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Chair

The Honourable Larry Bagnell

Standing Committee on Procedure and House Affairs

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•(1105)

[English]

The Chair (Hon. Larry Bagnell (Yukon, Lib.)): Good morning. This is meeting number 18 of the Standing Committee on Procedure and House Affairs for the first session of the 42nd Parliament. This meeting is being held in public.

Our business today is the order of reference from the House, of April 19, 2016, concerning premature disclosure of the contents of Bill C-14. At the last meeting, the committee decided to invite the law clerk and parliamentary counsel to appear. As it turns out, he's willing to appear, but he's not available this week.

The Library of Parliament and the clerk in the House of Commons procedural services agreed to do a report for us on the background and history, the types of things the law clerk would have provided. We can look at that and determine what, if any, further action we need on the privilege.

Members using their iPad will find the briefing note with the documents for today's meeting. There are a few paper copies for anyone who didn't bring it. The clerk and the analyst are prepared to speak to this briefing note and answer questions. During the second hour we'll do committee business, including any follow up from that. We can also confirm the items we have on the upcoming agenda.

Just before we start, everyone's seen this paper we're discussing. Does anyone have any objections to us giving this to Kady O'Malley? It seems like most of this stuff is public anyway. It's just historical.

Does anyone want to make friends or enemies with Kady O'Malley?

Voices: Oh, oh!

The Chair: So there are no objections?

Okay. We'll give it to the fancy sunglasses back there in the corner.

Does the clerk want to make any introductory statements on this report?

The Clerk of the Committee (Ms. Joann Garbig): Thank you, Chair.

If the committee would like, we can begin with a short chronology of the events in the House that gave rise to the order of reference to the committee, go on to a brief explanation of the specific privilege in question, do a brief summary of two similar cases that came before the committee some years ago, and then perhaps give members a sense of options going forward.

When a public bill is going to be introduced in the House, it has to be put on notice. On April 12 notice was given for the introduction of Bill C-14, the assisted-dying legislation. That same day *The Globe and Mail* published an article containing specific elements about the bill, and referenced a source familiar with the legislation, a person who was not authorized to speak publicly about it.

The next night, April 13, *The National* on CBC TV had similar details about the bill, and the source again was not identified. On April 14 the bill was introduced in the House, given first reading, and became a public document at that point.

On that same day, April 14, the official opposition House leader rose on a question of privilege regarding the premature disclosure of the contents of Bill C-14. In his intervention, he stated that the details about the bill that had been disclosed in *The Globe and Mail* article went beyond journalistic speculation, and that they matched the contents of the bill.

Following his intervention, the chief government whip rose and stated that the government takes any breach of privilege very seriously, and that no person had been authorized to discuss the contents of the bill prior to its introduction. He gave an unreserved apology, and committed to ensuring that no further such incidents would occur in the future.

The Speaker ruled on the question of privilege on April 19, and decided that the question raised by the opposition House leader constituted a prima facie, or at first sight, breach of privilege.

As per the standard practice, the member who had raised the question of privilege was then invited to move a motion to send the matter to this committee for further study and consideration.

The House adopted the motion on April 19, and this then became the order of reference before the committee today.

Mr. Andre Barnes (Committee Researcher): Thank you, Mr. Chair.

The parliamentary privilege in this particular case that has been infringed upon is that essentially there's a well-established practice and accepted convention that the House of Commons has the right of first access to the text of bills it will consider.

What does that mean? Precise legislative information cannot be distributed to the public before being made accessible to members. Members have a right to this information in order to perform their parliamentary functions. It also reflects the practice that the House plays a pre-eminent role in the legislative affairs of the country. So in practice that means, once notice of a bill is given, the text of that bill is confidential.

Speakers have ruled, and this committee has reported, that when precise legislative information is made available to the public and not to members, it impedes, obstructs, and disadvantages members. So this is what the Speaker would have ruled most recently.

I would note, though, that a practice does exist of a courtesy copy being given to opposition critics of the bill just so they are able to study it before it's introduced in the House.

Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC): This is on the understanding that they themselves are now bound by the same secrecy as the minister.

Mr. Andre Barnes: Yes. Precisely.

Two similar questions of privilege arose, both of them in 2001: one in the spring of 2001, one in the fall of 2001. I can give a brief summary of the matters, the rulings, and how the committee dealt with those particular cases of privilege.

In spring of 2001 the member from Provencher rose on a question of privilege regarding a departmental briefing on a justice bill. The department was going to give a confidential briefing to members of the press only, which is contrary to the practice of members being invited to these lock-ups. The bill had not been introduced at the time but was on notice. The other issue was that the lock-up that was supposed to occur did not occur, and that members of the media left the confidential lock-up and began phoning the member from Provencher to ask him about his opinion on a bill that he had not been briefed on and had not seen.

