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Thursday, March 3, 2011

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Chair

The Honourable Joseph Volpe

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• (1530)

[English]

The Chair (Hon. Joseph Volpe (Eglinton—Lawrence, Lib.)): I call the meeting to order, colleagues. This is the 48th meeting of the Standing Committee on Public Accounts. We'll go to orders of the day and start off on committee business.

I want to give you a brief report of the steering committee meeting yesterday. I don't have much to report, other than we had a fairly fulsome discussion. We decided to come immediately to today's meeting.

Mr. Andrew Saxton (North Vancouver, CPC): Mr. Chair, I would like to raise a point of order at this time.

The Chair: Yes, Mr. Saxton.

Mr. Andrew Saxton: We believe that the privilege of the committee and its members has been breached, has been violated.

On Monday, February 28, 2011, the chair surprised the committee members by raising what we believe were documents obtained by parliamentary privilege in the House of Commons before the committee had an opportunity to discuss the handling of the documents requested under the Standing Orders.

I would like to refer to O'Brien and Bosc, page 1071, where it states:

A document submitted to a committee becomes the property of the committee and forms part of the committee's records. Each committee must decide whether such documents will be made public or kept confidential. Confidential documents are for the exclusive use of the committee's members and staff for the duration of the session.

I'd also like to refer to O'Brien and Bosc, page 1032, where it states:

During Oral Questions in the House, a committee Chair may answer questions, provided they deal with the committee's proceedings or schedule and not with the substance of its work.

Mr. Chair, this presents several problems for the committee. According to chapter 20 of *House of Commons Procedure and Practice*, O'Brien and Bosc, page 1030:

The Chair is a key figure on any committee. Chairs are so important that when a committee does not have one, it is not considered properly constituted. It can undertake no work or other activities, and cannot exercise any of its powers.

O'Brien and Bosc go on to state:

As the presiding officer of the committee, the Chair does not move motions. Furthermore, the Chair does not vote, except in two situations: when a committee is considering a private bill, the Chair may vote together with other members of the committee; and, when there is an equality of voices (a tie), the Chair has the casting vote.

We believe that these rules exist to ensure that the chair is viewed as a neutral member of the committee who will ensure impartiality when the chair is performing his duties related to procedural administrative and representative responsibilities.

When the chair used information included in documents obtained through parliamentary privilege for partisan purposes before the committee had a chance to consider the said documents, we believe the chair demonstrated that he may no longer be viewed as impartial and neutral and that the committee's privilege appears to have been breached.

According to Standing Order 108(1)(a):

Standing committees shall be severally empowered to examine and enquire into all such matters as may be referred to them by the House, to report from time to time...and except when the House otherwise orders, to send for persons, papers and records....

Chapter 3 of O'Brien and Bosc states:

Privilege essentially belongs to the House as a whole; individual Members can only claim privilege insofar as any denial of their rights, or threat made to them, would impede the functioning of the House.

We are aware that members may say anything in the House and this does not constitute a question of privilege. However, we believe that in his partisan actions and decision to disclose the nature of the documents obtained by this committee through a motion of privilege, the chair has appeared to breach the committee's privilege insofar as he has impeded the functioning of the House.

We believe that he has impeded the functioning of the House in that he prematurely disclosed information that had not yet been considered by the committee, even though the committee sought legal and professional advice from Robert Walsh, Law Clerk and Parliamentary Counsel, and Ms. Chantal Bernier, the Assistant Privacy Commissioner of Canada, Office of the Privacy Commissioner of Canada. Therefore, it is our opinion that he breached the committee's privilege to serve his own purposes and that of his party.

Both the law clerk and the assistant privacy commissioner agreed that the committee must decide on how to treat the sensitive documents that it sent for by a motion adopted by the committee on Thursday, February 10, 2011, in connection with the study of the Auditor General of Canada on the Public Sector Integrity Commissioner.

Clearly, the committee had not decided how the documents would be treated, and therefore any action by the chair to discuss, disclose, or distribute any of the documents to anyone other than the committee members appears to be a breach of privilege.

Furthermore, despite the fact that the chair publicly discussed e-mails regarding a disclosure by a potential whistleblower, disregarding the fact that information relevant to whistleblowers and the Public Sector Integrity Commissioner's office is protected by the Privacy Act, the Public Servants Disclosure Protection Act, and the Personal Information Protection and Electronic Documents Act, the chair demonstrated that he knows that the committee has not discussed how the documents should be handled or to whom to distribute them.

• (1535)

The chair, in his own letter to Mr. Whitehall, legal counsel for the former integrity commissioner, writes: "I am unable to provide documents to you without instructions from the committee..." Let me repeat that. The chair wrote in his letter to Mr. Whitehall, "I am unable to provide documents to you without instructions from the committee..." The chair thought it was perfectly fine to go public with this information, but he couldn't disclose it to Mr. Whitehall.

In addition, with regard to correspondence with Madame Ouimet's legal representative on other issues related to committee business, the chair has again acted unilaterally. This has been ongoing for some time, and it is unacceptable to this committee. The reply sent to Mr. I.G. Whitehall by the chair on February 25, 2011, was sent without consultation or instruction from this committee. The committee received the original letter from Mr. I.G. Whitehall by e-mail on Thursday, February 24, at 11:38 a.m. The chair should have brought this issue up at the start of the committee meeting, with a draft in hand for the committee to consider. It could have been sent by courier to expedite delivery.

The chair circumvented the will of this committee. The chair has essentially said no to Madame Ouimet's representative's request for documents. We hope this will not cause Madame Ouimet to renege on her promise to appear before the committee on March 10.

In summary, we heard from both the law clerk and the Privacy Commissioner, who both cautioned the committee to deal with this confidential information very carefully. Even though the committee may not have had a specific rule in place, the committee was advised and cautioned on how to use this information and the chair chose not to follow that advice. Not only did the chair not follow that advice, but his actions actually contradicted that advice. He did the opposite.

When I asked the law clerk today whether this was appropriate, he said it was inappropriate.

Mr. Chair, that is our position on this matter, and we'd like to seek the opinion of other members of the committee.

Thank you.

The Chair: All right. Thank you.

Mr. Bains.

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

I wholeheartedly believe that this intervention is a distraction from the real issue, a distraction from what we are trying to do, which is to advance the public interest. We have to take a step back and ask ourselves why we asked for this information. Why did we request

this information? We did so because the Auditor General, on December 9, published a scathing report questioning the conduct and the work done by the Public Service Integrity Commissioner and her office. It questioned her conduct. It questioned the conduct of how she operated her office.

The office was set up to protect whistleblowers. We have to remember that the purpose of this office was to protect whistleblowers. It cost us \$11 million of taxpayers' money. That's clearly understood. It took three years to set up, and 228 cases were brought to the attention of Madame Ouimet and her office, many of fraudulent nature.

She is an independent officer. She is not someone who is a senior bureaucrat. She is an independent officer of Parliament, and in the communication that we requested we clearly saw there was a lot of traffic between her and the PCO. That questions her independence as well. She is accountable to Parliament, and that is why we are asking for this information. That's why this information is important. It addresses the public interest.

All documents are public, as Mr. Saxton said in his remarks, unless the committee had some specific rules in place. Otherwise they are public, Chair. This is not debatable. If the committee determined in advance that there was an issue with these documents, so be it, but there was no such arrangement made.

