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Tuesday, February 1, 2011

—
Chair

The Honourable Joseph Volpe

Standing Committee on Public Accounts

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• (1530)

[Translation]

The Chair (Hon. Joseph Volpe (Eglinton—Lawrence, Lib.)): Colleagues, good afternoon. I want to wish each and every one of you a Happy New Year.

[English]

Even though we're now already officially into the second month, I think it's still fair to wish everybody a happy new year. Irrespective of partisan strife, it's a sincere one.

And for some of you who are going to be celebrating it twice in a couple of days, that will be okay too, right? Why not?

Mr. Daryl Kramp (Prince Edward—Hastings, CPC): We'll be celebrating tonight.

The Chair: Tonight?

Mr. Daryl Kramp: Chinese.

The Chair: I thought it was on the third.

Mr. Daryl Kramp: Well, we're doing the function tonight.

The Chair: Oh, I see; it's in anticipation of.

Colleagues, I thought I'd bring you up to date on the things that have happened over the course of the Christmas break.

As you can see, we do not have Madam Ouimet before us, even though, as you know...

For your consideration, I'll just review some of the facts for you.

On December 10 and December 13, the clerk made a phone call and left a message for Madame Ouimet. We did not get a response to that. We went ahead with the meeting, as you will recall, and at that meeting we had some discussion about how we were going to proceed.

Without going into the detail of these notes, I went through the Hansard again just to refresh my memory for accuracy purposes. There were members around the table who suggested that we'd do whatever we could do to direct her to appear.

What I did on your behalf is that I sent the letter by registered mail on December 16. I indicated to her that it was the committee's wish that she would appear. We sent a request to appear. I indicated to her that "It is expected that you will appear in your capacity as the former Public Sector Integrity Commissioner of Canada."

We gave her until January 14 to communicate that she would confirm her attendance. We left all of the appropriate coordinates—numbers, fax, e-mail, etc.

On January 12, the clerk submitted another attempt, made another attempt to speak to Madame Ouimet, and left yet another message.

The end result of all of that is a vacant chair.

So today, I guess I've been asked, on the part of some...and I've tried not to prejudge anything or anybody. But I think we're left with the same arguments that were on the table when we last left, and they are the issues that relate unfortunately personally to Madame Ouimet. She needs to be given an opportunity—I thought that was the consensus—to defend herself, so we wanted to offer her that.

Second, the issues that were raised by the Auditor General with respect to protection for—quote—"whistle-blowers" and the implementation of the Accountability Act, and the working of the commission under her guidance, are issues that needed to be addressed.

We don't have her to give us any of that indication. We don't have a response from her. We have only the Auditor General's report.

So in the interests—I thought I'd heard this as a consensus—of fairness, but also in the interests of getting to the bottom of the questions of transparency and accountability, we would have Madame Ouimet here; a suggestion was that we would move immediately to have her directed to come here. We can do that through a subpoena.

I asked the clerk to prepare the appropriate documents in the event that the committee would say that's the next step. Some people wanted us to go that step last time. I indicated that I would try this approach first, so I have.

I thought I would give you as objective a report as possible.

Mr. Saxton.

• (1535)

Mr. Andrew Saxton (North Vancouver, CPC): Mr. Chair, I just wanted to clarify. You mentioned you had sent a registered letter, whereas I previously heard it was a priority post letter. There's a difference, I believe. Did somebody actually sign for the letter? That's the bottom line.

The Chair: She hasn't returned the letter yet.

Mr. Andrew Saxton: Normally when it's delivered they have to sign for it, if it's a registered letter.

The Chair: The post office made an effort to deliver that and was unable to deliver it. Apparently yesterday it was returned to the post office, and nobody has come to retrieve it.

Mr. Andrew Saxton: So actually we do have proof that the letter has not been delivered.

The Chair: No. Normally under those circumstances there is an indication, a document, that will be left at the resident's place saying "You have a document waiting for you at the post office", and the person has not retrieved that document.

Mr. Andrew Saxton: Thank you.

The Chair: Mr. Christopherson.

Mr. David Christopherson (Hamilton Centre, NDP): Thanks, Chair.