The Speaker ruled that this was a prima facie contempt of the House, and stated that once a bill is placed on notice, confidentiality about its contents was necessary—as I spoke about before—because of the pre-eminent role “which the House plays and must play in the legislative affairs of the nation”. The Speaker further stated that, “to deny to members information concerning business that is about to come before the House, while at the same time providing such information to media that will likely be questioning members about that business, is a situation that the Chair cannot condone”.

That matter was referred to a predecessor version of procedure and House affairs. The committee held four meetings on the matter. For witnesses, the committee heard from the member who raised the question of privilege, the minister who sponsored the bill, and departmental officials about departmental policies regarding pre-introduction of bills. The committee also heard from the Clerk and the Deputy Clerk of the House regarding the House's processes for government bills prior to introduction, and it heard from a representative of PCO concerning policies regarding the preparation and introduction of government bills.

The committee did report back to the House on the matter. The report concluded that a breach of privilege had occurred, but did not recommend any sanctions because the minister had apologized for

the incident and had taken corrective actions. The committee did have one main recommendation, and that was that all government departments follow the lead of the Department of Justice and adopt a standard policy that no briefings or briefing materials be provided with respect to a bill on notice until it is introduced in the House, with the notable exception of the lock-down held for the budget and other major parliamentary announcements. The committee also requested that by the fall, the Privy Council Office table, through a minister, revised guidelines on dealing with bills prior to their introduction.

That is the case that occurred in the spring.

There was later a case in the fall, which was fairly similar to the one that occurred recently. Notice was given for Bill C-36, an anti-terrorism act. Notice was given on Friday. The bill was introduced on Monday. On Saturday, an article that mentioned the contents of the bill appeared in the *National Post*. The Speaker ruled that this, again, constituted a prima facie breach of privilege of the House, and noted that this was very similar to the incident that had occurred in the spring.

Again the matter was referred to this committee. For witnesses, the committee heard from the member who raised the question of privilege, the minister sponsoring the bill, departmental officials about the preparation of the bill, and representatives from the Privy Council Office concerning the process and policies regarding the preparation and introduction of government bills and security reviews of information leaks. In the report, the committee concluded that, based on the available evidence, it could not find that a contempt had been committed.

The PCO hired Deloitte & Touche to do a study to find out who had committed the leak, and they interviewed some several hundred staff members to find out who had, in fact, spoken with reporters. Nine admitted to speaking to reporters but indicated that they had not divulged any confidential material to the reporters.

● (1110)

The report did note that the official from the Privy Council Office had indicated that for the most part the details that were divulged in the *National Post* article were public information, with the exception of a few bits of information.

When the committee decided that no contempt had occurred, the members of the opposition did add a dissenting opinion to the report, and the basis of it was those few pieces of information that could potentially have been confidential, but there was no way to know, and the staff at the department at the time had said that they had not divulged any confidential information. They concluded that it might have been journalistic speculation that allowed the journalist to come up with those few missing pieces of information.

Those are the two most relevant cases of privilege similar to the one that was ruled on most recently.

● (1115)

The Chair: Are there any questions?

Oh, do you have more?

The Clerk: Yes, briefly.

The Chair: Go ahead.

The Clerk: This is the final part as far as the presentation goes this morning.

Moving forward now, the committee has an order of reference from the House to investigate this privilege matter. When the committee does so, it approaches it in the same way as it does any other study that it may choose to undertake. It may look at its schedule and decide what priority to assign to this matter, how many meetings it wishes to devote to it, if it wishes to call witnesses, and which witnesses they should be. The members have heard what was done in past similar cases, and it's open to the committee to do likewise or to do it differently.

If the committee is going to report to the House on the matter, it can indicate whether or not it believes that a breach of privilege has occurred. The report can include recommendations or not. It's important to note that the committee itself does not have any power to punish. Only the House can do this.

The report, like any other committee report, may have dissenting or supplementary opinions appended to it. The report may be sufficient to put an end to the matter, and no further action may be recommended to the House by the committee. On the other hand, the committee may recommend that the Speaker take some action or that some administrative action be taken.

Finally, as with other committee reports, it's open to any member of the House to move a motion of concurrence in the committee report.

That's about all I have.

The Chair: Does the committee have to do a report?

The Clerk: No. It's a decision of the committee, but I have to say that the practice has been that reports have been made to the House following an order of reference.

The Chair: Mr. Reid.

