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Wednesday, June 18, 2014

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Chair

Mr. Joe Preston

Standing Committee on Procedure and House Affairs

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•(1820)

[English]

The Chair (Mr. Joe Preston (Elgin—Middlesex—London, CPC)): I call the meeting to order. Meeting number 46 is in public and televised.

We have with us tonight some guests from House administration.

Mr. Bosc, it's great to have you here. I understand you're going to make a short opening statement and introduce those with you today.

Let's go ahead and get that started.

Mr. Marc Bosc (Deputy Clerk of the House of Commons, House of Commons): Thank you, Mr. Chairman.

Good afternoon, members of the committee.

I'm here today with Richard Denis, deputy law clerk, and Mark Watters, chief financial officer, in response to the committee's request for a technical briefing with respect to the Board of Internal Economy's recent decision on certain large-volume mailings.

[Translation]

Before I yield the floor to Mr. Denis, I think it's important that I address you, in my capacity as interim secretary of the Board of Internal Economy, so as to clarify the parameters which govern the information we can give the committee with respect to the board's decisions.

[English]

As members of the committee know, the proceedings of the board are confidential. Just as board members swear an oath of confidentiality in order to carry out their duties, employees of the House administration who support the board are bound by the conflict of interest policy that precludes us from communicating information obtained as a result of our employment that is not available to the public.

[Translation]

Consequently, the deputy law clerk will be able to comment the technical aspects of the board's decision that have already been made public. He will be able to describe for the members of the committee the administrative rules involved in this matter. He will be able to explain the differences between the responsibilities of the board and those of your committee. He may also describe the authority the board has to require that funds be paid back.

If the questions put by the members of the committee concern the technical practices with respect to the recovery of funds, Mr. Watters may answer.

[English]

With that, I will now turn the floor over to the deputy law clerk.

[Translation]

Mr. Richard Denis (Deputy Law Clerk and Parliamentary Counsel, House of Commons): Thank you, Marc.

Good evening, Mr. Chair and members of the committee.

Thank you for the invitation to appear before you following yesterday's meeting of your committee.

[English]

In addition to the duty of confidentiality imposed on House employees and referred to by the deputy clerk, I want to remind the committee that there are professional obligations imposed on me and counsel working for the House of Commons by the various law societies to which we belong also requiring us to protect confidentiality.

As you know, the trust that members put in the Office of the Law Clerk and the quality of the advice that they receive from us are of the utmost importance. I want to assure members that they can always count on us to provide neutral, non-partisan, and professional advice.

With this in mind, I am sure members will understand that I will not be able to specifically speak to the internal discussions that occurred at the board, but, as mentioned by Mr. Bosc, I will endeavour to explain the rules that apply in the current circumstances.

Perhaps I will start by summarizing the board's recent decision on this matter.

Referring to the publicly available minutes of the board's meeting of June 2, 2014, the board decided as follows.

•(1825)

[Translation]

I will quote from the minutes:

that certain New Democratic Party mailings under recent investigation were in contravention of the Board's by-laws on the grounds that they were prepared by and for the benefit of a political party;

that the House Administration provide advice to the Board on appropriate remedies;

that the Board's spokespersons be authorized to report to the public that the mailings have been found in contravention of the by-laws, and that the Board is seeking advice on appropriate remedies; and

that, further to a previous request for proofs of mailings, all proofs of mailings related to this matter be provided to the House Administration for analysis by June 13, 2014.

[English]

Indeed, the board issued a public statement to this effect on June 3, 2014. The board met again on June 11 and issued a statement on June 12, the next day, that described its determination that 23 NDP members contravened subsection 4(3) and sections 6 and 7 of the Members By-Law. As such, these members would be directed to personally reimburse a total of \$36,309 to the Receiver General for Canada, which represents the total direct known costs to the House of Commons.

The board's statement went on to explain that since the costs related to the use of the members' free mailing privileges under the Canada Post Corporation Act are paid to Canada Post by Transport Canada, the board would be informing Transport Canada of its decision regarding the improper use of the postal privilege and that this correspondence would be shared with the Chief Electoral Officer.

Turning to the bylaws that apply in this situation, in considering the matters of these mailings, the board exercised its exclusive authority under section 52.6 of the Parliament of Canada Act to determine if the use of House resources was proper. I will read subsection 52.6(1), because, of course, it's the core provision at play here.

[Translation]

52.6(1) the Board has the exclusive authority to determine whether any previous, current or proposed use by a member of the House of Commons of any funds, goods, services or premises made available to that member for the carrying out of parliamentary functions is or was proper, given the discharge of the parliamentary functions of members of the House of Commons, including whether any such use is or was proper having regard to the intent and purpose of the by-laws made under subsection 52.5(1).

[English]

Following its review, the board concluded that House resources were used for those activities, established the value of those resources, and considered which action would need to be taken to rectify the situation.

When determining whether or not the use of resources is proper, the test is to establish if such use falls within the parliamentary functions of the member. With specific reference to the bylaws engaged in the board's determination, section 1 of the Members By-Law, established by the board, defines "parliamentary functions" as follows:

[Translation]

Duties and activities that relate to the position of member, wherever performed and whether or not performed in a partisan manner, namely, participation and activities relating to the proceedings and work of the House of Commons and activities undertaken in representing his or her constituency or constituents.

[English]

Finally, subsection 4(3) of the Members By-Law provides further clarification on what is not considered "parliamentary functions", as follows:

[Translation]

(a) activities related to the private interests of a member or a member's immediate family;

[English]

(b) activities related to the administration, organization and internal communications of a political party, including participation in a party leadership campaign or convention, solicitations of contributions and solicitations of membership to a political party;

[Translation]

(d) activities designed, in context of a federal, provincial, or municipal election, or any other local election, to support or oppose a political party or an individual candidate;

[English]

(e) activities that are related to a meeting of an electoral district association, as defined in the Canada Elections Act, and that are carried out for nomination, electoral or sponsorship purposes or that relate to soliciting contributions or membership.

Details on the application of these bylaws are further explained in the policies of the board set out in the manual of services for members, which all members are familiar with.

With that, I will now be happy to take your questions.

• (1830)

The Chair: Thank you, Monsieur Denis.

Yes, Mr. Scott.

Mr. Craig Scott (Toronto—Danforth, NDP): I have a point of order, Mr. Chair.

Mr. Denis, thank you so much for being here.

I just want to make sure that when the time comes for questions, we're all respectful of the limits that I think exist for the law clerk. At some level maybe Mr. Denis can help the chair in this point, but the point is that the law clerk has an extraordinarily unique position in terms of being legal counsel at multiple levels—the House as a whole; committees, including this one; the Board of Internal Economy; and individual MPs, including the 23 MPs.

So I would simply ask, as a point of order, if the chair would be willing to convey this and maybe ask Mr. Denis that if he feels at any point his professional obligations with multiple representation will in any way be compromised, or that he will have a hard time answering for that reason, he should feel free to say, "I can't answer for that reason".

The Chair: We had a bit of a discussion beforehand.

Please, in terms of what Mr. Scott has just said, if you can't answer the question, I expect you to tell us that you can't answer the question. Members may, as they are wont to do from time to time, try to go a different route to get the same answer, and I expect that you will guard yourself in that way too.

Mr. Denis.

Mr. Richard Denis: Thank you, Mr. Chair.

Just quickly, I am quite conscious of this multiple role or of the many facets of the role we play at the House. I can tell you that we take it very seriously. Of course our primary loyalty, if you wish, or our primary client, is the House itself, and it's manifested in many ways. But I will certainly decline to answer a question if I feel that in any situation that would compromise advice that I would give to any of you or other clients.

The Chair: Okay. Thank you.

In that case, we'll start.

Mr. Lukiwski, please begin our seven-minute round.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): Thank you very much.

Thank you, gentlemen, for being here today.

I'll get right to it. I think everyone knows the background of why we're here, so I don't have to get into the process that led us here today.

My first question is for Monsieur Denis.

Sir, could you lay out for me and the committee the exact rules regarding acceptable mass mailings and the conditions under which such mailings are rejected?

Mr. Richard Denis: Thank you, Mr. Chair.

The rules that relate to printing material are found in two places. The first is in the Members By-Law, one of the four bylaws established by the Board of Internal Economy. You will find in section 29 the rules that apply to the mailings.

The details, if you wish, are also found in the members' manual, the MAS, the Members' Allowances and Services Manual.

Mr. Tom Lukiwski: Thank you.

In the interest of time, perhaps we'll just move on, but thank you for pointing us to the guide in which we can do our own research.

I'll just ask you this specifically then. Were the NDP mailings in question vetted by House administration before they were sent out? My understanding is that the NDP used a printer outside of the House of Commons to print these mailings. They didn't use print services. Were they vetted at all before the NDP put them into franked envelopes and mailed them out?

Mr. Richard Denis: Thank you, Mr. Chair.

I will explain the process that the House goes through when mailings are reviewed. I cannot specifically speak to these mailings, because doing that would involve an internal process and things that were discussed at the board, but in general terms, I can say that any mailing—which is what you find in section 29—that is prepared for members by the House administration through the printing services is vetted by our printing services, and they apply the test that you find in the MAS.

● (1835)

Mr. Tom Lukiwski: Right. In that case, since it's generally and widely known that these mailings in question were not printed in-house—they were printed outside the House of Commons—what ability, if any, does the House administration have to ensure

compliance with the rules? In other words, if the NDP deliberately went out and printed some mailings that they didn't feel would be approved by the in-house print services, does the House administration have any ability whatsoever to ensure compliance with the rules?

Mr. Richard Denis: Mr. Chair, things sent with the frank available to members are not seen by the House administration, because they don't come to us. The frank is simply applied by the House, so mailings of that type would not be seen by the House administration in any way, shape, or form.

Mr. Tom Lukiwski: Okay. Further to my previous question, could you tell us specifically, or at least explain, how the mailings in question from the NDP contravene the rules?