I don't know that we have need of a great debate. It cannot come as a surprise to her, given the attention this issue has had in the media over the last few months, that there are questions that parliamentarians would like answered here on the Hill. This does look, at first blush, like someone who is deliberately dodging and avoiding being contacted. I can't say that 100%, because I don't know, but it certainly looks like that given the circumstances and given the importance to us to ensure that whistle-blowers know they are going to be protected from whistle-blower protectors, which is sort of the "spy versus spy versus spy" aspect of this thing. I think it is quite legitimate that we would insist that she appear and answer the questions to the best of her ability, given the important public interest and, I would say, importance of the issue. If somebody can give a good reason why we shouldn't take this step, as dramatic as it is, I'm listening, but it seems to me to be pretty straightforward.

You are right, Chair. You went the extra mile, if you will, to try to be reasonable and provide an easy way for her to attend without having to go to the heavy, legal hammer of a summons, but I'm not sure, at this point, that we really have any alternative but to take that step. Hopefully she'll comply with that, and we can all get back on track.

Thanks, Chair.

The Chair: Thank you.

Mr. D'Amours.

[*Translation*]

Mr. Jean-Claude D'Amours (Madawaska—Restigouche, Lib.): Mr. Chair, at some point, things need to be clear. I cannot imagine that this woman has not, at one point or another, followed what the media is reporting or that she didn't get her messages. In my humble opinion, you really don't want to talk to us in that case. When someone holds such a senior position within government, one must answer for one's actions and answer the questions asked by parliamentarians, even if one no longer holds that position.

Earlier, I believe that you said you had asked the clerk to prepare a draft or a motion to force Ms. Ouimet to appear before the committee. I have no objection to moving that motion, if it is ready. Otherwise, we can write one, to subpoena Ms. Ouimet to come before the committee.

The Chair: Thank you, Mr. D'Amours.

I wanted to give the committee members the chance to speak on this matter, before moving to a motion.

[*English*]

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

I understand there may be another committee that is also trying to reach the same witness. Do we know if they've had any success in approaching her?

The Chair: I spoke to the chair of the operations committee. I was reluctant to discuss it in great detail because apparently it was a steering committee, an in camera committee, and it was reported on a live blog that they decided they were not going to deal with Madame Ouimet. So I asked the chair if indeed that did transpire, since it's now in the public domain, and I asked for what reason.

The other thing I asked on behalf of the committee members here—and I hoped that he would be able to speak on behalf of his committee as well, and I was trying to be as proper as possible—I said, "Can you give me a reason why you said no?" He said because they know that our committee is dealing with it. I said okay, our committee is dealing with this—as all members will recall—because the Auditor General provided this committee with a report. We're dealing with this report and Madame Ouimet is part of that report.

If another committee is dealing with it, it must be for another reason. Their reason suggested—and I don't want to put words in anybody else's mouth—that it had to do with who appointed her and if the appointment got the appropriate vetting of the committees. They thought that because we're dealing with this, that we're trying to get hold of Madame Ouimet, they would leave it alone. Whether that committee decides at another time to revisit the issue is not something they were prepared to share with me, because, again, it was an in camera committee.

● (1540)

Mr. Andrew Saxton: Thank you.

The Chair: Mr. Bains.

Hon. Navdeep Bains (Mississauga—Brampton South, Lib.): Thank you very much, Chair.

I want to echo the comments made by my colleagues earlier with respect to the fact that the Auditor General very clearly raised some serious issues in the conduct of the commissioner. I recognize the fact that she suddenly retired, but that's no excuse. She has a clear obligation to respond to that report, particularly around the issue of the fact that there were 228 cases that were brought to her attention and no action was taken. More importantly, she clearly refuted the findings of the Auditor General in the report as well, or she disagreed with the findings as well, so it's important that we get to the bottom of this.

Millions of dollars have been spent and we've done all we can possibly do to deal with this in an appropriate manner without getting disposition. I believe Mr. D'Amours has very clearly indicated that the next step seems to be inevitable, which is that we put forward a motion to summon her to come before the committee. I think it's reasonable in the current context, because we've been very patient. It's been over a month and a half since we made those initial calls, as you alluded to earlier, and then subsequent to that we've written a letter with the intent to ask her to come before committee.