With respect to the privacy concerns raised by Mr. Saxton, we brought forward Mr. Walsh and the Privacy Commissioner's office as well. Clearly, the Privacy Commissioner said the same thing, that the public interest trumps everything and good judgment needs to be demonstrated. I believe, Chair, you have done that on both fronts.

To the government members and the parliamentary secretary, what are you afraid of? Why don't you want these documents to be public?

In my opinion, it's important that we stop beating around the bush. I would actually request the chair to review what documents are of such concern to the government, and talk about what information the honourable member is so concerned about that was breached in the House of Commons. What privilege was breached? I wholeheartedly believe these documents are public unless the committee says otherwise. The committee never said so. Therefore, with respect to the issues around privacy, those too were addressed very clearly by the Privacy Commissioner, because we're trying to advance the public interest here. We're trying to deal with a very serious issue.

An office was set up to protect whistleblowers, and that same office that is supposed to be independent is in communication with the Privy Council Office. Some of the issues that were brought to her attention were of a fraudulent nature. How is that not important? Documents pertaining to that study need to be dealt with in the public domain.

I don't know what we have to hide here. Again, my question for the government members is what are they afraid of? What are they trying to hide? Why don't we make these documents public so we can advance the public interest?

• (1540)

The Chair: Thank you.

Mr. D'Amours.

[Translation]

Mr. Jean-Claude D'Amours (Madawaska—Restigouche, Lib.): Thank you, Mr. Chairman.

For Mr. Saxton's information, I wish to clarify the following. What he mentioned regarding the Privacy Act does not apply to the committee. That is the first thing he should keep in mind concerning the appearance of the commission's representatives. The committee is master of its decisions, even if that does not suit the government. In the minutes of the meeting of March 11, 2010, the only element mentioned is the following:

[English]

That the Clerk of the Committee be authorized to distribute to the members of the Committee only documents that are available in both official languages.

[Translation]

Nowhere is the issue of confidentiality discussed. This is does not figure in the committee's procedures. I believe Mr. Saxton needs to refresh his memory. I would therefore remind him that, on February 8th, 2011, I made an intervention before the committee. There were people here. You will remember the matrix that we asked of the Public Sector Integrity Commissioner's office and which it provided to us. We had made this request a little bit before the appearance of the representatives of the office of the commissioner. I will read this intervention, in both official languages, in order to ensure that there is no distortion in the translation. It reads as follows:

Let's take this one step further. Not a single one of the 228 open cases went anywhere. If I recall correctly, based on some of the documents which were provided to committee members, about 40 cases seemed to involve fraud and misuse of government assets. The clerk can tell me if I am going too far, because I do not know whether these documents, which form a matrix, if you like, were confidential and not to be released outside the committee.

I went on. No one interrupted me. I will now read the version in the other language.

• (1545)

[English]

Let's take this one step further. Not a single one of the 228 open cases went anywhere. If I recall correctly, based on some of the documents which were provided to committee members, about 40 cases seemed to involve fraud and misuse of government assets. The clerk can tell me if I am going too far, because I do not know whether these documents, which form a matrix, if you like, were confidential and not to be released outside the committee.

[Translation]

The clerk never interrupted me and never said that I was in error. However, no member of the committee, and more particularly, no member of the Conservative Party, of the party in power, ever told me that I had disclosed information without the committee's authorization. Because it is not true that, every time the committee requests information, there is a decision made as to what can be done

with the documents under cover of what authorization. That is not the case. That has never happened.

The example I have just given you is a perfectly valid one. We made a request for information. We received the information and I disclosed certain parts of the document. And no one from the government's side complained about it at the time. When it does not suit the government, or when they have something to hide, as we have seen, they say that permission must be given. And when it suits them, then they do the opposite. You cannot say, on one day, that no authorization is required to reveal information we have received.

Regarding the same principle, we had asked a government entity to provide us with the information. It was provided to us. At no point in time did a government member state that an authorization or a decision by the committee was required in order for these documents to be made public. I read out portions of the documents and no one said a word. In such circumstances, if no one says anything, it means they agree. If it did not suit you at the time, you should have said so.

I will now move on to another aspect. Before lecturing committee members with regard to the lack of information or to the appropriateness of discussing their issues, I would like to remind those committee members belonging to the government party of one thing. Unfortunately, there is a member of the committee who is absent. I clearly recall having made a comment, and, if you so wish, I will repeat it to you. A government member of the committee had told us that Ms. Ouimet was, by happenstance, on vacation. I do not remember the exact words used, so I am improvising. Nevertheless, it is odd; while we, the members of the committee, were trying to reach Ms. Ouimet, without very much help on the part of certain individuals, in order to deliver documents to her, members from the government side were, fancy that, stating publicly that Ms. Ouimet was on holiday and that we would be able to speak with her upon her return. If you wish me to dig out these comments, I would be happy to do so.

What was going on? Was it an attempt to hide information? Was it an attempt to prevent us from doing our work here, in committee? I did not make a great to-do. I raised the issue, a made a statement, but I did not make a great to-do about it. Once I had spoken about the issue, that was it. During that time, no one said a word.

I will stop there. I often intervene and go on and on. I will therefore give others the opportunity to speak and I will come back later.

[English]

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

Mr. Saxton.

Mr. Andrew Saxton: Mr. Chair, first of all, I want to make it absolutely clear that this is not about the documents. We support calling for the documents.

Mr. D'Amours said that the privacy laws don't apply to the committee. That is understood. We are not talking about the actions of the committee. We're talking about the actions of one member of this committee.

Mr. D'Amours said that the committee is the master of its own destiny. We agree with that. It does not say that the chair is the master of the committee's destiny. That is the issue at hand right now.

I think Mr. D'Amours' accusation that we know more than what he knows is absolutely ridiculous. We know just the same amount as anybody else on this committee knows and that's it. So I'm not even going to respond to the rest of his accusations.

• (1550)

The Chair: Mr. Kramp.

Mr. Daryl Kramp (Prince Edward—Hastings, CPC): Thank you, Chair.

Chair, I've served on this committee for a number of years, as have others. What matters to me is the integrity of this committee. Never before have we had what appears to be a breach of privilege on the committee. As such, to me it's not the topical issue. It could be Madam Ouimet, it could be any other topic.

The point is we either have a procedure we follow that's accepted by the committee or we don't. If we were to listen to Mr. Bains—and I respect his opinion on this, but he's suggesting that everything is open for disclosure until the committee decides otherwise. If that's the case, why even have a committee then? Just argue everything all out in public.

That is not the answer either. Therefore we have to have a set of rules that we follow. That's all. Regardless of the issue, regardless of the purpose of this committee, regardless of the result we're looking for, regardless of what my thoughts or other people's thoughts are, if we don't have a structure we follow, then we run into difficulties. If we have some difficulties now, it's simply.... And I'm not even going to suggest it's intentional. I don't even want to go there.

All I'm suggesting is let us just learn from this. Let us just learn from this at this particular point. Let's carry on with this committee from this point on, and let us not belabour this point but let's recognize that we have to have a procedure that is followed, and that means the confidentiality of this committee until the committee, master of its own destiny, makes a decision.

Whatever that committee decides to do, then so be it. Then that's the direction. Either information is withheld, it's in camera, or it's wide open, and it can be disclosed by each and any member of this committee at any time—or it's not. We cannot unilaterally have people going and making decisions to distribute information or to comment on information before the committee has ruled. We have every right to do so once the committee rules, but before, I just think it's wrong, and that's the point that I do believe.