Mr. Scott Reid: I would like to ask a question relating to your very helpful summary. The report would be numbered in the usual way. It would be the xth report of the Standing Committee on Procedure and House Affairs. Concurrence would occur in the usual way. You could have concurrence if there were all-party consent by means of a unanimous motion, I'm assuming. Or is it always done by means of a vote?

The Clerk: Well—

Mr. Scott Reid: As I say, it has no meaning unless it's concurred in. Am I right? There is no power unless....

The Clerk: Well, recommendations can still be followed up on. It's not a requirement.

Mr. Scott Reid: But only followed up on informally with advice to the Speaker as to how he ought to act? Any actual sanction would require concurrence. Am I not correct?

The Clerk: Well, for a committee's recommendation to the Speaker, or wherever it has power to make recommendations, ordinarily they are taken seriously.

Mr. Scott Reid: Sure.

The Clerk: A concurrence motion is a debatable motion, if that's the channel it's going through, yes.

Mr. Scott Reid: Right.

The Chair: I think Scott is asking whether we need to do the concurrence for the Speaker to take action.

The Clerk: I don't think it has been a feature of many of the reports on privilege matters.

Mr. Scott Reid: Okay.

In terms of having any kind of use as a precedent, we've set out two precedents, and I don't know if they were cited because they are reports that had actually subsequently been concurred in or if in fact a concurrence vote took place...?

Mr. Andre Barnes: There were other similar incidents where the Speaker had found...it was to do with bills that were on notice and the information about them had been divulged, but they were not sent to the committee.

There was one instance fairly recently. The member from St. Paul's had posted some information about a private member's bill and had unreservedly apologized for doing so. The Speaker ruled that it was a case of privilege but that no further action needed to be taken because an apology was given to the House.

Mr. Scott Reid: Right.

I had a question, Andre, relating to the examples you cited from 2001. We keep throwing more and more work at you, so for that reason I want to be cautious in what I'm about to say.

Would it make sense to look at other parliaments in other provinces or other places such as Westminster for similar types of precedents that have occurred since that time? The reason I ask is that we would not, in our most relevant precedents from here, have any references to those subsequent rulings that might relate to circumstances that are similar. Of course, media dynamics have changed a lot since 2001; hence, I can imagine the source of these problems being something that is novel, that might not have existed technologically in 2001. I'm not sure that's the case—we don't know yet—but it's certainly conceivable.

I don't want to impose this work on you, but I'll just leave the thought in your head that it might be relevant.

● (1120)

Mr. Andre Barnes: I think that in these cases of privilege, it is a very good idea to check out other jurisdictions. I can think of another case of privilege, which I don't need to bring up, where it was very informative to look at the House of Commons in Australia and the U. K. They had gone through a case that was even more similar to the one we found as compared with the Canadian precedent, so I'll look into it.

Mr. Scott Reid: Thank you.

The Chair: Go ahead.

The Clerk: I have just a small precision about concurrence. Yes, very often committee reports are concurred in by unanimous consent on the same day they have been presented, but there is also the other channel of putting a concurrence motion on the order paper.

Mr. Scott Reid: You didn't imply this, but I'm going to now suggest an implication. If we can achieve a report on which there is unanimous consent, we are likely to be able to achieve that secondary objective of having unanimous consent in the House as opposed to disagreeing with each other. That would seem to make sense.

Actually, that wasn't a question to you; that was what strikes me as an observation. I was looking for comment only in the event I were to say something outrageously wrong, in which case you could correct me.

The Chair: The interesting thing is that in this Parliament on the unanimous consent, we have the Bloc and the Green Party who don't always co-operate.

Are there other questions, comments, or directions on how to proceed?

Mr. Julian, welcome to the committee.

Mr. Peter Julian (New Westminster—Burnaby, NDP): Thank you for your welcome.

I am here for only another 20 minutes, unfortunately. Don Davies will be replacing me.

The Chair: So you're just going to talk for 20 minutes?

Mr. Peter Julian: No, no, I won't do a filibuster today.

I am intrigued by the background we've been given by the analyst and the clerk. It seems to me this is a very serious breach, and it should be taken seriously and treated seriously. I'm sure all members of the committee feel the same way.

The structure of some of the previous considerations of this type of premature disclosure is something I find important. When we talk about the minister, the department being involved, the Clerk of the House, and the PCO, I think these are all important witnesses we should consider, and we should have that discussion around this table.

The fact that there have been investigations in the past as well is something we should take very seriously. I don't believe we know at this point whether the department undertook an investigation or whether we've identified the person who leaked the information to journalists. That certainly hasn't come out so far. If an investigation has been launched, it would, I think, be germane for us to know about it.