I have no desire to elevate this issue, but unfortunately it seems like we're not left with many choices. Therefore I think it's very important in terms of getting to the bottom of this and addressing some of these legitimate concerns that not only do we summons her, but we do so in a timely manner to make sure she comes before the committee and is able to address these concerns.

The Chair: Okay. One last comment from Mr. Kramp.

Mr. Daryl Kramp: Thank you, Chair.

I certainly agree with Mr. Christopherson. We cannot have anyone wilfully ignoring the will of the committee. If they have any knowledge whatsoever of the fact that they are expected to be here, they cannot ignore that. So if it comes down to the final stroke of a summons being the necessary tool, I certainly would support that.

The concerns I have are over a couple of things. I'll just touch on this, Chair. I don't want to belabour this point right now.

A number of times statements, actually by the chair and others, were made discussing this issue with *The Hill Times*, with other people, and some of it has been in camera. It says he'll ask the committee whether or not to give him the authority to track down Ms. Ouimet and get her before the committee. So I'm concerned that we have to be careful here. Are we putting people on notice, and it's in camera, and then going out and doing things like this? I have to be a little cautious on that, but I don't want to belabour that point now, Chair.

Does anybody know if the individual is in the south for three months? I don't know. I have no idea. No one's home; no one's answering. People do leave for three months, particularly if they feel they don't want to be here for a while. I have no idea. I wouldn't even know where the individual lives. But if in the committee's judgment they feel the only way to get that person here is through a summons, as a government member, personally, I would absolutely support that, because they cannot deny the will of this committee.

I hope we have followed every last means by which to be able to contact them in a reasonable manner, because this is the ultimate. We go to this route very, very seldom. If this is the case that we do it, so be it, but I would just caution our committee to ensure that every means has been followed prior to this so we don't just go ahead and get ourselves into some kind of a precedent that's going to come back...either that, or leave a loophole for someone to walk through later on in this process.

• (1545)

The Chair: Thank you, Mr. Kramp.

I can only assure you from the perspective of the chair at least, and working with our clerk and our table, we have been as precise as we could be, so nobody could say anything negative about the way the committee has proceeded.

I take your point that what we need to ascertain in fact whether the individual is here. Unfortunately, we are now left with the situation that the only way we can do that is to issue the summons and have the logistics officer of the House track her down.

In order to do that I asked the clerk, in anticipation of whether we would be in this position or not, to prepare the documentation so that it would be as precise and as objective as possible. On the basis of that, she has done something that's consistent with all the House rules, all the procedures, and has a form in both official languages that includes the name of the individual who will be summoned to appear and give evidence before the committee on matters relating to the study of the Auditor General of Canada's report on the Public Sector Integrity Commissioner.

We're going to have to give her a date. We can deal with that date. Obviously it's unrealistic to do it this Thursday, but I'm proposing February 8 because that's the next available date. As I said, we can deal with that once there is a response from the logistics officer. But a date has to be given. She'll be given the date, the day, the time, and the House of Commons committee room number—this room number, because we're scheduled to be here—and be told that it's this building and to remain in attendance until duly discharged.

We're scheduled to be here for two hours. We collectively may wish to be here for a shorter or longer time, in which case she can leave at the appropriate time. All of that is repeated in French. It's then transferred onto an official type of document that I have to sign, and the logistics officer receives it and goes about determining where Madame Ouimet is and delivers the document.

Just to anticipate what might happen, if the logistics officer is unable to find her before February 8, he will then report to us and we'll have to make a determination. Okay?

So I don't know how someone could be more reasonable.

Mr. Saxton.

Mr. Andrew Saxton: Mr. Chair, that sounds reasonable. My only question is about when you say he is going to report back to us. Our next meeting is on Thursday, the day after tomorrow, and then we don't meet again until February 8. In all likelihood, we still won't know by this Thursday. This is likely going to happen sometime after Thursday. How are you going to relay that message to the rest of the committee?

The Chair: Mr. Saxton, we have a scheduled steering committee meeting tomorrow. We have a pre-scheduled meeting for Thursday that is subject to whatever it is that we would do, but we have some reports that we would consider. By Thursday we might have an indication; I don't want to prejudge what will happen.