To me it's solidly not about the issue in front of us, it's about the integrity of the committee and the manner and the direction in which the committee wishes to move forward. I hope we can put this behind us and just move forward now.

The Chair: Mr. Bains.

Hon. Navdeep Bains: Thank you very much, Chair.

I have just two quick points to the comments made by my honourable colleagues.

The first has to do with Mr. Kramp's remarks with respect to the committee decides on the rules. Such a rule does not exist with respect to documents. There is no such rule that exists of when we receive the documents. I'm not aware of any rule, and there's no rule that exists that I've seen in the Standing Orders, the rules in the House and the committee, that the documents received by the committee are confidential, are secret. There are no rules as such that exist.

The second point that I wanted to make, Chair, is with respect to the question of privilege that was raised earlier by Mr. Saxton. The question of privilege pertains to a matter raised in the House of Commons. If that's the case, then the member should raise his question of privilege in the House of Commons, not here in committee, because, Chair, any question that deals with what took place in the House of Commons took place in your capacity as a member of Parliament in the House. So if it's a question of privilege in the House, then this matter should be raised in the House.

The fact that it's being brought forward in committee today again reinforces the point I made before, that this is a distraction. This is a distraction by the government members not to deal with the issue, which is advancing the public interest by making sure we examine these documents so we can get to the bottom of the findings in the report by the Auditor General—particularly some of the elements that come out of these documents that deal with the independence of Madame Ouimet and her office on a very important matter. Many public servants trusted that office, took their complaints and concerns, some of even fraudulent nature—and that's very important to highlight—dealing with government assets, with the mindset that they would be dealt with in the appropriate way, consistent with the mandate of that office. And the Auditor General's office clearly refuted that.

That's the issue here today. I think the question of privilege, again, is a matter that needs to be raised in the House because it pertains to you, Chair, in your capacity as a member of Parliament and the question you raised in the House of Commons.

Secondly, there's nothing in the Standing Orders or in the rules of the House that any documents we receive in committee are supposed to be held in some sort of secret file. I'm not aware of such, and that's why I think that this again is distracting from the issue we need to deal with.

• (1555)

The Chair: Madame Faillie.

[*Translation*]

Ms. Meili Faillie (Vaudreuil-Soulanges, BQ): Mr. Chairman, not wishing to repeat what my colleagues have already said, I would simply add that this question of privilege should have been raised with the Speaker of the House of Commons. If the member wishes to pursue the matter, this would be the most appropriate way to do so. It is my belief that our time is precious and that we should move on to committee business.

In any event, the information we presently have can be obtained under the Access to Information Act. Every time that we made requests possibly involving translation or exorbitant costs and that we were not certain that the information provided by the department was sufficient and correct, we obtained, via an access to information request, exactly the same documents as those obtained by the committee, and, on top of that, within a very reasonable timeframe, often within less than 10 days or two weeks. Consequently, I am not surprised that people have within their possession the same information we have.

Furthermore, one need only consult the *Canada Gazette* to find information regarding Ms. Ouimet's salary scale. One could also, through an access to information request, easily obtain all of the information we have here. Moreover, a good portion of this information was already available on the Internet, namely that pertaining to the RCMP. I have here access to information requests relating to the agendas and comings and goings of Ms. Ouimet, etc. Approximately half of the document deals with elements that are rather administrative in nature and that have nothing to do with the auditor general's investigation.

However, if the member wishes to pursue his issue with regard to the question of privilege, I believe he should do so in the House. The information is public. We heard the privacy commissioner. She commented on the document. In her opinion, the risk of us receiving private information was minimal. She at that time had no doubts as to the type of information that would be supplied and was convinced that Privy Council and Treasury Board would ensure that no information on the whistleblowers would be communicated. I therefore believe that all of the information we have is public.

An issue that was brought up was that of misuse of public funds, and other such disclosures. In response to our access to information requests, we obtained among other things the following information: that the successive controllers had never communicated with the commissioner's office to inform it of changes made to its administrative practices. All of this is in the public domain and can be easily obtained through an access to information request.

As my colleagues are aware, I research all of my files quite thoroughly. I therefore am of the belief that I am well prepared to question anyone who might appear before us with regard to access requests pertaining to public information, information disclosed on the department's Web sites and on blogs dating back to 2008 or 2009, for example, or even on information dating to 2010. To sum up, the question of privilege should not be discussed in a committee setting, but rather in the House of Commons. I believe that that is what my colleagues from the Liberal Party are trying to get at.

The Chair: Thank you, Madam Faille.

Mr. Christopherson.

[English]

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

Very simply, given that we go way out of our way to make sure that we hear both sides of something, before I comment I'd very much appreciate hearing your thoughts, Chair.

• (1600)

The Chair: Well, I have a couple of others on the list who want to speak. But I think Mr. Saxton invited me to elicit any commentary. I don't know that Mr. Saxton intended to debate members on the other side and I don't think Mr. Kramp did either, since they have both had...well, I think Mr. Saxton has commented twice. But I take your point and I'm prepared to address the issue before I—

Mr. Daryl Kramp: I agree with you: you should.

The Chair: Just a second; hold on a moment.

If we do that, I'm going to have to listen to everyone. I know where you want to go with that point of clarification, because you waved the paper.

If you will allow, I'm going to go ahead and give a quick response. Okay?

Hon. Navdeep Bains: I'd like clarification on a comment made by Mr. Christopherson, Chair.

The Chair: No, I...

Mr. Saxton, I suppose as a member of the committee it's your right to make any observation you want about any member at this table, including the chair. We come from different parties, and that is I think recognized in the composition of this committee. That's okay. If you're going to impugn my motives and my character, however, that's a different story.

I'm going to read for you and for everybody else the timeline that was followed in this process. It is of course all verifiable; I think you know you can verify it with the clerk.

The issue, as you've framed it, is all about information that was elicited for the purposes of the committee doing its job and about my involvement and my participation in that exercise, both in getting information, and then secondarily, because you mentioned his name, negotiating with Mr. Whitehall to make sure that Madame Ouimet comes forward.

I have to say that I'm not happy that you intimated that Madame Ouimet might now use this exercise in which we are engaged to renege on her commitment to come forward. I know that her lawyer is following all of these proceedings, and I hope he did not take your reflection with great weight.

I caution to add as well that I looked at the Standing Orders, which guide the activities of all committees and all members of Parliament. They are silent on the matters you raised, Mr. Saxton. So I went to O'Brien and Bosc, which is a guide for us to interpret those Standing Orders. It is also a guide for us to interpret all of the orders that this committee set for itself.

Monsieur D'Amours made reference to the rules of procedure that this committee adopted in March of last year, before I came to the committee. I noted that on the question of how to deal with documents those minutes were silent. So I then went further.

Yesterday and prior to that—because you know that I invited the law clerk to come to advise the committee, both in public and then in camera, because we wanted his advice to be advice to the committee.... This committee entertained a motion to bring the Privacy Commissioner before it. It was defeated, but I used my prerogative as chair to invite the Privacy Commissioner anyway so that we could avail ourselves of her views on any of the information we might receive.

I'm not going to interpret for members what she said. We were all present, it's on the record, and we can deal with it as individual members of Parliament.

I'll come back to the concept of what an individual member of Parliament's rights might be in the House in a moment.

