the committee, at least on this side.

● (1040)

[*English*]

The Chair: Mr. Saxton.

Mr. Andrew Saxton: Thank you, Mr. Chair.

I don't want to dwell too much on the legality of this issue, because there are others in this room who have much greater experience and knowledge in that respect than I do. Mr. Christopherson did go on about the supremacy of Parliament. I just want to remind him that this is a parliamentary committee, and not Parliament.

Mr. David Christopherson: A committee is bestowed with the same powers as Parliament. Learn the rules.

The Chair: Order, please.

Mr. Andrew Saxton: As I said, I don't want to dwell on the—

The Chair: One speaker, please.

Mr. Andrew Saxton: —legalities at this time. I just want to say that there are really two issues. One is when the letter goes out, and then the issue is what goes out—in what form and whether we're going to make some amendments.

Perhaps we could move to those two issues, which are really the two issues that are at the crux of this whole matter, I believe.

Mr. David Christopherson: Move the letter.

Mr. Andrew Saxton: So when are we going to send it, and then look at what we're going to send. We have suggestions on perhaps changing the letter to some minor degree.

The Chair: We have the report of the steering committee; the letter was approved by the steering committee. It's before the committee. Committee members can make motions to change it, but I think we should deal with whether the letter should be sent out immediately. I guess that would be the thing. We'll put that to a question, and then we can go with whether there will be any amendments. The minutes from the steering committee state that the letter be sent out.

I'm just going to deal with the minutes of the steering committee. All in favour of the minutes of the steering committee as circulated, please raise your hands.

Mr. Daryl Kramp: Mr. Chair, I have a point of order.

The Chair: On a point of order, Mr. Kramp.

Mr. Daryl Kramp: I thought I was on the speaking list, Chair.

•(1045)

The Chair: We don't have you, Mr. Kramp, but I will certainly hear you.

Mr. Daryl Kramp: Thank you. I appreciate that.

I would like to clarify two points.

I am offended by the comments of my colleague across. I have been on this committee only this last session, but I've served four years on this committee now. In any committee I've served on I have never taken a partisan approach. We all fall within the parameters of our respective parties and goals or aims or principles, but to suggest that I've been unduly influenced, or influenced... There's even been an inference suggesting that I was told, or persuaded, or had a thought process where there was direction on my comments, and I do take offence to that. I would hope my colleagues would recognize that from the history of the time I've spent working with them on this committee and others. I just make that one point.

On the second point, I'm not going to belabour it because we're going to have a vote on this. It's going to come to that. I'm not about to delay the vote or play any games in this, but I do also state a couple of points.

I recognize there's a huge difference between this issue, and the way it came before this committee, and the purpose of this for the Privacy Act, the concerns we had. That's one issue, but I'm also concerned with the other side of that. Any time a committee makes a decision and/or we have a legal opinion... It states right in here "cites legal precedents". Does that legal precedent automatically then apply to each and every department, every other committee? The Speaker would make a ruling on that, as he has in the House, but I suggest that still this brings us to a matter that to me is... The door is not bolted. The door is slammed shut, but the door is not bolted yet for another two weeks. I just take that opinion—and it is my opinion on that.

I sat in the House and listened to every word, all the way through. I've read a number of articles and documentation from a number of people, and certainly not what I would call simply a columnist's appraisal. I've read as much as I could from the scholars, from the people who are students of this, people who have a lot more legal knowledge than most of us on this file. There has been, obviously, a fair bit of consensus, but it has not been a complete, 100% unanimous approach on this. Closure is going to come in 10 days or more. That's fine, and that's why I just wanted to reserve my bid until it's closed. However, if the committee decides to move forward, they decide to move forward. Two weeks from now or 10 days from now, I would possibly move in accordance with them, but I'm not going to do it at this time. That's all.

The Chair: Thanks very much, Mr. Kramp.

Mr. Derek Lee: Mr. Chair, on a question of personal privilege, if it makes members feel a little better, I'm prepared to withdraw the earlier remarks that may have been perceived as imputing motive. I'm prepared to accept, on the record, that the apparent unanimity of the government members on this issue is simply a function of random mathematics.

Thank you, Mr. Chair.

The Chair: Okay.

Madame Faille.

[*Translation*]

Ms. Meili Faille: Mr. Chair, I was wondering if you could read the letter.

[*English*]

The Chair: Everyone has it in front of them, Madame Faille.

[*Translation*]

Ms. Meili Faille: Yes, but is the letter a public document?

[*English*]

The Chair: It's a draft letter; it's not a public letter. It will be going to the accounting officers. If they want to make it public...

Mr. David Christopherson: On a point of order, Mr. Chair, this is a public document because we're in public session, right? The draft is a public document.