Mr. Richard Denis: I cannot explain how these specific mailings would break the rules. I can explain, however, as you would find in the bylaws and in the MAS, the rules that apply to mass mailings.

Mr. Tom Lukiwski: My understanding is that there are three specific reasons, or three instances in which mailings would not be approved. The first is that members are prohibited from soliciting for memberships in a mailing. Second, they would be prevented from soliciting funds in a mailing, and third, they would be prohibited from trying to promote an electoral function such as a general election or a by-election. Am I correct in that assessment?

Mr. Richard Denis: Without dealing specifically with these specific mailings—

Mr. Tom Lukiwski: Let's say generally.

Mr. Richard Denis: In general, if you simply go to paragraph 29 (1)(e), it says these services are available to members:

- (e) printing or copying of material provided by the Member, except
 - (i) solicitations of membership to a political party,
 - (ii) solicitations of contributions for a political party,

as well as anything of an electoral nature, and—

Mr. Tom Lukiwski: In that case then, I was correct about those three solicitations.

I am going to give you a couple of examples. These are not related to the internal discussions you had at the Board of Internal Economy, so I don't believe this will prejudice you in any way from answering this question. I have three specific examples of NDP mailings, and I'll just give you the opportunity to say whether or not some of the content of those mailings, if they were brought to the board before, would have been approved.

The first one is a mailing from Mr. Mulcair himself. In the second-to-last paragraph, he speaks of trying to defeat the Harper government, and specifically, the quote in question I will give you is, "And come 2015, we'll be ready to replace him"—meaning the Harper government—"with a government that puts your priorities first."

Would that meet the standard of what is acceptable?

In my view, this is the promotion of an electoral event, the 2015 federal election.

Mr. Richard Denis: I don't think I'm in a position, Mr. Chair, to answer this question. However, I just want to point out that regarding any kind of mailings that go to the board, ultimately it's the board that makes the decisions. The House administration provides the information, but the decisions about these ultimately are made by the board itself, not the House administration.

Mr. Tom Lukiwski: Okay.

With regard to the report that you had been engaged to conduct on behalf of the BOIE, you were asked to conduct an investigation, and you provided the findings to us at the outset of this meeting. If in fact your findings were presented to the board, and the board then reacted, would we be able to get...?

I guess I'd put my question to you, Mr. Bosc. If this committee requested a copy of that report that you presented to the Board of Internal Economy, would you be able to provide it to us?

Mr. Marc Bosc: That would be a decision of the board, Mr. Lukiwski.

Mr. Tom Lukiwski: Okay. Thank you for that.

Let me ask you this. How common is it for members of Parliament who are producing ten percenters, householders—

The Chair: I'm sorry, Mr. Lukiwski, but that's your time.

Mr. Tom Lukiwski: Thank you very much.

The Chair: Mr. Christopherson, you have seven minutes.

Mr. David Christopherson (Hamilton Centre, NDP): Actually, Mr. Scott will lead us off.

• (1840)

The Chair: Okay.

Mr. Scott will lead off.

Mr. Peter Julian (Burnaby—New Westminster, NDP): Actually, Mr. Chair, I think I may take the spot this time, and then we can go to Mr. Scott.

I'm sorry about that; we're all eager to ask questions.

Just following up on Mr. Lukiwski's questions, which actually were extremely helpful, I have in front of me a mailing that was done by the Conservatives. I'm getting a lot of complaints, actually, about very vicious partisan mailings coming out from the Conservative Party.

This one talks about Mulcair's NDP proposing "billions in reckless additional spending, to be paid for", and it talks about "new taxes and higher debt". It says that we "can't afford Mulcair's risky economic theories", and talks about the Conservative government being "focused" on things. It actually asks the question of "who's on the right track", including Conservatives, Greens, NDP, and Liberals. That's the type of vicious partisan mailing that we're getting a lot of complaints about. I know there was a complaint sent to the board and the House administration about this.

I gather from your answer, Mr. Denis, that the Board of Internal Economy is the one that makes the decisions, so I guess you may not be able to answer this, but has something like this, this very partisan Conservative mailing, been analyzed in any way?

If you can't answer that, I guess my follow-up question would be this. Is it not the Board of Internal Economy, which has a Conservative majority, that ultimately makes the decision as to what mailings are evaluated by the House administration or not?

Mr. Richard Denis: Mr. Chair, every mailing that is brought to the attention of the board is looked at by it and a decision is made. If it's properly brought to the board, it's the board, ultimately, that makes the decision.

I cannot comment specifically on this one, Mr. Julian, but I can assure you that the material that's brought to the board is in front of the whole board for them to make the decision.

Mr. Peter Julian: Thank you. That answers my question. So it's the Board of Internal Economy, which is composed of a Conservative majority, that makes that decision.

I'll pass my speaking spot over to Mr. Scott.

Mr. Craig Scott: Thank you very much.

Mr. Denis, the House of Commons is certainly not a rule-of-law-free zone, correct? So I'm wondering if there is some sort of presumption that you and your staff, and your colleagues, actually... some sort of presumption that House institutions should respect fundamental legal principles that would otherwise apply in Canada's legal system unless there are clear reasons related to the nature of Parliament to depart from them or unless there's sort of clear internal legal authority not to abide by them.

I'm thinking particularly of rules of procedural justice and that kind of stuff. In any kind of a House context, if there was nothing precluding those rules applying, would the House institutions, as a matter of the rule of law, be asked or expected to conform to those kinds of principles?

Mr. Richard Denis: Mr. Chair, the rules that apply to the board, similar to the rules that apply to parliamentary committees, are the rules these two groups give themselves. There is no set of rules that specifically apply. There are mostly self-made rules.

If you look at the bylaws of the Board of Internal Economy, specifically at the bylaw that deals with the rules of practice and procedure of the board, you will not find anything about how it conducts its own proceedings. It's all internal.

Mr. Craig Scott: Thank you.

So we're dealing with self-made rules that may or may not conform with broader fundamental principles of justice.

How much time do I have, Mr. Chair?

The Chair: You have less than three minutes.

Mr. Craig Scott: Mr. Denis, think about maybe the members of Parliament involved here. Assume someone's accused of not following rules, whether contractual or regulatory, whether important or less important, and then a House body, the BOIE here, meets to decide whether this is actually so and what the consequences are.

Now, the person—just assume it's an MP—is never informed of the meetings discussing his case, never asked to answer regarding the case, never shown the evidence or legal arguments against him, and never invited to present arguments or to be heard. Then assume a member of that body comes out of a meeting and gives a press conference saying this person has broken the rules and must make amends. There's no written decision of any consequence—just an annotation, so to speak, from almost minutes—let alone one that sets out reasons that can be assessed for validity or coherence. Then the person might receive a letter from an official that might or might not actually use the same language as the applicable rules the member was seeking to abide by. To top it all off, within this internal system, there's no avenue for appeal.

If that were to take place, quite apart from whether those were the facts, as a lawyer, would you say that accords with principles of fundamental justice or natural justice? Are MPs actually being treated in accordance with the norms that we would normally expect to apply outside of the context of the BOIE?

• (1845)

Mr. Richard Denis: Mr. Chair, I don't want to answer this question specifically. However, I just want to remind members that the board is composed of members from all the recognized parties. Board members are all provided with the same material when material goes to the board. Each member is aware of the agenda, the material that's presented, and has an equal opportunity to assess the evidence and present more evidence if necessary, and arguments can at least be made at the board. So there is a process.

However, if a member is not satisfied with the decision or feels not enough information was provided, I just want to point out to members that section 9 of the Rules of Practice and Procedure of the Board of Internal Economy provides that a member or the House administration may make requests to the board for “direction on the interpretation or application of the By-laws”.

So for someone who feels they don't have enough information about a decision, there is an existing process for them to go through. Subsection 9(2) tells us the request referred must be made in writing, in the case of a member, through the whip—so the whips are there as well—and an answer must be provided by the board within 20 sitting days. So there is a process further to a decision of the board.

The Chair: Thank you, Mr. Denis.

Thank you, Mr. Scott.

We'll go to Mr. Lamoureux, for seven minutes.

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Thank you, Mr. Chair.

Mr. Denis, I hope to get five questions answered from you, and I'll try to be as short and concise as possible.

I would like to ask about the oath of secrecy members of the Board of Internal Economy must swear, according to subsection 50 (5) of the Parliament of Canada Act, which states the following:

Every member of the Board shall, as soon as practicable after becoming a member of the Board, take before the Clerk of the House of Commons an oath or affirmation of fidelity and secrecy in the form set out in Form 3 of the schedule.

Subsection 50(6) states:

For greater certainty, the oath or affirmation referred to in subsection (5) only relates to matters of security, employment and staff relations, tenders and investigations in relation to a member of the House of Commons....

We are, in fact, in favour of open meetings of the Board of Internal Economy, and my leader, in fact, has a bill to do just that.

Can you please tell the committee if the oath of fidelity and secrecy currently contained in the Parliament of Canada Act applies to the issue we are discussing today? It seems to fall under the rubric of investigation in relation to a member of the House of Commons.

Mr. Richard Denis: Mr. Chair, I would answer yes, in the sense that, for the case at hand, we have a decision of the board that was made to refer documents to this committee to help it in the furtherance of its mandate. If you look at the oath that members take, it specifically says:

I will not communicate or allow to be communicated to any person without due authority in that behalf any information....

The view would be that “due authority” came from the board. The fact that we were faced at this committee with an instruction from the House meant that the board could go ahead and transmit the information.

Mr. Kevin Lamoureux: On June 12, the Board of Internal Economy made a determination regarding an inappropriate use of House of Commons' resources, and directed that this money be reimbursed. It was my understanding that the decision was taken based on the recommendations of the non-partisan professional civil servants of the House of Commons. Can you comment on that?