Pursuant to discussions with this committee, I engaged in discussions with Mr. Whitehall, who purported to represent Madame Ouimet. I say "purported" because I wanted to verify that this was the case. I received a letter from Mr. Whitehall on February 17 and had it distributed to all colleagues immediately that same day electronically. A letter from Mr. Whitehall outlining the conditions to me, dated February 17, was distributed to all committee members on that same day.

It's interesting to note, Mr. Saxton, that this letter from Mr. Whitehall—those of you who have it before you will indulge me for repeating parts of it—says: "It has also come to our attention that the Privy Council Office has produced a departure agreement between Madam Ouimet and the government, pursuant to", etc.

● (1605)

It struck me, as it should strike all other members of Parliament, that a lawyer in the public domain already had access to the information that this committee had not yet received but was about to receive, because it had to formally ask for it to receive those documents. That information, whatever information Mr. Whitehall referred to, was already in the public domain before it even came to us. Otherwise, he would not have been able to make reference to it.

Because this committee asked me to negotiate a firm date of appearance for Madame Ouimet before this committee, a letter from me was drafted. I can tell you that I passed it by the law clerk. I did that on the 25th. Committee members got it on the 28th, to allow for the weekend, because we didn't send it all out at once, but essentially there was no time lag. The moment we sent it out to Mr. Whitehall, it was sent to committee members.

A memo from the clerk of the public accounts committee to members on February 22 attached the documentation from PCO and Treasury Board and went by messenger to Parliament Hill offices. No electronic copies were provided to members; they had to go by messenger. That happened on February 22. When we got it, everybody else got it. When I say we, I mean the clerk's office.

A memo from the clerk of the public accounts committee dated February 24, 2011, attaching a second batch of documents was sent to all committee members February 24. Fifteen offices received all the documentation to which Madame Faillie made reference. Fifteen offices and all of their staff received all of that information. Keep in mind that on the 17th, Mr. Whitehall already made reference to the fact that it was in distribution, but we hadn't received it yet.

A memo from the clerk of the public accounts committee dated the 24th attaching a second batch of documents was sent to all committee members on February 24. Members received that. There's a letter from PCO attached to all documentation sent to all members with respect to a particular document for which it asked some confidentiality. It asked for that, but it did not respect that confidentiality itself. It made it available to committee and to committee members and to their staff, and obviously to Mr. Whitehall. The chair took the trouble to advise all committee members, had they not seen it, to please refer to that.

I note, Mr. Saxton, you did not indicate that I breached that request. So for those who have not read those particular documents, they refer to something that Monsieur D'Amours and Madame Faillie have just mentioned, but that I never mentioned.

I want also to bring to the attention of all colleagues the other documents that they have not received but for which they have received an indication that the clerk has them. That is, all the documentation that came from Status of Women Canada and from the Human Rights Commission. They are with the clerk because they are in the language of origin, contrary to the vote by this committee on the motion that demanded all correspondence be in both official languages.

We didn't say we had a mechanism in place to determine whether all of those items were going to be monitored first by the analysts so they could then distribute them to us. We asked in our motion that we all receive them in both official languages so that we could do our job.

● (1610)

Privy Council and Treasury Board indicated that they could not fulfill our request—all of it—for the 19th and asked for an additional week. This committee said no thank you. PCO and Treasury Board indicated in response that the 19th was a Saturday and their interpretation of the word "by" meant the 19th, not the 18th, which would have been a Friday.

Taking into account, on behalf of this committee, that it would involve difficulties in time and logistics for the clerk and her office, I indicated to the clerk on your behalf that she should instruct PCO and Treasury Board to have those documents as the very first item in the morning of the 22nd. That's why the documents appeared on the 22nd. The others didn't comply.

So the issue, Mr. Saxton, is whether we are going to deal with the flow of information to this committee for it to do its work in a vigorous fashion, or not. On that score, I think, as the chair, I've done that job thoroughly.

Mr. Kramp.

Mr. Daryl Kramp: Point of order.

With the greatest respect, Chair, I have information here from one of our people covering it in the room that these documents have been released. As you're speaking, the documents you're talking about have been released by the media in this room. Where did that come from?

The Chair: I thank you for raising that and for bringing it to my attention. I hope there is no undue implication that you wanted people to infer from that.

I'm going to conclude by saying that in no way did the chair of this committee ever do anything other than project a vigorous position by this committee so that it could do its job.

I'm going to go back for a moment to the question that elicited Mr. Saxton's attention on Monday.

It's true that on Monday in the House I raised a question and a supplementary of the minister responsible with respect to the connection between Madame Ouimet's office and those offices. It was a question that was almost a repetition of something some two to three weeks earlier. Yes, it had a greater effect because I referred to part of the e-mail trail that appeared in the documents that all of us had in our possession for more than a week. It made reference to it, but it did not go through the entire detail.

What it did not do—and I stress this—was refer to any document that PCO had asked be kept confidential. I respected that confidentiality not only for myself, even though as a member of Parliament I can stand in the House and ask any question I want.

You're right, Mr. Saxton, that as a chair I can answer questions, but when I become chair I don't lose my privileges as a member of Parliament. I've been judicious in ensuring that I do not infringe on anybody else's. But my rights as a member of Parliament to ask a question, which I had previously asked but this time with greater specificity, were not unencumbered.

Mr. Saxton—and I want to thank Madame Faillie for raising this point—if you think there was a breach of privilege, surely the place to do that would have been in the House. In this committee—even if I wanted to exercise that authority as the chair—the chair doesn't have that authority to provide a consequence for a breach of privilege, and neither does the committee.

I've been around here long enough to know that's the last thing I want to do, anyway.

Mr. Saxton, I'm going to suspend in a moment because I want to give Mr. Christopherson an opportunity to come back to what he wanted to do subsequent to my intervention. Then after that I think we'll proceed with the rest of the issues.

• (1615)

Mr. Daryl Kramp: Mr. Chair, a point of order, or point of clarification. I just have a brief clarification for a statement, and asking for verification. I have documentation. I can read one paragraph and that would be it, and it would just clarify a statement that Mr. Bains made that was inaccurate. I would just like that read into the record.

The Chair: We can read that into the record, Mr. Kramp, in a moment. But before we go into that exercise as well, I—

Mr. Daryl Kramp: I think it might impact on Mr. Christopherson's thought processes.

The Chair: Well, I don't know. Mr. Christopherson asked me to make an intervention so that he could comment and I wanted to respect that. And then after that I want to have an opportunity to

consult with the clerk, so we can deal with any other documentation that you want to have read into the record. Okay?

Thank you.

Mr. Daryl Kramp: Yes, Mr. Chair. I just wondered if this might have an impact on Mr. Christopherson's thought process. It's from O'Brien and Bosc.

The Chair: Mr. Christopherson?

Mr. David Christopherson: How long do you need?

Mr. Daryl Kramp: About 30 seconds.

Mr. David Christopherson: Take it out of my time. Say it.

Mr. Daryl Kramp: From O'Brien and Bosc.... Mr. Bains said, of course, that we decide what we want to do individually and we make our decision. Well, in O'Brien and Bosc, on page 1071, it states,

A document submitted to a committee becomes the property of the committee and forms part of the committee's records. Each committee must decide

—it doesn't say “committee member”—

whether such documents will be made public or kept confidential. Confidential documents are for the exclusive use of the committee's members and staff for the duration of the session.

It goes on, so I don't want to belabour it. But the fact is, it is a committee's decision. That's the crux of this. It's not about individual ability; it's the committee. We must respect the committee's privileges.