We should be looking to see what the follow-up has been at the departmental level. That will then help to shape the recommendations we bring forward. I'd like to put on the table that the types of past discussions this committee has engaged in around similar types of violations of parliamentary privilege should be the model we use this time around in approaching this issue.

The Chair: Are there other comments?

Mr. Chan and then Mr. Richards.

Mr. Arnold Chan (Scarborough—Agincourt, Lib.): I want to thank my colleagues on the other side for their interventions.

The reason I suggested at the last committee meeting that we bring the law clerk in—and I thank the analyst for his report to give us

some background—is that I wanted to delve a bit more carefully, notwithstanding the finding by the Speaker of a prima facie case of a breach of members' privilege.

I'm not yet convinced that we in fact do have a breach of members' privilege. I've tried to look at *The Globe and Mail* article carefully, and I don't necessarily see evidence—at least in the article—that the reporter in question actually had a copy of the bill, which would be a breach of our privileges. Maybe someone did do something, and brief somebody out of turn in terms of the content of the bill, but it mostly talks about things that are not found in the bill as opposed to what was actually in the bill.

I go back, for example, to the reference in the paper by the analyst, looking at similar questions of privileges referred to committee, specifically about the example he cited from the member from Provencher from March of... Sorry, I have the wrong one. I mean the Speaker's ruling of 2010 dealing with the member from Regina—Lumsden—Lake Centre about the premature disclosure of a private member's bill, where that had been disclosed on the member's website, which was then, of course, determined to be a breach of members' privileges.

I wanted to probe that a little bit more. Let's say I'm bringing in something under the Criminal Code dealing with the current private member's bill that's dealing with impaired driving. I say that I'm bringing in a private member's bill on the Criminal Code, but I'm not dealing with murder and I'm not dealing with consecutive sentencing. Would that be a breach of members' privileges when I don't disclose the actual contents of the bill that is before the House?

That's really my point here. In fact, was there actual significant...? Was the person actually reporting details of the substantive matters that were actually in Bill C-14 when it was introduced into the House on April 14?

● (1125)

The Chair: Go ahead, Mr. Richards.

Mr. Blake Richards (Banff—Airdrie, CPC): Thank you.

I think when we're looking at questions such as this, the information we've been given is very helpful. Obviously, because of the precedent in the two cases we've seen previously, in 2001 it looked as if there was a very similar path that was followed in looking into it. I suggest that we really should use that as a helpful guide.

I would suggest that we would obviously want to bring in some witnesses who would be similar in nature to those we saw at that time. I think the clerk would be a good starting point to give us some background, as well, but I also think that obviously the member who raised—

The Chair: Do you mean the law clerk?

Mr. Blake Richards: The law clerk would be helpful as well. I believe the Clerk of the House might be helpful as well as the law clerk.

The Chair: So the Clerk of the House.

Mr. Blake Richards: I also think it would be helpful to have the member who obviously raised the question of privilege. The minister should be called to appear, as well as department officials and the Privy Council Office. Those would all be good witnesses for us to have. The precedent is there from the other cases.

I also believe that, when we're talking about privilege, it should really be given first priority. We should begin with this at our next meeting and make this our highest priority. In the past it looks as if it's taken four or five meetings. I think we would probably want to devote a similar amount of time to it.

That is my suggestion, that we take that precedent we have from the other two cases we've looked at here as a guide, and those would be some of the witnesses I would suggest.

The Chair: Are there any other comments?

Go ahead, Mr. Julian.

Mr. Peter Julian: I should mention, Mr. Chair, that I really admire your tie. I don't know why. I just find it very, very appealing.

The Chair: I thought you would.

Voices: Oh, oh!

Mr. Peter Julian: I don't disagree with Mr. Richards, but at the same time, I know there are some other important—

Mr. Scott Reid: He wants to have you say that again.

Mr. Peter Julian: It's on the record. This is public. Kady's going to tweet it out.

Mr. Scott Reid: He's calling his mom right now.

Voices: Oh, oh!

Mr. Peter Julian: So to know what the other priorities are of this committee.... Granted, I am only a temporary member of this committee, and happy to be here. But I do agree that it requires a substantive response from the committee. There are a number of other priorities, including establishing the family-friendly House of Commons, that are part of the work plan.

I just wanted to get a sense from the clerk as to what is before this committee now, because I do believe this should be dealt with substantively, and hopefully as a high priority. I'm not sure it could be the highest priority if there were other elements that need to be looked at by this committee.

The Chair: Do you have this?

Mr. Peter Julian: I do, yes.

The Chair: This is the schedule for the next few weeks, with open spots on it, too.

Okay. If everyone looks at this list, there are two additions to it. This just came out this morning, but there are two things that aren't on it.