• (1850)

Mr. Richard Denis: All I can say, Mr. Chair, is that information from the House administration is provided to the board, and the board itself, looking at what is presented, makes the decision ultimately on whether or not in its opinion the resources were properly used.

Mr. Kevin Lamoureux: I'm going to refer to something that you made reference to earlier, and that's section 52.6 of the Parliament of Canada Act, which states the following:

The Board has the exclusive authority to determine whether any previous, current or proposed use by a member of the House of Commons of any funds, goods, services or premises made available to that member for the carrying out of parliamentary functions is or was proper, given the discharge of the parliamentary functions of members of the House of Commons, including whether any such use is or was proper having regard to the intent and purpose of the by-laws made under subsection 52.5(1).

Parliament has decided to give this responsibility to the board and has entrenched it in legislation. Given its responsibilities contained in the Parliament of Canada Act, if the board is presented with evidence of misuse of House of Commons resources by the professional public servants of the House of Commons, officials from the House of Commons, are they not, therefore, obligated to take action to remedy the situation?

Mr. Richard Denis: Yes, Mr. Chair, the board has the exclusive authority and makes the ultimate decision. But again, based on information that is provided by the House administration, the board itself ultimately makes the decision. Ultimately, the board, considering all the matters and facts, decides if the use was proper; so the board makes the decisions.

Mr. Kevin Lamoureux: If a member of Parliament is directed by the board to repay House of Commons' resources that were used inappropriately, and they do not comply, what remedies does the House of Commons have to ensure compliance?

Mr. Richard Denis: Certainly, subsection 12(2) of the Members By-Law tells us that:

Members are personally responsible for paying expenditures

Then we go to section 19, and you have kind of a progressive process, beginning with paragraph 19(a):

If a person fails to comply with this By-law

(a) the Board or the Clerk of the House of Commons acting under the authority of the Board may give written notice to the Member responsible, requiring the Member to rectify the situation to the satisfaction of the Board or the Clerk;

That's the first step.

Then,

(b) if the situation is not rectified to the satisfaction of the Board or the Clerk, the Board may order that any amount of money necessary to rectify the situation be withheld from any budget, allowance or other payment that may be made available to the Member under this By-law or the Governance and Administration By-law;

And the next step:

the Board may order that any budget, allowance or other payment that may be made available to the Member under this By-law or the Governance and Administration By-law be frozen for such time and on such other conditions as the Board considers necessary

- (i) if the non-compliance continues, or
- (ii) if the Board considers it necessary to protect House of Commons funds.

So that's the answer. I don't know if Mr. Watters wants to explain how that would be done in practice, but there is a process in the bylaws to deal with this.

Mr. Kevin Lamoureux: If I may, I have just one last question.

On November 27, 2012, a statement regarding allegations that former Bloc Québécois leader Gilles Duceppe made improper use of House of Commons' resources, the Board of Internal Economy stated:

It was never the intention of the Board to allow House of Commons resources to be used to support political party activity or party staff.

The Board is confident that the revised Members By-law, which was completed before these allegations came to light, will prevent similar events from occurring in the future.

The NDP was on the board at this time and would have been participating in these discussions, and would, therefore, have been well aware of these rules. Can you provide a summary of the changes that came into force on April 1, 2012?

Mr. Richard Denis: All I can say, Mr. Chair, is that starting April 1, 2012, the bylaws were modernized, revised, and the definition of "parliamentary functions" was also reviewed. But it was more a modernization of the bylaws than a revamping, if you wish, so the rules were just modernized.

That's pretty much all I can say on this.

The Chair: Thank you.

Thank you, Mr. Lamoureux.

We'll go to Mr. Lukiwski for a four-minute round, please.

Mr. Tom Lukiwski: Thank you very much.

I just want to follow up a little bit on the conversation Monsieur Denis had with Mr. Lamoureux on the potential non-compliance from NDP members.

I'll address my question to you, Mr. Watters. How would the House go about getting reimbursement for the \$36,309 from the 23 NDP members if they chose not to voluntarily repay it? It apparently is the position of the NDP to not repay any moneys. In practical terms, how would the House go about recovering that money?

• (1855)

Mr. Mark G. Watters (Chief Financial Officer, House of Commons): Thank you, Mr. Chair.

As the law clerk has explained, the process would be laid out in progressive steps, as per section 19 in the bylaws. The Clerk of the House, under the authority of the board, would first of all give notice to a member that an amount is outstanding. As Mr. Denis suggested, if the situation is not rectified, then the clerk, through the board, may order that the amount of money necessary to rectify the situation be withheld from any budget.

So the board would decide that a budget is to be reduced, or payments are not to be made from a particular budget. Failing that, the budget that is afforded to a member under paragraph 19(c) may be frozen or not made available to a member until such time as the situation is rectified.

There is a series of progressive steps, as the law clerk identified, for correction.

Mr. Tom Lukiwski: Have you any timetable in mind, Mr. Watters, as to initiating these steps?

Mr. Mark G. Watters: If we look at section 20 of the bylaws as well, it is the only place where we have a specific timeline in place. It says:

If a Member is 90 days or more in arrears in an amount owed to the House of Commons, the Chief Financial Officer

—which would be me, in this particular case—

may deduct the amount in arrears from any amount to be paid

to the member other than a payment made under the Parliament of Canada Act for sections 55 and 62, which are basically the sessional allowance provisions of the act.

So from any other amounts owing to a member, within 90 days an amount could be reduced in order to satisfy the arrears.

Mr. Tom Lukiwski: Would that be 90 sitting days or 90 calendar days?

Mr. Mark G. Watters: It says "90 days", so I guess absent specification it would be calendar days.

Mr. Tom Lukiwski: So the statement of the board of June 12, stating that 23 New Democratic Party members will be directed to personally reimburse a total of \$36,309—that is the start date and it is 90 days from then that they have to repay the money. Am I correct in that assumption?

Mr. Mark G. Watters: Mr. Chair, it would depend on the date that the request was made of a member for reimbursement. If a date was specified—the board would like repayment by such-and-such a date—that is the date from which the 90 days would start to count down.

Mr. Tom Lukiwski: Okay.

How much time do I have left, Chair?

The Chair: You have one minute.

Mr. Tom Lukiwski: I'll start my question, and then I'll go back to it in my next round.

I want to go back to the question of the NDP utilizing an outside printer for these mailings. It may be a question that neither one of you gentlemen can answer. It may be something that is best directed towards printing services. But how common is it for members of Parliament, from whatever party, to use outside printers for common mail-outs like ten percenters, householders?

It would seem to me that, generally speaking, if an MP wants to do a mail-out and get reimbursed for that mail-out, they would use in-house printing services. Yet the NDP determined, for whatever reasons—we'll examine that in detail a little later—to use an outside printer.

Do you know if that's a common practice or if that's unusual?

The Chair: You'll have to get back to us on the answer, sir.

We'll go to the next questioner.

I'm going to pick Mr. Scott; is that correct?

Mr. Craig Scott: Sure. Thank you, Mr. Chair.

To Mr. Julian....

Voices: Oh, oh!

Mr. Peter Julian: Yes, I'll be next, Mr. Chair. I appreciate your—

The Chair: You need to hold a flag up or something.

Mr. Peter Julian: Mr. Chair, it's interesting. A lot of good questions are coming forward.

I think this might already have been responded to. Other parties have been the subject of complaints made to the House administration about using outside printers. Those were part of the letters directed to the House administration about 15 months ago. So I believe—and you may want to clarify—you already answered that other parties have used an outside printer.

I also wanted to add the issue of the Board of Internal Economy and the secrecy provisions. Of course you know we've been pressing to have the Board of Internal Economy opened up. Do you see any provisions that actually prohibit publicly discussing these issues so that the public can actually see that one party is being investigated and the majority on the BOIE is refusing to let the other parties be investigated for doing things that in my book are much more partisan? Do you see any reason why the BOIE could not meet in public concerning the complaints the NDP has made about partisan mailings by the Conservatives and the Liberal Party?

●(1900)

Mr. Marc Bosc: Mr. Chairman, I can take the latter part of that question and say simply that it's not for us to comment on how the board should conduct its business or decide to conduct its business.

With regard to the earlier part of your question, I think Mr. Watters is in a position to provide an answer.

Mr. Mark G. Watters: Thank you, Mr. Chair.

On the question of outside printers, which I think the member was speaking to, there is a prohibition on asking the House to reimburse for any printing done by an outside printer for over 4,500 copies. As members know, that is clearly laid out in the Members' Allowances and Services Manual. So if members are having things printed in any amount over 4,500 copies and are not seeking reimbursement from the House, the House would not necessarily be aware of that.

Mr. Peter Julian: Okay. Thank you. That was certainly our case.

I have one final question before I turn things over to Mr. Scott.

Last fall we had hearings, as you will recall, about replacing the BOIE because it is secretive. At the time there was some discussion that there was still a consensus-based model around that. The Clerk, Audrey O'Brien, and former speakers like Peter Milliken, spoke very eloquently to the importance of maintaining a consensus model in which all parties work together to resolve differences or issues that come up. Although I may disagree with it, that model certainly worked better than what we are seeing now, which is not consensus-based at all.

You may not be able to comment on this, but do you see a problem when consensus-based decision-making within the BOIE is replaced by partisan decision-making?

Mr. Marc Bosc: Mr. Chairman, very briefly I would say that we believe the consensus model has worked very well historically and has the potential to continue working very well. Without commenting on anything that is taking place at the board, I will say it is a desirable model and we believe it can work very well.

The Chair: Thank you.

We'll go to Mr. Lukiwski.

Mr. Tom Lukiwski: Thank you very much.

I have a comment before my question. In response to Mr. Julian's allegations again that everyone is doing the same thing, clearly that's not the case. If the BOIE wanted to investigate any other specific allegation, it could do so. It doesn't do it on a normal basis because, quite frankly, no other party has sent out mailings for electoral purposes to try to influence a by-election or a federal election and has used franked envelopes to do so.