The Chair: Only the members have the document. It's not a—

Mr. David Christopherson: Mr. Chairman, the meeting is public. Is the letter considered public or not? We're at a public session and we've got documents in front of us. Are there some documents that are—

An hon. member: [*Inaudible—Editor*].

Mr. David Christopherson: Well, I'm asking the chair. I'm curious.

It seems to me that if it's tabled during a public meeting, that even as a draft—it's not a letter, but it is a draft of a letter—it exists. And since we're in the public domain, the draft letter now exists in the public domain. But if not, I'm curious to hear how we do that.

Mr. Andrew Saxton: Can you read the whole thing again?

Mr. David Christopherson: If a reporter walks in and picks it up, it's public too.

The Chair: We can make it public, but if somebody asks the clerk for the letter, she will not give it to them unless the committee consents.

[*Translation*]

Ms. Meili Faille: Is now the time to ask that the document be made public?

[*English*]

The Chair: That's up to the committee. That would be a decision of the committee.

Mr. Derek Lee: Let's see if we adopt it or not. If it's not adopted—

The Chair: It's not public.

Mr. Derek Lee: —it's not worth anything.

The Chair: It's just a draft letter.

Okay. I want to put the question on the minutes of the steering committee.

I'm sorry. Mr. Saxton.

Mr. Andrew Saxton: I have one final comment on one of the reasons I think these documents need to come to us before committee. We've only had a few minutes to even look at this. I think it's imperative, especially in a situation as important as what we're discussing right now, that committee members have more time to vet documents such as this. I think it's extremely important that we have the time to go through it so we're prepared for the committee.

The Chair: Okay. I will ask for those who are in favour of the minutes of the steering committee as circulated.

(Motion agreed to)

The Chair: This letter has been before the steering committee on a number of occasions. In the five minutes we have remaining, are there any specific amendments that anyone wants to bring forward?

• (1050)

Mr. Andrew Saxton: May I ask, Mr. Chair, when we are going to be sending this letter out?

The Chair: It will take a while, Mr. Saxton. The clerk has informed me that it does take a bit of work. It's not an immediate thing, unless she is so instructed. But she does have other work.

It will probably be at least a week, and more likely two weeks, before the letter gets out.

Hon. Stéphane Dion: [*Inaudible—Editor*]

The Chair: But then the time would start running again, so it wouldn't...

It will be a week, anyway.

Mr. Andrew Saxton: I think the issue is not so much when the letter is going out; it's when the text of the letter is being finalized. That's really the question here.

Perhaps we could ask the committee whether they first of all agree that we could wait until the two-week time is up before the text of the letter is finalized. Could we put that to the committee right now?

Mr. David Christopherson: Why would we wait?

Mr. Andrew Saxton: We've given our reasons earlier. You were here, David. You heard them.

Mr. David Christopherson: Okay, so you don't have any more good reasons. Well, I'm opposed.

Mr. Andrew Saxton: That's one vote.

The Chair: What's your motion, Mr. Saxton? I'm not totally clear on it.

Mr. Andrew Saxton: The motion is that we wait until the two-week time period has lapsed, which the Speaker of the House dictated to the House be used in which to come up with a compromise.

My recommendation or my motion is that we wait until that period has lapsed before we finalize the text of this letter.

The Chair: It is so moved.

Mr. Christopherson.

Mr. David Christopherson: I only want to say the reason I'm opposed is because—

The Chair: Very briefly, by the way.

Mr. David Christopherson: Yes. Thanks.

The reason I'm opposed is that if we agree, then we're giving some currency to the argument that something is going to happen in two weeks that affects, as Mr. Dion says, whether or not the right has been established. The two weeks has nothing to do with that. If we wait, we're playing into that game. The ruling has been made. I'm sorry. The government is doing what it needs to do, but we should not do this. This would be contrary to what the Speaker stood up and said in the House the other day if we wait.

The Chair: Mr. Young.

Mr. Terence Young: The Speaker said a lot to us the other day, Mr. Christopherson.

The third paragraph of this letter makes a statement, "a parliamentary committee" has the right "to call for persons, papers and records, but recognizes that this power should not be exercised without considering the public interest." Further down it makes another statement that, "The House of Commons and its Committees have an unfettered right to send for persons, documents and records." Those two sentences contradict each other, because it's not unfettered. It has to be exercised in the public interest. The next sentence says, "This position was reaffirmed by Speaker Milliken". Which position? The position that the right is unfettered or the right has to be exercised with consideration for the public interest?