Do you want to tell us what those are?

• (1130)

The Clerk: Members can see that the month of May is filling up. The informal briefing from Elections Canada has been rescheduled to May 12, and in the remainder of the meetings there are spare hours on May 5, May 10, and May 19. But now we have two

positive responses from legislative assemblies who will appear in connection with the family-friendly study.

So two of those three spare hours will be gone if the committee agrees to hear those witnesses then.

The Chair: Sorry, which are those witnesses again?

The Clerk: They're from two of the legislative assemblies.

The Chair: In Canada?

The Clerk: Yes.

The Chair: And for Australia or New Zealand, we're still looking at the late-night one, the evening one.

The Clerk: Correct. Those would not be in the eleven-to-one time slot.

The Chair: Anita.

Ms. Anita Vandenberg (Ottawa West—Nepean, Lib.): Without diminishing the importance of this privilege motion, we've done a lot of work on the family-friendly study. It's something we've heard a number of witnesses on, and I know the committee had hoped that we would be able to have a report back to Parliament before we rose in June. I just would ask that we take that into consideration, because a number of us have done a lot of work on it.

The Chair: There's always the option to have extra meetings, too.

Mr. Reid and then Mr. Chan.

Mr. Scott Reid: With regard to—

The Chair: Well, June is empty on the schedule, except for looking at the interim report if it's drafted as we presently planned during our constituency week.

Mr. Scott Reid: Sorry, the interim report is on family-friendly?

The Chair: Yes, on family-friendly.

Mr. Scott Reid: I have a suggestion with regard to family-friendly. When the minister was here, I asked him and he agreed that if we had agreement on some points and not others he would be happy, or any rate he would be okay, with our proceeding in a piecemeal manner dealing with the issues, the low-hanging fruit, the things that we had consensus on; and setting others aside until later. Maybe we can do everything, but I wouldn't want to sacrifice the time devoted to a matter of privilege in order to try to attain agreement on things that we aren't yet agreeing on as opposed to severing off the things we can agree on, especially anything that involves any administrative follow-through for potential implementation in the autumn.

The Chair: I think the idea of—

Mr. Scott Reid: Then we could have that done and then deal with other things as time goes on. That's just a suggestion.

The Chair: I think the fact that the June report would be interim is exactly for the reason you just said: it would be the low-hanging fruit and the things we could agree on.

Mr. Scott Reid: I'm sorry, I misunderstood. It's not like we're saying we're so far but we're not going to.... We actually could say that these are the things we actually agree on, and we're now sending them off so that the House can approve of those things.

The Chair: Yes.

Mr. Scott Reid: Okay. I misunderstood.

Thanks. That's great.

The Chair: That was my sense of the interim report, because there were some really big items that obviously we can't agree on right away.

Mr. Chan.

Mr. Arnold Chan: I'm just simply going to echo what Mr. Julian had to say. I recognize the importance of dealing with this in a relatively expeditious manner. I'm really just following on Ms. Vandenberg's comments. Particularly when we're dealing with potential witnesses from other legislatures that have circumscribed available time in order to meet with this committee, we don't want to put that off somehow, just given how difficult it is to schedule it.

If we can at least stick to those ones, then we can use what available open times are coming up in June to deal with this. If we have time in between we can talk about it, and we can get the clerk to squeeze it into whatever hour we can squeeze it into. But I don't want to get off the time track that we're proposing to get the interim report on family-friendly back to the House.

The Chair: Are there any comments?

Maybe we could start looking at the schedule and putting in things.

Mr. Arnold Chan: One other point I want to raise is that although I note the comment Mr. Richards made about one of the past investigations having taken about five sitting days of the committee, the other one only took about two, so it depends on how efficient we want to be. Right now we don't have a lot of evidence of a lot of anything, other than these two alleged media reports.

I think we can do this a little bit more efficiently, hopefully, than taking five committee sitting days.

•(1135)

The Chair: Ms. Sahota.

Ms. Ruby Sahota (Brampton North, Lib.): I have to echo my colleague's comments. I too would like to get that interim report out. We've done a lot of work on it.

I think we could take a look at this matter quickly. From the article that is the main base of the evidence we have right now, we can't really see any particular contents of the bill, which is what we're supposed to be looking at, or precise legislative information, and that's exactly what the library has told us is the determining factor of whether a breach has been committed.

Since the article itself is quite vague in that regard, I don't think it's going to take us...or I don't think we should spend 10 meetings on this matter. I know it is important, but in the evidence that we have in front of us so far, we don't have much content.

The Chair: Mr. Richards and Mr. Julian.