We will schedule the eighth because we need to be able to do that for the purposes of the bailiff and the logistics officer, so the eighth is going to be set aside in order to do that. We already have something scheduled for the tenth, which is the following Thursday, and we have something tentative for the fifteenth, which is the Tuesday following.

I think we're trying to work by doing this in a timely fashion, but in a considerate fashion as well.

• (1550)

Mr. Andrew Saxton: Would it be reasonable, then, for you to advise the committee of the progress by Friday, say, so we know what's happening?

The Chair: We could do it on Thursday and see what is happening.

Mr. Andrew Saxton: That would be good, to do it for Thursday, if we have anything by Thursday. You may not have anything.

The Chair: Mr. Saxton, you and I get along because I always keep you informed of everything.

Mr. Andrew Saxton: I think the verdict is still outstanding on that one.

The Chair: Mr. Shipley, on that topic...? Or can I just move ahead?

Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC): No, it's just a clarification. Did you say you left messages on the phone? I thought I heard you say you had left messages.

The Chair: Yes.

Mr. Bev Shipley: So the message machine never gets full...?

The Chair: I don't know.

Mr. Bev Shipley: It's sort of an interesting scenario here. I agree that we have to find her. If the logistics don't find her—let's say the person has gone away for six months, wherever—what happens? What is at the end? Do we just wait and wait and wait? What actually follows?

The Chair: From my perspective, it's going to the logistics, the bailiff people. They have expertise in tracking people down and they'll be able to tell us.

Mr. Bev Shipley: Okay.

The Chair: We'll make a decision then. The committee will make a decision if they have been unable to do it or if they have been able to do it and something else is at play. But I'd wait until later for that.

With respect to voice mail, people clear out their mailboxes, and it's not a problem. Sometimes they're not there, which is where I think you're headed. There are any number of possibilities.

Mr. Bev Shipley: Well, I don't know....

The Chair: Yes. There are any number of possibilities. All I can say is that we've left messages.

Mr. Bev Shipley: Yes. Okay.

The Chair: Okay?

Mr. Bev Shipley: Thank you.

The Chair: I don't know whether there is a vote required on that. I got a sense that everybody is in agreement.

Mr. David Christopherson: I'd like to speak.

The Chair: I'm sorry. Go ahead.

Mr. David Christopherson: Thank you.

I'm just a little bit concerned and would appreciate the thoughts of you and other members. But February 8—today is February 1—is one week from today. Nothing is going to be received today, so it's going to be less than a week.

If my note-taking is correct, we made phone calls and left messages on the tenth and thirteenth of December. On December 16 we sent registered mail giving her until January 14 just to get back to us. And here we are suggesting something less than a week to actually arrange one's affairs to be here. That's assuming someone wants to.

I'm just concerned that someone could make a reasonable argument that if they don't finally get contacted until Wednesday or Thursday—"gee, I can't make February 8"—that opens up an opportunity to.... Let's just say that if one wanted to be obstructionist in terms of coming here, you could plant a whole lot of roadblocks in the way.

All of that is to say I'm wondering if we shouldn't.... I heard what you said, Chair, about what we have planned. My thought was that first date after that, which is about two and a half weeks. I take Mr. Kramp's point that not only do we always have to be taking care of people's rights, but there's a bit of Caesar's wife here, and we have to be seen to be fair-minded. I'm just concerned that this may not look fair to have such a tight timeframe on a summons. But that could be just me. I'm thinking we might want to go for that other date, but....

The Chair: Okay. I appreciate your intervention there, Mr. Christopherson. As I indicated earlier, in order to make this official we have to put a date. So we've put down the very first date we have available. I gave you an indication of the schedule. When we get a response we'll be able to make an adjustment, but if we start to pick the ideal date today for the bailiff logistics individual to get back to us, we could be playing with the calendar for a long time.

Madame Ouimet may not be available on the eighth, but we have at least given our logistics and bailiff people an opportunity to work on that schedule. This isn't the time for somebody to be personal or partisan. I don't think anybody around this table is going to be so rigid as to say the bailiff just gets hold of her on Sunday and we want her here. I don't know where she's going to be—let's suppose he does. Can we make an adjustment? I think I can come back to the committee and say, "Colleagues, we finally have Madame Ouimet. It will be on this day that best suits everybody, what say you?"