However, here is my question, specifically to Mr. Watters.

I want to go back to what you said about a prohibition on anyone, any party, or any MP who is sending over 4,500 copies and trying to get reimbursed. Is that correct?

Mr. Mark G. Watters: In terms of reimbursement, yes, Mr. Lukiwski.

Mr. Tom Lukiwski: If that's the case then, my understanding is that the mailings in question here were close to two million. Is that correct? There were certainly well over 4,500.

Mr. Mark G. Watters: Yes, I would agree, Mr. Lukiwski.

Mr. Tom Lukiwski: Okay, so in that case, there is no reimbursement given.

I'm curious, and again we'll discuss this perhaps a little later, why someone, if they were producing a mailer that they felt was in proper order, would not want to use House printing services to get reimbursed. It would appear though, if they thought it was a political mail-out they couldn't get reimbursed for, or if they couldn't get approval by the House, they might want to use an outside printer and pay for it themselves so they could avoid that embarrassment. However, then of course you couldn't use franked envelopes, and that's exactly what I believe has happened here.

Let me go back again to the MPs who are using outside printing for ten percenters and householders. Would we be able to get that information from printing services as to how common that is? In other words, if someone wanted to use an outside printer for less than 4,500 copies and get reimbursed, surely there's a record in printing services. Yes...?

•(1905)

Mr. Mark G. Watters: Mr. Chair, all householders and ten percenters are prepared by the House. I think what the member is talking about is other types of things that might be printed, but householders and ten percenters are produced strictly by the House, and therefore, the bylaws are applied. They are reviewed by printing and mailing services prior to publishing, and if there is an area that's grey, then there's a conversation with the member about possibly altering their ten percenter or their householder to make it compliant.

Mr. Tom Lukiwski: If they wanted to mail out something like we saw with the NDP, where it's not considered necessarily a ten percenter but they were going to put it into franked envelopes, they could certainly have in-house printing services produce that and be reimbursed if the content was acceptable. Yes...?

Mr. Mark G. Watters: That's correct. Printing and mailing services would prepare material at the request of members, subject to the entitlements, the paper allowances that members have to respect, but they would also ensure compliance with the bylaws.

Mr. Tom Lukiwski: Since the research and analysis on the investigation determined that the NDP content of these mailers was not acceptable, and therefore, improper and in violation of the rules, one would suspect if they presented those to the in-house printers, they would be rejected perhaps, which is a good motivation not to do it in-house.

That's an opinion. I won't ask you to comment on that because it's not within your purview.

Mr. Mark G. Watters: Thank you.

Mr. Tom Lukiwski: My question goes back to whether printing services will be able to provide information to this committee as to how many, whether you call them mailers or communication pieces,

have been used by MPs and approved by the House. Would they have that information?

Mr. Marc Bosc: I believe we can get that information to the committee, certainly. We'll have the information.

The Chair: Thank you. Please do; through the clerk.

You have four more minutes, Mr. Lukiwski.

Mr. Tom Lukiwski: Thank you very much.

Let me ask you something about, again, an inference, I suppose, by the NDP. There has been certainly some criticism by the NDP saying that this was a political decision, that the BOIE did this for political purposes. That infers the BOIE makes all of these decisions in a vacuum.

Is that true, or are they based on research and analysis provided by non-partisan professional House administration officials? In other words, the decision might have been made by the BOIE, but they were in receipt of information provided by your officials, and they used that information and analysis to make their decision. Is that a correct assessment or a correct statement?

Mr. Richard Denis: Mr. Chair, yes, it's correct. The material that goes to the board is always based on a team effort, if I can say, from the House administration where specific topics that need to be researched are prepared by financial services, legal services, other services of the House, and information is provided to the board so they have the full picture and are able to make their decisions.

Mr. Tom Lukiwski: Thank you.

Mr. Chair, I'll go back to one of my earlier comments when I asked Mr. Bosc whether or not we'd be able to see a copy of that report with their analysis and research. He said that would be a decision of the BOIE. I'm recommending heartily to this committee, that, as a committee, we make a request to see that report, to see exactly what that research and analysis showed so we know on what basis the BOIE made its decision. The NDP is continually trying to say this was a political decision only.

I would like to see the information provided to it before we can properly get an indication of why that decision was made and when it was made.

Let me ask you one other question. We're talking about the recovery by the House administration, by the board, of \$36,309, but there is another \$1.17 million outstanding, which, you have identified, would be owed to Canada Post. I think the next logical step for this committee would be to ask someone from Transport Canada or Canada Post to come in, and to ask them what steps they may be taking to recover that money.

Would you have any comment? Since it's out of your purview, I doubt whether you've had any conversation with Transport Canada—I don't know why you would—but do you think they would be able to provide some information or shine some light on the fact that they may be in a position to try to recover \$1.17 million from the NDP?

●(1910)

Mr. Marc Bosc: That's a question for those officials, Mr. Lukiwski.

Mr. Tom Lukiwski: I certainly think then, Chair, for our next meeting, we should look at getting Transport Canada officials in here and asking them a series of questions.

Have you had any communications with Elections Canada or the Chief Electoral Officer yet, respecting the decision of the board?

Since my time is limited, while you're trying to get that information, let me ask yet another question. Again it goes back to an inference from the NDP that somehow, if these meetings were held in public, things might be different. Let me just ask you this. Based on your analysis and investigation, even if the meetings of the BOIE were held in public, would that in any way have changed the recommendations that you made to the board?

Mr. Marc Bosc: Our duty to the board does not change in that respect.

To answer the previous question, the statement by the board indicates that the information being sent to Transport Canada would also be shared with the Chief Electoral Officer.

The Chair: Thank you.

Thank you, Mr. Lukiwski.

Mr. Scott, go ahead for four minutes, please.

Mr. Craig Scott: Thank you, Mr. Chair.

I think it is important to point out that one reason Conservatives, for example, have not been subjected to the same kinds of requests by the BOIE to provide memos and opinions and everything else related to mailings is that the BOIE is organized in a partisan, majority government-dominated fashion.

I want to go to the Canada Post point. We had quite an amazing situation in the House recently. Last week, the Minister of Transport, despite constantly talking about being at arm's length from Canada Post and therefore saying, "Ask Canada Post; don't ask me" when we ask anything else to do with Canada Post, in response to a question planted by a Conservative MP, said:

...I also expect that those members will refuse to pay back Canada Post, and that is why today I spoke to the CEO of Canada Post to ensure that he understood what was happening. He does. He takes it very seriously. Canada Post will be developing a plan to deal with the situation.

I'm particularly grateful to the minister for making so clear, in such a ham-fisted way, that this is nothing but a political exercise, but the question here is did the BOIE ask the Minister of Transport to insert herself in this way by contacting the CEO of Canada Post?

Mr. Marc Bosc: First of all, Mr. Scott, again, I can't comment on discussions at the board.

That being said, I think it's important to specify that the Speaker chairs the board. There is no majority on the board, and the Speaker, of course, is a non-partisan actor in this as chair of the board.

Mr. Watters is pointing out to me that the board has an obligation to deal with the matters brought before it, and that is what it does.

Mr. Craig Scott: Thank you.

The minister also thought she was providing a defence when she then said outside the House, "No directives have been given in this case, it was just a phone call to ensure that they understood the issue and that they would be looking into it. That's it."

She is a lawyer, but she didn't appear to grasp that it makes it even worse that she made these calls to influence—and, I dare say, pressure—the Canada Post CEO without even the pretense of legal authority. She said, "No directives have been given".

I imagine you may not be able to answer this question, but is this involvement of a minister in a BOIE matter appropriate?

●(1915)

Mr. Marc Bosc: We can't comment on that, Mr. Scott.

Mr. Craig Scott: Thank you.

Should there be any doubt that the minister is pressuring Canada Post and intending to use it in the most instrumental fashion as a tool of the government, consider the press release she also sent:

I will be discussing with the head of Canada Post in the coming days for a report on their plan to recover these funds.

Despite the fact that Canada Post is reimbursed, it has to be Transport Canada that deals with this.

Rest assured, every single penny that was misspent by the NDP will be paid back....

Now, putting all of these statements together, how would courts supplying administrative law look on the fairness of any Canada Post decision to seek payment from MPs when that decision comes from the fact or at the very least the appearance of political interference?

Mr. Marc Bosc: Again, Mr. Scott, this is a process entirely outside the House, and we can't possibly comment.

The Chair: Mr. Lukiwski, you have two spots if you want them.

Mr. Tom Lukiwski: Are they for two minutes each?

The Chair: They are four minutes each.

Mr. Tom Lukiwski: Thank you.

I'm sorry, but my first question may be something outside of your purview. We talked about and you talked about the consensus model that the BOIE follows. Even though this is a consensus model, if one party—and in this case obviously it's the NDP—has been found through independent research to be in violation of the rules of the BOIE in terms of these mail-outs, should or does one party have veto rights like those of a UN council?

The NDP is trying to suggest here that this was an unfair process. The consensus model has worked well, but clearly if one party is in contravention of the rules, they can easily say they were outvoted and it wasn't fair. The system is set up to be as fair as possible. Clearly if one party is guilty and knows they are guilty, they are going to try to do whatever they can to stop any repercussions from occurring.

So how do you square that circle? How do you deal with a consensus model if in fact one party doesn't want to play ball and doesn't want to agree to a consensus even if the evidence proves or at least demonstrates that they have been in violation of the rules?

Mr. Marc Bosc: You know, Mr. Lukiwski, the board works in mysterious ways.

Again, we can't comment on how the board arrives at decisions, but it does arrive at decisions. Historically that's been done by consensus.

Mr. Tom Lukiwski: Okay.

Let's go back, then, to where we started. I just want to make sure we're all crystal clear on this one.

The content of the mailings in question—the nearly two million pieces of mail that the NDP sent out using an outside printer, the mailings they put into franked envelopes—was never seen by House administration. Is that correct?