[*Translation*]

Mr. Jean-Claude D'Amours: Mr. Chairman, on a point of order.

Concerning Mr. Kramp's comment, I wish to emphasize that the Standing Orders of the House of Commons are the only rules that should be taken into account. As I said earlier, the minutes of proceedings are clear relating to this matter. I was not there in 2010, but it remains that no committee member decided on the way in which documents should be dealt with, with the exception of the requirement to have them distributed in both official languages.

One could refer us to 25,000 files or documents or even pull out the dictionaries, but that would in no way change the fact that the Standing Orders of the House of Commons are what take precedence and must be followed.

[*English*]

The Chair: It's on a point of order, so that's what he's coming in on.

Mr. David Christopherson: He's done now, is he?

The Chair: One of the other things that's happened, of course, in this exercise is that I think people are using a point of clarification or a point of order to continue debate on my response to you, without giving you an opportunity to answer.

It's worth noting, Mr. Christopherson, that the documentation made available to us by Mr. Whitehall and the Privy Council Office—especially the Privy Council Office—made a note of only one item that they wanted to keep confidential. They didn't have any commentary on the rest.

Irrespective of what guidance O'Brien and Bosc provide, it would lead a reasonable person to think that the PCO, with all the paper that it provided, was interested in the confidentiality of only one document, and that was respected.

Mr. Christopherson.

Mr. David Christopherson: Thank you, Chair.

I don't have a lot to say. It's hard to believe, but I really don't.

First of all, we do have a problem. There are documents out there that may or may not be determined by this committee as needing to be confidential, and we no longer have that option. We've lost control of that, and if there are any implications, then we're going to have to deal with those. I just make that as a stand-alone statement. That's a problem. It's a problem for us. We need to come to grips with it.

Really, I don't have a conclusive comment. I've got a couple of observations. One is that I think I'm still the longest continuous serving member on this committee, and I've been racking my brain—and I would defer to the analysts, who would know better—but I don't recall that we ever made it clear what our policy and the rules are about documentation that's being sent, to be fair. I do stand to be corrected, but if that is correct and we didn't, then I'm no lawyer, but it's hard to find someone at fault for breaking a rule when you never set the rule.

Hang on, now. I listened when everybody else spoke.

I think that we maybe need to have a little bit of a discussion at some point, maybe even at steering committee, about the issue of the chair of the committee exercising his or her right to ask any question, given that the chair...

I'm just saying that given what's happened, we need to look at it. I'm suggesting to the chair that whoever is in the chair does have a bit of an advantage. That person would know sooner than the rest of us when documents have been.... Well, I see the chair shaking his head. I'm assuming that if I were the chair and documents came in that come into the clerk, I'm likely to be the first person, not always, but I'm likely to be, and if I wanted to make a point of it, I sure could be.

And as the chair, you're mandated by this committee. Remember, it's unlike any other committee. It's a different creature here.

So there's the possibility also of the chair being mandated to make phone calls, as we've done, to draft letters, in which case they'd consult with people—all of which could put the chair ahead of the committee, legitimately so. But the potential could be there for someone who wanted to make it a personal advantage to grab—and I'm not suggesting that's what happened here, at all. But I'm just saying that given that this has been pointed out, I think it's something we maybe need to talk about, Chair, as to what some of our thoughts are about that, because I do think there's the potential there.

I recall some of the bigger issues we've dealt with. This is my last point, Chair. Particularly I'm thinking of the RCMP pension scandal. That was a long.... We held I don't know how many meetings, documentation going all over. I think you were even with us then, Mr. Laforest; it's been that long.

Mr. Jean-Yves Laforest: I remember.

Mr. David Christopherson: You remember? Well, it's hard to forget.

And I do recall, and that's why I want to be careful here. There was a lot of media attention, a lot of documents coming and going. I certainly could see a situation if someone wanted to point out to me where I made comments in the media about something that had been technically tabled with the committee but that the committee hadn't yet become seized of it and done anything, and yet I was making comments on it.

Now, I think we can make some guidelines that differentiate, because where there's the potential for matters that should be kept confidential.... Remember, we went out of our way to bring in both the law clerk and the Privacy Commissioner so that we would at least try to avoid making mistakes. So that exercise is not something we've done, and maybe we need to talk about that in the future, that there are categories of information, and once we slap a certain category on it, for instance, from that moment forward, all members are embargoed from commenting publicly until the meeting convenes. Something like that.

But many, many times, as Madame Faillie has pointed out, the documentation is already out there somewhere and we're just getting copies of it. And if somebody wanted to get it online somewhere, they could have got it long before we did. So why would we go out of our way to make every single document we get a matter of confidence, and the media call up on something that's already out there? They know the whole story, and we have to do this silly little "sorry, I can't comment", which really at that point would be a fig leaf on the truth. It's just a silly thing to have there.

• (1620)

Therefore, my wrap-up—I know that was kind of long, but for me it wasn't that long—is that I think Madame Faillie is again correct in suggesting that the quicker we get this resolved and move on, the better.

Chair, I'll just throw this out for consideration. At steering committee let's have a talk about this, discuss things we think need further discussion, and then begin that discussion or recommend back to the committee that we do that. I think there are a number of lessons we can learn here. But I have to say at this point to Mr. Saxton, given that he didn't ask for any remedy but merely for comments, he has those. I think he has our attention. I think he's raised some legitimate issues that need to be addressed.

At this point I'm not convinced there's really anything here—and it's a very strong step—based on which we would take a step to admonish the chair for actions we didn't approve of. I don't think we're anywhere near that, and I don't see anything to that extent. But I do hope that we pick this up at steering committee. Even after all these years, I'm seeing yet another area in which we can improve the way we do our deliberations.

Thank you, Chair.

• (1625)

The Chair: Thank you, Mr. Christopherson.

I think you're right. We gave everybody an opportunity to fulfill the request that Mr. Saxton made, which was for commentary. Mr. Kramp was indicating to me a little while ago that he wanted to bring this to an end. We've satisfied, I think, the first issue. Rather than continuing to have a discussion going forward, I think we've aired everything.

The suggestion you've made is a solid one. At the next steering committee the issue of how to deal with information on the basis of going forward will be raised.

Right now we apparently have documents out there, as you've said and as Mr. Kramp has pointed out. I don't know that.

I take note that Madame Faille has indicated she has documentation from other sources. I'm not going to tell her what to do with the information she has from other sources.

I've pointed out for everybody the information that they have....

Madame Faille.

[Translation]

Ms. Meili Faille: The information that I obtained from other sources comes from the Prime Minister's Web site. It was a simple mathematical calculation: it was the start date and the end date of the work, as well as the GCQ salary ranges. I understand the other sources, but I simply wanted to be precise because I would not want the committee to think that I have whistleblowers in the different departments.

Thank you.

[English]

The Chair: Thank you, Madame Faille.

I'm going to suspend for a few moments.

Mr. Andrew Saxton: Mr. Chair, just before you suspend, I would like—

The Chair: I'm suspending for a few minutes.

Thank you.

•(1625) _____ (Pause) _____

•(1630)

The Chair: I'm going to allow for one last very brief comment of about two minutes for each of the parties, should they wish to exercise that opportunity before I make a declaration on the matter.

Mr. Saxton.

Mr. Andrew Saxton: Yes, Mr. Chair.