I don't want you to go away from this discussion thinking we're going to nail somebody on the eighth and all of us are going to be here on the eighth. We're all going to be here on the eighth, but Madame Ouimet will be given the opportunity, once we locate her, and I don't know whether that's going to happen by then. That's why I said to Mr. Saxton that I'm hoping to be able to give you some kind of report on Thursday. Maybe then we can make some adjustments.

• (1555)

Mr. David Christopherson: As long as we build in some flexibility and fairness, that's fine.

The Chair: The only thing set in stone is that we're going to move ahead. That's what I hear around the table.

Mr. David Christopherson: I'm good.

The Chair: Mr. Young.

Mr. Terence Young (Oakville, CPC): I just want to express my agreement with Mr. Christopherson. It's such a short notice. It gives somebody the opportunity to say they can't possibly make it. If you made it the 15th or 22nd it would prevent that from happening.

The Chair: Thank you, Mr. Young.

As I said, I'm not going to call for a vote. I'm taking this as consensus that the committee agrees that I should present this motion for the summons.

Okay, thank you very much. That's item number one.

Item number two is that, in respect of the same issue, the clerk and I, I guess through the analysts, have received submissions from parties interested in intervening on this matter. As you know, we also contacted the Clerk of the Privy Council prior to Christmas with respect to his availability. I gave you an indication then that the clerk said he'd be prepared to come, but he could not come on those days because of his commitments to cabinet and the briefings to the Prime Minister. We all agreed that was fair.

We have contacted the clerk's office again, and there is an inclination to appear, but not until much later in the month. That inclination I thought was very positive. Somebody wants to help the committee understand the dynamics between that individual and the mandate, which is what we're dealing with.

Others have come forward. Some of you I think have talked to them. They tried to talk to me, and I wouldn't talk to them. They're the people from FAIR, Federal Accountability Initiative for Reform, which is the organization that deals with bureaucrats and how they deal within the bureaucracy. I said, "Whatever you have may be of interest, but I won't speak to you. I will raise the fact that you may be interested in giving the committee a perspective." So I leave that out for you.

The previous Clerk of the Privy Council, Mr. Kevin Lynch, who is actually the one who issued the appointment, may be available, and an individual who is responsible for human resources at the PCO may be available. The reason I say "may be available" is that I'm inferring from the disposition of the current Clerk of the Privy Council that there is an inclination among our senior bureaucrats to appear before the committee if they are asked to. I would not speak to them until I had given you this indication that we have such people who are interested.

So the second item on our agenda would be whether there is disposition on the part of the committee to enlarge the number of people who might appear on this issue. Otherwise, we stay with Madame Ouimet and the Auditor General.

Mr. Saxton.

Mr. Andrew Saxton: Mr. Chair, maybe it's premature to answer that question. Maybe we need to first see if we can get Madame Ouimet, and, based on that success or "unsuccess"—if it is successful she comes in, and we learn from her—we can decide,

based on her testimony, whether we need to bring in more witnesses on this subject.

• (1600)

The Chair: Okay.

Mr. Bains.

Hon. Navdeep Bains: Before you spoke, Chair, I was actually thinking along the lines that we need, obviously, not only to bring Madame Ouimet here, but also to look at other relevant witnesses and determine who those may be. It might not be ideal to do that here. Maybe the steering committee can look at this, determine possible relevant witnesses, and see who needs to be invited, and then start to try to plan that accordingly. That way we avoid beforehand some of the challenges of the timing of bringing these witnesses.

So if we know, we can predetermine who those witnesses may be relevant to her mandate and what she said and what the AG said in her report. Then after, hopefully, she comes, we'll be in a better position to follow up with the other witnesses. I think those can best be determined in the steering committee, where that list of witnesses can be examined. It could be one or two or three departments. I don't know. It all depends on what the steering committee decides. But I think that needs to be examined properly to determine who else we need to invite as a witness.

The Chair: Thank you, Mr. Bains.

Mr. Christopherson.

Mr. David Christopherson: Thanks, Chair.

You said that there was a request from an organization called FAIR. Were there other requests, or were they all attached to that same organization?