Mr. Richard Denis: That's correct, Mr. Chair.

Mr. Tom Lukiwski: So, therefore, unless there was a complaint to the BOIE—which there was—the House administration might never have known that these mailings were in contravention of the rules. Is that correct?

Mr. Richard Denis: That is correct.

Mr. Tom Lukiwski: So if a party wanted to deliberately mislead House administration, they could do so by following the model we've seen by the NDP: use an outside printer; pay for it yourself, of course, because there are over 4,500 copies, which, if you were a party engaged in an election campaign, you would do anyway, because that's obviously a party function; and then put it into franked envelopes. You end up paying for campaign literature, in effect, and that's exactly what this was, but you stick the taxpayer with the postage.

Now, I'm wondering if there's anything that could be done, if events like this have occurred, or will occur again in the future, that you would suggest or recommend to the BOIE for their consideration in terms of preventative measures. I mean, it's quite obvious to me that...

Obviously I have a viewpoint that you can't comment on because you're non-partisan. You're professional. But we know now a number of things. Outside printers were used. The NDP paid for it. House administration never saw it. But if they would have seen the content of those mailings, they would have rejected them. And franked letters were used to mail out improper election campaign pieces. That's what we know, as a basis, as a result of this meeting.

I'm wondering if you have any suggestions for this committee—even though it's the board's decision ultimately, this committee can make recommendations—on how to prevent this type of thing from happening again.

• (1920)

Mr. Richard Denis: Mr. Chair, one way of looking at it could be a recommendation from this committee as to how the use of franking could be clarified in the future. For example, it would relate to different things relating to the parliamentary functions of members: extend it, or restrict it.

That would be one aspect of—

Mr. Tom Lukiwski: If we were to recommend, as an example, that all mailings put in franked envelopes must be approved by the House, do you think that recommendation would be worthwhile considering?

Mr. Marc Bosc: I would say at the outset that this is a much more complex issue than it might appear to be, and it would require considerable analysis before we could answer that question.

Mr. Tom Lukiwski: But let me just point out again that what we do know is this. Had those mailings, the mailings that were found to be in violation of the rules, been sent to the House administration, they wouldn't have been approved. That would have been the end of it. The NDP then could still send them out, if they wanted, but they'd have to pay for them and the postage. But at least the House would have been able to step in and say, "Sorry, you can't use franked envelopes."

It seems to me a very simple fix to require all mailings by political parties who wish to use franked envelopes to be viewed and approved or rejected by House administration. Would that not be a fairly simple approach to fix this complex problem; a simple solution?

Mr. Marc Bosc: I'm sure the board will welcome any recommendations the committee wishes to make—

Mr. Tom Lukiwski: Excellent.

Mr. Marc Bosc: —on any issue.

Mr. Tom Lukiwski: Thank you very much.

Time, Mr. Chair...?

The Chair: You have just under two minutes.

Mr. Tom Lukiwski: All right. Thank you.

If the NDP wanted the discussion on these matters to have been held in public, as they say they're all in favour of, what would they have had to do to make that happen? Or was it even possible to have these discussions in public? Are you in a position to discuss whether they undertook any actions to try to make this public?

The point I'm getting at is that we don't know. I wish I did know. I understand this investigation and this discussion in the BOIE went on for several months. I would certainly suggest that this committee request of the Board of Internal Economy a copy of the report so that we can take a look at exactly what evidence you found when making the recommendations you did to the board to ask the NDP to repay.

I'm wondering, if the NDP was truly sincere in wanting to have all of the deliberations of this particular issue of which they've been found guilty made public, did they approach the board? Can you comment on that? Did they try to make any effort to have these deliberations in public?

Mr. Marc Bosc: Mr. Lukiwski, we can't comment on that.

Mr. Tom Lukiwski: Perhaps we can ask the board.

The Chair: Thank you, Mr. Lukiwski.

We'll go to Mr. Julian for four minutes, please.

Mr. Peter Julian: Thank you, Mr. Chair.

Actually, Mr. Lukiwski knows, because he denied our unanimous consent motion, which we brought forward in the House that day just before the BOIE..., that the NDP undertook and has been undertaking now for almost a year to break open the partisan, secretive, and ugly BOIE, the pro-Conservative BOIE.

Mr. Tom Lukiwski: Then I can only assume that you will accept our recommendation to see the report, to shine a light on the report.

Mr. Peter Julian: It's very interesting; I did reference earlier this very personal, vicious, partisan attack on the leader of the official opposition, which is being sent out as we speak, because I'm getting complaints and even tweets tonight from folks saying, "I got this from my CPC member". It is linked up—

The Chair: Mr. Julian, was that franked mail or did it come as a householder or a ten percenter?

Mr. Peter Julian: It is known as a—

• (1925)

Mr. Brad Butt (Mississauga—Streetsville, CPC): It's a ten percenter. It's known by the House.

Mr. Peter Julian: Yes, vicious and partisan, and it references the CPC caucus website, which basically asks people, "Who's on the right track?" It references the CPC caucus website, but the CPC caucus website is owned by none other than the Conservative Party of Canada. That's very interesting.

So we have sort of a front website that is part of the secretive CIMS program that has been involved in a lot of the controversial mailings. But this is okay, as I understand it, because....

I'm not going to put words in your mouth. We appreciate your being here, and I think this has actually been extremely valuable to the NDP to demonstrate exactly how partisan the BOIE is right now. We've made previous complaints that have not been investigated about this tie-in to the Conservative Party-owned website that is part of this particular mail-out that's going out as we speak. Without putting words in your mouth, no matter how many times we complain, if the Conservative majority on the BOIE, with a Liberal ally, decides that this is not to be investigated, the House administration cannot investigate it.

Am I correct in that? Unless the BOIE says to the House administration, "Investigate something" or "Give us references on something", the House administration can do nothing on its own. Am I correct on that?

Mr. Mark G. Watters: Mr. Chair, I can tell you, having been at a number of board meetings since my appointment here at the House in 2011, that every request for investigation that has gone to the board has been dealt with or is in the process of being dealt with. The board does those on a regular basis. There is no partisan selection on the investigation side. Every complaint that comes to the board, the board deals with, has dealt with, or is in the process of dealing with, as we speak.

Mr. Peter Julian: That would mean, then, that in this case, with the CPC caucus, the Conservative Party-owned website that is the front for the taxpayer-paid mailings that are quite vicious and personal and partisan, the BOIE would normally take a look at that if there was an agreement by the majority at the BOIE to look into this mailing.

Mr. Mark G. Watters: No, Mr. Chair, I can clarify that if a complaint is received at the board, it is investigated. The House administration, after consulting with the various service areas, prepares an analysis and a report to the board, and then the board deals with that report.

Again, for clarity, Mr. Chair, everything that comes to the board is investigated. It comes to a conclusion or is currently in the process of being investigated.

Mr. Marc Bosc: I would just add that there is no Conservative majority on the board. There are three Conservative members on it, two New Democrats, and one Liberal, and the Speaker is the chair.

The Chair: Thank you.

Mr. Lukiwski, go ahead for seven minutes, please.

Mr. Tom Lukiwski: Thank you.

I just want to correct the record, because, once again, my colleague Mr. Julian is either ignorantly or deliberately misleading the House. The CPC caucus does not own the website. The CRG, as a research arm, does. The caucus does not own that. Figure it out.

Mr. Peter Julian: You have the IP.

Mr. Tom Lukiwski: CRG owns it.

Anyway, let's go back again if we can....

Let me ask a question, Chair. Are we going for another full seven-minute round?

The Chair: I'm sorry—I should have announced at the beginning that we would just extend the meeting by the amount that we missed for the votes, so consider us here until 20 after. We'll just carry on.

Mr. Lukiwski.

Mr. Tom Lukiwski: Again for clarification and for the benefit of our guests, are they here for an hour or the full two hours?

The Chair: No, we are saving some time at the end for committee business. There are a couple of motions before the committee that may very well be brought forward tonight, so I am saving some time for those.

Mr. Tom Lukiwski: Thank you.

Again, for the benefit of the committee, could you just let us know how much time we have left for questioning before—

The Chair: We'll finish the meeting at about 7:20, so let's say at about 7:10 we'll go to committee business.

Mr. Tom Lukiwski: That's okay, if that's enough time.

The Chair: I meant 8:10. I'm sorry; I'm on Central time right now.

Mr. Tom Lukiwski: All right.

I have to go back again to this business of outside mailings.

Had you confirmed to this committee that it would be appropriate and beneficial to the committee to have someone from House of Commons print services come in to answer questions that I've raised before, or are you gentlemen in a position to answer any of the questions I may have?

I know you've answered a couple, which I appreciate very much. You've stated that you would be able to find the information as to how many outside mailings had been vetted through House administration. But would we be able to get some more information, which you might not possess yourselves, from someone who is in the print services?

• (1930)

Mr. Marc Bosc: We can try to get whatever information the committee is looking for in terms of printing statistics. We could do that in any number of ways, administratively or any way the committee wishes.

Mr. Tom Lukiwski: Okay.

Getting back to the outside printing, then. Have you, in your analysis and investigation, been able to determine with any certainty how many mailings were actually sent out in franked envelopes? In other words, you said you didn't see the mailings. You didn't know what was in the franked envelopes.

For example, how many franked envelopes did the NDP request, if they put in a request for them? The figure we've heard is that roughly 1.8 million to two million mailings went out across Canada. Can you give this committee some assurance, with any certainty, that those are all that were sent out, or could there potentially have been more that we're not aware of?

Mr. Mark G. Watters: Mr. Chair, I can confirm that we acted based on the information we had. In answer to the question from the member, if we don't have the information or we've not been made aware of any other mailings, then we haven't been able to act or make a recommendation to the board based on mailings that we're not aware of. We provided information to the board based on what we knew and not on what might possibly be out there, if you wish.