The Chair: Did you want to make a closing two-minute intervention on behalf of your party? Or did you want to give that opportunity to Mr. Kramp? Only one of you is going to do it.

Mr. Andrew Saxton: I will take that opportunity. Thank you, Mr. Chair.

First of all, some members questioned whether this was the right forum to bring up a privilege motion. And I'd like to refer to page 1050 of O'Brien and Bosc. It says:

If a Member wishes to raise a question of privilege during a committee meeting or an incident arises in connection with the committee's proceedings that may

constitute a breach of privilege, the committee Chair allows the Member to explain the situation.

And that's exactly what we've done here today. So I would like to just remind honourable members that this is the right forum, this is the right place to bring up a breach of privilege.

I'd also like to remind the committee members, as the chair and others already have, that we did have the law clerk here and we did have the deputy privacy commissioner here. Both of them specifically cautioned us in the use of these documents. They cautioned us to keep these documents confidential and that the committee decide on how to use these documents.

That has not taken place. The committee has not decided on the use of these documents. Instead, we had one member of the committee decide on his own how to use these documents. Therefore, I think it is of the utmost importance that we decide, without further delay, on how we are going to deal with these documents.

Furthermore, I understand that the most confidential of all of these documents, the document that was supposed to be safeguarded, is now also in the public realm, which is the departure agreement. So I say that without any further delay, we must decide now how we are going to be dealing with these documents going forward.

The Chair: Mr. D'Amours.

[Translation]

Mr. Jean-Claude D'Amours: Thank you, Mr. Chairman. I will be brief. I will leave some time to Mr. Bains.

I would first of all like to clarify one point. When the Privy Council Office sent us the letter, it clearly stated that it had removed from the information those sensitive and personal elements that could have been a problem.

Secondly, if we want to talk about breach of privilege and attempting to place the blame on others, here is the first question one must ask: how is it that a lawyer was made aware of the fact that the Privy Council Office had provided documents to us? We were made aware of this and we were sent an e-mail less than 24 hours after having ourselves received our documents. This is perhaps the question that should be asked: how is it that someone was aware of the fact that the Privy Council Office had supplied specific documents to us? Therefore, if we are to discuss a breach of privilege, it will be serious business.

Thirdly, I would like to read a paragraph. As I was saying earlier, the sensitive and personal elements in the documents we received were removed by the Privy Council Office. I will read a section of the agreement in French, and my colleague will read the English version.

Section 6 of the agreement reads as follows: The particulars of the Departure Agreement shall be held strictly confidential and shall not be disclosed by any person, unless required by federal or provincial law or regulation, or because of the Minister's responsibility and accountability to Parliament.

Mr. Bains.

•(1635)

[English]

Hon. Navdeep Bains: Thank you very much. And I can understand the passion of my colleague, because this is a serious issue.

I just want to again say that for Mr. Kramp's purposes, here are the Standing Orders. I double-checked. No rule exists or was established by this committee on whether or not the documents should be held confidential. These documents are public. Madame Faillie said that. We could even obtain these through access to information.

And with respect to the departure agreement, because I know it's a sensitive document that's being discussed, in paragraph 6 it also deals with the accountability of Parliament and the point I raise with respect to the public interest, which is clearly spelled out. And this is what we're trying to pursue. I'm going to read this out again, so members understand and it's on the record. It reads:

The particulars of the Departure Agreement shall be held strictly confidential and shall not be disclosed by any person, unless required by federal or provincial law or regulation, or because of the Minister's responsibility and accountability to Parliament....

That's the issue, Mr. Chair.

The Chair: Thank you.

Mr. Christopherson.

Mr. David Christopherson: While I think I did my summary, I have just one comment on something new that has cropped up. I agree. We have a huge problem. It is a serious issue, these documents that are out there. That is why we brought in the Privacy Commissioner.

What concerns me is that we may have taken a position that some of those documents we will deal with, but they've crossed the line in terms of personal information. We would have at least had that discussion.

But I don't know what action we take now on a crisis basis. To mix my metaphors, the documents are already out the barn door. So yes, let's close the door, but there's no big panic to do it. What we need to do is to figure out.... We have to start the process again. What happened? What do we do to prevent it? Is there some entity that obviously looks like it's to blame? We'll start that whole process.

But in terms of any urgency to the matter, I would suggest to Mr. Saxton, with great respect, that urgency is already gone. Those documents are out there. What we're into now is damage control and trying to put measures in place so it doesn't happen again.

Thanks, Chair.

The Chair: Thank you. I said I would only give one person a crack at it for two minutes.

All right, colleagues, I want to thank Mr. Saxton for bringing the matter up. I noted that he wanted to have it discussed and debated in full committee, not in steering committee, for whatever reason, and that's fine. So he's done it.

As I said, on a personal basis, the only issue I take with that is there was a suggested impugning of my motives as an individual member of Parliament. But I can deal with that; we're all big boys.

I think, Mr. Saxton, on the issue of the substance, number one is that you got the debate you wanted. Number two, I don't see any of the actions you referred to, whether they had merit in your arguments or not, as impeding the work of the House of Commons and therefore constituting a question of privilege. I don't see them as having impeded the ability of this committee to do its work. So I don't see that as a privilege.

I do take the suggestion made by other colleagues around the table that we need to improve the proceedings from the way they have been established since March 2010, and I think that will be a good start for those who want to take that position in steering committee, where the discussion will be productive, and then from there back over to this committee. I suggest that will be the first positive thing going forward.

On everybody's behalf, I'm going to take some exception to any suggestions about the sources of the information, because I took great pains to point out to all of you when everybody got information—of course what I said in the House of Commons is on the record in Hansard—that I made absolutely no reference to anything that was confidential, absolutely none. You'd need a stick 30 miles long to make any connection.

I appreciate the fact that you want to debate. Thank you for bringing it up, and I thank all colleagues for all of this.

I'm going to proceed and suggest that this is not a point of privilege and I'm going to go on.

•(1640)

Mr. Andrew Saxton: Mr. Chair, you've said—

The Chair: Are you accepting my decision?

Mr. Andrew Saxton: Let me just make one final comment. We have more documentation coming to this committee forthwith. That's why I think there is a sense of urgency that we do this.

The Chair: Mr. Saxton—

Mr. Andrew Saxton: You have said yourself that we do have more documentation coming.

The Chair: I'll address that. I'm asking whether you accept my decision?

Mr. Andrew Saxton: I do not accept your decision, but it's your decision.

The Chair: Are you challenging my decision?

Mr. Andrew Saxton: Yes, we're challenging your decision.

The Chair: Go ahead. There will be no debate, no amendment. We'll vote immediately.

Shall the chair's ruling be sustained?

(Ruling of the chair sustained)

The Chair: So it is sustained. I thank colleagues for all of that.

Mr. Saxton, we already suggested a method, going forward. As for the documents we are still to receive, there are two complete sections that are not in both official languages, as I said. I'm going to ask you to use your influence as the parliamentary secretary to the Treasury Board to ensure that those documents be provided to this committee forthwith, according to the motion passed by this committee, so this committee can get on and do its work.

The impediment to the ability of this committee to do its work is not whether members ask questions or whether they get information from anywhere. It's that they not receive the documents that the motions of this committee demand.

Mr. Christopherson.

Mr. David Christopherson: Chair, at the risk of opening up a new front, my understanding, as reflected in my comments, was that all the documents we're dealing with have already been sent. But I'm reminded by Mr. Saxton, and you, that we've got a whole load of other documents, and certainly we on this side of the committee would urge that there be the same pressure on the government to deliver.