Mr. Blake Richards: I hope I'm not hearing, and I'm not saying I do, the government saying that they don't take a matter of privilege seriously. I hope I'm not hearing that.

I understand that we have another thing that we're dealing with, and there's nobody here who doesn't want to try to deal with it. But we have a matter of privilege, and that's a very serious thing. We need to take it seriously.

Can we talk about some witnesses who have been difficult to schedule and maybe work them in as part of this? Yes, of course; that can be discussed. But what we need to understand is that this should be dealt with, and we should make sure that we're dealing with it before we rise for the summer, certainly. I think it should be the highest priority.

In terms of the number of meetings, I'm hearing, yes, we need to deal with it as quickly as we can. Well, you know, we need to take it as seriously as it needs to be taken. Should we waste time on something? No, of course not; nobody would ever suggest that. But if you look at the witnesses we probably need to have here, I don't see how we would hear those particular witnesses in less than about three meetings. Then you have to have some time to look at a potential report.

So I think you're looking at probably four meetings here. I don't see how we would need any fewer than that. Maybe you could get away with doing it in three, but I think we need to give it the seriousness it's due. A matter of privilege is a very serious thing and it needs to be taken that way. I hope I'm not hearing the government saying otherwise. This does need to be a priority.

Everyone appreciates the work that has been put into family-friendly and wants to make sure that it is given consideration as well, but this is a serious matter, and it needs to be taken as such.

The Chair: Mr. Julian.

Mr. Peter Julian: I find myself agreeing with Mr. Richards again. I'm going to have to wash my face with cold water.

Voices: Oh, oh!

A voice: A floor-crossing issue.

Mr. Peter Julian: No, I don't think that's ever going to happen.

Voices: Oh, oh!

Mr. Peter Julian: I do agree that this has to be taken seriously. The Speaker has ruled that the premature disclosure of the content of Bill C-14 impeded the ability of all members to perform their parliamentary function. We can't minimize what has been a decision of the Speaker of the House.

To have at least the same thoroughness that we've seen from previous questions of privilege of this nature is important, and that would mean probably at least four meetings; there's no doubt about that. I think that for putting together the witness list, in looking again at previous cases we can see the pattern: the department, the minister, is called in; the member who raised the point of privilege is; as well as potentially the law clerk. Those are all important witnesses to bring forward.

The area in which I think we're coming to some consensus is in agreeing that we'd be doing this as a committee after the family-friendly study is completed. I sense from the other parties that this is the direction we're going in. We have a good sense of a time line: we have a June calendar that is empty, which should allow us to schedule the number of meetings that takes this with the seriousness with which the Speaker has referred it to this committee.

The Chair: I don't think anyone would want this to go past the summer. It has to be finished before the summer break, for sure.

Ms. Vandenbeld was next, and then Mr. Graham.

Ms. Anita Vandenbeld: Thank you.

Just on Mr. Richards' point, we're taking this very, very seriously, and we absolutely want to do this as a priority.

If you look at the calendar, my comments are coming from the fact that we're at May 3. We have two and a half meetings scheduled of witnesses in order to give the drafting instructions on May 19 on the family-friendly study.

If you look at the calendar, you see that there are nine empty meetings after that point. Then, of course, there's also the possibility of doing extra meetings.

So there is time, I think, to be able to do both. In order to have the drafting instructions by the 19th... We're almost there with this report; we have only two and a half scheduled meetings left. I think we can do both: we can finish the witnesses for the interim report on family-friendly and still give the due amount of attention and seriousness to the motion on privilege.

• (1140)

The Chair: This is remembering that at least one June meeting would be looking at the interim report, and that of the hours available before the instructions on May 19 there are two open hours at the moment, but there are also two legislatures that have agreed to appear before us; we just haven't told them the times yet.

Mr. Graham.

Mr. David de Burgh Graham (Laurentides—Labelle, Lib.): I don't think anybody here doesn't take privilege very seriously, but I think the very first step, as we discussed last meeting, is to get the law clerk here and establish whether or not there actually was a breach of privilege, before we invite everybody. If there is clearly one, then we'll have that long conversation, but let's establish that privilege was actually breached before we decide the who and the how.

I don't think we've gotten to that point yet, because as Mr. Chan mentioned, the articles mentioned what is not in the bill, not what is in the bill. I'm not clear that there was a breach of privilege there.

Let's get the law clerk in here to discuss what's going on and then decide how to proceed from there.

The Chair: Except that the Speaker has already ruled that there is a prima facie case—

Mr. David de Burgh Graham: There's a prima facie case; there's an "appearance of".

The Chair: —and we have to investigate it.