Mr. Tom Lukiwski: In the conduct of your investigation, then, can you confirm whether you requested from the NDP copies of all of their mailings?

Mr. Marc Bosc: For fear of making a mistake with regard to our oath, could you repeat the question so we grasp it properly?

Mr. Tom Lukiwski: I'm just wondering if you can assure this committee with any certainty that the 1.8 million to two million mailings you refer to were the only mailings that were sent out. Or could there have been more that you're not aware of?

In other words, I asked originally if you requested from the NDP copies of all their mailings. We didn't get an assurance on that, so how do we know whether or not the 1.8 million to two million mailings were all that were put in franked envelopes? Have you any assurances for this committee that these are all they mailed out, or are there others out there that we may not know of and may find at some future date?

Mr. Mark G. Watters: Mr. Chair, what I can answer to this is that we dealt similarly to the answers that I provided in the past about the board investigating the complaints it receives. With respect to this particular issue, we dealt with the information we had, and we got all the information that we needed with respect to this particular issue.

We don't know about anything else because that wasn't what was complained about. So with respect to this particular issue, we got the

information that we needed on that. I hope that answers your question.

Mr. Tom Lukiwski: Thank you for that, Mr. Watters. I was referring to this particular issue. So you are convinced, on this particular set of mailings and in the investigation that you completed, that all of the mailings had been presented to you by the NDP. There were no other mailings since we didn't know—you didn't know and we didn't know—what was going out because they didn't ask for approval from the House. They got an outside printer to print some stuff that clearly was in violation of the rules.

They put them in franked envelopes and sent them out. We were aware of some because members received them, so we made a complaint based on what we knew, but perhaps there were other mailings that went out that weren't picked up and therefore we were not able to lodge a complaint.

I'm wondering if there is another way to try to determine this. As an example, just prior to—

• (1935)

The Chair: Sorry, but I have to stop you. You might get another shot yet.

Mr. Scott, seven minutes....

Oh, I guess Mr. Julian is here; I knew he was here.

Mr. David Christopherson: He likes to make a grand entrance.

Voices: Oh, oh!

Mr. Peter Julian: The wonderful thing about the Twitterverse, Mr. Chair, is that people send in information.

The Chair: Is this a point of order?

Mr. Peter Julian: No, no; it's just to start it off—

The Chair: Oh, you're at questions first. I get it. All right.

Mr. Peter Julian: —before I turn things over to Mr. Scott.

For the Whois information for cpccaucus.ca, the registrant name is the Conservative Party of Canada.

An hon. member: Oops.

Mr. Peter Julian: Mr. Chair, I just wanted to confirm. Mr. Lukiwski tried to kind of dodge the puck, but right here, fortunately, one of the alert people out there in a Conservative Party riding actually said let's hold on here and get the Whois registration. Very clearly, it's the Conservative Party of Canada.

I'll pass things over to my colleague Mr. Scott.

Mr. Craig Scott: Thank you.

I think the House administration probably knows that PAMS can account for everything that was sent out, and everything that was reported is everything that was sent out. So aspersions aside, perhaps I can continue.

I have a question for you, Monsieur Denis. Mr. Watters will recognize where this question is coming from. If a rule's been interpreted and applied in a certain way for some time, and if everyone has come to rely on that interpretation or application—let's just say some kind of living law, or law in practice, is developed about that—is there any kind of a concern, just from a retroactivity or natural justice perspective, if there's a sudden retroactive application of the rules without giving notice of the change so as to give people the opportunity to adjust to the new administrative reality?

Mr. Marc Bosc: This is the kind of decision that the board would be called on to make, Mr. Scott.

Mr. Craig Scott: Great. Thank you.

Monsieur Denis or Monsieur Bosc, if one were to assume that there's a process to be carried out in the name of law, or internal law, or procedure of, say, Parliament, but the procedure is, (a), secret; (b)—just assume—used for political purposes, including to go after one's political enemies; and (c) makes decisions that are arbitrary....

I'll provide two example of arbitrary. It applies to some but not to others, so there's no equality before the law; and it applies rules or new interpretations of rules retroactively.

Would that be a problem if the BOIE acted in that fashion?

Mr. Marc Bosc: It's a hypothetical question, and I don't think we're at liberty, really, to go there at this time.

Mr. Craig Scott: Okay. Thank you.

Do I have two more minutes, Mr. Chair?

The Chair: You have four more minutes.

Mr. Craig Scott: That's good.

I want to turn to the notion of “partisan”. I've had this conversation with one of Monsieur Denis' colleagues. One of the biggest concerns I have as a parliamentarian is that I belong to a political party that is a party in Parliament, and the very word “partisan” means “of a party”.

We know that the bylaws make it very clear that parliamentary functions relating to the position of the member, “wherever performed and whether or not performed in a partisan manner”.... It's just part of the idea of “parliamentary” that we're at least permitted to be partisan. There are independents, but we're permitted to be partisan.

Parties are built on the very structure of Parliament. The Parliament of Canada Act obviously makes that clear. We have a governing party and an official opposition that has to be a party to be an official opposition. Again, we have the Members By-Law that recognizes that reality.

My concern is that in all of what's been going on, this word “partisan” is being thrown around in a way that frankly could be undermining the average Canadian's understanding of the legitimacy of being partisan in a parliamentary sense, partisan while engaging in parliamentary functions. For example, when I say “Stephen Harper” in my communications, in my householders, for example, that are allowed to go out, I'm talking about the Prime Minister of Canada, who happens also to be the leader of the party in Parliament, the

Conservative Party. I'm not referring to Stephen Harper as the leader of the Conservative Party, the extra-parliamentary party.

When I refer to Tom Mulcair as the leader of the official opposition, I'm referring to him as the leader of a party in Parliament. When in one of my mailings I say “members of the NDP team”, I mean members of the NDP team of MPs, for example in Toronto. There's a lot of *sous-entendu*. There are a lot of references that I make as a parliamentarian, and frankly, as a constitutional lawyer, and I make these references understanding that I'm talking about the partisan side of Parliament. That includes the idea that I have absolutely no shame in being part of a caucus engaging in solidarity and wanting to sell to Canadians that we have an amazing leader who is doing X, Y, and Z in Parliament....

My concern is that we have a definition in section 1 of “parliamentary functions” that makes very clear: however partisan. Then we have a list of exceptions, to be more certain of the exceptions. My concern is that those exceptions are being interpreted too expansively to actually protect the idea of parties in Parliament being central to our system.

I'm not asking you to say that the interpretations that have been made by the law clerk's office have been too expansive of the exceptions, but I'm asking whether or not you in any sense understand where I'm coming from. It is that this distinction between parties in Parliament and the extra-parliamentary party has to be made in the space for partisanship when it comes to being a parliamentary partisan and has to be preserved by the BOIE, by PROC, and frankly, by the House administration.

• (1940)

Mr. Richard Denis: Thank you, Mr. Chair.

I certainly understand where you're coming from, Mr. Scott. As you said, I would point out that the definition of “parliamentary functions” totally accepts and considers the fact that of course members can be and actually have to be partisan. But the test, as I said earlier, is always that you look at whatever situation you're faced with in the context of whether or not the member was performing his parliamentary functions. That's what we use in everything that we review in terms of surveys, or questions, or activities of members. It has so far served us well. If in our interpretation it's found that either it's too strict, or too lenient, or too wide, I should say, then a member can easily go to the board and make their point. Often, that's the case.

But the test that's applied relates to whether or not the situation touches on the parliamentary functions of the member. Partisan activities are totally acceptable as long as the activity we're looking at relates to those functions. That's why, when you touch on political activities, on partisanship that's outside of the realm of parliamentary functions, of what a member does, then it's found to be not acceptable.

The Chair: Thank you, Mr. Scott.

We'll go to Mr. Lamoureux for seven minutes.

Mr. Kevin Lamoureux: Thank you.

Mr. Chair, I do have a question right off the get-go. If I were to put out a flyer, for example, that said that it was, in fact, authorized by the official agent of my party, would that suggest it was of an electoral nature?

Mr. Marc Bosc: It depends on the context.

Mr. Kevin Lamoureux: If it was just using that statement—which is a statement used when individuals are in the midst of campaigns and we are obligated to have “Authorized by the official agent”—

Mr. Marc Bosc: Mr. Lamoureux, we're sort of uncomfortable answering hypothetical types of questions of that sort, because we don't have the context within the overall picture. Normally if there were a concern about a particular piece of communication, we would have it, look at it, assess it as a whole, and make a recommendation to the board if there were an issue that had been brought to the board's attention.

• (1945)

Mr. Kevin Lamoureux: I think one of the things to recognize is that, as a committee, we're trying to come up with some ideas and suggestions in terms of how we might be able to fix the system, and part of that maybe deals with information that the professional civil servants actually brought forward to the Board of Internal Economy so that they could get a better understanding and appreciation of what had taken place.

Can you give any indication regarding what it would take for this particular committee to gain access to and use the information that the Board of Internal Economy would have used in making that final decision? Would the unanimous support of the Board of Internal Economy suffice for them to be able to release the study you conducted?

Mr. Marc Bosc: As we've said before, Mr. Lamoureux, this is the kind of request that would go to the board, and the board would have to consider it and decide whether or not it approved it.

Mr. Kevin Lamoureux: The board would have the authority then to say that we would like the PROC committee to have and use for its study.... That wouldn't be a problem then as long as you had—

Mr. Marc Bosc: It would be up to the board.

Mr. Kevin Lamoureux: The board has two spokespeople who will speak on behalf of the board. If this committee wanted to call them to come and answer the committee's questions, would doing so require the Board of Internal Economy's approval?

Mr. Marc Bosc: They obviously would have to respect their oath, but, at the same time, they are members of Parliament so they could be invited, but they couldn't be compelled.

Mr. Kevin Lamoureux: Right. Are there things the Board of Internal Economy could do that would enable those spokespeople to be very frank and open as to the discussions that had taken place, or are there restrictions that would prevent them from doing that?