However, my point is that given the fact that we did not have an opportunity to make a determination on whether or not the first batch—I'll call everything up until now the first batch—should be kept confidential, I, for one, would argue we at least should have started on that agreement in camera...just to be safe, based on the advice we got and the fact that it was meant to be confidential.

It's all out there now, and it says so in there—it was part of the agreement. Therefore we may have concluded there was no public good to be served by exercising our right to overlook the legislation that otherwise would have protected a citizen. At least it would have been a point of debate; I think that's fair.

Believe me, I'm the last guy who wants to complicate things. But in going forward and trying to be responsible, should we now put some measure in place that puts a better guarantee, not on our access to it, but on our ability to better ensure that the material, given that some of it may or may not be deemed by us to be confidential, has not been made...?

I throw that out there, Chair, and I seek guidance from you and thoughts from others. I'm a little reticent to let it go, given what's already transpired.

I don't want to get into a long process, and it's not in any way meant to tell the government it's okay that they seem to be dragging their heels—that's my comment—on delivering these documents. But I am concerned about us closing our eyes to what we've witnessed here and allowing something to happen.

But maybe I'm being overly concerned about it, so I will listen to my colleagues.

Thank you.

• (1645)

The Chair: Mr. Christopherson, I want to thank you for raising that. I was actually going to go on to something related to that as part of our business agenda. I know there are others here, including Mr. Kramp and Mr. Bains, who want to make an intervention.

While the debate may be very useful, I think what you have said, on three occasions now, is you want us to think about going forward, both with what we have and what we're going to get, so we provide ourselves with a bit of guidance. I propose to do that in a moment.

Mr. David Christopherson: I raised it, but if you recall, I was saying there's nothing acute about it in this case; we've got time to put measures in place. Now I'm suggesting maybe that's not the case. Do we need to take some kind of action to show the public we've learned from this lesson?

Again, others may say let it rip, but I'm concerned. There may be other documents that, if given a chance, we may decide they should be kept private, for very good reasons, and there may be all-party support around that. That has yet to happen with what we're about to receive. It didn't happen with the first batch, and look what happened.

I'm sorry to go on, Chair. I'm just saying that in your remarks summarizing what I said, I'm suggesting that perhaps Mr. Saxton has a point around the documents we haven't yet received. I'm asking should we do something.

I'm not even sure this is a good idea, but I will throw it out to start. Should we, for the time being, keep all those documents in the hands of the clerk? That's not to slow it down, but in the normal course of events we will go in camera to look at the documents and make some determination then.

Remember, the government does not have majority control over this committee. They can't use that process to shut down documents from being let out.

I am asking colleagues, do we not have an obligation, given what's already happened, to be a little more...? The word escapes me. It's been a long day. You know what I mean.

The Chair: Mr. Christopherson, I'm actually looking for the next step, and I appreciate the introduction to that.

Mr. Kramp.

Mr. Daryl Kramp: Thank you, Chair.

Precisely, Dave, you're dead on. But it goes right to the crux of the simplicity of my starting point. We already have a solution. It is in place. It has been in place and it is legislated. It is in O'Brien and Bosc on page 1071:

A document submitted to a committee becomes the property of the committee and forms part of the committee's records. Each committee must decide whether such documents will be made public or kept confidential.

We just make a decision; it doesn't matter what the decision is, but the committee makes a decision. If it's kept confidential because the numbers on the committee dictate, it's kept confidential. If the committee numbers dictate that it's let out, then it's let out. That is the way it should be going forward, and that is the way, regrettably, it should have been in the past. That's the whole point of this argument today.

If we're going forward, then we simply have to say we have to have a level of control. Otherwise, we are going to have a continuation of what we have now. If the information comes into the committee, the committee decides, and so be it.

The Chair: You've made the point. Thank you, Mr. Kramp.

Mr. Bains.

Hon. Navdeep Bains: Thank you very much, Chair.

I just wanted a point of clarification actually with Mr. Christopherson's remarks in terms of documents. I guess it's up for the discussion. I clearly understood that it's going forward and we're trying to determine the path forward now with these documents.

Again, I want to make the point that Mr. Saxton is talking about on how we deal with this.

We already spoke with the Office of the Privacy Commissioner. We already addressed this issue before. It was determined that as long as we demonstrate we're pursuing the public interest and we're showing good judgment, we can continue to proceed. And that's what we're doing.

Madame Faillie has made it very clear that these documents can be made available through access to information. It is just that we are dealing with it because we as a committee have a mandate to deal with an issue with respect to the report that came out by the Auditor General. We have been dealing with this issue for four months now. It's not just for four days or four weeks; we've been dealing with this information for a very long time.

I would like to table the Standing Orders, for Mr. Kramp's purposes, just to make sure we get this confusion out of the way with respect to these documents being public. This clearly again highlights the fact—

• (1650)

The Chair: He has a copy.

Mr. Saxton.

Mr. Andrew Saxton: Mr. Chair, we're trying to find a solution here.

Mr. Christopherson has proposed a possible solution, and his solution is very similar to what the law clerk said when he was here. The law clerk said there were ways of dealing with confidential documents to make sure they remain confidential. Those ways are to deal with them in camera, to deal with them in hard copy, where you number each hard copy and you distribute it and then you collect it back at the end of the meeting. There are ways to deal with confidential documents.

If we had followed those ways we would not be in the situation we're in today. I suggest we agree with Mr. Christopherson. In future let's deal with the documentation as the law clerk recommended we do, which means we deal with it in camera and on a numbered hard copy basis, with collection at the end of the meeting.

The Chair: Thank you, Mr. Saxton.

I too was at that meeting, because the law clerk came here at my invitation. He made some recommendations; he didn't give direction. That's why we went in camera, so that we could add the benefit of his public views and his private views. I'm not going to refer to his private views.

I'm going to close this with Mr. D'Amours. I said this led me to another item of business that's absolutely related, and you may be pleased with the way it will unfold.

Mr. D'Amours, very briefly please.

[*Translation*]

Mr. Jean-Claude D'Amours: Thank you, Mr. Chairman.

Firstly, I would like to mention that, when the government provided the information to us, those sensitive or personal elements had already been deleted. That information had already been removed, and you are aware of that, Mr. Chairman. There is no need for me to provide precise examples. And all committee members are aware of it as well. In the documents that we have received, the government has already obliterated the information, eliminated anything that was sensitive or personal in nature. That has already been done.

Secondly, we have been waiting for this information for some time already. So why is it that, with regard to the two remaining deliveries from the two other federal bodies, the Official Languages Act has not been respected? I thank you for having brought up this point, because that aspect is unacceptable.

Thirdly — and this is my final point —, when we undertake a job, we do so in the public interest. But if this is being done in the public interest, one cannot say that we are going to hide everything here. If we make an access to information request, the information is supplied to us and is never withheld. Any individual within the general population could make these requests and receive the same information.

Must we evolve in an era where the government hides things? No. The government had already identified those sensitive elements to be deleted. We then come to those matters which are of public interest, especially when we are dealing with taxpayers' money. We are talking about these 11 million dollars, but we could talk about other things. Nevertheless, we are dealing here with taxpayers' money, and if that is not a matter of public interest, then there is a problem in today's society.