Mr. David de Burgh Graham: The prima facie case is that there is an "appearance of". Let's get the law clerk in here to break it down and see whether there actually is one in order to see how to investigate further. That's my take.

The Chair: I think everyone is agreed that the law clerk should come, so....

Mr. David de Burgh Graham: Yes, but I think before we call more witnesses, let's start with that.

The Chair: Mr. Reid.

Mr. Scott Reid: Just so the law clerk, who no doubt is paying attention, knows this, a technical description of what is meant by "appearance of" would be helpful. Obviously law clerks can't present new evidence, but law clerks can explain how the rules work.

With regard to the schedule, I may be wrong here, but I'm just looking at this, and according to the schedule just handed out to us, we have some blank spots. I just went down it: May 5 from twelve to one o'clock; May 10 from eleven to twelve o'clock; on May 19 there's an hour, possibly, although I think drafting instructions in an hour might be optimistic.

The Chair: Yes.

Mr. Scott Reid: Likewise, the 31st is just a deadline.

We have potentially five spots. I realize that other things may fill them in, but these witnesses, the law clerk and so on, are very available, so we have the option of slotting them in.

What I'm getting at is that I think we're imagining a scheduling conflict that is not.... I think we're imagining a worst-case scenario. I think we'd probably do a good job of getting these things done in tandem, simply because the privilege stuff lends itself to having holes in the schedule, given the availability of witnesses.

The Chair: So we could have the law clerk on the 5th?

Oh, he's not available this week. Sorry.

Mr. Scott Reid: What about the 10th?

The Chair: We also have the two provincial legislatures that have agreed. We can put them both in an hour, probably. If they're available, maybe we could have them on the 5th, and have the law clerk on the 10th.

Mr. Scott Reid: Mr. Richards was suggesting the Clerk of the House, or the Deputy Clerk of the House, because the law clerk deals with law, and the Clerk of the House deals with—

The Chair: Okay.

Well, why don't we bring them both, if they're available?

Mr. Scott Reid: Yes.

The Chair: Okay. We'll ask them both, if they're available.

Tentatively we would ask the two provincial legislatures this Thursday. It's short notice, but we'll see if they're available. They'll be on the TV. Then, on the 10th, we'll have the clerk and the law clerk in that open hour.

Is anyone opposed to that?

No? Good. That's subject to availability, of course.

Mr. Reid made the good point that we also have the 31st, which is totally open, when we get to that date.

• (1145)

Mr. Blake Richards: I would also suggest, given our experience with the Minister of Democratic Institutions and how difficult it seemed to be for her schedule to be cleared up to come before this committee—we've made numerous requests, where we haven't even been able to get the government to agree to have her come at all—I would suggest that we want to give the justice minister, in case she has the same kind of scheduling conflict as the Minister of Democratic Institutions seems to have, as much notice as possible that we do require her appearance here. Then we can make sure that gets scheduled in the time we have available to the committee as well. We don't want to have the same problems arise.

The Chair: He's basically suggesting we give the justice minister notice.

Mr. Blake Richards: It's so that we can determine her available dates and make sure there's not a scheduling conflict for each and every meeting, as there has been with some ministers in the past.

The Chair: Is anyone opposed to that? We'll get the clerk to contact the justice minister.

Mr. Arnold Chan: I'm fine with it, but whether we decide to call her or not, I still think we should have the law clerk here first and get established what the baseline is on members' privileges. Agreed?

Mr. David de Burgh Graham: We have to establish the question that we want answered before we ask people.

The Chair: This is good what you've done, I think, because that'll be the end of the witnesses for family-friendly. We'll start on privilege, we'll get some direction from the clerk and the law clerk, and then we'll fill in the blanks from there. We'll get this all done before the summer, for sure. If we have to do extra meetings, I think we should do that.

Mr. David de Burgh Graham: You don't want to sit in July?

Voices: Oh, oh!

The Chair: No, not in July—for those who have a 14-hour commute to get here.

Mr. David de Burgh Graham: It's only if we meet in the Yukon, right?

The Chair: Yes. If we're meeting in July, it's in the Yukon.

Mr. David de Burgh Graham: Sold.

Voices: Oh, oh!

The Chair: Is there anything else on this?

We do have a bit of committee business. We have a motion, for one thing

Mr. Arnold Chan: Yes, I did table a motion. Would you like me to read that, or have the clerk read that into the record?

The Chair: Is that okay? Yes.

Mr. Arnold Chan: Was it circulated?

Mr. Scott Reid: It was your motion?

Mr. Arnold Chan: Yes.

Mr. Scott Reid: Would you mind repeating it?

Mr. Arnold Chan: Sure, I can read it. I have it in front of me.