Mr. Richard Denis: Again, the board discussions are confidential, Mr. Lamoureux, and it would be up to them, essentially, to decide or to agree on what they would be prepared to share, but typically, board spokespersons are authorized to say certain things by the board itself.

Mr. Kevin Lamoureux: You made reference earlier to the improper use of House of Commons resources. I cited a statement from November 27 regarding allegations that a former Bloc leader made improper use of House of Commons resources.

Actually a complete revision of the bylaws was done beginning in August 2010. It was approved on November 21, and then on December 5, 2011, it came into force. Actually that was on April 1, 2012. As part of the review, the definition of parliamentary functions was clarified, and political parties in electoral activities are now clearly excluded.

Again, I would look to you, Mr. Denis, or to others who might be able to provide a summary of the actual changes that came into force on April 1. I know that earlier you made reference that maybe Mr. Watters might want to add something to it.

Mr. Richard Denis: You are testing my memory, because in my office I have this beautiful table comparing the old definition of parliamentary functions with the new one. I would be more than happy to share with the committee that table of the old provisions and the new ones.

The exercise was mostly a modernization, but there were some provisions that were clarified. For example, subsection 4(3), which specifies what is not a parliamentary function, is kind of a clarification of the old rules.

I'm more than prepared to provide that to the committee so that you have that information, if that would help.

Mr. Kevin Lamoureux: Yes, I think that would be very beneficial.

If my memory serves me correctly, you cannot ask for membership and you cannot ask for donations. These are some of the very basic requirements that would be disallowed.

• (1950)

Mr. Richard Denis: Mr. Chair, thanks to Mr. Watters, who is very organized, I actually have a deck that explains what was new in the revised bylaws that came into force April 1, 2012. I can quickly quote from it:

Main changes found in the revised Members By-law:

1. Clarification of the definition of “parliamentary functions”
2. Change in the definition of “immediate family”—impact on existing contracts or employment relationships with brothers and sisters
3. Clarification of the use of the mandatory form for contracts for professional services
4. Clarification of the rules that apply to the different types of contracts
5. Employees of House Officers or Members cannot be the landlord of any Member—either for their constituency office leases or for their secondary residences
6. Travel section [totally] reorganized and policy details now only appear in the MAS
7. The employee is on “travel status” when he/she is more than 100 km from his/her normal place of work—(formerly the personal residence)
8. 1/2 per diem on the date of travel will apply since the current application is not in accordance with the Board's policies
9. The person who is responsible for the NCRO is not necessarily a House Officer
10. The clarification of the rules of House Officers as distinct from Members and [National Caucus Research Office]
11. No transfer of funds between recognized party budgets, including the [National Caucus Research] budget, House Officers budgets and Members budgets
12. Clarification as it relates to the dissolution of Parliament
13. Clarification that family members of Members may not use the resources provided to the Member

A series of issues were clarified. Some have been changed since then, in fact, through different decisions of the board.

To do a better job, I could probably provide something clearer to the committee so that you have something to look at in terms of what was before and after April 1, 2012.

The Chair: Thank you very much.

Thank you, Mr. Lamoureux.

We'll go to Mr. Butt. You have four minutes, please and thank you.

Mr. Brad Butt: Thank you very much, Mr. Chair.

Thank you, gentlemen, for being here tonight.

I remember fairly accurately how, when I first got elected in May of 2011 and came to Ottawa, I had an orientation session with a number of your staff from different divisions. They were very tough. They read me the riot act on being personally responsible and personally liable, financially and otherwise, for any activities that took place in my role as a member of Parliament.

I'm assuming that orientation is done for all members of Parliament in all parties, whether elected the first time in a general election or subsequently in a by-election. You do consistently sit down with every single new member of Parliament, do a full orientation, and explain all of these rules on personal liability for their office budgets and any activities that take place. You do that for every MP. Is that not correct?

Mr. Marc Bosc: That's correct.

Mr. Brad Butt: As an example, we are responsible for our franking privileges. We are liable and responsible for whatever it is we're mailing out to our constituents or in any other role that we

have as an MP. Whether we're a government MP or an opposition MP, I don't think it matters; we're all parliamentarians and we're all treated equally under the system.

Let's say, as an example, I said to a group who wanted to do a mass mailing, “Here are five boxes, and here are 2,000 or 3,000 franked envelopes with my name on it.” Then let's say I gave it to a third party, perhaps to my own political party, and said to them, “You can use these envelopes and you can mail out whatever you want under those envelopes, because I'm a member of the team and I want to be a good member of the team.”

If I were to do that, hand over those envelopes to a third party, my political party, my research group, and say, “You mail out whatever you want in my franked envelopes”, am I not still responsible for whatever is sent in those franked envelopes?

Mr. Marc Bosc: Mr. Butt, I'll answer in a general way, and then Richard can be more specific.

In the bylaws, in part 1 of the general provisions, subsection 4(4) says—and this is the bylaw that has reference to the use of House of Commons resources—“Members shall ensure that the requirements set out in subsection (1) are met.” So the member is personally responsible. This includes activities by staff.

Mr. Denis, do you want to answer the question as well?

• (1955)

Mr. Craig Scott: On a point of order, could you say again which section we are talking about?

Mr. Marc Bosc: It's in part 1 of the general provisions, section 4.

Mr. Brad Butt: If Monsieur Denis wants to answer as well, that's fine.

Mr. Richard Denis: Thank you, Mr. Chair.

Just to complete my answer, in the MAS you find, in the section regarding large-volume printing, that it specifically says:

Since the House Administration is the sole provider of large-volume printed materials for Members, any printed materials produced, in whole or in part, directly in Members' offices or by external suppliers exceeding 4,500 copies will not be processed or assembled by the House Administration.

That's your restriction.

Mr. Brad Butt: As a supplementary question to that, if I were to do a mailing out of my office, regardless of what the content material was, if I were to send a flyer out to my constituents or elsewhere using my franking privileges, and there was a line at the bottom of the flyer that said the flyer had been paid for and authorized by the CFO for my political party, I shouldn't be able to mail that. That's something the party has certified, not Parliament. That's not part of my role as an MP.

So if I'm mailing stuff out using my franking privileges, any flyer, and it has any reference to it being paid for or approved by the political party I happen to represent, is that not a violation of the rules?

Mr. Marc Bosc: It certainly sounds like it might be, but again as I said to Mr. Lamoureux earlier, dealing with these kinds of issues in a hypothetical sense is always a little delicate. We always like to see exactly what we're talking about and do a proper analysis.

The Chair: Thank you.

Thank you, Mr. Butt.

Mr. Richard Denis: If I may just add something, Mr. Chair, to the answer to Mr. Butt's question, again, in the MAS section on the large-volume mailing, it says:

Fully assembled (including sealed) printed materials prepared in whole or in part in Members' offices or by an external supplier may be mailed under the conditions outlined above. It is the Member's responsibility to ensure that these materials comply with the By-laws and policies of the Board of Internal Economy.

The Chair: Thank you.

We'll move on to Mr. Scott. I'm told it's him this time.

Mr. Craig Scott: It is.

This may come across as kind of a geekie lawyer-to-lawyer question for Monsieur Denis. If in a legal document we were to use the word "deemed" and say that something is deemed to have happened, normally that means that something that is X is actually deemed to be something that is other than X.

For example when it's 6:50 in the House, and we say that we shall see the clock at seven o'clock, we're deeming that. That's the way I understand "deem".

Would that also be the normal usage of the word "deemed"?

Mr. Richard Denis: At the risk of being put on the spot here, I would interpret "deem" as meaning there's a presumption. I'm trained in both common law and civil law—but as we would say in civil law,

[*Translation*]

a presumption can either be challengeable or unchallengeable.

[*English*]

In other words, presumptions in certain circumstances can be overturned, and that's the case here I would say. It's really a question of context, what you're looking at in the situation. It's hard to answer just like this in general terms.

Mr. Craig Scott: The way you answered it would be one common usage of "deemed". Okay. Thank you.

If it were the case that for whatever other reasons—everybody always has multiple reasons for doing things—a couple of parties decided that another party needed to be knocked down a peg, and decided it was time to make some decisions on that basis, and they wanted to make those decisions within the BOIE, is there anything about the BOIE process that could absolutely prevent that? Is there anything in the BOIE process for political purposes that prevents that, other than, obviously, the Speaker doing things to try to keep things outside of that realm?

● (2000)

Mr. Marc Bosc: Mr. Scott, the composition of the board can change over time. At one time, there were five recognized parties in the House. The board composition is determined by law.

Richard can comment on those provisions, but we can't really comment on what might or might not be. What is, is.

An hon. member: Very good.

An hon. member: Very well said.

Mr. Craig Scott: Yes, what is definitely is. Thank you.

I don't have any more questions.

Unless my colleagues do...?

Mr. Peter Julian: I certainly do.

Just following up on that—

The Chair: You have 30 seconds.

Mr. Peter Julian: Is there anything that would prohibit the Auditor General from coming in and looking at parliamentary expenses as the NDP has been advocating now for over a year, aside from the refusals of the Liberal Party and the Conservative Party to allow the Auditor General in? In other words, if those parties would agree to bring in the Auditor General to monitor all expenses—not just the mailing program but all expenses—do you see any difficulties with that happening if the two old parties would get over their incredible opposition to letting the Auditor General actually come in and look at our expenses?

The Chair: Could we have a quick answer to Mr. Julian's question?

Mr. Richard Denis: Thank you, Mr. Chair.

The first issue would be the question of whether or not the Auditor General has jurisdiction to actually look at members' expenses and over the House of Commons. That would be a legal question to be considered.

Next to that would be the question of getting the board's permission. In the past, the only two times when the Auditor General came and did an audit of the House's resources and the expenses of members were on the invitation of the board. That's the history.

The Chair: Thank you.

We'll go to Mr. Lukiwski, please, for four minutes.