Ms. Meili Faillie: When departments are looking into that information which is to be dealt with in camera, they normally also convey this to us through correspondence. Such was the case with the investigation regarding the move and transfer of federal employees. In the case of that investigation, the committee was instructed by the department to deal with the documents in camera. It was on that condition that the department disclosed the information.

I might say that the clerk does a very good job in this regard, because I attempted to access these documents, but it proved to be impossible because I was at the time not a member of the committee, whereas my colleague here had access to the documentation.

It is my belief that certain provisions are in place and that departments can invoke them. However, in this case, they did not do so. All of the attention was devoted to the Departure Agreement issue.

I do not know if I can express an opinion regarding this agreement. We have not learned anything new. It was possible to do all of the calculations and everything was available on the Privy Council Web site.

[English]

The Chair: Mr. Christopherson, I saw you throw up your hands.
• (1655)

Mr. David Christopherson: Yes, with great regret, let me tell you. But you have to deal with this stuff when it comes.

This whole notion that somebody else is redacting, somewhere else in government, documents that we're going to get is a problem. We've made it clear. We've gone to the wall. I've been through this a couple of times, up to and including threats to have it taken to the Supreme Court. This committee, as any committee, as Parliament, has the right to demand that documents be produced. Those documents cannot be redacted.

If we put something in the motion that we asked them to on our behalf, that's another matter. If they want to make suggestions that they think certain issues are not germane to our point and might violate someone's personal privacy, by all means make that recommendation. But it is never, never acceptable for a document to be requested by a parliamentary committee and for it to arrive redacted. That document, by the Constitution, is to show up here in its original form, all of it.

The Chair: Mr. Saxton.

Mr. Andrew Saxton: Madame Faillie says documents that are of high confidence are given to us and they're requested to be in camera. I should remind her that the departure agreement was in fact given to us with that stipulation, and it is now out in the public realm. So this committee did not handle that document according to the way the department requested.

Mr. Daryl Kramp: We're still missing the crux of this whole thing. Regardless of where the information comes from—if it comes from the government, if it comes from an individual who is before committee, if it comes from an interest or a lobby group or whatever—that information has to be treated properly. And that simply means no unilateral action. It means we do what this committee feels should be done with the information. We pass judgment on that and we do it. There's no difficulty about accessing anything, passing judgment on anything. But it has to be a committee decision. That's my point.

The Chair: Thank you, Mr. Kramp.

All of you have made some good points. If documents come, they should be unredacted. Those of you who have gone through the documents already know that they come into three particular groups—those that are redacted, big vacuum, and those that aren't. There's only a very small group of the ones that weren't redacted. I repeat—because it's important for all committee members to know, in light of a point that was raised—that there was only one item to which the government said “please respect this confidentiality”. And that was respected.

On the fact that somebody said it's out there already, on behalf of this committee I have the obligation to say I don't know where that came from, but I know that somebody else already had it, because there was a letter on the 17th that said it was already out there.

We will deal with this in the steering committee and try to establish the appropriate mechanisms for going forward. But I don't think it's fair to ask the clerk, the chair, or any other member to try to ferret out how many copies are out there. There are at least 15 offices, and if you all have a couple of members apiece, that means 45 people and others have copies. That's not to imply there's anything else, but I just want to give you an indication of it, because we're just talking about members of Parliament; we're not talking about any other interested parties, including the originators of the documents. I've been around here long enough to know that sometimes that's where the things come from.

What has been sent to you as well is a letter dated the 16th. It's addressed to me, four other members of Parliament, and the Speaker. It comes from seven agents of Parliament. I made that available to everybody. I'm assuming that all my colleagues will have done that, although I spoke to two of them and they hadn't yet distributed it to other members of Parliament on their committees. But if you multiply fifteen times five times three, you can all appreciate how many people already have this document.

The clerk handed me a request from the media to have this document. I said, “I'm not going to speak for anybody else. Give it to my colleagues. When that comes forward we'll deal with it in our own committee.” But before anybody goes forward and asks who has it, I can tell you that two of the five are Conservative chairs of committees.

An hon. member: What does that have to do with it?

The Chair: Well, it has nothing to do with anything. I'm telling you that there are five committees with fifteen members apiece who already have it, and they come from different parties.

I thank all members for having the patience to go through this debate and look at where we're going forward. We'll deal with the documents that come forward in our next steering committee to establish new procedures or additional procedures for the consideration of this.

• (1700)

Mr. David Christopherson: Mr. Chair, there is one matter. That's not going to happen until Tuesday. I just want to ensure—and if we need a motion I'll make one—we state that any more documentation, from now until the steering committee and the broader committee recommend otherwise, be kept in the hands of the clerk's office so we can get our arms around this thing and get control. I just don't want something to come out over the weekend or on Monday when the steering committee technically is on Tuesday, and technically everything's okay.

The Chair: No, it's on Wednesday.

Mr. David Christopherson: I'm sorry. That's worse. It's one more day.

The Chair: Sorry, I don't want to entertain debate on that. I think we have already struck a consensus on it. I said that's where we're going. I indicated it would be unrealistic for us to put that same restriction on documents that have already been distributed to committee members. It's everything going forward—and that's in both official languages. If it hasn't gone forward in both official languages, we haven't received it. We couldn't possibly have received it, including the chair.

Mr. Jean-Claude D'Amours: Thirty seconds.

The Chair: I'll give you the same fifteen that I gave Mr. Christopherson.

[*Translation*]

Mr. Jean-Claude D'Amours: Let us hope that Mr. Saxton has good connections and that he will be able to provide us with the translated documents that we were supposed to receive.

I do not understand why access to these documents is starting to be blocked. There is someone who is going to be coming next Thursday afternoon. If documents are translated on Monday, why could we not have them in our possession in order to be able to prepare ourselves for Ms. Ouimet's evidence?

It concerns me greatly to be told that we must not touch these documents, that we should no longer touch them. If they could be translated, as they should have been since February 19th, we will assuredly have to have them in order to put questions to Ms. Ouimet. Right now, we are unable to obtain them. Someone, somewhere, is at fault, if we do not have these documents. Someone is at fault for not having provided us with these two sets of documents. We need them. It is not acceptable that we be told that they will sit in some safe while we wait to have them translated, such that we will not have the opportunity to put questions to Ms. Ouimet in case they are translated in the meantime.

[*English*]

The Chair: Merci, Monsieur D'Amours.

I gave an indication to both Mr. Whitehall and the Privy Council Office that we expect all the documents in both official languages so we can do our job. If we don't get them, that's a way to redact some information so we're not privy to everything. I've made that point.

I'm asking Mr. Saxton, as the parliamentary secretary, to reinforce that point, because he has access to the government members and the minister.

Thank you.

Mr. David Christopherson: We still have a gap. I'm sorry, but Mr. D'Amours made a very good point. I wish he hadn't, but he did.

The Chair: Every time he makes a point you make a speech.

Mr. David Christopherson: But he has a good point. In preparation for the hearing, if the documents come in, we've now set up a procedure that artificially denies members a chance to see the stuff for less than 24 hours.

Can we at least say that if the documentation is received you will move to call an emergency meeting of the steering committee so we can grapple with that very issue?

Mr. D'Amours makes a very good point.

Mr. Jean-Claude D'Amours: As usual.

Mr. David Christopherson: I didn't say that—in any language.

The Chair: We all agree.

Thank you very much, Mr. Christopherson.

Colleagues, the meeting is adjourned.

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