The Chair: I think everyone has a copy.

Mr. Arnold Chan: Everyone has it. I'll read it into the record, as follows:

That, in relation to Orders of Reference from the House respecting Bills,

(a) the Clerk of the Committee shall, upon the Committee receiving such an Order of Reference, write to each Member who is not a member of a caucus represented on the Committee to invite those Members to file with the Clerk of the Committee, in both official languages, any amendments to the Bill, which is the subject of the said Order, which they would suggest that the Committee consider;

(b) suggested amendments filed, pursuant to paragraph (a), at least 48 hours prior to the start of clause-by-clause consideration of the Bill to which the amendments relate shall be deemed to be proposed during the said consideration, provided that the Committee may, by motion, vary this deadline in respect of a given Bill; and

(c) during the clause-by-clause consideration of a Bill, the Chair shall allow a Member who filed suggested amendments, pursuant to paragraph (a), an opportunity to make brief representations in support of them.

The Chair: Thank you.

Before we go any further, I want to welcome Don Davies to the committee.

Mr. Don Davies (Vancouver Kingsway, NDP): Thank you.

The Chair: I know you'll find it very enjoyable here.

Just don't eat the salmon sandwiches.

Voices: Oh, oh!

Mr. Don Davies: Thanks for the tip.

The Chair: Mr. Chan's motion has been tabled. You all got it in the mail. I think it's gone to all the committees.

Mr. Arnold Chan: This is a motion that was similar to one passed in the previous Parliament. At the end of the day, we want to have an orderly process, particularly for those who are not part of a recognized caucus, to get their substantive amendments on the record so we can proceed to deal with government business in an orderly way.

The Chair: Is there any debate on the motion?

I will call the question.

(Motion agreed to)

The Chair: Do we have some more committee business?

I take it we can't.... Well, it wouldn't be respectful to do Mr. Christopherson's motion, because he's not here.

Mr. Chan.

• (1150)

Mr. Arnold Chan: I know that Mr. Christopherson is not available, so I want to put it on the record that we're continuing our conversations. I think we're very close to a resolution, but I want to give Mr. Christopherson the opportunity to come up with language that satisfies his concerns and satisfies mine. I want to thank him for that.

Unfortunately, he's just not available today, and I won't be available on Thursday. But we'll find some opportunity to dispense with this, hopefully in the near future.

The Chair: Is there any other business before the committee?

Just as a reminder, we're having an informal, not-official dinner meeting tonight to discuss the proposed guidelines for gifts for members of Parliament. We can sort that out and get something together that we can bring quickly to the next committee so it doesn't take a lot of time. That's at 7 o'clock in the parliamentary restaurant.

Mr. David de Burgh Graham: If you're still sitting at 8:30, I can join you.

The Chair: Okay.

Mr. Chan.

Mr. Arnold Chan: Madam Clerk, did we dispose of the Speaker's motion with respect to emergency powers yet?

The Chair: Oh, no, we didn't.

Did you bring your report, Mr. Reid?

Mr. Scott Reid: I took it to our House leader, and—

The Chair: Oh, sorry. I can report on this.

Mr. Scott Reid: He got back to you?

The Chair: Yes.

Mr. Scott Reid: That's right; I twisted his arm to speak to you directly.

The Chair: Mr. Scheer had some suggested changes to the Speaker's suggested procedures. I called Mr. Scheer and asked him if he could get together with the Speaker to see if they could come up with something they both agreed on. Hopefully they can, and we'll bring that to the committee and everyone can see it: sunny days.

Mr. Scott Reid: When we come back with that one, might I make a suggestion? I'm making it in part because Mr. Christopherson isn't here, and he has concerns about when we go in camera and when we don't. That might be a good meeting at which to be dealing with it in camera.

It just strikes me that from the nature of it, and the fact that you have a recommendation made by the Speaker, I don't think we should be criticizing or commenting publicly on something from the Speaker unless we've had a chance to discuss it in camera. I think it's a more respectful approach.

But I don't want to have us lock into that without Mr. Christopherson giving his say-so, because he is concerned about the misuse of in camera.

The Chair: That's a good point. We can talk to him about that.

Do you have anything, Mr. Chan?

Mr. Arnold Chan: I agree.

The Chair: Okay.

Is there anything else?

Hon. Ginette Petitpas Taylor (Moncton—Riverview—Dieppe, Lib.): I just want to double-check that the meeting tonight is in room 601.

The Chair: It's room 601 in the parliamentary restaurant at 7 o'clock.

Is there any other business?

Very good work, members. I think we're working co-operatively and very productively. Thank you.

The meeting is adjourned.

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