In my view, the Speaker's decision obviously considered the public interest. He didn't direct the government to produce the papers or create a crisis or anything. He gave the government and the other parties in Parliament time to work out a way to do this without putting troops in the field at risk, etc. So the letter doesn't make sense. What does this position refer to? A reasonable limit on the power, or an unfettered power? That's my problem with the letter.

Second, there's editorial expansion in the fourth paragraph that says, "The Public Accounts Committee is concerned that the denial of documents to parliamentary committees is a recurring problem". I don't remember when we discussed the recurring problems. We discussed one problem, which was our problem to get those tapes unredacted. I don't remember any long discussion about recurring problems. I don't know why there's any need to make the point about something we didn't discuss.

Those are my concerns with the letter. Why don't we simply wait and see how this matter works out?

The Chair: It is so moved by Mr. Saxton that we wait two weeks.

All in favour of that motion? Contrary-minded?

I will be voting against the motion.

(Motion negated)

The Chair: The clerk is instructed immediately to start the necessary work to send it out.

• (1055)

Mr. Andrew Saxton: There's another motion coming.

The Chair: We're talking about amendments now. We went the last time and we talked about another issue under the guise of amendments.

Go ahead, Mr. Young.

Mr. Terence Young: I'd like to move that in the third paragraph of this letter, the sentence that begins, "This position was reaffirmed by Speaker Milliken" be removed, and in the fourth paragraph, the section that says, "the denial of documents to parliamentary committees is a recurring problem", also be removed, before you send the letter on.

You don't know if it refers to a position of unfettered right or to a position of a right that's exercised in the public interest. In the next paragraph, it says, "The Public Accounts Committee is concerned that the denial of documents to parliamentary committees is a recurring problem". I find that to be editorial, an addition that we didn't really get into in this committee. So take that section out and the next two words, "and that", so the sentence would then read, "The Public Accounts Committee is concerned that legal advisors for government departments are confused over the application of the law with respect", etc.

The Chair: We only have two minutes, gentlemen, if you want to make a brief comment.

Is there any support for that amendment?

Mr. Paul Calandra (Oak Ridges—Markham, CPC): Thank you, Mr. Chairman.

It seems to me, as somebody from the outside who's coming in and reading it for the first time, as I am, that that would definitely help clarify exactly what you're looking for without confusing all kinds of other issues in the process.

I'm assuming what all sides are looking for is an opportunity to access additional information in line with the ruling of the Speaker, without compromising the legal responsibilities that not only our government but previous governments have put in place in the form of legislation. We can argue over this, but I'm assuming when we did the Privacy Act under the previous government, it didn't outline specifically that in instances of disagreement between political parties and committees, parliamentarians supersede the law.

As a layperson, not as a lawyer, I'm a bit confused as to why we have drafted laws in the past that don't specifically identify that all the laws we draft, including the Privacy Act, have absolutely no bearing on members of Parliament, that members of Parliament are above all the laws, at all costs, at any expense. So if I read this correctly, there is no Privacy Act because parliamentarians are above the law. As a layperson reading this, that then concerns me that a number of other acts... When we're drafting laws from now on, do we put it into the laws that this law is subject to the fact that members of Parliament are above the law in all circumstances?

That's a bit confusing to me. I appreciate that there are lawyers around the table who understand this a little better than I do, but I have to agree with Mr. Young's recommendations.

The Chair: We'll put Mr. Young's two things to a vote.

Mr. Paul Calandra: You seem to be rushing me, but I'll leave it at that for now.

The Chair: We'll put it to a vote.

Mr. Saxton.

Mr. Andrew Saxton: Mr. Chairman, may I make a suggestion here?

First of all, we've had this letter for a very short time. I don't think we've had adequate time to go through it. I think it's not right that we should be pushed to vote on something we haven't had adequate time to vet.

The Chair: We've already voted on it, Mr. Saxton.

Mr. Andrew Saxton: We have not voted on the content.

The Chair: I'm sorry, but that was—

Mr. Andrew Saxton: We have not voted on the content, so I think we should defer it to the next meeting—

The Chair: No. I'm going to instruct the clerk to go ahead with the—

Mr. Andrew Saxton: —so we have time to vet the letter.

The Chair: —minutes of the steering committee that were approved, Mr. Saxton. I'm sorry, but that's my ruling.

Anyway, there is another committee, colleagues, and—

Mr. Terence Young: We didn't have a vote.

• (1100)

Hon. Stéphane Dion: Yes, we voted on it. You want to vote again?

The Chair: We'll put your motion to a vote—

Mr. Terence Young: Yes.

The Chair: Okay.

Mr. Young has made two amendments, that two sentences be deleted. All in favour of those deletions? Contrary-minded?

I will be voting against the amendments.

(Motion negated)

The Chair: The meeting is adjourned.

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