The Chair: At the time, I asked whether some of these people were associated or not. I didn't get the answer right away, Mr. Christopherson, and I put it over to one side and said it didn't matter at this stage of the game, because I wanted to bring it to the committee. I think Mr. Bains has made a good point, as has Mr. Saxton. It's something the steering committee can do. But I thought I would alert the whole committee about it anyway.

There is Canadians For Accountability. Mr. Allan Cutler is the president. There is a fellow named Pierre Martel.

[*Translation*]

He is a former Executive Director of Public Sector Integrity Canada.

[*English*]

There is the Federal Accountability Initiative for Reform. That's FAIR. There is somebody called Chris Hughes, as an individual. We don't have any more information on him, do we?

Taking into account what Mr. Saxton has said and what Mr. Bains has indicated, we can probably discuss this in even greater detail. By that time I can ask the clerk to get us more detail.

Do it in the steering committee, and then we can go from there. If the steering committee decides to do X, as opposed to Y, we can report to the larger committee. At least now you know. I think everybody should know where we're headed on it, because it is new information.

Mr. David Christopherson: Again, just to provide some parameters for the steering committee, my recollection is that we, as a matter of routine, don't normally go to intervenor status. We're always focusing on natural justice. It's not a courtroom, per se. Especially when we're dealing with group rights, and it's an accountability issue—and ultimately all accountability leads back to the public—it would seem to me that the steering committee would want to look at these as potential exceptions. And recognize that when we set precedent, we have to live with it down the road.

I think that within that context, this may be one of those occasions when it would be very helpful to our work. I agree with you that it's a detail that needs to be threshed out at steering committee and then a recommendation would come back here.

The Chair: It won't get out of the steering committee.

Mr. David Christopherson: Of course not.

The Chair: That was a *mea culpa*, I think.

Go ahead, Mr. Kramp.

Mr. Daryl Kramp: This is unusual, but I'm taking a different opinion from that of my honourable colleague across the hall.

The intervenors can probably add a significant amount of interest and/or information that certainly might be helpful to Parliament. My concern, of course, is whether their testimony is relevant to the discussion right now with regard to the alleged failings of Madame Ouimet and/or others. Or is it simply a matter for operations of the government? My argument would be that if the suggestion is that it is operations of government, then I don't think these intervenors should be at the public accounts committee. But they should have the availability of appearing before government operations; that's where they would belong.

However, if their testimony were related to this particular instance of the allegations against Madame Ouimet, then it would be a whole different situation. I think we need to make that clear so that we don't end up doing another committee's work while following along one path. If the information would come forward at steering committee, we would give that a thought. To me, it's really difficult to go forward and decide what we need for witnesses until we know which direction we're going with Madame Ouimet. Once we have that kind

of testimony, we will really know if we need to go down that path. I wouldn't want to prejudge and suggest that we need to bring in witnesses like that, when quite frankly they might belong at another committee. They might belong at ours. Once we hear the testimony from Madame Ouimet, I think it would really clearly establish the boundaries for that.

•(1605)

The Chair: Thank you, Mr. Kramp.

Mr. Young.

Mr. Terence Young: Thank you, Mr. Chair.

I just want to agree with Mr. Kramp. We're supposed to look at operations. This committee looks at getting things done, whether money is well spent, value for the taxpayers' dollar, and if it's not getting done, why it isn't getting done. So let's get the expert in, the person who was inside the organization and can give us advice on that, before we invite people from outside who may be making value judgments on a broader range of things that might be valuable in a different sense.

The Chair: Thank you.

I'm just going to take all of those observations as seedlings into the terrain, so when the steering committee deals with this it will already be seized with some of the perceptions around the table and deal with them accordingly and report back to the full committee as per whatever discussion will come out of that.

All right, I want to thank you very much for your cooperation, and we will proceed. We have a steering committee tomorrow to finalize some of the things we need to do for Thursday and Tuesday, so we will have that committee meeting.

I think you've already sent out the notice, right? Those who are on the steering committee will have gotten it and we'll meet you tomorrow. And unless otherwise noted, we will meet here on Thursday at 3:30 and it will, in all likelihood, be one of the three reports that we have in draft form.

Mr. David Christopherson: Report writing—the committee meeting is report writing?

The Chair: The draft report, sir, yes.

Thank you very much, colleagues.

The meeting is adjourned.

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