Mr. Tom Lukiwski: Thank you, Mr. Chair.

Gentlemen, because I know we're getting close to the end of our time, let me say that I want to thank you very much for your appearance here today. You've provided excellent information. You've, I think, provided this committee with the type of information we need to continue this study, because it opens up a lot of doors to areas that we may want to pursue in the future.

One of those I want to talk about is liability. We know that the money owed to the House is \$36,309. We also know that the board has recommended that the repayment to Canada Post, however, be in the amount of \$1.17 million. We also know, at least if I'm reading correctly the briefing provided to this committee, that 23 members of Parliament for the NDP are listed as the ones who participated in these inappropriate and illegal mailings.

My question to you would be on liability and whether these MPs would be liable jointly, severally...? Would others' budgets—whether it's the House leader's or the House officers'—in the NDP be able to provide repayment? Exactly what would the liability be for these 23 members of Parliament?

These are the ones I would like to confirm again, if I have the information correct. You may have that information and may want to consult your records. We're talking about MPs Hughes, Boivin, Gravelle, Allen, Sitsabaiesan—I know I'm pronouncing it incorrectly, and I apologize for that—Cleary, Boulerice, Groguhé, Blanchette-Lamothe, Caron, Mulcair, Scott, Leslie, Chisholm, Morin, Moore, Freeman, Boutin-Sweet, Toone, Nicholls, and Dubé. Would those 23 individuals be personally liable for that close to \$1.2 million if in fact Canada Post decided to pursue repayment? When you add the \$1.17 million with the \$36,309, that's slightly over \$50,000 per member listed.

• (2005)

Mr. Mark G. Watters: Mr. Chair, everything with respect to the bylaws points to the members being entrusted with a personal budget. Therefore, the liability with respect to House resources would be individual and personal. It wouldn't be collective.

I can't speak for the crown corporation. I can't speak for the Department of Transport. I'm not sure how they would assess liability, if any. The obligation of the House was to communicate that information and not necessarily to make any decision of liability per se.

But with respect to the \$36,000 for the House, it would be members as individuals. Any recourse in terms of what I talked about earlier—the non-compliance provisions, section 19, and the progressive recourse that we would apply—would apply to members as individuals according to the decisions made by the board for those members as individuals.

Mr. Tom Lukiwski: So then just to be crystal clear on this one, if the New Democratic Party said they wanted to provide financial assistance to the members, would that be allowed? Would that be appropriate?

Mr. Richard Denis: Mr. Chair, in my opinion, I would say no, because there is no link, really, between the House and the NDP.

Again, House resources are provided to each member individually. That's specifically said in the bylaws. So the recovery, as Mr. Watters explained, would be from members individually.

The Chair: Thank you, Mr. Lukiwski. I'm going to stop you there.

I'll stop at this point and thank our guests.

There are a couple of questions that were asked today by our members. One was for some sort of report from you about members who have printed outside the House and what the billings for those were.

We've been asked to report back to the board our findings on some of this stuff. There was a request from them to do so.

One of the questions that Mr. Lukiwski asked was whether we can get the report that you submitted to the board.

Is that a request that this committee has to make of the board in order for that to happen, Mr. Bosc?

Mr. Marc Bosc: Yes.

The Chair: So this committee will have to do that.

Monsieur Denis, you suggested that you had a table of comparisons of the old board rules versus the new board rules. That may be very helpful for this committee in its further study also.

Mr. Richard Denis: I'll provide that with pleasure, Mr. Chair; no problem.

The Chair: Okay.

Monsieur Bosc, you also made a suggestion for us, as we're making that report back to the board, about the recommended use of franks, and the respect of it, and what might go forward further on that. This committee will keep that in mind as we're writing back to the board.

I thank you for your time tonight. I apologize for the delay in getting started. You've been more than helpful. You did a great job staying within what you could share with us and what you could not.

Thank you very much.

• _____ (Pause) _____

•

The Chair: Colleagues, we are back. We have 10 minutes or so left in our time today, but of course the committee can be its own master on this one.

We have a couple pieces of committee business.

You all received a draft committee report.

At the last meeting, the crackerjack analysts prepared a report for you on the Bezan privilege motion. You all took it away with you from the last meeting. If you want to discuss that, we'll have to go in camera in order to do so.

We also have two or three outstanding motions from Mr. Christopherson.

Did you want to move one today?

• (2010)

Mr. David Christopherson: If I can move one, debate it, and get a decision, Chair, yes, I would appreciate that.

The Chair: Okay. Go for it.

Mr. David Christopherson: Thank you very much, Chair.

The motion I am bringing forward is the notice of motion that I had served. It reads as follows:

That the Committee request that the Auditor General of Canada conduct an audit into the mailing programs of all Members of Parliament from March 31, 2010 forward, including the mailing programs of House Officers and Ministers, to determine whether any by-laws were violated in the production or sending of addressed or unaddressed mail by Members, and report back to the Committee no later than Monday, December 15, 2014.

Chair, I don't have a long speech, which, given our history, you will greatly appreciate, I am sure.

The Chair: Well, first I'd like to rule on whether or not your motion is in order.

I'm ruling that your motion is not in order for this committee. It's again—

Mr. David Christopherson: But nobody has raised a complaint. I mean, we had the Speaker who said that things were okay unless somebody raised a complaint, and he wasn't going to step in. But now you're applying rules differently and you're going to step in without a complaint?

The Chair: I think at the procedure and House affairs committee the chair should do his best to make sure that anything that's happening at the committee falls into the rules. In this case, I'm going to suggest that your motion is out of order before we get into discussing it, as we should, so that we don't get halfway through the discussion and then the chair makes that ruling. I'm simply ruling that it's outside the scope of this committee, as I have with a couple of other motions.

The other side of it, of course, is that the Auditor General has the freedom to do any audit that the Auditor General would like to do.

So I'll rule the motion out of order.

Mr. David Christopherson: Could I make a case, at least, to you?

Mr. Tom Lukiwski: On a point of order, Chair, I'm going to try to do something to help David. I really am.

Mr. David Christopherson: Now that I want to see.

Mr. Tom Lukiwski: No, I am.

The Chair: I'll go to Mr. Lukiwski first, because this sounds intriguing.

Mr. Tom Lukiwski: Well, no.... We heard today from Mr. Watters that any request for an investigation by the Board of Internal Economy has been conducted, so if you want to see.... Why don't you make the request to the Board of Internal Economy? You have representation on there. They can do a whole investigation, right? They've never been refused, according to Mr. Watters, so you can get what you're looking for by simply.... If this is out of order and you have no other recourse, make application to the board.

Mr. David Christopherson: I hear what you're saying, but that's presuming this is dead. I think we have a little bit of a process left, I would hope, so that I could at least make a pitch—very brief, with respect.

The Chair: Truly, I'm not supposed to let you do it, but because I love you, David, go ahead and give me your one-minute pitch, and I'll—

Mr. David Christopherson: Well, I'll return the love, Chair, and I really will be brief.

Mr. Lukiwski just talked about how if that doesn't work, as an alternative.... But that doesn't necessarily mean that this is out of order. I fail to understand why a motion of recommendation that asks for auditing work is out of order. That's really all that's happening.

Whether it goes to the BOIE or to the Auditor General directly is up to you, Chair, but the notion that it's okay for us to have this witch hunt that's going on meeting after meeting after meeting and that it's not okay to ask the Auditor General to do a formal review of everybody's mailing, with everybody equal, out in public.... It's what we've been asking for, for so long.

Chair, I find it remarkable that a motion that speaks to the very issue we're talking about here, that broadens it out to make it fair and to bring in one of the most trusted people in Canada, the Auditor

General.... I don't see how that could possibly be out of order when it's just a recommendation. It's very germane, for that matter, to the subject matter in front of us right now, Chair.

The Chair: Fine. Thank you, David. I did let you make your point, but I will rule the motion out of order.

Mr. Peter Julian: I have a point of order, Mr. Chair.

The Chair: Is it a point of order that's different from that one, Mr. Julian?

Mr. Peter Julian: No, it's on the same one, but I'm hoping for your generosity here to give me 30 seconds.

The Chair: The 30 seconds I gave Mr. Christopherson included your extra 30 seconds too—

Mr. Peter Julian: The Auditor General came to this committee and requested this. The Auditor General came to the procedure and House affairs committee, you'll recall, last fall, and actually requested permission to be able to audit the Parliament of Canada, so it would be impossible, except if we live in a kangaroo court—

The Chair: Mr. Julian—

Mr. Peter Julian: —to rule something out of order that the Auditor General requested here at this very committee.

The Chair: Mr. Julian, again, there are some rules here. When I start to talk, I'm going to shut you down, but—

• (2015)

Mr. Peter Julian: Only rules that help the Conservatives, it seems, Mr. Chair.

The Chair: I love your ability to say what a bad job I do at each and every committee meeting. Because of that, I'm not even going to give you an answer. We're just going to go with the ruling I've already made.

Mr. Lukiwski.

Mr. Tom Lukiwski: Again, to add some finality to this, I don't know what Peter's trying to get at here, but he should know—at least I would hope he would know, since he raised it—that the recommendations made were contained in the report that we made to Parliament and it was concurred in.

The Chair: Okay.

Is there any other committee business?

Mr. Craig Scott: [*Inaudible—Editor*]

The Chair: Craig—

Mr. David Christopherson: Why is it out of order, based on what you just said? How come that was in order and this is out of order?

Some hon. members: Oh, oh!

The Chair: Okay, folks—

Mr. Tom Lukiwski: Make a complaint to the board—

Mr. David Christopherson: That report was okay, but this one isn't?

Mr. Tom Lukiwski: Make a complaint to the board—

An hon. member: Come on.

Mr. David Christopherson: It's a good thing this is in public and people can see what's going on.

Some hon. members: Oh, oh!

Some hon. members: Oh, oh!

The Chair: Folks—

The Chair: I guess we're adjourned.

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